

# PENNSYLVANIA BULLETIN

Volume 51

Number 31

Saturday, July 31, 2021 • Harrisburg, PA

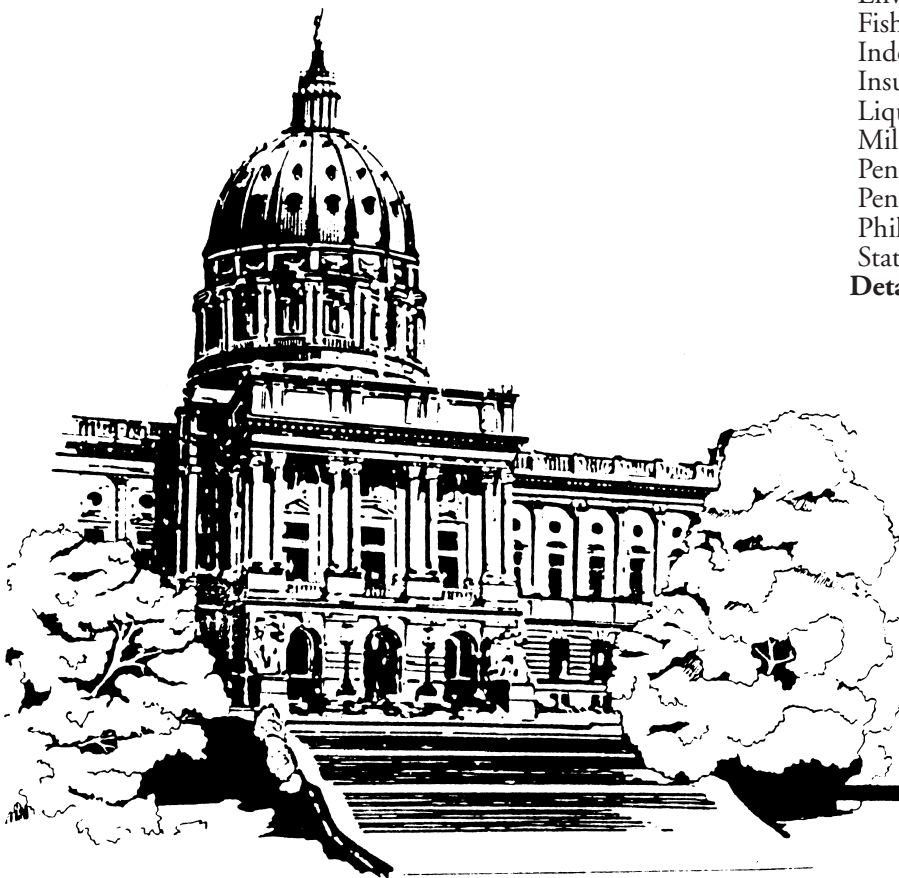
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## Part I

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(Master Transmittal Sheet):**

**No. 560, July 2021**

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**BULLETIN**

(ISSN 0162-2137)

The *Pennsylvania Bulletin* is published weekly by Fry Communications, Inc. for the Commonwealth of Pennsylvania, Legislative Reference Bureau, 641 Main Capitol Building, Harrisburg, Pennsylvania 17120, under the policy supervision and direction of the Joint Committee on Documents under 45 Pa.C.S. Part II (relating to publication and effectiveness of Commonwealth documents). The subscription rate is \$87.00 per year, postpaid to points in the United States. Individual copies are \$2.50. Checks for subscriptions and individual copies should be made payable to "Fry Communications, Inc." Periodicals postage paid at Harrisburg, Pennsylvania.

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

## *Pennsylvania Bulletin*

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

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

The following documents are published in the *Pennsylvania Bulletin*: Governor's Executive Orders; Summaries of Enacted Statutes; Statewide and Local Court Rules; Attorney General Opinions; Motor Carrier Applications before the Pennsylvania Public Utility Commission; Applications and Actions before the Department of Environmental Protection; Orders of the Independent Regulatory Review Commission; and other documents authorized by law.

The text of certain documents published in the *Pennsylvania Bulletin* is the only valid and enforceable text. Courts are required to take judicial notice of the *Pennsylvania Bulletin*.

### **Adoption, Amendment or Repeal of Regulations**

Generally an agency wishing to adopt, amend or rescind regulations must first publish in the *Pennsylvania Bulletin* a Proposed Rulemaking. There are limited instances when the agency may omit the proposal step; it still must publish the adopted version.

The Proposed Rulemaking contains the full text of the change, the agency contact person, a fiscal note required by law and background for the action.

The agency then allows sufficient time for public comment before taking final action. A Final Rulemaking must be published in the *Pennsylvania Bulletin* before the changes can take effect. If the agency wishes to adopt changes to the Proposed Rulemaking to enlarge the scope, it must repropose.

## **Citation to the *Pennsylvania Bulletin***

Cite material in the *Pennsylvania Bulletin* by volume number, a page number and date. Example: Volume 1, *Pennsylvania Bulletin*, page 801, January 9, 1971 (short form: 1 Pa.B. 801 (January 9, 1971)).

## ***Pennsylvania Code***

The *Pennsylvania Code* is the official codification of rules and regulations issued by Commonwealth agencies, Statewide court rules and other statutorily authorized documents. The *Pennsylvania Bulletin* is the temporary supplement to the *Pennsylvania Code*, printing changes when they are adopted. These changes are then permanently codified by the *Pennsylvania Code Reporter*, a monthly, loose-leaf supplement.

The *Pennsylvania Code* is cited by title number and section number. Example: Title 10 *Pennsylvania Code* § 1.1 (short form: 10 Pa. Code § 1.1).

Under the *Pennsylvania Code* codification system, each regulation is assigned a unique number by title and section. Titles roughly parallel the organization of Commonwealth government.

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

Search for your area of interest in the *Pennsylvania Code*. The *Pennsylvania Code* is available at [www.pacodeandbulletin.gov](http://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](http://www.legis.state.pa.us/cfdocs/legis/CH/Public/pcde_index.cfm).

A quarterly List of *Pennsylvania Code* Sections Affected lists the regulations in numerical order, followed by the citation to the *Pennsylvania Bulletin* in which the change occurred.

The *Pennsylvania Bulletin* is available at [www.pacodeandbulletin.gov](http://www.pacodeandbulletin.gov).

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*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 2021.

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# THE COURTS

## Title 210—APPELLATE PROCEDURE

### PART I. RULES OF APPELLATE PROCEDURE

[ 210 PA. CODE CH. 11 ]

#### Proposed Amendment of Pa.R.A.P. 1115 and 1116

The Appellate Court Procedural Rules Committee is considering proposing to the Supreme Court of Pennsylvania the amendment of Pa.R.A.P. 1115 and 1116 governing petitions for allowance of appeal and answers thereto 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 September 10, 2021. 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 II. APPELLATE PROCEDURE

##### CHAPTER 11. APPEALS FROM COMMONWEALTH COURT AND SUPERIOR COURT

##### PETITION FOR ALLOWANCE OF APPEAL

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

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

(1) A reference to the official and unofficial reports of the opinions delivered in the courts below, if any, and if reported. Any such opinions shall be appended as provided in **[ item 6 of paragraph (a) of this rule ] subdivision (a)(7).**

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

**(3) Where under the applicable law an issue is not reviewable on appeal unless raised or preserved below, the petition shall contain a statement of place of raising or preservation of issues, as required in Pa.R.A.P. 2117(c).**

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

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

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

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

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

**[ (8) ] (9)** The certificate of compliance required by Pa.R.A.P. 127.

\* \* \* \* \*

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

(a) *General rule.*—Except as otherwise prescribed by this rule, within 14 days after service of a petition for allowance of appeal an adverse party may file an answer. The answer shall be deemed filed on the date of mailing if first class, express, or priority United States Postal Service mail is utilized. The answer need not be set forth in numbered paragraphs in the manner of a pleading, shall set forth any procedural, substantive or other argument or ground why the order involved should not be reviewed by the Supreme Court, and shall comply with

Pa.R.A.P. [ 1115(a).7 ] 1115(a)(8). No separate motion to dismiss a petition for allowance of appeal will be received. A party entitled to file an answer under this rule who does not intend to do so shall, within the time fixed by these rules for filing an answer, file a letter stating that an answer to the petition for allowance of appeal will not be filed. The failure to file an answer will not be construed as concurrence in the request for allowance of appeal.

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

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

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

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

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

**Parties are strongly encouraged to raise any waiver-based or procedural objection to a petition for allowance of appeal in an answer to the petition. In addition, parties are reminded that they may raise waiver-based, procedural, and jurisdictional objections after the grant of a petition for allowance of appeal, but before merits briefing, through a dispositive motion filed under Pa.R.A.P. 1972.**

## PUBLICATION REPORT

### Proposed Amendment of Pa.R.A.P. 1115 and 1116

The Appellate Court Procedural Rules Committee is considering proposing the amendment of Pennsylvania Rules of Appellate Procedure 1115 and 1116 to facilitate the early identification of waiver in discretionary appeals before the Supreme Court. The Committee initially undertook review of this issue based, in part, upon a suggestion that:

Any appellee that intends to assert a waiver defense with respect to any issue presented for review in a petition for allowance of appeal, see Rule 1115(a)(3),

should be required to file an answer to said petition notifying this Court of its intention to assert such a defense. An appellee failing to comply with this requirement would then be precluded from asserting the defense in any subsequent filings with this Court in the case then at bar. Where an appellee provides the notice as required, it would remain within this Court's discretion to grant allocatur and decide the issue on its substantive merits.

*Commonwealth v. Bishop*, 217 A.3d 833, 844 (Pa. 2019) (J. Donohue concurring).

To encourage parties to identify waiver earlier in the appellate process, the Committee previously proposed the amendment of the Official Note to Pa.R.A.P. 1116 to suggest raising waiver in opposition to a petition for allowance of appeal and through an application pursuant to Pa.R.A.P. 1972. See 50 Pa.B 4383 (August 29, 2020). In response, the Committee received a suggestion for an additional measure to facilitate the early identification of waiver issues whereby petitioners would designate within the petition for allowance of appeal the place in the record where an issue has been preserved.

The Committee agreed with this suggestion, concluding that it would assist in the earlier identification of unpreserved issues and it did not represent an undue burden on petitioners because preservation would likely have already been identified in the intermediate appellate court brief pursuant to Pa.R.A.P. 2117(c). Moreover, placing this requirement in petitions for allowance of appeal merely shifts an existing burden to an earlier stage in the appellate process.

Accordingly, the Committee proposes amendment of Pa.R.A.P. 1115 to insert in paragraph (a) a requirement that a petition for allowance of appeal contain a statement indicating where the issue was previously raised or preserved, if the issue is required to be raised or preserved for appellate review. The operative language contained in Pa.R.A.P. 2117(c) was used for the proposed requirement, inserted as new paragraph (a)(3), together with reference to that rule's requirements for specification.

Readers should note that the proposed requirement of Pa.R.A.P. 1115(a)(3) is not intended to eliminate the existing requirement that an appellant's merits brief to the Supreme Court also comply with Pa.R.A.P. 2117(c). A granted petition for allowance of appeal under this procedure is not intended preclude the Court from finding waiver in review of the merits.

This proposed amendment is being consolidated with the previously proposed amendment of Pa.R.A.P. 1116. All comments, concerns, and suggestions concerning this proposal are welcome.

[Pa.B. Doc. No. 21-1187. Filed for public inspection July 30, 2021, 9:00 a.m.]

## Title 25—LOCAL COURT RULES

### CHESTER COUNTY

### Adoption of Court of Common Pleas District Justice Rule L.1901

#### Administrative Order No. 10-2021

And Now, this 20th day of July, 2021, the following amended Chester County Court of Common Pleas District

Justice Rule L.1901 is adopted in its entirety. In accordance with Pennsylvania Rules of Judicial Administration 103(d)(4), the proposed Rule was submitted to and approved by the Criminal Procedural Rules Committee of the Supreme Court.

#### Effective Date

The amended Rule shall become effective thirty (30) days from the date of their publication in the *Pennsylvania Bulletin*.

#### Procedural Compliance

In conformity with Pa.R.J.A. 103(d), the Chester County Court Administrator shall do the following:

- 1) Distribute two (2) paper copies of the amended Rule to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*, along with a copy of the amended Rules in an agreed upon format which complies with the requirements of 1 Pa. Code § 13.11.
- 2) File one copy of the amended Rules with the Administrative Office of Pennsylvania Courts.
- 3) Publish a copy of the amended Rules on the Chester County website.
- 4) Incorporate the amended Rules in the complete set of the published Chester County Court Rules no later than thirty (30) days following publication in the *Pennsylvania Bulletin*.

#### Chester County District Justice Rules Committee

The Chester County District Justice Rules Committee, formed to create Rule L.1901 and consisting of the Honorable Bret M. Binder, the Honorable Lori Novak-Donatelli, Yolanda Van de Krol, Kirsten Schurr, Michael Lusk, Vicky Bartholomew, Mary Ellen Rzcudlo, and Gloriana Noreika, Esquire, has now completed its work and henceforth shall be inactive unless reconvened by the president judge.

*By the Court*

JOHN L. HALL,  
*President Judge*

#### Rule L.1901. Termination of inactive cases.

The clerk of courts shall list, by district court number, at least bi-annually (January and June) of each year all summary or criminal proceedings in the magisterial district courts in which no steps or proceedings have been taken for two years or more prior thereto and shall give thirty (30) days' notice of intention of termination to all parties as provided by Pa.R.J.A. 1901(c)(2) by publishing legal notice in the legal newspaper of the county. The legal notice shall contain a hyperlink to the Clerk of Courts website which shall have a dedicated section containing a list of each case and the docket information. A form notice of intention to proceed shall also be obtainable through the aforementioned hyperlink and in hardcopy form from the Clerk of Courts' office. If no notice of intention to proceed is received within thirty (30) days of the date of publishing the matter shall be terminated by order of court.

[Pa.B. Doc. No. 21-1188. Filed for public inspection July 30, 2021, 9:00 a.m.]

## Title 255—LOCAL COURT RULES

### SNYDER COUNTY

#### Judicial Administration; CP-55-MC-18-2021

#### Order

*And Now*, this 20th day of July, 2021, the 17th Judicial District hereby revises the Uniform Rules Governing Court Reporting and Transcripts (Rule 4001-et seq.) Local Rule of Judicial Administration 17CV4007 through 17CV4009 is revised for use in Snyder County, Court of Common Pleas of the 17th Judicial District, Commonwealth of Pennsylvania, effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

The 17th Judicial District Court Administrator is Ordered and Directed to do the following:

- 1) File one (1) certified copy of this Order and Rule with the Administrative Office of the Pennsylvania Courts.
- 2) Forward two (2) certified copies of this Order and Rule and a computer diskette containing the text of the Rule to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.
- 3) Forward one (1) certified copy of this Order and Rule to the Civil Procedural Rules Committee of the Supreme Court of Pennsylvania.
- 4) Copies shall be kept continuously available for public inspection in the Office of the Snyder County Prothonotary.

*By the Court*

MICHAEL T. HUDOCK,  
*President Judge*

#### Court Reporter Rules—Transcripts

##### 17-CV4007—4009. Local Rule.

*And Now*, this 20th day of July 2021, the 17th Judicial District hereby revises the Uniform Rules Governing Court Reporting and Transcripts (Rule 4001—4016 et seq), previously, PA Snyder Union Cty. Jud. Admin. LR-17-CV4007—4009.

The President Judge hereby appoints the District Court Administrator as designee for purposes of the administration of this local rule.

This rule shall not interfere with or otherwise limit the income of court reporters. Court reporters shall continue to be properly compensated for their professional services regarding the preparation of transcripts.

#### I. Procedures:

##### (A) Format:

Requests for transcripts shall be set forth on a standardized form provided by the Court Administrator of the Administrative Office of Pennsylvania Courts.

##### (B) Requests for Transcripts:

For an ordinary transcript, the party requesting the full or partial transcript of a trial or other proceeding shall file the original transcript request form with the Prothonotary/Clerk of Courts Office.

##### (C) Service:

The requesting party shall serve copies of the formal request to:

1. The court reporter(s) assigned to the proceeding.



2. The District Court Administrator.

(D) *Filing:*

In courts where daily, expedited, same-day or rough draft transcripts are available, requests for transcripts shall be filed in writing in the appropriate filing office at least 10 days prior to the proceeding.

1. Copies of the written request shall be served as provided for by Section (C) supra.

2. In the event of an emergency, a party may request by oral motion a daily, expedited, same-day or rough draft transcript.

(E) *Private Litigant Requests:*

When a private litigant requests a transcript, the litigant ordering the transcript shall make payment in the amount of 100% of the estimated total cost of the transcript.

(F) *Payment of Costs:*

Deposit checks are to be made payable to appropriate Common Pleas Court Snyder County or Union County and shall be delivered to County Clerk of Courts/Prothonotary's office. A copy of the receipt will be provided to the District Court Administrator from the Clerk of Courts/Prothonotary's office.

(G) *Preparation of Transcripts:*

Upon receipt of the 100% deposit, the court reporter(s) assigned to the proceeding shall be directed by the District Court Administrator to prepare the transcript.

(H) *Notice of Completion:*

The court reporter(s) shall notify the ordering party and the District Court Administrator of the completion of the transcript and shall deliver a copy of the transcript to the judge presiding over the matter.

(I) *Payment for Balance:*

Checks for the final balance are to be made payable to: Snyder or Union County Prothonotary's office at which time the filing office will confirm payment with the District Court Administrator.

(J) *Requirement of Signature of Presiding Judge:*

Upon payment of the balance owed, the court reporter(s) shall obtain the signature of the presiding judge on the original transcript and shall deliver the original transcript to the appropriate filing office. After the original transcript has been delivered to the appropriate filing office, if ordered pursuant to Section II(E) infra, copies shall be delivered to the parties.

(K) *Request by Litigant (Economic Hardship):*

1. When a litigant requests a transcript, but cannot pay for the transcript because of alleged economic hardship, the Court shall determine economic hardship pursuant to the procedure set forth in Paragraph II(C) infra.

2. In cases of economic hardship where the matter is under appeal or a transcript is necessary to advance litigation, the costs of procuring the transcript shall be waived or otherwise adjusted by the Court.

3. In cases of economic hardship where there is no appeal pending or there exists no obvious need for the

transcript to advance litigation, the requesting party must demonstrate reasonable need before the Court shall waive or adjust the cost of obtaining the transcript.

II. *Rates:*

Transcript costs payable by a requesting party, other than the Commonwealth or a subdivision thereof, shall be governed as follows:

(A) *Costs Payable:*

The costs payable by the initial ordering party for a transcript delivered by means of electronic format shall not exceed:

1. For an ordinary transcript, \$2.50 per page
2. For an expedited transcript, \$3.50 per page—when available
3. For a daily transcript, \$4.50 per page
4. For same-day delivery, \$6.50 per page
5. For copies, \$0.25 per page
6. For complex litigation, \$4.50 per page, Ex: medical malpractice
7. For Adoption hearings \$20.00

Transcript costs payable by the Commonwealth or a subdivision thereof shall be governed as follows:

1. For an ordinary transcript, \$1.50 per page
2. For an expedited transcript, \$2.50 per page—when available
3. For a daily transcript, \$3.50 per page
4. For same-day delivery, \$5.50 per page
5. For copies, \$0.25 per page
6. For complex litigation, \$3.50 per page

(B) *Bound Paper Format:*

When the transcript is prepared in bound paper format, the costs shall be in accordance with Section II(A) supra relating to electronic format plus a surcharge of \$0.25 per page. Bound paper format copies shall not be delivered in condensed form.

(C) *Economic Hardship:*

1. Transcript costs for ordinary transcripts in matters under appeal or in which the transcript is necessary to advance the litigation shall be waived for a litigant who has been permitted by the Court to proceed in forma pauperis or whose income is less than 125 percent of the poverty line as defined by the U.S. Department of Health and Human Services (HHS) poverty guidelines for the current year.

2. Transcript costs for ordinary transcripts in matters under appeal or where the transcript is necessary to advance the litigation shall be reduced by one-half for a litigant whose income is less than 200 percent of the poverty line as defined by the HHS poverty guidelines for the current year.

3. Transcript costs for ordinary transcripts in matters that are not subject to appeal, where the transcript is not necessary to advance the litigation, or for expedited, daily, same-day or rough draft transcripts may be waived at the Court's discretion for parties who qualify for economic hardship under Section II(C)(1) or II(C)(2) supra and upon good cause shown.

4. The application for waiver of all or a portion of costs for ordinary transcripts shall be supported by an affidavit substantially in the form required by Rule 240(h) of the Pennsylvania Rules of Civil Procedure.

(D) *Assignment and Allocation of Transcript Costs:*

1. The requesting party, or the party required by general rule to file a transcript, shall be responsible for the cost of the transcript. Costs shall not be assessed against any party for transcripts prepared at the initiation of the Court.

2. When more than one party requests the transcript, or are required by general rule to file the transcript, the cost shall be divided equally among the parties.

(E) *Copies of transcripts:*

A request for a copy of any transcript previously ordered, transcribed, and filed of record shall be provided according to the following schedule:

1. \$0.75 per page bound, paper format; and
2. \$0.50 per page for an electronic copy, if available
3. \$0.25 per page for Commonwealth and subdivisions

All additional copies of transcripts shall be requested from and provided by the filing office, and this office will be responsible for copying the transcript and receipt of the copy fees. Filing offices must inform District Court Administrator of copies of transcripts for statistical purposes only.

[Pa.B. Doc. No. 21-1189. Filed for public inspection July 30, 2021, 9:00 a.m.]

## Title 255—LOCAL COURT RULES

### UNION COUNTY

#### Judicial Administration; No. 16-664 AD-3-2016

#### Order

*And Now*, this 20th day of July, 2021, the 17th Judicial District hereby revises the Uniform Rules Governing Court Reporting and Transcripts (Rule 4001-et seq.) Local Rule of Judicial Administration 17CV4007 through 17CV4009 is revised for use in Union County, Court of Common Pleas of the 17th Judicial District, Commonwealth of Pennsylvania, effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

The 17th Judicial District Court Administrator is Ordered and Directed to do the following:

1. File one (1) certified copy of this Order and Rule with the Administrative Office of the Pennsylvania Courts.

2. Forward two (2) certified copies of this Order and Rule and a computer diskette containing the text of the Rule to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

3. Forward one (1) certified copy of this Order and Rule to the Civil Procedural Rules Committee of the Supreme Court of Pennsylvania.

4) Copies shall be kept continuously available for public inspection in the Office of the Union County Prothonotary.

*By the Court*

MICHAEL T. HUDOCK,  
*President Judge*

#### Court Reporter Rules—Transcripts

#### 17-CV4007—4009. Local Rule.

*And Now*, this 20th day of July 2021, the 17th Judicial District hereby revises the Uniform Rules Governing Court Reporting and Transcripts (Rule 4001—4016 et seq), previously, PA Snyder Union Cty. Jud. Admin. LR-17-CV4007—4009.

The President Judge hereby appoints the District Court Administrator as designee for purposes of the administration of this local rule.

This rule shall not interfere with or otherwise limit the income of court reporters. Court reporters shall continue to be properly compensated for their professional services regarding the preparation of transcripts.

#### I. Procedures:

##### (A) *Format:*

Requests for transcripts shall be set forth on a standardized form provided by the Court Administrator of the Administrative Office of Pennsylvania Courts.

##### (B) *Requests for Transcripts:*

For an ordinary transcript, the party requesting the full or partial transcript of a trial or other proceeding shall file the original transcript request form with the Prothonotary/Clerk of Courts Office.

##### (C) *Service:*

The requesting party shall serve copies of the formal request to:

1. The court reporter(s) assigned to the proceeding.
2. The District Court Administrator.

##### (D) *Filing:*

In courts where daily, expedited, same-day or rough draft transcripts are available, requests for transcripts shall be filed in writing in the appropriate filing office at least 10 days prior to the proceeding.

1. Copies of the written request shall be served as provided for by Section (C) supra.

2. In the event of an emergency, a party may request by oral motion a daily, expedited, same-day or rough draft transcript.

##### (E) *Private Litigant Requests:*

When a private litigant requests a transcript, the litigant ordering the transcript shall make payment in the amount of 100% of the estimated total cost of the transcript.

##### (F) *Payment of Costs:*

Deposit checks are to be made payable to appropriate Common Pleas Court Snyder County or Union County and shall be delivered to County Clerk of Courts/Prothonotary's office. A copy of the receipt will be provided to the District Court Administrator from the Clerk of Courts/Prothonotary's office.

*(G) Preparation of Transcripts:*

Upon receipt of the 100% deposit, the court reporter(s) assigned to the proceeding shall be directed by the District Court Administrator to prepare the transcript.

*(H) Notice of Completion:*

The court reporter(s) shall notify the ordering party and the District Court Administrator of the completion of the transcript and shall deliver a copy of the transcript to the judge presiding over the matter.

*(I) Payment for Balance:*

Checks for the final balance are to be made payable to: Snyder or Union County Prothonotary's office at which time the filing office will confirm payment with the District Court Administrator.

*(J) Requirement of Signature of Presiding Judge:*

Upon payment of the balance owed, the court reporter(s) shall obtain the signature of the presiding judge on the original transcript and shall deliver the original transcript to the appropriate filing office. After the original transcript has been delivered to the appropriate filing office, if ordered pursuant to Section II(E) infra, copies shall be delivered to the parties.

*(K) Request by Litigant (Economic Hardship):*

1. When a litigant requests a transcript, but cannot pay for the transcript because of alleged economic hardship, the Court shall determine economic hardship pursuant to the procedure set forth in Paragraph II(C) infra.

2. In cases of economic hardship where the matter is under appeal or a transcript is necessary to advance litigation, the costs of procuring the transcript shall be waived or otherwise adjusted by the Court.

3. In cases of economic hardship where there is no appeal pending or there exists no obvious need for the transcript to advance litigation, the requesting party must demonstrate reasonable need before the Court shall waive or adjust the cost of obtaining the transcript.

*II. Rates:*

Transcript costs payable by a requesting party, other than the Commonwealth or a subdivision thereof, shall be governed as follows:

*(A) Costs Payable:*

The costs payable by the initial ordering party for a transcript delivered by means of electronic format shall not exceed:

1. For an ordinary transcript, \$2.50 per page
2. For an expedited transcript, \$3.50 per page—when available
3. For a daily transcript, \$4.50 per page
4. For same-day delivery, \$6.50 per page
5. For copies, \$0.25 per page
6. For complex litigation, \$4.50 per page, Ex: medical malpractice
7. For Adoption hearings \$20.00

Transcript costs payable by the Commonwealth or a subdivision thereof shall be governed as follows:

1. For an ordinary transcript, \$1.50 per page
2. For an expedited transcript, \$2.50 per page—when available
3. For a daily transcript, \$3.50 per page

4. For same-day delivery, \$5.50 per page
5. For copies, \$0.25 per page
6. For complex litigation, \$3.50 per page

*(B) Bound Paper Format:*

When the transcript is prepared in bound paper format, the costs shall be in accordance with Section II(A) supra relating to electronic format plus a surcharge of \$0.25 per page. Bound paper format copies shall not be delivered in condensed form.

*(C) Economic Hardship:*

1. Transcript costs for ordinary transcripts in matters under appeal or in which the transcript is necessary to advance the litigation shall be waived for a litigant who has been permitted by the Court to proceed in forma pauperis or whose income is less than 125 percent of the poverty line as defined by the U.S. Department of Health and Human Services (HHS) poverty guidelines for the current year.

2. Transcript costs for ordinary transcripts in matters under appeal or where the transcript is necessary to advance the litigation shall be reduced by one-half for a litigant whose income is less than 200 percent of the poverty line as defined by the HHS poverty guidelines for the current year.

3. Transcript costs for ordinary transcripts in matters that are not subject to appeal, where the transcript is not necessary to advance the litigation, or for expedited, daily, same-day or rough draft transcripts may be waived at the Court's discretion for parties who qualify for economic hardship under Section II(C)(1) or II(C)(2) supra and upon good cause shown.

4. The application for waiver of all or a portion of costs for ordinary transcripts shall be supported by an affidavit substantially in the form required by Rule 240(h) of the Pennsylvania Rules of Civil Procedure.

*(D) Assignment and Allocation of Transcript Costs:*

1. The requesting party, or the party required by general rule to file a transcript, shall be responsible for the cost of the transcript. Costs shall not be assessed against any party for transcripts prepared at the initiation of the Court.

2. When more than one party requests the transcript, or are required by general rule to file the transcript, the cost shall be divided equally among the parties.

*(E) Copies of transcripts:*

A request for a copy of any transcript previously ordered, transcribed, and filed of record shall be provided according to the following schedule:

1. \$0.75 per page bound, paper format; and
2. \$0.50 per page for an electronic copy, if available
3. \$0.25 per page for Commonwealth and subdivisions

All additional copies of transcripts shall be requested from and provided by the filing office, and this office will be responsible for copying the transcript and receipt of the copy fees. Filing offices must inform District Court Administrator of copies of transcripts for statistical purposes only.

[Pa.B. Doc. No. 21-1190. Filed for public inspection July 30, 2021, 9:00 a.m.]



## DISCIPLINARY BOARD OF THE SUPREME COURT

### Current Schedule of Continuing Legal Education Courses Required for Reinstatement Under §§ 89.275 and 89.279 of the Disciplinary Board Rules

Disciplinary Board Rule § 89.279 provides that a formerly admitted attorney who has been disbarred or suspended for more than one year or on administrative suspension, retired status or inactive status for more than three years shall within one year preceding the filing of the petition for reinstatement take courses meeting the requirements of the current schedule published by the Executive Office.

Evidence that a formerly admitted attorney has attended the required courses and lectures or has viewed videotapes of them shall be considered in determining whether the formerly admitted attorney possesses the required competency and learning in law, but shall not be conclusive on the issue.

*Schedule Effective July 31, 2021*

Every formerly admitted attorney who petitions for reinstatement under these rules shall take the following:

A minimum of thirty-six (36) hours of accredited PA CLE courses with a minimum twelve (12) of those hours in the area of Ethics. Thirty (30) credits may be taken in pre-approved, interactive, Internet or computer based CLE programs. Six (6) credits must be completed in person or by live webinar/webcast.

Any petitions filed on or after December 1, 2011, by formerly admitted attorneys who have been disbarred or suspended for more than one year shall include the Bridge the Gap course taken through an accredited PA CLE provider as part of the thirty-six hours of credits.

*Note:* Accredited PA CLE courses taken for reinstatement may be used to meet CLE requirements once reinstated.

MARCEE D. SLOAN,  
*Board Prothonotary*

[Pa.B. Doc. No. 21-1191. Filed for public inspection July 30, 2021, 9:00 a.m.]

## DISCIPLINARY BOARD OF THE SUPREME COURT

### Notice of Disbarment

Notice is hereby given that Chi-Yuan Hwang (# 39253), having been disbarred in New York, the Supreme Court of Pennsylvania issued an Order on July 16, 2021, disbaring Chi-Yuan Hwang from the Bar of this Commonwealth, effective August 15, 2021.

In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside of the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

MARCEE D. SLOAN,  
*Board Prothonotary*

[Pa.B. Doc. No. 21-1192. Filed for public inspection July 30, 2021, 9:00 a.m.]

## DISCIPLINARY BOARD OF THE SUPREME COURT

### Notice of Suspension

Notice is hereby given that Irene Marie Costello having been suspended from the practice of law in the United States District Court for the Southern District of New York; the Supreme Court of Pennsylvania issued an Order dated July 16, 2021 suspending Irene Marie Costello from the practice of law in this Commonwealth for a period of two years, effective August 15, 2021. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

MARCEE D. SLOAN,  
*Board Prothonotary*

[Pa.B. Doc. No. 21-1193. Filed for public inspection July 30, 2021, 9:00 a.m.]

# PROPOSED RULEMAKING

## ENVIRONMENTAL QUALITY BOARD

[ 25 PA. CODE CH. 93 ]

### Water Quality Standards; Dunbar Creek et al. Stream Redesignations

The Environmental Quality Board (Board) proposes to amend Chapter 93 (relating to water quality standards). The amendments will modify the drainage lists at §§ 93.9c, 93.9k, 93.9l, 93.9o, 93.9r, 93.9t and 93.9v regarding designated water uses and water quality criteria as set forth in Annex A. The purpose of this proposed rulemaking is to update the designated uses so that the surface waters of this Commonwealth are afforded the appropriate level of protection. This proposed rulemaking fulfills the Commonwealth's obligations under State and Federal law to review and revise, as necessary, water quality standards that are protective of surface waters.

This proposed rulemaking was adopted by the Board at its meeting of April 20, 2021.

#### A. Effective Date

These amendments will go into effect upon publication in the *Pennsylvania Bulletin* as a final-form rulemaking. Once approved by the United States Environmental Protection Agency (EPA), water quality standards are used to implement the Federal Clean Water Act (CWA) (33 U.S.C.A. §§ 1251—1388).

#### B. Contact Persons

For further information, contact Gary Walters, Bureau of Clean Water, 11th Floor, Rachel Carson State Office Building, P.O. Box 8774, 400 Market Street, Harrisburg, PA 17105-8774, (717) 787-9637, or Michelle Moses, Assistant Counsel, Bureau of Regulatory Counsel, 9th Floor, Rachel Carson State Office Building, P.O. Box 8464, Harrisburg, PA 17105-8464, (717) 787-7060. Persons with a disability may use the Pennsylvania Hamilton Relay Service by calling (800) 654-5984 (TDD-users) or (800) 654-5988 (voice users). This proposed rulemaking is available on the Department of Environmental Protection's (Department) web site at [www.dep.pa.gov](http://www.dep.pa.gov) (select "Public Participation," then "Environmental Quality Board," and then navigate to the Board meeting of April 20, 2021).

#### C. Statutory and Regulatory Authority

This proposed rulemaking is being made under the authority of sections 5(b)(1) and 402 of The Clean Streams Law (CSL) (35 P.S. §§ 691.5(b)(1) and 691.402), which authorize the Board to develop and adopt rules and regulations to implement the CSL (35 P.S. §§ 691.1—691.1001), and section 1920-A of The Administrative Code of 1929 (71 P.S. § 510-20), which grants to the Board the power and duty to formulate, adopt and promulgate rules and regulations for the proper performance of the work of the Department. In addition, sections 101(a)(2) and 303(c)(2)(A) of the CWA (33 U.S.C.A. §§ 1251(a)(2) and 1313(c)(2)(A)) set forth requirements for water quality standards.

#### D. Background and Purpose

The purpose of developing water quality standards is to protect this Commonwealth's surface waters. This Commonwealth's surface waters, through the water quality standards program, are protected for a variety of uses, including: aquatic life; drinking water supplies for hu-

mans, livestock and wildlife; irrigation for crops, turf and other horticultural activities; industrial water supplies; fish consumption; recreation; and special protection. The purpose of this proposed rulemaking is to update the designated uses so that the surface waters of this Commonwealth are afforded the appropriate level of protection.

Section 5 of the CSL (35 P.S. § 691.5) instructs the Department to consider water quality management and pollution control in the watershed as a whole, and the present and possible future uses of waters when adopting rules and regulations. In addition to these requirements, the Commonwealth has responsibilities under the CWA that require water quality standards to be reviewed and approved by the EPA for consistency with the mandates under that act. Section 101(a)(2) of the CWA (33 U.S.C.A. § 1251(a)(2)), establishes the National goal that, wherever attainable, water quality should provide for the protection and propagation of fish, shellfish and wildlife, and for recreation in and on the water. Section 303(c)(2)(A) of the CWA requires water quality standards to include: designated uses of waters; taking into consideration their use and value for public water supplies; propagation of fish and wildlife; recreational purposes; and agricultural, industrial and other purposes. Section 303(d)(4)(B) of the CWA establishes an antidegradation policy for waters where the quality of the water equals or exceeds levels necessary to protect the designated uses for these waters. The designated uses included in this proposed rulemaking are consistent with these State and Federal statutory mandates.

Water quality standards are in-stream water quality goals that are implemented by imposing specific regulatory requirements (such as treatment requirements, effluent limits and best management practices (BMP)) on individual sources of pollution. Section 303(c)(1) of the CWA, requires states to periodically review and revise, as necessary, their water quality standards. Water quality standards include designated uses, numeric and narrative criteria to protect those uses, and antidegradation requirements for surface waters. These proposed amendments are the result of new information presented for stream evaluations of designated uses.

Prior to establishing a regulation that modifies a stream designation, the Department has an obligation to protect existing uses when data indicates that a surface water attains or has attained an existing use. Section 93.1 (relating to definitions) defines "existing uses" as "those uses actually attained in the water body on or after November 28, 1975, whether or not they are included in the water quality standards." Similarly, § 93.4c (relating to implementation of antidegradation requirements) requires the Department to make a final determination of existing use protection for a surface water as part of a final permit or approval action. During a review of a permit application and a draft permit, interested persons may provide the Department with additional information regarding existing use protection for the surface water. The Department also presents additional information in draft stream evaluation reports that are made available for public comment.

Where the existing uses are different than the designated uses for a surface water, the waterbody will immediately receive the water quality protection identified by either the attained uses or the designated uses,

whichever use is most protective. For example, if the designated use of a stream is listed as Cold Water Fishes (CWF) but the Department's evaluation of available existing use information indicates that the water also attains the use of High Quality waters (HQ), the stream would be protected for this HQ-CWF existing use prior to a rulemaking. A stream redesignation proposal will then be initiated through the rulemaking process to ensure the designated uses in the drainage lists found in §§ 93.9a—93.9z are consistent with the existing uses of the stream. See section E for a detailed explanation of the public participation process preceding the development of this proposed rulemaking.

In addition to existing use determinations made during a Department permit or approval process, stream use evaluations may be initiated in other ways. The Department may identify candidate streams for redesignation of uses during routine waterbody investigations. Other agencies may request use evaluations to be considered and members of the public may submit a rulemaking petition to the Board in accordance with § 93.4d (relating to processing of petitions, evaluations and assessments to change a designated use).

By protecting the water uses and the quality of the water necessary to maintain the uses, benefits may be gained in a variety of ways by all residents and visitors of this Commonwealth. For example, clean water used for drinking water supplies benefits the consumers by lowering drinking water treatment costs and reducing medical costs associated with drinking water illnesses. Clean surface waters benefit this Commonwealth by providing for increased tourism and recreational use of the waters. Clean water provides for increased wildlife habitat and more productive fisheries. Furthermore, clean water attracts businesses and industry that require a high quality of surface water for production or operation. This proposed rulemaking benefits not only local residents but those from outside the areas affected by this proposed rulemaking who come to enjoy the benefits and aesthetics of outdoor recreation.

The proposed amendments are the result of stream evaluations conducted by the Department in response to: petitions (Bear Run, Cranberry Creek, Two Lick Creek); a request from the Pennsylvania Fish and Boat Commission (PFBC) (Dunbar Creek); the Department's ongoing Statewide monitoring activities (UNT 08187 to South Branch Codorus Creek and Clyde Run); and an error identified in Chapter 93 (UNT 28168 to Oley Creek). The stream redesignations rely on the special protection qualifiers found at § 93.4b(a)(2)(i)(A) and (ii), (b)(1)(iii) and (v) and (b)(2) (relating to qualifying as High Quality or Exceptional Value Waters). The redesignations also include evaluation of the protected water uses specified in § 93.3 (relating to protected water uses) (UNT 08187 to South Branch Codorus Creek) and the less restrictive use qualifiers specified in § 93.4(b) (relating to Statewide water uses) (UNT 28168 to Oley Creek). The specific qualifiers applied for each of the stream redesignation recommendations are detailed in the individual stream evaluation reports available on the Department's web site. This proposed rulemaking was developed by the Bureau of Clean Water following a comprehensive evaluation of the physical, chemical and biological characteristics of these waterbodies and other information available on these waterbodies.

E. *Summary of Proposed Rulemaking*

*Proposed redesignations of Dunbar Creek et al.*

As part of this stream redesignation process and in accordance with § 93.4c, the Department offered opportunities for the public to provide data and information during the review of surface water uses. The Department provided public notice of its intent to assess Bear Creek, Clyde Run, Cranberry Creek, Dunbar Creek, Two Lick Creek, UNT 28168 to Oley Creek and UNT 08187 to South Branch Codorus Creek and requested water quality data for these streams through publications in the *Pennsylvania Bulletin* as summarized in Table 1.

**Table 1. *Pennsylvania Bulletin* publication dates for notices of stream evaluation.**

<i>Stream Name</i>	<i>Pennsylvania Bulletin</i>	<i>Publication Date</i>
Bear Run	37 Pa.B. 4490	August 11, 2007
	46 Pa.B. 3328	June 25, 2016
Clyde Run	40 Pa.B. 5643	October 2, 2010
Cranberry Creek	44 Pa.B. 6149	September 27, 2014
	48 Pa.B. 5924	September 22, 2018
Dunbar Creek	30 Pa.B. 2071	April 22, 2000
Two Lick Creek	34 Pa.B. 1520	March 13, 2004
UNT 28168 to Oley Creek	45 Pa.B. 2676	May 30, 2015
UNT 08187 to South Branch Codorus Creek	42 Pa.B. 2539	May 12, 2012

Additionally, notices of the intent to assess these streams were posted on the Department's web site. The Department directly notified affected municipalities, planning commissions, conservation districts and Commonwealth agencies of these redesignation evaluations in letters dated as summarized in Table 2.

**Table 2. Letters of notification to affected governmental organizations and agencies.**

<i>Stream Name</i>	<i>Date of Letter</i>
Bear Run	May 22, 2007
	July 8, 2016

<i>Stream Name</i>	<i>Date of Letter</i>
Clyde Run	November 5, 2010
Cranberry Creek	September 15, 2017
Dunbar Creek	April 19, 2000
Two Lick Creek	March 2, 2004
UNT 28168 to Oley Creek	May 11, 2015
UNT 08187 to South Branch Codorus Creek	April 2, 2012

In response to these notifications, the Department received one letter in support of the redesignation for Bear Run. The Department received no additional water quality data for Bear Run, Clyde Run, Dunbar Creek, Two Lick Creek, UNT 28168 to Oley Creek or UNT 08187 to South Branch Codorus Creek. Temperature data was provided by Karl M. Weiler for Cranberry Creek.

Following the period for data submission described in the notices of intent to assess, the Department evaluated all available water quality data and other applicable information for these streams, drafted stream evaluation reports and published the draft reports on its web site for public review and comment as summarized in Table 3. If members of the public are interested in receiving notifications of stream evaluations, including the notices of intent to assess and draft stream evaluation reports, they may subscribe to the Department's Electronic Notification System, eNotice.

**Table 3. Stream evaluation draft report publication for public comment.**

<i>Stream Name</i>	<i>Draft Report Publication Date</i>	<i>Petitioner (if applicable)</i>
Bear Run	February 24, 2017	Ken Sink Chapter of Trout Unlimited
Clyde Run	July 14, 2018	
Cranberry Creek	July 14, 2018	Brodhead Creek Watershed Association
Dunbar Creek	July 14, 2018	
Two Lick Creek	February 24, 2017	Ken Sink Chapter of Trout Unlimited
UNT 28168 to Oley Creek	July 14, 2018	
UNT 08187 to South Branch Codorus Creek	February 24, 2017	

Each draft report was open for public comment for no less than a 30-day period.

For Bear Run, one comment was received in support of the Exceptional Value Waters (EV) and HQ-CWF recommendations.

For Clyde Run, one comment was received in support of the recommendations.

For Cranberry Creek, approximately 159 comments were received in response to the draft report. Ten comments expressed opposition and 148 comments expressed support for the recommendations. A macroinvertebrate survey conducted by Normandeau Associates was submitted.

For Dunbar Creek, the Department received 46 comments in support of the recommendations.

For Two Lick Creek, the Department received three comments in response to the draft report. One comment was in support of the recommendation and two comments were in opposition.

No comments were received on the draft report for UNT 28168 to Oley Creek.

One comment was received in support of the EV recommendation for UNT 08187 to South Branch Codorus Creek.

Copies of the stream evaluation reports for these waterbodies are available on the Department's web site or from the contact persons listed in section B of this preamble. All data and comments received in response to these notifications were considered in the review of the surface water evaluations for these streams. The data

and information collected on these waterbodies support the Board's proposed rulemaking as set forth in Annex A.

Department staff delivered a presentation of this proposed rulemaking to the Agricultural Advisory Board on November 7, 2019. Staff provided a brief overview of the stream redesignation process and the Department's recommendations for the streams included in this proposed rulemaking.

The following is a brief summary of the Department's recommendations for each waterbody:

*§ 93.9c. Drainage List C*

*Cranberry Creek*—The Brodhead Creek Watershed Association submitted a petition requesting that Cranberry Creek, from its source to mouth, be considered for redesignation to EV. The indigenous aquatic community is an excellent indicator of long-term water quality conditions and is used as a measure of both water quality and ecological significance. The integrated benthic macroinvertebrate score test described at § 93.4b(b)(1)(v) was applied to Cranberry Creek. Dimmick Meadow Brook (05244) served as the EV reference for stream metrics comparisons. Three of four stations met the 92% comparison required to qualify for EV. Therefore, the Department recommends that the Cranberry Creek basin, from and including UNT 04948 to its mouth be designated as EV, Migratory Fishes (EV, MF) in § 93.9c (relating to Drainage List C). The remainder of the Cranberry Creek basin, from its source to UNT 04948 should maintain the current designated use of HQ-CWF, MF.



§ 93.9k. *Drainage List K*

*UNT 28168 to Oley Creek*—The Department conducted an evaluation of UNT 28168 to Oley Creek due to an error discovered in § 93.9k (relating to Drainage List K) that affected the Oley Creek basin and UNT 28168. The error listed these surface waters with two conflicting use designations. A correction to § 93.9k was made in the stream redesignation rulemaking published at 47 Pa.B. 7029 (November 18, 2017), which lists the designated use of UNT 28168 as HQ-CWF consistent with the 1979 rulemaking. UNT 28168 is also currently listed on the Commonwealth's CWA section 303(d) list of impaired waters. The aquatic life use of UNT 28168 is impaired, and the source has been identified on the CWA section 303(d) list as Abandoned Mine Drainage. The Department evaluated the stream to determine if the human caused conditions that created the impairment occurred before the special protection designation and whether or not the current designated use of HQ-CWF is attainable. As required by § 93.4(b), a use attainability analysis was conducted to determine the appropriate designated aquatic life use of the water. A survey of UNT 28168 indicated that it is appropriately listed on the section 303(d) list of impaired waters. Furthermore, historical aerial photography confirms that significant mining activity as early as 1939 caused conditions that prevented UNT 28168 from meeting the Conservation Area designated use in 1973 and the HQ designated use in 1979. Due to current limitations in available treatment technologies, land availability and remediation, for both point and nonpoint source control of the specific pollutants of concern, UNT 28168 will not attain the HQ-CWF use. Therefore, the Department recommends that UNT 28168 to Oley Creek be designated as CWF, MF in § 93.9k.

§ 93.9l. *Drainage List L*

*Bear Run*—The Ken Sink Chapter of Trout Unlimited submitted a petition requesting that the Bear Run basin, from its source to its confluence with South Branch Bear Run, be considered for redesignation to HQ or EV. On April 16, 2016, the PFBC added Bear Run, from its source to its confluence with South Branch Bear Run, to the List of Class A Wild Trout Waters following public notice and comment (46 Pa.B. 1977 (April 16, 2016)). The Bear Run basin, from its source to its confluence with South Branch Bear Run, qualifies as HQ based on § 93.4b(a)(2)(ii) regarding Class A wild trout stream qualifier. In addition, the portions of the Bear Run basin located entirely within State Game Land (SGL) 174 meet the definition in § 93.1 for an “outstanding National, State, regional or local resource water.” These waters satisfy the HQ qualifiers in § 93.4b(a) and are located within SGL managed by the Pennsylvania Game Commission (PGC). The PGC has established coordinated water quality protective measures in its resource management plans that provide protection to substantial reaches of the watershed corridor. As such, these stream segments qualify as EV waters under § 93.4b(b)(1)(iii). Therefore, the Department recommends that: the Bear Run basin, from UNT 27063 to South Branch Bear Run excluding the headwaters of Brooks Run, be designated as EV in § 93.9l (relating to Drainage List L); and that the Bear Run basin, from its source to and including UNT 27063, and the Brooks Run basin from its source to and including UNT 27059, be designated as HQ-CWF in § 93.9l.

§ 93.9o. *Drainage List O*

*UNT 08187 to South Branch Codorus Creek*—The Department evaluated the UNT 08187 to South Branch Codorus Creek basin as part of ongoing Statewide moni-

toring efforts. Biological data were collected to evaluate UNT 08187 since the indigenous aquatic community is an excellent indicator of long-term water quality conditions. The integrated benthic macroinvertebrate score test described at § 93.4b(b)(1)(v) was applied to UNT 08187. Carbaugh Run (60248) served as the EV reference for stream metrics comparisons. Both stations on UNT 08187 met the 92% comparison required to qualify for EV. Therefore, the Department recommends the entire basin of UNT 08187 to South Branch Codorus Creek be designated as EV, MF in § 93.9o (relating to Drainage List O).

§ 93.9r. *Drainage List R*

*Clyde Run*—The Department evaluated the Clyde Run basin as part of ongoing Statewide monitoring efforts. Biological data were collected to evaluate Clyde Run since the indigenous aquatic community is an excellent indicator of long-term water quality conditions. The integrated benthic macroinvertebrate score test described at § 93.4b(b)(1)(v) was applied to Clyde Run. Korb Run (54831) served as the EV reference for stream metrics comparisons. The Clyde Run station met the 92% comparison required to qualify for EV. Therefore, the Department recommends the entire basin of Clyde Run be designated as EV in § 93.9r (relating to Drainage List R).

§ 93.9t. *Drainage List T*

*Two Lick Creek*—The Ken Sink Chapter of Trout Unlimited submitted a petition requesting that the Two Lick Creek main stem, from the tailrace of the Two Lick Reservoir to Yellow Creek, be considered for redesignation to HQ-CWF. The Two Lick Creek main stem is currently designated Trout Stocking (TSF). The indigenous aquatic community is an excellent indicator of long-term water quality conditions. The integrated benthic macroinvertebrate score test described at § 93.4b(a)(2)(i)(A) was applied to Two Lick Creek. Cross Fork (23765) and Kettle Creek (23661) served as the EV references for stream metrics comparisons. Data collected at two stations on Two Lick Creek in 2005 were compared to Cross Fork while data collected at one of the same stations in 2009 were compared to Kettle Creek. None of the Two Lick Creek samples exceeded the 83% comparison required to qualify for HQ. As a result of data collection, the Department documented the presence of a naturally reproducing Salmonidae community and other flora and fauna indigenous to a cold water habitat in Two Lick Creek. Therefore, the Department recommends the Two Lick Creek main stem, from the Two Lick Reservoir tailrace to the confluence of Yellow Creek, be designated as CWF in § 93.9t (relating to Drainage List T).

§ 93.9v. *Drainage List V*

*Dunbar Creek*—The PFBC submitted information to the Department requesting that the Dunbar Creek basin, from its source to Gist Run, be considered for redesignation to EV. The integrated benthic macroinvertebrate score test described at § 93.4b(b)(1)(v) was applied to Dunbar Creek. Clear Shade Creek (45293) served as the EV reference for stream metrics comparisons. Six of 12 stations on Dunbar Creek met the 92% comparison required to qualify for EV. In addition, the portions of the Dunbar Creek basin located entirely within SGL 51 meet the definition in § 93.1 for an “outstanding National, State, regional or local resource water.” These waters are currently designated HQ and are located within SGL managed by the PGC. The PGC has established coordinated water quality protective measures in its resource management plans that provide protection to substantial reaches of the watershed corridor. As such, these stream

segments qualify as EV waters under § 93.4b(1)(iii). The PGC water quality protective measures combined with reasonable acid mine drainage remediation and recovery projects demonstrate that an EV designated use for the Glade Run basin as set forth in Annex A is appropriate. Therefore, the Department recommends EV designations in § 93.9v (relating to Drainage List V) for: the Dunbar Creek basin, from its source to Glade Run; the Glade Run basin, from the boundary of SGL 51 to Mouth; and the Dunbar Creek basin, from Glade Run to Gist Run.

#### *Proposed correction to Drainage List C*

In the Sobers Run rulemaking published at 48 Pa.B. 866 (February 10, 2018), Swiftwater Creek basin retained its HQ designation with the exception of adding an EV designation for the source of Swiftwater Creek to, but not including, UNT 04960 to Swiftwater Creek. The word “basin” was inadvertently omitted with the listing of UNT 04960 to Mouth, thereby eliminating listings for tributaries to that section of Swiftwater Creek. This proposed rulemaking restores the original HQ listing for those tributaries by adding the “basin” designation.

The Department recommends the Board adopt this proposed rulemaking as set forth in Annex A.

#### *F. Benefits, Costs and Compliance*

##### *Benefits*

Overall, this Commonwealth’s residents and visitors and its natural resources will benefit from this proposed rulemaking because it provides the appropriate level of protection to preserve the integrity of existing and designated uses of surface waters in this Commonwealth. Protecting water quality provides economic value to present and future generations in the form of a clean water supply for: human consumption, wildlife, irrigation and industrial use; recreational opportunities such as fishing (also for consumption), water contact sports and boating; and aquatic life protection. It is important for the Commonwealth to ensure that the associated opportunities and activities continue in a manner that is environmentally, socially and economically sound. Protection and maintenance of water quality ensures its future availability for all potential uses.

*Increased property values are an economic and social benefit of clean water protected by this proposed regulation.*

A reduction in toxics found in the waterways of this Commonwealth may lead to increased property values for properties located near rivers or lakes. The study, “The Effect of Water Quality on Rural Nonfarm Residential Property Values,” (Epp and Al-Ani, *American Journal of Agricultural Economics*, Vol. 61, No. 3 (Aug. 1979), pp. 529—534 ([www.jstor.org/stable/1239441](http://www.jstor.org/stable/1239441)), used real estate prices to determine the value of improvements in water quality in small rivers and streams in this Commonwealth. Water quality, whether measured in pH or by the owner’s perception, has a significant effect on the price of adjacent property. The analysis showed a positive correlation between water quality and housing values. They concluded that buyers are aware of the environmental setting of a home and that differences in the quality of nearby waters affect the price paid for a residential property.

A 2010 report from the Delaware Riverkeeper Network ([www.delawareriverkeeper.org/sites/default/files/River\\_Values\\_Report\\_0.pdf](http://www.delawareriverkeeper.org/sites/default/files/River_Values_Report_0.pdf)) discusses a case study from the Maine Agricultural and Forest Experiment Station which

compared water-front property values based on whether the water that the homes faced was considered clean. Properties located near higher quality waters had higher market value than if the waterbody was lower in water quality. It was shown in some cases that a decline in water quality can completely abate the market value premium associated with a home being a waterfront property.

A 2006 study from the Great Lakes region estimated that property values were significantly depressed in two regions associated with toxic contaminants (polyaromatic hydrocarbons (PAHs), polychlorinated biphenyls (PCBs) and heavy metals). The study showed that a portion of the Buffalo River region (approximately 6 miles long) had depressed property values of between \$83 million and \$118 million for single-family homes, and between \$57 million and \$80 million for multifamily homes as a result of toxic sediments. The same study estimated that a portion of the Sheboygan River (approximately 14 miles long) had depressed property values of between \$80 million and \$120 million as the result of toxics. “Economic Benefit of Sediment Remediation in the Buffalo River AOC and Sheboygan River AOC: Final Project Report,” ([www.nemw.org/Econ](http://www.nemw.org/Econ)). While this study related to the economic effect of contaminated sediment in other waters in the Great Lakes region, the idea that toxic pollution depresses property values applies in this Commonwealth. A reduction in toxic pollution in this Commonwealth’s waters has a substantial economic benefit to property values in close proximity to waterways.

*Maintenance of abundant and healthy fish and wildlife populations and support for outdoor recreation are social and economic benefits of clean water protected by this proposed regulation.*

Businesses requiring a clean source water and those in the recreation industry will be positively affected by these proposed regulations. The maintenance and protection of the water quality will ensure the long-term availability of recreational fisheries and other activities.

The Center for Rural Pennsylvania prepared a report titled “Economic Values and Impacts of Sport Fishing, Hunting and Trapping Activities in Pennsylvania,” ([www.rural.palegislature.us/documents/reports/hunting.pdf](http://www.rural.palegislature.us/documents/reports/hunting.pdf)) that examined such economic values and impacts between the years 1995 to 1997. The report provides a snapshot of how much money these sporting activities bring to this Commonwealth and how they affect employment in rural areas. A major finding of that report is the total annual value of \$3.7 billion for sport fishing was almost three times the \$1.26 billion spent in travel costs to use fishing resources during the same 12-month period. The total net annual benefit to anglers was \$2.49 billion.

According to the “Angler Use, Harvest and Economic Assessment on Wild Trout Streams in Pennsylvania,” (R. Greene, et al. 2005) ([www.fishandboat.com/Fish/Fisheries/TroutPlan/Documents/WildTroutStreamAnglerUseCatchEconomicContribution.pdf](http://www.fishandboat.com/Fish/Fisheries/TroutPlan/Documents/WildTroutStreamAnglerUseCatchEconomicContribution.pdf)), the PFBC collected information to assess the economic impact of wild trout angling in this Commonwealth, during the 2004 regular trout season, April 17 through September 3, 2004. The PFBC found, based on the results of this study, that angling on wild trout streams contributed over \$7.16 million to this Commonwealth’s economy during the regular trout season in 2004.

According to the “2011 National Survey of Fishing, Hunting and Wildlife-Associated Recreation” ([www.census.gov/prod/2012pubs/fhw11-nat.pdf](http://www.census.gov/prod/2012pubs/fhw11-nat.pdf)) for this Commonwealth,



prepared by the United States Fish and Wildlife Service, approximately 1,101,000 anglers, participated in fishing and 3,598,000 persons participated in wildlife watching in the year 2011. In addition, all fishing related expenditures in this Commonwealth totaled \$485 million in 2011. These expenditures include food and lodging, transportation and other expenses (that is, equipment rental, bait, cooking fuel). In 2011, wildlife watchers spent \$1.3 billion on activities in this Commonwealth. Expenditures include trip-related costs and equipment.

According to the Outdoor Industry Association, this Commonwealth's outdoor recreation generates 251,000 direct in-State jobs, \$8.6 billion in wages and salaries and \$1.9 billion in State and local tax revenue. These figures include both tourism and outdoor recreation product manufacturing. The association reports that 56% of Commonwealth residents participate in outdoor recreation each year. (See Outdoor Industry Association (2017), "The Outdoor Economy: Take it Outside for American Jobs and a Strong Economy," (<https://outdoorindustry.org/resource/pennsylvania-outdoor-recreation-economy-report>).

Southwick Associates prepared a report for the Theodore Roosevelt Conservation Partnership that analyzed the economic contribution of outdoor recreation in this Commonwealth. This 2018 report, "The Power of Outdoor Recreation Spending in Pennsylvania: How hunting, fishing, and outdoor activities help support a healthy state economy" ([www.trcp.org/wp-content/uploads/2018/12/TRCP-and-Southwick-PA-Economic-Analysis-12-6-18.pdf](http://www.trcp.org/wp-content/uploads/2018/12/TRCP-and-Southwick-PA-Economic-Analysis-12-6-18.pdf)) states that during 2016 there were more than 390,000 jobs supported by outdoor recreation activities in this Commonwealth, and for comparison, this is more than the number of jobs in this Commonwealth that supported the production of durable goods. Outdoor recreation had an economic contribution in this Commonwealth of almost \$17 billion in salaries and wages paid to employees and over \$300 million in Federal, State and local tax revenue.

*Maintenance of the current green infrastructure along streams and the associated reduction in tax expenditures are social and economic benefits of clean water protected by this regulation.*

The findings of a 2014 Lehigh Valley Planning Commission report entitled "Lehigh Valley Return on Environment" demonstrates the benefits when clean water and natural areas are protected. The report ([www.lvpc.org/pdf/2014/ReturnOnEnvironment\\_Dec\\_18\\_2014.pdf](http://www.lvpc.org/pdf/2014/ReturnOnEnvironment_Dec_18_2014.pdf)) states, "the current green infrastructure along streams in the Lehigh Valley reduces tax dollars by avoiding more than \$110.3 million annually in expenditures for water supply (\$45.0 million), disturbance (flood) mitigation (\$50.6 million) and water quality (\$14.7 million)."

*Savings in water filtration for downstream communities that rely on surface waters for water supplies and availability of unpolluted water for domestic, agricultural and industrial uses are benefits of clean water protected by this proposed regulation.*

The Department identified one public water supply facility with a raw water intake located within the candidate stream sections for redesignation in this proposed rulemaking package. This public water supplier, which serves over 22,300 citizens, will benefit from this proposed rulemaking because its raw source water will be afforded a higher level of protection. This proposed rulemaking further provides the likelihood of economic benefits to the public water supplier and the local community. By maintaining clean surface water, public water suppliers may avoid the costly capital investments that

are often required for the installation of advanced water treatment processes as well as the higher annual operations and maintenance costs associated with effective operation of these processes. In turn, the public water supplier's customers will benefit from reduced fees for clean drinking water.

#### *Compliance costs*

This proposed rulemaking is necessary to protect and maintain the existing water quality of the HQ and EV waters, to protect existing water uses and to effectively control discharges of pollutants into the affected streams. These amendments to Chapter 93 will not impose any new compliance costs on persons engaged in regulated activities under existing individual permits or approvals from the Department since existing discharges are included in any determination of existing water quality when streams are redesignated to HQ or EV. Additional compliance costs may arise when permits or approvals are necessary for new or expanded regulated activities in HQ or EV waters, or when streams are redesignated to different nonspecial protection designations (such as WWF to CWF). Discharges to special protection streams are not eligible for coverage under National Pollutant Discharge Elimination System (NPDES) general permits, based on § 92a.54(a)(8) (relating to general permits), and therefore, require individual permits. Some additional cost will be incurred by facilities required to obtain an individual permit. The Department will implement stream redesignations through permit and approval actions.

Persons adding or expanding a discharge to a stream may need to provide a higher level of treatment or additional BMPs to protect the designated and existing uses of the affected streams, which could result in higher engineering, construction or operating costs. Treatment costs and BMPs are based on the specific design and operation of a facility, which also requires consideration of the size of the discharge in relation to the size of the stream and many other factors.

In the future, a person who proposes a new, additional or increased point source discharge to an EV or HQ water would need to satisfy the antidegradation requirements found in § 93.4c(b)(1). An applicant for any new, additional or increased point source discharge to special protection waters must evaluate nondischarge alternatives, and the applicant must use an alternative that is environmentally sound and cost effective when compared to the costs associated with achieving a nondegrading discharge. If a nondischarge alternative is not environmentally sound and cost-effective, an applicant for a new, additional or increased discharge must utilize antidegradation best available combination of technologies (ABACT), which include cost-effective treatment, land disposal, pollution prevention and wastewater reuse technologies.

The permit applicant must demonstrate in the permit application that their new or expanded activities will not lower the existing water quality of special protection streams. If an applicant cannot meet these nondegrading discharge requirements, a person who proposes a new, additional or increased discharge to HQ waters is given an opportunity to demonstrate there is a social or economic benefit of the project that would justify a lowering of the water quality. The social and economic justification (SEJ) demonstration must show that the discharge is necessary to accommodate important economic or social development in the area in which the waters are located and that a lower water quality will protect all other

applicable water uses for the waterbody. SEJ is not available for proposed discharges to EV waters. The water quality of EV streams must be maintained and protected.

There are approximately 10,300 facilities across this Commonwealth that hold permits issued under Chapter 92a (relating to National Pollutant Discharge Elimination System permitting, monitoring and compliance). This Statewide number of approximately 10,300 includes NPDES permits for concentrated animal feeding operations, industrial waste, municipal separate storm sewer systems (MS4), treated sewage and stormwater associated with industrial activities. This total does not include NPDES permits for stormwater associated with construction activities, discussion follows. Out of this Statewide total of approximately 10,300, only nine facilities currently hold active NPDES permits for discharges to the stream segments being considered for redesignation in this proposed rulemaking.

The types of discharges with active NPDES permits located in waters affected by this proposed rulemaking include industrial wastewater and industrial stormwater. There is also one Chapter 91 (relating to general provisions) pesticide permit within the waters affected by this proposed rulemaking. Since the presence of these discharge activities did not preclude the attainment of the HQ or EV use, the discharges to these waters may continue as long as the discharge characteristics of both quality and quantity remain the same. Thus, redesignation to special protection does not impose any additional special treatment requirements on existing permitted discharges.

As previously stated, discharge activities to special protection streams are not eligible for coverage under NPDES general permits and, therefore, require individual permits. Individual permits are required in special protection waters because the existing quality of the water must be protected. Therefore, each discharge must be evaluated individually for each stream. Site-specific characteristics of the stream water quality are used to determine effluent limitations for discharges to a stream. The individual permits are necessary to track the quality and quantity of any existing permitted discharges to ensure that additional or increased discharges to a special protection water do not occur without the Department's review in accordance with the antidegradation regulations.

There are no NPDES general permits available for discharges to special protection waters. In addition, there are no general permits available for discharges of treated sewage effluent or industrial waste effluent with the exception of the PAG-04 (general permit for small flow sewage treatment facilities). The Department identified four NPDES permits for discharges to waters proposed for redesignation to special protection, and all four permits are currently individual permits. Consequently, there would be no change in the permitting requirements for these activities.

The remaining five NPDES permits discharge into Two Lick Creek, which is recommended for redesignation from TSF to CWF. The types of discharges with active NPDES permits located in the Two Lick Creek basin include industrial waste and industrial stormwater. These permits will not be affected by the redesignation.

Although no stormwater discharges from MS4s have been identified in the waters proposed for redesignation, in general, local governments that are MS4s will most

likely have additional costs associated with MS4 permitting requirements for discharges to HQ or EV waters. Any MS4 that discharges to an HQ or EV water will be required to obtain an individual permit. The application fee for a new individual permit is \$5,000 compared to \$500 for the general permit (that is, NPDES General Permit for Stormwater Discharges from Small MS4s (PAG-13)). If there is an existing MS4 permit (whether it is currently the general permit or an individual permit) to discharge into one of the proposed HQ or EV waters, any subsequent permit application fee for an individual permit is \$2,500. The annual fee for all MS4 permits is the same, whether it is for coverage under the general permit or for an individual permit. There is a difference in cost between the initial issuance of an individual permit and approval of coverage under the general permit due to increased staff time needed to review permit applications and implementation oversight that is associated with individual permits. An individual permit allows for the tailoring of an MS4's stormwater management program and its implementation of the minimum control measures.

Statewide, there are thousands of active earth disturbance activities requiring general or individual NPDES permits for stormwater discharges associated with construction activities issued under Chapter 102 (relating to erosion and sediment control). These permits for stormwater discharges associated with construction activities were not included in the preceding permit analyses because of the short-term, temporary nature of these permitted discharges.

A person proposing a new earth disturbance activity requiring a permit under Chapter 102 with a discharge to an HQ or EV water must obtain an individual permit and comply with the antidegradation provisions, as applicable. Where a permitted discharge existed prior to the receiving waterbody attaining an existing or designated use of HQ or EV, those persons may continue to operate using BMPs that have been approved by the Department and implemented. Any new discharges to the waterbody would be required to comply with the antidegradation provisions, as applicable, and must undergo an antidegradation analysis. Based on the analysis, additional construction and post-construction BMPs may need to be implemented on the remaining area that will be disturbed.

The administrative filing fee for an individual permit is \$1,500 compared to \$500 for the general permit, as set forth in § 102.6(b)(1) (relating to permit applications and fees). The erosion and sediment (E&S) BMPs and their ABACT rating, if applicable, are identified in the Department's Erosion and Sedimentation Pollution Control Manual (363-2134-008) and the Department's Alternative E&S and Post-Construction Stormwater Management BMPs list. The Department may also approve alternative BMPs that maintain and protect the existing water quality and water uses.

Where onlot sewage systems are planned, compliance with the sewage facilities planning and permitting regulations in Chapters 71, 72 and 73 (relating to administration of Sewage Facilities Planning Program; administration of Sewage Facilities Permitting Program; and standards for onlot sewage treatment facilities) will continue to satisfy § 93.4c. Permit applicants of sewage facilities with proposed discharges to HQ waters, subject to antidegradation requirements, may demonstrate SEJ at the sewage facilities planning stage and need not redemonstrate SEJ at the discharge permitting stage.

The SEJ demonstration process is available to sewage and nonsewage discharge applicants for any naturally occurring substances identified in accordance with the Department's Water Quality Antidegradation Implementation Guidance (391-0300-002).

A more detailed description of cost is discussed in the Regulatory Analysis Form, required under the Regulatory Review Act (71 P.S. §§ 745.1—745.14), that accompanies this proposed rulemaking.

#### *Compliance assistance plan*

This proposed rulemaking will not impose any new compliance requirements on persons engaged in regulated activities under existing individual permits or approvals from the Department. When applying for permits or approvals for new, additional or increased discharges, the Department will provide compliance assistance.

#### *Paperwork requirements*

NPDES general permits are not available for discharges to HQ or EV waters. Applications for individual permits will require additional paperwork. The individual permits are necessary to track the quality and quantity of any existing permitted discharges to ensure that additional or increased discharges to a special protection water do not occur without the Department's review in accordance with the antidegradation regulations.

This proposed rulemaking will not, however, impose any new paperwork requirements on persons engaged in regulated activities under existing individual permits or approvals from the Department. When applying for permits or approvals for new, additional or increased discharges to HQ or EV waters, additional information may need to be submitted to the Department as part of the permit application or approval request. As discussed previously, the permit applicant will complete an antidegradation analysis. The applicant will describe how the proposed activity will be conducted to maintain existing water quality. If water quality cannot be maintained and the proposed discharge will be to an HQ water, the applicant may submit an SEJ for the lowering of water quality.

#### *G. Pollution Prevention*

The Federal 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 water quality standards and antidegradation program are major pollution prevention tools because the objective is to prevent degradation by maintaining and protecting existing water quality and existing uses. Although the antidegradation program does not prohibit new or expanding wastewater discharges, nondischarge alternatives must be implemented when environmentally sound and cost-effective. Nondischarge alternatives, when implemented, remove impacts to surface water and may reduce the overall level of pollution to the environment by remediation of the effluent through the soil. In addition, if no environmentally sound and cost-effective alterna-

tives are available, discharges must be nondegrading except as provided in § 93.4c(b)(1)(iii) regarding SEJ in HQ waters.

#### *H. Sunset Review*

These regulations will be reviewed in accordance with the sunset review schedule published by the Department to determine whether the regulations effectively fulfill the goals for which they were intended.

#### *I. Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on June 24, 2021, the Department submitted a copy of this proposed rulemaking and a copy of the Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Environmental Resources and Energy Committees. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed regulations within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria in section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b), which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Department, the General Assembly and the Governor.

#### *J. Public Comments*

Interested persons are invited to submit to the Board written comments, suggestions, support or objections regarding this proposed rulemaking. Comments, suggestions, support or objections must be received by the Board by September 14, 2021.

Comments may be submitted to the Board online, by e-mail, by mail or express mail as follows.

Comments may be submitted to the Board by accessing eComment at <http://www.ahs.dep.pa.gov/eComment>.

Comments may be submitted to the Board by e-mail at [RegComments@pa.gov](mailto:RegComments@pa.gov). A subject heading of this proposed rulemaking and a return name and address must be included in each transmission.

If an acknowledgement of comments submitted online or by e-mail is not received by the sender within 2 working days, the comments should be retransmitted to the Board to ensure receipt. Comments submitted by facsimile will not be accepted.

Written comments should be mailed to the Environmental Quality Board, P.O. Box 8477, Harrisburg, PA 17105-8477. Express mail should be sent to the Environmental Quality Board, Rachel Carson State Office Building, 16th Floor, 400 Market Street, Harrisburg, PA 17101-2301.

#### *K. Public Hearings*

The Board will hold a virtual public hearing for the purpose of accepting comments on this proposed rulemaking. The hearing will be held on August 30, 2021, at 2 p.m.

Persons wishing to present testimony at the hearing must contact Jennifer Swan for the Department and the Board, (717) 783-8727 or [RA-EPEQB@pa.gov](mailto:RA-EPEQB@pa.gov), by August 26, 2021, to reserve a time to present testimony.

Organizations are limited to designating one witness to present testimony on their behalf. Verbal testimony is



limited to 5 minutes for each witness. Witnesses may provide testimony by means of telephone or Internet connection. Video demonstrations and screen sharing by witnesses will not be permitted.

Witnesses are requested to submit written copy of their verbal testimony by e-mail to RegComments@pa.gov after providing testimony at the hearing.

Information on how to access the hearing will be available on the Board’s webpage found through the Public Participation tab on the Department’s web site at www.dep.pa.gov (select “Public Participation,” then “Environmental Quality Board”). Prior to the hearing, individuals are encouraged to visit the Board’s webpage for the most current information for accessing the hearing.

Any members of the public wishing to observe the public hearing without providing testimony are also di-

rected to access the Board’s webpage. Those who have not registered with Jennifer Swan in advance as described previously will remain muted for the duration of the public hearing.

Persons in need of accommodations as provided for in the Americans with Disabilities Act of 1990 should contact the Board at (717) 783-8727 or through the Pennsylvania Hamilton Relay Service at (800) 654-5984 (TDD) or (800) 654-5988 (voice users) to discuss how the Board may accommodate their needs.

PATRICK McDONNELL,  
*Chairperson*

**Fiscal Note:** 7-557. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 25. ENVIRONMENTAL PROTECTION**

**PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**Subpart C. PROTECTION OF NATURAL RESOURCES**

**ARTICLE II. WATER RESOURCES**

**CHAPTER 93. WATER QUALITY STANDARDS**

**DESIGNATED WATER USES AND WATER QUALITY CRITERIA**

**§ 93.9c. Drainage List C.**

**Delaware River Basin in Pennsylvania**

*Delaware River*

<b>Stream</b>	<b>Zone</b>	<b>County</b>	<b>Water Uses Protected</b>	<b>Exceptions to Specific Criteria</b>
* * * * *				
3—Paradise Creek	Basin, Devils Hole Creek to Forest Hills Run	Monroe	HQ-CWF, MF	None
4—Forest Hills Run	Basin, Source to Swiftwater Creek	Monroe	HQ-CWF, MF	None
5—Swiftwater Creek	Basin, Source to UNT 04960 at 41°5’58.5”N; 75°20’4.8”W	Monroe	EV, MF	None
6—UNT 04960	Basin	Monroe	HQ-CWF, MF	None
5—Swiftwater Creek	<b>Basin</b> , UNT 04960 to Mouth	Monroe	HQ-CWF, MF	None
4—Forest Hills Run	Basin, Swiftwater Creek to Mouth	Monroe	HQ-CWF, MF	None
3—Paradise Creek	Basin, Forest Hills Run to <b>[ Mouth ] Cranberry Creek</b>	Monroe	HQ-CWF, MF	None
<b>4—Cranberry Creek</b>	<b>Basin, Source to UNT 04948 at 41°8’28.6”N; 75°16’58.7”W</b>	<b>Monroe</b>	<b>HQ-CWF, MF</b>	<b>None</b>
<b>5—UNT 04948</b>	<b>Basin</b>	<b>Monroe</b>	<b>EV, MF</b>	<b>None</b>
<b>4—Cranberry Creek</b>	<b>Basin, UNT 04948 to Mouth</b>	<b>Monroe</b>	<b>EV, MF</b>	<b>None</b>
<b>3—Paradise Creek</b>	<b>Basin, Cranberry Creek to Mouth</b>	<b>Monroe</b>	<b>HQ-CWF, MF</b>	<b>None</b>
3—Michael Creek	Basin	Monroe	HQ-CWF, MF	None
* * * * *				

§ 93.9k. Drainage List K.

Susquehanna River Basin in Pennsylvania  
*Susquehanna River*

Stream	Zone	County	Water Uses Protected	Exceptions to Specific Criteria
* * * * *				
2—Salem Creek	Basin	Luzerne	CWF, MF	None
2—Nescopeck Creek	Basin, Source to [ <b>PA 309 Bridge</b> ] <b>Oley Creek</b>	Luzerne	HQ-CWF, MF	None
<b>3—Oley Creek</b>	<b>Basin, Source to UNT 28168 at 41°3'7.1"N; 75°54'40.8"W</b>	<b>Luzerne</b>	<b>HQ-CWF, MF</b>	<b>None</b>
<b>4—UNT 28168</b>	<b>Basin</b>	<b>Luzerne</b>	<b>CWF, MF</b>	<b>None</b>
<b>3—Oley Creek</b>	<b>Basin, UNT 28168 to Mouth</b>	<b>Luzerne</b>	<b>HQ-CWF, MF</b>	<b>None</b>
<b>2—Nescopeck Creek</b>	<b>Basin, Oley Creek to PA 309 Bridge at 41°2'14.7"N; 75°57'11.9"W</b>	<b>Luzerne</b>	<b>HQ-CWF, MF</b>	<b>None</b>
2—Nescopeck Creek	Main Stem, PA 309 Bridge to Mouth	Luzerne-Columbia	TSF, MF	None
* * * * *				

§ 93.9l. Drainage List L.

Susquehanna River Basin in Pennsylvania  
*West Branch Susquehanna River*

Stream	Zone	County	Water Uses Protected	Exceptions to Specific Criteria
* * * * *				
3—Tributaries to West Branch Susquehanna River	Basins, North Run to [ <b>Chest Creek</b> ] <b>Bear Run</b>	Clearfield	CWF, MF	None
<b>3—Bear Run</b>	<b>Basin, Source to UNT 27063 at 40°54'5.1"N; 78°50'51.0"W</b>	<b>Indiana</b>	<b>HQ-CWF, MF</b>	<b>None</b>
<b>4—UNT 27063</b>	<b>Basin</b>	<b>Indiana</b>	<b>HQ-CWF, MF</b>	<b>None</b>
<b>3—Bear Run</b>	<b>Basin, UNT 27063 to Brooks Run</b>	<b>Indiana</b>	<b>EV, MF</b>	<b>None</b>
<b>4—Brooks Run</b>	<b>Basin, Source to UNT 27059 at 40°54'10.5"N; 78°49'41.6"W</b>	<b>Indiana</b>	<b>HQ-CWF, MF</b>	<b>None</b>
<b>5—UNT 27059</b>	<b>Basin</b>	<b>Indiana</b>	<b>HQ-CWF, MF</b>	<b>None</b>
<b>4—Brooks Run</b>	<b>Basin, UNT 27059 to Mouth</b>	<b>Indiana</b>	<b>EV, MF</b>	<b>None</b>
<b>3—Bear Run</b>	<b>Basin, Brooks Run to South Branch Bear Run</b>	<b>Indiana</b>	<b>EV, MF</b>	<b>None</b>
<b>3—Bear Run</b>	<b>Basin, South Branch Bear Run to Mouth</b>	<b>Indiana</b>	<b>CWF, MF</b>	<b>None</b>
<b>3—Tributaries to West Branch Susquehanna River</b>	<b>Basins, Bear Run to Chest Creek</b>	<b>Clearfield</b>	<b>CWF, MF</b>	<b>None</b>
3—Chest Creek	Basin, Source to Patton Water Supply	Cambria	HQ-CWF, MF	None
* * * * *				

## § 93.9o. Drainage List O.

**Susquehanna River Basin in Pennsylvania**  
*Susquehanna River*

Stream	Zone	County	Water Uses Protected	Exceptions to Specific Criteria
* * * * *				
3—Stoverstown Branch	Basin	York	WWF, MF	None
3—South Branch Codorus Creek	Basin, Source to [ <b>UNT from Glen Rock Valley at RM 16.85</b> ] <b>UNT 08187 at 39°46'26.7"N; 76°43'15.2"W</b>	York	WWF, MF	None
<b>4—UNT 08187</b>	<b>Basin</b>	<b>York</b>	<b>EV, MF</b>	<b>None</b>
<b>3—South Branch Codorus Creek</b>	<b>Basin, UNT 08187 to UNT from Glen Rock Valley at 39°47'36"N; 76°43'49"W</b>	<b>York</b>	<b>WWF, MF</b>	<b>None</b>
4—UNT to South Branch Codorus Creek Through Glen Rock Valley	Basin	York	CWF, MF	None
* * * * *				

## § 93.9r. Drainage List R.

**Ohio River Basin in Pennsylvania**  
*Clarion River*

Stream	Zone	County	Water Uses Protected	Exceptions to Specific Criteria
* * * * *				
3—Clarion River	Basin, Maxwell Run to [ <b>Callen Run</b> ] <b>Clyde Run</b>	Elk-Jefferson	CWF	None
<b>4—Clyde Run</b>	<b>Basin</b>	<b>Elk</b>	<b>EV</b>	<b>None</b>
<b>3—Clarion River</b>	<b>Basin, Clyde Run to Callen Run</b>	<b>Elk-Jefferson</b>	<b>CWF</b>	<b>None</b>
4—Callen Run	Basin	Jefferson	HQ-CWF	None
* * * * *				

## § 93.9t. Drainage List T.

**Ohio River Basin in Pennsylvania**  
*Kiskiminetas River*

Stream	Zone	County	Water Uses Protected	Exceptions to Specific Criteria
* * * * *				
6—Two Lick Creek				
7—South Branch Two Lick Creek	Basin, Source to Confluence with North Branch	Indiana	HQ-CWF	None
7—North Branch Two Lick Creek	Basin, Source to Confluence with South Branch	Indiana	CWF	None
6—Two Lick Creek	Main Stem, Confluence of North and South Branches to [ <b>Mouth</b> ] <b>Two Lick Reservoir tailrace</b>	Indiana	TSF	None



Stream	Zone	County	Water Uses Protected	Exceptions to Specific Criteria
7—[ Unnamed ] Tributaries to Two Lick Creek	Basins, Confluence of North and South Branches to [ Mouth ] <u>Two Lick Reservoir tailrace</u>	Indiana	CWF	None
[ 7—Browns Run	Basin	Indiana	CWF	None
7—Buck Run	Basin	Indiana	CWF	None
7—Dixon Run	Basin	Indiana	CWF	None
7—Penn Run	Basin	Indiana	CWF	None
7—Allen Run	Basin	Indiana	CWF	None
7—Ramsey Run	Basin	Indiana	CWF	None
7—Stoney Run	Basin	Indiana	CWF	None ]
6—Two Lick Creek	<u>Basin, Two Lick Reservoir tailrace to Yellow Creek</u>	Indiana	CWF	None
7—Yellow Creek	[ Main Stem ] Basin, Source to [ Yellow Creek State Park Dam ] Little Yellow Creek	Indiana	CWF	None
[ 8—Unnamed Tributaries to Yellow Creek	Basins, Source to Yellow Creek State Park Dam	Indiana	CWF	None
8—Leonard Run	Basin	Indiana	CWF	None
8—Laurel Run	Basin	Indiana	CWF	None
8—Rose Run	Basin	Indiana	CWF	None
8—Laurel Run	Basin	Indiana	CWF	None ]
8—Little Yellow Creek	Basin	Indiana	HQ-CWF	None
7—Yellow Creek	<u>Basin, Little Yellow Creek to Yellow Creek State Park Dam</u>	Indiana	CWF	None
7—Yellow Creek	Main Stem, Yellow Creek State Park Dam to Mouth	Indiana	TSF	None
8—[ Unnamed ] Tributaries to Yellow Creek	[ Main Stem ] Basins, Yellow Creek State Park Dam to Mouth	Indiana	CWF	None
[ 8—Ferrier Run	Basin	Indiana	CWF	None
7—Tearing Run	Basin	Indiana	CWF	None
7—Cherry Run	Basin	Indiana	CWF	None ]
6—Two Lick Creek	<u>Main Stem, Yellow Creek to Mouth</u>	Indiana	TSF	None
7—Tributaries to Two Lick Creek	<u>Basins, Yellow Creek to Mouth</u>	Indiana	CWF	None
6—Weirs Run	Basin	Indiana	CWF	None
* * * * *				

§ 93.9v. Drainage List V.

**Ohio River Basin in Pennsylvania**  
*Monongahela River*

Stream	Zone	County	Water Uses Protected	Exceptions to Specific Criteria
* * * * *				
4—Dunbar Creek	Basin, Source to [ Gist Run ] <u>Glade Run</u>	Fayette	[ HQ-CWF ] <u>EV</u>	None

Stream	Zone	County	Water Uses Protected	Exceptions to Specific Criteria
<u>5—Glade Run</u>	<u>Basin, Source to Boundary of SGL 51</u>	<u>Fayette</u>	<u>HQ-CWF</u>	<u>None</u>
<u>5—Glade Run</u>	<u>Basin, Boundary of SGL 51 to Mouth</u>	<u>Fayette</u>	<u>EV</u>	<u>None</u>
<u>4—Dunbar Creek</u>	<u>Basin, Glade Run to Gist Run</u>	<u>Fayette</u>	<u>EV</u>	<u>None</u>
5—Gist Run	Basin	Fayette	TSF	None
* * * * *				

[Pa.B. Doc. No. 21-1194. Filed for public inspection July 30, 2021, 9:00 a.m.]

## DEPARTMENT OF HEALTH

[ 28 PA. CODE CHS. 201 AND 211 ]

### Long-Term Care Nursing Facilities

The Department of Health (Department), after consultation with the Health Policy Board, proposes to amend §§ 201.1—201.3 and 211.12(i), to read as set forth in Annex A.

Due to the projected length of the complete revisions to the Department’s regulations and given that few if any changes have been made to the existing regulations over the last 24 years, the Department tentatively intends to promulgate proposed amendments to Part IV Subpart C (relating to long-term care facilities) in five separate parts. The Department believes that promulgating the changes in this way will allow the public a greater opportunity to thoroughly examine the proposed amendments and provide detailed comments to the proposed changes. It will also allow the Department to focus more closely on those comments and provide a more considered and cogent response to questions and comments. This proposed rulemaking is the first set of amendments to be proposed.

The Department tentatively proposes to promulgate the amendments to Subpart C in the following sequence. The actual contents of each proposed rulemaking packet are subject to change as the Department develops each packet.

*Proposed Rulemaking 1*

- § 201.1. Applicability.
- § 201.2. Requirements.
- § 201.3. Definitions.
- § 211.12(i). Nursing Services.

*Proposed Rulemaking 2*

- § 201.23. Closure of facility.
- Chapter 203. Application of Life Safety Code for Long-Term Care Nursing Facilities.
- Chapter 204. Physical Environment and Equipment Standards for Alteration, Renovation or Construction of Long-Term Care Nursing Facilities. (new)
- Chapter 205. Physical Environment and Equipment Standards for Long-Term Care Nursing Facilities.
- § 207.4. Ice containers and storage.

*Proposed Rulemaking 3*

- § 201.11. Types of ownership.
- § 201.12. Application for license.
- § 201.13. Issuance of license.
- § 201.15. Restrictions on license.
- § 201.17. Location.
- § 201.22. Prevention, control and surveillance of tuberculosis (TB).
- § 209.1. Fire department service.
- § 209.7. Disaster preparedness.
- § 209.8. Fire drills.
- § 211.1. Reportable diseases.

*Proposed Rulemaking 4*

- § 201.14. Responsibility of licensee.
- § 201.18. Management.
- § 201.19. Personnel policies and procedures.
- § 201.20. Staff development.
- § 201.27. Advertisement of special services.
- § 201.30. Access requirements.
- § 201.31. Transfer agreement.
- § 207.2. Administrator’s responsibility.
- § 211.2. Physician services.
- § 211.4. Procedure in event of death.
- § 211.5. Clinical records.
- § 211.6. Dietary services.
- § 211.7. Physician assistants and certified registered nurse practitioners.
- § 211.9. Pharmacy services.
- § 211.12. Nursing services.
- § 211.15. Dental services.
- § 211.16. Social services.

*Proposed Rulemaking 5*

- § 201.21. Use of outside resources.
- § 201.24. Admission policy.
- § 201.25. Discharge policy.
- § 201.26. Power of attorney.
- § 201.29. Resident’s rights.
- § 209.3. Smoking.

§ 211.3. Oral and telephone orders.

§ 211.8. Use of restraints.

§ 211.10. Resident care policies.

§ 211.11. Resident care plan.

§ 211.17. Pet therapy.

### I. *Background and Need for Amendments*

The percentage of adults 65 years of age or older in this Commonwealth is increasing. In 2010, approximately 15% of Pennsylvanians were 65 years of age or older. In 2017, this number increased to 17.8%. This Commonwealth also has a higher percentage of older adults when compared to other states. In 2017, this Commonwealth ranked fifth in the Nation in the number (2.2 million) of older adults and seventh in percentage (17.8%). The increase in older Pennsylvanians is expected to continue. It has been estimated that by 2030, there will be 38 older Pennsylvanians (65 years of age or older) for every 100-working age Pennsylvanians (15 years of age to 64 years of age). Penn State Harrisburg, Pennsylvania State Data Center. Population Characteristics and Change: 2010 to 2017 (Research Brief). <https://pasdc.hbg.psu.edu/data/research-briefs/pa-population-estimates> (last visited: November 25, 2020). As the number of older Pennsylvanians increases, the number of those needing long-term care nursing will also increase. It has been estimated that an individual turning 65 years of age today has an almost 70% chance of needing some type of long-term nursing care during the remainder of their lifetime. U.S. Department of Health and Human Services. How Much Care Will You Need? <https://longtermcare.acl.gov/the-basics/how-much-care-will-you-need.html> (last visited: December 4, 2020). Currently, there are more than 72,000 Pennsylvanians residing in 689 long-term care nursing facilities licensed by the Department.

The Department's long-term care nursing facilities regulations have not been updated since 1999, with the last significant update occurring in 1997 after the 1996 amendment to the Health Care Facilities Act (HCFA or act) (35 P.S. §§ 448.101–448.904b). Since that time, there have been substantial changes in the means of delivering care and providing a safe environment for residents in long-term care nursing facilities. This proposed rulemaking is necessary to improve the quality of care delivered to residents, increase resident safety and minimize procedural burdens on health care practitioners who provide care to residents in long-term care nursing facilities.

The Department began the process of updating the current long-term care regulations in late 2017. The Department sought review, assistance and advice from members of a long-term care work group (LTC Work Group) consisting of relevant stakeholders. The members of the LTC Work Group were drawn from a diverse background and included representatives from urban and rural long-term care facilities and various stakeholder organizations and consumer groups that work in the area of resident care and delivery of services. The LTC Work Group members consisted of representatives from the following organizations: American Institute of Financial Gerontology; Baker Tilly Virchow Krause, LLP; Berks Heim and Rehabilitation; Fulton County Medical Center; Garden Spot Community; HCR ManorCare; Inglis House; Landis Communities; Leading Age; Legg Consulting Services; LIFE Pittsburgh; Luzerne County Community College; The Meadows at Blue Ridge; Mennonite Home, Lutheran Senior Life Passavant Community; PA Coalition of Affiliated Healthcare and Living Communities; Penn-

sylvania Home Care Association; University of Pittsburgh; and Valley View Nursing Home. The following State agencies participated: Department of Aging; the Department of Human Services (DHS); and the Department of Military and Veteran's Affairs (DMVA).

The members of the LTC Work Group met regularly during 2018 with the LTC Work Group's primary focus being the simplification and modernization of the existing long-term care regulations. Upon completion of the LTC Work Group's discussions, the Department conducted an internal review of the recommended changes. While the Department accepted most of the language and substantive changes proposed by the LTC Work Group and attempted to incorporate them in this proposed rulemaking, the Department is proposing additional changes to language and additional substantive changes, as well.

During 2019 and 2020, the Department conferred with other agencies, that will be potentially affected by the proposed regulatory changes, to seek their input on provisions within their substantive expertise. These agencies included the Department of Aging, DHS and DMVA. The Department received recommendations from these agencies regarding the draft proposed regulations and made additional changes to the proposed regulations to enhance resident safety and quality of care.

This is the first rulemaking packet developed as a result of the previous discussions. The purpose of this rulemaking is to create consistency between Federal and State requirements for long-term care nursing facilities by expanding the adoption of the Federal requirements to include all the requirements set forth in 42 CFR Part 483, Subpart B (relating to requirements for long term care facilities). This proposed rulemaking also updates existing definitions applicable to long-term care nursing facilities by adding, updating and deleting definitions as fully explained as follows. Finally, this proposed rulemaking increases the number of direct care hours that long-term care nursing facilities are required to provide to residents, per shift, while also clarifying that nursing staff providing such care must possess the appropriate competencies and skills necessary to do so.

### II. *Description of Proposed Amendments*

#### § 201.1. *Applicability*

The Department proposes to delete the phrases "profit and nonprofit" and "which provide either skilled nursing care or intermediate nursing care, or both, within the facilities under the act." These phrases are presently used in this section to describe the types of long-term care nursing facilities to which Part IV, Subpart C applies. The Department proposes, with the previous deletions, to add the phrase "as defined in section 802.1 of the act (35 P.S. § 448.802a)" after the term "long-term care nursing facilities" to clarify that this subpart applies to all long-term care nursing facilities as defined by the act. The act applies to all long-term care nursing facilities regardless of whether the facility is designated as a profit or nonprofit. In addition, the definition of a long-term care nursing facility under the act is more descriptive than what is presently provided for in this section of the regulations. The proposed changes to directly reference the definition of "long-term care nursing facility" add clarity and promote consistency in the application of the act and in the application and scope of this subpart to long-term care nursing facilities.

#### § 201.2. *Requirements*

The Department proposes to break § 201.2 (relating to requirements) into four subsections. The existing lan-

guage will move into subsection (a), with some changes. Specifically, the Department proposes to update the citation to the Federal requirements and delete the exceptions to the Federal requirements that are currently listed in this section. The effect of this change will be to adopt the Federal requirements in 42 CFR Part 483, Subpart B in their entirety. In subsection (b), the Department proposes to incorporate by reference Chapter 7 and Appendix PP—Guidance to Surveyors for Long-Term Care Facilities from the Centers of Medicare & Medicaid Services (CMS) State Operations Manual. Chapter 7 and Appendix PP are the parts of the State Operations Manual that are applicable to the implementation of 42 CFR Part 483, Subpart B. The Department proposes to add language in subsection (c) to clarify that a long-term care nursing facility may still apply for an exception under §§ 51.31—51.34 (relating to exceptions). The Department proposes to add language in subsection (d) to clarify that a violation of the Federal requirements will be considered a violation at the State level as well, unless an exception has been granted under §§ 51.31—51.34.

The Department's surveyors survey long-term care nursing facilities for compliance with both the State and Federal regulations for long-term care nursing facilities. With respect to the Federal regulations, the Department is designated as the State Survey Agency for CMS. As such, the Department is responsible for conducting surveys of facilities, including long-term care nursing facilities, for compliance with the participation requirements for Medicare and Medicaid<sup>1</sup>. The Federal participation requirements for long-term care nursing facilities are located at 42 CFR Part 483, Subpart B. Presently, only three long-term care nursing facilities licensed by the Department do not participate in either Medicare or Medicaid. The remaining facilities participate in either Medicare or Medicaid, and as such, are already required at the Federal level to comply with the Federal requirements. See 42 CFR 483.1 (relating to basis and scope). Requiring all long-term care nursing facilities to comply with the Federal requirements across the board at the State level, without exceptions, will make the survey process more efficient and will create consistency and eliminate confusion in the application of standards for all long-term care nursing facilities that are licensed in this Commonwealth. In addition, all long-term care nursing facilities licensed by the Department were and are already required to comply with some of the Federal requirements based on the existing language in this section. Thus, any negative impact in applying the Federal requirements to the three facilities that do not participate in Medicare or Medicaid will be minimum and is vastly outweighed by the need for consistency in the application of standards in long-term care nursing facilities Statewide.

### § 201.3. Definitions

The Department proposes to divide § 201.3 (relating to definitions) into two subsections. In subsection (a), the Department proposes to incorporate all terms that are defined in 42 CFR Part 483, Subpart B to be consistent with the adoption of the Federal requirements in § 201.2. The incorporation of terms in subsection (a) includes all terms specifically defined in 42 CFR 483.5 (relating to definitions), as well as all other terms that are defined throughout 42 CFR Part 483, Subpart B. The Department also proposes to incorporate all terms that are defined in the State Operations Manual, Chapter 7 and Appendix PP—Guidance to Surveyors for Long-Term Care Faci-

ities, issued by CMS. The Department proposes to delete existing terms that are incorporated in subsection (a). The Department proposes to delete definitions that are outdated or for which ordinary dictionary definitions apply. In subsection (b), the Department proposes to retain, update or add certain definitions that are not defined in either the Federal requirements or the State Operations Manual. The changes are as follows:

1. As explained in more detail as follows, the following definitions are proposed to be deleted because they are now incorporated by reference from either the Federal regulations or the State Operations Manual, or both: abuse (including verbal abuse; sexual abuse; physical abuse; mental abuse; involuntary seclusion; and neglect); administrator; charge nurse; clinical laboratory; dietician; director of nursing services; elopement; exit or exitway; full-time; interdisciplinary team; nurse aide, restraint (including physical restraint and chemical restraint); and social worker.

Abuse is defined in 42 CFR 483.5 and in multiple sections of Appendix PP of the State Operations Manual. Abuse includes verbal abuse, sexual abuse, physical abuse and mental abuse. Verbal abuse is further defined in Appendix PP of the State Operations Manual in section F600. Sexual abuse is defined separately in 42 CFR 483.5 and further defined in section F600 of Appendix PP of the State Operations Manual. Physical abuse is defined in section F600 of Appendix PP of the State Operations Manual. Mental abuse is defined in section F600 of Appendix PP of the State Operations Manual. Involuntary seclusion, which is included in the existing regulations, is defined in section F603 of Appendix PP of the State Operations Manual. Neglect is defined separately in 42 CFR 483.5 and in section F609 of Appendix PP of the State Operations Manual.

Administrator is defined at 42 CFR 483.70(d)(2) (relating to administration). Charge nurse is a licensed nurse designated by a long-term care nursing facility to serve in this capacity under 42 CFR 483.35(a)(2) (relating to nursing services). Laboratory services are covered under 42 CFR 483.50(a) (relating to laboratory, radiology, and other diagnostic services). A facility that provides its own laboratory services or performs any laboratory tests directly must have a certificate under section 353 of the Clinical Laboratory Improvement Amendments of 1988 (CLIA) (42 U.S.C.A. § 263a). The term "clinical laboratory" is defined in the CLIA.

A dietician is referred to as a qualified dietician under the Federal requirements and is defined at 42 CFR 483.60 (relating to food and nutrition services). A director of nursing services is a registered nurse designated by a long-term care nursing facility to serve in this capacity under 42 CFR 483.35(b)(2). Elopement, which refers to a resident leaving the premises or a safe area without authorization, is defined in section F689 of Appendix PP of the State Operations Manual.

Exit is defined in section F906 in Appendix PP of the State Operations Manual. Full-time is defined in Appendix PP of the State Operations Manual, sections F727 and F801, as working more than 35 or more hours a week. Interdisciplinary team is defined in 42 CFR 483.21(b)(2)(ii) (relating to comprehensive person-centered care planning). Nurse aide is defined in 42 CFR 483.5. Restraint refers to both physical and chemical restraints, 42 CFR 483.12 (relating to freedom from abuse, neglect and exploitation). Physical restraints and chemical restraints are defined in Appendix PP of the State Opera-

<sup>1</sup> In this Commonwealth, Medicaid is referred to or known as Medical Assistance (MA).



tions Manual in sections F604 and F605, respectively. Social worker is defined in 42 CFR 483.70(p).

2. The Department proposes to delete the following definitions because they are outdated and will no longer be used in this subpart: existing facility; locked restraints; medical record practitioner; resident activities coordinator; residential unit; responsible person; and skilled or intermediate nursing care.

3. The Department proposes to delete the following definitions because they are not used in this subpart, and therefore, a definition is not necessary: audiologist; dietetic service supervisor; occupational therapist; occupational therapy assistant; physical therapist; physical therapy assistant; practice of pharmacy; and speech/language pathologist.

4. The Department proposes to delete the following definitions because the ordinary dictionary definition applies: ambulatory resident and nonambulatory resident. The terms “ambulatory” and “nonambulatory” are understood to have their ordinary dictionary definitions when applied to describe a resident who is able to walk or not able to walk in a long-term care nursing facility. Separate definitions for “ambulatory resident” and “nonambulatory resident” are not necessary and could result in conflict and confusion if they remained in this subpart.

5. The Department proposes to delete the following definitions, and replace them with new terms and definitions in subsection (b):

The definition of “proprietary drug” will be deleted and replaced with the definition of “non-prescription medication.” The shift from the use of the term “proprietary drug” to “non-prescription medication” reflects a change in terminology used in the long-term care nursing environment. The definition will also be changed to reflect common usage of this term to refer to an over-the-counter medication that is purchased without a prescription.

The definition of “nonproprietary drug” will be deleted. The use of the word “prescription” more accurately reflects the current terminology that is used. The existing definition of the word “prescription” will be updated to: (1) replace the word “drugs” with the word “medications” to reflect current terminology; (2) replace the words “licensed medical” with “health care” before the word “practitioner” for consistency with the use and meaning of the term “health care practitioner” in this subpart; and (3) delete the word “his” to make this definition gender neutral.

6. The Department proposes to update the following definitions, and include them in subsection (b):

The citation to HCFA in the definition of “act” will be updated to reflect the proper citation that encompasses all provisions of the act.

The definition of “licensed practical nurse” will be updated to add the acronym “LPN” and to include a citation to the regulations of the State Board of Nursing to more accurately describe an individual licensed in this capacity under the Practical Nurse Law (63 P.S. §§ 651—667.8).

The terms “drug” and “drugs” will be replaced with “medication” and “medications” in the definitions for “administration of drugs,” “drug administration” and “drug dispensing” to reflect current terminology used to describe the process of administering medications to residents in long-term care nursing facilities. The Department is not proposing any substantive changes to these three definitions. However, as a result of these changes,

the definitions for “medication administration” and “medication dispensing” will be moved so that they appear in alphabetical order in § 201.3(b).

The definition of “registered nurse” will be updated with minor changes to the phrasing of the definition for clarity. This includes the addition of the acronym “RN” and a citation to the regulations of the State Board of Nursing to more accurately describe an individual licensed in this capacity under the Professional Nursing Law (63 P.S. §§ 211—225.5).

7. The following definitions will be retained and included in subsection (b) with no changes: alteration; authorized person to administer drugs and medications; basement; CRNP—certified registered nurse practitioner; clinical records; controlled substance; corridor; department; drug or medication; facility; licensee; NFPA; nurse aide; nursing care; nursing service personnel; pharmacist; pharmacy; physician assistant; and resident.

8. The Department proposes to add the following definition to subsection (b):

The Department proposes to add the definition of “health care practitioner” from the act for consistency in the application of the term to long-term care nursing facilities and to recognize the range of health care professionals that provide care to residents in long-term care nursing facilities. The term “practitioner” when used as a standalone term in this subpart is considered to be synonymous with those individuals defined as a “health care practitioner” under the act.

#### § 211.12. Nursing services

The Department proposes to amend subsection (i) to add the phrase “for each shift” to ensure that there are proper nursing staff to provide direct care<sup>2</sup> for residents throughout the 24-hour period. The Department is concerned that without this clarification, a facility might attempt to meet the requirement for the minimum number of direct care hours by frontloading the required hours during one part of the day, leaving residents without adequate care for the remainder of the 24-hour period. This addition also aligns with the Federal requirements that long-term care nursing facilities post on a daily basis the number of nursing staff directly responsible for resident care on a “per shift” basis. See 42 CFR 483.35(g)(1)(iii).

The Department proposes to increase the minimum number of direct resident care hours from 2.7 to 4.1. Numerous studies, including a study by CMS in 2001, have found a direct correlation between the quality of resident care, quality of resident life and the number of direct care hours that the resident receives. Benefits of higher staffing ratios include improved activity levels, lower mortality rates, fewer infections, less antibiotic use, fewer pressure ulcers and fewer catheterized residents, improved eating patterns and pain levels and improved mental health. Juh Hyun Shin, PhD, RN & Sung-Heui Bae, PhD, MPH, RN. Nurse Staffing, Quality of Care, and Quality of Life in U.S. Nursing Homes, 1996—2011, 38 Journal of Gerontological Nursing 46 (2012). In its 2001 study, CMS suggested that a minimum of 4.1 hours of direct care per resident day would improve the quality of care provided to a resident, and that anything below that amount could “result in harm and jeopardy to residents.” Medicare and Medicaid Programs;

<sup>2</sup> Under the Federal requirements, which are adopted by the Department in § 201.2, direct care refers to assisting a resident, through interpersonal contact, with care and services that allow the resident to attain or maintain the highest practicable physical, mental and psychosocial well-being. 42 CFR 483.70(q)(1).

Reform of Requirements for Long-Term Care Facilities, See 80 FR 42168, 42202 (July 16, 2015).

Despite this finding, CMS declined to include a minimum number of direct care hours when it proposed to update the Federal requirements in 2015. CMS agreed that the existing staffing requirements needed to be clarified but believed that it did not have sufficient information at that time to require a specific number of staffing hours. *Id.* at 42201. CMS was also concerned that requiring specific numbers would conflict with requirements already established by states and “would limit flexibility and innovation in designing new models of person-centered care delivery to residents.” *Id.* at 42175.

Instead, CMS proposed language that would require nursing staff to possess the appropriate competencies and skills to provide health care and services to residents in long-term care facilities. CMS also proposed that long-term care facilities use a facility assessment to determine direct care staff needs. *Id.* at 42171. In the final-form rulemaking, CMS responded to concerns about its failure to implement required minimum staffing hours, by reiterating that it was concerned that a mandated ratio could have unintended consequences such as staffing to a minimum, input substitution (hiring for one position by eliminating another), task diversion (assigning non-standard tasks to a position) and the stifling of innovation. Medicare and Medicaid Programs; Reform of Requirements for Long-Term Care Facilities, 81 FR 68688, 68753—68759 (October 4, 2016). The lack of a Federal requirement has left it up to states to determine and set a required minimum number of direct care hours.

Nationally, in 2016 the number of reported actual total direct care nursing hours (including RNs, LPN/LVNs and NAs) was, on average, on par with the recommended 4.1 hours per resident day. However, there was wide variation among states with some states such as Florida, Alaska, Idaho, Oregon and Utah exceeding 4.5 hours per resident day. Kaiser Family Foundation. Nursing Facilities, Staffing, Residents and Facility Deficiencies: 2009 through 2016. (2018). <https://www.kff.org/report-section/nursing-facilities-staffing-residents-and-facility-deficiencies-2009-through-2016-staffing-levels/> (last visited: March 19, 2021). However, minimum requirements set by states continued to be lower than the recommended 4.1 hours of direct care per resident day. *Id.*

The Department reviewed the regulations of the surrounding states of New York, New Jersey, Maryland, Delaware, Ohio and West Virginia to determine if those states have set a minimum requirement for direct care nursing hours. A review of New Jersey, Maryland, Delaware, Ohio and West Virginia regulations reflects minimum requirements from 2.25 hours to 3.67 hours. New York does not have a minimum level, but instead merely provides that sufficient staffing is required. See N.Y. Comp. Codes R. & Regs. tit. 10, § 415.13(a). West Virginia has the lowest minimum requirement of direct care resident hours with a required minimum of 2.25 hours. See W. Va. Code R. § 64-13-8. Ohio and New Jersey require a minimum of 2.5 hours, Maryland requires a minimum of 3.0 hours and Delaware has the highest requirement at 3.67 hours of care. See Ohio Admin. Code 3701-17-08; N.J. Admin. Code § 8:85-2.2; Md. Code Regs. 10.07.02.19; and 16 Del. Admin. Code § 3201-5.0.<sup>3</sup>

<sup>3</sup> See also, Harrington, Charlene, Ph.D. Nursing Home Staffing Standards in State Statutes and Regulations. (2010). <https://theconsumervoice.org/uploads/files/issues/Harrington-state-staffing-table-2010.pdf> (last visited: March 19, 2021) (state-by-state summary of statutes and regulations pertaining to nursing home staffing requirements).

Momentum is gaining, however, for states to act regarding nursing staff ratios in long-term care nursing facilities as the novel coronavirus (COVID-19) pandemic has heightened awareness of this issue. Legislation was recently introduced in New York that, if enacted, will establish a minimum requirement of 4.85 direct care nursing hours. Safe Staffing for Quality Care Act, Assembly Bill 108, 244th State Assembly Reg. Sess. (N.Y. 2021). Legislation has also been introduced in Connecticut that, if passed and enacted, will establish a minimum requirement of 4.1 direct care nursing hours. Raised S.B. 1030, General Assembly Reg. Session (Conn. 2021). The Rhode Island Senate also recently passed a bill, which, if enacted, will require all nursing facilities to provide a minimum daily average of 4.1 hours of direct nursing care per resident, per day. Nursing Home Staffing and Quality Care Act, S.B. 0002, General Assembly Reg. Session (R.I. 2021).

The Department has a duty to protect the health of all Pennsylvanians, including those who are 65 years of age and older. Given that a significant number of the population in this Commonwealth consists of individuals 65 years of age and older, with an expected increase in that population in the next several years, it is even more important that the Department act to ensure the health and safety of this vulnerable population. The Department has carefully considered the impact that requiring an increase in direct care staffing hours will have on long-term care nursing facilities. The Department strongly believes that increasing the number of direct care staffing hours from 2.7 to 4.1 will have a positive impact on the quality of life and quality of care for every resident in a long-term care nursing facility, as proven by the many studies on this issue. While there will be an impact on long-term care nursing facilities as a result of this increase, the Department feels strongly that the benefits to older Pennsylvanians now and in the future outweighs those costs.

Finally, the Department proposes to add language to § 211.12(i), from the Federal requirements in 42 CFR 483.35, to indicate that a facility shall have a sufficient number of staff with the appropriate competencies and skill sets to provide nursing care and related services to: (1) assure resident safety; and (2) attain or maintain the highest practicable physical, mental and psychosocial well-being of each resident. The addition of this language addresses CMS's concerns that a mandated ratio could result in unintended consequences by clarifying that the increase to 4.1 direct resident care hours per shift will be a minimum requirement and will not excuse a long-term care nursing facility from CMS's requirement that the facility have adequate staff with the appropriate competencies and skill sets to care for residents.

### III. *Fiscal Impact and Paperwork Requirements*

#### *Fiscal Impact*

#### *Commonwealth*

#### *Department*

The Department licenses long-term care nursing facilities. The Department's surveyors perform the function of surveying and inspecting long-term care nursing facilities for compliance with both Federal and State regulations. The Department does not expect there to be any increase in costs associated with its responsibility to license and survey long-term care nursing facilities. Rather, the proposed amendments, in particular the adoption of the Federal requirements without exceptions, will create con-

sistency in the licensing and survey process for long-term care nursing facilities because the same standards will now apply to all long-term care nursing facilities in the Commonwealth. This will result in a more streamlined licensing and inspection process for both the Department and long-term care nursing facilities operating in this Commonwealth.

The Department is also the State agency charged with administering and overseeing the Nurse Aid Registry for the Commonwealth. Under Federal law, any individual who works in a long-term care nursing facility as a nurse aide must meet the statutory requirements to be included on the State's Nurse Aide Registry. See 42 U.S.C.A. § 1396r(b)(5)(c). The Department is required to handle the administrative hearings related to the annotation process for nurse aides accused of abuse. There is currently a total of 335,792 nurse aides on the registry. The Department is not able to quantify the impact that the proposed regulations will have on its management of the Nurse Aide Registry. The Department's proposal to increase the number of direct care hours will most likely result in the hiring of additional nurse aides, which may increase the number of nurse aide annotations. However, it is the Department's position that an increase in the number of nurse aides hired at a long-term care nursing facility would increase the level of care provided to residents and thus should decrease the number of abuse allegations.

#### *DHS*

The proposed amendment to the number of direct care hours will increase costs to the Medical Assistance, or Medicaid, program (MA) in DHS. DHS determined the cost impact of the Department's proposed increase in direct care hours. Although the Department currently licenses a total of 689 long-term care nursing facilities, for its analysis, DHS excluded the six long-term care nursing facilities that are operated by DMVA. Of the 683 remaining long-term care nursing facilities, a total of 615 receive MA payments. Of these 615 long-term care nursing facilities, 595 are private facilities and 20 are county facilities. The median hourly rate for a nursing staff assistant was determined to be \$22.91. The total additional nursing assistant staff hours needed to bring each MA facility up from 2.7 to 4.1 direct care hours is 15,986,835. To provide the most accurate estimate, DHS considered actual nursing staff assistant costs for each MA facility, rather than the median hourly rate. The additional nursing assistant staff hours needed for each MA long-term care nursing facility multiplied by the facility-specific hourly rate results in \$385.7 million in additional costs across all MA long-term care nursing facilities (\$355.7 million for the 595 private facilities and \$30.0 million for county facilities). The Federal MA Program match in Federal Fiscal Year (FFY) 2022 is 52.68% of this \$385.7 million, or \$203.2 million, which results in a net cost to DHS of approximately \$182.5 million. DHS does not have sufficient data to determine who will bear the burden of the remaining costs not covered by MA, for the MA facilities, but believes that at least some of this amount will have to be borne by the regulated community. Nonetheless, the Department feels strongly that the increase in quality of life and safety for the approximately 67,500 residents in the impacted long-term care nursing facilities outweighs any additional costs to either the MA program in DHS or the regulated community.

#### *DMVA*

DMVA operates six veterans' homes across this Commonwealth with more than 1,300 residents and employs more than 2,000 clinical and professional staff. An increase in direct care nursing hours to 4.1 requires the Bureau of Veterans Homes to add staff to the direct care complement resulting in an additional 235 employees. The average cost to DMVA for one direct care provider is \$105,207.42. This cost includes salary and benefits. The total overall estimated cost to DMVA for the increase will be \$24,723,743.70. This will also be a cost-to-carry for subsequent fiscal years. The Federal MA Program rate will apply to these direct care workers. This increase in staff (\$12.9 million) could be implemented over a 3-year period, and with an estimated Federal MA Program rate of 52%, would be an increase of approximately \$4.3 million in state funding per year.

#### *Department of State (DOS)*

The DOS has jurisdiction to investigate complaints related to health care practitioners. The proposed amendments will not have any identifiable fiscal impact on the DOS. Requiring all long-term care nursing facilities to comply with the Federal requirements in 42 CFR Part 483, Subpart B will provide consistency and will assist the DOS's investigators and prosecutors in enforcing standards for nursing home administrators. Additionally, because the increase in direct care nursing hours is expected to improve the quality of life and care of residents in long-term care nursing facilities, the DOS may see a decrease in the number of complaints.

#### *Local government*

There are currently 20 county-owned long-term care nursing facilities which account for approximately 8% (8,706 beds) of long-term care nursing beds across this Commonwealth. Allegheny County owns four of the nursing homes; the remaining homes are in the following 15 counties: Berks; Bradford; Bucks; Chester; Clinton; Crawford; Delaware; Erie; Indiana; Lehigh; Monroe; Northampton; Philadelphia; Warren; and Westmoreland.

The county-owned long-term care nursing facilities participate in either Medicare or Medicaid, and thus, will not be impacted by the Department's incorporation of the Federal requirements in § 201.2.

None of the 20 county-owned long-term care nursing facilities meet or exceed the proposed increase in direct care nursing hours. This will impact the 16 counties which own nursing homes. The Department does not have the necessary data to calculate what the exact cost to these counties will be. However, based on the analysis performed by DHS, some of this cost (\$30.0 million) will be covered by MA.

#### *Regulated community*

The proposed amendments to the regulations will apply to all 689 licensed long-term care nursing facilities in this Commonwealth. These facilities provide health services to more than 72,000 residents. The existing regulations of the Department already incorporate many of the Federal requirements and any burden by the expansion, in § 201.2, to incorporate the remaining Federal requirements in 42 CFR Part 483, Subpart B will only impact those long-term care nursing facilities that do not participate in Medicare or Medicaid. There are currently only three long-term care nursing facilities that do not participate in either Medicare or Medicaid. Requiring a long-term care nursing facility to comply with the Federal requirements across the board, without exceptions, will



make the survey process more efficient and will create consistency and eliminate confusion in the application of standards to long-term care nursing facilities, which will benefit all long-term care nursing facilities. Any negative impact on the three facilities that do not participate in Medicare or Medicaid will be minimum as they are already required by existing § 201.2 to comply with the majority of the requirements in 42 CFR Part 483, Subpart B. Any negative impact is also vastly outweighed by the need for consistency and efficiency in the application of standards for long-term care nursing facilities in this Commonwealth.

The increase in direct nursing care hours from 2.7 to 4.1 will directly impact 603 of the total 689 licensed long-term care nursing facilities licensed by the Department. The 603 impacted facilities provide care to approximately 67,500 residents. To determine this number, the Department utilized data extracted in January 2020. It was determined by the Department that this data would be more accurate than data from 2020 as there was concern that 2020 data may be skewed because of the COVID-19 pandemic and its impact on long-term care nursing facility staffing. DHS determined the cost impact on facilities that participate in MA. The median hourly rate for a nursing staff assistant was determined to be \$22.19. The total additional nursing assistant staff hours needed to bring each MA facility up from 2.7 to 4.1 direct care hours is 15,986,835. To provide the most accurate estimate of the cost impact on MA facilities, DHS considered actual nursing staff assistant costs for each facility, rather than the median hourly rate. The additional nursing staff hours needed for each MA nursing facility multiplied by the facility-specific hourly rate results in \$385.7 million in additional costs across all MA long-term care nursing facilities (\$355.7 million for the 595 private facilities and \$30.0 million for county facilities). The Federal MA match in FFY 2022 is 52.68% of this \$385.7 million, or \$203.2 million, which results in a net cost to DHS of approximately \$182.5 million. DHS does not have sufficient data to determine who will bear the burden of the remaining costs not covered by MA but believes that at least some of this amount will have to be borne by the regulated community.

Of the long-term care nursing facilities that do not participate in MA, the Department identified 65 long-term care nursing facilities that accept only Medicare as payment and three facilities that are "private pay only." Medicare is an insurance program managed by the Federal government. According to Medicare.gov, direct care services, that is, assistance with activities of daily living in long-term care nursing facilities, are generally not covered. Medicare Part A may cover care in a certified skilled nursing facility if it is deemed medically necessary. The Department does not have sufficient data to determine whether any of the direct care services being provided to long-term care nursing residents is medically necessary, and thus, covered under Medicare. Of the 65 Medicare-only facilities, in January 2020, 40 were above the proposed staffing ratio of 4.1, five did not have any residents and 20 were operating below the proposed 4.1 staffing ratio. In an attempt to determine the most accurate estimate, the Department excluded the five facilities that did not have residents in January 2020 and estimated costs based on the 20 facilities that were operating below the proposed 4.1 ratio. Assuming that the direct care services provided by nursing staff in the Medicare-only facilities are not covered by Medicare, the Department estimates that the cost to the 20 impacted facilities will be \$183,450 annually. Of the three

private pay facilities, two already exceed the proposed 4.1 ratio; one does not exceed the proposed ratio. The annual cost to the single private pay facility is estimated to be \$10,205. The Department believes that the increase in quality of life and safety for the approximately 67,500 residents in the impacted long-term care nursing facilities outweighs any additional cost to the regulated community.

#### *General public*

There are expected to be no additional costs to the general public. The more than 72,000 residents in the 689 licensed long-term care nursing facilities will benefit from the adoption of the Federal requirements because the same standards will now be applied to all long-term care nursing facilities, regardless of whether those facilities participate in Medicare or Medicaid. It is expected that the proposed increase in direct care hours provided to residents will improve the quality of life and care of approximately 67,500 Pennsylvanians who reside in the 603 long-term care nursing facilities mentioned previously, as will all older Pennsylvanians who may need long-term care nursing in the future.

#### *Paperwork Requirements*

This proposed rulemaking does not impose any additional paperwork requirements on any of the previous entities.

#### *IV. Statutory Authority*

Sections 601 and 803 of the HCFA (35 P.S. §§ 448.601 and 448.803) authorize the Department to promulgate, after consultation with the Health Policy Board, regulations necessary to carry out the purposes and provisions of the HCFA. Section 801.1 of the HCFA (35 P.S. § 448.801a) seeks to promote the public health and welfare through the establishment of regulations setting minimum standards for the operation of health care facilities. The minimum standards are to assure safe, adequate and efficient facilities and services and to promote the health, safety and adequate care of patients or residents of those facilities. In section 102 of the HCFA (35 P.S. § 448.102), the General Assembly has found that a purpose of the HCFA is, among other things, to assure that citizens receive humane, courteous and dignified treatment. Finally, section 201(12) of the HCFA (35 P.S. § 448.201(12)) provides the Department with explicit authority to enforce its rules and regulations promulgated under the HCFA.

The Department also has the duty to protect the health of the people of this Commonwealth under section 2102(a) of the Administrative Code of 1929 (71 P.S. § 532(a)). The Department has general authority to promulgate regulations under section 2102(g) of the Administrative Code of 1929.

#### *V. Effectiveness/Sunset Date*

These regulations will become effective upon publication in the *Pennsylvania Bulletin* as final-form regulations. A sunset date will not be imposed. The Department will monitor the regulations and update them as necessary.

#### *VI. Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on July 21, 2021, the Department submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate Health and Human Services Commit-



tee and the House Health Committee. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Department, the General Assembly and the Governor of comments, recommendations or objections raised.

#### VII. *Contact Person*

Interested persons are invited to submit comments, suggestions or objections to the proposed regulations within 30 days after publication of this notice in the *Pennsylvania Bulletin*. The Department prefers that comments, suggestions or objections be submitted by e-mail to RA-DHLTCRegs@pa.gov. Persons without access to e-mail may submit comments, suggestions or objections to Lori Gutierrez, Deputy Director, Office of Policy, 625 Forster Street, Room 814, Health and Welfare Building, Harrisburg, PA 17120, (717) 317-5426. Persons with a disability may submit questions in alternative format such as by audio tape, Braille, or by using V/TT (717) 783-6514 or the Pennsylvania Hamilton Relay Service at (800) 654-5984 (TT). Persons who require an alternative format of this document may contact Lori Gutierrez at the previous address or telephone number so that necessary arrangements can be made. Comments should be identified as pertaining to Rulemaking 10-221 (Long-Term Care Facilities, Proposed Rulemaking 1).

ALISON BEAM,  
*Acting Secretary*

#### **Fiscal Note:** 10-221. (1) General Fund;

(7) DOH, Quality Assurance; (2) No identifiable fiscal impact; (4) 2019-20 Program—\$22,051,000; 2018-19 Program—\$23,001,000; 2017-18 Program—\$22,044,000;

(7) DHS, MA—Long-Term Nursing Facilities; (2) Implementing Year 2022-23 is \$182,500,000; 1st Succeeding Year 2023-24 through 5th Succeeding Year 2027-28 are \$182,500,000; (4) 2019-20 Program—\$470,024,000; 2018-19 Program—\$850,015,000; 2017-18 Program—\$1,010,000,000;

(7) DMVA, Veterans Homes; (2) Implementing Year 2022-23 is \$4,300,000; 1st Succeeding Year 2023-24 is \$4,300,000; 2nd Succeeding Year 2024-25 is \$4,300,000; 3rd Succeeding Year is \$24,800,000; 4th Succeeding Year is \$24,800,000; 5th Succeeding Year is \$24,800,000; (4) 2019-20 Program—\$101,058,000; 2018-19 Program—\$104,014,000; 2017-18 Program—\$98,040,000;

(7) DOS, Occupational Licensing Assessment; (2) No fiscal impact; (4) 2019-20 Program—\$365,000; 2018-19 Program—\$422,000; 2017-18 Program—\$0;

(8) recommends adoption. Neither the Department of Health, nor the Department of State, will incur costs as a result of this regulatory action. The Department of Human Services and the Department of Military and Veterans Affairs will both incur significant costs as outlined previously.

## Annex A

### TITLE 28. HEALTH AND SAFETY

#### PART IV. HEALTH FACILITIES

#### Subpart C. LONG-TERM CARE FACILITIES

#### CHAPTER 201. APPLICABILITY, DEFINITIONS, OWNERSHIP AND GENERAL OPERATION OF LONG-TERM CARE NURSING FACILITIES

#### GENERAL PROVISIONS

##### § 201.1. Applicability.

This subpart applies to [ **profit and nonprofit** ] long-term care nursing facilities [ **which provide either skilled nursing care or intermediate nursing care, or both, within the facilities under the act** ] as defined in section 802.1 of the act (35 P.S. § 448.802a).

##### § 201.2. Requirements.

(a) The Department incorporates by reference **42 CFR Part 483**, Subpart B of the Federal requirements for long-term care facilities, [ **42 CFR 483.1—483.75 (relating to requirements for long-term care facilities) revised as of October 1, 1998** ] (relating to requirements for long-term care facilities), as licensing regulations for long-term care nursing facilities [ **with the exception of the following sections and subsections:**

(1) Section 483.1 (relating to basis and scope).

(2) Section 483.5 (relating to definitions).

(3) Section 483.10(b)(10), (c)(7) and (8) and (o) (relating to level A requirement: Resident rights).

(4) Section 483.12(a)(1), (b), (c)(1) and (d)(1) and (3) (relating to admission, transfer and discharge rights).

(5) Section 483.20(j) and (m) (relating to resident assessment).

(6) Section 483.30(b)—(d) (relating to nursing services).

(7) Section 483.40(e) and (f) (relating to physician services).

(8) Section 483.55 (relating to dental services).

(9) Section 483.70(d)(1)(v) and (3) (relating to physical environment).

(10) Section 483.75(e)(1), (h) and (p) (relating to administration) ].

(b) The Department incorporates by reference the Centers for Medicare & Medicaid State Operations Manual, Chapter 7 and Appendix PP—Guidance to Surveyors for Long-Term Care Facilities.

(c) A facility may apply for an exception to the requirements of this subpart under §§ 51.31—51.34 (relating to exceptions).

(d) Failure to comply with the requirements specified in 42 CFR Part 483, Subpart B shall be considered a violation of this subpart, unless an exception has been granted under §§ 51.31—51.34.

##### § 201.3. Definitions.

(a) The Department incorporates by reference all terms defined in 42 CFR Part 483, Subpart B (relating to requirements for long-term care facil-

**ities) and in the Centers for Medicare & Medicaid State Operations Manual, Chapter 7 and Appendix PP—Guidance to Surveyors for Long-Term Care Facilities.**

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

[**Abuse**—The infliction of injury, unreasonable confinement, intimidation or punishment with resulting physical harm or pain or mental anguish, or deprivation by an individual, including a caretaker, of goods or services that are necessary to attain or maintain physical, mental and psychosocial well-being. This presumes that instances of abuse of all residents, even those in a coma, cause physical harm, or pain or mental anguish. The term includes the following:

(i) **Verbal abuse**—Any use of oral, written or gestured language that willfully includes disparaging and derogatory terms to residents or their families, or within their hearing distance, regardless of their age, ability to comprehend or disability. Examples of verbal abuse include:

(A) Threats of harm.

(B) Saying things to frighten a resident, such as telling a resident that the resident will never be able to see his family again.

(ii) **Sexual abuse**—Includes sexual harassment, sexual coercion or sexual assault.

(iii) **Physical abuse**—Includes hitting, slapping, pinching and kicking. The term also includes controlling behavior through corporal punishment.

(iv) **Mental abuse**—Includes humiliation, harassment, threats of punishment or deprivation.

(v) **Involuntary seclusion**—Separation of a resident from other residents or from his room or confinement to his (with/without roommates) against the resident's will, or the will of the resident's legal representative. Emergency or short term monitored separation from other residents will not be considered involuntary seclusion and may be permitted if used for a limited period of time as a therapeutic intervention to reduce agitation until professional staff can develop a plan of care to meet the resident's needs.

(vi) **Neglect**—The deprivation by a caretaker of goods or services which are necessary to maintain physical or mental health.]

**Act**—The Health Care Facilities Act [(35 P.S. §§ 448.101—448.904)] (35 P.S. §§ 448.101—448.904b).

**Administration of [drugs] medication**—The giving of a dose of medication to a patient as a result of an order of a practitioner licensed by the Commonwealth to prescribe [drugs] medications.

[**Administrator**—An individual who is charged with the general administration of a facility, whether or not the individual has an ownership interest in the facility and whether or not the individual's functions and duties are shared with one or more other individuals. The administrator shall be currently licensed and registered by the Department of State under the Nursing Home Administrators License Act (63 P.S. §§ 1101—1114.2).]

**Alteration**—An addition, modification or modernization in the structure or usage of a building or section thereof or change in the services rendered.

[**Ambulatory resident**—An individual who is physically and mentally capable of getting in and out of bed and walking a normal path to safety in a reasonable period of time, including the ascent and descent of stairs without the aid of another person.

**Audiologist**—A person licensed as an audiologist by the Pennsylvania State Board of Examiners in Speech-Language and Hearing, or excluded from the requirement of licensure under the Speech-Language and Hearing Licensure Act (63 P.S. §§ 1701—1719).]

**Authorized person to administer drugs and medications**—Persons qualified to administer drugs and medications in facilities are as follows:

(i) Physicians and dentists who are currently licensed by the Bureau of Professional and Occupational Affairs, Department of State.

(ii) Registered nurses who are currently licensed by the Bureau of Professional and Occupational Affairs, Department of State.

(iii) Practical nurses who have successfully passed the State Board of Nursing examination.

(iv) Practical nurses licensed by waiver in this Commonwealth who have successfully passed the United States Public Health Service Proficiency Examination.

(v) Practical nurses licensed by waiver in this Commonwealth who have successfully passed a medication course approved by the State Board of Nursing.

(vi) Student nurses of approved nursing programs who are functioning under the direct supervision of a member of the school faculty who is present in the facility.

(vii) Recent graduates of approved nursing programs who possess valid temporary practice permits and who are functioning under the direct supervision of a professional nurse who is present in the facility. The permits shall expire if the holders of the permits fail the licensing examinations.

(viii) Physician assistants and registered nurse practitioners who are certified by the Bureau of Professional and Occupational Affairs.

**Basement**—A story or floor level below the main or street floor. If, due to grade differences, there are two levels qualifying as a street floor, a basement is a floor below the lower of the two street floors.

**CRNP—Certified Registered Nurse Practitioner**—A registered nurse licensed in this Commonwealth who is certified by the State Board of Nursing and the State Board of Medicine as a CRNP, under the Professional Nursing Law (63 P.S. §§ 211—225) and the Medical Practice Act of 1985 (63 P.S. §§ 422.1—422.45).

[**Charge nurse**—A person designated by the facility who is experienced in nursing service administration and supervision and in areas such as rehabilitative or geriatric nursing or who acquires the preparation through formal staff development programs and who is licensed by the Commonwealth as one of the following:

(i) A registered nurse.

(ii) A registered nurse licensed by another state as a registered nurse and who has applied for

endorsement from the State Board of Nursing and has received written notice that the application has been received by the State Board of Nursing. This subparagraph applies for 1 year, or until Commonwealth licensure is completed, whichever period is shorter.

(iii) A practical nurse who is a graduate of a Commonwealth recognized school of practical nursing or who has 2 years of appropriate experience following licensure by waiver as a practical nurse.

(iv) A practical nurse shall be designated by the facility as a charge nurse only on the night tour of duty in a facility with a census of 59 or less.

**Clinical laboratory**—A place, establishment or institution, organized and operated primarily for the performance of bacteriological, biochemical, hematological, microscopical, serological or parasitological or other tests by the practical application of one or more of the fundamental sciences to material originating from the human body, by the use of specialized apparatus, equipment and methods, for the purpose of obtaining scientific data which may be used as an aid to ascertain the state of health. The tests are conducted using specialized apparatus, equipment and methods, for the purpose of obtaining scientific data which may be used as an aid to ascertain the state of health. ]

**Clinical records**—Facility records, whether or not automated, pertaining to a resident, including medical records.

**Controlled substance**—A drug, substance or immediate precursor included in Schedules I—V of the Controlled Substance, Drug, Device and Cosmetic Act (35 P.S. §§ 780-101—780-144).

**Corridor**—A passageway, hallway or other common avenue used by residents and personnel to travel between buildings or sections of the same building to reach a common exit or service area. The service area includes, but is not limited to, living room, kitchen, bathroom, therapy rooms and storage areas not immediately adjoining the patient's sleeping quarters.

**Department**—The Department of Health of the Commonwealth.

[ **Dietetic service supervisor**—A person who meets one of the following requirements:

- (i) Is a dietitian.
- (ii) Is a graduate of a dietetic technician or dietetic assistant training program, correspondence course or classroom course approved by the American Dietetic Association.
- (iii) Is a member of the American Dietetic Association or the Dietary Managers Association.
- (iv) Is a graduate of a State approved course that provided 90 or more hours of classroom instruction in food service supervision and has experience as a supervisor in a health care institution with consultation from a dietitian.
- (v) Has training and experience in food service supervision and management in a military service equivalent in content to the program in subparagraph (iv).

(vi) Has a baccalaureate degree from a State approved or accredited college or university and has at least 12 credit hours in food service, nutri-

tion or diet therapy and at least 1 year of supervisory experience in the dietary department of a health care facility.

**Dietitian**—A person who is either:

(i) Registered by the Commission on Dietetic Registration of the American Dietetic Association.

(ii) Eligible for registration and who has a minimum of a bachelor's degree from a United States regionally accredited college or university and has completed the American Dietetic Association (ADA) approved dietetic course requirements and the requisite number of hours of ADA approved supervised practice.

**Director of nursing services**—A registered nurse who is licensed and eligible to practice in this Commonwealth and has 1 year of experience or education in nursing service administration and supervision, as well as additional education or experience in areas such as rehabilitative or geriatric nursing, and participates annually in continuing nursing education. The director of nursing services is responsible for the organization, supervision and administration of the total nursing service program in the facility.

**Drug administration**—An act in which a single dose of a prescribed drug or biological is given to a resident by an authorized person in accordance with statutes and regulations governing the act. The complete act of administration entails removing an individual dose from a previously dispensed, properly labeled container, verifying it with the physician's orders, giving the individual dose to the proper resident and promptly recording the time and dose given.

**Drug dispensing**—An act by a practitioner or a person who is licensed in this Commonwealth to dispense drugs under the Pharmacy Act (63 P.S. §§ 390-1—390-13) entailing the interpretation of an order for a drug or biological and, under that order, the proper selecting, measuring, labeling, packaging and issuance of the drug or biological for a resident or for a service unit of the facility. ]

**Drug or medication**—A substance meeting one of the following qualifications:

- (i) Is recognized in the official United States Pharmacopeia, or official National Formulary or a supplement to either of them.
- (ii) Is intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals.
- (iii) Is other than food and intended to affect the structure or a function of the human body or other animal body.

(iv) Is intended for use as a component of an article specified in subparagraph (i), (ii) or (iii), but not including devices or their components, parts or accessories.

[ **Elopement**—When a resident leaves the facility without the facility staff being aware that the resident has done so.

**Existing facility**—A long-term care nursing facility or section thereof which was constructed and licensed as such on or before July 24, 1999.



**Exit or exitway**—A required means of direct egress in either a horizontal or vertical direction leading to the exterior grade level. ]

**Facility**—A licensed long-term care nursing facility as defined in Chapter 8 of the act (35 P.S. §§ 448.801—448.821).

[ **Full-time**—A minimum of a 35-hour work week.

**Interdisciplinary team**—A team including the resident's attending physician, a registered nurse with responsibility for the resident and other appropriate staff in disciplines as determined by the resident's needs, and the resident. If the resident is cognitively impaired and unable to fully participate, the team shall include to the extent practicable, the participation of the resident, and shall also include the resident's family, a responsible person or the resident's legal representative. ]

**Health Care Practitioner**—As defined in section 103 of the act (35 P.S. § 448.103). The term "practitioner" when used alone in this subpart is deemed to be synonymous with this definition.

**LPN—Licensed practical nurse**—A practical nurse licensed to practice under the Practical Nurse Law (63 P.S. §§ 651—667.8) and the regulations of the State Board of Nursing at 49 Pa. Code Chapter 21, Subchapter B (relating to practical nurses).

**Licensee**—The individual, partnership, association or corporate entity including a public agency or religious or fraternal or philanthropic organization authorized to operate a licensed facility.

[ **Locked restraints**—A mechanical apparatus or device employed to restrict voluntary movement of a person not removable by the person. The term includes shackles, straight jackets and cage-like enclosures and other similar devices.

**Medical record practitioner**—A person who is certified or eligible for certification as a registered records administrator (RRA) or a health information technologist/accredited record technician by the American Health Information Management Association (AHIMA) and who has the number of continuing education credits required for each designation by the AHIMA. ]

**Medication administration**—An act in which a single dose of a prescribed medication or biological is given to a resident by an authorized person in accordance with statutes and regulations governing the act. The complete act of administration entails removing an individual dose from a previously dispensed, properly labeled container, verifying it with the physician's orders, giving the individual dose to the proper resident and promptly recording the time and dose given.

**Medication dispensing**—An act by a practitioner or a person who is licensed in this Commonwealth to dispense medications under the Pharmacy Act (63 P.S. §§ 390-1—390-13) entailing the interpretation of an order for a medication or biological and, under that order, the proper selecting, measuring, labeling, packaging and issuance of the medication or biological for a resident or for a service unit of the facility.

**NFPA**—National Fire Protection Association.

[ **Nonambulatory resident**—A resident who is not physically or mentally capable of getting in and out of bed and walking a normal path to safety in a reasonable period of time, including the ascent and descent of stairs, without the aid of another person.

**Nonproprietary drug**—A drug containing a quantity of controlled substance or drug requiring a prescription, a drug containing biologicals or substances of glandular origin—except intestinal-enzymes and liver products—and drugs which are administered parenterally. ]

**Non-prescription medication**—An over-the-counter medication legally purchased without a prescription.

[ **Nurse aide**—An individual providing nursing or nursing-related services to residents in a facility who:

- (i) Does not have a license to practice professional or practical nursing in this Commonwealth.
- (ii) Does not volunteer services for no pay.
- (iii) Has met the requisite training and competency evaluation requirements as defined in 42 CFR 483.75 (relating to administration).
- (iv) Appears on the Commonwealth's Nurse Aide Registry.
- (v) Has no substantiated findings of abuse, neglect or misappropriation of resident property recorded in the Nurse Aide Registry. ]

**Nursing care**—A planned program to meet the physical and emotional needs of the resident. The term includes procedures that require nursing skills and techniques applied by properly trained personnel.

**Nursing service personnel**—Registered nurses, licensed practical nurses and nurse aides.

[ **Occupational therapist**—A person licensed as an occupational therapist by the State Board of Occupational Therapy Education and Licensure.

**Occupational therapy assistant**—A person licensed as an occupational therapy assistant by the State Board of Occupational Therapy Education and Licensure. ]

**Pharmacist**—A person licensed by the State Board of Pharmacy to engage in the practice of pharmacy.

**Pharmacy**—A place properly licensed by the State Board of Pharmacy where the practice of pharmacy is conducted.

[ **Physical therapist**—A person licensed as a physical therapist by the State Board of Physical Therapy.

**Physical therapy assistant**—A person registered as a physical therapy assistant by the State Board of Physical Therapy. ]

**Physician assistant**—An individual certified as a physician assistant by the State Board of Medicine under the Medical Practice Act of 1985 (63 P.S. §§ 422.1—422.45), or by the State Board of Osteopathic Medical Examiners under the Osteopathic Medical Practice Act (63 P.S. §§ 271.1—271.18).

[ **Practice of pharmacy**—The practice of the profession concerned with the art and science of the evaluation of prescription orders and the preparing, compounding and dispensing of drugs and



devices, whether dispensed on the prescription of a medical practitioner or legally dispensed or provided to a consumer. The term includes the proper and safe storage and distribution of drugs, the maintenance of proper records, the participation in drug selection and drug utilization reviews and the responsibility of relating information as required concerning the drugs and medicines and their therapeutic values and uses in the treatment and prevention of disease. The term does not include the operations of a manufacturer or distributor as defined in The Controlled Substance, Drug, Device and Cosmetic Act (35 P.S. §§ 780-101—780-144). ]

*Prescription*—A written or verbal order for [ drugs ] medications issued by a [ licensed medical ] health care practitioner in the course of [ his ] professional practice.

[ *Proprietary drug*—A drug which does not contain a quantity of a controlled substance which can be purchased without a prescription and may be purchased from sources other than a pharmacy, and is usually sold under a patented or trade name. ]

*RN—Registered nurse*—[ A nurse ] An individual licensed to practice [ in this Commonwealth ] professional nursing under The Professional Nursing Law (63 P.S. §§ 211—225.5) and the regulations of the State Board of Nursing at 49 Pa. Code Chapter 21, Subchapter A (relating to registered nurses).

*Resident*—A person who is admitted to a licensed long-term care nursing facility for observation, treatment, or care for illness, disease, injury or other disability.

[ *Resident activities coordinator*—A person who meets one of the following requirements:

- (i) Is a qualified therapeutic recreation specialist.
- (ii) Has 2 years of experience in a social or recreational program, within the last 5 years, 1 year of which was full-time in a patient activities program in a health care setting.

*Residential unit*—A section or area where persons reside who do not require long-term nursing facility care.

*Responsible person*—A person who is not an employe of the facility and is responsible for making decisions on behalf of the resident. The person shall be so designated by the resident or the court and documentation shall be available on the resident’s clinical record to this effect. An employe of the facility will be permitted to be a responsible person only if appointed the resident’s legal guardian by the court.

*Restraint*—A restraint can be physical or chemical.

(i) A physical restraint includes any apparatus, appliance, device or garment applied to or adjacent to a resident’s body, which restricts or diminishes the resident’s level of independence or freedom.

(ii) A chemical restraint includes psychopharmacologic drugs that are used for discipline or convenience and not required to treat medical symptoms.

*Skilled or intermediate nursing care*—Professionally supervised nursing care and related medical and other health services provided for a period exceeding 24 hours to an individual not in need of hospitalization, but whose needs are above the level of room and board and can only be met in a long-term care nursing facility on an inpatient basis because of age, illness, disease, injury, convalescence or physical or mental infirmity. The term includes the provision of inpatient services that are needed on a daily basis by the resident, ordered by and provided under the direction of a physician, and which require the skills of professional personnel, such as, registered nurses, licensed practical nurses, physical therapists, occupational therapists, speech pathologists or audiologists.

*Social worker*—An individual with the following qualifications:

- (i) A Bachelor’s Degree in social work or a Bachelor’s Degree in a human services field including sociology, special education, rehabilitation counseling and psychology.
- (ii) One year of supervised social work experience in a health care setting working directly with individuals.

*Speech/language pathologist*—A person licensed as a speech/language pathologist by the State Board of Examiners in Speech-Language and Hearing, or excluded from the requirements of licensure under the Speech-Language and Hearing Licensure Act (63 P.S. §§ 1701—1719). ]

**CHAPTER 211. PROGRAM STANDARDS FOR LONG-TERM CARE NURSING FACILITIES**

**§ 211.12. Nursing services.**

(a) The facility shall provide services by sufficient numbers of personnel on a 24-hour basis to provide nursing care to meet the needs of all residents.

\* \* \* \* \*

(i) A minimum number of general nursing care hours shall be provided for each 24-hour period. The total number of hours of general nursing care provided during each shift in each 24-hour period shall, when totaled for the entire facility, be a minimum of [ 2.7 ] 4.1 hours of direct resident care for each resident. A facility shall have, during each shift in each 24-hour period, a sufficient number of nursing staff with the appropriate competencies and skill sets to provide nursing care and related services to:

- (1) assure resident safety; and
- (2) attain or maintain the highest practicable physical, mental and psychosocial well-being of each resident.

(j) Nursing personnel shall be provided on each resident floor.

\* \* \* \* \*

[Pa.B. Doc. No. 21-1195. Filed for public inspection July 30, 2021, 9:00 a.m.]

# NOTICES

## DELAWARE RIVER BASIN COMMISSION

### Virtual Public Hearing and Virtual Business Meeting

The Delaware River Basin Commission (Commission) will hold a virtual public hearing on Wednesday, August 11, 2021. A virtual business meeting will be held the following month on Thursday, September 9, 2021. Both the hearing and the business meeting are open to the public. Both meetings will be conducted remotely. Details about the remote platform and how to attend will be posted on the Commission's web site at [www.drbc.gov](http://www.drbc.gov) on or after July 28, 2021, for the virtual public hearing and no later than August 28, 2021, for the virtual business meeting.

*Public hearing.* The Commission will conduct the virtual public hearing remotely on August 11, 2021, beginning at 1:30 p.m. Hearing items will include draft dockets for withdrawals, discharges and other projects that could have a substantial effect on the basin's water resources. The list of draft dockets scheduled for hearing, including project descriptions, will be posted on the Commission's web site at [www.drbc.gov](http://www.drbc.gov) in a long form of this notice at least 10 days before the hearing date.

Written comments on matters scheduled for hearing on August 11, 2021, will be accepted through 5 p.m. on August 16, 2021.

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.

*Public meeting.* The virtual public business meeting on September 9, 2021, will begin at 10:30 a.m. and will include: adoption of the minutes of the Commission's February 25, 2021, special meeting and June 9, 2021, business meeting; announcement of upcoming meetings and events; a report on hydrologic conditions; reports by the Executive Director and the Commission's General Counsel and consideration of any items for which a hearing has been completed or is not required.

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, an opportunity to address the Commission on any topic concerning management of the basin's water resources outside the context of a duly noticed, on-the-record public hearing.

There will be no opportunity for additional public comment for the record at the September 9, 2021, virtual

business meeting on items for which a hearing was completed on August 11, 2021, or a previous date. Commission consideration on September 9, 2021, 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 virtual public hearing on August 11, 2021, or to address the Commissioners informally during the open public comment portion of the meeting on September 9, 2021, are asked to sign up in advance through EventBrite. Links to EventBrite for the virtual public hearing and the virtual business meeting will be available at [www.drbc.gov](http://www.drbc.gov) at least 10 days before the virtual public hearing. For assistance, contact Patricia Hausler of the Commission staff, at [patricia.hausler@drbc.gov](mailto: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](http://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 of the Commission staff, at [patricia.hausler@drbc.gov](mailto: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 at (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. 21-1196. Filed for public inspection July 30, 2021, 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 application received for the week ending July 20, 2021.

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

#### Conversions

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Action</i>
07-14-2021	Prosper Bank Coatesville Chester County Application for approval to convert from a mutual savings bank to a stock savings bank. Prosper Bank is a wholly-owned subsidiary of PB Bankshares, Inc., Coatesville, PA, a newly-formed bank holding company.	Effective

#### Holding Company Acquisitions

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Action</i>
07-14-2021	PB Bankshares, Inc. Coatesville Chester County Application for approval to acquire 100% of Prosper Bank, Coatesville, PA.	Effective

#### Branch Relocations

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
07-19-2021	The Fidelity Deposit and Discount Bank Dunmore Lackawanna County	<i>To:</i> 44 East Broad Street Bethlehem Northampton County  <i>From:</i> 2 West Broad Street Bethlehem Northampton County	Approved
07-20-2021	PeoplesBank, A Codorus Valley Co. York York County	<i>To:</i> 11350 McCormick Road Hunt Valley Baltimore County, MD  <i>From:</i> 203 International Circle Hunt Valley Baltimore County, MD	Filed

#### Articles of Amendment

<i>Date</i>	<i>Name and Location of Institution</i>	<i>Action</i>
07-19-2021	Prosper Bank Coatesville Chester County Amendment to Article I of the institution's Articles of Incorporation provides for a change of the corporate title of the bank to Presence Bank. Articles of Amendment provide for the institution's Articles of Incorporation to be amended and restated in their entirety.	Approved

### CREDIT UNIONS

#### Branch Applications

##### De Novo Branches

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
07-16-2021	Belco Community Credit Union Harrisburg Dauphin County	4600 Mt. Zion Drive Mechanicsburg Cumberland County	Filed

The Department's web site at [www.dobs.pa.gov](http://www.dobs.pa.gov) includes public notices for more recently filed applications.

RICHARD VAGUE,  
*Secretary*

[Pa.B. Doc. No. 21-1197. Filed for public inspection July 30, 2021, 9:00 a.m.]

## DEPARTMENT OF ENVIRONMENTAL PROTECTION

### Applications, Actions and Special Notices

#### APPLICATIONS

### THE PENNSYLVANIA CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT

#### APPLICATIONS FOR NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS AND WATER QUALITY MANAGEMENT (WQM) PERMITS UNDER THE CLEAN STREAMS LAW AND FEDERAL CLEAN WATER ACT

This notice provides information about persons who have applied to the Department of Environmental Protection (DEP) for a new, renewed, or amended NPDES or WQM permit, or a permit waiver for certain stormwater discharges, or have submitted a Notice of Intent (NOI) for coverage under a General Permit. The applications and NOIs concern, but are not limited to, effluent discharges from sewage treatment facilities and industrial facilities to surface waters or groundwater; stormwater discharges associated with industrial activity (industrial stormwater), construction activity (construction stormwater), and municipal separate storm sewer systems (MS4s); the application of pesticides; the operation of Concentrated Animal Feeding Operations (CAFOs); and the construction of sewage, industrial waste, and manure storage, collection and treatment facilities. 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). More information on the types of NPDES and WQM permits that are available can be found on DEP's website (visit [www.dep.pa.gov](http://www.dep.pa.gov) and select Businesses, Water, Bureau of Clean Water, Wastewater Management, and NPDES and WQM Permitting Programs).

<i>Section</i>	<i>Category</i>
I	Individual and General WQM Permit Applications/NOIs Received, General NPDES Permit NOIs Received, and All Transfer and Minor Amendment Applications/NOIs Received
II	Individual NPDES Permits—New, Renewal, and Major Amendment Applications and Draft Permits for Discharges Relating to Sewage, Industrial Waste, Industrial Stormwater, MS4s, Pesticides and CAFOs
III	Individual NPDES Permit Applications for Discharges of Stormwater Associated with Construction Activity

Section I identifies the following applications and NOIs that have been received by DEP:

- Individual and General WQM Permit Applications Received—DEP provides a 15-day public comment period for Individual WQM Permit Applications for new and reissued permits. There is no public comment period for General WQM Permit NOIs.
- General NPDES Permit NOIs Received—There is no public comment period for General NPDES NOIs received.
- All Transfer and Minor Amendment Applications/NOIs Received—Transfer and Minor Amendment Applications/NOIs received for Individual and General WQM Permits and Individual and General NPDES Permits are identified but do not have public comment periods. DEP provides a 15-day public comment period for Individual WQM Permit Applications for amendments.

Additional information on these applications and NOIs may be reviewed by generating the “Applications and NOIs without Comment Periods Report” or, for Individual WQM Permit Applications, the “Applications Received with Comment Periods Report” on DEP's website at [www.dep.pa.gov/CWPublicNotice](http://www.dep.pa.gov/CWPublicNotice).

Section II identifies individual NPDES permit applications received and draft permits issued by DEP relating to sewage, industrial waste, industrial stormwater, MS4s, pesticides and CAFOs. A 30-day public comment period applies to these applications, except when a site-specific water quality criterion is used to establish effluent limitations, in which case a 45-day public comment period applies. The period for comment may be extended at the discretion of the Department for one additional 15-day period. Additional information, including links to draft permits and fact sheets that explain the basis for DEP's tentative determinations may be reviewed by generating the “Applications Received with Comment Periods Report” on DEP's website at [www.dep.pa.gov/CWPublicNotice](http://www.dep.pa.gov/CWPublicNotice). Notification of 15-day extensions for comment will be provided in the “Applications Received with Comment Periods Report” (Comments column).

Section III provides notice of applications and draft individual permits for stormwater discharges associated with construction activities. Where indicated, DEP has made tentative determinations, based on preliminary review, to issue permits subject to proposed effluent limitations consisting of best management practices identified in the erosion and sediment control (E&S) plans and post-construction stormwater management (PCSM) plans submitted with the applications, as well as other terms and conditions based on the permit applications. A 30-day public comment period applies to these applications.

Applications and NOIs may be reviewed at the DEP office that received the application or NOI. Contact information for each DEP office for Sections I & II is listed as follows. Contact information for Section III is available within the table. Members of the public are encouraged to use DEP's website to obtain additional information as discussed previously.



Comments received within the appropriate comment periods for WQM and NPDES permit applications will be retained by DEP and 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 DEP of the exact basis of a comment and the relevant facts upon which it is based.

DEP office contact information to review applications and NOIs in Sections I & II and to submit comments for those application and NOIs, when applicable, is as follows:

*DEP Southeast Regional Office (SERO)—2 E. Main Street, Norristown, PA 19401-4915. File Review Coordinator: 484.250.5910. Email: RA-EPNPDES\_SERO@pa.gov.*

*DEP Northeast Regional Office (NERO)—2 Public Square, Wilkes-Barre, PA 18701-1915. File Review Coordinator: 570.826.5472. Email: RA-EPNPDES\_NERO@pa.gov.*

*DEP Southcentral Regional Office (SCRO)—909 Elmerton Avenue, Harrisburg, PA 17110. File Review Coordinator: 717.705.4732. Email: RA-EPNPDES\_SCRO@pa.gov.*

*DEP Northcentral Regional Office (NCRO)—208 W. Third Street, Suite 101, Williamsport, PA 17701. File Review Coordinator: 570.327.3693. Email: RA-EPNPDES\_NCRO@pa.gov.*

*DEP Southwest Regional Office (SWRO)—400 Waterfront Drive, Pittsburgh, PA 15222. File Review Coordinator: 412.442.4286. Email: RA-EPNPDES\_SWRO@pa.gov.*

*DEP Northwest Regional Office (NWRO)—230 Chestnut Street, Meadville, PA 16335. File Review Coordinator: 814.332.6340. Email: RA-EPNPDES\_NWRO@pa.gov.*

*DEP Bureau of Clean Water (BCW)—400 Market Street, Harrisburg, PA 17105. File Review Coordinator: 717.787.5017. Email: RA-EPNPDES\_Permits@pa.gov.*

DEP will also accept requests or petitions for public hearings on applications. The request or petition must indicate the interest of the party filing and the reasons why a hearing is warranted. A hearing will be held if the Department determines that there is a significant public interest. 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. DEP 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 Hamilton Relay Service at (800) 654-5984.

**I. Individual and General WQM Permit Applications/NOIs Received, General NPDES Permit NOIs Received, and All Transfer and Minor Amendment Applications/NOIs Received.**

<i>Application Number</i>	<i>Permit Type</i>	<i>Application Type</i>	<i>Applicant Name &amp; Address</i>	<i>Municipality, County</i>	<i>DEP Office</i>
0920813	Joint DEP/PFBC Pesticides Permit	Amendment	Toll PA XIII, LP/Enclave@Upper Makerfield 250 Gibraltar Road Horsham, PA 19044	Upper Makefield Township Bucks County	SERO
0921821	Joint DEP/PFBC Pesticides Permit	New	Landis Barry 1750 Old Plains Road Pennsburg, PA 18073-2418	Milford Township Bucks County	SERO
0921822	Joint DEP/PFBC Pesticides Permit	New	Spock Robert 420 W Thatcher Road Quakertown, PA 18951-2512	Richland Township Bucks County	SERO
1521826	Joint DEP/PFBC Pesticides Permit	New	Brampton Chase HOA 10 Brampton Road Malvern, PA 19355-2887	Willistown Township Chester County	SERO
2321806	Joint DEP/PFBC Pesticides Permit	New	Massey Kristin 3710 Liseter Road Newtown Square, PA 19073-3530	Newtown Township Delaware County	SERO
3515803	Joint DEP/PFBC Pesticides Permit	Renewal	McAndrews Catherine A 800 McAndrews Road Moscow, PA 18444-9104	Moscow Borough Lackawanna County	NERO
3921807	Joint DEP/PFBC Pesticides Permit	New	Weyhill Estates c/o Associa Mid Atlantic 555 Croton Road Suite 400 King of Prussia, PA 19406	Upper Saucon Township Lehigh County	NERO
4621818	Joint DEP/PFBC Pesticides Permit	New	Center Square Villages c/o Toll Bros 1140 Virginia Drive Fort Washington, PA 19034	Worcester Township Montgomery County	SERO

<i>Application Number</i>	<i>Permit Type</i>	<i>Application Type</i>	<i>Applicant Name &amp; Address</i>	<i>Municipality, County</i>	<i>DEP Office</i>
4621819	Joint DEP/PFBC Pesticides Permit	New	Truitt Nadine 1419 Township Line Road Gwynedd Valley, PA 19437	Lower Gwynedd Township Montgomery County	SERO
4821807	Joint DEP/PFBC Pesticides Permit	New	Aromando Micheal 44 Sagen Drive Mount Bethel, PA 18343-6040	Upper Mount Bethel Township Northampton County	NERO
5221801	Joint DEP/PFBC Pesticides Permit	New	Wirth Roger 1270 Route 402 Road Dingmans Ferry, PA 18328-7751	Delaware Township Pike County	NERO
NOEX09702	No Exposure Certification	Renewal	Certech Inc. 550 Stewart Road Wilkes-Barre, PA 18706	Hanover Township Luzerne County	NERO
NOEXNW153	No Exposure Certification	Renewal	Midwest Hose & Specialty Inc. 844 E Columbus Avenue Corry, PA 16407	Corry City Erie County	NWRO
NOEXSC287	No Exposure Certification	Renewal	DHL Supply Chain 500 N Lingle Avenue Palmyra, PA 17078-9204	North Londonderry Township Lebanon County	SCRO
NOEXSC368	No Exposure Certification	New	Hain Celestial Group Inc. 3775 Hempland Road Mountville, PA 17554-1541	East Hempfield Township Lancaster County	SCRO
NOEXSC369	No Exposure Certification	New	Hain Celestial Group Inc. 3775 Hempland Road Mountville, PA 17554-1541	West Hempfield Township Lancaster County	SCRO
NOEXSE219	No Exposure Certification	Renewal	Keystone Turbine Service LLC 885 Fox Chase Suite 111 Coatesville, PA 19320-5811	Valley Township Chester County	SERO
PAG032227	PAG-03 NPDES General Permit for Industrial Stormwater	Transfer	Bethlehem Landfill Co. 1 Industrial Highway Eddystone, PA 19022-1524	Lower Saucon Township Northampton County	NERO
PAG033657	PAG-03 NPDES General Permit for Industrial Stormwater	New	A Duie Pyle Inc. 651 Westtown Road P.O. Box 564 West Chester, PA 19382-4951	Antrim Township Franklin County	SCRO
PAG038396	PAG-03 NPDES General Permit for Industrial Stormwater	New	UFP Parker LLC 2801 E Beltline Avenue NE Grand Rapids, MI 49525-9680	Shippenville Borough Clarion County	NWRO
PAR604812	PAG-03 NPDES General Permit for Industrial Stormwater	Transfer	Clear Salvage LLC 2608 Carson Hill Road DuBois, PA 15801-4918	Brady Township Clearfield County	NCRO
PAG041209	PAG-04 NPDES General Permit for Small Flow Treatment Facilities	Transfer	Belousov Pavel 14606 Stewart Road Corry, PA 16407-9640	Concord Township Erie County	NWRO
PAG044961	PAG-04 NPDES General Permit for Small Flow Treatment Facilities	Transfer	Jeremy & Lamanda Pritts 986 Shiloh Road Woodland, PA 16881-8234	Bradford Township Clearfield County	NCRO
PAG046273	PAG-04 NPDES General Permit for Small Flow Treatment Facilities	Transfer	Weaver Travis E 770 Old Lincoln Highway Stoystown, PA 15563-6442	Quemahoning Township Somerset County	SWRO
PAG049204	PAG-04 NPDES General Permit for Small Flow Treatment Facilities	Transfer	Benedict Timothy 11084 Route 98 Edinboro, PA 16412-9745	Franklin Township Erie County	NWRO

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<i>Application Number</i>	<i>Permit Type</i>	<i>Application Type</i>	<i>Applicant Name &amp; Address</i>	<i>Municipality, County</i>	<i>DEP Office</i>
PAG049240	PAG-04 NPDES General Permit for Small Flow Treatment Facilities	Transfer	Euliano Guy M 6011 Bridlewood Drive Fairview, PA 16415-2709	Fairview Township Erie County	NWRO
PAG049280	PAG-04 NPDES General Permit for Small Flow Treatment Facilities	Transfer	Melissa & Tim Martin 13199 State Line Road Corry, PA 16407-8927	Wayne Township Erie County	NWRO
PAG049320	PAG-04 NPDES General Permit for Small Flow Treatment Facilities	Transfer	Matey Donna 97 Gibson Road Greenville, PA 16125-9763	Hempfield Township Mercer County	NWRO
PAG123773	PAG-12 NPDES General Permit for CAFOs	Renewal	Burk Lea Farms 3099 Grand Point Road Chambersburg, PA 17202-8185	Greene Township Franklin County	SCRO
PAG136279	PAG-13 NPDES General Permit for MS4s	Renewal	Rankin Borough Allegheny County 320 Hawkins Avenue Rankin, PA 15104-1008	Rankin Borough Allegheny County	SWRO
0219401	Sewage Treatment Facilities Individual WQM Permit	Amendment	Hampton Township 3101 McCully Rd Allison Park, PA 15101	Hampton Township Allegheny County	SWRO
1716402	Sewage Treatment Facilities Individual WQM Permit	Transfer	Jeremy & Lamanda Pritts 986 Shiloh Road Woodland, PA 16881-8234	Bradford Township Clearfield County	NCRO
2121402	Sewage Treatment Facilities Individual WQM Permit	New	Stoltzfus Amos E 1651 Mountain Road Newburg, PA 17240-9123	Upper Mifflin Township Cumberland County	SCRO
2519416	Sewage Treatment Facilities Individual WQM Permit	Transfer	Eric Erdely & Kayla Wynkoop 10286 Sharp Road Waterford, PA 16441-3954	Waterford Township Erie County	NWRO
2121403	Sewer Extensions and Pump Stations Individual WQM Permit	New	East Pennsboro Township Cumberland County 98 S Enola Drive Enola, PA 17025-2704	East Pennsboro Township Cumberland County	SCRO
PA0272434	Single Residence STP Individual NPDES Permit	Transfer	Eric Erdely & Kayla Wynkoop 10286 Sharp Road Waterford, PA 16441-3954	Waterford Township Erie County	NWRO
WQG01251605	WQG-01 WQM General Permit	Transfer	Belousov Pavel 14606 Stewart Road Corry, PA 16407-9640	Concord Township Erie County	NWRO
WQG018412	WQG-01 WQM General Permit	Transfer	Benedict Timothy 11084 Route 98 Edinboro, PA 16412-9745	Franklin Township Erie County	NWRO
WQG018451	WQG-01 WQM General Permit	Transfer	Euliano Guy M 6011 Bridlewood Drive Fairview, PA 16415-2709	Fairview Township Erie County	NWRO
WQG018488	WQG-01 WQM General Permit	Transfer	Melissa & Tim Martin 13199 State Line Road Corry, PA 16407-8927	Wayne Township Erie County	NWRO
WQG018525	WQG-01 WQM General Permit	Transfer	Matey Donna 97 Gibson Road Greenville, PA 16125-9763	Hempfield Township Mercer County	NWRO
WQG02462117	WQG-02 WQM General Permit	New	Lower Salford Township Authority Montgomery County P.O. Box 243 Harleysville, PA 19438-0243	Lower Salford Township Montgomery County	SERO

**II. Individual NPDES Permits—New, Renewal, and Major Amendment Applications and Draft Permits for Discharges Relating to Sewage, Industrial Waste, Industrial Stormwater, MS4s, Pesticides and CAFOs.**
*Northcentral Regional Office*

**PA0233102**, Industrial, SIC Code 2435, **Danzer Veneer Americas, Inc.**, 240 N Reach Road, Williamsport, PA 17701-9101. Facility Name: Danzer Veneer Americas. This proposed facility is located in City of Williamsport, **Lycoming County**.

Description of Proposed Activity: The application is for a new NPDES permit for an existing discharge of treated industrial waste.

The receiving stream(s), Unnamed Tributary of West Branch Susquehanna River (WWF, MF), is located in State Water Plan watershed 10-A and is classified for Migratory Fishes and Warm Water Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.0447 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
			Inst Min			
Total Residual Chlorine (TRC)	XXX	XXX	XXX	Report	XXX	Report
Aluminum, Total (ug/L)	Report	Report	XXX	Report	Report	XXX
Cadmium, Total (ug/L)	Report	Report	XXX	Report	Report	XXX
Copper, Total (ug/L)	Report	Report	XXX	Report	Report	XXX
Lead, Total (ug/L)	Report	Report	XXX	Report	Report	XXX
Manganese, Total (ug/L)	Report	Report	XXX	Report	Report	XXX
Zinc, Total (ug/L)	Report	Report	XXX	Report	Report	XXX
Acrolein (ug/L)	Report	Report	XXX	Report	Report	XXX
Butyl Benzyl Phthalate (ug/L)	XXX	0.00006	XXX	XXX	0.17	XXX

The proposed effluent limits for Outfall 001 are based on a design flow of 0.0447 MGD.—Final 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
			Inst Min			
Total Residual Chlorine (TRC)	XXX	XXX	XXX	0.07	XXX	0.10
Aluminum, Total (ug/L)	0.28	0.31	XXX	750.0	836.0	836
Cadmium, Total (ug/L)	Report	Report	XXX	Report	Report	XXX
Copper, Total (ug/L)	Report	Report	XXX	Report	Report	XXX
Lead, Total (ug/L)	0.0009	0.001	XXX	2.51	3.91	6.27
Manganese, Total (ug/L)	Report	Report	XXX	Report	Report	XXX
Zinc, Total (ug/L)	Report	Report	XXX	Report	Report	XXX
Acrolein (ug/L)	0.001	0.001	XXX	3.0	3.34	3.34
Butyl Benzyl Phthalate (ug/L)	XXX	0.00006	XXX	XXX	0.17	XXX

The proposed reporting requirements for Outfall 002 are as follows:

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
Chemical Oxygen Demand (COD)	XXX	XXX	XXX	XXX	Report	XXX
Total Suspended Solids	XXX	XXX	XXX	XXX	Report	XXX
Arsenic, Total	XXX	XXX	XXX	XXX	Report	XXX
Chromium, Total	XXX	XXX	XXX	XXX	Report	XXX
Copper, Total	XXX	XXX	XXX	XXX	Report	XXX
Pentachlorophenol	XXX	XXX	XXX	XXX	Report	XXX

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 in effect.

**PA0028266**, Sewage, SIC Code 4952, **Troy Borough**, 49 Elmira Street, Troy, PA 16947-1230. Facility Name: Troy Borough Wastewater Treatment Plant. This existing facility is located in Troy Borough, **Bradford 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), Sugar Creek (TSF), is located in State Water Plan watershed 4-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 0.4 MGD.

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>		<i>Minimum</i>	<i>Concentrations (mg/L)</i>		<i>Instant. Maximum</i>
	<i>Average Monthly</i>	<i>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	XXX	XXX	9.0
Dissolved Oxygen	XXX	XXX	Inst Min Report	XXX	XXX	XXX
Total Residual Chlorine (TRC)	XXX	XXX	Inst Min XXX	0.11	XXX	0.37
Carbonaceous Biochemical Oxygen Demand (CBOD <sub>5</sub> )						
Nov 1 - Apr 30	80	125	XXX	25.0	38.0	50
May 1 - Oct 31	43	60	XXX	13.0	19.0	26
Biochemical Oxygen Demand (BOD <sub>5</sub> )	Report	Report Daily Max	XXX	Report	XXX	XXX
Raw Sewage Influent						
Total Suspended Solids	Report	Report Daily Max	XXX	Report	XXX	XXX
Raw Sewage Influent						
Total Suspended Solids	100	150	XXX	30.0	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
E. Coli (No./100 ml)	XXX	XXX	XXX	XXX	XXX	Report
Nitrate-Nitrite as N	XXX	XXX	XXX	Report	XXX	XXX
(Total Load, lbs) (lbs)	Report	XXX	XXX	XXX	XXX	XXX
Total Nitrogen	XXX	XXX	XXX	Report	XXX	XXX
(Total Load, lbs) (lbs)	Report	XXX	XXX	XXX	XXX	XXX
Ammonia-Nitrogen						
Nov 1 - Apr 30	15	20	XXX	4.5	6.0	9
May 1 - Oct 31	5	6.5	XXX	1.5	2.0	3
Ammonia-Nitrogen	Report	XXX	XXX	XXX	XXX	XXX
(Total Load, lbs) (lbs)	Total Mo					
Total Kjeldahl Nitrogen	XXX	XXX	XXX	Report	XXX	XXX
(Total Load, lbs) (lbs)	Report	XXX	XXX	XXX	XXX	XXX
Total Phosphorus	Total Mo					
(Total Load, lbs) (lbs)	Report	XXX	XXX	Report	XXX	XXX
	Report	XXX	XXX	XXX	XXX	XXX
	Total Mo					

The proposed monitoring requirements and effluent limits for implementation of Pennsylvania's Chesapeake Bay Watershed Implementation Plan are as follows for Outfall 001.

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>		<i>Monthly</i>	<i>Concentrations (mg/L)</i>		<i>Instant. Maximum</i>
	<i>Monthly</i>	<i>Annual</i>		<i>Monthly Average</i>	<i>Maximum</i>	
Total Nitrogen	XXX	7,306	XXX	XXX	XXX	XXX
(Total Load, lbs) (lbs)		Total				
Effluent Net		Annual				
(Total Load, lbs) (lbs)	XXX	Report	XXX	XXX	XXX	XXX
Ammonia-Nitrogen		Total				
(Total Load, lbs) (lbs)	XXX	Report	XXX	XXX	XXX	XXX
Total Phosphorus		Annual				
(Total Load, lbs) (lbs)	XXX	Report	XXX	XXX	XXX	XXX
Effluent Net		Total				
	XXX	Annual	XXX	XXX	XXX	XXX
		974				
		Total				
		Annual				

\* This permit contains conditions which authorize the permittee to apply nutrient reduction credits to meet the Net Total Nitrogen and the Net Total Phosphorus effluent mass limits, under the Department's Chapter 96 regulations. The condition includes the requirement to report the application of these credits in Supplemental Discharge Monitoring Reports (DMRs) submitted to the Department.

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 Regional Office*

**PA0289418**, Sewage, SIC Code 8800, **Jeffrey & Rebecca Nelson**, 7701 Bear Creek Road, Fairview, PA 16415-2604. Facility Name: Jeffrey & Rebecca Nelson SRSTP. This proposed facility is located in McKean 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), Trout Run (CWF, MF), is located in State Water Plan watershed 15-A and is classified for Cold Water Fishes and Migratory Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of .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 <sub>5</sub> )	XXX	XXX	XXX	10.0	XXX	20
Total Suspended Solids	XXX	XXX	XXX	10.0	XXX	20
Fecal Coliform (No./100 ml)	XXX	XXX	XXX	200	XXX	XXX

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 814-332-6078.

The EPA Waiver is in effect.

**PA0289434**, Sewage, SIC Code 8800, **Charlene & Theron Vlasnik**, 27776 White Hill Road, Cambridge Springs, PA 16403-6556. Facility Name: Charlene & Theron Vlasnik SRSTP. This proposed facility is located in Union Township, **Crawford County**.

Description of Proposed Activity: The application is for a new NPDES permit for a new discharge of treated SRSTP sewage.

The receiving stream(s), Unnamed Tributary to Conneaut Outlet, is located in State Water Plan watershed 16-D 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 .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 <sub>5</sub> )	XXX	XXX	XXX	10.0	XXX	20
Total Suspended Solids	XXX	XXX	XXX	10.0	XXX	20
Fecal Coliform (No./100 ml)	XXX	XXX	XXX	200	XXX	XXX

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 814-332-6078.

The EPA Waiver is in effect.

**PA0289451**, Sewage, SIC Code 8800, **John M. Meyers**, 312 Levis Road, Portersville, PA 16051-1914. Facility Name: John Meyers SRSTP. This proposed facility is located in Muddycreek Township, **Butler 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), Camp Run (WWF), is located in State Water Plan watershed 20-C and is classified for Warm Water Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of .0005 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 <sub>5</sub> )	XXX	XXX	XXX	10.0	XXX	20
Total Suspended Solids	XXX	XXX	XXX	10.0	XXX	20
Fecal Coliform (No./100 ml)	XXX	XXX	XXX	200	XXX	XXX

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 814-332-6078.

The EPA Waiver is in effect.

**PA0289477**, Sewage, SIC Code 8800, **Harry & Josette Wolf**, 9445 Eureka Road, Girard, PA 16417-8637. Facility Name: Harry & Josette Wolf SRSTP. This proposed facility is located in Franklin Township, **Erie County**.

Description of Proposed Activity: The application is for a new NPDES permit for a new discharge of treated SRSTP sewage.

The receiving stream(s), Unnamed Tributary to Porter Run (CWF, MF), is located in State Water Plan watershed 15-A and is classified for Cold Water Fishes and Migratory Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of .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 <sub>5</sub> )	XXX	XXX	XXX	10.0	XXX	20
Total Suspended Solids	XXX	XXX	XXX	10.0	XXX	20
Fecal Coliform (No./100 ml)	XXX	XXX	XXX	200	XXX	XXX

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 814-332-6078.

The EPA Waiver is in effect.

**PA0289591**, Sewage, SIC Code 4952, 8800, **Jennifer & Michael Cameron**, 2450 E 5th Avenue, Warren, PA 16365-8419. Facility Name: Jennifer & Michael Cameron SRSTP. This proposed facility is located in Glade Township, **Warren County**.

Description of Proposed Activity: The application is for a new NPDES permit for a new discharge of treated SRSTP sewage.

The receiving stream(s), Unnamed Tributary to Hatch Run (CWF), is located in State Water Plan watershed 16-B and is classified for Cold Water Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of .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 <sub>5</sub> )	XXX	XXX	XXX	10.0	XXX	20
Total Suspended Solids	XXX	XXX	XXX	10.0	XXX	20
Fecal Coliform (No./100 ml)	XXX	XXX	XXX	200	XXX	XXX

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 814-332-6078.

The EPA Waiver is in effect.

*Southcentral Regional Office*

**PA0021571**, Sewage, SIC Code 4952, **Marysville Borough Perry County**, 200 Overcrest Road, Marysville, PA 17053-1159. Facility Name: Marysville STP. This existing facility is located in Marysville Borough, **Perry 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), Susquehanna River (WWF), is located in State Water Plan watershed 7-C and is classified for Warm Water Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of .975 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	0.5	XXX	1.6
Carbonaceous Biochemical Oxygen Demand (CBOD <sub>5</sub> )	203	325	XXX	25.0	40.0	50
Biochemical Oxygen Demand (BOD <sub>5</sub> ) Raw Sewage Influent	Report	Report Daily Max	XXX	Report	XXX	XXX
Total Suspended Solids Raw Sewage Influent	Report	Report Daily Max	XXX	Report	XXX	XXX
Total Suspended Solids Fecal Coliform (No./100 ml)	243	365	XXX	30.0	45.0	60
Oct 1 - Apr 30	XXX	XXX	XXX	2,000 Geo Mean	XXX	10,000
May 1 - Sep 30	XXX	XXX	XXX	200 Geo Mean	XXX	1,000
Nitrate-Nitrite as N (Total Load, lbs) (lbs)	XXX Report Total Mo	XXX XXX	XXX XXX	Report XXX	XXX XXX	XXX XXX
Total Nitrogen (Total Load, lbs) (lbs)	XXX Report Total Mo	XXX XXX	XXX XXX	Report XXX	XXX XXX	XXX XXX
Ammonia-Nitrogen (Total Load, lbs) (lbs)	XXX Report Total Mo	XXX XXX	XXX XXX	Report XXX	XXX XXX	XXX XXX
Total Kjeldahl Nitrogen (Total Load, lbs) (lbs)	XXX Report Total Mo	XXX XXX	XXX XXX	Report XXX	XXX XXX	XXX XXX
Total Phosphorus (Total Load, lbs) (lbs)	16 Report Total Mo	XXX XXX	XXX XXX	2.0 XXX	XXX XXX	4 XXX

The proposed effluent limits for Outfall 001 are based on a design flow of .975 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>	
E. Coli (No./100 ml)	XXX	XXX	XXX	XXX	Report Daily Max	XXX

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 717-705-4732.

The EPA Waiver is not in effect.

**PA0021644**, Sewage, SIC Code 4952, **Dover Borough York County**, 46 Butter Road, Dover, PA 17315-1225. Facility Name: Dover Borough STP. This existing facility is located in Dover Borough, **York County**.

Description of Existing Activity: The application is for a renewal of an NPDES permit for an existing discharge of treated sewage.

The receiving stream(s), Unnamed Tributary to Fox Run (TSF, MF), is located in State Water Plan watershed 7-F and is classified for Migratory Fishes and Trout Stocking, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.



The proposed effluent limits for Outfall 001 are based on a design flow of 0.5 MGD.—Limits.

Parameters	Mass Units (lbs/day)		Instantaneous Minimum	Concentrations (mg/L)		IMAX
	Average Monthly	Daily Maximum		Average Monthly	Weekly Average	
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Dissolved Oxygen	XXX	XXX	5.0	XXX	XXX	XXX
Ultraviolet light intensity (mW/cm <sup>2</sup> )	XXX	XXX	Report	Report	XXX	XXX
Carbonaceous Biochemical Oxygen Demand (CBOD <sub>5</sub> )						
May 1 - Oct 31	91.7	137.6	XXX	22.0	33.0	44.0
Nov 1 - Apr 30	104.0	154.0	XXX	25.0	37.0	50.0
Total Suspended Solids	125.0	188.0	XXX	30.0	45.0	60.0
Biochemical Oxygen Demand (BOD <sub>5</sub> )	Report	Report	XXX	Report	XXX	XXX
Raw Sewage Influent						
Total Suspended Solids Raw Sewage Influent	Report	Report	XXX	Report	XXX	XXX
Fecal Coliform (No./100 ml)						
May 1 - Sep 30	XXX	XXX	XXX	200 Geo Mean	XXX	1,000
Oct 1 - Apr 30	XXX	XXX	XXX	2,000 Geo Mean	XXX	10,000
E. Coli (No./100 ml)	XXX	XXX	XXX	XXX	XXX	Report
Ammonia-Nitrogen						
May 1 - Oct 31	6.3	XXX	XXX	1.5	XXX	3.0
Nov 1 - Apr 30	18.8	XXX	XXX	4.5	XXX	9.0
Total Phosphorus	8.3	XXX	XXX	2.0	XXX	4.0

The proposed monitoring requirements and, where appropriate, effluent limits for implementation of the Chesapeake Bay Tributary Strategy are as follows for Outfall 001.

Parameters	Mass (lbs)		Minimum	Concentration (mg/l)	
	Monthly	Annual		Monthly Average	Maximum
Ammonia-N	Report	Report	XXX	Report	XXX
Kjeldahl-N	Report	XXX	XXX	Report	XXX
Nitrate-Nitrite as N	Report	XXX	XXX	Report	XXX
Total Nitrogen	Report	Report	XXX	Report	XXX
Total Phosphorus	Report	Report	XXX	Report	XXX
Net Total Nitrogen	Report	7,306	XXX	XXX	XXX
Net Total Phosphorus	Report	974	XXX	XXX	XXX

\* This permit contains conditions which authorize the permittee to apply nutrient reduction credits to meet the Net Total Nitrogen and the Net Total Phosphorus effluent mass limits, under the Department's Chapter 96 regulations. The condition includes the requirement to report the application of these credits in Supplemental Discharge Monitoring Reports (DMRs) submitted to the Department.

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 717-705-4732.

The EPA Waiver is not in effect.

**PA0266086**, Sewage, SIC Code 4952, **Spring Grove Borough York County**, 1 Campus Avenue, Spring Grove, PA 17362-1412. Facility Name: Spring Grove Borough STP. This existing facility is located in Spring Grove Borough, **York County**.

Description of Existing Activity: The application is for a renewal of an NPDES permit for an existing discharge of treated sewage.

The receiving stream(s), Codorus Creek (WWF, MF) and Codorus Creek (WWF), is located in State Water Plan watershed 7-H and is classified for Migratory Fishes and Warm Water Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.33 MGD.—Limits.

Parameters	Mass Units (lbs/day)		Instantaneous Minimum	Concentrations (mg/L)		IMAX
	Average Monthly	Daily Maximum		Average Monthly	Weekly Average	
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Dissolved Oxygen	XXX	XXX	5.0	XXX	XXX	XXX
Ultraviolet light intensity (mW/cm <sup>2</sup> )	XXX	XXX	Report	XXX	XXX	XXX
Carbonaceous Biochemical Oxygen Demand (CBOD <sub>5</sub> )	57.0	88.0 Wkly Avg	XXX	21.0	32.0	42.0
Total Suspended Solids	82.0	123.0 Wkly Avg	XXX	30.0	45.0	60.0
Biochemical Oxygen Demand (BOD <sub>5</sub> ) Raw Sewage Influent	Report	Report	XXX	Report	XXX	XXX
Total Suspended Solids Raw Sewage Influent	Report	Report	XXX	Report	XXX	XXX
Fecal Coliform (No./100 ml) May 1 - Sep 30	XXX	XXX	XXX	200 Geo Mean	XXX	1,000
Oct 1 - Apr 30	XXX	XXX	XXX	2,000 Geo Mean	XXX	10,000
E. Coli (No./100 ml)	XXX	XXX	XXX	XXX	XXX	Report
Ammonia-Nitrogen May 1 - Oct 31	20.0	XXX	XXX	7.5	XXX	15.0
Nov 1 - Apr 30	61.0	XXX	XXX	22.5	XXX	45.0
Total Phosphorus	5.5	XXX	XXX	2.0	XXX	4.0

The proposed monitoring requirements and, where appropriate, effluent limits for implementation of the Chesapeake Bay Tributary Strategy are as follows for Outfall 001.

Parameters	Mass (lbs)		Minimum	Concentration (mg/l)	
	Monthly	Annual		Monthly Average	Maximum
Ammonia-N	Report	Report	XXX	Report	XXX
Kjeldahl-N	Report	XXX	XXX	Report	XXX
Nitrate-Nitrite as N	Report	XXX	XXX	Report	XXX
Total Nitrogen	Report	Report	XXX	Report	XXX
Total Phosphorus	Report	Report	XXX	Report	XXX
Net Total Nitrogen	Report	7,306	XXX	XXX	XXX
Net Total Phosphorus	Report	974	XXX	XXX	XXX

\* This permit contains conditions which authorize the permittee to apply nutrient reduction credits to meet the Net Total Nitrogen and the Net Total Phosphorus effluent mass limits, under the Department's Chapter 96 regulations. The condition includes the requirement to report the application of these credits in Supplemental Discharge Monitoring Reports (DMRs) submitted to the Department.

In addition, the permit contains the following major special conditions:

- Chesapeake Bay Nutrient Requirements

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 717-705-4732.

The EPA Waiver is in effect.

*Southwest Regional Office*

**PA0041378**, Industrial, SIC Code 3316, **Prime Metals Acquisition LLC**, 101 Innovation Drive, Homer City, PA 15748-7433. Facility Name: Prime Metals & Alloys/Homer City Plant. This existing facility is located in Center Township, **Indiana County**.

Description of Existing Activity: The application is for a renewal of an NPDES permit for an existing discharge of treated sewage and new discharges of non-contact cooling water and storm water. This is a revision to draft limits published on August 12, 2017.

The receiving streams, Unnamed Tributary to Two Lick Creek (CWF) and Two Lick Creek (TSF), are located in State Water Plan watershed 18-D and are classified for Cold Water Fishes and Trout Stocking, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.018 MGD.—Limits.

Parameters	Mass Units (lbs/day)			Concentrations (mg/L)		IMAX
	Average	Daily	Instant.	Average	Daily	
	Monthly	Maximum		Monthly	Maximum	
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Aluminum, Total	XXX	XXX	XXX	0.75	0.75	XXX
Iron, Total	XXX	XXX	XXX	1.5	3.0	XXX
Manganese, Total	XXX	XXX	XXX	1.0	2.0	XXX

The proposed effluent limits for Outfall 002 are based on a design flow of 0.00144 MGD.—Limits.

Parameters	Mass Units (lbs/day)			Concentrations (mg/L)		IMAX
	Average	Daily	Minimum	Average	Daily	
	Monthly	Maximum		Monthly	Maximum	
Flow (MGD)	XXX	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	XXX	XXX	Report	XXX
Total Suspended Solids	XXX	XXX	XXX	XXX	Report	XXX
Oil and Grease	XXX	XXX	XXX	XXX	Report	XXX
Aluminum, Total	XXX	XXX	XXX	XXX	Report	XXX
Copper, Total	XXX	XXX	XXX	XXX	Report	XXX
Iron, Total	XXX	XXX	XXX	XXX	Report	XXX
Lead, Total	XXX	XXX	XXX	XXX	Report	XXX
Manganese, Total	XXX	XXX	XXX	XXX	Report	XXX
Zinc, Total	XXX	XXX	XXX	XXX	Report	XXX

The proposed effluent limits for Outfall 003 are based on a design flow of 0.031 MGD.—Interim Limits.

Parameters	Mass Units (lbs/day)			Concentrations (mg/L)		IMAX
	Average	Daily	Instant.	Average	Daily	
	Monthly	Maximum		Monthly	Maximum	
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Total Residual Chlorine (TRC)	XXX	XXX	XXX	Report	Report	XXX
Free Available Chlorine	XXX	XXX	XXX	0.2	0.5	XXX
Temperature (°F)						
Jan 1 - May 31	XXX	XXX	XXX	XXX	110	XXX
Jun 1 - 15	XXX	XXX	XXX	XXX	106.4	XXX
Jun 16 - 30	XXX	XXX	XXX	XXX	107.8	XXX
Jul 1 - 31	XXX	XXX	XXX	XXX	93.2	XXX
Aug 1 - 15	XXX	XXX	XXX	XXX	88.9	XXX
Aug 16 - 31	XXX	XXX	XXX	XXX	89.6	XXX
Sep 1 - 15	XXX	XXX	XXX	XXX	83.9	XXX
Sep 16 - 30	XXX	XXX	XXX	XXX	77.7	XXX
Oct 1 - 15	XXX	XXX	XXX	XXX	74.5	XXX
Oct 16 - 31	XXX	XXX	XXX	XXX	68.4	XXX
Nov 1 - 15	XXX	XXX	XXX	XXX	68.0	XXX
Nov 16 - 30	XXX	XXX	XXX	XXX	108.6	XXX
Dec 1 - 31	XXX	XXX	XXX	XXX	81.9	XXX
Total Suspended Solids	XXX	XXX	XXX	30.0	100.0	XXX
Oil and Grease	XXX	XXX	XXX	15.0	20.0	XXX
Aluminum, Total	XXX	XXX	XXX	Report	Report	XXX
Iron, Total	XXX	XXX	XXX	Report	Report	XXX
Manganese, Total	XXX	XXX	XXX	Report	Report	XXX

The proposed effluent limits for Outfall 003 are based on a design flow of 0.031 MGD.—Final Limits.

Parameters	Mass Units (lbs/day)			Concentrations (mg/L)		IMAX
	Average	Daily	Instant.	Average	Daily	
	Monthly	Maximum		Monthly	Maximum	
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Total Residual Chlorine (TRC)	XXX	XXX	XXX	0.342	0.800	XXX
Free Available Chlorine	XXX	XXX	XXX	0.2	0.5	XXX
Temperature (°F)						
Jan 1 - May 31	XXX	XXX	XXX	XXX	110	XXX
Jun 1 - 15	XXX	XXX	XXX	XXX	106.4	XXX
Jun 16 - 30	XXX	XXX	XXX	XXX	107.8	XXX
Jul 1 - 31	XXX	XXX	XXX	XXX	93.2	XXX
Aug 1 - 15	XXX	XXX	XXX	XXX	88.9	XXX
Aug 16 - 31	XXX	XXX	XXX	XXX	89.6	XXX

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>		<i>Instant. Minimum</i>	<i>Concentrations (mg/L)</i>		<i>IMAX</i>
	<i>Average Monthly</i>	<i>Daily Maximum</i>		<i>Average Monthly</i>	<i>Daily Maximum</i>	
Sep 1 - 15	XXX	XXX	XXX	XXX	83.9	XXX
Sep 16 - 30	XXX	XXX	XXX	XXX	77.7	XXX
Oct 1 - 15	XXX	XXX	XXX	XXX	74.5	XXX
Oct 16 - 31	XXX	XXX	XXX	XXX	68.4	XXX
Nov 1 - 15	XXX	XXX	XXX	XXX	68.0	XXX
Nov 16 - 30	XXX	XXX	XXX	XXX	108.6	XXX
Dec 1 - 31	XXX	XXX	XXX	XXX	81.9	XXX
Total Suspended Solids	XXX	XXX	XXX	30.0	100.0	XXX
Oil and Grease	XXX	XXX	XXX	15.0	20.0	XXX
Aluminum, Total	XXX	XXX	XXX	0.75	0.75	XXX
Iron, Total	XXX	XXX	XXX	1.5	3.0	XXX
Manganese, Total	XXX	XXX	XXX	1.0	2.0	XXX

The proposed effluent limits for Outfalls 010 and 011 are for storm water discharges.—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>Daily Maximum</i>		<i>Average Monthly</i>	<i>Daily Maximum</i>	
Flow (MGD)	XXX	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	XXX	XXX	Report	XXX
Total Suspended Solids	XXX	XXX	XXX	XXX	Report	XXX
Oil and Grease	XXX	XXX	XXX	XXX	Report	XXX
Aluminum, Total	XXX	XXX	XXX	XXX	Report	XXX
Copper, Total	XXX	XXX	XXX	XXX	Report	XXX
Iron, Total	XXX	XXX	XXX	XXX	Report	XXX
Lead, Total	XXX	XXX	XXX	XXX	Report	XXX
Manganese, Total	XXX	XXX	XXX	XXX	Report	XXX
Zinc, Total	XXX	XXX	XXX	XXX	Report	XXX

The proposed effluent limits for Outfalls 012—014 are for storm water discharges.—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>Average Monthly</i>	<i>Daily Maximum</i>	
Flow (MGD)	XXX	Report Daily Max	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	XXX	XXX	Report	XXX
Carbonaceous Biochemical Oxygen Demand (CBOD <sub>5</sub> )	XXX	XXX	XXX	XXX	Report	XXX
Total Suspended Solids	XXX	XXX	XXX	XXX	Report	XXX
Aluminum, Total	XXX	XXX	XXX	XXX	Report	XXX
Copper, Total	XXX	XXX	XXX	XXX	Report	XXX
Iron, Total	XXX	XXX	XXX	XXX	Report	XXX
Lead, Total	XXX	XXX	XXX	XXX	Report	XXX
Manganese, Total	XXX	XXX	XXX	XXX	Report	XXX
Zinc, Total	XXX	XXX	XXX	XXX	Report	XXX

The proposed effluent limits for Internal Monitoring Point 101 are based on a design flow of 0.005 MGD.—Limits.

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>		<i>Instant. Minimum</i>	<i>Concentrations (mg/L)</i>		<i>IMAX</i>
	<i>Average Monthly</i>	<i>Daily Maximum</i>		<i>Average Monthly</i>	<i>Daily Maximum</i>	
Flow (MGD)	0.005	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Dissolved Oxygen	XXX	XXX	4.0	XXX	XXX	XXX
Total Residual Chlorine (TRC)	XXX	XXX	XXX	0.5	XXX	1.6
Carbonaceous Biochemical Oxygen Demand (CBOD <sub>5</sub> )	XXX	XXX	XXX	25.0	XXX	50.0
Total Suspended Solids	XXX	XXX	XXX	30.0	XXX	60.0
Fecal Coliform (No./100 ml)						
Oct 1 - Apr 30	XXX	XXX	XXX	2,000 Geo Mean	XXX	10,000
May 1 - Sep 30	XXX	XXX	XXX	200 Geo Mean	XXX	1,000
Total Nitrogen	XXX	XXX	XXX	XXX	XXX	Report
Total Phosphorus	XXX	XXX	XXX	XXX	XXX	Report



The proposed effluent limits for Internal Monitoring Point 301 are based on a design flow of 0.013 MGD.—Limits.

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>		<i>Instant. Minimum</i>	<i>Concentrations (mg/L)</i>		<i>IMAX</i>
	<i>Average Monthly</i>	<i>Daily Maximum</i>		<i>Average Monthly</i>	<i>Daily Maximum</i>	
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Free Available Chlorine	XXX	XXX	XXX	0.2	0.5	XXX
Total Suspended Solids	XXX	XXX	XXX	30.0	100.0	XXX
Oil and Grease	XXX	XXX	XXX	15.0	20.0	XXX

The proposed effluent limits for Internal Monitoring Point 402 are based on a design flow of 0.00144 MGD.—Limits.

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>		<i>Instant. Minimum</i>	<i>Concentrations (mg/L)</i>		<i>IMAX</i>
	<i>Average Quarterly</i>	<i>Daily Maximum</i>		<i>Average Quarterly</i>	<i>Daily Maximum</i>	
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Oil and Grease	XXX	XXX	XXX	15.0	XXX	30.0

In addition, the permit contains the following major special conditions: schedules of compliance for TMDL effluent limits and TRC limits at Outfall 003; chemical additive requirements; requirements applicable to storm water discharges; and requirements for chlorine minimization and sludge disposal.

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 not in effect.

**PA0027715**, Industrial, SIC Code 4953, **MAX Environmental Technologies Inc.**, Foster Plaza # 5, 651 Holiday Drive, Pittsburgh, PA 15220-2740. Facility Name: Yukon Facility. This existing facility is located in South Huntingdon Township, **Westmoreland County**.

Description of Existing Activity: The application is for a renewal of an NPDES permit for discharges of treated sanitary wastewater; treated landfill leachate and groundwater; and storm water. This is a revision to draft limits published on February 6, 2021.

The receiving streams, Sewickley Creek (WWF) and Unnamed Tributary to Sewickley Creek (WWF), are located in State Water Plan watershed 19-D and are classified for Warm Water Fishes, aquatic life, water supply and recreation. The discharges are not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.048 MGD.—Limits.

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>		<i>Instant. Minimum</i>	<i>Concentrations (mg/L)</i>		<i>IMAX</i>
	<i>Average Monthly</i>	<i>Daily Maximum</i>		<i>Average Monthly</i>	<i>Daily Maximum</i>	
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Total Residual Chlorine (TRC)	XXX	XXX	XXX	0.5	1.0	1.25
Biochemical Oxygen Demand (BOD <sub>5</sub> )	XXX	XXX	XXX	37.0	140.0	175
Total Suspended Solids	XXX	XXX	XXX	28.0	60.0	75
Total Dissolved Solids	XXX	XXX	XXX	XXX	Report	XXX
Osmotic Pressure (mOs/kg)	XXX	XXX	XXX	1,000	2,000	2,500
Oil and Grease	XXX	XXX	XXX	15.0	XXX	30.0
Ammonia-Nitrogen	XXX	XXX	XXX	18.9	37.9	47.25
Aluminum, Total	XXX	2.34	XXX	1.0	2.0	2.5
Antimony, Total	XXX	XXX	XXX	Report	Report	XXX
Arsenic, Total	XXX	XXX	XXX	2.69	4.21	6.74
Barium, Total	XXX	XXX	XXX	4.0	8.0	10
Cadmium, Total	XXX	XXX	XXX	0.025	0.05	0.0625
Chromium, Hexavalent	XXX	XXX	XXX	0.05	0.1	0.125
Chromium, Total	XXX	XXX	XXX	0.5	1.0	1.25
Copper, Total	XXX	XXX	XXX	0.1	0.2	0.25
Cyanide, Free	XXX	XXX	XXX	0.1	0.2	0.25
Iron, Total	XXX	8.17	XXX	3.5	7.0	8.75
Lead, Total	XXX	XXX	XXX	0.12	0.24	0.3
Molybdenum, Total	XXX	XXX	XXX	Report Avg Qrtly	Report	XXX
Nickel, Total	XXX	XXX	XXX	1.0	2.0	2.5
Selenium, Total	XXX	XXX	XXX	Report	Report	XXX
Silver, Total	XXX	XXX	XXX	0.005	0.01	0.0125
Strontium, Total	XXX	XXX	XXX	Report	Report	XXX
Sulfate, Total	XXX	XXX	XXX	XXX	Report	XXX

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>		<i>Instant. Minimum</i>	<i>Concentrations (mg/L)</i>		<i>IMAX</i>
	<i>Average Monthly</i>	<i>Daily Maximum</i>		<i>Average Monthly</i>	<i>Daily Maximum</i>	
Tin, Total	XXX	XXX	XXX	Report Avg Qrtly	Report	XXX
Zinc, Total	XXX	XXX	XXX	0.19	0.37	0.475
Phenol	XXX	XXX	XXX	0.015	0.026	0.0375
a-Terpineol	XXX	XXX	XXX	0.016	0.033	0.04
Benzoic Acid	XXX	XXX	XXX	0.071	0.12	0.177
Chloride	XXX	XXX	XXX	XXX	Report	XXX
Bromide	XXX	XXX	XXX	XXX	Report	XXX
p-Cresol	XXX	XXX	XXX	0.014	0.025	0.035
Phenolics, Total	XXX	XXX	XXX	0.1	0.2	0.25

The proposed monitoring requirements for Internal Monitoring Points 101 and 201 are for raw wastewaters.—Limits.

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>		<i>Instant. Minimum</i>	<i>Concentrations (mg/L)</i>		<i>IMAX</i>
	<i>Average Monthly</i>	<i>Daily Maximum</i>		<i>Average Monthly</i>	<i>Daily Maximum</i>	
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	XXX	XXX	Report	XXX
Biochemical Oxygen Demand (BOD <sub>5</sub> )	XXX	XXX	XXX	XXX	Report	XXX
Total Suspended Solids	XXX	XXX	XXX	XXX	Report	XXX
Ammonia-Nitrogen	XXX	XXX	XXX	XXX	Report	XXX
Antimony, Total	XXX	XXX	XXX	XXX	Report	XXX
Arsenic, Total	XXX	XXX	XXX	XXX	Report	XXX
Barium, Total	XXX	XXX	XXX	XXX	Report	XXX
Cadmium, Total	XXX	XXX	XXX	XXX	Report	XXX
Chromium, Total	XXX	XXX	XXX	XXX	Report	XXX
Cyanide, Free	XXX	XXX	XXX	XXX	Report	XXX
Fluoride, Total	XXX	XXX	XXX	XXX	Report	XXX
Lead, Total	XXX	XXX	XXX	XXX	Report	XXX
Nickel, Total	XXX	XXX	XXX	XXX	Report	XXX
Selenium, Total	XXX	XXX	XXX	XXX	Report	XXX
Silver, Total	XXX	XXX	XXX	XXX	Report	XXX
Strontium, Total	XXX	XXX	XXX	XXX	Report	XXX
Sulfide, Total	XXX	XXX	XXX	XXX	Report	XXX
Phenolics, Total	XXX	XXX	XXX	XXX	Report	XXX

The proposed monitoring requirements for Outfalls 008 and 009 and Internal Monitoring Points 109, 209, and 309 are for storm water.—Limits.

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>		<i>Instant. Minimum</i>	<i>Concentrations (mg/L)</i>		<i>IMAX</i>
	<i>Average Monthly</i>	<i>Daily Maximum</i>		<i>Average Monthly</i>	<i>Daily Maximum</i>	
Flow (MGD)	XXX	Report	XXX	XXX	XXX	XXX
pH (S.U.)	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
Ammonia-Nitrogen	XXX	XXX	XXX	XXX	Report	XXX
Aluminum, Total	XXX	XXX	XXX	XXX	Report	XXX
Arsenic, Total	XXX	XXX	XXX	XXX	Report	XXX
Cadmium, Total	XXX	XXX	XXX	XXX	Report	XXX
Cyanide, Total	XXX	XXX	XXX	XXX	Report	XXX
Iron, Total	XXX	XXX	XXX	XXX	Report	XXX
Lead, Total	XXX	XXX	XXX	XXX	Report	XXX
Manganese, Total	XXX	XXX	XXX	XXX	Report	XXX
Mercury, Total	XXX	XXX	XXX	XXX	Report	XXX
Selenium, Total	XXX	XXX	XXX	XXX	Report	XXX
Silver, Total	XXX	XXX	XXX	XXX	Report	XXX

Effluent limits and monitoring requirements for Outfall 007 remain unchanged from the February 6, 2021 notice.

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 412-442-4000.

The EPA Waiver is not in effect.

**PA0255165**, Sewage, SIC Code 8811, **Lilly Bill**, 845 Barclay Hill Road, Beaver, PA 15009-9306. Facility Name: Lilly SRSTP. This existing facility is located in Brighton Township, **Beaver County**.

Description of Existing Activity: The application is for a renewal of an NPDES permit for an existing discharge of treated SRSTP sewage.

The receiving stream, Unnamed Tributary to Fourmile Run (WWF), is located in State Water Plan watershed 20-B and is classified for Warm Water Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of .0004 MGD.—Limits.

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>		<i>Average Monthly</i>	<i>Concentrations (mg/L)</i>		<i>IMAX</i>
	<i>Average Monthly</i>	<i>Average Weekly</i>		<i>Average Monthly</i>	<i>Maximum</i>	
Flow (MGD)	Report	XXX	XXX	XXX	XXX	XXX
pH	XXX	XXX	6.0 Min	XXX	9.0	XXX
Carbonaceous Biochemical Oxygen Demand (CBOD <sub>5</sub> )	XXX	XXX	10.0	XXX	XXX	20.0
Total Suspended Solids	XXX	XXX	10.0	XXX	XXX	20.0
Fecal Coliform (No./100 ml)	XXX	XXX	XXX	200 Annl Avg	XXX	XXX

In addition, the permit contains the following major special conditions:

- AMR to DEP
- DMR to DEP if Attached
- 1/Year Measure Depth of Septage and Scum
- Septic Tanks Pumped Once Every Three Years
- Total Residual Chlorine Requirement
- No Stormwater
- Necessary Property Rights
- Proper Sludge Disposal
- Abandon STP when Municipal Sewers Available

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 412-442-4000.

The EPA Waiver is in effect.

**PA0255068**, Sewage, SIC Code 8811, **Duane Stewart**, 260 Wilson Road, Dawson, PA 15428-1067. Facility Name: Duane Stewart SRSTP. This existing facility is located in Lower Tyrone Township, **Fayette County**.

Description of Existing Activity: The application is for a renewal of an NPDES permit for an existing discharge of treated SRSTP sewage.

The receiving stream(s), Unnamed Tributary to Youghioghney River (WWF), is located in State Water Plan watershed 19-D and is classified for Warm Water Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.0004 MGD.—Limits.

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>		<i>Minimum</i>	<i>Concentrations (mg/L)</i>		<i>IMAX</i>
	<i>Average Monthly</i>	<i>Average Weekly</i>		<i>Annual Average</i>	<i>Maximum</i>	
Flow (GPD)	Report	XXX	XXX	XXX	XXX	XXX
pH (S.U.)	Annl Avg XXX	XXX	6.0 Daily Min	XXX	9.0 Daily Max	XXX
Biochemical Oxygen Demand (BOD <sub>5</sub> )	XXX	XXX	XXX	10.0	XXX	20.0
Total Suspended Solids	XXX	XXX	XXX	10.0	XXX	20.0
Fecal Coliform (No./100 ml)	XXX	XXX	XXX	200	XXX	XXX

In addition, the permit contains the following major special conditions:

- AMR submission requirement
- Annual depth of sludge measurement
- Septic tank must be pumped at least once in every three years
- Collection and disposition of screenings
- Connection to municipal facility once available

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 412-442-4000.

The EPA Waiver is in effect.

*Northeast Regional Office*

**PA0060216**, Sewage, SIC Code 4952, **Raceway Holdings, Inc.**, 2227 Scranton Carbondale Highway, Scranton, PA 18508-1151. Facility Name: Twin Rocks Truck Stop. This existing facility is located in Sterling Township, **Wayne 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), Uban Creek (HQ-CWF, MF), is located in State Water Plan watershed 1-C and is classified for High Quality Waters—Cold Water Fishes, and Migratory Fish, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.0485 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>Average Monthly</i>	<i>Daily Maximum</i>	
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX Daily Max	6.0 Inst Min	XXX	XXX	9.0
Dissolved Oxygen	XXX	XXX	6.0 Inst Min	XXX	XXX	XXX
Total Residual Chlorine (TRC)	XXX	XXX	XXX	0.5	XXX	1.41
Carbonaceous Biochemical Oxygen Demand (CBOD <sub>5</sub> )						
Nov 1 - Apr 30	XXX	XXX	XXX	25.0	40.0	50.0
May 1 - Oct 31	XXX	XXX	XXX	20.0	30.0	40.0
Biochemical Oxygen Demand (BOD <sub>5</sub> )	XXX	XXX	XXX	Report	Report	XXX
Raw Sewage Influent						
Total Suspended Solids	XXX	XXX	XXX	30.0	45.0	60.0
Fecal Coliform (No./100 ml)						
Oct 1 - Apr 30	XXX	XXX	XXX	2,000 Geo Mean	XXX	10,000
May 1 - Sep 30	XXX	XXX	XXX	200 Geo Mean	XXX	1,000
Ammonia-Nitrogen						
Nov 1 - Apr 30	XXX	XXX	XXX	9.0	XXX	18.0
May 1 - Oct 31	XXX	XXX	XXX	3.0	XXX	9.0
Total Phosphorus	Report	XXX	XXX	0.5	XXX	1.0
Total Dissolved Solids	XXX	XXX	XXX	Report	XXX	XXX
E. Coli (No./100 ml)	XXX	XXX	XXX	Avg Qrtly Report	XXX	XXX
Nitrate-Nitrite as N	Report Annl Avg	XXX	XXX	Report Annl Avg	XXX	XXX
(Total Load, lbs) (lbs)	Report Annl Avg	XXX	XXX	XXX	XXX	XXX
Total Nitrogen	Report Annl Avg	XXX	XXX	Report Annl Avg	XXX	XXX
(Total Load, lbs) (lbs)	Report Annl Avg	XXX	XXX	XXX	XXX	XXX
Total Kjeldahl Nitrogen	Report Annl Avg	XXX	XXX	Report Annl Avg	XXX	XXX
(Total Load, lbs) (lbs)	Report Annl Avg	XXX	XXX	XXX	XXX	XXX
Total Phosphorus	XXX	74.97	XXX	XXX	XXX	XXX
(Total Load, lbs) (lbs)		Total Annual				

The proposed effluent limits for Outfall 002 are based on a design flow of 0 MGD (stormwater).

<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>Average Monthly</i>	<i>Daily Maximum</i>	
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX Daily Max	6.0 Inst Min	XXX	XXX	9.0
Oil and Grease	XXX	XXX	XXX	15.0	XXX	30.0



<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>Average Monthly</i>	<i>Daily Maximum</i>	
Carbonaceous Biochemical Oxygen Demand (CBOD <sub>5</sub> )	XXX	XXX	XXX	XXX	Report	XXX
Chemical Oxygen Demand (COD)	XXX	XXX	XXX	XXX	Report	XXX
Total Suspended Solids	XXX	XXX	XXX	XXX	Report	XXX
Total Kjeldahl Nitrogen	XXX	XXX	XXX	XXX	Report	XXX
Total Phosphorus	XXX	XXX	XXX	XXX	Report	XXX
Iron, Total	XXX	XXX	XXX	XXX	Report	XXX

In addition, the permit contains the following major special conditions:

- Solids Management
- Requirements Applicable to Stormwater Outfalls

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 570-826-5472.

The EPA Waiver is in effect.

**PA0012742**, Industrial, SIC Code 2892, **Copperhead Chemicals Co. Inc.**, 120 River Road, Tamaqua, PA 18252-5403. Facility Name: Copperhead Chemicals Tamaqua Plant. This existing facility is located in Walker Township, **Schuylkill County**.

Description of Existing Activity: The application is for a renewal of an NPDES permit for an existing discharge of treated industrial waste.

The receiving stream(s), Little Schuylkill River (CWF, MF), Unnamed Tributary to Brushy Run (CWF, MF), and Brushy Run (CWF, MF) is located in State Water Plan watershed 3-A and is classified for Cold Water Fishes and Migratory Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of 0 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>Average Monthly</i>	<i>Maximum</i>	
pH (S.U.)	XXX	XXX	Report Inst Min	XXX	XXX	Report
Chemical Oxygen Demand (COD)	XXX	XXX	XXX	XXX	XXX	Report
Total Suspended Solids	XXX	XXX	XXX	XXX	XXX	Report
Total Dissolved Solids	XXX	XXX	XXX	XXX	XXX	Report
Oil and Grease	XXX	XXX	XXX	XXX	XXX	Report
Nitrate-Nitrite as N	XXX	XXX	XXX	XXX	XXX	Report
Ammonia-Nitrogen	XXX	XXX	XXX	XXX	XXX	Report
Total Kjeldahl Nitrogen	XXX	XXX	XXX	XXX	XXX	Report
Total Phosphorus	XXX	XXX	XXX	XXX	XXX	Report
Aluminum, Total	XXX	XXX	XXX	XXX	XXX	Report
Arsenic, Total	XXX	XXX	XXX	XXX	XXX	Report
Cadmium, Total	XXX	XXX	XXX	XXX	XXX	Report
Cyanide, Total	XXX	XXX	XXX	XXX	XXX	Report
Iron, Total	XXX	XXX	XXX	XXX	XXX	Report
Lead, Total	XXX	XXX	XXX	XXX	XXX	Report
Magnesium, Dissolved	XXX	XXX	XXX	XXX	XXX	Report
Magnesium, Total	XXX	XXX	XXX	XXX	XXX	Report
Mercury, Total	XXX	XXX	XXX	XXX	XXX	Report
Selenium, Total	XXX	XXX	XXX	XXX	XXX	Report
Silver, Total	XXX	XXX	XXX	XXX	XXX	Report
Zinc, Total	XXX	XXX	XXX	XXX	XXX	Report
Total Organic Carbon	XXX	XXX	XXX	XXX	XXX	Report

The proposed effluent limits for Outfalls 002, 009 and 018 are based on a design flow of 0 MGD.—Limits.

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>		<i>Minimum</i>	<i>Concentrations (mg/L)</i>		<i>IMAX</i>
	<i>Average Monthly</i>	<i>Average Weekly</i>		<i>Average Monthly</i>	<i>Maximum</i>	
pH (S.U.)	XXX	XXX	6.0 Inst Min	XXX	XXX	9.0
Chemical Oxygen Demand (COD)	XXX	XXX	XXX	XXX	XXX	120.0
Total Suspended Solids	XXX	XXX	XXX	XXX	XXX	100.0
Oil and Grease	XXX	XXX	XXX	XXX	XXX	30.0
Nitrate-Nitrite as N	XXX	XXX	XXX	XXX	XXX	Report
Ammonia-Nitrogen	XXX	XXX	XXX	XXX	XXX	Report
Total Kjeldahl Nitrogen	XXX	XXX	XXX	XXX	XXX	Report

<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>Average Monthly</i>	<i>Maximum</i>	
Total Phosphorus	XXX	XXX	XXX	XXX	XXX	Report
Aluminum, Total	XXX	XXX	XXX	XXX	XXX	Report
Arsenic, Total	XXX	XXX	XXX	XXX	XXX	Report
Cadmium, Total	XXX	XXX	XXX	XXX	XXX	Report
Cyanide, Total	XXX	XXX	XXX	XXX	XXX	Report
Iron, Total	XXX	XXX	XXX	XXX	XXX	Report
Lead, Total	XXX	XXX	XXX	XXX	XXX	Report
Mercury, Total	XXX	XXX	XXX	XXX	XXX	Report
Selenium, Total	XXX	XXX	XXX	XXX	XXX	Report
Silver, Total	XXX	XXX	XXX	XXX	XXX	Report
Zinc, Total	XXX	XXX	XXX	XXX	XXX	Report

The proposed effluent limits for Outfalls 003—007, 010, 012—014 are based on a design flow of 0 MGD.—Limits.

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>		<i>Minimum</i>	<i>Concentrations (mg/L)</i>		<i>IMAX</i>
	<i>Average Monthly</i>	<i>Average Weekly</i>		<i>Average Monthly</i>	<i>Maximum</i>	
pH (S.U.)	XXX	XXX	6.0 Inst Min	XXX	XXX	9.0
Chemical Oxygen Demand (COD)	XXX	XXX	XXX	XXX	XXX	120.0
Total Suspended Solids	XXX	XXX	XXX	XXX	XXX	100.0
Oil and Grease	XXX	XXX	XXX	XXX	XXX	30.0
Nitrate-Nitrite as N	XXX	XXX	XXX	XXX	XXX	Report
Total Phosphorus	XXX	XXX	XXX	XXX	XXX	Report
Aluminum, Total	XXX	XXX	XXX	XXX	XXX	Report
Iron, Total	XXX	XXX	XXX	XXX	XXX	Report
Lead, Total	XXX	XXX	XXX	XXX	XXX	Report
Mercury, Total	XXX	XXX	XXX	XXX	XXX	Report
Zinc, Total	XXX	XXX	XXX	XXX	XXX	Report

The proposed effluent limits for Outfall 011 are based on a design flow of 0.018 MGD.—Interim 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>Daily Maximum</i>		<i>Average Monthly</i>	<i>Daily Maximum</i>	
Ammonia-Nitrogen May 1 - Oct 31	Report	Report	XXX	Report	Report	XXX
Mercury, Total (ug/L)	Report	Report	XXX	Report	Report	XXX

The proposed effluent limits for Outfall 011 are based on a design flow of 0.018 MGD.—Final 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>Daily Maximum</i>		<i>Average Monthly</i>	<i>Daily Maximum</i>	
Ammonia-Nitrogen May 1 - Oct 31	Report	Report	XXX	25.0	50.0	50
Mercury, Total (ug/l)	0.004	0.008	XXX	27.2	50.2	68.1

The proposed effluent limits for Outfall 011 are based on a design flow of 0.018 MGD.—Limits.

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>		<i>Instantaneous Minimum</i>	<i>Concentrations (mg/L)</i>		<i>IMAX</i>
	<i>Average Monthly</i>	<i>Daily Maximum</i>		<i>Average Monthly</i>	<i>Daily Maximum</i>	
E. Coli (No./100 ml)	XXX	XXX	XXX	XXX	XXX	Report
Total Nitrogen	Report Annl Avg	Report	XXX	Report Annl Avg	Report	XXX
Total Kjeldahl Nitrogen	Report Annl Avg	Report	XXX	Report Annl Avg	Report	XXX
Total Phosphorus	Report Annl Avg	Report	XXX	Report Annl Avg	Report	XXX
Manganese, Total	Report Annl Avg	Report	XXX	Report Annl Avg	Report	XXX

The proposed effluent limits for Outfall 011 are based on a design flow of .17725 MGD.—Limits.

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>		<i>Instantaneous Minimum</i>	<i>Concentrations (mg/L)</i>		<i>IMAX</i>
	<i>Average Monthly</i>	<i>Daily Maximum</i>		<i>Average Monthly</i>	<i>Daily Maximum</i>	
Total Dissolved Solids	Report Avg Qrtly	Report	XXX	Report Avg Qrtly	Report	XXX

The proposed effluent limits for Outfall 011 are based on a design flow of .17725 MGD.—Limits.

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>		<i>Instantaneous Minimum</i>	<i>Concentrations (mg/L)</i>		<i>IMAX</i>
	<i>Average Monthly</i>	<i>Daily Maximum</i>		<i>Average Monthly</i>	<i>Daily Maximum</i>	
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Dissolved Oxygen	XXX	XXX	3.0	XXX	XXX	XXX
Total Residual Chlorine (TRC)	XXX	XXX	XXX	0.50	XXX	1.17
Biochemical Oxygen Demand (BOD <sub>5</sub> )	1.52	3.19	XXX	30.0	60.0	75
BOD <sub>5</sub> Minimum % Removal (%)	85 Min Mo Avg	XXX	XXX	XXX	XXX	XXX
Chemical Oxygen Demand (COD)	3.85	9.90	XXX	Report	Report	XXX
Total Suspended Solids	2.10	4.29	XXX	30.0	60.0	75
Oil and Grease	XXX	XXX	XXX	15.0	XXX	30.0
Fecal Coliform (No./100 ml)						
Oct 1 - Apr 30	XXX	XXX	XXX	2,000 Geo Mean	XXX	10,000
May 1 - Sep 30	XXX	XXX	XXX	200 Geo Mean	XXX	1,000
Ultraviolet light intensity (µw/cm <sup>2</sup> )	XXX	XXX	Report	XXX	XXX	XXX
Nitrate-Nitrite as N	Report	Report	XXX	Report	Report	XXX
Ammonia-Nitrogen						
Nov 1 - Apr 30	Report	Report	XXX	Report	Report	XXX
Aluminum, Total	0.04486	Report	XXX	Report	Report	XXX
Chromium, Total	0.00466	Report	XXX	Report	Report	XXX
Copper, Total	0.02695	Report	XXX	Report	Report	XXX
Cyanide, Available	0.00170	Report	XXX	Report	Report	XXX
Iron, Total	Report	Report	XXX	Report	Report	XXX
Lead, Total	0.01002	Report	XXX	Report	Report	XXX
Nickel, Total	0.02915	Report	XXX	Report	Report	XXX
Zinc, Total	0.01773	Report	XXX	Report	Report	XXX

The proposed effluent limits for Outfall/Internal Monitoring Point 111 are based on a design flow of NA 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>Daily Maximum</i>		<i>Average Monthly</i>	<i>Daily Maximum</i>	
Biochemical Oxygen Demand (BOD <sub>5</sub> ) Industrial Influent	Report	Report	XXX	Report	Report	XXX
Chemical Oxygen Demand (COD) Industrial Influent	Report	Report	XXX	Report	Report	XXX
Nitrate-Nitrite as N Industrial Influent	Report	Report	XXX	Report	Report	XXX

In addition, the permit contains the following major special conditions:

- Necessary property rights; proper management of residuals; relation to WQM Part II permits; BAT/ELG; chlorine minimization; schedule of compliance (Ammonia-N); QWBELs for toxics (Mercury); chemical additives; and IW stormwater

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 570-826-5472.

The EPA Waiver is in effect.

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**III. Individual NPDES Permit Applications for Discharges of Stormwater Associated with Construction Activity.**


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<i>Application Number</i>	<i>Application Type</i>	<i>Applicant Name &amp; Address</i>	<i>Municipality, County</i>	<i>Office</i>
PAD510035	New	Philadelphia Parks & Recreation 1515 Arch Street, No. 10 Philadelphia, PA 19102	City of Philadelphia Philadelphia County	SERO
PAD150222	New	Audubon Land Development Corp 2620 Egypt Road Norristown, PA 19403-2302	Uwchlan Township Chester County	SERO
PAD150227	New	Waynesborough Country Club 440 Darby Paoli Road Paoli, PA 19301-2006	Easttown Township Chester County	SERO
PAD510043 A-2	Amendment	Pennsylvania Department of Transportation District 6-0 7000 Geerdes Blvd King of Prussia, PA 19406-1525	City of Philadelphia Philadelphia County	SERO
PAD480151	New	Duke Realty Limited Partnership c/o David Jennings 161 Washington Street Suite 1020 Conshohocken, PA 19428-2083	Palmer & Upper Nazareth Townships Northampton County	NERO
PAD130033	New	Mieczyslaw Klecha 469 Forest St Lehighon, PA 18235	Franklin Township Carbon County	NERO
PAD480156	New	Lafayette College Facilities Planning & Construction 901 Bushkill Dr. Easton, PA 18042	City of Easton Northampton County	NERO
PAD520019 A-1	Major Amendment	Pocono Lakefront, LLC 61 West 62nd Street Unit 22E New York, NY 10023	Palmyra Township Pike County	NERO
PAD540022	New	PPL Electric Companies 2 North 9th Street GENN 4 Allentown, PA 18101	Norwegian Township Schuylkill County	NERO
PAD640028	New	Lake Township 1428 Easton Turnpike Lake Ariel, PA 18436	Lake Township Wayne County	NERO
PAD350025	New	Matt Development Inc. 39 South Main Street P.O. Box 573 Pittston, PA 18640-1815	Carbondale Township Lackawanna County	NERO

### 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 Hamilton 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>
Llewellyn J Moyer 650 Christmas Village Road Bernville, PA 19506	Berks	255	129.24	Duck, Heifer	TSF & CWF	New
Lazy Hog Farm 4390 Mountain Road McAlisterville, PA 17049	Juniata	48.43	717.00	Swine	HQ	Renewal
Elvin Zimmerman 180 Degan Road McAlisterville, PA 17049	Juniata	141.42	259.58	Broilers 1 Steer & 1 Calf	HQ	Renewal
Hillside Acres 335 Dotterer Road Lenhartsville, PA 19534	Berks	14	846.15	Swine	None	Renewal
Greystone Pork Farm 12950 Forge Road Mercersburg, PA 17236	Franklin	124.2	807.4	Swine	None	Renewal
Tuscarora Farms LLC 13851 Creek Road Willow Hill, PA 17271	Franklin	0	984.58	Swine	None	Approved
Ryan Snyder 6 Snyder Lane Lewistown, PA 17044	Mifflin	120.9	726.90	Swine Finisher	NA	Renewal
Daniel Petre 3409 Smoketown Road Spring Grove, PA 17362	York	5.98	513.34	Poultry	NA	Renewal
Yippee! Farms Arlin Benner 880 Pinkerton Road Mount Joy, PA 17552	Lancaster	693.3	1,462.5	Dairy	NA	Renewal
Burk Lea Farms 3099 Grand Point Road Chambersburg, PA 17202	Franklin	1,528.6	1,737.20	Dairy	NA	Renewal

**PUBLIC WATER SUPPLY PERMITS**

Under the Pennsylvania Safe Drinking Water Act (35 P.S. §§ 721.1—721.17), the following parties have applied for PWS permits to construct or substantially modify public water systems.

Persons wishing to comment on permit applications are invited to submit statements to the office listed before the application within 30 days of this public notice. Comments received within this 30-day comment period will be considered in the formulation of the final determinations regarding an application. A comment should include the

name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based. A public hearing may be held after consideration of comments received during the 30-day public comment period.

Following the comment period, the Department will make a final determination regarding the proposed permit. Notice of this final determination will be published in the *Pennsylvania Bulletin* at which time this determination may be appealed to the Environmental Hearing Board.

The permit application and related documents are on file at the office listed before the application and available for public review. Arrangements for inspection and copying information should be made with the office listed before the application.

Persons with a disability that require an auxiliary aid, service or other accommodations to participate during the 30-day public comment period should contact the office listed before the application. TDD users may contact the Department through the Pennsylvania Hamilton Relay Service at (800) 654-5984.

### SAFE DRINKING WATER

#### Applications Received Under the Pennsylvania Safe Drinking Water Act (35 P.S. §§ 721.1—721.17).

*Southcentral Region: Safe Drinking Water Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

##### Permit No. 0721502, Public Water Supply.

Applicant	<b>Curryville Water Authority</b>
Municipality	North Woodbury Township
County	<b>Blair</b>
Responsible Official	Michael Ritchey Chairman P.O. Box 11 Curryville, PA 16661
Type of Facility	Public Water Supply
Consulting Engineer	Anthony J. Coval, P.E. Century Engineering 2836 Earlstown Road Suite 1 Centre Hall, PA 16828
Application Received:	March 24, 2021
Description of Action	Interconnection with Martinsburg Municipal Authority.

##### Permit No. 7360791, Public Water Supply.

Applicant	<b>Vineyard at Grandview</b>
Municipality	Mount Joy Township
County	<b>Lancaster</b>
Responsible Official	Scott Haines Owner 1489 Grandview Road Mount Joy, PA 17552
Type of Facility	Public Water Supply
Consulting Engineer	Not Listed
Application Received:	June 2, 2021
Description of Action	New well and treatment system.

##### Permit No. 3621501, Public Water Supply.

Applicant	<b>Perdue AgriBusiness LLC</b>
Municipality	Conoy Township
County	<b>Lancaster</b>
Responsible Official	Sharon Clark Senior Vice President Regulatory Affairs 6906 Zion Church Road Salisbury, MD 21804
Type of Facility	Public Water Supply

Consulting Engineer	Brian C. Bonner, P.E. ARM Group Inc 2548 Park Center Blvd State College, PA 16801
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Application Withdrawn:	July 6, 2021
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Description of Action	Installation of Well AP-2, softening, carbon filtration, and ultraviolet disinfection.
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## 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 Envi-

ronmental 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 Hamilton Relay Service at (800) 654-5984.

The Department of Environmental Protection has received the following Notice(s) of Intent to Remediate:

*Northeast Region: Environmental Cleanup & Brownfields Program Manager, 2 Public Square, Wilkes-Barre, PA 18701-1915, 570-826-2511.*

*Contact: Eric Supey, Environmental Program Manager.*

**309 East Hamilton Street**, 309 East Hamilton Street, Allentown, PA 18109, Allentown City, **Lehigh County**. American Analytical & Environmental, 738 Front Street, Catasauqua, PA 18032, on behalf of NGPNLP LLC, 321 East Union Street, Allentown, PA 18109, submitted a Notice of Intent to Remediate. Soil was contaminated with solvents from historic dry-cleaning operations. Future use of the site will be nonresidential. The Notice of Intent to Remediate was published in *The Morning Call* on July 9, 2021.

*Southcentral Region: Environmental Cleanup and Brownfields Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

**1036 Manheim Pike**, 1036 Manheim Pike, Lancaster, PA 17601, Manheim Township, **Lancaster County**. Liberty Environmental, Inc., 315 West James Street, Suite 205, Lancaster, PA 17603, on behalf of MTS Group, LLC, 120 North Pointe Boulevard, Suite 201, Lancaster, PA 17601, submitted a Notice of Intent to Remediate site soil contaminated with metals and semivolatile organic compounds. The site will be remediated to the site-specific standard. Future use of the site is will be used for residential purposes. The Notice of Intent to Remediate was published in the *LNP* on June 11, 2021.

*Northcentral Region: Environmental Cleanup and Brownfields Program Manager, 208 West Third Street, Williamsport, PA 17701.*

**Former Howes Leather Corp Site—Eastern Parcel**, 45 Cooper Road, Curwensville, PA 16833, Curwensville Borough, **Clearfield County**. DMS Environmental Services, LLC, 103 South Spring Street, Bellefonte, PA 16823, on behalf of Clearly Ahead Development, 139 West Market Street, Suite 200, Clearfield, PA 16830, has submitted a Notice of Intent to Remediate site groundwater contaminated with vegetable tannery sludge residuals. The applicant proposes to remediate the site to meet the site-specific and Statewide health standards.

**Chattanooga Labeling Systems, Inc.**, 2 Industrial Park Rd, Galeton, PA 16922, Galeton Borough and Pike Township, **Potter County**. J. Krupa Company, Inc., 108 Nova Road, St. Mary's, PA 15857, on behalf of Chattanooga Labeling Systems, 120 Parmenas Lane, P.O. Box 4753, Chattanooga, TN, 37405, has submitted a Notice of Intent to Remediate site soil and groundwater contaminated with fluoride and chloride. The applicant proposes to remediate the site to meet the nonresidential Statewide health standard. A summary of the Notice of Intent to Remediate was published in the *Potter-Leader-Enterprise* on May 27, 2021.

**Principle Enterprises LLC Project**, Rain Gauge Road, New Albany, PA 18833, Overton Township, **Bradford County**. EnviroServe, Inc., 254 Reitz Avenue, Winfield, PA 17889, on behalf of Principle Enterprises,

LLC, 2897 Route 414, Canton, PA 17724, has submitted a Notice of Intent to Remediate site soil contaminated with produced water. The applicant proposes to remediate the site to meet the nonresidential Statewide health standard. A summary of the Notice of Intent to Remediate was published in *The Daily Review* on June 10, 2021.

*Southeast Region: Environmental Cleanup Program Manager, 2 East Main Street, Norristown, PA 1940, 484-250-5787.*

**209 Main Street**, 209 Main Street, Red Hill, PA 18076, Upper Hanover Township, **Montgomery County**. Richard Doran, HETI, P.O. Box 8028, Pelham, NY, 10803 on behalf of Charles Dampman, C.R. Dampman Fuels, Inc., P.O. Box 63, East Greenville, PA 18041 submitted a Notice of Intent to Remediate. The site has been found to be contaminated with heating oil compounds, which contaminated soil on the site. The proposed future use of the property will be residential. The proposed cleanup standard for the site is Statewide health standard. The Notice of Intent to Remediate was published in the *Town and County* on May 27, 2021.

**Bristol Township Croydon Wastewater Treatment Plant**, 1800 River Road, Bristol, PA 19007, Bristol Township, **Bucks County**. Toby Kessler, PG, Gilmore & Associates, Inc., 65 East Butler Avenue, New Britain, PA 18901 on behalf of Randee Elton, Bristol Township, 1800 River Road, Bristol Township, PA 19007 submitted a Notice of Intent to Remediate. Soil was contaminated with the release of benzene, 2,4-dimethylphenol, triethylamine, acetone, cardon disulfide, ethylbenzene, toluene, 4-methyl-2-pentanone (MIBK) isopropylbenzene (cumene), xylenes, methyl cyclohexane, 2-butanone. The intended future use of the property is nonresidential. The proposed cleanup standard for the site is Statewide health standard. The Notice of Intent to Remediate was published in the *Bucks County Courier Times* on June 21, 2021.

**Ponds and Gardens**, 200 Limekiln Pike, Glenside, PA 19038, Cheltenham Township, **Montgomery County**. Philip Donmoyer, PG, ECS Mid-Atlantic, LLC, 52-6 Grumbacher Road, York, PA 17406 on behalf of Greg Baltz, Grindstone Properties LP, 1259 Cox Road, Rydal, PA 19046 submitted a Notice of Intent to Remediate. The site has been found to be contaminated with arsenic, which has contaminated soil on the site. The subject property is currently occupied by a residential dwelling, apartment and commercial store. The proposed cleanup standard for the site is site-specific standard. The Notice of Intent to Remediate was published in the *Montgomery News Digital* on March 28, 2021.

**1152 Bridge Road**, 1152 Bridge Road, Skippack Township, PA 19473, Skippack Township, **Montgomery County**. Toby Kessler, PG, Gilmore & Associates, Inc., 65 East Butler Avenue, New Britain, PA 18901 on behalf of Tracy Termin, Coventry Environmental, Inc., 795 South Main Street, Spring City, PA 19475 submitted a Notice of Intent to Remediate. Diesel fuel contaminated soil associated with a release from a vehicle during a collision with the dwelling. Proposed future use of the property is residential. The proposed cleanup standard for the site is Statewide health standard. The Notice of Intent to Remediate was published in the *Times Herald* on June 28, 2021.



### DETERMINATION OF APPLICABILITY FOR RESIDUAL WASTE GENERAL PERMITS

**Application(s) for Determination of Applicability Administratively Complete 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 Residual Waste Regulations for a General Permit to Operate Residual Waste Processing Facilities and/or the Beneficial Use of Residual Waste Other Than Coal Ash.**

*Central Office: Division of Municipal and Residual Waste, Rachel Carson State Office Building, 14th Floor, 400 Market Street, Harrisburg, PA 17105-8472.*

**General Permit Application No. WMGR131SC001. Pixelle Specialty Solutions LLC (Pixelle), 228 South Main Street, Spring Grove, PA 17362, Spring Grove Borough, York County.** The application submitted by Pixelle for coverage under, and modification to, the base General Permit No. WMGR131 was determined administratively complete by the Southcentral Regional Office on June 8, 2021. General Permit No. WMGR131 authorizes the beneficial use of carbonaceous wastes: (i) petroleum coke, (ii) uncontaminated and untreated wood chips generated during the pulp and/or paper making process, and (iii) other paper and wood industry wastes comprised of primarily wood fibers, and tire-derived fuel as alternative fuels to be combined with waste coal/coal for circulating fluidized bed (CFB) boilers at the facility. The resulting boiler ash generated by co-firing the approved alternative fuels referenced is beneficially used as the following:

- 1) Structural fill
- 2) Soil substitute or soil additive
- 3) At coal mining activity site
- 4) At abandoned surface mining sites
- 5) And other beneficial uses

The modifications added to the WMGR131 base permit would allow the blend of alternate fuel for beneficial use by Pixelle to be greater than 50% by weight of the alternative fuels listed in the general permit as long as the blended fuel meets the requirements of the air quality permits for the facility and has a heating value of no less than 5,000 British Thermal Units (BTU) per pound.

Persons interested in reviewing the general permit application may contact Chris Solloway, General Permits/Beneficial Use Section, Division of Municipal and Residual Waste, Bureau of Waste Management, P. O. Box 69170, Harrisburg, PA 17106-9170. TDD users may contact the Department through the Pennsylvania Hamilton Relay Service, (800) 654-5984.

### OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

**Application(s) Received Under the Solid Waste Management Act (35 P.S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P.S. §§ 4000.101—4000.1904) and Regulations to Operate Solid Waste Processing or Disposal Area or Site.**

*Southwest Region: Regional Solid Waste Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**Permit Application No. 101718. RGL, Inc. dba Mountain State Waste, 702 North Main Avenue,**

Weston, WV 26452, Perry Township, **Greene County.** This permit application is for the operation of a new municipal solid waste transfer facility named the Greene County Transfer Facility, located at 108 Bald Hill Road, Mt. Morris, PA 15349. The application was deemed administratively complete by the Southwest Regional Office on June 27, 2019.

Comments concerning the application should be directed to Greg Holesh, Engineering Manager, Southwest Regional Office, 400 Waterfront Drive, Pittsburgh, PA 15222. Persons interested in obtaining more information about the permit application may contact the Southwest Regional Office, 412-442-4000. TDD users may contact the Department through the Pennsylvania Hamilton 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 Hamilton Relay Service at (800) 654-5984.

### PLAN APPROVALS

**Plan Approval Applications Received under the Air Pollution Control Act (35 P.S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter B that may have special public interest. These applications are in review and no decision on disposition has been reached.**

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481.*

*Contact: Dave Balog, New Source Review Chief, (814) 332-6328.*

**24-022B: SMC Global Holdings, Incorporated—St Marys Carbon** (259 Eberl Street, Saint Marys, PA 15857), for the proposed installation of an oxidation system for control of the Carbon/Graphite Mixers 2 & 3 (Sources 115A & 115B). The facility is located in Saint Marys City, **Elk County**. This is a State Only facility.

**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.*

**09-0084B: Grand View Hospital** (700 Lawn Avenue, Sellersville, PA 18960) for the replacement of certain existing equipment at its facility, which is located in West Rockhill Township, **Bucks County**, and permitted under State Only (Synthetic Minor) Operating Permit No. 09-00084, with new equipment, as follows:

- Replacement of the existing 750-ekW and 600-ekW emergency generator sets (two each; Source IDs 101 and 102A, respectively) with three new 2,000-ekW emergency generator sets.
- Replacement of the 9.9-mmBtu/hr burner of existing boiler 4 (Source ID 034) with a new 14.7-mmBtu/hr low-nitrogen oxides (NO<sub>x</sub>) burner.

Based on a maximum operating schedule of 185 hours per year for each emergency generator set, and compliance with the current combined natural gas and No. 2 fuel oil fuel consumption restrictions for existing boilers 1—4 (Source IDs 031A—033A and 034, respectively) in the State Only Operating Permit, the potential NO<sub>x</sub> emission rate for the facility will remain less than 25 tons/yr, the major facility threshold for the Philadelphia Consolidated Metropolitan Statistical Area. Therefore, the status of the facility will remain Synthetic Minor.

The diesel fuel-fired engines of the new emergency generator sets are subject to the provisions of the Federal Standards of Performance for Stationary Compression Ignition Internal Combustion Engines (40 CFR Part 60, Subpart IIII). Upon replacement of the burner of existing boiler 4, the boiler will be subject to the provisions of the Federal Standards of Performance for Small Industrial, Commercial, and Institutional Steam Generating Units (40 CFR Part 60, Subpart Dc). However, as the boiler will still meet the definition of the term “gas-fired boiler” in 40 CFR 63.11237, the boiler will remain exempt from the provisions of the Federal National Emission Standards for Hazardous Air Pollutants for Industrial, Commercial, and Institutional Boilers Area Sources (40 CFR Part 63, Subpart JJJJJJ).

The plan approval will include monitoring, recordkeeping, reporting, and work practice requirements designed to keep the facility operating within all applicable air quality requirements.

Anyone wishing to request information regarding this action can do so by contacting the Southeast Regional Office through the contact person listed in the previously listed header. Comments on the draft permit can be submitted through the Air Quality resource account at RA-EPSEROPUBCOM@pa.gov.

*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.*

**21-05035C: Hempt Bros., Inc. Locust Point Quarry** (205 Creek Rd, Camp Hill, PA 17011) for the replacement and operation of a secondary crushing unit which will increase downstream maximum production capacity from 400 to 500 tons per hour at the existing limestone crushing plant located in Silver Spring Township, **Cumberland County**. The crusher and downstream equipment will be controlled with water sprays. The increases in potential emissions are 1.64 tpy PM<sub>10</sub> and 0.18 tpy PM<sub>2.5</sub>. DEP’s review of the information submitted by the company indicates that the air contamination sources will comply with all regulatory requirements, including monitoring, recordkeeping, and reporting requirements, and pertaining to air contamination sources and the emission of air contaminants including the best available technology requirement (BAT) of 25 Pa. Code §§ 127.1 and 127.12 as well as 40 CFR Part 60, Subpart OOO, NSPS for Nonmetallic Mineral Processing Plants. Based on this finding, DEP proposes to issue a plan approval for the proposed installation. The facility is a State Only facility. If DEP determines that the sources are constructed and operated in compliance with the plan approval conditions and the specifications of the application for plan approval, the requirements established in the plan approval will be

incorporated into an Operating Permit pursuant to the administrative amendment provisions of 25 Pa. Code § 127.450.

**38-03066A: Georgia Pacific Corrugated, LLC** (122 Bordnersville Road, Jonestown, PA 17038) for the construction of two recyclable mailer production lines in Union Township, **Lebanon County**. Potential emissions from the operations are projected to be 46.4 tpy of VOCs and 6.2 tpy of HAPs. DEP's review of the information submitted by the applicant indicates that the air contamination sources as constructed or modified will comply with all regulatory requirements pertaining to air contamination sources and the emission of air contaminants including the best available technology requirements (BAT) of 25 Pa. Code §§ 127.1 and 127.12. Based on these findings, the Department proposes to issue a plan approval for the proposed construction. If, after the project has been implemented, the Department determines that the sources are constructed and operated in compliance with the plan approval conditions and the specification of the application for plan approval, the requirements established in the plan approval may be incorporated into an operating permit pursuant to the administrative amendment provisions of 25 Pa. Code Chapter 127.

#### OPERATING PERMITS

##### **Intent to Issue Title V Operating Permits under the Air Pollution Control Act (35 P.S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter G.**

*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401.*

*Contact: Janine Tulloch-Reid, Facilities Permitting Chief, (484) 250-5920.*

**09-00053: Greif Packaging, LLC** (695 Louis Drive, Warminster, PA 18974), located in Warminster Township, **Bucks County**, for a renewal of Title V Operating Permit (TVOP) No. 09-00053 for its steel drum manufacturing facility. The facility's air emissions sources consist of three spray booths, three bake ovens, and other miscellaneous operations associated with the steel drum manufacturing; as well as a cold cleaning machine and emergency generator set to support the facility. In addition, Greif Packaging, LLC, operates and maintains a regenerative thermal oxidizer to capture and control volatile organic compound (VOC) and hazardous air pollutant (HAP) emissions from the spray booths and bake ovens.

The facility is subject to site-level VOC and HAP emission restrictions of equal to or less than 21.0 tons/yr, as well as an individual HAP emission restriction of less than 10 tons/yr (each calculated monthly as a 12-month rolling sum). In addition, the plan approval-exempt engine of the emergency generator set is subject to nitrogen oxides (NO<sub>x</sub>) emission restrictions of less than 100 lbs/hr, 1,000 lbs/day, 2.75 tons/ozone season, and 6.6 tons/yr (calculated monthly as a 12-month rolling sum).

The changes that have occurred at the facility since DEP issued the original TVOP in September 2015 are the replacement of the steel drum exterior paint spray booth (with new enclosure) under Plan Approval No. 09-0053C, and installation of a new enclosure for the steel drum parts lining/paint spray booth under Plan Approval No. 09-0053D. The renewal TVOP incorporates the requirements of these Plan Approvals by reference.

The renewal permit will contain monitoring, record-keeping, reporting, and work practice requirements de-

signed to keep the facility operating within all applicable air quality requirements, including the provisions of 40 CFR Part 63, Subpart M, for the spray booths.

Anyone wishing to request information regarding this action can do so by contacting the Southeast Regional Office through the contact person listed in the previously listed header. Comments on the draft permit can be submitted through the Air Quality resource account at RA-EPSEROPUBCOM@pa.gov.

##### **Intent to Issue Operating Permits under the Air Pollution Control Act (35 P.S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.**

*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.*

**22-03018: Millersburg Area School District Lenkerville Elementary School** (520 South Market Street, Millersburg, PA 17061) to issue a State Only Operating Permit for the coal boiler at the elementary school located in Upper Paxton Township, **Dauphin County**. The potential emissions from the facility are estimated at 47.20 tpy of SO<sub>x</sub>, 5.45 tpy of NO<sub>x</sub>, 0.36 tpy of CO, 4.36 tpy of PM and 0.18 tpy of TOC. The Operating Permit will include emission limits and work practice standards along with monitoring, recordkeeping and reporting requirements to ensure the facility complies with the applicable air quality regulations. Among other items, the conditions include provisions derived from 40 CFR Part 63 Subpart JJJJJ—National Emission Standards for Hazardous Air Pollutants for Industrial, Commercial and Institutional Boilers Area Source.

*Southwest Regional Office, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

*Contact: Thomas Joseph, Facilities Permitting Chief, 412.442.4336.*

**56-00204: Columbia Gas Transmission Corp, Salisbury Compressor Station** (1700 MacCorkle Avenue SE, Charleston, WV 25314-1518), to issue a natural minor operating permit renewal for the Salisbury compressor station located at Greenville Township, **Somerset County**. The facility's Potential to Emit is 31.16 tpy CO, 69.16 tpy NO<sub>x</sub>, 1.61 tpy VOC, 2.25 tpy PM<sub>10</sub>/PM<sub>2.5</sub>, 0.24 tpy SO<sub>2</sub>, and 0.35 tpy HAP. Operating Permit will include emission limits and work practice requirements to ensure the facility complies with the applicable air quality regulations. Among other items, the conditions include provisions for the sources derived from 40 CFR 63 Subpart ZZZZ NESHAP for Stationary Reciprocating Internal Combustion Engines and 40 CFR 60 Subpart GG NSPS for Stationary Gas Turbines.

Any person may submit comments, a request for the Department to hold a public hearing, or a protest to the proposed operating permit or a condition thereof by submitting the information to Tom Joseph, P.E., Air Quality Engineering Manager, at the Southwest Regional Office. A 30-day comment period from the date of publication of this notice will exist for the submission of comments. Each written comment must contain the name, address and telephone number of the person submitting the comments, identification of the proposed permit (specify Operating Permit 56-00204) and concise



statements regarding the relevancy of the information in the proposed permit or objections to issuance of the permit.

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 telephone, where the Department determines such notification by telephone is sufficient.

**63-00646: Ritchey Metals Company, Inc.** (30 Georgetown Road, Canonsburg, PA 15317). In accordance with 25 Pa. Code §§ 127.424 and 127.425 the Department of Environmental Protection (DEP) gives notice that they intend to issue a State Only Operating Permit (SOOP) renewal to Ritchey Metals Company to authorize the continued operation of an Aluminum and Zinc based alloys manufacturing facility located in the Cecil Township, **Washington County**.

The facility consists of kettle furnaces, MRA machine, rotary reverb furnaces, and galvalume reverb, parts washer, and an emergency generator. All the furnaces are equipped with dust collectors to control particulate emissions. This facility has the potential to emit approximately 9.62 tons per year of PM<sub>10</sub>, 12.05 tons per year of NO<sub>x</sub>, 0.78 ton per year of VOC, 0.23 ton per year of HAPs, 10.12 tons per year of CO and 0.07 ton per year of SO<sub>x</sub>. The proposed SOOP renewal contains emission restriction, testing, monitoring, recordkeeping, reporting and work practice conditions of the proposed permit have been derived from the applicable requirements of 25 Pa. Code Article III, Chapters 121—145 and NESHP for Stationary Reciprocating Internal Combustion Engines (RICE) found in 40 CFR Part 63 Subpart ZZZZ.

A person may oppose the proposed State Only Operating Permit by filing a written protest with the Department through Noor Nahar via mail to Pennsylvania Department of Environmental Protection, 400 Waterfront Drive, Pittsburgh, PA 15222. Each protest or set of written comments must contain the name, address and telephone number of the person submitting the comments, identification of the proposed State Only Operating Permit (63-00646) and a concise statement of the objections to the Operating Permit issuance and the relevant facts upon which the objections are based.

Ritchey Metals Company, Inc. State Only Operating Permit Application, the Department's Air Quality Review Memorandum, and the Proposed Air Quality Operating Permit for this facility are available for review by any interested party at the Pennsylvania Department of Environmental Protection, Southwest Regional Office, 400 Waterfront Drive, Pittsburgh, PA 15222. To request a review of the Ritchey Metals Company, Inc. State Only Operating Permit application, to receive an electronic copy of the Department's Air Quality Review Memorandum, or to receive an electronic copy of the Department's proposed air Quality Operating Permit for this facility, a person may contact Noor Nahar at nnahar@pa.gov or 412.442.5225.

All comments must be received prior to the close of business 30 days after the date of this publication.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481.*

*Contact: Matthew Williams, Facilities Permitting Chief, (814) 332-6940.*

**43-00372: Integrated Fabrication & Machining Inc.** (639 Keystone Road, Greenville, PA 16125). The Department intends to issue a State Only Operating Permit for the metal fabrication facility located in **Hempfield Township, Mercer County**. Integrated Fab specializes in the manufacturing of components for the electric power grid here in North America. At the Greenville Plant, Integrated Fab consists of dry abrasive blasting operations and surface coating. The facility is limited to 20.0 tpy VOC, 1 tpy individual HAPs or 2.5 tpy combined HAPs for each dry abrasive blasting unit. The facility is a natural minor and is subject to State Regulations and Federal Regulations (40 CFR Part 63 Subpart XXXXXX). 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.

## 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 in-

formal 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

<i>Parameter</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
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 <sup>1</sup>		greater than 6.0; less than 9.0	
Alkalinity greater than acidity <sup>1</sup>			

<sup>1</sup> 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 Ford-Wigfield).*

**Permit No. 32950201 and NPDES No. PA0213004. Robindale Energy Services, Inc.**, 224 Grange Hall Road, P.O. Box 228, Armagh, PA 15920. Permit transfer from Cambria Reclamation Corporation, 2929 Allen Parkway, Suite 3275, Houston, TX 77019-0000 for the continued operation and restoration of a bituminous surface mine in White and Rayne Townships, **Indiana County** affecting 256 acres. Receiving streams: McKee Run to Crooked Creek classified for the following uses: cold water fishes and warm water fishes. There are no potable water supply intakes within 10 miles downstream. Application received: July 9, 2021.

*New Stanton District Office: P.O. Box 133, New Stanton, PA 15672, (724) 925-5500, (Contact: Tracy Norbert).*

**Permit No. 3473SM8 and NPDES Permit No. PA0200590. M. B. Energy, Inc.**, 175 McKnight Road, Blairsville, PA 15717. Renewal application for continued treatment to an existing bituminous surface mine, located in Derry Township, **Westmoreland County**, affecting 15.5 acres. Receiving streams: unnamed tributaries to Loyalhanna Creek, classified for the following use: WWF. There is no potable water supply intake within 10 miles downstream from the point of discharge. Renewal application received: July 12, 2021.

**Permit No. 26980104 and NPDES Permit No. PA0202355. Gary Gioia Coal Company**, 319 Karen Drive, Elizabeth, PA 15037. Renewal application for continued mining to an existing bituminous surface mine, located in Wharton Township, **Fayette County**, affecting 156.5 acres. Receiving streams: Big Sandy Creek and unnamed tributary to Big Sandy Creek, classified for the following use: HQ-CWF. There is no potable water supply intake within 10 miles downstream from the point of discharge. Renewal application received: July 14, 2021.

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118, (Contact: Theresa Reilly-Flannery).*

**Permit No. 54693031R7. Joe Kuperavage Coal Company**, 916 Park Avenue, Port Carbon, PA 17965, renewal of an existing anthracite coal surface mine operation in Blythe Township, **Schuylkill County** affecting 308.0 acres. Receiving stream: Schuylkill River, classified for the following uses: cold water and migratory fishes. Application received: July 1, 2021.

**Permit No. 54693031C3. Joe Kuperavage Coal Company**, 916 Park Avenue, Port Carbon, PA 17965, correction of an existing anthracite coal surface mine operation to update the post-mining land use to unmanaged natural habitat in Blythe Township, **Schuylkill County** affecting 308.0 acres. Receiving stream: Schuylkill River, classified for the following uses: cold water and migratory fishes. Application received: July 1, 2021.

#### *Noncoal Applications Received*

*Effluent Limits*—The following effluent limits will apply to NPDES permits issued in conjunction with a noncoal mining permit:

Table 2

<i>Parameter</i>	<i>30-day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Suspended solids	10 to 35 mg/l	20 to 70 mg/l	25 to 90 mg/l
Alkalinity exceeding acidity*		greater than 6.0; less than 9.0	
pH*			

\* 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.

*Knox District Mining Office: P.O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, (814) 797-1191, (Contact: Cayleigh Boniger).*

**Permit No. 61110304. Glenn O. Hawbaker, Inc.**, 952 Waddle Road, Suite 203, State College, PA 16803. Application for a wetland encroachment to mine through 0.42 acre of palustrine emergent wetlands and reconstruct 0.84 acre of palustrine emergent wetlands in Barkeyville Borough, **Venango County**. Receiving stream(s): Unnamed tributaries to East Branch Wolf Creek and an unnamed tributary to North Branch Slippery Rock Creek classified for the following use(s): CWF. There are no potable surface water supply intakes within 10 miles downstream. Application also includes a request for a Section 401 Water Quality Certification. Application received: December 9, 2020.

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200, (Contact: Ashley Smith).*

**Permit No. 08210801 and NPDES GP-104 No. PAM221017. Quality Stone, LLC**, 4244 Leraysville Rd., Warren Center, PA 18851. Commencement, operation, and restoration of a small noncoal (industrial minerals) operation located in Sheshequin Township, **Bradford County** affecting 1.9 acres. Receiving stream(s): Bullard Creek and Wysox Creek Watershed classified for the following use(s): CWF, MF. Application received: July 8, 2021.

### 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

*Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472.1900.*

**NPDES No. PA0269468 (Mining Permit No. 56150103), Elk Resources, Inc.**, 30 Pounds Road, West Lebanon, PA 15783, renewal of a NPDES permit for a bituminous surface mine in Paint Township, **Somerset County**, affecting 74.8 acres. Receiving stream(s): Unnamed Tributary to/and Stonycreek River, classified for the following use(s): warm water fishery. This receiving stream is included in the Kiski-Conemaugh TMDL. Application received: April 1, 2021.

The following treated wastewater outfall discharges to an Stonycreek River:

<i>Outfall Nos.</i>	<i>New Outfall (Y/N)</i>
001 (Treatment Pond # 1)	N

The proposed effluent limits for the previously listed outfall 001 are as follows:

<i>Outfall: 001 (Treatment Pond # 1) Parameter</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
Iron (mg/l)	1.5	3.0	3.7
Manganese (mg/l)	1.0	2.0	2.5
Aluminum (mg/l)	0.75	0.75	0.75
Total Suspended Solids (mg/l)	35.0	70.0	90.0

pH (S.U.): Must be between 6.0 and 9.0 standard units at all times.

Alkalinity must exceed acidity at all times.

The following treated wastewater outfall discharges to Unnamed Tributary to Stonycreek River:

<i>Outfall Nos.</i>	<i>New Outfall (Y/N)</i>
002 (Treatment Pond # 2)	N

The proposed effluent limits for the previously listed outfall 002 are as follows:

<i>Outfall: 002 (Treatment Pond # 2) Parameter</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
Iron (mg/l)	1.5	3.0	3.7
Manganese (mg/l)	1.0	2.0	2.5
Aluminum (mg/l)	0.75	0.75	0.75
Total Suspended Solids (mg/l)	35.0	70.0	90.0

pH (S.U.): Must be between 6.0 and 9.0 standard units at all times.

Alkalinity must exceed acidity at all times.

The following treated stormwater outfall discharges to an Unnamed Tributary to Stonycreek River:

<i>Outfall Nos.</i>	<i>New Outfall (Y/N)</i>
003 (Sediment Pond # 2)	N

The proposed effluent limits for the previously listed outfall 003 are as follows:

<i>Outfall: 003 (Sediment Pond # 2) Parameter</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
Iron (mg/l)	1.5	3.0	3.7
Manganese (mg/l)	1.0	2.0	2.5
Aluminum (mg/l)	0.75	0.75	0.75
Total Suspended Solids (mg/l)	35.0	70.0	90.0

pH (S.U.): Must be between 6.0 and 9.0 standard units at all times.

Alkalinity must exceed acidity at all times.

Knox District Mining Office: White Memorial Building, P.O. Box 669, Knox, PA 16232-0669, (814) 797.1191.

**NPDES No. PA0259641 (Permit No. 16140101). Allegheny Mineral Corporation**, P.O. Box 1022, Kittanning, PA 16201. Renewal of an NPDES permit for a bituminous surface mine in Perry Township, **Clarion County**, affecting 591.5 acres. Receiving stream(s): Unnamed tributaries to Clarion River to Clarion River, unnamed tributaries to Cherry Run to Cherry Run to Licking Creek, classified for the following use(s): CWF. TMDLs: Lower Clarion River and Licking Creek. Application received: March 11, 2021.

Unless otherwise noted for a specific outfall, the proposed effluent limits for all outfalls in this permit are the BAT limits described previously for coal mining activities.

The following outfalls discharge to unnamed tributaries to Cherry Run and unnamed tributaries to Clarion River:

<i>Outfall Nos.</i>	<i>New Outfall (Y/N)</i>
012	N
013	N
014	N
015	N
019	N
020	N
021	N
022	N

The proposed effluent limits for the previously listed outfall(s) are as follows:

<i>Parameter</i>	<i>Minimum</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
pH <sup>1</sup> (S.U.)	6.0			9.0
Iron (mg/l)		3.0	6.0	7.0
Manganese (mg/l)		2.0	4.0	5.0
Aluminum (mg/l)		0.75	0.75	0.75
Total Suspended Solids (mg/l)		35.0	70.0	90.0
Alkalinity greater than acidity <sup>1</sup>				

<sup>1</sup> The parameter is applicable at all times.

The following outfalls discharge to unnamed tributaries to Cherry Run and unnamed tributaries to Clarion River:

<i>Outfall Nos.</i>	<i>New Outfall (Y/N)</i>
001	N
002	N
003	N
004	N
005	N
006	N

The proposed effluent limits for the previously listed outfalls are as follows:

<i>Parameter</i>	<i>Minimum</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
pH <sup>1</sup> (S.U.)	6.0			9.0
Iron (mg/l)		3.0	6.0	7.0
Manganese (mg/l)		2.0	4.0	5.0
Aluminum (mg/l)		0.75	0.75	0.75
Total Suspended Solids (mg/l)		35.0	70.0	90.0
Alkalinity greater than acidity <sup>1</sup>				

<sup>1</sup> The parameter is applicable at all times.

The following outfalls require a non-discharge alternative:

<i>Outfall Nos.</i>	<i>New Outfall (Y/N)</i>
016	N
017	N
018	N

The proposed effluent limits for the previously listed outfalls are as follows:

<i>Parameter</i>	<i>Minimum</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
pH <sup>1</sup> (S.U.)	6.0			9.0
Iron (mg/l)				7.0
Manganese (mg/l)				5.0
Aluminum (mg/l)				5.0
Total Suspended Solids (mg/l)				90.0
Alkalinity greater than acidity <sup>1</sup>				

<sup>1</sup> The parameter is applicable at all times.

The following outfalls discharge to unnamed tributaries to Cherry Run and unnamed tributaries to Clarion River:

<i>Outfall Nos.</i>	<i>New Outfall (Y/N)</i>
007	N
008	N
009	N
010	N
011	N

The proposed effluent limits for the previously listed outfalls are as follows:

<i>Parameter</i>	<i>Minimum</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
pH <sup>1</sup> (S.U.)	6.0			9.0
Iron (mg/l)		3.0	6.0	7.0
Manganese (mg/l)		2.0	4.0	5.0
Aluminum (mg/l)		0.75	0.75	0.75
Total Suspended Solids (mg/l)		35.0	70.0	90.0

Alkalinity greater than acidity<sup>1</sup>

<sup>1</sup> The parameter is applicable at all times.

*Noncoal NPDES Draft Permits*

*Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472.1900.*

**NPDES No. PA0234214 (Mining Permit No. 05960302), New Enterprise Stone & Lime Company**, P.O. Box 77, New Enterprise, PA 16664, renewal of an NPDES permit for a limestone quarry in Snake Spring Township, **Bedford County**, affecting 131.3 acres. Receiving stream(s): Cove Creek, classified for the following use(s): exceptional value. Application received: June 22, 2021

Unless otherwise noted for a specific outfall, the proposed effluent limits for all outfalls in this permit are the BAT limits described previously for noncoal mining activities.

The following stormwater outfall discharges to Cove Creek:

<i>Outfall Nos.</i>	<i>New Outfall (Y/N)</i>
001	No

The proposed effluent limits for the previously listed outfall(s) are as follows:

<i>Outfalls: 001 (Dry Weather Conditions)</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
<i>Parameter</i>			
Total Dissolved Solids (mg/l)	N/A	N/A	75.0
Temperature (°F)	N/A	N/A	72.0
pH (S.U.): Must be between 6.0 and 9.0 standard units at all times.			

<i>Outfalls: 001 (≤10-yr/24-hr Precip. Event)</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
<i>Parameter</i>			
Total Settleable Solids (ml/l)	N/A	N/A	0.5
pH (S.U.): Must be between 6.0 and 9.0 standard units at all times.			

*Knox District Mining Office: White Memorial Building, P.O. Box 669, Knox, PA 16232-0669, (814) 797.1191.*

**NPDES No. PA0280763 (Permit No. 10160304), Allegheny Mineral Corporation**, P.O. Box 1022, Kittanning, PA 16201. New NPDES permit for a large industrial minerals surface mine in Worth Township, **Butler County**, affecting 367.0 acres. Receiving stream(s): Unnamed tributaries to Black Run and unnamed tributaries to Hogue Run, classified for the following use(s): CWF. TMDL: None. Application received: June 30, 2021.

Unless otherwise noted for a specific outfall, the proposed effluent limits for all outfalls in this permit are the BAT limits described previously for noncoal mining activities.

The following outfalls discharge to unnamed tributaries to Black Run:

<i>Outfall Nos.</i>	<i>New Outfall (Y/N)</i>
008	Y
009	Y
010	Y

The proposed effluent limits for the previously listed outfalls are as follows:

<i>Parameter</i>	<i>Minimum</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
pH <sup>1</sup> (S.U.)	6.0			9.0
Iron (mg/l)		3.0	6.0	7.0
Manganese (mg/l)		2.0	4.0	5.0
Total Suspended Solids (mg/l)		35.0	70.0	90.0

Alkalinity greater than acidity<sup>1</sup>

<sup>1</sup> The parameter is applicable at all times.



The following outfalls discharge to unnamed tributaries to Black Run and unnamed tributaries to Hogue Run:

<i>Outfall Nos.</i>	<i>New Outfall (Y/N)</i>
001	Y
002	Y
003	Y
004	Y
005	Y

The proposed effluent limits for the previously listed outfalls are as follows:

<i>Parameter</i>	<i>Minimum</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
pH <sup>1</sup> (S.U.)	6.0			9.0
Iron (mg/l)		3.0	6.0	7.0
Manganese (mg/l)		2.0	4.0	5.0
Total Suspended Solids (mg/l)		35.0	70.0	90.0
Alkalinity greater than acidity <sup>1</sup>				

<sup>1</sup> The parameter is applicable at all times.

The following outfall discharges to unnamed tributary to Hogue Run:

<i>Outfall Nos.</i>	<i>New Outfall (Y/N)</i>
012	Y

The proposed effluent limits for the previously listed outfall are as follows:

<i>Parameter</i>	<i>Minimum</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
pH <sup>1</sup> (S.U.)	6.0			9.0
Iron (mg/l)		1.5	3.0	3.8
Manganese (mg/l)		2.0	4.0	5.0
Total Suspended Solids (mg/l)		35.0	70.0	90.0
Alkalinity greater than acidity <sup>1</sup>				

<sup>1</sup> The parameter is applicable at all times.

The following outfalls discharge to unnamed tributary to Hogue Run:

<i>Outfall Nos.</i>	<i>New Outfall (Y/N)</i>
006	Y
007	Y

The proposed effluent limits for the previously listed outfalls are as follows:

<i>Parameter</i>	<i>Minimum</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
pH <sup>1</sup> (S.U.)	6.0			9.0
Iron (mg/l)		1.5	3.0	3.8
Manganese (mg/l)		2.0	4.0	5.0
Total Suspended Solids (mg/l)		35.0	70.0	90.0
Alkalinity greater than acidity <sup>1</sup>				

<sup>1</sup> The parameter is applicable at all times.

**NPDES No. PA0259241 (Permit No. 37020306). The East Fairfield Coal Co.,** P.O. Box 217, North Lima, OH 44452. Renewal of an NPDES permit for a large industrial minerals surface mine in North Beaver Township, **Lawrence County**, affecting 202.6 acres. Receiving streams: Unnamed tributary to Honey Creek, classified for the following uses: HQ-CWF. TMDL: None. Application received: June 14, 2021.

Unless otherwise noted for a specific outfall, the proposed effluent limits for all outfalls in this permit are the BAT limits described previously for noncoal mining activities.

The following outfall requires a non-discharge alternative:

<i>Outfall Nos.</i>	<i>New Outfall (Y/N)</i>
P03	N

The proposed effluent limits for the previously listed outfall are as follows:

<i>Parameter</i>	<i>Minimum</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
pH <sup>1</sup> (S.U.)	6.0			9.0
Total Suspended Solids (mg/l)				90.0
Alkalinity greater than acidity <sup>1</sup>				

<sup>1</sup> The parameter is applicable at all times.

## FEDERAL WATER POLLUTION CONTROL ACT SECTION 401

The following permit applications, requests for Environmental Assessment approval and requests for 401 Water Quality Certification have been received by the Department 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 Environmental 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 Hamilton 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)).

*Northeast Region: Waterways & Wetlands Program, 2 Public Square, Wilkes-Barre, PA 18701-1915.*

*Contact: Gillian Ostrum, Clerk Typist 2, 570-830-3077.*

**E3902221-005. Borough of Catasauqua**, 90 Bridge Street, Catasauqua, PA 18032, in Borough of Catasauqua, **Lehigh County**, U.S. Army Corps of Engineers, Philadelphia District.

To fill and maintain a 0.22 acre area of the floodway of Catasauqua Creek (CWF, MF) with work consisting of a thirty-two (32) space asphalt parking lot, two (2) access roads adjoining Race Street (S.R. 1004), an underground stormwater management facility, sidewalks, curbing, landscaping, and utilities. This project will result in a 540 ft<sup>3</sup> net cut within the floodway. The project is located directly southwest of the intersection of Pineapple Street and Race Street (Catasauqua, PA Quadrangle Latitude: 40° 38' 59"; Longitude: -75° 27' 59") in Catasauqua

Borough, Lehigh County. (Catasauqua, PA Quadrangle, Latitude: 40° 38' 59"; Longitude: -75° 27' 59").

**E4502220-024. Tobyhanna Township**, 105 Government Center Way, Pocono Pines, PA 18350, in Tobyhanna Township, **Monroe County**, U.S. Army Corps of Engineers, Philadelphia District.

To construct and maintain several road improvements near the I-380/SR940 interchange for the purpose of improving safety and traffic flow. The road improvements will permanently impact 0.69 acre of wetlands (EV). To compensate for the permanent wetland impacts, the applicant will mitigate in a 2:1 ratio, providing 1.41 acres of new wetlands offsite. The wetland mitigation site is located approximately 2.5 miles southwest of the project site along Tamaqua Lake Road. The project is located on the west side of the I-380/SR940 interchange (Pocono Pines, PA Quadrangle Latitude: 41° 6' 27" Longitude: -75° 24' 6") in Tobyhanna Township, Monroe County.

**E4002121-009, PA Department of Transportation, Eng District 4-0**, 55 Keystone Industrial Park, Dunmore, PA 18512, Union Township, **Luzerne County**, Army Corps of Engineers, Baltimore District.

To remove the existing structure and to construct and maintain a roadway carrying SR 3014 over Nescopeck Creek (TSF, MF) consisting of a 39-foot wide, three span prestressed concrete spread box beam bridge with 151-foot total span length and a 13.33-foot underclearance. Fill will also be placed in the floodway for construction of the proposed structure.

Quadrangle, Latitude: 41° 2' 35.23" N; Longitude: -76° 13' 21.75" W) in Nescopeck Township, Luzerne County.

*Southcentral Region: Waterways & Wetlands Program, 909 Elmerton Avenue, Harrisburg, PA 17110.*

**E0603221-011. Bethel PA (SWC Klahr and Schubert), LLC**, Southeast corner of Lancaster Ave and Schubert Road in Bethel Township, **Berks County**, U.S. Army Corps of Engineers Baltimore District.

To place and maintain fill from grading, resulting in 1,088 square feet (0.025 acre) of permanent and 256 square feet (0.006 acre) of temporary impacts to an emergent wetland, all for the purpose of constructing a Burger King restaurant along with a parking lot, utilities, sidewalk, and roadway improvements. The project is located in the southeast corner at the intersection of Lancaster Ave and Schubert Road (Latitude: 40.478253, Longitude: -76.294922) in Bethel Township, Berks County. Permanent wetland loss is less than 0.05 acre and replacement is not required. The project is located within the Little Swatara Creek watershed (CWF, MF). No stream impacts are proposed.

*Southwest Region: Dana Drake, Waterways and Wetlands Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, 412-442-4000.*

**E0205220-042, Churchill Creek Project, LLC**, 5050 W. Tilghman Street, Suite 435, Allentown, PA 18104; **Lehigh County**; Pittsburgh ACOE District.

The applicant proposes to:

1. Place and maintain fill in approximately 0.75 acre of a body of water, to reconfigure an existing pond by reducing its size from 1.57 acres with a storage volume of approximately 1,010,000 cubic feet to 0.82 acre with a total potential storage volume of 348,852 cubic feet and converting it from a wet pond to a lined dry pond,

2. Operate and maintain 1,566 LF of an existing stream enclosure (UNT # 32837 to Sawmill Run (WWF) (aka Stream 1),

3. Construct and maintain a retaining wall, parking areas, and upgrades to an existing access road, along with associated fill material, and to construct and maintain a stormwater basin, within 2.99 acres of the floodway of stream 1,

4. Place and maintain fill in five (5) streams (streams 2 through 6, UNTs to Sawmill Run (WWF)) associated with grading and fill slopes for a total length of 1,157 LF of stream.

For the purposes of the construction of a 634,812 square foot fulfillment and sorting center and associated access roads, parking lot, and stormwater control features.

The project site is located at 1310 Beulah Road, Pittsburgh, PA 15235 (Braddock, PA USGS topographic quadrangle; N: 40°, 26', 29.2362"; W: -79°, 51', 1.848"; Sub-basin 19A; USACE Pittsburgh District), in Churchill Borough, Allegheny County.

**E1105221-003, M + M Development, LP**, P.O. Box 1567, Beaver Falls, PA 15010, Gallitzin Township, Cambria County; Baltimore ACOE District.

The applicant proposes to:

Place and maintain fill in 0.11 acre of PEM wetlands to construct a new 9,000 square foot retail building. Permanent wetland impacts will be mitigated through the purchase of 0.11 wetland mitigation credits from the Tunnel Run Mitigation Bank within the Upper Juniata River Sub-basin 11.

The project site is located on West Main Street (Route 53), approximately 0.25 mile southwest of the intersection of West Main Street and Liberty Street (Ashville, PA USGS topographic quadrangle; N: 40°, 33', 24.96"; W: -78°, 33', 7.78"; Sub-basin 8C; USACE Baltimore District), in Gallitzin Township, Cambria County.

**E6305221-003, Redevelopment Authority of the County of Washington**, 100 West Beau Street, Suite 603, Washington, PA 15301, South Franklin Township, Washington County; Pittsburgh ACOE District.

The applicant proposes to:

- Place and maintain fill within 0.018 acre of Wetland W-LRK-01 (PEM) to construct the taxiway and fill slope;
- Place and maintain fill within 0.12 acre of Wetland W-LRK-02 (PEM) to construct the taxiway, apron space, and fill slope;
- Place and maintain fill within 0.015 acre of Wetland W-LRK-03 (PEM) to construct the taxiway and apron space;
- Place and maintain fill within 0.081 acre of Wetland W-LRK-06 (PEM) to construct the access road and fill slope;

For the purpose of improving user services, infrastructure, and safety at the Washington County Airport.

Mitigation will be provided through the purchase of 0.27 ac PEM wetland credits from the Robinson Fork Phase 2 Mitigation Bank.

The project site is located at 205 Airport Road, Washington, PA 15301 Washington West, PA USGS topographic quadrangle; N: 40°, 8', 3"; W: -80°, 17', 27"; Sub-basin 20F; USACE Pittsburgh District), in South Franklin Township, Washington County.

**E6505221-004, Municipal Authority of Westmoreland County**, 124 Park and Pool Road, New Stanton, PA 15068-6207, Westmoreland County; Pittsburgh ACOE District.

The applicant proposes to:

Construct, operate, and maintain, an expansion of the existing pump station building, installation of a blacktop access drive around the northwest side of the building, additional stone between the building and the new access drive, installation of a concrete pad at the back corner, and installation of fencing around the entire building, within the floodway and floodplain of Beaver Run. Permanent impacts are 0.03 acre to the floodway and 0.08 to the floodplain. Temporary impacts are 0.13 acre to the floodway and 0.11 acre to the floodplain.

For the purpose upgrading the pump station to improve public water service.

The project site is located 2.6 miles southeast of the SR 66 & SR 380 intersection, Apollo, PA 15613 (Vandergrift, PA USGS topographic quadrangle; N: 40°, 30', 48"; W: -79°, 33', 6"; Sub-basin 18B; USACE Pittsburgh District), in Washington Township, Westmoreland County.

**E6505221-005, Ed's Auto Service, LLC**, 5419 Old William Penn Highway, Export, PA 15632, Murrysville Borough, Westmoreland County; Pittsburgh ACOE District.

The applicant proposes to:

Operate and maintain fill within Palustrine Emergent Wetlands. Permanent impacts include 0.27 acre. Mitigation will include 0.54 acre of wetland at the Shrader Hollow Mitigation Bank.

The project site is located at 5419 Old William Penn Highway, Export, PA 15632, Murrysville, PA USGS topographic quadrangle; N: 40°, 25', 16.032"; W: -79°, 38', 29.698"; Sub-basin 19A; USACE Pittsburgh District), in Murrysville Borough, Westmoreland County.

**E6505221-007, Suncap Property Group, LLC**, 6101 Carnegie Boulevard, Suite 180, Charlotte, NC 28209, New Stanton Borough, Westmoreland County; Pittsburgh ACOE District.

The applicant proposes to:

1. Place and maintain permanent fill within 0.012 ac of W006 (PEM);
2. Place and maintain permanent fill within 0.009 ac of W007 (PEM);
3. Place and maintain permanent fill within 0.005 ac of W013 (PEM);
4. Place and maintain permanent fill within 0.009 ac of W007 (PEM);
5. Place and maintain temporary fill within 0.146 ac of W017 (PEM);
6. Place and maintain temporary fill within 0.006 ac of W020 (PEM);
7. Place and maintain temporary fill within 0.305 ac of W021 (PEM);
8. Place and maintain temporary fill within 0.012 ac of W022 (PEM);
9. Place and maintain permanent fill within 132 linear feet of R001, an ephemeral unnamed tributary to Sewickley Creek (WWF);
10. Place and maintain permanent fill within 189 linear feet of R002, an ephemeral section of an unnamed tributary to Sewickley Creek (WWF);
11. Place and maintain permanent fill within 132 linear feet of R001, an ephemeral section of an unnamed tributary to Sewickley Creek (WWF);



12. Construct, operate, and maintain a permanent 90 linear feet culvert in a perennial section of an unnamed tributary to Sewickley Creek (WWF);

13. Construct, operate, and maintain a temporary 10 linear feet retaining wall in R002, a perennial section of an unnamed tributary to Sewickley Creek (WWF);

14. Place and maintain permanent fill within 48 linear feet of R005, an ephemeral section of an unnamed tributary to Sewickley Creek (WWF);

15. Place and maintain permanent fill within 55 linear feet of R007, an ephemeral section of an unnamed tributary to Sewickley Creek (WWF);

16. Place and maintain permanent fill within 71 linear feet of R007, a perennial section of an unnamed tributary to Sewickley Creek (WWF);

17. Construct, operate, and maintain a temporary 10 linear feet retaining wall in R007, a perennial section of an unnamed tributary to Sewickley Creek (WWF);

18. Construct, operate, and maintain a permanent 150 linear feet enclosure that replaces a 130 linear foot enclosure of R009, a perennial section of an unnamed tributary to Sewickley Creek (WWF);

19. Construct, operate, and maintain a permanent 40 linear feet culvert of R014, a perennial section of an unnamed tributary to Sewickley Creek (WWF);

20. Place and maintain temporary fill within 30 linear feet of R014, a perennial section of an unnamed tributary to Sewickley Creek (WWF);

21. Place and maintain permanent fill within 117 linear feet of R019, an ephemeral section of an unnamed tributary to Sewickley Creek (WWF);

22. Place and maintain permanent fill within 65 linear feet of R020, an ephemeral section of an unnamed tributary to Sewickley Creek (WWF);

23. Construct, operate, and maintain a permanent 230 linear feet enclosure of R020, a perennial section of an unnamed tributary to Sewickley Creek (WWF);

24. Construct, operate, and maintain a temporary 20 linear feet retaining wall in R020, a perennial section of an unnamed tributary to Sewickley Creek (WWF);

25. Construct, operate, and maintain a permanent 400 linear feet relocation of R030, an intermittent section of an unnamed tributary to Sewickley Creek (WWF), for the purposes of road improvements.

Cumulative permanent impacts are 904 linear feet to watercourses and 0.026 acre of wetlands, and temporary impacts are 70 linear feet of watercourses and 0.470 acre of wetlands.

Mitigation is proposed through a restoration of temporary wetland impacts and on site stream enhancement to offset channel loss.

For the purpose of constructing a 1,000,000 square foot warehousing are with a 20,000 square foot office appendage.

The project site is located at Glenn Fox Road, New Stanton, PA 15672, Mount Pleasant/Smithon, PA USGS topographic quadrangle; N: 40°, 13', 34"; W: -79°, 37', 30"; Sub-basin 19D; USACE Pittsburgh District), in New Stanton Borough, Westmoreland County.

*Central Office: Bureau of Waterways Engineering and Wetlands, Rachel Carson State Office Building, 400 Market Street, 2nd Floor, Harrisburg, PA 17101, (717) 787-3411.*

**MB990367-0002. First Pennsylvania Resource, LLC**, 33 Terminal Way, Suite W445, Pittsburgh, PA 15219, Springfield Township, **York County**, U.S. Army Corps of Engineers Baltimore District.

First Pennsylvania Resource, LLC (FPR, Sponsor), a wholly-owned subsidiary of Resource Environmental Solutions, LLC (RES) proposes to establish the East Branch Codorus Mitigation Bank—(Bank Site, Project). The Sponsor has secured a 39.12-acre tract of land composed of 2.09 acres of wetlands as well as 11,906.66 linear feet (lf) of existing waterways, located along and around the main stem of East Branch Codorus Creek within the Lake Redman—Lake Williams—East Branch Codorus Creek Watershed (12-digit HUC # 020503060602); PA Compensation Service Areas 07 West. The project consists of improving 16,648 linear feet of existing stream and 17.42 acres of wetlands through enhancing, rehabilitating and reestablishing aquatic resources resulting in 18,443 linear feet of improved streams and floodplains; and 31.44 acres of improved wetland resources. The project may result in 16,349.5 riverine credits and 21.66 wetland credits for use to satisfy third party compensatory mitigation requirements. (Latitude: 39.84956°; Longitude: -76.69107°)

#### ENVIRONMENTAL ASSESSMENTS

*Central Office: Bureau of Waterways Engineering and Wetlands, Rachel Carson State Office Building, 400 Market Street, 2nd Floor, Harrisburg, PA 17101, (717) 787-3411.*

**EA9915-005. U.S.D.A. Forest Service, Allegheny National Forest**, 4 Farm Colony Drive, Warren, PA 16365. Allegheny National Forest, **Warren County**, U.S. Army Corps of Engineers Pittsburgh District.

The U.S.D.A. Forest Service, Allegheny National Forest (ANF) is seeking a programmatic environmental assessment (EA) approval for use of restoration waiver under 105.12(a)(16) for stream, wetland and watershed restoration. The Forest Service is a Federal agency that manages public lands in National forests and Grasslands. This programmatic EA would apply to applicable projects within the 516,000-acre Allegheny National Forest which contains over 2,000 miles of perennial and intermittent streams, most which are currently listed as High Quality—Cold Water Fisheries. In addition to streams, the Allegheny National Forest has 1,261 mapped wetlands and 273 waterbodies.

The U.S.D.A. Forest Service's Forest Plan states a goal to "restore and enhance stream processes and aquatic habitat diversity for brook trout and other headwater stream fishes. Stream restoration focuses on reestablishing the composition, structure, pattern, and ecological processes necessary to facilitate aquatic ecosystem sustainability, resilience, and health under current and future conditions. Forest Plan objectives call for the completion of stream restoration or enhancement for native and desired nonnative aquatic species where suitable habitat is lacking. The Forest Service primarily anticipates conducting projects that involve large wood addition/placement projects for stream restoration and road decommissioning projects (i.e., obliteration of road prism from a floodplain; removal of fill and restoration of stream channel at road-stream crossings).



**D03SG51-001. Cobbs Creek Restoration and Community Foundation (CCRCF);** 300 Conshohocken State Road, Suite 405, West Conshohocken, PA 19428, City of Philadelphia and Upper Darby Township, **Philadelphia and Delaware Counties**, U.S. Army Corps of Engineers Philadelphia District. (39.970266 N, -75.266270 W).

The CCRCF is sponsoring a restoration project that proposes to provide comprehensive aquatic resource restoration of Cobbs Creek, Indian Creek and unnamed tributaries through the removal of legacy sediment to restore the floodplain as closely as possible to historical conditions. The restoration is ultimately intended to meet future third party compensation needs as a PA Department of Environmental Protection In-Lieu Fee project.

The comprehensive aquatic resource restoration will remove approximately 350,000 cubic yards of legacy sediment from an approximately 38 acres floodplain area of Cobbs Creek, Indian Creek and unnamed tributaries for the purpose of restoring natural aquatic ecosystems; to re-establish 36.8 acres of wetlands within the restored floodplain and enhance 1.2 acres; to realign approxi-

mately 8,014 lineal feet of Cobbs Creek 3,200 feet of Indian Creek and 4,460 feet of unnamed tributaries for the purpose of restoring approximately 19,326 LF of Cobbs Creek, 3,468 feet of Indian Creek and 3,714 feet of unnamed tributaries within the restored floodplain; to place log sills, root wads, and other wood grade control structures and woody debris habitat structures in restored channels and floodplain areas; to grade 2.27 acres of wetland for the purpose of relocating and reestablishing high quality wetlands within the proposed floodplain, tying in the proposed floodplain elevations to the existing grade, and using excavated floodplain material to elevate golf course features above the 100-year water surface elevation. The use of fill material within the site is a critical component of implementing the restoration to reduce the cost and impacts associated with hauling the excavated legacy sediment off-site. These proposed impacts will address the existing lateral stream bank erosion and downcutting stream bed (that is providing a sediment source to the Cobbs Creek watershed. If not addressed this horizontal and vertical degradation (and resulting sediment load) will worsen over time.

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## ACTIONS

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### 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, as listed in the following tables. This notice of final action is published in accordance with 25 Pa. Code Chapters 91, 92a, and 102 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 official file for each listed action can be reviewed at the DEP or delegated county conservation district (CCD) office identified in the table for the action. DEP/CCD office contact information is listed as follows for Section I and is contained within the table for Section II. Additional information for permits issued under 25 Pa. Code Chapters 91 and 92a, including links to Individual NPDES and WQM Permits, may be reviewed by generating the “Final Actions Report” on DEP’s website at [www.dep.pa.gov/CWPUBLICNOTICE](http://www.dep.pa.gov/CWPUBLICNOTICE).

DEP office contact information to review official files relating to the final actions in Section I is as follows:

*DEP Southeast Regional Office (SERO)—2 E. Main Street, Norristown, PA 19401-4915. File Review Coordinator: 484.250.5910. Email: RA-EPNPDES\_SERO@pa.gov.*

*DEP Northeast Regional Office (NERO)—2 Public Square, Wilkes-Barre, PA 18701-1915. File Review Coordinator: 570.826.5472. Email: RA-EPNPDES\_NERO@pa.gov.*

*DEP Southcentral Regional Office (SCRO)—909 Elmerton Avenue, Harrisburg, PA 17110. File Review Coordinator: 717.705.4732. Email: RA-EPNPDES\_SCRO@pa.gov.*

*DEP Northcentral Regional Office (NCRO)—208 W. Third Street, Suite 101, Williamsport, PA 17701. File Review Coordinator: 570.327.3693. Email: RA-EPNPDES\_NCRO@pa.gov.*

*DEP Southwest Regional Office (SWRO)—400 Waterfront Drive, Pittsburgh, PA 15222. File Review Coordinator: 412.442.4286. Email: RA-EPNPDES\_SWRO@pa.gov.*

*DEP Northwest Regional Office (NWRO)—230 Chestnut Street, Meadville, PA 16335. File Review Coordinator: 814.332.6340. Email: RA-EPNPDES\_NWRO@pa.gov.*

*DEP Bureau of Clean Water (BCW)—400 Market Street, Harrisburg, PA 17105. File Review Coordinator: 717.787.5017. Email: RA-EPNPDES\_Permits@pa.gov.*

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 Hamilton 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. Final Actions on NPDES and WQM Permit Applications and NOIs for Sewage, Industrial Waste, Industrial Stormwater, MS4s, Pesticides and CAFOs.**

<i>Application Number</i>	<i>Permit Type</i>	<i>Action Taken</i>	<i>Permittee Name &amp; Address</i>	<i>Municipality, County</i>	<i>DEP Office</i>
PA0245267	Industrial Stormwater Individual NPDES Permit	Issued	Arkema, Inc. 900 First Avenue King of Prussia, PA 19406-1308	West Chester Borough Chester County	SERO
6308202	Industrial Waste Individual WQM Permit	Issued	PA Transformer Tech, Inc. 30 Curry Avenue Canonsburg, PA 15317-1786	Cecil Township Washington County	SWRO
6389202	Industrial Waste Individual WQM Permit	Issued	PA Transformer Tech, Inc. 30 Curry Avenue Canonsburg, PA 15317-1786	Cecil Township Washington County	SWRO
6390201	Industrial Waste Individual WQM Permit	Issued	PA Transformer Tech, Inc. 30 Curry Avenue Canonsburg, PA 15317-1786	Cecil Township Washington County	SWRO
0920813	Joint DEP/PFBC Pesticides Permit	Issued	Toll PA XIII LP/Enclave@Upper Makerfield 250 Gibraltar Road Horsham, PA 19044	Upper Makefield Township Bucks County	SERO
0921822	Joint DEP/PFBC Pesticides Permit	Issued	Spock Robert 420 W Thatcher Road Quakertown, PA 18951-2512	Richland Township Bucks County	SERO
1019810	Joint DEP/PFBC Pesticides Permit	Issued	Dave Knauer 253 Smith Road Renfrew, PA 16053	Connoquenessing Township Butler County	NWRO
1521826	Joint DEP/PFBC Pesticides Permit	Issued	Brampton Chase HOA 10 Brampton Road Malvern, PA 19355-2887	Willistown Township Chester County	SERO
2019804	Joint DEP/PFBC Pesticides Permit	Issued	Danielle Shartle 15436 Limber Road Meadville, PA 16335	Woodcock Township Crawford County	NWRO
2321806	Joint DEP/PFBC Pesticides Permit	Issued	Massey Kristin 3710 Liseter Road Newtown Square, PA 19073-3530	Newtown Township Delaware County	SERO
2521809	Joint DEP/PFBC Pesticides Permit	Issued	Michael Kuzma 26470 Old Valley Road Union City, PA 16438-3362	Bloomfield Township Crawford County	NWRO
3921807	Joint DEP/PFBC Pesticides Permit	Issued	Weyhill Estates c/o Associa Mid Atlantic 555 Croton Road Suite 400 King of Prussia, PA 19406	Upper Saucon Township Lehigh County	NERO
4319806	Joint DEP/PFBC Pesticides Permit	Issued	Vince Destefano 4033 New Castle Road Pulaski, PA 16159	Shenango Township Mercer County	NWRO
4621818	Joint DEP/PFBC Pesticides Permit	Issued	Center Square Villages— c/o Toll Bros 1140 Virginia Drive Fort Washington, PA 19034	Worcester Township Montgomery County	SERO
4621819	Joint DEP/PFBC Pesticides Permit	Issued	Truitt Nadine 1419 Township Line Road Gwynedd Valley, PA 19437	Lower Gwynedd Township Montgomery County	SERO
4821807	Joint DEP/PFBC Pesticides Permit	Issued	Aromando Micheal 44 Sagen Drive Mount Bethel, PA 18343-6040	Upper Mount Bethel Township Northampton County	NERO

## NOTICES

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<i>Application Number</i>	<i>Permit Type</i>	<i>Action Taken</i>	<i>Permittee Name &amp; Address</i>	<i>Municipality, County</i>	<i>DEP Office</i>
5221801	Joint DEP/PFBC Pesticides Permit	Issued	Wirth Roger 1270 Route 402 Road Dingmans Ferry, PA 18328-7751	Delaware Township Pike County	NERO
6321802	Joint DEP/PFBC Pesticides Permit	Issued	Peters Township School District 631 E McMurray Road Canonsburg, PA 15317-3497	Peters Township Washington County	SWRO
PA0026182	Major Sewage Facility with CSOs Individual NPDES Permit	Issued	Lansdale Borough Montgomery County One Vine Street Lansdale, PA 19446-3601	Lansdale Borough Montgomery County	SERO
PA0027693	Major Sewage Facility with CSOs Individual NPDES Permit	Issued	Minersville Borough Sewer Authority Schuylkill County 2 E Sunbury Street Minersville, PA 17954-1719	Minersville Borough Schuylkill County	NERO
PA0008893	Minor Industrial Waste Facility without ELG Individual NPDES Permit	Issued	Team Ten, LLC 1600 Pennsylvania Avenue Tyrone, PA 16686-1758	Tyrone Borough Blair County	SCRO
PA0087971	Minor Industrial Waste Facility without ELG Individual NPDES Permit	Issued	Bedford Borough Municipal Authority 244 W Penn Street Bedford, PA 15522-1226	Bedford Township Bedford County	SCRO
PA0024163	Minor Sewage Facility >= 0.05 MGD and < 1 MGD Individual NPDES Permit	Issued	Cambria Township Sewer Authority Cambria County P.O. Box 247 Revloc, PA 15948-0247	Cambria Township Cambria County	SWRO
PA0081566	Minor Sewage Facility >= 0.05 MGD and < 1 MGD Individual NPDES Permit	Issued	York Haven Borough Sewer Authority York County P.O. Box 394 York Haven, PA 17370-0394	York Haven Borough York County	SCRO
PA0023736	Minor Sewage Facility with CSOs Individual NPDES Permit	Issued	Tri Borough Municipal Authority Susquehanna County 83 Erie Boulevard Susquehanna, PA 18847	Susquehanna Depot Borough Susquehanna County	NERO
PA0036820	Minor Sewage Facility with CSOs Individual NPDES Permit	Issued	Galeton Borough Authority Potter County 24 West Main Street Galeton, PA 16922-1264	Galeton Borough Potter County	NCRO
NOEXNE034	No Exposure Certification	Issued	General Dynamics OTS (Wilkes-Barre), LLC 1500 Highway 315 Wilkes-Barre, PA 18702	Plains Township Luzerne County	NERO
NOEXSE012	No Exposure Certification	Issued	Moog Component Group, Inc. 750 W Sproul Road Springfield, PA 19064	Springfield Township Delaware County	SERO
NOEXSW045	No Exposure Certification	Issued	Johnstown Specialty Castings, Inc. 545 Central Avenue Johnstown, PA 15902-2600	Johnstown City Cambria County	SWRO
PAG030100	PAG-03 NPDES General Permit for Industrial Stormwater	Issued	Amazon Com Service, Inc. P.O. Box 80842 Seattle, WA 98108	West Norriton Township Montgomery County	SERO

<i>Application Number</i>	<i>Permit Type</i>	<i>Action Taken</i>	<i>Permittee Name &amp; Address</i>	<i>Municipality, County</i>	<i>DEP Office</i>
PAG032279	PAG-03 NPDES General Permit for Industrial Stormwater	Issued	General Dynamics OTS (Wilkes-Barre), LLC 1500 Highway 315 Wilkes-Barre, PA 18702	Hanover Township Luzerne County	NERO
PAG033653	PAG-03 NPDES General Permit for Industrial Stormwater	Issued	Indicon 5460A Pottsville Pike Leesport, PA 19533-8645	Ontelaunee Township Berks County	SCRO
PAG033656	PAG-03 NPDES General Permit for Industrial Stormwater	Issued	Old Dominion Freight Line, Inc. 500 Old Dominion Way Thomasville, NC 27360-8923	Reading City Berks County	SCRO
PAG043669	PAG-04 NPDES General Permit for Small Flow Treatment Facilities	Issued	Broad Top Township Bedford County P.O. Box 57 Defiance, PA 16633-0057	Broad Top Township Bedford County	SCRO
PAG120011	PAG-12 NPDES General Permit for CAFOs	Issued	Masons Chrome View Ltd. 86 Chrome Road Nottingham, PA 19362	East Nottingham Township Chester County	SCRO
PAG123921	PAG-12 NPDES General Permit for CAFOs	Issued	Leid Wayne B 14159 Paxton Run Road Shippensburg, PA 17257-9118	Lurgan Township Franklin County	SCRO
1500416	Sewage Land Application Individual WQM Permit	Issued	East Marlborough Township Chester County 721 Unionville Road Kennett Square, PA 19348-1530	East Marlborough Township Chester County	SERO
0121401	Sewage Treatment Facilities Individual WQM Permit	Issued	John Egloff M 305 Swift Run Road Gettysburg, PA 17325	Straban Township Adams County	SCRO
3608403	Sewage Treatment Facilities Individual WQM Permit	Issued	Mountain View Terr LP 4-6 West King Street Suite 4 Lancaster, PA 17603	Salisbury Township Lancaster County	SCRO
6321401	Sewage Treatment Facilities Individual WQM Permit	Issued	Pattison Dwayne J 210 E George Street Carmichaels, PA 15320-1204	South Franklin Township Washington County	SWRO
0221400	Sewer Extensions and Pump Stations Individual WQM Permit	Issued	Allegheny County Sanitary Authority ALCOSAN 3300 Preble Avenue Pittsburgh, PA 15233-1025	Pittsburgh City Allegheny County	SWRO
0604412	Sewer Extensions and Pump Stations Individual WQM Permit	Issued	Tulpehocken Township Berks County P.O. Box 272 Rehrersburg, PA 19550-0272	Tulpehocken Township Berks County	SCRO
5021202	Sewer Extensions and Pump Stations Individual WQM Permit	Issued	Newport Borough Municipal Authority Perry County 101 Mulberry Street Newport, PA 17074-1533	Newport Borough Perry County	SCRO



<i>Application Number</i>	<i>Permit Type</i>	<i>Action Taken</i>	<i>Permittee Name &amp; Address</i>	<i>Municipality, County</i>	<i>DEP Office</i>
6586418	Sewer Extensions and Pump Stations Individual WQM Permit	Issued	Franklin Township Municipal Sanitary Authority Westmoreland County 3001 Meadowbrook Road Murrysville, PA 15668-1627	Murrysville Borough Westmoreland County	SWRO
PA0218120	Single Residence STP Individual NPDES Permit	Issued	Ohara Dennis 126 Walker Road Apollo, PA 15613-9221	Washington Township Westmoreland County	SWRO
PA0267431	Single Residence STP Individual NPDES Permit	Issued	John Egloff M 305 Swift Run Road Gettysburg, PA 17325	Straban Township Adams County	SCRO
PA0255904	Small Flow Treatment Facility Individual NPDES Permit	Issued	Pattison Dwayne J 210 E George Street Carmichaels, PA 15320-1204	South Franklin Township Washington County	SWRO
WQG02091421	WQG-02 WQM General Permit	Issued	Bucks County Water & Sewer Authority 1275 Almshouse Road Warrington, PA 18976-1209	Doylestown Borough Bucks County	SERO
WQG02212101	WQG-02 WQM General Permit	Issued	Silver Spring Township Authority Cumberland County 5 Willow Mill Park Road Suite 3 Mechanicsburg, PA 17050-8238	Silver Spring Township Cumberland County	SCRO
WQG02222101	WQG-02 WQM General Permit	Issued	West Hanover Township Water & Sewer Authority Dauphin County 7901 Jonestown Road Harrisburg, PA 17112-9728	West Hanover Township Dauphin County	SCRO
WQG02232114	WQG-02 WQM General Permit	Issued	Upper Providence Township Sewer Authority Delaware County 935 N Providence Road Media, PA 19063-1403	Upper Providence Township Delaware County	SERO

## II. Final Actions on PAG-02 General NPDES Permit NOIs and Individual NPDES Permit Applications for Construction Stormwater.

<i>Permit Number</i>	<i>Permit Type</i>	<i>Action Taken</i>	<i>Applicant Name &amp; Address</i>	<i>Municipality, County</i>	<i>Office</i>
PAC510207	PAG-02 General Permit	Issued	Philadelphia Regional Port Authority (PhilaPort) 3460 North Delaware Avenue Philadelphia, PA 19134	City of Philadelphia Philadelphia County	SERO
PAC090414	PAG-02 General Permit	Issued	County of Bucks 1260 Almshouse Road Doylestown, PA 18901-2886	Middletown Township Bucks County	SERO
PAC090474	PAG-02 General Permit	Issued	ELU Deluca Yardley, LLC 370 Maple Avenue Suite 101 Langhorne, PA 19047-2859	Lower Makefield Township Bucks County	SERO
PAD230012 A-13	Individual NPDES	Issued	City of Philadelphia Division of Aviation (DOA) Planning and Environmental Services Philadelphia International Airport Terminal D Third Floor Philadelphia, PA 19153	City of Philadelphia Philadelphia County	SERO

<i>Permit Number</i>	<i>Permit Type</i>	<i>Action Taken</i>	<i>Applicant Name &amp; Address</i>	<i>Municipality, County</i>	<i>Office</i>
PAD150195	Individual NPDES	Issued	PennDOT District 6-0 7000 Geerdes Boulevard King of Prussia, PA 19406-1525	Tredyffrin Township Chester County	SERO
PAD150212	Individual NPDES	Issued	Roger McGlocklin 2 Meng Road Schwenksville, PA 19473-1729	East Vincent Township Chester County	SERO
PAC390158	PAG-02 General Permit	Issued	DVS Enterprises, Inc. 5285 West Coplay Road Whitehall, PA 18052	Whitehall Township Lehigh County	Lehigh County Conservation District 4184 Dorney Park Road Suite 105 Allentown, PA 18401 610-391-9583
PAD390200	Individual NPDES	Issued	Bob & Gina Kline 5704 Memorial Road Germansville, PA 18053	Heidelberg Township Lehigh County	NERO Waterways & Wetlands Program 2 Public Square Wilkes-Barre, PA 18701 570-826-2511
PAC540065	Individual NPDES	Issued	The Rhoades Organization 813 S Reading Avenue Boyertown, PA 19512	Orwigsburg Borough Schuylkill County	Schuylkill Conservation District 1206 AG Center Drive Pottsville PA 17901-9733 570-622-3742
PAD520031	Individual NPDES	Issued	Pike County Board of Commissioners 506 Broad Street Milford, PA 18337	Greene Township Pike County	NERO Waterways & Wetlands Program 2 Public Square Wilkes-Barre, PA 18701 570-826-2511
PAC400192	PAG-02 General Permit	Issued	J.V.A. Deicing, Inc. Joe Tuzze 78 Cottage Street Carbondale, PA 18407	Duryea Borough Luzerne County	Luzerne Conservation District 325 Smiths Pond Road Shavertown, PA 18708 570-674-7991
PAD500013	Individual NPDES	Issued	Fishing Creek Valley Associates 4712 Smith Street Harrisburg, PA 17109	Marysville Borough Perry County	SCRO
PAC010078 A-2	PAG-02 General Permit	Issued	Paul D. & Monica L. Hart & Kyle A. Hart 3711 Taneytown Road Gettysburg, PA 17325	Mount Joy Township Adams County	Adams County Conservation District 670 Old Harrisburg Road Suite 201 Gettysburg, PA 17325-3404 717.334.0636
PAC050049	PAG-02 General Permit	Issued	Blue Triangle Hardwoods, LLC 156 Industrial Boulevard Everett, PA 15537	West Providence Township Bedford County	Bedford County Conservation District 702 West Pitt Street Suite 4 Bedford, PA 15522 814.623.7900, ext. 4
PAC060343	PAG-02 General Permit	Issued	Nathaniel Halter 8 Okmed Drive Reading, PA 19606	Amity Township Berks County	Berks County Conservation District 1238 County Welfare Road Suite 200 Leesport, PA 19533-9710 610.372.4657

## NOTICES

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<i>Permit Number</i>	<i>Permit Type</i>	<i>Action Taken</i>	<i>Applicant Name &amp; Address</i>	<i>Municipality, County</i>	<i>Office</i>
PAC060344	PAG-02 General Permit	Issued	Aaron Simser 507 Benjamin Franklin Highway Douglassville, PA 19518	Amity Township Berks County	Berks County Conservation District 1238 County Welfare Road Suite 200 Leesport, PA 19533-9710 610.372.4657
PAC060345	PAG-02 General Permit	Issued	H&K Group, Inc. 2052 Lucon Road P.O. Box 196 Skippack, PA 19474	Greenwich Township Berks County	Berks County Conservation District 1238 County Welfare Road Suite 200 Leesport, PA 19533-9710 610.372.4657
PAC060346	PAG-02 General Permit	Issued	Llewellyn Moyer 650 Christmas Village Road Bernville, PA 19506	Jefferson Township Berks County	Berks County Conservation District 1238 County Welfare Road Suite 200 Leesport, PA 19533-9710 610.372.4657
PAC060347	PAG-02 General Permit	Issued	Massimo Caloiero 401 Oak Hill Lane Wyomissing, PA 19610	Tilden Township Berks County	Berks County Conservation District 1238 County Welfare Road Suite 200 Leesport, PA 19533-9710 610.372.4657
PAC360202 A-1	PAG-02 General Permit	Issued	Ivan Lapp 3128 Harvest Drive Ronks, PA 17572	Leacock Township Lancaster County	Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601-3149 717.299.5361, ext. 5
PAC360623	PAG-02 General Permit	Issued	WP Partnership LP 1213 Orchard Road Lititz, PA 17543	Quarryville Borough Lancaster County	Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601-3149 717.299.5361, ext. 5
PAC360619	PAG-02 General Permit	Issued	Borough of Marietta 111 East Market Street Marietta, PA 17547	Marietta Borough Lancaster County	Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601-3149 717.299.5361, ext. 5
PAC360642	PAG-02 General Permit	Issued	Middle Creek Mennonite Fellowship Center 478 Black Horse Road Reinholds, PA 17569	West Cocalico Township Lancaster County	Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601-3149 717.299.5361, ext. 5

<i>Permit Number</i>	<i>Permit Type</i>	<i>Action Taken</i>	<i>Applicant Name &amp; Address</i>	<i>Municipality, County</i>	<i>Office</i>
PAC360586	PAG-02 General Permit	Issued	Franklin Properties Two, LLC 414 East King Street Lancaster, PA 17602	West Lampeter Township Lancaster County	Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601-3149 717.299.5361, ext. 5
PAC360005 A-1	PAG-02 General Permit	Issued	Warwick Township 315 Clay Road P.O. Box 308 Lititz, PA 17543	Warwick Township Lancaster County	Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601-3149 717.299.5361, ext. 5
PAC360656	PAG-02 General Permit	Issued	Calvary Church 1051 Landis Valley Road Lancaster, PA 17601	Manheim Township Lancaster County	Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601-3149 717.299.5361, ext. 5
PAC650058 A-2	PAG-02 General Permit	Issued	Adelphoi USA, Inc. 1119 Village Way Latrobe, PA 15650	Unity Township City of Latrobe Westmoreland County	Westmoreland County Conservation District 218 Donohoe Road Greensburg, PA 15601 724-837-5271
PAC650078	PAG-02 General Permit	Issued	Westmoreland County Industrial Development Corporation 40 North Pennsylvania Avenue Greensburg, PA 15601	Sewickley Township Westmoreland County	Westmoreland County Conservation District 218 Donohoe Road Greensburg, PA 15601 724-837-5271
PAC650225 A-1	PAG-02 General Permit	Issued	Al. Neyer, Inc. 535 Smithfield Street Suite 560 Pittsburgh, PA 15222	Hempfield Township Westmoreland County	Westmoreland County Conservation District 218 Donohoe Road Greensburg, PA 15601 724-837-5271
PAC650266	PAG-02 General Permit	Issued	SASI, LLC 7027 Lyons View Court Murrysville, PA 15668	Municipality of Murrysville Westmoreland County	Westmoreland County Conservation District 218 Donohoe Road Greensburg, PA 15601 724-837-5271
PAC650273	PAG-02 General Permit	Issued	Legacy Place, LLC 750 Adele Drive North Huntingdon, PA 15642-5600	North Huntingdon Township Westmoreland County	Westmoreland County Conservation District 218 Donohoe Road Greensburg, PA 15601 724-837-5271
PAC650275	PAG-02 General Permit	Issued	Municipal Authority of Westmoreland County 124 Park and Pool Road New Stanton, PA 15672	Adamsburg Borough Hempfield Township Westmoreland County	Westmoreland County Conservation District 218 Donohoe Road Greensburg, PA 15601 724-837-5271
PAD110007	Individual NPDES	Issued	Carrolltown Borough Municipal Authority 140 East Carroll Street Carrolltown, PA 15722	East Carroll Township Carrolltown Borough Cambria County	Cambria County Conservation District 401 Candlelight Drive Suite 221 Ebensburg, PA 15931 814-472-2120



<i>Permit Number</i>	<i>Permit Type</i>	<i>Action Taken</i>	<i>Applicant Name &amp; Address</i>	<i>Municipality, County</i>	<i>Office</i>
PAC100236	PAG-02 General Permit	Issued	Church of Jesus Christ of Latter-Day Saints 50 East North Temple Street Salt Lake City, UT 84150	Cranberry Township Butler County	Butler County Conservation District 120 Hollywood Drive Suite 201 Butler, PA 16001 724-284-5270
PAC100242	PAG-02 General Permit	Issued	The Buncher Company, Inc 1300 Penn Avenue Pittsburgh, PA 15222	Jackson Township Butler County	Butler County Conservation District 120 Hollywood Drive Suite 201 Butler, PA 16001 724-284-5270
PAD690003	New	Issued	Community Area New Development, Inc. (CAN-DO, Inc.) One South Church Street Suite 200 Hazelton, PA 18201	Hazel Township Luzerne County	Bureau of Abandoned Mine Reclamation 400 Market Street 13th Floor P.O. Box 69205 Harrisburg, PA 17106-9205 717-783-2267

**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 Hamilton 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>
Elam B. Stoltzfoos Jr. 322 Hatchery Road Dalmatia, PA 17017	Northumberland	22.6	94.44	Ducks	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 Hamilton 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. 2520207, Operations Permit, Public Water Supply.**

Applicant	<b>WSV Phase 1 Water Holdings, LLC (Permit Transfer)</b> 117 Steamboat Spring Lane Tafton, PA 18464
Township	Palmyra Township
County	<b>Pike</b>
Type of Facility	PWS
Consulting Engineer	NA
Permit to Operate Issued	June 30, 2021

**Permit No. 2450034, Operation Permit, Public Water Supply.**

Applicant	<b>Brodhead Creek Regional Authority</b> 410 Mill Creek Road East Stroudsburg, PA 18301
Municipality	Pocono Township
County	<b>Monroe</b>
Type of Facility	Public Water Supply
Consulting Engineer	Russell D. Scott, IV, P.E. RKR Hess, a Division of UTRS, Inc. 112 North Courtland Street East Stroudsburg, PA 18301
Permit Issued	June 3, 2021
Description of Action	Partial Operation Permit for Tannersville Tank 2 and Tannersville Pump Station.

**Permit No. 4520507, Construction Permit, Public Water Supply.**

Applicant	<b>Pennsylvania American Water Company</b> 852 Wesley Drive Mechanicsburg, PA 17055
Municipality	Middle Smithfield Township
County	<b>Monroe</b>
Type of Facility	Public Water Supply
Consulting Engineer	Doug Berg, P.E. Entech Engineering, Inc. 201 Penn Street P.O. Box 32 Reading, PA 19603
Permit to Construct Issued	June 1, 2021
Description of Action	Fernwood water system tank replacement project

**Permit No. 4821501, Public Water Supply.**

Applicant	<b>Walnutport Authority</b> 417 Lincoln Avenue Walnutport, PA 18088
Borough	Walnutport Borough
County	<b>Northampton County</b>
Type of Facility	PWS
Consulting Engineer	Jamie D. Lorah, P.E. Spotts, Stevens & McCoy 1605 N. Cedar Crest Blvd. Suite 106 Allentown, PA 18104
Permit to Construct Issued	May 11, 2021

*Southcentral Region: Safe Drinking Water Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

**Permit No. 2121502, Public Water Supply.**

Applicant	<b>Pennsylvania American Water Company</b>
Municipality	Middlesex Township
County	<b>Cumberland</b>
Responsible Official	Bruce Aiton Vice President—Engineering 852 Wesley Park Drive Mechanicsburg, PA 17055
Type of Facility	Interconnection with Middlesex Township Municipal Authority
Consulting Engineer	Ewoud Hulstein, P.E. Pennsylvania American Water Company 852 Wesley Drive Mechanicsburg, PA 17011
Permit to Construct Issued	July 15, 2021

**Permit No. 2121503, Public Water Supply.**

Applicant	<b>Middlesex Township Municipal Authority</b>
Municipality	Middlesex Township
County	<b>Cumberland</b>

Responsible Official Rory Morrison  
Operations Manager  
350 North Middlesex Road  
Suite 2  
Carlisle, PA 17013

Type of Facility Interconnection with  
Pennsylvania American Water  
Company

Consulting Engineer Max E. Stoner, P.E.  
Glace Associates, Inc.  
3705 Trindle Rd  
Camp Hill, PA 17011

Permit to Construct July 15, 2021  
Issued

**Operation Permit No. 0618513** issued to: **Giorgi Mushroom Company (PWS ID No. 3061192)**, Maiden creek Township, **Berks County** on July 14, 2021 for facilities approved under Construction Permit No. 0618513.

**Operation Permit No. 5020504 MA** issued to: **Millerstown Borough Waterworks (PWS ID No. 7500021)**, Millerstown Borough, **Perry County** on July 14, 2021 for facilities approved under Construction Permit No. 5020504 MA.

**Permit No. 3620540**, Public Water Supply.

Applicant **City of Lancaster**

Municipality Lancaster

County **Lancaster**

Responsible Official Christine Volkay-Hilditch  
Deputy Director of  
Public Works, Utilities  
120 N Duke St  
P.O. Box 1599  
Lancaster, PA 17608-1599

Type of Facility Conestoga Water Treatment  
Plant equipment and  
instrumentation upgrades.

Consulting Engineer Jeremy D. Brumbach, P.E.  
City of Lancaster  
120 N Duke St  
Lancaster, PA 17602

Permit to Construct May 14, 2021  
Issued

**Permit No. 0620523**, Public Water Supply.

Applicant **Gaspari Farms Inc.**

Municipality Alsace Township

County **Berks**

Responsible Official Mark Gaspari  
President  
670 Clauss Road  
Lenhartsville, PA 19534

Type of Facility Installation of nitrate treatment.

Consulting Engineer James P. Cinelli, P.E.  
Liberty Environmental, Inc.  
505 Penn Street  
Reading, PA 19601

Permit to Construct May 18, 2021  
Issued

**Permit No. 3621509 MA, Minor Amendment**, Public Water Supply.

Applicant **Spring Glen Fresh Foods Inc.**

Municipality Ephrata Township

County **Lancaster**

Responsible Official Thomas J. Butler  
General Manager  
314 Spring Glen Drive  
Ephrata, PA 17522

Type of Facility Modifications to the existing  
chlorine disinfection system.

Consulting Engineer Matthew A. Tusing, P.E.  
Penn Environmental &  
Remediation Inc.  
13180 Route 6  
Mansfield, PA 16933

Permit to Construct May 28, 2021  
Issued

**Permit No. 2221502**, Public Water Supply.

Applicant **Harrisburg Dairies, Inc.**

Municipality Harrisburg

County **Dauphin**

Responsible Official Alec Dewey  
President  
2001 Herr Street  
Harrisburg, PA 17103

Type of Facility Installation of a 1-gallon bottling  
line.

Consulting Engineer Staci A. Hartz, P.E.  
Herbert Rowland and  
Grubic, Inc.  
369 East Park Drive  
Harrisburg, PA 17111

Permit to Construct July 6, 2021  
Issued

**Permit No. 3421501 MA, Minor Amendment**, Public Water Supply.

Applicant **Richfield Area Joint Authority**

Municipality Monroe Township

County **Juniata**

Responsible Official Marvin Fultz  
Chairman  
186 Seven Stars Road  
Richfield, PA 17086

Type of Facility Termination of poplar spring as  
a source of supply.

Consulting Engineer Joshua C. Owens, P.E.  
ATC Group Services, LLC  
23 North Derr Drive  
Lewisburg, PA 17837

Permit to Construct June 8, 2021  
Issued

**Permit No. 6721502 MA, Minor Amendment**, Public Water Supply.

Applicant **Audubon Park, Inc.**

Municipality Monaghan Township

County **York**

Responsible Official Lucy Zander  
Owner  
322 South Hanover Street  
Carlisle, PA 17013

Type of Facility 33,000-gallon finished water storage tank rehabilitation.

Consulting Engineer Max E. Stoner, P.E.  
Glacé Associates, Inc.  
3705 Trindle Rd  
Camp Hill, PA 17011

Permit to Construct Issued May 25, 2021

**Permit No. 2821504 MA, Minor Amendment, Public Water Supply.**

Applicant **Waynesboro Borough Authority**

Municipality Quincy Township

County **Franklin**

Responsible Official S. Leiter Pryor  
Director of Borough Utilities  
55 East Main Street  
P.O. Box 310  
Waynesboro, PA 17268

Type of Facility Waynesboro water treatment plant intake rehabilitation.

Consulting Engineer Trisha LK. Graves, P.E.  
Gannett Fleming Inc.  
207 Senate Avenue  
Camp Hill, PA 17011

Permit to Construct Issued May 21, 2021

**Permit No. 6721503 MA, Minor Amendment, Public Water Supply.**

Applicant **PA DCNR—Bureau of State Parks**

Municipality Warrington Township

County **York**

Responsible Official John S. Hallas  
Director  
RCSOB 8th Floor  
400 Market Street  
Harrisburg, PA 17105-8551

Type of Facility CFE monitoring and analyzer replacement.

Consulting Engineer Shawn D. Beeler, P.E.  
PA DCNR Facility Design & Construction  
RCSOB 8th Floor  
400 Market Street  
Harrisburg, PA 17105-8451

Permit to Construct Issued May 17, 2021

**Operation Permit No. 2220502 MA** issued to: **Borough of Gratz (PWS ID No. 7220005)**, Gratz Borough, **Dauphin County** on July 19, 2021 for facilities approved under Construction Permit No. 2220502 MA.

**Comprehensive Operation Permit No. 3620524** issued to: **Ephrata Area Joint Authority (PWS ID No. 7360045)**, Ephrata Borough, **Lancaster County** on June 15, 2021, for the operation of facilities approved under Construction Permit No. 3620524.

**Operation Permit No. 2221507 MA** issued to: **Borough of Middletown (PWS ID No. 7220038)**, Middletown Borough, **Dauphin County** on June 24, 2021 for facilities approved under Construction Permit No. 2221507 MA.

**Operation Permit No. 6721507 MA** issued to: **Stewartstown Borough Authority (PWS ID No. 7670062)**, Hopewell Township, **York County** on July 20, 2021 for facilities submitted under Application No. 6721507 MA.

## 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 concerning plans or reports is required in an alternative form, contact the community relations coordinator at the appropriate Regional Office. TDD users may telephone the Department through the Pennsylvania Hamilton 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, 484-250-5787.*

**3145 Grays Ferry Avenue**, 3145 Grays Ferry Avenue, Philadelphia, PA 19146, **Philadelphia County**. Heather Shoemaker, GZA, 1515 Market Street, Suite 945, Philadelphia, PA 19102 on behalf of Richard S. Oller, GOS



Grays Ferry, LLC, 107 South 2nd Street, Suite 500, Philadelphia, PA 19106 submitted a Remedial Investigation Report/Cleanup Plan/Final Report concerning remediation of site groundwater contaminated with SVOCs, VOCs, and metals. The report is intended to document remediation of the site to meet the site-specific standard.

**NP Falls Township Industrial, LLC—Keystone Trade Center (KTC)—Lot 23**, One Ben Fairless Drive, Fairless Hills, PA 19030, Falls Township, **Bucks County**. John Garges, GHD Services Inc., 410 Eagleview Boulevard, Suite 110, Exton, PA 19341 on behalf of Andy Mace, NP Falls Township Industrial, LLC, 2652 Mayfair Lane, York, PA 17408 submitted a Remedial Investigation Report/Risk Assessment Report/Final Report concerning remediation of soil contaminated with VOCs, SVOCs, metals, PCBs and vanadium. The report is intended to document remediation of the site to meet the Statewide health and site-specific standards.

**Philadelphia Energy Solutions Refinery Units 136/137**, 3144 West Passyunk Avenue, Philadelphia, PA 19153, City of Philadelphia, **Philadelphia County**. Jeffrey Smith, Langan Engineering and Environmental Services, 1818 Market Street, Philadelphia, PA 19108 on behalf of Anne Garr, Philadelphia Energy Solutions Refining & Marketing, LLC, 111 South Wacker Drive, Suite 3000, Chicago, IL 6060 submitted a Final Report concerning remediation of site soil contaminated with petroleum products. The report is intended to document remediation of the site to meet the Statewide health standard.

**Langford Square**, 315 Langford Road, Broomall, PA 19008, Marple Township, **Delaware County**. Paul White, PG, Brickhouse Environmental, 515 South Franklin Street, West Chester, PA 19382 on behalf of Vincent Antonini, G Antonini Real Estate Inc, 3605 Winding Way, Newtown Square PA 19073 submitted a Remedial Investigation Report/Risk Assessment Report/Cleanup Plan concerning remediation of site soil and groundwater contaminated with VOCs, SVOCs, PCBs, herbicides/pesticides and metals. The report is intended to document remediation of the site to meet the site-specific standard.

**2944 Samuel Drive**, 2944 Samuel Drive, Bensalem, PA 19020, Bensalem Township, **Bucks County**. Natalie Griffith, REPSG, Inc., 6901 Kingsessing Avenue, Suite 201, Philadelphia, PA 19142 on behalf of Howard Weiss, 2944 Samuel Drive, Inc., 4250 Wissahickon Avenue, Philadelphia, PA 19129 submitted a Remedial Investigation Report/Cleanup Plan concerning remediation of site soil and groundwater contaminated with 1,4-dioxane, arsenic, benzo(b)fluoranthene, naphthalene, & pentachlorophenol, arsenic and naphthalene. The report is intended to document remediation of the site to meet the site-specific standard.

**510 North Broad Street**, 1419-1437 Spring Garden Street, 510 North Broad Street, and 559-563 North 15th Street, Philadelphia, PA 19130, City of Philadelphia, **Philadelphia County**. Natalie Griffith, REPSG, Inc., 6901 Kingsessing Avenue, Suite 201, Philadelphia, PA 19142 on behalf of Mark Cartella, 510 Broad Partners, LLC, 414 South 16th Street, Suite 100, Philadelphia, PA 19146 submitted a Remedial Investigation Report/Cleanup Plan concerning remediation of site soil contaminated with PAHs, mercury, and vanadium. The report is intended to document remediation of the site to meet the site-specific standard.

**Arbill Industries, Inc.**, 2207 Glenwood Avenue, Philadelphia, PA 19132, City of Philadelphia, **Philadelphia**

**County**. Sean Fullmer, PG, Compliance Management International, 1350 Welsh Road, Suite 200, North Wales, Philadelphia, PA 19454 on behalf of Barry M. Bickman, Arbill Industries, Inc., 10450 Drummond Road, Philadelphia, PA 19154 submitted a Remedial Investigation Report/Cleanup Plan/Final Report concerning remediation of site soil and groundwater contaminated with trichloroethene, 1,2,4-trimethylbenzene, benzene, 1,1-dichloroethane, cis-1,2-dichloroethene, ethylbenzene, methyl isobutyl ketone, naphthalene, tetrachloroethene, toluene, trichloroethene, 1,2,4-trimethylbenzene. The report is intended to document remediation of the site to meet the site-specific standard.

**Nazareth Hospital**, 2601 Holme Avenue, Philadelphia, PA 19152, City of Philadelphia. **Philadelphia County**. Joseph Diamadi, Jr., Marshall Geoscience, Inc., 170 East First Avenue, Collegeville, PA 19426 on behalf of George Starrett, Nazareth Hospital, 2601 Holme Avenue, Philadelphia, PA 19152 submitted a Final Report concerning remediation of site soil and groundwater 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.*

*Contact: Eric Supey, Environmental Program Manager.*

**Hollenbeck 1H Well Site**, 848 Forks Hill Road, Montrose, PA 18801, Franklin Township, **Susquehanna County**. Resource Environmental Management, 50 Maple Street, Montrose, PA 18801, on behalf of SWN Production Company, LLC, 917 State Route 92 North, Tunkhannock, PA 18657, submitted a Final Report concerning remediation of soil contaminated by a release of brine. The report is intended to document remediation of the site to meet Statewide health standards.

*Southcentral Region: Environmental Cleanup and Brownfields Program Manager; 909 Elmerton Avenue, Harrisburg, PA 17110.*

**30 Keller Avenue**, 30 Keller Avenue and 58-60 Keller Avenue, Lancaster, PA 17601, Manheim Township, **Lancaster County**. Liberty Environmental, Inc., 315 West James Street, Suite 205, Lancaster, PA 17603, on behalf of Keller Avenue Partners, 120 North Pointe Boulevard, Suite 201, Lancaster, PA 17601, submitted a Remedial Investigation Report and Cleanup Plan concerning remediation of site soil and groundwater contaminated with PAHs, arsenic, and chromium. The combined report is intended to document remediation of the site to meet the site-specific standard.

*Northcentral Region: Environmental Cleanup and Brownfields Program Manager; 208 West Third Street, Williamsport, PA 17701.*

**Principle Enterprises, LLC Project**, Rain Gauge Road, New Albany, PA 18833, Overton Township, **Bradford County**. EnviroServe, Inc., 254 Reitz Avenue, Winfield, PA 17889, on behalf of Principle Enterprises, LLC, 2897 Route 414, Canton, PA 17724, has submitted a Final Report concerning site soil contaminated with produced water. The report is intended to document remediation of the site to meet the nonresidential Statewide health standard.

**Williams-Hensel Replacement Project Spill Site**, Right-of-Way near Hensel Fork Road, Sproul State Forest, Renovo, PA 17764, Leidy Township, **Clinton County**. Groundwater & Environmental Services, Inc., 1350 Blair Drive, Suite A, Odenton, MD 21113 on behalf of Williams,

611 West Street, Oneonta, NY, 14820, has submitted a Final Report concerning remediation of site soil contaminated with diesel fuel. The report is intended to document remediation of the site to meet residential Statewide health standard.

**ARD Operating, LLC—David C. Duncan Pad B**, 950 Duncan Road, Trout Run, PA 17771, Cascade Township, **Lycoming County**. Groundwater & Environmental Services, Inc., 440 Creamery Way, Suite 500, Exton, PA 19341, on behalf of ARD Operating, LLC, 33 West Third Street, Suite 300, Williamsport, PA 17701, has submitted a Final Report concerning remediation of site soils contaminated with produced water. The report is intended to document remediation of the site to meet the residential Statewide health standard.

**Beech Resources Premier Well Site Release**, 819 Waltz Mountain Drive, Williamsport, PA 17702, Lycoming Township, **Lycoming County**. Penn Environmental & Remediation, Inc., 13180 Route 6, Mansfield, PA 16933, on behalf of Beech Resources, LLC, 343 Pine Street, Suite 1, Williamsport, PA 17701, has submitted a Final Report concerning remediation of site soil contaminated with production water. The report is intended to document remediation of the site to meet the residential Statewide health standard.

**Chattanooga Labeling Systems, Inc.**, 2 Industrial Park Rd, Galeton, PA 16922, Galeton Borough and Pike Township, **Potter County**. J. Krupa Company, Inc., 108 Nova Road, St. Mary's, PA 15857, on behalf of Chattanooga Labeling Systems, 120 Parmenas Lane, P.O. Box 4753, Chattanooga, TN, 37405, has submitted a Final Report concerning site soil and groundwater contaminated with fluoride and chloride. The report is intended to demonstrate remediation of the site to meet the nonresidential Statewide health standard.

**Modular Structures of PA, Inc./Durabuilt Custom Homes**, 1910 North Old Trail, Selinsgrove, PA 17870, Monroe Township, **Snyder County**. BlackRock Environmental, Inc., P.O. Box 288, Nazareth, PA 18064, on behalf of Durabuilt Custom Homes, LLC, 1910 North Old Trail, has submitted a Final Report concerning remediation of site soil and groundwater contaminated with petroleum. The report is intended to document remediation of the site to meet the Statewide health for groundwater and site-specific standard for soil.

**Crown Transportation Project**, Interstate 80 at MM 199E, Mifflinburg, PA, 17844, West Buffalo Township, **Union County**. EnviroServe, Inc., 254 Reitz Avenue, Winfield, PA 17889, on behalf of Crown Transportation, 6 Lennon Circle, Lake Harmony, PA 18624, has submitted a Final Report concerning remediation of site soil contaminated with used motor oil and antifreeze. The report is intended to document remediation of the site to meet the nonresidential 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 Hamilton Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

*Northeast Region: Environmental Cleanup & Brownfields Program Manager, 2 Public Square, Wilkes-Barre, PA 18701-1915, 570-826-2511.*

*Contact: Eric Supey, Environmental Program Manager.*

**Griffin Industrial Realty—former Lehigh Valley Tropicana**, 1115 American Parkway, Allentown, PA 18109, Allentown City, **Lehigh County**. Barry Isett & Associates, 85 South Route 100, Allentown, PA 18106, on behalf of Indus Realty Trust, 204 West Newberry Road, Bloomfield, CT 06002, submitted a Final Report concerning remediation of soil and groundwater contaminated with arsenic and chlorinated solvent from historic industrial operations. The report was intended to document remediation of the site to meet site-specific and Statewide health standards but was disapproved by DEP on July 19, 2021.

**J. Busik Pad 1**, 1274 Bare Valley Road, Dimock, PA 18816, Dimock Township, **Susquehanna County**. Resource Environmental Management, 50 Maple Street, Montrose, PA 18801, on behalf of Cabot Oil & Gas



Corporation, 2000 Park Lane, Suite 300, Pittsburgh, PA 15275, submitted a Final Report concerning remediation of soil contaminated by a release of ethylene glycol. The Final Report demonstrated attainment of Statewide health standards and was approved by DEP on July 15, 2021.

*Southcentral Region: Environmental Cleanup and Brownfields Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

**Former Alco Industries/Miller Chemical & Fertilizer, LLC**, 120 Radio Road, Hanover, PA 17331, Conewago Township, **Adams County**. EnviroAnalytics Group, LLC, 15115 Des Peres Road, St. Louis, MO 63131, on behalf of Miller Chemical & Fertilizer, 120 Radio Road, Hanover, PA 17331, and INOHGA, LLC, 1650 Des Peres Road, St. Louis, MO 63131 submitted a Final Report concerning remediation of site soil and groundwater contaminated with volatile organic compounds and organophosphate pesticides. The Final Report did not demonstrate attainment of the site-specific standard and was disapproved by the Department on July 9, 2021.

*Northcentral Region: Randy Farmerie, Environmental Cleanup and Brownfields Program Manager, 208 West Third Street, Williamsport, PA 17701.*

**Claverack Limited Hydraulic Oil Release**, 2144 Sugar Hill Road, Sugar Run, PA, 18846, Wilmot Township, **Bradford County**. Penn Environmental & Remediation, Inc., 14180 Route 6, Mansfield, PA 16933, on behalf of Claverack Rural Electric Cooperative, Inc., 32750 Route 6, Wysox, PA 18854, has submitted a Final Report concerning remediation of site soil contaminated with hydraulic oil. The Final Report demonstrated attainment of the Statewide health standard and was approved by the Department on June 17, 2021.

**Stone N 3HC**, 155 Learn Road, Wyalusing, PA 18853, Tuscarora Township, **Bradford County**. Creston Environmental, LLC, P.O. Box 1373, Camp Hill, PA 17001, on behalf of Chesapeake Appalachia, LLC, 14 Chesapeake Lane, Sayre, PA 18840, has submitted a Final Report concerning remediation of site soil contaminated with produced water. The Final Report demonstrated attainment of the Statewide health standard and was approved by the Department on July 8, 2021.

**Sisters of Saints Cyril and Methodius**, 1002 Railroad Street, Danville, PA 17821, Danville Borough and Mahoning Township, **Montour County**. Keystone Consulting Engineers, Inc., 2870 Emrick Blvd, Bethlehem, PA 18020, on behalf of Sisters of Saints Cyril & Methodius, 1002 Railroad Street, Danville, PA 17821, has submitted a Final Report concerning remediation of site soil and groundwater contaminated with gasoline. The Final Report demonstrated attainment of the Statewide health standard for groundwater and site-specific standard for soil and was approved by the Department on July 15, 2021.

**Pinpoint Federal Credit Union**, 37 Ferry Lane, Milton, PA 17847, Milton Borough, **Northumberland County**. Blackrock Environmental, LLC, P.O. Box 288, Nazareth, PA 19064, on behalf of Pinpoint Federal Credit Union, 37 Ferry Lane, Milton, PA 17847, has submitted a Baseline Environmental Report concerning remediation of site soil and groundwater contaminated with metals and solvents. The Baseline Environmental Report was approved by the Department on June 21, 2021.

**Madison Intermodal Project**, Intersection of U.S. Routes 11 and 15 southbound, Shamokin Dam, PA 17876, Shamokin Dam Borough, **Snyder County**. EnviroServe,

Inc., 254 Reitz Avenue, Winfield, PA 17889, on behalf of Madison Intermodal, LLC, P.O. Box 847, Mantua, Ohio 44255, has submitted a Final Report concerning remediation of site soils contaminated with diesel fuel and used motor oil the Final Report demonstrated attainment of the Statewide health standard and was approved by the Department on July 13, 2021.

*Southeast Region: Environmental Cleanup Program Manager, 2 East Main Street, Norristown, PA 19401, 484-250-5787.*

**900 North Darien Street**, 900 North Darien Street and 900 North 8th Street, Philadelphia, PA 123, City of Philadelphia, **Philadelphia County**. Stephan Brower, PG, Environmental Standards, Inc., 1140 Valley Forge Road, P.O. Box 810, Valley Forge, PA 19428 on behalf of Elise Halter, Post Quaker Property Owner, LLC, 1021 N. Hancock Street, Suite 1, Philadelphia, PA 19123 submitted a Remedial Investigation Report/Cleanup Plan concerning the remediation of site soil and groundwater contaminated with No. 2 fuel oil. The Report was reviewed by the Department which issued a technical deficiency letter on June 17, 2021.

**Quad Graphics**, 4371 County Line Road, Chalfont, PA 18914, New Britain Township, **Bucks County**. Eric Schleicher, GHD Services, Inc., 1140 Welsh Road, North Wales, PA 19454 on behalf of Natalie Hahlen, Quad, International Headquarters, N61 W23044 Harry's Way, Sussex, WI 53089-3995 submitted a Final Report concerning the remediation of site soil contaminated with No. 2 fuel oil. The Report was reviewed by the Department which issued a technical deficiency letter on June 24, 2021.

**Philadelphia Energy Solutions Refining & Marketing, LLC Philadelphia Refining Complex**, 3144 Passyunk Avenue, Philadelphia, PA 19145, City of Philadelphia, **Philadelphia County**. Colleen Costello, Sanborn, Head & Associates, Inc., 1015 Virginia Drive, Suite 100, Fort Washington, PA 19034 on behalf of Tiffani L. Doerr, PG, Evergreen Resource Management Operations, 2 Righter Parkway, Suite 120, Wilmington, DE 19083 submitted a Remedial Investigation Report concerning the remediation of site soil and groundwater contaminated with lead and organics. The Report was reviewed by the Department which issued a technical deficiency letter on June 29, 2021.

**46 West Plumstead Avenue**, 46 West Plumstead Avenue, Lansdowne Borough, **Delaware County**. Henry Bienkowski, PG, Crawford Environmental Services, LLC, 20 Cardinal Drive, Birdsboro, PA 19508 on behalf of Insook Connelly, DC Fuel Oil Company, 3967 Parrish Street, Philadelphia, PA 19104 submitted a Final Report concerning the remediation of site soil contaminated with No. 2 Heating Oil. The Final Report demonstrated attainment of the Statewide health standard and was approved by the Department on June 29, 2021.

**209 Wawa Road**, 209 Wawa Road, Media, PA 19063, Borough of Chester Heights, **Delaware County**. Henry Bienkowski, PG, Crawford Environmental Services, LLC, 20 Cardinal Drive, Birdsboro, PA 19508 on behalf of John E. and Nancy S. Good, 12 Worthington Drive, West Grove, PA 19390 submitted a Final Report concerning the remediation of site soil contaminated with No. 2 fuel oil. The Final Report demonstrated attainment of the Statewide health standard and was approved by the Department on June 29, 2021.

**Commercial Property**, 1140 Old York Road, Abington, PA 19001, Abington Township, **Montgomery County**. Joseph T. Jacobsen, Ph.D., PG, Intex Environmental

Group, Inc., 33 Appletree Lane, Pipersville, PA 18947 on behalf of Rich Hasson, American Heritage Federal Credit Union, 2060 Red Lion Road, Philadelphia, PA 19115 submitted a Final Report concerning the remediation of site soil contaminated with benzene, toluene, ethylbenzene, xylenes, cumene, naphthalene, methyl tertiary butyl ether (MTBE), 1,2,4—trimethylbenzene (TMB) and 1,3,5-TMB. The Final Report demonstrated attainment of the Statewide health standard and was approved by the Department on June 30, 2021.

**Existing Keystone Auto & Tire Center/Jeffrey's Auto World, LLC**, 1538 & 1546 Easton Road, Abington, PA 19001, Abington Township, **Montgomery County**. Matthew Thurston, Envocare Environmental & Facility Management, 1527 Route 27, Somerset, NJ 08873 on behalf of Vince Tiberi, JSF Easton Road, LLC, 86 Summit Avenue, Suite 201, Summit, NJ 07901 submitted a Final Report concerning the remediation of site soil contaminated with arsenic and tetrachloroethene. The Report was reviewed by the Department which issued an administrative deficiency letter on June 30, 2021.

**3145 Grays Ferry Avenue**, 3145 Grays Ferry Avenue, Philadelphia, PA 19146, City of Philadelphia, **Philadelphia County**. Heather Shoemaker, 1515 Market Street, Suite 945, Philadelphia, PA 19102 on behalf of Richard S. Oller, GOS Grays Ferry, LLC, 107 South 2nd Street, Suite 500, Philadelphia, PA 19106 submitted a Remedial Investigation Report/Cleanup Plan/Final Report concerning the remediation of site soil and groundwater contaminated with VOCs, SVOCs, and metals. The Report was reviewed by the Department which issued an administrative deficiency letter on June 30, 2021.

**Festival Pier Site**, 501 North Columbus Boulevard, Philadelphia, PA 19123, City of Philadelphia, **Philadelphia County**. Jennifer Poole, PG, Pennoni Associates, Inc., 3001 Market Street, Philadelphia, PA 19104 on behalf of Joe Forkin, Delaware River Waterfront Corporation, 12 North Columbus Boulevard, Philadelphia, PA 19106 submitted a Final Report concerning the remediation of site soil and groundwater contaminated with SVOCs and inorganics. The Final Report did not demonstrate attainment of the site-specific standard and was disapproved by the Department on June 30, 2021.

**601 West Spruce Street**, 601 West Spruce Street, Perkasio, PA 18944, Perkasio Borough, **Bucks County**. Mark Fortna, Penn Environmental and Remediation, Inc., 2755 Bergey Road, Hatfield, PA 19440 on behalf of James Cassidy, 601 Spruce Street Investment Partners, LLC, 270 West Walnut Lane, Philadelphia, PA 19144 submitted a Remedial Investigation Report concerning the remediation of site groundwater and soil contaminated with VOCs and inorganics. The Report was reviewed by the Department which issued a technical deficiency letter on July 1, 2021.

**Folcroft West Business Park**, 701A, 701B, and 701C Ashland Avenue and 801 Carpenters Crossing, Folcroft, PA 19032, Folcroft Borough, **Delaware County**. Michael Edelman, PG, TRC Environmental Inc., 1801 Market Street, Suite 1380, Philadelphia, PA 19130 on behalf of Brian Coyle, Henderson Ashland Carpenters Crossing Associates, LLC (Ashland I, II, and IV) and Henderson Ashland Three Associates, LLC (Ashland III), 112 Chesley Drive, Suite 200, Media, PA 19032 submitted a Remedial Investigation Report/Risk Assessment Report/Cleanup Plan/Final Report concerning the remediation of site groundwater contaminated with tetrachloroethylene, trichloroethylene, cis-1,2—dichloroethylene and vinyl

chloride. The Final Report demonstrated attainment of the site-specific standard and was approved by the Department on July 1, 2021.

**Young & Diberandino Residences**, 656 & 658 East Broad Street, Quakertown, PA 18951, Quakertown Borough, **Bucks County**. Geoffrey Kristof, PG, Aquaterra Technologies, 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 Final Report concerning the remediation of site soil and groundwater contaminated with benzene, toluene, ethylbenzene, naphthalene, isopropylbenzene, methyl tertiary butyl ether, 1,2,3-trimethylbenzene, and 1,3,5—trimethylbenzene. The Final Report demonstrated attainment of the Statewide health standard and was approved by the Department on July 6, 2021.

**225 Lincoln Highway**, 225 Lincoln Highway, Fairless Hills, PA 19030, Falls Township, **Bucks County**. Matthew Brainard, BrightFields Inc., 801 Industrial Street, Wilmington, PA 19801 on behalf of Bill Koelewyn, 225 Lincoln Properties, LP, 225 Lincoln Highway, Suite 150, Fairless Hills, PA 19030 submitted a Risk Assessment Report concerning the remediation of site soil and groundwater contaminated with No. 2 fuel oil. The Report was disapproved by the Department on July 6, 2021.

**Nazareth Hospital**, 2601 Holme Avenue, Philadelphia, PA 19152, City of Philadelphia, **Philadelphia County**. Joseph Diamadi, Jr., Marshall Geosciences, Inc., 170 East First Avenue, Collegetown, PA 19426 on behalf of George Starrett, Nazareth Hospital, 2601 Holme Avenue, Philadelphia, PA 19152 submitted a Final Report concerning the remediation of site soil and groundwater contaminated with No. 4 fuel oil. The Final Report did not demonstrate attainment of the Statewide health standard and was disapproved by the Department on July 6, 2021.

**BASF Corporation**, 300 Brookside Avenue, Ambler, PA 19002, Lower Gwynedd Township, **Montgomery County**. Jay M. Ash, PG, AMO Environmental Decisions, 875 North Easton Road, Doylestown, PA 18902 on behalf of Edward Vanyo, BASF Corporation, 100 Park Avenue, Florham Park, NJ 07932 submitted a Remedial Investigation Report/Cleanup Plan concerning the remediation of site groundwater contaminated with chlorinated solvents. The Report was reviewed by the Department which issued a technical deficiency letter on July 6, 2021.

**Bensalem Drum Dump Site**, Parcel ID #s 02-088-109 thru 02-088-124, 2765 Galloway Road, Bensalem, PA 19020, Bensalem Township, **Bucks County**. Richard S. Werner, PG, Environmental Consulting, Inc., 2002 Renaissance Boulevard, Suite 110, King Of Prussia, PA 19406 on behalf of Jeff Darwak, Redevelopment Authority of the County of Bucks, 216 Pond Street, Bristol, PA 19007 submitted a Baseline Environmental Report concerning the remediation of site soil and groundwater contaminated with PCBs and inorganics. The report is intended to document remediation of the site to meet the Special Industrial Area provision.

#### OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

**Permit(s) 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.**



*Southwest Region: Regional Solid Waste Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**Permit No. 101718. RGL, Inc. dba Mountain State Waste**, 702 North Main Avenue, Weston, WV 26452, Perry Township, **Greene County**. This permit authorizes the operation of a new municipal solid waste transfer facility named the Greene County Transfer Facility, located at 108 Bald Hill Road, Mt. Morris, PA 15349. The permit was issued by the Southwest Regional Office on July 17, 2020.

Persons interested in reviewing the permit may contact the Department of Environmental Protection, Regional Files, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, 412-442-4000. TDD users may contact the Department through the Pennsylvania Hamilton 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.**

*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.*

**GP1-06-03169: St. Joseph Regional Health Network** (145 North Sixth Street, Reading, PA 19603) on July 16, 2021, for two existing natural gas-fired boilers, 20.23 MMBtu each, at the Downtown Campus hospital facility located in the City of Reading, **Berks County**.

*Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701.*

*Contact: Muhammad Q. Zaman, Program Manager, (570) 327-3648.*

**AG5-41-00014A: HEP Pennsylvania Gathering** (16211 La Cantera Pkwy, Suite 202, San Antonio, TX 78256) on July 16, 2021, was given authorization to construct and operate two 1,775 bhp natural gas fired 4-stroke lean burn Caterpillar model G3606 LE compressor engines equipped with oxidation catalysts and associated gas compressors pursuant to the General Plan Approval and/or General Operating Permit for Compression Stations, Processing Plants and Transmission Stations (BAQ-GPA/GP-5) at their Marshall Booster Compressor Station located in Jackson Township, **Lycoming County**.

**AG5-18-00006A: ARD Operating, LLC** (33 West Third Street, Suite 300, Williamsport, PA 17701) on July 19, 2021, was given authorization for the construction and operation of a new source along with re-authorization of existing sources pursuant to the General Plan Approval and/or General Operating Permit for Natural Gas Compression Stations, Processing Plants, and Transmission Stations (BAQ-GPA/GP-5) at their Tract 285 Compressor Station located in Grugan Township, **Clinton County**. The sources include one (1) new 1,380 bhp Caterpillar model G3516TA four-stroke lean-burn natural-gas-fired compressor engine (ENG-003) equipped with oxidation catalyst; and the existing one (1) 1380 bhp Caterpillar model G3516TA-ULB four-stroke ultra-lean-burn natural-gas-fired compressor engine (ENG-004) equipped with

oxidation catalyst, one (1) 40 MMscf/day Valerus model GLY-DEHY-750 dehydration unit equipped with a 0.75 MMBtu/hr natural-gas fired reboiler and flash tank, two (2) 87 bhp Capstone model C65 Microturbine generators, two (2) 16,800-gallon produced water tanks, two (2) 500-gallon lube oil tanks, one (1) 500-gallon engine coolant tank, one (1) 500-gallon triethylene glycol tank and one (1) 1,000-gallon waste oil tank.

**GP1-53-00004A: Eastern Gas Transmission & Storage, Inc.** (6603 West Broad Street Richmond, VA 23230) on July 19, 2021, authorized the construction and temporary operation of a 25.2 MMBtu/hr Hurst Series 400 Steam Boiler combustion unit equipped with a low-nitrogen oxide (NO<sub>x</sub>) burner and flue gas recirculation pursuant to the General Plan Approval and General Operating Permit for Small Gas and No. 2 Oil Fired Combustion Units (BAQ-GPA/GP-1) at Harrison Station facility located in Harrison Township, **Potter 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.**

*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401.*

*Contact: James Beach, New Source Review Chief—Telephone: 484-250-5920.*

**46-0045: PECO Energy Co.** (300 Front St., Bldg. 3, West Conshohocken, PA 19428) on July 15, 2021, for the installation of four (4) new Uniflux/Exotherm heaters to replace the five (5) existing Vaporizers at their gas plant located in West Conshohocken Borough, **Montgomery County**.

*Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18701-1915.*

*Contact: Raymond Kempa, New Source Review Chief—Telephone: 570-826-2531.*

**40-00146A: Berry Global Films, LLC** (20 Elmwood Avenue, Mountaintop, PA 18707) issued on July 19, 2021 for the operation of equipment for production of blown plastic film equipment to make roll stock, stretch film bags, stretch hooders (a type of bag to cover pallets), and gaylord liners at the facility located in Wright Twp., **Luzerne 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.*

**06-05115C: Energy Developments Morgantown, LLC** (2501 Coolidge Road, Suite 100, Lansing, MI 48823) on July 12, 2021, for the installation of a landfill gas (LFG) fired engine generator set at their landfill gas-to-energy plant located in Caernarvon Township, **Berks County**. Specifically, the project is for the installation of a second 2,233 bHP (1,600 kW) Caterpillar G3520C landfill gas fired engine.

**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: Amazon, LLC** (2455 Boulevard of the Generals, Norristown, PA 19403-3661) on July 15, 2021, minor modification of the Plan Approval No. 46-0296A for the printing operation at Norristown Borough, **Montgomery County**. The original plan Approval allowed for the installation of seventy-two (72) digital printers with 16 apparel dryers, four (4) UV printers, ten (10) sublimation printers, twenty (20) sublimation heat printers and eighteen (18) dryers and Regenerative Thermal Oxidizers. The minor modification is for the installation of hoods on each of the sixteen (16) existing apparel dryers (Source ID(s): 201-216) as well as extension of the plan approval.

*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.*

**34-05002A: Texas Eastern Transmission, LP** (5400 Westheimer Court, Houston, TX 77056) on July 15, 2021, for an engine project at the Perulack Compressor Station located in Lack Township, **Juniata County**. The Plan Approval will authorize the following items: 1.) Retrofit the existing natural gas-fired Cooper Bessemer GMVA-8 engine (Source 031), as clean burn spark ignition engine (SI RICE), without increasing its rated 1,100 hp, 2.) Install Control ID C031, Oxygen Catalyst on Source 031. The plan approval was extended.

**28-05002S: Letterkenny Army Depot** (One Overcash Avenue, Chambersburg, PA 17201) on July 16, 2021, for the permanent shutdown and removal of the Regenerative Thermal Oxidizer (RTO), which has functioned as a VOC control device for four coating booths operating inside Building 350, and for the rework of the ventilation system for the coating booths at the Letterkenny Army Depot located in Letterkenny Township, **Franklin County**. The plan approval also revised the facility's existing PAL provisions. The plan approval was extended.

**06-05069AB: East Penn Manufacturing Co., Inc.** (P.O. Box 147, Lyon Station, PA 19536) on July 16, 2021, for the installation of battery manufacturing equipment controlled by baghouses, mist eliminators or filtration systems. The equipment will be installed in the Industrial Battery Manufacturing Facility located at East Penn's Lyon Station Plant in Richmond Township, **Berks County**. The plan approval was extended.

**36-05069A: Fenner, Inc.** (311 West Stiegel Street, Manheim, PA 17545) on July 16, 2021, for the installation of a new fabric coating line at the drive belt manufacturing facility in Manheim Borough, **Lancaster County**. Air emissions from the new fabric coating line will be controlled by a regenerative thermal oxidizer and packed bed scrubber. 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 on July 12, 2021, an extension to authorize 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 plan approval has been extended for 180 days.

**14-00003K: Pennsylvania State University** (101P Physical Plant Bldg, University Park, PA 16802) on July 14, 2021, to extend the authorization to perform the construction pursuant to the plan approval from July 17, 2021 to January 13, 2022, at their University Park Campus located in College Township, **Centre County**. The plan approval has been extended.

**19-00007B: Transcontinental Gas Pipe Line Company, LLC** (P.O. Box 1396, Houston, TX 77251-1396) on July 14, 2021, to extend the authorization to operate the sources pursuant to the plan approval an additional 180 days from July 16, 2021 to January 12, 2022, at their Compressor Station 517 located in Jackson Township, **Columbia County**. The plan approval has been extended.

**08-00016B: Dalrymple Gravel & Contracting Co., Inc.** (2105 South Broadway, Pine City, NY 14871) on July 16, 2021, to authorize temporary operation of the drum mix plant covered by the plan approval at their Chemung plant located in Athens Township, **Bradford County** to January 12, 2022. The plan approval has been extended.

**08-00016C: Dalrymple Gravel & Contracting Co., Inc.** (2105 South Broadway, Pine City, NY 14871) on July 16, 2021, to authorize temporary operation of the batch mix plant covered by the plan approval at their Chemung plant located in Athens Township, **Bradford County** to January 12, 2022. The plan approval has been extended.

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**Title V Operating Permits Issued under the Air Pollution Control Act (35 P.S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter G.**

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*Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18701-1915.*

*Contact: Norman Frederick, Facility Permitting Chief—Telephone: 570-826-2409.*

**66-00001: Procter and Gamble Paper Products Co.** (P.O. Box 32, State Route 87 South, Mehoopany, PA 18629). The Department issued, on July 12, 2021, the amended Title V Operating Permit for the facility in Washington Township, **Wyoming County**. The amendment corrected case-by-case RACT II conditions for incorrectly labeled sources. The proposed Title V Operating Permit contains all applicable requirements including Federal and State regulations. The proposed Operating Permit includes all applicable emission limits, work practice standards, testing, monitoring, recordkeeping and reporting requirements designed to keep the facility operating within applicable air quality requirements.

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**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.**

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*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401.*

*Contact: Janine Tulloch-Reid, Facilities Permitting Chief—Telephone: 484-250-5920.*

**46-00285: Montgomery County Crematory** (516 Fayette Street, Conshohocken, PA 19428), on July 14, 2021 for the renewal of a State Only, Natural Minor Operating Permit Renewal in Conshohocken Borough, **Montgomery 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.*

**67-03074: Heffner Funeral Chapel & Crematory, Inc.** (1551 Kenneth Road, York, PA 17408-2243) on July 7, 2021, for the human crematory at the facility located in West Manchester Township, **York County**. The State-only permit was renewed.

*Southwest Regional Office, 400 Waterfront Drive, Pitts-burgh, PA 15222-4745.*

*Contact: Thomas Joseph, Facilities Permitting Chief, 412.442.4336.*

**56-00299: Hoover Conveyor and Fabrication Corp.** (262 Industrial Park Road, P.O. Box 179, Meyersdale, PA 15613) on July 15, 2021, a State Only Operating Permit (SOOP) renewal to Hoover Conveyor and Fabrication Corp to authorize the continued operation of their Meyersdale facility in Meyersdale Borough, **Somerset County**.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481.*

*Contact: Matthew Williams, Facilities Permitting Chief—Telephone: 814-332-6940.*

**25-01058: Kloecker Funeral Home and Crematory, Inc.** (2502 Sassafra Street, Erie, PA 16502). On July 14, 2021, the Department issued the new State Only Natural Minor Operating Permit for operation of the human crematory located in the City of Erie, **Erie County**. The facility's primary emission source consists of a human crematory. The potential emissions of the primary pollutants from the facility are as follows: 1.169 TPY (tons per year) NO<sub>x</sub>, 0.969 TPY CO, 0.098 TPY VOC, 0.799 TPY filterable PM, and 0.713 TPY SO<sub>x</sub>; thus, the facility is a natural minor. The crematory is subject to Plan Approval 25-1058A which includes opacity and emission restrictions. The new permit contains emission restrictions, recordkeeping, work practices, and additional requirements to ensure compliance with the Clean Air Act and the Air Pollution Control Act.

**37-00319: Three Rivers Aggregates, LLC Wampum Plant (3118 Wampum Road Wampum, PA. 16157)** on July 15, 2021 Department issued a Natural Minor State Only Operating Permit renewal for the operation of a sand and gravel processing facility located in North Beaver Township, **Lawrence County**. The operation of the facility's air contamination source consists of crushing, screening, transferring, stockpiling, one diesel engine, roadways, and unloading/loading. The potential emissions are estimated at 16.14 tpy NO<sub>x</sub>, 0.19 tpy CO, 0.13 tpy SO<sub>x</sub>, 0.67 tpy VOC, 11.68 tpy PM, and 4.77 tpy PM<sub>10</sub>. The facility is subject to State Regulations and Federal Regulations (NSPS 40 CFR Part 60 Subpart OOO and NESHAP 40 CFR Part 63 Subpart ZZZZ). A compliance schedule is incorporated into the Operating Permit to remove the diesel engine upon pole power installation. 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.

**43-00386: Sandy Creek Cremation and Monument Company** (3236 S. Main Street Sandy Lake, PA 16145) on July 14, 2021, the Department issued a Natural Minor State Only Operating Permit for the operation of a

human incinerator located in Sandy Lake Borough, **Mer-cer County**. The subject facility consists of one 150 lb/hr human incinerator, Matthews Environmental Solutions, natural gas-fired rated at 1.0 MMBtu/hr primary chamber and 1.2 MMBtu/hr. The potential emissions are less than 1.0 tpy for all 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.

**61-00032: Hickman Lumber Company** (P.O. Box 130, Emlenton, PA 16373-0130). On July 14, 2021, the Department issued the renewal State Only Natural Minor Operating Permit for the sawmill and kiln operations located in Scrubgrass Township, **Venango County**. The facility's primary emission sources include a 7 mmBtu/hr natural gas-fired boiler, the 14.3mmBtu/hr wood-fired boiler, sawmill operations, seven (7) lumber-drying kilns, and wax end seal and paint operations. The potential emissions of the primary pollutants from the facility are as follows: 17.01 TPY (tons per year) NO<sub>x</sub>, 40.29 TPY CO, 1.89 TPY VOC, 4.69 TPY filterable PM<sub>10</sub> and PM<sub>2.5</sub>, and 1.59 TPY SO<sub>x</sub>; thus, the facility is a natural minor. The wood boiler is subject to 40 CFR 63 Subpart JJJJJJ, NESHAP for Industrial, Commercial, and Institutional Boilers Area Sources. 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.

## 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. 4270BSM1 and NPDES No. PA0279412. Cooney Brothers Coal Company**, P.O. Box 246, Crescon, PA 16630, renewal of an NPDES permit for a reclaimed surface coal operation treating a post-mining discharge in Dean Township, **Cambria County**, affecting 216 acres. Receiving stream: Brubaker Run classified for the following use: cold water fishes. This receiving stream is included in the Brubaker Run TMDL. Application received: March 5, 2021.

Permit issued: July 14, 2021.

**Permit No. 39A77SM4 and NPDES No. PA0607878. Bentley Development Co., Inc.**, P.O. Box 338, Blairsville, PA 15717-0338, renewal of an NPDES permit for a reclaimed surface coal operation treating a post-mining discharge in West Wheatfield Township, **Indiana County**, affecting 197 acres. Receiving stream: Unnamed Tributary to Conemaugh River classified for the following use: cold water fishes. This receiving stream is included in the Kiski-Conemaugh River TMDL. Application received: March 11, 2021. Permit issued: July 14, 2021.

*Knox District Mining Office: P.O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, 814-797-1191, (Contact: Cayleigh Boniger).*

**Permit No. 33950102 and NPDES Permit No. PA0226904. Leonard W. Zenzi**, P.O. Box 62, Anita, PA 15711, Renewal of an existing bituminous surface mine in Knox Township, **Jefferson County**, affecting 68.0 acres. Receiving stream(s): Sandy Lick Creek. Application received: February 18, 2021. Permit Issued: July 6, 2021.

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200, (Contact: Ashley Smith).*

**Permit No. 17841607 and NPDES No. PA0100803. Rosebud Mining Company**, 301 Market Street, Kittanning, PA 16201. Permit renewal for coal storage and shipping in Bradford Township, **Clearfield County**, affecting 84.2 acres. Receiving stream(s): Roaring Run, classified for the following use(s): CWF. This receiving stream is included in the Clearfield Creek TMDL. Application received: December 28, 2020. Permit issued: July 15, 2021.

*Noncoal Permits Issued*

*Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, 814-472-1900, (Contact: Melanie Ford-Wigfield).*

**PAM421003-GP104. EE Kough Sons, Inc.**, 195 Green Spring Road, Newville, PA 17241. Coverage General NPDES Permit for Stormwater Discharges Associated with Mining Activities on Noncoal Permit No. 21900301 located in North Newton, **Cumberland County**. Receiving stream: unnamed tributary to Conodoguinet Creek, classified for the following uses: warm water fishes. There are no potable water supplies located within 10 miles downstream. Notice of Intent for Coverage received: June 17, 2021. Coverage Approved: July 14, 2021.

*Knox District Mining Office: P.O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, 814-797-1191, (Contact: Cayleigh Boniger).*

**Permit No. 24210802. Jeffrey F. Chiodo**, 19429 Bennetts Valley Hwy, Weedville, PA 15868, Commencement, operation, and restoration of a small industrial minerals surface mine in Jay Township, **Elk County**, affecting 5.0 acres. Receiving stream(s): Bennetts Branch. Application received: February 22, 2021. Permit Issued: June 21, 2021.

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200, (Contact: Ashley Smith).*

**PAM218020-GP104. Jean J. Fink**, 8 Turner Road, Sugar Run, PA 18846. Renew coverage under the General NPDES Permit for Stormwater Discharges Associated with Mining Activities (BMP GP-104) on Noncoal Permit No. 08020813 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 Coverage received: July 7, 2021. Approval of Coverage: July 13, 2021.

**PAM216025-GP104. Wolfe Coal & Excavating, Inc.**, 540 High Street, Lock Haven, PA 17745. Renew coverage under the General NPDES Permit for Stormwater Discharges Associated with Mining Activities (BMP GP-104) on Noncoal Permit No. 18920301 located in Woodward Township, **Clinton County**. Receiving stream(s): Unnamed Tributary to Reed's Run classified for the following use(s): CWF. There are no potable water supply intakes within 10 miles downstream. Notice of Coverage received: July 7, 2021. Approval of Coverage: July 13, 2021.

**PAM218002-GP104. Michael C. Fedor**, 26 Sandrock Court, Port Matilda, PA 16870. Renew coverage under the General NPDES Permit for Stormwater Discharges Associated with Mining Activities (BMP GP-104) on Noncoal Permit No. 14030802 located in Huston Township, **Centre County**. Receiving stream(s): Bald Eagle Creek classified for the following use(s): TSF. There are no potable water supply intakes within 10 miles downstream. Notice of Coverage received: July 7, 2021. Approval of Coverage: July 13, 2021.

**PAM219009-GP104. Timothy D. Leonard**, 284 Patterson Road, Columbia Cross Roads, PA 16914. Renew coverage under the General NPDES Permit for Stormwater Discharges Associated with Mining Activities (BMP GP-104) on Noncoal Permit No. 08092805 located in Springfield Township, **Bradford County**. Receiving stream(s): Mill Creek and Unnamed Tributary to Sugar Creek classified for the following use(s): TSF, MF. There are no potable water supply intakes within 10 miles downstream. Notice of Coverage received: July 7, 2021. Approval of Coverage: July 13, 2021.

*New Stanton District Office: P.O. Box 133, New Stanton, PA 15672, 724-925-5500, (Contact: Tracy Norbert).*

**Permit No. 03142001 and NPDES Permit No. PA0278211. Bardon, Inc.**, 6401 Golden Triangle, Suite 400, Greenbelt, MD 20770-3202. Transfer of permit formerly issued to **Britt Energies, Inc.** for continued operation and reclamation of a noncoal surface and underground mining site located in South Bend Township, **Armstrong County**, affecting 100.6 surface acres and 161.5 underground acres. Receiving streams: Crooked Creek. Application received: February 17, 2021. Transfer permit issued: July 15, 2021.

**PAM315004. John Joseph**, 470 Vanderbilt Road, Connellsville, PA 15425. Renewal of general NPDES permit for stormwater discharge associated with mining activities on an existing small noncoal (Industrial Mineral), Permit No. 26090601, located in Dunbar Township, **Fayette County** affecting 14.6 acres. Receiving streams: unnamed tributary to Dickerson Run. Renewal application received: September 11, 2020. GP-104 permit issued: July 15, 2021.

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118, (Contact: Theresa Reilly-Flannery).*

**Permit No. PAM121010, Enrique Vasquez**, 1386 Blaisure Road, Montrose, PA 18801 coverage under the General NPDES Stormwater Permit for stormwater discharges associated with mining activities on Surface Mining Permit No. 58150803 in Forest Lake Township, **Susquehanna County**, receiving stream: unnamed tributary to Middle Branch Wyalusing Creek. Application received: February 10, 2021. Permit issued: July 13, 2021.



**Permit No. 66090301C and NPDES Permit No. PA0225274. Raymond J. Malak, Jr. d/b/a Noxen Sand & Materials**, 2162 Chase Road, Shavertown, PA 18708, renewal of an NPDES Permit for discharge of treated mine drainage from a quarry operation in Noxen Township, **Wyoming County**. Receiving stream: Beaver Run. Application received: November 22, 2019. Renewal issued: July 19, 2021.

### 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. 36214135. Abel Construction Co., Inc.**, 3925 Columbia Avenue, Mountville, PA 17554, construction blasting for Meadows at Strasburg in Strasburg Township, **Lancaster County** with an expiration date of December 1, 2021. Permit issued: July 15, 2021.

**Permit No. 36214136. Abel Construction Co., Inc.**, 3925 Columbia Avenue, Mountville, PA 17554, construction blasting for Parkside Reserve Phase I in Manheim Township, **Lancaster County** with an expiration date of December 1, 2021. Permit issued: July 15, 2021.

**Permit No. 36214137. Maine Drilling & Blasting, Inc.**, P.O. Box 1140, Gardiner, ME 04345, construction blasting for Stoner Farm Phase 1 in Manheim Township, **Lancaster County** with an expiration date of July 8, 2022. Permit issued: July 15, 2021.

**Permit No. 36214139. Keystone Blasting Service**, 15 Hopeland Road, Lititz, PA 17543, construction blasting for David Esh dwelling in Leacock Township, **Lancaster County** with an expiration date of August 30, 2021. Permit issued: July 15, 2021.

**Permit No. 46214110. American Rock Mechanics, Inc.**, 7531 Chestnut Street, Zionsville, PA 18092, construction blasting for Berkeley Court Phase 2B in Souderton Township, **Montgomery County** with an expiration date of July 10, 2022. Permit issued: July 15, 2021.

**Permit No. 38214108. Maine Drilling & Blasting, Inc.**, P.O. Box 1140, Gardiner, ME 04345, construction blasting for Greystone Crossing in North Cornwall Township, **Lebanon County** with an expiration date of July 15, 2022. Permit issued: July 16, 2021.

**Permit No. 48214111. Valley Rock Solutions, LLC**, P.O. Box 246, Macungie, PA 18062, construction blasting for NBC Project Cesanak Road Basins in East Allan Township, **Northampton County** with an expiration date of December 29, 2021. Permit issued: July 19, 2021

## 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 Hamilton 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.**

*Northeast Region: Waterways and Wetlands Program Manager, 2 Public Square, Wilkes-Barre, PA 18701-1915.*

*Contact: Gillian Ostrum, Clerk Typist 2, 570-830-3077.*

**E390220-028. Eric Scheler**, 10285 Ziegels Church Road, Upper Macungie, PA 18031, Upper Macungie Township, **Lehigh County**, U.S. Army Corps of Engineers, Philadelphia District.

To construct and maintain a stream crossing of an Unnamed Tributary of Schaefer Run (HQ-CWF, MF) and a de minimus area of 0.046 acre of adjacent PFO wetlands (EV) consisting of a 40-foot long, 42-inch diameter circular HDPE culvert having flared end sections, an invert depressed 6-inch below existing streambed elevation, and an R-4 riprap apron on the downslope end of the culvert. The purpose of the project is to provide access to an existing dwelling located at 10285 Ziegels Church Road. The project is located approximately 0.2 miles southwest of the intersection of Weiss Road and Ziegels

Church Road (Topton, PA Quadrangle Latitude: 40° 33' 48"; Longitude: -75° 40' 35") in Upper Macungie Township, Lehigh County.

*Southcentral Region: Waterways and Wetlands Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

**E0703220-021. Logan Township**, 100 Chief Logan Circle, Altoona, PA 16602. Logan Township, **Blair County**, U.S. Army Corps of Engineers, Baltimore District.

To construct and maintain the following water obstructions and encroachments associated with the Logan Township 400-foot McMahon Road Extension Project: 1) A utility line crossing of a UNT to Brush Run (WWF, MF) and adjacent PEM wetlands (EV) consisting of a 4-inch diameter, HPDE sanitary sewer pipe. 2) A stream crossing of a UNT to Brush Run (WWF, MF) and 0.04-acre of adjacent PEM wetlands (EV) consisting of a 42-foot long, 48-inch diameter CMP having 87 square foot R-6 rock apron at the upstream inlet and downstream outlet and an invert depressed 6-inches below existing streambed elevation. The project is located at the terminus of Township Road T-320 (Hollidaysburg, PA Quadrangle Latitude: 40° 29' 38.14" Longitude: -78° 23' 17.20") in Logan Township, Blair County. Permit issued July 14, 2021.

**E0503220-025. Vertical Bridge REIT, LLC**, 750 Park Commerce Drive, Suite 200, Boca Raton, FL 33487. West St. Clair Township, **Bedford County**, U. S. Army Corps of Engineers, Baltimore District. The applicant proposes to construct and maintain an 18.0-foot long 30.6-foot wide by 10.25-foot high single span aluminum structural plate open bottom box culvert and associated wingwalls in and across Barefoot Run (WWF, MF) for the purpose of gaining access to a cell phone tower location. No wetland impacts are anticipated. The project is located along SR 56 in West St. Clair Township, Bedford County (Latitude: 40.1732; Longitude: -78.6014). Permit issued July 15, 2021.

*Southwest Region: Dana Drake, Waterways and Wetlands Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, 412-442-4000.*

**E0205220-032, Allegheny County Department of Public Works**, 542 Forbes Avenue, Pittsburgh, PA 15219, City of Pittsburgh, **Allegheny County**; Pittsburgh ACOE District.

Has been given consent to:

1. Construct and maintain a new 26.7' long retaining wall (Wall 1) along the Campbells Run Road, having a total permanent impact of 26.7 LF and temporary impact of 174.2 LF to Campbells Run (WWF).

2. Construct and maintain a new 143' long retaining wall (Wall 1A) along the Campbells Run Road, having a total permanent impact of 143 LF and temporary impact of 153.8 LF to Campbells Run (WWF).

3. Construct and maintain a new 175.2' long retaining wall (Wall 2) along the Campbells Run Road, having a total permanent impact of 175.2 LF and temporary impact of 136.8 LF to Campbells Run (WWF).

4. Construct and maintain a new 182.9' long retaining wall (Wall 3) along the Campbells Run Road, having a total permanent impact of 182.9 LF and temporary impact of 253.2 LF to Campbells Run (WWF).

5. Construct and maintain a new 164.1' long retaining wall (Wall B) along the Campbells Run Road, having a

total permanent impact of 164 LF and temporary impact of 276.1 LF to Campbells Run (WWF).

6. Construct and maintain a new 203.6' long retaining wall (Wall C) along the Campbells Run Road, having a total permanent impact of 203.6 LF and temporary impact of 143.4 LF to Campbells Run (WWF).

7. Construct and maintain a new 9.4' wide by 12.3' long outfall (C-OR) to convey stormwater to Campbells Run (WWF).

8. Construct and maintain a new 8.3' wide by 14.4' long outfall (O-OR) to convey stormwater to Campbells Run (WWF).

9. Construct and maintain a new 7.4' wide by 14.6' long outfall (N-OR) to convey stormwater to Campbells Run (WWF).

10. Remove the existing 45' long, 6.83' × 16' Cast in Place Slab Bridge; construct and maintain a replacement 54' long, 8.5" × 18" Cast in Place Slab Bridge, having a permanent impact of 117.6 LF and temporary impact of 101.4 LF on Campbells Run (WWF).

11. Extend and maintain the existing 9.42' × 6' Concrete Ellipse Culvert by 10.73', having a permanent impact of 44 LF and temporary impact of 66 LF on UNT 1 to Campbells Run (WWF).

12. Extend and maintain the existing 5.83' × 4.58' Corrugated Metal Arch Culvert by 20' with a 72" × 56" concrete box culvert, having a permanent impact of 33 LF and temporary impact of 29.7 LF on Trib 36791 to Campbells Run (WWF).

13. Extend and maintain the existing Reinforced Concrete Arch Culvert by 18", having a permanent impact of 91.4 LF and temporary impact of 40.1 LF on UNT 2 to Campbells Run (WWF).

14. Construct and maintain stream mitigation along Campbells Run (WWF) and UNT 1 to Campbells Run (WWF), having a permanent impact of 92.9 LF to UNT 1, and temporary impact of 160.3 LF to Campbells Run.

For the purpose of constructing the Campbells Run Roadway Improvement Project, which includes intersection improvement and roadway widening for Campbells Run Road. The project will permanently impact approximately 528.9 LF and temporarily impact approximately 1,520.4 LF of stream. The project will also permanently impact 0.26 acre of floodway and temporarily impact 0.39 acre of floodway.

The project site is located along Campbells Run Road near the intersection of Campbells Run Road and Boyce road (Oakdale, PA USGS topographic quadrangle; N: 40°, 25', 40"; W: -80°, 7', 38"; Sub-basin 20F; USACE Pittsburgh District), in Collier Township, Robinson Township, Allegheny County.

*Eastern Region: Oil and Gas Management Program Manager, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448.*

**E0829221-001: Chief Oil and Gas, LLC**, 1720 Sycamore Road, Montoursville, PA, 17754, Leroy Township, **Bradford County**, ACOE Baltimore District.

To construct, operate and maintain:

1. a permanent access road impacting 2,271 square feet of a Palustrine Emergent Wetland (EV) (Shunk, PA Quadrangle Latitude: 41.61833°, Longitude: -76.6920°);

2. a permanent access road impacting 792 square feet of a Palustrine Scrub-Shrub Wetland (EV) (Shunk, PA Quadrangle Latitude: 41.61889°, Longitude: -76.69167°);

3. a permanent access road impacting 513 square feet of a Palustrine Emergent Wetland (EV) (Shunk, PA Quadrangle Latitude: 41.61917°, Longitude: -76.69167°);

4. a permanent access road impacting 11,170 square feet of floodway impacts to an unnamed tributary to Schrader Creek (EV, MF) (Shunk, PA Quadrangle Latitude: 41.62222°, Longitude: -76.68806°)

5. a permanent access road impacting 305 square feet of a Palustrine Emergent Wetland (EV) (Shunk, PA Quadrangle Latitude: 41.62222°, Longitude: -76.68722°);

6. a permanent access road impacting 154 square feet of a Palustrine Emergent Wetland (EV) (Shunk, PA Quadrangle Latitude: 41.62292°, Longitude: -76.68694°);

7. a 48" SL CPP culvert impacting 115 linear feet of an unnamed tributary to Schrader Creek (EV, MF) and 9,326 square feet of its floodway (Shunk, PA Quadrangle Latitude: 41.62306°, Longitude: -76.68681°);

8. a permanent access road impacting 212 square feet of a Palustrine Emergent Wetland (Shunk, PA Quadrangle Latitude: 41.62389°, Longitude: -76.68639°);

9. a 48" SL CPP culvert impacting 54 linear feet of an unnamed tributary to Schrader Creek (EV, MF) and 7,287 square feet of its floodway, 638 square feet of Palustrine Emergent Wetland (EV) and 57 square feet of Palustrine Forested Wetland (EV) (Shunk, PA Quadrangle Latitude: 41.62528°, Longitude: -76.68472°);

10. a 30" SL CPP culvert impacting 46 linear feet of an unnamed tributary to Little Schrader Creek (EV, MF) and 3,721 square feet of its floodway, 623 square feet of Palustrine Emergent Wetland (EV) and 81 square feet of Palustrine Forested Wetland (EV) (Shunk, PA Quadrangle Latitude: 41.62639°, Longitude: -76.68361°);

11. a permanent access road impacting 1,443 square feet of a Palustrine Emergent Wetland (Shunk, PA Quadrangle Latitude: 41.62778°, Longitude: -76.68278°);

12. a 48" SL CPP culvert impacting 74 linear feet of an unnamed tributary to Little Schrader Creek (EV, MF) and 5,819 square feet of its floodway (Shunk, PA Quadrangle Latitude: 41.62944°, Longitude: -76.68139°);

13. a permanent access road impacting 1,919 square feet of a Palustrine Emergent Wetland (EV), 209 square feet of a Palustrine Forested Wetland (EV) and 628 square feet of a Palustrine Scrub-Shrub Wetland (EV) (Shunk, PA Quadrangle Latitude: 41.62972°, Longitude: -76.68083°);

14. a permanent access road impacting 799 square feet of a Palustrine Emergent Wetland (Shunk, PA Quadrangle Latitude: 41.63000°, Longitude: -76.67958°);

The project will result in 289 linear feet of stream impacts, 37,323 square feet (0.85 acre) of floodway impacts, 3,207 square feet (0.07 acre) of temporary PEM wetland impacts, 5,670 square feet (0.13 acre) permanent PEM wetland impacts, 792 square feet (0.02 acre) of permanent PSS wetland impacts, and 975 square feet (0.02 acre) of permanent PFO wetland impacts, all for the purpose of installing a natural gas well pad and permanent access road for Marcellus Shale development in Leroy Township, Bradford County. Off-site mitigation of 0.14 acre of PEM wetland creation and 0.07 acre of PEM wetland enhancement adjacent to Dug Road Creek (CWF, MF) (Laceyville, PA Quadrangle Latitude: 41.708081°, -76.139808°).

**E0829221-004: Appalachia Midstream, LLC**, 30351 Route 6, Wysox, PA 18854, Smithfield and Troy Township, **Bradford County**, ACOE Baltimore District.

To construct, operate and maintain:

1. a gravel valve site permanently impacting 195 square feet of a Palustrine Emergent Wetland (Troy, PA Quadrangle, Latitude: 41.750241°, Longitude: -76.772360°);

2. a gravel valve site permanently impacting 4,023 square feet of a Palustrine Emergent Wetland (East Troy, PA Quadrangle, Latitude: 41.833928°, Longitude: -76.646405°);

The project will result in 4,218 square feet (0.10 acre) of permanent PEM impacts all for the purpose of installing a natural gas pipeline with associated access roadways for Marcellus shale development in Smithfield and Troy Township, Bradford County. On-site wetland mitigation of 11,874 square feet (0.27 acre) of PEM wetland enhancement (East Troy, PA Quadrangle, Latitude: 41.833928°, Longitude: -76.646405°).

#### 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 Hamilton 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.

*Southwest District: Oil & Gas Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222, (412) 442-4281.*

ESCGP-3 # ESG076519009-00

Applicant Name Chevron Appalachia, LLC

Contact Person Branden Weimer

Address 700 Cherrington Parkway

City, State, Zip Coraopolis, PA 15108

County Westmoreland

Township(s) South Huntingdon And Sewickley Twps

Receiving Stream(s) and Classification(s) Youghiogheny

River (WWF), Sewickley Creek (WWF), Little Sewickley

Creek (TSF), Kelly Run (WWF)

Secondary Receiving Water: Monongahela River (WWF)



*Eastern Region: Oil and Gas Management Program Manager, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448.*

ESCGP-3 # ESG295921003-00  
 Applicant Name Pennsylvania General Energy Co., LLC  
 Contact Person Nathan Harris  
 Address 120 Market St.  
 City, State, Zip Warren, PA 16365  
 County Tioga  
 Township(s) Liberty  
 Receiving Stream(s) and Classification(s) Taylor Run (EV), Carpenter Run (EV), Salt Spring Creek (EV), Brion Creek (EV)  
 Secondary: Tioga River (CWF-MF), Tioga River (CWF-MF), Roaring Branch (EV), Roaring Branch (EV)

ESCGP-3 # ESG290821042-00  
 Applicant Name Chesapeake Appalachia, LLC  
 Contact Person Eric Haskins  
 Address 14 Chesapeake Lane  
 City, State, Zip Sayre, PA 18840  
 County Bradford  
 Township(s) Ulster  
 Receiving Stream(s) and Classification(s) UNT Susquehanna River (WWF-MF)  
 Secondary: Susquehanna River (WWF-MF)

ESCGP-3 # ESG294121013-00  
 Applicant Name ARD Operating, LLC  
 Contact Person Stephen Barondeau  
 Address 33 West Third St.  
 City, State, Zip Williamsport, PA 17701  
 County Lycoming  
 Township(s) Cogan House  
 Receiving Stream(s) and Classification(s) Larrys Creek (HQ), UNT Larrys Creek (HQ)  
 Secondary: Larrys Creek (HQ), UNT Larrys Creek (HQ)

ESCGP-3 # ESG295921004-00  
 Applicant Name Pennsylvania General Energy Co., LLC  
 Contact Person Nathan Harris  
 Address 120 Market St.  
 City, State, Zip Warren, PA 16365  
 County Tioga  
 Township(s) Union  
 Receiving Stream(s) and Classification(s) Carpenter Run (EV), West Mill Creek (EV)  
 Secondary: Upper Tioga River (CWF-MF), Lycoming Creek (CWF-MF)

ESCGP-3 # ESG290820027-01  
 Applicant Name Appalachia Midstream Services, LLC  
 Contact Person Adam Weightman  
 Address 30351 Route 6  
 City, State, Zip Wysox, PA 18854  
 County Bradford  
 Township(s) Monroe  
 Receiving Stream(s) and Classification(s) Satterlee Run # 1058 (NRT-CWF-MF), UNT to Ladds Creek # 30581 (EV-CWF-MF)

ESCGP-3 # ESG295721004-00  
 Applicant Name Appalachia Midstream Services, LLC  
 Contact Person Adam Weightman  
 Address 30351 Route 6  
 City, State, Zip Wysox, PA 18854  
 County Sullivan  
 Township(s) Forks  
 Receiving Stream(s) and Classification(s) UNT to Black Creek # 16161 (EV-MF)  
 Secondary: Black Creek # 68148 (EV-MF)

ESCGP-3 # ESG295821014-00  
 Applicant Name Chesapeake Appalachia, LLC  
 Contact Person Eric Haskins  
 Address 14 Chesapeake Lane  
 City, State, Zip Sayre, PA 18840  
 County Susquehanna  
 Township(s) Rush  
 Receiving Stream(s) and Classification(s) UNT East Branch Wyalusing Creek (MF)  
 Secondary: East Branch Wyalusing Creek (MF)

ESCGP-3 # ESG295821016-00  
 Applicant Name SWN Production Co., LLC  
 Contact Person Afton Sterling  
 Address 917 State Route 92 North  
 City, State, Zip Tunkhannock, PA 18657  
 County Susquehanna  
 Township(s) Franklin  
 Receiving Stream(s) and Classification(s) UNT to Silver Creek (EV), Silver Creek (EV)  
 Secondary: Snake Creek (CWF/MF), Snake Creek (CWF/MF)

ESCGP-3 # ESG295821019-00  
 Applicant Name Cabot Oil & Gas Corp  
 Contact Person Kenneth Marcum  
 Address 2000 Park Lane, Suite 300  
 City, State, Zip Pittsburgh, PA 15275  
 County Susquehanna  
 Township(s) Gibson  
 Receiving Stream(s) and Classification(s) Butler Creek (CWF)  
 Secondary: Nine Partners Creek (CWF)

ESCGP-3 # ESG290821047-00  
 Applicant Name Chief Oil & Gas, LLC  
 Contact Person Jeffrey Deegan  
 Address 1720 Sycamore Road  
 City, State, Zip Montoursville, PA 17754  
 County Bradford  
 Township(s) Burlington  
 Receiving Stream(s) and Classification(s) UNT 30675 to Bailey Run (WWF), Slater Hollow (WWF)  
 Secondary: Bailey Run (WWF), Bailey Run (WWF)

## **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 Protection (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 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 support-



ing 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.

For further information concerning plans or reports, please contact the Environmental Cleanup Program Manager in the DEP Regional Office under which the notice of receipt of plans or reports appears. If information concerning plans or reports is required in an alternative form, contact the Community Relations Coordinator at the appropriate Regional Office listed. TDD users may telephone DEP through the Pennsylvania Hamilton Relay Service at (800) 654-5984.

DEP has received the following plans and reports:

*Northeast Region: Environmental Cleanup & Brownfields Program Manager, 2 Public Square, Wilkes-Barre, PA 18701-1915, 570-826-2511.*

*Contact: Eric Supey, Environmental Program Manager.*

**Route 66 Auto Plaza**, Storage Tank ID # 35-24204, 611 Route 6, Mayfield, PA 18433, Mayfield Borough, **Lackawanna County**. McKee Environmental, 86 Quartz Drive, Bellefonte, PA 16823, on behalf of Surjit Singh, 611 Route 6, Mayfield, PA 18433, 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 Regional Office: Environmental Cleanup & Brownfields Program, 909 Elmerton Avenue, Harrisburg, PA 17110, 717-705-4705.*

*Contact: Robin L. Yerger, LPG.*

**Lakeside Food Mart**, Storage Tank Primary Facility ID # 21-26058, 101 Front Street, Boiling Springs, PA 17007, South Middleton Township, **Cumberland County**. Mountain Research, 825 25th, Altoona, PA 16601 on behalf of Shipley Energy, P.O. Box 15052, York, PA 17405 submitted a Remedial Action Completion Report concerning remediation of soil contaminated with petroleum constituents. The report is intended to document remediation of the site to meet the Statewide health standard.

**Carlos R Leffler York Bulk PLT**, Storage Tank Primary Facility ID # 67-60828, 28 Abbie Road, York, PA 17408, **York County**. Patriot Environmental Management, LLC, 2404 Brown Street, Pottstown, PA 19464, on behalf of Richland Partners, LLC, P.O. Box 659, Douglassville, PA 19518, submitted a Remedial Action Completion Report concerning remediation of soil and groundwater contaminated with petroleum constituents. The report is intended to document remediation of the site to meet the Statewide health standard.

**Penn Waste**, Storage Tank Primary Facility ID # 67-38263, 85 Brinkyard Road, Manchester, PA 17345, East Manchester Township, **York County**. Letterle & Associates, 2022 Axemann Road, Suite 201, Bellefonte, PA 16823 on behalf of Penn Waste, P.O. Box 3066, York, PA 17402 submitted a Remedial Action Completion Report concerning remediation of soil and groundwater contaminated with petroleum constituents. The report is intended to document remediation of the site to meet the Statewide health standard.

*Northcentral Regional Office: Environmental Cleanup & Brownfields Program, 208 West Third Street, Suite 101, Williamsport, PA 17701, 570-327-3636.*

*Contact: Randy Farmerie, Environmental Program Manager.*

**Woodland Food & Fuel (AKA Gio's BBQ)**, Storage Tank Facility ID # 17-70935, 2829 Woodland Bigler Highway, Woodland, PA 16881, Bradford Township, **Clearfield County**. Mountain Research, LLC, 825 25th Street, Altoona, PA 16601, on behalf of Woodland Food & Fuel, 2829 Woodland Bigler Highway, Woodland, PA 16881, submitted a Remedial Action Plan concerning remediation of soil and groundwater contaminated with unleaded gas. The plan is intended to document the remedial actions for meeting the site-specific standard.

**Former Potato City Country Inn**, Storage Tank Facility ID # 53-35753, 3084 Second Street, Coudersport, PA, 16915, Coudersport Borough, **Potter County**. Brownfield Science & Technology, Inc., 3157 Limestone Road, Cochranville, PA 19330, on behalf of Miller Brothers Construction, Inc., P.O. Box 472, 950 E. Main Street, Schuylkill Haven, PA, 17972, submitted a Remedial Action Completion Report concerning remediation of soil and groundwater contaminated with leaded gasoline. The report is intended to document remediation of the site to meet the residential Statewide health standard.

*Southwest Region: Environmental Cleanup Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

*Contact: Environmental Group Manager, Storage Tanks Program.*

**OM Shiva Enterprises**, Primary Facility ID # 65-80265, 9 Lincoln Highway, Jeannette, PA 15644, Hempfield Township, **Westmoreland County**. Letterle & Associates, Inc., 191 Howard St., Ste. 108, Franklin, PA 16323, on behalf of OM Shiva Enterprises, 1 Ukani Dr., Belle Vernon, PA 15012, submitted a Remedial Action Completion Report concerning the remediation of soil and groundwater contaminated with petroleum products. The report is intended to document remediation of the site to meet the Statewide health standard.

**A to Z Convenience Store**, Primary Facility ID # 02-03926, 1617 West St., Homestead, PA 15102, Homestead Borough, **Allegheny County**. Compliance Environmental Services, 2700 Kirila Blvd., Hermitage, PA 16148, on behalf of Gary Graham, Executor of the Estate of Robert Graham, 200 E. 1st Ave., Homestead, PA 15120, submitted a Remedial Action Plan concerning the remediation of soil and groundwater contaminated with petroleum products. The report is intended to document remediation of the site to meet the Statewide health standard.

**Former Exxon Station # 20559**, Primary Facility ID # 56-06981, S. Somerset Service Plaza, PA. Turnpike/ Interstate 76, Somerset, PA 15501, Somerset Borough, **Somerset County**. Kleinfelder, 1745 Dorsey Rd., Ste. J, Hanover, MD 21076, on behalf of ExxonMobil Oil Corp., P.O. Box 142667, Austin, TX 78714, submitted a Remedial Action Plan concerning the remediation of soil and groundwater contaminated with petroleum products. The report is intended to document remediation of the site to meet the site specific standard.

## CORRECTIVE ACTION UNDER ACT 32, 1989

### PREAMBLE 3

**The Department of Environmental Protection (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 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 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.

DEP may approve or disapprove plans and reports submitted. This notice provides 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 DEP through the Pennsylvania Hamilton Relay Service at (800) 654-5984.

DEP has received the following plans and reports:

*Northeast Region: Environmental Cleanup & Brownfields Program Manager, 2 Public Square, Wilkes-Barre, PA 18701-1915, 570-826-2511.*

*Contact: Eric Supey, Environmental Program Manager.*

**Turkey Hill 194**, Storage Tank ID # 40-50162, 460 West Main Street, Nanticoke, PA 18634, Norwegian Township, **Schuylkill County**. AECOM, 625 West Ridge Pike, Suite E-100, Conshohocken, PA 19428, on behalf of Cumberland Farms, 165 Flanders Road, Westborough, MA 01581, has submitted a Remedial Action Plan concerning remediation of soil contaminated with gasoline. The Remedial Action Plan was acceptable to meet Statewide health standards and was approved by DEP on July 16, 2021.

*Southcentral Regional Office: Environmental Cleanup & Brownfields Program, 909 Elmerton Avenue, Harrisburg, PA 17110, 717-705-4705.*

*Contact: Robin L. Yerger, LPG.*

**Penn Waste**, Storage Tank Primary Facility ID # 67-38263, 85 Brinkyard Road, Manchester, PA 17345,

East Manchester Township, **York County**. Letterle & Associates, 2022 Axemann Road, Suite 201, Bellefonte, PA 16823 on behalf of Penn Waste, P.O. Box 3066, York, PA 17402 submitted a Remedial Action Completion Report concerning remediation of soil and groundwater contaminated with petroleum constituents. The Remedial Action Completion Report was acceptable to meet the Statewide health standard and was approved by the DEP on July 13, 2021.

**Rutters Farm Store 25**, Storage Tank Primary Facility ID # 67-26961, 1520 Pennsylvania Avenue, York, PA, 17404, York City, **York County**. United Environmental Services, Inc., P.O. Box 701, Schuylkill Haven, PA 17972, on behalf of CHR Corporation, 2295 Susquehanna Trail, York, PA 17404 submitted a Remedial Action Completion Report concerning remediation of soil and groundwater contaminated with petroleum constituents. The Remedial Action Completion Report was not acceptable to meet the Statewide health standard and site-specific standard and was disapproved by the DEP on July 14, 2021.

**Lakeside Food Mart**, Storage Tank Primary Facility ID # 21-26058, 101 Front Street, Boiling Springs, PA 17007, South Middleton Township, **Cumberland County**. Mountain Research, 825 25th Street, Altoona, PA 16601 on behalf of Shipley Energy, P.O. Box 15052, York, PA 17405 submitted a Remedial Action Completion Report concerning remediation of soil contaminated with petroleum constituents. The Remedial Action Completion Report was not acceptable to meet the Statewide health standard and was disapproved by the DEP on July 14, 2021.

**Carlos R Leffler York Bulk PLT**, Storage Tank Primary Facility ID # 67-60828, 28 Abbie Road, York, PA 17408, **York County**. Patriot Environmental Management, LLC, 2404 Brown Street, Pottstown, PA 19464, on behalf of Richland Partners, LLC, P.O. Box 659, Douglassville, PA 19518, submitted a Remedial Action Completion Report concerning remediation of soil and groundwater contaminated with petroleum constituents. The Remedial Action Completion Report failed to demonstrate attainment of the Statewide health standard and was disapproved by DEP on July 15, 2021.

*Northcentral Regional Office: Environmental Cleanup & Brownfields Program, 208 West Third Street, Suite 101, Williamsport, PA 17701, 570-327-3636.*

*Contact: Randy Farmerie, Environmental Program Manager.*

**Woodland Food & Fuel (AKA Gio's BBQ)**, Storage Tank Facility ID # 17-70935, 2829 Woodland Bigler Highway, Woodland, PA 16881, Bradford Township, **Clearfield County**. Mountain Research, LLC, 825 25th Street, Altoona, PA 16601, on behalf of Woodland Food & Fuel, 2829 Woodland Bigler Highway, Woodland, PA 16881, submitted a Remedial Action Plan concerning remediation of soil and groundwater contaminated with unleaded gas. The Remedial Action Plan was acceptable to meet the site-specific standard and was approved by DEP on June 30, 2021.

**Liberty Exxon**, Storage Tank Facility ID # 59-37295, 8489 Route 414, Liberty, PA 16930, Liberty Township, **Tioga County**. United Environmental Services, Inc., P.O. Box 701, Schuylkill Haven, PA 17972, on behalf of Sandhoos, Inc., 165 Lamont Drive, Cogan Station, PA 17728, submitted a Site Characterization Report/ Remedial Action Plan concerning remediation of groundwater contaminated with diesel fuel. Site Characteriza-

tion Report/Remedial Action Plan was acceptable to meet the Statewide health standard and was approved by DEP on July 1, 2021.

**Superior Plus Energy Svc Muncy Sta**, Storage Tank Facility ID # 41-70311, 421 North Main St., Muncy, PA 17756, Muncy Township, **Lycoming County**. Matrix Environmental Technologies, Inc., 3730 California Road, P.O. Box 427, Orchard Park, NY 14127, on behalf of Superior Plus Energy Services, Inc. 1870 S. Winton Road, Suite 200, Rochester, NY 14618 submitted a Remedial Action Completion Report concerning remediation of soil and groundwater contaminated with gasoline. The Remedial Action Completion Report demonstrated attainment of the Statewide health standard and was approved by DEP on June 22, 2021.

**M M Exports (Former Sunoco 0181-1315)**, Storage Tank Facility ID # 49-16749, Route 54 & Mill Street, Riverside, PA 17868, Riverside Borough, **Northumberland County**. Aquaterra Technologies, Inc., 901 S. Bolmar Street, Suite A, West Chester, PA 19382, on behalf of Sunoco, LLC, c/o Evergreen Resources Group, 2 Righter Parkway, Suite 120, Wilmington, DE, 19803, submitted a Remedial Action Completion Report concerning remediation of soil and groundwater contaminated with unleaded gasoline. The Remedial Action Completion Report demonstrated attainment of the Site-Specific Standard and was approved by DEP on June 22, 2021.

*Southwest Region: Environmental Cleanup Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

*Contact: Environmental Group Manager, Storage Tanks Program.*

**Round Town Gas Store 5950**, Storage Tank Facility ID # 02-80981, 2094 Brush Creek Rd., Warrendale, PA 15086, Marshall Township, **Allegheny County**. CORE Environmental Services Inc., 3960 William Flinn Hwy., Ste. 100, Allison Park, PA 15101, on behalf of Kramer Strategic, LLC, 180 Cook St., Denver, CO 80286, submitted a combined Site Characterization Report and Remedial Action Plan concerning the remediation of soil and groundwater contaminated with petroleum products. The Remedial Action Plan demonstrated attainment of the Statewide health standard and was approved by DEP on June 25, 2021.

**Flying J Travel Plaza No. 620**, Storage Tank Facility ID # 65-81075, 122 Fitzhenry Rd., Smithton, PA 15479, S. Huntingdon Tonship, **Westmoreland County**. Sovereign Consulting, Inc., 359 Northgate Dr., Ste. 400, Warrendale, PA 15086, on behalf of Pilot Travel Centers, LLC, P.O. Box 10146, 5508 Lonas Dr., Knoxville, TN 37939, submitted a Remedial Action Completion Report concerning the remediation of soil and groundwater contaminated with petroleum products. The Remedial Action Completion Report demonstrated attainment of the Statewide health standard and was approved by DEP on June 25, 2021.

**Charleroi Gulf**, Primary Facility ID # 63-09229, 62 McKean & First Ave., Charleroi, PA 15022, Charleroi Borough, **Washington County**. Converse Consultants, 2738 W. College Ave., State College, PA 16801, on behalf of Gnagey Gas and Oil Co., 8 Gardner St., Uniontown, PA 15401, submitted a combined Site Characterization Report and Remedial Action Plan concerning the remediation of soil and groundwater contaminated with petroleum products. The Remedial Action Plan demonstrated attainment of the site specific standard and was approved by DEP on June 29, 2021.

**Former Bowers BP**, Storage Tank Facility ID # 63-09701, 130 E. Main St., Monongahela, PA 15063, Monongahela City, **Washington County**. Letterle & Associates, Inc., 2859 Oxford Blvd, Allison Park, PA 15101, on behalf of Coen Markets, Inc., 1000 Philadelphia St., Canonsburg, PA 15317, submitted a Remedial Action Completion Report concerning the remediation of soil and groundwater contaminated with petroleum products. The Remedial Action Completion Report demonstrated attainment of the Statewide health standard and was approved by DEP on June 29, 2021.

[Pa.B. Doc. No. 21-1198. Filed for public inspection July 30, 2021, 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 § 205.7 (relating to basement or cellar):

Chapel Manor  
1104 Welsh Road  
Philadelphia, PA 19115  
FAC ID # 031602

This request is 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 Hamilton Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

ALISON BEAM,  
*Acting Secretary*

[Pa.B. Doc. No. 21-1199. Filed for public inspection July 30, 2021, 9:00 a.m.]

## DEPARTMENT OF HEALTH

### Medical Marijuana Program, Availability of Academic Clinical Research Center and Time Period to Submit Applications

The purpose of this notice is to announce implementation of section 2002(a)(1)(i) of the Medical Marijuana Act (35 P.S. § 10231.2002(a)(1)(i)), to open applications for the approval of up to two additional academic clinical re-



search centers (ACRC) and to establish the time period during which applications will be accepted by the Department of Health (Department).

*Availability of Applications to be Approved as a Certified ACRC and Submission Deadline*

Notice is hereby given, as required by 28 Pa. Code § 1211.25(b) (relating to certifying ACRCs), that on August 3, 2021, the Department intends to make available, on its web site at [www.health.pa.gov](http://www.health.pa.gov), the application to be completed and submitted to the Department to be approved as a certified ACRC. The Department will accept applications until September 2, 2021. The Department will consider any application sent by mail to have been received on the date it is deposited in the mail as long as the postmark on the outside of the package is clear and legible. The Department will not consider and will return an application that is postmarked after the September 2, 2021, deadline. An applicant must submit an application by mail and in an electronic format that is listed in the instructions portion of the application to the Office of Medical Marijuana, Department of Health, Room 628, Health and Welfare Building, 625 Forster Street, Harrisburg, PA 17120.

Interested persons are invited to submit written comments, suggestions or objections regarding this notice to John J. Collins, Office of Medical Marijuana, Department of Health, Room 628, Health and Welfare Building, 625 Forster Street, Harrisburg, PA 17120, (717) 547-3047, RA-DHMMRCOMPLIANCE@pa.gov.

Persons with a disability who wish to submit comments, suggestions or objections regarding this notice or who require an alternative format of this notice (for example, large print, audiotape or Braille) may do so by using the previously listed contact information. Speech and/or hearing-impaired persons may call the Pennsylvania Hamilton Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

ALISON BEAM,  
Acting Secretary

[Pa.B. Doc. No. 21-1200. Filed for public inspection July 30, 2021, 9:00 a.m.]

## DEPARTMENT OF REVENUE

### Pennsylvania Ca\$h†ast!c Fast Play Game 5130

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 Ca\$h†ast!c (hereinafter “Ca\$h†ast!c”). The game number is PA-5130.

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) *Lottery Central Computer System*: The computer gaming system on which all Fast Play plays are recorded.

(e) *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.

(f) *Play*: A chance to participate in a particular Fast Play lottery game.

(g) *Play Area*: The area on a ticket which contains one or more play symbols.

(h) *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.

(i) *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.

(j) *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.

(k) *ROW*: A specific, pre-defined portion of the play area, which contains three play symbols and a prize symbol in a horizontal line, that, when played according to the instructions, determines whether a player wins a prize. Each “ROW” is played separately.

(l) *ROW NUMBERS*: The numbers, letters, symbols or other characters found in the play area that, when matched against the play symbols in the “WINNING NUMBERS” area, determine whether a player wins a prize.

(m) *WINNING NUMBERS*: The numbers, letters, symbols or other characters found in the play area that, when matched against the play symbols in any “ROW,” determine whether a player wins a prize.

(n) *Winning ticket*: A game ticket which has been validated and qualifies for a prize.

3. *Price*: The price of a Ca\$h†ast!c ticket is \$1.

4. *Description of the Ca\$h†ast!c Fast Play lottery game*:

(a) The Ca\$h†ast!c 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. Ca\$h†ast!c 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) Ca\$h†ast!c is played by matching any of the play symbols in the “WINNING NUMBERS” area to the play symbols located in a “ROW.” A player matching any of the play symbols in this manner will win the prize shown to the right of that “ROW.” When an “Exclamation Point” symbol appears in a winning “ROW,” win all four prizes shown. A bet slip is not used to play this game.



(c) Players can win the prizes identified in section 6 (relating to prizes available to be won and determination of prize winners).

(d) A Ca\$h<sup>t</sup>ast!c game ticket cannot be canceled or voided once printed by the Lottery Terminal, even if printed in error.

(e) To purchase a ticket at an authorized retailer, a player must remit the purchase price to the retailer and verbally request a Ca\$h<sup>t</sup>ast!c game ticket. The ticket shall be the only valid proof of the bet placed and the only valid receipt for claiming a prize.

(f) 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 Ca\$h<sup>t</sup>ast!c game ticket and select the Ca\$h<sup>t</sup>ast!c 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. Ca\$h<sup>t</sup>ast!c ticket characteristics:

(a) A Ca\$h<sup>t</sup>ast!c ticket shall contain a play area, the cost of the play, the date of sale and a bar code. Each ticket contains four "ROW" areas designated as "ROW 1," "ROW 2," "ROW 3" and "ROW 4." Each "ROW" is played separately.

(b) *Play Symbols:* Each Ca\$h<sup>t</sup>ast!c ticket will contain a "WINNING NUMBERS" area and four "ROW" areas. The play symbols and their captions, located in the "WINNING NUMBERS" area, 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 and their captions, located in the four "ROW" 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), 20 (TWENT) and an "Exclamation Point" symbol.

(c) *Prize symbols:* The prize symbols and their captions, located in the "ROW" areas, are: FREE (TICKET), \$1<sup>00</sup> (ONE DOL), \$2<sup>00</sup> (TWO DOL), \$4<sup>00</sup> (FOR DOL), \$5<sup>00</sup> (FIV DOL), \$10<sup>00</sup> (TEN DOL), \$20<sup>00</sup> (TWENTY), \$50<sup>00</sup> (FIFTY), \$100 (ONE HUN) and a PROG (TOP PRIZE) symbol.

(d) *Prizes:* The prizes that can be won in this game, are: Free \$1 Ticket, \$1, \$2, \$4, \$5, \$10, \$20, \$50, \$100 and the "PROGRESSIVE TOP PRIZE." The "PROGRESSIVE TOP PRIZE" amount starts at \$2,500 and increases by \$0.10 every time a Ca\$h<sup>t</sup>ast!c ticket is purchased. When a "PROGRESSIVE TOP PRIZE" winning ticket is sold, the "PROGRESSIVE TOP PRIZE" resets to \$2,500. For a complete list of prizes that can be won in this game, see section 7 (relating to number and description of prizes and approximate chances of winning). A player can win up to four times on a ticket.

(e) *Approximate number of tickets available for the game:* Approximately 1,800,000 tickets will be available for sale for the Ca\$h<sup>t</sup>ast!c lottery game.

6. Prizes available to be won and determination of prize winners:

(a) All Ca\$h<sup>t</sup>ast!c prize payments will be made as one-time, lump-sum cash payments.

(b) Holders of tickets upon which any of the "WINNING NUMBERS" play symbols matches any of the play

symbols in a "ROW," and a prize symbol of PROG (TOP PRIZE) appears in the "Prize" area to the right of that "ROW," 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 \$2,500.

(c) Holders of tickets upon which any of the "WINNING NUMBERS" play symbols matches any of the play symbols in a "ROW," and a prize symbol of \$100 (ONE HUN) appears in the "Prize" area to the right of that "ROW," on a single ticket, shall be entitled to a prize of \$100.

(d) Holders of tickets upon which any of the "WINNING NUMBERS" play symbols matches any of the play symbols in a "ROW," an "Exclamation Point" symbol appears in that "ROW" and a prize symbol of \$20<sup>00</sup> (TWENTY) appears in two of the "Prize" areas, a prize symbol of \$50<sup>00</sup> (FIFTY) appears in one of the "Prize" areas and a prize symbol of \$10<sup>00</sup> (TEN DOL) appears in one of the "Prize" areas, on a single ticket, shall be entitled to a prize of \$100.

(e) Holders of tickets upon which any of the "WINNING NUMBERS" play symbols matches any of the play symbols in a "ROW," and a prize symbol of \$50<sup>00</sup> (FIFTY) appears in the "Prize" area to the right of that "ROW," on a single ticket, shall be entitled to a prize of \$50.

(f) Holders of tickets upon which any of the "WINNING NUMBERS" play symbols matches any of the play symbols in a "ROW," an "Exclamation Point" symbol appears in that "ROW" and a prize symbol of \$20<sup>00</sup> (TWENTY) appears in two of the "Prize" areas and a prize symbol of \$5<sup>00</sup> (FIV DOL) appears in two of the "Prize" areas, on a single ticket, shall be entitled to a prize of \$50.

(g) Holders of tickets upon which any of the "WINNING NUMBERS" play symbols matches any of the play symbols in a "ROW," an "Exclamation Point" symbol appears in that "ROW" and a prize symbol of \$10<sup>00</sup> (TEN DOL) appears in three of the "Prize" areas and a prize symbol of \$20<sup>00</sup> (TWENTY) appears in one of the "Prize" areas, on a single ticket, shall be entitled to a prize of \$50.

(h) Holders of tickets upon which any of the "WINNING NUMBERS" play symbols matches any of the play symbols in a "ROW," and a prize symbol of \$20<sup>00</sup> (TWENTY) appears in the "Prize" area to the right of that "ROW," on a single ticket, shall be entitled to a prize of \$20.

(i) Holders of tickets upon which any of the "WINNING NUMBERS" play symbols matches any of the play symbols in a "ROW," an "Exclamation Point" symbol appears in that "ROW" and a prize symbol of \$10<sup>00</sup> (TEN DOL) appears in one of the "Prize" areas, a prize symbol of \$5<sup>00</sup> (FIV DOL) appears in one of the "Prize" areas, a prize symbol of \$4<sup>00</sup> (FOR DOL) appears in one of the "Prize" areas and a prize symbol of \$1<sup>00</sup> (ONE DOL) appears in one of the "Prize" areas, on a single ticket, shall be entitled to a prize of \$20.

(j) Holders of tickets upon which any of the "WINNING NUMBERS" play symbols matches any of the play symbols in a "ROW," an "Exclamation Point" symbol appears in that "ROW" and a prize symbol of \$4<sup>00</sup> (FOR DOL) appears in two of the "Prize" areas, a prize symbol of \$10<sup>00</sup> (TEN DOL) appears in one of the "Prize" areas and

a prize symbol of \$2<sup>.00</sup> (TWO DOL) appears in one of the "Prize" areas, on a single ticket, shall be entitled to a prize of \$20.

(k) Holders of tickets upon which any of the "WINNING NUMBERS" play symbols matches any of the play symbols in a "ROW," an "Exclamation Point" symbol appears in that "ROW" and a prize symbol of \$5<sup>.00</sup> (FIV DOL) appears in all four of the "Prize" areas, on a single ticket, shall be entitled to a prize of \$20.

(l) Holders of tickets upon which any of the "WINNING NUMBERS" play symbols matches any of the play symbols in a "ROW," and a prize symbol of \$10<sup>.00</sup> (TEN DOL) appears in the "Prize" area to the right of that "ROW," on a single ticket, shall be entitled to a prize of \$10.

(m) Holders of tickets upon which any of the "WINNING NUMBERS" play symbols matches any of the play symbols in a "ROW," an "Exclamation Point" symbol appears in that "ROW" and a prize symbol of \$4<sup>.00</sup> (FOR DOL) appears in two of the "Prize" areas and a prize symbol of \$1<sup>.00</sup> (ONE DOL) appears in two of the "Prize" areas, on a single ticket, shall be entitled to a prize of \$10.

(n) Holders of tickets upon which any of the "WINNING NUMBERS" play symbols matches any of the play symbols in a "ROW," an "Exclamation Point" symbol appears in that "ROW" and a prize symbol of \$2<sup>.00</sup> (TWO DOL) appears in three of the "Prize" areas and a prize symbol of \$4<sup>.00</sup> (FOR DOL) appears in one of the "Prize" areas, on a single ticket, shall be entitled to a prize of \$10.

(o) Holders of tickets upon which any of the "WINNING NUMBERS" play symbols matches any of the play symbols in a "ROW," an "Exclamation Point" symbol appears in that "ROW" and a prize symbol of \$2<sup>.00</sup> (TWO DOL) appears in two of the "Prize" areas, a prize symbol of \$5<sup>.00</sup> (FIV DOL) appears in one of the "Prize" areas and a prize symbol of \$1<sup>.00</sup> (ONE DOL) appears in one of the "Prize" areas, on a single ticket, shall be entitled to a prize of \$10.

(p) Holders of tickets upon which any of the "WINNING NUMBERS" play symbols matches any of the play symbols in a "ROW," and a prize symbol of \$5<sup>.00</sup> (FIV

DOL) appears in the "Prize" area to the right of that "ROW," on a single ticket, shall be entitled to a prize of \$5.

(q) Holders of tickets upon which any of the "WINNING NUMBERS" play symbols matches any of the play symbols in a "ROW," an "Exclamation Point" symbol appears in that "ROW" and a prize symbol of \$1<sup>.00</sup> (ONE DOL) appears in three of the "Prize" areas and a prize symbol of \$2<sup>.00</sup> (TWO DOL) appears in one of the "Prize" areas, on a single ticket, shall be entitled to a prize of \$5.

(r) Holders of tickets upon which any of the "WINNING NUMBERS" play symbols matches any of the play symbols in a "ROW," and a prize symbol of \$4<sup>.00</sup> (FOR DOL) appears in the "Prize" area to the right of that "ROW," on a single ticket, shall be entitled to a prize of \$4.

(s) Holders of tickets upon which any of the "WINNING NUMBERS" play symbols matches any of the play symbols in a "ROW," an "Exclamation Point" symbol appears in that "ROW" and a prize symbol of \$1<sup>.00</sup> (ONE DOL) appears in all four of the "Prize" areas, on a single ticket, shall be entitled to a prize of \$4.

(t) Holders of tickets upon which any of the "WINNING NUMBERS" play symbols matches any of the play symbols in a "ROW," and a prize symbol of \$2<sup>.00</sup> (TWO DOL) appears in the "Prize" area to the right of that "ROW," on a single ticket, shall be entitled to a prize of \$2.

(u) Holders of tickets upon which any of the "WINNING NUMBERS" play symbols matches any of the play symbols in a "ROW," and a prize symbol of \$1<sup>.00</sup> (ONE DOL) appears in the "Prize" area to the right of that "ROW," on a single ticket, shall be entitled to a prize of \$1.

(v) Holders of tickets upon which any of the "WINNING NUMBERS" play symbols matches any of the play symbols in a "ROW," and a prize symbol of FREE (TICKET) appears in the "Prize" area to the right of that "ROW," on a single ticket, shall be entitled to a prize of one Ca\$h†astlc Fast Play 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 "ROW NUMBERS" Match Any "WINNING NUMBER," Win Prize Shown To The Right Of That "ROW." Win With:</i>	<i>Win:</i>	<i>Approximate Chances Of Winning Are 1 In:</i>	<i>Approximate No. Of Winners Per 1,800,000 Tickets:</i>
FREE	FREE \$1 TICKET	10	180,000
\$1	\$1	24.39	73,800
\$1 × 2	\$2	40	45,000
\$2	\$2	40	45,000
EXCLAMATION POINT w/ (\$1 × 4)	\$4	47.62	37,800
\$2 × 2	\$4	200	9,000
\$4	\$4	200	9,000
EXCLAMATION POINT w/ ((\$1 × 3) + \$2)	\$5	200	9,000
(\$2 × 2) + \$1	\$5	500	3,600
\$4 + \$1	\$5	500	3,600
\$5	\$5	500	3,600
EXCLAMATION POINT w/ ((\$2 × 2) + \$5 + \$1)	\$10	500	3,600

<i>When Any "ROW NUMBERS" Match Any "WINNING NUMBER," Win Prize Shown To The Right Of That "ROW." Win With:</i>	<i>Win:</i>	<i>Approximate Chances Of Winning Are 1 In:</i>	<i>Approximate No. Of Winners Per 1,800,000 Tickets:</i>
EXCLAMATION POINT w/ (( $\$2 \times 3$ ) + $\$4$ )	\$10	500	3,600
EXCLAMATION POINT w/ (( $\$4 \times 2$ ) + ( $\$1 \times 2$ ))	\$10	500	3,600
$\$5 \times 2$	\$10	1,000	1,800
\$10	\$10	1,000	1,800
EXCLAMATION POINT w/ ( $\$5 \times 4$ )	\$20	4,000	450
EXCLAMATION POINT w/ (( $\$4 \times 2$ ) + $\$10$ + $\$2$ )	\$20	4,000	450
EXCLAMATION POINT w/ ( $\$10$ + $\$5$ + $\$4$ + $\$1$ )	\$20	4,000	450
$\$10 \times 2$	\$20	8,000	225
( $\$5 \times 2$ ) + $\$10$	\$20	8,000	225
\$20	\$20	8,000	225
EXCLAMATION POINT w/ (( $\$10 \times 3$ ) + $\$20$ )	\$50	12,000	150
EXCLAMATION POINT w/ (( $\$20 \times 2$ ) + ( $\$5 \times 2$ ))	\$50	12,000	150
( $\$20 \times 2$ ) + $\$10$	\$50	24,000	75
\$50	\$50	24,000	75
EXCLAMATION POINT w/ (( $\$20 \times 2$ ) + $\$50$ + $\$10$ )	\$100	24,000	75
$\$50 \times 2$	\$100	60,000	30
\$100	\$100	60,000	30
PROGRESSIVE TOP PRIZE	\$2,500*	360,000	5

When an "EXCLAMATION POINT" symbol appears in a winning ROW, win all four prizes shown. Each ROW is played separately.

\*PROGRESSIVE TOP PRIZE: The minimum value of the PROGRESSIVE TOP PRIZE is \$2,500. The PROGRESSIVE TOP PRIZE increases by \$0.10 every time a ticket is purchased, and resets to \$2,500 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 Ca\$h†ast!c 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 Ca\$h†ast!c 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 Ca\$h†ast!c 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 Ca\$h†ast!c 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 Ca\$h†ast!c or through normal communications methods.



20. *Applicability*: This notice applies only to the Cash lottery game announced in this notice.

C. DANIEL HASSELL,  
Secretary

[Pa.B. Doc. No. 21-1201. Filed for public inspection July 30, 2021, 9:00 a.m.]

## DEPARTMENT OF REVENUE

### Pennsylvania Goat Load of Cash Fast Play Game 5129

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 Goat Load of Cash (hereinafter “Goat Load of Cash”). The game number is PA-5129.

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) *Lottery Central Computer System*: The computer gaming system on which all Fast Play plays are recorded.

(e) *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.

(f) *Play*: A chance to participate in a particular Fast Play lottery game.

(g) *Play Area*: The area on a ticket, which contains one or more play symbols.

(h) *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.

(i) *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.

(j) *WINNING NUMBERS*: The numbers, letters, symbols or other characters found in the play area that, when matched against the play symbols in the “YOUR NUMBERS” area, determine whether a player wins a prize.

(k) *Winning ticket*: A game ticket which has been validated and qualifies for a prize.

(l) *YOUR NUMBERS*: The numbers, letters, symbols or other characters found in the play area that, when

matched against the play symbols in the “WINNING NUMBERS” area, determine whether a player wins a prize.

(m) *5X ON THE FENCE NUMBERS*: The area on a Goat Load of Cash ticket containing two numbers, letters, symbols or other characters, that, when matched against the play symbols in the “WINNING NUMBERS” area, determine whether a player wins five times the corresponding prize.

3. *Price*: The price of a Goat Load of Cash ticket is \$2.

4. *Description of the Goat Load of Cash Fast Play lottery game*:

(a) The Goat Load of Cash 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. Goat Load of Cash 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) Goat Load of Cash is played by matching the play symbols located in the “YOUR NUMBERS” area to the play symbols located in the “WINNING NUMBERS” area. A player matching play symbols in this manner will win the prize shown under the “YOUR NUMBERS” play symbol. A bet slip is not used to play this game.

(c) Goat Load of Cash is also played by matching either of the play symbols in the “5X ON THE FENCE NUMBERS” area. Players matching any of the “WINNING NUMBERS” play symbols to either of the “5X ON THE FENCE NUMBERS” play symbols will win five times the prize shown under the corresponding “5X ON THE FENCE” play symbol.

(d) Players can win the prizes identified in section 6 (relating to prizes available to be won and determination of prize winners).

(e) A Goat Load of Cash 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 Goat Load of Cash 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 Goat Load of Cash game ticket and select the Goat Load of Cash 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. *Goat Load of Cash ticket characteristics*:

(a) A Goat Load of Cash ticket shall contain a play area, the cost of the play, the date of sale and a bar code.

(b) *Play Symbols*: Each Goat Load of Cash ticket play area will contain a “WINNING NUMBERS” area, a “YOUR NUMBERS” area and a “5X ON THE FENCE NUMBERS” area. The play symbols and their captions, located in the “WINNING NUMBERS” area, the “YOUR NUMBERS” area and the “5X ON THE FENCE NUMBERS” area, 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), 20 (TWENT), 21 (TWYONE), 22 (TWTWO), 23 (TWYTHR), 24 (TWYFOR) and 25 (TWYFIV).

(c) *Prize Symbols:* The prize symbols and their captions, located in the “YOUR NUMBERS” area, are: \$2.<sup>00</sup> (TWO DOL), \$4.<sup>00</sup> (FOR DOL), \$5.<sup>00</sup> (FIV DOL), \$10.<sup>00</sup> (TEN DOL), \$15.<sup>00</sup> (FIFTEEN), \$20.<sup>00</sup> (TWENTY), \$30.<sup>00</sup> (THIRTY), \$50.<sup>00</sup> (FIFTY), \$100 (ONE HUN), \$500 (FIV HUN) and \$10,000 (TEN THO). The prize symbols and their captions, located in the “5X ON THE FENCE” area, are: \$2.<sup>00</sup> (TWO DOL), \$4.<sup>00</sup> (FOR DOL), \$5.<sup>00</sup> (FIV DOL), \$10.<sup>00</sup> (TEN DOL), \$15.<sup>00</sup> (FIFTEEN), \$20.<sup>00</sup> (TWENTY), \$50.<sup>00</sup> (FIFTY) and \$100 (ONE HUN).

(d) *Prizes:* The prizes that can be won in this game, are: \$2, \$4, \$5, \$10, \$15, \$20, \$30, \$50, \$100, \$500 and \$10,000. Goat Load of Cash contains a feature that can multiply certain prizes won in the main game area as detailed in section 4 (relating to description of the Goat Load of Cash Fast Play lottery game). For a complete list of prizes, and how those prizes can be won, see section 7 (relating to number and description of prizes and approximate chances of winning). A player can win up to eight times on a ticket.

(e) *Approximate number of tickets available for the game:* Approximately 600,000 tickets will be available for sale for the Goat Load of Cash lottery game.

6. *Prizes available to be won and determination of prize winners:*

(a) All Goat Load of Cash prize payments will be made as one-time, lump-sum cash payments.

(b) Holders of tickets upon which any of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol of \$10,000 (TEN THO) appears in the “Prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$10,000.

(c) Holders of tickets upon which any 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.

(d) Holders of tickets upon which any of the “WINNING NUMBERS” play symbols matches either of the “5X ON THE FENCE NUMBERS” play symbols and a prize symbol of \$100 (ONE HUN) appears in the “Prize” area under the matching “5X ON THE FENCE” play symbol, on a single ticket, shall be entitled to a prize of \$500.

(e) Holders of tickets upon which any of the “WINNING NUMBERS” play symbols matches either of the “5X ON THE FENCE NUMBERS” play symbols and a prize symbol of \$50.<sup>00</sup> (FIFTY) appears in the “Prize” area under the matching “5X ON THE FENCE” play symbol, on a single ticket, shall be entitled to a prize of \$250.

(f) Holders of tickets upon which any 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.

(g) Holders of tickets upon which any of the “WINNING NUMBERS” play symbols matches either of the

“5X ON THE FENCE NUMBERS” play symbols and a prize symbol of \$20.<sup>00</sup> (TWENTY) appears in the “Prize” area under the matching “5X ON THE FENCE” play symbol, on a single ticket, shall be entitled to a prize of \$100.

(h) Holders of tickets upon which any of the “WINNING NUMBERS” play symbols matches either of the “5X ON THE FENCE NUMBERS” play symbols and a prize symbol of \$15.<sup>00</sup> (FIFTEEN) appears in the “Prize” area under the matching “5X ON THE FENCE” play symbol, on a single ticket, shall be entitled to a prize of \$75.

(i) Holders of tickets upon which any of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol of \$50.<sup>00</sup> (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.

(j) Holders of tickets upon which any of the “WINNING NUMBERS” play symbols matches either of the “5X ON THE FENCE NUMBERS” play symbols and a prize symbol of \$10.<sup>00</sup> (TEN DOL) appears in the “Prize” area under the matching “5X ON THE FENCE” play symbol, on a single ticket, shall be entitled to a prize of \$50.

(k) Holders of tickets upon which any of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol of \$30.<sup>00</sup> (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.

(l) Holders of tickets upon which any of the “WINNING NUMBERS” play symbols matches either of the “5X ON THE FENCE NUMBERS” play symbols and a prize symbol of \$5.<sup>00</sup> (FIV DOL) appears in the “Prize” area under the matching “5X ON THE FENCE” play symbol, on a single ticket, shall be entitled to a prize of \$25.

(m) Holders of tickets upon which any of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol of \$20.<sup>00</sup> (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.

(n) Holders of tickets upon which any of the “WINNING NUMBERS” play symbols matches either of the “5X ON THE FENCE NUMBERS” play symbols and a prize symbol of \$4.<sup>00</sup> (FOR DOL) appears in the “Prize” area under the matching “5X ON THE FENCE” play symbol, on a single ticket, shall be entitled to a prize of \$20.

(o) Holders of tickets upon which any of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol of \$15.<sup>00</sup> (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.

(p) Holders of tickets upon which any of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol of \$10.<sup>00</sup> (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.

(q) Holders of tickets upon which any of the “WINNING NUMBERS” play symbols matches either of the “5X ON THE FENCE NUMBERS” play symbols and a prize symbol of \$2.<sup>00</sup> (TWO DOL) appears in the “Prize”

area under the matching “5X ON THE FENCE” play symbol, on a single ticket, shall be entitled to a prize of \$10.

(r) Holders of tickets upon which any of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol of \$5<sup>00</sup> (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.

(s) Holders of tickets upon which any of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol of \$4<sup>00</sup> (FOR DOL) appears in the “Prize” area under the match-

ing “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$4.

(t) Holders of tickets upon which any of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol of \$2<sup>00</sup> (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.

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>5X ON THE FENCE:</i>	<i>Win:</i>	<i>Approximate Chances Of Winning Are 1 In:</i>	<i>Approximate No. Of Winners Per 600,000 Tickets:</i>
\$2		\$2	8.70	69,000
\$2 × 2		\$4	32.26	18,600
\$4		\$4	33.33	18,000
\$5		\$5	29.41	20,400
\$5 × 2		\$10	1,000	600
(\$2 × 3) + \$4		\$10	2,000	300
(\$4 × 2) + \$2		\$10	1,429	420
	\$2 w/ 5X MATCH	\$10	38.46	15,600
\$10		\$10	1,000	600
\$5 × 3		\$15	1,000	600
\$10 + \$5		\$15	1,000	600
\$15		\$15	250	2,400
\$5 × 4		\$20	1,000	600
\$10 × 2		\$20	10,000	60
(\$4 × 4) + (\$2 × 2)		\$20	10,000	60
(\$5 × 2) + \$10		\$20	5,000	120
\$15 + \$5		\$20	5,000	120
	(\$2 w/ 5X MATCH) × 2	\$20	10,000	60
	\$4 w/ 5X MATCH	\$20	1,111	540
\$20		\$20	10,000	60
\$10 × 3		\$30	12,000	50
\$15 × 2		\$30	12,000	50
(\$4 × 2) + \$2	(\$2 w/ 5X MATCH) × 2	\$30	1,091	550
(\$10 × 2) + (\$5 × 2)		\$30	12,000	50
\$15 + \$10 + \$5		\$30	12,000	50
\$20 + \$10		\$30	12,000	50
	(\$4 w/ 5X MATCH) + (\$2 w/ 5X MATCH)	\$30	1,091	550
\$30		\$30	12,000	50
\$10 × 5		\$50	24,000	25
(\$4 × 4) + (\$2 × 2)	(\$4 w/ 5X MATCH) + (\$2 w/ 5X MATCH)	\$50	4,000	150
(\$20 × 2) + (\$5 × 2)		\$50	24,000	25
\$20 + \$5	\$5 w/ 5X MATCH	\$50	12,000	50

<i>When Any Of "YOUR NUMBERS" Match Any "WINNING NUMBER," Win Prize Shown Under The Matching Number. Win With:</i>	<i>5X ON THE FENCE:</i>	<i>Win:</i>	<i>Approximate Chances Of Winning Are 1 In:</i>	<i>Approximate No. Of Winners Per 600,000 Tickets:</i>
\$10	(\$4 w/ 5X MATCH) × 2	\$50	24,000	25
\$30	(\$2 w/ 5X MATCH) × 2	\$50	24,000	25
	(\$5 w/ 5X MATCH) × 2	\$50	24,000	25
	\$10 w/ 5X MATCH	\$50	12,000	50
\$50		\$50	24,000	25
\$50 × 2		\$100	120,000	5
(\$20 × 4) + (\$10 × 2)		\$100	120,000	5
(\$20 × 2) + (\$10 × 2) + (\$5 × 2)	(\$4 w/ 5X MATCH) + (\$2 w/ 5X MATCH)	\$100	12,000	50
\$50	(\$5 w/ 5X MATCH) × 2	\$100	12,000	50
	(\$15 w/ 5X MATCH) + (\$5 w/ 5X MATCH)	\$100	12,000	50
	\$20 w/ 5X MATCH	\$100	12,000	50
\$100		\$100	60,000	10
\$100 × 4	\$20 w/ 5X MATCH	\$500	120,000	5
	(\$50 w/ 5X MATCH) × 2	\$500	120,000	5
	\$100 w/ 5X MATCH	\$500	120,000	5
\$500		\$500	120,000	5
\$10,000		\$10,000	120,000	5

When any WINNING NUMBER matches either 5X ON THE FENCE number, win 5 TIMES the prize shown!

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. *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 Goat Load of Cash 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.

15. *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.

16. *Retailer Incentive Programs:* The Lottery may conduct a separate Retailer Incentive Program for retailers who sell Pennsylvania Fast Play Goat Load of Cash lottery game tickets.

17. *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.

18. *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 Goat Load of Cash or through normal communications methods.

19. *Applicability:* This notice applies only to the Goat Load of Cash lottery game announced in this notice.

C. DANIEL HASSELL,  
Secretary

[Pa.B. Doc. No. 21-1202. Filed for public inspection July 30, 2021, 9:00 a.m.]

## DEPARTMENT OF REVENUE

### Pennsylvania Gold Mine Fast Play Game 5127

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 Gold Mine (hereinafter "Gold Mine"). The game number is PA-5127.

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) *Lottery Central Computer System:* The computer gaming system on which all Fast Play plays are recorded.

(e) *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.

(f) *MINE BONUS*: The area at the bottom of a Gold Mine ticket containing five play symbols that, when played according to the instructions, determines whether the player wins a prize. The MINE BONUS area is played separately.

(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) *TNT PRIZE*: The area at the top of a Gold Mine ticket containing one play symbol that, when played according to the instructions, determines whether the player adds any prize shown in the "TNT PRIZE" to the total prize won and wins that amount. The "TNT PRIZE" cannot be won alone. A prize symbol will not appear on a non-winning ticket.

(l) *Winning ticket*: A game ticket which has been validated and qualifies for a prize.

3. *Price*: The price of a Gold Mine ticket is \$20.

4. *Description of the Gold Mine Fast Play lottery game*:

(a) The Gold Mine 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. Gold Mine 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) Gold Mine is played by matching the play symbols located in the "YOUR NUMBERS" area to the play symbols located in the "WINNING NUMBERS" area. A player matching play symbols in this manner will win the prize shown under the "YOUR NUMBERS" play symbol. When a player matches play symbols in this manner and a prize amount appears in the "TNT PRIZE" area, the player adds the prize shown to the total amount won. A bet slip is not used to play this game.

(c) Players can win the prizes identified in section 6 (relating to prizes available to be won and determination of prize winners).

(d) A Gold Mine game ticket cannot be canceled or voided once printed by the Lottery Terminal, even if printed in error.

(e) To purchase a ticket at an authorized retailer, a player must remit the purchase price to the retailer and verbally request a Gold Mine game ticket. The ticket shall be the only valid proof of the bet placed and the only valid receipt for claiming a prize.

(f) 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 Gold Mine game ticket and select the

Gold Mine 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. *Gold Mine ticket characteristics*:

(a) A Gold Mine ticket shall contain a play area, the cost of the play, the date of sale and a bar code.

(b) *Play Symbols*: Each Gold Mine ticket play area will contain a "WINNING NUMBERS" area, a "YOUR NUMBERS" area, a "MINE BONUS" area and a "TNT PRIZE" area. The play symbols and their captions, located in the "WINNING NUMBERS" area and the "YOUR NUMBERS" area, 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), 20 (TWENT), 21 (TWYONE), 22 (TWYTWO), 23 (TWYTHR), 24 (TWYFOR), 25 (TWYFIV), 26 (TWYSIX), 27 (TWYSVN), 28 (TWYEGT), 29 (TWYNIN), 30 (THIRT), 31 (THYONE), 32 (THYTWO), 33 (THYTHR), 34 (THYFOR), 35 (THYFIV), 36 (THYSIX), 37 (THYSVN), 38 (THYEGT), 39 (THYNIN) and 40 (FORT). The play/prize symbols and their captions, located in the "MINE BONUS" area, are: \$20<sup>00</sup> (TWENTY), \$30<sup>00</sup> (THIRTY), \$40<sup>00</sup> (FORTY), \$50<sup>00</sup> (FIFTY), \$100 (ONE HUN), \$200 (TWO HUN), \$500 (FIV HUN), \$1,000 (ONE THO) and a Gold Nugget (3TIMES) symbol. The play/prize symbols and their captions, located in the "TNT PRIZE" area, are: \$20<sup>00</sup> (TWENTY), \$30<sup>00</sup> (THIRTY), \$40<sup>00</sup> (FORTY), \$50<sup>00</sup> (FIFTY), \$100 (ONE HUN), \$200 (TWO HUN), BANG (NOWIN), BOOM (NOWIN) and a KA-POW (NOWIN) symbol.

(c) *Prize Symbols*: The prize symbols and their captions, located in the "YOUR NUMBERS" area, are: \$20<sup>00</sup> (TWENTY), \$30<sup>00</sup> (THIRTY), \$40<sup>00</sup> (FORTY), \$50<sup>00</sup> (FIFTY), \$100 (ONE HUN), \$200 (TWO HUN), \$500 (FIV HUN), \$1,000 (ONE THO), \$10,000 (TEN THO) and \$300,000 (THR HUNTHO).

(d) *Prizes*: The prizes that can be won in this game, are: \$20, \$30, \$40, \$50, \$100, \$200, \$500, \$1,000, \$10,000 and \$300,000. Gold Mine contains a feature that can increase certain prizes. For a complete list of prizes, and how those prizes can be won, see section 7 (relating to number and description of prizes and approximate chances of winning). A player can win up to 22 times on a ticket.

(e) *Approximate number of tickets available for the game*: Approximately 1,200,000 tickets will be available for sale for the Gold Mine lottery game.

6. *Prizes available to be won and determination of prize winners*:

(a) All Gold Mine prize payments will be made as one-time, lump-sum cash payments.

(b) Holders of tickets upon which any of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$300,000 (THR HUNTHO) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$300,000.

(c) Holders of tickets upon which any of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$10,000 (TEN THO) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$10,000.

(d) Holders of tickets upon which any 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 three prize/play symbols of \$1,000 (ONE THO) appear in the “MINE BONUS” area, on a single ticket, shall be entitled to a prize of \$1,000.

(f) Holders of tickets upon which a prize of \$800 is won by matching the play symbols located in the “YOUR NUMBERS” area to the play symbols located in the “WINNING NUMBERS” area, and upon which a prize/play symbol of \$200 (TWO HUN) appears in the “TNT PRIZE” area, on a single ticket, shall be entitled to a prize of \$1,000.

(g) Holders of tickets upon which a prize of \$600 is won by matching the play symbols located in the “YOUR NUMBERS” area to the play symbols located in the “WINNING NUMBERS” area, and upon which a prize/play symbol of \$100 (ONE HUN) appears in the “TNT PRIZE” area, on a single ticket, shall be entitled to a prize of \$700.

(h) Holders of tickets upon which two prize/play symbols of \$200 (TWO HUN) and a Gold Nugget (3TIMES) prize/play symbol appear in the “MINE BONUS” area, on a single ticket, shall be entitled to a prize of \$600.

(i) Holders of tickets upon which any 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.

(j) Holders of tickets upon which three prize/play symbols of \$500 (FIV HUN) appear in the “MINE BONUS” area, on a single ticket, shall be entitled to a prize of \$500.

(k) Holders of tickets upon which a prize of \$400 is won by matching the play symbols located in the “YOUR NUMBERS” area to the play symbols located in the “WINNING NUMBERS” area, and upon which a prize/play symbol of \$100 (ONE HUN) appears in the “TNT PRIZE” area, on a single ticket, shall be entitled to a prize of \$500.

(l) Holders of tickets upon which a prize of \$360 is won by matching the play symbols located in the “YOUR NUMBERS” area to the play symbols located in the “WINNING NUMBERS” area, and upon which a prize/play symbol of \$50<sup>00</sup> (FIFTY) appears in the “TNT PRIZE” area, on a single ticket, shall be entitled to a prize of \$410.

(m) Holders of tickets upon which a prize of \$380 is won by matching the play symbols located in the “YOUR NUMBERS” area to the play symbols located in the “WINNING NUMBERS” area, and upon which a prize/play symbol of \$20<sup>00</sup> (TWENTY) appears in the “TNT PRIZE” area, on a single ticket, shall be entitled to a prize of \$400.

(n) Holders of tickets upon which a prize of \$360 is won by matching the play symbols located in the “YOUR NUMBERS” area to the play symbols located in the “WINNING NUMBERS” area, and upon which a prize/play symbol of \$40<sup>00</sup> (FORTY) appears in the “TNT PRIZE” area, on a single ticket, shall be entitled to a prize of \$400.

(o) Holders of tickets upon which a prize of \$360 is won by matching the play symbols located in the “YOUR

NUMBERS” area to the play symbols located in the “WINNING NUMBERS” area, and upon which a prize/play symbol of \$20<sup>00</sup> (TWENTY) appears in the “TNT PRIZE” area, on a single ticket, shall be entitled to a prize of \$380.

(p) Holders of tickets upon which a prize of \$300 is won by matching the play symbols located in the “YOUR NUMBERS” area to the play symbols located in the “WINNING NUMBERS” area, and upon which a prize/play symbol of \$50<sup>00</sup> (FIFTY) appears in the “TNT PRIZE” area, on a single ticket, shall be entitled to a prize of \$350.

(q) Holders of tickets upon which two prize/play symbols of \$100 (ONE HUN) and a Gold Nugget (3TIMES) prize/play symbol appear in the “MINE BONUS” area, on a single ticket, shall be entitled to a prize of \$300.

(r) Holders of tickets upon which any 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.

(s) Holders of tickets upon which three prize/play symbols of \$200 (TWO HUN) appear in the “MINE BONUS” area, on a single ticket, shall be entitled to a prize of \$200.

(t) Holders of tickets upon which a prize of \$180 is won by matching the play symbols located in the “YOUR NUMBERS” area to the play symbols located in the “WINNING NUMBERS” area, and upon which a prize/play symbol of \$20<sup>00</sup> (TWENTY) appears in the “TNT PRIZE” area, on a single ticket, shall be entitled to a prize of \$200.

(u) Holders of tickets upon which a prize of \$120 is won by matching the play symbols located in the “YOUR NUMBERS” area to the play symbols located in the “WINNING NUMBERS” area, and upon which a prize/play symbol of \$40<sup>00</sup> (FORTY) appears in the “TNT PRIZE” area, on a single ticket, shall be entitled to a prize of \$160.

(v) Holders of tickets upon which two prize/play symbols of \$50<sup>00</sup> (FIFTY) and a Gold Nugget (3TIMES) prize/play symbol appear in the “MINE BONUS” area, on a single ticket, shall be entitled to a prize of \$150.

(w) Holders of tickets upon which a prize of \$120 is won by matching the play symbols located in the “YOUR NUMBERS” area to the play symbols located in the “WINNING NUMBERS” area, and upon which a prize/play symbol of \$30<sup>00</sup> (THIRTY) appears in the “TNT PRIZE” area, on a single ticket, shall be entitled to a prize of \$150.

(x) Holders of tickets upon which a prize of \$100 is won by matching the play symbols located in the “YOUR NUMBERS” area to the play symbols located in the “WINNING NUMBERS” area, and upon which a prize/play symbol of \$50<sup>00</sup> (FIFTY) appears in the “TNT PRIZE” area, on a single ticket, shall be entitled to a prize of \$150.

(y) Holders of tickets upon which a prize of \$100 is won by matching the play symbols located in the “YOUR NUMBERS” area to the play symbols located in the “WINNING NUMBERS” area, and upon which a prize/play symbol of \$40<sup>00</sup> (FORTY) appears in the “TNT PRIZE” area, on a single ticket, shall be entitled to a prize of \$140.



(z) Holders of tickets upon which two prize/play symbols of \$40<sup>00</sup> (FORTY) and a Gold Nugget (3TIMES) prize/play symbol appear in the "MINE BONUS" area, on a single ticket, shall be entitled to a prize of \$120.

(aa) Holders of tickets upon which any 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.

(bb) Holders of tickets upon which three prize/play symbols of \$100 (ONE HUN) appear in the "MINE BONUS" area, on a single ticket, shall be entitled to a prize of \$100.

(cc) Holders of tickets upon which a prize of \$80 is won by matching the play symbols located in the "YOUR NUMBERS" area to the play symbols located in the "WINNING NUMBERS" area, and upon which a prize/play symbol of \$20<sup>00</sup> (TWENTY) appears in the "TNT PRIZE" area, on a single ticket, shall be entitled to a prize of \$100.

(dd) Holders of tickets upon which a prize of \$50 is won by matching the play symbols located in the "YOUR NUMBERS" area to the play symbols located in the "WINNING NUMBERS" area, and upon which a prize/play symbol of \$30<sup>00</sup> (THIRTY) appears in the "TNT PRIZE" area, on a single ticket, shall be entitled to a prize of \$80.

(ee) Holders of tickets upon which a prize of \$50 is won by matching the play symbols located in the "YOUR NUMBERS" area to the play symbols located in the "WINNING NUMBERS" area, and upon which a prize/play symbol of \$20<sup>00</sup> (TWENTY) appears in the "TNT PRIZE" area, on a single ticket, shall be entitled to a prize of \$70.

(ff) Holders of tickets upon which two prize/play symbols of \$20<sup>00</sup> (TWENTY) and a Gold Nugget (3TIMES) prize/play symbol appear in the "MINE BONUS" area, on a single ticket, shall be entitled to a prize of \$60.

(gg) Holders of tickets upon which a prize of \$40 is won by matching the play symbols located in the "YOUR NUMBERS" area to the play symbols located in the "WINNING NUMBERS" area, and upon which a prize/play symbol of \$20<sup>00</sup> (TWENTY) appears in the "TNT PRIZE" area, on a single ticket, shall be entitled to a prize of \$60.

(hh) Holders of tickets upon which any of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$50<sup>00</sup> (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.

(ii) Holders of tickets upon which three prize/play symbols of \$50<sup>00</sup> (FIFTY) appear in the "MINE BONUS" area, on a single ticket, shall be entitled to a prize of \$50.

(jj) Holders of tickets upon which a prize of \$30 is won by matching the play symbols located in the "YOUR NUMBERS" area to the play symbols located in the "WINNING NUMBERS" area, and upon which a prize/play symbol of \$20<sup>00</sup> (TWENTY) appears in the "TNT PRIZE" area, on a single ticket, shall be entitled to a prize of \$50.

(kk) Holders of tickets upon which a prize of \$20 is won by matching the play symbols located in the "YOUR NUMBERS" area to the play symbols located in the "WINNING NUMBERS" area, and upon which a prize/play symbol of \$30<sup>00</sup> (THIRTY) appears in the "TNT PRIZE" area, on a single ticket, shall be entitled to a prize of \$50.

(ll) Holders of tickets upon which any of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$40<sup>00</sup> (FORTY) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$40.

(mm) Holders of tickets upon which three prize/play symbols of \$40<sup>00</sup> (FORTY) appear in the "MINE BONUS" area, on a single ticket, shall be entitled to a prize of \$40.

(nn) Holders of tickets upon which a prize of \$20 is won by matching the play symbols located in the "YOUR NUMBERS" area to the play symbols located in the "WINNING NUMBERS" area, and upon which a prize/play symbol of \$20<sup>00</sup> (TWENTY) appears in the "TNT PRIZE" area, on a single ticket, shall be entitled to a prize of \$40.

(oo) Holders of tickets upon which any of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$30<sup>00</sup> (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.

(pp) Holders of tickets upon which three prize/play symbols of \$30<sup>00</sup> (THIRTY) appear in the "MINE BONUS" area, on a single ticket, shall be entitled to a prize of \$30.

(qq) Holders of tickets upon which any of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$20<sup>00</sup> (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.

(rr) Holders of tickets upon which three prize/play symbols of \$20<sup>00</sup> (TWENTY) appear in the "MINE BONUS" area, on a single ticket, shall be entitled to a prize of \$20.

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>"TNT PRIZE":</i>	<i>"MINE BONUS":</i>	<i>Win:</i>	<i>Approximate Chances Of Winning Are 1 In:</i>	<i>Approximate No. Of Winners Per 1,200,000 Tickets:</i>
		3—\$20s	\$20	13.33	90,000
\$20			\$20	13.33	90,000



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<i>When Any Of "YOUR NUMBERS" Match Any "WINNING NUMBER," Win Prize Shown Under The Matching Number. Win With:</i>	<i>"TNT PRIZE":</i>	<i>"MINE BONUS":</i>	<i>Win:</i>	<i>Approximate Chances Of Winning Are 1 In:</i>	<i>Approximate No. Of Winners Per 1,200,000 Tickets:</i>
		3—\$30s	\$30	26.32	45,600
\$30			\$30	26.32	45,600
\$20		3—\$20s	\$40	66.67	18,000
\$20	\$20		\$40	19.23	62,400
		3—\$40s	\$40	66.67	18,000
\$40			\$40	100	12,000
\$20		3—\$30s	\$50	1,000	1,200
\$30		3—\$20s	\$50	83.33	14,400
\$20	\$30		\$50	83.33	14,400
\$30	\$20		\$50	1,000	1,200
		3—\$50s	\$50	1,000	1,200
\$50			\$50	1,000	1,200
\$20 × 5			\$100	1,200	1,000
\$20 × 2		2—\$20s w/ GOLD NUGGET	\$100	480	2,500
\$20	\$20	2—\$20s w/ GOLD NUGGET	\$100	571.43	2,100
\$40		2—\$20s w/ GOLD NUGGET	\$100	571.43	2,100
\$40	\$20	3—\$40s	\$100	1,000	1,200
\$50 + \$20		3—\$30s	\$100	2,400	500
\$50 + \$30		3—\$20s	\$100	2,400	500
\$50 + \$30	\$20		\$100	2,400	500
\$50	\$20	3—\$30s	\$100	2,400	500
\$50	\$30	3—\$20s	\$100	800	1,500
\$50		3—\$50s	\$100	2,400	500
		3—\$100s	\$100	2,400	500
\$100			\$100	3,000	400
\$20 × 10			\$200	6,000	200
\$20 × 4	\$20	3—\$100s	\$200	3,000	400
\$30 × 4	\$30	3—\$50s	\$200	3,000	400
(\$40 × 2) + (\$30 × 2)		2—\$20s w/ GOLD NUGGET	\$200	3,000	400
\$40 × 3	\$40	3—\$40s	\$200	6,000	200
\$50 + \$30		2—\$40s w/ GOLD NUGGET	\$200	2,000	600
(\$50 × 2) + (\$40 × 2)	\$20		\$200	2,000	600
\$50		2—\$50s w/ GOLD NUGGET	\$200	2,000	600
\$100	\$40	2—\$20s w/ GOLD NUGGET	\$200	3,000	400
\$100	\$50	3—\$50s	\$200	2,000	600
\$100		3—\$100s	\$200	3,000	400
		3—\$200s	\$200	6,000	200
\$200			\$200	12,000	100
\$100 × 4	\$100		\$500	24,000	50

<i>When Any Of "YOUR NUMBERS" Match Any "WINNING NUMBER," Win Prize Shown Under The Matching Number. Win With:</i>	<i>"TNT PRIZE":</i>	<i>"MINE BONUS":</i>	<i>Win:</i>	<i>Approximate Chances Of Winning Are 1 In:</i>	<i>Approximate No. Of Winners Per 1,200,000 Tickets:</i>
(\$30 × 5) + (\$20 × 15)	\$50		\$500	12,000	100
(\$30 × 10) + (\$20 × 10)			\$500	12,000	100
\$40 × 9	\$40	3—\$100s	\$500	12,000	100
(\$50 × 2) + (\$30 × 2) + (\$20 × 10)	\$50	2—\$30s w/ GOLD NUGGET	\$500	4,000	300
(\$50 × 2) + (\$40 × 2) + (\$30 × 2) + (\$20 × 6)	\$20	2—\$40s w/ GOLD NUGGET	\$500	4,000	300
\$100 × 2		2—\$100s w/ GOLD NUGGET	\$500	2,400	500
\$200 + \$100	\$50	2—\$50s w/ GOLD NUGGET	\$500	4,000	300
\$200		2—\$100s w/ GOLD NUGGET	\$500	4,000	300
		3—\$500s	\$500	24,000	50
\$500			\$500	24,000	50
\$200 × 4	\$200		\$1,000	24,000	50
(\$40 × 10) + (\$20 × 10)	\$100	2—\$100s w/ GOLD NUGGET	\$1,000	12,000	100
\$200 + \$100 + \$50 + \$30	\$20	2—\$200s w/ GOLD NUGGET	\$1,000	12,000	100
\$500		3—\$500s	\$1,000	24,000	50
		3—\$1,000s	\$1,000	24,000	50
\$1,000			\$1,000	24,000	50
\$1,000 × 10			\$10,000	120,000	10
\$10,000			\$10,000	120,000	10
\$300,000			\$300,000	240,000	5

When you match any WINNING NUMBER below AND a prize amount appears in the TNT PRIZE area, add the prize shown to the TOTAL WON and win that amount. TNT PRIZE cannot be won alone.

MINE BONUS: Reveal 3 like amounts, win that amount. Reveal 2 like amounts and a "Gold Nugget" (3TIMES) symbol, win 3 TIMES that amount! MINE BONUS is played separately.

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. *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 Gold Mine 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.

15. *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.

16. *Retailer Incentive Programs:* The Lottery may conduct a separate Retailer Incentive Program for retailers who sell Pennsylvania Fast Play Gold Mine lottery game tickets.

17. *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.

18. *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 Gold Mine or through normal communications methods.

19. *Applicability:* This notice applies only to the Gold Mine lottery game announced in this notice.

C. DANIEL HASSELL,  
Secretary

[Pa.B. Doc. No. 21-1203. Filed for public inspection July 30, 2021, 9:00 a.m.]

## DEPARTMENT OF REVENUE

### Pennsylvania Magni-Find Money Fast Play Game 5128

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 Magni-Find Money (hereinafter “Magni-Find Money”). The game number is PA-5128.

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) *Lottery Central Computer System:* The computer gaming system on which all Fast Play plays are recorded.

(e) *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.

(f) *MONEY MAGNI-PLIER:* The area in the center of the play area on a Magni-Find Money ticket that contains either a 1X (NOMULT), 2X (2TIMES), 3X (3TIMES), 4X (4TIMES) or 5X (5TIMES) multiplier symbol that is applied to any winning combination. The “PROGRESSIVE TOP PRIZE” is not multiplied.

(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) *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.

(k) *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.

(l) *WINNING NUMBERS:* The numbers, letters, symbols or other characters found in the play area that, when matched against the play symbols in the “YOUR NUMBERS” area, 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 play symbols in the “WINNING NUMBERS” area, determine whether a player wins a prize.

3. *Price:* The price of a Magni-Find Money ticket is \$5.

4. *Description of Magni-Find Money Fast Play lottery game:*

(a) Magni-Find Money 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. Magni-Find Money 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) Magni-Find Money 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) Magni-Find Money tickets contain a “MONEY-MAGNI-PLIER” area. When a 2X (2TIMES) symbol appears in the “MONEY MAGNI-PLIER” area, multiply any prize won in the “YOUR NUMBERS” area by two. When a 3X (3TIMES) symbol appears in the “MONEY MAGNI-PLIER” area, multiply any prize won in the “YOUR NUMBERS” area by three. When a 4X (4TIMES) symbol appears in the “MONEY MAGNI-PLIER” area, multiply any prize won in the “YOUR NUMBERS” area by four. When a 5X (5TIMES) symbol appears in the “MONEY MAGNI-PLIER” area, multiply any prize won in the “YOUR NUMBERS” area by five. When a 1X (NOMULT) symbol appears in the “MONEY MAGNI-PLIER” area, any prize won in the “YOUR NUMBERS” area is not multiplied.

(d) Players can win the prizes identified in section 6 (relating to prizes available to be won and determination of prize winners).

(e) Magni-Find Money tickets 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 Magni-Find Money 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 Magni-Find Money ticket and select the Magni-Find Money 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. *Magni-Find Money ticket characteristics:*

(a) Magni-Find Money tickets shall contain a play area, the cost of the play, the date of sale and a bar code.

(b) *Play Symbols:* Magni-Find Money tickets will contain a “WINNING NUMBERS” area, a “YOUR NUMBERS” area and a “MONEY MAGNI-PLIER” area. The play symbols and their captions, located in the “WINNING NUMBERS” area and the “YOUR NUMBERS” area, 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), 20 (TWENT), 21 (TWYONE), 22 (TWYTWO), 23 (TWYTHR), 24 (TWYFOR), 25 (TWYFIV), 26 (TWYSIX), 27 (TWYSVN), 28 (TWYEGT), 29 (TWYNIN) and 30 (THIRT). The play symbols and their captions, located in the “MONEY MAGNI-PLIER” area,



are: 1X (NOMULT) symbol, 2X (2TIMES) symbol, 3X (3TIMES) symbol, 4X (4TIMES) symbol and a 5X (5TIMES) symbol.

(c) *Prize Symbols:* The prize symbols and their captions, located in the "YOUR NUMBERS" area, are: \$5<sup>00</sup> (FIV DOL), \$10<sup>00</sup> (TEN DOL), \$15<sup>00</sup> (FIFTEEN), \$20<sup>00</sup> (TWENTY), \$30<sup>00</sup> (THIRTY), \$50<sup>00</sup> (FIFTY), \$100 (ONE HUN), \$300 (THR HUN), \$500 (FIV HUN), \$1,000 (ONE THO) and PROG (TOP PRIZE).

(d) *Prizes:* The prizes that can be won in this game, are: \$5, \$10, \$15, \$20, \$30, \$50, \$100, \$300, \$500, \$1,000 and the "PROGRESSIVE TOP PRIZE." The "PROGRESSIVE TOP PRIZE" amount starts at \$50,000 and increases by \$0.70 every time a Magni-Find Money ticket is purchased. When a "PROGRESSIVE TOP PRIZE" winning ticket is sold, the "PROGRESSIVE TOP PRIZE" resets to \$50,000. A player can win up to 12 times on a ticket.

(e) *Approximate number of tickets available for the game:* Approximately 1,200,000 tickets will be available for sale for the Magni-Find Money lottery game.

**6. Prizes available to be won and determination of prize winners:**

(a) All Magni-Find Money prize payments will be made as one-time, lump-sum cash payments.

(b) Holders of tickets upon which any 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 under the matching "YOUR NUMBERS" play symbol, and a 1X (NOMULT) symbol appears in the "MONEY MAGNI-PLIER" 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 \$50,000.

(c) Holders of tickets upon which any 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, and a 1X (NOMULT) symbol appears in the "MONEY MAGNI-PLIER" area, on a single ticket, shall be entitled to a prize of \$1,000.

(d) Holders of tickets upon which any 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, and a 2X (2TIMES) symbol appears in the "MONEY MAGNI-PLIER" area, on a single ticket, shall be entitled to a prize of \$1,000.

(e) Holders of tickets upon which any 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, and a 5X (5TIMES) symbol appears in the "MONEY MAGNI-PLIER" area, on a single ticket, shall be entitled to a prize of \$500.

(f) Holders of tickets upon which any of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$300 (THR HUN) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol, and a 1X

(NOMULT) symbol appears in the "MONEY MAGNI-PLIER" area, on a single ticket, shall be entitled to a prize of \$300.

(g) Holders of tickets upon which any 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, and a 3X (3TIMES) symbol appears in the "MONEY MAGNI-PLIER" area, on a single ticket, shall be entitled to a prize of \$300.

(h) Holders of tickets upon which any of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$50<sup>00</sup> (FIFTY) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol, and a 5X (5TIMES) symbol appears in the "MONEY MAGNI-PLIER" area, on a single ticket, shall be entitled to a prize of \$250.

(i) Holders of tickets upon which any of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$50<sup>00</sup> (FIFTY) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol, and a 4X (4TIMES) symbol appears in the "MONEY MAGNI-PLIER" area, on a single ticket, shall be entitled to a prize of \$200.

(j) Holders of tickets upon which any of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$50<sup>00</sup> (FIFTY) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol, and a 3X (3TIMES) symbol appears in the "MONEY MAGNI-PLIER" area, on a single ticket, shall be entitled to a prize of \$150.

(k) Holders of tickets upon which any of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$30<sup>00</sup> (THIRTY) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol, and a 5X (5TIMES) symbol appears in the "MONEY MAGNI-PLIER" area, on a single ticket, shall be entitled to a prize of \$150.

(l) Holders of tickets upon which any of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$30<sup>00</sup> (THIRTY) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol, and a 4X (4TIMES) symbol appears in the "MONEY MAGNI-PLIER" area, on a single ticket, shall be entitled to a prize of \$120.

(m) Holders of tickets upon which any 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, and a 1X (NOMULT) symbol appears in the "MONEY MAGNI-PLIER" area, on a single ticket, shall be entitled to a prize of \$100.

(n) Holders of tickets upon which any of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$50<sup>00</sup> (FIFTY) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol, and a 2X (2TIMES) symbol appears in the "MONEY MAGNI-PLIER" area, on a single ticket, shall be entitled to a prize of \$100.

(o) Holders of tickets upon which any of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$20<sup>00</sup> (TWENTY) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol, and a 5X (5TIMES)



(2TIMES) symbol appears in the “MONEY MAGNIFIER” area, on a single ticket, shall be entitled to a prize of \$10.

(gg) 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<sup>.00</sup> (FIV DOL) appears in the “Prize” area under the matching “YOUR NUMBERS” play symbol, and a 1X

(NOMULT) symbol appears under the “MONEY MAGNIFIER” area, on a single ticket, shall be entitled to a prize of \$5.

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>MONEY MAGNIFIER:</i>	<i>Win:</i>	<i>Approximate Chances Of Winning Are 1 In:</i>	<i>Approximate No. Of Winners Per 1,200,000 Tickets:</i>
\$5		\$5	8	150,000
\$5	2X	\$10	16.39	73,200
\$10		\$10	100	12,000
\$5 × 3		\$15	1,000	1,200
\$10 + \$5		\$15	333.33	3,600
\$5	3X	\$15	40	30,000
\$15		\$15	333.33	3,600
\$15 + \$5		\$20	500	2,400
\$5	4X	\$20	66.67	18,000
\$10	2X	\$20	333.33	3,600
\$20		\$20	500	2,400
\$5 × 2	3X	\$30	333.33	3,600
\$15 × 2		\$30	2,000	600
\$10	3X	\$30	333.33	3,600
\$15	2X	\$30	1,000	1,200
\$30		\$30	2,000	600
\$5 × 5	2X	\$50	12,000	100
\$15 + \$10	2X	\$50	12,000	100
\$20 + \$5	2X	\$50	12,000	100
\$30 + \$20		\$50	24,000	50
\$10	5X	\$50	444.44	2,700
\$50		\$50	24,000	50
\$10 × 5	2X	\$100	24,000	50
\$5 × 5	4X	\$100	12,000	100
(\$20 × 2) + (\$15 × 2) + (\$10 × 2) + (\$5 × 2)		\$100	120,000	10
\$20 + \$15 + \$10 + \$5	2X	\$100	120,000	10
\$20	5X	\$100	4,000	300
\$50	2X	\$100	24,000	50
\$100		\$100	120,000	10
\$30 × 2	5X	\$300	120,000	10
\$50 × 3	2X	\$300	120,000	10
\$50 × 2	3X	\$300	40,000	30
(\$20 × 2) + (\$10 × 2) + (\$5 × 8)	3X	\$300	120,000	10
(\$20 × 6) + (\$5 × 6)	2X	\$300	120,000	10
\$50 + \$10	5X	\$300	60,000	20
\$100	3X	\$300	40,000	30
\$300		\$300	120,000	10



<i>When Any Of "YOUR NUMBERS" Match Any "WINNING NUMBER," Win Prize Shown Under The Matching Number. Win With:</i>	<i>MONEY MAGNI-PLIER:</i>	<i>Win:</i>	<i>Approximate Chances Of Winning Are 1 In:</i>	<i>Approximate No. Of Winners Per 1,200,000 Tickets:</i>
\$100 × 2	5X	\$1,000	120,000	10
(\$50 × 2) + (\$20 × 3) + (\$15 × 2) + (\$10 × 2) + (\$5 × 2) + \$30	4X	\$1,000	120,000	10
\$500	2X	\$1,000	240,000	5
\$1,000		\$1,000	240,000	5
PROGRESSIVE TOP PRIZE		\$50,000*	400,000	3

MONEY MAGNI-PLIER: Multiply any prize won by the multiplier shown in the MONEY MAGNI-PLIER AREA.

\*PROGRESSIVE TOP PRIZE: The minimum value of the PROGRESSIVE TOP PRIZE is \$50,000. The PROGRESSIVE TOP PRIZE increases by \$0.70 every time a ticket is purchased, and resets to \$50,000 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 \$0.70 from the sale of each Magni-Find Money 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 Magni-Find Money 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. \$0.70 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 Magni-Find Money 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 Magni-Find Money 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 Magni-Find Money or through normal communications methods.

20. *Applicability:* This notice applies only to the Magni-Find Money lottery game announced in this notice.

C. DANIEL HASSELL,  
Secretary

[Pa.B. Doc. No. 21-1204. Filed for public inspection July 30, 2021, 9:00 a.m.]

## FISH AND BOAT COMMISSION

### Triploid Grass Carp Permit Application

Under 58 Pa. Code § 71.7 (relating to triploid grass carp), the Fish and Boat Commission (Commission) may issue permits to stock triploid grass carp in Commonwealth waters. Triploid grass carp are sterile fish that may, in appropriate circumstances, help control aquatic vegetation. The Commission has determined, consistent with 58 Pa. Code § 71.7(e)(3), to seek public input with respect to any proposed stockings of triploid grass carp in waters having a surface area of more than 5 acres.

Interested persons are invited to submit written comments, objections or suggestions about the notice to the Executive Director, Fish and Boat Commission, P.O. Box 67000, Harrisburg, PA 17106-7000, within 10 days after publication of this notice in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted. Comments also may be

submitted electronically by completing the form at [www.fishandboat.com/regcomments](http://www.fishandboat.com/regcomments). If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt.

The following applications to stock triploid grass carp in waters having a surface area of greater than 5 acres are currently undergoing staff review:

<i>Applicant</i>	<i>Water</i>	<i>Location of Water</i>	<i>Description of Water</i>	<i>Nature of Vegetation to be Controlled</i>
Jeremiah Hoagland	Beaver Pond 41° 33' 28" -76° 27' 51"	Sullivan County Cherry Township	56-acre lake unnamed tributary to Lick Creek to Little Loyalsock Creek to Loyalsock Creek to West Branch Susquehanna River to Susquehanna River	<i>Brasenia schreberi</i> <i>Myriophyllum sp.</i> <i>Scirpus sp.</i> <i>Typha latifolia</i> <i>Eliocharis sp.</i> <i>Lemna minor</i>

TIMOTHY D. SCHAEFFER,  
*Executive Director*

[Pa.B. Doc. No. 21-1205. Filed for public inspection July 30, 2021, 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 15, 2021, and announced the following:

#### *Actions Taken—Regulations Approved:*

Department of General Services # 8-27: State Metrology Laboratory Fee Schedule (amends 70 Pa. Code Section 110.2)

Pennsylvania Gaming Control Board # 125-234: Sports Wagering (amends 58 Pa. Code §§ 1401a—1411a)

Pennsylvania Liquor Control Board # 54-90: Responsible Alcohol Management Program (amends 40 Pa. Code Chapter 5)

*Action Taken—Regulation Disapproved: Order Not Yet Issued*

\*Department of Drug and Alcohol Programs # 74-4: Standards for Drug and Alcohol Recovery House Licensure

\*Will advise when order is issued.

### Approval Order

Public Meeting Held  
July 15, 2021

*Commissioners Voting:* George D. Bedwick, Chairperson; John F. Mizner, Esq., Vice Chairperson; John J. Soroko, Esq.; Murray Ufberg, Esq.; Dennis A. Watson, Esq.

*Department of General Services—  
State Metrology Laboratory Fee Schedule  
Regulation No. 8-27 (# 3237)*

On June 18, 2019, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Department of General Services (Department). This rulemaking amends 70 Pa. Code Section 110.2. The proposed regulation was published in the June 29, 2019 *Pennsylvania Bulletin* with a public comment period ending on July 29, 2019. The final-form regulation was submitted to the Commission on May 25, 2021.

This regulation amends the State Metrology Laboratory (Laboratory) schedule of fees that the Department charges for metrology laboratory calibration, type evaluation, and other services performed by the Laboratory.

We have determined this regulation is consistent with the statutory authority of the Department (3 Pa.C.S. § 4178) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

*By Order of the Commission:*

This regulation is approved.

### Approval Order

Public Meeting Held  
July 15, 2021

*Commissioners Voting:* George D. Bedwick, Chairperson; John F. Mizner, Esq., Vice Chairperson; John J. Soroko, Esq.; Murray Ufberg, Esq., Recused; Dennis A. Watson, Esq.

*Pennsylvania Gaming Control Board—  
Sports Wagering  
Regulation No. 125-234 (# 3279)*

On November 12, 2020, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Pennsylvania Gaming Control Board (Board). This rulemaking amends 58 Pa. Code §§ 1401a—1411a. The proposed regulation was published in the December 26, 2020, *Pennsylvania Bulletin* with a public comment period ending on January 25, 2021. The final-form regulation was submitted to the Commission on May 26, 2021.

The rulemaking establishes the regulatory oversight structure for the conduct of sports wagering in the Commonwealth.

We have determined this regulation is consistent with the statutory authority of the Board (4 Pa.C.S. §§ 1202(b)(30) and 13C02) 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.

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**Approval Order**

Public Meeting Held  
July 15, 2021

*Commissioners Voting:* George D. Bedwick, Chairperson;  
John F. Mizner, Esq., Vice Chairperson; John J. Soroko,  
Esq.; Murray Ufberg, Esq.; Dennis A. Watson, Esq.

*Pennsylvania Liquor Control Board—  
Responsible Alcohol Management Program  
Regulation No. 54-90 (# 3236)*

On June 3, 2019, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Pennsylvania Liquor Control Board (Board). This rulemaking amends 40 Pa. Code Chapter 5. The proposed regulation was published in the July 20, 2019, *Pennsylvania Bulletin* with a public comment period ending on August 19, 2019. The final-form regulation was submitted to the Commission on June 9, 2021.

This final-form regulation incorporates statutory changes to the Responsible Alcohol Management Program (RAMP) that require mandatory training for managers and alcohol service personnel. RAMP certification, which is only required for certain licensees, is clarified and distinguished from RAMP training, which is mandatory for all employees who sell, furnish or serve alcohol, and verify ages of individuals entering a licensed facility. In addition, the regulation establishes application, approval, renewal and deauthorization procedures for classroom instructors and online training providers.

We have determined this regulation is consistent with the statutory authority of the Board (47 P.S. §§ 2-207(i) and 4-471.1) 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. 21-1206. Filed for public inspection July 30, 2021, 9:00 a.m.]

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**INSURANCE DEPARTMENT**
**1332 Waiver Reinsurance Program—Program Parameters; Notice 2021-09**

On July 24, 2020, the Centers for Medicare & Medicaid Services, a division of the United States Department of Health and Human Services, and the United States Department of the Treasury, approved the Insurance Department's 1332 Waiver Application. The approval is effective for a waiver period from January 1, 2021, through December 31, 2025, with a provision for a possible extension at the end of the initial term.

The reinsurance program is a claims-based, attachment point reinsurance program that will reimburse health insurers for claims costs of qualifying Affordable Care Act-compliant individual enrollees, where a percentage of the claims costs exceeding a specified threshold (attachment point) and up to a specified ceiling (reinsurance cap) will be reimbursed. Beginning January 1, 2022, and slightly adjusted from the preliminary parameters in

Notice 2021-16 published at 51 Pa.B. 3073 (May 29, 2021), the program-adopted parameters are an attachment point of \$60,000, a cap of \$100,000 and a coinsurance rate of 45%.

Questions regarding this notice may be addressed to the Bureau of Life, Accident and Health, Insurance Department, 1311 Strawberry Square, Harrisburg, PA 17120, RA-RATEFORM@pa.gov.

JESSICA K. ALTMAN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 21-1207. Filed for public inspection July 30, 2021, 9:00 a.m.]

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**INSURANCE DEPARTMENT**
**Act 46 of 2021; Notice 2021-10**

The General Assembly of the Commonwealth enacted Act 46 of 2021 (P.L. , No. 46) (House Bill 1349 of the Regular Session 2021-2022) on June 30, 2021, amending the act of May 17, 1921 (P.L. 789, No. 285), known as The Insurance Department Act of 1921 (40 P.S. §§ 1—326.7).

The Insurance Department (Department) provides the following guidance to insurance producers about the changes as a result of Act 46 of 2021:

Act 46 of 2021 amends the Insurance Department Act of 1921 to enable the Department to electronically process criminal history records for insurance producer applicants. Applicants will continue to submit fingerprints by means of Live Scan at an Identigo enrollment center to comply with statutory requirements.

Current law requires insurance producers to notify the Department of a change of address within 30 days. Act 46 of 2021 expands that notification requirement to require the report of changes in producer phone numbers and e-mail addresses to the Department within 30 days. Licensees can update contact information online at [www.sircon.com/pennsylvania](http://www.sircon.com/pennsylvania) or [www.nipr.com](http://www.nipr.com).

This legislation will take effect on August 29, 2021.

Questions about this notice may be directed to the Bureau of Licensing and Enforcement at [ra-in-producer@pa.gov](mailto:ra-in-producer@pa.gov) or (717) 787-3840.

JESSICA K. ALTMAN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 21-1208. Filed for public inspection July 30, 2021, 9:00 a.m.]

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**INSURANCE DEPARTMENT**
**Allianz Life Insurance Company of North America (SERFF # ALLB-132821902); Rate Increase Filing for Several LTC Forms; Rate Filing**

Allianz Life Insurance Company of North America is requesting approval to increase the premium an aggregate 24.6% on 513 policyholders with LTC forms: 11-P-Q-PA and 11-P-Q-PA(F).

Unless formal administrative action is taken prior to October 15, 2021, the subject filing may be deemed approved by operation of law.



A copy of the filing is available on the Insurance Department's web site at [www.insurance.pa.gov](http://www.insurance.pa.gov) (hover the cursor over the "Consumers" tab, then select "Pending Long Term Care Rate Filings").

Interested parties are invited to submit written comments, suggestions or objections to James Laverty, Actuary, Insurance Department, Insurance Product Regulation and Market Enforcement, Room 1311, Strawberry Square, Harrisburg, PA 17120, [jlaverty@pa.gov](mailto:jlaverty@pa.gov) within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

JESSICA K. ALTMAN,  
Insurance Commissioner

[Pa.B. Doc. No. 21-1209. Filed for public inspection July 30, 2021, 9:00 a.m.]

## INSURANCE DEPARTMENT

### Allianz Life Insurance Company of North America (SERFF# ALLB-132903805); Rate Increase Filing for Several LTC Forms; Rate Filing

Allianz Life Insurance Company of North America is requesting approval to increase the premium an aggregate 40.1% on 1,431 policyholders with LTC forms: 10-P-Q-PA and 10-P-Q-PA(F).

Unless formal administrative action is taken prior to October 15, 2021, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Insurance Department's web site at [www.insurance.pa.gov](http://www.insurance.pa.gov) (hover the cursor over the "Consumers" tab, then select "Pending Long Term Care Rate Filings").

Interested parties are invited to submit written comments, suggestions or objections to James Laverty, Actuary, Insurance Department, Insurance Product Regulation and Market Enforcement, Room 1311, Strawberry Square, Harrisburg, PA 17120, [jlaverty@pa.gov](mailto:jlaverty@pa.gov) within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

JESSICA K. ALTMAN,  
Insurance Commissioner

[Pa.B. Doc. No. 21-1210. Filed for public inspection July 30, 2021, 9:00 a.m.]

## INSURANCE DEPARTMENT

### Application for Domestic Certificate of Authority Filed by Devoted Health Insurance Company of Pennsylvania, Inc.

Devoted Health Insurance Company of Pennsylvania, Inc. filed an application with the Insurance Department (Department) on June 22, 2021, for a certificate of authority to operate a stock life and health insurance company under The Insurance Company Law of 1921 (40 P.S. §§ 341—1007.15).

Interested parties are invited to submit written comments to the Department within 30 days from the date of this issue of the *Pennsylvania Bulletin*. Each written statement must include name, address and telephone

number of the interested party; identification of the application to which the statement is addressed; and a concise statement with sufficient detail and relevant facts to inform the Department of the exact basis of the statement. Written statements may be e-mailed to Karen Feather, Company Licensing Division, [kfeather@pa.gov](mailto:kfeather@pa.gov). Questions may be directed to Karen Feather, (717) 214-4113.

JESSICA K. ALTMAN,  
Insurance Commissioner

[Pa.B. Doc. No. 21-1211. Filed for public inspection July 30, 2021, 9:00 a.m.]

## INSURANCE DEPARTMENT

### Availability of Technical Advisory Relating to External Grievance Process for Medical Assistance Managed Care Organizations in 28 Pa. Code § 9.707; Notice 2021-11

Under 28 Pa. Code § 9.603 (relating to technical advisories) and the Memorandum of Understanding between the Department of Health and the Insurance Department dated December 29, 2020, the Insurance Department's Bureau of Managed Care is issuing on behalf of the Department of Health a technical advisory related to 28 Pa. Code § 9.707 (relating to external grievance process) as it applies to Medical Assistance Managed Care Organizations.

Copies of the technical advisory may be obtained by contacting the Bureau of Managed Care, RA-INBURMNGDCAREPRDR@pa.gov, (717) 787-4192, toll-free (888) 466-2787.

JESSICA K. ALTMAN,  
Insurance Commissioner

[Pa.B. Doc. No. 21-1212. Filed for public inspection July 30, 2021, 9:00 a.m.]

## INSURANCE DEPARTMENT

### Brighthouse Life Insurance Company (SERFF # MILL-132793082); Rate Increase Filing for Several LTC Forms; Rate Filing

Brighthouse Life Insurance Company is requesting approval to increase the premium an aggregate 91.5% on 1,956 policyholders with LTC forms: H-LTC4JQ7, H-LTC4JFQ15, H-LTC3JFQ7, H-LTC3JFO26, H-LTC3JP, H-LTC3JP27, H-LTC3J-2, H-LTC2J-5 and H-LTC3JQ3.

Unless formal administrative action is taken prior to October 15, 2021, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Insurance Department's web site at [www.insurance.pa.gov](http://www.insurance.pa.gov) (hover the cursor over the "Consumers" tab, then select "Pending Long Term Care Rate Filings").

Interested parties are invited to submit written comments, suggestions or objections to James Laverty, Actuary, Insurance Department, Insurance Product Regulation and Market Enforcement, Room 1311, Strawberry Square,



Harrisburg, PA 17120, jlaverty@pa.gov within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

JESSICA K. ALTMAN,  
Insurance Commissioner

[Pa.B. Doc. No. 21-1213. Filed for public inspection July 30, 2021, 9:00 a.m.]

## INSURANCE DEPARTMENT

### Health Maintenance Organization Certificate of Authority Application Filed by Devoted Health Plan of Pennsylvania, Inc.

Devoted Health Plan of Pennsylvania, Inc. filed an application with the Insurance Department (Department) on June 22, 2021, for a certificate of authority to operate a health maintenance organization (HMO) under the Health Maintenance Organization Act (40 P.S. §§ 1551—1567), Department of Health HMO regulations (28 Pa. Code §§ 9.631—9.654) and the Insurance Department HMO regulations (31 Pa. Code §§ 301.1—301.204).

The proposed service areas of the applicant are Bucks, Chester, Delaware, Montgomery and Philadelphia Counties.

Interested parties are invited to submit written comments to the Department within 30 days from the date of this issue of the *Pennsylvania Bulletin*. Each written statement must include name, address and telephone number of the interested party; identification of the application to which the statement is addressed; and a concise statement with sufficient detail and relevant facts to inform the Department of the exact basis of the statement. Written statements may be e-mailed to Katie Dzurec, Bureau of Managed Care, kdzurec@pa.gov or Karen Feather, Company Licensing Division, kfeather@pa.gov. Questions may be directed to Katie Dzurec, (717) 783-4335 or Karen Feather, (717) 214-4113.

JESSICA K. ALTMAN,  
Insurance Commissioner

[Pa.B. Doc. No. 21-1214. Filed for public inspection July 30, 2021, 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 15, 2021

*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-2021-3023559

### 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, preferably 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.

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 (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.

On July 27, 2020, the Commission issued a Secretarial Letter which modified certain filing and service requirements.<sup>1</sup> Specifically, this Secretarial Letter amended the Emergency Order issued on March 20, 2020, at Docket No. M-2020-3019262 regarding the filing of certain confidential documents. At the time the Emergency Order was issued, the Commission did not have access to its physical location. However, since that time the Commission has

secured limited access to its place of business. Under these circumstances and consistent with the authority provided to the Secretary by the Emergency Order, the Secretarial Letter requires that confidential filings made pursuant to 52 Pa. Code § 54.40(a) (EGS financial securities), must be filed with the Secretary by overnight delivery and are not to be filed electronically with the Secretary.

As of July 2, 2021, each EGS listed in the Supplier Table below has not provided proof to the Commission that it has a bond or other approved security in the amount or language directed by the Commission, to replace a bond which is expired, or which is non-compliant with Commission regulations.

*Supplier Table—List of Electric Generation Suppliers*

<i>Docket Number</i>	<i>Company Name</i>	<i>Financial Security Expiration Date</i>	<i>Commission Approved Amount or Language</i>
A-2011-2243559	ENERGY ENABLEMENT, LLC	6/16/2021	Yes
A-2018-3003638	ENERGY LINK I, LLC	6/17/2021	Yes
A-2016-2575063*	FREEPOINT ENERGY SOLUTIONS, LLC	7/1/2021	No
A-2009-2137275*	GATEWAY ENERGY SERVICES CORPORATION	7/1/2021	Yes

\*Taking title to electricity

As part of its EGS license validation procedures, the Commission's Bureau of Technical Utility Services sent a 90-day Security Renewal Notice email to each entity in the Supplier Table above stating that original documentation of a bond, or other approved security in the amount or language directed by the Commission, must be filed within 30-days prior to each entity's security expiration date. None of the companies listed in the Supplier Table provided the required documentation.

Based on the above facts, we tentatively conclude that the EGSs listed in the Supplier Table are not in compliance with 52 Pa. Code § 54.40(a) and (d) and therefore it is appropriate to initiate the cancellation process for 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 (i) 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 generation distribution companies, and all of the Electric Generation Suppliers listed in the Supplier Table; (ii) publish a copy of this Tentative Order in the *Pennsylvania Bulletin* with a 30-day comment period; and (iii) file a copy of this Tentative Order at each Electric Generation Supplier's assigned docket number.

3. To the extent any of the Electric Generation Suppliers listed in the Supplier Table challenge the cancellation of their license, they must file comments within thirty (30) days after publication of this Tentative Order

in the *Pennsylvania Bulletin*. Written comments referencing Docket No. M-2021-3023559 must be eFiled to the Pennsylvania Public Utility Commission through the Commission's eFiling System per the Commission's Emergency Order dated March 20, 2020, at Docket No. M-2020-3019262. You may set up a free eFiling account with the Commission at <https://efiling.puc.pa.gov/> if you do not have one. Filing instructions may be found on the Commission's website at [http://www.puc.pa.gov/filing\\_resources.aspx](http://www.puc.pa.gov/filing_resources.aspx). Comments containing confidential information should be emailed to Commission Secretary Rosemary Chiavetta at [rchiavetta@pa.gov](mailto:rchiavetta@pa.gov) rather than eFiled.

4. Alternatively, Electric Generation Suppliers listed in the Supplier Table may provide the Commission an approved security up to and within thirty (30) days after publication in the *Pennsylvania Bulletin*. The Electric Generation Supplier must file an original bond, letter of credit, continuation certificate, amendment, or other approved financial instrument displaying a "wet" signature or digital signature, preferably in blue ink, and displaying a "raised seal" or original notary stamp with Rosemary Chiavetta, Secretary, Pennsylvania Public Utility Commission, 400 North Street, Harrisburg, PA, 17120.

5. Absent the timely (i) filing of comments challenging the cancellation of the Electric Generation Supplier's license, or (ii) the filing of an approved security within 30-days after publication in the *Pennsylvania Bulletin*, the Bureau of Technical Utility Services, shall prepare a Final Order for entry by the Secretary revoking the license of each Electric Generation Supplier that fails to respond.

6. Upon entry of the Final Order, Electric Generation Suppliers that remain listed as not in compliance with 52 Pa. Code § 54.40(a) and (d) 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

<sup>1</sup> Docket No. M-2020-3019262.

the Commission's website, and notifications be sent to all electric distribution companies in which the Electric Generation Suppliers are licensed to do business.

7. Upon entry of the Final Order, Electric Generation Suppliers that fail to respond will be prohibited from providing electric generation supply services to retail electric customers. That upon entry of the Final Order described in Ordering Paragraph No. 5, 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*

ORDER ADOPTED: July 15, 2021

ORDER ENTERED: July 15, 2021

[Pa.B. Doc. No. 21-1215. Filed for public inspection July 30, 2021, 9:00 a.m.]

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

### Petition of Armstrong Telecommunications, Inc. to Amend its Designation as an Eligible Telecommunications Carrier

Public Meeting held  
July 15, 2021

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

*Petition of Armstrong Telecommunications, Inc. to  
Amend its Designation as an Eligible  
Telecommunications Carrier; P-2018-3005035*

#### Order

*By the Commission:*

Before the Pennsylvania Public Utility Commission (Commission) for disposition is an application for amended designation as an Eligible Telecommunications Carrier (ETC) filed by Armstrong Telecommunications, Inc. (ATI) (Petition).<sup>1</sup> Specifically, ATI is requesting the Commission to amend its existing ETC designation and designate it as an ETC in the eligible census blocks where it submitted winning bids in the Federal Communications Commission's (FCC) Rural Digital Opportunity Fund Auction ("RDOF Auction" or "Auction 904") that was conducted in 2020.<sup>2</sup> Granting ATI's Petition would result in an amendment to the Designated Service Area where ATI had been initially designated as an ETC in the Commonwealth of Pennsylvania at the above-captioned docket following the FCC's 2018 Connect America Fund Phase II Auction 903 (CAF II Auction or Auction 903).<sup>3</sup>

Per the rules of Auction 904, ATI is required to certify with the FCC that it has been designated an ETC in the eligible census blocks in Pennsylvania where it has been

<sup>1</sup> Although styled an application, as we did previously with ATI, we are deeming its filing as a petition since ETC designations are properly sought through a petition per our regulations. 52 Pa. Code § 1.2.

<sup>2</sup> ATI has identified these specific census blocks in the Supplement to its Petition that was filed on May 4, 2021, which we have replicated in Appendix A to this Order.<sup>7</sup>

<sup>3</sup> See Petition of Armstrong Telecommunications, Inc. for Designation as an Eligible Telecommunications Carrier, Docket No. P-2018-3005035 (Order entered February 6, 2020) (ATI Auction 903 ETC Order).

awarded federal high-cost support to provide standalone voice and/or broadband internet access services (BIAS) to identified locations.<sup>4</sup>

The Commission has reviewed ATI's Petition, as supplemented, to determine whether it meets the statutory criteria and applicable minimum standards necessary under state and federal law to obtain an ETC designation in the Auction 904-eligible census blocks. Accordingly, the Commission has determined that ATI meets the statutory criteria and applicable minimum standards necessary under state and federal law to obtain an ETC designation in the Auction 904-eligible census blocks and that it is in the public interest to designate ATI an ETC in the Auction 904-eligible census blocks where it will receive federal high-cost support to deploy and maintain networks capable of providing standalone voice and/or broadband services.<sup>5</sup> By making such a finding we affirmatively amend ATI's current ETC Designated Service Area, which only consisted of the Auction 903-eligible census blocks, and have expanded the designated service area so that it now also encompasses the Auction 904-eligible census blocks, i.e. Amended Designated Service Area.

As a condition of receiving this ETC designation, ATI is also required to participate in the federal Lifeline program and must offer Lifeline service to qualified low-income eligible customers or households throughout its Amended Designated Service Area only in accordance with applicable federal and Pennsylvania law. ATI's Petition is hereby approved under the applicable federal statutory criteria and other relevant federal and Pennsylvania law.

#### Background

##### A. FCC's Re-Purposing of the High Cost Program of the Federal Universal Service Fund

In 2011, the FCC concluded that the deployment of broadband-capable networks would also be an express universal service principle under Section 254(b) of the Communications Act of 1934, as amended (Act), 47 U.S.C. § 254(b).<sup>6</sup> For this reason, the FCC comprehensively reformed the High Cost Program of the federal Universal Service Fund (USF) so that it would ensure that robust, affordable voice and broadband services become available to all Americans living in rural areas across the nation.<sup>7</sup>

Up to that time, the six pre-existing programs within the High Cost Program only supported the provisioning of voice service.<sup>8</sup> In order to accomplish its goal of ensuring all Americans had access to both voice service and robust broadband service, the FCC repurposed the six pre-existing programs so that it would distribute federal high-cost support to recipients to provision both fixed broadband and voice service throughout their service territories. Concomitant with this repurposing, the FCC also renamed the federal High Cost program the Connect America Fund (CAF). With the CAF, the FCC determined that it would begin to distribute federal high-cost support in the areas served by the incumbent local exchange

<sup>4</sup> An Auction 904 winning bidder is required to certify that it has been designated as an ETC in all its winning bid areas and to submit appropriate documentation supporting such certification on or before June 7, 2021 (Auction 904 ETC deadline). On May 24, 2021, the Commission issued a "good faith" letter to ATI stating that our review of its Petition would not be completed prior to deadline despite the good faith efforts of the long-form applicant. ATI filed a waiver request of the Auction 904 deadline with the FCC.

<sup>5</sup> As a RDOF recipient, ATI is required to offer at least one standalone voice service plan and one service plan that provides broadband that meets FCC requirements. FCC 20-5, para. 43, Released February 7, 2020.

<sup>6</sup> Connect America Fund et al., Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17683-17684, para.60 (2011) (USF/ICC Transformation Order), aff'd sub nom. In re FCC 11-161, 753 F.3d 1015 (10th Cir. 2014).

<sup>7</sup> Id. at 17672, para. 17.

<sup>8</sup> Id. at 17691-17692, para. 76.



carriers that operate as “price cap” carriers under federal law through the use of a combination of a “new forward-looking model of the cost of constructing modern multi-purpose networks” and a competitive bidding process.<sup>9</sup>

#### B. FCC’s Efforts to Modernize the Federal Lifeline Program

In order to continue the mission of assisting qualifying low-income Americans to get and stay connected in today’s technological climate, while at the same time relieving some of the burden on the entities providing this service, the FCC also had begun restructuring the federal USF Lifeline program. Beginning in 2012, the FCC took several steps to comprehensively reform and modernize the Lifeline program in the 2012 Lifeline Reform Order by improving enrollment and consumer disclosures and eliminating the previous system of tiered support and setting an interim funding rate of \$9.25 per month per eligible subscriber or household.<sup>10</sup>

These reforms were adopted by the FCC to strengthen protections against waste, fraud, and abuse in the federal Lifeline program by, among other things: setting a savings target; improved program administration and accountability by creating a National Lifeline Accountability Database (NLAD) to prevent multiple carriers from receiving support for the same household; and confirming a one-per-household rule applicable to all consumers and Lifeline providers in the program.<sup>11</sup> The FCC also took preliminary steps to modernize the federal Lifeline program by, among other things, allowing Lifeline support for bundled service plans combining voice and broadband or packages including optional calling features.<sup>12</sup> The FCC has issued three later Lifeline reform orders establishing a number of additional enhancements to the federal Lifeline Program, further connecting low-income Americans to voice services and now, broadband access.<sup>13</sup> These modified requirements have been codified in the FCC’s rules and regulations at Title 47, Chapter I, Part 54, Subpart E, which governs universal service support provided to low-income consumers.

#### C. CAF Phase II Auction

The FCC contemplated that its new competitive bid process to disburse federal high-cost support to common carriers would be done as “reverse auctions” and rolled-out in several phases. The second phase of the CAF, but first descending clock, reverse auction, was Auction 903 held in 2018. Auction 903 awarded up to \$198 million annually for 10 years to the winning bidders that had committed to provide voice and fixed broadband services to specific locations in unserved high-cost areas, including areas in Pennsylvania.

ATI was a winning bidder in Auction 903 and was awarded \$2,642,412.90 of federal high-cost support to provide voice and broadband services to 1,949 identified locations situated within 117 eligible census blocks that

were located in the Commonwealth of Pennsylvania.<sup>14</sup> In the ATI Auction 903 ETC Order, the Commission designated ATI a federal high-cost ETC in those specific high-cost areas only.<sup>15</sup> In the ATI Auction 903 ETC Order, the Commission found that ATI met all applicable requirements for an ETC designation, including the federal requirements for a high-cost ETC designation at 47 C.F.R. § 54.101, the additional federal requirements for obtaining an ETC designation at 47 C.F.R. §§ 54.202 and 54.207, the FCC’s requirements related to Lifeline service at 47 C.F.R. §§ 54.410, 54.416, 54.417, and 54.422, and the Pennsylvania-specific requirements for an ETC designation. As such, ATI was able to certify to the FCC that it was designated an ETC by this Commission and, thus, eligible to receive the awarded Auction 903 federal high-cost support in those specific eligible census blocks.

#### D. Implementation of the Rural Digital Opportunity Fund

The FCC acknowledged that Auction 903 was a significant step towards addressing the rural “digital divide” in America, but that more work needed to be done to accelerate the deployment of access to broadband in these unserved and underserved communities. Consequently, on August 1, 2019, the FCC adopted a Notice of Proposed Rulemaking (NPRM) proposing to establish the \$20.4 billion RDOF Auction as its next step in bridging the rural digital divide in America.<sup>16</sup> Specifically, the FCC sought to allocate this federal universal service high-cost support to a certain number of locations in eligible census block groups (CBGs) across the United States, including areas in Pennsylvania which were entirely unserved by broadband service at least 25/3 Mbps.<sup>17</sup>

On January 30, 2020, the FCC adopted the RDOF Order, which established the framework for the RDOF.<sup>18</sup> The FCC determined that the RDOF would target federal high-cost support to areas that lacked access to both fixed voice and 25/3 Mbps broadband services in two phases: Phase I of the RDOF will assign up to \$16 billion for those census blocks that are wholly unserved with broadband at speeds of 25/3 Mbps, and Phase II will make the remaining \$4.4 billion, along with any unawarded funds from Phase I available for those census blocks that it later determined through the Digital Opportunity Data Collection, or suitable alternative data source, are only partially served, as well as census blocks unawarded in the Phase I auction.<sup>19</sup>

Phase I of the RDOF Auction began on October 29, 2020 and ended on November 25, 2020. On December 7, 2020, the FCC announced the winning bidders for Phase I of the RDOF auction.<sup>20</sup> ATI was named amongst the companies that had been awarded federal high-cost support to bring broadband to over five million homes and businesses across the nation in census blocks that were entirely unserved by voice and broadband with download speeds of at least 25 Mbps.<sup>21</sup> With the receipt of this federal high-cost support from Auction 904, ATI is ex-

<sup>9</sup> Id. at 17725, paras. 156-57.

<sup>10</sup> See generally Lifeline and Link Up Reform and Modernization, et al., Report and Further Notice of Proposed Rulemaking, 27 FCC Rcd 6656 (2012) (2012 Lifeline Reform Order or Lifeline FNPRM). Per subsequent FCC orders, the Lifeline benefit has been reduced, and it is currently set at \$5.25. However, Lifeline support for standalone voice services is set to go to zero after December 1, 2021, although that decision is under reconsideration at the FCC.

<sup>11</sup> Id. at 6690-91, paras. 77-78

<sup>12</sup> Id.

<sup>13</sup> Lifeline and Link Up Reform and Modernization et al., Second Further Notice of Proposed Rulemaking, Order on Reconsideration, Second Report and Order, and Memorandum Opinion and Order, 30 FCC Rcd 7818 (2015) (2015 Lifeline FNPRM); Lifeline and Link Up Reform and Modernization et al., Third Report and Order, Further Report and Order, and Order on Reconsideration, 31 FCC Rcd 3962, 4038, para. 211 (2016 Lifeline Modernization Order); Fourth Report and Order, Order on Reconsideration, Memorandum Opinion and Order, Notice of Proposed Rulemaking, and Notice of Inquiry, 32 Rcd 10475 (2017), vacated and remanded, National Lifeline Association et al. v. FCC, Docket Nos. 18-1026, Order issued February 1, 2019 (D.C. Cir. 2019) (2017 Lifeline NPRM and NOD) (collectively Lifeline Reform Orders).

<sup>14</sup> ATI Auction 903 ETC Order at 24. See also Connect America Fund Phase II, Auction 903, Attachment A.

<sup>15</sup> See Appendix B.

<sup>16</sup> Rural Digital Opportunity Fund; Connect America Fund; Notice of Proposed Rulemaking, 34 FCC Rcd 6778 (2019) (Rural Digital Opportunity Fund NPRM).

<sup>17</sup> Id. The FCC made eligible for Auction 904 certain high-cost census block groups in RDOF Phase I in unserved areas nationwide that were not served by an unsubsidized service provider.

<sup>18</sup> Rural Digital Opportunity Fund et al., Report and Order, 35 FCC Rcd 686 (2020) (RDOF Order).

<sup>19</sup> RDOF Order, 35 FCC Rcd at 689, paras. 8-9.

<sup>20</sup> See Rural Digital Opportunity Fund Phase I Auction (Auction 904) Closes; Winning Bidders Announced; FCC Form 683 Due January 29, 2021, Public Notice, 35 FCC Rcd 13888, 13890-91, paras. 9–15 (RBATF, OEA, WCB 2020) (RDOF Closing Public Notice).

<sup>21</sup> As a result of Auction 904, some homes and businesses now would have access to voice as well as BIAS at download speeds of at least 100 Mbps.



pected to provide both standalone voice and BIAS at 1 Gbps/500 Mbps to 536 eligible locations in 209 eligible census blocks in Pennsylvania.<sup>22</sup>

*E. ATI's RDOF ETC Petition and Supplements*

On February 4, 2021, ATI filed this Petition. In its Petition, ATI stated that since it was previously designated an ETC in the Commonwealth of Pennsylvania at this docket in the ATI Auction 903 ETC Designation Order, it now requests that the Commission amend its previous ETC designation to encompass the 536 eligible locations in 117 eligible census blocks where it has been awarded Auction 904 support. Thus, ATI requests to amend its ETC designation to add only the 117 census blocks where it has been awarded RDOF Phase I high-cost funding support by the FCC in Auction 904. As identified in Appendix A, Auction 904 federal high-cost

support has been assigned to various census blocks located in Allegheny, Butler, Chester, Crawford, Fayette, Mercer and Washington Counties, respectively. As noted below, these various eligible census blocks are scattered throughout the service territories of the following incumbent local exchange carriers (ILECs) operating in those counties: Consolidated Communications of Pennsylvania Company, LLC (Consolidated Communications), The United Telephone Company of Pennsylvania, LLC f/d/b/a CenturyLink n/k/a/ Lumen,<sup>23</sup> Verizon Pennsylvania, LLC (Verizon PA), Verizon North LLC (Verizon North) and Windstream Pennsylvania, LLC (Windstream PA). Both the counties and rural ILECs (Consolidated, Lumen, and Windstream PA) and non-rural ILECs (Verizon North and Verizon PA) local exchange carriers where the Auction 904 eligible census blocks are located are illustrated below.

**Local Exchanges in Rural Incumbent Local Exchange Carriers' Service Territories—Auction 904**

<i>Allegheny County</i>	<i>ILEC</i>	<i>Butler County</i>	<i>ILEC</i>	<i>Crawford County</i>	<i>ILEC</i>	<i>Mercer County</i>	<i>ILEC</i>
Wexford	Consolidated Communications	Butler	CenturyLink (n/k/a Lumen)	Meadville	Windstream, PA	Fredonia	Windstream, PA
		Connoquenessing	CenturyLink (n/k/a Lumen)	Westford	Windstream PA		
		Saxonburg	Consolidated Communications				
		Cooperstown	Consolidated Communications				

**Local Exchanges in Non-rural Incumbent Local Exchange Carriers' Service Territories—Auction 904**

<i>Butler</i>	<i>ILEC</i>	<i>Chester County</i>	<i>ILEC</i>	<i>Fayette County</i>	<i>ILEC</i>	<i>Mercer County</i>	<i>ILEC</i>	<i>Washington County</i>	<i>ILEC</i>
Zelienople	Verizon, PA, Inc	Oxford	Verizon, PA, Inc.	Dawson	Verizon, PA, Inc.	Wesley	Verizon, PA, Inc.	California	Verizon, PA, Inc.
				Connellsville	Verizon, PA, Inc.			Brownsville	Verizon, PA, Inc.

In its Petition, ATI states that it will use facilities that are company-owned, and at times may resell another carrier's services to offer the supported services to residential and business customers.<sup>24</sup> ATI states that it intends to provide its services with a combination of Time Division Multiplex (TDM) and Internet Protocol (IP) technologies. TDM is used in traditional telecommunications service and involves analog ATI technology. ATI will interface with both technologies to ensure reliable service to their customers.<sup>25</sup> ATI intends to use its own switching facilities and obtain transport from other providers when needed.<sup>26</sup> As part of its voice service offerings, ATI proposes to offer standalone basic local telephone service, which is a protected service in ATI's Amended Designated Area.<sup>27</sup> Additionally, ATI certifies that it will ensure uninterrupted access to 911/Enhanced 911 (E911) emergency services for its customers.<sup>28</sup>

ATI also certifies that its Lifeline offering to eligible low-income consumers would be eligible for the federal \$5.25 rate of support for voice services.<sup>29</sup> Eligible Lifeline customers will have access to a variety of standard features, including voicemail, caller I.D., and call waiting services at the applicable tariff rates and charges.<sup>30</sup> Furthermore, ATI will offer number porting at no charge to its Lifeline customers.<sup>31</sup> ATI will bill its customers on a monthly basis and at this time only provides paper billing. ATI's Lifeline customers will be advised of the billing method prior to establishing Lifeline service with ATI.<sup>32</sup> ATI will not charge any of its Lifeline customers installation or equipment fees for voice or broadband service.<sup>33</sup>

Notice of ATI's Petition was published in the *Pennsylvania Bulletin* at 51 Pa.B. 1944 on April 3, 2021. No comments were filed in response to ATI's Petition. ATI also filed supplements to its original Petition that set forth additional pertinent information. The Commission notes that upon receipt of a high-cost designation from the relevant authority, RDOF winning bidders are re-

<sup>22</sup> ATI was awarded \$22,009,640.50 to serve 10,495 locations in three states. Of that, \$344,898.10 was awarded to serve Pennsylvania locations. See Rural Digital Opportunity Fund Phase I Auction (Auction 904) Winning Bidders Announced, Public Notice DA No. 20-1422 (OEA/WCB Rel. Dec. 7, 2020) (RDOF Auction Closing Public Notice).

<sup>23</sup> On January 22, 2021, CenturyLink, Inc. formally changed its name to Lumen Technologies, Inc. As a result, CenturyLink, Inc. is now referred to as "Lumen Technologies," or simply "Lumen."

<sup>24</sup> Petition at 6.

<sup>25</sup> ATI Response to staff inquiry. June 22, 2021.

<sup>26</sup> Petition at 6.

<sup>27</sup> Supplement filed June 16, 2021.

<sup>28</sup> Id.

<sup>29</sup> ATI certifies that it will comply with all FCC requirements. Supplement filed June 16, 2021 at 2.

<sup>30</sup> Supplement filed June 16, 2021.

<sup>31</sup> Id.

<sup>32</sup> Id.

<sup>33</sup> Id.

quired to comply with the same long-form application process the FCC adopted for Auction 903.<sup>34</sup> Consequently, ATI will still have to submit a long-form application to the FCC and become subject to a thorough financial and technical review by the FCC prior to ultimately receiving the Auction 904 support if the Commission designates ATI an ETC in the Auction 904-eligible census blocks.

### Discussion

Section 254(e) of the Act provides that “only an eligible telecommunications carrier designated under Section 214(e) shall be eligible to receive Federal universal service support.”<sup>35</sup> Consequently, a common carrier first must be designated an ETC according to subsections (2), (3), or (6) of Section 214(e) of the Act in order to be eligible to receive federal high-cost universal service support in accordance with section 254 of the Act.<sup>36</sup> Pursuant to Section 214(e)(2) of the Act, state commissions have the primary responsibility for performing ETC designations for common carriers seeking to obtain federal high-cost funding support.<sup>37</sup> Only in those instances where a state cannot or will not make the requisite ETC designation, will the FCC make the ETC designation.<sup>38</sup>

The Commission reserves the right to review any ETC designation request on a case-by-case basis and grant or deny such designation after considering the circumstances particular to each application. Thus, the Commission will review ATI’s Petition, as supplemented, to determine if it satisfies the federal and state law criteria to receive a designation as a high-cost ETC in the Auction 904-eligible census blocks.

### Governing Authority

#### A. Requirements for Designation as a High-Cost ETC

Pursuant to 47 U.S.C. § 214(e)(1), in order to obtain an ETC designation and become eligible to receive federal high-cost universal service support, a common carrier<sup>39</sup> must satisfy the following criteria:<sup>40</sup> (1) Certify that it offers or intends to offer all services designated for support by the Commission pursuant to section 254(c) of the Act;<sup>41</sup> (2) certify that it offers or intends to offer the supported services either using its own facilities or a combination of its own facilities and resale of another carrier’s services;<sup>42</sup> (3) describe how it advertises the availability of the supported services and the charges therefor using media of general distribution<sup>43</sup> and (4) describe the geographic service area for which it requests to be designated an ETC.<sup>44</sup>

The FCC adopted additional requirements for parties seeking ETC designation that were codified at 47 CFR

§ 54.202.<sup>45</sup> As such, a telecommunications carrier must also satisfy the following additional mandatory requirements for it to be designated an ETC and thus eligible to receive federal universal service support: (1) certify that it will comply with the service requirements applicable to the support that it receives in its proposed service area;<sup>46</sup> (2) submit a five-year plan that describes with specificity proposed improvements or upgrades to the applicant’s network throughout its proposed service area;<sup>47</sup> (3) demonstrate its ability to remain functional in emergency situations, including a demonstration that it has a reasonable amount of back-up power to ensure functionality without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations;<sup>48</sup> (4) demonstrate that it will satisfy applicable consumer protection and service quality standards;<sup>49</sup> and (5) offer local usage comparable to that offered by the ILEC.<sup>50</sup>

The FCC subsequently added an additional requirement concerning the Anti-Drug Abuse Act of 1988.<sup>51</sup> Specifically, the FCC requires a party seeking ETC designation certify that neither it, nor any party to the application, is subject to a denial of federal benefits pursuant to the Anti-Drug Abuse Act of 1988.

In addition to meeting these statutory requirements, state commissions must also perform a “public interest” review before approving an ETC designation. Section 214(e)(2) of the Act states that, “[u]pon request and consistent with the public interest, convenience, and necessity, the State commission may, in the case of an area served by a rural telephone company, and shall, in the case of all other areas, designate more than one common carrier as an eligible telecommunications carrier” for a designated service area, so long as the requesting carrier meets the requirements of Section 214(e)(1).

The Commission has adopted these federal standards under independent Pennsylvania law as a starting point for review of a request for ETC designation. We also have Pennsylvania-specific guidelines that an ETC petitioner must satisfy before we can approve its request for designation as an ETC in Pennsylvania.<sup>52</sup>

#### B. FCC Rules Governing the Federal Lifeline Program

Beginning in 2012, the FCC took several steps to comprehensively reform and modernize the Universal Service Fund’s Lifeline program.<sup>53</sup> The reforms, adopted in the 2012 Lifeline Reform Order, focused on changes to eliminate waste, fraud, and abuse in the federal Lifeline

<sup>45</sup> See 2005 ETC Designation Order, 20 FCC Rcd at 6380, para. 20 (citing Federal-State Joint Board on Universal Service, Recommended Decision, 19 FCC Rcd 4259, para. 5 (Fed-State Jt. Bd. 2004)).

<sup>46</sup> 47 C.F.R. § 54.202(a)(1)(i).

<sup>47</sup> 47 C.F.R. § 54.202(a)(1)(ii). The FCC subsequently eliminated the five-year improvement plan requirement for CAF recipients since it had adopted more specific measures to track deployment, including annual reporting of service to geocoded locations and certification of compliance with benchmark milestones. See Connect America Fund et al., ETCs Annual Reports and Certifications, Report and Order, 32 FCC Rcd 5944, 5944-48, paras. 3–14 (2017) (ETC Reporting Streamlining Order) (eliminating requirements relating to the reporting of network outages, unfulfilled service requests, complaints, and pricing and the certification of compliance with applicable service quality standards).

<sup>48</sup> 47 C.F.R. 54.202(a)(2).

<sup>49</sup> 47 C.F.R. § 54.202(a)(3). The FCC also has eliminated this requirement for CAF support recipients finding that the need for it was obviated by the specific service quality standards applicable to CAF support recipients and specific reporting obligations relating to such standards. See generally ETC Reporting Streamlining Order.

<sup>50</sup> In the 2005 ETC Designation Order, the FCC had established that an ETC may be required to provide equal access if all other ETCs in the service area relinquish their designations. In the USF/ICC Transformation Order, the FCC determined that the above ETC equal access requirement was obsolete and deleted it from 47 C.F.R. § 54.202. The FCC stated because this rule was obsolete, it found good cause to delete it without notice and comment. USF/ICC Transformation Order, FCC Rcd 17872, para. 647 and Appendix A.

<sup>51</sup> 21 U.S.C. § 862; 47 C.F.R. § 1.2002(a)-(b).

<sup>52</sup> 52 Pa. Code § 69.2501.

<sup>53</sup> See generally 2012 Lifeline Reform Order.

<sup>34</sup> RDOF Order, 35 FCC Rcd at 725, para. 86.

<sup>35</sup> 47 U.S.C. § 254(e).

<sup>36</sup> 47 U.S.C. § 214(e)(1).

<sup>37</sup> *Id.*

<sup>38</sup> 47 U.S.C. § 214(e)(6).

<sup>39</sup> Pursuant to Section 153(10) of the Act, a “telecommunications carriers” has been defined to include, with one minor exception, any provider of “telecommunications services.” 47 U.S.C. § 153(51). The Act defines a “telecommunications service,” as “the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.” 47 U.S.C. § 153(53). In turn, telecommunications means “the transmission, between or among points specified by the user, of information of the user’s choosing, without change in the form or content of the information as sent or received.” 47 U.S.C. § 153(50). The definition of “telecommunications carrier” in the Act goes on to state that “[a] telecommunications carrier” shall be treated as a common carrier under this Act only to the extent that it is engaged in providing telecommunications services, except that the Commission shall determine whether the provision of fixed and mobile satellite service shall be treated as “common carriage.” 47 U.S.C. § 153(51) (Emphasis supplied).

<sup>40</sup> See Federal-State Joint Board on Universal Service, Report and Order, 12 FCC Rcd 8776, 8847-76, paras. 128–80 (1997).

<sup>41</sup> 47 U.S.C. § 214(e)(1)(A); see also 47 C.F.R. § 54.201(d)(1).

<sup>42</sup> 47 U.S.C. § 214(e)(1)(A); see also 47 C.F.R. § 54.201(d)(1).

<sup>43</sup> 47 U.S.C. § 214(e)(1)(B); see also 47 C.F.R. § 54.201(d)(2).

<sup>44</sup> 47 U.S.C. § 214(e)(5); see also 47 C.F.R. § 54.207(a).

program by, among other things: setting a savings target; creating a National Lifeline Accountability Database (NLAD) to prevent multiple carriers from receiving support for the same household; and confirming a one-per-household rule applicable to all consumers and Lifeline providers in the program.<sup>54</sup> It also took preliminary steps to modernize the federal Lifeline program by, among other things, adopting express goals for the program and allowing Lifeline support for bundled service plans combining voice and broadband or packages including optional calling features.<sup>55</sup> These modified requirements were codified in the FCC's rules and regulations at Title 47, Chapter I, Part 54, Subpart E, which governs universal service support provided to low-income consumers.

### 1. 47 C.F.R. § 54.405

#### *Lifeline service provider obligations.*

All high-cost ETCs must certify that they do the following: (1) make available Lifeline service, as defined in § 47 C.F.R. § 54.401, to qualifying low-income consumers; (2) publicize the availability of Lifeline service in a manner reasonably designed to reach those likely to qualify for the service; (3) explain in its marketing materials using easily understood language that the Lifeline program is a federal government assistance program that provides a monthly subsidy that lowers the monthly cost of phone or internet service (but not both) and is available only to one eligible consumer per household, not per person and that the benefit is non-transferable once the customer is enrolled into the program; and (4) disclose its name on all marketing materials describing the service.

### 2. 47 C.F.R. § 54.410

#### *Subscriber Eligibility Determinations and De-enrollments*

All high-cost ETCs must certify that they first ensure that their potential Lifeline subscribers are eligible to receive Lifeline services.<sup>56</sup> In Pennsylvania, all ETCs must receive a notice from the National Verifier that their potential Lifeline subscribers are eligible to receive Lifeline services.<sup>57</sup> Lifeline service providers can help Lifeline consumers obtain an eligibility decision from the National Verifier through the service provider portal that links to the National Verifier, or consumers can apply on their own by mail or online.<sup>58</sup>

As Pennsylvania is a National Verifier state, ATI must query the NLAD to ascertain a potential Lifeline applicant's eligibility for service as determined by the National Verifier. Thereafter, once it has been verified that the consumer is eligible to qualify for Lifeline Service, the ETC may provide the consumer with an activated device that it represents enables use of Lifeline-supported service.

Further, a Lifeline service provider must certify that it complies with the FCC federal policy rules for de-enrolling an account from Lifeline support.<sup>59</sup> There are several situations that might result in subscriber de-

enrollment from Lifeline-supported service: (1) de-enrollment because the service provider has a reasonable basis to believe a subscriber is no longer eligible to receive a Lifeline benefit;<sup>60</sup> (2) de-enrollment for duplicative support;<sup>61</sup> (3) de-enrollment for non-usage;<sup>62</sup> (4) de-enrollment for failure to re-certify;<sup>63</sup> and (5) de-enrollment requested by the subscriber.

### 3. 47 C.F.R. §§ 54.416, 54.417 and 54.422

#### *Annual Certifications and Reporting to USAC*

ETCs must certify that they will comply with annual certification requirements relating to the Lifeline program such as certifying annually that they are in compliance with the minimum service levels set forth in 47 C.F.R. § 54.408.<sup>64</sup> ETCs are required to annually certify compliance with the applicable minimum service level rules by submitting Form 481 to USAC.<sup>65</sup>

#### *C. Pennsylvania-Specific Requirements for Lifeline Program*

In addition to the federal Lifeline standards above, the Commission also has adopted minimum service standards to govern the federal Lifeline program.<sup>66</sup> Section 3019(f) of the Pennsylvania Public Utility Code (Code), 66 Pa.C.S. § 3019(f), sets forth the minimum Pennsylvania requirements for ETCs seeking low-income support from the federal Lifeline Program.

In addition to the above Pennsylvania statutory requirements, the Commission also established other Lifeline eligibility criteria via orders.<sup>67</sup> To the extent that federal law or federal requirements for Lifeline service have not preempted or made Pennsylvania state-specific Lifeline requirements obsolete, they remain applicable to all Lifeline service providers. For example, our PA Lifeline Order<sup>68</sup> requires ETCs to verify the ongoing eligibility of their Lifeline subscribers and submit an annual re-certification of that verification. However, we note that pursuant to the federal rules, ATI's Lifeline subscribers will be recertified either automatically through the National Verifier's state/federal data sources or receive a recertification request from USAC.

Additionally, ETCs are required to report to the Commission annual changes in Pennsylvania Lifeline enrollment, such as the requirements for certification and verification of a customer's initial and continued eligibility for Lifeline services have been impacted by developments at the federal level. Thus, ETCs must certify that they will comply with relevant requirements set forth in the Pa. Lifeline Order, Tracking Report Order, and Policy Statement.

<sup>54</sup> 47 C.F.R. § 54.405(e)(1).

<sup>61</sup> If the USAC provides notification to a service provider that a subscriber has more than one discounted account, or that more than one member of a subscriber's household is receiving service, the service provider must de-enroll the subscriber within five business days (47 C.F.R. Section 54.405(e)(2)).

<sup>62</sup> If the subscribers do not use their Lifeline service at least every 30 days they will be notified by the provider that they may be de-enrolled if they do not use their service during the 15-day notice period (the "cure period").

<sup>63</sup> Every Lifeline consumer's eligibility is to be recertified annually. 47 C.F.R. § 54.410(f). Lifeline subscribers will be recertified either automatically through the National Verifier's state/federal data sources or receive a recertification request from USAC. In Pennsylvania, service providers must use the National Verifier to recertify their current Lifeline subscribers.

<sup>64</sup> 47 C.F.R. § 54.416.

<sup>65</sup> 47 C.F.R. § 54.422.

<sup>66</sup> 52 Pa. Code § 69.2501.

<sup>67</sup> In Re: Lifeline and Link-up Programs, Docket No. M-00051871 (Order entered May 23, 2005) (PA Lifeline Order); Re: Section 3015(f) Review Regarding Lifeline Tracking Report, Accident Report, and Services Outage Report, 100 Pa. P.U.C. 553 (Dec. 30, 2005) (Tracking Report Order); Final Policy Statement on Commonwealth of Pennsylvania Guidelines for Designation and Annual Recertification as an Eligible Telecommunications Carrier (ETC) for Purposes of Federal Universal Service Support, Docket No. M-2010-2164741 (Order entered August 2, 2010) (Final Policy Statement Order).

<sup>68</sup> In Re: Lifeline and link-up Programs, Docket No. M-00051871 (Order entered May 23, 2005).

<sup>54</sup> Id. at 6690-91, paras. 77-78.

<sup>55</sup> Id.

<sup>56</sup> 47 C.F.R. § 54.410.

<sup>57</sup> The Universal Service Administrative Company (USAC), the administrator of the federal Lifeline program, manages the National Verifier and its customer service department, the Lifeline Support Center. The National Verifier makes an initial determination of a subscriber's eligibility based on prospective subscriber's eligibility to qualify for Lifeline service using either income-based eligibility criteria or program-based eligibility criteria is codified at Sections 54.410(b) and (c), respectively.

<sup>58</sup> New and potential Lifeline consumers receive their initial eligibility determination by signing into CheckLifeline.org from any computer or mobile device to create an account, receive an eligibility decision, and use the list of service providers in their area to contact one to enroll.

<sup>59</sup> 47 C.F.R. § 54.405(e).



### Analysis

In order to obtain an ETC designation to receive federal high-cost support in the eligible Auction 904-census blocks, the Commission must find that ATI is a common carrier and that it has adequately certified that, among other things, it offers or intends to offer all federal high-cost supported services<sup>69</sup> as described in 47 C.F.R. § 54.101 either using its own facilities or a combination of its own facilities and resale of another carrier's services throughout its designated service territory.

As mentioned above, ATI has been previously designated a high-cost ETC in various eligible census blocks located in Pennsylvania where it receives Auction 903 federal high-cost support. Consequently, this Commission is already significantly familiar with the facilities that ATI utilizes to offer its qualifying supported services and the facts and certifications in support of its Petition for Amended Designation.

ATI is a current facilities-based provider of broadband and standalone voice telecommunications services in the Commonwealth of Pennsylvania.<sup>70</sup> ATI offers VoIP service as its standalone voice service throughout its current designated service area. ATI's VoIP service provides voice grade access to the public switched network or its functional equivalent; (2) minutes of use for local service provided at no additional charge to end users; (3) toll limitation to qualifying low-income consumers; and (4) access to the emergency services 911 and enhanced 911 services. ATI's VoIP service is offered at rates that are reasonably comparable to urban rates.<sup>71</sup>

Additionally, ATI's existing network provides BIAS throughout its current Designated Service Area. ATI's BIAS provides a customer with the capability to transmit data to and receive data from all or substantially all Internet endpoints<sup>72</sup> and with sufficient latency that is suitable for real-time applications and with usage capacity that is reasonably comparable to comparable offerings in urban areas and at rates that are reasonably comparable to rates for comparable offerings in urban areas.<sup>73</sup> Thus, based on the federal definitions of "telecommunications service" and "telecommunications carrier" in the Act and the definition of jurisdictional telecommunications public utility in the Public Utility Code, we find that ATI is a common carrier.

As a designated high-cost ETC, ATI certifies that it plans to provide the supported services, including Lifeline, only in the eligible census blocks for which it has been awarded support by the FCC in Auction 903<sup>74</sup> and Auction 904.<sup>75</sup> ATI also has certified that it can remain functional in emergency situations and that its customers

will have access to E911. The Commission notes that earlier this year, the FCC recently implemented a rule that requires providers of interconnected VoIP services to specifically advise every subscriber, both new and existing, prominently and in plain language, of the circumstances under which E911 service may not be available through the interconnected VoIP service or may be in some way limited by comparison to traditional E911 service.<sup>76</sup>

ATI offers VoIP service as its standalone service offering throughout its current Designated Service Area and upon receipt of an ETC designation in the Auction 904 eligible census blocks will also be required to do so throughout the Amended Designated Service Area.<sup>77</sup> We have reviewed ATI's customer materials concerning E911 limitations and the terms and conditions set forth therein explicitly state that ATI notifies each subscriber of the circumstances where 911/E911 emergency service may be limited or unavailable.<sup>78</sup> Thus, we determine that ATI is currently in compliance with 47 CFR § 9.11(b)(5)(i).

However, to the extent that ATI obtains customers' affirmative acknowledgement of these E911 limitations, as required by 47 C.F.R. § 9.11(b)(5)(i), it shall ensure that there are both electronic and non-electronic means of obtaining such acknowledgement.

ATI has provided a detailed description of the geographic area for which it seeks to extend its ETC designation in the Commonwealth of Pennsylvania.<sup>79</sup> ATI's Amended Designated Service Area is set forth in Appendix C. Accordingly, we determine that ATI remains in compliance with the applicable federal and Pennsylvania-specific ETC rules and therefore, we find that ATI will offer the supported services as described in 47 C.F.R. § 54.101 by using its own facilities throughout its Amended Designated Service Area.

Additionally, ATI commits to offering Lifeline discounts to qualifying low-income consumers, consistent with both the FCC's and Pennsylvania-specific rules in all high-cost areas where it is authorized to receive support.<sup>80</sup> As it already does in its Auction 903-eligible census blocks, ATI certifies that it will provide operator services, directory assistance and interexchange access (long distance) to its potential Lifeline subscribers in the Auction 904-eligible census blocks too.<sup>81</sup> Given that all of ATI's Lifeline voice offerings would include long distance, all Lifeline customers throughout its Amended Designated Service Area where it receives high-cost support will be afforded such access.<sup>82</sup>

ATI certifies that it will continue to comply with the annual certification requirements relating to the Lifeline program such as certifying annually that they are compli-

<sup>69</sup> The FCC defines federal high-cost supported services as qualifying voice service and the offering of qualifying BIAS. See 47 C.F.R. § 54.101 (including both eligible voice telephony and eligible broadband Internet access as services "supported by federal universal service support mechanisms," and characterizing the provision of eligible broadband service as a high-cost public interest obligation); see also USF/ICC Transformation Order, 26 FCC Rcd at 17691-94, paras. 74-89 (describing the "core functionalities of the supported services as 'voice telephony service,'" and as a separate condition of receiving federal high-cost universal service support, all ETCs are required to offer BIAS in their supported area that meets certain basic performance requirements).

<sup>70</sup> Petition at 6. ATI (utility code 311014) holds certificates of public convenience from the Commission to operate as a non-facilities-based and facilities-based Competitive Local Exchange Carrier (CLEC), Interexchange Toll Reseller (IXCR), and a Competitive Access Provider (CAP) at Docket Nos. A-311014; A-311014F0002; A-311014F0003, respectively. ATI operates as CLEC in the following ILEC service territories: Commonwealth Telephone Company d/b/a Frontier Communications Commonwealth Telephone Company, LLC (Frontier Commonwealth); Verizon North; Verizon Pennsylvania; Lumen; Citizens Telephone Company of Kecksburg; Consolidated Communications; and Windstream PA.

<sup>71</sup> USF/FCC Transformation Order, 26 FCC Rcd at 17693, paras. 80-81; see also 47 C.F.R. § 54.101(b).

<sup>72</sup> 47 C.F.R. §§ 54.101(a)(2) and (c).

<sup>73</sup> 47 C.F.R. § 54.805(a).

<sup>74</sup> See Appendix B.

<sup>75</sup> See Appendix A.

<sup>76</sup> 47 C.F.R. § 9.11(b)(5)(i).

<sup>77</sup> The Commission's consumer protection and quality of service regulations applicable to CLECs apply to both competitive and non-competitive services. Further, we note that standalone basic voice service has not been reclassified as competitive under Section 3016 of the Code, 66 Pa.C.S. § 3016, in any of the service areas where ATI provides CLEC services. Thus, in addition to other Commission jurisdiction preserved under the VoIP Freedom Act, this service remains subject to all applicable consumer protections and quality of service standards under Pennsylvania law, even though it will be provided as an interconnected VoIP service. See 73 P.S. §§ 2251.5 and 2251.6.

<sup>78</sup> Petition Supplement filed June 4, 2021.

<sup>79</sup> While some of the 117 eligible census blocks where ATI has been awarded RDOF Phase I support and seeks designation as an ETC are located in the above-listed RLEC service territories, a redefinition analysis of these RLEC service territories is not necessary since the FCC waived its rules regarding the redefinition process for Auction 904 recipients. See RDOF Order, 35 FCC Rcd at 727-728, paras. 91-93.

<sup>80</sup> Id. As Pennsylvania is a National Verifier state, ATI will must query the NLAD to ascertain a potential Lifeline applicant's eligibility for service as determined by the National Verifier. Additionally, by our PA Lifeline Order we also require ETCs to verify the ongoing eligibility on their Lifeline subscribers and submit an annual recertification of that verification. However, we note that pursuant to the federal rules, ATI's Lifeline subscribers will be recertified either automatically through the National Verifier's state/federal data sources or receive a recertification request from USAC.

<sup>81</sup> Supplement filed June 16, 2021.

<sup>82</sup> Id.



ant with the minimum service levels set forth in 47 C.F.R. § 54.408.<sup>83</sup> ATI certifies that it will annually certify its compliance with the applicable minimum service level rules by submitting Form 481 to USAC.<sup>84</sup>

In addition to the minimum federal standards mentioned above, ATI has certified that it will continue to comply with Pennsylvania law and all Commission orders which govern Pennsylvania's Lifeline programs.<sup>85</sup> Specifically, ATI commits to: (1) abide by the applicable eligibility certification and verification requirements set forth in the Commission's PA Lifeline Order;<sup>86</sup> (2) abide by the applicable requirements set forth in the Commission's Tracking Report Order;<sup>87</sup> (3) abide by the Commission's Chapter 64 regulations regarding standards and billing practices, 52 Pa. Code §§ 64.1—64.213,<sup>88</sup> and (4) have consumer Lifeline voice service-related complaints or non-Lifeline voice service related complaints, which are unresolved by ATI's customer service, handled by BCS as appropriate and, if not, be resolved through formal or informal Commission processes.<sup>89</sup>

Additionally, ATI is to engage in advertising its supported services using media of general distribution and will also promote the availability of Lifeline service throughout its Amended Designated Service Area.<sup>90</sup> ATI certifies that it will provide BCS with copies of all advertising, promotional and general Lifeline program-related customer notices and communications on an annual basis or upon request.<sup>91</sup> Thereafter, BCS will review the submitted materials to ensure the information is current and consistent with eligibility determination criteria and annual certification requirements, and plain language requirements.<sup>92</sup>

Further, in order to ensure the Pennsylvania Lifeline program advances the Commonwealth's universal service policy, ATI shall be required to provide to BCS a copy of its annual Lifeline Eligible Telecommunications Carrier Certification Form, FCC Form 555, that it files with USAC. The FCC Form 555 reports the results of the annual recertification process and includes data accuracy certifications. Any failure of ATI to comply with these requirements will be a basis for revocation of its ETC designation or other enforcement action.

ATI's continued adherence to these Pennsylvania-specific requirements applicable to ETCs designated by the Commission will assure uniformity among Lifeline services offered by different ETCs, will provide consumer protection for low-income consumers, and will enable BCS to monitor Lifeline Program effectiveness in Pennsylvania.

ATI also submits a certification that it satisfies the requirements of the Anti-Drug Abuse Act of 1988, as codified in sections 1.2001—1.2003 of the FCC's rules.<sup>93</sup> ATI further states that it will continue to comply with all prior certifications related to its previous ETC designation, such as complying with our requirements regarding

the relinquishment of its ETC status in any of the census blocks where it receives federal high-cost support and filing a petition for renewal of its ETC designation in the event of a change of or transfer in corporate control as defined in Pennsylvania statutory law, case law, and the Commission's regulations at 52 Pa. Code § 63.322.<sup>94</sup>

#### Conclusion

The Commission has adopted the federal minimum standards that are applicable to ETC designations as codified. Consequently, our review of ATI's petition has been done consistent with these federal requirements. Additionally, our review of ATI's Petition also has been done to ensure consistency with independent Pennsylvania law.

ATI was a winning bidder in the FCC's Auction 903, and the Commission previously designated ATI a federal high-cost ETC in those areas where it received Auction 903 support to deploy broadband service. As a federal high-cost ETC receiving Auction 903 support, ATI was required to participate in the federal Lifeline program and was required to offer Lifeline service to qualified low-income eligible customers or households in its Designated Area. Upon review, we conclude that amending the designation of ATI as a federal high-cost ETC to include the Auction 904-eligible census blocks in Pennsylvania is in the public interest. Receipt of Auction 904 high-cost support funding will facilitate the provision of additional access to voice and broadband services to Pennsylvania consumers in rural areas. Moreover, ATI commits to offering Lifeline discounts to qualifying low-income consumers in all high-cost areas where it is authorized to receive support, consistent with both FCC and Pennsylvania-specific rules.

As a winning RDOF bidder, we acknowledge that ATI is only required to provide certifications as part of its ETC petition and is not necessarily required to demonstrate its capability to provide the supported services as certified. Nevertheless, as stated above, ATI is currently a high-cost ETC in Pennsylvania and, thus, we deem that it is currently compliant with federal ETC requirements, including the FCC's Universal Service Order, the 2005 ETC Designation Order, the USF/ICC Transformation Order, and all relevant FCC regulations that have codified the requirements related to ETC designations and Lifeline service. Accordingly, we find that ATI has established through the required certifications and related filings that in its Amended Designated Service Area it will offer the services supported by the federal universal service support mechanisms and will comply with the service requirements and annual reporting obligations applicable to the support that it receives.

While our ETC designation process is separate from, and serves a different purpose than, the authorization process and post-authorization accountability measures that will be conducted by the FCC during its long form application review, our action to designate ATI does impose certain statutory and regulatory obligations to Pennsylvania once it is authorized to receive the awarded Auction 904 support in the eligible census blocks in Pennsylvania. Based on the information, representations, and certifications in its petition, we find that ATI has met all applicable Pennsylvania conditions and prerequisites for ETC designation throughout its Amended Designated Service Area and that such a designation is in the public

<sup>83</sup> Supplement filed June 16, 2021.

<sup>84</sup> Supplement filed June 22, 2021.

<sup>85</sup> *Id.*

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

<sup>87</sup> Consistent with requirements imposed on other ETCs, ATI will provide the Commission's BCS a copy of its annual Lifeline verification results that it files with USAC each year, as well as the FCC Form 497 Lifeline customer reporting worksheet (or any successor form) filed quarterly with USAC.

<sup>88</sup> *Id.*

<sup>89</sup> Specifically, BCS will address Lifeline-related issues which pertain to the consumers' rights under ATI's Residential Service Agreement, including (1) eligibility disputes; (2) program offering issues; and (3) limited equipment-related issues.

<sup>90</sup> Supplement filed June 22, 2021.

<sup>91</sup> *Id.*

<sup>92</sup> 47 C.F.R. § 54.405(b)—(d) pertain to all material that describe Lifeline service and 66 Pa.C.S. § 3019(f)(4) pertains to bill messages.

<sup>93</sup> Petition Supplement filed June 22, 2021.

<sup>94</sup> ATI must file a petition for renewal of its ETC designation at the same time it files or is implicated in the filing of any application for a change or transfer of control under Pennsylvania law because the Commission is lawfully entitled to timely re-examine any such changes and ascertain whether a particular telecommunications entity should continue with an ETC designation.

interest. Accordingly, we also conclude that designation of ATI as a federal high-cost ETC to secure the awarded federal high-cost support in the Auction 904-eligible census blocks in Pennsylvania is in the public interest and is in accord with Section 214 of the Act, the FCC's regulations and orders related to ETC designation, Section 3019(f) of the Code, and the Commission's orders on ETC designation. 47 U.S.C. § 214; 47 C.F.R. §§ 54.201, et seq.; and 66 Pa.C.S. § 3019(f); *Therefore*,

*It Is Ordered:*

1. The Application for Amended Designation as An Eligible Telecommunications Carrier of Armstrong Telecommunications, Inc. is granted, subject to the terms and conditions set forth in this Order.

2. That the Commission amends Armstrong Telecommunications, Inc.'s previous designation as a federal high-cost Eligible Telecommunications Carrier by approving its additional designation as an Eligible Telecommunications Carrier in the Auction 904-eligible census blocks located within the service territories of Consolidated Communications of Pennsylvania Company, Verizon Pennsylvania, LLC, Verizon North, LLC, The United Telephone Co. of Pennsylvania, Inc., d/b/a CenturyLink, and Windstream Pennsylvania, LLC.

3. That Armstrong Telecommunications, Inc.'s Designated Service Area in Pennsylvania, now to be known as the Amended Designated Service Area, consists only of the eligible census blocks set forth in Appendix C.

4. That the rules of the Federal Communications Commission regarding the redefinition process are inapplicable to Armstrong Telecommunications, Inc.'s designation as a federal high-cost Eligible Telecommunications Carrier, which is below the study area level of Consolidated Communications of Pennsylvania Company, The United Telephone Co. of Pennsylvania, Inc., n/k/a Lumen Technologies, Inc., and Windstream Pennsylvania, LLC.

5. That Armstrong Telecommunications, Inc. is required to offer Lifeline service to eligible low-income consumers or households only in those census blocks for which it will be receiving Connect America Fund federal high-cost support as described in this Order.

6. That Armstrong Telecommunications, Inc. shall provide updated tariff pages for its qualifying voice service that is offered in census blocks that are located in noncompetitive local exchanges within 30 days of the entry of this Order.

7. That Armstrong Telecommunications, Inc. shall provide updated tariff pages for its Lifeline service within 30 days of the entry of this Order.

8. That Armstrong Telecommunications, Inc. shall comply with 47 C.F.R. §§ 9.11(b)(5)(i), (ii) and (iii) by ensuring that there are both electronic and non-electronic means of obtaining a customer's affirmative acknowledgement of E911 limitations throughout its Amended Designated Service Area.

9. That, upon request, Armstrong Telecommunications, Inc. shall provide the Bureau of Consumer Services with copies of its and annual certification and promotional materials to review for current information, consistency with eligibility determination criteria and annual certification requirements, and plain language requirements.

10. That Armstrong Telecommunications, Inc. is hereby directed to work with the Bureau of Consumer Services to resolve informal complaints and to submit to Commission

jurisdiction on formal complaints filed by Armstrong Telecommunications, Inc. Lifeline customers on Lifeline and other related issues.

11. That the failure of Armstrong Telecommunications, Inc. to comply with any of the provisions of this Order may result in revocation of its ETC designation(s) for purposes of receiving federal Universal Service Fund high-cost support and the federal Lifeline support or be subject to further Commission process.

12. That Armstrong Telecommunications, Inc. shall petition this Commission for any future change to the basic Lifeline service offerings provided through this ETC designation as described herein which represents a limitation or reduction of Lifeline services/equipment provided free of charge and shall provide notice to this Commission of any addition, change or new offering which is in addition to the basic Lifeline offering.

13. That Armstrong Telecommunications, Inc. shall petition this Commission for renewal of its Eligible Telecommunications Carrier status at the same time it files or is implicated in the filing of any application for a change or transfer of control as defined in Pennsylvania law.

14. That the Secretary shall serve a copy of this Order on Armstrong Telecommunications, Inc., Consolidated Communications of Pennsylvania Company, Verizon Pennsylvania, LLC, Verizon North, LLC, The United Telephone Co. of Pennsylvania, Inc. n/k/a Lumen Technologies, Inc, Windstream Pennsylvania, LLC, the Office of Consumer Advocate, and the Office of Small Business Advocate.

15. That a copy of this Order shall be published in the *Pennsylvania Bulletin*.

16. That this docket shall be marked closed.

ROSEMARY CHIAVETTA,  
*Secretary*

ORDER ADOPTED: July 15, 2021

ORDER ENTERED: July 15, 2021

[Pa.B. Doc. No. 21-1216. Filed for public inspection July 30, 2021, 9:00 a.m.]

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

### Petition of Claverack Communications, LLC for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Pennsylvania

Public Meeting held  
July 15, 2021

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

*Petition of Claverack Communications, LLC for  
Designation as an Eligible Telecommunications Carrier in  
the Commonwealth of Pennsylvania; P-2021-3023996*

#### Order

*By the Commission:*

Before the Pennsylvania Public Utility Commission (Commission) for disposition is the February 3, 2021 Petition of Claverack Communications, LLC (Claverack

Communications), as supplemented, in which it is seeking designation as an Eligible Telecommunications Carrier (ETC) in the Commonwealth of Pennsylvania for the purpose of receiving federal Universal Service Fund (USF) high-cost support, pursuant to Section 214(e)(2) of the Communications Act of 1934, as amended (Act), 47 U.S.C. § 214(e)(2), and Sections 54.101, 54.201—54.203 and 54.205—54.209 of the Federal Communications Commission’s (FCC) regulations, 47 C.F.R. §§ 54.101, 54.201—54.203 and 54.205—54.209, and 52 Pa. Code § 69.2501.

Specifically, Claverack Communication is required to obtain a designation as an ETC from the Commission in order for it to be eligible to receive the federal high-cost support funding it has been awarded in the FCC’s Rural Digital Opportunity Fund (RDOF) auction (Auction 904). As such, Claverack Communications is required to certify to the FCC that it has received designation as a high-cost ETC in all of the eligible census block groups in Pennsylvania for which Claverack Communications submitted a winning bid and has been awarded Auction 904 support.

In its Petition for ETC Designation (Petition), Claverack Communications states that it is seeking designation as a high-cost ETC in the specific RDOF-eligible census block groups for which it was awarded funding and as a Lifeline-only ETC in all other areas where it has not been awarded high-cost support from Auction 904.<sup>1</sup> We have reviewed Claverack Communications’ Petition, as supplemented, to determine whether it meets the statutory criteria and applicable minimum standards necessary under federal and state law to obtain an ETC designation.

We hereby conclude that it meets the statutory criteria and applicable minimum standards necessary under federal and state law to obtain an ETC designation and it is in the public interest that Claverack Communications be designated as an ETC for purposes of receiving Auction 904 high-cost support in those Pennsylvania eligible census block groups where it submitted a winning bid to deploy and maintain networks capable of providing voice and broadband access services. Additionally, we are designating Claverack Communications as a Lifeline-only ETC in those areas in its Designated Service Area where it will not receive any federal high-cost support so that it can provide Lifeline service to qualifying low-income customers or households located in those areas. Accordingly, Claverack Communications’ Petition is hereby approved under the applicable federal statutory criteria and other relevant federal and Pennsylvania law.

### Background

#### A. FCC’s Re-Purposing of the High Cost Program of the Federal Universal Service Fund

In 2011, the FCC concluded that the deployment of broadband-capable networks would also be an express universal service principle under Section 254(b) of the Communications Act of 1934, as amended (Act), 47 U.S.C. § 254(b).<sup>2</sup> For this reason, the FCC comprehensively reformed the High Cost Program of the federal Universal Service Fund (USF) so that it would ensure that robust, affordable voice and broadband services become available to all Americans living in rural areas across the nation

who were receiving voice service but lacked access to robust broadband infrastructure and service.<sup>3</sup>

Up to that time, the six pre-existing programs in the High Cost Program had only supported the provisioning of voice service.<sup>4</sup> In order to accomplish its goal of ensuring all Americans had access to both voice service and robust broadband service, the FCC repurposed the six pre-existing programs so that it would distribute federal high-cost support to recipients so that they could provision both fixed broadband and voice service throughout their service territories.<sup>5</sup> Concomitant with this repurposing, the FCC also renamed the federal High Cost program to the Connect America Fund (CAF). With the CAF and Auction 903, the FCC determined that it would begin to distribute federal high-cost support in the areas served by the incumbent local exchange carriers that operate as price cap carriers under federal law, through a combination of a “new forward-looking model of the cost of constructing modern multi-purpose networks” and a competitive bidding process.<sup>6</sup>

#### B. FCC’s Efforts to Modernize the Federal Lifeline Program

To continue the mission of assisting qualifying low-income Americans to get and stay connected in today’s technological climate, while at the same time relieving some of the burden on the entities providing this service, the FCC also began restructuring the federal USF Lifeline program. Beginning in 2012, the FCC took several steps to comprehensively reform and modernize the Lifeline program in the 2012 Lifeline Reform Order by improving enrollment and consumer disclosures and eliminating the previous system of tiered support and set an interim funding rate of \$9.25 per month and per eligible subscriber or household.<sup>7</sup>

These reforms were adopted by the FCC to strengthen protections against waste, fraud, and abuse in the federal Lifeline program by, among other things: setting a savings target; improved program administration and accountability by creating a National Lifeline Accountability Database (NLAD) to prevent multiple carriers from receiving support for the same household; and confirming a one-per-household rule applicable to all consumers and Lifeline providers in the program.<sup>8</sup> The FCC also took preliminary steps to modernize the federal Lifeline program by, among other things: allowing Lifeline support for bundled service plans combining voice and broadband or packages including optional calling features.<sup>9</sup> The FCC has issued three later Lifeline reform orders establishing a number of additional enhancements to the federal Lifeline Program, further connecting low-income Americans to voice services and, now, broadband access.<sup>10</sup> These modified requirements have been codified in the

<sup>3</sup> Id. at 17667, para. 1.

<sup>4</sup> Id. at 17725, para. 156-57.

<sup>5</sup> Id.

<sup>6</sup> Id.

<sup>7</sup> See generally Lifeline and Link Up Reform and Modernization, et al., Report and Order and Further Notice of Proposed Rulemaking, 27 FCC Rcd 6656 (2012) (2012 Lifeline Reform Order or Lifeline FNPRM). Per subsequent FCC orders, the Lifeline benefit has been reduced, and it is currently set at \$5.25 for stand-alone voice.

However, Lifeline support for standalone voice services is set to go from \$5.25 to zero after December 1, 2021, although that decision is under reconsideration at the FCC.

<sup>8</sup> Id. at 6690-91, paras. 77-78.

<sup>9</sup> Id.

<sup>10</sup> Lifeline and Link Up Reform and Modernization et al., Second Further Notice of Proposed Rulemaking, Order on Reconsideration, Second Report and Order, and Memorandum Opinion and Order, 30 FCC Rcd 7818 (2015) (2015 Lifeline FNPRM); Lifeline and Link Up Reform and Modernization et al., Third Report and Order, Further Report and Order, and Order on Reconsideration, 31 FCC Rcd 3962, 4038, para. 211 (2016) (2016 Lifeline Modernization Order); Fourth Report and Order, Order on Reconsideration, Memorandum Opinion and Order, Notice of Proposed Rulemaking, and Notice of Inquiry, 32 Rcd 10475 (2017), vacated and remanded, *National Lifeline Association et al. v. FCC*, Docket Nos. 18—1026, Order issued February 1, 2019 (D.C. Cir. 2019) (2017 Lifeline NPRM and NOI) (collectively Lifeline Reform Orders).

<sup>1</sup> It is in these federally funded census block groups that Claverack Communications is seeking federal high-cost ETC designation and will be offering voice and broadband access services under federal law consistent with the FCC’s public interest obligations.

<sup>2</sup> Connect America Fund et al., Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663, 17672 para. 17 (2011) (USF/ICC Transformation Order), aff’d sub nom. In re FCC 11-161, 753 F.3d 1015 (10th Cir. 2014).



FCC's rules and regulations at Title 47, Chapter I, Part 54, Subpart E, which governs universal service support provided to low-income consumers.

### C. CAF Auctions

The FCC contemplated that its new competitive bid process to disburse federal universal service high-cost support to common carriers would be done as “reverse” auctions” and rolled-out in different phases.<sup>11</sup> The second phase of the CAF, but first “reverse” auction to disburse federal high-cost support, was Auction 903 (or CAF Phase II Auction) in 2018.<sup>12</sup> Auction 903 awarded up to \$198 million annually for 10 years to all service providers that had committed to provide voice and fixed broadband services to specific locations in unserved high-cost areas, including areas in Pennsylvania.<sup>13</sup>

Acknowledging that Auction 903 was a significant step towards addressing the rural “digital divide” in America but that more work needed to be done to accelerate the deployment of access to broadband in these unserved and underserved communities, on August 1, 2019, the FCC adopted a Notice of Proposed Rulemaking (NPRM) proposing to establish the \$20.4 billion RDOF as its next step in bridging the rural digital divide in America.<sup>14</sup> Specifically, the FCC sought to allocate this federal universal service high-cost support to a certain number of locations in eligible census block groups (CBGs) across the United States, including areas in Pennsylvania which were entirely unserved by broadband service of at least 25/3 Mbps.<sup>15</sup>

On January 30, 2020, the FCC adopted the RDOF Report and Order, which established the framework for the RDOF auction.<sup>16</sup> The FCC determined that the RDOF would target federal high-cost support to areas that lack access to both fixed voice and 25/3 Mbps broadband services in two phases: Phase I of the RDOF will assign up to \$16 billion for those census blocks that are wholly unserved with broadband at speeds of 25/3 Mbps,<sup>17</sup> and Phase II will make the remaining \$4.4 billion, along with any unawarded funds from Phase I available for those census blocks that it later determined through the Digital Opportunity Data Collection, or suitable alternative data source, are only partially served, as well as census blocks unawarded in the Phase I auction.<sup>18</sup>

<sup>11</sup> USF/ICC Transformation Order, 26 FCC at 17732, para. 178.

<sup>12</sup> Connect America Fund et al., Report and Order and Further Notice of Proposed Rulemaking, 31 FCC Red 5949, (2016) (CAF Phase II Auction Order).

<sup>13</sup> Connect America Fund Phase II Auction (Auction 903) Closes; Winning Bidders Announced; FCC Form 683 Due October 15, 2018, AU Docket No. 17-182, WC Docket No. 10-90, Public Notice, 33 FCC Red 8257 (Auction 903 Closing Public Notice).

<sup>14</sup> Rural Digital Opportunity Fund; Connect America Fund; Notice of Proposed Rulemaking, 34 FCC Red 6778 (2019) (Rural Digital Opportunity Fund NPRM).

<sup>15</sup> Id. The FCC made eligible for Auction 904 certain high-cost census block groups in RDOF Phase I in unserved areas nationwide that were not served by an unsubsidized service provider.

<sup>16</sup> Rural Digital Opportunity Fund et al., Report and Order, 35 FCC Red 686 (2020) (RDOF Order).

<sup>17</sup> The FCC determined that eligible areas for Phase I would include (1) the census blocks for which price cap carriers currently receive CAF Phase II model-based support; (2) any census blocks that were eligible for, but did not receive, winning bids in the CAF Phase II auction; (3) any census blocks where a CAF Phase II auction winning bidder has defaulted; (4) the census blocks excluded from the offers of model-based support and the CAF Phase II auction because they were served with voice and broadband of at least 10/1 Mbps; (5) census blocks served by both price cap carriers and rate-of-return carriers to the extent that the census block is in the price cap carrier's territory, using the most recent study area boundary data filed by the rate-of-return carriers to identify their service areas and determine the portion of each census block that is outside this service area; (6) any unserved census blocks that are outside of price cap carriers' service areas where there is no certified high-cost eligible telecommunications carrier (ETC) providing service, such as the Hawaiian Homelands, and any other populated areas unserved by either a rate-of-return or price cap carrier; and (7) any census blocks identified by rate-of-return carriers in their service areas as ones where they do not expect to extend broadband. Id. at 691, para. 12.

<sup>18</sup> Id. at 690, para. 9.

Claverack Rural Electric Cooperative (CREC)<sup>19</sup> submitted a short-form application to participate in the RDOF Phase I as part of a bidding consortium known as “the Co-Op Connections Consortium.” Phase I of the RDOF Auction began on October 29, 2020, and ended on November 25, 2020. On December 7, 2020, the FCC announced the winning bidders<sup>20</sup> for Phase I of the RDOF auction and awarded up to \$923 million annually for 10 years to these winning bidders that had committed to provide voice and fixed broadband internet access services (BIAS) to specific locations in unserved high-cost areas, including areas in Pennsylvania.<sup>21</sup>

In the RDOF Closing Public Notice, the FCC announced that Co-Op Connections Consortium was awarded a total of \$42.6 million of federal high-cost support funding for certain designated RDOF-eligible CBGs located throughout the Commonwealth of Pennsylvania.<sup>22</sup> Specifically, CREC was one of the winning consortium bidders and received \$31.6 million in RDOF support for a number of locations in 35 CBGs in Pennsylvania.<sup>23</sup> See Appendix A. In accordance with Auction 904 rules and procedures,<sup>24</sup> Co-Op Connections Consortium through CREC assigned a portion of its winning bid in Pennsylvania to its wholly-owned subsidiary, Claverack Communications.<sup>25</sup>

### D. Claverack Communications' Petition and Supplements

Pursuant to the RDOF Order and the RDOF Public Notice,<sup>26</sup> winning bidders were required to certify with the FCC that they have obtained an ETC designation that covers all relevant census blocks from the relevant authority for high-cost ETC designation by June 7, 2021.<sup>27</sup> In its Petition, Claverack Communications has requested ETC designation in 35 specific CBGs where it had been awarded RDOF Phase I high-cost funding support by the FCC in Auction 904. Claverack Communications is a limited liability company located at 32750 Route 6, Wysox, Pennsylvania in Bradford County.<sup>28</sup>

<sup>19</sup> CREC is an 82-year-old, member-owned, non-profit electric cooperative in north-eastern Pennsylvania. Today, CREC serves over 16,000 customers with electric service across a 2,700-mile distribution system. CREC's service territory encompasses an eight-county region, providing electricity to customers in Pennsylvania's Bradford, Lackawanna, Luzerne, Lycoming, Sullivan, Susquehanna, Tioga, and Wyoming counties. CREC's total property, lines, and equipment is valued at approximately \$48 million.

<sup>20</sup> See Rural Digital Opportunity Fund Phase I Auction (Auction 904) Closes; Winning Bidders Announced; FCC Form 683 Due January 29, 2021, Public Notice, 35 FCC Red 13888, 13890-91, paras. 9–15 (RBATF, OEA, WCB 2020) (RDOF Closing Public Notice).

<sup>21</sup> As a result of Auction 904, some homes and businesses would have voice as well as broadband Internet access services available with download speeds of at least 100 Mbps.

<sup>22</sup> Co-Op Connections Consortium was awarded Auction 904 support in a total of eight states.

<sup>23</sup> The other portion of the Co-Op Connections Consortium Auction 904 support that was awarded to Pennsylvania CBG was assigned to Tri-Co Connections. “Long-Form Applicants Spreadsheet” found on the FCC's Auction 904 webpage per Public Notice—417 Long-Form Applicants in Auction 904—DA 21-170 released 2/18/2021 (Long Form Applicants Spreadsheet).

<sup>24</sup> RDOF Order, 35 FCC Red at 725, para. 85.

<sup>25</sup> Petition at 2-3. In December of 2020, CREC created Claverack Communications to offer retail voice and broadband services, as anticipated in CREC's short-form application and required by Pennsylvania's recently enacted Act 98 of 2020, P.L. No. 98-2020, which facilitates broadband access by allowing electric cooperatives to utilize existing utility poles to place fiber-optic lines. In addition, later in December, CREC and Claverack Communications submitted the necessary filing to the FCC to accept their portion of the overall RDOF support awarded to the Co-Op Connections Consortium in Auction

<sup>26</sup> RDOF Order, 35 FCC Red at 722, para. 79, 726, para. 90; RDOF Closing Public Notice, 35 FCC Red at 18893-95, para. 17.

<sup>27</sup> RDOF Closing Public Notice, 35 FCC Red 13893-95 para. 17; see also 47 C.F.R. § 54.804(b)(5). On May 24, 2021, the Commission issued a “good faith” letter to Claverack Communications stating that our review of its Petition would not be completed prior to deadline despite Claverack Communications' good faith efforts. Claverack Communications filed a waiver request of the Auction 904 deadline with the FCC on June 7, 2021. Claverack Communications, LLC's Petition for Limited Waiver and Extension of 47 C.F.R. 54.804(b)(5) RDOF Auction 904 ETC Certification Deadline, AU Docket No. 20-34.

<sup>28</sup> Petition Exhibit 3.



Claverack Communications provided documentation that it has the requisite authority from the Pennsylvania Department of State to do business in Pennsylvania as a domestic limited liability company.<sup>29</sup>

In its Petition, Claverack Communications stated that it was created by CREC to offer retail voice and broadband services.<sup>30</sup> Additionally, CREC and Claverack Communications submitted the necessary filing to the FCC to accept their portion of the overall RDOF support awarded to the Co-Op Connections Consortium as directed by the FCC in the RDOF Public Notice.<sup>31</sup> On January 29, 2021, Claverack Communications submitted its long-form application to the FCC to secure the funding for the 35 census

block groups that it was awarded in the RDOF Auction 904.<sup>32</sup>

Claverack Communications states that Exhibit 5 of its Petition, which is an excerpt from its proposed CLEC tariff, lists the various exchanges of the rural incumbent local exchange carriers (RLEC) where its awarded CBGs are situated and for which Claverack Communications is requesting high-cost ETC designation in Pennsylvania.<sup>33</sup> Exhibit 5 also lists the counties, townships and boroughs that comprise Claverack Communications' entire service territory. We have listed the local exchanges of the rural areas where Claverack Communications has been awarded federal high-cost support below:

**Claverack Communications Local Exchanges in the ILEC Service Territories<sup>34</sup>**

<i>The North-Eastern Pennsylvania Telephone Company</i>	<i>Frontier Communications of Canton, LLC</i>	<i>Citizens Telecommunications of New York, Inc. d/b/a Citizens Communications Services Company</i>	<i>Commonwealth Telephone Company d/b/a Frontier Communications Commonwealth Telephone Company</i>
New Milford	Canton	Little Meadows	Brooklyn
	Troy	Quaker Lake	Laceyville
			Lawsville
			Leraysville
			Montrose
			New Albany
			Nicholson
			Noxen
			Rome
			Rush
			St. Joseph
			Springville
			Towanda
			Troy
			Tunkhannock
			Ulster

For the geographic areas in the townships and boroughs for which Claverack Communication has not been awarded federal high-cost support in Auction 904, Claverack Communications requests designation as a Lifeline-only ETC.

Claverack Communications certifies that its wireline service offering satisfies the FCC's definition of voice telephony service, and it will provide all services designated for support by the FCC.<sup>35</sup> Claverack Communications plans to deploy a Fiber to the Premises (FTTP)

network architecture to serve Claverack Communications' awarded census block locations within each CBG. The fiber optic cable infrastructure will be designed in a manner that permits Claverack Communications to use various next-generation technologies such as Active Ethernet and Gigabit Passive Optical Network to serve its customers.<sup>36</sup> Claverack Communications' proposed FTTP network architecture will allow for the delivery of voice and data services across the broadband access platform.<sup>37</sup> It anticipates using a managed services provider to facilitate interconnection with the PSTN and traffic exchange with other carriers.<sup>38</sup> Claverack Communications' FTTP network will separately provision voice traffic from Internet traffic since both services will be transmitted over the same physical network.<sup>39</sup>

Claverack Communications plans to implement a proposed FTTP network across its Designated Service Area that allows for delivery of voice and data services across a

<sup>29</sup> See Id.  
<sup>30</sup> Petition at 3.  
<sup>31</sup> Petition at 3.  
<sup>32</sup> Petition at 4. Unlike other auctions winners whose names the FCC released on December 7, 2020, Claverack Communications' identity as an Auction 904 recipient was not publicly acknowledged by the FCC. Under the FCC's rules for Auction 904, participants must adhere to strict non-disclosure requirements that prohibited the applicant from communicating certain auction-related information to another applicant from the auction short-form application filing deadline until the post-auction deadline for winning bidders to file long-form applications for support. The quiet period ended on January 29, 2021, and Claverack Communications was able to publicly acknowledge that it was a winning bidder in Auction 904 and submit its Petition for ETC designation that is required to obtain the RDOF funds.  
<sup>33</sup> Petition at 5.  
<sup>34</sup> May 11, 2021 Data Request (DR) Responses para. 18.  
<sup>35</sup> Petition at 8.

<sup>36</sup> Id.  
<sup>37</sup> Id. at 8 to 9.  
<sup>38</sup> Id at 9.  
<sup>39</sup> Id.

broadband access platform.<sup>40</sup> Claverack Communications will implement redundant Ethernet uplinks from the proposed FTTP electronics to its core data network.<sup>41</sup> Claverack Communications also plans to implement data network routers, Internet uplinks, and ISP services to support customers from the awarded census block locations in the RDOF Phase I Auction 904.<sup>42</sup> The FTTP architecture enables the network operator to provide peak data speed to individual users in increments of 1 Mbps or less.<sup>43</sup> This functionality allows Claverack Communications to provide a wide variety of data rates up to 1 Gbps (including raw data and ethernet overheads).<sup>44</sup> Claverack Communications' FTTP uses pulses of light to transmit voice and data traffic which results in one of the fastest possible transmission paths, creating a very low-latency network.<sup>45</sup>

Notice of Claverack Communications' Petition was published in the *Pennsylvania Bulletin* at 51 Pa.B. 2747 on May 15, 2021. No comments were filed in response to Claverack Communications' Petition. Claverack Communications also filed supplements to its Petition that set forth additional pertinent information.

#### Discussion

Section 254(e) of the Act provides that "only an eligible telecommunications carrier designated under Section 214(e) shall be eligible to receive specific Federal universal service support."<sup>46</sup> Consequently, a common carrier first must be designated as an ETC subsections (2), (3), or (6) of Section 214(e) of the Act to be eligible to receive federal high-cost universal service support in accordance with section 254 of the Act. Pursuant to Section 214(e)(2) of the Act, state commissions have the primary responsibility for performing ETC designations for common carriers seeking to obtain federal high-cost funding support. Only in those instances where a state cannot or will not make the requisite ETC designation, will the FCC make the ETC designation.<sup>47</sup>

The Commission reserves the right to review any ETC designation request on a case-by-case basis and grant or deny such designation after considering the circumstances particular to each application. Thus, the Commission has reviewed Claverack Communications' Petition, as supplemented, to determine whether it satisfies the federal and state law criteria to receive a designation as an ETC in Pennsylvania.

#### I. Requirements for Designation as a High-Cost ETC

Pursuant to 47 U.S.C. § 214(e)(1), a common carrier must satisfy the following criteria<sup>48</sup> in order to obtain an ETC designation and become eligible to receive federal high-cost universal service support throughout the service area for which the designation is received: (1) certify that it offers or intends to offer all services designated for support by the Commission pursuant to section 254(c) of the Act;<sup>49</sup> (2) certify that it offers or intends to offer the supported services either using its own facilities or a

combination of its own facilities and resale of another carrier's services;<sup>50</sup> (3) describe how it advertises the availability of the supported services and the charges therefor using media of general distribution;<sup>51</sup> and (4) describe the geographic service area for which it requests to be designated an ETC.<sup>52</sup>

The FCC adopted additional requirements for parties seeking ETC designation that have been codified at 47 C.F.R. § 54.202.<sup>53</sup> As such, a telecommunications carrier must also satisfy the following additional mandatory requirements for it to be designated an ETC and thus eligible to receive federal universal service support: (1) certify that it will comply with the service requirements applicable to the support that it receives in its proposed service area;<sup>54</sup> (2) submit a five-year plan that describes with specificity proposed improvements or upgrades to the applicant's network throughout its proposed service area;<sup>55</sup> (3) demonstrate its ability to remain functional in emergency situations, including a demonstration that it has a reasonable amount of back-up power to ensure functionality without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations;<sup>56</sup> (4) demonstrate that it will satisfy applicable consumer protection and service quality standards;<sup>57</sup> and (5) offer local usage comparable to that offered by the ILEC.<sup>58</sup>

The FCC subsequently added an additional requirement concerning the Anti-Drug Abuse Act of 1988.<sup>59</sup> Specifically, the FCC requires a party seeking ETC designation certify that neither it, nor any party to the application, is subject to a denial of federal benefits pursuant to the Anti-Drug Abuse Act of 1988.

In addition to meeting these statutory requirements, state commissions must also perform a "public interest" review before approving an ETC designation. Section 214(e)(2) of the Act states that, "[u]pon request and consistent with the public interest, convenience, and necessity, the State commission may, in the case of an area served by a rural telephone company, and shall, in the case of all other areas, designate more than one common carrier as an eligible telecommunications carrier" for a designated service area, so long as the requesting carrier meets the requirements of Section 214(e)(1).

<sup>40</sup> 47 U.S.C. § 214(e)(1)(A); see also 47 C.F.R. § 54.201(d)(1).

<sup>41</sup> 47 U.S.C. § 214(e)(1)(B); see also 47 C.F.R. § 54.201(d)(2).

<sup>42</sup> 47 U.S.C. § 214(e)(5); see also 47 C.F.R. § 54.207(a).

<sup>43</sup> See 2005 ETC Designation Order, 20 FCC Rcd at 6380, para. 20 (citing Federal-State Joint Board on Universal Service, Recommended Decision, 19 FCC Rcd 4259, para. 5 (Fed-State Jt. Bd. 2004)).

<sup>44</sup> 47 C.F.R. § 54.202(a)(1)(i).

<sup>45</sup> 47 C.F.R. § 54.202(a)(1)(ii). The FCC subsequently eliminated the five-year improvement plan requirement for CAF recipients since it had adopted more specific measures to track deployment, including annual reporting of service to geocoded locations and certification of compliance with benchmark milestones. See Connect America Fund et al., ETCs Annual Reports and Certifications, Report and Order, 32 FCC Rcd 5944, 5944-48, paras. 3-14 (2017) (ETC Reporting Streamlining Order) (eliminating requirements relating to the reporting of network outages, unfulfilled service requests, complaints, and pricing and the certification of compliance with applicable service quality standards).

<sup>46</sup> 47 C.F.R. 54.202(a)(2).

<sup>47</sup> 47 C.F.R. § 54.202(a)(3). The FCC also has eliminated this requirement for CAF support recipients finding that the need for it was obviated by the specific service quality standards applicable to CAF support recipients and specific reporting obligations relating to such standards. See generally ETC Reporting Streamlining Order.

<sup>48</sup> In the 2005 ETC Designation Order, the FCC had established that an ETC may be required to provide equal access if all other ETCs in the service area relinquish their designations. In the USF/ICC Transformation Order, the FCC determined that the above ETC equal access requirement was obsolete and deleted it from 47 C.F.R. § 54.202. The FCC stated because this rule was obsolete, it found good cause to delete it without notice and comment. USF/ICC Transformation Order, FCC Rcd 17872, para. 647 and Appendix A.

<sup>49</sup> 21 U.S.C. § 862; 47 C.F.R. § 1.2002(a)-(b).

<sup>40</sup> Id. at 10.

<sup>41</sup> Id.

<sup>42</sup> Id.

<sup>43</sup> Id.

<sup>44</sup> Id.

<sup>45</sup> Id.

<sup>46</sup> 47 U.S.C. § 254(e).

<sup>47</sup> 47 U.S.C. § 214(e)(6).

<sup>48</sup> See Federal-State Joint Board on Universal Service, Report and Order, 12 FCC Rcd 8776, 8847-76, paras. 128-180 (1997).

<sup>49</sup> 47 U.S.C. § 214(e)(1)(A); see also 47 C.F.R. § 54.201(d)(1).

The Commission has adopted these federal standards under independent Pennsylvania law as a starting point for review of a request for ETC designation.<sup>60</sup> We also have Pennsylvania-specific guidelines discussed below that a federal high-cost ETC petitioner must satisfy before we can approve its request for ETC designation in Pennsylvania. Our review of Claverack Communications' Petition is done consistent with the federal requirements that must be met in order for an applicant to receive designation as an ETC, as codified, which we have adopted and implemented in the Commonwealth as the minimum standards applicable to ETC designation. Additionally, our review of Claverack Communications' Petition is also done to ensure consistency with independent Pennsylvania law as an ongoing obligation.

As discussed in more detail below, we determine that Claverack Communications satisfies all federal requirements applicable to obtaining a high-cost ETC designation, including those embodied in the FCC's Universal Service Order, the 2005 ETC Designation Order, the USF/ICC Transformation Order, the Lifeline Reform Orders, and codified in pertinent FCC regulations. Claverack Communications also satisfies related Pennsylvania-specific requirements or guidelines.

*A. Certification That It Is a Common Carrier and Offering All Services Designated for Federal Universal Service Support*

In order to obtain an ETC high-cost designation, Claverack Communications must demonstrate that it is a common carrier and certify that it offers the services supported by the federal universal service support mechanisms or "supported services".<sup>61</sup> Pursuant to 47 C.F.R. § 54.101, the FCC defines supported services as qualifying voice service and the offering of qualifying broadband Internet access service (BIAS).<sup>62</sup> Also, as a condition of receiving support, the common carrier must offer qualifying voice service as a standalone service throughout its designated service area and must offer voice telephony services at rates that are reasonably comparable to urban rates.<sup>63</sup>

*1. Qualifying Voice Service*

In order to satisfy the criterion of offering qualifying voice services set forth in 47 C.F.R. § 54.201(a), Claverack Communications must be a common carrier that certifies that its eligible voice telephony services provide (1) voice grade access to the public switched network or its functional equivalent; (2) minutes of use for local service provided at no additional charge to end users; (3) access to the emergency services provided by local government or other public safety organizations, such as 911 and enhanced 911, to the extent the local government in an eligible carrier's service area has implemented 911 or enhanced 911 systems; and (4) toll limitation services to qualifying low-income consumers. Additionally, as a RDOF support recipient, like all other high-cost ETCs, Claverack Communications will be required to offer standalone voice service and offer voice and broadband services at rates that are reasonably comparable to rates offered in urban areas. Claverack

Communications certifies that its wireline service offering satisfies the FCC's definition of voice telephony service.<sup>64</sup>

*a. Voice Grade Access to the Public Switched Telecommunications Network (PSTN)*

In its Petition, Claverack Communications states that Exhibit 1 to its Petition depicts how it plans to implement a proposed FTTP network across its Designated Service Area that will allow for delivery of both voice and data services across a broadband access platform. Claverack Communications asserts that this fiber optic cable infrastructure will be designed in a manner that permits it to use various next-generation technologies (e.g., Active Ethernet, Gigabit Passive Optical Network, etc.) to serve customers.<sup>65</sup> Claverack Communications also states that it anticipates it will use a managed services provider to facilitate interconnection with the PSTN and traffic exchange with other carriers.<sup>66</sup>

Additionally, Claverack Communications asserts that because FTTP technologies transmit voice and data over the same physical network, voice traffic is provisioned separately from the Internet traffic, which allows for the network operator to prioritize voice traffic over other types of traffic. Claverack Communications further asserts that since light is not susceptible to electromagnetic interference like copper-based (e.g., DSL, cable modems, etc.) or wireless technologies, the FTTP deployments offer high signal-to-noise ratios and the lowest possible error rates of any access technology.

Claverack Communications also states that it will provide standalone interconnected Voice over Internet Protocol (VoIP) service in its proposed Designated Service Area.<sup>67</sup> Lastly, Claverack Communications further certifies that it will offer voice service at rates that are reasonably comparable to rates offered in urban areas, and it will comply with annual results of the Urban Rate Survey published annually by the FCC.<sup>68</sup>

*b. Minutes of Use for Local Service*

As part of offering voice grade access to the PSTN, an ETC must also provide local calling services to its customers at no additional charge. Although the FCC did not set a minimum local usage requirement, in the Universal Service Order, it determined that ETCs should provide some minimum amount of local usage as part of their "basic service" package of supported services.<sup>69</sup> However, the FCC has determined that a carrier satisfies the local usage requirements by including a variety of local usage plans as part of a universal service offering.

Claverack Communications states that it will offer voice rate plans in the service area that includes local calling at no additional charge and will comply with any and all minimum local usage required adopted by the FCC or states with jurisdiction over Claverack Communications' standalone voice service.<sup>70</sup>

*c. Access to Emergency Services*

Claverack Communications also certifies that it will provide access to 911 and E911 emergency calling services for all of its customers to the extent the local govern-

<sup>60</sup> 52 Pa. Code § 69.2501(a).

<sup>61</sup> 47 C.F.R. § 54.201(d).

<sup>62</sup> 47 C.F.R. § 54.101 (including both eligible voice telephony and eligible broadband Internet access as services "supported by federal universal service support mechanisms," and characterizing the provision of eligible broadband service as a high-cost public interest obligation); see also USF/ICC Transformation Order, 26 FCC Rcd at 17691-94, paras. 74-89 (describing the "core functionalities of the supported services as 'voice telephony service,'" and as a separate condition of receiving federal high-cost universal service support, all ETCs are required to offer BIAS in their supported area that meets certain basic performance requirements).

<sup>63</sup> USF/FCC Transformation Order, 26 FCC Rcd at 17693, paras. 80-81; see also 47 C.F.R. § 54.101(b).

<sup>64</sup> Petition at 8.

<sup>65</sup> Petition at 8.

<sup>66</sup> Id. at 9 and May 11, 2021 DR Responses para. 16.

<sup>67</sup> Petition, Exhibit 4 at 33-34.

<sup>68</sup> Petition at 19.

<sup>69</sup> See Universal Service Order, 12 FCC Rcd 8776, 8813, para. 67. Although the FCC's rules define "local usage" as "an amount of minutes of use of wire center service, prescribed by it, provided free of charge to end users," the FCC has not specified a number of minutes of use. See 47 C.F.R. 54.101(a)(1). See also Federal-State Joint Board on Universal Service, Recommended Decision, CC Docket No. 96-45, FCC 02J-1 (rel. Jul. 10, 2002).

<sup>70</sup> Petition at 8.



ments in its service area have implemented 911 and E911.<sup>71</sup> Additionally, Claverack Communications will advise every VoIP subscriber, and will provide the necessary disclosure, of the circumstances under which 911 service may not be available or may be in some way limited by comparison to traditional E911 service.<sup>72</sup> Such circumstances include, but are not limited to, relocation of the end user's IP-compatible customer premise equipment (CPE), use by the end user of a non-native telephone number, broadband connection failure, loss of electrical power, and delays that may occur in making a dispatchable location available in or through the Automatic Location Identification (ALI) database.<sup>73</sup> As Claverack Communications rolls out its VoIP services in accordance with the FCC's RDOF milestones, it will ensure that all of its VoIP customers, including participants in the Lifeline program, have full access to E911 services in compliance with all FCC rules relating to E911 and Lifeline.<sup>74</sup> Claverack Communications or its third-party managed VoIP provider will ensure that the necessary arrangements are in place with municipalities for this purpose.<sup>75</sup>

Claverack Communications has also certified that it will take measures to ensure reliability of 911 in emergency situations.<sup>76</sup> Claverack Communications has selected its engineering and design vendor to design the network and assist with equipment choices.<sup>77</sup> Claverack Communications will ensure redundancy and reliability by including battery back-ups at cabinets and will also consider wired back-up generation sources at points on its network.<sup>78</sup> It also anticipates that network design may include multiple sites for interconnection with back-haul providers to access the PSTN such as Level 3, PenTeleData and other back-haul providers in Claverack Communications' service area.<sup>79</sup>

The FCC also requires interconnected VoIP carriers to obtain affirmative acknowledgment that each subscriber understands the circumstances in which E911 service may be limited or unavailable. 47 C.F.R. § 9.11(b)(5). Claverack Communications anticipates developing its ordering and customer documentation process for various services in 2022 and is considering multiple methods to obtain the affirmative acknowledgement from subscribers for E911 service.<sup>80</sup> It is considering the following methods for affirmative acknowledgement from subscribers: paper order forms, on-line order form, telephone or video chat order, annual reconfirmations through invoices.<sup>81</sup>

Accordingly, the Commission determines that Claverack Communications has satisfied its obligation of ensuring access to emergency services.

#### d. Toll Limitation Services

Under the language of Section 54.400, the FCC has defined three terms addressing the service provided by an ETC by which a subscriber may prevent toll charges from accumulating beyond a set point. Specifically, Subsection 54.400(b) of the FCC's regulations defines "toll blocking" as the service a subscriber may elect to not allow outgoing toll calls. Subsection (c) defines "toll control service" as the service a subscriber may elect to specify a

set amount of toll usage allowed per month or per billing cycle. Subsection (d) defines "toll limitation service" as a generic term covering either toll blocking or toll control service for ETCs that are incapable of providing both or covering both services.

Section 54.401(a)(2), toll limitation service, does not need to be offered for any Lifeline service that does not distinguish between toll and non-toll calls in the pricing of the service. If an ETC charges Lifeline subscribers a fee for toll calls that is in addition to the per month or per billing cycle price of the subscribers' Lifeline service, the carrier must offer toll limitation service at no charge to its subscribers as part of its Lifeline service offering.

In the FCC's Lifeline and Link Up Reform Order, the FCC explained that toll limitation would no longer be deemed a supported service as of 2014.<sup>82</sup> As such, Claverack Communications will not seek reimbursement for toll limitation services. Claverack Communications currently does not have Lifeline customers because only carriers designated as an ETC can participate in the Lifeline program. Once designated as an ETC, however, Claverack Communications will participate in Lifeline, as required by the FCC's rules, and will provide toll blocking service.<sup>83</sup> Therefore, the nature of Claverack Communications' service eliminates the concern that low-income customers will incur significant charges for international calls, risking disconnection of their service.

#### 2. Eligible Broadband Internet Access Services

An ETC subject to a high-cost public interest obligation to offer BIAS, must offer BIAS that provides the capability to transmit data to and receive data by wire or radio from all or substantially all Internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service, but excluding dial-up service, within the areas where it receives high-cost support.<sup>84</sup> Additionally, pursuant to Section 54.805 of the FCC's regulations, recipients of RDOF support are "required to offer broadband service with latency suitable for real-time applications, including VoIP, and usage capacity that is reasonably comparable to comparable offerings in urban areas, at rates that are reasonably comparable to rates for comparable offerings in urban areas."<sup>85</sup> More specifically, recipients of RDOF support are required to meet the broadband service speeds and performance standards for the relevant performance or the average usage of a majority of fixed broadband customers as announced annually by the FCC's Wireline Competition Bureau (WCB).<sup>86</sup>

Claverack Communications is obligated to offer one service plan that provides BIAS at 1 Gbps/500 Mbps speed at low latency.<sup>87</sup> For winners in the RDOF Phase I auction who submitted bids for the Gigabit tier speed, the FCC required them to show that 95% or more of all testing-hour measurements of network round trip latency are at or below 100 milliseconds (ms) as their latency standard for BIAS.<sup>88</sup>

Claverack Communications asserts that it will offer BIAS with the capability to transmit data and receive data by wire or radio from all or substantially all internet endpoints, including any capabilities that are incidental

<sup>71</sup> Id.

<sup>72</sup> See April 8, 2021 DR Responses para. 12.

<sup>73</sup> Id.

<sup>74</sup> Id. para. 19.

<sup>75</sup> Id. para. 19.

<sup>76</sup> May 22, 2021 DR Responses para. 14.

<sup>77</sup> Id.

<sup>78</sup> Id.

<sup>79</sup> Id.

<sup>80</sup> Id. para. 13.

<sup>81</sup> Id.

<sup>82</sup> In the Matter of Lifeline and Link Up Reform and Modernization, et. Al., WC Docket No. 11-42, Report and Order, FCC 12-11, para. 229 (Feb. 6, 2012).

<sup>83</sup> Petition Exhibit 4 at 34, April 8, 2021 DR Responses paras. 2 and 10 and May 11, 2021 DR Responses para. 9.

<sup>84</sup> 47 C.F.R. §§ 54.101(a)(2) and (c).

<sup>85</sup> 47 C.F.R. § 54.805(a).

<sup>86</sup> 47 C.F.R. § 54.805(b).

<sup>87</sup> RDOF Phase I Auction Order, para. 43.

<sup>88</sup> Id. para. 32.

to and enable the operation of the communications service, but excluding dial-up service.<sup>89</sup> Claverack Communications states that it will implement redundant Ethernet uplinks from the proposed FTTP electronics to its core data network, which will ensure highly reliable broadband data communications services.<sup>90</sup> Claverack Communications also plans to implement data network routers, Internet uplinks, and ISP services to support customers from the awarded census block locations in the RDOF Phase I Auction 904.<sup>91</sup>

Claverack Communications asserts that this proposed FTTP architecture should enable the network operator to provide peak data speeds to individual users in increments of 1 Mbps or less and also allow Claverack Communications to provide a wide variety of data rates up to 1 Gbps (including raw data and ethernet overheads).<sup>92</sup> Thus, Claverack Communications commits to adhere to the requisite performance standards and interest obligations for the relevant performance tier it is obligated to deploy and offer to consumers.

Lastly, Claverack Communications further certifies that it will offer broadband service at rates that are reasonably comparable to rates offered in urban areas, and it will comply with annual results of the Urban Rate Survey published annually by the FCC.<sup>93</sup> Accordingly, the Commission finds that Claverack Communications satisfies this criterion because through the RDOF Phase I funding support it will receive from Auction 904, Claverack Communications will be able to furnish BIAS supported service in Pennsylvania that provides the capability to transmit data to and receive data by wire or radio from all or substantially all Internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service.<sup>94</sup>

#### *B. Certification Regarding the Offering of the Supported Services Using a Carrier's Own Facilities.*

In order to obtain a high-cost ETC designation, a common carrier must offer the qualifying supported services throughout their service area “either using its own facilities or a combination of its own facilities and resale of another carrier’s services.”<sup>95</sup> Thus, only common carriers that provide the qualifying supported services as defined under section 54.101(a), as amended, by using their own facilities will be deemed to meet the requirements of subsection 214(e)(1)(A) of the Act.

The FCC has interpreted the term “facilities” to mean “any physical components of the telecommunications network that are used in the transmission or routing of the services designated for support under section 254(c)(1).”<sup>96</sup> However, as explained by the FCC, “a carrier need not offer universal service wholly over its own facilities in order to be designated an eligible carrier because the statute allows an eligible carrier to offer the supported services through a combination of its own facilities and resale.”<sup>97</sup>

Facilities are the ETC’s “own” if the ETC has exclusive right to use the facilities to provide the supported services<sup>98</sup> or when service is provided by any affiliate within

the holding company structure.<sup>99</sup> Additionally, a common carrier satisfies its ETC designation obligation to “offer” qualifying services by being legally responsible for dealing with customer problems, providing quality of service guarantees, and meeting federal USF-related requirements.<sup>100</sup> Accordingly, a broadband provider may satisfy its voice obligation by offering voice service through an affiliate or by offering a managed voice solution (including VoIP) through a third-party vendor but cannot simply rely on the availability of over-the-top voice options.<sup>101</sup>

Claverack Communications has attested that it will be providing the qualifying supported services and functionalities set forth in Section 54.101(a) of the FCC’s regulations throughout its proposed Designated Service Area in the Commonwealth of Pennsylvania using its own facilities.<sup>102</sup>

#### *C. Certification Regarding Advertising Supported Services.*

Claverack Communications has stated that it will advertise the availability of its Lifeline services in a manner reasonably designed to reach those likely to qualify for the service.<sup>103</sup> Claverack Communications further attested that it will coordinate with state, county and local agencies and organizations that target audiences who are potentially eligible for Lifeline. Claverack Communication also will promote the availability of the program through its website and mailers to current and potential customers, through articles in the Claverack Rural Electric Cooperative periodic newsletters and through booths or exhibits at other local events.<sup>104</sup> Claverack Communications further certifies to provide the Commonwealth’s Department of Human Services (“DHS”) with Lifeline service descriptions and subscription forms, contact telephone numbers, and a listing of the geographic area or areas it serves, for use by DHS in providing notifications to new enrollees in DHS-administered low-income programs pursuant to 66 Pa.C.S. § 3019(f).<sup>105</sup> Lastly, Claverack Communications states that it will advertise the availability and rates of voice and broadband internet service in languages other than English consistent with the applicable FCC and PUC rules.<sup>106</sup>

#### *D. Certification to Provide a Detailed Description of the Geographic Service Area Where It Will Be Designated an ETC*

Generally, once an entity is designated an ETC in a service area, it must offer the supported services throughout that entire designated service area. The term service area generally means the overall geographic area for which the carrier shall receive support from federal universal service support mechanisms. A service area is established by a state commission for the purpose of determining universal service obligations and support mechanisms. Thus, an ETC’s “service area” is set by the designating authority and is the geographic area within

<sup>99</sup> December 2014 CAF Order, 29 FCC Rcd at 15668 n.43; see also 47 U.S.C. § 153(2) (defining an affiliate as “a person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, another person”).

<sup>100</sup> Cf. Connect America Fund, Report and Order, 28 FCC Rcd 7211, 7215, para. 9 (2013) (Phase II Challenge Process Order) (finding that it is not sufficient for a broadband provider to qualify as an “unsubsidized competitor” if a consumer must obtain voice service from a third party, because that broadband provider would not be offering a voice service).

<sup>101</sup> See Rural Digital Opportunity Fund Phase I Auction Order, FCC 20-77, Para. 139.

<sup>102</sup> See Petition at 8-9.

<sup>103</sup> Petition at 10-11; see also April 11, 2021 DR Responses para. 4.

<sup>104</sup> Id.

<sup>105</sup> Petition at 11.

<sup>106</sup> Id.

<sup>89</sup> Petition at 9-10.

<sup>90</sup> Id.; also see Exhibit 1.

<sup>91</sup> Id.

<sup>92</sup> Id.

<sup>93</sup> Petition at 19-20.

<sup>94</sup> See Petition at 14.

<sup>95</sup> 47 U.S.C. § 214(e)(1); 47 C.F.R. § 54.101.

<sup>96</sup> Universal Service Order, 12 FCC Rcd at 8847, para. 128; 47 C.F.R. § 54.201(e).

<sup>97</sup> Id. at 8870, para. 169; 47 C.F.R. § 54.201(f) and (g).

<sup>98</sup> Id. at 8866, para. 160.

which an ETC has universal service obligations and may receive universal service support.<sup>107</sup>

Claverack Communications has been awarded RDOF Phase I high-cost funding support in specific RDOF-CBGs located in the Pennsylvania counties of Bradford, Susquehanna and Wyoming. Pursuant to its Petition, Claverack Communications is seeking designation as a high-cost ETC only in the RDOF-eligible CBGs that are located within certain local exchanges of the following RLECs in Pennsylvania: Commonwealth Telephone Company d/b/a Frontier Communications, Frontier Communications of Canton, LLC, The North-Eastern Pennsylvania Telephone Company and Citizens Telecommunications of New York, Inc. d/b/a Citizens Communications Services Company.

Section 214(e)(5) of the Act, 47 U.S.C. § 214(e)(5), normally requires that a competitive high-cost ETC's (CETC) proposed designated service area conform with the rural incumbent ETC's designated service area. The rural incumbent ETC's designated service area is usually its entire service territory. Generally, if a state commission sought to designate a CETC only in a portion of a rural incumbent ETC's designated service, that rural service area must first be redefined under the process set forth in Section 214(e)(5) of the Act.<sup>108</sup> To accomplish a redefinition of a rural service area, the Commission would be required to conduct a cream-skimming analysis to compare the population density of the wire centers in which the CETC applicant seeks designation against that of the wire centers in the rural service area in which the CETC applicant does not seek designation.<sup>109</sup>

In this proceeding, Claverack Communications seeks a high-cost ETC designation in the service territory of four RLECs but it requests that its designated service areas be limited only to those townships and boroughs in the rural incumbent ETC's service area that comprises Claverack Communications' service territory. As explained above, the Commission usually would have to undergo a redefinition analysis of the particular RLEC service territory since the Petitioner requests to be designated only in certain portions of the RLECs' service areas. However, the FCC has eliminated the service area conformance requirement for those winning bidders in the Auction 904 seeking an ETC designation.<sup>110</sup>

Specifically, in its RDOF Order, the FCC held that for those entities that were seeking to obtain ETC designations solely as a result of being selected as winning bidders for the Auction 904 support, it was best to forbear from applying Section 214(e)(5) of the Act and Section 54.207(b) of the FCC's rules insofar as those sections require that the service area of such a competitive ETC conform to the service area of any RLEC serving an area eligible for Phase I support.<sup>111</sup> The FCC noted that like the CAF Phase II auction, it will be maximizing the use of the RDOF support by making it available for only one provider per geographic area.<sup>112</sup> It further noted that since price cap ETCs had declined the offer of model-based support and another entity is now receiving that declined support through Auction 904, the incumbent ETC's service area is no longer a relevant consideration in determining the geographic scope of a winning bidder's

ETC designation.<sup>113</sup> Hence, the RLEC's service area will no longer be relevant because the incumbent ETC may be eventually replaced by the RDOF recipient in those portions of its service area where it may seek relinquishment since it will no longer receive high-cost support to provide the supported services, particularly qualifying voice service.

Here, Claverack Communications was a winning bidder in specific eligible census block groups located within four of our RLECs' service areas. Consequently, it is seeking a high-cost ETC designation only in those specific CBGs. Since the FCC has waived its rules regarding the redefinition process specifically for Auction 904 funding recipients, there is no need for the Commission to consider the relevant analysis the state and the FCC historically considered when deciding whether to redefine an RLEC's service area when it receives a request from the winning bidder to have a designated service area that is below the incumbent rural ETC's entire service area.

Based on our analysis of the applicable and relevant governing authority, we approve Claverack Communications' request for it to be designated a high-cost ETC in a service area that is below the service area of each of the four RLECs. Accordingly, we approve Claverack Communications' proposed Designated Service Area as set forth in its Petition and relevant supplements. Claverack Communications' high-cost Designated Service Area will only consist of the specific RDOF Phase I CBGs listed in Appendix A, which are located in the specific local exchanges of four RLECs, as listed in Appendix B.

#### *E. Compliance with the Service Requirements Applicable to Auction 904 Support*

Claverack Communications must certify that it will comply with requirements applicable to the federal universal service support that it has been awarded by the FCC. In order to satisfy this criterion, an ETC petitioner must demonstrate its commitment and ability to provide the supported services to all customers making a reasonable request for service within the ETC's designated service area.<sup>114</sup>

To satisfy the first prong, an ETC petitioner must ensure that it is providing services to all customers making a reasonable request for service throughout its proposed Designated Service Area. If the ETC's network already passes or covers the potential customer's premises, the ETC should provide service immediately. Claverack Communications certifies that it will comply with the service and performance requirements applicable to the support that it receives, including the performance requirements and deployment milestones associated with RDOF support.<sup>115</sup> Additionally, Claverack Communications certifies that it will comply with all applicable state and federal consumer protection and service quality standards associated with the receipt of RDOF support.<sup>116</sup>

#### *F. Certification Regarding Continued Functionality in Emergency Situations*

Pursuant to 47 C.F.R. § 54.202(a)(2), an ETC petitioner is required to demonstrate its ability to remain functional in emergency situations. To satisfy this criterion, a peti-

<sup>107</sup> 47 U.S.C. § 214(e)(5); 47 CFR § 54.207(a).

<sup>108</sup> Section 214(e)(5) of the Act provides that a CETC service area is defined as the RLEC's study area unless and until the state commission and the FCC, taking into consideration any recommendations from the Joint Board, redefine the RLEC's service area to be something other than its study area.

<sup>109</sup> See ETC Designation Order, 20 FCC Rcd at 6392-95, paras. 48-53.

<sup>110</sup> RDOF Order, 35 FCC Rcd at 727-728, paras. 91-93.

<sup>111</sup> Id. para. 92.

<sup>112</sup> Id.

<sup>113</sup> Id.

<sup>114</sup> The FCC has determined CAF high-cost recipients need not submit a formal five-year improvement plan that demonstrates how universal service funds will be used to improve coverage, signal strength, or capacity that would not otherwise occur absent the receipt of high-cost support. See generally WCB Reminds Connect America Fund Phase II Applicants of the Process for Obtaining Federal Designation as an Eligible Telecommunications Carrier, WC Docket Nos. 09-197, 10-90, Public Notice, DA 18-714, 3-4 (rel. July 10, 2018).

<sup>115</sup> Petition at 19.

<sup>116</sup> Id. at 15.



tioner must demonstrate it has a reasonable amount of back-up power to ensure functionality without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations. The FCC's regulations further require facilities-based fixed residential voice services that are not line-powered (fixed service providers) to offer for sale to subscribers "at least one option that provides a minimum of twenty-four hours of standby backup power" for customer premises equipment by February 13, 2019.<sup>117</sup>

Claverack Communications has certified that it intends to design the network with redundancy to enable continuous service.<sup>118</sup> Claverack Communications asserts that it is contemplating locating multiple dead ends in the service territory and ensure that the network contains at least two backhaul interconnections. Claverack Communication will also install battery backups for Optical Network Terminals (ONT) at customers' premises if purchased.<sup>119</sup> Claverack Communications will explain the installation cost to the customer as part of the application process and will also inform the customer of the option to purchase battery backup and the associated cost.<sup>120</sup> Claverack Communications will also include a backup-power disclosure.<sup>121</sup> Claverack Communications has set forth its anticipated voice service options and pricing on pages 38 to 41 in its proposed tariff. Claverack Communication anticipates that it will develop its broadband service prices in 2022, before it begins marketing services in anticipation of its initial service launch expected to occur before the end of 2022.<sup>122</sup>

#### G. Certification to Satisfy Customer Service and Service Quality Standards

Historically, a petitioner seeking an ETC designation for purposes of becoming eligible to receive high-cost support was required to demonstrate its ability to satisfy applicable consumer protection and service quality standards.<sup>123</sup> However, for petitioners seeking ETC designation for the purposes of becoming authorized to receive Auction 904 high-cost support, the FCC waived the requirement to submit proof of compliance with consumer protection and service quality standards—finding that the need for such requirements is obviated by specific service quality standards applicable to Auction 904 winning bid areas and specific reporting obligations relating to such standards.<sup>124</sup>

Nonetheless, Claverack Communications is a certificated CLEC and Interexchange Facilities-based reseller authority and, thus, it is subject to the consumer protection and service quality standards promulgated by the Commission.<sup>125</sup> Claverack Communications asserts that it will meet those requirements as applicable. Moreover, Claverack Communications proposes to offer a protected, stand-alone basic voice service over a fiber-based IP platform.<sup>126</sup> Therefore, in addition to other Commission

jurisdiction preserved under the VoIP Freedom Act, this service remains subject to all applicable consumer protections and quality of service standards under Pennsylvania law, even though it will be provided as an interconnected VoIP service.<sup>127</sup>

#### H. Certification Regarding Financial and Technical Ability to Provide Lifeline Service

##### 1. 47 C.F.R. § 54.202(a)(4)

#### Financial and Technical Ability to Provide Lifeline Service

Generally, a carrier seeking only low-income support under Subpart E, 47 C.F.R. §§ 54.400—54.422, must demonstrate that it possesses the financial and technical ability to provide Lifeline service.<sup>128</sup> Claverack Communications certifies that it is not seeking designation as an ETC for purposes of receiving support only under 47 C.F.R., Chapter I, Subchapter B, Part 54, Subpart E, which is Lifeline-only support.<sup>129</sup> Therefore, Claverack Communications argues that 47 C.F.R. sections 54.202(a)(4) is inapplicable.

However, in its Petition, Claverack Communications explicitly states that it is also seeking to be designated as a Lifeline-only ETC in those areas within its service area in Pennsylvania where it has not been awarded Auction 904 high-cost support. As such, Claverack Communications must still demonstrate financial and technical ability to provide Lifeline service in these areas.

Moreover, Claverack Communications must participate in the federal Lifeline program and offer Lifeline service to low-income eligible customers or households in these CBGs within its Designated Service Area.<sup>130</sup> Therefore, we will ensure that Claverack Communications has the technical and financial capability to provide Lifeline services to eligible low-income consumers residing in either the Auction 904 census blocks or those geographic areas in its service territory that are not subject to Auction 904 funding.

The Commission takes note that Claverack Communications was one of the successful bidders in the FCC's RDOF Phase I Auction 904 that is aiding with the construction of the planned network facilities in Pennsylvania, and that the FCC's RDOF Phase I bidding process required the substantive demonstration of managerial, technical, and financial fitness elements for the participation of the successful bidders.<sup>131</sup> Accordingly, we find that Claverack Communications has demonstrated it is technically, managerially, and financially fit to offer and provide Lifeline service to qualifying low-income consumers, consistent with the FCC rules and Pennsylvania-specific

<sup>117</sup> 47 C.F.R. § 9.20; see also Ensuring Continuity of 911 Communications, Report and Order, 30 FCC Rcd 8677 (2015).

<sup>118</sup> Petition at 14.

<sup>119</sup> Id.

<sup>120</sup> May 11, 2021 DR Responses para. 12.

<sup>121</sup> See Claverack Communications' Residential Phone Terms and Conditions.

<sup>122</sup> May 11, 2021 DR Responses para. 4.

<sup>123</sup> 47 C.F.R. § 54.202(a)(3).

<sup>124</sup> See RDOF Order.

<sup>125</sup> Approval of Claverack Communications LLC Authority to Operate as an Interexchange Carrier Reseller throughout the Commonwealth of Pennsylvania, Docket No. A-2021-3024004 (Order entered April 15, 2021). The Commission's consumer protection and quality of service regulations applicable to CLECs apply to both competitive and non-competitive services.

<sup>126</sup> We note that stand-alone basic voice service has not been reclassified as competitive under Section 3016 of the Code, 66 Pa.C.S. § 3016, in any of the ILEC service area exchanges or wire centers where Claverack Communications proposes to provide CLEC services.

<sup>127</sup> See 73 P.S. §§ 2251.5 and 2251.6(1)(v). Under the VoIP Freedom Act, the Commission has retained jurisdiction to enforce applicable federal and Pennsylvania statutes or regulations on interconnected VoIP services relating to the following subject matters: (i) The provision and administration of enhanced 911 service and nondiscriminatory enhanced 911 fees; (ii) telecommunications relay service fees; (iii) universal service fund fees; (iv) switched network access rates or other intercarrier compensation rates for interexchange services provided by a local exchange telecommunications company; and (v) rates, terms or conditions of protected services provided under tariffs which are subject to approval by the Commission. 73 P.S. § 2251.6(1). See also *Eileen Floyd v. Verizon Pennsylvania LLC*, Docket No. C-2012-2333157 (Order entered April 30, 2013); Application of Momentum Telecom, Inc. for Approval of the Abandonment or Discontinuance of Competitive Local Exchange Carrier and Interexchange Carrier Reseller Services to the Public in the Commonwealth of Pennsylvania, Docket No. A-2014-2450071, (Order entered May 20, 2015). See also *Mozilla Corp. v. FCC*, 940 F.3d 1, 74-86 (D.C. Cir. 2019).

<sup>128</sup> 47 C.F.R. § 54.202(a)(4).

<sup>129</sup> Petition at 15.

<sup>130</sup> Currently, federal rules limit Lifeline funding support to \$5.25 per month per subscriber for voice services. The Lifeline subscriber's \$5.25 support may also be applied to BIAS a Lifeline consumer may choose to purchase but subscribers cannot receive the \$5.25 support separately for each service. However, Lifeline also supports broadband access and voice bundles so consumers choosing a bundled package containing voice and broadband access service can apply the \$5.25 monthly support to that bundle.

<sup>131</sup> See, e.g., RDOF Phase I Auction at paras. 69, 72 and 75.

rules, throughout its service territory in Pennsylvania. Accordingly, we find that Claverack Communications meets the requirements of 47 C.F.R. § 54.202(a)(4).

2. 47 C.F.R. §§ 54.202(a)(5) and 54.202(a)(6)

*Terms and Conditions of Lifeline Plans*

Consistent with our prior determination regarding Section 54.202(a)(4) above, we believe these sections are also applicable to Claverack Communications' ETC designation request. Pursuant to Section 54.202(a)(5) of the FCC rules, a common carriers seeking a Lifeline-only designation must submit information describing the terms and conditions of any voice telephony service plans offered to Lifeline subscribers, including details on the number of minutes provided as part of the plan, additional charges, if any, for toll calls, and rates for each such plan.<sup>132</sup> Additionally, pursuant to 54.202(a)(6) of the FCC rules, a common carriers seeking a Lifeline-only designation must submit information describing the terms and conditions of any BIAS plans offered to Lifeline subscribers, including details on the speeds offered, data usage allotments, additional charges for particular uses, if any, and rates for each such plan.<sup>133</sup> Thus, Claverack Communications' Lifeline service that is offered to qualifying low-income consumers throughout its service territory must comply with these FCC's rules and also the Commission's rules and guidelines.

Pursuant to Sections 54.202(a)(5) and 54.202(a)(6), Claverack Communications commits to offering Lifeline service to qualifying low-income consumers consistent with the FCC's rules and the Commission's rules and guidelines in all high-cost areas where it is authorized to receive Lifeline support.<sup>134</sup> Claverack Communications has provided the requisite information in its accompanying supplements about its Lifeline service plan offerings.<sup>135</sup> Claverack Communications' supplements include the requisite description of its voice and Internet access service offerings for Lifeline subscribers.<sup>136</sup> Claverack Communications also certifies that Lifeline subscribers will be able to choose from voice and BIAS that are generally available to the public.<sup>137</sup> Accordingly, we find that Claverack Communications meets the requirements of 47 C.F.R. § 54.202(a)(5) and 47 C.F.R. § 54.202(a)(6).

3. 47 C.F.R. § 54.202(b)

*Public Interest Standard*

Claverack Communications states that the public interest requirement imposed by 47 C.F.R. § 54.202(b) is inapplicable. We agree. This public interest requirement is applicable only when the FCC is designating a common carrier providing telephone exchange service and exchange access that is not subject to the jurisdiction of a state commission. Moreover, a state is already required to determine whether an ETC Petitioner has demonstrated that its request for designation as an ETC is consistent with the public interest, convenience and necessity under 47 U.S.C. § 214(e)(2) and 47 C.F.R. § 54.202(c)(1), which is discussed in subsection L below.

*I. Certification of Eligibility for Benefits under the Anti-Drug Abuse Act*

ETC petitioners must certify that neither the petitioner nor any party to the petition is subject to a denial of federal benefits pursuant to Section 5301 of the Anti-Drug

Abuse Act of 1988, as implemented in Section 1.2002 of the FCC's rules. Claverack Communications certifies that no party to its Petition is subject to denial of federal benefits, including FCC benefits, pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988.

*J. Certification to Relinquish Its ETC Designation*

Claverack Communications may possibly replace the current incumbent price cap ETCs as the only carrier receiving federal USF high-cost support in certain CBGs within the RLECs' local exchanges.<sup>138</sup> In the December 2014 Connect America Order, the FCC determined that federal price cap carriers can remove their ETC status via the Section 214 process if (1) the census block is determined to be low cost; (2) the census block is served by an unsubsidized competitor offering voice and broadband at speeds of 10/1 Mbps or better to all eligible locations; or (3) the census block is served by a subsidized competitor (another ETC) receiving federal high-cost support to deploy modern networks capable of providing voice and broadband to fixed locations.<sup>139</sup> Thus, in those areas where a new provider is granted high-cost ETC status and is authorized to receive Auction 904 support, the incumbent price cap carrier will be relieved of its federal high-cost ETC obligation to offer voice telephony services in that area.

However, this forbearance action does not relieve the price cap ETC of its other "incumbent-specific obligations" like interconnection and negotiating unbundled network elements pursuant to sections 251 and 252 of the Act. Additionally, notwithstanding an incumbent price cap carrier's being relieved of an ETC obligation to provide qualifying voice telephony service, where the CETC is the only entity that receives federal high-cost support, it is still required to do the following: (1) seek relinquishment of its ETC designation as prescribed under Section 214(e)(4) of the Act and (2) maintain existing voice service until they receive discontinuance authority under section 214(a) of the Act and Section 63.71 of the Commission's rules.<sup>140</sup> Thus, price cap carriers will remain subject to ETC obligations other than those covered by our forbearances unless or until they relinquish their ETC designations in those areas pursuant to Section 214(e)(4) of the Act.

Further, price cap carriers in these areas will remain subject to other Title II requirements, including ensuring that voice telephony rates remain just and reasonable and the nondiscrimination obligations of Sections 201 and 202 of the Act. Moreover, pursuant to our Pennsylvania-specific carrier of last resort (COLR) obligations, the Commission will ensure that the local rates that the relinquishing price cap carrier offers in the areas from which they may forbear remain just and reasonable.<sup>141</sup> Lastly, these price cap carriers must continue to satisfy all Lifeline ETC obligations by offering voice telephony service to qualifying low-income households in areas in which they are subject to this limited forbearance.

The same standard will apply to Claverack Communications upon its ETC designation as the designation will

<sup>132</sup> 47 C.F.R. § 54.202(a)(5).  
<sup>133</sup> 47 C.F.R. § 54.202(a)(6).  
<sup>134</sup> See Petition at 22–28.  
<sup>135</sup> See generally April 8, 2021 and May 11, 2021 DR Responses; see also DR Responses generally. See also Mockup of Advertising/Marketing Materials and Claverack Communications LLC Residential Phone Terms and Conditions.  
<sup>136</sup> See generally April 8, 2021 DR Responses and May 11, 2021 DR Responses.  
<sup>137</sup> May 11, 2021 DR Responses para. 3.

<sup>138</sup> Notwithstanding Pennsylvania state law, a state commission must allow an ETC to relinquish its designation in any area served by more than one ETC pursuant to Section 214(e)(4) of the Act if conditions are met. See 47 U.S.C. § 214(e)(2). The relinquishing ETC must provide advance notice of such relinquishment to the state commission. Prior to allowing the relinquishing carrier to cease providing universal service, the state commission must require the remaining ETC or ETCs to ensure that all customers served by the relinquishing carrier will continue to be served. The state commission also must require sufficient notice to the remaining ETC or ETCs to permit the purchase or construction of adequate facilities, with such purchase occurring within a specific time period. See 47 U.S.C. § 214(e)(4).

<sup>139</sup> See December 2014 Connect America Order, Report and Order, 29 FCC Red 15644, 15663-71, paras. 50–70.  
<sup>140</sup> RDOF Order, 35 FCC Red at 743-744, paras. 134-35.  
<sup>141</sup> Id. at para. 134. See also 66 Pa.C.S. § 1301.

require it to ensure that *all* customers are served in its service territory upon request. Claverack Communications, as a common carrier with an ETC designation, will continue to have the obligation to serve all customers in the Auction 904 census blocks where it will receive federal high-cost support up until the time it is permitted by the Commission to relinquish its ETC designation.<sup>142</sup> Hence, if all other ETCs in Claverack Communications' proposed Designated Service Area are permitted to relinquish their ETC designations, Claverack Communications, as the competitive ETC, may be required to ensure that all customers served by the relinquishing carriers in their respective service areas will continue to be served.<sup>143</sup>

Accordingly, if at some point in the future Claverack Communications becomes the only entity in the geographic area that receives federal high-cost support, if it seeks to relinquish its ETC designation, it certifies that it will comply with the requirements of Section 54.205 as well as independent state law.

*K. Certification Regarding Applicable Annual Reporting and Certification Requirements for High-Cost Support Recipients*

Pursuant to 47 C.F.R. § 54.806, an RDOF recipient is required to comply with applicable annual reporting requirements, compliance measures, recordkeeping requirements and audit requirements for high-cost support recipients under Sections 54.313, 54.314, 54.316 and 54.320(a)—(c) of the FCC's rules.<sup>144</sup>

*L. Analysis and Public Interest Standard*

Federal law dictates that only a common carrier designated as an eligible telecommunications carrier under 47 U.S.C. § 214(e)(2) shall be eligible to receive universal service support in accordance with section 254 of the Act.<sup>145</sup> Claverack Communications has filed this Petition seeking to have the Commission designate it as high-cost ETC designation in the relevant census blocks where it has been awarded Auction 904 federal high-cost support.<sup>146</sup>

Section 153(10) of the Act defines the term "common carrier" as "any person engaged as a common carrier for hire, in interstate or foreign communications by wire or radio[.]" 47 U.S.C. § 153(10). A carrier is eligible under Section 54.201 so long as it offers the services set forth in Section 54.101, either through its own facilities or a combination of its own facilities and the resale of another carrier's services and advertises the availability of the federal universal support services using media of general distribution. Common carriers that provide services consistent with the requirements of Section 214(e) may be designated ETCs.

Claverack Communications meets the ETC requirement of being a common carrier. Claverack Communications

will provide interconnected VoIP service (and BIAS) in Pennsylvania. Additionally, Claverack Communications also will provide standalone interconnected VoIP service in its Designated Service Area. As such, Claverack Communications is a common carrier under 47 U.S.C. §§ 214(e)(1) for purposes of ETC designation. Thus, the Commission finds that Claverack Communications has established through the required certifications and related filings that it satisfies the standards applicable to obtaining a high-cost ETC designation and that it will comply with the requisite service requirements and obligations attendant to its high-cost designation as specified in the Act, the Commission's rules, and under independent state law.

However, pursuant to 47 U.S.C. § 214(e)(2), the Commission must still determine that designating Claverack Communications as a high-cost ETC in the eligible Auction 904 census blocks and as a Lifeline-only ETC in all other non-CAF funded geographic areas throughout its service territory would be in the public interest. When making a public interest determination for an ETC designation under 47 U.S.C. § 214(e)(2), we have historically considered the benefits of increased consumer choice and the unique advantages and disadvantages of the petitioner's service offering in the Designated Service Area.<sup>147</sup>

In particular, granting an ETC designation may serve the public interest by providing a choice of voice and BIAS service offerings to consumers residing within our rural high-cost areas. Additionally, as a condition of obtaining a high-cost ETC designation, Claverack Communications is required to serve low-income consumers by offering Lifeline discounts to its service offerings, which ensures the availability of new, facilities-based Lifeline services at competitive prices in these areas.

Moreover, we believe the Section 214(e)(2) public-interest test has been met because Claverack Communications has been assigned a significant portion of Co-Op Connections Consortium's winning bid in Pennsylvania in Auction 904, which will result in Pennsylvania benefitting from the federal support associated with those winning bids.<sup>148</sup> Essentially, the Auction 904 support will allow Claverack Communications to offer voice and broadband data services to areas in Pennsylvania that currently do not have broadband access services. Receipt of Auction 904 high-cost support funding will be a considerable benefit to Pennsylvania, which is otherwise a net-contributor state to the federal USF funding mechanism. It will facilitate the provision of additional access to voice and broadband services to Pennsylvania consumers in rural areas that are expensive and difficult to serve. Recipients of RDOF Phase I support are required to offer voice and broadband access services at modern speeds with latency suitable for real-time applications, including VoIP, and usage capacity that is reasonably comparable to similar offerings in urban areas. Claverack Communications has certified that it will abide by the FCC's rules for voice and broadband access services in accordance with 47 C.F.R. § 54.805.<sup>149</sup>

Claverack Communications was assigned winning bids in Auction 904 in the following manner:

<sup>147</sup> See generally Federal-State Joint Board on Universal Service, Highland Cellular, Inc. Petition for Designation as an Eligible Telecommunications Carrier for the Commonwealth of Virginia, Memorandum Opinion and Order, 19 FCC Rcd. 6422, 6424, para. 4 (2004); Federal-State Joint Board on Universal Service, Virginia Cellular, LLC Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia, Memorandum Opinion and Order, 19 FCC Rcd 1563, 1565. para. 4 (2004).

<sup>148</sup> See Petition at 2-3.

<sup>149</sup> Id. at 16.

<sup>142</sup> 47 U.S.C. § 214(e)(4) (emphasis added).

<sup>143</sup> 2005 ETC Designation Order, 20 FCC Rcd at 6386, para 36. The FCC stated that under Section 214(e)(4) of the Act, the state commission or, in the case of a common carrier not subject to state commission jurisdiction, the FCC "shall permit an eligible telecommunications carrier to relinquish its designation as such a carrier in any area served by more than one eligible telecommunications carrier." However, prior to allowing the carrier to cease providing universal service in the area, the remaining ETC or ETCs will be required to ensure that all customers served by the relinquishing carrier will continue to be served. Furthermore, under Section 251(h)(2) of the Act, the Commission may treat another carrier as the incumbent LEC if that carrier occupies a position in the market that is comparable to the position occupied by the incumbent LEC, if such carrier has substantially replaced an incumbent LEC, and if such treatment is consistent with the public interest, convenience and necessity. Moreover, applicable Pennsylvania law notwithstanding, ILECs seeking to relinquish their ETC designations will remain obligated, however, to maintain existing voice service unless and until they receive authority under 47 U.S.C. § 214(a) to discontinue that service. They also will remain subject to the obligation to offer Lifeline service to qualifying low-income consumers or households throughout their service territory.

<sup>144</sup> 47 C.F.R. §§ 54.313, 54.314, 54.316 and 54.320(a)—(c).

<sup>145</sup> 47 U.S.C. § 254(e).

<sup>146</sup> See Appendix B.



<i>Bidder</i>	<i>State</i>	<i>Annual Assigned Support for 10-year period</i>	<i>Locations Assigned</i>
Claverack Rural Electric Cooperative	PA	\$31,634,533 <sup>150</sup>	8496 <sup>151</sup>

Specifically, granting Claverack Communications' request to be designated a high-cost ETC will permit it to secure the release of the total 10-year support of \$31,634,533 by the FCC from Auction 904 to deploy broadband-capable networks in rural underserved areas in Pennsylvania where such deployment might otherwise prove more expensive or take longer to implement. Accordingly, we determine that granting an ETC designation to an entity in those areas where it is authorized to receive Auction 904 support as a winning bidder serves the public interest.

Since an ETC designation will assist Claverack Communications to secure federal universal service high-cost support funding under RDOF Phase I in various CBGs in specific local exchanges and also provide voice services while promoting the deployment of advanced telecommunications and BIAS in the relevant areas and locations of the Commonwealth addressed in the Petition, the Commission determines that ETC designation for Claverack Communications is in the public interest. It promotes both the FCC's and the Pennsylvania General Assembly's goals of preserving and advancing universal telecommunications and broadband services and ensuring the availability of quality telecommunications services at just, reasonable, and affordable rates within rural and high-cost areas. See 66 Pa.C.S. §§ 3011(1) and (2), 3012 (definition of universal broadband availability), and 3014(a) and (b). Accordingly, we find that designating Claverack Communication as an ETC so that it may become eligible to receive the Auction 904 federal high-cost support in the eligible census block groups located within Claverack Communications' service territory and its designation as a Lifeline-only ETC in all other non-CAF funded geographic areas in its service territory is in the public interest.

## II. Federal Requirements of Eligible Telecommunications Carriers for Universal Service Support for Low-Income Consumers

Upon receiving a designation as an ETC in the CBGs throughout its service territory where it has been awarded Auction 904 federal high-cost support, the ETC is required to participate in the federal Lifeline program and must offer Lifeline service to qualified low-income eligible customers or households in Auction 904-eligible census blocks.<sup>152</sup> Further, since Claverack Communications' ETC designation comprises geographic areas where it has not been awarded Auction 904 support, Claverack Communications will be designated as Lifeline-only ETC in those areas.<sup>153</sup> Claverack Communications' Lifeline service must meet the minimum standards set forth in the FCC's Lifeline Reform Orders, which have been codified at Title 47, Chapter I, Part 54, Subpart E that, which governs universal service support provided to

low-income consumers. All other minimum federal requirements of the FCC's Lifeline Reform Orders not expressly discussed herein, are nonetheless applicable to ETC designation requests in Pennsylvania. This includes any subsequent developments in those federal requirements.

### A. The FCC's Rules Applicable to Claverack Governing Lifeline

#### 1. 47 C.F.R. § 54.405

##### *Lifeline service provider obligations.*

All ETCs must certify that they do the following: (1) make available Lifeline service, as defined in 47 C.F.R. § 54.401, to qualifying low-income consumers; (2) publicize the availability of Lifeline service in a manner reasonably designed to reach those likely to qualify for the service; (3) explain in its marketing materials using easily understood language that the Lifeline program is a federal government assistance program that provides a monthly subsidy that lowers the monthly cost of phone or internet service (but not both) and is available only to one eligible consumer per household, not per person and that the benefit is non-transferable once the customer is enrolled into the program; and (4) disclose its name on all marketing materials describing the service.

#### 2. 47 C.F.R. § 54.410

##### *Subscriber Eligibility Determinations and De-enrollments*

All high-cost ETCs must certify that they first ensure that their potential Lifeline subscribers are eligible to receive Lifeline services.<sup>154</sup> In Pennsylvania, all ETCs must receive a notice from the National Verifier that their potential Lifeline subscribers are eligible to receive Lifeline services.<sup>155</sup> Lifeline service providers can help Lifeline consumers obtain an eligibility decision from the National Verifier through the service provider portal that links to the National Verifier, or consumers can apply on their own by mail or online.<sup>156</sup>

As Pennsylvania is a National Verifier state, Claverack Communications must query the NLAD to ascertain a potential Lifeline applicant's eligibility for service as determined by the National Verifier. Thereafter, once it has been verified that the consumer is eligible to qualify for Lifeline Service, the ETC may provide the consumer with an activated device that enables use of Lifeline-supported service.<sup>157</sup>

Further, a Lifeline service provider must certify that it complies with the FCC federal policy rules for de-

<sup>150</sup> Long-Form Applicants Spreadsheet.

<sup>151</sup> Id.

<sup>152</sup> Id. at 707-708, para. 42.

<sup>153</sup> As previously noted, Claverack Communications' request for high-cost ETC designation was limited to its proposed Designated Service Area—the census block groups for which it was awarded Auction 904 support. Claverack Communications also seeks Lifeline-only ETC designation for all other census blocks in its service area where Claverack Communications is not receiving high-cost support. Petition at 19.

<sup>154</sup> 47 C.F.R. § 54.410.

<sup>155</sup> In its 2016 Lifeline Order, the FCC established the National Verifier as the entity designated to make the initial eligibility determination regarding a potential Lifeline subscriber. 2016 Lifeline Order, 31 FCC Rcd 3962, 4007, para. 128 (2016).

<sup>156</sup> New and potential Lifeline consumers receive their initial eligibility determination by signing into CheckLifeline.org from any computer or mobile device to create an account, receive an eligibility decision, and use the list of service providers in their area to contact one to enroll.

<sup>157</sup> The Universal Service Administrative Company (USAC), the administrator of the federal Lifeline program, manages the National Verifier and its customer service department, the Lifeline Support Center. The National Verifier makes an initial determination of a subscriber's eligibility based on prospective subscriber's eligibility to qualify for Lifeline service using either income-based eligibility criteria or program-based eligibility criteria is codified at Sections 54.410(b) and (c), respectively.

enrolling an account from Lifeline support.<sup>158</sup> There are several situations that might result in subscriber de-enrollment from Lifeline-supported service: (1) de-enrollment because the service provider has a reasonable basis to believe a subscriber is no longer eligible to receive a Lifeline benefit;<sup>159</sup> (2) de-enrollment for duplicative support;<sup>160</sup> (3) de-enrollment for non-usage;<sup>161</sup> and (4) de-enrollment for failure to re-certify; and (5) de-enrollment requested by subscriber.

### 3. 47 C.F.R. §§ 54.416, 54.417 and 54.422

#### *Annual Certifications and Reporting to USAC*

ETCs must certify that they will comply with annual certification requirements relating to the Lifeline program such as certifying annually that they are in compliance with the minimum service levels set forth in 47 C.F.R. § 54.408.<sup>162</sup> ETCs are required to annually certify compliance with the applicable minimum service level rules by submitting Form 481 to USAC.<sup>163</sup>

#### *B. Pennsylvania-Specific Requirements for Lifeline Program*

In addition to the federal Lifeline standards above, the Commission also has adopted minimum service standards to govern the federal Lifeline program.<sup>164</sup> Section 3019(f) of the Pennsylvania Public Utility Code, 66 Pa.C.S. § 3019(f), sets forth the minimum Pennsylvania requirements for ETCs seeking low-income support from the federal Lifeline Program.

In addition to these Pennsylvania statutory requirements, the Commission also has established other Lifeline eligibility criteria via orders.<sup>165</sup> To the extent that federal law or federal requirements for Lifeline service have not preempted or made our Pennsylvania state-specific Lifeline requirements obsolete, they remain applicable to all Lifeline service providers. For example, our PA Lifeline Order requires ETCs to verify the ongoing eligibility of their Lifeline subscribers and submit an annual recertification of that verification. However, we note that pursuant to the federal rules, Lifeline subscribers will be recertified either automatically through the National Verifier's state/federal data sources or receive a recertification request from USAC.<sup>166</sup> Additionally, ETCs are required to report to the Commission annual changes in their Pennsylvania Lifeline enrollment. Thus, ETCs must certify that they will comply with relevant requirements set forth in the Pa. Lifeline Order, Tracking Report Order, and Policy Statement.

<sup>158</sup> See 47 C.F.R. § 54.405(e). Every Lifeline consumer's eligibility is to be recertified annually. 47 C.F.R. § 54.410(f). Lifeline subscribers will be recertified either automatically through the National Verifier's state/federal data sources or receive a recertification request from USAC. In Pennsylvania, service providers query NLAD to verify their current Lifeline subscribers' continued eligibility.

<sup>159</sup> 47 C.F.R. § 54.405(e)(1).  
<sup>160</sup> If the USAC provides notification to a service provider that a subscriber has more than one discounted account, or that more than one member of a subscriber's household is receiving service, the service provider must de-enroll the subscriber within five business days. 47 C.F.R. § 54.405(e)(2).

<sup>161</sup> If the subscribers do not use their Lifeline service at least every 30 days, they will be notified by the provider that they may be de-enrolled if they do not use their service during the 15-day notice period (the "cure period").

<sup>162</sup> 47 C.F.R. § 54.416.

<sup>163</sup> 47 C.F.R. § 54.422.

<sup>164</sup> 52 Pa. Code § 69.2501.

<sup>165</sup> In Re: Lifeline and Link-up Programs, Docket No. M-00051871 (Order entered May 23, 2005) (PA Lifeline Order); Re: Section 3015(f) Review Regarding Lifeline Tracking Report, Accident Report, and Services Outage Report, 100 Pa. P.U.C. 553 (Dec. 30, 2005) (Tracking Report Order); Final Policy Statement on Commonwealth of Pennsylvania Guidelines for Designation and Annual Recertification as an Eligible Telecommunications Carrier (ETC) for Purposes of Federal Universal Service Support, Docket No. M-2010-2164741, Final Policy Statement Order (Order entered August 2, 2010).

<sup>166</sup> We acknowledge that many of the Pennsylvania-specific requirements set forth in our PA Lifeline Order such as the requirements for certification and verification of a customer's initial and continued eligibility for Lifeline services have been impacted by developments at the federal level. For example, the creation of the National Verifier and the NLAD has made certain Pennsylvania-specific requirements for verification of Lifeline eligibility and re-certification moot.

#### *C. Analysis*

Claverack Communications certifies that this satisfies the minimum standards set forth in the FCC's Lifeline Reform Orders, reporting and performance metrics set forth in the USF/ICC Transformation Order, and all related regulations. Further, Claverack Communications also certifies that it satisfies and will abide by the Commission's requirements in the Public Utility Code, our ETC Guidelines, and all other Lifeline-related orders. As a RDOF winning bidder, Claverack Communications is required to comply with the same long-form application process the FCC adopted for Auction 903.<sup>167</sup> Thus, upon receipt of an ETC designation from us, Claverack Communications will be subject to a thorough financial and technical review by the FCC during the long-form application stage prior to ultimately receiving the Auction 904 support.<sup>168</sup>

Since Claverack Communications has committed itself to serve low-income consumers by offering Lifeline discounts to its service offerings, we find that reliance on its commitments to meet these and other regulatory requirements, as well as representations and commitments made in its petition, is reasonable and consistent with the public interest and the Act.

### **III. Change in Corporate Control and Renewed ETC Designation**

In the event of a change of or transfer in corporate control, as defined in the Commission's regulations at 52 Pa. Code § 63.322, Claverack Communications will have to petition this Commission for a renewal of its ETC status. Corporate changes of control may also be accompanied with changes in ETC status of a particular telecommunications entity with reference to the various and evolving support mechanisms of the federal USF. In this respect, this Commission is lawfully entitled to timely re-examine any such changes and ascertain whether a particular telecommunications entity should continue with an ETC designation. For this reason, we shall require Claverack Communications to file for renewal of its ETC designation at the same time it files any application for a change or transfer of control under our regulations.

#### *Conclusion*

We acknowledge that Claverack Communications is only required to provide certifications as part of its ETC petition and is not required to demonstrate its capability to provide service as certified. While our ETC designation process is separate from and serves a different purpose than the authorization process and post-authorization accountability measures that will be conducted by the FCC,<sup>169</sup> our action to designate Claverack Communications does impose certain statutory and regulatory obligations on it once it is authorized to receive the awarded Auction 904 support in the eligible census blocks in Pennsylvania. Based upon our review of Claverack Communications' Petition as supplemented, we determine that Claverack Communications satisfies all applicable and relevant FCC rules and federal requirements necessary to obtain a high-cost ETC designation for the purpose of receiving Auction 904 high-cost support as discussed

<sup>167</sup> RDOF Order, 35 FCC Red at 724-725, para. 84.

<sup>168</sup> As a part of the FCC's long-form application process, Claverack Communications must file more extensive information demonstrating to the FCC that it is legally, technically and financially qualified to receive support. Also, Claverack Communications must again certify in its long-form application that it is financially and technically qualified to meet the public interest obligations in each area for which it seeks Auction 904 support. Id. at 717-18, paras. 66-70.

<sup>169</sup> The ETC designation that we grant to Claverack Communications simply establishes its general eligibility for receiving the awarded Auction 904 support in the eligible CBGs in Pennsylvania.

above. Additionally, Claverack Communications also meets the additional requirements for ETC designation as outlined in the Commission's Policy Statement at 52 Pa. Code § 69.2501. Further, Claverack Communications has certified that it will comply with all applicable annual reporting requirements for high-cost support recipients provided under 47 C.F.R. §§ 54.805-806 and 47 C.F.R. §§ 54.313, 54.316, and 54.320.

Consumers will benefit from the Commission's decision to designate Claverack Communications an ETC in the townships and boroughs located throughout its service territory. Granting Claverack Communications an ETC designation allows it to receive the RDOF Phase I high-cost support funding to expand voice and broadband-capable networks with service quality that meets the FCC's and Pennsylvania's requirements in the listed census block groups in Appendix A attached to this Order.

As an ETC receiving federal high-cost support, Claverack Communications is obligated to ensure that the support it receives is being used only for the provision, maintenance, and upgrading of facilities and services in the areas where it is designated an ETC. Additionally, because Claverack Communications will also be providing voice and BIAS to non-Lifeline customers, we require Claverack Communications to comply with applicable Commission and FCC requirements governing the delivery of voice and BIAS to non-Lifeline consumers.

We note that with the grant of this ETC designation, Claverack Communications may replace the current incumbent price cap ETCs in the future as the only carrier receiving federal high-cost support in those census block groups within the local exchanges where it has received an ETC designation. If such relinquishment occurs, Claverack Communications, as the competitive ETC, will be required to ensure that all customers served by a relinquishing carrier in Claverack Communications' Designated Service Area will continue to be served. Since Claverack Communications may become the entity having the ETC COLR obligation, it too must first seek to relinquish its ETC designation before ceasing to provide the qualified supported services.

Upon receipt of a federal high-cost ETC designation, a winning RDOF Phase I bidder is required to offer Lifeline services and is required to comply with the rules and requirements of the federal Lifeline program in all areas throughout its service territory.

In sum, in consideration of the Claverack Communications' Petition for ETC designation, as supplemented, we conclude that it meets the statutory criteria and applicable minimum standards necessary under federal and state law to obtain an ETC designation and it is in the public interest to approve Claverack Communications' request for designation as an ETC. As a federal high-cost ETC designee, Claverack Communications will become eligible to secure the federal high-cost support assigned to the geographic area for which it has received its ETC designation. Our finding to designate Claverack Communications as an ETC in the discrete census block groups included in Auction 904, which includes Claverack Communications' tariffed service area in Pennsylvania is in accord with Section 214 of the Act, the FCC's regulations and orders related to ETC designation, Section 3019(f) of the Public Utility Code, and the Commission's orders on ETC designation. 47 U.S.C. § 214; 47 C.F.R. §§ 54.201, et seq.; and 66 Pa.C.S. § 3019(f); *Therefore*,

*It Is Ordered:*

1. The Petition of Claverack Communications, LLC for Designation as an Eligible Telecommunications Carrier in

the Commonwealth of Pennsylvania is granted, subject to the terms and conditions set forth in this Order.

2. That the Commission designates Claverack Communications, LLC as an Eligible Telecommunications Carrier throughout its service territory and its Designated Service Area is depicted in Appendix C attached to this Order.

3. That upon its designation as an Eligible Telecommunications Carrier throughout its service territory, Claverack Communications, LLC will become qualified to receive the federal high-cost support awarded via the Rural Digital Opportunity Fund in those Phase I-eligible census block groups located in certain local exchanges throughout the Commonwealth of Pennsylvania as listed in Appendices A and B attached to this Order.

4. That Claverack Communications, LLC is designated as a Lifeline-only Eligible Telecommunications Carriers in those geographic areas throughout its service territory where it is not receiving any federal high-cost support, including the Rural Digital Opportunity Fund support.

5. That the rules of the Federal Communications Commission regarding the redefinition process as it relates to Claverack Communications, LLC's designation as a federal high-cost Eligible Telecommunications Carrier below the study area levels of Commonwealth Telephone Company d/b/a Frontier Communications Commonwealth Telephone Company, Frontier Communications of Canton, LLC, Citizens Telecommunications of New York, Inc. d/b/a Citizens Communications Services Company and The North-Eastern Pennsylvania Telephone Company are inapplicable for the reasons set forth in this Order.

6. That Claverack Communications, LLC is required to offer Lifeline service to any eligible low-income consumers or households located throughout its service area as described in this Order.

7. That Claverack Communications, LLC shall file a tariff for its qualifying voice service that it offers in any noncompetitive local exchange located within its service territory.

8. That Claverack Communications, LLC shall file a Lifeline tariff for Lifeline services.

9. That Claverack Communications, LLC shall submit its proposed Residential Phone Terms and Conditions to the Commission's Bureau of Consumer Services prior to the commencement of service and dissemination to the public to ensure that it complies with all applicable regulations at Chapter 64, Title 52 of the *Pennsylvania Code*, especially as to the terms and conditions regarding billing standards and practices, and disclosure of early termination and other fees.

10. That Claverack Communications, LLC shall submit a mock-up of its final marketing and promotional materials (e.g., advertisements and sales brochures) regarding its RDOF-funded interconnected VoIP service and BIAS and Lifeline service to the Bureau of Consumer Services for its review and approval for plain language requirements at 52 Pa. Code § 69.251 and compliance with all applicable regulations at 47 C.F.R. § 54.405(c) and (d) prior to distribution of these materials to the public.

11. That Claverack Communications, LLC is hereby directed to work with the Bureau of Consumer Services to resolve informal complaints and to submit to Commission jurisdiction on formal complaints filed by its Lifeline customers on Lifeline and other related issues.

12. That Claverack Communications, LLC shall petition this Commission for any future change to the basic



Lifeline service offerings provided through this ETC designation as described herein which represents a limitation or reduction of Lifeline services/equipment provided free of charge and shall provide notice to this Commission of any addition, change or new offering which is in addition to the basic Lifeline offering.

13. That Claverack Communications, LLC shall petition this Commission for renewal of its Eligible Telecommunications Carrier status at the same time it files or is implicated in the filing of any application for a change or transfer of control as defined in Pennsylvania law.

14. That Claverack Communications, LLC shall pay the Pennsylvania's Telecommunications Relay Service fee, E911 fees, and Pennsylvania Universal Service Fund fees for the duration of its ETC designation.

15. That Claverack Communications, LLC shall notify the Commission of any change in its network architecture that will impact its interconnected VoIP or BIAS offerings in Pennsylvania.

16. That the failure of Claverack Communications, LLC to comply with any of the provisions of this Order may result in revocation of its ETC designation(s) for purposes of receiving federal Universal Service Fund high-cost support and the federal Lifeline support or be subject to further Commission process.

17. That the Secretary shall serve a copy of this Order on Claverack Communications, LLC, Commonwealth Telephone Company d/b/a Frontier Communications, Commonwealth Telephone Company, Frontier Communications of Canton, LLC, Citizens Telecommunications of New York, Inc. d/b/a Citizens Communications Services Company, The North-Eastern Pennsylvania Telephone Company, the Office of Consumer Advocate, and the Office of Small Business Advocate.

18. That a copy of this Order shall be published in the *Pennsylvania Bulletin*.

19. That this docket shall be marked closed.

ROSEMARY CHIAVETTA,  
*Secretary*

ORDER ADOPTED: July 15, 2021

ORDER ENTERED: July 15, 2021

**APPENDIX A**

**RDOF-ELIGIBLE CENSUS BLOCK GROUPS  
COMPRISING CLAVERACK COMMUNICATIONS,  
LLC'S ELIGIBLE TELECOMMUNICATIONS  
CARRIER DESIGNATED SERVICE AREA**

**CENSUS BLOCK GROUPS**

- 42-015-9501002
- 42-015-9501003
- 42-015-9501004
- 42-015-9502002
- 42-015-9502003
- 42-015-9502004
- 42-015-9509001
- 42-015-9509004
- 42-015-9509005
- 42-015-9511002
- 42-015-9512001
- 42-015-9512002
- 42-015-9512003
- 42-015-9513001

- 42-015-9514002
- 42-015-0320001
- 42-015-0320002
- 42-015-0320003
- 42-015-0321001
- 42-015-0321002
- 42-015-0321003
- 42-015-0326001
- 42-015-0326004
- 42-015-0327001
- 42-015-0328001
- 42-015-0328002
- 42-015-0328003
- 42-015-0328004
- 42-015-0329011
- 42-015-4001002
- 42-015-4002001
- 42-015-4002003
- 42-015-4003003
- 42-015-4006001
- 42-015-4007001

**APPENDIX B**

**LOCATION OF CLAVERACK COMMUNICATIONS,  
LLC'S RDOF-ELIGIBLE CENSUS BLOCKS BY  
INCUMBENT LOCAL EXCHANGE CARRIER  
LOCAL EXCHANGE AREA**

<i>Abbreviation</i>	<i>Name</i>
CT	Commonwealth Telephone Company d/b/a Frontier Communications Commonwealth Telephone Company
Frontier-Canton	Frontier Communications of Canton, LLC
Citizens NY	Citizens Telecommunications of New York, Inc. d/b/a Citizens Communications Services Company
NE PA Telephone	The North-Eastern Pennsylvania Telephone Company

**Bradford County CBGs**

- 9501002 CT Ulster, CT Rome
- 9501003 CT Leraysville, CT Rome, CT Rush
- 9501004 CT Leraysville, CT Rush
- 9502002 CT Ulster, CT Rome
- 9502003 CT Ulster, CT Rome
- 9502004 CT Ulster, CT Rome
- 9509001 CT Towanda, CT New Albany, CT Troy
- 9509004 CT Troy, CT Towanda, Frontier  
Canton-Canton, Frontier Canton-Troy
- 9509005 CT Troy, CT Towanda, Frontier Canton-Troy
- 9511002 CT Towanda, CT New Albany
- 9512001 CT Towanda CT New Albany, CT Laceyville
- 9512002 CT Towanda, CT New Albany
- 9512003 CT Towanda, CT New Albany
- 9513001 CT Troy, CT Towanda, Frontier  
Canton-Canton, Frontier Canton-Troy
- 9514002 CT Troy, CT Towanda, Frontier  
Canton-Canton, Frontier Canton-Troy

**Susquehanna County CBGs**

- 0320001 Citizens NY-Little Meadows, Citizens NY-Quaker Lake
- 0320002 Citizens NY-Little Meadows, Citizens NY-Quaker Lake, CT Lawsville, CT Rush, CT St. Joseph's
- 0320003 CT Lawsville, CT Rush
- 0321001 CT Lawsville
- 0321002 CT Lawsville
- 0321003 CT Montrose
- 0326001 CT Montrose
- 0327001 CT Rush, CT Montrose
- 0328001 CT Springville, CT Montrose, CT Brooklyn
- 0328002 CT Springville, CT Montrose, CT Brooklyn
- 0328003 CT Brooklyn, CT Springville
- 0328004 CT Brooklyn, CT Springville
- 0329011 NE PA Telephone-New Milford

**Wyoming County CBGs**

- 4001002 CT Laceyville
- 4002001 CT Tunkhannock
- 4002003 CT Laceyville, CT Noxen
- 4003003 CT Nicholson
- 4006001 CT Tunkhannock, CT Noxen
- 4007001 CT Noxen

[Pa.B. Doc. No. 21-1217. Filed for public inspection July 30, 2021, 9:00 a.m.]

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

### Petition of Tri-Co Connections, LLC, to Amend its Designation as an Eligible Telecommunications Carrier in the Commonwealth of Pennsylvania

Public Meeting held  
July 15, 2021

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

*Petition of Tri-Co Connections, LLC, to Amend its Designation as an Eligible Telecommunications Carrier in the Commonwealth of Pennsylvania; P-2018-3005127*

#### Order

*By the Commission:*

Before the Pennsylvania Public Utility Commission (Commission) for disposition is a Petition for Amended Designation as An Eligible Telecommunications Carrier, as supplemented, (Petition) filed by Tri-Co Connections, LLC (Tri-Co). Specifically, Tri-Co is requesting the Commission to amend its existing Eligible Telecommunications Carrier (ETC) designation by designating it a high-cost ETC in the eligible census blocks where it submitted winning bids in the Federal Communications Commission's (FCC) Rural Digital Opportunity Fund Auction ("RDOF Auction" or "Auction 904") that was con-

ducted in 2020. Granting Tri-Co's Petition would result in an expansion to its current high-cost Designated Service Area where Tri-Co had been initially designated as an ETC in certain eligible high-cost census blocks in the Commonwealth of Pennsylvania at the above-captioned docket following the FCC's 2018 Connect America Fund Phase II Auction 903 ("CAF II Auction" or "Auction 903").<sup>1</sup>

Per the rules of Auction 904, Tri-Co is required to certify with the FCC that it has been designated an ETC in the eligible census blocks in Pennsylvania where it has been awarded RDOF Phase I federal high-cost support to provide standalone voice and/or broadband internet access services (BIAS) to identified locations.<sup>2</sup>

The Commission has reviewed Tri-Co's Petition, as supplemented, to determine whether it meets the statutory criteria and applicable minimum standards necessary under state and federal law to obtain an ETC designation in the Auction 904-eligible census blocks. The Commission determines that Tri-Co has satisfied all relevant statutory criteria necessary to obtain an ETC designation in the Auction 904-eligible census blocks and that it is in the public interest to designate Tri-Co as an ETC in these eligible census blocks in order for it to become qualified to obtain RDOF Phase I federal high-cost support to deploy and maintain networks capable of providing standalone voice and/or broadband services.<sup>3</sup> By making such a finding we affirmatively amend Tri-Co's current high-cost ETC Designated Service Area, which only consisted of the Auction 903-eligible census blocks, and have expanded the high-cost designated service area so that it now also encompasses the Auction 904-eligible census blocks, i.e. Amended Designated Service Area. Tri-Co's Petition is hereby approved under the applicable federal statutory criteria and other relevant federal and Pennsylvania law.

As a condition of receiving this ETC designation, Tri-Co is also required to participate in the federal Lifeline program and must offer Lifeline service to qualified low-income eligible customers or households throughout its Amended Designated Service Area in accordance with applicable federal and Pennsylvania law. Since Tri-Co is also a Lifeline-only ETC in all other areas in its CLEC service territory where it is not receiving Connect America Fund high-cost support, it will continue to offer Lifeline services to qualified low-income eligible consumers residing in these geographic areas.

#### Background

*A. FCC's Re-Purposing of the High Cost Program of the Federal Universal Service Fund*

In 2011, the FCC concluded that the deployment of broadband-capable networks would also be an express universal service principle under Section 254(b) of the Communications Act of 1934, as amended (Act), 47 U.S.C. § 254(b).<sup>4</sup> For this reason, the FCC comprehensively reformed the High Cost Program of the federal Universal Service Fund (USF) so that it would ensure that robust,

<sup>1</sup> Petition of Tri-Co Connections, LLC for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Pennsylvania, P-2018-3005127 (Order entered April 11, 2019) (Tri-Co Auction 903 ETC Designation Order).

<sup>2</sup> An Auction 904 winning bidder is required to certify that it has been designated as an ETC in all its winning bid areas and to submit appropriate documentation supporting such certification on or before June 7, 2021 (Auction 904 ETC deadline). On May 24, 2021, the Commission issued a "good faith" letter to Tri-Co stating that our review of its Petition would not be completed prior to deadline despite the good faith efforts of the long-form applicant. Tri-Co filed a waiver request of the Auction 904 deadline with the FCC.

<sup>3</sup> As a RDOF recipient, Tri-Co is required to offer at least one standalone voice service plan and one service plan that provides broadband that meets FCC requirements. FCC 20-5, para. 43, Released February 7, 2020.

<sup>4</sup> Connect America Fund et al., Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Red 17683-17684, para. 60 (2011) (USF/ICC Transformation Order), aff'd sub nom. In re FCC 11-161, 753 F.3d 1015 (10th Cir. 2014).

affordable voice and broadband services become available to all Americans living in rural areas across the nation.<sup>5</sup>

Up to that time, the six pre-existing programs within the High Cost Program only supported the provisioning of voice service.<sup>6</sup> In order to accomplish its goal of ensuring all Americans had access to both voice service and robust broadband service, the FCC repurposed the six pre-existing programs so that it would distribute federal high-cost support to recipients to provision both fixed broadband and voice service throughout their service territories. Concomitant with this repurposing, the FCC also renamed the federal High Cost program the Connect America Fund (CAF). With the CAF, the FCC determined that it would begin to distribute federal high-cost support in the areas served by the incumbent local exchange carriers that operate as “price cap” carriers under federal law, through the use of a combination of a “new forward-looking model of the cost of constructing modern multi-purpose networks” and a competitive bidding process.<sup>7</sup>

#### B. FCC’s Efforts to Modernize the Federal Lifeline Program

In order to continue the mission of assisting qualifying low-income Americans to get and stay connected in today’s technological climate, while at the same time relieving some of the burden on the entities providing this service, the FCC also began restructuring the federal USF Lifeline program. Beginning in 2012, the FCC took several steps to comprehensively reform and modernize the Lifeline program in the 2012 Lifeline Reform Order by improving enrollment and consumer disclosures and eliminating the previous system of tiered support and setting an interim funding rate of \$9.25 per month per eligible subscriber or household.<sup>8</sup>

These reforms were adopted by the FCC to strengthen protections against waste, fraud, and abuse in the federal Lifeline program by, among other things: setting a savings target; improved program administration and accountability by creating a National Lifeline Accountability Database (NLAD) to prevent multiple carriers from receiving support for the same household; and confirming a one-per-household rule applicable to all consumers and Lifeline providers in the program.<sup>9</sup> The FCC also took preliminary steps to modernize the federal Lifeline program by, among other things, allowing Lifeline support for bundled service plans combining voice and broadband or packages including optional calling features.<sup>10</sup> The FCC has issued three later Lifeline reform orders establishing a number of additional enhancements to the federal Lifeline Program, further connecting low-income Americans to voice services and now, broadband access.<sup>11</sup> These modified requirements have been codified in the FCC’s rules and regulations at Title 47, Chapter I, Part 54, Subpart E, which governs universal service support provided to low-income consumers.

<sup>5</sup> Id. at 17672, para. 17.

<sup>6</sup> Id. at 17691-92, para. 76.

<sup>7</sup> Id. at 17725, paras. 156-57.

<sup>8</sup> See generally Lifeline and Link Up Reform and Modernization, et al., Report and Order and Further Notice of Proposed Rulemaking, 27 FCC Rcd 6656 (2012) (2012 Lifeline Reform Order or Lifeline FNPRM). Per subsequent FCC orders, the Lifeline benefit has been reduced, and it is currently set at \$5.25. However, Lifeline support for standalone voice services is set to go from \$5.25 to zero after December 1, 2021, although that decision is under reconsideration at the FCC.

<sup>9</sup> Id. at 6690-91, paras. 77-78.

<sup>10</sup> Id.

<sup>11</sup> Lifeline and Link Up Reform and Modernization et al., Second Further Notice of Proposed Rulemaking, Order on Reconsideration, Second Report and Order, and Memorandum Opinion and Order, 30 FCC Rcd 7818 (2015) (2015 Lifeline FNPRM); Lifeline and Link Up Reform and Modernization et al., Third Report and Order, Further Report and Order, and Order on Reconsideration, 31 FCC Rcd 3962, 4038, para. 211 (2016) (2016 Lifeline Modernization Order); Fourth Report and Order, Order on Reconsideration, Memorandum Opinion and Order, Notice of Proposed Rulemaking, and Notice of Inquiry, 32 Rcd 10475 (2017), vacated and remanded, *National Lifeline Association et al. v. FCC*, Docket Nos. 18–1026, Order issued February 1, 2019 (D.C. Cir. 2019) (2017 Lifeline NPRM and NOD) (collectively Lifeline Reform Orders).

#### C. CAF Phase II Auction

The FCC contemplated that its new competitive bid process to disburse federal high-cost support to common carriers would be done as “reverse auctions” and rolled-out in several phases. The second phase of the CAF, but first descending clock, reverse auction, was Auction 903 held in 2018. Auction 903 awarded up to \$198 million annually for 10 years to the winning bidders that had committed to provide voice and fixed broadband services to specific locations in unserved high-cost areas, including areas in Pennsylvania.

Tri-Co was a winning bidder in Auction 903 and was awarded \$32,326,228.30 of federal high-cost support to provide voice and broadband services to 7,015 identified locations situated within the Commonwealth of Pennsylvania.<sup>12</sup> In the Tri-Co Auction 903 ETC Designation Order, the Commission designated Tri-Co an ETC eligible to obtain high-cost support in specific census blocks located in various local exchanges throughout its service territory.<sup>13</sup> In the Tri-Co Auction 903 ETC Designation Order, the Commission found that Tri-Co met all applicable requirements for an ETC designation, including the federal requirements for a high-cost ETC designation at 47 C.F.R. § 54.101, the additional federal requirements for obtaining an ETC designation at 47 C.F.R. §§ 54.202 and 54.207, the FCC’s requirements related to Lifeline service at 47 C.F.R. §§ 54.410, 54.416, 54.417, and 54.422, and the Pennsylvania-specific requirements for an ETC designation. The same Order designated Tri-Co a Lifeline-only ETC in those geographic areas throughout its CLEC service territory where it was not awarded Auction 903 support.<sup>14</sup> As such, Tri-Co was able to certify to the FCC that it was designated an ETC by this Commission and, thus, eligible to receive the awarded federal Auction 903 support in those specific high-cost eligible census blocks.

#### D. Implementation of the Rural Digital Opportunity Fund

The FCC acknowledged that Auction 903 was a significant step towards addressing the rural “digital divide” in America, but that more work needed to be done to accelerate the deployment of access to broadband in these unserved and underserved communities. Consequently, on August 1, 2019, the FCC adopted a Notice of Proposed Rulemaking (NPRM) proposing to establish the \$20.4 billion RDOF Auction as its next step in bridging the rural digital divide in America.<sup>15</sup> Specifically, the FCC sought to allocate this federal universal service high-cost support to a certain number of locations in eligible census block groups (CBGs) across the United States, including areas in Pennsylvania, which were entirely unserved by broadband service at least 25/3 Mbps.<sup>16</sup>

On January 30, 2020, the FCC adopted the RDOF Order, which established the framework for the RDOF.<sup>17</sup> The FCC determined that the RDOF would target federal high-cost support to areas that lacked access to both fixed voice and 25/3 Mbps broadband services in two phases: Phase I of the RDOF will assign up to \$16 billion for those census blocks that are wholly unserved with broad-

<sup>12</sup> The locations in which Tri-Co was a winning bidder in Auction 903 were located in Bradford, Lycoming, Potter, and Tioga Counties. See <https://www.fcc.gov/file/14390/download>. See also Tri-Co Auction 903 ETC Designation Order at 8, 31; and Appendix A hereto.

<sup>13</sup> See Appendix A.

<sup>14</sup> Tri-Co Auction 903 ETC Designation Order, at 49-50.

<sup>15</sup> Rural Digital Opportunity Fund; Connect America Fund; Notice of Proposed Rulemaking, 34 FCC Rcd 6778 (2019) (Rural Digital Opportunity Fund NPRM).

<sup>16</sup> Id. The FCC made eligible for Auction 904 certain high-cost census block groups in RDOF Phase I in unserved areas nationwide that were not served by an unsubsidized service provider.

<sup>17</sup> Rural Digital Opportunity Fund et al., Report and Order, 35 FCC Rcd 686 (2020) (RDOF Order).



band at speeds of 25/3 Mbps,<sup>18</sup> and Phase II will make the remaining \$4.4 billion, along with any unawarded funds from Phase I available for those census blocks that it later determined through the Digital Opportunity Data Collection, or suitable alternative data source, are only partially served, as well as census blocks unawarded in the Phase I auction.<sup>19</sup>

Phase I of the RDOF Auction began on October 29, 2020 and ended on November 25, 2020. On December 7, 2020, the FCC announced the winning bidders for Phase I of the RDOF auction.<sup>20</sup> Tri-Co was named amongst the companies that had been awarded federal high-cost support to bring broadband to over five million homes and businesses across the nation in census blocks that were entirely unserved by voice and broadband with download speeds of at least 25 Mbps.<sup>21</sup> With the receipt of this federal high-cost support from Auction 904, Tri-Co is expected to provide both standalone voice and BIAS at 1 Gbps/500 Mbps in the 23 CBGs in Pennsylvania where it was named a winning bidder in Auction 904.<sup>22</sup>

#### E. Tri-Co's RDOF ETC Petition and Supplements

On February 4, 2021, Tri-Co filed this Petition. In its Petition, Tri-Co stated that the 23 CBGs where it has been awarded Auction 904 high-cost support fall within the geographic areas where it has already been designated a Lifeline-only ETC in the Tri-Co Auction 903 ETC Designation Order.<sup>23</sup> The 23 CBGs where it has been awarded Auction 904 federal high-cost support consist of 559 individual census blocks for which Tri-Co submitted

an identifying list.<sup>24</sup> Accordingly, Tri-Co stated that since it was previously designated a Lifeline-only ETC in the individual Auction 904 eligible census blocks, it now requests that the Commission amend its previous ETC designation so that its current high-cost Designated Service Area now encompasses the 559 eligible census blocks where it has been awarded Auction 904 support. Thus its Amended Designated Service Area will comprise those local exchanges and census blocks where Tri-Co receives CAF support as identified in Appendix C, where Tri-Co will hold both Lifeline and high-cost ETC designation. It will remain a Lifeline-only ETC in any area where it does not receive CAF support.

Tri-Co stated that the 23 CBGs where it has been assigned Auction 904 federal high-cost support are located in Bradford, Lycoming, Potter and Tioga Counties, respectively. As noted below, the individual eligible census blocks comprising the CBGs are scattered throughout the service territories of the following incumbent local exchange carriers (ILECs) operating in these counties: Commonwealth Telephone Company d/b/a Frontier Communications Commonwealth Telephone Company (Frontier Commonwealth); Frontier Communications of Oswayo River, LLC (Frontier Oswayo); North Penn Telephone Company (North Penn); Verizon North LLC (Verizon North); and Verizon Pennsylvania LLC (Verizon Pennsylvania).<sup>25</sup> The local exchanges of the ILECs where the individual Auction 904 eligible census blocks are located are illustrated in the table below.

#### Local Exchanges in Incumbent Local Exchange Carriers' Service Territories—Auction 904

<i>Frontier Commonwealth</i>	<i>Frontier Oswayo</i>	<i>North Penn</i>	<i>Verizon North</i>	<i>Verizon Pennsylvania</i>
Liberty	Genesee	Bentley Creek	Elkland	Austin
Morris	Millport		Harrison Valley	Coudersport
Troy			Trout Run	Galeton
Ulster				Roulette
Wellsboro				Ulysses

In its Petition, Tri-Co asserted that, to the extent necessary, it incorporated all the information and pleadings that had been previously submitted in support of its

<sup>18</sup> The FCC determined that eligible areas for Phase I would include (1) the census blocks for which price cap carriers currently receive CAF Phase II model-based support; (2) any census blocks that were eligible for, but did not receive, winning bids in the CAF Phase II auction; (3) any census blocks where a CAF Phase II auction winning bidder has defaulted; (4) the census blocks excluded from the offers of model-based support and the CAF Phase II auction because they were served with voice and broadband of at least 10/1 Mbps; (5) census blocks served by both price cap carriers and rate-of-return carriers to the extent that the census block is in the price cap carrier's territory, using the most recent study area boundary data filed by the rate-of-return carriers to identify their service areas and determine the portion of each census block that is outside this service area; (6) any unserved census blocks that are outside of price cap carriers' service areas where there is no certified high-cost eligible telecommunications carrier (ETC) providing service, such as the Hawaiian Homelands, and any other populated areas unserved by either a rate-of-return or price cap carrier; and (7) any census blocks identified by rate-of-return carriers in their service areas as ones where they do not expect to extend broadband. Id. at 691, para. 12.

<sup>19</sup> RDOF Order, 35 FCC Red at 689, paras. 8-9.

<sup>20</sup> See Rural Digital Opportunity Fund Phase I Auction (Auction 904) Closes; Winning Bidders Announced; FCC Form 683 Due January 29, 2021, Public Notice, 35 FCC Red 13888, 13890-91, paras. 9—15 (RBATF, OEA, WCB 2020) (RDOF Closing Public Notice).

<sup>21</sup> As a result of Auction 904, some homes and businesses in the eligible census blocks now would have access to voice as well as BIAS at download speeds of at least 100 Mbps.

<sup>22</sup> Tri-Co participated in Auction 904 as part of a bidding group known as the Co-op Connections Consortium, which collectively was awarded \$42.6 million for locations in Pennsylvania. Of that, Tri-Co was awarded \$10,988,229 in RDOF funding for 23 CBGs encompassing 3,944 locations in Bradford, Lycoming, Potter and Tioga Counties. See Rural Digital Opportunity Fund Phase I Auction (Auction 904) Winning Bidders Announced, Public Notice DA No. 20-1422 (OEA/WCB Rel. Dec. 7, 2020) (RDOF Auction Closing Public Notice), Petition at 4, ¶ 8.

<sup>23</sup> See Petition at 4, ¶ 8; see generally Tri-Co Auction 903 ETC Designation Order.

existing ETC designations granted in the Tri-Co Auction 903 ETC Designation Order. This includes confirmation of the facilities and platforms over which Tri-Co will be providing its service, its proposal to offer stand-alone basic local telephone service, which is a protected service in Tri-Co's Designated Service Area, and its offering Lifeline to eligible low-income consumers in accordance with FCC and Commission requirements. Tri-Co also asserted that it has certified in its January 25, 2021 Long-Form Submission to the FCC that it is in compliance with all statutory and regulatory requirements to obtain an ETC designation in the Auction 904 eligible census blocks.<sup>26</sup> Tri-Co also filed supplements to its original Petition that set forth other additional pertinent information.<sup>27</sup>

Notice of Tri-Co's Petition was published in the *Pennsylvania Bulletin* at 51 Pa.B. 3327 on June 12, 2021. No comments were filed in response to Tri-Co's Petition. The Commission notes that upon receipt of a high-cost designation from the relevant authority, RDOF winning bid-

<sup>24</sup> See July 9, 2021 Supplement, Exhibit 1; see also Appendix B hereto.

<sup>25</sup> See May 4, 2021 Supplement, Tri-Co's response to Bureau of Consumer Services (BCS) Data Request No. 2.

<sup>26</sup> Petition, Exhibit 2, at 8.

<sup>27</sup> Tri-Co filed supplements on May 4, 2021 (May 4, 2021 Supplement), May 19, 2021 (May 18, 2021 Supplement), and July 9, 2021 (July 9, 2021 Supplement).

ders are required to comply with the same long-form application process the FCC adopted for Auction 903.<sup>28</sup> Consequently, Tri-Co will still have to submit a long-form application to the FCC and become subject to a thorough financial and technical review by the FCC prior to ultimately receiving the Auction 904 support if the Commission designates Tri-Co an ETC in the Auction 904-eligible census blocks.

### Discussion

Section 254(e) of the Act provides that “only an eligible telecommunications carrier designated under Section 214(e) shall be eligible to receive Federal universal service support.”<sup>29</sup> Consequently, a common carrier first must be designated an ETC according to subsections (2), (3), or (6) of Section 214(e) of the Act in order to be eligible to receive federal high-cost universal service support in accordance with Section 254 of the Act.<sup>30</sup> Pursuant to Section 214(e)(2) of the Act, state commissions have the primary responsibility for performing ETC designations for common carriers seeking to obtain federal high-cost funding support.<sup>31</sup> Only in those instances where a state cannot or will not make the requisite ETC designation, will the FCC make the ETC designation.<sup>32</sup>

The Commission reserves the right to review any ETC designation request on a case-by-case basis and grant or deny such designation after considering the circumstances particular to each application. Thus, the Commission will review Tri-Co’s Petition, as supplemented, to determine if it satisfies the federal and state law criteria to receive a designation as a high-cost ETC in the Auction 904-eligible census blocks.

### Governing Authority

#### A. Requirements for Designation as a High-Cost ETC

Pursuant to 47 U.S.C. § 214(e)(1), in order to obtain an ETC designation and become eligible to receive federal high-cost universal service support, a common carrier<sup>33</sup> must satisfy the following criteria:<sup>34</sup> (1) certify that it offers or intends to offer all services designated for support by the FCC pursuant to section 254(c) of the Act;<sup>35</sup> (2) certify that it offers or intends to offer the supported services either using its own facilities or a combination of its own facilities and resale of another carrier’s services;<sup>36</sup> (3) describe how it advertises the availability of the supported services and the charges

therefore using media of general distribution;<sup>37</sup> and (4) describe the geographic service area for which it requests to be designated an ETC.<sup>38</sup>

The FCC adopted additional requirements for parties seeking ETC designation that were codified at 47 C.F.R. § 54.202.<sup>39</sup> As such, a telecommunications carrier must also satisfy the following additional mandatory requirements for it to be designated an ETC and thus eligible to receive federal universal service support: (1) certify that it will comply with the service requirements applicable to the support that it receives in its proposed service area;<sup>40</sup> (2) submit a five-year plan that describes with specificity proposed improvements or upgrades to the applicant’s network throughout its proposed service area;<sup>41</sup> (3) demonstrate its ability to remain functional in emergency situations, including a demonstration that it has a reasonable amount of back-up power to ensure functionality without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations;<sup>42</sup> (4) demonstrate that it will satisfy applicable consumer protection and service quality standards;<sup>43</sup> and (5) offers local usage comparable to that offered by the ILEC.<sup>44</sup>

The FCC subsequently added an additional requirement concerning the Anti-Drug Abuse Act of 1988.<sup>45</sup> Specifically, the FCC requires a party seeking ETC designation certify that neither it, nor any party to the application, is subject to a denial of federal benefits pursuant to the Anti-Drug Abuse Act of 1988.

In addition to meeting these statutory requirements, state commissions must also perform a “public interest” review before approving an ETC designation. Section 214(e)(2) of the Act states that, “[u]pon request and consistent with the public interest, convenience, and necessity, the State commission may, in the case of an area served by a rural telephone company, and shall, in the case of all other areas, designate more than one common carrier as an eligible telecommunications carrier” for a designated service area, so long as the requesting carrier meets the requirements of Section 214(e)(1).

The Commission has adopted these federal standards under independent Pennsylvania law as a starting point for review of a request for ETC designation. We also have Pennsylvania-specific guidelines that an ETC petitioner must satisfy before we can approve its request for designation as an ETC in Pennsylvania.<sup>46</sup>

<sup>28</sup> RDOF Order, 35 FCC Rcd at 725, para. 86.

<sup>29</sup> 47 U.S.C. § 254(e).

<sup>30</sup> 47 U.S.C. § 214(e)(1).

<sup>31</sup> *Id.*

<sup>32</sup> 47 U.S.C. § 214(e)(6).

<sup>33</sup> Pursuant to Section 153(10) of the Act, a “telecommunications carriers” to include, with one minor exception, any provider of “telecommunications services.” 47 U.S.C. § 153(51). The Act defines a “telecommunications service,” as “the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.” 47 U.S.C. § 153(53). In turn, telecommunications means “the transmission, between or among points specified by the user, of information of the user’s choosing, without change in the form or content of the information as sent or received.” 47 U.S.C. § 153(50). The definition of “telecommunications carrier” in the Act goes on to state that “[a] telecommunications carrier” shall be treated as a *common carrier* under this Act only to the extent that it is engaged in providing telecommunications services, except that the Commission shall determine whether the provision of fixed and mobile satellite service shall be treated as “common carriage.” 47 U.S.C. § 153(51) (Emphasis supplied).

<sup>34</sup> See Federal-State Joint Board on Universal Service, Report and Order, 12 FCC Rcd 8776, 8847-76, paras. 128–180 (1997).

<sup>35</sup> 47 U.S.C. § 214(e)(1)(A); see also 47 C.F.R. § 54.201(d)(1).

<sup>36</sup> 47 U.S.C. § 214(e)(1)(A); see also 47 C.F.R. § 54.201(d)(1).

<sup>37</sup> 47 U.S.C. § 214(e)(1)(B); see also 47 C.F.R. § 54.201(d)(2).

<sup>38</sup> 47 U.S.C. § 214(e)(5); see also 47 C.F.R. § 54.207(a).

<sup>39</sup> See 2005 ETC Designation Order, 20 FCC Rcd at 6380, para. 20 (citing Federal-State Joint Board on Universal Service, Recommended Decision, 19 FCC Rcd 4259, para. 5 (Fed-State Jt. Bd. 2004)).

<sup>40</sup> 47 C.F.R. § 54.202(a)(1)(i).

<sup>41</sup> 47 C.F.R. § 54.202(a)(1)(ii). The FCC subsequently eliminated the five-year improvement plan requirement for CAF recipients since it had adopted more specific measures to track deployment, including annual reporting of service to geocoded locations and certification of compliance with benchmark milestones. See Connect America Fund et al., ETCs Annual Reports and Certifications, Report and Order, 32 FCC Rcd 5944, 5944-48, paras. 3–14 (2017) (ETC Reporting Streamlining Order) (eliminating requirements relating to the reporting of network outages, unfulfilled service requests, complaints, and pricing and the certification of compliance with applicable service quality standards).

<sup>42</sup> 47 C.F.R. § 54.202(a)(2).

<sup>43</sup> 47 C.F.R. § 54.202(a)(3). The FCC also has eliminated this requirement for CAF support recipients finding that the need for it was obviated by the specific service quality standards applicable to CAF support recipients and specific reporting obligations relating to such standards. See generally ETC Reporting Streamlining Order.

<sup>44</sup> In the 2005 ETC Designation Order, the FCC had established that an ETC may be required to provide equal access if all other ETCs in the service area relinquish their designations. In the USF/ICC Transformation Order, the FCC determined that the above ETC equal access requirement was obsolete and deleted it from 47 C.F.R. § 54.202. The FCC stated because this rule was obsolete, it found good cause to delete it without notice and comment. USF/ICC Transformation Order, FCC Rcd 17872, para. 647.

<sup>45</sup> 21 U.S.C. § 862; 47 C.F.R. § 1.2002(a)-(b).

<sup>46</sup> 52 Pa. Code § 69.2501.

### B. FCC Rules Governing the Federal Lifeline Program

Beginning in 2012, the FCC took several steps to comprehensively reform and modernize the Universal Service Fund's Lifeline program.<sup>47</sup> The reforms, adopted in the 2012 Lifeline Reform Order, focused on changes to eliminate waste, fraud, and abuse in the federal Lifeline program by, among other things: setting a savings target; creating a National Lifeline Accountability Database (NLAD) to prevent multiple carriers from receiving support for the same household; and confirming a one-per-household rule applicable to all consumers and Lifeline providers in the program.<sup>48</sup> It also took preliminary steps to modernize the federal Lifeline program by, among other things, adopting express goals for the program and allowing Lifeline support for bundled service plans combining voice and broadband or packages including optional calling features.<sup>49</sup> These modified requirements were codified in the FCC's rules and regulations at Title 47, Chapter I, Part 54, Subpart E, which governs universal service support provided to low-income consumers.

#### 1. 47 C.F.R. § 54.405

##### *Lifeline service provider obligations.*

All high-cost ETCs must certify that they do the following: (1) make available Lifeline service, as defined in § 47 C.F.R. § 54.401, to qualifying low-income consumers; (2) publicize the availability of Lifeline service in a manner reasonably designed to reach those likely to qualify for the service; (3) explain in its marketing materials using easily understood language that the Lifeline program is a federal government assistance program that provides a monthly subsidy that lowers the monthly cost of phone or internet service (but not both) and is available only to one eligible consumer per household, not per person and that the benefit is non-transferable once the customer is enrolled into the program; and (4) disclose its name on all marketing materials describing the service.

#### 2. 47 C.F.R. § 54.410

##### *Subscriber Eligibility Determinations and De-enrollments*

All high-cost ETCs must certify that they first ensure that their potential Lifeline subscribers are eligible to receive Lifeline services.<sup>50</sup> In Pennsylvania, all ETCs must receive a notice from the National Verifier that their potential Lifeline subscribers are eligible to receive Lifeline services.<sup>51</sup> Lifeline service providers can help Lifeline consumers obtain an eligibility decision from the National Verifier through the service provider portal that links to the National Verifier, or consumers can apply on their own by mail or online.<sup>52</sup>

As Pennsylvania is a National Verifier state, Tri-Co must query the NLAD to ascertain a potential Lifeline applicant's eligibility for service as determined by the National Verifier. Thereafter, once it has been verified that the consumer is eligible to qualify for Lifeline

Service, the ETC may provide the consumer with an activated device that it represents enables use of Lifeline-supported service.

Further, a Lifeline service provider must certify that it complies with the FCC federal policy rules for de-enrolling an account from Lifeline support.<sup>53</sup> There are several situations that might result in subscriber de-enrollment from Lifeline-supported service: (1) de-enrollment because the service provider has a reasonable basis to believe a subscriber is no longer eligible to receive a Lifeline benefit;<sup>54</sup> (2) de-enrollment for duplicative support;<sup>55</sup> (3) de-enrollment for non-usage;<sup>56</sup> (4) de-enrollment for failure to re-certify;<sup>57</sup> and (5) de-enrollment requested by the subscriber.

#### 3. 47 C.F.R. §§ 54.416, 54.417 and 54.422

##### *Annual Certifications and Reporting to USAC*

ETCs must certify that they will comply with annual certification requirements relating to the Lifeline program such as certifying annually that they are in compliance with the minimum service levels set forth in 47 C.F.R. § 54.408.<sup>58</sup> ETCs are required to annually certify compliance with the applicable minimum service level rules by submitting Form 481 to USAC.<sup>59</sup>

### C. Pennsylvania-Specific Requirements for Lifeline Program

In addition to the federal Lifeline standards above, the Commission also has adopted minimum service standards to govern the federal Lifeline program.<sup>60</sup> Section 3019(f) of the Pennsylvania Public Utility Code (Code), 66 Pa.C.S. § 3019(f), sets forth the minimum Pennsylvania requirements for ETCs seeking low-income support from the federal Lifeline Program.

In addition to the above Pennsylvania statutory requirements, the Commission also established other Lifeline eligibility criteria via Orders.<sup>61</sup> To the extent that federal law or federal requirements for Lifeline service have not preempted or made Pennsylvania state-specific Lifeline requirements obsolete, they remain applicable to all Lifeline service providers. For example, our PA Lifeline Order<sup>62</sup> requires ETCs to verify the ongoing eligibility of their Lifeline subscribers and submit an annual re-certification of that verification. However, we note that pursuant to the federal rules, Tri-Co's Lifeline subscribers will be recertified either automatically through the National Verifier's state/federal data sources or receive a recertification request from USAC.

Additionally, ETCs are required to report to the Commission annual changes in Pennsylvania Lifeline enroll-

<sup>47</sup> 47 C.F.R. § 54.405(e).

<sup>48</sup> 47 C.F.R. § 54.405(e)(1).

<sup>49</sup> If the USAC provides notification to a service provider that a subscriber has more than one discounted account, or that more than one member of a subscriber's household is receiving service, the service provider must de-enroll the subscriber within five business days (47 C.F.R. Section 54.405(e)(2)).

<sup>50</sup> If the subscribers do not use their Lifeline service at least every 30 days they will be notified by the provider that they may be de-enrolled if they do not use their service during the 15-day notice period (the "cure period").

<sup>51</sup> Every Lifeline consumer's eligibility is to be recertified annually. 47 C.F.R. § 54.410(f). Lifeline subscribers will be recertified either automatically through the National Verifier's state/federal data sources or receive a recertification request from USAC. In Pennsylvania, service providers must use the National Verifier to recertify their current Lifeline subscribers.

<sup>52</sup> 47 C.F.R. § 54.416.

<sup>53</sup> 47 C.F.R. § 54.422.

<sup>54</sup> 52 Pa. Code § 69.2501.

<sup>55</sup> In Re: Lifeline and Link-up Programs, Docket No. M-00051871 (Order entered May 23, 2005) (PA Lifeline Order); Re: Section 3015(f) Review Regarding Lifeline Tracking Report, Accident Report, and Services Outage Report, 100 Pa. P.U.C. 553 (Dec. 30, 2005) (Tracking Report Order); Final Policy Statement on Commonwealth of Pennsylvania Guidelines for Designation and Annual Recertification as an Eligible Telecommunications Carrier (ETC) for Purposes of Federal Universal Service Support, Docket No. M-2010-2164741, (Order entered August 2, 2010) (Final Policy Statement Order).

<sup>56</sup> In Re: Lifeline and link-up Programs, Docket No. M-00051871 (Order entered May 23, 2005).

<sup>47</sup> See generally 2012 Lifeline Reform Order.

<sup>48</sup> Id. at 6690-91, paras. 77-78.

<sup>49</sup> Id.

<sup>50</sup> 47 C.F.R. § 54.410.

<sup>51</sup> The Universal Service Administrative Company (USAC), the administrator of the federal Lifeline program, manages the National Verifier and its customer service department, the Lifeline Support Center. The National Verifier makes an initial determination of a subscriber's eligibility based on prospective subscriber's eligibility to qualify for Lifeline service using either income-based eligibility criteria or program-based eligibility criteria is codified at Sections 54.410(b) and (c), respectively.

<sup>52</sup> New and potential Lifeline consumers receive their initial eligibility determination by signing into CheckLifeline.org from any computer or mobile device to create an account, receive an eligibility decision, and use the list of service providers in their area to contact one to enroll.



ment, such as whether the requirements for certification and verification of a customer's initial and continued eligibility for Lifeline services have been impacted by developments at the federal level. Thus, ETCs must certify that they will comply with relevant requirements set forth in the Pa. Lifeline Order, Tracking Report Order, and Policy Statement.

### Analysis

In order to obtain the RDOF Phase I federal high-cost support in the 559 eligible Auction 904-census blocks, the Commission must find that Tri-Co is a common carrier and that it has adequately certified that, among other things, it offers or intends to offer all federal high-cost supported services<sup>63</sup> as described in 47 C.F.R. § 54.101 either using its own facilities or a combination of its own facilities and resale of another carrier's services throughout its designated service territory.

As mentioned above, Tri-Co has been previously designated an ETC in various eligible census blocks located in Pennsylvania where it receives Auction 903 federal high-cost support.<sup>64</sup> Consequently, this Commission is already significantly familiar with the facilities that Tri-Co utilizes to offer its qualifying supported services and the facts and certifications in support of its Petition for Amended ETC Designation. As a current certificated CLEC<sup>65</sup> and high-cost ETC in Pennsylvania, Tri-Co offers voice telecommunications service and BIAS service throughout its current Designated Service Area. Thus, based on the federal definitions of "telecommunications service" and "telecommunications carrier" in the Telecommunications Act of 1996 and the definition of jurisdictional telecommunications public utility in the Public Utility Code, we find that Tri-Co is a common carrier.

Tri-Co has incorporated by reference all of the information and pleadings it had previously submitted to us in support of its existing ETC designations in the Tri-Co Auction 903 ETC Designation Order.<sup>66</sup> We determine that is prudent and appropriate for us consider and incorporate these findings and the conditions set forth in our Tri-Co Auction 903 ETC Designation Order in reviewing the instant ETC designation request.

Tri-Co has affirmed that it will provide the qualifying supported services using its own facilities throughout the assigned Auction 904 eligible census blocks, all of which are located entirely within Tri-Co's CLEC service area, pursuant to all applicable and relevant federal RDOF

regulations.<sup>67</sup> Also, Tri-Co has provided a detailed description of the geographic area for which it seeks to extend its high-cost ETC designation in the Commonwealth of Pennsylvania.<sup>68</sup> The list of the individual Auction 904 census blocks is attached hereto as Appendix B. Accordingly, we determine that Tri-Co remains in compliance with the applicable federal and Pennsylvania-specific ETC rules and therefore, we find that Tri-Co will offer the supported services as described in 47 C.F.R. § 54.101 by using its own facilities throughout its Amended Designated Service Area. Tri-Co's Amended Designated Service Area by ILEC local exchange areas and census blocks is set forth in Appendix C.

Additionally, Tri-Co commits to offering Lifeline discounts to qualifying low-income consumers in its Amended Designated Service Area consistent with both FCC and Pennsylvania-specific rules. The Commission acknowledges that when Tri-Co initially requested to be designated an ETC throughout its CLEC service territory, it was designated as a Lifeline-only ETC in those geographic areas outside of the census blocks where it received Auction 903 federal high-cost support. As stated above, Tri-Co has received Auction 904 support for geographic areas in its CLEC service territory where it was previously designated a Lifeline-only ETC. To the extent, however, that Tri-Co's Amended Designated Area does not encompass Tri-Co's entire CLEC service territory and there remain geographic areas where Tri-Co has not been awarded any CAF funding from the FCC, it will be considered a Lifeline-only ETC in those specific areas and must offer federal Lifeline support in these areas. Further, Tri-Co has received no waivers or exceptions from the FCC pertaining to high-cost or low-income Universal Service Fund support.

We also note that Tri-Co has certified in its January 25, 2021 Long-Form Application submission to the FCC, that it is in compliance with all statutory and regulatory requirements.<sup>69</sup> The Commission notes that earlier this year, the FCC implemented a rule that requires providers of interconnected Voice-over-Internet Protocol (VoIP) services to specifically advise every subscriber, both new and existing, prominently and in plain language, of the circumstances under which E911 service may not be available through the interconnected VoIP service or may be in some way limited by comparison to traditional E911 service.<sup>70</sup> Tri-Co offers VoIP service as its standalone voice service throughout its Amended Designated Service Area.<sup>71</sup>

We have reviewed Tri-Co's customer materials concerning E911 limitations and those materials explicitly state that Tri-Co notifies each subscriber of the circumstances where 911/E911 emergency service may be limited or unavailable.<sup>72</sup> However, to the extent that Tri-Co obtains customers' affirmative acknowledgement of these E911

<sup>63</sup> The FCC defines federal high-cost supported services as qualifying voice service and the offering of qualifying BIAS. See 47 C.F.R. § 54.101 (including both eligible voice telephony and eligible broadband Internet access as services "supported by federal universal service support mechanisms," and characterizing the provision of eligible broadband service as a high-cost public interest obligation); see also USF/ICC Transformation Order, 26 FCC Rcd at 17691-94, paras. 74-89 (describing the "core functionalities of the supported services as 'voice telephony service,'" and as a separate condition of receiving federal high-cost universal service support, all ETCs are required to offer BIAS in their supported area that meets certain basic performance requirements).

<sup>64</sup> Tri-Co ETC Designation Order; Appendix A.

<sup>65</sup> Tri-Co is a certificated Competitive Local Exchange Carrier approved to provide voice telecommunications service in the territories of Verizon Pennsylvania LLC; Verizon North LLC; Commonwealth Telephone Company d/b/a Frontier Communications Commonwealth Telephone Company; Frontier Communications of Canton, LLC; Frontier Communications of Oswayo River, LLC; North Penn Telephone Company; and Windstream Pennsylvania, LLC. See Application of Tri-Co Connections, LLC for Approval to Offer, Render, Furnish or Supply Telecommunications Services to the Public in the Commonwealth of Pennsylvania as a Competitive Local Exchange Carrier in the Service Territories of : Verizon Pennsylvania, LLC; Verizon North LLC; Commonwealth Telephone Company d/b/a/ Frontier Communications Commonwealth Telephone Company; Frontier Communications of Canton, LLC; Frontier Communications of Oswayo River, LLC; North Penn Telephone Company; and Windstream Pennsylvania, LLC, Docket No. A-2018-3005309; and Application of Tri-Co Connections, LLC for Approval to Offer, Render, Furnish or Supply Telecommunications Services to the Public in the Commonwealth of Pennsylvania as a Detariffed Facilities-based Interexchange Carrier, Docket No. A-2018-3005312 (Order entered December 6, 2018).

<sup>66</sup> Petition at 4, ¶ 9.

<sup>67</sup> See May 4, 2021 Supplement, Tri-Co's response to Data Request Nos. 3 and 4.

<sup>68</sup> While some of the Auction 904 eligible census where Tri-Co has been awarded RDOF Phase I support and seeks additional designation as an ETC are within local exchanges that are located in the service territories of the above-listed RLECs, a redefinition analysis of these RLEC service territories is not necessary since the FCC waived its rules regarding the redefinition process for Auction 904 recipients. See RDOF Order, 35 FCC Rcd at 727-28, paras. 91-93.

<sup>69</sup> Petition, Exhibit 2, at 8.

<sup>70</sup> 47 C.F.R. § 9.11(b)(5)(i).

<sup>71</sup> On July 17, 2020, at Docket Nos. A-2018-3005309 and A-2018-3005312, Tri-Co submitted an Amendment to its Application that indicated that it is now using an IP-platform to provision voice service to its customers. The Commission's consumer protection and quality of service regulations applicable to CLECs apply to both competitive and non-competitive services. Further, we note that standalone basic voice service has not been reclassified as competitive under Section 3016 of the Code, 66 Pa.C.S. § 3016, in any of the service areas where Tri-Co provides CLEC services. Thus, in addition to other Commission jurisdiction preserved under the VoIP Freedom Act, this service remains subject to all applicable consumer protections and quality of service standards under Pennsylvania law, even though it will be provided as an interconnected VoIP service. See 73 P.S. §§ 2251.5 and 2251.6.

<sup>72</sup> See May 18, 2021, Supplement, Tri-Co response to Data Request No. 1.

limitations, as required by 47 C.F.R. § 9.11(b)(5)(i), it shall ensure that there are both electronic and non-electronic means of obtaining such acknowledgement. Accordingly, we find that Tri-Co is compliant with all applicable federal and Pennsylvania-specific ETC rules.

Tri-Co is also required to comply with all prior certifications related to its previous ETC designation, such as complying with our requirements regarding the relinquishment of its ETC status in any of the census blocks where it receives federal high-cost support and filing a petition for renewal of its ETC designation in the event of a change of or transfer in corporate control as defined in Pennsylvania statutory law, case law, and the Commission's regulations at 52 Pa. Code § 63.322.<sup>73</sup>

#### *Conclusion*

The Commission has adopted the federal minimum standards that are applicable to ETC designations as codified. Consequently, our review of Tri-Co's petition has been done consistent with these federal requirements. Additionally, our review of Tri-Co's petition also has been done to ensure consistency with independent Pennsylvania law.

Tri-Co was a winning bidder in the FCC's Auction 903, and the Commission previously designated Tri-Co as an ETC throughout its CLEC service territory so that it could obtain Auction 903 support to deploy broadband service in the Auction 903-eligible census blocks. As an ETC receiving Auction 903 support, Tri-Co was also required to participate in the federal Lifeline program and offer Lifeline service to qualified low-income eligible customers or households in its Designated Service Area. Upon review, we conclude that amending Tri-Co's previous ETC designation in Pennsylvania by designating it as a high-cost ETC in the 559 Auction 904-eligible census blocks so that it may obtain the RDOF Phase I federal high-cost from Auction 904 is in the public interest. Receipt of Auction 904 high-cost support funding will facilitate the provision of additional access to voice and broadband services to Pennsylvania consumers in rural areas.

We note that the Auction 904 eligible census blocks fall within the geographic areas where Tri-Co has been previously designated as a Lifeline-only ETC. To the extent that Tri-Co's Amended Designated Area does not encompass its entire CLEC service territory any there are remain some geographic areas where Tri-Co will not be receiving any Connect America Fund federal high-cost support from the FCC, it will be considered a Lifeline-only ETC in those specific areas. Thus, Tri-Co is required to offer Lifeline discounts to qualifying low-income consumers in all high-cost areas where it is authorized to receive support, and all other geographic areas where it has not been awarded federal high-cost support, consistent with both FCC and Pennsylvania-specific rules.

As a winning RDOF bidder, we acknowledge that Tri-Co is only required to provide certifications as part of its ETC petition and is not necessarily required to demonstrate its capability to provide the supported services as certified. Nevertheless, as stated above, Tri-Co is currently a high-cost ETC in Pennsylvania and, thus, we deem that it is currently compliant with federal ETC requirements, including the FCC's Universal Service Order, the 2005 ETC Designation Order, the USF/ICC

<sup>73</sup> Tri-Co must file a petition for renewal of its ETC designation at the same time it files or is implicated in the filing of any application for a change or transfer of control under Pennsylvania law because the Commission is lawfully entitled to timely re-examine any such changes and ascertain whether a particular telecommunications entity should continue with an ETC designation.

Transformation Order, and all relevant FCC regulations that have codified the requirements related to ETC designations and Lifeline service. Accordingly, we find that Tri-Co has established through the required certifications and related filings that in its Amended Designated Service Area it will offer the services supported by the federal universal service support mechanisms and will comply with the service requirements and annual reporting obligations applicable to the support that it receives.

While our ETC designation process is separate from, and serves a different purpose than, the authorization process and post-authorization accountability measures that will be conducted by the FCC, our action to designate Tri-Co does impose certain statutory and regulatory obligations to Pennsylvania once it is authorized to receive the awarded Auction 904 support in the eligible census blocks in Pennsylvania. Based on the information, representations, and certifications in its petition, we find that Tri-Co has met all applicable Pennsylvania conditions and prerequisites for ETC designation throughout its Amended Designated Service Area and that such a designation is in the public interest. Accordingly, we also conclude that designation of Tri-Co as a federal high-cost ETC to secure the awarded federal high-cost support in the Auction 904-eligible census blocks in Pennsylvania is in the public interest, and is in accord with Section 214 of the Act, the FCC's regulations and orders related to ETC designation, Section 3019(f) of the Code, and the Commission's orders on ETC designation. 47 U.S.C. § 214; 47 C.F.R. §§ 54.201, et seq.; and 66 Pa.C.S. § 3019(f); *Therefore,*

#### *It Is Ordered:*

1. The Petition for Amended Designation as An Eligible Telecommunications Carrier of Tri-Co Connections, LLC is granted, subject to the terms and conditions set forth in this Order.

2. That the Commission amends Tri-Co Connections, LLC's previous designation as an Eligible Telecommunications Carrier by approving its designation as an Eligible Telecommunications Carrier in the Auction 904-eligible census blocks in the service territories of Commonwealth Telephone Company d/b/a Frontier Communications Commonwealth Telephone Company; Frontier Communications of Oswayo River, LLC; North Penn Telephone Company; Verizon North LLC; and Verizon Pennsylvania LLC.

3. That Tri-Co Connections, LLC's entire high-cost Designated Service Area in Pennsylvania, now to be known as the Amended Designated Service Area of Tri-Co Connections, LLC, consists of the eligible census blocks where it receives Connect America Fund federal high-cost support from the Federal Communications Commission via Auction 903 and Auction 904 and which are located within the local exchanges and census blocks set forth in Appendix C.

4. That the rules of the Federal Communications Commission regarding the redefinition process are inapplicable to Tri-Co Connections, LLC's designation as a federal high-cost Eligible Telecommunications Carrier, which is below the study area level of Commonwealth Telephone Company d/b/a Frontier Communications Commonwealth Telephone Company; Frontier Communications of Oswayo River, LLC; and North Penn Telephone Company.

5. That Tri-Co Connections, LLC is required to offer Lifeline service to eligible low-income consumers or households in its Amended Designated Service Area as

described in this Order and also in all other geographic areas outside its Amended Designated Area where it is not receiving Connect America Fund federal high-cost support.

6. That Tri-Co Connections LLC shall comply with 47 C.F.R. §§ 9.11(b)(5)(i), (ii) and (iii) by ensuring that there are both electronic and non-electronic means of obtaining a customer's affirmative acknowledgement of E911 limitations throughout its Amended Designated Service Area.

7. That Tri-Co Connections, LLC shall provide updated tariff pages for its qualifying voice service that is offered in census blocks that are located in noncompetitive local exchanges within 30 days of the entry of this Order.

8. That Tri-Co Connections, LLC shall provide updated tariff pages for its Lifeline service within 30 days of the entry of this Order.

9. That, upon request, Tri-Co Connections, LLC shall provide the Bureau of Consumer Services with copies of its and annual certification and promotional materials to review for current information, consistency with eligibility determination criteria and annual certification requirements, and plain language requirements.

10. That Tri-Co Connections, LLC is hereby directed to work with the Bureau of Consumer Services to resolve informal complaints and to submit to Commission jurisdiction on formal complaints filed by Tri-Co Connections, LLC Lifeline customers on Lifeline and other related issues.

11. That the failure of Tri-Co Connections, LLC to comply with any of the provisions of this Order may result in revocation of its ETC designation(s) for purposes of receiving federal Universal Service Fund high-cost support and the federal Lifeline support or be subject to further Commission process.

12. That Tri-Co Connections, LLC shall petition this Commission for any future change to the basic Lifeline service offerings provided through this ETC designation as described herein which represents a limitation or reduction of Lifeline services/equipment provided free of charge and shall provide notice to this Commission of any addition, change or new offering which is in addition to the basic Lifeline offering.

13. That Tri-Co Connections, LLC shall petition this Commission for renewal of its Eligible Telecommunications Carrier status at the same time it files or is implicated in the filing of any application for a change or transfer of control as defined in Pennsylvania law.

14. That the Secretary shall serve a copy of this Order on Commonwealth Telephone Company d/b/a Frontier Communications Commonwealth Telephone Company; Frontier Communications of Oswayo River, LLC; North Penn Telephone Company; Verizon North LLC; and Verizon Pennsylvania LLC; the Office of Consumer Advocate; and the Office of Small Business Advocate.

15. That a copy of this Order shall be published in the *Pennsylvania Bulletin*.

16. That this docket shall be marked closed.

ROSEMARY CHIAVETTA,  
Secretary

ORDER ADOPTED: July 15, 2021

ORDER ENTERED: July 15, 2021

[Pa.B. Doc. No. 21-1218. Filed for public inspection July 30, 2021, 9:00 a.m.]

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

### Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission (Commission). Formal protests, petitions to intervene and answers must be filed in accordance with 52 Pa. Code (relating to public utilities) on or before August 16, 2021. Filings must be made electronically through eFiling to the Secretary of the Pennsylvania Public Utility Commission, 400 North Street, Harrisburg, PA 17120, with a copy served on the applicant by August 16, 2021. In accordance with the Commission's Emergency Order at M-2020-3019262, all parties participating in matters pending before the Commission are required to eFile their submissions by opening an eFiling account and accepting EService. Individuals can sign up for a free eFiling account with the Secretary of the Commission through the Commission's eFiling system at <https://www.puc.pa.gov/efiling/Default.aspx>. 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. The documents filed in support of the application are only available for inspection through the Commission's web site at [www.puc.pa.gov](http://www.puc.pa.gov) by searching under the previously listed docket number or by searching the applicant's web site.

#### Applications of the following for approval to begin operating as common carriers for transportation of persons as described under each application.

**A-2021-3025456. Aerotrip Transportation, LLC** (700 River Side Avenue, Pittsburgh, Allegheny County, PA 15212) in airport transfer service, from points in the Counties of Allegheny, Armstrong, Beaver, Clarion, Erie, Fayette, Greene, Mercer, Somerset, Washington, Wayne and Westmoreland, to the Pittsburgh International Airport, and vice versa.

**A-2021-3026712. BKL Transportation, LLC** (1700 Market Street, Suite 1005, Philadelphia, PA 19018) in paratransit service between points in Delaware County, and the City and County of Philadelphia.

**A-2021-3026859. Brian Swanger** (1327 White Hall Road, Turbotville, PA 17772) to transport, in paratransit service, persons that are employees of JEM Roofing Shop, from points in Northumberland County, to points in Pennsylvania and return.

**A-2020-3018958. PHN Charitable Foundation, t/a CF Transportation Solutions** (55 Pitt Street, Sharon, PA 16146) for the right to begin to transport, as a common carrier, by motor vehicle, persons in paratransit service, from points in the County of Beaver, to points in Pennsylvania and return. *Attorney:* William H. Stewart, III, Vuono & Gray, LLC, 310 Grant Street, Suite 2310, Pittsburgh, PA 15219.

**A-2021-3027311. JL Luxury Transit, LLC** (905 East King Street, Apartment C, Lancaster, Lancaster County, PA 17602) for the right to begin to transport, as a common carrier, by motor vehicle, persons in group and party service, in vehicles seating 11 to 15 passengers,



including the driver, from points in the 17602-zip code to points within a 50-mile radius of the boundary of the 17602-zip code.

**Application of the following for the approval of the transfer of stock as described under the application.**

**A-2021-3027253. Golden Care Transportation, LLC** (471 Pheasant Lane, Fairless Hills, Bucks County, PA 19030) for the approval of the transfer of one half of ownership, from Maunita Patel, to Ashish Desai. *Attorney:* Louise Vuono, 310 Grant Street, Suite 2310, Pittsburgh, PA 15219.

ROSEMARY CHIAVETTA,  
*Secretary*

[Pa.B. Doc. No. 21-1219. Filed for public inspection July 30, 2021, 9:00 a.m.]

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

### Service of Notice of Motor Carrier Formal Complaints

Formal complaints have been issued by the Pennsylvania Public Utility Commission. Answers must be filed in accordance with 52 Pa. Code (relating to public utilities). Answers are due August 16, 2021, and must be made with the Secretary, Pennsylvania Public Utility Commission, 400 North Street, Harrisburg, PA 17120, with a copy to the First Deputy Chief Prosecutor, Pennsylvania Public Utility Commission.

### Pennsylvania Public Utility Commission; Bureau of Investigation and Enforcement v. Scholl, Earl A., Inc.; Docket No. C-2021-3025743

#### COMPLAINT

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings which are prosecutory in nature to the Bureau of Investigation and Enforcement and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Investigation and Enforcement hereby represents as follows:

1. That all authority issued to Scholl, Earl A., Inc., (respondent) is under suspension effective April 26, 2021 for failure to maintain evidence of insurance on file with this Commission.
2. That respondent maintains a principal place of business at 780 Minsi Trail Road, Perkasio, PA 18944.
3. That respondent was issued a Certificate of Public Convenience by this Commission on April 28, 1988, at A-00107401.
4. That respondent has failed to maintain evidence of Cargo insurance on file with this Commission. The Bureau of Investigation and Enforcement's proposed civil penalty for this violation is \$500.00 and cancellation of the Certificate of Public Convenience.

5. That respondent, by failing to maintain evidence of insurance on file with this Commission, violated 66 Pa.C.S. § 512, 52 Pa. Code § 32.2(c), and 52 Pa. Code § 32.11(a), § 32.12(a) or § 32.13(a).

Wherefore, unless respondent pays the penalty of \$500.00 or files an answer in compliance with the attached notice and/or causes its insurer to file evidence of insurance with this Commission within twenty (20) days of the date of service of this Complaint, the Bureau of Investigation and Enforcement will request that the Commission issue an Order which (1) cancels the Certificate of Public Convenience held by respondent at A-00107401 for failure to maintain evidence of current insurance on file with the Commission, (2) fines Respondent the sum of five hundred dollars (\$500.00) for the illegal activity described in this Complaint, (3) orders such other remedy as the Commission may deem to be appropriate, which may include the suspension of a vehicle registration and (4) imposes an additional fine on the respondent should cancellation occur.

Respectfully submitted,  
Andrew Turriziani  
Chief of Motor Carrier Enforcement  
Bureau of Investigation and Enforcement  
400 North Street  
Harrisburg, PA 17120

#### VERIFICATION

I, Andrew Turriziani, Chief of Motor Carrier Enforcement, Bureau of Investigation and Enforcement, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect that the Bureau will be able to prove same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: May 10, 2021

Andrew Turriziani  
Chief of Motor Carrier Enforcement  
Bureau of Investigation and Enforcement

#### NOTICE

A. You must file an Answer within 20 days of the date of service of this Complaint. The date of service is the mailing date as indicated at the top of the Secretarial Letter. See 52 Pa. Code § 1.56(a). The Answer must raise all factual and legal arguments that you wish to claim in your defense, include the docket number of this Complaint, and be verified. You may file your Answer by mailing an original to:

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
400 North Street  
Harrisburg, PA 17120

Or, you may eFile your Answer using the Commission's website at [www.puc.pa.gov](http://www.puc.pa.gov). The link to eFiling is located under the Filing & Resources tab on the homepage. If your Answer is 250 pages or less, you are not required to file a paper copy. If your Answer exceeds 250 pages, you must file a paper copy with the Secretary's Bureau.

Additionally, a copy should either be mailed to:

Michael L. Swindler, Deputy Chief Prosecutor  
 Pennsylvania Public Utility Commission  
 Bureau of Investigation and Enforcement  
 400 North Street  
 Harrisburg, PA 17120

Or, emailed to Mr. Swindler at: RA-PCCmpltResp@pa.gov

B. If you fail to answer this Complaint within 20 days, the Bureau of Investigation and Enforcement will request that the Commission issue an Order imposing the penalty.

C. You may elect not to contest this Complaint by causing your insurer to file proper evidence of current insurance in accordance with the Commission's regulations and by paying the fine proposed in this Complaint by certified check or money order within twenty (20) days of the date of service of this Complaint. Accord certificates of insurance and faxed form Es and Hs are unacceptable as evidence of insurance.

The proof of insurance must be filed with the:

Compliance Office, Bureau of Technical Utility Services  
 Pennsylvania Public Utility Commission  
 400 North Street  
 Harrisburg, PA 17120

Payment of the fine must be made to the Commonwealth of Pennsylvania and should be forwarded to:

Rosemary Chiavetta, Secretary  
 Pennsylvania Public Utility Commission  
 400 North Street  
 Harrisburg, PA 17120

Your payment is an admission that you committed the alleged violation and an agreement to cease and desist from further violations. Upon receipt of the evidence of insurance from your insurer, and upon receipt of your payment, the Complaint proceeding shall be closed.

D. If you file an Answer which either admits or fails to deny the allegations of the Complaint, the Bureau of Investigation and Enforcement will request the Commission to issue an Order imposing the penalty set forth in this Complaint.

E. If you file an Answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision. The Judge is not bound by the penalty set forth in the Complaint, and may impose additional and/or alternative penalties as appropriate.

F. If you are a corporation, you must be represented by legal counsel. 52 Pa. Code § 1.21.

Alternative formats of this material are available for persons with disabilities by contacting the Commission's ADA Coordinator at 717-787-8714. Do not call this number if you have questions as to why you received this complaint. For those questions you may call 717 783-3847.

ROSEMARY CHIAVETTA,  
 Secretary

[Pa.B. Doc. No. 21-1220. Filed for public inspection July 30, 2021, 9:00 a.m.]

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

### Supplier Door-to-Door and In-Person Marketing Moratorium, Proclamation of Disaster Emergency—COVID-19

Public Meeting held  
 July 15, 2021

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

*Supplier Door-to-Door and In-Person Marketing  
 Moratorium, Proclamation of Disaster  
 Emergency—COVID-19; M-2020-3019254*

#### Order

*By the Commission:*

On March 6, 2020, Governor Tom Wolf issued a Proclamation of Disaster Emergency that identified the COVID-19 pandemic as a disaster emergency affecting the entire Commonwealth. On March 16, 2020, relying on the Proclamation of Disaster Emergency and the Commission's authority, Chairman Gladys Brown Dutrieuille issued an Emergency Order prohibiting jurisdictional electric generation suppliers and natural gas suppliers (collectively, suppliers) from engaging in door-to-door, public event, and in-person sales and marketing activities during the pendency of the Proclamation of Disaster Emergency, or unless otherwise directed by the Commission. With this Order, the Commission further modifies the March 16, 2020, Emergency Order, as modified by the Orders entered June 4, 2020, December 3, 2020, and May 6, 2021, to lift the marketing moratorium for door-to-door, public event, and in-person sales and marketing activities, subject to the conditions established herein.

#### *Background*

The Governor issued the March 6, 2020, Proclamation of Disaster Emergency pursuant to subsection 7301(c) of the Emergency Management Services Code, 35 P.S. §§ 7101, et seq., and proclaimed the existence of a disaster emergency throughout the Commonwealth for a period of up to 90 days, unless renewed. The Proclamation of Disaster Emergency explicitly authorized and directed the suspension of "the provisions of any regulatory statute prescribing the procedures for conduct of Commonwealth business, or the orders, rules or regulations of any Commonwealth agency, if strict compliance with the provisions of any statute, order, rule, or regulation would in any way prevent, hinder, or delay necessary action in coping with this emergency."<sup>1</sup> The Governor renewed<sup>2</sup> the Proclamation of Disaster Emergency a total of five times.

On June 10, 2021, the Pennsylvania General Assembly passed a Concurrent Resolution terminating the Proclamation of Disaster Emergency. On June 11, 2021, the Governor signed House Bill 854, known as Act 21 of 2021, which provides for "temporary regulatory flexibility authority" by extending the suspension of certain regulatory statutes under 35 Pa.C.S. § 7301(f)(1) until September

<sup>1</sup> Proclamation of Disaster Emergency, Commonwealth of Pennsylvania, Office of the Governor (March 6, 2020) available at <https://www.governor.pa.gov/wp-content/uploads/2020/03/20200306-COVID19-Digital-Proclamation.pdf>.

<sup>2</sup> Amendment to Proclamation of Disaster Emergency, Commonwealth of Pennsylvania, Office of the Governor (May 20, 2021) available at <https://www.pema.pa.gov/Governor-Proclamations/Documents/Proclamation-Amending-Disaster-Emergency-COVID19-052021.pdf>.

30, 2021. We discuss these actions in further detail in our disposition. See H. Res. 106, Reg. Sess. of 2021 (Pa. 2021); Section 2101-F(a) of Act 175 of 1929, as amended by Act 21 of 2021.

The Commission has promulgated residential sales and marketing regulations for suppliers under its jurisdiction at 52 Pa. Code §§ 111.1—111.14. Regarding door-to-door, public event, and in-person sales and marketing activities, the Commission's regulations at 52 Pa. Code § 111.2 provide the following:

*Door-to-door sales*—A solicitation or sales method whereby an agent proceeds randomly or selectively from residence to residence.

...

*Public event*—An event in a public location which may facilitate sales and marketing activities or may result in a customer enrollment transaction.

*Sales and marketing*—The extension of an offer to provide services or products communicated orally, electronically or in writing to a customer.

52 Pa. Code § 111.2.

The Chairman's March 16, 2020, Emergency Order prohibited jurisdictional suppliers from engaging in door-to-door, public event, and in-person sales and marketing activities during the pendency of the Governor's Proclamation of Disaster Emergency, or unless otherwise directed by the Commission. The Chairman directed the cessation of these sales and marketing activities to protect the health and safety of customers and supplier employees by minimizing social contact to reduce the spread of COVID-19. The Commission ratified the Emergency Order at the above-referenced docket number on March 26, 2020, finding that it was in the public interest.

On May 21, 2020, NRG Energy, Inc. (NRG) filed its first Petition for Partial Rescission of the Commission's March 16, 2020, Emergency Order. By Order entered June 4, 2020, the Commission granted NRG's May 21, 2020, Petition for Partial Rescission with modification. The Commission lifted the moratorium on in-person sales and marketing activities for all jurisdictional suppliers as it pertains to activities at retail businesses open as a result of the Governor's directives regarding the yellow and green phases. The Commission directed suppliers to report their intent to resume in-person sales and marketing activities at retail businesses to the Commission's Office of Competitive Market Oversight (OCMO) and the Bureau of Consumer Services (BCS). The Commission also directed suppliers engaging in in-person sales and marketing activities at retail businesses to comply with all relevant orders and guidance of the Governor and the Secretary of Health.

On June 15, 2020, StateWise Energy Pennsylvania, LLC (StateWise) and SFE Energy Pennsylvania, LLC (SFE) filed a Petition for Partial Rescission, or alternatively, Petition for Waiver, of the Commission's March 16, 2020, Emergency Order. StateWise and SFE requested relief from the prohibition on door-to-door sales and marketing activities for counties in the yellow and green phases of the Governor's reopening plan. Then, on June 18, 2020, Interstate Gas Supply, Inc. d/b/a IGS Energy's (IGS) filed a Petition for Partial Rescission of the Emergency Order seeking relief from the prohibition on door-to-door, public event, and in-person sales and marketing activities.

By Order entered July 16, 2020, the Commission denied StateWise and SFE's June 15, 2020, Petition for Reconsid-

eration as well as IGS's June 18, 2020, Petition for Reconsideration. The Commission held that StateWise, SFE, and IGS did not offer sufficient justification to rescind the portions of the March 16, 2020, Emergency Order, as modified by the June 4, 2020, Order.

On July 13, 2020, Direct Energy Business, LLC, Direct Energy Services, LLC, and Direct Energy Business Marketing, LLC's (collectively, Direct Energy) filed a Petition for Clarification or Modification of the Commission's June 4, 2020, Order and March 16, 2020, Emergency Order. Direct Energy requested relief from the portions of the Orders that prohibited in-person sales and marketing activities with commercial, industrial, and governmental customers that have reopened their businesses as result of the Governor's directives. On July 24, 2020, IGS filed a Petition for Rehearing and/or Reconsideration of the Commission's July 16, 2020, Order. IGS sought reconsideration to allow door-to-door and by-appointment in-person sales and marketing activities.

On August 27, 2020, the Commission entered two Orders. In its first Order, the Commission denied Direct Energy's July 13, 2020, Petition for Clarification or Modification finding that Direct Energy did not raise compelling reasons to alter the Commission's June 4, 2020, Order or March 16, 2020, Emergency Order. In its second Order, the Commission denied IGS's July 24, 2020, Petition for Reconsideration finding that IGS did not present arguments that warranted reconsideration of the Commission's July 16, 2020, Order.

Subsequently, on October 22, 2020, NRG filed its second Petition for Partial Rescission of the Commission's March 16, 2020, Emergency Order. NRG requested that the Commission rescind the portion of the Emergency Order that prohibits suppliers from engaging in in-person sales and marketing activities at public events only as it pertains to outdoor public events held in accordance with orders and directives issued by the Governor and Secretary of Health.

By Order entered December 3, 2020, the Commission granted NRG's October 22, 2020, Petition for Partial Rescission. The Commission lifted the moratorium on in-person sales and marketing activities for all suppliers as it pertains to activities at outdoor public events held in accordance with orders and directives issued by the Governor and Secretary of Health. The Commission also directed suppliers to report their intent to resume in-person sales and marketing activities at outdoor public events to OCMO and BCS. The Commission further directed suppliers engaging in in-person sales and marketing activities at retail businesses to comply with relevant orders and guidance from the Governor and the Secretary of Health.

On March 29, 2021, the Retail Energy Supply Association (RESA) filed a Petition for Partial Rescission of the Commission's March 16, 2020, Emergency Order requesting that the Commission rescind the portion of the Emergency Order that prohibits in-person sales and marketing activities with commercial and industrial customers.

By Order entered May 6, 2021, the Commission granted RESA's March 29, 2021, Petition for Partial Rescission. The Commission lifted the moratorium on in-person sales and marketing activities for all suppliers as it pertains to activities with commercial and industrial customers that are open. The Commission directed suppliers engaging in in-person sales and marketing activities with commercial and industrial customers to comply with all relevant



orders and guidance of the Governor and Secretary of Health and to report their intent to resume those sales marketing activities to OCMO and BCS as previously required for other sales and marketing activities.

Simultaneously, on May 6, 2021, the Commission issued a Tentative Order requesting public comment on when and how the remaining provisions of the marketing moratorium should end. The Commission asked interested stakeholders to comment on a timeline for further modifying or lifting the March 16, 2020, Emergency Order and the metrics that the Commission may use to determine whether to modify or lift the marketing moratorium. The Commission acknowledged that public health and safety concerns may remain if the COVID-19 pandemic has not fully abated. Thus, we also asked stakeholders to comment on any conditions that may be necessary for the safe resumption of prohibited in-person sales and marketing activities, including possible training for suppliers regarding the Commission's marketing regulations and the need for any additional reporting requirements beyond those found at 52 Pa. Code § 111.14.

Further, the Commission sought comment on any additional actions that may be necessary with regard to (1) our June 4, 2020, Order lifting the moratorium on in-person sales and marketing activities for all suppliers as it pertains to activities at retail businesses open as a result of the Governor's directives, and (2) our December 3, 2020, Order lifting the moratorium on in-person sales and marketing activities for all suppliers as it pertains to activities at outdoor public events held in accordance with orders and directives issued by the Governor and Secretary of Health. We also noted that parties should take into account the recent May 6, 2021, Order when filing comments in response to the Tentative Order. The Tentative Order was published in the *Pennsylvania Bulletin* on May 22, 2021, and comments were due within 30 days.

Seven parties filed comments in response to the Commission's May 6, 2021, Tentative Order, including Titan Gas LLC dba CleanSky Energy (CleanSky), the Office of Consumer Advocate (OCA),<sup>3</sup> Energy Harbor LLC (Energy Harbor), NRG, PPL Electric Utilities Corporation (PPL), RESA, and TLP Software (TLP). We discuss these comments in detail below.

#### *Discussion*

We note that any issues we do not specifically address herein have been duly considered and will be denied without further discussion. It is well settled that the Commission is not required to consider expressly or at length each contention or argument raised by the parties. *Consolidated Rail Corporation v. Pa. Public Utility Commission*, 625 A.2d 741 (Pa. Cmwlth. 1993); see also, generally, *University of Pennsylvania v. Pa. Public Utility Commission*, 485 A.2d 1217 (Pa. Cmwlth. 1984).

#### *CleanSky Comments*

CleanSky states that it supports the timing of the Commission's initiation of a process to further modify or lift the March 16, 2020, Emergency Order. CleanSky suggests that the Commission take into consideration the same data used by the Governor's office to revise and lift mitigation measures and restrictions in addressing the current supplier door-to-door and in-person marketing moratorium. CleanSky recommends that all suppliers approach re-entry into Pennsylvania as if it were a brand-new market. In this regard, CleanSky proposes that suppliers conduct a soft launch with a small number

of agents in the field for a period of two to three weeks. After this time, CleanSky suggests that suppliers conduct a field audit visit to confirm that field agents are adhering to all measures directed by the Commission and the supplier regarding public health and safety. CleanSky further suggests that, after the audit, suppliers resume normal operations subject to additional periodic field audit visits. CleanSky Comments at 1.

CleanSky further recommends that the Commission require suppliers to develop and provide the Commission with a copy of the supplier's internal requirements and health and safety guidelines for best practices to be followed by the supplier's vendors and field agents. In conjunction with this requirement, CleanSky recommends that each supplier collect from their field agents a completed and signed training acknowledgement form. Under CleanSky's proposal, the form would state that the field agents completed refresher training on the supplier's program, state specific marketing requirements, and appropriate COVID-19 health and safety measures, including the use of personal protective equipment, and other steps recommended by the Department of Health, the Centers for Disease Control and Prevention (CDC), and the supplier's best practices. CleanSky also supports the idea for all suppliers to attend a remote Commission training as a refresher program and to ensure vendor training materials are compliant. CleanSky believes that, if these requirements or similar requirements are put in place, additional monitoring, oversight, or reporting may not be necessary. CleanSky Comments at 2.

#### *OCA Comments*

The OCA's requests that the Commission continue the prohibition of residential door-to-door sales until longstanding concerns about this type of marketing are addressed and alleviated. In addition, the OCA suggests that the Commission consider permanently halting door-to-door sales to residential customers or imposing much stricter substantive restrictions on this activity. OCA Comments at 7-8.

If the Commission allows door-to-door sales and marketing activities to resume, the OCA recommends that these activities only be permitted in counties with 70% of the adult population having been fully vaccinated. The OCA notes that information on county vaccination rates is routinely published by the Pennsylvania Department of Health and provides some reasonable level of protection to residents and sales agents. According to the OCA, because suppliers are currently required under 52 Pa. Code § 111.14 to notify BCS of the geographical area where the supplier intends to conduct door-to-door sales campaign that day, this safeguard should be easy to administer. The OCA suggests that the supplier check and report to BCS the vaccination rate of a county before going door-to-door in that county. OCA Comments at 11-12.

Additionally, the OCA notes that there is no guarantee that a customer or sales agent will not contract the virus through an unwanted, unsolicited door-to-door sales interaction. The OCA states that, when suppliers conduct door-to-door sales during a pandemic, the interaction at the customer's door carries health risks and raises important considerations about customer privacy. The OCA recommends that all sales agents be equipped with contactless-tools for touching the customer's door and doorbell as well as sanitizing supplies to continuously clean any objects such as touch devices or clipboards used by customers. The OCA also recommends that any unvaccinated sales agents be required to wear a mask for the

<sup>3</sup> The OCA filed Corrected Comments on June 23, 2021. We refer to this filing as "OCA Comments."

duration of the interaction and remain six to ten feet away from the customer's door at all times. Recognizing that social distancing may make it difficult for the agent to display a badge or provide a business card or other piece of material to identify themselves and the supplier they are representing and to show the requisite information to the customer, pursuant to the Commission's regulations at 52 Pa. Code §§ 111.8(a) and 111.9(d)(2), the OCA recommends that sales agents be required to hold or display a large badge or sign with font any customer can read from a distance. Additionally, the OCA recommends that the Commission temporarily waive the requirement of sales agents to hand over a business card or document, pursuant to 52 Pa. Code Section 111.9(d)(2), to reduce close contact. Rather, the OCA recommends that the sales agent initiate the door-to-door interaction with the following statement:

I am an agent of a licensed supplier of electric/gas energy asking if you want to hear a sales presentation on my products and services. You are under no obligation to purchase my products and services to have your current electric and gas service continue. Are you comfortable to talk to me about the potential benefits of my product or service? If so, you may ask me to leave your property at any time.

Given the unknown vaccination and health status of the customers at the door, the OCA recommends that the sales agent be required to ask the customer if they are comfortable speaking to the sales agent and to leave the property if the customer's response is "no." OCA Comments at 10, 15-16.

The OCA states that it shares the Commission's recognition and concern that resuming door-to-door marketing in Pennsylvania is likely to occur with untrained sales agents. It is the OCA's experience that many suppliers do not have a manager or other office in Pennsylvania. Rather, many suppliers conduct their business for telemarketing and door-to-door sales through third-party agents and those third-party agents, who may or may not be headquartered in Pennsylvania, then engage individuals, who may or may not be residents of Pennsylvania, to train and send out to knock on doors in locations in Pennsylvania where it is profitable to do so. For these reasons, the OCA states that there is a serious concern with respect to how the Commission should ensure each supplier has properly trained its third-party contractors and determine how those contractors train and supervise the conduct of their agents, most of whom are independent contractors whose earnings depend on a successful sale. Accordingly, the OCA recommends that suppliers should be limited to sending their own employees to conduct door-to-door sales, or if suppliers are permitted to use a third-party, the Commission should require suppliers to have their own supervisors making field visits to audit the sales agents during their door-to-door campaigns on the supplier's behalf. OCA Comments at 13-14.

Further, to improve the supplier's ability to monitor door-to-door marketing interactions, the OCA recommends that the Commission consider requiring all door-to-door sales agents to audio-record each interaction with a residential customer and require the supplier to retain the recording. Finally, the OCA recommends that the Commission, in collaboration with interested stakeholders, should jointly host marketing and sales compliance sessions for all suppliers' training managers. The OCA also suggests that the Commission require each supplier to identify and provide evidence of the actual training

that has occurred both for its third-party contractors, as well as the contractor's sales agents. OCA Comments at 13-14.

#### *RESA Comments*

RESA believes that there is no longer any public health justification for a blanket prohibition on door-to-door or in-person sales and marketing activities, and that there are well-developed and clear regulatory requirements governing the sales and marketing activities of suppliers. RESA suggests that the Commission remove all remaining restrictions immediately. RESA argues that the reopening of other businesses in Pennsylvania, and the lack of other statewide restrictions indicate that no additional metrics should be required of door-to-door energy marketers. RESA Comments at 3-5.

Regarding conditions, RESA believes that continued adherence to whatever CDC guidelines remain in place is still critical and could be considered a condition. RESA also comments that suppliers could be required to self-certify that they will ensure that their direct representatives adhere to requirements and any other reasonable public health related precautions that are required of all citizens. For the short term, RESA details that sales representatives should continue to be screened for symptoms and not be permitted to engage in any face-to-face marketing if they are symptomatic. RESA states that the screening process should be left to the supplier. RESA notes that, for door-to-door encounters, which typically take place outside, the precautions of providing single-use marketing materials or the use of a sanitized tablet computer could be employed. The use of a mask should be optional while outdoors and could be required if the consumer requests it, but for indoor encounters, a mask requirement would be reasonable. RESA lastly avers that there is no public health reason to prevent in-person meetings between suppliers and potential customers at locations other than customer residences, since the consumer can ultimately decide whether he or she wants to participate in the meeting with the supplier's representative. RESA Comments at 6-7.

Concerning reporting requirements, RESA opines that, apart from the notifications to BCS and OCMO prior to launching a door-to-door campaign, no general reporting requirements are necessary. RESA argues the reporting of any employee health data, such as number of positive tests, is not within the Commission's purview, and therefore disclosure to the Commission would be inappropriate. RESA suggests that, if an employee were to test positive after having had customer encounters in the prior two weeks, the supplier must cooperate, to the extent it is able, with the contact tracing organization to inform those people of possible contact. RESA Comments at 6-7.

Finally, regarding training, RESA claims that many suppliers did retain their in-person marketing staffs, to the extent possible, and repurposed those individuals to customer service or other related tasks. As such, RESA states that not all employees are likely to have stale recollections of the rules. With a 15-month hiatus, however, RESA notes that a refresher training course performed by the supplier would not be unreasonable. Rather than causing further delay in the resumption of normal sales and marketing operations by requiring attendance at a Commission-developed training, RESA suggests that the Commission direct suppliers to develop and implement a refresher training course and certify to the Commission that they have done so or will complete the training within a reasonable time. RESA Comments at 8.

*NRG Comments*

NRG urges the Commission to lift the moratorium in its entirety, impose no new requirements or conditions on suppliers, and eliminate the additional reporting requirements imposed by the Orders that modified the Emergency Order to permit in-person sales at retail locations and outdoor events. In NRG's view, suppliers should not be subjected to restrictions on in-person sales and marketing activities that the Commonwealth is not imposing on other businesses. NRG notes that Pennsylvania has taken key steps forward in returning to some sense of normalcy. NRG also states that, since Pennsylvania has eliminated restrictions that interfered with the ability of businesses to operate for over a year, the circumstances prompting issuance of the Commission's Emergency Order are no longer present. NRG further contends that the Commission should not impose conditions or requirements on suppliers engaged in in-person sales and marketing activities beyond those already established by the Commission's regulations. NRG Comments at 1—5.

*Energy Harbor Comments*

Energy Harbor prefaces its comments by noting that the unavailability of door-to-door marketing and the imposition of restrictions on other in-person sales for more than one year due to the Commission's moratorium has adversely affected Energy Harbor's competitive energy business. Energy Harbor requests that the Commission eliminate the moratorium and allow competitive energy suppliers to resume in-person operations consistent with the directives of Governor Wolf. According to Energy Harbor, in-person sales and marketing activities provide an effective opportunity to explain to consumers how energy choice programs work by allowing consumers to ask specific questions about the terms and conditions of the offer and simultaneously review the offering documents. Energy Harbor Comments at 1-2, 5.

Energy Harbor comments that the Commonwealth's officials in charge of public health and safety have determined that no additional measures are necessary at this time. Accordingly, Energy Harbor's overarching view is that, with the Commonwealth's lifting of all mitigation measures, the Emergency Order should be rescinded in its entirety as soon as possible and should have been lifted along with the Commonwealth's lifting of mitigation measures on Memorial Day. To that end, Energy Harbor argues the Emergency Order should be rescinded by Secretarial Letter as soon as possible or that the Commission should issue an Order via notational voting rather than waiting until a public meeting. Energy Harbor Comments at 6-7.

Energy Harbor comments that mandatory refresher training for suppliers is not necessary as suppliers are capable of reviewing the regulations that have been in place for a decade and ensuring that their employees, vendors, and agents are aware of the applicable requirements. While Energy Harbor indicates that it would welcome the opportunity to participate in any refresher training offered by the Commission, it contends that participation should not be a prerequisite to resuming in-person sales and marketing activities. If the Commission decides to require training, Energy Harbors comments that the Commission should not make it a condition that delays the resumption of such activities, but rather should direct suppliers to comply with the requirement within a certain number of days after resuming in-person sales and marketing activities. Energy Harbor Comments at 8.

Energy Harbor maintains that no additional reporting requirements are appropriate, given that industry standards must be established through regulations. Energy Harbor further argues that no justification exists to mandate that suppliers comply with reporting requirements that have not been suggested or imposed on other in-person activities engaged in by entities regulated by the Commission. Regarding the notification requirements applicable to the resumption of sales and marketing activities in retail establishments and at outdoor events set forth by the Commission's June 4, 2020, and December 3, 2020, Orders, Energy Harbor suggests that eliminating them would be consistent with the Commonwealth's lifting of mitigation measures and getting businesses back on course. Energy Harbor Comments at 9, 10.

*TLP Software Comments*

TLP urges the Commission to immediately lift the prohibition on door-to-door marketing and submits that no additional practices or requirements are needed to protect public health and safety. TLP argues that capacity restrictions and other mandates to limit transmission of COVID-19 were lifted on Memorial Day due to increasing vaccinations and a drop in new cases. TLP comments that the Commission should follow suit for door-to-door sales and marketing activities. TLP argues that door-to-door sales and marketing representatives are required to follow federal, state, and local safety rules that proved to be effective measures for minimizing exposure to COVID-19. Thus, TLP says that delaying the reinstatement of door-to-door sales and marketing activities compounds the economic impact that the business has already suffered without providing any material benefit to prospective customers and agents. TLP Comments at 1-2.

Additionally, like the OCA, TLP offers several comments on the Commission's door-to-door marketing rules going forward. TLP notes that the Commission's supplier marketing rules were developed in 2011. TLP recommends that the Commission update the recordkeeping requirements and the requirements regarding the verification process for door-to-door enrollments, among other things. TLP Comments at 2-3.

*PPL Comments*

As a general matter, PPL asks the Commission to strongly consider bolstering the Commission's regulations on door-to-door sales and marketing activities or prohibiting the practice altogether, even after the Commission modifies or lifts the current moratorium on door-to-door sales and marketing activities. PPL Comments at 4.

With regard to reporting requirements, PPL suggests that the Commission require to provide the BCS and the local distribution company with the names of vendors who are conducting door-to-door sales and marketing activities on behalf of the supplier. As for public safety measures, PPL recommends that door-to-door salespersons be required to follow all applicable CDC and Pennsylvania guidelines and requirements related to COVID-19 after the moratorium is lifted, and that such guidelines and requirements should be followed for however long they remain in effect. Additionally, regarding training, PPL supports requiring suppliers and their vendors to attend a Commission training to refresh their understanding of the Commission's marketing regulations before resuming the sales and marketing activities. PPL further maintains that sales and marketing activities should only resume after the suppliers, their agents, and their vendors undergo Commission training on the appli-



cable Commission regulations. Moreover, PPL recommends that the Commission require suppliers to report vendor names to the Commission and the local distribution company. PPL notes that this requirement will prevent bad actor vendors from switching to another supplier after they are found to be in violation of the Commission's regulations. PPL Comments at 2—4, 5-6.

#### *Disposition*

By way of background, on June 10, 2021, the Pennsylvania General Assembly passed a Concurrent Resolution, which terminated the Governor's Proclamation of Disaster Emergency originally declared on March 6, 2020, and as amended and renewed, in response to COVID-19. In a related action, on June 11, 2021, Governor Wolf signed into law Act 21 of 2021 (Act 21), which provides "temporary regulatory flexibility authority" to "Commonwealth agencies" by suspending regulatory statutes prescribing the procedures for conduct of Commonwealth business, or an order, rule, or regulation which was suspended under the authority of the Governor. Such Orders continue to have the force and effect of law through September 30, 2021, unless sooner terminated by the authority initially authorizing them. For the reasons below, we further modify the March 6, 2020, Emergency Order, as modified by the Orders entered June 4, 2020, December 3, 2020, and May 6, 2021, to lift the moratorium on door-to-door, public event, and in-person sales and marketing activities. Further, consistent with the temporary regulatory authority flexibility authorization of Act 21, we also establish conditions to ensure the safety of these sales and marketing activities.

Upon review and consideration of the comments received in response to the Tentative Order, we find that it is reasonable and appropriate to further modify the March 16, 2020, Emergency Order. The majority of the parties that filed comments request that the Commission immediately end the moratorium on door-to-door sales and marketing activities. See gen'lly RESA Comments; NRG Comments; Energy Harbor Comments; TLP Comments. These parties point out that the circumstances prompting the moratorium no longer exist. For instance, RESA states that there is no longer any public health basis for the moratorium, and TLP notes that there has been a substantial drop in new COVID-19 cases. RESA Comments at 3; TLP Comments at 2. NRG also notes that Pennsylvania businesses are operating without restriction and argues suppliers should not be subject to restrictions that the Commonwealth is not imposing on other business. NRG Comments at 1. Moreover, the parties raise concerns regarding the economic impact of the moratorium. Energy Harbor states that restrictions on in-person sales and the unavailability of the door-to-door channel have adversely affected their business. Energy Harbor Comments at 1, 5. NRG argues that rolling back restrictions will assist businesses in getting back to prior sales levels in order to help grow the economy. NRG Comments at 2; see also Energy Harbor Comments at 3.

We agree that a blanket prohibition on door-to-door sales and marketing activities is no longer justified. We note that suppliers are typically engaged in door-to-door sales and marketing activities in the summer months. Thus, any further extension of the moratorium would effectively eliminate door-to-door sales and marketing activities for suppliers during the remainder of 2021. We also agree that extending the moratorium on door-to-door sales and marketing activities risks further economic harm without providing a material benefit given the status of the COVID-19 pandemic.

In this regard, we note that, since the issuance of our Tentative Order on May 6, 2021, additional COVID-19 mitigation measures and restrictions have been lifted. For instance, on May 30, 2021, Governor Wolf allowed all business, events, and venues to return to 100 percent capacity.<sup>4</sup> In addition, for the week of June 18 through June 24, the statewide positivity rate for COVID-19 was 1.2%.<sup>5</sup> Further, on June 28, 2021, the Governor lifted the order requiring masks for unvaccinated and partially vaccinated individuals. These masking requirements were set to be lifted when 70 percent of Pennsylvanians age 18 or older were fully vaccinated, or on June 28, 2021, whichever came first.<sup>6</sup> The masking requirements were ultimately lifted on June 28, 2021, at which time the percentage of fully vaccinated Pennsylvanians over the age of 18 was 59.8 percent.<sup>7</sup> Therefore, in light of the further easing of COVID-19 mitigation measures and restrictions, and the potential for economic harm associated with maintaining the moratorium, we are further modifying our March 16, 2020 Emergency Order, as modified by the Orders entered June 4, 2020, December 3, 2020, and May 6, 2021, to lift the moratorium on door-to-door, public event, and in-person sales and marketing activities for all jurisdictional suppliers, subject to specified conditions.

We disagree with the OCA that door-to-door sales and marketing activities should be prohibited in any county where the adult vaccination rate is less than 70 percent. The line of 70 percent proposed by the OCA is fairly speculative, and the OCA provides no evidentiary support for the imposition of this new rule. Moreover, as of July 2, 2021, data from the Pennsylvania Department of Health indicates that 60.3 percent of Pennsylvanians age 18 or older were fully vaccinated. It is not known when, or if, the 70 percent vaccination threshold will be reached. Thus, the OCA's proposal could effectively prohibit door-to-door sales and marketing activities permanently for those counties below the threshold. Further, the Commission has previously looked to the circumstances surrounding the COVID-19 pandemic and the status of the statewide reopening plan in addressing petitions to modify or rescind portions of the March 16, 2020, Emergency Order. The Commission's actions here are consistent with the recent lifting of COVID-19 mitigation measures and restrictions.

We acknowledge, however, that the OCA raises important questions regarding the safety of resuming door-to-door sales and marketing activities. Due to these questions and similar questions raised by other parties, we are modifying the March 16, 2021, Emergency Order to lift the moratorium on door-to-door, public event, and in-person sales and marketing activities, while maintaining and modifying some existing conditions from our June 4, 2020, December 3, 2020, and May 6, 2021, Orders.

For utilities generally, the Commission has authority to ensure that every public utility furnishes and maintains

<sup>4</sup> Wolf Administration: Pennsylvania Businesses, Events, Venues Return to 100% Capacity on Memorial Day; Masking Order Remains Until 70% of Adults Fully Vaccinated or June 28, Pennsylvania Pressroom (May 30, 2021) available at <https://www.governor.pa.gov/newsroom/wolf-administration-pennsylvania-businesses-events-venues-return-to-100-capacity-on-memorial-day-masking-order-remains-until-70-of-adults-fully-vaccinated-or-june-28/>.

<sup>5</sup> Department of Health: Over 11.7 Million Vaccinations to Date, 62.9% of Entire Population Received First Dose, 60.3% of Pennsylvanians Age 18 and Older Fully Vaccinated, PA Ranks 9th Among 50 States for First Doses Vaccinations Pennsylvania Pressroom (July 2, 2021) available at <https://www.media.pa.gov/pages/health-details.aspx?newsid=1514>.

<sup>6</sup> See *supra*, n. 4.

<sup>7</sup> Department of Health: Over 11.6 Million Vaccinations to Date, 62.3% of Entire Population Received First Dose, 59.8% of Pennsylvanians Age 18 and Older Fully Vaccinated, PA Ranks 7th Among 50 States for First Doses Vaccinations, Pennsylvania Press Room (June 28, 2021) available at <https://www.media.pa.gov/Pages/Health-Details.aspx?newsid=1508>.

adequate, efficient, safe, and reasonable service and facilities. 66 Pa.C.S. § 1501. When the natural gas utility and electric utility industries were restructured, the Commission was also given special authority to regulate the competitive marketplace for electric generation supplier services. 66 Pa.C.S. §§ 2201, et seq. and 2801, et seq. The General Assembly charged 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.” 66 Pa.C.S. § 2807(d)(2). The General Assembly established a similar requirement regarding NGDCs and NGSSs. See 66 Pa.C.S. § 2206(c). Moreover, the Commission is required to ensure that information provided to customers is understandable and enables them to compare prices and services to make informed decisions. See 66 Pa.C.S. §§ 2206(c), 2807(d)(2). In addition, regarding NGSSs, “the commission may forbear from extending its regulation of [NGSSs] beyond licensing, bonding, reliability and consumer services and protections. . . .” 66 Pa.C.S. § 2208(e). The Commission must further “impose requirements necessary to ensure that the present quality of service provided by electric utilities does not deteriorate.” 66 Pa.C.S. § 2809(e). In order to accomplish these responsibilities, the Commission “may make such regulations. . . as may be necessary or proper in the exercise of its powers or for the performance of its duties.” 66 Pa.C.S. § 501(b); *Blue Pilot Energy, LLC v. Pa. Pub. Util. Comm’n*, 241 A.3d 1254, 1267 (Pa. Cmwlth. 2020).

This authority not only permits the Commission to regulate the behavior of suppliers, but also permits the monitoring of suppliers’ agents to ensure suppliers’ responsibilities are upheld. Therefore, under this authority and consistent with Act 21, we determine it is necessary to modify the requirements on suppliers.

Importantly, some orders and directives of the Governor and Secretary of Health may persist or reemerge. Therefore, consistent with our prior Orders addressing the marketing moratorium, suppliers engaging in door-to-door, public event, and in-person sales and marketing activities must comply with all relevant orders and guidance of the Governor and the Secretary of Health. Suppliers must also continue to adhere to all applicable Commission regulations and orders. Below we set forth conditions specific to door-to-door sales and marketing activities. These conditions will remain in place until September 30, 2021, unless lifted earlier by the Commission.

Suppliers should report to the Commission their intent to resume door-to-door sales and marketing activities, including the general time period and geographic area in which the supplier will be active. Reports should be provided to OCMO as well as BCS at RA-OCMO@pa.gov and RA-PCDOORTODOOR@pa.gov before commencing such activities. Any reports containing confidential information should be made consistent with the Commission’s March 20, 2020, Emergency Order, and the July 27, 2020, Secretarial Letter supplementing that Emergency Order. See Suspension of Regulatory and Statutory Deadlines; Modification to Filing and Service Requirements, Docket No. M-2020-3019262 (Emergency Order ratified March 26, 2020); Modification to Filing and Service Requirements Emergency Order, Docket No. M-2020-3019262 (Secretarial Letter issued July 27, 2020). While the Commission will require these reports for suppliers resuming door-to-door sales and marketing activities, we will lift the requirement for suppliers to report to the

Commission regarding the resumption of other forms of in-person sales and marketing activities initially set forth in our June 4, 2020, December 3, 2020, and May 6, 2021, Orders modifying the March 16, 2020, Emergency Order. We also decline to require reports from suppliers resuming other forms of in-person sales and marketing activities, such as activities at indoor public events.

Additionally, with regard to reporting requirements, we note that the OCA makes a number of recommendations about the use of third parties to perform sales and marketing activities, including restrictions on the use of third parties for door-to-door activities and the required recording of all transactions. PPL similarly suggests increased oversight of third-party marketing services through the addition of a requirement that suppliers report vendors to the Commission and the local electric or natural gas distribution company. OCA Comments at 12, 14; PPL Comments at 5-6.

Generally, we agree with the OCA and PPL that, given the current heightened concerns with public health and safety, it is appropriate for the Commission to receive additional information from suppliers regarding their use of third-party vendors. Accordingly, we will modify the supplier reporting requirement to BCS, as part of their reporting under 52 Pa. Code § 111.14, to indicate if they will be using a third-party vendor to perform door-to-door sales and marketing activities through September 30, 2021. We will not, however, require them to identify who the vendor is. This modification will allow the Commission to more closely monitor door-to-door sales and marketing activities during the suppliers’ relaunch of such activities after more than a year since they have conducted such activities.<sup>8</sup> Additionally, we remind suppliers that the licensed entity is held responsible for the actions of all agents as set forth in 52 Pa. Code 111.3.<sup>9</sup> As it has been over a year since suppliers and their vendors have conducted door-to-door sales activities, and there is likely to have been employee turnover in the interim, we also remind suppliers that they may not permit a person to conduct door-to-door sales and marketing activities until they have obtained the required criminal background checks. See 52 Pa. Code § 111.4.

Moreover, as it pertains to training for suppliers on the basics of the Commission’s supplier marketing regulations at 52 Pa. Code, Chapter 111, we note that CleanSky, the OCA, and PPL generally support a training requirement, while RESA, NRG, and Energy Harbor do not object to making Commission training available. In particular, RESA, NRG, and Energy Harbor do not think that training should be required as a precondition of resuming door-to-door sales and marketing activities. These parties are especially concerned that such a requirement would delay the resumption of such sales and marketing activities and argue that suppliers are fully capable of training and overseeing their agents’ compliance with the Commission’s supplier marketing regulations.

<sup>8</sup> This reporting requirement does not alter the Commission’s long-standing position that we do not have direct jurisdiction over third-party, non-licensed entities that perform sales and marketing activities. See Electric Generation Suppliers, Docket No. M-2009-2082042 (Secretarial Letter issued December 10, 2009) available at <https://www.puc.pa.gov/pdocs/1708744.pdf>.

<sup>9</sup> Section 111.3 of the Commission’s regulations provides:

- (a) A supplier may use an agent to conduct marketing or sales activities in accordance with applicable Commission rules, regulations and orders.
  - (b) In accordance with § 54.43(f) (relating to standards of conduct and disclosure for licensees) for an EGS and § 62.114(e) (relating to standards of conduct and disclosure for licensees) for an NGS, a supplier is responsible for fraudulent, deceptive or other unlawful marketing acts performed by its agent.
  - (c) Consistent with due process, for violations committed by the supplier’s agent, the Commission may:
    - (1) Suspend or revoke a supplier’s license.
    - (2) Impose fines for fraudulent acts, violations of Commission regulations and orders.
- 52 Pa. Code § 111.3.



While we agree that suppliers are primarily responsible for the training of their agents, we think that refresher training for suppliers from the Commission would be useful. As such, the Commission will make such training available remotely. We will schedule multiple sessions in the coming weeks as to accommodate as many suppliers as possible. While we expect all suppliers that engage in door-to-door sales and marketing activities to attend one of these sessions, we will not make the training a prerequisite for resuming door-to-door sales and marketing activities. We agree that suppliers should have the resources and expertise needed to keep their agents trained, and that making the Commission training a precondition is not necessary and could delay the resumption of such sales and marketing activities. Similarly, we generally agree with CleanSky's comment that all suppliers should resume door-to-door marketing with consideration for the new circumstances surrounding the COVID-19 pandemic. We do not believe, however, that it is necessary to first require suppliers to engage in a soft launch. We expect that suppliers will nonetheless carefully reinstate door-to-door sales and marketing activities with enhanced monitoring and auditing in place to ensure that the supplier marketing regulations and the requirements of this Order are respected.

Further, although we will allow the resumption of door-to-door, public event, and in-person sales and marketing activities subject to the conditions herein, suppliers should continue to use remote means where possible. We encourage the use of other sales and marketing activities, including outbound telemarketing, inbound calls, website advertising and enrollment, media advertising, PaPowerSwitch, PaGasSwitch, and utility Customer Referral Programs.

Finally, we note that, in response to the Tentative Order, several parties discussed permanent changes to the Commission's supplier marketing regulations at 52 Pa. Code, Chapter 111 due to long-standing concerns regarding door-to-door sales and marketing activities. We believe that the upcoming review of Chapter 111 is a more appropriate forum to address these such concerns.<sup>10</sup> The current proceeding is intended to address immediate concerns related to further modifying the Commission's March 16, 2020, Emergency Order and the lifting the moratorium on door-to-door sales and marketing activities in a manner that protects the public health and safety. The Commission can only impose permanent changes to Chapter 111 through a formal rulemaking proceeding.

#### *Conclusion*

Upon review and consideration of the comments received in response to the Commission's Tentative Order, we find that it is reasonable and appropriate to further modify the Commission's March 16, 2020, Emergency Order. With this Order, we lift the moratorium on in-person sales and marketing activities for all jurisdictional suppliers as it pertains to a door-to-door, public event, and in-person sales and marketing activities, and modify the reporting requirements set forth in our June 4, 2020, December 3, 2020, and May 6, 2021, Orders. This Order does not otherwise impact the March 16, 2020, Emergency Order, as amended by the Orders entered June 4, 2020, December 3, 2020, and May 6, 2021. Suppliers engaging in door-to-door, public event, and in-person sales and marketing activities must comply with the applicable conditions of this Order and all

relevant orders and guidance of the Governor and Secretary of Health. Suppliers are also required to report their intent to resume door-to-door marketing activities to OCMO and BCS as set forth herein.

We urge all suppliers to take great care in monitoring and supervising their agents and vendors to ensure that their activities fully comply with the expectations outlined in this Order and all applicable Commission regulations, including the supplier marketing regulations at 52 Pa. Code, Chapter 111. Suppliers, their agents, and their vendors should keep public health and safety concerns paramount when conducting door-to-door sales and marketing activities. The Commission will closely monitor these sales and marketing activities through the reporting requirements described in this order as well as informal calls and complaints to OCMO and BCS. Suppliers are reminded that failure to comply with the Commission's orders and regulations will result in enforcement action, including possible suspension from door-to-door sales and marketing activities;

*Therefore,*

*It Is Ordered:*

1. That the Commission's March 16, 2020, Emergency Order establishing a moratorium on in-person sales and marketing activities for all jurisdictional electric generation suppliers and natural gas suppliers, and as modified by the Orders entered June 4, 2020, December 3, 2020, and May 6, 2021, is hereby further modified to lift the prohibition on door-to-door, public event, and in-person sales and marketing activities, as of the entry date of this Order, consistent with and subject to the conditions of this Order.

2. That all electric generation suppliers and natural gas suppliers under the Commission's jurisdiction engaging in door-to-door, public event, and in-person sales and marketing activities must comply with all relevant orders and guidance of the Governor and the Secretary of Health and continue to adhere to all applicable Commission regulations and orders.

3. That, until September 30, 2021, or unless lifted earlier by the Commission, all electric generation suppliers and natural gas suppliers under the Commission's jurisdiction are directed to report their intent to resume door-to-door sales and marketing activities with the general time period and geographic area in which the supplier will be active, before commencing such activities, to the Office of Competitive Market Oversight and the Bureau of Consumer Services at RA-OCMO@pa.gov and RA-PCDOORTODOOR@pa.gov. Any reports containing confidential information should be made consistent with the Commission's March 20, 2020, Emergency Order, and July 27, 2020, Secretarial Letter.

4. That, until September 30, 2021, or unless lifted earlier by the Commission, all electric generation suppliers and natural gas suppliers under the Commission's jurisdiction are directed to report when they use a third-party vendor to perform door-to-door sales and marketing activities as part of their report under 52 Pa. Code § 111.14 to the Bureau of Consumer Services. Any reports containing confidential information should be made consistent with the Commission's March 20, 2020, Emergency Order, and July 27, 2020, Secretarial Letter.

5. That, upon entry of this Order, the Office of Competitive Market Oversight and the Bureau of Consumer Services shall issue a Secretarial Letter pertaining to the scheduling of training sessions on the resumption of

<sup>10</sup> On November 6, 2019, at Docket No. L-2020-2208332, the Commission issued a Secretarial Letter convening a working group to discuss, inter alia, a rulemaking to review and update the Chapter 111 supplier marketing regulations and invited information comments from stakeholders on the same.



door-to-door sales and marketing activities to be offered to all electric general suppliers and natural gas suppliers under the Commission's jurisdiction.

6. That this Order be served on all jurisdictional electric generation suppliers, natural gas suppliers, electric distribution companies, natural gas distribution companies, the Commission's Bureau of Investigation and Enforcement, the Office of Consumer Advocate, and the Office of Small Business Advocate.

7. That the Office of Competitive Market Oversight shall electronically send a copy of this Order to all persons on the contact list for the Committee Handling Activities for Retail Growth in Electricity.

8. That a copy of this Order shall be posted on the Commission's website at the Office of Competitive Market Oversight webpage.

9. The contact persons for this matter are Daniel Mumford in the Office of Competitive Market Oversight, (717) 525-2084, dmumford@pa.gov; and Christian McDewell, (717) 787-7466, cmcdewell@pa.gov, and Hayley Dunn, (717) 214-9594, haydunn@pa.gov, in the Law Bureau.

ROSEMARY CHIAVETTA,  
*Secretary*

ORDER ADOPTED: July 15, 2021

ORDER ENTERED: July 15, 2021

[Pa.B. Doc. No. 21-1221. Filed for public inspection July 30, 2021, 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 16, 2021. 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-21-07-04. Sagan Transportation, Inc.** (114 Chatham Road, Upper Darby, PA 19082): An applica-

tion for a medallion taxicab certificate of public convenience (CPC) 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.

**Doc. No. A-21-07-05. KDS Taxi, LLC** (2133 South John Russell Circle, Apartment B, Elkins Park, PA 19027): An application for a medallion taxicab CPC 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. 21-1222. Filed for public inspection July 30, 2021, 9:00 a.m.]

## STATE CHARTER SCHOOL APPEAL BOARD Schedule of Meetings

The State Charter School Appeal Board will meet as follows:

August 13, 2021	2 p.m.	Virtually by means of Zoom conferencing
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Unless due and timely notice to the contrary is given, this virtual public meeting will be held as previously stated.

For additional information or for persons with a disability who wish to attend the virtual public meeting and require an auxiliary aid, service or other accommodation to do so, contact Amy Flaherty, Director, Division of Nutrition and Physical Activity, Bureau of Health Promotion and Risk Reduction, Room 1000, Health and Welfare Building, Harrisburg, PA, (717) 787-5876, or for speech and/or hearing impaired persons, call the Pennsylvania Hamilton Relay Service, (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

Individuals can join the Zoom conference by dialing (301) 715-8592. The access code is 984 3146 7784.

Individuals can also join the Zoom conference by going to <https://zoom.us/j/984314677784?pwd=aXE1RUduUHNCNiE1dVQ1YWtHbDZTQT09>. The password is 329601.

Individuals with questions may contact Susan Hosler, (717) 783-5500, shosler@pa.gov.

SARA M. HOCKENBERRY,  
*Board Counsel*

[Pa.B. Doc. No. 21-1223. Filed for public inspection July 30, 2021, 9:00 a.m.]









# PENNSYLVANIA BULLETIN

Volume 51

Number 31

Saturday, July 31, 2021 • Harrisburg, PA

## Part II

This part contains the  
Rules and Regulations







# RULES AND REGULATIONS

## Title 7—AGRICULTURE

### MILK MARKETING BOARD

[ 7 PA. CODE CH. 143 ]

#### Transactions Between Dealers and Producers; Termination of Dealer—Producer Contract

The Milk Marketing Board (Board) amends §§ 143.31 and 143.33 (relating to written notice required; and individual variations) and deletes § 143.32 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 301 of the Milk Marketing Law (act) (31 P.S. § 700j-301) gives the Board the authority to “supervise, investigate and regulate the entire milk industry of this Commonwealth, including the . . . purchase and sale of milk . . . in this Commonwealth, and including the establishment of reasonable trade practices. . . .” Section 307 of the act (31 P.S. § 700j-307) gives the Board the authority to adopt and enforce regulations necessary or appropriate to carry out the provisions of the act.

##### *Purpose and Explanation*

This is an amendment extending the current 28-day notice requirement to terminate a dealer-producer relationship to 90 days. It also provides for waivers to address situations where a 90-day notice would financially imperil a milk dealer.

At the beginning of March 2018 approximately 27 independent dairy farmers in this Commonwealth received termination notices from the milk dealer purchasing their milk. These producers received 90 days’ notice that their agreements would be terminated, yet many had difficulty finding new markets. One purpose of the amendment is to provide additional time for dairy farmers to find an alternative market when they lose their current market.

In the case of the 27 producers that received notices in March 2018, their dealer could not, from a financial and economic standpoint, continue to purchase their milk. The exceptions to the 90-day notice requirement in the amendment are intended to provide a shorter notice period in the case of a dealer’s financial hardship, business loss or catastrophic event. The exceptions also provide for a dealer to make a charitable donation of packaged milk and maintain its purchasing agreement with a producer.

The amendment is intended to provide additional time to producers in a manner that minimizes adverse impact on milk dealers.

##### *Description of Proposed Amendments*

Section 143.31(a) is amended to increase the required notice period for dealers to terminate a dealer-producer purchasing agreement from 28 days to 90 days. Carried over from the current regulation is the requirement that dealers provide the reasons for termination in the notice; providing the reasons for termination provides producers an opportunity to correct any issues under their control as they attempt to find a new market for their milk.

The proposed version of subsection (a) also required producers to give 90 days’ notice to terminate a dealer-producer relationship. This requirement has been removed from this final-form rulemaking. As evidenced by past milk marketing conditions, and due to current and foreseeable milk marketing conditions, 28 days is sufficient time for a dealer to acquire any milk necessary to make up for the loss of a producer or producers.

The payment provision is also carried forward in a modified manner to account for the extended notice period. The time period provides that producers who may be searching for a new milk market receive income as they search.

Subsection (c) is added to provide an exception to the 90-day notice requirement for dealers in “financial distress.” Financial distress is determined objectively by calculating the dealer’s Ohlson O-Score. The O-Score was developed in the 1980s using financial information from over 2,000 companies. It is generally considered to be more accurate than its predecessor, the Altman Z-Score, which was developed in the 1960s using information from just 66 companies. The O-Score was selected as the primary objective metric for determination of dealer financial distress because of its reliability (consistent results over time) and validity (accurate results over time) in financial accounting since 1980. It is a result of a 9-factor linear combination of business-related ratios readily obtained through milk dealer financial statements currently filed with the Board by milk dealers on an annual basis. The O-Score is significantly more reliable than its predecessors as it was derived from a study of over 2,000 companies; it has over 90% accuracy. The O-Score provides an accurate determination of dealer financial distress to be used in a review of dealer applications for waiver of the 90-day producer termination notice requirement.

“Necessary documentation” is defined in the regulation and includes reports already filed annually with the Board. “Necessary documentation” is the Balance Sheet and Statement of Operations found in the Milk Dealer’s Financial Statement (PMMB-60), and the Statement of Cash Flows which is prepared annually with a dealer’s financial statements.

Subsection (d) is added as an objective backup to address cases of potential dealer financial distress that are not captured in the O-Score.

Subsection (e) is added to provide an exception to the 90-day notice requirement for dealers not in financial distress but which lose customers or sales, or both, resulting in potential financial distress if required to continue to make producer purchases for which there is no customer for the packaged milk.

Subsection (f) was included in the proposed form to provide an opportunity for milk dealers with producer milk purchase obligations in excess of customer sales to make a charitable donation of the associated excess packaged milk rather than to terminate producers. This section was not intended to limit or affect other charitable contributions that milk dealers make. As the Board drafted this final-form rulemaking it decided that charitable-related contributions should be addressed in the context of a complete review of charitable contributions. The Board concluded that this final-form rulemaking is not the place to undertake such a review and has deleted this section from this final-form rulemaking.

Subsection (g) is added to provide an exception to the 90-day notice requirement when a dealer suffers a sudden and large scale (“catastrophic”) event affecting its ability to handle, process or sell/deliver packaged milk products.

Subsection (h) is added to clarify when the exceptional 28-day notice requirement begins.

Subsections (i) and (k) are added to clarify that the notice period does not apply when contracts between dairy farmers and their cooperatives, and producers and dealers, respectively provide for a different notice requirement.

Proposed subsection (k), now subsection (j), is added because a common issue raised by producers who received termination notices in March 2018 was that they did not know who to contact for assistance. The Board will develop through industry contacts a list of government agencies and non-governmental organizations that provide services and assistance to address issues faced by producers who are losing a market and who want to find a new market. Dealers will be able to download the list from the Board’s web site to include with termination notices. Any person, including producers, will be able to independently access the list as well.

Section 143.32 is deleted. As milk marketing conditions have changed and evolved, and continue to change and evolve, there is a likelihood that a producer may be selling some of its milk to a dealer while also processing, packaging and selling its own milk at its farm. At one time, exempting those producers from receiving notice may have been appropriate, but the Board has determined that current conditions are such that these producers should receive the same notice as other producers.

#### *Public Comments*

The Board received comments from the Pennsylvania Association of Milk Dealers (PAMD) and the Independent Regulatory Review Commission (IRRC).

The Board deleted two provisions in this final-form rulemaking. First, the Board deleted the requirement that producers provide a 90-day notice to dealers when producers want to terminate a contract. The Board deleted this provision for two main reasons: (1) no party requested this provision; and (2) milk marketing conditions are, have been and are anticipated to continue to be such that dealers can replace producer milk in 28 days or less if a producer terminates its contract with a dealer. Second, the Board removed § 143.31(f) regarding charitable donations. The Board concluded that charitable donations should be addressed in a separate regulation. The Board concluded that keeping regulations involving charitable donations together in one regulation is more logical and would be best for the industry, as opposed to requiring the regulated community to search for regulations related to charitable donations throughout the *Pennsylvania Code*. Comments regarding the 90-day producer notice and subsection (f) related to charitable donations will not be further addressed.

Based on comments from IRRC and PAMD the Board provided additional detail in the Regulatory Analysis Form (RAF) and made changes to Annex A.

Regarding § 143.31(a), based on IRRC comments, the Board clarified that payment from dealers to producers would be due by the 20th day of the month following actual termination; this would essentially mirror the provision in the existing regulation and there was no request to change it. Similarly, the Board carried forward the requirement in the current regulation that dealers

provide reasons to producers when producers are terminated. No change to this provision was requested, and it has been used and followed by dealers since 1978 with no issue.

The Board added additional detail to the RAF regarding the definition of “necessary documentation” in subsection (c). “Necessary documentation” is defined in the regulation and consists of items already filed each year with the Board by dealers. In developing the regulation, the Board attempted to minimize any additional requirements for dealers. Based on IRRC comments, the Board added detail regarding notification requirements to the regulation and described those additions in the RAF. The regulation maintains the existing 28-day notice requirement for dealers to terminate a contract in cases of financial hardship as determined by the objective measures found in the regulation.

The Board added detail to the RAF regarding the requirements of subsection (k), now subsection (j). When producers are terminated, they have many questions and concerns. The Board added this section to ensure that producers received information regarding resources to assist them with their questions and concerns when they receive a termination notice from a dealer. The information will be available on the Board’s web site at [mmb.pa.gov](http://mmb.pa.gov) at any time for any interested individual to download.

PAMD commented, and IRRC suggested the Board address, that the proposal to enlarge the notice period from 28 days to 90 days exceeds the Board’s authority. PAMD based its comment on section 404(1) of the Milk Marketing Law (31 P.S. § 700j-404(1)). As the Board interprets section 404(1), that section is expressly not applicable to a milk dealer terminating a contract; inclusion in section 404(1) of the phrase “. . . except where the contract has been lawfully terminated. . .” establishes that.

Section 404(1) applies to situations where a dealer rejects “without either reasonable cause, or reasonable advance notice, milk delivered or made available. . . in ordinary continuance of a previous course of dealing, except where the contract has been lawfully terminated[.]” Section 404(1) defines “reasonable advance notice” as not less than 14 days nor more than 45 days in the absence of an express or implied term in the contract specifying a longer period. However, section 404(1) does not provide a definition of “lawfully terminated” or “reasonable cause.” The legislature, by including the phrase “except where the contract has been lawfully terminated” left it to the Board’s discretion to adopt regulations regarding the lawful termination of a contract, just as the legislature left to the Board’s discretion to adopt regulations regarding “reasonable cause” to reject producer milk.

The legislature expressly provided a standard for reasonable advance notice to reject producer milk. If the legislature had meant that reasonable notice standard to apply to lawfully terminating a contract, the legislature would have either expressly said so, or not included in section 404(1) the phrase “except where the contract has been lawfully terminated.” Therefore, the Board adopted § 143.31 to provide direction regarding the notice period required to terminate a contract. Similarly, the Board adopted § 143.44 to provide direction regarding reasonable cause to reject producer milk. The milk marketing conditions that were present in 1978 when the Board adopted existing § 143.31 have changed. Therefore, the Board has concluded that it is necessary to amend

§ 143.31 to recognize those changed conditions and provide for a 90-day notice period for a dealer to terminate a dealer-producer relationship.

Based on IIRC and PAMD comments, the Board clarified that any notice required by the regulation to be given by dealers to producers shall be made by certified mail return receipt requested and filed simultaneously with the Board. This clarification is important and necessary because the period of notice begins when a producer receives the notice. The notice period begins on the date of delivery, or the date of first attempted delivery, whichever is earlier. PAMD also suggested that provision be made for hand delivery or express delivery. To maintain consistency and reduce potential for confusion regarding effective dates of notice, the Board is not providing for hand delivery or express delivery in this final-form rulemaking.

IIRC commented that the Board should explain the reasonableness of the 10-business day period to perform the analyses required in subsections (c), (e) and (f). The 10-business day period was chosen to account for the possibility that the two employees who would perform the analysis would be on vacation or otherwise unable to complete the analysis more quickly. As of the drafting of this preamble the Board has a total of 15 employees and there are no opportunities to cross-train additional employees to perform the analysis. The Board also anticipates that dealers contemplating terminating producers under an exception to the 90-day notice requirement will be in contact with the Board for a sufficient time prior to petitioning for an exception to plan for the unlikely, but potential unavailability of the Board employees who would perform the analysis. In practice the analysis and notice of approval/disapproval from the Board to the dealer and producers should take less than five business days.

IIRC suggested that the regulation be revised to explicitly provide for dealer notice under subsections (c), (d), (e) and (f). IIRC also suggested that the regulation be revised to explicitly provide that the Board would notify dealers and affected producers of its decision under those sections. These changes were made to this final-form rulemaking submission.

IIRC asked if a plant shut down or slow down should be considered “catastrophic” in the same category as a massive fire or tornado damage and whether it would be more appropriate to include such an event as a separate exception to the notice requirement. The Board relied on the definition of “catastrophic” found in Google’s English dictionary as provided by Oxford Languages (<https://www.google.com/search?q=catastrophic+definition>) as “involving a sudden and large-scale alteration in state.” A sudden plant shut down or slow down would thus be “catastrophic” and it is not possible to define every circumstance that may lead to a sudden shut down or slow down. Since it is not possible to define every circumstance that may lead to a sudden shut down or slow down, the Board concluded that a separate exception would not be appropriate.

IIRC also suggested that the Board take into account the Federal Worker Adjustment and Retraining Notification (WARN) Act (29 U.S.C.A. §§ 2101—2109) when it prepared this final-form rulemaking. Producers do not fall within the criteria of the WARN Act.

IIRC and PAMD commented that subsection (h), now subsection (g) in this final-form rulemaking, could potentially have the effect of turning a 28-day notification

period into a 43-day notification period. The Board understands this possibility and its impact on dealers. The Board has weighed the potential effects on dealers and producers. Given the nature of milk markets and the difficulty producers can have finding new markets, the nature of the producer-dealer relationship and the relative general financial conditions of producers and dealers, the Board concluded that the 28-day notice should begin upon the Board’s approval of the request for exemption from the 90-day requirement. The Board also considered, and took into account, that Board staff would in most cases complete its analysis and notify affected dealers and producers in less than 10 business days of its decision on an exemption petition. The required analysis can be completed by one Board employee; only in cases where both Board employees qualified to perform the analysis are not able to due to vacation, illness, and the like, will the analysis potentially take longer than 5 business days.

In determining the fiscal impact, the Board has noted that the costs associated with purchasing milk are different for each dealer and are based on many factors, such as utilization, location, monthly milk price, and volume purchased. In the RAF, the Board determines the fiscal impact based on the January 2021 simple average of minimum value due from 15 Class I processing dealers to producers. January 2021 was chosen because it is the most recent month for which the Board has audited data. The Board uses a simple average because weighting the average based on any factor would potentially materially mis-state the illustrative amount due from any dealer by mis-weighting any particular factor as it applies to any specific dealer. This regulation will basically apply only to Class I processors and their independent producers and the 15 Class I processing dealers that comprise the cross-section are used for this example purchase the majority of independent producer milk.

IIRC suggested that the Board clarify where the subsection (k), now subsection (j), list of resources to be provided by dealers with termination notices could be found. The Board will maintain this list on its web site, as provided in this final-form rulemaking. This final-form rulemaking is also changed based on IIRC’s suggestion to refer to this list in subsection (a).

Based on an IIRC comment the “=” before “0.285Y” in subsection (c) was changed to a “+.”

Based on an IIRC comment § 143.32 is now marked “(Reserved),” instead of being bracketed, to denote its deletion.

Based on an IIRC comment the Board included in this final-form rulemaking a change to § 143.33 to remove the reference to deleted § 143.32.

Based on an IIRC comment the phrase “include, but not limited to” has been changed to “including” in § 143.31(f)(1).

#### *Fiscal Impact*

The proposed amendments will have little fiscal impact on the Commonwealth, its political subdivisions or the public.

Exceptions to the amended 90-day notice requirement that would allow milk dealers to essentially provide the current 28-day notice requirement would not be effective for up to 10 business days after a dealer requests the exception. Therefore, there is the possibility that a dealer may be required to purchase producer milk for up to 10 business days longer under the amendment than dealers are currently required. The cost associated with



purchasing milk is different for each dealer and is based on many factors, including, but not limited to, utilization, location, monthly milk price and volume purchased. Given the uncertainties, a precise quantification of this impact is not possible, but at a minimum could be as much as \$14,000.

#### Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on July 1, 2019, the Board submitted a copy of the notice of proposed rulemaking, published at 49 Pa.B. 3606 (July 13, 2019) to IRRC and to the Chairs of the House and Senate Committees on Agriculture and Rural Affairs for review and comment.

Under section 5(c) of the Regulatory Review Act, the Board 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 the final-form rulemaking, the Board has considered all comments from IRRC and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P.S. § 745.5(a)(j.2)), on June 16, 2021, this 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 17, 2021, and approved this final-form rulemaking.

#### Contact Person

Interested persons may obtain information regarding this final-form rulemaking by contacting Doug Eberly, Chief Counsel, Milk Marketing Board, 2301 North Cameron Street, Harrisburg, PA 17110, ra-pmmb@pa.gov, within 30 days after publication in the *Pennsylvania Bulletin*. Individuals who require this information in a different format may call the Board at (717) 787-4194 or the Pennsylvania Hamilton Relay Service for TDD Users at (800) 654-5984.

#### Findings

The Board finds that:

(1) Public notice of the intention to adopt these final-form regulations 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 in 1 Pa. Code §§ 7.1 and 7.2 (relating to notice of proposed rulemaking required; and adoption of regulations).

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

(3) The regulation is necessary and appropriate for the administration of the act.

#### Order

The Board, acting under authorizing statute, orders that:

(a) The regulations of the Board, 7 Pa. Code Chapter 143, are amended by amending §§ 143.31 and 143.33 and deleting § 143.32 to read as set forth in Annex A.

(b) The Board will submit this order and Annex A to the Office of Attorney General for review and approval as to legality and form as required by law.

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

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

ROBERT N. BARLEY,  
Chairperson

(Editor's Note: See 51 Pa.B. 3680 (July 3, 2021) for IRRC's approval order.)

**Fiscal Note:** Fiscal Note 47-18 remains valid for the final adoption of the subject regulations.

### Annex A

## TITLE 7. AGRICULTURE

### PART VI. MILK MARKETING BOARD

#### CHAPTER 143. TRANSACTIONS BETWEEN DEALERS AND PRODUCERS

#### TERMINATION OF DEALER—PRODUCER CONTRACT

##### § 143.31. Written notice required.

(a) No dealer shall terminate its contract or purchasing agreement or ordinary continuance of a previous course of dealing with a producer except by giving such producer at least a 90-day written notice before termination. No producer shall terminate its contract or purchasing agreement or ordinary continuance of a previous course of dealing with a dealer except by giving such dealer at least a 28-day written notice before termination. The period of notice shall begin when the producer or dealer receives the notice. The dealer shall specify in such notice the reasons for termination, shall include the list of agencies and organizations required by section (j), and shall pay in full the producer whose contract has been terminated by the 20th day of the month following actual termination. If a dealer petitions for a shorter notice period under subsections (c), (d), (e) and (f), the notice to the producer must inform the producer that the dealer is petitioning for the shorter notice period, this notice must be provided simultaneously to the Board, and this notice shall be sent by certified mail return receipt requested to affected producers and the Board with notice effective no later than on the first date of attempted delivery. If a dealer petitions for a shorter notice period under subsections (c), (d), (e) or (f), the Board shall notify the dealer and affected producers by certified mail return receipt requested within 10 business days of receiving from the dealer the information required by the respective clause its decision to either approve or disapprove the petition.

(b) Repetitions of the causes set forth in § 143.44 (relating to rejection of producer's milk) may, however, cause termination of the contract without the requisite notice.

(c) A dealer may terminate a contract or purchasing agreement or ordinary continuance of a previous course of dealing with a producer by giving a 28-day written notice if the dealer is in financial distress. "Financial distress" means an Ohlson O-score of 0.5 and higher. The dealer's Ohlson O-score shall be calculated as follows:

$$O = -1.32 - 0.407 \log(TA_t / GNP) + 6.03 TL_t / TA_t - 1.43 WC_t / TA_t + 0.0757 CL_t / CA_t - 1.72X - 2.37 NI_t / TA_t - 1.83 FFO_t / TL_t + 0.285Y - 0.521 (NI_t - NI_{t-1}) / (|NI_t| + |NI_{t-1}|)$$

Where

TA = total assets

GNP = Gross National Product price index level found at (<https://fred.stlouisfed.org/series/A001RG3A086NBEA>)

TL = total liabilities

WC = working capital = (current assets) - (current liabilities)

CL = current liabilities  
 CA = current assets  
 X = 1 if TL > TA, 0 otherwise  
 NI = net income after taxes  
 FFO = cash flow from operating activities  
 Y = 1 if a net loss for the last 2 years, 0 otherwise  
 t = most recent year data  
 t-1 = prior year data

The Board shall complete its computation and review of the Ohlson O-score, and notify the dealer and affected producers, within 10 business days of receiving the necessary documentation from a dealer. "Necessary documentation" is the Balance Sheet and Statement of Operations found in the Milk Dealer's Financial Statement (PMMB-60), and the Statement of Cash Flows prepared annually with the dealer's financial statements.

(d) A dealer may terminate a contract or purchasing agreement or ordinary continuance of a previous course of dealing with a producer by giving a 28-day written notice if the dealer's Ohlson O-score is between -1.0 and 0.5 if any three of the following five solvency ratio conditions are met:

- (1) Quick ratio less than or equal to 0.6, where quick ratio = (cash on hand + accounts receivable)/current liabilities.
- (2) Current ratio less than 1.0, where current ratio = current assets/current liabilities.
- (3) Current liabilities/total equity greater than 2/3.
- (4) Total liabilities/total equity greater than 1.0.
- (5) Fixed assets/total equity greater than 3/4.

(e) A dealer may terminate a contract or purchasing agreement or ordinary continuance of a previous course of dealing with a producer by giving a 28-day written notice if the dealer has raw milk volumes for which there are insufficient customer sales. Raw milk volumes for which there are insufficient customer sales shall be determined as follows:

- (1) Identify sales reductions or customer losses experienced within any 90-day rolling period.
- (2) Document weekly average sales history in pounds for the customer(s) decreased volume or for the lost customer(s) based on a 26-week rolling average, or a lesser time period if such customer was a customer for less than 26 weeks or was a school(s) and the school contract was lost during the school year.
- (3) Affirm that good faith efforts were made to replace the lost sales.
- (4) If the lost sales calculated according to paragraph (2) amount to at least 40,000 pounds or 3% of raw milk receipts, whichever is less, of raw milk per week and the dealer has made the affirmation required by paragraph (3), the Board shall approve the 28 day written notice based on the dealer having raw milk volumes for which there are insufficient customer sales.
- (5) The Board shall determine if a dealer has raw milk volumes for which there are insufficient customer sales, and notify the dealer and affected producers, within 10 business days of receiving the necessary documentation from a dealer.

(f) A dealer may terminate a contract or purchasing agreement or ordinary continuance of a previous course of dealing with a producer by giving a 28-day notice if the dealer has raw milk volumes for which there is insufficient plant output due to a verifiable catastrophic event

affecting a milk plant's ability to handle, process or sell/deliver historical volumes of packaged milk products, which is reasonably expected to last beyond 28-days. Raw milk volumes for which there is insufficient plant output shall be determined as follows:

(1) Identify catastrophic event to including mechanical failure; weather-related damage; infrastructure-related damage; shut down or slow down of plant operations; government-imposed plant shutdown, partial or otherwise; or other similar catastrophic circumstance.

(2) Document weekly average plant output as measured by sales in pounds of packaged milk products prior to catastrophic event based on a 26-week rolling average.

(3) Document weekly average raw milk receipts in pounds prior to catastrophic event based on a 26-week rolling average.

(4) Document reasons, nature and extent (estimated in pounds) of reduced ability to handle, process or sell/deliver historical output of packaged milk products.

(5) Affirm that good faith efforts have been made to return to historical plant output documented under paragraph (2).

(6) Affirm that despite good faith efforts the reduction in output will last beyond 28-days.

(7) If the reduction in plant output documented in paragraph (4) amounts to at least 40,000 pounds or 3% of historical raw milk receipts in paragraph (3), whichever is less, of raw milk per week and the dealer has made the affirmations required in paragraphs (5) and (6), the Board shall approve the 28-day written notice based on the dealer having raw milk volumes for which there is insufficient plant capacity due to a catastrophic event.

(8) The Board shall determine if a dealer has raw milk volumes for which there is insufficient output due to catastrophic event and notify the dealer and affected producers within 10 business days of receiving the information required by this subsection.

(g) Any 28-day notice period as provided by this section shall commence on the day the 28-day notice is approved by the Board.

(h) If a contract between a cooperative and a member of the cooperative provides for the amount of notice required to terminate the contract, this section shall not apply.

(i) Notwithstanding subsection (a), a producer and dealer may contract for either more or less than a 90-day notice period to terminate a contract or purchasing agreement. Subsection (a) shall apply when the contract, purchasing agreement or ordinary continuance of a previous course of dealing between a producer and dealer does not contain a termination provision.

(j) The Board shall maintain and make available on its web site a current list of government agencies and nonprofit organizations which are available to assist producers who receive a termination notice. The termination notice shall not be considered received by the producer unless it includes this list.

**§ 143.32. (Reserved).**

**§ 143.33. Individual variations.**

Nothing in § 143.31 (relating to written notice required) shall prohibit a contract or agreement providing

for a longer period of notice, or severing a relation between dealer and producer by mutual agreement on shorter period of notice.

[Pa.B. Doc. No. 21-1224. Filed for public inspection July 30, 2021, 9:00 a.m.]

## Title 40—LIQUOR

### LIQUOR CONTROL BOARD

#### [ 40 PA. CODE CH. 5 ]

#### Cleaning of Malt or Brewed Beverage Dispensary Systems

The Liquor Control Board (Board), under the authority of section 207(i) of the Liquor Code (47 P.S. § 2-207(i)), amends § 5.51 (relating to cleaning of malt or brewed beverage dispensing systems) to read as set forth in Annex A.

##### *Summary*

The Board amends its regulations regarding the cleaning of malt or brewed beverage dispensing systems, which delivers what is commonly known as “draft beer.” In this amendment, the frequency of dispensary system cleaning is decreased from every 7 days to every 14 days. The amendment also clarifies that every licensee using such a dispensary system for selling malt or brewed beverages (beer)—including but not limited to limited wineries, limited distilleries and distilleries—is subject to this regulation.

A dispensing system begins with beer that is stored in a keg. Pressurized gas enters the keg and forces the beer up and into a plastic hose, whose length it travels until it reaches a faucet. The beer waits in the plastic hose until the faucet is opened, whereupon the beer is poured into a container. For purposes of this amendment, the dispensing system runs from the keg to the faucet.

A dispensing system is, because of its function, usually wet and located in a dark area. As a result, dispensing systems can readily harbor bacteria, yeast, mold and “beer stones,” which occur when organic compounds in the beer bind with compounds in the brewing water and form calcium oxalate, the chemical name for beer stones. Cleaning the dispensing system is necessary to prevent these items from spoiling the beer.

However, the licensee incurs costs for cleaning the dispensing system, as well as the loss of the beer that is present in the hose. Therefore it is important to find the right frequency for cleaning, so as to avoid requiring the licensee to incur unnecessary expense and avoid needless waste of beer.

The Pennsylvania Restaurant and Lodging Association (PRLA) and the Brewers of Pennsylvania (BOP) asked the Board to consider revising the cleaning frequency requirement from once every 7 days to once every 14 days. PRLA and BOP note that the Brewer’s Association, an organization of more than 5,000 United States brewery members, advocates cleaning a dispensing system every 14 days.<sup>1</sup> Based on this information, this amendment changes the frequency of cleaning the dispensing system from once every 7 days to once every 14 days. Licensees are still required to maintain clean dispensary systems, under

<sup>1</sup> <https://www.brewersassociation.org/educational-publications/draught-beer-quality-manual/>

§§ 5.51(b) and 5.54 (relating to responsibility for condition of equipment), regardless of how often the lines are cleaned.

Section 5.51(a) is amended to clarify that all licensees who use a dispensing system are subject to the regulation. The current language—“A licensee that uses a malt or brewed beverage dispensing system in its licensed premises shall clean the system at its sole expense”—was proposed in 2007 and finalized in 2010. At that time, Pennsylvania-licensed limited wineries, limited distilleries and distilleries did not have the authority to serve malt or brewed beverages on their licensed premises.

However, Act 39 of 2016 (P.L. 273, No. 39) gave Pennsylvania-licensed manufacturers the right to sell, for on-premises consumption, products made by other Pennsylvania-licensed manufacturers. As a result, Pennsylvania-licensed limited wineries, limited distilleries and distilleries may sell beer produced by Pennsylvania-licensed breweries for on-premises consumption. 47 P.S. §§ 5-505.2(a)(6.1) and 5-505.4(b)(1) and (c)(1). The amendment clarifies that if the Pennsylvania-licensed manufacturer serves beer through a dispensing system, the manufacturer is subject to the regulation regarding the cleaning of the dispensing system.

##### *Affected Parties*

The affected parties include any licensee that sells draft beer, including licensed restaurants, hotels and clubs, as well as licensed breweries, limited wineries, distilleries and limited distilleries. As of April 6, 2021, there were approximately 15,000 active licensees that could potentially serve draft beer.

##### *Paperwork Requirements*

This final-form rulemaking does not impose any new paperwork requirements on licensees.

##### *Fiscal Impact*

It is anticipated that the fiscal impact would be beneficial to licensees, since it will effectively halve the annual expenses of cleaning the dispensing system.

##### *Effective Date*

These regulations will become effective upon final-form publication in the *Pennsylvania Bulletin*.

##### *Contact Person*

Questions regarding this final-form rulemaking should be addressed to Rodrigo Diaz, Chief Counsel, Jason Worley, Deputy Chief Counsel or Norina Foster, Assistant Counsel, Office of Chief Counsel, Liquor Control Board, Room 401, Northwest Office Building, Harrisburg, PA 17124-0001.

##### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on February 28, 2020, the Board submitted a copy of the notice of proposed rulemaking, published at 50 Pa.B. 1650 (March 21, 2020) to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House Liquor Control Committee and Senate Committee on Law and Justice for review and comment.

Under section 5(c) of the Regulatory Review Act, the Board shall submit to IRRC and the House and Senate Committees copies of the comments received during the public comment period, as well as other documents when requested. The Board received comments from the Pennsylvania State Police, Bureau of Liquor Control Enforcement, the Pennsylvania Restaurant and Lodging Associa-



tion, the Pennsylvania Licensed Beverage & Tavern Association and IRRC. The Board has responded to each of the commenters in separate documents. In preparing the final-form rulemaking the Board 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 16, 2021, the final-form rulemaking was deemed approved by the House and Senate Committees. Under section 5(g) of the Regulatory Review Act, the final-form rulemaking was deemed approved by IRRC effective June 17, 2021.

*Findings*

The Board finds that:

(1) Public notice of intention to adopt the administrative 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 thereunder, 1 Pa. Code §§ 7.1 and 7.2 (relating to notice of proposed rulemaking required; and adoption of regulations).

(2) The amendments to the Board’s regulations in the manner provided in this order are necessary and appropriate for the administration of the Liquor Code.

*Order*

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

(a) The regulations of the Board, 40 Pa. Code Chapter 5, are amended by amending § 5.51 to read as set forth in Annex A.

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

(c) This order shall become effective upon publication in the *Pennsylvania Bulletin*.

TIM HOLDEN,  
*Chairperson*

*(Editor’s Note: See 51 Pa.B. 5680 (July 3, 2021) for IRRC’s approval order.)*

**Fiscal Note:** 54-101. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 40. LIQUOR**

**PART I. LIQUOR CONTROL BOARD**

**CHAPTER 5. DUTIES AND RIGHTS OF LICENSEES**

**Subchapter D. SANITARY CONDITIONS AND LIGHTING AND CLEANING OF MALT OR BREWED BEVERAGE DISPENSING SYSTEMS**

**CLEANING OF MALT OR BREWED BEVERAGE SYSTEMS**

**§ 5.51. Cleaning of malt or brewed beverage dispensing systems.**

(a) Any licensee, including but not limited to a retail licensee, a brewery, a limited winery, a limited distillery or a distillery, that uses a malt or brewed beverage dispensing system in its licensed premises shall clean the system at its sole expense. One licensee may not clean a malt or brewed beverage dispensing system for another licensee.

(b) The method of cleaning must leave the entire malt or brewed beverage dispensing system in a clean and sanitary condition. The cleaning method used must include cleaning the entire system with a chemical cleaning solution or other cleaning method approved by the Board. The following alternative cleaning methods have Board approval:

(1) Live steam.

(2) Hot water and soda solution, followed by thorough rinsing with hot water.

(c) The frequency of cleaning for the malt or brewed beverage dispensing system shall be as follows:

(1) Once every 14 days for the faucets.

(2) Once every 14 days for the dispensing lines, valves, joints, couplers, hose fittings, washers, o-rings, empty beer detectors (known as “FOBS”) and draft foam control units, except if the licensee has an operating ultrasonic, electromagnetic or other system that retards the growth of yeast and bacteria in the dispensing lines. If such a system is installed and operating, the licensee shall follow the cleaning frequency and cleaning method guidelines of the system’s manufacturer.

(3) The Board may approve different cleaning frequencies.

[Pa.B. Doc. No. 21-1225. Filed for public inspection July 30, 2021, 9:00 a.m.]

**Title 58—RECREATION**

**PENNSYLVANIA GAMING CONTROL BOARD  
[ 58 PA. CODE CHS. 1001a and 1201a—1209a ]  
Casino Simulcasting; Fantasy Contests**

The Pennsylvania Gaming Control Board (Board), under the general authority in 4 Pa.C.S. § 1202(b)(30) (relating to general and specific powers) and the specific authority in 4 Pa.C.S. §§ 311 and 13F06(a) (relating to general and specific powers of board; and regulations), promulgates final-form regulations governing casino simulcasting and fantasy contests in Chapters 1001a and 1201a—1209a to read as set forth in Annex A.

*Purpose of this Final-Form Rulemaking*

This final-form rulemaking provides Category 2, 3 and 4 casinos with the option to provide live simulcasting of horse racing and associated simulcast wagering as a gambling product in this Commonwealth. Additionally, this final-form rulemaking provides a regulatory oversight structure for the conduct of fantasy contests in this Commonwealth.

*Explanation*

*Chapter 1001a. Casino simulcasting*

Section 1001a.1 (relating to definitions) provides the relevant definitions used throughout Chapter 1001a (relating to casino simulcasting) for the conduct of casino simulcasting.

Section 1001a.2 (relating to general requirements) establishes the general requirements a Category 2, 3 or 4 casino licensee shall fulfill to obtain a casino simulcasting permit including submitting an application for a casino simulcasting permit and providing supplemental information as requested by the Board.

Sections 1001a.3 and 1001a.4 (relating to preliminary application submission review; and application processing) provide for a preliminary review of the application and processing by Board staff. Section 1001a.5 (relating to deficient applications) deals with deficient applications. Section 1001a.6 (relating to application withdrawal) provides how an applicant withdraws an application from consideration.

Section 1001a.7 (relating to casino simulcasting permit issuance and statement of conditions) establishes the criteria for the Board's issuance of a casino simulcasting permit upon a finding that the applicant fulfills each condition set by the Board and 4 Pa.C.S. Part II (relating to Pennsylvania Race Horse Development and Gaming Act) (act), is found suitably consistent with the laws of the Commonwealth and is otherwise qualified to be issued the casino simulcasting permit.

Section 1001a.8 (relating to license, registration or permitting of employees) provides for the licensing, registration or permitting of persons employed by the licensed gaming entity or licensed racing entity engaged directly in wagering-related activities at a simulcast facility.

Section 1001a.9 (relating to casino simulcasting agreements) establishes a requirement that agreements between licensed gaming entities and licensed racing entities to facilitate casino simulcasting shall be approved by the Board and the State Horse Racing Commission (Commission), and prescribes requirements for each agreement which must be present for the agreement to be effective.

Sections 1001a.10—1001a.18 provide the requirements for a casino simulcasting facility, permissible hours of operation, mandate compliance with rules of the Commission, permissible areas of wagering and wagering prohibitions, forfeiture, signage requirements restricted areas, and transmissions and displays of live races.

Sections 1001a.19 and 1001a.20 (relating to casino simulcasting accounting controls and audit protocols; and casino simulcasting record retention) address casino simulcasting accounting controls and audit protocols as well as record retention. These latter provisions provide assurances of mechanisms to audit and assure proper payments of taxes, and fairness of wagering and patron dispute resolution.

#### *Subpart O. Fantasy Contests*

Subpart O (relating to fantasy contests) establishes the regulations necessary for the Board to license fantasy contest operators who make fantasy contests available through an Internet connection and through fantasy contest terminals in licensed gaming facilities, as well as of the principals and key employees of the licensed operators. In addition, Subpart O provides rules for player accounts, licensed operator duties and restrictions, and accounting and internal controls governing the conduct of fantasy contests. Finally, Subpart O addresses advertising, compulsive and problem gambling, and self-exclusion of players from fantasy contest activities in this Commonwealth.

Subpart O establishes a broad regulatory oversight structure for fantasy contests. Section 1201a.2 (relating to definitions) provides definitions of terms used throughout Subpart O for the conduct of fantasy contests.

This final-form rulemaking establishes the categories of licensees based upon the statutory criteria for licensure in 4 Pa.C.S. Chapter 3 (relating to fantasy contests). Categories subject to licensure include fantasy contest operators

and their principals and key employees, as well as licensed gaming entities which elect to receive a fantasy contest license permitting them to operate fantasy contest terminals within the facility and gaming service providers.

Chapter 1202a (relating to application requirements) establishes the application and general requirements under which fantasy contest operators, licensed gaming entities, principals, key employees and gaming service providers shall apply to the Board for approval to participate in the regulated conduct of fantasy contests.

Chapter 1203a (relating to application process) provides for a preliminary review of the application, the processing of applications by Board staff, deficient applications, avenues for withdrawing an application from consideration, the terms and renewal periods for licenses and the registration of licensed entity representatives with the Board.

Chapter 1204a (relating to fantasy contest licenses) addresses the issuance of the fantasy contest license and the conditions placed thereon. Section 1204a.2 (relating to licensed fantasy contest operator change of ownership or control) was added to this chapter in this final-form rulemaking. The provisions of this added section provide the necessary steps that must be taken when a change in ownership or control of a licensed fantasy contest operator is contemplated. This added section and its requirements are consistent with the provisions of 4 Pa.C.S. § 327 (relating to change in ownership or control of licensed operators) and prior Board practice.

Sections 1205a.1 and 1205a.2 (relating to fantasy contests generally; and procedures to govern the conduct of fantasy contests) address the requirements for a fantasy contest and the procedures by which fantasy contests shall be operated. Section 1205a.3 (relating to fantasy contest accounts) sets forth the requirements for player fantasy contest accounts assuring age, location and identity verifications, funding of player accounts, password access, account options to restrict or limit play as elected by the player, and account withdrawal and closing procedures.

Section 1205a.4 (relating to fantasy contest licensed operator duties) imposes affirmative duties on fantasy contest operators to ensure compliance with statutory and regulatory mandates designed to assure integrity of the fantasy contests as well as safeguarding of player's information and assets. Section 1205a.5 (relating to fantasy contest licensed operator restrictions) sets forth restrictions on fantasy contest operations which provide a minimum age for players, limit the sports which can form the basis of fantasy contests, fulfill requirements that a player have established a verified account prior to play, prohibit the issuance of credit to a player and impose a host of restrictions designed to promote fairness in the play of fantasy contests. Section 1205a.6 (relating to licensed gaming entities) provides for licensed gaming entities to obtain fantasy contest terminals if desired. Section 1205a.7 (relating to record and data retention) addresses record and data retention requirements designed to enhance auditing and accountability.

Chapter 1206a (relating to accounting and internal controls) addresses the accounting and internal control requirements for fantasy contest operators. Chapter 1206a requires submission to the Board and approval prior to beginning of play.

Chapter 1207a (relating to advertising) addresses advertising of fantasy contests and provides standards to

prohibit false or misleading advertising, portraying minors in the advertisements, representing endorsements by sports prohibited from forming the basis of fantasy contest and marketing to persons on the self-exclusion list.

Chapter 1208a (relating to compulsive and problem gaming) requires signage providing information sources for individuals experiencing compulsive or problem gaming.

Chapter 1209a (relating to fantasy contest self-exclusion) establishes a self-exclusion procedure for individuals who voluntarily seek to be prohibited from playing fantasy contests. The provisions have been amended to conform with the Board's changes to the self-exclusion process done in Chapter 503a (relating to casino self-exclusion) of the Board's regulations.

*Response to Comments*

The Board did not receive any public comments from the regulated community or the general public. Comments were received from the Independent Regulatory Review Commission (IRRC), and responses to the comments are as follows:

*Implementation procedures; Protection of the public health, safety and welfare*

The Board acted with all possible due diligence in getting the final-form regulations promulgated for casino simulcasting and fantasy contests. After the passage of the act of October 30, 2017 (P.L. 419, No. 42), the Board was tasked with promulgating regulations for five separate forms of expanded gaming in rapid succession. In December 2020, Governor Tom Wolf signed the act of November 23, 2020 (P.L. 1140, No. 114), making amendments to the Fiscal Code of the Commonwealth. Act 114 of 2020 included a provision that extended the expiration date of temporary regulations of the Board from 2 years after publication to 3 years after publication. Therefore, the Casino Simulcasting temporary regulations only expired on January 6, 2021, and the Fantasy Contest temporary regulations did not expire until April 28, 2021. To date, no entities have sought to offer Casino Simulcasting under the Board's and the Commission's temporary regulations, and Fantasy Contests have seen no regulatory oversight issues.

*Compliance with the Regulatory Review Act or the regulations of IRRC*

All matters addressed in this comment have been remedied in the final-form Regulatory Analysis Form.

*Whether the regulation is consistent with the intent of the General Assembly; Possible conflict with or duplication of statutes or existing regulations; Implementation procedures*

The Board consulted with the Commission when developing the temporary regulations for Casino Simulcasting. As the proposed regulations only possessed minor amendments from the temporary regulations, the Board did not consult with the Commission when crafting the proposed rulemaking. The Commission did not provide any comments on the Board's proposed rulemaking package after it was published in the *Pennsylvania Bulletin*.

The Board, however, did contact the Commission when preparing this final-form rulemaking. Representatives of the Commission reviewed the proposed rulemaking and raised no issues with any provisions in the Board's regulations. The Board did make certain amendments in this final-form rulemaking to ensure that any reference to

Commission regulations would not be impacted by the current state of the Commission's regulations being temporary. Additionally, both the Board and Commission are satisfied that there is no risk of conflict or duplication between the provisions of this final-form rulemaking and the Commission's regulations, as it pertains to Casino Simulcasting.

*§ 1001a.13. Wagering limited to simulcasting facility.—Clarity*

This section is updated to reflect the correct reference to the Commission's regulations moving to Title 7 of the *Pennsylvania Code*. Additionally, clarifications were made later in the section to highlight that simulcasts of races can be visually displayed in other areas, but wagering may only take place in simulcasting facilities. Therefore, an entity that offers casino simulcasting at its licensed facility may broadcast the simulcasts of races in other areas of the casino for patrons to view, but the wagering may only occur in the formal simulcasting location in the licensed facility. As no wagering will take place by individuals watching the races broadcast outside of the simulcasting facility, the additional broadcast of these races bears no relationship to the integrity of simulcasting operations. Therefore, the requirement that the Board and Commission approve other locations in a licensed facility where the simulcast horse races may be shown was removed.

*§ 1001a.19. Casino Simulcasting accounting controls and audit protocols.—Clarity*

This section is amended to remove any ambiguity and document exactly what would make a submission under this section insufficient. The same amendments have also been made to § 1206a.1(h) (relating to fantasy contest accounting and internal controls).

*§ 1202a.2. Fantasy contest licenses.—Legislative intent; Implementation procedures;—Clarity*

This section is amended to provide clarity on the abbreviated application process by highlighting that the abbreviated application only needs to provide information that the Board does not already possess, in accordance with the act.

*§ 1203a.3. Renewals;—Clarity*

The term "permit" is stricken from this section and in § 1203a.2(d) (relating to application withdrawal), as no one involved in provision of fantasy contests requires a permit.

*§ 1203a.4. Licensed entity representative;—Clarity*

A definition for "licensed entity representative" is added to § 1201a.2. This definition is modeled after the definition of "licensed entity representative" in section 1103 of the act (relating to definitions).

*§ 1205a.2. Procedures to govern the conduct of fantasy contests;—Clarity*

The language requested voiding the participant's contest entry is added to subsections (b)(5) and (6). As it pertains to the 15-day ban under subsection (b)(5), that ban applies not just to the contests the individual is not eligible for, but all contests. As such the language is needed to effectuate that 15-day temporary ban from all fantasy contests. The word "all" was added to clarify that point. To bring subsection (b)(6) into conformity with 4 Pa.C.S. § 325(4.2) (relating to conditions of licensure), the temporary suspension language was deleted, as section 325(4.2) requires a permanent suspension and ban.



§ 1205a.3. *Fantasy contest accounts;—Clarity*

This section is updated to reflect the recommended change.

§ 1206a.1. *Fantasy contest accounting and internal controls;—Clarity*

This section is updated to reflect the recommended change.

§ 1209a. *Fantasy contest self-exclusion.—Legislative intent; Possible conflict or duplication of statutes and existing regulations; Implementation procedures; Protection of the public health, safety and welfare;—Clarity*

First, the language is amended to bring the fantasy contest self-exclusion procedures in Chapter 1209a in line with the amendments the Board has made to the self-exclusion procedures of Chapter 503a in final-form rulemaking # 125-225 published at 51 Pa.B. 2966 (May 29, 2021). The reason an e-mail address is requested information is because when an individual creates an online fantasy gaming account, they are required to provide their e-mail address. By gathering this information during the fantasy contest self-exclusion process, it makes the list more thorough and makes it more likely that a self-excluded individual will be prevented from opening a new fantasy contest account, and outstanding accounts with fantasy contest operators can be easily identified and closed.

Second, if an individual self-excludes under Chapter 503a, as amended by final-form rulemaking # 125-225 published at 51 Pa.B. 2966, that person is only self-excluding from gaming at licensed facilities, including retail sports wagering. If a licensed facility contains a fantasy contest terminal, the individual who self-excluded under Chapter 503a would be unable to access that fantasy contest terminal, as he or she would be prohibited from entering the licensed facility. However, an individual who chooses casino self-exclusion under Chapter 503a is not explicitly prohibited from engaging in fantasy contests online through a fantasy contest operator, as the lists under Chapters 503a and 1209a are separate self-exclusion lists. Licensed gaming entities may choose, at their own discretion, to prevent individuals who self-exclude from fantasy contests from participating in other forms of gaming.

Third, the Board's self-exclusion process allows an individual to self-exclude from multiple forms of gaming simultaneously if he or she wishes to do so. For example, if an individual wants to self-exclude from fantasy contests and interactive gaming so as to not have 24/7 access to gaming, but still wants to be able to visit brick-and-mortar casinos, they may choose to do so. Both the online portal and in-person self-exclusion processes allow for this option.

Fourth, the requested language is added to require individuals to update their information with the Board.

Fifth, the link to the fantasy contest self-exclusion information and portal is required to be on the operator's responsible gaming webpage under § 1209a.2(d) (relating to fantasy contest self-exclusion procedure), and therefore, inclusion of this language in § 1208a.2 (relating to problem gambling information) would be redundant.

Sixth, individuals who choose to avail themselves of the fantasy contest self-exclusion process are required to identify as a problem gambler. The Board's Office of Compulsive and Problem Gambling determined that having a self-exclusion period for less than 1 year would be inconsistent with the entire purpose of self-exclusion.

Additionally, all other forms of gaming in this Commonwealth have a minimum self-exclusion period of 1 year, making the 1-year minimum for fantasy contests consistent with Board precedent.

*Miscellaneous clarity*

Section 1001a.19(f)(2) is updated to reflect the recommended change.

The definition of "applicant" in § 1201a.2 is consistent with the definition in the act, and therefore was not amended.

Section 1204a.1(a) (relating to fantasy contest license issuance and statement of conditions) is updated to reflect the recommended change.

Section 1207a.1(a) (relating to fantasy contest advertising) is updated to reflect the recommended change.

Section 1209a.4(b) (relating to duties of fantasy contest licensees) is updated to reflect the recommended change.

*Fiscal Impact*

*Commonwealth.* The Board expects that this final-form rulemaking will have a very minimal fiscal impact on the Board and other Commonwealth agencies, which primarily is the result of the need for some additional personnel to process applications and review, as well as to monitor and regulate the conduct of fantasy contests. Most of the additional duties will be absorbed by existing Board staff. The costs of the final-form regulations will be paid for by an assessment against the licensed fantasy contest operators' fantasy contest adjusted revenue as determined by the Department of Revenue.

*Political subdivisions.* This final-form rulemaking will not have a fiscal impact on political subdivisions of this Commonwealth.

*Private sector.* This final-form rulemaking will not have a fiscal impact on the private sector other than for those who elect to participate in fantasy contests by an eligible fantasy contest operator.

If pursued, there will be licensing costs as set forth by 4 Pa.C.S. Chapter 3. Otherwise, additional costs to operators will likely be negligible since fantasy contests are currently operated in other regulated jurisdictions or in unregulated jurisdictions. Any costs incurred to operate fantasy contests in this Commonwealth should be offset by the operator proceeds of the fantasy contests.

*General public.* This final-form rulemaking will not have fiscal impact on the general public.

*Paperwork Requirements*

A Category 2, 3 or 4 casino licensee that wishes to offer casino simulcasting at its facility will be required to file a petition with the Board providing information regarding the proposed simulcasting area and equipment, security and surveillance, as well as updated accounting and internal control protocols. In addition, applications for licensure for any individuals to conduct and oversee the simulcast wagering will be submitted to the Board, either in paper form or electronically.

A fantasy contest licensed operator, licensed gaming entity, gaming service provider, and principals and key employees thereof involved in the provision of fantasy contests in this Commonwealth will be required to file applications with the Board providing information regarding the person's proposed activity, as well as accounting and internal control protocols and background information of each individual sufficient to permit the Board to determine the individual's suitability for licensure.

If an individual wishes to join the fantasy self-exclusion list, the person may do so online on the Board's web site by filling out a webform. The Board's self-exclusion web site address is <https://responsibleplay.pa.gov/self-exclusion/>.

*Effective Date*

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

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on December 5, 2019, the Board submitted a copy of the notice of proposed rulemaking, published at 49 Pa.B. 7414 (December 21, 2019) to IRRC and to the Chairpersons of the House Gaming Oversight Committee and the Senate Community, Economic and Recreational Development Committee for review and comment.

Under section 5(c) of the Regulatory Review Act, the Board 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 the final-form rulemaking, the Board has considered all comments from IRRC, the House and Senate Committees, and the public. With regard to this final-form rulemaking, no comments were received from the Committees.

Under section 5a(j.2) of the Regulatory Review Act (71 P.S. § 745.5a(j.2)), on May 19, 2021, 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 May 20, 2021, and approved the final-form rulemaking.

*Findings*

The Board finds that:

(1) Public notice of intention to adopt these amendments 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 thereunder, 1 Pa. Code §§ 7.1 and 7.2. (relating to notice of proposed rulemaking required; and adoption of regulations).

(2) This final-form rulemaking is necessary and appropriate for the administration and enforcement of 4 Pa.C.S. Part I (relating to amusements generally and Part II).

*Order*

The Board, acting under 4 Pa.C.S. Part II, orders that:

(1) The regulations of the Board, 58 Pa. Code Chapters 1001, 1001a, 1201—1209 and 1201a—1209a, are amended by deleting §§ 1001.1—1001.20, 1201.1, 1201.2, 1202.1—1202.6, 1203.1—1203.5, 1204.1, 1205.1—1205.7, 1206.1, 1207.1, 1208.1, 1208.2 and 1209.1—1209.5 and adding 1001a.1—1001a.20, 1201a.1, 1201a.2, 1202a.1—1202a.5, 1203a.1—1203a.4, 1204a.1, 1204a.2, 1205a.1—1205a.7, 1206a.1, 1207a.1, 1208a.1, 1208a.2 and 1209a.1—1209a.5 to read as set forth in Annex A.

(2) The Chairperson of the Board shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(3) This order shall take effect upon publication in the *Pennsylvania Bulletin*.

DAVID M. BARASCH,  
*Chairperson*

(*Editor's Note:* For IRRC's approval order, see 51 Pa.B. 3210 (June 5, 2021).)

**Fiscal Note:** Fiscal Note 125-226 remains valid for the final adoption of the subject regulations.

**Annex A**

**TITLE 58. RECREATION**

**PART VII. GAMING CONTROL BOARD**

**Subpart M. CASINO SIMULCASTING**

**CHAPTER 1001. (Reserved)**

Sec.  
1001.1—1001.20. (Reserved).

**CHAPTER 1001a. CASINO SIMULCASTING**

- Sec.
- 1001a.1. Definitions.
- 1001a.2. General requirements.
- 1001a.3. Preliminary application submission review.
- 1001a.4. Application processing.
- 1001a.5. Deficient applications.
- 1001a.6. Application withdrawal.
- 1001a.7. Casino simulcasting permit issuance and statement of conditions.
- 1001a.8. License, registration or permitting of employees.
- 1001a.9. Casino simulcasting agreements.
- 1001a.10. Simulcasting facilities.
- 1001a.11. Hours of operation.
- 1001a.12. Rules of Commission.
- 1001a.13. Wagering limited to simulcasting facility.
- 1001a.14. Prohibition of wagering.
- 1001a.15. Forfeited winnings.
- 1001a.16. Signage requirements.
- 1001a.17. Restricted areas.
- 1001a.18. Transmission and display of live races.
- 1001a.19. Casino simulcasting accounting controls and audit protocols.
- 1001a.20. Casino simulcasting record retention.

**§ 1001a.1. Definitions.**

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

*Casino simulcasting*—The simultaneous transmission of live thoroughbred or harness horse race meetings from an in-State sending track, out-of-State sending track or a satellite facility, regardless of licensure status or whether the horse race meetings originate in this Commonwealth or any other state or jurisdiction, to a simulcasting facility in this Commonwealth by satellite devices, television cables, television lines or any other telecommunications technology for the purposes of conducting pari-mutuel wagering.

*Casino simulcasting permit or simulcasting permit*—A permit awarded by the Board under section 13F12 of the act (relating to casino simulcasting permit) which authorizes a licensed gaming entity to conduct casino simulcasting.

*Casino simulcasting permit holder*—A licensed gaming entity that holds a casino simulcasting permit issued by the Board in accordance with section 13F12 of the act.

*Commission*—The State Horse Racing Commission.

*In-State sending track*—A racetrack in this Commonwealth which is operated by a licensed racing entity and is permitted to conduct casino simulcasting.

*Licensed gaming entity*—A person who has been approved for and issued a Category 2 slot machine license, a Category 3 slot machine license or a Category 4 slot

machine licensed in accordance with sections 1304, 1305, 1305.1 and 1325 of the act, and who holds a casino simulcasting permit.

*Licensed racing entity*—A person that has obtained a license to conduct live thoroughbred or harness horse race meetings respectively with pari-mutuel wagering from the Commission under 3 Pa.C.S. Chapter 93 (relating to race horse industry reform).

*Out-of-State sending track*—An interstate or international racetrack in a state or jurisdiction other than this Commonwealth which is equipped to conduct casino simulcasting and the operator of which is lawfully permitted to conduct horse race meetings and to provide simulcast horse races to slot machine licensees in this Commonwealth.

*Pari-mutuel wagering*—A form of wagering, including manual, electronic, computerized and other forms as approved by the Commission, on the outcome of a horse racing event in which all wagers are pooled and held by a licensed racing entity or secondary pari-mutuel wagering organization for distribution of the total amount, less the deductions authorized by law, to holders of winning tickets.

*Simulcast horse race*—A thoroughbred or harness horse race meeting conducted at a racetrack, whether within or outside this Commonwealth, which is simultaneously transmitted by an approved telecommunications technology to racetracks or simulcasting facilities in this Commonwealth in accordance with regulations of the Commission.

*Simulcasting facility*—An area of a licensed facility established and maintained by a licensed gaming entity for the conduct of casino simulcasting in accordance with this chapter, 3 Pa.C.S. Chapter 93, and regulations of the Board and the Commission.

*Totalisator*—A computer system used to pool wagers, record sales, calculate payoffs and display wagering data on a display device that is located at a simulcasting facility.

#### § 1001a.2. General requirements.

(a) A casino simulcasting permit holder may conduct casino simulcasting in a simulcasting facility in accordance with the act and this chapter.

(b) An application for a casino simulcasting permit shall be submitted on forms or in an electronic format supplied or approved by the Board and contain all of the following information:

(1) The name, business address and contact information of the applicant.

(2) The name and location of the applicant's licensed facility.

(3) The name, business address, job title and a photograph of each principal and key employee of the applicant who will be involved in the conduct of casino simulcasting who is not currently licensed by the Board or the Commission, if known. If the principal and key employee are currently licensed by the Board, the application must specifically identify their participation in the conduct of casino simulcasting.

(4) The estimated number of full-time and part-time employment positions that will be created at the licensed facility if casino simulcasting is authorized and an updated hiring plan under section 1510(a) of the act (relating to labor hiring preferences) which outlines the appli-

cant's plan to promote the representation of diverse groups and Commonwealth residents in the employment positions.

(5) A brief description of the economic benefits expected to be realized by the Commonwealth, the Department of Agriculture and the race horse industry in this Commonwealth if casino simulcasting is authorized at the applicant's licensed facility.

(6) The details of any financing, if applicable, obtained or that will be obtained to fund an expansion or modification of the licensed facility to accommodate casino simulcasting or construct a simulcasting facility or to otherwise fund the cost of commencing casino simulcasting operations.

(7) Information and documentation concerning financial background and resources, as the Board may require, to establish by clear and convincing evidence the financial stability, integrity and responsibility of the applicant.

(8) A copy of or a detailed description of the terms and conditions of any agreement the licensed gaming entity has entered into or will enter into with a licensed racing entity to facilitate the conduct of casino simulcasting.

(9) A detailed description of any financial arrangements between a licensed gaming entity and a licensed racing entity related to the conduct of casino simulcasting.

(10) Detailed site and architectural plans of the proposed simulcasting facility within the applicant's licensed facility.

(11) A statement demonstrating compliance with the Interstate Horseracing Act of 1978 (15 U.S.C.A. §§ 3001—3007).

(12) Any other information as the Board may require.

(c) Upon request of the Board or Board staff, the applicant shall cooperate and provide supplemental information in support of its application. The applicant shall provide requested documents, records, supporting data and other information within the time period specified in the request or, if no time is specified, within 30 days of the date of the request. If the applicant fails to provide the requested information within the required time period in the request, the Board may deny the application.

(d) The application, and amendments thereto, and other specific documents designated by the Board shall be filed promptly with the Board.

(e) An application and related materials that have been submitted to the Board will become the property of the Board and will not be returned to the applicant.

#### § 1001a.3. Preliminary application submission review.

(a) Upon receipt, an application will be reviewed to ensure that it contains all of the following:

(1) The applicable application forms and additional information and accompanying documentation required by the act or the Board.

(2) Completed authorization forms, if required, for release of information from governmental agencies and other entities.

(b) If an applicant fails to include any required information, the applicant will be notified and given an opportunity to cure the deficiency in accordance with § 1001a.5 (relating to deficient applications).



**§ 1001a.4. Application processing.**

(a) Upon a determination that the prerequisites for filing have been met, the application will be accepted for filing and Board staff, if applicable, will:

(1) Obtain information as may be necessary to determine the qualifications of the applicant and any matter relating to the application.

(2) Promptly conduct an investigation of the applicant and on any matter relating to the application.

(3) Request the Department to promptly conduct a tax clearance review.

(4) Request the Department of Labor and Industry to perform an Unemployment Compensation Tax clearance review and a Workers Compensation Tax clearance review.

(5) Request any agencies, entities or persons to provide information to the Board as deemed necessary by the Board.

(b) An application submitted under this subpart and information obtained by Board staff relating to the application will be part of the evidentiary record to be utilized by the Board when deciding to approve, condition, issue or deny a casino simulcasting permit.

**§ 1001a.5. Deficient applications.**

(a) If an application is found to be deficient, Board staff will notify the applicant of the deficiencies in the application and provide an opportunity for the applicant to cure the deficiencies within a specified time period.

(b) Failure to provide the information necessary to cure the deficiencies required under subsection (a) may result in the denial of the application.

(c) When an application is denied under subsection (b), the applicant will be given written notice of this action.

**§ 1001a.6. Application withdrawal.**

A request for withdrawal of an application may be made at any time prior to the Board taking action by letter sent to the Office of Hearings and Appeals.

**§ 1001a.7. Casino simulcasting permit issuance and statement of conditions.**

(a) *Issuance criteria.* In addition to the criteria in the act, the Board will not issue a casino simulcasting permit unless all of the following criteria have been established by the applicant:

(1) The applicant has fulfilled each condition set by the Board or in the act, including the execution of a statement of conditions.

(2) The applicant is found suitable consistent with the laws of the Commonwealth and is otherwise qualified to be issued a casino simulcasting permit.

(b) *Statement of conditions.*

(1) The applicant, as a condition precedent to the issuance of a casino simulcasting permit, shall execute a Statement of Conditions in the manner and form required by the Board. Execution of the Statement of Conditions constitutes the acceptance of each provision in the Statement of Conditions by the applicant.

(2) Failure to fully comply with any provision in an executed Statement of Conditions constitutes a violation and may result in Board-imposed administrative sanctions, up to and including revocation, against a casino simulcasting permit holder.

**§ 1001a.8. License, registration or permitting of employees.**

Except as provided for under section 13F15 of the act (relating to key employees and occupation permits), individuals engaged directly in wagering-related activities at a simulcasting facility, whether employed by the licensed gaming entity or licensed racing entity and all other employees of the licensed gaming entity or licensed racing entity who work or will work in the simulcasting facility, shall be licensed, registered or permitted by the Board in accordance with §§ 433a.8, 435a.2, 435a.3 and 435a.5.

**§ 1001a.9. Casino simulcasting agreements.**

(a) An agreement between a licensed gaming entity and a licensed racing entity to facilitate casino simulcasting shall be filed with an application for a casino simulcasting permit and shall be approved by the Board and separately by the Commission. An agreement is not effective until approved by the Board and the Commission.

(b) An agreement must include all of the following:

(1) The percentage of the money wagered each racing day at the simulcasting facility and remaining in the wagering pools after the required distributions under 3 Pa.C.S. § 9335 (relating to pari-mutuel pool distribution) that will be paid to the licensed gaming entity. The amount retained by the licensed gaming entity may not exceed 25% of the money retained by the licensed racing entity under 3 Pa.C.S. § 9335.

(2) The times during which a licensed gaming entity may conduct casino simulcasting.

(3) A provision that provides the grounds and mechanisms for modifying or terminating the contract upon approval by the Board and the Commission.

(4) Provisions that contain a mechanism to resolve patron disputes and disputes between the licensed gaming entity and the licensed racing entity.

(5) Design, implementation and amendment of the system of internal controls required under section 13F11 of the act (relating to application for permit and requirements) and this chapter including the financial reporting requirements.

(6) Hiring, terminating, training and promoting of employees and the employment practices attendant thereto.

(7) The payment of local, State and Federal taxes, and slot machine license deposits required under the act and this chapter and any penalties imposed by the Board for violations thereof.

(8) Obtaining and maintaining insurance coverage, including coverage of public liability and property loss or damage.

(9) Selection of the casino simulcasting permit holder's independent auditor which may be the same as the independent auditor employed by the licensed gaming entity.

**§ 1001a.10. Simulcasting facilities.**

(a) A licensed gaming entity approved for and issued a casino simulcasting permit to operate casino simulcasting shall establish a simulcasting facility as part of its licensed facility.

(b) A simulcasting facility may be adjacent to, but may not be a part of, a room or location in which slot machines or table gaming are operated or conducted.

(c) The space or area required for the establishment of a simulcasting facility may not be used to decrease the number of slot machines or table games in operations at the licensed facility or to reduce the space approved by the Board for the operation of slot machines and the conduct of table games.

(d) A casino simulcasting permit holder shall establish and maintain a simulcasting facility of sufficient square footage to promote:

(1) Efficient operation of the facility.

(2) Viewing of simulcast horse races by patrons in a manner which is not obtrusive to the conduct of gaming within the licensed facility.

(e) Security of the simulcasting facility shall include the installation and maintenance of security and surveillance equipment, including closed circuit television equipment, according to specifications approved by the Board. The Board shall have direct access to the system or its signal.

**§ 1001a.11. Hours of operation.**

The time during which a licensed gaming entity may conduct casino simulcasting shall be set forth in the licensed gaming entity's casino simulcasting agreement under § 1001a.9 (relating to casino simulcasting agreements).

**§ 1001a.12. Rules of Commission.**

Except as otherwise provided in the act or this chapter, the standards and rules of racing, simulcasting and the conduct of pari-mutuel wagering in simulcasting facilities are subject to 3 Pa.C.S. Chapter 93 (relating to race horse industry reform), regulations of the Commission promulgated under 3 Pa.C.S. (relating to Agriculture Code), and the Interstate Horseracing Act of 1978 (15 U.S.C.A. §§ 3001—3007).

**§ 1001a.13. Wagering limited to simulcasting facility.**

Except as provided for in 7 Pa. Code Part VIII (relating to State Horse Racing Commission), wagering on simulcast horse races within the premises of a licensed facility shall be conducted only in a simulcasting facility. Simulcast horse races may be shown in other areas of the licensed facility, but no wagering on a simulcast horse race shall take place in any area that is not a simulcasting facility.

**§ 1001a.14. Prohibition of wagering.**

A casino simulcasting permit holder shall establish procedures:

(1) To prohibit an individual under 21 years of age from entering a simulcasting facility at a licensed facility, except that an individual 18 years of age or older who is employed by a slot machine licensee, a gaming service provider, the Board, or other regulatory or emergency response agency may enter and remain in that area while engaged in the performance of the individual's employment duties.

(2) To train employees and establish policies to:

(i) Identify and remove individuals who are under 21 years of age and not otherwise authorized to be in the simulcasting facility.

(ii) Immediately notify a casino compliance representative at the licensed facility and the Pennsylvania State Police at a time an individual under 21 years of age is discovered in the simulcasting facility.

(iii) Refuse wagers from an individual under 21 years of age.

(iv) Deny check cashing privileges, extensions of credit, complementary goods and services, and other similar privileges and benefits to an individual under 21 years of age.

(v) Ensure that individuals under 21 years of age do not receive, either from the casino simulcasting permit holder or an agent thereof, targeted mailing, telemarketing promotions or other promotional materials relating to casino simulcasting activity as provided for under 4 Pa.C.S. Chapter 13F (relating to casino simulcasting).

**§ 1001a.15. Forfeited winnings.**

(a) An individual under 21 years of age may not collect in any manner or in any proceeding, whether personally or through an agent, winnings or recover losses arising as a result of any casino simulcasting activity.

(b) Winnings incurred by an individual under 21 years of age shall be remitted to the Board to support compulsive and problem gambling programs of the Board.

**§ 1001a.16. Signage requirements.**

(a) A casino simulcasting permit holder shall post signs that include a statement providing the following:

(1) "It is unlawful for any individual under 21 years of age to enter or remain in a simulcasting facility. Individuals violating this prohibition will be removed and may be subject to arrest and criminal prosecution."

(2) "If you or someone you know has a gambling problem, help is available. Call (1-800-GAMBLER)."

(b) The signs shall be prominently posted at each entrance and exit of the simulcasting facility.

**§ 1001a.17. Restricted areas.**

(a) A casino simulcasting permit holder who wishes to conduct casino simulcasting shall, unless otherwise approved by the Board, in consultation with the Commission, establish and maintain restricted areas, which are not accessible to the general public, including all of the following:

(1) A satellite cage in its simulcasting facility utilized for conducting pari-mutuel wagering and the counting and recording of assets.

(2) Designated areas for the placement and operation of all of the following:

(i) A totalisator system used to pool wagers, records sales, calculate payoffs and display wagering data on a display device.

(ii) Audio/video equipment utilized to receive and transmit simulcast signals.

(b) A casino simulcasting permit holder shall develop and submit to the Board, as part of the submission required under § 1001a.19 (relating to casino simulcasting accounting controls and audit protocols), procedures for safeguarding and limiting access to the totalisator system and audio/video equipment utilized to transmit simulcast signals.

**§ 1001a.18. Transmission and display of live races.**

(a) Video display monitors shall be installed in approved areas of a licensed facility to deliver simulcast horse race meetings to patrons on video walls or other video display technology.

(b) A casino simulcasting permit holder shall offer all of the following to patrons at a simulcasting facility:

(1) Audio and video coverage of every race upon which patrons of the simulcasting facility are permitted to wager.

(2) Video coverage of race-related information for every race upon which patrons of the simulcasting facility are permitted to wager.

(c) A simulcasting facility shall be equipped with a system permitting the reception of transmissions of races and race-related information without interference or interception.

(d) All simulcast signals shall be encoded, and a casino simulcasting permit holder may not send the signals anywhere other than the licensed facility authorized in the act or this chapter.

(e) A casino simulcasting permit holder shall develop and implement a security system to protect the equipment being used to receive transmissions of races and race-related information from tampering.

(f) If the reception of the video coverage of a race is interrupted, the audio coverage of the race must continue to be presented.

(g) If the reception of the audio coverage of the race is interrupted, the video coverage of the race must continue to be displayed.

(h) If the reception of the audio and video coverage of a race is interrupted during the running of the race, wagering being conducted on future races at the simulcasting facility shall cease until the transmissions are restored. If the interruption of audio or video coverage, or both, prevents the display of a race at the simulcasting facility, a replay of the interrupted race must be displayed at the simulcasting facility as soon after the restoration as possible.

(i) At least 30 minutes prior to the beginning of wagering at the simulcasting facility, a test of the equipment used to receive and display races and race-related information at the simulcasting facility shall be conducted to ensure that the system is operating properly.

(j) A licensed racing entity which operates interstate or international simulcasting of horse race meetings in this Commonwealth shall have discretion to transmit all or some of the live races conducted at the racetrack to the licensed facility of a licensed gaming entity which has established a simulcasting facility. A race which is transmitted from an in-State sending track may be transmitted to all licensed gaming entities which have established simulcasting facilities.

(k) A licensed gaming entity which establishes a simulcasting facility and conducts casino simulcasting shall, as a condition of continued operation of casino simulcasting, receive all live races which are transmitted by in-State sending tracks.

(l) Casino simulcasting shall be limited to the transmission and display of thoroughbred horse racing and standardbred harness racing permitted under 3 Pa.C.S. Chapter 93 (relating to race horse industry reform).

(m) The Board and the Commission shall have access to the simulcast system or its signal.

**§ 1001a.19. Casino simulcasting accounting controls and audit protocols.**

(a) At least 90 days before the beginning of casino simulcasting, a casino simulcasting permit holder shall submit to the Board for approval all internal control

systems and audit protocols for the casino simulcasting permit holder's casino simulcasting operations.

(b) A casino simulcasting permit holder's internal controls and audit protocols shall:

(1) Provide for reliable records, accounts and reports of any financial event that occurs in the conduct of casino simulcasting, including reports to the Board and the Commission related to casino simulcasting.

(2) Provide for accurate and reliable financial records related to the conduct of casino simulcasting and the pari-mutuel system of wagering.

(3) Establish procedures and security for the counting, recording and storage of money generated from the conduct of casino simulcasting.

(4) Establish procedures and security standards for the maintenance of telecommunications equipment and video display technology used in connection with the conduct of casino simulcasting.

(5) Establish procedures and rules to govern the conduct of casino simulcasting and the responsibility of employees related to casino simulcasting.

(6) Establish procedures for the collection, recording and deposit of revenue from the conduct of casino simulcasting, including the roles of the Commission, the Department, licensed racing entities and licensed gaming entities in the collection and recording of the revenue.

(7) Establish reporting procedures and records required to ensure that all money generated from casino simulcasting is accounted for and winners' names, when required under applicable Federal or State law, are filed with the appropriate taxing authorities.

(8) Ensure that the system of pari-mutuel wagering used in the conduct of casino simulcasting is in accordance with 3 Pa.C.S. Chapter 93 (relating to race horse industry reform) and regulations of the Commission promulgated under 3 Pa.C.S. (relating to Agriculture Code).

(9) Ensure, in consultation with the Commission, the proper and timely accounting for and retention of percentages for pari-mutuel pools and the proper and timely distribution of money in any pari-mutuel pool generated from casino simulcasting.

(10) Ensure that all functions, duties and responsibilities related to casino simulcasting are appropriately segregated and performed in accordance with sound financial practices by qualified employees.

(11) Permit use of its simulcasting facility by the Board, the Bureau, the Commission and other persons authorized by the Board and the Commission to facilitate their ability to perform regulatory and oversight functions.

(c) The submission required under subsection (a) must include a detailed description of the casino simulcasting permit holders administrative and accounting procedures related to casino simulcasting, including its written system of internal controls. Each written system of internal controls must include all of the following:

(1) An organizational chart depicting appropriate functions and responsibilities of employees involved in casino simulcasting.

(2) A description of the duties and responsibilities of each position shown on the organizational chart.



(3) The record retention policy of the casino simulcasting permit holder.

(4) The procedure to be utilized to ensure that money generated from the conduct of casino simulcasting is safeguarded, including mandatory counting and recording procedures.

(5) Other items the Board, in consultation with the Commission, may request in writing to be included in the internal controls.

(6) A statement signed by the casino simulcasting permit holder's chief financial officer or other competent person attesting that the signatory believes, in good faith, that the system satisfies the requirements of the act and this section.

(d) Prior to authorizing a casino simulcasting permit holder to begin the conduct of casino simulcasting, the Board, in consultation with the Commission, will review the system of internal controls submitted under subsection (c) to determine whether it conforms to the requirements of this subchapter and whether it provides adequate and effective controls for the conduct of casino simulcasting.

(e) If a casino simulcasting permit holder intends to make a change or amendment to its system of internal controls, it shall submit the change or amendment electronically to the Bureau of Gaming Operations, in a manner prescribed by the Bureau of Gaming Operations. The casino simulcasting permit holder may implement the change or amendment on the 30th calendar day following the filing of a complete submission unless the casino simulcasting permit holder receives written notice tolling the change or amendment in accordance with subsection (f)(2) or written notice from the Board's Executive Director rejecting the change or amendment.

(f) If during the 30-day review period in subsection (e), the Bureau of Gaming Operations, in consultation with the Commission, preliminarily determines that a procedure in a submission contains an insufficiency likely to negatively affect the integrity of casino simulcasting or the control of revenue generated from pari-mutuel wagering, the Bureau of Gaming Operations, by written notice to casino simulcasting permit holder, will:

(1) Specify the nature of the insufficiency and, when possible, an acceptable alternative procedure.

(2) Direct that the 30-calendar-day review period in subsection (f) be tolled and that any internal controls at issue not be implemented until approved.

(g) A submission under this section shall be deemed insufficient and likely to negatively affect the integrity of casino simulcasting and the pari-mutuel system of wagering if the submission:

(1) Fails to provide information sufficient to permit the review of casino simulcasting or the reconstruction of pari-mutuel wagering handle and pari-mutuel wagering pool distributions.

(2) Fails to provide for the segregation of incompatible functions so that no employee is in a position to both commit an error or perpetrate a fraud and to conceal the error or fraud in the normal course of the employee's duties.

(3) Does not include forms or other materials referenced in the submission or required under the act or this chapter.

(4) Would implement operations or accounting procedures not authorized by the act or this subpart.

(5) Is dependent upon the use of equipment or related devices or software not approved by the Board or the Commission, unless the submissions are required as part of an authorized test of the equipment or related device or software.

(h) Whenever a change or amendment has been tolled under subsection (f)(2), the casino simulcasting permit holder may submit a revised change or amendment within 30 days of receipt of the written notice from the Bureau of Gaming Operations. The casino simulcasting permit holder may implement the revised change or amendment upon receipt of written notice of approval from the Board's Executive Director, in consultation with the Commission, or on the 30th calendar day following the filing of the revision unless the casino simulcasting permit holder receives written notice tolling the change or amendment in accordance with subsection (g) or written notice from the Board's Executive Director, in consultation with the Commission, rejecting the change or amendment.

#### **§ 1001a.20. Casino simulcasting record retention.**

(a) For the purposes of this section, "books, records and documents" means any book, record or document pertaining to, prepared in or generated by the operation of the licensed facility including all forms, reports, accounting records, ledgers, subsidiary records, computer generated data, internal audit records, correspondence and personnel records.

(b) As a condition of continued operation, a casino simulcasting permit holder shall agree to maintain all books, records and documents pertaining to casino simulcasting in a manner and location in this Commonwealth as approved by the Board, in consultation with the Commission. All books, records and documents shall:

(1) Be organized in a manner to clearly depict by separate records the total amount of money contributed to every pari-mutuel pool in accordance with the applicable provisions of 3 Pa.C.S. Chapter 93 (relating to race horse industry reform) and any regulation promulgated under 3 Pa.C.S. Chapter 93.

(2) Be segregated by separate accounts within the licensed gaming entity's books, records and documents, except for any books, records and documents that are common to slot machine operations, table game operations and casino simulcasting, as determined by the Board, in consultation with the Commission.

(3) Be immediately available for inspection upon request of the Board, the Commission, the Bureau, the Department, the Pennsylvania State Police or the Attorney General, or agents thereof, during all hours of operation of the casino simulcasting permit holder's simulcasting facility.

(4) Prepared and maintained in a complete, accurate and legible form. Electronic data must be stored in a format that ensures readability, regardless of whether the technology or software that created or maintained it has become obsolete.

(5) Retained in a secure location in the licensed facility that is equipped with a fire suppression system or at another location approved under subsection (d).

(6) Organized and indexed in a manner to provide immediate accessibility to the Board, the Commission, the Bureau, the Department, the Pennsylvania State Police or the Attorney General, or agents thereof.

(7) Destroyed only after expiration of the minimum retention period specified in subsection (c), except that

the Board may, in consultation with the Commission, upon the written request of a casino simulcasting permit holder and for good cause shown, permit the destruction at an earlier date.

(c) Original books, records and documents shall be retained by a casino simulcasting permit holder for a minimum of 5 years.

(d) A casino simulcasting permit holder may request, in writing, that the Board's Executive Director, in consultation with the Commission, approve a location outside the licensed facility to store original books, records and documents. The request must include all of the following:

(1) A detailed description of the proposed location, including security and fire suppression systems.

(2) The procedures under which of the Board, the Commission, the Bureau, the Department, the Pennsylvania State Police or the Attorney General, or agents thereof, shall be able to gain access to the original books, records and documents retained at the location outside the licensed facility.

(e) A casino simulcasting permit holder may request, in writing, that the Board's Executive Director, in consultation with the Commission, approve the electronic copying and storage of original books, records and documents. The request must include representations regarding all of the following:

(1) The processing, preservation and maintenance methods which will be employed to ensure that the books, records and documents are available in a format which makes them readily available for review and copying.

(2) The inspection and quality control methods which will be employed to ensure that the electronic books, records and documents exhibit a high degree of legibility and readability when displayed electronically or reproduced on paper.

(3) The availability of a computer and printer for use by the Board, the Commission, the Bureau, the Department, the Pennsylvania State Police or the Attorney General, or agents thereof, at the licensed facility or other location approved by the Board, in consultation with the Commission, and the readiness with which the books, records or documents being stored electronically can be located, read and reproduced.

(4) The availability of a detailed index of all information maintained electronically and arranged in a manner to permit the immediate location of any particular book, record or document.

(f) Nothing herein shall be construed as relieving a casino simulcasting permit holder from meeting any obligation to prepare or maintain any book, record or document required by any Federal, State or local government body, authority or agency.

**Subpart O. FANTASY CONTESTS**

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**CHAPTER 1201a. FANTASY CONTESTS GENERALLY**

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**§ 1201a.1. Scope.**

The purpose of this subpart is to implement and govern the operation and conduct of fantasy contests in this Commonwealth as provided for in 4 Pa.C.S. Chapter 3 (relating to fantasy contests).

**§ 1201a.2. Definitions.**

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

*Applicant*—A person who, on his own behalf or on behalf of another, is applying for permission to engage in any act or activity which is regulated under this subpart. If the applicant is a person other than an individual, the Board will determine the associated persons whose qualifications are necessary as a precondition to the licensing of the applicant.

*Beginner*—A participant who has entered fewer than 51 contests offered by a single licensed operator or who does not meet the definition of "highly-experienced player."

*Entry fee*—The cash or cash equivalent paid by a participant to a licensed operator to participate in a fantasy contest.

*Fantasy contest*—

(i) An online fantasy or simulated game or contest with an entry fee and a prize or award in which all of the following apply:

(A) The value of all prizes or awards offered to winning participants is established and made known to participants in advance of the contest and the value is not determined by the number of participants or the amount of any fees paid by those participants.

(B) All winning outcomes reflect the relative knowledge and skill of participants and are determined by accumulated statistical results of the performance of individuals, including athletes in the case of sports events.

(C) The winning outcome is not based on the score, point spread or performance of a single actual team or combination of teams, or solely on a single performance of an individual athlete or player in a single actual event.

(ii) The term does not include social fantasy contests.

*Fantasy contest account*—The formal electronic system implemented by a licensed operator to record a participant's entry fees, prizes or awards and other activities related to participation in the licensed operator's fantasy contests.

*Fantasy contest license*—A license issued by the Board authorizing a person to offer fantasy contests in this Commonwealth in accordance with this subpart.

*Fantasy contest terminal*—A computerized or electronic terminal or similar device within a licensed facility that allows participants to do all of the following:

- (i) Register for a fantasy contest account.
- (ii) Pay an entry fee.
- (iii) Select athletes for a fantasy contest.
- (iv) Receive winnings.
- (v) Otherwise participate in a fantasy contest.

*Highly experienced player*—

- (i) Any participant who has done one of the following:
  - (A) Entered more than 1,000 fantasy contests.
  - (B) Won more than three fantasy contest prizes or awards valued at \$1,000 or more.

(ii) Once a participant is classified as a highly-experienced player, a player shall remain classified as a highly-experienced player.

*Key employee*—An individual who is employed by an applicant for a fantasy contest license or a licensed operator in a director or department head capacity or who is empowered to make discretionary decisions that regulate fantasy contest operations as determined by the Board.

*Licensed entity representative*—A person, including an attorney, agent or lobbyist, acting on behalf of or authorized to represent the interest of any applicant, licensee, or other person authorized by the Board to engage in any act or activity which is regulated under the provisions of this subpart regarding any matter before, or which may reasonably be expected to come before, the Board.

*Licensed facility*—

(i) The physical land-based location at which a licensed gaming entity is authorized to place and operate slot machines and, if authorized by the Board, to conduct table games.

(ii) The term includes any of the following:

(A) An area of a licensed racetrack at which was previously authorized under section 1207(17) (relating to regulatory authority of board) of the act to operate slot machines prior to April 28, 2018.

(B) A Board-approved interim facility or temporary facility.

(C) An area of a hotel which the Board determines is suitable to conduct table games.

(D) An area of a licensed facility where casino simulcasting is conducted, as approved by the Board.

*Licensed operator*—A person who holds a fantasy contest license.

*Participant*—An individual who participates in a fantasy contest, whether the individual is located in this Commonwealth or another jurisdiction.

*Person*—A natural person, corporation, publicly traded corporation, foundation, organization, business trust, estate, limited liability company, licensed corporation, trust, partnership, limited liability partnership, association or any other form of legal business entity.

*Principal*—An officer, director or person who directly holds a beneficial interest in or ownership of the securities of an applicant for a fantasy contest license or a licensed operator, a person who has a controlling interest in an applicant for a fantasy contest license or a licensed operator or who has the ability to elect a majority of the board of directors of a licensed operator or to otherwise control a licensed operator, lender or other licensed financial institution of an applicant for a fantasy contest license or a licensed operator, other than a bank or lending institution which makes a loan or holds a mortgage or other lien acquired in the ordinary course of business, underwriter of an applicant for a fantasy contest license or a licensed operator or other person or employee of an applicant for a fantasy contest license or a licensed operator deemed to be a principal by the Board.

*Prize or award*—Anything of value worth \$100 or more, or any amount of cash or cash equivalents.

*Publicly traded corporation*—A person, other than an individual, who:

(i) Has a class or series of securities registered under the Securities Exchange Act of 1934 (15 U.S.C.A. §§ 78a—78qq).

(ii) Is a registered management company under the Investment Company Act of 1940 (15 U.S.C.A. §§ 80a-1—80a-64).

(iii) Is subject to the reporting requirements under section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C.A. § 78o(d)) by reason of having filed a registration statement that has become effective under the Securities Act of 1933 (15 U.S.C.A. §§ 77a—77aa).

*Script*—A list of commands that a fantasy contest related computer software program can execute that is created by a participant or third party not approved by the licensed operator to automate processes on a licensed operator's fantasy contest platform.

*Season-long fantasy contest*—A fantasy contest offered by a licensed operator that is conducted over an entire sports season.

*Social fantasy contest*—A fantasy contest which meets one or more of the following criteria:

(i) Nothing is offered to participants other than game-based virtual currency that cannot be redeemed for cash, merchandise or anything of value outside the context of game play.

(ii) The contest is free to all participants.

(iii) The entity offering the contest does not receive compensation other than an administrative fee for the maintenance of statistical information in connection with the contest.



(iv) The winnings offered are of no greater value than the lowest individual fee charged to a single participant for entering or participating in the contest.

(v) The contest encompasses an entire season of the activity in which the underlying competition is being conducted and the winnings offered, if any, are determined by agreement of the participants only to distribute fully the participants' contributions to a fund established to grant the winnings for the contest.

*Suspicious transaction*—A transaction between a licensed operator or an employee of a licensed operator and an individual that involves the acceptance or redemption by a person of cash or cash equivalent involving or aggregating \$5,000 or more which a licensed operator or employee of a licensed operator knows, suspects or has reason to believe:

(i) Involves funds derived from illegal activities or is intended or conducted to conceal or disguise funds or assets derived from illegal activities.

(ii) Is part of a plan to violate or evade a law or regulation to avoid a transaction reporting requirement under the laws or regulations of the United States or the Commonwealth, including a plan to structure a series of transactions to avoid a transaction reporting requirement under the laws of the United States or the Commonwealth.

(iii) Has no apparent lawful purpose or is not the type of transaction in which a person would normally be expected to engage and the licensed operator or employee knows of no reasonable explanation for the transaction after examining the available facts, including the background and possible purpose of the transaction.

**CHAPTER 1202a. APPLICATION REQUIREMENTS**

Sec.

- 1202a.1. General licensing requirements.
- 1202a.2. Fantasy contest licenses.
- 1202a.3. Principals.
- 1202a.4. Key employees.
- 1202a.5. Gaming service providers.

**§ 1202a.1. General licensing requirements.**

A fantasy contest license holder may conduct fantasy contests in this Commonwealth in accordance with 4 Pa.C.S. Chapter 3 (relating to fantasy contests) and this subpart.

**§ 1202a.2. Fantasy contest licenses.**

(a) An application for a fantasy contest license shall be submitted on forms or in an electronic format supplied or approved by the Board and must contain all of the following information:

(1) The identity of the applicant as follows:

(i) If the applicant is an individual, the name, social security number, contact information and address of the applicant.

(ii) If the applicant is a corporation, the name and business address of the corporation, Federal employer identification number, the state of its incorporation, and the full name, contact information and business address of each officer and director thereof.

(iii) If the applicant is a foreign corporation, the name and business address of the corporation, whether it is qualified to do business in this Commonwealth, and the full name, contact information and business address of each officer and director thereof.

(iv) If the applicant is a partnership or joint venture, the name, contact information and business address of each officer thereof.

(2) The name and location of the applicant's licensed facility, if applicable.

(3) The name, contact information and business address of the person having custody of the applicant's financial records.

(4) The name and business address, job title, fingerprints and a photograph of each principal and key employee of the applicant who will be involved in fantasy contests and who is not currently licensed by the Board, if known. If the principal and key employee are currently licensed by the Board, the application must specifically identify their participation in offering fantasy contests.

(5) Information and documentation concerning financial background and resources, as the Board may require, to establish by clear and convincing evidence the financial stability, integrity and responsibility of the applicant.

(6) A copy of any agreement or agreements the applicant has entered into or a detailed description of the terms and conditions of any agreement the applicant will enter into to facilitate the operation or conduct of fantasy contests.

(7) Any other information the Board may require.

(b) Upon request of the Board or Board staff, the applicant shall cooperate and provide supplemental information in support of its application. The applicant shall provide requested documents, records, supporting data and other information within the time period specified in the request or, if no time is specified, within 30 days of the date of the request. If the applicant fails to provide the requested information within the required time period in the request, the Board may deny the application.

(c) The application, and amendments thereto, and other specific documents designated by the Board shall be filed promptly with the Board with the applicable application fee.

(d) An application and related materials that have been submitted to the Board will become the property of the Board and will not be returned to the applicant.

(e) An abbreviated application for a fantasy contest license by an applicant that is also a licensed gaming entity may be submitted on forms or in an electronic format supplied or approved by the Board, and the applicant shall not be required to submit the information required under subsection (a) if the applicant has previously provided the information to the Board in conjunction with a prior application to become a licensed gaming entity.

**§ 1202a.3. Principals.**

(a) A principal as defined in this subpart shall apply for licensure as a principal in accordance with § 433a.8 (relating to principal applications).

(b) In addition to information required under § 433a.8, an individual required to be licensed as a principal, unless otherwise directed by the Board, shall submit all of the following:

(1) The nonrefundable application fee posted on the Board's web site.

(2) A description of responsibilities as a principal.

(3) Details relating to a similar license, permit or other authorization obtained in another jurisdiction.

(4) The consent to a background investigation by the Bureau and a release to obtain the information necessary for the completion of the background investigation.

(5) Other information required by the Board.

(c) Following review of the application and background investigation, the Board may approve a principal license if the applicant has proven by clear and convincing evidence that the applicant is a person of good character, honesty and integrity, and is eligible and suitable to be licensed as a principal.

(d) A principal license is not transferable.

(e) A temporary credential, which may be valid up to 270 days, may be issued by the Board to a principal if the Board determines additional time is needed to complete an investigation for licensure.

#### § 1202a.4. Key employees.

(a) A key employee as defined in this subpart shall apply for licensure as a key employee in accordance with § 435a.2 (relating to key employee license).

(b) In addition to information required under § 435a.2, an individual required to be licensed as a key employee, unless otherwise directed by the Board, shall submit all of the following:

(1) The nonrefundable application fee posted on the Board's web site.

(2) A description of employment responsibilities.

(3) The consent to a background investigation by the Bureau and a release to obtain the information necessary for the completion of the background investigation.

(4) Details relating to a similar license or other authorization obtained in another jurisdiction.

(5) Other information required by the Board.

(c) Following review of the application and background investigation, the Board may approve a key employee license if the applicant has proven by clear and convincing evidence that the applicant is a person of good character, honesty and integrity, and is eligible and suitable to be licensed as a key employee.

(d) A temporary credential, which may be valid up to 270 days, may be issued by the Board to a key employee if the Board determines additional time is needed to complete an investigation for licensure.

(e) An individual may not perform duties associated with a position that requires a key employee license prior to receiving a temporary or permanent credential unless otherwise authorized by the Board.

#### § 1202a.5. Gaming service providers.

The Board may, in its discretion, require a licensed operator who is not a licensed gaming entity to apply for a certificate or registration as a gaming service provider to provide fantasy contests to, or on behalf of, a licensed gaming entity under 4 Pa.C.S. § 342 (relating to licensed gaming entities).

### CHAPTER 1203a. APPLICATION PROCESS

Sec.

1203a.1. Application review and processing.

1203a.2. Application withdrawal.

1203a.3. Renewals.

1203a.4. Licensed entity representatives.

#### § 1203a.1. Application review and processing.

(a) The Board will review applications submitted under this subpart to ensure compliance with 4 Pa.C.S. Chapter 3 (relating to fantasy contests) and Board regulations.

(b) If an applicant fails to include any required documentation or information, the applicant will be notified and given an opportunity to cure the deficiency.

(c) Upon a determination that the prerequisites for filing have been met, the application will be accepted for filing and Board staff, if applicable, will:

(1) Obtain information as may be necessary to determine the qualifications of the applicant and any matter relating to the application.

(2) Promptly conduct an investigation of the applicant and on any matter relating to the application, if applicable.

(3) Request the Department to promptly conduct or update a tax clearance review.

(4) Request the Pennsylvania State Police or Federal Bureau of Investigation to conduct or update a criminal history review.

(5) Request any agencies, entities or persons to provide information to the Board as deemed necessary by the Board.

(d) An application submitted under this subpart and information obtained by Board staff relating to the application will be part of the evidentiary record to be utilized by the Board when deciding to approve, condition, issue or deny a fantasy contest license.

(e) A determination as to the merit of the applicant to receive a fantasy contest license will be made within 120 days. If the license is not approved, the Board will provide the applicant with the justification for not issuing the fantasy contest license.

#### § 1203a.2. Application withdrawal.

(a) A request for withdrawal of an application may be made at any time prior to the Board taking action on the application in accordance with all of the following requirements:

(1) A request for withdrawal of an entity applying for a license, certification or registration, or an individual applying for a principal license shall be made by filing a petition with the Board in accordance with § 493a.4 (relating to petitions generally).

(2) A request for withdrawal of an individual applying for a key employee license shall be made on a form supplied by the Bureau of Licensing. If Board staff objects to the request for withdrawal, the person filing the form will be notified and may be required to file a petition for withdrawal with the Board in accordance with § 493a.4.

(b) The petition or form must set forth the reasons for the withdrawal.

(c) When rendering a decision on a petition for withdrawal, the Board may set the conditions of withdrawal and may deny or grant the request with or without prejudice.

(d) Unless the Board otherwise directs, fees or other payments relating to an application, license, registration or certification are not refundable by reason of the withdrawal.

#### § 1203a.3. Renewals.

(a) Licenses and registrations issued under this subpart will be for a term of 5 years from the date of issuance.

(b) An application for renewal of a license or registration shall be submitted at least 180 days prior to the

expiration of the license or registration and must include an update of the information in the initial application and any prior renewal applications.

(c) A license or registration for which an application for renewal has been timely filed will continue in effect until the Board acts upon the application for renewal.

**§ 1203a.4. Licensed entity representatives.**

(a) A licensed entity representative shall register with the Board in a manner prescribed by the Board. The registration must include the name, employer or firm, business address and business telephone number of the licensed entity representative and any licensed operator, applicant for licensure or other person being represented.

(b) A licensed entity representative has an affirmative duty to update its registration information on an ongoing basis. Failure to update a registration is punishable by the Board.

**CHAPTER 1204a. FANTASY CONTEST LICENSES**

Sec.

- 1204a.1. Fantasy contest license issuance and statement of conditions.
- 1204a.2. Licensed fantasy contest operator change of ownership or control.

**§ 1204a.1. Fantasy contest license issuance and statement of conditions.**

(a) *Issuance criteria.* In addition to the criteria in 4 Pa.C.S. Chapter 3 (relating to fantasy contests), the Board will issue or renew a fantasy contest license if all of the following criteria have been established by the applicant:

(1) The applicant has fulfilled each condition set by the Board or contained in 4 Pa.C.S. Chapter 3, including the execution of a statement of conditions.

(2) The applicant is found suitable consistent with the laws of the Commonwealth and is otherwise qualified to be issued a fantasy contest license.

(b) *Statement of conditions.*

(1) The applicant, as a condition precedent to the issuance of a fantasy contest license, shall execute a Statement of Conditions in the manner and form required by the Board. Execution of the Statement of Conditions constitutes the acceptance of each provision in the Statement of Conditions by the applicant.

(2) Failure to fully comply with any provision in an executed Statement of Conditions constitutes a violation and may result in Board-imposed administrative sanctions, up to and including revocation, against a licensee.

**§ 1204a.2. Licensed fantasy contest operator change of ownership or control.**

(a) A licensed fantasy contest operator shall notify the Board upon becoming aware of any proposed change of ownership of the licensed fantasy contest operator by a person or group of persons acting in concert which involves any of the following:

(1) more than 15% of a licensed fantasy contest operator's securities or other ownership interests.

(2) the sale, other than in the ordinary course of business, of a licensed fantasy contest operator's assets.

(3) any other transaction or occurrence deemed by the Board to be relevant to fantasy contest license qualifications.

(b) Notwithstanding the provisions of subsection (a), a licensed fantasy contest operator shall not be required to notify the Board of any acquisition by an institutional

investor under subsection (a)(1) or (2) if the institutional investor holds less than 10% of the securities or other ownership interests referred to in subsection (a)(1) or (2), the securities or interests are publicly traded securities and its holdings of such securities were purchased for investment purposes only and the institutional investor files with the Board a certified statement to the effect that the institutional investor has no intention of influencing or affecting, directly or indirectly, the affairs of the licensed fantasy contest operator. However, the institutional investor may vote on matters put to the vote of the outstanding security holders. Notice to the Board shall be required prior to completion of any proposed or contemplated change of ownership of a licensed fantasy contest operator that meets the criteria of this section.

(c) For purposes of this section, a change of control of a licensed fantasy contest operator will be deemed to have occurred when a person or group of persons acquires:

(1) more than 20% of a licensed fantasy contest operator's securities, assets or other ownership interests.

(2) more than 20% of the securities or other ownership interests of a corporation or other form of business entity that owns directly or indirectly at least 20% of the voting or other securities or other ownership interests of the licensed fantasy contest operator.

(3) any other interest in a licensed fantasy contest operator which allows the acquirer to control the licensed fantasy contest operator.

(d) A licensed fantasy contest operator shall notify the Bureau and the Bureau of licensing by filing a notification of proposed transfer of interest form immediately upon becoming aware of any proposed or contemplated change of control of the licensed fantasy contest operator.

(e) Prior to acquiring a controlling interest in an licensed fantasy contest operator, the acquirer shall file a petition in accordance with § 493a.4 (relating to petitions generally) requesting Board approval of the acquisition. The petition must include all of the following:

(1) A copy of all documents governing the acquisition.

(2) Completed applications for the acquiring company, as required under this chapter, principals and key employees.

(f) A person or group of persons seeking to acquire a controlling interest in a licensed fantasy contest operator shall promptly provide any additional information requested by the Board and Board staff and cooperate with the Bureau in any investigations related to the petition filed under subsection (c).

(g) A person or group of persons may not acquire a controlling interest in a licensed fantasy operator until the petition required under subsection (c) has been approved. A person or group of persons seeking to acquire a controlling interest in a licensed fantasy contest operator and the licensed fantasy contest operator may enter into an agreement of sale that is contingent on Board approval of the petition.

(h) The requirements in this section do not apply to the acquisition of a controlling interest in a licensed fantasy contest operator when all of the following conditions are met:

(1) The acquirer is an existing licensed fantasy contest operator.

(2) The existing licensed fantasy contest operator has provided the Bureau and the Bureau of licensing notifica-



tion and a copy of all documents governing the acquisition at least 60 days prior to the acquisition.

(3) After reviewing the documentation, the Bureau and the Bureau of licensing determine that the filing of a petition is not required.

#### CHAPTER 1205a. FANTASY CONTESTS

Sec.

- 1205a.1. Fantasy contests generally.
- 1205a.2. Procedures to govern the conduct of fantasy contests.
- 1205a.3. Fantasy contest accounts.
- 1205a.4. Fantasy contest licensed operator duties.
- 1205a.5. Fantasy contest licensed operator restrictions.
- 1205a.6. Licensed gaming entities.
- 1205a.7. Record and data retention.

##### § 1205a.1. Fantasy contests generally.

A fantasy contest licensee may offer a fantasy contest only under all of the following conditions:

(1) The value of all prizes or awards offered to winning participants is established and made known in advance of the fantasy contest.

(2) The value of the prize or award is not determined by the number of participants or the amount of fees paid by the participants.

(3) The winning outcome reflects the relative knowledge and skill of the participant.

(4) The winning outcome is not based on the score, point spread or performance of a single actual team or combination of teams, or solely on a single performance of an individual athlete or player in a single actual event.

(5) The winning outcome is based on statistical results accumulated from fully completed athletic sports contests or events, except that participants may be credited for statistical results accumulated in a suspended or shortened sports event which has been partially completed on account of weather or other natural or unforeseen event.

##### § 1205a.2. Procedures to govern the conduct of fantasy contests.

(a) Each fantasy contest license holder shall establish and implement procedures governing the conduct of fantasy contests, as approved by the Board.

(b) The governing procedures must include, at a minimum, all of the following:

(1) A participant may not be eligible to engage in a fantasy contest by a licensed operator without first establishing a fantasy contest account, unless the fantasy contest is through a fantasy contest terminal in a licensed facility.

(2) Prior to a participant engaging in a fantasy contest or making a deposit in a fantasy contest account, the licensed operator shall verify the age, location and identity of the participant. A person under 18 years of age located in this Commonwealth may not engage in a fantasy contest by a licensed operator. If the participant is utilizing a fantasy contest terminal in a licensed facility, the participant shall be 21 years of age or older to engage in a fantasy contest.

(3) Each time a participant enters his registered fantasy account, he shall enter his unique username and password, or other means as approved by the Board, to verify his identity.

(4) Prior to accepting of a participant's entry fee for a specific fantasy contest, all Board-approved rules, prizes and award values must be posted on the specific fantasy contest homepage in a clear and decipherable manner.

(5) Provisions to prohibit a participant who is not a beginner from participating in beginner fantasy contests, except as provided by 4 Pa.C.S. § 325(4.1)(ii) (relating to conditions of licensure). If a participant who is not a beginner attempts to and successfully enters a beginner contest, the participant's contest entry shall be voided, the participant's account shall be temporarily suspended from all further fantasy contest participation for 15 days and the licensed operator shall ban the participant from further participation in beginner fantasy contests offered by the licensed operator.

(6) Provisions to prohibit a highly experienced player from participating in fantasy contests that exclude highly experienced players. In accordance with 4 Pa.C.S. § 325(4.2) if a participant who is a highly experienced player attempts to and successfully enters a fantasy contest for which the participant is ineligible, the participant's contest entry shall be voided, the participant's account shall be suspended and the licensed operator shall ban the individual from further participation in fantasy contests offered by the licensed operator.

(7) Upon the creation of a fantasy contest account or the engagement of a fantasy contest terminal in a licensed facility, the licensed operator shall require the participant to identify any professional sports in which he currently engages in and which are subject to a fantasy contest and shall limit the participant's account from entering into contests of that sport.

(8) Allowing a person to restrict himself from entering a fantasy contest or accessing a fantasy contest account for a specific period of time as determined by the participant and implement procedures to prevent the person from participating in the licensed operator's fantasy contests.

(9) Allowing a person to restrict the total amount of deposits that the participant may pay to the licensed operator for a specific time period established by the participant and implement procedures to prevent the participant from exceeding the limit.

(10) Establishing procedures to monitor for and prevent the use of scripts.

(11) Establishing procedures determining when a fantasy contest locks and when no further entries or substitutions can be made. The procedures must require that the prize stipulated in the entry rules is available and can be demonstrated upon request of the Board.

(12) A process for a fantasy contest operator to receive and respond to participant complaints and reconciling a participant's fantasy contest account.

##### § 1205a.3. Fantasy contest accounts.

(a) A participant may only enter a fantasy contest by a licensed operator by first establishing a fantasy contest account with the fantasy contest operator, unless the fantasy contest is through a fantasy contest terminal in a licensed facility.

(b) The licensed operator shall perform all of the following with respect to each participant account:

(1) Verify the age, location and identity of participants in a fantasy contest prior to accepting an entry in a fantasy contest by the participant account holder.

(2) Assure the participant has funds on account sufficient to pay the fantasy contest entry fee at the time of entry.

(3) Require that each time a participant enters his registered fantasy account, the participant shall enter his unique username and password to verify his identity.

(4) Provide the account holder the option to:

(i) Restrict the participant from entering a fantasy contest or accessing a fantasy contest account for a specific period of time as determined by the account holder.

(ii) Restrict the total amount of deposits that the participant may pay to the licensed operator for a specific time period established by the participant.

(iii) Restrict the total amount of entry fees that the participant may pay to the licensed operator for a specific time period established by the participant.

(iv) Restrict the number of fantasy contests the participant may enter for a specific time period as determined by the account holder.

(v) With respect to subparagraphs (i)—(iv), a participant may make his limits more restrictive at any time but any increase to these limits must become effective only after the time-period of the previous limit has expired and the player reaffirms the requested increase.

(5) Prevent unauthorized withdrawals from a fantasy contest account.

(6) Establish protocols for participants to withdraw funds whether the account is open or closed.

(7) Establish procedures for closing accounts and paying balances.

(8) Establish procedures for the disbursement of unclaimed prizes.

**§ 1205a.4. Fantasy contest licensed operator duties.**

(a) A licensed operator shall comply with the conditions of licensure in 4 Pa.C.S. Chapter 3 (relating to fantasy contests) and the Board’s regulations.

(b) A licensed operator shall continually monitor fantasy contests for conduct which violates the provisions and restrictions of 4 Pa.C.S. Chapter 3 and the Board’s regulations, and immediately take steps to report this conduct to the Bureau upon discovery.

(c) A licensed operator shall implement measures to ensure the confidentiality of participants’ personal, financial and account information, and to prevent the public disclosure of this information except as provided by law.

(d) A licensed operator shall timely remit all taxes and assessments to the Department as provided for in 4 Pa.C.S. Chapter 3.

(e) A licensed operator shall cooperate with the Board, the Bureau, the Department and law enforcement authorities performing any function or duties related to monitoring, investigating or enforcing 4 Pa.C.S. Chapter 3 or regulations relating to fantasy contest-related activities.

(f) A licensed operator shall permit access to the licensee’s premises and fantasy contest terminal premises used in connection with the conduct of fantasy contests for the Board, the Bureau, the Department and the Pennsylvania State Police to facilitate the ability to perform regulatory oversight and law enforcement functions.

(g) A licensed operator shall maintain a record of all participant complaints along with a description of how

the complaint was resolved and reconciled, which shall be made available to the Board upon request.

(h) A licensed operator shall submit to the Bureau a record of any suspicious transactions as provided in 4 Pa.C.S. § 325(4.5) (relating to conditions of licensure) within 2 business days of having reason to know that a suspicious transaction has occurred.

(i) Each licensed operator shall maintain an office, place of business, or registered agent for service of process in this Commonwealth and shall file with the Board the address and contact information for a person or representative in this Commonwealth authorized to receive service of process, documents and requests issued by the Board. If the Board makes a request for information or delivers documents or a notice to that address, it shall constitute receipt of those documents or requests by the licensed operator or applicant. If the Board will require access to the database for the licensed operator, this information shall be kept and be made available to the Board at the Pennsylvania office, place of business, or registered agent address, or at the offices of the Board.

**§ 1205a.5. Fantasy contest licensed operator restrictions.**

A licensed operator shall not do any of the following:

(1) Permit an individual under 18 years of age in this Commonwealth to participate in a fantasy contest.

(2) Permit an individual under 21 years of age to participate in a fantasy contest which is conducted within a licensed facility.

(3) Offer a fantasy contest based in whole or in part on collegiate or high school events or players.

(4) Permit a participant to enter a fantasy contest prior to establishing a fantasy contest account, unless the licensed operator is also a licensed gaming entity and the participant enters the fantasy contest through a fantasy contest terminal located within the licensed gaming entities licensed facility.

(5) Establish a fantasy contest account for a person who is not an individual.

(6) Alter the rules established for a fantasy contest after a participant has entered the fantasy contest.

(7) Issue credit to a participant to establish or fund a fantasy contest account.

(8) Permit the use of scripts by participants. A licensed operator shall implement technologies to prevent the use of scripts.

(9) Knowingly market to a participant during a time period in which the participant has self-excluded from the licensed operator’s fantasy contests.

(10) Knowingly allow a self-excluded person to collect, keep or retain a prize or award.

(11) Knowingly accept a deposit or entry in excess of a limit established by a participant for the specific time period established by the participant.

(12) Share confidential information that could affect fantasy contest play with third parties until the information is made publicly available.

(13) Knowingly permit a principal, an employee of a licensed operator or a relative living in the same household of an employee, or a principal of a licensed operator to become a participant in a fantasy contest offered by any licensed operator in which the licensed operator offers a prize or award.

**§ 1205a.6. Licensed gaming entities.**

(a) A licensed gaming entity which holds a fantasy contest license may petition the Board for authority to place and operate fantasy contest terminals within the licensed gaming entity's licensed facility.

(b) A licensed gaming entity may not place a fantasy contest terminal on its approved gaming floor. The Board's Executive Director will approve the placement of terminals within the licensed facility.

(c) A participant entering a fantasy contest through a fantasy contest terminal is not required to establish an account with the licensed gaming entity prior to entering the fantasy contest.

(d) A licensed gaming entity which offers a fantasy contest through a fantasy contest terminal may offer slot machine promotional play or table game match play to a participant who is at least 21 years of age or older as a prize or award or for participating in a fantasy contest conducted by the licensed gaming entity, as approved by the Board.

(e) A licensed gaming entity which obtains authorization from the Board to conduct fantasy contests through fantasy contest terminals is subject to all requirements and restrictions, except for those relating to prior account establishment, in this chapter and Chapters 1206a—1209a.

**§ 1205a.7. Record and data retention.**

(a) A licensed operator shall retain account information for a 5-year period, including records of deposits into and out of a fantasy contest account, winnings, payouts and withdrawals, and record of participant play of fantasy contests.

(b) A licensed operator shall retain records of each fantasy contest conducted by the licensed operator for a 5-year period.

(c) A licensed operator shall retain copies of all advertisements for at least 2 years from the date of the last use of the advertisement and shall retain records to identify where advertisements were placed.

**CHAPTER 1206a. ACCOUNTING AND INTERNAL CONTROLS**

Sec.

1206a.1. Fantasy contest accounting and internal controls.

**§ 1206a.1. Fantasy contest accounting and internal controls.**

(a) At least 45 days prior to commencing fantasy contests under this subpart, a fantasy contest licensee or an applicant for a fantasy contest license shall submit to the Board for approval all internal control systems and audit protocols for the fantasy contest operations.

(b) An applicant for a fantasy contest license who is conducting fantasy contests in this Commonwealth prior to the effective date of 4 Pa.C.S. Chapter 3 (relating to fantasy contests) shall submit a copy of its internal control systems and audit protocols for the fantasy contest operations simultaneously with its application for a fantasy contest license.

(c) A fantasy contest licensed operator's internal controls and audit protocols must include all of the following:

(1) Provide for reliable records, accounts and reports of any financial event that occurs in the conduct of fantasy contests, including reports to the Board related to fantasy contests.

(2) Provide for accurate and reliable financial records related to the conduct of fantasy contests, including by or through participants located in this Commonwealth.

(3) Establish procedures and security for the recordation of wagering, winnings, and fantasy contest adjusted revenue and taxation.

(4) Establish procedures and security standards for the maintenance of fantasy contests and associated equipment used in connection with the conduct of fantasy contests.

(5) Establish procedures and rules to govern the conduct of fantasy contests and the responsibility of employees related to fantasy contest.

(6) Establish procedures for the collection, recording and deposit of revenue from the conduct of fantasy contests by or through participants located in this Commonwealth.

(7) Establish reporting procedures and records required to ensure that all money generated from fantasy contests by or through participants located in this Commonwealth is accounted for.

(8) Ensure that all functions, duties and responsibilities related to fantasy contests are appropriately segregated and performed in accordance with sound financial practices by qualified employees.

(9) Ensure the confidentiality of the participant's personal and financial information.

(10) Ensure the segregation of participant funds from operational funds in separate accounts and maintain a reserve in the form of cash, cash equivalents, security deposits held by banks and processors, an irrevocable letter of credit, payment processor reserves and receivables, a bond or a combination thereof in an amount sufficient to pay all prizes and awards offered to winning participants.

(d) The submissions required under subsections (a) and (b) must include a detailed description of the fantasy contest license operator's administrative and accounting procedures related to fantasy contests, including its written system of internal controls. Each written system of internal controls must include all of the following:

(1) An organizational chart depicting appropriate functions and responsibilities of employees involved in fantasy contests.

(2) A description of the duties and responsibilities of each position shown on the organizational chart.

(3) A detailed narrative description of the administrative and accounting procedures to satisfy the requirements in 4 Pa.C.S. § 325 (relating to conditions of licensure).

(4) The record retention policy of the licensed operator.

(5) The procedure to be utilized to ensure that money generated from the conduct of fantasy contests is safeguarded, including mandatory counting and recording procedures.

(6) Procedures to ensure that recorded accountability for assets is compared with actual assets at intervals required by the Board and appropriate action is taken with respect to discrepancies.

(7) Procedures to be utilized by an employee of a licensed operator in the event of a malfunction of a fantasy contest terminal or other equipment used in the conduct of fantasy contests.



(8) Procedures to be utilized by a licensed operator to prevent individuals under the age of 18 or fantasy contest self-excluded individuals from entering fantasy contests.

(9) Other items the Board may request in writing to be included in the internal controls.

(10) A statement signed by the chief financial officer of the proposed licensed operator or other competent person and the chief executive officer of the proposed licensed operator or other competent person attesting that the officer believes, in good faith, that the system satisfies the requirements in 4 Pa.C.S. § 325.

(e) Prior to authorizing a licensed operator to begin the conduct of fantasy contests, the Board will review the system of internal controls and audit protocols submitted under subsections (a) and (b) to determine whether it conforms to the requirements in this chapter and whether it provides adequate and effective controls for the conduct of fantasy contests.

(f) If a licensed operator intends to make a change or amendment to its system of internal controls, it shall submit the change or amendment electronically to the Bureau of Gaming Operations in a manner prescribed by the Bureau of Gaming Operations. The licensed operator may implement the change or amendment upon receipt of approval or on the 30th calendar day following the filing of a complete submission unless the fantasy contest licensee receives written notice tolling the change or amendment in accordance with subsection (g) or written notice from the Board's Executive Director rejecting the change or amendment.

(g) If during the 30-day review period in subsection (f), the Bureau of Gaming Operations preliminarily determines that a procedure in a submission contains an insufficiency likely to negatively affect the integrity of fantasy contests or the control of revenue generated from fantasy contests, the Bureau of Gaming Operations, by written notice to the licensed operator, will:

(1) Specify the nature of the insufficiency and, when possible, an acceptable alternative procedure.

(2) Direct that the 30-calendar day review period in subsection (f) be tolled and that any internal controls at issue not be implemented until approved under subsection (i).

(h) A submission under this section shall be deemed insufficient and likely to negatively affect the integrity of fantasy contests if the submission:

(1) Fails to provide information sufficient to permit the review of fantasy contests.

(2) Fails to provide for the segregation of incompatible functions so that no employee is in a position to commit an error or perpetrate a fraud and to conceal the error or fraud in the normal course of the employee's duties.

(3) Does not include forms or other materials referenced in the submission or required under 4 Pa.C.S. Chapter 3 or this subpart.

(4) Would implement operations or accounting procedures not authorized by 4 Pa.C.S. Chapter 3 or this subpart.

(i) When a change or amendment has been tolled under subsection (g), the licensed operator may submit a revised change or amendment within 30 days of receipt of the written notice from the Bureau of Gaming Operations. The licensed operator may implement the revised change or amendment upon receipt of written notice of approval from the Board's Executive Director or on the 30th

calendar day following the filing of the revision unless the licensed operator receives written notice tolling the change or amendment in accordance with subsection (g) or written notice from the Board's Executive Director rejecting the change or amendment.

**CHAPTER 1207a. ADVERTISING**

Sec.  
1207a.1. Fantasy contest advertising.

**§ 1207a.1. Fantasy contest advertising.**

(a) Advertisements related to fantasy contests used by a licensed operator through any form of media, Internet application, or fantasy contest terminal or its agent may not do any of the following:

(1) Contain false or misleading information. An advertisement will be considered misleading if it makes representations about average winnings without equally prominently representing the average net winnings of all players and that not all players will achieve the results referenced.

(2) Portray participation in sporting events by minors (other than professional athletes who may be minors), students, schools, colleges or their settings.

(3) Represent endorsements by minors, college athletes, colleges or college athletic associations.

(4) Appear in a publication that is aimed exclusively or primarily at minors, or individuals attending an elementary or secondary school or school-related event.

(5) Fail to disclose conditions or limiting factors associated with the advertisement.

(b) A licensed operator may not directly market to a person on the Board's fantasy contest self-exclusion list.

(c) Any advertisement directed specifically towards participants in this Commonwealth shall include a statement providing the following: "If you or someone you know has a gambling problem, help is available. Call (1-800-GAMBLER)."

(d) A licensed operator or fantasy contest terminal operator or its agent shall discontinue as expeditiously as possible the use of a particular advertisement in this Commonwealth or directed to residents in this Commonwealth upon receipt of written notice that the Board's Office of Compulsive and Problem Gaming has determined that the use of the particular advertisement in this Commonwealth could adversely impact the public or the integrity of fantasy gaming.

**CHAPTER 1208a. COMPULSIVE AND PROBLEM GAMING**

Sec.  
1208a.1. Signage requirements.  
1208a.2. Problem gambling information.

**§ 1208a.1. Signage requirements.**

(a) A fantasy contest licensee shall conspicuously post notices on the licensee's web site, including on the account registration and access page, a statement providing the following: "If you or someone you know has a gambling problem, help is available. Call (1-800-GAMBLER)."

(b) The operator of any fantasy contest terminal shall conspicuously post notice on the front of the fantasy contest terminal and notices on the opening screen and on an account registration or access screen, if applicable, a statement providing the following: "If you or someone you know has a gambling problem, help is available. Call (1-800-GAMBLER)."

**§ 1208a.2. Problem gambling information.**

A licensed operator shall make available through its web site a Responsible Gaming page, as approved by the Board's Office of Compulsive and Problem Gaming (Office), containing links to compulsive and problem gaming treatment information and provider sites and materials provided by the Office regarding compulsive and problem gaming.

**CHAPTER 1209a. FANTASY CONTEST SELF-EXCLUSION**

Sec.

- 1209a.1. Fantasy contest self-exclusion definitions.
- 1209a.2. Fantasy contest self-exclusion procedure.
- 1209a.3. Fantasy contest self-exclusion list.
- 1209a.4. Duties of fantasy contest licensees.
- 1209a.5. Removal from fantasy contest self-exclusion list.

**§ 1209a.1. Fantasy contest self-exclusion definitions.**

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

*Fantasy contest activity*—The play of fantasy contests at any location in this Commonwealth.

*Fantasy contest related activity*—An activity related to the play of fantasy contests including creating a player account, funding a player account or withdrawing funds on account.

*Fantasy contest self-excluded person*—A person whose name and identifying information is included, at the person's request, on the fantasy contest self-exclusion list maintained by the Board.

*Fantasy contest self-exclusion list*—A list of names and identifying information of persons who, under this chapter, have voluntarily agreed to be excluded from the conduct of fantasy contests for a period of time as selected by the person.

*Winnings*—Any money or thing of value received from, or owed by, a fantasy contest licensee as a result of a fully executed fantasy contest transaction.

**§ 1209a.2. Fantasy contest self-exclusion procedure.**

(a) A person requesting to be self-excluded from fantasy contest activity shall submit a completed Request for Voluntary Self-Exclusion from Fantasy Contest Activities Form to the Board by one of the following methods:

- (1) Electronically on the Board's web site.
- (2) In person by scheduling an appointment at the Board's Harrisburg office, one of the Board's other offices or at a licensed facility. To make an appointment, a person may contact the Office of Compulsive and Problem Gaming at (717) 346-8300 or [problemgambling@pa.gov](mailto:problemgambling@pa.gov).
- (b) When requesting fantasy contest self-exclusion, the person shall do all of the following:
  - (1) Provide all of the following information:
    - (i) The individual's complete name, including any aliases or nicknames.
    - (ii) Current address.
    - (iii) Telephone number.
    - (iv) E-mail address.
    - (v) Age.
    - (vi) Date of birth.

(vii) Social security number, or the last 4 digits of the individual's social security number, when voluntarily provided in accordance with section 7 of the Privacy Act of 1974 (5 U.S.C.A. § 552a).

(2) Identify the period of time in years for which the individual seeks to self-exclude, which shall not be less than 1 year.

(3) Agree that, during any period of voluntary self-exclusion, the person may not collect any winnings or recover any losses resulting from any fantasy contest activity.

(4) Agree to release, indemnify, hold harmless and forever discharge the Commonwealth, the Board and all fantasy contest licensees from claims, damages, losses, expenses or liability arising out of, by reason of or relating to the fantasy contest self-excluded person or to any other party for any harm, monetary or otherwise, which may arise as a result of one or more of the following:

(i) The failure of a fantasy contest licensee to withhold fantasy contest privileges from or restore fantasy contest privileges to a fantasy contest self-excluded person.

(ii) Otherwise permitting or not permitting a fantasy contest self-excluded person to engage in fantasy contest activity while on the list of fantasy contest self-excluded persons.

(iii) Confiscation of the individual's winnings.

(5) Agree to other conditions established by the Board.

(c) A link to the form to be used to request placement on the fantasy contest self-exclusion list must be available on the responsible gaming webpage of each fantasy contest licensed operator's web site.

(d) The information provided in subsection (b) shall be updated by the fantasy contest self-excluded person within 30 days of a change. Updated information shall be submitted on a change of information form to the following address, or submitted online in the "Update My Information" webform on the Board's web site. A copy of the form can be obtained by calling the OPG at (717) 346-8300, by e-mail at [problemgambling@pa.gov](mailto:problemgambling@pa.gov), or by writing to:

PENNSYLVANIA GAMING CONTROL BOARD  
OFFICE OF COMPULSIVE AND  
PROBLEM GAMBLING  
P.O. BOX 69060  
HARRISBURG, PA 17106-9060

**§ 1209a.3. Fantasy contest self-exclusion list.**

(a) The Board will maintain the official fantasy contest self-exclusion list and shall make the fantasy contest self-exclusion list available to each licensed operator by means of the Board's self-exclusion system.

(b) The information made available to licensed operators by the Board will include all of the following information concerning a person who has been added to the fantasy contest self-exclusion list:

- (1) The individual's complete name, including any aliases or nicknames.
- (2) Current address.
- (3) Telephone number.
- (4) E-mail address.
- (5) Age.
- (6) Date of birth.

(7) Social security number, or the last 4 digits of the individual's social security number, when voluntarily provided in accordance with section 7 of the Privacy Act of 1974 (5 U.S.C.A. § 552A).

(c) A licensed operator shall establish procedures to ensure that its database of self-excluded persons is updated to correspond with the Board's current fantasy contest self-exclusion list.

(d) A licensed operator shall maintain a copy of the fantasy contest self-exclusion list and establish procedures to ensure that the copy of the fantasy contest self-exclusion list is updated at least every 2 business days with the information made available to licensed operators by means of the Board's self-exclusion system and that all appropriate employees and agents of the licensed operator are notified of the updates to the fantasy contest self-exclusion list.

(e) Information furnished to or obtained by the Board under this chapter will be deemed confidential and will not be disclosed except in accordance with this chapter and 4 Pa.C.S. § 325(6)(ii) (relating to conditions of licensure).

(f) Except as provided in 4 Pa.C.S. § 325(6)(ii), licensed operators and employees or agents thereof may not disclose the name of, or any information about, a person who has requested fantasy contest self-exclusion to anyone other than employees and agents of the licensed operator whose duties and functions require access to the information.

(g) A fantasy contest self-excluded person may not collect in any manner or in any proceeding any winnings or recover any losses arising as a result of any gaming activity for the entire period of time that the person is on the fantasy contest self-exclusion list.

(h) Winnings incurred by a fantasy contest self-excluded person shall be remitted to the Board to support compulsive and problem gambling programs of the Board.

(i) For the purposes of this section, winnings issued to or redeemed by a fantasy contest self-excluded person will be presumed to constitute winnings subject to remittance to the Board.

**§ 1209a.4. Duties of fantasy contest licensees.**

(a) A fantasy contest licensee shall do all of the following:

(1) Deny fantasy contest related activities to a fantasy contest self-excluded person.

(2) Ensure that a fantasy contest self-excluded persons may not establish an account or deposit money in an established account while the person is on the fantasy contest self-exclusion list.

(3) Retain a record of any attempts of a fantasy contest self-excluded person to engage in fantasy contest related activity and to provide the record to the Board's Office of Compulsive and Problem Gaming (Office) in a form and manner as approved by the Office. The record must include the name of the self-excluded person, the date of the occurrence and a description of the attempted fantasy contest related activity.

(4) Notify the Office within 24 hours of identifying that an individual on the self-exclusion list has gained access to the individual's account or has entered a fantasy contest.

(5) Make available to patrons materials explaining the fantasy contest self-exclusion program.

(b) The list of fantasy contest self-excluded persons is confidential, and any distribution of the list to an unauthorized source constitutes a violation of 4 Pa.C.S. Chapter 3 (relating to fantasy contests).

**§ 1209a.5. Removal from fantasy contest self-exclusion list.**

An individual who has elected to self-exclude from fantasy contest related activity will remain on the self-exclusion list for the duration of the period selected and will be removed from the fantasy contest self-exclusion list only upon the conclusion of the period of self-exclusion.

[Pa.B. Doc. No. 21-1226. Filed for public inspection July 30, 2021, 9:00 a.m.]







