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See Part II page 2451
for the Rules and Regulations

Part I

Agencies in this issue

The Courts
Department of Agriculture
Department of Banking and Securities
Department of Environmental Protection
Department of General Services
Department of Health
Department of Human Services
Environmental Quality Board
Independent Regulatory Review Commission
Pennsylvania Public Utility Commission
Philadelphia Parking Authority
State Board of Education
Susquehanna River Basin Commission
Detailed list of contents appears inside.



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

No. 569, April 2022

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CONTENTS

THE COURTS

JUDICIAL SYSTEM GENERAL PROVISIONS

Proposed State parole guidelines..... 2344
 Proposed State parole recommitment ranges..... 2351

LOCAL COURT RULES

Dauphin County

Promulgation of local rules; No. 1793 S 1989 2360

MINOR COURT CIVIL RULES

Order amending Rules 301, 302 and 321 and adopting Rule 350 of the Pennsylvania Rules of Civil Procedure governing actions and proceedings before magisterial district judges; No. 466 magisterial rules docket 2357

EXECUTIVE AND INDEPENDENT AGENCIES

DEPARTMENT OF AGRICULTURE

Notices

Addendum to the general quarantine order; swine exhibition requirements 2362
 Addendum to the interstate and international quarantine order; swine exhibition requirements 2363

DEPARTMENT OF BANKING AND SECURITIES

Notices

Actions on applications..... 2365

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Notices

Applications, actions and special notices..... 2366
 Bid opportunity..... 2426
 Federal Consistency under the Coastal Zone Management Act; Erie Harbor North Pier repair project..... 2426
 Recycling grant awards under the Municipal Waste Planning, Recycling and Waste Reduction Act of 1988, Act 101..... 2427

DEPARTMENT OF GENERAL SERVICES

Notices

Exemption from requirements 2433

DEPARTMENT OF HEALTH

Notices

Organ Donation Advisory Committee virtual public meeting 2433

DEPARTMENT OF HUMAN SERVICES

Rules and Regulations

Definitions and redetermination (Part II)..... 2548

Notices

Income limits and co-payments for the subsidized child care program..... 2434

ENVIRONMENTAL QUALITY BOARD

Rules and Regulations

CO₂ Budget Trading Program (Part II)..... 2471

INDEPENDENT REGULATORY REVIEW COMMISSION

Notices

Notice of comments issued 2440
 Notice of filing of final rulemaking..... 2442

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Notices

General rule transaction and transfer of control 2443
 Natural gas service (2 documents) 2443
 Service of notice of motor carrier applications..... 2443
 Water service (2 documents)..... 2444

PHILADELPHIA PARKING AUTHORITY

Notices

Service of notice of motor carrier applications in the City of Philadelphia..... 2445

STATE BOARD OF EDUCATION

Rules and Regulations

Certification of professional personnel (Part II) 2451

SUSQUEHANNA RIVER BASIN COMMISSION

Notices

Grandfathering registration notice 2445
 Projects approved for consumptive uses of water 2446
 Projects approved for minor modification 2447
 Public hearing..... 2447

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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.

Source Notes give the history of regulations. To see if there have been recent changes not yet codified, check the List of *Pennsylvania Code* Chapters Affected in the most recent issue of the *Pennsylvania Bulletin*.

A chronological table of the history of *Pennsylvania Code* sections may be found at www.legis.state.pa.us/cfdocs/legis/CH/Public/pcde_index.cfm.

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

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Printing Format

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

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

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

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

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

Court Rules in Titles 201—246 of the Pennsylvania Code

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

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

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

Fiscal Notes

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

A fiscal note provides the following information: (1) the designation of the fund out of which the appropriation providing for expenditures under the action or procedure shall be made; (2) the probable cost for the fiscal year the program is implemented; (3) projected cost estimate of the program for each of the 5 succeeding fiscal years; (4) fiscal history of the program for which expenditures are to be made; (5) probable loss of revenue for the fiscal year of its implementation; (6) projected loss of revenue from the program for each of the 5 succeeding fiscal years; (7) line item, if any, of the General Appropriation Act or other appropriation act out of which expenditures or losses of Commonwealth funds shall occur as a result of the action or procedures; and (8) recommendation, if any, of the Secretary of the Budget and the reasons therefor.

The omission of an item indicates that the agency text of the fiscal note states that there is no information available with respect thereto. In items (3) and (6) information is set forth for the first through fifth fiscal years, following the year the program is implemented, which is stated. In item (4) information is set forth for the current and two immediately preceding years. In item (8) the recommendation, if any, made by the Secretary of the Budget is published with the fiscal note. "No fiscal impact" means no additional cost or revenue loss to the Commonwealth or its local political subdivision is intended. See 4 Pa. Code Chapter 7, Subchapter R (relating to fiscal notes).

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List of Pa. Code Chapters Affected

The following numerical guide is a list of the chapters of each title of the *Pennsylvania Code* affected by documents published in the *Pennsylvania Bulletin* during 2022.

4 Pa. Code (Administration)

Adopted Rules

1	936
7	336
601a	1454
602a	1454
603a	1454
604a	1454
605a	1454
606a	1454
607a	1454

Statements of Policy

9	1112, 1276, 1742, 2218
---	------------------------

16 Pa. Code (Community Affairs)

Proposed Rules

41	2122
----	------

22 Pa. Code (Education)

Adopted Rules

49	2451
741	356
741a	356

Statements of Policy

238	1009
-----	------

25 Pa. Code (Environmental Protection)

Adopted Rule

121	1875
129	1875
145	2471

Proposed Rules

92a	361
109	1245
121	689
129	689
261a	235
271	363
279	363

28 Pa. Code (Health and Safety)

Adopted Rules

1141	359
1151	359
1161	359
1171	359
1181	359
1191	359
1211	359
1230	359

Proposed Rules

201	1626
209	1626
211	1626

31 Pa. Code (Insurance)

Proposed Rules

90j	830
-----	-----

Statements of Policy

89	2128
----	------

34 Pa. Code (Labor and Industry)

Adopted Rules

101	1480
401	971
403	971

49 Pa. Code (Professional and Vocational Standards)

Adopted Rules

3	1485
13	1600
16	1899
17	1899
18	1899
19	444
21	1916
37	17
41	446
42	448
47	1608
48	1608
49	1608

Proposed Rules

1	1736
6	1978
18	985
31	1980
42	835

52 Pa. Code (Public Utilities)

Proposed Rules

59	992
----	-----

55 Pa. Code (Human Services)

Adopted Rules

123	2548
133	2548

58 Pa. Code (Recreation)

Adopted Rules

113	983
623b	1491
627b	1491
629b	1491

Proposed Rules

63	1494
65	1494, 1496
461a	2211
469a	2211

67 Pa. Code (Transportation)

Adopted Rules

55	68
----	----

101 Pa. Code (General Assembly)

Statements of Policy

31	1642
----	------

204 Pa. Code (Judicial System General Provisions)**Adopted Rules**

29	339
71	341
82	964
83	1733, 1974

Proposed Rules

81	942
83	942, 965
303	583
309	2344
311	2351

207 Pa. Code (Judicial Conduct)**Adopted Rules**

1	680, 2208
---------	-----------

210 Pa. Code (Appellate Procedure)**Adopted Rules**

19	9
----------	---

Proposed Rules

16	1452
----------	------

231 Pa. Code (Rules of Civil Procedure)**Adopted Rules**

200	440
400	10, 682
1915	826
Part II	441, 684

234 Pa. Code (Rules of Criminal Procedure)**Proposed Rules**

1	205, 346
5	205, 346
6	346
7	205
10	205, 346

237 Pa. Code (Juvenile Rules)**Proposed Rules**

5	11
---------	----

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

300	2357
-----------	------

249 Pa. Code (Philadelphia Rules)

Unclassified	230, 827
--------------------	----------

252 Pa. Code (Allegheny County Rules)

Unclassified	13
--------------------	----

255 Pa. Code (Local Court Rules)

Unclassified	14, 15, 16, 231, 232, 233, 353, 443, 685, 828, 968, 969, 1111, 1453, 1599, 1734, 1975, 1976, 2208, 2360
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THE COURTS

Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

PART VIII. CRIMINAL SENTENCING COMMISSION ON SENTENCING [204 PA. CODE CH. 309]

Proposed State Parole Guidelines

The Pennsylvania Commission on Sentencing hereby publishes for public comment proposed State Parole Guidelines, 204 Pa. Code Chapter 309, Subchapter A, §§ 309.1—309.5. The proposed guidelines are set forth in Annex A. A previous version of the guidelines was published in the *Pennsylvania Bulletin* on July 11, 2020 (50 Pa.B. 3409).

The Commission is authorized by 42 Pa.C.S. § 2154.5 to adopt guidelines that shall be considered by the Pennsylvania Parole Board and any other paroling entity when exercising its power to parole and reparole all persons sentenced by any court in this Commonwealth to imprisonment in any correctional institution. The guidelines are to:

- (1) Give primary consideration to the protection of the public and to victim safety;
- (2) Provide for due consideration of victim input;
- (3) Be designed to encourage inmates and parolees to conduct themselves in accordance with conditions and rules of conduct set forth by the department or other prison facilities and the board;
- (4) Be designed to encourage inmates and parolees to participate in programs that have been demonstrated to be effective in reducing recidivism, including appropriate drug and alcohol treatment programs;
- (5) Provide for prioritization of incarceration, rehabilitation and other criminal justice resources for offenders posing the greatest risk to public safety; and
- (6) Use validated risk assessment tools, be evidence based and take into account available research relating to the risk of recidivism, minimizing the threat posed to public safety and factors maximizing the success of reentry.

There is no right to parole in the Commonwealth. There is, however, the right to consideration of parole. The State Parole Guidelines are advisory and do not remove the discretionary authority of the Pennsylvania Parole Board.

On June 4, 2020, the Commission approved for the purpose of public hearings proposed State Parole Guidelines. Two virtual (Zoom webinar) hearings were held to receive public comment: a hearing on August 31, 2020, limited to testimony from incarcerated individuals housed at four State Correctional Institutions; and a hearing on September 9, 2020, open to testimony from the general public.

On September 10, 2020, the Commission tabled action on adoption of the parole guidelines pending validation and deployment by the Pennsylvania Department of Corrections of a new risk assessment instrument, the Static Risk Offender Needs Guide—Revised (STRONG-R), intended to replace the Level of Service Inventory—

Revised (LSI-R) as the validated risk assessment instrument. On March 10, 2022, due to delays in the implementation of STRONG-R, the Commission voted to resume consideration of the proposed parole guidelines, to serve as interim parole guidelines until the validation and deployment of the STRONG-R and subsequent reconstruction of the parole guidelines. The Commission approved minor changes to the proposed State Parole Guidelines that were published on June 4, 2020 and authorized the scheduling of hearings to receive public comment.

In accordance with 42 Pa.C.S. § 2155, the Commission shall publish in the *Pennsylvania Bulletin* proposed guidelines and hold public hearings not earlier than 30 days and not later than 60 days thereafter to afford an opportunity for the following persons and organizations to testify:

- (i) Pennsylvania District Attorneys Association
- (ii) Chiefs of Police Associations
- (iii) Fraternal Order of Police
- (iv) Public Defenders Organization
- (v) Law School faculty members
- (vi) Pennsylvania Parole Board
- (vii) Pennsylvania Department of Corrections
- (viii) Pennsylvania Bar Association
- (ix) Pennsylvania Wardens Association
- (x) Pennsylvania Association on Probation, Parole and Corrections
- (xi) Pennsylvania Conference of State Trial Judges
- (xii) Any other interested person or organization

The Commission has scheduled the following public hearings:

<i>Hearing I.</i>	
<i>Date:</i>	Tuesday, May 31, 2022
<i>Time:</i>	10:00 a.m.
<i>Zoom:</i>	Zoom Webinar Registration Link: https://bit.ly/PCS2022May31PubHrng

Testimony during Hearing I is limited to incarcerated individuals committed to the Pennsylvania Department of Corrections. Those wishing to attend Hearing I via Zoom Webinar may register at the link provided above.

<i>Hearing II.</i>	
<i>Date:</i>	Wednesday, June 1, 2022
<i>Time:</i>	2:00 p.m.
<i>Zoom:</i>	Webinar Registration Link: https://bit.ly/PCS2022June1PubHrng
<i>Onsite Location:</i>	Pennsylvania Capitol Complex, 523 Irvis Building, Harrisburg, PA

Those wishing to attend Hearing II and/or testify during Hearing II via Zoom Webinar may register at the link provided above. Those wishing to testify in person during Hearing II may register by contacting the Commission (Cathy Dittman—814-863-5729 or cwd2@psu.edu) to schedule on-site testimony.

Persons or organizations wishing to testify are asked to register at least five business days prior to the hearing and to provide an electronic copy of any testimony. Written comments from persons or organizations not wishing to testify should be received by the Commission at least five business days before the last-scheduled public hearing. Forward all testimony and documents to Cathy Dittman (cwd2@psu.edu).

All Commission meetings are open to the public. Any proposals adopted by the Commission will be submitted to the General Assembly for review by way of publication in the *Pennsylvania Bulletin* and will become effective 90 days after publication unless rejected by concurrent resolution of the General Assembly.

REPRESENTATIVE TODD STEPHENS,
Chair

Commentary

This Commentary highlights key factors considered in the initial development and subsequent modification of the proposed State Parole Guidelines. The proposed State Parole Guidelines are set forth in Annex A.

As provided in statute, 61 Pa.C.S. § 6102 (relating to operation of parole system generally):

The parole system shall operate consistently with the following provisions:

(1) The parole system provides several benefits to the criminal justice system, including the provision of adequate supervision of the offender while protecting the public, the opportunity for the offender to become a useful member of society and the diversion of appropriate offenders from prison.

(2) In providing these benefits to the criminal justice system, the Board and any other paroling entity shall first and foremost seek to protect the safety of the public.

(3) In addition to this goal, the Board and any other paroling entity shall address input by crime victims, assist in the fair administration of justice by ensuring the custody, control and treatment of paroled offenders, shall consider any applicable guidelines established by the commission and shall ensure that parole proceedings, release and recommitment are administered in an efficient and timely manner.

Further, 42 Pa.C.S. § 2154.5 (relating to adoption of guidelines for parole) requires the Commission to adopt guidelines for parole that consider the following:

(1) Give primary consideration to the protection of the public and to victim safety;

(2) Provide for due consideration of victim input;

(3) Be designed to encourage inmates and parolees to conduct themselves in accordance with conditions and rules of conduct set forth by the department or other prison facilities and the board;

(4) Be designed to encourage inmates and parolees to participate in programs that have been demonstrated to be effective in reducing recidivism, including appropriate drug and alcohol treatment programs;

(5) Provide for prioritization of incarceration, rehabilitation and other criminal justice resources for offenders posing the greatest risk to public safety; and

(6) Use validated risk assessment tools, be evidence based and take into account available research relating to

the risk of recidivism, minimizing the threat posed to public safety and factors maximizing the success of reentry.

Pursuant to 61 Pa.C.S. § 6137 (relating to parole power), the Board is required to consider guidelines for parole and reparole established by the Commission, and to report to the Commission the parole and reparole decision and provide a contemporaneous written statement of reasons for any deviation from the guidelines. In addition to consideration of the guidelines, the Board may develop and use internal decisional instruments.

The guidelines for parole established by the Commission are advisory guidelines, which must be considered by the Board but for which the Board may exercise discretion in deviating from the recommendations. The guidelines do not remove the discretionary authority of the Pennsylvania Parole Board, and do not prevent the Board from adopting policies and procedures related to parole decision-making.

As described in the document published prior to the 2020 public hearings, the Commission has proposed a two-step process for consideration of state parole. The first step involves the preparation and consideration of the State Parole Guidelines recommendation; the second step involves the consideration by the Board of these guidelines and other factors that may require or suggest a deviation from the guidelines.

The preparation of the State Parole Guidelines recommendations involves two categories of factors: risk and preparedness. As required by statute, a validated risk assessment instrument, the Level of Service Inventory—Revised (LSI-R), is used to address public and victim safety, while the analysis of objective criteria related to behavior and compliance and the weighting of factors identified during the parole interview are used to address readiness for parole. Based on these factors, and whether the individual's current or prior convictions include a violent offense, the proposed State Parole Guidelines provide recommendations to grant or refuse parole. The State Parole Guidelines Matrices, found at § 309.4(a) and (b) contain the parole recommendations.

The parole guidelines also require the Board to consider statutory mandates and factors such as public safety inputs and reentry needs to further individualize the decision by the Board and inform the exercise of discretion. The State Parole Guidelines Form, found at § 309.5, is used to document and report decisions by the Board and reasons for deviation from the guidelines to the Commission.

Following the public hearings held in 2020, the Commission approved several modifications to the proposed State Parole Guidelines that were initially published. These include changes to the interview factors in order to give greater consideration to progress in rehabilitation, treatment, and education; replacing override factors with a non-exclusive list of reasons for deviation from the parole guidelines; and collecting additional information based on the parole decision: when parole is granted, conditions imposed that are not required by statute nor recommended by a validated risk assessment case management plan; and when parole is denied, reasons for scheduling a review that is more than one year from the date of the parole decision. The Commission also continued discussions with the Department of Corrections and the Parole Board regarding the transition away from the use of the LSI-R as the validated risk assessment instrument.

On September 10, 2020, the Commission tabled action on adoption of the parole guidelines pending validation and deployment by the Pennsylvania Department of Corrections (DOC) of a new risk assessment instrument, the Static Risk Offender Needs Guide—Revised (STRONG-R), which is intended to replace the LSI-R as the validated risk assessment instrument. Although the LSI-R has been validated for the general DOC population, concerns have been raised about predictive validity for specific populations (e.g., African Americans, females). While the LSI-R continues to be used by the DOC and the Parole Board, work is underway to adopt the STRONG-R for use with the DOC population, to provide improved reliability and validity, to facilitate reentry by using a single instrument within the institutional and in the community, and to take advantage of the enhanced case management attributes of this new instrument.

Due to delays in the implementation of STRONG-R and recognizing the continued use of the LSI-R by the DOC and Parole Board, the Commission voted on March 10, 2022 to resume consideration of the State Parole Guidelines. Because of the nearly two-year delay in action, the Commission voted to publish a revised version of the proposed guidelines, and to schedule public hearings. If adopted and implemented following public hearings, the State Parole Guidelines will serve as interim parole guidelines until the validation and deployment of the STRONG-R, and the subsequent reconstruction of the parole guidelines.

Commentary on Annex A

§ 309.1. Preliminary provisions.

Sub-section (a) provides the statutory authority for adopting guidelines for parole (42 Pa.C.S. § 2154.5).

Sub-section (b) provides definitions of terms used in the guidelines, as obtained from the Pennsylvania Parole Board, Department of Corrections, and Commission on Sentencing.

§ 309.2. State parole guidelines standards.

Section 309.2 addresses standards provided in statute for consideration of the guidelines by the Pennsylvania Parole Board, and the reporting of decisions to the Commission.

§ 309.3. Procedure for determining state parole guidelines.

The guidelines recommendations are based on two categories of factors: 1) the risk to public safety, as measured by the risk of recidivism and 2) an assessment of an offender's preparedness for parole release, as measured by pre-interview and interview factors. Both categories were developed based on data analysis of past parole decisions, recidivism, and decision makers' policies and philosophies.

The risk score utilizes the ten criminogenic domains of the Level of Services Inventory-Revised (LSI-R). Scores range from 0 to 54, with higher scores indicating a higher rate of recidivism risk. The guidelines include three risk levels based on risk score: low (0—19), medium (20—33), and high (34 and greater).

The preparedness score is based on seven pre-interview factors and four interview factors. Each is scored as a '1' or '0,' with '1' being more positive or indicating success. Pre-interview factors are a combination of actuarial and dynamic factors and include the Department of Corrections recommendation. Interview factors are grounded in the professional judgement of the decision makers. The

guidelines include three preparedness levels based on preparedness scores: low (0—7), medium (8-9), and high (10-11).

The recommendation to grant or refuse parole is based on the intersection of the risk and preparedness categories. These slightly vary depending upon whether the offender has a current or past conviction for a violent offense.

The guidelines are advisory, and the Board may deviate from the guidelines. Reasons for deviation are required and must be reported to the Commission with other parole-related information. Reasons include but are not limited to mental health or medication compliance status, negative interest in parole, an outstanding detainer, judicial input, prosecution or public safety input, and if the maximum sentence date occurs in less than one year.

The guidelines apply to parole decisions for offenders initially being considered for parole and to those previously denied parole. They also apply to parole violators being considered for re-parole.

§ 309.4. State parole guidelines matrices.

The state parole matrices contain recommendations to grant or refuse parole based on two categories of factors: risk of re-offense and preparedness for parole. Each cell recommends either 'grant' or 'refuse' parole. One matrix (a) applies to offenders with a current (instant) or previous conviction for a violent offense. The other matrix (b) applies to offenders without a current (instant) or previous conviction for a violent offense. The recommendations are based on recidivism analysis and grant rates, with a difference between the two matrices found at the intersection of the medium preparedness and medium risk categories.

§ 309.5. State parole guidelines form.

The form documents the risk level associated with the LSI-R score, all pre-interview and interview factors and the associated preparedness level, the state parole guidelines recommendation based on the applicable matrix (violent, non-violent), the decision by the Board, any reason(s) for deviation from the guidelines, and information on conditions of parole or reasons for delay in reviewing a case in which parole is denied.

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART VIII. CRIMINAL SENTENCING

CHAPTER 309. PAROLE GUIDELINES

Subchapter A. STATE PAROLE GUIDELINES

§ 309.1. Preliminary provisions.

(a) Authorization.

(1) As authorized by 42 Pa.C.S. § 2154.5 (relating to adoption of guidelines for parole), the Commission shall adopt guidelines that shall be considered by the Pennsylvania Parole Board when exercising its power to parole and reparole all persons sentenced by any court in this Commonwealth to imprisonment in any state correctional institution.

(i) The guidelines shall do all of the following:

(A) Give primary consideration to the protection of the public and to victim safety;

(B) Provide for due consideration of victim input;

(C) Be designed to encourage inmates and parolees to conduct themselves in accordance with conditions and rules of conduct set forth by the department or other prison facilities and the Board;

(D) Be designed to encourage inmates and parolees to participate in programs that have been demonstrated to be effective in reducing recidivism, including appropriate drug and alcohol treatment programs;

(E) Provide for prioritization of incarceration, rehabilitation and other criminal justice resources for offenders posing the greatest risk to public safety; and

(F) Use validated risk assessment tools, be evidence based and take into account available research relating to the risk of recidivism, minimizing the threat posed to public safety and factors maximizing the success of reentry.

(ii) Notwithstanding any other provision of law, this section shall not remove the discretionary parole authority of the Board when exercising its power to parole and reparole.

(b) *Definitions.* For purposes of this chapter:

“Aggregated Sentence.” Two or more consecutive sentences that have been combined whereby the aggregate minimum term is the sum of the consecutive minimum terms and the aggregate maximum term is the sum of the consecutive maximum terms.

“Conviction Offense.” Offense for which the original sentence was imposed.

“Court.” A court of record.

“Detainer.” A written order of the court or paroling authority to hold a person in custody in a correctional institution pending further legal action.

“Hearing Examiner.” An agent of the Parole Board who is empowered to sit on parole revocation panels, conduct parole hearings in lieu of panels and conduct parole interviews on behalf of the Parole Board.

“Judicial Proceeding.” A sentencing hearing in which all offenses for which the offender is convicted are pending before the court for sentencing at the same time. A judicial proceeding may include multiple OTNs.

“Non-Violent Offender.” An offender not currently or previously convicted of a violent offense, for which the State Parole Guidelines Matrix (Non-Violent) applies. Non-violent offenders include but are not limited to those eligible for the following:

“Rebuttable Parole.” A statutorily designated non-violent inmate who has been certified by the DOC based on a good conduct record and nonviolent history.

“Recidivism Risk Reduction Incentive (RRRI).” A sentence imposed upon a non-violent inmate that can allow the opportunity to reduce the minimum sentence upon completion of recommended programming, while maintaining a good conduct record.

“Short Sentence Parole.” Offenders sentenced to state incarceration with an aggregate minimum sentence of two years or less or a recidivism risk reduction incentive minimum sentence of two years or less, excluding ineligibility as defined in 61 Pa.C.S. § 6137.1, may be approved by the Board for parole

without requiring an interview. If an offender is committed to the Department of Corrections after the expiration of the minimum sentence, parole may be approved within 30 days after commitment.

“Original Sentence.” The sentence resulting from the original conviction. It is from this sentence the Board paroles the inmate and the parolee serves the remaining time on the street unless recommitted by the Board.

“Panel.” A two-member unit of the Parole Board comprised of either two Board Members or one Board Member and one Hearing Examiner, empowered to make parole release decisions and recommitment decisions.

“Parole.” The conditional release from imprisonment of an inmate from a correctional facility to serve the remainder of his/her unexpired sentence in the community under supervision as long as (s)he satisfactorily complies with all terms and conditions provided in the parole order.

“Parole Preparedness Category.” One of two factors used to determine the recommendations contained in the State Parole Guidelines matrix. The parole preparedness category is a scale based on 11 factors identified prior to and during the parole interview, intended to measure an inmate’s readiness for parole release. A higher score indicates greater preparedness. One point is assigned for each positive assessment; 0 points for each negative assessment.

“Parole Risk Category.” One of two factors used to determine the recommendations contained in the State Parole Guidelines matrix. The parole risk category is determined through the Level of Service Inventory-Revised (LSI-R). The LSI-R is a validated risk-screening instrument used by the Department of Corrections. LSI-R assesses an inmate’s general risk based on each of 10 criminogenic domains. Scores range from 0 to 54, with scores of 0 to 19 designated as low risk, scores of 20 to 33 designated as medium risk, and scores of 34 to 54 designated high risk.

“Pennsylvania Parole Board (Board).” An independent executive branch agency comprised of nine members appointed by the Governor and confirmed by the Senate for six-year terms.

“Reasons for deviation.” Common reasons found for deviation from parole guidelines include mental health/medication compliance, negative interest in parole, judicial input, prosecution/public safety input, detainer status, and less than one year until maximum sentence reached. Other reasons may apply. Decision makers are required to provide one or more reasons when deviating from the State Parole Guidelines recommendation.

“Sentencing Guidelines Software Web Application (SGS Web).” A JNET-based application operated by the Commission which includes the modules for Sentencing, Resentencing, and Parole Guidelines. SGS Web serves as the source of data for the original reported sentence and associated information and the reporting source for revocations and resentences.

“State Parole.” The Pennsylvania Parole Board has paroling authority for offenders sentenced to state incarceration.

“Underlapping Concurrent Sentence.” A sentence that is served at the same time as the controlling sentence but has a shorter minimum and/or maximum sentence than the controlling sentence.

“*Violent Offender.*” An offender with a current or previous conviction as provided below, or offenses otherwise designated by the Pennsylvania Parole Board as violent offense, for which the State Parole Guidelines Matrix (Violent) applies:

42 Pa.C.S. § 9714(g)

42 Pa.C.S. § 9718.1

42 Pa.C.S. § 9799.14

§ 309.2. State parole guidelines standards.

(a) *Guidelines.* The Board shall consider the State Parole Guidelines when exercising its power to parole and reparole all persons sentenced by any court in this Commonwealth to a state correctional institution.

(b) *Effective Date.* The State Parole Guidelines apply to all persons sentenced to a state correctional institution and considered for parole on or after January 1, 2023. Amendments to the parole guidelines shall apply to all persons sentenced to a state correctional institution and considered for parole on or after the effective date of the Amendment.

(c) *Reasons.* In every case in which the Board renders a parole decision, the Board shall make as part of the record a statement of the reason or reasons for the decision to grant or refuse parole.

(d) *Deviation from the Guidelines.* In every case in which the Board deviates from the guidelines, the Board shall identify reasons for deviation from the guidelines, and the reasons for the deviation from the guidelines shall be recorded on the State Parole Guidelines Form, a copy of which shall be electronically transmitted to the Pennsylvania Commission on Sentencing in the manner described in § 309.2(e).

(e) *Reporting decision.* Unless otherwise provided by the Commission, the JNET-based Sentencing Guidelines Software application (SGS Web) shall be used at the Board’s direction to prepare and submit State Parole Guidelines Forms and guidelines-required parole decision information for each consideration of parole or reparole. An example of the State Parole Guidelines Form is found at § 309.5.

(1) The completed State Parole Guidelines Form shall be made a part of the record and the information electronically submitted to the Commission no later than 30 days after the date of the parole decision.

(2) In the case of revocation and recommitment, the completed State Parole Guidelines Form used to report the grant of parole shall be attached to the State Parole Guidelines Form prepared for each consideration of reparole.

§ 309.3. Procedures for determining state parole guidelines.

(a) The State Parole Guidelines consider two categories of factors to determine the parole recommendation: parole risk category and parole preparedness category.

(1) *Parole Risk Category.*

(i) The LSI-R score is calculated prior to the interview, and the score is used to determine the risk level.

(ii) *Risk Level.* The LSI-R score is divided into three levels:

(A) High Risk (scores 34 and greater)

(B) Medium Risk (scores of 20 to 33)

(C) Low Risk (scores 19 and less)

(2) *Parole Preparedness Category.*

(i) *Pre-Interview Factors.* The pre-interview factors are determined based on a review of Department of Corrections records and scored as a ‘1’ or a ‘0,’ with 1 being successful or positive.

(A) Factors directly related to the offender’s behavior and compliance:

(I) Enrollment in and/or completion of required programs.

(II) Misconduct free for the past 12 months.

(III) Free of criminal or assaultive misdeeds for the past 12 months.

(IV) One or no prior probation or parole revocations.

(V) Free of alcohol or drug dependence.

(VI) Compliance with all prescribed medications.

(B) Factor related to the recommendation of the Department of Corrections.

(ii) *Interview Factors.* The interview preparedness factors are based on the professional judgement of the decision maker(s) following a parole interview and scored as a ‘1’ or a ‘0,’ with 1 being positive or successful.

(A) Factors related to progress and commitment to rehabilitation:

(I) Motivation for success or progress in rehabilitation, treatment, or education.

(II) Acceptance of responsibility.

(III) Insight and positive response to address criminal behavior.

(B) Stable release plan (community and/or family support).

(iii) *Preparedness Level.* The preparedness score is the total of the pre-interview and interview factors and is divided into three levels:

(A) Low preparedness: Score 0 to 7.

(B) Medium preparedness: Score 8 to 9.

(C) High preparedness: Score 10 to 11.

(c) The State Parole Guidelines recommendations are based on the combination of the risk level and preparedness level and include consideration of whether the individual is classified as a violent offender or a non-violent offender. These recommendations are contained in two matrices and found at § 309.4(a) (relating to State Parole Guidelines Matrix (Violent)) and § 309.4(b) (relating to State Parole Guidelines Matrix (Non-Violent)).

(d) *Deviations from the Guidelines.* The State Parole Guidelines are advisory. The Board must consider the guidelines but may exercise discretion in deviating from the recommendation.

(1) Reasons for deviations from the State Parole Guidelines shall be provided on the State Parole Guidelines Form and reported to the Commission.

(2) Reasons for deviation from the State Parole Guidelines may include but are not limited to the following:

(i) Mental health or medication compliance.

(ii) An inmate’s negative interest in parole.

(iii) Judicial input.

(iv) Prosecution and public safety input.

(v) Outstanding detainer.

(vi) Maximum sentence date is less than one year from interview date.

(3) *Additional information.* The following information shall be provided on the State Parole Guidelines Form and reported to the Commission:

(i) If parole is granted, condition(s) of parole ordered but not required by statute or recommended by a validated risk assessment case management plan.

(ii) If parole is denied, reason(s) a review is scheduled more than one year from the date of the parole decision.

(e) *Additional Applications.*

(1) The State Parole Guidelines must be considered in all cases for which the Board is authorized to exercise discretionary parole, including all initial and subsequent parole decisions.

(2) For individuals recommitted as parole violators, the State Parole Guidelines must be considered prior to re-parole.


§ 309.4(a). State Parole Guidelines Matrix (Violent).

		<i>Preparedness Category</i>		
		Low	Medium	High
<i>Risk Category</i>	High	Refuse	Refuse	Grant
	Medium	Refuse	Refuse	Grant
	Low	Refuse	Grant	Grant

§ 309.4(b). State Parole Guidelines Matrix (Non-Violent).

		<i>Preparedness Category</i>		
		Low	Medium	High
<i>Risk Category</i>	High	Refuse	Refuse	Grant
	Medium	Refuse	Grant	Grant
	Low	Refuse	Grant	Grant

§ 309.5. State Parole Guidelines Form.

 Pennsylvania Commission on Sentencing STATE PAROLE GUIDELINES FORM		Commission ID: _____ Date Risk Score Calculated: _____																																											
Offender Name: _____	State ID Number: _____	Type of Case: _____ V/NV/RRRI																																											
Date of Birth: _____	Parole ID Number: _____	Type of Interview: _____ Min/Min Subseq																																											
Age at Interview: _____	Inmate Number: _____	Reparole/Reparole Subsq Application																																											
	Institution: _____	Date of Interview: _____																																											
Current Offense: _____		Violence Indicator: _____																																											
Total Sentence: _____		Requires SORNA Registration: _____																																											
Minimum Date: _____		Alcohol or Drug Related: _____																																											
Maximum Date: _____		Firearm/Other Weapon Used: _____																																											
Summary of Risk: Level of Service Inventory-Revised																																													
Overall Rating		Overall Risk Category																																											
LSI-R Score: _____																																													
Summary of Preparedness Factors																																													
Overall Rating		Overall Preparedness Category:																																											
Pre-Interview																																													
Are required programs completed or in progress?	-	<u>Out of 11 Factors</u>																																											
Misconduct free for the past year?	-	0 - 7 Low																																											
Free of assaultive/criminal misconducts for the past year?	-	8 - 9 Medium																																											
Free of prior probation/parole revocations?	-	10 - 11 High																																											
Free of alcohol or drug dependence?	-																																												
Compliant with all prescribed medications?	-																																												
Postive recommendation from DOC?	-																																												
Interview																																													
Expressed motivation for success or exhibited progress in rehabilitation, treatment, or education	-																																												
Expressed acceptance of responsibility	-																																												
Expressed insight and postive response to criminal behavior?	-																																												
Stable release plan (community and/or family support)?	-	Total Score = _____																																											
State Parole Guidelines Matrix (Violent)		State Parole Guidelines Matrix (Non-Violent)																																											
<table border="1" style="margin: auto;"> <tr><td colspan="4" style="text-align: center;"><i>Preparedness Category</i></td></tr> <tr><td></td><td style="text-align: center;">Low</td><td style="text-align: center;">Medium</td><td style="text-align: center;">High</td></tr> <tr><td rowspan="3" style="vertical-align: middle;"><i>Risk Category</i></td><td style="text-align: center;">High</td><td style="text-align: center;">Refuse</td><td style="text-align: center;">Refuse</td><td style="text-align: center;">Grant</td></tr> <tr><td style="text-align: center;">Medium</td><td style="text-align: center;">Refuse</td><td style="text-align: center;">Refuse</td><td style="text-align: center;">Grant</td></tr> <tr><td style="text-align: center;">Low</td><td style="text-align: center;">Refuse</td><td style="text-align: center;">Grant</td><td style="text-align: center;">Grant</td></tr> </table>		<i>Preparedness Category</i>					Low	Medium	High	<i>Risk Category</i>	High	Refuse	Refuse	Grant	Medium	Refuse	Refuse	Grant	Low	Refuse	Grant	Grant	<table border="1" style="margin: auto;"> <tr><td colspan="4" style="text-align: center;"><i>Preparedness Category</i></td></tr> <tr><td></td><td style="text-align: center;">Low</td><td style="text-align: center;">Medium</td><td style="text-align: center;">High</td></tr> <tr><td rowspan="3" style="vertical-align: middle;"><i>Risk Category</i></td><td style="text-align: center;">High</td><td style="text-align: center;">Refuse</td><td style="text-align: center;">Refuse</td><td style="text-align: center;">Grant</td></tr> <tr><td style="text-align: center;">Medium</td><td style="text-align: center;">Refuse</td><td style="text-align: center;">Grant</td><td style="text-align: center;">Grant</td></tr> <tr><td style="text-align: center;">Low</td><td style="text-align: center;">Refuse</td><td style="text-align: center;">Grant</td><td style="text-align: center;">Grant</td></tr> </table>		<i>Preparedness Category</i>					Low	Medium	High	<i>Risk Category</i>	High	Refuse	Refuse	Grant	Medium	Refuse	Grant	Grant	Low	Refuse	Grant	Grant
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<i>Risk Category</i>	High	Refuse	Refuse	Grant																																									
	Medium	Refuse	Grant	Grant																																									
	Low	Refuse	Grant	Grant																																									
Recommend Grant _____ Recommend Refusal _____		Recommend Grant _____ Recommend Refusal _____																																											
Parole Decision																																													
Grant parole _____		Refuse Parole _____																																											
Does this decision deviate from the State Parole Guidelines recommendation? Yes No																																													
Reasons for Deviation from the State Parole Guidelines																																													
Mental Health / Medication Compliance	_____																																												
Negative Interest in Parole	_____																																												
Judicial Input	_____																																												
Prosecution/Public Safety Input	_____																																												
Detainer Status	_____																																												
Approaching Maximum Sentence (less than 1 year)	_____																																												
Other reason(s):	_____																																												

Additional Information																																													
If parole is <u>granted</u> , list condition(s) not required by statute or recommended by a validated risk assessment case management plan:																																													

If parole is <u>denied</u> , provide reason(s) for a scheduled review greater than one year from the date of this parole decision:																																													

Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

PART VIII. CRIMINAL SENTENCING COMMISSION ON SENTENCING

[204 PA. CODE CH. 311]

Proposed State Parole Recommitment Ranges

The Pennsylvania Commission on Sentencing hereby publishes for public comment proposed State Parole Recommitment Ranges, 204 Pa. Code Chapter 311, §§ 311.1—311.5. The proposed recommitment ranges are set forth in Annex A. A previous version of the recommitment ranges was published in the *Pennsylvania Bulletin* on July 11, 2020 (50 Pa.B. 3417).

The Commission is authorized by 42 Pa.C.S. § 2154.6 to adopt recommitment ranges following revocation of parole to be considered by the Pennsylvania Parole Board when exercising its power to reparole, commit, and recommit for parole violations. Recommitment ranges shall take into account the: 1) seriousness of the initial conviction offense, 2) the level of seriousness of the violation, and 3) rehabilitative needs of the defendant. The State Parole Recommitment Ranges are advisory and do not remove the discretionary authority of the Pennsylvania Parole Board.

On June 4, 2020, the Commission approved for the purpose of public hearings proposed State Parole Recommitment Ranges. Two virtual (Zoom webinar) hearings were held to receive public comment: a hearing on August 31, 2020, limited to testimony from incarcerated individuals housed at four State Correctional Institutions; and a hearing on September 9, 2020, open to testimony from the general public.

On September 10, 2020, the Commission tabled action on adoption of the recommitment ranges due to delays in adoption of the related parole guidelines. On March 10, 2022, the Commission voted to resume consideration of the proposed parole guidelines, and so resumed consideration of proposed recommitment ranges. The Commission approved without change the proposed State Parole Recommitment Ranges that were published on June 4, 2020 and authorized the scheduling of hearings to receive public comment. The proposed recommitment ranges are intended to document existing practices and serve as interim recommitment ranges until the adoption of the 8th Edition Sentencing Guidelines and the reconstruction of the initial parole guidelines following validation and deployment of the Static Risk Offender Needs Guide—Revised (STRONG-R) risk assessment instrument by the Department of Corrections.

In accordance with 42 Pa.C.S. § 2155, the Commission shall publish in the *Pennsylvania Bulletin* proposed guidelines and hold public hearings not earlier than 30 days and not later than 60 days thereafter to afford an opportunity for the following persons and organizations to testify:

- (i) Pennsylvania District Attorneys Association
- (ii) Chiefs of Police Associations
- (iii) Fraternal Order of Police
- (iv) Public Defenders Organization
- (v) Law School faculty members
- (vi) Pennsylvania Parole Board

- (vii) Pennsylvania Department of Corrections
- (viii) Pennsylvania Bar Association
- (ix) Pennsylvania Wardens Association
- (x) Pennsylvania Association on Probation, Parole and Corrections
- (xi) Pennsylvania Conference of State Trial Judges
- (xii) Any other interested person or organization

The Commission has scheduled the following public hearings:

<i>Hearing I.</i>	
<i>Date:</i>	Tuesday, May 31, 2022
<i>Time:</i>	10:00 a.m.
<i>Zoom:</i>	Zoom Webinar Registration Link: https://bit.ly/PCS2022May31PubHrng

Testimony during Hearing I is limited to incarcerated individuals committed to the Pennsylvania Department of Corrections. Those wishing to attend Hearing I via Zoom Webinar may register at the link provided above.

<i>Hearing II.</i>	
<i>Date:</i>	Wednesday, June 1, 2022
<i>Time:</i>	2:00 p.m.
<i>Zoom:</i>	Webinar Registration Link: https://bit.ly/PCS2022June1PubHrng
<i>Onsite Location:</i>	Pennsylvania Capitol Complex, 523 Irvis Building, Harrisburg, PA

Those wishing to attend Hearing II and/or testify during Hearing II via Zoom Webinar may register at the link provided above. Those wishing to testify in person during Hearing II may register by contacting the Commission (Cathy Dittman—814-863-5729 or cwd2@psu.edu) to schedule on-site testimony.

Persons or organizations wishing to testify are asked to register at least five business days prior to the hearing and to provide an electronic copy of any testimony. Written comments from persons or organizations not wishing to testify should be received by the Commission at least five business days before the last-scheduled public hearing. Forward all testimony and documents to Cathy Dittman (cwd2@psu.edu).

All Commission meetings are open to the public. Any proposals adopted by the Commission will be submitted to the General Assembly for review by way of publication in the *Pennsylvania Bulletin* and will become effective 90 days after publication unless rejected by concurrent resolution of the General Assembly.

REPRESENTATIVE TODD STEPHENS,
Chair

Commentary

This Commentary provides selected highlights of the proposed State Parole Recommitment Ranges. The proposed State Parole Recommitment Ranges are set forth in Annex A.

As provided in statute, 61 Pa.C.S. § 6102 (relating to operation of parole system generally), the parole system shall operate consistently with the following provisions:

(1) The parole system provides several benefits to the criminal justice system, including the provision of adequate supervision of the offender while protecting the

public, the opportunity for the offender to become a useful member of society and the diversion of appropriate offenders from prison.

(2) In providing these benefits to the criminal justice system, the Board and any other paroling entity shall first and foremost seek to protect the safety of the public.

(3) In addition to this goal, the Board and any other paroling entity shall address input by crime victims, assist in the fair administration of justice by ensuring the custody, control and treatment of paroled offenders, shall consider any applicable guidelines established by the commission and shall ensure that parole proceedings, release and recommitment are administered in an efficient and timely manner.

Regarding recommitment following violation of terms, 61 Pa.C.S. § 6137(h) (relating to power to recommit), authorizes:

(1) The Board may, during the period for which an inmate shall have been sentenced, recommit the inmate, if paroled, for violation of the terms and conditions of his parole and from time to time to reparole and recommit in the same manner and with the same procedure as in the case of an original parole or recommitment if, in the judgment of the Board:

(i) There is a reasonable probability that the inmate will be benefited by paroling the inmate again.

(ii) It does not appear that the interests of the Commonwealth will be injured by paroling the inmate again.

(2) In exercising these powers, the board shall consider any applicable recommitment ranges established by the commission under 42 Pa.C.S. § 2154.6 (relating to adoption of recommitment ranges following revocation of parole by Board).

(i) Cases involving deviations from guidelines. In each case in which the board deviates from the recommitment ranges established under 42 Pa.C.S. § 2154.6, the board shall provide a contemporaneous written statement of the reason for the deviation from the recommitment ranges to the commission, as established under 42 Pa.C.S. § 2153(a)(14).

42 Pa.C.S. § 2154.6 (relating to adoption of recommitment ranges following revocation of parole by the board) requires the Commission to adopt recommitment ranges for violations of parole that consider the following:

- (1) the seriousness of the initial conviction offense;
- (2) the level of seriousness of the violation; and
- (3) the rehabilitative needs of the defendant.

A recommitment range is a recommendation for a period of time for which a parole violator may be recommitment to serve an additional part of the term the parole violator would have been compelled to serve had the parole violator not been paroled. At the end of the recommitment period, the parole violator may be reviewed for parole or, without further review, shall be reparoled.

61 Pa.C.S. § 6137 (relating to parole power) requires the Board to consider recommitment ranges established by the Commission, and to report to the Commission the recommitment decision and provide a contemporaneous written statement of reasons for any deviation from the recommitment ranges. In addition to consideration of the guidelines, the Board may develop and use internal decisional instruments.

The recommitment ranges established by the Commission are advisory recommendations, which must be considered by the Board but for which the Board may exercise discretion in deviating from the recommendations. The recommitment ranges do not remove the discretionary authority of the Pennsylvania Parole Board, and do not prevent the Board from developing policies and procedures related to recommitment decisions.

Development of State Parole Reccommitment Ranges

Development of the state parole recommitment ranges began in 2013 and included a review of the existing statutes, practices, and policies followed by the Parole Board in assigning recommitment time. The review included analyses of parole data and recidivism data prepared by the Board. An updated review of statutes and practices occurred in 2019 prior to the publication of proposed parole guidelines and recommitment ranges.

For conviction violations, to provide proportionality in consideration of the seriousness of the violation, the Commission's proposal links the Offense Gravity Scores of the new conviction with the recommended recommitment range. For repeat violations, the Commission has proposed a one-point increase in the Offense Gravity Score for a second conviction violation and a two-point increase in the Offense Gravity Score for a third or subsequent conviction violation.

For technical violation, while statute controls the maximum period of recommitments, the Commission's proposal includes a minimum period for the more serious technical violators who, by statute, are housed in a state correctional facility or contracted county jail.

Following public hearings in 2020, the Commission tabled action on parole guidelines and recommitment ranges pending validation and deployment of a new risk assessment instrument, STRONG-R, by the Department of Corrections.

More recently, the Commission approved for public comment a working draft of proposals linked to a comprehensive review of the sentencing guidelines. An issue discussed as part of the comprehensive review was whether committing a new offense while under supervision (i.e., probation or parole) should be factored into the guidelines as a sentencing enhancement. If so, this may impact resentencing guidelines and parole recommitment ranges.

The proposed recommitment ranges are intended to document existing practices and serve as interim recommitment ranges to provide structure and increased consistency. However, as proposed, they fall short of the legislative mandate in that they only indirectly address the seriousness of the initial conviction offense and do not address the rehabilitative needs of the defendant. As noted during public hearings, the rebuilding of recommitment ranges should include consideration of successful time on parole and consistent standards for granting credit for time spent at liberty and/or awaiting recommitment, and recommendations for programming during recommitment to address reasons for revocation and rehabilitative needs. To address recommitment ranges more effectively for convicted state parole violators, consideration should be given to the seriousness of the initial conviction offense, the duration of the unserved balance, the seriousness of the new offense, and any consideration of recommitment in the sentencing guidelines for the new offense.

The proposed recommitment ranges standardize current practices, improve the consistency and transparency

of decisions, and enhance data collection and analysis. The rebuilding of the recommitment ranges upon adoption of the 8th Edition Sentencing Guidelines and the reconstruction of the initial parole should better coordinate the use of these various guidelines. The Commission welcomes comment on factors that should be considered in adopting recommitment ranges, as well as suggestions for better coordinating recommitment ranges with sentencing and parole guidelines.

Commentary on Annex A

§ 311.1(a). *Preliminary Provisions. Authorization.*

Statute 42 Pa.C.S. § 2154.6 authorizes the Commission to adopt recommitment ranges following revocation of parole by the Pennsylvania Board of Parole.

§ 311.1(b). *Preliminary Provisions. Definitions.*

This section provides definitions of terms used in the proposed State Parole Recommitment Ranges, as obtained from the PA Parole Board, PA Department of Corrections, and Pennsylvania Commission on Sentencing.

§ 311.2. *State Parole Violator Recommitment Range Standards.*

The recommitment ranges are advisory and will be considered by the Pennsylvania Parole Board. They apply to revocations of parole following the appropriate hearings. The State Parole Recommitment Ranges will apply to any violations and hearings initiated on or after the effective date of the State Parole Recommitment Ranges.

The Parole Board will provide to the Commission a contemporaneous written statement of reasons for any deviations from the State Parole Recommitment Ranges. The Commissions JNET-based Sentencing Guidelines Software Web application will be used to report, identify or calculate the appropriate recommitment range, report the recommitment time ordered, and report the recommitment and reparole or release of an offender.

§ 311.3. *Procedure for Determining State Parole Violator Recommitment Range.*

The Parole Board will determine if the revocation is due to a technical or conviction violation. Conviction violations include those circumstances involving both a technical and conviction violation.

The Board will determine recommitment time considering the seriousness of the initial conviction offense, the seriousness of the technical violation or the new offense, and the rehabilitative needs of the offender.

§ 311.4. *Technical State Parole Violator Ranges: General.*

Recommitment ranges for technical state parole violations is first based upon whether it meets the criteria for incarceration in a state correctional institution or contracted county jail 61 Pa.C.S. § 6138(c)(1.3). A technical offender is recommitted to a state correctional institution or contracted county jail if the violation was of a sexual nature, assaultive or had a threat of bodily harm, involved a weapon, or a threat to public safety. Additional criteria include if the offender absconded or cannot be diverted to a community center or if the violation included an intentional or unexcused failure to adhere to programming or conditions on more than three occasions.

If it meets those criteria set forth in 61 Pa.C.S. § 6138(c)(1.3), statute caps recommitment at six months (61 Pa.C.S. § 6138(d)(3)(i)) for the first recommitment. Statute caps the second recommitment on the initial sentence at 9 months (61 Pa.C.S. § 6138(d)(3)(ii)); the State Parole Recommitment Ranges recommend a recom-

mitment of not less than 6 months. A third or subsequent revocation on the initial sentence is capped at 12 months by statute (61 Pa.C.S. § 6138(d)(3)(iii)); the State Parole Recommitment Ranges recommends not less than 9 months recommitment. Statute also states that these caps are not applicable if there are disciplinary infractions or if an offender spent more than 90 days in segregated housing or refused programming or work assignments.

If the technical violation does not meet those criteria in 61 Pa.C.S. § 6138(c)(1.3), recommitment time may be served at another facility operated or contracted by the Department of Corrections. Statute recommends not more than six months recommitment time (61 Pa.C.S. § 6138(e)).

§ 311.5. *Convicted State Parole Recommitment Ranges: General.*

If a parolee is convicted of a new criminal offense while on parole, the Parole Board orders recommitment of the offender after a revocation hearing. A convicted parole violator is subject to recommitment in a state correctional facility. The Board will order the offender to serve an additional part of the term which the offender would have been compelled to serve if not paroled.

The recommitment time is determined using the recommitment ranges based on the Offense Gravity Score of the new offense. Ranges increase for the second revocation and third/subsequent revocation of the initial offense if there is a new offense conviction. If the balance of the original sentence is less than the recommitment time, the balance of the sentence is the minimum recommitment time.

The Board has discretion to decrease or increase recommitment time as provided in aggravating and mitigating ranges also based on the Offense Gravity Score of the new conviction offense. Statute 61 Pa.C.S. § 6138(a)(2.1) provides the Board discretion to award credit time to a parolee for paroled time based on criteria set forth.

An offender completes the original sentence, including recommitment time, prior to completion of the sentence for the new crime.

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART VIII. CRIMINAL SENTENCING

CHAPTER 311. STATE PAROLE RECOMMITMENT RANGES

§ 311.1. Preliminary provisions.

(a) *Authorization.*

(1) As authorized by 42 Pa.C.S. § 2154.6 (relating to recommitment ranges following revocation of parole by the Board), the Commission shall adopt recommitment ranges that shall be considered by the Board when exercising its power to reparole, commit and recommit for violations of parole any person sentenced by a court in this Commonwealth to imprisonment in any correctional institution.

(i) The recommitment ranges shall take into account:

- (A) The seriousness of the initial conviction offense;
- (B) The level of seriousness of the violation; and
- (C) The rehabilitative needs of the defendant.

(ii) At the end of the recommitment period, the parole violator shall be reviewed for parole or, without further review, shall be reparaoled.

(b) *Definitions.* For purposes of this chapter:

“Convicted Parole Violator.” Parolee under the jurisdiction of the Board who, during the period of parole or while delinquent on parole, commits a crime punishable by imprisonment, for which the parolee is convicted or found guilty by a judge or jury or to which the parolee pleads guilty or nolo contendere at any time thereafter in a court of record, may at the discretion of the board be recommitment as a parole violator (61 Pa.C.S. § 6138(a)).

“Conviction.” A finding of guilt or the entering of a plea of guilty or nolo contendere for a misdemeanor or felony offense in a court of record, whether or not judgement of sentence has been imposed.

“Conviction Offense.” Offense for which the original sentence was imposed.

“Detainer.” A written order of the court or paroling authority to hold a person in custody in a correctional institution pending further legal action.

“Hearing Examiner.” An agent of the Parole Board who is empowered to sit on parole revocation panels, conduct parole hearings in lieu of panels and conduct parole interviews on behalf of the Parole Board.

“Hearings.” Include the following:

Detention. Held within 30 days of parolee’s detention, unless waived or a criminal preliminary hearing has been previously held, to determine whether there is probable cause that a parolee should be detained or returned pending disposition of new criminal charge(s).

Gagnon I Hearing. A first-level, probable cause hearing held to determine whether there is sufficient evidence to charge an offender with a violation of parole.

Gagnon II Hearing. A second-level, fact finding hearing held by a Common Pleas Court to determine whether an offender has in fact violated the terms and conditions of parole, and if so, whether the offender should be sent to prison as a violator or continue on parole.

Preliminary. Held no later than 14 days after a parolee’s detention, to determine whether there is probable cause to believe that a parolee committed a violation of a condition of parole.

Rescission. To decide whether there is good cause for rescinding parole.

Revocation. Held within 120 days of a plea of guilty, nolo contendere, or a guilty verdict, or from official notification of return to state institution, if detained elsewhere, to determine whether a parolee should be recommitment as a convicted parole violator.

Violation. Held no later than 120 days from the preliminary hearing, to determine whether a parolee should be recommitment as a technical violator.

“Judicial Proceeding.” A sentencing hearing in which all offenses for which the offender is convicted are pending before the court for sentencing at the same time. A judicial proceeding may include multiple OTNs.

“Non-Violent Offender.” An offender who is not currently or was previously convicted of a violent offense.

“Offense Gravity Score (OGS).” An assignment in the sentencing guidelines reflecting the seriousness of a conviction offense (see: 204 Pa. Code § 303.3 and § 303.15).

“Order of Service of Sentence.” The Parole Act specifies that a Convicted Parole Violator must serve any new sentence of confinement before his/her backtime, if the new sentence is to a prison other than the prison of original parole (all state prisons are considered to be one prison). If the new sentence is to the same prison, backtime must be served first.

“Parole.” The conditional release of an inmate from incarceration. There is no right to parole. An offender sentenced to state or county incarceration is eligible for parole upon reaching minimum sentence. Offenders may be paroled prior to their minimums if made eligible for county re-entry programs at the time of sentencing to county incarceration or upon reaching an RRR minimum for state incarceration. Upon release to parole, the offender serves the balance of the sentence (maximum) in the community under supervision and with conditions imposed, unless the parole is revoked.

“Parole Decision.” The Board or the Court (sentencing judge) renders a decision to grant parole or refuse to grant parole.

“Parole Violation.” A finding following a hearing that the offender failed to comply with terms and conditions of parole.

Technical Violation. Failure to comply with the terms and conditions of parole, other than by the commission of a new offense of which the offender is convicted in a court of record.

Conviction Violation. Commission of a new offense during the period of parole, resulting in a conviction for a misdemeanor or felony in a court of record, whether or not judgement of sentence has been imposed. Violations including both technical and conviction violation are considered conviction violations.

“Parole Violator.” An offender under parole supervision in the community who commits a technical violation or conviction violation.

“Pennsylvania Parole Board (Board).” An independent executive branch agency comprised of nine members appointed by the Governor and confirmed by the Senate for six-year terms. The Board makes parole, parole revocation and recommitment, and reparole decisions.

“Presumptive Range.” A period of recommitment, set as a minimum and maximum term of months for each condition of parole as well as most criminal offenses, that a parolee who violates his/her parole may expect to spend in confinement prior to being eligible for reparole.

“Prior record score (PRS).” A category in the sentencing guidelines reflecting the seriousness of the criminal history of an offender (see: 204 Pa. Code § 303.4).

“Recommitment.” The return of a parolee to incarceration for violation of the conditions of his/her parole or because of a conviction for a new crime. It is an administrative determination that an offender, because he/she violated parole, should be returned to an institution to serve all or part of the unexpired term of the sentence.

“Recommitment Range.” A range of time within which a parole violator may be recommitment to serve an additional part of the term the parole violator would have been compelled to serve had the parole violator not been paroled.

“Revocation.” A decision to revoke parole and to recommit an offender to incarceration after a revocation or violation hearing.

“Sentencing Guidelines Software Web Application (SGS Web).” A JNET-based application operated by the Commission which includes the modules for Sentencing, Resentencing, and Parole Guidelines. SGS Web serves as the source of data for the original reported sentence and associated information and the reporting source for revocations and resentences.

“Street Time.” The period of conditional liberty and freedom from confinement on a particular sentence that a parolee enjoys during which time the parolee is in compliance with the terms and conditions of parole.

“Technical Parole Violator.” Parolee who violates the terms and conditions of his parole, other than by the commission of a new crime of which the parolee is convicted or found guilty by a judge or jury or to which the parolee pleads guilty or nolo contendere in a court of record, may be detained pending a hearing before the board or waiver of the hearing or recommitted after a hearing before the board or a waiver of the hearing (61 Pa.C.S. § 6138(c)).

“Violent Offender.” An offender with a current or previous conviction as provided below, or an offense otherwise designated by the Pennsylvania Parole Board as violent offense, for which Parole Guidelines for Violent Offenders applies:

42 Pa.C.S. § 9714(g)

42 Pa.C.S. § 9718.1

42 Pa.C.S. § 9799.14

§ 311.2. State Parole Violator Recombitment Range Standards.

(a) The Pennsylvania Parole Board shall consider recommitment ranges in determining the appropriate recommitment time for technical and convicted parole violators.

(b) In every case in which the Pennsylvania Parole Board deviates from the recommitment ranges, the Board shall provide a contemporaneous written statement of the reasons for the deviation from the recommitment ranges to the Commission as established under 42 Pa.C.S. § 2153(a)(14) (relating to powers and duties).

(c) The parole violator recommitment ranges apply to revocations of parole following when recommitment is ordered by the Pennsylvania Parole Board.

(d) The parole violator recommitment ranges shall apply to all state parole violation and revocation hearings initiated on or after the effective date of the recommitment ranges.

(e) Unless otherwise provided by the Commission, the JNET-based Sentencing Guideline Software Web application (SGS Web) shall be used by the Pennsylvania Parole Board to:

- (1) describe violation and identify or calculate the appropriate recommitment range,
- (2) report recommitment time ordered,
- (3) report the date of recommitment and date of eligibility for re-parole or release of the offender, and
- (4) attach a copy of the completed State Parole Guidelines Form used to report the grant of parole.

§ 311.3. Procedure for Determining State Parole Violator Recombitment Range.

(a) For each state parole recommitment of an offender, the procedure for determining the appropriate recommitment range is as follows:

(1) Upon recommitment, determine if the offender is classified as a convicted parole violator (61 Pa.C.S. § 6138(a)(1) and (1.1)) or a technical parole violator (61 Pa.C.S. § 6138(c)(1) or (c)(1.3)).

(i) A technical parole violator is a parolee under the jurisdiction of the Board who violates the terms and conditions of his parole, other than by the commission of a new crime of which the parolee is convicted or found guilty by a judge or jury or to which the parolee pleads guilty or nolo contendere in a court of record, may be detained pending a hearing before the board or waiver of the hearing or recommitted after a hearing before the board or a waiver of the hearing.

(ii) A convicted parole violator is a parolee under the jurisdiction of the Board who, during the period of parole or while delinquent on parole, commits a crime punishable by imprisonment, for which the parolee is convicted or found guilty by a judge or jury or to which the parolee pleads guilty or nolo contendere at any time thereafter in a court of record, may at the discretion of the Board be recommitted as a parole violator (61 Pa.C.S. § 6138(a)(1) and (1.1)).

(2) If the offender is a technical parole violator, determine if the offender meets criteria set forth in 61 Pa.C.S. § 6138(c)(1.3):

(i) violation was sexual in nature;

(ii) violation involved assaultive behavior or included a credible threat to cause bodily injury to another;

(iii) violation involved possession or control of a weapon;

(iv) parolee absconded and cannot be safely diverted to a community corrections center, community corrections facility, or any secured facility operated or contracted by the Department;

(v) an identifiable threat exists to public safety and parolee cannot be safely diverted to a community corrections center, community corrections facility, or any secured facility operated or contracted by the Department;

(vi) the violation involved an intentional and unexcused failure to adhere to recommended programming or conditions on more than three occasions, and the parolee cannot be safely diverted.

(3) Identify the appropriate recommitment range.

(b) Determine recommitment time to be served, taking into account the:

(1) seriousness of the initial conviction offense,

(2) the level of seriousness of the violation or new offense, and

(3) the rehabilitative needs of the defendant.

§ 311.4. Technical State Parole Violator Recombitment Ranges: General.

(a) Ranges of parole recommitment to be served shall be utilized if a parolee violates a general or specific condition of parole, and the Pennsylvania Parole Board orders recommitment as a technical violator after the appropriate violation hearing(s).

(b) Technical parole violators as defined in 61 Pa.C.S. § 6138(c)(1) are subject to revocation of state parole and recommitment. Recommitment is served in a community corrections center, community corrections facility, or any secured facility operated or contracted by the Department.

(1) Technical parole violators shall serve not more than six (6) months (61 Pa.C.S. § 6138(e)(1)).

(2) The Pennsylvania Parole Board may re-parole an offender prior to the six (6) months provided written justification is given (61 Pa.C.S. § 6138(e)(2)).

(3) Technical parole violators as defined in 61 Pa.C.S. § 6138(c)(1.3) are subject to revocation of state parole and recommitment. Recommitment is served in a state correctional institution or a contracted county jail.

(i) For the first recommitment, a technical parole violator shall serve not more than six (6) months (61 Pa.C.S. § 6138(d)(3)(i)). The Pennsylvania Parole Board may re-parole an offender prior to the six (6) months provided written justification is given (61 Pa.C.S. § 6138(d)(4)).

(ii) For the second recommitment for the same sentence, a technical parole violator shall serve not less than six (6) months and not more than nine (9) months (61 Pa.C.S. § 6138(d)(3)(ii)).

(iii) For the third and subsequent recommitment for the same sentence, a technical parole violator shall serve not less than nine (9) months and not more than one (1) year (61 Pa.C.S. § 6138(d)(3)(iii)).

(iv) Maximum recommitment time shall not be applicable (61 Pa.C.S. § 6138(d)(5)) for a recommitment technical parole violator who 1) commits a disciplinary infraction involving assaultive behavior, sexual assault, a weapon or controlled substance, 2) spent more than 90 days in segregated housing due to one or more disciplinary infractions, or 3) refused programming or work assignments.

§ 311.5. Convicted State Parole Violator Commitment Ranges: General.

(a) Ranges of parole recommitment to be served shall be utilized if a parolee is convicted of a new criminal offense while on parole and the Board orders recommitment as a convicted parole violator after the revocation hearing.

(b) Convicted parole violators as defined in 61 Pa.C.S. § 6138(a)(1) and (1.1) are subject to revocation of state parole and recommitment. Recommitment time is served in a correctional facility.

(c) If the Board orders the recommitment of a convicted parole violator, the parolee shall be recommitted to serve an additional part of the term which the parolee would have been compelled to serve had the parolee not been paroled.

(d) The convicted parole violator will complete the original sentence, including recommitment time, and complete a sentence for the new crime in accordance with 61 Pa.C.S. § 6138(a)(5) and (a)(5.1).

(e) The Board may, at its discretion, award credit to a parolee recommitted for time spent at liberty on parole as established in criteria set forth in 61 Pa.C.S. § 6138(a)(2.1).

(f) The Board may, at its discretion, reparole a convicted parole violator (61 Pa.C.S. § 6138(a)(3)).

(g) The recommitment ranges for convicted parole violators are intended to structure the discretion of the

Board while allowing for individual circumstances in terms of mitigation and aggravation to be considered in the final decision.

(h) The recommitment ranges for convicted state parole violators are based on the current Offense Gravity Score of the new offense as described below.

<i>Offense Gravity Score</i>	<i>Recommitment Range (in months)</i>
15	60—Expiration of maximum sentence
14	48—Expiration of maximum sentence
13	48—Expiration of maximum sentence
12	36—Expiration of maximum sentence
11	36—Expiration of maximum sentence
10	24—48
9	24—36
8	18—36
7	18—24
6	12—24
5	12—18
4	6—18
3	6—12
2	3—9
1	1—6

(i) For individuals convicted of out-of-state or federal offenses, the Board will determine the current equivalent Offense Gravity Score.

(j) If a convicted parole violator who is re-paroled is convicted of a second offense while on parole for the initial sentence, the Board will consider a recommitment range increased by one Offense Gravity Score for the instant offense.

(k) If a convicted parole violator who is re-paroled is convicted of a third or subsequent offense while on parole for the initial sentence, the Board will consider a recommitment range increased by two Offense Gravity Scores for the instant offense.

(l) When the Board determines that an aggravating circumstance(s) is present, it may impose a recommitment period as follows:

(1) For Offense Gravity Score of 15, the Board may impose a recommitment period up to 24 months longer than the upper limit of the recommitment range.

(2) For Offense Gravity Scores of 11, 12, 13, and 14, the Board may impose a recommitment period up to 12 months longer than the upper limit of the recommitment range.

(3) For Offense Gravity Score of 9 and 10, the Board may impose a recommitment period up to nine months longer than the upper limit of the recommitment range.

(4) For Offense Gravity Scores of 5, 6, 7, and 8, the Board may impose a recommitment period up to six months longer than the upper limit of the recommitment range.

(5) For Offense Gravity Scores of 1, 2, 3, and 4, the Board may impose a recommitment period up to three months longer than the upper limit of the recommitment range.

(m) When the Board determines that a mitigating circumstance(s) is present, it may impose a recommitment period as follows:

(1) For an Offense Gravity Score of 15, the Board may impose a recommitment period up to 24 months less than the lower limit of the recommitment range.

(2) For Offense Gravity Scores of 11, 12, 13, and 14, the Board may impose a recommitment period up to 12 months less than the lower limit of the recommitment range.

(3) For an Offense Gravity Score of 9 and 10, the Board may impose a recommitment period up to nine months less than the lower limit of the recommitment range.

(4) For Offense Gravity Scores of 5, 6, 7, and 8, the Board may impose a recommitment period up to six months less than the lower limit of the recommitment range.

(5) For Offense Gravity Scores of 1, 2, 3, and 4, the Board may impose a recommitment period up to three months less than the lower limit of the recommitment range.

(6) If a paroled offender is recommitment on two or more offenses for the same criminal incident while on parole, the Board will consider the recommitment range for the offense with the greater Offense Gravity Score.

(o) If a paroled offender is convicted of another offense while on parole and the balance of the original sentence is less than the recommended minimum recommitment time, the balance of the sentence is the minimum.

[Pa.B. Doc. No. 22-598. Filed for public inspection April 22, 2022, 9:00 a.m.]

Title 246—MINOR COURT CIVIL RULES

PART I. GENERAL

[246 PA. CODE CH. 300]

Order Amending Rules 301, 302 and 321 and Adopting Rule 350 of the Pennsylvania Rules of Civil Procedure Governing Actions and Proceedings before Magisterial District Judges; No. 466 Magisterial Rules Docket

Order

Per Curiam

And Now, this 12th day of April, 2022, upon the recommendation of the Minor Court Rules Committee; the proposal having been published for public comment at 50 Pa.B. 3104 (June 27, 2020) and 51 Pa.B. 5596 (September 4, 2021) pursuant to Pa.R.J.A. 103(a)(3):

It is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Pennsylvania Rules of Civil Procedure Governing Actions and Proceedings Before Magisterial District Judges 301, 302, and 321 are amended and Pennsylvania Rule of Civil Procedure Governing Actions and Proceedings Before Magisterial District Judges 350 is adopted, in the attached form.

This Order shall be processed in accordance with Pa.R.J.A. 103(b) and shall be effective on October 1, 2022.

Additions to the rules are shown in bold and are underlined.

Deletions from the rules are shown in bold and brackets.

Annex A

TITLE 246. MINOR COURT CIVIL RULES

PART I. GENERAL

CHAPTER 300. CIVIL ACTION

Rule 301. Definition. Scope.

A. As used in this chapter, [¹] “action” means a civil action brought before a magisterial district judge.

B. Civil action includes any action within the jurisdiction of a magisterial district judge except an action by a landlord against a tenant for the recovery of the possession of real property.

C. As used in this chapter, “complaint” or [C]civil [A]action shall include, where applicable, the attached and completed Civil Action Hearing Notice form.

[Official Note] **Comment:** Civil action includes actions formerly denominated “assumpsit” or “trespass” (**commonly called contract and tort cases, respectively**) and civil claims for fines and penalties. See [Section 1515(a)(3) of the Judicial Code,] 42 Pa.C.S. § 1515(a)(3) prescribing the jurisdiction of magisterial district judges.

The rules in this chapter [will] apply to all civil actions before magisterial district judges except an action by a landlord against a tenant for the recovery of possession of real property, which [are] **is** governed by Chapter 500 of these rules.

Except as otherwise provided in Rule 350, the rules in this chapter apply to de novo appeals filed pursuant to 75 Pa.C.S. § 3369(j)(4), relating to automated work zone speed enforcement violations.

Statutes authorizing a civil fine or penalty include [the following: (1) Section 10.1 of the Act of April 27, 1927, P.L. 465, No. 299, added by section 2 of the Act of December 21, 1988, P.L. 1315, No. 168, 35 P.S. § 1230.1 relating to clean indoor air; and Sections 617.1 and 817-A of the Act of July 31, 1968, P.L. 805, No. 247, as added by sections 62 and 77 of the Act of December 21, 1988, P.L. 1329, No. 170,] 53 P.S. §§ 10617.1[,] **and** 10817-A relating to violations of zoning and joint municipal zoning ordinances.

Rule 302. Venue.

* * * * *

[Official Note] **Comment:** This rule [replaces the temporary venue provisions of § 14 of the Schedule to Article V, Pennsylvania Constitution, 1968. It] combines, with some minor changes, the Pennsylvania Rules of Civil Procedure relating to venue. See:

- (1) Individuals: Pa.R.Civ.P. [No.] 1006(a).
- (2) Partnerships: Pa.R.Civ.P. [No.] 2130(a).
- (3) Corporations: Pa.R.Civ.P. [No.] 2179(a).
- (4) Insurance Policies: Pa.R.Civ.P. [No.] 2179(b).

[¹ Rules in 300 Series.]

(5) Unincorporated Associations: Pa.R.Civ.P. [No.] 2156(a).

(6) Political Subdivisions: Pa.R.Civ.P. [No.] 2103(b).

This rule is not intended to repeal special statutory venue provisions, [**not included therein (see Rule 382(3)),**] such as the: **(1) venue provisions [of the Goods and Services Installment Sales Act, Act of October 28, 1966, P.L. 7, Art. XII, § 1205, 69 P.S. § 2205,] for actions involving installment sales of goods and services, 12 Pa.C.S. § 6307; (2) [nor is it intended to contravene the special] venue provisions [of § 811] of the Fair Debt Collection Practices Act, 5 U.S.C. § 1692i, pertaining to actions brought by debt collectors against consumers; and (3) venue provisions for appeals from automated work zone speed enforcement violations, 75 Pa.C.S. § 3369(j)(4). See Pa.R.Civ.P.M.D.J. 382(1) (pertaining to Acts of Assembly providing for special venue provisions that are not suspended).**

For a definition of “transaction or occurrence,” see *Craig v. W.J. Thiele & Sons, Inc.*, [**395 Pa. 129,**] 149 A.2d 35 (**Pa. 1959**).

Subdivision G is intended to take care of indistinct, “center line” or other confusing boundaries in the respects mentioned. When a complaint is transferred under subdivision H, it is treated as if originally filed in the transferee court on the date first filed in a court. If service of the complaint has already been made, no new service may be necessary, but the transferee court must set a new date, time and place for the new hearing and notify the parties thereof. It is the intent of this rule that cases may be transferred to any Pennsylvania court with appropriate jurisdiction and venue, including the Philadelphia Municipal Court. Likewise, nothing in this rule prohibits a court other than a magisterial district court from transferring a case to a magisterial district court with proper jurisdiction and venue, in accordance with the procedural rules of the transferring court. The jurisdictional limits of the magisterial district courts and the Philadelphia Municipal Court are governed by [**Sections 1515 and 1123 of the Judicial Code, respectively.**] 42 Pa.C.S. §§ 1515 and 1123, **respectively.**

There are no costs for transfer of the complaint and no additional filing costs when a case is transferred from one magisterial district court to another magisterial district court. There are no additional filing costs when a case is transferred from the Philadelphia Municipal Court to a magisterial district court.

There may be additional service costs when a case is transferred.

Rule 321. Hearings and Evidence.

The magisterial district judge shall be bound by the rules of evidence, except that a bill, estimate, receipt, or statement of account [**which**] **that** appears to have been made in the regular course of business may be introduced in evidence by any party without affidavit or other evidence of its truth, accuracy, or authenticity.

[**Official Note**] **Comment:** The exception to the rules of evidence provided by this rule was inserted because the Pennsylvania statutes making certain business entries admissible in evidence [(see the **Judicial Code, § 6108, 42 Pa.C.S. § 6108**)] apparently do not apply to bills, receipts, and the like [**which**] **that** are

made in the regular course of business but are not made as “records.” See **42 Pa.C.S. § 6108**. The fact that this exception permits the introduction of these items of evidence without affidavit or other evidence of their truth, accuracy, or authenticity does not, of course, preclude the introduction of evidence contradicting them. The exception was deemed necessary because the items of evidence made admissible thereby are probably the proofs most commonly used in minor judiciary proceedings. See **Rule 350D(2) for additional exceptions applicable to appeals from automated work zone speed enforcement violations.**

The following text is entirely new.

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

Rule 350. Automated Work Zone Speed Enforcement Violation Appeals.

A. As used in this rule:

(1) “Appellant” means the owner of a vehicle who has requested the appeal of a determination by a hearing officer pursuant to 75 Pa.C.S. § 3369(j)(4).

(2) “Appellee” means the Pennsylvania Department of Transportation, the Pennsylvania Turnpike Commission, or the system administrator designated by those agencies pursuant to 75 Pa.C.S. § 3369(h)(3)(i).

B. *Venue.* An appeal filed pursuant to this rule shall only be filed in the magisterial district court in the magisterial district where the violation of 75 Pa.C.S. § 3369(c) occurred.

C. *Notice of Appeal.*

(1) An appellant may appeal a determination of a hearing officer pursuant to 75 Pa.C.S. § 3369(j)(4) by filing a notice of appeal on a form prescribed by the State Court Administrator together with a copy of the hearing officer’s determination.

(2) The appellant shall pay all costs for filing and service of the notice of appeal at the time of filing or, if without the financial resources to pay the costs of litigation, the appellant shall file a petition to proceed *in forma pauperis* pursuant to Rule 206E.

(3) After setting the hearing date pursuant to Rule 305, the magisterial district judge shall serve the notice of appeal on the appellee by mailing a copy to the appellee at the address listed on the hearing officer’s determination by certified mail or comparable delivery method resulting in a return receipt in paper or electronic form. The return receipt shall show that the notice of appeal was received by the appellee.

D. *Hearing; Evidence.*

(1) The proceeding shall be conducted *de novo* in accordance with these rules as if the action was initially commenced in a magisterial district court with the appellee having the burden of proof.

(2) The hearing is subject to the standards of evidence set forth in Rule 321, except that photographs, videos, vehicle titles, police reports, and records of the Pennsylvania Department of Transportation may also be entered as evidence by any party without affidavit or other evidence of their truth, accuracy, or authenticity.

Comment: 75 Pa.C.S. § 3369 established a program to provide for automated speed enforcement systems in active work zones on certain highways under the jurisdiction of the Pennsylvania Department of Transportation and the Pennsylvania Turnpike Commission. This rule

was adopted to address the provisions of the statute that permits a *de novo* appeal to a magisterial district court from a determination of a hearing officer following an administrative hearing to contest an alleged violation of 75 Pa.C.S. § 3369(c). Because these actions are *de novo* appeals, they shall proceed as any other civil action commenced in a magisterial district court except as provided by this rule.

Insofar as other procedures under these rules may be applicable, the appellant shall be deemed the “defendant” and the appellee shall be deemed the “plaintiff.”

The initiating document in an appeal filed pursuant to Rule 350 is the notice of appeal, which shall be used in lieu of a complaint.

Photographs, videos, vehicle titles, police reports, and records of the Pennsylvania Department of Transportation were added to the existing business record exceptions in Rule 321 because they are the proofs most likely to be used to support the permitted defenses to 75 Pa.C.S. § 3369(c).

The appellant shall pay civil fines incurred pursuant to 75 Pa.C.S. § 3369(e) to the appellee and not to the magisterial district court. *See* Pa.R.Civ.P.M.D.J. 323, cmt. (clarifying that payments are made to the prevailing party and not the magisterial district court). If the magisterial district judge enters judgment in favor of the appellant, *i.e.*, the vehicle owner, the appellant is entitled to recover taxable costs from the appellee. *See* Pa.R.Civ.P.M.D.J. 206B (“[T]he prevailing party in magisterial district court proceedings shall be entitled to recover taxable costs from the unsuccessful party. Such costs shall consist of all filing, personal service, witness, and execution costs authorized by Act of Assembly or general rule and paid by the prevailing party.”) Procedures for enforcement of judgments, including judgments in favor of the appellant for taxable costs from the appellee, are set forth in Rules 401 *et seq.*

See Rules 1001 *et seq.* for procedures to appeal a judgment rendered by a magisterial district judge or to file a *praecipe* for a writ of *certiorari* in civil actions, including actions brought pursuant to this rule.

MINOR COURT PROCEDURAL RULES COMMITTEE ADOPTION REPORT

Amendment of Pa.R.Civ.P.M.D.J. 301, 302, and 321 and Adoption of Pa.R.Civ.P.M.D.J. 350

On April 12, 2022, the Supreme Court amended Pennsylvania Rules of Civil Procedure Governing Actions and Proceedings Before Magisterial District Judges 301, 302, and 321 and adopted new Rule 350 (“Rules”). These rule changes relate to appeals from hearing officer adjudications of automated work zone speed enforcement system violations (“AWZSES”). The Minor Court Procedural Rules Committee (“Committee”) has prepared this Adoption Report describing the rulemaking process as it relates to these Rules. An Adoption Report should not be confused with Comments to the rules. *See* Pa.R.J.A. 103, Comment. The statements contained herein are those of the Committee, not the Court.

Act 86 of 2018 (“Act”) authorized the use of automated work zone speed enforcement systems (“AWZSES”) in active work zones along the Pennsylvania Turnpike and “[f]ederal aid highways only under the jurisdiction of the [PennDOT].” *See* 75 Pa.C.S. § 3369(a). The Act also established civil penalties for a speeding offense in a highway work zone recorded by an AWZSES. When the AWZSES records a speeding violation in an active work

zone, a system administrator (*i.e.*, agency vendor) will prepare and send a violation notice to the registered vehicle owner identified by the system. *See id.* § 3369(d). The vehicle owner may request a hearing before a hearing officer to contest the alleged violation. *See id.* § 3369(j)(1). The Act permits a vehicle owner to appeal the hearing officer’s decision before a magisterial district judge:

If the owner requests in writing that the decision of the hearing officer be appealed, the system administrator shall file the notice of violation and supporting documents with the office of the magisterial district judge for the magisterial district where the violation occurred, and the magisterial district judge shall hear and decide the matter *de novo*.

See id. § 3369(j)(4). PennDOT and the Pennsylvania Turnpike Commission (collectively, “agencies”) implemented AWZSES and it is operational. In anticipation of appeals from hearing officer determinations filed pursuant to 75 Pa.C.S. § 3369(j)(4), the Committee drafted Rule amendments to (1) clarify that Pa.R.Civ.P.M.D.J. 301–382 apply to AWZSES violation appeals; and (2) provide certain exceptions for these actions due to their unique nature as *de novo* appeals from hearing officer determinations. The Committee published a proposal relating to AWZSES appeals for public comment at 50 Pa.B. 3104 (June 27, 2020) and accepted comments through August 4, 2020. The Committee then made further revisions to the proposal based on feedback received.

The Committee published for public comment additional changes to the proposal at 51 Pa.B. 5596 (September 4, 2021). Rule 301 is amended to provide the Rules apply to AWZSES appeals, except as otherwise provided by new Rule 350. Rule 302 is amended to include AWZSES appeals to the list of actions with special venue provisions, as well as other amendments to enhance readability. Rule 321 is amended to add a cross-reference to new Rule 350(D)(2), providing exceptions to evidentiary requirements for AWZSES appeals. These amendments are nearly identical to the Rule amendments published in 2020.

New Rule 350 contains a special venue rule, evidentiary exceptions, and clarifies the nature of the parties and proceeding in an AWZSES violation appeal. New Rule 350 requires a vehicle owner appealing from a hearing officer determination to file a notice of appeal along with a copy of the hearing officer determination with the magisterial district court. The notice of appeal takes the place of a complaint as the initiating document in the civil action. The vehicle owner is the appellant in the action and the agency or its designee is the appellee. To the extent other procedural rules are applicable to these appeals, the parties may also be deemed the defendant and plaintiff, respectively. The vehicle owner is responsible for remitting the filing fee with the notice of appeal unless they concurrently file a petition to proceed *in forma pauperis* pursuant to Rule 206(E) (for a party without financial resources to pay the costs of litigation). Notably, the Act does not address the payment of court costs and fees for appeal to the magisterial district court from the determination of the hearing officer. Filing fees and court costs are established by statute. *See, e.g.*, 42 Pa.C.S. §§ 1725.1(a)(1), 3733, and 3733.1. Currently, filing fees and courts costs in these actions are approximately \$96.00, not including service.

Finally, new Rule 350 provides that if the vehicle owner is successful on appeal, then they are entitled to recover

taxable costs. While it may be unusual for a state agency or its designee to be a party in a civil matter in magisterial district court, the Legislature has designated the AWZSES appeals as civil rather than criminal actions. There are no provisions in the Act exempting the parties from filing fee requirements pursuant to 42 Pa.C.S. § 1725.1(a) or from the awarding of costs to a successful appellant pursuant to 42 Pa.C.S. § 1726. See also Pa.R.Civ.P.M.D.J. 206(B). Procedures for a prevailing litigant to enforce a judgment are set forth at Rules 401 et seq.

With respect to procedures for filing an appeal or writ of certiorari in these matters, the Comment to Rule 350 directs the reader to Rules 1001 et seq. An appeal from a

judgment rendered by a magisterial district court should be made to the court of common pleas for the judicial district. See Pa.R.Civ.P.M.D.J. 1001 et seq. As provided by statute, “[e]xcept as otherwise prescribed by any general rule adopted pursuant to section 503 (relating to reassignment of matters), each court of common pleas shall have exclusive jurisdiction of appeals from final orders of the minor judiciary established within the judicial district.” See 42 Pa.C.S. § 932.

These amendments become effective October 1, 2022.

[Pa.B. Doc. No. 22-599. Filed for public inspection April 22, 2022, 9:00 a.m.]

Title 255—LOCAL COURT RULES

DAUPHIN COUNTY

Promulgation of Local Rules; No. 1793 S 1989

Order

And Now, this 1st day of April, 2022, Dauphin County Local Rule of Criminal Procedure 523 is promulgated as follows:

Rule 523. Documentation of Reasons for Bail.

(1) Whenever issuing authority commits a defendant without bail or sets bail with monetary condition pursuant to Pa.R.Crim.P. Rule 524(C)(5), issuing authority must contemporaneously provide written reasons for the bail amount or the denial of bail. This requirement applies whenever issuing authority sets bail in a monetary amount even if the defendant posts it immediately. This requirement does not apply if bail is set at ROR or an unsecured amount.

(2) Issuing authority must use the form in Appendix “A” to this rule to record the reasons described in subparagraph (1).

(3) Issuing authority may use the form in Appendix “A” to this rule to record reasons for setting bail conditions or for setting unsecured or ROR bail.

(4) Whenever the form in Appendix “A” to this rule is used, issuing authority must file the statement of written reasons with the case, provide a copy to the defendant, and immediately transmit a copy to the Dauphin County Prison, if the defendant does not post bail at the time bail is set.

(5) If issuing authority does not issue and file a statement of written reasons for setting secured bail or denying bail in the manner required by this rule, the parties and a reviewing court may infer that there were no proper reasons for the prior bail action.

(6) In making the above bail assessments, issuing authority must consider the release criteria in Pa.R.Crim.P. Rule 523.

Appendix A

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF DAUPHIN

Mag. Dist. No: MDJ-12-
MDJ Name:
Address:
Telephone:

BAIL REASONS

COMMONWEALTH

v.

Docket No:
Case Filed:

Charges(s):

Bail Amount (if bail is denied, write “DENIED”) _____

Reasons for denial of bail or setting of monetary bail: _____

Date

Magisterial District Judge

If you are disabled and require a reasonable accommodation to gain access to the Magisterial District Court and its services, please contact the Magisterial District Court at the above address or telephone number. We are unable to provide transportation.

717-780-6640

www.pacourts.us/language-rights

FREE INTERPRETER

The previously listed rule shall be published in the *Pennsylvania Bulletin* and will become effective thirty days from the date of publication.

By the Court

JOHN F. CHERRY,
President Judge

[Pa.B. Doc. No. 22-600. Filed for public inspection April 22, 2022, 9:00 a.m.]

NOTICES

DEPARTMENT OF AGRICULTURE

Addendum to the General Quarantine Order; Swine Exhibition Requirements

Recitals

A. African Swine Fever (ASF) is a highly contagious hemorrhagic viral disease affecting domestic and wild swine.

B. There is no vaccine to protect swine against African Swine Fever, nor is there a known cure or treatment for this dangerous transmissible disease.

C. African Swine Fever has a high environmental resistance and can be spread by domestic or wild swine, whether alive or dead, and through raw and processed pork products. African Swine Fever does not cause disease in humans and is not a public health threat.

D. African Swine Fever is known to be transmissible from infected to uninfected swine through contact and via contaminated feed and fomites (non-living objects) such as shoes, clothes, vehicles, equipment and any other goods, products, facilities, specific insect vectors (soft ticks), containers and other objects with which infected swine—alive or dead—may come into contact.

E. Section 2321 of the Domestic Animal Law (Law) establishes a list of “dangerous transmissible diseases” and provides for the designation of additional dangerous transmissible diseases through regulation or temporary order (3 Pa.C.S.A. § 2321).

F. African Swine Fever (ASF) is specifically designated as a dangerous transmissible disease at section 2321(a)(3) of the Law (3 Pa.C.S.A. § 2321(a)(3)).

G. The Domestic Animal Law (Law) (3 Pa.C.S.A. §§ 2301–2389) and section 1702 of the Administrative Code of 1929 (71 P.S. § 442), provides the Pennsylvania Department of Agriculture (PDA) broad authority to regulate the keeping and handling of domestic animals to exclude, contain or eliminate dangerous transmissible diseases, such as ASF.

H. This includes authority, set forth at section 2329 of the Law, to establish and enforce quarantine orders “Whenever a dangerous transmissible disease . . . exists anywhere within or outside of this Commonwealth. . . the department shall have the power to establish and enforce quarantines of any such infected, exposed, contaminated, suspected or susceptible domestic animal. In addition, a quarantine may apply to any goods, products, facilities, containers, vehicles or materials that may carry dangerous transmissible disease. . . and may be applied on or in or against any premises, area or locality. . .” (3 Pa.C.S.A. § 2329(a)).

I. Section 2329(d) of the Law provides specific authority to establish and enforce a general quarantine order “. . . against any area or locality within this Commonwealth for any of the reasons set forth in subsection (a) to prevent a dangerous transmissible disease. . . from being carried into, within, from or out of the area or locality that is subject to the quarantine. A general quarantine order may include any domestic animals, conveyances, containers, goods, products or materials that may carry dangerous transmissible disease. . . and may include any

area or locality, including all buildings, structures, premises and equipment located therein.” (3 Pa.C.S.A. § 2329(d)).

J. ASF is found in many countries around the world. Particularly, in sub-Saharan Africa, many Asian and South East Asian countries including Indonesia, Mongolia, North Korea, South Korea, China, the Philippines, Vietnam, Laos, Cambodia, Myanmar and Timor-Leste, and in parts of the Caribbean. China has confirmed more than 163 cases of ASF and has lost an estimated 200 million swine which amounts to thirty-three percent of all the pigs in the world. The disease is also spreading within the European Union (EU), and the virus has reached 10 member states of the EU.

K. Biosecurity breaches in commercial swine operations in these countries have occurred and have been problematic in disease containment strategies. This is due to the agent’s high environmental resistance, ability to be transferred by live contact, contact with dead pigs or infected pork products, and by fomites such as feed and conveyances.

L. Many affected countries have had serious morbidity and mortality numbers in affected swine areas. In addition, costly containment strategies have been largely ineffective and there have been serious long-term trade restrictions, financial losses, and food shortages of affected products as a result. It is not yet known to be present in North America, Central America, or South America.

M. Most recently, at the conclusion of 2021, ASF was detected as close as it has been to the United States, on the island of Hispaniola involving the Dominican Republic and Haiti.

N. Swine that are comingled for exhibition, attend multiple events, are stressed during exhibition and transport, are exposed to fomites, and have additional exposure to and contact with the human public.

O. Exhibition activities provide a greater risk for swine to be exposed to and contract numerous common diseases to swine, as well as, potentially dangerous transmissible diseases and high consequence diseases including African Swine Fever, Classical Swine Fever, Foot and Mouth Disease and *Streptococcus equi* ssp. *zooepidemicus*.

P. The Department recognized that this group of swine (exhibition swine) would be at very high risk to contract, transfer, and spread dangerous transmissible diseases such as ASF. Such diseases require timely monitoring, identification and notification, quick action and confirmation, and an accurate and quick way to account for all animals present and their source origin to properly contain disease.

Q. The Department through the General Quarantine Order; Swine Exhibition Requirements (51 Pa.B. 3861, Saturday, July 17, 2021) established reasonable requirements to allow for movement of swine and products within this Commonwealth for exhibition purposes, while protecting against the introduction of ASF into this Commonwealth’s commercial production swine population.

R. The Department has been made aware of national manufacturing supply shortages that have created a temporary hardship in acquiring the required identification devices associated with the General Quarantine

Order; Swine Exhibition Requirements (51 Pa.B. 3861, Saturday, July 17, 2021), and does hereby create, through this Addendum, temporary amendments to the identification requirements of the General Quarantine Order; Swine Exhibition Requirements (51 Pa.B. 3861, Saturday, July 17, 2021).

Order:

With the foregoing recitals previously listed incorporated herein and made part hereof this Addendum to the General Quarantine Order; Swine Exhibition Requirements (51 Pa.B. 3861) issued Saturday July 17, 2021, the Department orders the following:

1. *All Other Provisions of the General Quarantine Order; Swine Exhibition Requirements (51 Pa.B. 3861, Saturday, July 17, 2021) Remain In Effect.* All provisions of the General Quarantine Order; Swine Exhibition Requirements (51 Pa.B. 3861, Saturday, July 17, 2021), except for those amended by this Addendum, as set forth below, shall remain in full force and effect.

2. *Quarantine Area.* The area covered by this General Quarantine Order is the entire Commonwealth of Pennsylvania.

3. *Applicability and Time Period of Addendum.* The terms, provisions and requirements of this Addendum are applicable to all swine participating in exhibitions in the Commonwealth of Pennsylvania from the effective date of publication for this Addendum until September 15, 2022 at which point this Addendum will be automatically rescinded and will be no longer applicable and the full provisions of the General Quarantine Order; Swine Exhibition Requirements, (51 Pa.B. 3861, Saturday July 17, 2021), will be enforced.

4. *Temporary Allowance Exhibition Requirement, Identification.* The provisions of paragraph 5 of the General Quarantine Order; Swine Exhibition Requirements (51 Pa.B. 3861, Saturday, July 17, 2021) are amended in the following manner in instances where an 840 series radio frequency (RFID) capable ear tag cannot be acquired prior to an exhibition due to the current nationwide shortage and backorder of this type of device:

a. An 840 series radio frequency (RFID) capable ear tag is the standard official identification allowable under the General Quarantine Order, Swine Exhibition Requirements by (51 Pa.B. 3861, Saturday, July 17, 2021), for swine to be exhibited in Pennsylvania. Should this tag type be available to the exhibitor or already in place, it is preferable that it is used as the sole official identification device for exhibition swine.

b. Because of a shortage of the tag listed in 4. a. above. The Department will temporarily allow for application and recognize allowable for exhibition, a metal National Uniform Eartagging System (NUES) tag which is coded to the state of origin and pinned to the premises of origin or accredited veterinarian's practice through which the tags were sourced.

c. All Identification Devices and systems that are used (both official and non-official including ear notches) shall be listed and correlated to the specific animal on a Certificate of Veterinary Inspection issued within 14 days prior to the start of exhibition.

d. Once placed, an 840 series tag or a metal NUES tag cannot be removed without the consent of both the State Veterinarian and The Area Veterinarian in Charge for the USDA.

e. 840 series tags without RFID capability are not deemed official for swine exhibition in the Commonwealth

of Pennsylvania, and any swine being exhibited in Pennsylvania with an 840 series tag without RFID shall also be identified with a NUES tag.

f. At the conclusion of the time period of this addendum listed in Paragraph 2. and from all points forward, at all Pennsylvania swine exhibitions an 840 series RFID capable tag shall be physically in place on the swine to allow it participation, as is delineated in the Exhibition section of 51 Pa.B. 3861 General Order; Swine Exhibition Requirements, until such time the order is rescinded or withdrawn.

RUSSELL C. REDDING,
Secretary

[Pa.B. Doc. No. 22-601. Filed for public inspection April 22, 2022, 9:00 a.m.]

DEPARTMENT OF AGRICULTURE

Addendum to the Interstate and International Quarantine Order; Swine Exhibition Requirements

Recitals

A. African Swine Fever (ASF) is a highly contagious hemorrhagic viral disease affecting domestic and wild swine.

B. There is no vaccine to protect swine against African Swine Fever, nor is there a known cure or treatment for this dangerous transmissible disease.

C. African Swine Fever has a high environmental resistance and can be spread by domestic or wild swine, whether alive or dead, and through raw and processed pork products. African Swine Fever does not cause disease in humans and is not a public health threat.

D. African Swine Fever is known to be transmissible from infected to uninfected swine through contact and via contaminated feed and fomites (non-living objects) such as shoes, clothes, vehicles, equipment and any other goods, products, facilities, specific insect vectors (soft ticks), containers and other objects with which infected swine—alive or dead—may come into contact.

E. Section 2321 of the Domestic Animal Law (Law) establishes a list of “dangerous transmissible diseases” and provides for the designation of additional dangerous transmissible diseases through regulation or temporary order (3 Pa.C.S.A. § 2321).

F. African Swine Fever (ASF) is specifically designated as a dangerous transmissible disease at section 2321(a)(3) of the Law (3 Pa.C.S.A. § 2321(a)(3)).

G. The Domestic Animal Law (Law) (3 Pa.C.S.A. §§ 2301—2389) and section 1702 of the Administrative Code of 1929 (71 P.S. § 442), provides the Pennsylvania Department of Agriculture (Department) broad authority to regulate the keeping and handling of domestic animals to exclude, contain or eliminate dangerous transmissible diseases, such as ASF.

H. This includes authority, set forth at section 2329 of the Law, to establish and enforce quarantine orders “Whenever a dangerous transmissible disease...exists anywhere within or outside of this Commonwealth...the department shall have the power to establish and enforce quarantines of any such infected, exposed, contaminated,

suspected or susceptible domestic animal. In addition, a quarantine may apply to any goods, products, facilities, containers, vehicles or materials that may carry dangerous transmissible disease. . .and may be applied on or in or against any premises, area or locality. . .” (3 Pa.C.S.A. § 2329(a)).

I. Section 2329(c) of the Law provides specific authority to establish and enforce an interstate and international quarantine order, stating, “An interstate or international quarantine may be established and enforced by order of the department against any place or places outside this Commonwealth for any of the reasons set forth in subsection (a) or where dangerous transmissible diseases. . .are reported to exist. An interstate or international quarantine may prohibit the bringing of any domestic animals, conveyances, containers, goods, products or materials into this Commonwealth except in accordance with the requirements set forth in the quarantine order. . .” (3 Pa.C.S.A. § 2329(c)).

J. ASF is found in many countries around the world. Particularly, in sub-Saharan Africa, many Asian and South East Asian countries, including Indonesia, Mongolia, North Korea, South Korea, China, the Philippines, Vietnam, Laos, Cambodia, Myanmar and Timor-Leste, and in parts of the Caribbean. China has confirmed more than 163 cases of ASF and has lost an estimated 200 million swine which amounts to thirty-three percent of all the pigs in the world. The disease is also spreading within the European Union (EU), and the virus has reached 10 member states of the EU.

K. Biosecurity breaches in commercial swine operations in these countries have occurred and have been problematic in disease containment strategies. This is due to the agent’s high environmental resistance, ability to be transferred by live contact, contact with dead pigs or infected pork products, and by fomites such as feed and conveyances.

L. Many affected countries have had serious morbidity and mortality numbers in affected swine areas. In addition, costly containment strategies have been largely ineffective and there have been serious long-term trade restrictions, financial losses, and food shortages of affected products as a result. It is not yet known to be present in North America, Central America, or South America.

M. Most recently, at the conclusion of 2021, ASF was detected as close as it has been to the United States, on the island of Hispaniola involving the Dominican Republic and Haiti.

N. Swine that are comingled for exhibition, attend multiple events, are stressed during exhibition and transport, are exposed to fomites, and have additional exposure to and contact with the human public.

O. Exhibition activities provide a greater risk for swine to be exposed to and contract numerous common diseases to swine, as well as, potentially dangerous transmissible diseases and high consequence diseases including African Swine Fever, Classical Swine Fever, Foot and Mouth Disease and *Streptococcus equi* ssp. *zooepidemicus*.

P. The Department recognized that this group of swine (exhibition swine) would be at very high risk to contract, transfer, and spread dangerous transmissible diseases such as ASF. Such diseases require timely monitoring, identification and notification, quick action and confirmation, and an accurate and quick way to account for all animals present and their source of origin to properly contain disease.

Q. The Department through the Interstate and International Quarantine Order; Swine Exhibition Requirements (51 Pa.B. 3864, Saturday, July 17, 2021), established reasonable requirements to allow for movement of swine and products into and within this Commonwealth for exhibition purposes, while protecting against the introduction of ASF into this Commonwealth’s commercial production swine population.

R. The Department has been made aware of national manufacturing supply shortages that have created a temporary hardship in acquiring the required identification devices associated with the Interstate and International Quarantine Order; Swine Exhibition Requirements (51 Pa.B. 3864, Saturday, July 17, 2021), and does hereby create, through this Addendum, temporary amendments to the identification requirements of the Interstate and International Quarantine Order; Swine Exhibition Requirements (51 Pa.B. 3864, Saturday, July 17, 2021).

Order:

With the foregoing recitals previously listed incorporated herein and made part hereof this Addendum to the Interstate and International Quarantine Order; Swine Exhibition Requirements (51 Pa.B. 3864) issued Saturday July 17, 2021, the Department orders the following:

1. *All Other Provisions of the Interstate and International Quarantine Order; Swine Exhibition Requirements (51 Pa.B. 3864, Saturday, July 17, 2021) Remain In Effect.* All provisions of the Interstate and International Quarantine Order; Swine Exhibition Requirements (51 Pa.B. 3864, Saturday, July 17, 2021), except for those amended by this Addendum, as set forth below, shall remain in full force and effect.

2. *Applicability and Time Period of Addendum.* The terms, provisions and requirements of this Addendum are applicable to all swine participating in exhibitions in the Commonwealth of Pennsylvania from the effective date of publication for this Addendum until September 15, 2022 at which point this Addendum will be automatically rescinded and will be no longer applicable and the full provisions of the Interstate and International Quarantine Order; Swine Exhibition Requirements (51 Pa.B. 3864, Saturday July 17, 2021), will be enforced.

3. *Temporary Allowance Exhibition Requirement, Identification.* The provisions of paragraph 5 of the Interstate and International Quarantine Order; Swine Exhibition Requirements (51 Pa.B. 3864, Saturday, July 17, 2021) are amended in the following manner in instances where an 840 series radio frequency (RFID) capable ear tag cannot be acquired prior to an exhibition due to the current nationwide shortage and backorder of this type of device:

a. An 840 series radio frequency (RFID) capable ear tag is the standard official identification allowable under the Interstate and International Quarantine Order, Swine Exhibition Requirements by (51 Pa.B. 3864, Saturday, July 17, 2021), for swine to be exhibited in Pennsylvania. Should this tag type be available to the exhibitor or already in place, it is preferable that it is used as the sole official identification device for exhibition swine.

b. Because of the shortage of 840 series radio frequency (RFID) capable ear tags, the Department will temporarily allow for application of and recognize as allowable for exhibition of swine, a metal National Uniform Eartagging

System (NUES) tag which shall be coded to the state of origin and pinned to the premises of origin or accredited veterinarian's practice through which the tags were sourced. The NUES tag number shall be recorded on the Interstate Certificate of Veterinary Inspection accompanying each animal, as was required by the Interstate and International Quarantine Order; Swine Exhibition Requirements (51 Pa.B. 3864, Saturday, July 17, 2021) for the use of RFID capable ear tags.

c. All Identification Devices and systems that are used (both official and non-official including ear notches) shall be listed and correlated to the specific animal on an Interstate Certificate of Veterinary Inspection issued within the 14 days prior to the start of exhibition.

d. Once placed, an 840 series radio frequency (RFID) capable ear tag or a metal NUES tag may not be removed without the consent of both the State Veterinarian and the Area Veterinarian in Charge for the USDA.

e. 840 series tags without radio frequency (RFID) capability are not deemed official for swine exhibition in the Commonwealth of Pennsylvania, and any swine being exhibited in Pennsylvania with an 840 series tag that does not possess radio frequency (RFID) capability shall also be identified with a NUES tag.

f. At the conclusion of the time period of this Addendum, set forth in Paragraph 2., and from all points forward, at all Pennsylvania swine exhibitions an 840 series radio frequency (RFID) capable ear tag shall be physically in place on the swine to allow its participation, as is delineated in paragraph 5. (relating to exhibition requirements) of the Interstate and International Quarantine Order; Swine Exhibition Requirements (51 Pa.B. 3864, Saturday, July 17, 2021).

4. All swine imported into the Commonwealth for animal exhibition shall meet interstate health requirements established by the Department's regulations at 7 *Pennsylvania Code*, sections 3.131, 3.133, 3.138a and 3.139 (7 Pa. Code §§ 3.131, 3.133, 3.138a and 3.139) and shall meet the requirements delineated in the Department's Interstate/International and General Quarantine Order; Importation and Intrastate Movement of Swine (39 Pa.B. 5442), published September 19, 2009.

RUSSELL C. REDDING,
Secretary

[Pa.B. Doc. No. 22-602. Filed for public inspection April 22, 2022, 9:00 a.m.]

DEPARTMENT OF BANKING AND SECURITIES

Actions on Applications

The Department of Banking and Securities (Department), under the authority in the Banking Code of 1965 (7 P.S. §§ 101—2204), the Department of Banking and Securities Code (71 P.S. §§ 733-1—733-1203) and 17 Pa.C.S. (relating to Credit Union Code), has taken the following actions on applications received for the week ending April 12, 2022.

Under section 503.E of the Department of Banking and Securities Code (71 P.S. § 733-503.E), any person wishing to comment on the following applications, with the exception of branch applications, may file comments in writing with the Department of Banking and Securities, Bank Supervision or Credit Union and Trust Supervision (as applicable), 17 North Second Street, Suite 1300, Harrisburg, PA 17101-2290. Comments must be received no later than 30 days from the date notice regarding receipt of the application is published in the *Pennsylvania Bulletin*. The nonconfidential portions of the applications are on file at the Department and are available for public inspection, by appointment only, during regular business hours. To schedule an appointment, for banks (717) 783-8240 and for credit unions and trust companies (717) 783-2253. Photocopies of the nonconfidential portions of the applications may be requested consistent with the Department's Right-to-Know Law Records Request policy.

BANKING INSTITUTIONS

Branch Applications

De Novo Branches

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
04-07-2022	CNB Bank Clearfield Clearfield County	3531 Franklin Road Roanoke Roanoke City County, VA	Filed

CREDIT UNIONS

No activity.

The Department's web site at www.dobs.pa.gov includes public notices for more recently filed applications.

RICHARD VAGUE,
Secretary

[Pa.B. Doc. No. 22-603. Filed for public inspection April 22, 2022, 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 and select Businesses, Water, Bureau of Clean Water, Wastewater Management, and NPDES and WQM Permitting Programs).

Section *Category*

- | | |
|-----|--|
| 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 Chapter 92a 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, excluding PAG-01 and PAG-02, 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.

Section II identifies individual NPDES permit applications received and draft permits indicating DEP's tentative determination relating to sewage, industrial waste, industrial stormwater, MS4s, pesticides and CAFOs. A 30-day public comment period applies to these applications and draft permits, 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. 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, NOIs and draft permits, where applicable, may be reviewed at the DEP office that received the application or NOI. 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 and to submit comments for those applications, 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 for permits in Sections I & II; RA-EPWW-SERO@pa.gov for permits in Section III.

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 for permits in Sections I & II; RA-EPWW-NERO@pa.gov for permits in Section III.

DEP Southcentral Regional Office (SCRO)—909 Elmerton Avenue, Harrisburg, PA 17110. File Review Coordinator: 717.705.4732. Email: RA-EPNPDES_SCRO@pa.gov for permits in Sections I & II; RA-EPWW-SCRO@pa.gov for permits in Section III.

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 for permits in Sections I & II; RA-EPWW-NCRO@pa.gov for permits in Section III.

DEP Southwest Regional Office (SWRO)—400 Waterfront Drive, Pittsburgh, PA 15222. File Review Coordinator: 412.442.4286. Email: RA-EPNPDES_SWRO@pa.gov for permits in Sections I & II; RA-EPWW-SWRO@pa.gov for permits in Section III.

DEP Northwest Regional Office (NWRO)—230 Chestnut Street, Meadville, PA 16335. File Review Coordinator: 814.332.6340. Email: RA-EPNPDES_NWRO@pa.gov for permits in Sections I & II; RA-EPWW-NWRO@pa.gov for permits in Section III.

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 Regional Permit Coordination Office (RPCO)—400 Market Street, Harrisburg, PA 17105. File Review Coordinator: 717-772-5987. Email: RA-EPREGIONALPERMIT@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 & Address</i>	<i>Municipality, County</i>	<i>DEP Office</i>
0913809	Joint DEP/PFBC Pesticides Permit	Amendment	Yorkshire Meadow Pond 501 W Office Center Drive Fort Washington, PA 19034	Solebury Township Bucks County	SERO
0917806	Joint DEP/PFBC Pesticides Permit	Renewal	McCarthy Brian 80 West Sandy Ridge Road Doylestown, PA 18901	Doylestown Township Bucks County	SERO
1113803	Joint DEP/PFBC Pesticides Permit	Renewal	Portage Borough Municipal Water Authority Cambria County 606 Cambria Street Portage, PA 15946-1516	Portage Township Cambria County	SWRO
2517803	Joint DEP/PFBC Pesticides Permit	Renewal	Mary Chivers 8501 Brooks Road Girard, PA 16417	Fairview Township Erie County	NWRO
2527804	Joint DEP/PFBC Pesticides Permit	Renewal	Gina Marie Flint 8730 Brooks Road Girard, PA 16417	Fairview Township Erie County	NWRO
3514802A-1	Joint DEP/PFBC Pesticides Permit	Renewal	Lake Kewanee Association 615 Birchwood Road Clarks Green, PA 18411-2507	Benton Township Lackawanna County	NERO

<i>Application Number</i>	<i>Permit Type</i>	<i>Application Type</i>	<i>Applicant Name & Address</i>	<i>Municipality, County</i>	<i>DEP Office</i>
4013820A-2	Joint DEP/PFBC Pesticides Permit	Amendment	Nuangola Lake Association 26 Nuangola Avenue Mountain Top, PA 18707-9124	Nuangola Borough Luzerne County	NERO
4016805	Joint DEP/PFBC Pesticides Permit	Renewal	Harveys Lake Borough Luzerne County 4875 Memorial Highway Suite 101 P.O. Box 60 Harveys Lake, PA 18618-2186	Harveys Lake Borough Luzerne County	NERO
4616823	Joint DEP/PFBC Pesticides Permit	Renewal	222 Morris Road Estate 222 Morris Road Ambler, PA 19002-5250	Ambler Borough Montgomery County	SERO
4617801	Joint DEP/PFBC Pesticides Permit	Renewal	Hillman John 140 Norristown Road Blue Bell, PA 19422	Whitpain Township Montgomery County	SERO
4622805	Joint DEP/PFBC Pesticides Permit	New	Beese Gregory L P.O. Box 26035 Collegeville, PA 19426-0035	Limerick Township Montgomery County	SERO
6522800	Joint DEP/PFBC Pesticides Permit	New	Lombardo Louis 1550 Menk Road New Kensington, PA 15068-7217	Upper Burrell Township Westmoreland County	SWRO
PA0001627	Major Industrial Waste Facility >= 250 MGD Individual NPDES Permit	Transfer	Cheswick Plant Environmental Redevelopment Group LLC 12601 Plantside Drive Louisville, KY 40299-6386	Springdale Borough Allegheny County	SWRO
0272216	Major Industrial Waste Treatment Facility Individual WQM Permit	Transfer	Cheswick Plant Environmental Redevelopment Group LLC 12601 Plantside Drive Louisville, KY 40299-6386	Springdale Borough Allegheny County	SWRO
0274215	Major Industrial Waste Treatment Facility Individual WQM Permit	Transfer	Synthomer Jefferson Hills LLC P.O. Box 545 Elizabeth, PA 15088-0545	Jefferson Hills Borough Allegheny County	SWRO
0277206	Major Industrial Waste Treatment Facility Individual WQM Permit	Transfer	Cheswick Plant Environmental Redevelopment Group LLC 12601 Plantside Drive Louisville, KY 40299-6386	Springdale Borough Allegheny County	SWRO
0464I23	Major Industrial Waste Treatment Facility Individual WQM Permit	Transfer	Synthomer Jefferson Hills LLC P.O. Box 545 Elizabeth, PA 15088-0545	Jefferson Hills Borough Allegheny County	SWRO
467I021	Major Industrial Waste Treatment Facility Individual WQM Permit	Transfer	Cheswick Plant Environmental Redevelopment Group, LLC 12601 Plantside Drive Louisville, KY 40299-6386	Springdale Borough Allegheny County	SWRO
3896403	Major Sewage Treatment Facility Individual WQM Permit	Amendment	Lebanon City Authority Lebanon County 2321 Ridgeview Road Lebanon, PA 17042-9431	Lebanon City Lebanon County	SCRO
3919408	Major Sewage Treatment Facility Individual WQM Permit	Amendment	Allentown City Lehigh County Department of Public Works 435 Hamilton Street Allentown, PA 18101	Allentown City Lehigh County	NERO

NOTICES

2369

<i>Application Number</i>	<i>Permit Type</i>	<i>Application Type</i>	<i>Applicant Name & Address</i>	<i>Municipality, County</i>	<i>DEP Office</i>
4809403	Major Sewage Treatment Facility Individual WQM Permit	Amendment	Nazareth Borough Municipal Authority Northampton County P.O. Box A Nazareth, PA 18064-0450	Lower Nazareth Township Northampton County	NERO
6573448	Major Sewage Treatment Facility Individual WQM Permit	Amendment	North Huntingdon Township Municipal Authority Westmoreland County 4130 Turner Valley Road North Huntingdon, PA 15642-4969	North Huntingdon Township Westmoreland County	SWRO
2112201	Manure Storage and Wastewater Impoundments Individual WQM Permit	Transfer	Molly Pitcher Milk, LLC 75 Goodyear Road Carlisle, PA 17015-9495	Southampton Township Cumberland County	SCRO
PA0065137	Minor Industrial Waste Facility with ELG Individual NPDES Permit	Transfer	Blythe Recycling and Demolition Site Holdings Inc. 1786 Salcman Road Waterloo, NY 13165-9444	Blythe Township Schuylkill County	NERO
PA0255777	Minor Industrial Waste Facility with ELG Individual NPDES Permit	Transfer	Harwick Oper Co., LLC 12601 Plantside Drive Louisville, KY 40299-6386	Springdale Borough Allegheny County	SWRO
PA0060321	Minor Sewage Facility < 0.05 MGD Individual NPDES Permit	Transfer	The Village of Mountain Heights MHP, LLC 100 E 8th Street Milton, PA 17847-1414	Overfield Township Wyoming County	NERO
PA0113221	Minor Sewage Facility < 0.05 MGD Individual NPDES Permit	Transfer	Bishop Michael I 460 N Front Street Sunbury, PA 17801-1814	Upper Augusta Township Northumberland County	NCRO
0221205	Minor and Non-NPDES Industrial Waste Treatment Facility Individual WQM Permit	Transfer	Harwick Oper Co., LLC 12601 Plantside Drive Louisville, KY 40299-6386	Springdale Borough Allegheny County	SWRO
0581401	Minor and Non-NPDES Sewage Treatment Facility Individual WQM Permit	Amendment	ETS Properties, LLC 2114 14th Avenue Altoona, PA 16601	Bedford Township Bedford County	SCRO
4986408	Minor and Non-NPDES Sewage Treatment Facility Individual WQM Permit	New	Bishop Michael I 460 N Front Street Sunbury, PA 17801-1814	Upper Augusta Township Northumberland County	NCRO
NOEXSE127	No Exposure Certification	Transfer	Constellation Energy Generation, LLC 1 Industrial Highway Eddystone, PA 19022-1524	Philadelphia City Philadelphia County	SERO
NOEXSW008	No Exposure Certification	Renewal	Valvoline, LLC 491 Railroad Street Rochester, PA 15074-1905	Rochester Borough Beaver County	SWRO

<i>Application Number</i>	<i>Permit Type</i>	<i>Application Type</i>	<i>Applicant Name & Address</i>	<i>Municipality, County</i>	<i>DEP Office</i>
PAG030005	PAG-03 NPDES General Permit for Industrial Stormwater	Transfer	Marine Lubricants, Inc. 4700 Basin Bridge Road Philadelphia, PA 19112-1610	Philadelphia City Philadelphia County	SERO
PAR600013	PAG-03 NPDES General Permit for Industrial Stormwater	Transfer	JKL Auto Products & Srves, Inc. 2010 Ridge Road Telford, PA 18969-1614	Upper Salford Township Montgomery County	SERO
PAR900003	PAG-03 NPDES General Permit for Industrial Stormwater	Transfer	Constellation Energy Generation, LLC # 1 Industrial Highway Eddystone, PA 19022	Bristol Township Bucks County	SERO
PAG043556	PAG-04 NPDES General Permit for Small Flow Treatment Facilities	Transfer	Bell Karen S 2110 Longs Gap Road Carlisle, PA 17013-8651	North Middleton Township Cumberland County	SCRO
PAG123667	PAG-12 NPDES General Permit for CAFOs	Renewal	Sensenig Dairy 100 Strohm Road Shippensburg, PA 17257-9654	Wayne Township Dauphin County	SCRO
PAG123819	PAG-12 NPDES General Permit for CAFOs	Transfer	Molly Pitcher Milk, LLC 75 Goodyear Road Carlisle, PA 17015-9495	Southampton Township Cumberland County	SCRO
2622400	Sewer Extensions WQM Individual Permit	New	Point Marion Borough Fayette County P.O. Box 236 Point Marion, PA 15474-0236	Point Marion Borough Fayette County	SWRO
4522401	Sewer Extensions WQM Individual Permit	New	Great Wolf Lodge of The Poconos, LLC 1 Great Wolf Lodge Drive Scotrun, PA 18355	Pocono Township Monroe County	NERO
PA0261386	Single Residence STP Individual NPDES Permit	Transfer	Calicchio Anthony 220 Shatto Drive Carlisle, PA 17013-0121	North Middleton Township Cumberland County	SCRO
PA0289558	Single Residence STP Individual NPDES Permit	Transfer	Bowman Kerith 7323 New Road Edinboro, PA 16412-3609	Franklin Township Erie County	NWRO
2109406	Single Residence Sewage Treatment Plant Individual WQM Permit	Transfer	Calicchio Anthony 220 Shatto Drive Carlisle, PA 17013-0121	North Middleton Township Cumberland County	SCRO
2196404	Single Residence Sewage Treatment Plant Individual WQM Permit	Transfer	Bell Karen S 2110 Longs Gap Road Carlisle, PA 17013-8651	North Middleton Township Cumberland County	SCRO
2521415	Single Residence Sewage Treatment Plant Individual WQM Permit	Transfer	Bowman Kerith 7323 New Road Edinboro, PA 16412-3609	Franklin Township Erie County	NWRO
2522409	Single Residence Sewage Treatment Plant Individual WQM Permit	New	Margarita & Vlacheslav Yunikov 4512 Shannon Road Erie, PA 16510-4234	Harborcreek Township Erie County	NWRO

<i>Application Number</i>	<i>Permit Type</i>	<i>Application Type</i>	<i>Applicant Name & Address</i>	<i>Municipality, County</i>	<i>DEP Office</i>
4122401	Single Residence Sewage Treatment Plant Individual WQM Permit	New	Caldwell Shelia E 12416 Wallis Run Road Trout Run, PA 17771-8555	Plunketts Creek Township Lycoming County	NCRO
6216406	Single Residence Sewage Treatment Plant Individual WQM Permit	Transfer	Turner Ralph 264 Horn Siding Lane Spring Creek, PA 16436-3810	Spring Creek Township Warren County	NWRO
PA0056081	Small Flow Treatment Facility Individual NPDES Permit	Transfer	Mulberry Re Holdings, LLC 1488 Mulberry Circle Warminster, PA 18974	Wrightstown Township Bucks County	SERO
2022403	Small Flow Treatment Facility Individual WQM Permit	New	Mahan Larry 21843 Mayflower Hill Drive Venango, PA 16440-2035	Venango Township Crawford County	NWRO
6022401	Small Flow Treatment Facility Individual WQM Permit	New	Forest House Hotel 10410 Buffalo Road Mifflinburg, PA 17844-7873	Mifflinburg Borough Union County	NCRO

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.

Northeast Regional Office

PA0063444, Sewage, SIC Code 4952, **Butler Township Municipal Authority**, 572 Dutchtown Road, Ashland, PA 17921. Facility Name: Butler Township Municipal Authority. This existing facility is located in Butler Township, **Schuylkill 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, Mahanoy Creek (WWF/MF), is located in State Water Plan watershed 6-B and is classified for Warm 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 0.24 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>Weekly Average</i>		<i>Average Monthly</i>	<i>Weekly Average</i>	
Aluminum, Total	XXX	XXX	XXX	Report Annl Avg	XXX	XXX
Iron, Total	XXX	XXX	XXX	Report Annl Avg	XXX	XXX
Manganese, Total	XXX	XXX	XXX	Report Annl Avg	XXX	XXX
Zinc, Total	XXX	XXX	XXX	Report Annl Avg	XXX	XXX

The proposed effluent limits for Outfall 001 are based on a design flow of 0.24 MGD.

<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>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	5.0	XXX	XXX	XXX
Total Residual Chlorine (TRC)	XXX	XXX	XXX	0.5	XXX	1.1
Carbonaceous Biochemical Oxygen Demand (CBOD ₅)	50	80	XXX	25.0	40.0	50.0
Biochemical Oxygen Demand (BOD ₅) Raw Sewage Influent	XXX	XXX	XXX	Report	XXX	XXX

Parameters	Mass Units (lbs/day)		Instant. Minimum	Concentrations (mg/L)		IMAX
	Average Monthly	Weekly Average		Average Monthly	Weekly Average	
Total Suspended Solids	60	90	XXX	30.0	45.0	60.0
Total Suspended Solids Raw Sewage Influent	XXX	XXX	XXX	Report	XXX	XXX
Fecal Coliform (No./100 mL)						
Oct 1 - Apr 30	XXX	XXX	XXX	2,000 Geo Mean	XXX	10,000
May 1 - Sep 30	XXX	XXX	XXX	200 Geo Mean	XXX	1,000
Nitrate-Nitrite as N	XXX	XXX	XXX	Report	XXX	XXX
Total Nitrogen	XXX	XXX	XXX	Report	XXX	XXX
Ammonia-Nitrogen	XXX	XXX	XXX	Report	XXX	XXX
Total Kjeldahl Nitrogen	XXX	XXX	XXX	Report	XXX	XXX
Total Phosphorus	XXX	XXX	XXX	Report	XXX	XXX
Copper, Total	XXX	XXX	XXX	0.105	XXX	0.210
E. Coli (No./100 mL)	XXX	XXX	XXX	XXX	XXX	Report

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

- Solids Management

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.

Northwest Regional Office

PA0038814, Sewage, SIC Code 4952, **Ellport Borough Sewer Authority**, 313 Burns Avenue, Ellwood City, PA 16117-3910. Facility Name: Ellport Borough STP. This existing facility is located in Ellport Borough, **Lawrence 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), Slippery Rock Creek, 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 0.72 MGD.—Limits.

Parameters	Mass Units (lbs/day)		Minimum	Concentrations (mg/L)		IMAX
	Average Monthly	Weekly Average		Average Monthly	Weekly Average	
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	9.0	XXX
Dissolved Oxygen	XXX	XXX	5.0	XXX	XXX	XXX
Total Residual Chlorine (TRC)	XXX	XXX	XXX	0.5	XXX	1.6
Carbonaceous Biochemical Oxygen Demand (CBOD ₅)	150	240	XXX	25	40	50
Biochemical Oxygen Demand (BOD ₅)	Report	Report	XXX	Report	XXX	XXX
Raw Sewage Influent						
Total Suspended Solids	180	270	XXX	30	45	60
Total Suspended Solids Raw Sewage Influent	Report	Report	XXX	Report	XXX	XXX
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	Report	XXX	XXX	Report	XXX	XXX
May 1 - Oct 31	126	XXX	XXX	21	XXX	42
E. Coli (No./100 ml)	XXX	XXX	XXX	XXX	XXX	Report
Total Nitrogen	Report	XXX	XXX	Report	XXX	XXX
Total Phosphorus	Avg Qrtly Report	XXX	XXX	Avg Qrtly Report	XXX	XXX
	Avg Qrtly			Avg Qrtly		

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.

PA0264806, Sewage, SIC Code 4952, 8811, **Michael L Stempka**, 10224 Oliver Road, McKean, PA 16426-1905. Facility Name: Michael L Stempka SRSTP. This existing facility is located in McKean Township, **Erie 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 is an Unnamed Tributary to Lamson Run, located in State Water Plan watershed 15-A and classified for Cold Water and Migratory Fish, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

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

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

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

The EPA Waiver is in effect.

PA0290424, Sewage, SIC Code 8800, **Meghan Petruzzi**, 1209 Mountain View Drive, Olean, NY 14760. Facility Name: Meghan Petruzzi SRSTP. This proposed facility is located in Otto Township, **McKean 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), Kansas Branch (CWF), is located in State Water Plan watershed 16-C and is classified for Cold Water Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

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

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>		<i>Minimum</i>	<i>Concentrations (mg/L)</i>		<i>IMAX</i>
	<i>Average Monthly</i>	<i>Average Weekly</i>		<i>Annual Average</i>	<i>Maximum</i>	
Flow (GPD)	Report Annl Avg	XXX	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0 Inst Min	XXX	XXX	9.0
Biochemical Oxygen Demand (BOD ₅)	XXX	XXX	XXX	10.0	XXX	20
Total Suspended Solids	XXX	XXX	XXX	10.0	XXX	20
Fecal Coliform (No./100 ml)	XXX	XXX	XXX	200	XXX	XXX

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.

PA0290581, Sewage, SIC Code 4952, 8800, **William G Kingan**, 426 Saxonburg Road, Butler, PA 16002-3736. Facility Name: William Kingan SRSTP. This proposed facility is located in Jefferson Township, **Butler County**.

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

The receiving stream is Patterson Run, located in State Water Plan watershed 20-C and classified for Cold Water Fish, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

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

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>		<i>Minimum</i>	<i>Concentrations (mg/L)</i>		<i>IMAX</i>
	<i>Average Monthly</i>	<i>Average Weekly</i>		<i>Annual Average</i>	<i>Daily 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

Parameters	Mass Units (lbs/day)		Minimum	Concentrations (mg/L)		IMAX
	Average Monthly	Average Weekly		Annual Average	Daily Maximum	
Biochemical Oxygen Demand (BOD ₅)	XXX	XXX	XXX	10.0	XXX	20.0
Total Suspended Solids	XXX	XXX	XXX	10.0	20.0	20.0
Fecal Coliform (No./100 ml)	XXX	XXX	XXX	200	XXX	XXX

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

The EPA Waiver is in effect.

Southcentral Regional Office

PA0035092, Industrial, SIC Code 2015, **Tyson Poultry, Inc.**, 403 S Custer Avenue, New Holland, PA 17557-9221. Facility Name: Tyson Poultry Inc., New Holland. This existing facility is located in New Holland Borough, **Lancaster 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, Unnamed Tributary of Mill Creek (WWF), is located in State Water Plan watershed 7-J 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 1.5 MGD.—Interim Limits.

Parameters	Mass Units (lbs/day)		Instantaneous Minimum	Concentrations (mg/L)		IMAX
	Average Monthly	Daily Maximum		Average Monthly	Daily Maximum	
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Dissolved Oxygen	XXX	XXX	5.0	XXX	XXX	XXX
TRC	XXX	XXX	XXX	0.16	XXX	0.52
Carbonaceous Biochemical Oxygen Demand (CBOD ₅)	200	325	XXX	16	26	40
Total Suspended Solids	250	375	XXX	20	30	50
Total Dissolved Solids	Report	XXX	XXX	Report	Report	XXX
Oil and Grease	100	175	XXX	8.0	14	20
Fecal Coliform (No./100 ml)						
Oct 1 - Apr 30	XXX	XXX	XXX	400	XXX	2,000
May 1 - Sep 30	XXX	XXX	XXX	Geo Mean 200	XXX	1,000
Ultraviolet transmittance (%)	XXX	XXX	Report	Geo Mean XXX	XXX	XXX
Ammonia-Nitrogen						
Nov 1 - Apr 30	50	100	XXX	4.0	8.0	10
May 1 - Oct 31	21	42	XXX	2.0	4.0	5.0
Total Phosphorus	25	50	XXX	2.0	4.0	5.0

The proposed effluent limits for Outfall 001 are based on a design flow of 1.5 MGD.—Limits.

Parameters	Mass Units (lbs/day)		Instantaneous Minimum	Concentrations (mg/L)		IMAX
	Average Monthly	Daily Maximum		Average Monthly	Daily Maximum	
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Dissolved Oxygen	XXX	XXX	5.0	XXX	XXX	XXX
TRC	XXX	XXX	XXX	0.16	XXX	0.52
Temperature (°F) discharge	XXX	XXX	XXX	XXX	Report	XXX
Temperature (°F) Upstream of Mill Creek	XXX	XXX	XXX	XXX	Report	XXX
Temperature (°F) Downstream of Mill Creek	XXX	XXX	XXX	XXX	Report	XXX
Carbonaceous Biochemical Oxygen Demand (CBOD ₅)	200	325	XXX	16	26	40
Total Suspended Solids	250	375	XXX	20	30	50
Total Dissolved Solids	Report	XXX	XXX	Report	Report	XXX
Oil and Grease	100	175	XXX	8.0	14	20

<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>	
Fecal Coliform (No./100 ml)						
Oct 1 - Apr 30	XXX	XXX	XXX	400	XXX	2,000
May 1 - Sep 30	XXX	XXX	XXX	Geo Mean 200	XXX	1,000
Ultraviolet transmittance (%)	XXX	XXX	Report	Geo Mean XXX	XXX	XXX
Ammonia-Nitrogen						
Nov 1 - Apr 30	50	100	XXX	4.0	8.0	10
May 1 - Oct 31	21	42	XXX	2.0	4.0	5.0
Total Phosphorus	25	50	XXX	2.0	4.0	5.0

The proposed effluent limits for Outfall 001 are based on a design flow of 1.5 MGD.—Limits

<i>Parameters</i>	<i>Mass Units (lbs)</i>		<i>Minimum</i>	<i>Concentrations (mg/L)</i>	
	<i>Monthly</i>	<i>Annual</i>		<i>Average Monthly</i>	<i>Daily Maximum</i>
Ammonia—N	Report	Report	XXX	Report	XXX
Kjeldahl—N	Report	XXX	XXX	Report	XXX
Nitrite-Nitrate as N	Report	XXX	XXX	Report	XXX
Total Nitrogen	Report	Report	XXX	103	147
Total Phosphorus	Report	Report	XXX	Report	XXX
Net Total Nitrogen	XXX	54,794	XXX	XXX	XXX
Net Total Phosphorus	XXX	559	XXX	XXX	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.

PA0291561, Sewage, SIC Code 6514, **Spang Nina & Sellers Eric**, 690 Greenville Road, Denver, PA 17517-9596. Facility Name: Sellers & Spang Properties. This proposed facility is located in West Cocalico Township, **Lancaster 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), Cocalico Creek (WWF, MF), is located in State Water Plan watershed 7-J and is classified for Warm 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 .0002 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 (MGD)	Report	XXX	XXX	XXX	XXX	XXX
pH (S.U.)	Annl Avg XXX	XXX	5.0 Inst Min	XXX	XXX	9.0
Biochemical Oxygen Demand (BOD ₅)	XXX	XXX	XXX	10.0	XXX	20
Total Suspended Solids	XXX	XXX	XXX	10.0	XXX	20
Fecal Coliform (No./100 ml)	XXX	XXX	XXX	200	XXX	XXX

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.

PA0291579, Sewage, SIC Code 6514, **Ernest Harders Jr**, 26 Fox Road, Fleetwood, PA 19522-9383. Facility Name: Ernest Harders Properties. This proposed facility is located in Alsace Township, **Berks 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), Laurel Run, is located in State Water Plan watershed 3-C and is classified for Cold Water Fisheries (CWF), 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 .0002 MGD.—Limits.

Parameters	Mass Units (lbs/day)		Minimum	Concentrations (mg/L)		IMAX
	Average Monthly	Average Weekly		Annual Average	Maximum	
Flow (MGD)	Report	XXX	XXX	XXX	XXX	XXX
pH (S.U.)	Annl Avg	XXX	5.0 Inst Min	XXX	XXX	9.0
Biochemical Oxygen Demand (BOD ₅)	XXX	XXX	XXX	10.0	XXX	20
Total Suspended Solids	XXX	XXX	XXX	10.0	XXX	20
Fecal Coliform (No./100 ml)	XXX	XXX	XXX	200	XXX	XXX

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

PA0205761, Sewage, SIC Code 4952, **Jones Estates Harshbarger PA LLC**, 2310 S Miami Boulevard, Suite 238, Durham, NC 27703-4900. Facility Name: Harshbarger MHP. This existing facility is located in Hanover Township, **Beaver 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 Little Traverse Creek (WWF), is located in State Water Plan watershed 20-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 .0125 MGD.—Interim Limits.

Parameters	Mass Units (lbs/day)		Minimum	Concentrations (mg/L)		IMAX
	Average Monthly	Average Weekly		Average Monthly	Maximum	
Total Residual Chlorine (TRC)	XXX	XXX	XXX	0.08	XXX	0.18

The proposed effluent limits for Outfall 001 are based on a design flow of .0125 MGD.—Final Limits.

Parameters	Mass Units (lbs/day)		Minimum	Concentrations (mg/L)		IMAX
	Average Monthly	Average Weekly		Average Monthly	Maximum	
Total Residual Chlorine (TRC)	XXX	XXX	XXX	0.01	XXX	0.033

The proposed effluent limits for Outfall 001 are based on a design flow of .0125 MGD.—Limits.

Parameters	Mass Units (lbs/day)		Minimum	Concentrations (mg/L)		IMAX
	Average Monthly	Average Weekly		Average Monthly	Weekly Average	
Flow (MGD)	0.0125	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
Carbonaceous Biochemical Oxygen Demand (CBOD ₅)	XXX	XXX	XXX	25.0	40.0	50
Total Suspended Solids	XXX	XXX	XXX	30.0	45.0	60
Fecal Coliform (No./100 ml)						
Oct 1 - Apr 30	XXX	XXX	XXX	2,000 Geo Mean	XXX	10,000
May 1 - Sep 30	XXX	XXX	XXX	200 Geo Mean	XXX	1,000
Ammonia-Nitrogen						
Nov 1 - Apr 30	XXX	XXX	XXX	2.62	XXX	5.24
May 1 - Oct 31	XXX	XXX	XXX	1.9	XXX	3.8

The proposed effluent limits for Outfall 001 are based on a design flow of .0125 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>Weekly Average</i>	
E. Coli (No./100 ml)	XXX	XXX	XXX	XXX	XXX	Report
Total Nitrogen	XXX	XXX	XXX	XXX	Report	XXX
Total Phosphorus	XXX	XXX	XXX	XXX	Daily Max	XXX
Aluminum, Total	XXX	XXX	XXX	Report	XXX	XXX
Iron, Total	XXX	XXX	XXX	Daily Max	Report	XXX
Manganese, Total	XXX	XXX	XXX	Report	XXX	XXX
				Daily Max		

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.

PA0254258, Sewage, SIC Code 4952, **Robert & Lisa Hohman**, 2632 Big Sewickley Creek Road, Sewickley, PA 15143-8642. Facility Name: Hohman SRSTP. This existing facility is located in Franklin Park Borough, **Allegheny 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), Swale to East Branch Big Sewickley Creek (TSF), is located in State Water Plan watershed 20-G 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 0.0005 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 (MGD)	0.0005	XXX	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Dissolved Oxygen	XXX	XXX	Inst Min	XXX	XXX	XXX
Biochemical Oxygen Demand (BOD ₅)	XXX	XXX	3.0	10.0	XXX	20.0
Total Suspended Solids	XXX	XXX	Inst Min	10.0	XXX	20.0
Fecal Coliform (No./100 ml)	XXX	XXX	XXX	200	XXX	XXX
Ammonia-Nitrogen	XXX	XXX	XXX	3.0	XXX	6.0

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.

PA0256048, Sewage, SIC Code 8800, **Brian Hart**, 3104 Lillian Avenue, Murrysville, PA 15668-1905. Facility Name: Hart Properties SRSTP. This proposed facility is located in Murrysville Borough, **Westmoreland 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 Lyons Run (TSF), is located in State Water Plan watershed 19A 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 .0004 MGD.—Limits.

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

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

The EPA Waiver is in effect.

PA0284823, Sewage, SIC Code 8800, **James A Stollar Jr**, 362 Armstrong Drive, Washington, PA 15301-7725. Facility Name: Stollar Properties SFTF. This proposed facility is located in Canton Township, **Washington County**.

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

The receiving stream(s), Unnamed Tributary of Chartiers Creek (WWF), is located in State Water Plan watershed 20-F 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 .0008 MGD.—Limits.

Parameters	Mass Units (lbs/day)			Concentrations (mg/L)		IMAX
	Average Monthly	Average Weekly	Minimum	Average Monthly	Maximum	
Flow (MGD)	Report	XXX	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Biochemical Oxygen Demand (BOD ₅)	XXX	XXX	Inst Min 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
Total Nitrogen	XXX	XXX	XXX	Geo Mean Report	XXX	XXX
Total Phosphorus	XXX	XXX	XXX	Report	XXX	XXX

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.

Northcentral Regional Office

PA0010031, Industrial, SIC Code 4911, **Shawville Power, LLC**, 250 Power Plant Road, Shawville, PA 16873. Facility Name: Shawville Generating Station. This existing facility is located in Bradford Township, **Clearfield County**.

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

The receiving stream(s), West Branch Susquehanna River is located in State Water Plan watershed 8-C 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 005 are based on a design flow of 3.445 MGD.—Interim Limits

Parameters	Mass Units (lbs/day)			Concentrations (mg/L)		IMAX
	Average Monthly	Daily Maximum	Minimum	Average Monthly	Daily Maximum	
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
Total Dissolved Solids	Report	Report	XXX	Report	Report	XXX
Aluminum, Total (ug/L)	33.6	52.4	XXX	1,170.0	1,825.0	2,924
Iron, Total	19.74	39.48	XXX	1.80	3.60	4.5
Manganese, Total	23.03	46.06	XXX	2.10	4.20	5.3
Sulfate, Total	Report	Report	XXX	Report	Report	XXX
Thallium, Total (ug/L)	Report	Report	XXX	Report	Report	XXX
Zinc, Total	Report	Report	XXX	Report	Report	XXX
Chloride	Report	Report	XXX	Report	Report	XXX
Bromide	Report	Report	XXX	Report	Report	XXX

The proposed effluent limits for Outfall 005 are based on a design flow of 3.445 MGD.—Final Limits

Parameters	Mass Units (lbs/day)			Concentrations (mg/L)		IMAX
	Average Monthly	Daily Maximum	Minimum	Average Monthly	Daily Maximum	
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
Total Dissolved Solids	Report	Report	XXX	Report	Report	XXX
Aluminum, Total (ug/L)	33.6	52.4	XXX	1,170.0	1,825.0	2,924
Iron, Total	19.74	39.48	XXX	1.80	3.60	4.5
Manganese, Total	23.03	46.06	XXX	2.10	4.20	5.3
Sulfate, Total	Report	Report	XXX	Report	Report	XXX
Thallium, Total (ug/L)	0.08	0.12	XXX	2.78	4.34	6.96
Zinc, Total	Report	Report	XXX	Report	Report	XXX

Parameters	Mass Units (lbs/day)			Concentrations (mg/L)		IMAX
	Average	Daily	Minimum	Average	Daily	
	Monthly	Maximum		Monthly	Maximum	
Chloride	Report	Report	XXX	Report	Report	XXX
Bromide	Report	Report	XXX	Report	Report	XXX

The proposed monitoring requirements for IMPs 101, 102 and 201 are:

Parameters	Mass Units (lbs/day)			Concentrations (mg/L)		IMAX
	Average	Average	Minimum	Average	Daily	
	Monthly	Weekly		Monthly	Maximum	
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, Dissolved	XXX	XXX	XXX	XXX	Report	XXX
Iron, Total	XXX	XXX	XXX	XXX	Report	XXX
Manganese, Total	XXX	XXX	XXX	XXX	Report	XXX
Nickel, Total	XXX	XXX	XXX	XXX	Report	XXX
Zinc, Total	XXX	XXX	XXX	XXX	Report	XXX

The proposed effluent limits for Outfall 205 are based on a design flow of 0.018 MGD.

Parameters	Mass Units (lbs/day)			Concentrations (mg/L)		IMAX
	Average	Daily	Minimum	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
			Inst Min			
Total Residual Chlorine (TRC)	XXX	XXX	XXX	0.5	XXX	1.6
Carbonaceous Biochemical Oxygen Demand (CBOD ₅)	3.7	XXX	XXX	25.0	XXX	50.0
Total Suspended Solids	4.5	XXX	XXX	30.0	XXX	60.0
Total Dissolved Solids	Report	Report	XXX	Report	Report	XXX
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
Aluminum, Total	Report	Report	XXX	Report	Report	XXX
Iron, Total	Report	Report	XXX	Report	Report	XXX
Manganese, Total	Report	Report	XXX	Report	Report	XXX
Sulfate, Total	Report	Report	XXX	Report	Report	XXX
Thallium, Total	Report	Report	XXX	Report	Report	XXX
Zinc, Total	Report	Report	XXX	Report	Report	XXX
Chloride	Report	Report	XXX	Report	Report	XXX
Bromide	Report	Report	XXX	Report	Report	XXX

The proposed effluent limits for Outfall 405 are based on a design flow of 3.427 MGD.

Parameters	Mass Units (lbs/day)			Concentrations (mg/L)		IMAX
	Average	Daily	Minimum	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
			Inst Min			
Free Available Chlorine	XXX	XXX	XXX	XXX	XXX	0.00
Total Suspended Solids	325	XXX	XXX	30.0	XXX	50
Total Dissolved Solids	Report	Report	XXX	Report	Report	XXX
Oil and Grease	163	217	XXX	15.0	20.0	30
Aluminum, Total (ug/L)	Report	Report	XXX	Report	Report	XXX
Iron, Total (ug/L)	Report	Report	XXX	Report	Report	XXX
Manganese, Total (ug/L)	Report	Report	XXX	Report	Report	XXX
Sulfate, Total	Report	Report	XXX	Report	Report	XXX
Thallium, Total (ug/L)	Report	Report	XXX	Report	Report	XXX
Zinc, Total	Report	Report	XXX	Report	Report	XXX
Chloride	Report	Report	XXX	Report	Report	XXX
Bromide	Report	Report	XXX	Report	Report	XXX
PCBs, Total (ug/L)	XXX	XXX	XXX	XXX	XXX	1.75

Parameters	Mass Units (lbs/day)			Concentrations (mg/L)		
	Average	Daily	Minimum	Average	Daily	IMAX
	Monthly	Maximum		Monthly	Maximum	
Total Nitrogen	Report	XXX	XXX	Report	XXX	XXX
Total Phosphorus	Report	XXX	XXX	Report	XXX	XXX

The proposed effluent limits for Outfall 605 are based on a design flow of 2.07 MGD.

Parameters	Mass Units (lbs/day)			Concentrations (mg/L)		
	Average	Daily	Minimum	Average	Daily	IMAX
	Monthly	Maximum		Monthly	Maximum	
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
Chromium, Total	3.45	3.45	XXX	0.2	0.2	XXX
Zinc, Total	17.26	17.26	XXX	1.0	1.0	XXX
Priority Pollutants, Total	XXX	Report	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 not in effect.

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

Application Number	Application Type	Applicant Name & Address	Municipality, County	Office
PAD450153	New	Classic Quality Homes 2621 Route 940 Pocono Summit, PA 18346	Smithfield Township Monroe County	NERO
PAD390230	New	LRE Allentown, LLC 2 Cooper St. Camden, NJ 08102	Upper Macungie Township Lehigh County	NERO
PAD450082A-1	Renewal Major Amendment	Trapasso Enterprises, LLC 41 Mountain View Drive Tannersville, PA 18372	Pocono Township Monroe County	NERO
PAD450008A-1	Renewal Major Amendment	Robert Weseloh 6431 Franklin Hill Road East Stroudsburg, PA 18301	Hamilton Township Monroe County	NERO
PAD630011	Renewal	Muirfield Land Partners, LLC 2585 Washington Road Building 100 Suite 130 Pittsburgh, PA 15241	North Strabane Township Washington County	SWRO
PAD650037	New	Jim Shorkey Auto Group 185 Colonial Manor Road Irwin, PA 15642	North Huntingdon Township Westmoreland County	SWRO
PAD320007A2	Major Amendment	Pennsylvania Electric Company 800 Cabin Hill Drive Greensburg, PA 15601	Pine Township Indiana County	NWRO

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).

Northeast Region: Safe Drinking Water Program, 2 Public Square, Wilkes-Barre, PA 18711-0790, 570-826-2511.

Contact: Gillian Pehala, Clerk Typist 2, 570-830-3077.

Application No. 5422503, Public Water Supply.

Applicant	Pine Grove Borough One Snyder Avenue Pine Grove, PA 17963
Municipality	Pine Grove Borough
County	Schuylkill
Type of Facility	Public Water Supply
Consulting Engineer	David J. Kavitski, P.E. Atlas Technical Services 705 Ingham Street Freeland, PA 18224
Application Received Date	March 24, 2022
Description of Application	Proposed improvements to the Borough's water supply system including: new Well Nos. 16 and 17, rehabilitation of existing wells, addition of sodium hydroxide feed at the existing well house, addition of a ground level storage tank, upgrades to the existing gas chlorination system and rehabilitation of the existing water storage tank.

Application No. 4022505, Public Water Supply.

Applicant	Hazleton City Authority 400 E. Arthur Gardner Parkway Hazleton, PA 18201
Municipality	Hazle Township
County	Luzerne County
Responsible Official	John Synoski, PE Hazleton City Authority 400 E. Arthur Gardner Parkway Hazleton, PA 18201
Type of Facility	PWS
Consulting Engineer	Lawrence John Lennon, Jr., PE LSSE 846 Fourth Avenue Coraopolis, PA 15108
Application Received Date	March 31, 2022
Description of Action	The application proposes the construction of a finished water booster pumping station (Four 1,500 GPM Pumps at 173 feet TDH) to be known as the Oneida Junction Pump Station to ensure adequate pressure and supply is provided to its customers.

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

Application No. 2822506, Public Water Supply.

Applicant	Mercersburg Sportsman Association 12143 Dickey's Road P.O. Box 33 Mercersburg, PA 17236
Municipality	Peters Township
County	Franklin
Responsible Official	Randy Rose President 12143 Dickey's Road P.O. Box 33 Mercersburg, PA 17236
Consulting Engineer	Robert H. Schemmerling, P.E. RHS Engineering, Inc. 2909 Conococheague Lane Greencastle, PA 17225
Application Received Date	February 7, 2022
Description	Installation of nitrate removal treatment.

Application No. 2821524, Public Water Supply.

Applicant	Antrim Township 10655 Antrim Church Road P.O. Box 130 Greencastle, PA 17225
Municipality	Antrim Township
County	Franklin
Responsible Official	Brad Graham Township Administrator 10655 Antrim Church Road P.O. Box 130 Greencastle, PA 17225
Consulting Engineer	N Peter Fleszar, P.E. Glace Associates, Inc. 3705 Trindle Road Camp Hill, PA 17011
Application Received Date	December 9, 2021
Description	Installation of a sediment filter, GAC filter, additional sodium hypochlorite feed, chlorine contact piping, storage tanks, and other modifications.

Application No. 2822503, Public Water Supply.

Applicant	Bear Valley Joint Authority 218 School House Road St. Thomas, PA 17252
Municipality	St. Thomas Township
County	Franklin
Responsible Official	Doug Westover General Manager 218 School House Road St. Thomas, PA 17252
Consulting Engineer	James F. Potopa, P.E. Gwin, Dobson & Foreman, Inc. 3121 Fairway Drive Altoona, PA 16602-4496
Application Received Date	January 13, 2022

Description Construction of five (5) new wells which will be treated at the existing Fort Loudon water treatment plant.

Application No. 2822509, Public Water Supply.

Applicant **Antrim Township Municipal Authority**
10655 Antrim Church Road
P.O. Box 130
Greencastle, PA 17225

Municipality Antrim Township

County **Franklin**

Responsible Official Roger Nowell
Public Works Director
10655 Antrim Church Road
Greencastle, PA 17225

Consulting Engineer N Peter Fleszar, P.E.
Glance Associates, Inc.
3705 Trindle Road
Camp Hill, PA 17011

Application Received February 28, 2022

Description Upgrades to the water treatment plant including installation of VFDs, replacement of the backwash pumps, and disinfection modifications.

Southwest Region: Safe Drinking Water Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Permit No 1122501, Public Water Supply.

Applicant **Summerhill DPP, LLC**
9010 Overlook Boulevard
Brentwood, TN 37027

Township or Borough Croyle Township

County **Cambria County**

Responsible Official Zach Rogers
Authorized Agent

Type of Facility Water system

Consulting Engineer Moody and Associates, Inc.
11548 Cotton Road
Suite 101
Meadville, PA 16335

Application Received Date February 4, 2022

Description of Action Development of a site considered a transient noncommunity water system.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995
PREAMBLE 1

Acknowledgment of Notices of Intent to Remediate Submitted Under the Land Recycling and Environmental Remediation Standards Act (35 P.S. §§ 6026.101—6026.908).

Sections 302—305 of the Land Recycling and Environmental Remediation Standards Act (Act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* an acknowledgment noting receipt of any Notices of Intent to Remediate. An

acknowledgment of the receipt of a Notice of Intent (NOI) to Remediate is used to identify a site where a person proposes to, or has been required to, respond to a release of a regulated substance at a site. Persons intending to use the background standard, Statewide health standard, the site-specific standard, or who intend to remediate a site as a special industrial area, must file a (NOI) to Remediate with the Department. A NOI to Remediate filed with the Department provides a brief description of the location of the site, a list of known or suspected contaminants at the site, the proposed remediation measures for the site, and a description of the intended future use of the site. A person who demonstrates attainment of one, or a combination of the cleanup standards, or who receives approval of a special industrial area remediation identified under the Act, will be relieved of further liability for the remediation of the site for any contamination identified in reports submitted to and approved by the Department. Furthermore, the person shall not be subject to citizen suits or other contribution actions brought by responsible persons not participating in the remediation.

Under Sections 304(n)(1)(ii) and 305(c)(2) of the Act, there is a 30-day public and municipal comment period for sites proposed for remediation using a site-specific standard, in whole or in part, and for sites remediated as a special industrial area. This period begins when a summary of the NOI to Remediate is published in a newspaper of general circulation in the area of the site. For the following identified site(s), proposed for remediation to a site-specific standard or as a special industrial area, the municipality, within which the site is located, may request to be involved in the development of the remediation and reuse plans for the site if the request is made within 30-days of the following specified date. During this comment period the municipality may request that the following identified person, as the remediator of the site, develop and implement a public involvement plan. Requests to be involved, and comments, should be directed to the remediator of the site.

For further information concerning the content of a NOI to Remediate, please contact the Environmental Cleanup Program Manager in the Department of Environmental Protection Regional Office under which the notice appears. If information concerning this acknowledgment is required in an alternative form, contact the Community Relations Coordinator at the appropriate Regional Office listed. TDD users may telephone the Department through the Pennsylvania Hamilton Relay Service at (800) 654-5984.

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

Southeast Region: Environmental Cleanup & Brownfields Program, 2 East Main Street, Norristown, PA 19401, 484-250-5787.

Contact: Charline Bass.

2630 West Girard Avenue, Southeast Corner of North 27th Street and West Girard Avenue, Philadelphia, PA 19130, City of Philadelphia, **Philadelphia County**. Jennifer Poole, Pennoni, 1900 Market Street, Suite 300, Philadelphia, PA 19103 on behalf of Dan Bleznak, 27th & Girard Limited Partnership, c/o ADCO, American Development Company, 715 Montgomery Avenue, Suite 3, Narberth, PA 19072 submitted a Notice of Intent to Remediate. The proposed future use of the property will be residential use. VOCs, SVOCs and metals have been found to be contaminated in soil. The proposed cleanup

standard for the site is the Statewide health standard. The Notice of Intent to Remediate was published in *The Metro Newspaper* on March 16, 2022.

UDEX Release Area—Point Breeze South Yard, 3144 Passyunk Avenue, Philadelphia, PA 19153, City of Philadelphia, **Philadelphia County**. Kevin Long, Terraphase Engineering, Inc., 100 Canal Pointe Boulevard, Suite 108, Princeton, NJ 08540 on behalf of Anne Garr, Philadelphia Energy Solutions Refining and Marketing LLC, 111 South Wacker Drive, Suite 3000, Chicago, IL 60606 submitted a Notice of Intent to Remediate. Groundwater and soil have been found to be contaminated with petroleum constituents. The proposed future use of the property will be nonresidential for commercial/industrial use. The proposed cleanup standard for the site is the Statewide health standard. The Notice of Intent to Remediate was published in *The Philadelphia Metro* on March 4, 2022.

Poplar Garage, 900 Poplar Street, Philadelphia, PA 19123, City of Philadelphia, **Philadelphia County**. Stephan D. Brower, PG, Environmental Standards, 1140 Valley Forge Road, P.O. Box, 810, Valley Forge, PA 19482 on behalf of Elise Halter, Post Quaker Property Owner, LLC, 1021 North Hancock Street, Suite 1, Philadelphia, PA 19123 submitted a Notice of Intent to Remediate. Soil and groundwater at the site have been found to be contaminated with heating oil. The proposed future use of the property will be nonresidential. The proposed cleanup standard for the site is the Statewide health standard. The Notice of Intent to Remediate was published in *The Philadelphia Inquirer* on January 28, 2022.

The Thompson Organization—Lamkohl Building, 652 North Main Street, Doylestown, PA 18901, Doylestown Township, **Bucks County**. Sean Fuller, PG, Compliance Management International, 1350 Welsh Road, Suite 200, North Wales, PA 19454 on behalf of Rob Arangio, The Thompson Organization, 50 Swamp Road, Doylestown, PA 18901 submitted a Notice of Intent to Remediate. Soil and groundwater at the site have been found to be contaminated with lead, leaded and unleaded gasoline. The proposed future use of the property will be nonresidential. The proposed cleanup standard for the site is the Statewide health standard. The Notice of Intent to Remediate was published in *The Intelligencer* on February 10, 2022.

Iron Mill Lofts, 1156 North 3rd Street, Philadelphia, PA 19123, City of Philadelphia, **Philadelphia County**. John W. Pavlik, Advantage Environmental Consultants, LLC, 3819 Germantown Pike, Suite B, Collegeville, PA 19427 on behalf of Andrew Zakroff, Urban Conversions, LLC, 1010 North Hancock Street, c/o WeWork, Philadelphia, PA 19123 submitted a Notice of Intent to Remediate. The soil beneath the site has been found to be contaminated with lead and arsenic. Groundwater beneath the site has been found to be contaminated with trichloroethylene (TCE), tetrachloroethylene (PCE), lead, and vinyl chloride. The proposed future use of the property will be residential for multi-tenant use. The proposed cleanup standard for the site is the site-specific standard. The Notice of Intent to Remediate was published in *The Metro* on March 7, 2022.

428 Pinebrook Drive, 428 Pinebrook Drive, Media, PA 19063, Middletown Township, **Delaware County**. Joseph Diamadi, Jr., Marshall Geoscience, Inc., 170 East First Avenue, Collegeville, PA 19426 on behalf of Jay Gramlick, Jay Gramlick Construction, 221 Clover Circle, Media, PA 19063 submitted a Notice of Intent to Remediate.

The site has been found to be contaminated with No. 2 heating oil that is suspected to have contaminated subsurface soil at the site. The proposed future use of the property will be maintained as residential. The proposed cleanup standard for the site is the Statewide health standard. The Notice of Intent to Remediate was published in *The Daily Times* and *Sunday Times* on February 7, 2022.

2507 Almond Street, 2507 Almond Street, Philadelphia, PA 19135, City of Philadelphia, **Philadelphia County**. Walter H. Hungarter, III, RT Environmental Services, Inc., 215 West Church Road, King of Prussia, PA 19406 on behalf of Lawrence McKnight, Riverwards Group, 3030 Richmond Street, Philadelphia, PA 19134 submitted a Notice of Intent to Remediate. The site has been found to be contaminated with lead in soil. The proposed future use of the property will be residential. The proposed cleanup standard for the site is the site-specific standard. The Notice of Intent to Remediate was published in *The Starr News* on January 26, 2022.

No. 3 Separator Area—Girard Point, 3144 Passyunk Avenue, Philadelphia, PA 19153, City of Philadelphia, **Philadelphia County**. Kevin Long, Terraphase Engineering, Inc., 100 Canal Pointe Boulevard, Suite 108, Princeton, NJ 08540 on behalf of Anne Garr, Philadelphia Energy Solutions Refining and Marketing LLC, 111 South Wacker Drive, Suite 3000, Chicago, IL 60606 submitted a Notice of Intent to Remediate. The site has been found to be contaminated with separate-phase petroleum in soil. The proposed future use of the property will be nonresidential for commercial/industrial use. The proposed cleanup standard for the site is the Statewide health standard. The Notice of Intent to Remediate was published in *The Philadelphia Inquirer* on March 4, 2022.

PB 881 Dike Roadway Release—Point Breeze South Yard, 3144 Passyunk Avenue, Philadelphia, PA 19153, City of Philadelphia, **Philadelphia County**. Kevin Long, Terraphase Engineering, Inc., 100 Canal Pointe Boulevard, Suite 108, Princeton, NJ 08540 on behalf of Anne Garr, Philadelphia Energy Solutions Refining and Marketing, LLC, 111 South Wacker Drive, Suite 3000, Chicago, IL 60606 submitted a Notice of Intent to Remediate. The site has been found to be contaminated with petroleum in soil. The proposed future use of the property will be nonresidential for commercial/industrial use. The proposed cleanup standard for the site is the Statewide health standard. The Notice of Intent to Remediate was published in *The Philadelphia Inquirer* on March 4, 2022.

901 North 9th Street, 901 North 9th Street, Philadelphia, PA 19123, City of Philadelphia, **Philadelphia County**. Stephen D. Brower, PG, Environmental Standards, 1140 Valley Forge Road, P.O. Box 810, Valley Forge, PA 19482 on behalf of Elise Halter, Post Quaker Property Owner, LLC, 1021 North Hancock Street, Suite 1, Philadelphia, PA 19123 submitted a Notice of Intent to Remediate. The site has been found to be contaminated with chlorinated solvents in soil and groundwater. The proposed future use of the property will be mix-use commercial and residential. The proposed cleanup standard for the site is the Statewide health standard. The Notice of Intent to Remediate was published in *The Philadelphia Inquirer* on January 28, 2022.

860 Unit Cooling Tower and Hartranft Street—Point Breeze South Yard, 3144 Passyunk Avenue, Philadelphia, PA 19153, City of Philadelphia, **Philadelphia County**. Kevin Long, Terraphase Engineering, Inc., 100 Canal Pointe Boulevard, Suite 108, Princeton, NJ

08540 on behalf of Anne Garr, Philadelphia Energy Solutions Refining and Marketing, LLC, 111 South Wacker Drive, Suite 3000, Chicago, IL 60606 submitted a Notice of Intent to Remediate. The site has been found to be contaminated with petroleum constituents in soil. The proposed future use of the property will be nonresidential for commercial/industrial use. The proposed cleanup standard for the site is the Statewide health standard. The Notice of Intent to Remediate was published in *The Philadelphia Inquirer* on March 4, 2022.

150-180 West Berks Street, 150-180 West Berks Street, Philadelphia, PA 19122, City of Philadelphia, **Philadelphia County**. John W. Pavlik, Advantage Environmental Consultants, LLC, 1453 Point Breeze Avenue, Corner Office, Philadelphia, PA 19427 on behalf of Andrew Zakroff, Urban Conversions, LLC, 1010 North Hancock Street, c/o WeWork, Philadelphia, PA 19123 submitted a Notice of Intent to Remediate. The soil beneath the site has been found to be contaminated with lead and arsenic. Groundwater beneath the site has been found to be contaminated with trichloroethylene (TCE), tetrachloroethylene (PCE), lead, and vinyl chloride. The proposed future use of the property will be residential for multi-tenant use. The proposed cleanup standard for the site is the site-specific standard. The Notice of Intent to Remediate was published in *The Metro* on February 23, 2022.

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

Contact: Eric Supey, Environmental Program Manager.

Seamans Airport, 65 Windsock Lane, Factoryville, PA 18419, Benton Township, **Lackawanna County**. Earth Engineering, 115 West Germantown Pike, Suite 200, East Norriton, PA 19401, on behalf of RMB Aviation LLC, 1586 Heart Lake Road, Jermyn, PA 18433, submitted a Notice of Intent to Remediate. Soil was contaminated by a release of heating oil from an underground storage tank. Future use of the site will be nonresidential. The Notice of Intent to Remediate was published in *The Scranton Times* on March 29, 2022.

Southcentral Region: Environmental Cleanup & Brownfields Program, 909 Elmerton Avenue, Harrisburg, PA 17110, 717-705-4705.

Former T-Mobile Store, 5411 Carlisle Pike, Mechanicsburg, PA 17050, Hampden Township, **Cumberland County**. BL Companies, 2601 Market Place, Suite 350, Harrisburg, PA 17110, on behalf of Carlisle Retail, LLC, 1775 Hancock Street, Suite 200, San Diego, CA 92110, submitted a Notice of Intent to Remediate site soil and groundwater contaminated with No. 2 Fuel Oil. The site will be remediated to the Site-Specific Standard. Future use of the site is for nonresidential purposes. The Notice of Intent to Remediate was published in the *The Patriot News* on February 15, 2022.

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

Clearfield Rite Aid, 307 E Market St, Clearfield, PA 16830, Clearfield Borough, **Clearfield County**. ECS Mid-Atlantic, LLC, 145 Lake Drive, Suite 102, Wexford, PA 15090, on behalf of Joseph Dellantonio, 124 Rock Hill Road, Centre Hall, PA 16828, has submitted a Notice of Intent to Remediate concerning site groundwater contaminated with polycyclic aromatic hydrocarbons (PAHs). The site will continue to be used as a pharmacy. A

summary of the Notice of Intent to Remediate was published in *The Progress* on March 30, 2022.

MUNICIPAL WASTE GENERAL PERMITS

Application(s) Under the Solid Waste Management Act of July 7, 1980 (P.L. 380, No. 97) (35 P.S. §§ 6018.101—6018.1003); the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P.S. §§ 4000.101—4000.1904); and Municipal Waste Regulations for a General Permit to Operate Municipal Waste Processing Facilities and/or the Beneficial Use of Municipal Waste.

Northcentral Region: Regional Solid Waste Manager, 208 West Third Street, Williamsport, PA 17701.

General Permit Application No. WMGM042NC003. Remley Finishing Barn/Remley Hog and Beef LLC, 1170 Salt Spring Road, Roaring Branch, PA 17765, Liberty Township, **Tioga County**. General permit renewal for the beneficial reuse of food waste in an existing operating anaerobic digester. The application was received on February 16, 2022.

Questions or comments concerning the application should be directed to Lisa D. Houser, P.E., Environmental Engineer Manager, Williamsport Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701, 570-327-3752. 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.

DETERMINATION OF APPLICABILITY FOR MUNICIPAL WASTE GENERAL PERMITS

Application(s) Under the Solid Waste Management Act of July 7, 1980 (P.L. 380, No. 97) (35 P.S. §§ 6018.101—6018.1003); the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P.S. §§ 4000.101—4000.1904); and Municipal Waste Regulations for Determination of Applicability for a General Permit to Operate Municipal Waste Processing Facilities and/or the Beneficial Use of Municipal Waste.

Southeast Region: Regional Solid Waste Manager, 2 East Main Street, Norristown, PA 19401, 484-250-5960.

General Permit Application No. WMGM044SE003. Giamo LLC, 1306 Conshohocken Road, Conshohocken, PA 19428. This application is for the renewal of the determination of applicability (DOA) under General Permit No. WMGM044SE003 to continue operations without any modification for the beneficial use of construction waste material at the Giamco LLC Facility, located at 1306 Conshohocken Road, Plymouth Township, **Montgomery County**. The application for determination of applicability was accepted as administratively complete by the Southeast Regional Office on March 28, 2022.

Comments or questions concerning the application should be directed to the Waste Management Program Manager, Department of Environmental Protection (DEP) Southeast Regional Office, 2 East Main Street, Norristown, PA 19401-4915 or by telephone at 484-250-5960. TDD users may contact the DEP through the Pennsylvania 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.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18701-1915.

Contact: Raymond Kempa, New Source Review Chief, (570) 826-2531.

54-00022F: Hydro Extrusions USA, LLC, 53 Pottsville Street, Cressona, PA 17929, for the construction and installation of a new extrusion press, to include a log furnace and three age ovens at the site located in Cressona Borough, **Schuylkill County**.

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.

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.

06-05037H: McConway & Torley, LLC, 230 Railroad Street, Kutztown, PA 19530, for the reactivation of certain facility operations that had been previously idled at the Kutztown Steel Foundry in Kutztown Borough, **Berks County**. The operations include Source ID # 118A—Spinner Hanger Blast Unit, controlled by dust collector; Source ID # 108—No. 2 Tumble Blast Unit, controlled by dust collector; and Source ID # 106A—Air-Arc Turntable, controlled by dust collector. The potential emissions for the units will be approximately 1.62 tpy of PM₁₀ emissions. DEP’s review of the information submitted by the applicant indicates that the air contamination sources when reactivated will comply with all regulatory requirements 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. Based on these findings, DEP proposes to issue a plan approval for the proposed reactivation of these sources. If, after the project has been implemented, DEP determines that the sources are reactivated and operating 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 the facility’s State-Only Operating Permit in accordance with the permit administrative amendment provisions of 25 Pa. Code § 127.450(a)(5).

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701.

Contact: Muhammad Q. Zaman, Program Manager, (570) 327-3648.

08-00059A: Skagen Energy Services, Inc., 324 8th Ave. SW, Ste. 602, Calgary, Alberta TSP 2Z2, for the construction and temporary operation of a Faering 703 wastewater evaporator system consisting of a liquid/gas stripper, evaporator equipped with a nominal 12.6 MMBtu/hr, natural gas-fired burner, at the Alderson 05-269 well pad, owned and operated by Repsol Oil & Gas USA, LLC, in Pike Township, **Bradford County**. The Department of Environmental Protection's (Department'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 source and the emission of air contaminants including 25 Pa. Code Chapter 123 and the best available technology requirement (BAT) of 25 Pa. Code §§ 127.1 and 127.12. Based on this finding, the Department proposes to issue a plan approval for the proposed wastewater evaporator system. The emissions from the wastewater evaporator system will not exceed the following limits: 0.02 grain per dry standard cubic foot and 3.04 tons per 12-consecutive month period of particulate matter (PM/PM₁₀/PM_{2.5}); 0.19 lb/hr and 0.84 ton per 12-consecutive month period nitrogen oxides; 2.31 lbs/hour and 10.10 tons per 12-consecutive month period carbon monoxide; 0.39 lb/hr and 1.70 tons per 12-consecutive month period sulfur oxides; <2.7 tons per 12-consecutive month period volatile organic compounds; <0.5 ton per 12-consecutive month period any individual hazardous air pollutant; <1.0 ton per 12-consecutive month period combined hazardous air pollutants; and opacity limit of less than or equal to 10% for a period or periods aggregating more than three minutes in any 1 hour, and equal to or greater than 30% at any time. In addition to the emission limitations, the following is a brief description of the types of conditions the Department intends to place in the plan approval in order to ensure the wastewater evaporator system complies with all applicable air quality regulatory requirements: routine sampling of all wastewaters processed; burner fuel restricted to natural gas or a combination of natural gas and stripper gases; burner firing on 100% excess air and high tangential velocity; processing of wastewaters from only the Alderson 05-269 well pad or other well pads provided prior written Department approval is obtained; inclusion of various operating parameter monitors on the wastewater evaporator system to ensure compliant operation; use of heated air in the stripper when processing methanol-containing wastewaters; recordkeeping for emissions, fuel consumption, hours of operation, volumes, types and origin of all wastewaters; use of demister systems on the exhausts of the wastewater evaporator system. The facility is a State Only facility. If the Department determines that the wastewater evaporator system is constructed and operated in compliance with the plan approval conditions and the specifications of the application for Plan Approval 08-00059A, Skagen Energy Services, Inc. will apply for a State Only Operating Permit in accordance with 25 Pa. Code Subchapter F. All pertinent documents used in the evaluation of the application are available for public review during normal business hours at the Department's Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701. Appointments for scheduling a review must be made by calling 570-327-3636.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Contact: Edward Orris, P.E., New Source Review Chief, (412) 442-4168.

04-00034C: The Sherwin-Williams Manufacturing Company, 372 Cleveland St, Rochester, PA 15074. Notice is hereby given in accordance with 25 Pa. Code §§ 127.44—127.46 that the Department of Environmental Protection (Department) intends to issue Air Quality Plan Approval 04-00034C to allow the installation and temporary operation of one (1) 21,000 gallon Batch Tank equipped with a cooling water condenser, one (1) 12,000 gallon Finishing Tank, one (1) 2,900 gallon Monomer Premix Tank equipped with cooling water condenser, one (1) 300 gallon Water Slurry Mix Tank, one (1) 1,900 gallon Acrylic Weigh Tank equipped with cooling water condenser, one (1) 150 gallon DMEOA/Water Premix Tank, three (3) 45,000 gallon (each) Finished Product Storage Tanks, four (4) 20,000 gallon (each) Raw Materials Storage Tanks, and one (1) Thermal Oxidizer. In addition, one (1) existing scrubber will be utilized in this project. Existing permitted sources that are controlled by scrubbers, the 21,000-gallon Batch Tank, (1) 2,900 gallon Monomer Premix Tank, and 1,900 gallon Acrylic Weigh Tank will be controlled by existing scrubbers until the thermal oxidizer initiates operation and control is transitioned to it. At that time, to-be-determined backup control devices will be implemented. The Rochester Plant is located in Rochester Township, **Beaver County**.

The proposed project potential to emit, while utilizing the existing scrubber, will not equal or exceed 4.0 tons of particulate matter, 48.0 tons of volatile organic compounds (VOC), 18.0 tons of total hazardous air pollutants (HAPs), and 8.0 tons of highest single HAP (Methyl Methacrylate). The facility will transition control from existing scrubber to thermal oxidizer with a 95% control efficiency which will result in a decrease of VOC emissions, and the facility will remain a minor source for all criteria and hazardous pollutants upon completion of the Project.

Facility-wide potential to emit, while utilizing the existing scrubbers, shall not equal or exceed 25.0 tons of nitrogen oxides (NO_x), 14.0 tons of carbon monoxide (CO), 6.0 tons of particulate matter, 1.0 ton of sulfur dioxide (SO₂), 49.5 tons of volatile organic compounds (VOC), 24.5 tons of total hazardous air pollutants (HAPs), 9.5 tons of highest single HAP (Methyl Methacrylate), and 30,272 tons of carbon dioxide equivalent (CO₂e). Existing permitted sources, that are controlled by scrubbers, as well as the 21,000 gallon Batch Tank, (1) 2,900 gallon Monomer Premix Tank, and 1,900 gallon Acrylic Weigh, will transition control from existing scrubbers to thermal oxidizer with a 95% control efficiency which will result in a decrease of VOC emissions. The facility will remain a minor source for all criteria and hazardous pollutants upon completion of the Project. All new sources were evaluated for compliance with best available technology (BAT) requirements.

The authorization is subject to State Emission Standards. This Plan Approval has been conditioned to ensure compliance with all applicable rules. This includes emissions restrictions, operational restrictions, testing, monitoring, recordkeeping, reporting, and work practice requirements. Once compliance with the Plan Approval is demonstrated, the applicant will be required to revise the existing Synthetic Minor Operating Permit in accordance with 25 Pa. Code Subchapter F.

The Plan Approval Application, the Department's Air Quality Review Memorandum, the proposed Air Quality Plan Approval, and other relevant information for this project are available for review by any interested party at the Department's Southwest Regional Office, 400 Water-

front Drive, Pittsburgh, PA 15222. To request a review of the Plan Approval 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 Plan Approval for this project, a person may contact the Department at 412-442-4000.

A person may oppose the proposed plan approval by filing a written protest with the Department through Laura Dickson, Pennsylvania Department of Environmental Protection, 400 Waterfront Drive, Pittsburgh, PA 15222; ldickson@pa.gov; or fax 412.442.4194. 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 Plan Approval (PA-04-00034C) and a concise statement of the objections to the plan approval issuance and the relevant facts upon which the objections are based.

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

A public hearing may be held, if the Department, in its discretion, decides that such a hearing is warranted based on the information received. All persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in the newspaper or by the *Pennsylvania Bulletin*, or by telephone, where the Department determines such notification is sufficient. Written comments or requests for a public hearing should be directed to Edward F. Orris, Environmental Engineer Manager, Pennsylvania Department of Environmental Protection, 400 Waterfront Drive, Pittsburgh, PA 15222 or by email to eorris@pa.gov. All comments must be received prior to the close of business 30 days after the date of this publication.

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.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18701-1915.

Contact: Norman Frederick, Facility Permitting Chief, (570) 826-2409.

54-00006: Rausch Creek Generation LLC, Frailey Twp. Plant, 490 W Main Street, Tremont, PA 17981-1716. The Department intends to issue a renewal of the Title V Operating Permit for the electric services facility located in Frailey Township, **Schuylkill County**. As a major source, the facility is subject to the Title V permitting requirements of the Clean Air Act Amendments as adopted by the Commonwealth under 25 Pa. Code Chapter 127, Subchapter G. The sources consist of a fluidized bed boiler, fire pump, and culm and lime materials handling. The sources are controlled by fabric filters and a baghouse. The proposed Title V Operating Permit contains applicable requirements for emission limitations, work practice standards, testing, monitoring, recordkeeping, and reporting standards used to verify facility compliance with Federal and State air pollution regulations.

58-00001: Tennessee Gas Pipeline Company/Compressor Station 321, 1001 Louisiana Street, Houston, TX 77002. The Department intends to issue an administrative amendment to the Title V Operating Permit for the natural gas transmission station in Clifford Township, **Susquehanna County**. As a major source, the facility is subject to the Title V permitting requirements

of the Clean Air Act Amendments as adopted by the Commonwealth under 25 Pa. Code Chapter 127, Subchapter G. The proposed administrative amendment is for the appropriate emission limits to reflect correct number of significant figures.

The primary sources at this facility consist of natural gas solar turbines, a natural gas fired boiler, heating furnaces, and space heaters. The proposed administrative amendment to the Title V Operating Permit includes emission restrictions, work practice standards and testing, monitoring, recordkeeping, and reporting requirements to ensure compliance with all applicable Federal and State air quality regulations.

48-00006: Portland Power, LLC, Portland Generating Station, P.O. Box 238, Portland, PA 18351-0238. The Department intends to issue an administrative amendment to the Title V Operating Permit for the transmission and electric services station in Upper Mount Bethel Township, **Northampton County**. As a major source, the facility is subject to the Title V permitting requirements of the Clean Air Act Amendments as adopted by the Commonwealth under 25 Pa. Code Chapter 127, Subchapter G. The proposed administrative amendment is for the divestment of sources to a third party.

The primary sources at this facility consist of three (3) combustion turbines. The proposed administrative amendment to the Title V Operating Permit includes emission restrictions, work practice standards and testing, monitoring, recordkeeping, and reporting requirements to ensure compliance with all applicable Federal and State air quality regulations.

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.

06-05112: WBLF Acquisition Co., LLC/Western Berks Landfill, 455 Poplar Neck Road, Birdsboro, PA 19508, for their municipal waste landfill in Cumru Township, **Berks County**. The Title V Operating Permit is undergoing a significant modification to revise Section E, Group SG01, Condition 037 of the facility's Title V Operating Permit to allow the interim use of a candlestick flare to control landfill gas (LFG) while WBLF works to develop an LFG beneficial use project.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Contact: Thomas Joseph, P.E., Facilities Permitting Chief—Telephone: 412-442-4336.

11-00370: Laurel Highlands Landfill, Inc., 843 Miller Picking Rd, Davidsville, PA 15928. In accordance with 25 Pa. Code §§ 127.424, 127.425 and 127.521, the Department of Environmental Protection (DEP) is providing notice that it intends to issue a Title V Operating Permit renewal to Laurel Highlands Landfill, Inc. for their facility located in Jackson Township, **Cambria County**.

Laurel Highlands Landfill, a municipal solid waste landfill has been in operation since 1960s. Sources and the control devices at this facility include Landfill Gas Collection System, Landfill Gas Fugitives, Vehicle Traffic on Roads, Landfill Fugitive emissions (particulate), LFG Ground Flare (Enclosed Flare), portable Candle Flare and Water Sprays. This facility has the potential emissions per year of the following type and quantity of air contaminants: 59.77 tons of carbon monoxide, 23.91 tons

of nitrogen oxides, 25.71 tons of particulate matter, 5.20 tons of sulfur oxides, 5.49 tons of volatile organic compounds and 8.50 tons of HAPs.

The proposed TVOP contains emission restriction, testing, monitoring, recordkeeping, reporting and work practice standards derived from the applicable requirements of 25 Pa. Code Article III, Chapters 121—145, 40 CFR Part 62 Subpart OOO, 40 CFR Part 63 Subpart AAAA, and 40 CFR Part 60 Subpart Cf.

A person may oppose the proposed Title V 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; email to naharr@pa.gov; or fax to 412.442.4194. Additional written comments may also be submitted. 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 Title V Operating Permit (TV-11-00370) and a concise statement of the objections to the Operating Permit issuance and the relevant facts upon which the objections are based.

The application, DEP's Review Memorandum, and the proposed permit are available for public review during normal business hours at DEP's Southwest Regional Office, 400 Waterfront Drive, Pittsburgh, PA 15222. A file review can be scheduled through the DEP's website at <https://www.dep.pa.gov/Citizens/PublicRecords/Pages/Informal-File-Review.aspx> or by contacting Tom Joseph, Facilities Permitting Chief, directly.

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

56-00232: Shade Landfill, Inc., 843 Miller Picking Rd, Davidsville, PA 15928. In accordance with 25 Pa. Code §§ 127.424, 127.425 and 127.521, the Department of Environmental Protection (DEP) is providing notice that it intends to issue a Title V Operating Permit renewal to Shade Landfill, Inc. for their facility located in Shade Township, **Somerset County**.

Shade Landfill, Inc. operates a municipal solid waste landfill. Sources and the control devices at this facility include Landfill Gas Collection and Control System, Paved and Unpaved Roads, Landfill Fugitive emissions (fugitive gas, material handling, & erosion), Emergency Generator, LFG Ground Flare (Enclosed Flare), Utility Candle Flare and Water Sprays (water Truck). This facility has the potential emissions per year of the following type and quantity of air contaminants: 30.63 tons of nitrogen oxides, 41.97 tons of particulate matter, 8.45 tons of sulfur oxides, 96.06 tons of carbon monoxide, 13.57 tons of volatile organic compounds and 11.44 tons of HAPs.

The proposed TVOP contains emission restriction, testing, monitoring, recordkeeping, reporting and work practice standards derived from the applicable requirements of 25 Pa. Code Article III, Chapters 121—145, 40 CFR Part 62 Subpart OOO, 40 CFR Part 63 Subpart AAAA, 40 CFR Part 60 Subpart Cf, and 40 CFR Part 63 Subpart ZZZZ.

A person may oppose the proposed Title V 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; email to naharr@pa.gov; or fax to 412.442.4194. Additional written comments may also be submitted. 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 Title V Operating Permit (TV-56-00232) and a concise statement of the objections to the Operating Permit issuance and the relevant facts upon which the objections are based.

The application, DEP's Review Memorandum, and the proposed permit are available for public review during normal business hours at DEP's Southwest Regional Office, 400 Waterfront Drive, Pittsburgh, PA 15222. A file review can be scheduled through the DEP's website at <https://www.dep.pa.gov/Citizens/PublicRecords/Pages/Informal-File-Review.aspx> or by contacting Tom Joseph, Facilities Permitting Chief, directly.

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

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

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18701-1915.

Contact: Norman Frederick, Facility Permitting Chief—Telephone: 570-826-2409.

40-00143: Bekaert Corp., 165 New Commerce Blvd., Wilkes-Barre, PA 18706-1448. The Department intends to issue a State-Only (Natural) Minor Permit for the operation of steel wire and related products facility in Hanover Township, **Luzerne County**. The sources at this facility consist of a sander and steel wire draw machines. The control devices consist of collectors. The sources are considered minor emission sources of nitrogen oxide (NO_x), sulfur oxides (SO_x), carbon monoxide (CO), total suspended particulate (TSP), and VOC's. The proposed operating permit contains applicable requirements for emission limitations, work practice standards, testing, monitoring, recordkeeping, and reporting standards used to verify facility compliance with Federal and State air pollution regulations.

40-00096: DMS Shredding Inc./Hanover, 9 Fellows Ave, Hanover Township, PA 18706-5231. The Department intends to issue a State-Only (Natural) Minor Permit for the operation of a metals service center and offices facility in Hanover Township, **Luzerne County**. The sources at this facility consist of a light iron metal shredder with attached cyclone. The control device consists of a venturi scrubber. The sources are considered minor emission sources of nitrogen oxide (NO_x), sulfur oxides (SO_x), carbon monoxide (CO), total suspended particulate (TSP), and VOC's. The proposed operating permit contains applicable requirements for emission limitations, work practice standards, testing, monitoring, recordkeeping, and reporting standards used to verify facility compliance with Federal and State air pollution regulations.

64-00006: Hanson Aggregates PA LLC, Lake TWP Asphalt Plant, 7600 Imperial Way, Allentown, PA 18195-1016. The Department intends to issue a State-Only (Synthetic) Minor Permit for the operation of an asphalt paving mixtures and blocks facility in Lake Township, **Wayne County**. The sources at this facility consist of a batch hot mix asphalt plant, hot oil heaters, and a rap system. The control devices consist of a baghouse. The sources are considered minor emission sources of nitrogen oxide (NO_x), sulfur oxides (SO_x), carbon monoxide (CO), total suspended particulate (TSP), and VOC's. The proposed operating permit contains applicable requirements for emission limitations, work practice standards, testing,

monitoring, recordkeeping, and reporting standards used to verify facility compliance with Federal and State air pollution regulations.

40-00130: EBC Holdings, 159 George Ave., Wilkes-Barre, PA 18705-3028. The Department intends to issue a State-Only (Natural) Minor Permit for the animal crematory facility in Dupont Borough, **Luzerne County**. The sources at this facility consist of one (1) crematory incinerator. The control device consists of an afterburner. The source is considered a minor emission source of nitrogen oxide (NO_x), sulfur oxides (SO_x), carbon monoxide (CO), total suspended particulate (TSP), and VOC's. The proposed operating permit contains applicable requirements for emission limitations, work practice standards, testing, monitoring, recordkeeping, and reporting standards used to verify facility compliance with Federal and State air pollution regulations.

39-00052: New Enterprise Stone & Lime Co., Ormrod Plant, 3724 Crescent Ct W, Ste 200, Whitehall, PA 18052-3446. The Department intends to issue a State-Only (Synthetic) Minor Permit for the asphalt paving mixtures and blocks facility in North Whitehall Township, **Lehigh County**. The sources at this facility consist of an asphalt plant, screens, crushers, conveyors, and two (2) IC engines. The control devices consist of a baghouse and a water spray system. The sources are considered minor emission sources of nitrogen oxide (NO_x), sulfur oxides (SO_x), carbon monoxide (CO), total suspended particulate (TSP), and VOC's. The proposed operating permit contains applicable requirements for emission limitations, work practice standards, testing, monitoring, recordkeeping, and reporting standards used to verify facility compliance with Federal and State air pollution regulations.

Southcentral Region: Air Quality Program, 909 Elmerston Avenue, Harrisburg, PA 17110.

Contact: Thomas Hanlon, Facilities Permitting Chief, (717) 705-4862, Thomas Bianca, New Source Review Chief, (717) 705-4863, or William Weaver, Regional Air Quality Manager, (717) 705-4702.

05-03005: Kennametal Inc., 442 Chalybeate Rd, Bedford, PA 15522-8637, for the operation of a metal casting facility in Bedford Township, **Bedford County**. This is for renewal of the existing State-Only Permit. Potential air emissions from the facility are estimated at 22.87 tpy PM, 6.09 tpy NO_x, 12.60 tpy CO, 6.31 tpy VOC, and less than 1 tpy of SO₂ and HAPs. 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.

67-03163: Ecore International Inc., 76 Acco Dr, York, PA 17402-4668, for the operation of a waste tire recycling facility in York Township, **York County**. This is for renewal of the existing State-Only Permit. Potential air emissions from the facility are estimated at 36.08 tpy PM, and less than 1 tpy of NO_x, CO, VOC, SO₂, and HAPs. The Operating Permit will include emission limits and work practice standards along with monitoring, recordkeeping and reporting requirements to ensure the facility complies with the applicable air quality regulations.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701.

Contact: Muhammad Q. Zaman, Program Manager, 570-327-3648.

41-00069: Fisher Mining Company, 40 Choate Circle, Montoursville, PA 17754, to issue a State Only Operating Permit for their facility located in Williamsport, **Lycoming County**. The facility is currently operating under State Only Operating Permit 41-00069. The facility is a coal railcar loading operation. The facility has potential emissions of 33.70 tons per year of particulate matter. The emission limits, throughput limitations and work practice standards along with testing, monitoring, recordkeeping and reporting requirements have been included in the operating permit to ensure the facility complies with all applicable Federal and State air quality regulations. These operating permit conditions have been derived from the applicable requirements of 25 Pa. Code Chapters 121—145. All pertinent documents used in the evaluation of the application are available for public review during normal business hours at the Department's Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701. Appointments for scheduling a review must be made by calling 570.327.3636.

55-00009: Conestoga Wood Specialties Corporation, 245 Reading Rd., East Earl, PA 17519, to issue a renewal State Only Operating Permit for the Beavertown Plant located in Beavertown Borough, **Snyder County**. The facility is currently operating under State Only Operating Permit 55-00009. The facility's main sources include one 14.2 MMBtu/hr natural gas/No. 2/No. 4 fuel oil fired boiler; one 10.1 natural gas/No. 2/No. 4 fuel oil fired boiler; one 31 bhp propane fired emergency generator engine; one paint spray booth; one 100 hp emergency fire pump engine; one Safety Kleen cleaning station; one woodwaste trailer loadout operation; and various wood-working equipment. The facility has potential emissions of 3.88 TPY of CO; 7.23 TPY of NO_x; 11.36 TPY of SO_x; 60.52 TPY of PM/PM₁₀; 3.00 TPY of VOCs; 2.81 TPY HAPs; 7,206 TPY GHGs. The two boilers are subject to 40 CFR Part 63, Subpart JJJJJJ—National Emission Standards for Hazardous Air Pollutants for Industrial, Commercial and Institutional Boilers Area Sources. The two emergency engines are subject to 40 CFR Part 63, Subpart ZZZZ—National Emission Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines. The cleaning station is subject to 25 Pa. Code § 129.63—Degreasing Operations. The emission limits and work practice standards along with testing, monitoring, recordkeeping and reporting requirements have been included in the operating permit to ensure the facility complies with all applicable Federal and State air quality regulations. These operating permit conditions have been derived from the applicable requirements of 25 Pa. Code Chapters 121—145, as well as 40 CFR Part 63. All pertinent documents used in the evaluation of the application are available for public review during normal business hours at the Department's Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701. Appointments for scheduling a review must be made by calling 570-327-3636.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Contact: Thomas Joseph, P.E., Facilities Permitting Chief, (412) 442-4336.

26-00613: ACF Group LLC/Allison Custom Fabrication, 120 Mine Street, Allison, PA 15413. In accordance with 25 Pa. Code §§ 127.424, 127.425 and 127.521, the Department is providing notice of intent to issue a natural minor State Only Operating Permit for the

custom metal fabrication operation at their facility located in Luzerne Township, **Fayette County**.

ACF Group LLC conducts steel cutting, spray painting, machining, and welding operations. This facility has a potential to emit 2.6 tons/12-consecutive month period (12-cmp) of PM₁₀, 2.7 tons/12-cmp of VOCs, and 4.1 tons/12-cmp of HAPs. The proposed operating permit includes conditions relating to applicable emission restrictions, testing, monitoring, recordkeeping, reporting, and work practice standards requirements for each unit.

The application, DEP's Review Memorandum, and the proposed permit are available for public review during normal business hours at DEP's Southwest Regional Office, 400 Waterfront Drive, Pittsburgh, PA 15222. A file review can be scheduled through the DEP's website at <https://www.dep.pa.gov/Citizens/PublicRecords/Pages/Informal-File-Review.aspx> or by contacting Tom Joseph, Facilities Permitting Chief, directly.

Those who wish to provide the Department with additional written information that they believe should be considered prior to the issuance of the State-Only Operating Permit may submit the information to Tom Joseph, Facilities Permit Chief, Department of Environmental Protection, Southwest Regional Office, 400 Waterfront Drive, Pittsburgh, PA 15222. Each written comment must contain the name, address and telephone number of the person submitting the comments, identification of the proposed Operating Permit (26-00613) and concise statements regarding the relevancy of the information or objections to issuance of the Operating Permit.

All comments must be received prior to the close of business 30 days after the date of this publication. 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 Department is not required to hold a conference or hearing. 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. Written comments or requests for a public hearing should be directed to Tom Joseph, Facilities Permit Chief, at the previously listed address.

04-00751: Valmont Pittsburgh Galvanizing/Valmont Coatings, Inc., 9 South 12th St., Midland, PA 15059. In accordance with 25 Pa. Code §§ 127.424, 127.425 and 127.521, the Department is providing notice of intent to issue a natural minor State Only Operating Permit for a facility that cleanses iron and steel, then galvanizes a zinc coating onto iron and steel via immersion into a liquid zinc bath, located in Midland Borough, **Beaver County**.

Valmont Coatings, Inc. operates two natural gas boilers, a kettle furnace with molten zinc kettle, thirteen process tanks, and a metallic zinc recovery system. This facility has a potential to emit 11.8 tons/12-consecutive month period (12-cmp) of NO_x, 10.0 tons/12-cmp of CO, 0.1 ton/12-cmp of SO_x, 0.7 ton/12-cmp of VOCs, 2.5 tons/12-cmp of PM₁₀, and 0.7 ton/12-cmp of HAPs. The facility also has the potential to emit 1.5 tons/12-cmp of phosphoric acid, 0.05 ton of zinc compounds, and 0.13 ton/12-cmp of ammonia and ammonium chloride. The

proposed operating permit limits hours of metallic zinc recovery to 800 hrs per 12-consecutive month period (12-cmp), facility-wide zinc throughput to 1,280 tons/12-cmp, and phosphoric acid throughput to 43,200 gallons/12-cmp. The proposed operating permit includes conditions relating to applicable emission restrictions, testing, monitoring, recordkeeping, reporting, and work practice standards requirements for each unit.

The application, DEP's Review Memorandum, and the proposed permit are available for public review during normal business hours at DEP's Southwest Regional Office, 400 Waterfront Drive, Pittsburgh, PA 15222. A file review can be scheduled through the DEP's website at <https://www.dep.pa.gov/Citizens/PublicRecords/Pages/Informal-File-Review.aspx> or by contacting Tom Joseph, Facilities Permitting Chief, directly.

Those who wish to provide the Department with additional written information that they believe should be considered prior to the issuance of the State-Only Operating Permit may submit the information to Tom Joseph, Facilities Permit Chief, Department of Environmental Protection, Southwest Regional Office, 400 Waterfront Drive, Pittsburgh, PA 15222. Each written comment must contain the name, address and telephone number of the person submitting the comments, identification of the proposed Operating Permit (04-00751) and concise statements regarding the relevancy of the information or objections to issuance of the Operating Permit.

All comments must be received prior to the close of business 30 days after the date of this publication. 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 Department is not required to hold a conference or hearing. 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. Written comments or requests for a public hearing should be directed to Tom Joseph, Facilities Permit Chief, at the previously listed address.

63-00943: Eastern Gas Transmission and Storage, Inc., 6603 West Broad Street, Richmond, VA 23230. In accordance with 25 Pa. Code §§ 127.441 and 127.425, the Department is providing notice that they intend to issue a renewed, facility-wide, natural minor, State Only Operating Permit for the continued operation of a propane gas storage and transfer facility known as Charleroi Propane Station, located in Fallowfield Township, **Washington County**.

The facility consists of six, 90,000 gallons, underground, pressurized, liquid propane storage tanks, one, two-bay, propane truck tank loading rack with upper truck tank vapor recovery lines, one pipeline pig launcher and one pipe receiver with associated small flares, and the associated piping for transport of propane from the pipeline to the storage tanks and from the storage tanks to the loading rack. Annual potential emissions are 5.1 tons of VOC, 0.1 ton of NO_x, 0.1 ton of CO, 0.1 ton of PM₁₀, and 0.1 ton of PM_{2.5}. Sources at the Greensburg Terminal are subject to 25 Pa. Code Chapters 121—145. The permit includes emission limitations and operational, monitoring, reporting, and recordkeeping requirements for the plant.

The application, the DEP's Review Memorandum, and the proposed permit are available for public review during normal business hours at DEP's Southwest Regional Office, 400 Waterfront Drive, Pittsburgh, PA 15222. A file review can be scheduled through the DEP's website at <https://www.dep.pa.gov/Citizens/PublicRecords/Pages/Informal-File-Review.aspx>

Those who wish to provide the Department with additional written information that they believe should be considered prior to the issuance of this Title V Operating Permit may submit the information to Martin L. Hochhauser, P.E., Pennsylvania Department of Environmental Protection, 400 Waterfront Drive, Pittsburgh, PA 15222. Each written comment must contain the name, address, and telephone number of the person submitting the comments, identification of the proposed Operating Permit (specify Operating Permit SOOP-63-00943) and concise statements regarding the relevancy of the information or objections to issuance of the Operating Permit.

All comments must be received prior to the close of business 30 days after the date of this publication. In accordance with 25 Pa. Code § 127.428, prior to issuing an operating permit, the Department may hold a fact-finding conference or hearing at which the petitioner, and a person who has properly filed a protest under 25 Pa. Code § 127.426 (relating to filing protests) may appear and give testimony. The Department is not required to hold a conference or hearing. The applicant, the protestant and other participants will be notified of the time, place, and purpose of a conference or hearing, in writing or by publication in a newspaper or the *Pennsylvania Bulletin*, unless the Department determines that notification by telephone will be sufficient.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Contact: Thomas Joseph, P.E., Facilities Permitting Chief, (412) 442-4336.

65-00912: The AMES Co., Inc./Champion Facility, 465 Railroad Ave., Camp Hill, PA 17011-5611. In accordance with 25 Pa. Code §§ 127.424, 127.425 and 127.521, the Department is providing notice of intent to issue a renewal State-Only Operating Permit (Natural Minor) for a sawmill operations facility, located in Donegal Township, **Washington County**.

The AMES Co. operates a 12.87 MMBtu/HR wood-fired boiler, an oil-fired boiler, a dimension mill, and wood surface coating operations. The control devices are dust collectors and a multi-clone collector. The proposed operating permit includes conditions relating to applicable emission restrictions, testing, monitoring, recordkeeping, reporting, and work practice standards requirements. The boilers are subject to the NESHAPs in 40 CFR 63 Subpart JJJJJJ.

Those who wish to provide the Department with additional written information that they believe should be considered prior to the issuance of the State-Only Operating Permit may submit the information to Tom Joseph, Facilities Permit Chief, Department of Environmental Protection, Southwest Regional Office, 400 Waterfront Drive, Pittsburgh, PA 15222. Written comments must contain the name, address and telephone number of the person submitting the comments, identification of the proposed Operating Permit (65-00912) and concise statements regarding the relevancy of the information or objections to issuance of the Operating Permit.

A public hearing may be held, if the Department, in its discretion, decides that such a hearing is warranted

based on the information received. All persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in the newspaper or by the *Pennsylvania Bulletin*, or by telephone, where the Department determines such notification by telephone is sufficient. Written comments or requests for a public hearing should be directed to Tom Joseph, Facilities Permit Chief, at the previously listed address.

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

The application, DEP's Review Memorandum, and the proposed permit are available for public review during normal business hours at DEP's Southwest Regional Office, 400 Waterfront Drive, Pittsburgh, PA 15222. A file review can be scheduled through the DEP's website at <https://www.dep.pa.gov/Citizens/PublicRecords/Pages/Informal-File-Review.aspx> or by contacting Tom Joseph, Facilities Permitting Chief, directly.

63-00643: Ametek, Inc., North Strabane Plant, 1085 Route 519, Eighty-Four, PA 15330-2813. In accordance with 25 Pa. Code §§ 127.424, 127.425 and 127.521, the Department is providing notice of intent to issue a renewal State-Only Operating Permit (Natural Minor) to Ametek, Inc. to authorize the operation of their metal powder manufacturing facility in North Strabane Township, **Washington County**.

The facility is comprised of rotary dryer units, water atomization processes, an aluminum grinder, and an emergency generator. The control devices are dust collectors and cyclones. The proposed operating permit includes conditions relating to applicable emission restrictions, testing, monitoring, recordkeeping, reporting, and work practice standards requirements.

Those who wish to provide the Department with additional written information that they believe should be considered prior to the issuance of the State-Only Operating Permit may submit the information to Tom Joseph, Facilities Permit Chief, Department of Environmental Protection, Southwest Regional Office, 400 Waterfront Drive, Pittsburgh, PA 15222. Written comments must contain the name, address and telephone number of the person submitting the comments, identification of the proposed Operating Permit (63-00643) and concise statements regarding the relevancy of the information or objections to issuance of the Operating Permit.

A public hearing may be held, if the Department, in its discretion, decides that such a hearing is warranted based on the information received. All persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in the newspaper or by the *Pennsylvania Bulletin*, or by telephone, where the Department determines such notification by telephone is sufficient. Written comments or requests for a public hearing should be directed to Tom Joseph, Facilities Permit Chief, at the previously listed address.

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

The application, DEP's Review Memorandum, and the proposed permit are available for public review during normal business hours at DEP's Southwest Regional Office, 400 Waterfront Drive, Pittsburgh, PA 15222. A file review can be scheduled through the DEP's website at <https://www.dep.pa.gov/Citizens/PublicRecords/Pages/Informal-File-Review.aspx> or by contacting Tom Joseph, Facilities Permitting Chief, directly.

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 are also subject to 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. Requests for 401 Water Quality Certifications are included in individual application only if 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). Such comments or objections should contain the name, address and phone 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.

In addition, requests for an informal conference, or a public hearing, as applicable, on a mining permit application, as provided by 25 Pa. Code § 77.123 (relating to public hearing-informal conferences) or § 86.34 (relating to informal conferences), must also contain 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 is associated with an application for an NPDES permit. A separate notice will be provided for the draft NPDES permit.

Coal Applications

Effluent Limits—The following range of effluent limits (Table 1) will apply to NPDES permits issued in conjunction with the associated coal mining activity permit. Additional effluent limits will be listed as part of the publication of the draft NPDES permit.

Table 1

Parameter	30-Day Average	Daily Maximum	Instantaneous Maximum
Iron (total)	1.5 to 3.0 mg/l	3.0 to 6.0 mg/l	3.5 to 7.0 mg/l
Manganese (total)	1.0 to 2.0 mg/l	2.0 to 4.0 mg/l	2.5 to 5.0 mg/l
Suspended solids	10 to 35 mg/l	20 to 70 mg/l	25 to 90 mg/l
Aluminum (Total)	0.75 to 2.0 mg/l	1.5 to 4.0 mg/l	2.0 to 5.0 mg/l

pH must always be greater than 6.0; less than 9.0.
Alkalinity must always be greater than acidity.

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

Mining Permit No. 33010107. NPDES Permit No. PA0242012. Waroquier Coal Company, P.O. Box 128, Clearfield, PA 16830. Revision to an existing bituminous surface mine to change the post-mining land use from Non-Commercial Forestland to Unmanaged Natural Habitat on the David Starr (formally Ivan D. Starr and Ivan D. & Beverly Starr) properties in Snyder Township, **Jefferson County**. Receiving streams: Unnamed tributaries to Rattlesnake Creek and Rattlesnake Creek, classified for the following uses: CWF. Application received: March 31, 2022.

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200, RA-EP MOSHANNON@pa.gov (Contact: Ashley Smith).

Mining Permit No. 14831301. NPDES Permit No. PA0008966. Pennsylvania Mines, LLC, 600 Hamilton Street, Suite 600, Allentown, PA 18101. Permit renewal application for post-mining treatment for a bituminous surface coal mine and associated NPDES permit located in Rush Township, **Centre County**, affecting 121.1 acres. Receiving stream(s): Moshannon Creek, UNT to Moshannon Creek classified for the following use(s): TSF. Application received: March 30, 2022.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118, RA-EP PottsvilleDMO@pa.gov (Contact: Theresa Reilly-Flannery).

Mining Permit No. 54970101. Premium Fine Coal, Inc., P.O. Box 268, Tamaqua, PA 18252, renewal of an anthracite surface mine, coal refuse reprocessing, refuse disposal and preparation plant operation in Schuylkill Township, **Schuylkill County**, affecting 554.0 acres. Receiving stream: Schuylkill River, classified for the following uses: CWF, MF. Application received: March 30, 2022.

Mining Permit No. 49070101. D. Molesevich & Sons Construction Co., Inc., P.O. Box 121, Mt. Carmel, PA 17851, renewal of an anthracite surface mine operation in Mt. Carmel and Conyngham Townships, **Northumberland** and

Columbia Counties, affecting 816.0 acres. Receiving stream: unnamed tributary to Mahanoy Creek, classified for the following uses: CWF, MF. Application received: March 30, 2022.

Mining Permit No. 49060101. Last Time Coal Co., 119 Greenwood Street, Trevorton, PA 17881, renewal of an anthracite surface mine operation in Zerbe Township, **Northumberland County**, affecting 242.1 acres. Receiving stream: Zerbe Run, classified for the following uses: CWF, MF. Application received: March 31, 2022.

Mining Permit No. 49100101. Fox Coal Company, Inc., 212 West Cherry Street, Mt. Carmel, PA 17851, renewal of an anthracite surface mine operation in Zerbe Township, **Northumberland County**, affecting 885.0 acres. Receiving streams: Carbon Run and Zerbe Run, classified for the following uses: CWF, MF. Application received: March 31, 2022.

Mining Permit No. 54950101. Joe Kuperavage Coal Company, 325 Wilson Avenue, Port Carbon, PA 17965, renewal of an anthracite surface mine operation in Blythe Township, **Schuylkill County**, affecting 127.0 acres. Receiving stream: Silver Creek, classified for the following uses: CWF, MF. Application received: March 31, 2022.

Mining Permit No. 19000201. Mid-Valley Coal Sales, Inc., 212 West Cherry Street, Mt. Carmel, PA 17851, renewal of an anthracite coal refuse reprocessing and surface mine operation in Conyngham Township, **Columbia County**, affecting 343.0 acres. Receiving stream: North Branch Shamokin Creek, classified for the following uses: CWF, MF. Application received: March 31, 2022.

Mining Permit No. 49120101. Blue Ridge Mining, LP, 123 Iris Road, Shamokin, PA 17872, renewal of an anthracite surface mine operation in Coal Township, **Northumberland County**, affecting 48.3 acres. Receiving stream: Carbon Run, classified for the following uses: CWF, MF. Application received: April 1, 2022.

Mining Permit No. 49860201. Rosini Enterprises, Inc., P.O. Box 568, Shamokin, PA 17872, renewal of an anthracite coal refuse reprocessing operation in Coal Township, **Northumberland County**, affecting 53.0 acres. Receiving stream: Carbon Run, classified for the following uses: CWF, MF. Application received: April 6, 2022.

Noncoal Applications

Effluent Limits—The following Table 2 effluent limits apply to NPDES permits issued in conjunction with a noncoal mining permit. Additional effluent limits will be listed as part of the publication of the draft NPDES permit.

Table 2

Parameter	30-day Average	Daily Maximum	Instantaneous Maximum
Suspended solids	10 to 35 mg/l	20 to 70 mg/l	25 to 90 mg/l
Alkalinity must always exceed acidity.			
pH must always be greater than 6.0; less than 9.0.			

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

Mining Permit No. 61190301. Glenn O. Hawbaker, Inc., 1952 Waddle Road, Suite 203, State College, PA 16803, For commencement, operation and restoration of a large noncoal surface mine located in Barkeyville Borough & Pine Township, **Venango and Mercer Counties**, affecting 197.0 acres. Receiving streams: Unnamed tributaries to North Branch Slippery Rock Creek, North Branch Slippery Rock Creek, and unnamed tributaries to East Branch Wolf Creek, classified for the following uses: CWF. Application received: March 21, 2022.

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200, RA-EP MOSHANNON@pa.gov (Contact: Ashley Smith).

Mining Permit No. 59120301. NPDES No. GP-104 No. PAM222007. Cross Excavating, LLC, 19316 Route 6, Mansfield, PA 16933, transfer of an existing large noncoal mining permit located in Sullivan Township, **Tioga County**, affecting 65.2 acres. Transfer of permit from Chad E Cross. Receiving stream(s): UNT to Corey Creek, Corey Creek to Tioga River classified for the following use(s): CWF. Application received: April 4, 2022.

Mining Permit No. 59020301. NPDES No. GP-104 Permit No. PAM222008. Cross Excavating, LLC, 19316 Route 6, Mansfield, PA 16933, transfer of an existing large noncoal mining permit located in Lawrence Township, **Tioga County**, affecting 16.6 acres. Transfer of permit from Chad E. Cross. Receiving stream(s): Harts Creek to Tioga River classified for the following use(s): WWF. Application received: April 4, 2022.

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 must always be greater than 6.0; less than 9.0.			
Alkalinity must always be greater than acidity.			

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 § 77.522 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.

Additional criteria

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 of 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.

Submittal of comments

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 notice within 30-days of this 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 phone number of the writer and a concise statement to inform the Department of the basis of a comment and the relevant facts upon which it is based.

Requests or petitions for a public hearing on any NPDES permit applications will be accepted 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, phone number and the interest of the party filing the request and state the reasons why a hearing is warranted. The Department may hold a public hearing if the public interest is significant. If a hearing is scheduled, a notice of the hearing will be published in the *Pennsylvania Bulletin* and a newspaper of general circulation within the relevant geographical area. The Department will consider comments from the public hearing in the final determination on the NPDES permit application.

Noncoal NPDES Draft Permits

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

NPDES No. PA0259683. Mining Permit No. 37150302. Amerikohl Aggregates, Inc., 202 Sunset Drive, Butler, PA 16001, Renewal of an NPDES permit in Shenango Township, **Lawrence County**, affecting 233.8 acres. Receiving streams: unnamed tributaries to McKee Run, classified for the following use: WWF. Application received: March 1, 2022.

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

The following treated wastewater outfalls discharge to unnamed tributaries to McKee Run:

<i>Outfall Number</i>	<i>New or Existing</i>	<i>Type</i>	<i>Discharge Rate: MGD</i>
001	N	SWO	1.57
002	N	SWO	2.57
003	N	SWO	0.60
004	N	SWO	1.05
005	N	SWO	1.79
006	N	TFO	0.43
007	N	TFO	0.43
008	N	TFO	0.43

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

<i>Parameter (Unit)</i>	<i>Minimum</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instant Maximum</i>
pH ¹ (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 ¹				

¹ The parameter is applicable at all times.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118, RA-EP PottsvilleDMO@pa.gov (Contact: Theresa Reilly-Flannery).

NPDES No. PA0223646. Mining Permit No. 38950301. H & K Group, Inc., P.O. Box 196, Skippack, PA 19474, renewal of an NPDES permit in Cornwall Borough, **Lebanon County**, affecting 175.5 acres. Receiving stream: unnamed tributary to Snitz Creek, classified for the following use: TSF. Application received: September 26, 2020.

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

The following treated wastewater outfalls discharge to unnamed tributary to Snitz Creek:

<i>Outfall Number</i>	<i>New or Existing</i>	<i>Type</i>	<i>Discharge Rate</i>
001	Existing	SWO	Precipitation Dependent

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

<i>Parameter (unit)</i>	<i>Minimum</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instant Maximum</i>
pH (S.U.)	9.0			9.0
Total Suspended Solids (mg/L)		35.0	70.0	90.0
Acidity (mg/L)				Report
Alkalinity (mg/L)				Report
Net Alkalinity (mg/L)	0.0			
Flow (gpm)				Report
Total Settleable Solids (ml/L)				0.5

NPDES No. PA0594849. Mining Permit No. 8073SM4. H & K Group, Inc., P.O. Box 196, Skippack, PA 19474, renewal of an NPDES permit in Lower Pottsgrove Township, **Montgomery County**, affecting 37.45 acres. Receiving stream: Sanatoga Creek, classified for the following use: WWF. Application received: January 2, 2020.

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

The following treated wastewater outfalls discharge to Sanatoga Creek:

<i>Outfall Number</i>	<i>New or Existing</i>	<i>Type</i>	<i>Discharge Rate</i>
001	Existing	TFO	2.25 MGD

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

<i>Parameter (unit)</i>	<i>Minimum</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instant Maximum</i>
pH (S.U.)	6.0			9.0
Total Suspended Solids (mg/L)		35.0	70.0	90.0
Acidity (mg/L)				Report
Alkalinity (mg/L)				Report
Net Alkalinity (mg/L)	0.0			
Arsenic (mg/L)		Report	Report	Report
Flow (MGD)		2.25		
Oil & Grease (mg/L)				Report

FEDERAL WATER POLLUTION CONTROL ACT SECTION 401

The following permit applications, requests for Environmental Assessment approval and requests for 401 Water Quality Certification have been received by the Department of Environmental Protection. Section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341), requires the State to certify that the involved projects will not violate the applicable provisions of Sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317), as well as relevant State requirements. Persons objecting to approval of a request for certification under Section 401 or to the issuance of a Dam Permit or Water Obstruction and Encroachment Permit, or the approval of an 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)).

Southeast Region: Waterways & Wetlands Program, 2 East Main Street, Norristown, PA 19401, Telephone 484.250.5160, E-mail: ra-epww-sero@pa.gov.

Permit No. E4601222-006, Aqua Pennsylvania, Inc., 1297 South Gulph Road, Radnor, PA 19087, Upper Merion Township, **Montgomery County**, ACOE Philadelphia District.

Aqua Pennsylvania, Inc., is proposing to perform the following water obstruction and encroachment activities associated with the protection of exposed 30-inch Prestressed Concrete Cylinder Pipe (PCCP) Transmission Main and realignment and stabilization of the section of Gulph Creek associated with the repair.

Activities associated with realigning and stabilizing Gulph Creek:

1. To realign and stabilize Gulph Creek (WWF-MF) in order to prevent future erosion and protect the 30-inch

existing water transmission main running along the Creek, resulting in 322 linear feet (10,571 sq. ft, 0.24 acre) of permanent stream impact and 310 linear feet (4,296 sq. ft, 0.09 acre) of permanent floodway impact.

2. Cofferdams will be placed along the existing stream bank where the proposed stream realignment will be excavated. Starting from the downstream tie in point the new channel for the stream will be excavated and dewatered using pumped water filter bags, as needed. Once the channel is excavated it will be stabilized per the plan details each day.

3. When the proposed channel is ready to convey the stream flow, the cofferdams will be removed and aligned to close off the existing stream channel. Dewatering the existing stream area will be completed using pumped water filter bags, as needed. Once the area is dewatered the existing stream area will be reconstructed per the proposed stabilization plan. Once all stabilization is completed the cofferdams will be removed.

Activities associated with the protection of exposed 30-inch water transmission main:

1. The exposed existing 30-inch PCCP pipe onsite will be protected by backfilling with compacted select backfill tested for pH near concrete to mitigate potential concerns about interaction with the existing mortar coating, resulting in 322 linear feet (10,571 sq. ft, 0.24 acre) of permanent stream impact and 310 linear feet (4,296 sq. ft, 0.09 acre) of permanent floodway impact.

This project is located at 1297 South Gulph Road, Radnor in Upper Merion Township, Montgomery County (USGS PA Norristown Quadrangle—Latitude: 40.059151N, Longitude: - 75.341461W).

Permit No. E5101222-002, Philadelphia Parks and Recreation, 1515 Arch Street, 11th Floor, Philadelphia, PA 19102, City of Philadelphia, **Philadelphia County**, ACOE Philadelphia District.

To construct and maintain a Welcome Center, including the installation of a patio, sidewalks, driveway, and an expansion of the existing bioswale for stormwater management. Permanent floodplain impact (Meadow Lake, WWF).

The facility is located in FDR Park at 3500 South Broad Street (Philadelphia, PA USGS map, Lat: 39.90492, Long: -75.177650) in the city and county of Philadelphia.

Northeast Region: Waterways & Wetlands Program, 2 Public Square, Wilkes-Barre, PA 18701-1915.

Contact: Gillian Pehala, Clerk Typist 2, 570-830-3077.

E4502222-003. Steve Blake, 1153 Arrowhead Drive, Pocono Lake, PA 18347, in Tobyhanna Township, **Monroe County**, U.S. Army Corps of Engineers, Philadelphia District.

To construct and maintain 16 feet long by 4 feet wide, aluminum, recreational dock in Arrowhead Lake (EV, MF). The project is located at Lot 46 and 47, Block A-3, Section 2 of the Arrowhead Lake subdivision, located in Tobyhanna Township, Monroe County. Quadrangle Latitude: 41° 08' 40.0"; Longitude: -75° 34' 8.0". (Thornhurst, PA Quadrangle, Latitude: 41° 08' 40"; Longitude: -75° 34' 8").

E4502222-004. Christopher Pandian, 131 Pierce Lane, Kennett Square, PA 19346, in Tobyhanna Township, **Monroe County**, U.S. Army Corps of Engineers, Philadelphia District.

To construct and maintain 10 feet by 20 feet long, floating, recreational dock in Arrowhead Lake (EV, MF). A 4-foot-wide wooden walkway raised one foot off the ground will also be constructed. The project is located at Lot 45, Block A-25, Section 7 of the Arrowhead Lake subdivision, located in Tobyhanna Township, Monroe County. Quadrangle Latitude: 41° 09' 4.0"; Longitude: -75° 33' 40.0". (Thornhurst, PA Quadrangle, Latitude: 41° 09' 04"; Longitude: -75° 33' 40").

E5402221-006. Schuylkill Conservation District, 1206 AG Center Drive, Pottsville, PA 17901-9733, in Pine Grove Borough and Pine Grove Township, **Schuylkill County**, U.S. Army Corps of Engineers, Baltimore District.

To construct and maintain a stream restoration project in a 4,250-foot reach of the Upper Little Swatara Creek, 4,675-foot reach of Swatara Creek, and a 135-foot reach of a UNT to Upper Little Swatara Creek as a part of the Swatara Creek Floodplain Restoration Project Phase II. The project involves using natural stream channel design techniques for the purpose of improving channel stability, reconnecting the channels to the floodplain, water quality improvements and improving aquatic habitat. There are no permanent impacts to wetlands proposed. Work will include restoring and creating approximately 3.37 acres of wetlands; removal of an on-line dam; stabilization of 2,034 linear feet of streambanks; re-grading floodplain areas; creation of 2.20 acres of bioretention areas; creation of fish habitat by installing 6 rock vanes and 4 rock deflectors, and native riparian vegetation plantings throughout the streambank stabilization areas.

The project is located on both sides of East Pottsville Street (T-443) and on the east side of Spruce Street (Swatara Hill & Pine Grove, PA Quadrangle Latitude: 40° 33' 29.3"; Longitude: -76° 22' 27.4") in Pine Grove Township and Pine Grove Borough, Schuylkill County.

Southwest Region: Waterways & Wetlands Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, 412-442-4000.

Contact: Dana Drake.

E5605221-004, One Stop Auto Sales, 4220 Glades Pike, Somerset, PA 15501, Somerset Township, **Somerset County**; Pittsburgh ACOE District.

The applicant proposes to:

1. Operate and maintain fill that was previously placed within 0.195 acre of PEM wetlands;
2. Remove previously placed fill from 0.155 acre of the same PEM wetlands, and restore the 0.155 acre of wetlands to original grade;
3. Remove a 50-foot long, 8-inch diameter smooth lined corrugated plastic pipe (SLCPP) outfall structure from an unnamed tributary (UNT) to West Branch Coxes Creek (WWF) and its floodway;
4. Remove a 30-foot long, 6-inch diameter SLCPP from the floodway of the aforementioned UNT;
5. Remove a 60-foot long, 18-inch diameter SLCPP from the floodway of the aforementioned UNT and restore a vegetated swale to pre-disturbance conditions.

For the purpose of providing usable property for an auto service garage. Permanent wetland impacts (0.195 acre) will be mitigated through the purchase of 0.39 acre of wetland mitigation credits (2:1 mitigation requirement) from the Laurel Hill Creek Mitigation Bank within the Youghiogheny River Sub-basin 19. The project site is located at 4220 Glades Pike (Somerset, PA USGS topo-

graphic quadrangle; N: -40°, 0', 39"; W: -79°, 6', 23"; Sub-basin 19F; USACE Pittsburgh District), in Somerset Township, Somerset County.

E6505122-004, PennDOT District 12-0, 825 N. Galatin Ave. Ext., Uniontown, PA 15401, Rostraver Township, **Westmoreland County**; Pittsburgh ACOE District.

The applicant proposes to:

1. Construct a temporary causeway, and to remove the existing 642.42' by 20.5' Parker thru truss bridge and existing piers, having a temporary impact of 300 LF to Kiskiminetas River (WWF).
2. Construct and maintain a replacement 636' by 35' continuous steel plate girder bridge with concrete abutments and piers approximately 70 ft downstream to aforementioned existing bridge, having a permanent impact of 35 LF.
3. Construct and maintain two 18' x 10' (Outfall 1) and 24' x 10' (Outfall 2) stormwater outfalls, having a permanent impact of 20 LF, and a temporary impact of 63 LF, to Kiskiminetas River.
4. Construct and maintain fill in PEM wetland (W-01), having a permanent impact of 0.01 acre.

For the purpose of replacing a structure, carrying SR 1060 over the Kiskiminetas River. The project will have 55 LF of permanent, and 339.5 LF of temporary, stream impacts. The project will have 0.01 acre of permanent wetland impacts.

The project site is located near the intersection of Bridge Street (SR 1060) and Edmon Road (SR 2047) (Avonmore, PA USGS topographic quadrangle; N: 40°, 31', 30"; W: 79°, 29', 39"; Sub-basin 19D; USACE Pittsburgh District), in Kiskiminetas Township, Westmoreland County.

Northwest Region: Waterways & Wetlands Program, 230 Chestnut Street, Meadville, PA 16335-3481.

E2006222-001, Conneaut Lake Properties, LLC, 10431 Perry Highway, Wexford, PA 15090. Reflections at Conneaut Lake, in Sadsbury Township, **Crawford County**, ACOE Pittsburgh District (Conneaut Lake, PA Quadrangle N: 41°, 37', 24"; W: 80°, 19', 21").

The project will permanently impact a total 0.67 acre of wetlands (0.59-acre PFO, 0.01-acre PSS, and 0.06 PEM), 0.95 acre of lacustrine impact to Conneaut Lake and adjoining canals, 79 linear feet of stream impacts to UNT Conneaut Lake (HQ-CWF). These impacts are associated with the construction of a residential housing complex, roads, utilities, stormwater management facilities, and boat docks, and dredging activities. The project proposes on-site construction of a total of 2.12 acres of replacement wetland (2.01 acres PFO, 0.09-acre PEM, and 0.02-acre PSS). The project is located approximately 0.24 miles northwest of the intersection of Louderman Road and PA 618 (Conneaut Lake, PA Quadrangle N: 41°, 37', 24"; W: 80°, 19', 21") in Sadsbury Township, Crawford County.

Central Office: Bureau of Waterways Engineering & Wetlands, Rachel Carson State Office Building, 400 Market Street, 2nd Floor, Harrisburg, PA 17101, (717) 787-3411.

S07EJ36-001. Little Conestoga Creek Foundation, P.O. Box 1328, Lancaster, PA 17608-1328. Floodplain Restoration and Pedestrian Trail, East Hempfield; Manheim; Lancaster Townships and Lancaster City, **Lancaster County**, U.S. Army Corps of Engineers Baltimore District.

The proposed restoration will reconnect the stream channel with the floodplain by removing legacy sediment impairment and restoring the floodplain to near historical elevations. This will eliminate a significant source of sediment in the Little Conestoga Creek from the existing unstable banks. The proposed project will provide additional ecological, flood mitigation, recreational and open space opportunities. The restoration, rehabilitation and enhancement activities on aquatic resources across approximately 45 acres of the Little Conestoga Creek sub-watershed of Conestoga River (Compensation Service Area 07 East). All or a portion of the existing eight wetlands totaling 3.06 acres and ten watercourse reaches totaling 9,258 linear feet of watercourse and the adjoining floodplains may be affected by the overall project. The proposed project in the application is not a typical aquatic resource improvement project. This project is a coordinated multi-phase and multi-year effort that involves project sites along the Little Conestoga Creek in relatively close proximity involving numerous landowners to address degraded environments, recreation trails and interacts with various public infrastructure (i.e. sewer and water lines, bridges, culverts, etc.). The project may involve work related to the public infrastructure through this or other permits (i.e., GP-11). The project identifies and proposes to address current and historic resource degradation to wetlands, watercourses, and their floodplain environments on a watershed scale.

The applicant identified areas within the Little Conestoga sub-watershed that have similar existing conditions that based upon a review of the data presented in the application and supplemental information provided, demonstrate degraded aquatic resource/watershed conditions that stem from both legacy and modern era direct and indirect anthropogenic alterations that persist to the present. The applicant demonstrated five basic degraded conditions or system discontinuities that result in reduced watershed functions. The applicant proposes six phases of the overall project which include: 1) Conestoga House, 2) Barrcrest, 3) F&M, 4) Mennonite Home, 5) Woodcrest Villa, and 6) Schriener Station, to lessen or reverse the degradation or discontinuity through implementation of restoration, rehabilitation and enhancement construction techniques to address the predominant causes of degradation. Project phases 5 and 6 may include a partnership with DEP's in lieu fee program, Pennsylvania Integrated Ecological Services, Capacity Enhancement and Support Program. Functional gains from those phases may be utilized to satisfy third party compensation under such a partnership. This application requests the review of Phase 1 and 2 final restoration design plans and design approaches for the remaining project phases. Latitude (40.062013); Longitude (-76.343209).

MB9915-0004. Water and Land Solutions, 333 Baldwin Road, Pittsburgh, PA 15205. Mitigation Banking Proposal, East Finley Township, **Washington County**, U.S. Army Corps of Engineers Pittsburgh District.

All or a portion of the existing twelve wetlands totaling 4.42 acres and fifteen watercourse reaches totaling 6,494 linear feet of watercourse and the adjoining floodplains may be affected by the overall project. The proposed project in the application.

Water and Land Solutions seeks approval to operate as a third-party mitigation provider through selling compensation credits to satisfy third party compensation requirements and proposes to establish the Rocky Run Mitigation Bank—(Bank Site, Project). The Sponsor has secured a 12.4 (ac) tract of land composed of 4.42 acres of

wetlands as well as 6,494 linear feet (lf) of existing waterways, located along and around Rocky Run within the Wheeling Creek Watershed; PA Compensation Service Areas 20 South. The project consists of improving 6,494 linear feet of existing stream and 4.42 acres of wetlands through enhancing, rehabilitating and reestablishing aquatic resources resulting in linear feet of improved streams and floodplains, and wetland resources. The project may result in 8,609 riverine credits and 5.26 wetland credits for use to satisfy third party compensatory mitigation requirements. (Latitude: 39.84956°; Longitude: -76.69107°).

Eastern Region: Oil & Gas Management Program, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448.

Contact: Robert Marquez, Senior Project Manager, Telephone Number: 570-327-3636.

Permit No. E5829222-002, Williams Field Services Company, LLC, 30351 Route 6, Wysox, PA 18854; Bridgewater Township, **Susquehanna County**; ACOE, Baltimore District.

To construct, operate, and maintain:

1. a 16-inch diameter natural gas gathering pipeline and temporary mat/bridge crossing impacting 4,410 square feet (0.10 acre) of palustrine emergent wetland (PEM) (Montrose East, PA Quadrangle; Lat. 41.838068°, Long. -75.813225°);
2. a 16-inch diameter natural gas gathering pipeline and temporary mat/bridge crossing impacting 3,151 square feet (0.07 acre) of palustrine emergent wetland (PEM) (Montrose East, PA Quadrangle; Lat. 41.836253°, Long. -75.812992°);
3. a 16-inch diameter natural gas gathering pipeline and temporary mat/bridge crossing impacting 766 square feet (0.02 acre) of palustrine emergent wetland (PEM) (Montrose East, PA Quadrangle; Lat. 41.834630°, Long. -75.813201°);
4. a 16-inch diameter natural gas gathering pipeline and temporary mat/bridge crossing impacting 1,060 square feet (0.02 acre) of palustrine emergent wetland (PEM) (Montrose East, PA Quadrangle; Lat. 41.833662°, Long. -75.813183°);
5. a 16-inch diameter natural gas gathering pipeline and temporary mat/bridge crossing impacting 2,426 square feet (0.06 acre) of palustrine emergent wetland (PEM) (Montrose East, PA Quadrangle; Lat. 41.832855°, Long. -75.812840°);
6. a temporary timber mat pad impacting 649 square feet (0.01 acre) of palustrine emergent wetland (PEM) (Montrose East, PA Quadrangle; Lat. 41.832618°, Long. -75.812780°);
7. a 16-inch diameter natural gas gathering pipeline and temporary mat/bridge crossing impacting 2,175 square feet (0.05 acre) of palustrine emergent wetland (PEM) and 156 square feet (0.01 acre) of palustrine forested wetland (PFO) (Montrose East, PA Quadrangle; Lat. 41.832203°, Long. -75.812980°);
8. a temporary timber mat pad impacting 2,071 square feet (0.05 acre) of floodway only impacts to an unnamed tributary to Hop Bottom Creek (CWF-MF) (Montrose East, PA Quadrangle; Lat. 41.831096°, Long. -75.813427°);
9. a 16-inch diameter natural gas gathering pipeline and temporary mat/bridge crossing impacting 112 lineal feet of an unnamed tributary to Hop Bottom Creek

(CWF-MF) (Montrose East, PA Quadrangle; Lat. 41.830913°, Long. -75.815972°);

10. a temporary timber mat pad impacting 17 lineal feet of stream impacts and 1,794 square feet (0.04 acre) of floodway only impacts to an unnamed tributary to Hop Bottom Creek (CWF-MF) (Montrose East, PA Quadrangle; Lat. 41.830755°, Long. -75.816531°);

11. a temporary timber mat pad impacting 123 square feet (0.01 acre) of floodway only impacts to an unnamed tributary to Hop Bottom Creek (CWF-MF) (Montrose East, PA Quadrangle; Lat. 41.830836°, Long. -75.815502°);

12. a 16-inch diameter natural gas gathering pipeline and temporary mat/bridge crossing impacting 22,837 square feet (0.52 acre) of palustrine emergent wetland (PEM) (Montrose East, PA Quadrangle; Lat. 41.830795°, Long. -75.816514°);

13. a 16-inch diameter natural gas gathering pipeline and temporary mat/bridge crossing impacting 3,380 square feet (0.09 acre) of palustrine emergent wetland (PEM) (Montrose East, PA Quadrangle; Lat. 41.830379°, Long. -75.819532°);

14. a temporary timber mat pad impacting 271 square feet (0.01 acre) of palustrine emergent wetland (PEM) (Montrose East, PA Quadrangle; Lat. 41.830625°, Long. -75.823543°);

15. a 16-inch diameter natural gas gathering pipeline and temporary mat/bridge crossing impacting 6,424 square feet (0.15 acre) of palustrine emergent wetland (PEM) (Montrose East, PA Quadrangle; Lat. 41.830527°, Long. -75.823178°);

16. a temporary timber mat pad impacting 1,901 square feet (0.04 acre) of palustrine emergent wetland (PEM) (Montrose East, PA Quadrangle; Lat. 41.830624°, Long. -75.822701°);

17. a 16-inch diameter natural gas gathering pipeline and temporary mat/bridge crossing impacting 54,062 square feet (1.24 acre) of palustrine emergent wetland (PEM) (Montrose East, PA Quadrangle; Lat. 41.828804°, Long. -75.827001°);

18. a temporary timber mat pad impacting 3,467 square feet (0.08 acre) of floodway only impacts to an unnamed tributary to Meshoppen Creek (CWF-MF) (Montrose East, PA Quadrangle; Lat. 41.828213°, Long. -75.827555°);

19. a 16-inch diameter natural gas gathering pipeline and temporary mat/bridge crossing impacting 156 lineal feet of impacts to an unnamed tributary to Meshoppen Creek (CWF-MF) (Montrose East, PA Quadrangle; Lat. 41.828131°, Long. -75.827491°);

20. a 16-inch diameter natural gas gathering pipeline and temporary timber mat pad impacting 109 lineal feet of impacts to an unnamed tributary to Meshoppen Creek (CWF-MF) (Montrose East, PA Quadrangle; Lat. 41.826569°, Long. -75.827405°);

21. a temporary timber mat pad impacting 16,341 square feet (0.38 acre) of floodway only impacts to Meshoppen Creek (CWF-MF) (Montrose East, PA Quadrangle; Lat. 41.825731°, Long. -75.827595°);

22. a 16-inch diameter natural gas gathering pipeline and temporary mat/bridge crossing impacting 107 lineal feet of impacts to an unnamed tributary to Meshoppen Creek (CWF-MF) (Montrose East, PA Quadrangle; Lat. 41.825731°, Long. -75.827595°);

23. a 16-inch diameter natural gas gathering pipeline and temporary mat/bridge crossing impacting 107 lineal feet of impacts to an unnamed tributary to Meshoppen Creek (CWF-MF) (Montrose East, PA Quadrangle; Lat. 41.825223°, Long. -75.827816°);

24. a 16-inch diameter natural gas gathering pipeline and temporary mat/bridge crossing impacting 105 lineal feet of impacts to an unnamed tributary to Meshoppen Creek (CWF-MF) (Montrose East, PA Quadrangle; Lat. 41.825732°, Long. -75.827594°);

25. a 16-inch diameter natural gas gathering pipeline and temporary mat/bridge crossing impacting 50,706 square feet (1.16 acres) of palustrine emergent wetland (PEM) and 2,140 square feet (0.05 acre) of palustrine forested wetland (PFO) (Montrose East, PA Quadrangle; Lat. 41.825804°, Long. -75.827646°);

26. a 16-inch diameter natural gas gathering pipeline and temporary mat/bridge crossing impacting 41,045 square feet (0.94 acre) of palustrine emergent wetland (PEM) (Montrose East, PA Quadrangle; Lat. 41.824330°, Long. -75.828199°);

27. a 16-inch diameter natural gas gathering pipeline and temporary mat/bridge crossing impacting 2 lineal feet of impacts to an unnamed tributary to Meshoppen Creek (CWF-MF) (Montrose East, PA Quadrangle; Lat. 41.823214°, Long. -75.828800°);

28. a 16-inch diameter natural gas gathering pipeline and temporary mat/bridge crossing impacting 101 lineal feet of impacts to an unnamed tributary to Meshoppen Creek (CWF-MF) (Montrose East, PA Quadrangle; Lat. 41.823000°, Long. -75.828856°);

29. a 16-inch diameter natural gas gathering pipeline and temporary mat/bridge crossing impacting 36,175 square feet (0.83 acre) of palustrine emergent wetland (PEM) and 2,663 square feet (0.06 acre) of palustrine forested wetland (PFO) (Montrose East, PA Quadrangle; Lat. 41.820976°, Long. -75.829574°);

30. a 16-inch diameter natural gas gathering pipeline and temporary mat/bridge crossing impacting 104 lineal feet of impacts to an unnamed tributary to Meshoppen Creek (CWF-MF) (Montrose East, PA Quadrangle; Lat. 41.816760°, Long. -75.827838°);

31. a 16-inch diameter natural gas gathering pipeline and temporary mat/bridge crossing impacting 114 lineal feet of impacts to an unnamed tributary to Meshoppen Creek (CWF-MF) (Montrose East, PA Quadrangle; Lat. 41.816183°, Long. -75.827774°);

32. a 16-inch diameter natural gas gathering pipeline and temporary mat/bridge crossing impacting 22,913 square feet (0.53 acre) of palustrine emergent wetland (PEM) and 79 square feet (0.01 acre) of palustrine forested wetland (PFO) (Montrose East, PA Quadrangle; Lat. 41.815578°, Long. -75.827731°);

33. a 16-inch diameter natural gas gathering pipeline and temporary mat/bridge crossing impacting 75 lineal feet of impacts to an unnamed tributary to Meshoppen Creek (CWF-MF) (Montrose East, PA Quadrangle; Lat. 41.815512°, Long. -75.827731°);

34. a 16-inch diameter natural gas gathering pipeline and temporary mat/bridge crossing impacting 115 lineal feet of impacts to an unnamed tributary to Meshoppen Creek (CWF-MF) (Montrose East, PA Quadrangle; Lat. 41.812705°, Long. -75.827387°);

35. a temporary timber mat pad impacting 16,875 square feet (0.39 acre) of palustrine emergent wetland (PEM) (Montrose East, PA Quadrangle; Lat. 41.811801°, Long. -75.827108°);

36. a temporary timber mat pad impacting 4,715 square feet (0.11 acre) of palustrine emergent wetland (PEM) (Montrose East, PA Quadrangle; Lat. 41.811801°, Long. -75.827108°);

37. a temporary timber mat pad impacting 5,656 square feet (0.13 acre) of floodway only impacts to Meshoppen Creek (CWF-MF) (Montrose East, PA Quadrangle; Lat. 41.811167°, Long. -75.826943°).

The approximate 14,595 lineal feet Tiffany Loop Pipeline natural gas gathering line project will convey natural gas from the Horseshoe Pipeline to the Diamond Loop Pipeline located in Bridgewater Township, Susquehanna County. The project will result in 1,207 lineal feet of stream impacts, 2.37 acres (103,452 square feet) of floodway impacts, 6.35 acres (276,441 square feet) of PEM wetland impacts, and 0.12 acre (5,038 square feet) of PFO wetland impacts all for the purpose of constructing, operating, and maintaining a natural gas gathering line for conveyance to market.

Permit No. E0829222-014, Chesapeake Appalachia, LLC, 14 Chesapeake Lane, Sayre, PA 18840-1567, Litchfield Township, **Bradford County**; ACOE, Baltimore District.

To construct, operate, and maintain:

1. a temporary construction workspace activities that impacted 1,307 square feet (0.03 acre) of palustrine emergent wetland (PEM) (Litchfield, PA Quadrangle; Lat. 41° 56' 24", Long. -76° 23' 44");

2. a temporary construction workspace activities that impacted 1,307 square feet (0.03 acre) of palustrine emergent wetland (PEM) (Litchfield, PA Quadrangle; Lat. 41° 56' 22", Long. -76° 23' 39");

3. a temporary construction workspace activities that impacted 436 square feet (0.01 acre) of palustrine emergent wetland (PEM) (Litchfield, PA Quadrangle; Lat. 41° 56' 24", Long. -76° 23' 37");

4. a permanent fill that impacted 5,663 square feet (0.13 acre) of palustrine emergent wetland (PEM) (Litchfield, PA Quadrangle; Lat. 41° 56' 25", Long. -76° 23' 43");

5. a permanent fill that impacted 14,810 square feet (0.34 acre) of palustrine emergent wetland (PEM) (Litchfield, PA Quadrangle; Lat. 41° 56' 24", Long. -76° 23' 38");

6. a temporary on-site restoration activity impacting 1,220 square feet (0.03 acre) of palustrine emergent wetland (PEM) (Litchfield, PA Quadrangle; Lat. 41° 56' 24", Long. -76° 23' 44");

7. a temporary workspace activity impacting 1,699 square feet (0.04 acre) of palustrine emergent wetland (PEM) (Litchfield, PA Quadrangle; Lat. 41° 56' 24", Long. -76° 23' 43");

8. a temporary on-site restoration activity impacting 1,263 square feet (0.03 acre) of palustrine emergent wetland (PEM) (Litchfield, PA Quadrangle; Lat. 41° 56' 22", Long. -76° 23' 39");

9. a temporary workspace activity impacting 1,220 square feet (0.03 acre) of palustrine emergent wetland (PEM) (Litchfield, PA Quadrangle; Lat. 41° 56' 22", Long. -76° 23' 39");

10. a temporary on-site restoration activity impacting 610 square feet (0.01 acre) of palustrine emergent wetland (PEM) (Litchfield, PA Quadrangle; Lat. 41° 56' 37", Long. -76° 23' 37");

11. a temporary workspace activity impacting 1,525 square feet (0.04 acre) of palustrine emergent wetland (PEM) (Litchfield, PA Quadrangle; Lat. 41° 56' 23", Long. -76° 23' 38").

The Feusner Bra Pad, located in Litchfield Township, Bradford County, seeks after-the-fact authorization in accordance with the Consent Decree Chesapeake Appalachia, LLC entered into with the U.S. Environmental Protection Agency and the PA Department of Environmental Protection on May 20, 2021. Prior unauthorized impacts resulted in 3,050 square feet (0.07 acre) of temporary PEM wetland impacts and 20,473 square feet (0.47 acre) of permanent PEM wetland impacts. Wetland restoration activities will result in 7,537 square feet (0.17 acre) of temporary PEM wetland impacts to restore and mitigate for prior activities adjacent to the Freshwater Impoundment and supporting infrastructure.

Regional Permit Coordination Office: 400 Market Street, Harrisburg, PA 17101; Email: RA-EPREGIONAL PERMIT@pa.gov.

E0603221-004. Shoemakersville Municipal Authority, 115 East Ninth Street, Shoemakersville, PA 19555, Shoemakersville Borough, **Berks County**, U.S. Army Corps of Engineers, Philadelphia District.

To construct and maintain a wastewater treatment plant headworks facility and associated appurtenances in the floodplain of the Schuylkill River (WWF, MF). The project will result in 0.02 acre of permanent and 0.13 acre of temporary floodplain impacts.

The project is located at the existing Shoemakersville Wastewater Treatment Plant on 2nd Street (Temple, PA Quadrangle, Latitude: 40.493683°; Longitude: -75.970019°) in Shoemakersville Borough, Berks County.

ENVIRONMENTAL ASSESSMENTS

Central Office: Bureau of Waterways Engineering & Wetlands, Rachel Carson State Office Building, Floor 2, 400 Market Street, Harrisburg, PA 17101, 717-787-3411.

D35-059EA. Kurt Staller, Project Manager—PA American Water Co., 852 Wesley Drive, Mechanicsburg, PA 17055, South Abington Township, **Lackawanna County**, U.S. Army Corps of Engineers, Baltimore District.

Applicant proposes to remove the High Service Dam to eliminate a threat to public safety and to restore approximately 550 feet of stream channel to a free-flowing condition. The project is located across Leggett's Creek (TSF, MF) (Scranton, PA Quadrangle, Latitude: 41.4695; Longitude: -75.6733).

EROSION AND SEDIMENT CONTROL

The following parties have applied for an Erosion and Sediment Control Permit (ESCP) for an earth disturbance activity associated with either a road maintenance or timber harvesting operation.

Unless otherwise indicated, on the basis of preliminary review and application of lawful standards and regulations, the Department of Environmental Protection proposes to issue a permit to discharge, subject to certain limitations set forth in the permit conditions. These proposed determinations are tentative. Limitations are

provided as erosion and sediment control best management practices (BMPs) which restrict the rate and quantity of sediment discharged.

Persons wishing to comment on the proposed permit are invited to submit a statement to the appropriate Department Regional Office listed above the application within 30-days of this public notice. Comments reviewed within this 30-day period will be considered in the formulation of the final determinations regarding this application. Responses 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 relevant facts upon which it is based. A public hearing may be held after consideration of comments received by the appropriate Department Regional Office during the 30-day public comment period.

Following the 30-day comment period, the appropriate Regional Office Water Management Program Manager will make a final determination regarding the proposed permit. Notice of this determination will be published in the *Pennsylvania Bulletin* at which time this determination may be appealed to the Environmental Hearing Board.

The application and related documents, including the erosion and sediment control plan for the earth disturbance activity are on file and may be inspected at the office identified in this notice.

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

Applications received under Sections 5 and 402 of the Clean Streams Law (35 P.S. §§ 691.5 and 691.402).

Northwest Region: Oil and Gas Management Program, 230 Chestnut Street, Meadville, PA 16335-3481.

ESCGP-3 # ESG070421006-00—B50 Pipeline
 Applicant Name ETC Northeast Fld Svc LLC
 Contact Person Larry Connors
 Address 6051 Wallace Rd Ext, Fl 3
 City, State, Zip Wexford, PA 15090-7386
 Township(s) Economy Borough
 County Beaver
 Receiving Stream(s) and Classification(s) Coony Hollow (TSF), UNTs to Coony Hollow (TSF), North Fork Big

Sewickley Creek (TSF), UNTs to North Fork Big Sewickley Creek (TSF) and Big Sewickley Creek (TSF).
 Secondary; Big Sewickley Creek (TSF), Coony Hollow (TSF), North Fork Big Sewickley Creek (TSF) and Ohio River (WWF).

Southwest District: Oil & Gas Management Program, 400 Waterfront Drive, Pittsburgh, PA 15222, (412) 442-4281.

ESCGP-3 # ESX16-125-0056 Stout Well Pad Renewal
 Applicant Name EQT Production Company
 Contact Person Todd Klaner
 Address 400 Woodcliff Drive
 City, State, Zip Canonsburg, PA 15317
 Municipality East Finley Township
 County Washington
 Receiving Stream(s) and Classification(s) UNT to Templeton Fork (TSF)
 Secondary; Templeton Fork (TSF)

ESCGP-3 # ESG076521014-00—Herminie North Temporary Freshwater Line
 Applicant Name EQT Chap LLC
 Contact Person Christine
 Address 625 Liberty Ave, Ste 1700
 City, State, Zip Pittsburgh, PA 15222
 Municipality Sewickley Township
 County Westmoreland
 Receiving Stream(s) and Classification(s) Sewickley Creek (WWF),
 Secondary; Youghiogheny River, Little Sewickley Creek (TSF),
 Secondary; Sewickley Creek (WWF), UNT # to Kelly Run (WWF),
 Secondary; Kelly Run (WWF), UNT to Sewickley Creek, Secondary; Sewickley Creek (WWF), UNT to Little Sewickley Creek (TSF),
 Secondary; Little Sewickley Creek (TSF), Kelly Run to Sewickley Creek (WWF),
 Secondary; Sewickley Creek (WWF)

ESCGP-3 # ESG073022002-00—Tomcat Well Site
 Applicant Name EQT Prod Co
 Contact Person Charity Fleenor
 Address 400 Woodcliff Dr.
 City, State, Zip Canonsburg, PA 15317-5851
 Municipality Franklin Township
 County Greene
 Receiving Stream(s) and Classification(s) UNT to Laurel Run (WWF),
 Secondary; Laurel Run (WWF), Laurel Run (WWF)
 Secondary; South Fork Tenmile Creek (WWF)

ACTIONS

THE PENNSYLVANIA CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT

FINAL ACTIONS TAKEN FOR NPDES PERMITS AND WQM PERMITS

The Department has taken the following actions on previously received applications for new, amended, and renewed NPDES and WQM permits, applications for permit waivers, and NOIs for coverage under General Permits, 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 and Individual permits under 25 Pa. Code Chapter 102, including links to Individual Chapter 92a NPDES and WQM Permits, may be reviewed by generating the “Final Actions Report” on DEP’s website at www.dep.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 for Chapter 91 & 92a permits; RA-EPWW-SERO@pa.gov for Chapter 102 permits.

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 for Chapter 91 & 92a permits; RA-EPWW-NERO@pa.gov for Chapter 102 permits.

DEP Southcentral Regional Office (SCRO)—909 Elmerton Avenue, Harrisburg, PA 17110. File Review Coordinator: 717.705.4732. Email: RA-EPNPDES_SCRO@pa.gov for Chapter 91 & 92a permits; RA-EPWW-SCRO@pa.gov for Chapter 102 permits.

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 for Chapter 91 & 92a permits; RA-EPWW-NCRO@pa.gov for Chapter 102 permits.

DEP Southwest Regional Office (SWRO)—400 Waterfront Drive, Pittsburgh, PA 15222. File Review Coordinator: 412.442.4286. Email: RA-EPNPDES_SWRO@pa.gov for Chapter 91 & 92a permits; RA-EPWW-SWRO@pa.gov for Chapter 102 permits.

DEP Northwest Regional Office (NWRO)—230 Chestnut Street, Meadville, PA 16335. File Review Coordinator: 814.332.6340. Email: RA-EPNPDES_NWRO@pa.gov for Chapter 91 & 92a permits; RA-EPWW-NWRO@pa.gov for Chapter 102 permits.

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 Regional Permit Coordination Office (RPCO)—400 Market Street, Harrisburg, PA 17105. File Review Coordinator: 717-772-5987. Email: RA-EPREGIONALPERMIT@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.

For actions taken on applications for pipelines that are regulated by the Federal Energy Regulatory Commission (FERC).

Any person aggrieved by this action may challenge it in an appropriate legal forum. The State and Federal courts are currently split on whether the proper forum to challenge a Department permit, authorization or approval for a facility or activity subject to the Federal Natural Gas Act, 15 U.S.C.A. § 717 *et seq.*, is the United States Court of Appeals for the Third Circuit or the Pennsylvania Environmental Hearing Board. See *Delaware Riverkeeper Network v. Sec'y, Dep't of Env'tl. Prot.*, 833 F.3d 360 (3d Cir. 2016); *Delaware Riverkeeper Network v. Sec'y, Dep't of Env'tl. Prot.*, 903 F.3d 65 (3d Cir. 2018), *cert. denied*, 139 S. Ct. 1648, 203 L. Ed. 899 (2019) and *Cole v. Dep't. of Env'tl. Prot.*, 1577 C.D. 2019 WL 2420667 (Pa. Cmwlth Ct. June 15, 2021) (Pet. for Allowance of Appeal pending); *West Rockhill Twp. v. Dep't of Env'tl. Prot.*, No. 1595 C.D. 2019 WL 2426014 (Pa. Cmwlth. June 15, 2021) (Pet. for Allowance of Appeal pending).

I. Final Actions on NPDES and WQM Permit Applications and NOIs for Sewage, Industrial Waste, Industrial Stormwater, MS4s, Pesticides, CAFOs and Individual Construction Stormwater.

<i>Application Number</i>	<i>Permit Type</i>	<i>Action Taken</i>	<i>Permittee Name & Address</i>	<i>Municipality, County</i>	<i>DEP Office</i>
PA0232858	CAFO Individual NPDES Permit	Issued	Boops Family Hog Farm, LLC 1555 Swengle Road Mifflinburg, PA 17844-8149	Lewis Township Union County	SCRO
PA0281794	CAFO Individual NPDES Permit	Issued	Dividing Ridge Farm 207 Dividing Ridge Road Fairhope, PA 15538-2040	Allegheny Township Somerset County	SCRO
PAD060055	Chapter 102 Individual NPDES Permit	Issued	Gov Mifflin School District 101 S Waverly Street Shillington, PA 19607-2644	Shillington Borough Berks County	SCRO

NOTICES

2403

<i>Application Number</i>	<i>Permit Type</i>	<i>Action Taken</i>	<i>Permittee Name & Address</i>	<i>Municipality, County</i>	<i>DEP Office</i>
PAD140005	Chapter 102 Individual NPDES Permit	Issued	PA State University 201 Old Main University Park, PA 16802-1503	State College Borough Centre County	NCRO
PAD140048	Chapter 102 Individual NPDES Permit	Issued	Berks at Nittany Glen LLC 3335 Morgantown Road Mohnton, PA 19540-7931	Benner Township Centre County	NCRO
PAD150233	Chapter 102 Individual NPDES Permit	Issued	Great Valley School District 47 Church Road Malvern, PA 19355-1539	East Whiteland Township Chester County	SERO
PAD150234	Chapter 102 Individual NPDES Permit	Issued	Worthington Partners II, Inc. 1273 Butler Pike Blue Bell, PA 19422-2501	Uwchlan Township Chester County	SERO
PAD150260	Chapter 102 Individual NPDES Permit	Issued	Phelps School P.O. Box 476 Malvern, PA 19355-0476	Willistown Township Chester County	SERO
PAD240011	Chapter 102 Individual NPDES Permit	Issued	RC Realty, LLC 1067 Trout Run St Marys, PA 15857	Fox Township Elk County	NWRO
PAD360071	Chapter 102 Individual NPDES Permit	Issued	Anna R & Christian M Zook 5560 White Oak Road Paradise, PA 17562-9427	Bart Township Lancaster County	SCRO
PAD360080	Chapter 102 Individual NPDES Permit	Issued	Riehl Elmer S 468 Redwell Road New Holland, PA 17557	Salisbury Township Lancaster County	SCRO
PAD390215	Chapter 102 Individual NPDES Permit	Issued	Constructive Contr & Solutions, LLC 1030 Barnsdale Road Allentown, PA 18103-3720	Salisbury Township Lehigh County	NERO
PAD480153	Chapter 102 Individual NPDES Permit	Issued	PD Valley, LP 60 W Broad Street Suite 102 Bethlehem, PA 18018-5721	Lehigh County	NERO
PAD480165	Chapter 102 Individual NPDES Permit	Issued	Isaacman Jared & Monica 2202 N Irving Street Allentown, PA 18109-9554	Lower Nazareth Township Northampton County	NERO
PAD520034	Chapter 102 Individual NPDES Permit	Issued	PA DOT Engineering District 40 55 Keystone Industrial Park Dunmore, PA 18512-1516	Blooming Grove Township Pike County	NERO
PAD520036	Chapter 102 Individual NPDES Permit	Issued	PA American Water, Co. 4 Wellington Boulevard Wyomissing, PA 19610-1850	Delaware Township Pike County	NERO
PA0244881	Industrial Stormwater Individual NPDES Permit	Issued	Victory Gardens, Inc. 357 West Street Road Warminster, PA 18974	Milford Township Bucks County	SERO
0113828	Joint DEP/PFBC Pesticides Permit	Issued	Lowenthal Justina 1198 Bullfrog Road Fairfield, PA 17320-9129	Freedom Township Adams County	SCRO
0122802	Joint DEP/PFBC Pesticides Permit	Issued	Lake Meade Properties Owners Assoc, Inc. 4 Forrest Drive East Berlin, PA 17316-9358	Latimore Township Adams County	SCRO
0122803	Joint DEP/PFBC Pesticides Permit	Issued	Oliver Randall P 1450 Bullfrog Road Fairfield, PA 17320-9133	Freedom Township Adams County	SCRO
0622802	Joint DEP/PFBC Pesticides Permit	Issued	Precious Blood Convent 1094 Welsh Road Reading, PA 19607-9363	Shillington Borough Berks County	SCRO

<i>Application Number</i>	<i>Permit Type</i>	<i>Action Taken</i>	<i>Permittee Name & Address</i>	<i>Municipality, County</i>	<i>DEP Office</i>
0913809	Joint DEP/PFBC Pesticides Permit	Issued	Yorkshire Meadow Pond 501 W Office Center Drive Fort Washington, PA 19034	Solebury Township Bucks County	SERO
0916813	Joint DEP/PFBC Pesticides Permit	Issued	Promark Landscaping, Inc. 1200 Liberty Ridge Drive Suite 320 Wayne, PA 19087	Lower Makefield Township Bucks County	SERO
0916828	Joint DEP/PFBC Pesticides Permit	Issued	Promark Landscaping, Inc. P.O. Box 284 Narberth, PA 19072-0284	Lower Makefield Township Bucks County	SERO
0917801	Joint DEP/PFBC Pesticides Permit	Issued	Cavallo HOA Cavallo Way New Britian, PA 18901	New Britain Township Bucks County	SERO
0917806	Joint DEP/PFBC Pesticides Permit	Issued	McCarthy Brian 80 West Sandy Ridge Road Doylestown, PA 18901	Doylestown Township Bucks County	SERO
1017801	Joint DEP/PFBC Pesticides Permit	Issued	Willow Run HOA P.O. Box 2304 Butler, PA 16003	Center Township Butler County	NWRO
1021805	Joint DEP/PFBC Pesticides Permit	Issued	Greg Kristophel 127 Aspen Lane Harmony, PA 16037-9435	Muddycreek Township Butler County	NWRO
1022801	Joint DEP/PFBC Pesticides Permit	Issued	Gail Mashuda 8107 Rowan Road Cranberry Twp, PA 16066-3741	Cranberry Township Butler County	NWRO
2021808	Joint DEP/PFBC Pesticides Permit	Issued	Riverside Golf, LLC 24527 US Highway 19 Cambridge Springs, PA 16403	Cambridge Township Crawford County	NWRO
2021809	Joint DEP/PFBC Pesticides Permit	Issued	Whispering Pines Golf Course 15630 Middle Road Meadville, PA 16335-7344	Vernon Township Crawford County	NWRO
2417802	Joint DEP/PFBC Pesticides Permit	Issued	Ridgway Township Elk County Montmorenci Road Ridgway, PA 16363	Ridgway Township Elk County	NWRO
2517801	Joint DEP/PFBC Pesticides Permit	Issued	Gerald & Heather Harrington 9620 Donation Road Waterford, PA 16441-4236	Summit Township Erie County	NWRO
4616823	Joint DEP/PFBC Pesticides Permit	Issued	222 Morris Road Estate 222 Morris Road Ambler, PA 19002-5250	Ambler Borough Montgomery County	SERO
4617801	Joint DEP/PFBC Pesticides Permit	Issued	Hillman John 140 Norristown Road Blue Bell, PA 19422	Whitpain Township Montgomery County	SERO
4622802	Joint DEP/PFBC Pesticides Permit	Issued	The Village at Valley Forge Association 4525 Main Street Suite 900 Virginia Beach, VA 23462	Upper Merion Township Montgomery County	SERO
4622805	Joint DEP/PFBC Pesticides Permit	Issued	Beese Gregory L P.O. Box 26035 Collegeville, PA 19426-0035	Limerick Township Montgomery County	SERO
5217801	Joint DEP/PFBC Pesticides Permit	Issued	Porters Lake Hunting and Fishing Club 1578 Route 402 Dingmans Ferry, PA 18328	Porter Township Pike County	NERO
5817801	Joint DEP/PFBC Pesticides Permit	Issued	Poole Joe 15 Butcher Road Moore Township, NJ 08831	Clifford Township Susquehanna County	NERO

NOTICES

2405

<i>Application Number</i>	<i>Permit Type</i>	<i>Action Taken</i>	<i>Permittee Name & Address</i>	<i>Municipality, County</i>	<i>DEP Office</i>
5817805	Joint DEP/PFBC Pesticides Permit	Issued	Newlin William S 2 Avignon-Arbordeau Devon, PA 19333	Bridgewater Township Susquehanna County	NERO
5820801	Joint DEP/PFBC Pesticides Permit	Issued	The Fiddle Lake Association P.O. Box 123 Thompson, PA 18465-0123	Ararat Township Susquehanna County	NERO
6722802	Joint DEP/PFBC Pesticides Permit	Issued	Grandview Golf Club 2779 Carlisle Road York, PA 17408-1414	Dover Township York County	SCRO
PAI132259	MS4 Individual NPDES Permit	Waived	Clinton Township Wayne County 1799 White Oak Drive Forest City, PA 18421-1813	Clinton Township Wayne County	NERO
PA0217093	Major Industrial Waste Facility < 250 MGD Individual NPDES Permit	Issued	Johnstown Wire Techs, Inc. 124 Laurel Avenue Johnstown, PA 15906-2246	Johnstown City Cambria County	SWRO
PA0028461	Major Sewage Facility >= 1 MGD and < 5 MGD Individual NPDES Permit	Issued	Mifflinburg Borough Union County 120 N 3rd Street Mifflinburg, PA 17844-1134	Mifflinburg Borough Union County	NCRO
PA0028681	Major Sewage Facility >= 1 MGD and < 5 MGD Individual NPDES Permit	Issued	Kelly Township Municipal Authority Union County 405 Winter Farm Lane Lewisburg, PA 17837-6358	Kelly Township Union County	NCRO
PA0053180	Major Sewage Facility >= 1 MGD and < 5 MGD Individual NPDES Permit	Issued	Montgomery Township Municipal Sewer Authority Montgomery County 1001 Stump Road Montgomeryville, PA 18936-9605	Montgomery Township Montgomery County	SERO
PA0218413	Major Sewage Facility >= 1 MGD and < 5 MGD Individual NPDES Permit	Issued	Economy Borough Municipal Authority Beaver County 2860 Conway Wallrose Road Baden, PA 15005-2306	Economy Borough Beaver County	SWRO
4699426	Major Sewage Treatment Facility Individual WQM Permit	Issued	New Hanover Township Authority Montgomery County 2943 N Charlotte Street Gilbertsville, PA 19525-9718	New Hanover Township Montgomery County	SERO
4900401	Major Sewage Treatment Facility Individual WQM Permit	Issued	Sunbury City Municipal Authority Northumberland County 462 S 4th Street Sunbury, PA 17801-3134	Sunbury City Northumberland County	NCRO
2112201	Manure Storage and Wastewater Impoundments Individual WQM Permit	Issued	Molly Pitcher Milk, LLC 75 Goodyear Road Carlisle, PA 17015-9495	Southampton Township Cumberland County	SCRO
PA0205699	Minor Industrial Waste Facility without ELG Individual NPDES Permit	Issued	Cowanshannock Township Municipal Authority Armstrong County P.O. Box 127 Nu Mine, PA 16244-0127	Cowanshannock Township Armstrong County	NWRO

<i>Application Number</i>	<i>Permit Type</i>	<i>Action Taken</i>	<i>Permittee Name & Address</i>	<i>Municipality, County</i>	<i>DEP Office</i>
PA0030686	Minor Sewage Facility < 0.05 MGD Individual NPDES Permit	Issued	Cross Creek Resort, Inc. 3815 State Route 8 Titusville, PA 16354-7373	Cherrytree Township Venango County	NWRO
PA0033120	Minor Sewage Facility < 0.05 MGD Individual NPDES Permit	Issued	Warren County School District 101 School Street Sugar Grove, PA 16350	Farmington Township Warren County	NWRO
PA0033863	Minor Sewage Facility < 0.05 MGD Individual NPDES Permit	Issued	Schuster Robert J Jr 1921 E Main Street Hegins, PA 17938-9143	Hegins Township Schuylkill County	NERO
PA0054810	Minor Sewage Facility < 0.05 MGD Individual NPDES Permit	Issued	Upper Frederick Township Montgomery County 3205 Big Road P.O. Box 597 Frederick, PA 19435-0597	Upper Frederick Township Montgomery County	SERO
PA0218561	Minor Sewage Facility < 0.05 MGD Individual NPDES Permit	Issued	Cambria County 200 S Center Street Ebensburg, PA 15931-1941	Barr Township Cambria County	SWRO
PA0032468	Minor Sewage Facility ≥ 0.05 MGD and < 1 MGD Individual NPDES Permit	Issued	PA DCNR P.O. Box 120 113 River Road Cooksburg, PA 16217-0120	Barnett Township Forest County	NWRO
PA0223107	Minor Sewage Facility ≥ 0.05 MGD and < 1 MGD Individual NPDES Permit	Issued	Big Run Area Municipal Authority P.O. Box 477 Big Run, PA 15715-0477	Big Run Borough Jefferson County	NWRO
PA0246484	Minor Sewage Facility ≥ 0.05 MGD and < 1 MGD Individual NPDES Permit	Issued	Aqua PA Wastewater, Inc. 762 W Lancaster Avenue Bryn Mawr, PA 19010	Mount Joy Township Adams County	SCRO
2503414	Minor and Non-NPDES Sewage Treatment Facility Individual WQM Permit	Issued	David J Tomczak 9485 Old Waterford Road Erie, PA 16509-5659	Greene Township Erie County	NWRO
NOEXSE127	No Exposure Certification	Issued	Constellation Energy Generation, LLC 1 Industrial Highway Eddystone, PA 19022-1524	Philadelphia City Philadelphia County	SERO
PAG030005	PAG-03 NPDES General Permit for Industrial Stormwater	Issued	Marine Lubricants, Inc. 4700 Basin Bridge Road Philadelphia, PA 19112-1610	Philadelphia City Philadelphia County	SERO
PAG043872	PAG-04 NPDES General Permit for Small Flow Treatment Facilities	Issued	Coleman Mary & Mell Gary 6196 Lewisberry Road Dover, PA 17315-1800	Conewago Township York County	SCRO

NOTICES

2407

<i>Application Number</i>	<i>Permit Type</i>	<i>Action Taken</i>	<i>Permittee Name & Address</i>	<i>Municipality, County</i>	<i>DEP Office</i>
PAG123667	PAG-12 NPDES General Permit for CAFOs	Issued	Sensenig Dairy 100 Strohm Road Shippensburg, PA 17257-9654	Wayne Township Dauphin County	SCRO
PAG123819	PAG-12 NPDES General Permit for CAFOs	Issued	Molly Pitcher Milk, LLC 75 Goodyear Road Carlisle, PA 17015-9495	Southampton Township Cumberland County	SCRO
PAG130126	PAG-13 NPDES General Permit for MS4s	Issued	Lansdowne Borough Delaware County 12 E Baltimore Avenue Lansdowne, PA 19050-2202	Lansdowne Borough Delaware County	SERO
PAG153501	PAG-15 NPDES General Permit for Pesticides	Issued	Lake Meade Properties Owners Assoc, Inc. 4 Forrest Drive East Berlin, PA 17316-9358	Latimore Township Adams County	SCRO
PA0261190	Single Residence STP Individual NPDES Permit	Issued	Tiger Properties 4 E High Street Carlisle, PA 17013-3086	North Middleton Township Cumberland County	SCRO
PA0264130	Single Residence STP Individual NPDES Permit	Issued	Boyd Corrie 8520 Route 89 North East, PA 16428-5238	North East Township Erie County	NWRO
PA0290211	Single Residence STP Individual NPDES Permit	Issued	Annamarie & Gary Chizmar 4639 Pitts Road Adamsville, PA 16110-1327	South Shenango Township Crawford County	NWRO
PA0290343	Single Residence STP Individual NPDES Permit	Issued	Hunt Chris 91 E Townhall Road Waterford, PA 16441-4209	Summit Township Erie County	NWRO
2021420	Single Residence Sewage Treatment Plant Individual WQM Permit	Issued	Annamarie & Gary Chizmar 4639 Pitts Road Adamsville, PA 16110-1327	South Shenango Township Crawford County	NWRO
2522401	Single Residence Sewage Treatment Plant Individual WQM Permit	Issued	Hunt Chris 91 E Townhall Road Waterford, PA 16441-4209	Summit Township Erie County	NWRO
PA0222305	Small Flow Treatment Facility Individual NPDES Permit	Issued	Andrew L & Betty A Confer 8971 Route 27 Pittsfield, PA 16340-2423	Deerfield Township Warren County	NWRO
WQG01670801	WQG-01 WQM General Permit	Issued	Coleman Mary & Mell Gary 6196 Lewisberry Road Dover, PA 17315-1800	Conewago Township York County	SCRO

II. Final Actions on PAG-01 and PAG-02 General NPDES Permit NOIs.

<i>Permit Number</i>	<i>Permit Type</i>	<i>Action Taken</i>	<i>Applicant Name & Address</i>	<i>Municipality, County</i>	<i>Office</i>
PAC150293	PAG-02 General Permits	Issued	Chester County Airport Authority 1 Earhart Drive Suite 2 Coatesville, PA 19320	Valley Township Chester County	DEP, SERO Waterways & Wetlands 2 East Main Street Norristown, PA 19401 RA-EPWW-SERO@ pa.gov

<i>Permit Number</i>	<i>Permit Type</i>	<i>Action Taken</i>	<i>Applicant Name & Address</i>	<i>Municipality, County</i>	<i>Office</i>
PAC150023	PAG-02 General Permits	Issued	Kaolin RE Holdings Corp 649 W South Street Kennett Square, PA 19348	Elk Township Chester County	DEP, SERO Waterways & Wetlands 2 East Main Street Norristown, PA 19401 RA-EPWW-SERO@ pa.gov
PAC390013	PAG-02 General Permit	Issued	Lehigh-Northampton Airport Authority 3311 Airport Road Allentown, PA 18109	Hanover Township Lehigh County	Lehigh County Conservation District 4184 Dorney Park Road Suite 105 Allentown, PA 18104 610-391-9583
PAC400013	PAG-02 General Permit	Issued	611 Land Development, LLC Sonny Singh 2227 Scranton Carbondale Highway Scranton, PA 18508	Hanover Township Luzerne County	Luzerne Conservation District 325 Smiths Pond Road Shavertown, PA 18708 570-674-7991
PAC400215	PAG-02 General Permit	Issued	The Hub at Sand Springs, LLC Mike Tuskes 4511 Falmer Drive Bethlehem, PA 18020	Butler Township Luzerne County	Luzerne Conservation District 325 Smiths Pond Road Shavertown, PA 18708 570-674-7991
PAC350012	PAG-02 General Permit Renewal	Issued	Dunmore Warehouse Investors, L.P. 1777 Sentry Parkway West Blue Bell, PA 19422-2207	Dunmore Borough Lackawanna County	Lackawanna County Conservation District 1038 Montdale Road Scott Township, PA 18447 570-382-3086
PAC350123	PAG-02 General Permit	Issued	Richard Florey 1170 Winola Road Clarks Summit, PA 18411-9658	South Abington Township Lackawanna County	Lackawanna County Conservation District 1038 Montdale Road Scott Township, PA 18447 570-382-3086
PAC350128	PAG-02 General Permit	Issued	Aqua Pennsylvania, Inc 1 Aqua Way White Haven, PA 18661-1115	South Abington Township Lackawanna County	Lackawanna County Conservation District 1038 Montdale Road Scott Township, PA 18447 570-382-3086
PAC040089A-1	PAG-02 General Permit	Issued	Municipal Water Authority of Aliquippa 160 Hopewell Avenue Aliquippa, PA 15001	City of Aliquippa Beaver County	Beaver County Conservation District 156 Cowpath Road Aliquippa, PA 15001 724-378-1701
PAC630216	PAG-02 General Permit	Issued	Ryder Properties, LLC 6 Cecil Reissing Road McDonald, PA 15057	Chartiers Township Washington County	Washington County Conservation District 50 Old Hickory Ridge Road Suite 1 Washington, PA 15301 724-705-7098

<i>Permit Number</i>	<i>Permit Type</i>	<i>Action Taken</i>	<i>Applicant Name & Address</i>	<i>Municipality, County</i>	<i>Office</i>
PAC650214A-1	PAG-02 General Permit	Issued	WP Latrobe Development, LLC 645 East Pittsburgh Street Greensburg, PA 15601	Unity Township Westmoreland County	Westmoreland Conservation District 218 Donahoe Road Greensburg, PA 15601 724-837-5271
PAC650304	PAG-02 General Permit	Issued	M + M Development, LP P.O. Box 1567 Beaver Falls, PA 15010	Derry Township Westmoreland County	Westmoreland Conservation District 218 Donahoe Road Greensburg, PA 15601 724-837-5271
PAC650306	PAG-02 General Permit	Issued	LuxCesare Investments 4241 William Penn Highway Murrysville, PA 15668	Unity Township Westmoreland County	Westmoreland Conservation District 218 Donahoe Road Greensburg, PA 15601 724-837-5271
PAC650312	PAG-02 General Permit	Issued	West Penn Power Company 217 Three Springs Drive Weirton, WV 26062	Rostraver Township South Huntingdon Township Sewickley Township Westmoreland County	Westmoreland Conservation District 218 Donahoe Road Greensburg, PA 15601 724-837-5271
PAC100149A1	PAG-02 General Permit	Issued	Keystone Industrial Services, Inc 300 Orchard Drive Cranberry Township, PA 16066	Lancaster Township Butler County	Butler County Conservation District 120 Hollywood Drive Suite 201 Butler, PA 16001 724-284-5270
PAC250145	PAG-02 General Permit	Issued	Riedman Development Corporation 45 East Avenue Rochester, NY 14604	Fairview Township Erie County	Erie County Conservation District 1927 Wager Road Erie, PA 16509 814-825-6403
PAC330032	PAG-02 General Permit	Issued	Punxsutawney Hospital 81 Hillcrest Drive Punxsutawney, PA 15767	Young Township Jefferson County	Jefferson County Conservation District 1514 Route 28 Brookville, PA 15825 814-849-7463
PA100002C	PAG-02 General Permit	Issued	Stream Restoration Inc 434 Spring Street Extension Mars, PA 16046	Marion Township Butler County	Butler County Conservation District 120 Hollywood Drive Suite 201 Butler, PA 16001 724-284-5270

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: Safe Drinking Water Program, 2 Public Square, Wilkes-Barre, PA 18711-0790, 570-826-2511.

Contact: Gillian Pehala, Clerk Typist 2, 570-830-3077.

Permit No. 2640042, Operation Permit, Public Water Supply.

Applicant	Honesdale Properties, LLC 42 Niles Pond Rd. Honesdale, PA 18431
Municipality	Texas Township
County	Wayne
Type of Facility	Public Water Supply
Consulting Engineer	Tom Markey Markey Water Services P.O. Box 928 Hamlin, PA 18427
Permit Issued	February 1, 2022
Description of Action	Installation and use of Hydro RAH-210 Free Chlorine Analyzer and associated monitoring equipment for continuous chlorine monitoring.

Permit No. 4022502MA, Construction Permit, Public Water Supply.

Applicant	CAN DO, Inc.—Humboldt Industrial Park 1 South Church St. Hazleton, PA 18201
Municipality	Hazle Township
County	Luzerne
Type of Facility	Public Water Supply
Consulting Engineer	Jason G. Saylor Utility Service Co., Inc. 1230 Peachtree St. NE Suite 1100 11th Floor Atlanta, GA 30309
Permit Issued	February 11, 2022
Description of Action	Installation of PAX Water Technologies Active Tank Mixers in the CAN DO, Inc. water storage tanks at Humboldt Industrial Park. The purpose of installing mixers in the water storage tanks is to uniformly distribute disinfectants and prevent conditions favorable to nitrification within the tanks.

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

Construction Permit No. 0621528, Public Water Supply.

Applicant	Miller Group Holdings, LP P.O. Box 472 950 East Main Street Schuylkill Haven, PA 17972
Municipality	Fleetwood Borough
County	Berks
Consulting Engineer	Sean Sweeney, P.E. Barton & Loguidice 3901 Hartzdale Drive Camp Hill, PA 17011

Permit Issued	March 31, 2022
Description	New water system consisting of Well No. 1, upflow filtration for TDS removal, ion exchange for iron/manganese removal, 5-micron cartridge filter, reverse osmosis filtration for TDS removal, storage, UV disinfection, and distribution pumps.

Construction Permit No. 0621530, Public Water Supply.

Applicant	Trautman Plaza 215 West Bahney Avenue Myerstown, PA 17067
Municipality	Jefferson Township
County	Berks
Consulting Engineer	Charles A. Kehew II, P.E. James R. Holley & Associates, Inc. 18 South George Street York, PA 17401
Permit Issued	March 31, 2022
Description	New water system created from the combined existing two systems, Your Daily Grind (PWSID 3061242) and Boyer's Food Market (PWSID 3060935). The new system will use the existing Your Daily Grind well source. New proposed equipment will include greensand filtration for iron and manganese removal, sodium hypochlorite disinfection, 4-log virus inactivation, finished water storage, and distribution pumps.

Construction Permit No. 0621531, Public Water Supply.

Applicant	Joe Jurgielewicz & Son Ltd P.O. Box 257 189 Cheese Lane Shartlesville, PA 19554
Municipality	Tilden Township
County	Berks

Consulting Engineer Michael D. Wade, P.E.
Keystone Engineering Group Inc.
590 E Lancaster Ave
Ste 200
Frazer, PA 19355

Permit Issued March 31, 2022

Description Modifications to the existing system to include a 0.40 MG above ground storage tank to increase raw water storage capacity. Additional changes include new pumping equipment.

Construction Permit No. 3621527, Public Water Supply.

Applicant **Warwick Township Municipal Authority**
315 Clay Road
Lititz, PA 17543

Municipality Warwick Township

County **Lancaster**

Consulting Engineer Steven E. Riley, P.E.
Entech Engineering, Inc
201 Penn Street
Reading, PA 19603

Permit Issued March 15, 2022

Description Newport Road booster pump station upgrades.

Construction Permit No. 0721504 MA, Minor Amendment, Public Water Supply.

Applicant **Dollar General Corporation**
100 Mission Ridge
Goodlettsville, PA 37072

Municipality Allegheny Township

County **Blair**

Consulting Engineer Joseph J. Hunt, P.E.
JHA Companies
466 South Main Street
Montrose, PA 18801

Permit Issued March 31, 2022

Description Modifications to 4-log virus inactivation contact volumes.

Construction Permit No. 3622504 MA, Minor Amendment, Public Water Supply.

Applicant **City of Lancaster**
120 North Duke Street
P.O. Box 1599
Lancaster, PA 17608

Municipality Lancaster City

County **Lancaster**

Consulting Engineer Matthew D. Warfel
The ARRO Consulting, Inc.
108 West Airport Road
Lititz, PA 17543

Permit Issued April 5, 2022

Description Replacement of the chemical feed pumps and sodium hypochlorite day tank at the Conestoga Water Treatment Plant.

Operation Permit No. 2819501 issued to: **Waynesboro Borough Authority (PWS ID No. 7280032)**, 55 East Main Street, P.O. Box 310, Waynesboro, PA 17268, Quincy Township, **Franklin County**, on March 15, 2022 for facilities approved under Construction Permit No. 2819501.

Operation Permit No. 0719508 issued to: **Altoona Water Authority (PWS ID No. 4070023)**, 900 Chestnut Avenue, Altoona, PA 166001, Antis Township, **Blair County**, on April 1, 2022 for facilities approved under Construction Permit No. 0719508. Approval to use the new ozone system at the Plant 9 and Tipton Water Treatment Plants

Operation Permit No. 5021503 issued to: **Skyview Gardens LLC (PWS ID No. 7500024)**, P.O. Box 849, Olyphant, PA 18447, Penn Township, **Perry County**, on April 8, 2022 for facilities approved under Construction Permit No. 5021503. Installation of greensand filtration for manganese removal.

Transferred Comprehensive Operation Permit No. 3061001 issued to: **Virasu and Sons, LLC (PWS ID No. 3061001)**, 3675 Pricetown Road, Fleetwood, PA 19522, Ruscombmanor Township, **Berks County**, on April 11, 2022. Action is for a Change in Ownership for Corner Food Mart, Berks County for the operation of facilities previously issued to Mazzola's Italian Restaurant. Transfer ownership of PWSID 3061001 to Virasu and Sons, LLC and changing the system name to Corner Food Mart.

Operation Permit No. 0621522 issued to: **M & G Realty, Inc. (PWS ID No. 3060945)**, 2100 North George Street, York, PA 17404, Maxatawny Township, **Berks County**, on April 8, 2022 for facilities at Rutter's Store No. 92 approved under Construction Permit No. 0621522. Operation permit for a new convenience store and associated water system. The proposed water system includes a new well, cation exchange, reverse osmosis, 4-log chlorination with an online chlorine analyzer, storage, and pumping.

Operation Permit No. 2122504 MA issued to: **Pennsylvania American Water Company (PWS ID No. 7210029)**, 852 Wesley Drive, Mechanicsburg, PA 17055, Silver Spring Township, **Cumberland County**, on March 31, 2022 for facilities submitted under Application No. 2122504 MA. Operation permit for the replacement of online chlorine analyzers.

Operation Permit No. 3622501 MA issued to: **Lititz Borough Authority (PWS ID No. 7360126)**, 7 South Broad Street, Lititz, PA 17543, Lititz Borough, **Lancaster County**, on March 25, 2022 for facilities submitted under Application No. 3622501 MA. Designation of water quality parameters for optimal lead and copper corrosion control.

Operation Permit No. 0622505 MA issued to: **Aqua Pennsylvania, Inc. (PWS ID No. 3060133)**, 762 West Lancaster Avenue, Bryn Mawr, PA 19010, Centre Township, **Berks County**, on April 6, 2022 for facilities at Hillcrest Estates II submitted under Application No. 0622505 MA. Temporary use of the NO-DES, Inc. flushing system.

Operation Permit No. 7360045 issued to: **Ephrata Area Joint Authority (PWS ID No. 7360045)**, 124 South State Street, Ephrata, PA 17522, Ephrata Borough, **Lancaster County**, on April 6, 2022 for facilities submitted under Application No. 7360045. Fulton Street Well Processing Station (Entry Point 102) chlorine analyzer replacement.

Operation Permit No. 3622517 MA issued to: **Borough of Denver** (PWS ID No. 7360017), 501 Main Street, Denver, PA 17517, Denver Borough, **Lancaster County**, on April 8, 2022 for facilities submitted under Application No. 3622517 MA. Replacement of the Entry Point 100 and 101 online chlorine analyzers with new Hach CL117sc colorimetric analyzers.

Operation Permit No. 3622512 MA issued to: **Weaverland Valley Authority** (PWS ID No. 7360005), 4610 Division Highway, East Earl, PA 17519, East Earl Township, **Lancaster County**, on April 8, 2022 for facilities at Blue Ball submitted under Application No. 3622512 MA. Replacement of the chlorine feed pumps and online chlorine analyzer at Entry Point 100.

Southwest Region: Safe Drinking Water Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Permit No. 0221545MA, Minor Amendment. Public Water Supply.

Applicant	Pittsburgh Water and Sewer Authority 1200 Penn Avenue Suite 100 Pittsburgh, PA 15222
Municipality	City of Pittsburgh
County	Allegheny County
Type of Facility	Aspinwall Pump Station and Brueken Pump Station (Totes to Tanks)
Consulting Engineer	Mott MacDonald 1600 West Carson Street Pittsburgh, PA 15219
Permit Issued	April 8, 2022

WATER ALLOCATIONS

Actions taken on applications received under the Act of June 24, 1939 (P.L. 842, No. 365) (35 P.S. §§ 631—641) relating to the Acquisition of Rights to Divert Waters of the Commonwealth.

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

WA 28-1039, Water Allocations. **Suez Water Pennsylvania** (PWS ID No. 7280064), 6310 Allentown Boulevard, Suite 104, Harrisburg, PA 17112, **Franklin County**. Issuance of a water allocation permit for the right to purchase up to 20,000 gallons per day, based on a thirty (30) day average, from the Bear Valley Joint Authority, located in Franklin County. Permittee Contact: John Hollenbach, General Manager, Suez Water Pennsylvania, 6310 Allentown Boulevard, Suite 104, Harrisburg, PA 17112. Consulting Engineer: Brendan West, P.E., Suez Water Pennsylvania Inc, 6310 Allentown Blvd, Harrisburg, PA 17112. Permit Issued: April 7, 2022.

WA 28-631C, Water Allocations. **Bear Valley Joint Authority** (PWS ID No. 7280043), 218 School House Road, St. Thomas, PA 17252, **Franklin County**. Issuance of a modification order requiring the permittee to meet the essential water use needs of Suez Water Pennsylvania's Kensington System as per Water Allocation Permit No. WA 28-1039 issued by the Department April 7, 2022. Permittee Contact: Doug Westover, General Manager, Bear Valley Joint Authority, 218 School House Road, St. Thomas, PA 17252. Permit Issued: April 7, 2022.

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, 2 East Main Street, Norristown, PA 19401, 484-250-5787.

Contact: Charline Bass.

80 East Oregon Avenue, 80 East Oregon Avenue, Philadelphia, PA 19148, City of Philadelphia, **Philadelphia County**. Jennifer Poole, PG, Pennoni Associates, 1900 Market Street, Suite # 300, Philadelphia, PA 19103 on behalf of Suresh Reddy Anam, Anam Properties LLC, 2500 West Cheltenham Avenue, Philadelphia, PA 19148 submitted a Remedial Investigation Report/Cleanup Plan concerning remediation of site soil and groundwater contaminated with VOCs and metals. The report is intended to document remediation of the site to meet the site-specific standard.

Llanerch Shopping Center, 403 West Chester Pike, Havertown, PA 19083, Haverford Township, **Delaware**

County. Jason Hanna, Langan Engineering, 2400 Ansys Drive, Canonsburg, PA 15217 on behalf of Jim Bladel, Llanerch Shopping Center, LP, 1301 Lancaster Avenue, Berwyn, PA 19312 submitted a Remedial Investigation Report/Cleanup Plan concerning remediation of site soil and groundwater contaminated with chlorinated solvents. The report is intended to document remediation of the site to meet the site-specific standard.

2630 West Girard Avenue, Southeast Corner of North 27th Street & West Girard Avenue, Philadelphia, PA 19130, City of Philadelphia, **Philadelphia County.** Jennifer Poole, Pennoni, 1900 Market Street, Suite 300, Philadelphia, PA 19103 on behalf of Dan Bleznak, 27th & Girard Limited Partnership, c/o ADCO, American Development Company, 715 Montgomery Avenue, Suite 3, Narberth, PA 19072 submitted a Final Report concerning remediation of site soil contaminated with metals and PAHs. The report is intended to document remediation of the site to meet the Statewide health standard.

Brightview Wayne, 293-319 East Conestoga Road, Wayne, PA 19087, Tredyffrin Township, **Chester County.** Richard Lake, Geo-Technology Associates, Inc., 2405 John Fries Highway, Building 3, Quakertown, PA 18951 on behalf of David Holland, Shelter Development, LLC, 218 North Charles Street, Baltimore, MD 21201 submitted a Risk Assessment Report/Final Report concerning remediation of site soil and groundwater contaminated with chlorinated solvents. The report is intended to document remediation of the site to meet the Statewide health standard/site-specific standard.

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

Coudersport—Housing Authority Site, Entire block encompassing W. Beech Street, W. Cherry Street, S. West Street, and Vine Street, Coudersport, PA 16915, Coudersport Borough, **Potter County.** Keystone Consulting Engineers, Inc., 2870 Emrick Blvd, Bethlehem, PA 18020, on behalf of Primax Properties, LLC, 110 East Morehead St., Charlotte, NC 28204, has submitted a Baseline Environmental Report concerning remediation of site soil and groundwater contaminated with Volatile Organic Compounds (VOCs). The report is intended to document remediation of the site to meet the Special Industrial Area requirements.

Residential Property AST HHO Release, 1065 Canterbury Road, Williamsport, PA 17701, Loyalsock Township, **Lycoming County.** Envirosearch Consultants, Inc., P.O. Box 940, Springhouse, PA 19477, on behalf of Federal National Mortgage Association, 14221 Dallas Parkway, # 1000, Dallas, TX 75265, has submitted a Final Report concerning site soil and groundwater contaminated with heating oil. The report is intended to document remediation of the site to meet the Statewide health standard.

Southwest Region: Environmental Cleanup & Brownfields Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

2501 Brighton Ave, Storage Tank Facility ID # 02-29667, 2501 Brighton Road, Pittsburgh, PA 15212, City of Pittsburgh, **Allegheny County.** Synergy Environmental, 155 Railroad Plaza, Royersford, PA 19468, on behalf of PALG UST III LLC, 645 Hamilton Street, Suite 400, Allentown, PA 18101, submitted a Remedial Action Plan concerning remediation of groundwater contaminated with unleaded gasoline. The plan is intended to document the remedial actions for meeting the Statewide health or background standard.

Mauros Amoco, 7409 Saltsburg Road, Pittsburgh, PA 15236, Penn Hills Township, **Allegheny County.** Stephen Pesch, P.G., KU Resources, Inc., 22 South Linden Street, Duquesne, PA 15110 (on behalf of David Mauro, 7409 Saltsburg Road, Penn Hills, PA 15235) has submitted a Remedial Action Plan concerning remediation of site soil and groundwater contaminated with unleaded gasoline. The report is intended to document remediation of the site to meet the Statewide health and background standard.

Northwest Region: Environmental Cleanup & Brownfields Program, 230 Chestnut Street, Meadville, PA 16335-3481.

First National Bank Edgewood Drive Property, 8 Edgewood Drive, Transfer, PA 16125, Pymatuning Township, **Mercer County.** Civil & Environmental Consultants, Inc., 4350 Northern Pike, Suite 141, Monroeville, PA 15146 on behalf of First National Bank, One FNB Boulevard, Hermitage, PA 16148 has submitted a Remedial Investigation Report/Risk Assessment Report/Cleanup Plan concerning remediation of site soil contaminated with ethylbenzene, naphthalene, 1,2,4-TMB, 1,3,5-TMB and site groundwater contaminated with naphthalene. The report is intended to document remediation of the site to meet the site-specific standard.

NWREC Transformer Release 11871 Comer Road, Primary Facility ID # 857101, 11871 Comer Road, Waterford, PA 16441, Washington Township, **Erie County.** Environmental Remediation & Recovery, Inc., 4250 Route 6N, Edinboro, PA 16412 on behalf of Northwestern REC, 22534 Highway 86, Cambridge Springs, PA 16403 has submitted a Final Report concerning remediation of site soil contaminated with PCB-1016, PCB-1221, PCB-1232, PCB-1242, PCB-1248, PCB-1254, PCB-1260, 1,2,4-Trimethylbenzene, and 1,3,5-Trimethylbenzene. The report is intended to document remediation of the site to meet the 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, 2 Public Square, Wilkes-Barre, PA 18701-1915, 570-826-2511.

Contact: Eric Supey, Environmental Program Manager.

402 Basin Street, 402 Basin Street, Allentown, PA 18103, Allentown City, **Lehigh County**. Pennoni, 1900 Market St, Suite 300, Philadelphia, PA 19103, on behalf of Serfass Construction, 3764 Mauch Chunk Road, Allentown, PA 18104, submitted a combined Remedial Investigation Report and Cleanup Plan concerning remediation of soil contaminated with metals and benzo(a)pyrene from historic operations as an incinerator, solid waste, rock, and soil disposal facility. The report was approved by DEP on April 6, 2022.

Amcor Well Site, 139 Smurkowski Road, Meshoppen, PA 18630, Meshoppen Township, **Wyoming County**. Creston Environmental, P.O. Box 1373, Camp Hill, PA 17001, on behalf of Chesapeake Appalachia LLC, 14 Chesapeake Lane, Sayre, PA 18840, submitted a Final Report concerning remediation of soil contaminated by a release of diesel from an aboveground storage tank. The Final Report demonstrated attainment of Statewide health standards and was approved by DEP on April 11, 2022.

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

COP Tract 551 B, 5804 Bodine Mountain Road, Ralston, PA 17763, McIntyre Township, **Lycoming County**. Creston Environmental, LLC, P.O. Box 1373, Camp Hill, PA 17001, on behalf of EQT Corporation, 33 West Third Street, Suite 300, Williamsport, PA 17701, has submitted a Final report concerning remediation of site soil contaminated with produced water. The report demonstrated attainment of the Statewide health standard and was approved by the Department April 4, 2022.

Shamokin Former Manufactured Gas Plant, 501 N. Vine Street, Shamokin, PA 17872, Shamokin City,

Northumberland County. DMS Environmental Services, LLC, 103 South Spring Street, Bellefonte, PA 16823, on behalf of UGI Utilities, Inc., 1 UGI Drive, Denver, PA 17517, has submitted a Supplemental Remedial Investigation Report concerning remediation of site soil and groundwater contaminated with petroleum. The report was approved by the Department on March 28, 2022.

Bucksey Road HHO Release, 102 Bucksey Road, Middleburg, PA 17842, Center Township, **Snyder County**. Envirosearch Consultants, Inc., P.O. Box 940, Springhouse, PA 19477, on behalf of Federal National Mortgage Association, 14221 Dallas Parkway, # 1000, Dallas, TX 75265, has submitted a Final Report concerning remediation of site soil contaminated with heating oil. The report demonstrated attainment of the Statewide health standard and was approved by the Department on April 6, 2022.

Atgas 4H on the Atgas BRA Pad, 202 Leroy Mountain Road, Canton, PA 17724, Leroy 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 production fluid. The report demonstrated attainment of the Statewide health standard and was approved on April 8, 2022.

Southeast Region: Environmental Cleanup & Brownfield Program, 2 East Main Street, Norristown, PA 19401.

Contact: Charline Bass, 484-250-5787.

2029-2059 York Road, 2029-2059 York Road, Jamison, PA 18929, Warwick Township, **Bucks County**. Kevin Davis, Pennoni Associates, Inc., 1900 Market Street, Suite 300, Philadelphia, PA 19103 on behalf of Paul Aschkenasy and Daniel Bleznak, York Road-Bladco LP, 15 Montgomery Avenue, Suite 3, Narberth, PA 19072 submitted a Remedial Investigation Report/Cleanup Plan concerning the remediation of site soil contaminated with lead, arsenic, dieldrin and petroleum hydrocarbons. The Report was reviewed by the Department which issued a technical deficiency letter on April 4, 2022.

Ardrossan Phase 4 Site, 555-599 Darby-Paoli Road, Radnor, PA 19085, Radnor Township, **Delaware County**. Walter H. Hungarter, III, RT Environmental Services, Inc., 215 Church Road, King of Prussia, PA 19406 on behalf of Christopher Scott D'Angelo c/o David S. Blum, The Robert L. Montgomery Trust and MA Radnor LLC, 212 Rose Lane, Haverford, PA 19041 submitted a Final Report concerning the remediation of site soil contaminated with ethylbenzene, naphthalene, 1,2,4-TMB and 1,3,5-TMB and lead. The Final Report demonstrated attainment of the Statewide health standard and was approved by the Department on March 25, 2022.

Former PennDOT Doylestown Maintenance Facility, 229 North Broad Street, Doylestown, PA 18901, Doylestown Borough, **Bucks County**. Toby Kessler, PG, Gilmore & Associates, Inc., 65 East Butler Avenue, Suite 100, New Britain, PA 18901 on behalf of Phil Ehlinger, Borough of Doylestown, 57 West Court Street, Doylestown, PA 18901 submitted a Final Report concerning the remediation of site soil contaminated with benzo(a)pyrene and arsenic. The Final Report demonstrated attainment of the site-specific standard and was approved by the Department on March 24, 2022.

White Clay Point Property, 9060 & 9090 Gap Newport Pike and 316 Sunny Dell Road, West New Garden Township, PA 19350, New Garden Township, **Chester**

County. Terence A. O'Reilly, PG, TriState Environmental Management Services, Inc., 3937A Bristol Pike, Bensalem, PA 19020 on behalf of Joshua Schrier, PR New Garden Limited Partnership c/o PREIT Associates LP, 2005 Market Street, Philadelphia, PA 19103 submitted a Final Report concerning the remediation of site soil and groundwater contaminated with toluene, ethylbenzene, MTBE, naphthalene, cumene, 1,2,4-trimethylbenzene, and 1,3,5-trimethylbenzene. The Final Report demonstrated attainment of the Statewide health standard and was approved by the Department on March 25, 2022.

R&S Auto Service, 1201-1209 West Chester Pike, Havertown, PA 19083, Haverford Township, **Delaware County.** Andrew Basehoar, PG, TTI Environmental, Inc., 1253 North Church Street, Moorestown, NJ 08057 on behalf of Russ Tanner, R&S Auto Service, 1201 West Chester Pike, Havertown, PA 19803 submitted a Remedial Investigation Report and Cleanup Plan concerning the remediation of site soil and groundwater contaminated with PCE. The Final Report demonstrated attainment of the site-specific standard and was approved by the Department on March 30, 2022.

DETERMINATION OF APPLICABILITY FOR MUNICIPAL WASTE GENERAL PERMITS

Permit(s) Under the Solid Waste Management Act of July 7, 1980 (P.L. 380, No. 97) (35 P.S. §§ 6018.101—6018.1003); the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P.S. §§ 4000.101—4000.1904); and Municipal Waste Regulations for Determination of Applicability for a General Permit to Operate Municipal Waste Processing Facilities and/or the Beneficial Use of Municipal Waste.

Southcentral Region: Regional Solid Waste Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

General Permit No. WMGM061SC002. Blue Phoenix Inashco Lancaster, LLC, 8055 Ritchie Highway, Suite 307, Pasadena, MD 21122, for the Frey Farm Metals Recovery Facility located at 3049 River Road, Conestoga, PA 17516, in Manor Township, **Lancaster County.** This is a replacement permit for WMGM020SC001, due to the merging of the permit into WMGM061. WMGM061 authorizes: (1) Salvaging, storage and processing of ferrous/non-ferrous metal that is coated with ash residue from resource recovery facilities to recover recyclable metals; (2) storage and processing of bulk ash residue from resource recovery facilities to recover recyclable metals or coarse or fine aggregate for use as a construction material that has been processed for this in accordance with a permit issued by the Department. The Department issued the determination of applicability on April 6, 2022.

Persons interested in reviewing the general permit may contact John L. Oren, P.E., Permits Chief, PADEP-Southcentral Regional Office, Waste Management Program, 909 Elmerton Avenue, Harrisburg, PA 17110, phone (717) 705-4706. TDD users may contact the Department through the Pennsylvania Hamilton Relay Service, (800) 654-5984.

Northcentral Region: Regional Solid Waste Manager, 208 West Third Street, Williamsport, PA 17701.

General Permit No. WMGM036NC004. Denali Water Solutions, LLC, Habitat Restoration Project 1, 471 Piedmont Road, Somerset, PA 15501, Gulich Township, **Clearfield County.** General permit for the processing prior to beneficial use of sewage sludge generated by

municipal sewage collection and treatment systems or treatment works and stabilized using lime for use as a soil conditioner or soil amendment by land application under the PAG-07 permit. The Department issued with the determination of applicability on April 7, 2022.

Persons interested in reviewing the general permit may contact Lisa D. Houser, P.E., Environmental Engineer Manager, Williamsport Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701. 570-327-3752. 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.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18701-1915.

Contact: Raymond Kempa, New Source Review Chief—Telephone: 570-826-2531.

GP1-39-008: The Coca-Cola Company, 7551 Schantz Road, Allentown, PA 18106, on April 6, 2022 for the renewal of their four boilers located at the facility in Upper Macungie Township, **Lehigh County.**

Southcentral Region: Air Quality Program, 909 Elmerton 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.

GP1-36-05125C: PA Department of Corrections, 1451 N. Market Street, Elizabethtown, PA 17022-1223, on April 11, 2022, for two natural gas or No. 2 oil-fired boilers at the Elizabethtown Training Academy in Mount Joy Township, **Lancaster County.**

GP11-22-05046E: Pennsy Supply, Inc., 2400 Thea Drive, Suite 3A, Harrisburg, PA 17110, on April 8, 2022, for a nonroad engine, under GP11, at the Fiddlers Elbow North Quarry in Lower Swatara Township, **Dauphin County.**

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701.

Contact: Muhammad Q. Zaman, Program Manager, (570) 327-3648.

AG5-08-00010BB: Blackhill Energy, LLC, 4600 J Barry Court, Suite 320, Canonsburg, PA 15317, on April 12, 2022, for authorization to continue operation of one 1340 bhp Caterpillar model G3516TALE 4SLB natural-gas fired compressor engine equipped with an oxidation catalyst, one 15 MMscf/day Exterran dehy with a 0.20 MMBtu/hr reboiler, one 15 MMscf/day JW Williams dehy with a 0.125 MMBtu/hr reboiler, one 15 MMscf/day JW Williams dehy with a 0.125 MMBtu/hr reboiler, various fugitive emissions (pneumatic devices, compressor rod packing, blowdowns, and facility fugitives), one 1380 bhp Caterpillar model G3516BLE 4SLB natural-gas fired compressor engine equipped with an oxidation catalyst, one 16,774-gallon (400-bbl) produced water tank, one 4193-gallon (100-bbl) produced water tank, two pig launchers/receivers and for authorization to construct and operate one 1,775 bhp Caterpillar model G3606 4SLB

natural-gas fired compressor engine equipped with an oxidation catalyst pursuant to the General Plan Approval and/or General Operating Permit for Compression Stations, Processing Plants and Transmission Stations (BAQ-GPA/GP-5) at the Beardslee Compressor Station located in Springfield Township, **Bradford 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.

23-0226: 4 Ever in Our Hearts Pet Cremation, 700 North Jackson Street, Media, PA 19063, on April 6, 2022, for the construction and operation of an animal crematory located in Ridley Township, **Delaware 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.

39-00058B: Packaging Corp of Amer, 7451 Cetronia Road, Allentown, PA 18106-9123, issued on April 11, 2022 for a new converting machine at the site located in Upper Macungie Township, **Lehigh 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.

67-05063A: York Building Products Co., Inc.—Roosevelt Quarry, 950 Smile Way, York, PA 17404, April 5, 2022, for the replacement of a secondary and tertiary cone crusher and subsequent increase in sitewide capacity from 600 tph to 800 tph at the limestone quarry in West Manchester Township, **York County**.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Contact: Edward Orris, P.E., New Source Review Chief—Telephone: 412-442-4168.

65-00016J: Carpenter Latrobe Specialty Metals, 2626 Ligonier Street, Latrobe, PA 15650-0031. Plan Approval Modification issuance date effective April 11, 2022, to allow the shakedown period and startup operations of a Wet Electrostatic Precipitator (ESP) rated at 6,900 SCFM on Source 201, Vacuum Induction Melting (VIM 2) furnace at their facility located in Latrobe Borough, **Westmoreland County**.

Philadelphia: Air Management Services, 321 University Avenue, Philadelphia, PA. 19104-4543.

Contact: Edward Wiener, Chief, Source Registration at 215-685-9426.

The City of Philadelphia, Air Management Services (AMS) issued on April 11, 2022 a Plan Approval for installation of air pollution sources at the following facility:

IP21-000515: Philadelphia Housing Authority—James W. Johnson Homes, 2500 West Norris Street, Philadelphia, PA 19121, on April 11, 2022, was issued a Plan Approval for the installation of air emission sources at a public housing site, in the City of Philadelphia, **Philadelphia County**. The significant air emission sources that are part of the Plan Approval are eighteen (18) boilers firing natural gas each rated 3.082 MMBtu/hr or less. Additionally, the facility has twenty-seven (27) insignificant hot water heaters each rated less than 0.2 MMBtu/hr that are also included in the Plan Approval for facility-wide emission calculation, and the hot water heaters are required to follow the applicable requirements in the Plan Approval. The potential emission from the installation are as follows: (1) 9.995 tons per year (tpy) of Nitrogen Oxides (NO_x), (2) 8.396 tpy of Carbon Monoxide (CO), (3) 0.76 tpy of Particulate Matter (PM), (4) 0.55 tpy of Volatile Organic Compound (VOC), and (5) 0.06 tpy of Sulfur Oxides (SO_x). The plan approval contains operating, monitoring, and recordkeeping requirements to ensure operation within all applicable requirements.

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.

09-0196L: Abington Reldan Metals LLC, 550 Old Borden-town Road, Fairless Hills, PA 19030. On April 11, 2022, for the temporary operation of the new Baghouse (C14B) that replaced an existing Baghouse (Source ID No. C02B) on Thermal Destructor 2 at their facility located in Falls Township, **Bucks County**.

09-0242: Adelphia Gateway LLC, Rich Hill Road, Quakertown, PA 18951. On April 11, 2022, an extension for the construction, operation, and maintenance of a new natural gas compressor station and metering station at their location in West Rockhill Township, **Bucks County**.

23-0225: Adelphia Gateway, LLC, West Ridge Road, Marcus Hook, PA 19061. On April 11, 2022, an extension for the construction, operation, and maintenance of a new natural gas compressor station and metering station at their location in Lower Chichester Township, **Delaware County**.

46-0221C: Upper Moreland Hatboro Joint Sewer Authority, 2875 Terwood Road, Willow Grove, PA 19090. On April 11, 2022 for the temporary operation of an emergency generator to non-emergency use at their facility located in Upper Moreland Township, **Montgomery County**.

46-0036K: VV2750, LLC, 1 Belmont Avenue, Suite 520, Bala Cynwyd, PA 19004. On April 7, 2022 an extension for an increase in the permitted operating hours for the four existing electric generating engines with the installation of an oxidation catalyst on each to reduce CO and VOC emissions at their facility located in Worcester Township, **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.

36-05025A: Texas Eastern Transmission, LP, 5400 Westheimer Court, Houston, TX 77056, on April 11, 2022, for the installation of two (2) new 7,700 HP natural gas-fired turbines equipped with dry low NO_x technology and oxidation catalysts to replace six (6) existing 1,760 HP compressor engines at the Marietta natural gas compressor station located in East Donegal Township, **Lancaster County**. The plan approval was extended.

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

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18701-1915.

Contact: Norman Frederick, Facility Permitting Chief—Telephone: 570-826-2409.

39-00016: Buckeye Energy Services, LLC, Macungie Terminal, P.O. Box 368, 5002 Buckeye Road, Emmaus, PA 18049-0368. On February 23, 2022, the Department issued a renewal of the Title V Operating Permit for the petroleum bulk stations and terminals facility in Lower Macungie Township, **Lehigh County**. As a major source, the facility is subject to the Title V permitting requirements of the Clean Air Act Amendments as adopted by the Commonwealth under 25 Pa. Code Chapter 127, Subchapter G. The sources consist of Loading Racks and Gasoline and Distillate Storage Tanks. The control devices are a Vapor Collection System (VCU) and a Vapor Recovery System (VRU). The Title V Operating Permit contains applicable requirements for emission limitations, work practice standards, testing, monitoring, recordkeeping, and reporting standards used to verify facility compliance with Federal and State air pollution regulations.

39-00019: Buckeye Pipeline Co, LLC, Macungie Station, P.O. Box 368, 5002 Buckeye Road, Emmaus, PA 18049-0368. On February 23, 2022, the Department issued a renewal of the Title V Operating Permit for the refined petroleum pipelines facility in Lower Macungie Township, **Lehigh County**. As a major source, the facility is subject to the Title V permitting requirements of the Clean Air Act Amendments as adopted by the Commonwealth under 25 Pa. Code Chapter 127, Subchapter G. The sources consist of Pumps and Gasoline and Distillate Tanks. The Title V Operating Permit contains applicable requirements for emission limitations, work practice standards, testing, monitoring, recordkeeping, and reporting standards used to verify facility compliance with Federal and State air pollution regulations.

39-00028: Buckeye Terminals, LLC, Macungie Terminal, P.O. Box 368, 5002 Buckeye Road, Emmaus, PA 18049-0368. On February 23, 2022, the Department issued a renewal of the Title V Operating Permit for the petroleum bulk stations and terminals facility in Lower Macungie Township, **Lehigh County**. As a major source, the facility is subject to the Title V permitting requirements of the Clean Air Act Amendments as adopted by the Commonwealth under 25 Pa. Code Chapter 127, Subchapter G. The sources consist of a Loading Rack and Gasoline Storage Tanks. The control device is a Vapor Collection System (VCU). The Title V Operating Permit contains applicable requirements for emission limitations, work practice standards, testing, monitoring, recordkeeping, and reporting standards used to verify facility compliance with Federal and State air pollution regulations.

35-00008: Gentex Corp Simpson Prot Clothing Plant, 324 Main Street, Simpson, PA 18407-1182. On

April 11, 2022, the Department issued a renewal of the Title V Operating Permit for the manufacturing of ophthalmic goods facility located in Fell Township, **Lackawanna County**. As a major source, the facility is subject to the Title V permitting requirements of the Clean Air Act Amendments as adopted by the Commonwealth under 25 Pa. Code, Chapter 127, Subchapter G. The sources consist of spray paint booths, two (2) spreaders, two (2) boilers, and optical coating lines. The sources are controlled by two (2) regenerative thermal oxidizers (RTO's). The Title V Operating Permit contains applicable requirements for emission limitations, work practice standards, testing, monitoring, recordkeeping, and reporting standards used to verify facility compliance with Federal and State air pollution regulations.

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.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Contact: Thomas Joseph, Facilities Permitting Chief—Telephone: 412-442-4336.

04-00714: Valvoline, LLC, 501 Railroad Street, Rochester, PA 15074, natural minor Operating Permit issued on March 29, 2022, for the blending, storage, packaging and distribution of vehicle lubricants located in Rochester Borough, **Beaver County**. Air contamination sources at this facility include: two natural gas fired boilers, lubricant storage, blending & packaging plant. The potential emissions from these sources include: 5.93 TPY VOC; 4.7 TPY NO_x; 3.9 TPY CO; 0.4 TPY PM; 0.03 TPY SO₂. This is a renewal of a State-Only Operating Permit. The State-Only Operating Permit includes emission limits, work practice standards, testing, monitoring, recordkeeping and reporting requirements designed to keep the facility operating within applicable air quality requirements.

11-00252: C&C Smith Lumber Co, Inc., 197 Tower Road, Summerhill, PA 15958, natural minor Operating Permit issued on March 29, 2022, for the primary wood products sawmill facility located in Croyle Township, **Cambria County**. Air contamination sources at this facility include: three biomass fired boilers; wood working building; glue room paint booths; two pellet machines; rotary dryer. The potential emissions from these sources include: 2.08 TPY VOC; 38.27 TPY NO_x; 73.76 TPY CO; 79.63 TPY PM; 3.06 TPY SO₂. This is a renewal of a State-Only Operating Permit. The State-Only Operating Permit includes emission limits, work practice standards, testing, monitoring, recordkeeping and reporting requirements designed to keep the facility operating within applicable air quality requirements.

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.

28-05022: Signature Companies/American Stair & Cabinetry, Inc., 5171 Innovation Way, Chambersburg, PA 17201, on April 5, 2022, for their wood cabinet, stair and railing manufacturing facility located in Greene Township, **Franklin County**. The State-Only permit was renewed.

38-03029: Elk Corporation of Texas, 401 Weaverstown Road, P.O. Box 228, Myerstown, PA 17067-0228, on April 12, 2022, for the asphalt shingle manufacturing facility located in Jackson Township, **Lebanon County**. The State-Only permit was renewed.

67-05092: Starbucks Coffee Company, 3000 Espresso Way, York, PA 17406-8035, on April 5, 2022, for the coffee manufacturing facility located in East Manchester Township, **York County**. The State-Only permit was renewed.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Contact: Thomas Joseph, P.E., Facilities Permitting Chief—Telephone: 412-442-4336.

26-00500: Iron Pennsylvania Terminal, LLC, (fka Contura PA Terminal, LLC)/LaBelle Dock, 731 Mooney Ridge Road, Waynesburg, PA 15370. On March 24, 2022, the Department issued a natural minor State Only Operating Permit for the operation of a barge unloading and loading facility. The Operating Permit includes conditions relating to applicable emission restrictions, testing, monitoring, recordkeeping, reporting, and work practice standards requirements at the facility located in Luzerne Township, **Fayette County**.

65-00630: MSA Safety Pittsburgh, Mfg LLC/Murrysville Plant, 1000 Cranberry Woods Drive, Cranberry Township, PA 16066. On March 21, 2022, the Department issued a natural minor State Only Operating Permit for the manufacture of safety products by pressure molding resin coated thermoset materials. The Operating Permit includes conditions relating to applicable emission restrictions, testing, monitoring, recordkeeping, reporting, and work practice standards requirements at the facility located in Murrysville Township, **Westmoreland County**.

Operating Permit Revisions Issued including Administrative Amendments, Minor Modifications or Transfers of Ownership under the Air Pollution Control Act (35 P.S. §§ 4001—4015) and 25 Pa. Code §§ 127.412, 127.450, 127.462 and 127.464.

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

Contact: Janine Tulloch-Reid, New Source Review Chief—Telephone: 484-250-5920.

15-00137: Fenzi AGT USA, LLC, 498 Acorn Lane, Downingtown, PA 19335, for an Administrative Amendment for a change of ownership from Johnson Matthey, Inc. to Fenzi AGT USA located in Downingtown Borough, **Chester County**. Fenzi will continue the same type of operation and maintain its status as a natural minor facility for Volatile Organic Compound emissions and an area source of Hazardous Air Pollutants. With the transfer of the Operating Permit there have been no changes to any of the conditions in the permit. The Operating Permit contains monitoring and recordkeeping conditions along with work practice standards designed to keep the sources and the facility operating within all applicable air quality requirements.

46-00269: Innovation 2201, LLC, 2201 Renaissance Boulevard, King of Prussia, PA 19406, an Administrative Amendment that reflects a change in the responsible official/permit contact, plant/facility names and a change in ownership from IPX Renaissance 2201 Investors LLC to Innovation 2201 LLC. The facility is located in Upper

Merion Township, **Montgomery County**. The Administrative Amendment of the State-Only Operating Permit for this facility is issued under the Air Pollution Control Act (35 P.S. §§ 4001—4015) and 25 Pa. Code § 127.450.

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.

67-05014: York Group Inc., d/b/a York Casket Company, 2880 Black Bridge Road, York, PA 17406-9703, on April 5, 2022, for the casket manufacturing facility located in Manchester Township, **York County**. The Title V permit underwent a significant modification to incorporate the provisions of Plan Approval No. 67-05014C, and to revise the facility's Compliance Assurance Monitoring plan, and to make certain minor administrative updates.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701.

Contact: Muhammad Q. Zaman, Program Manager, 570-327-3648.

41-00079: Eureka Resources, LLC, 454 Pine Street, Williamsport, PA 17701, issued a modified State Only Operating Permit on April 6, 2022 to allow the pretreatment of gas well wastewater before being processed in the methanol recovery system at their facility located in Williamsport, **Lycoming County**. The modified State Only Operating Permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

41-00026: Prysmian Cables and Systems USA, LLC, 409 Reighard Ave., Williamsport, PA 17701, issued a revised State Only Operating Permit on April 6, 2022 for the change in ownership of the Williamsport facility from General Cable Industries Inc. for their cable production facility located in Williamsport City, **Lycoming County**. The revised State Only Operating Permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

De Minimis Emissions Increases Authorized under 25 Pa. Code § 127.449.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Contact: Edward Orris, P.E., New Source Review Chief—Telephone: 412-442-4168.

65-00622: General Carbide Corporation, 1151 Garden Street, Greensburg, PA 15601. Per 25 Pa. Code § 127.449(i), this notice is for the following de minimis emission increase at General Carbide Corporation located in Hempfield Township, **Westmoreland County**: installation and operation of one (1) electric 60 KW heat treat furnace. The de minimis increases for this project include the following increases: less than or equal to 0.01 tpy each of VOC, total HAPs, single HAP, PM₁₀, or PM_{2.5}. Total De Minimis increases for this facility since the most recent permit authorization of March 3, 2020 include this project (increases previously listed), as well as eRFD # 9570 which will result in no higher than 0.01 tpy each of VOC, total HAPs, single HAP, PM₁₀, or PM_{2.5}, and RFD-65-00622C which resulted in no higher than a 1.0 tpy increase of VOC.

65-00622: General Carbide Corporation, 1151 Garden Street, Greensburg, PA 15601. Per 25 Pa. Code

§ 127.449(i), this notice is for the following de minimis emission increase at General Carbide Corporation located in Hempfield Township, **Westmoreland County**: installation and operation of one (1) AVS used Sinter-HIP (SH-9) vacuum/pressure de-bind, sintering, and HIP furnace. The de minimis increases for this facility include the following increases: less than or equal to 0.01 tpy each of VOC, total HAPs, single HAP, PM₁₀, or PM_{2.5}. Total De Minimis increases for this facility since the most recent permit authorization of March 3, 2020 include this project (increases previously listed), as well as eRFD # 9488 which will result in no higher than 0.01 tpy each of VOC, total HAPs, single HAP, PM₁₀, or PM_{2.5}, and RFD-65-00622C which resulted in no higher than a 1.0 tpy increase of VOC.

ACTIONS ON COAL AND NONCOAL 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—6018.1103).

Coal Permits

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900, RA-EP CAMBRIA@pa.gov, (Contact: Melanie Ford-Wigfield).

Mining Permit No. 56130105. NPDES Permit No. PA0269298. J & J Svonavec Excavating, Inc., 110 Windermere Lane, Somerset, PA 15501, Transfer of an existing bituminous/antracite surface mine from Heritage Coal & Natural Resources, LLC, 550 Beagle Road, Rockwood, PA 15557 in Elk Lick Township, **Somerset County**, affecting 95.0 acres. Receiving streams: unnamed tributary to/and Casselman River, classified for the following uses: CWF & WWF. Application received: January 5, 2022. Permit issued: April 6, 2022.

Knox District Mining Office: P.O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, (814) 797-1191, RA-EP KNOX@pa.gov, (Contact: Cayleigh Boniger).

Mining Permit No. 16000101. Terra Works, Inc., 49 South Sheridan Road, Clarion, PA 16214. Renewal of an existing bituminous surface mine in Licking & Richland Townships, **Clarion County**, affecting 83.6 acres. This renewal is issued for reclamation only. Receiving streams: Unnamed tributaries to Clarion River, classified for the following uses: CWF. No changes proposed. Application received: January 27, 2022. Permit issued: April 5, 2022.

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200, RA-EP MOSHANNON@pa.gov, (Contact: Ashley Smith).

Mining Permit No.17950113. NPDES PA0257028. Waroquier Coal Company, P.O. Box 128, Clearfield, PA 16830, permit renewal for continued operation and restoration of a bituminous surface coal mine located in Greenwood Township, **Clearfield County**, affecting 60.2 acres. Receiving stream(s): Unnamed Tributaries No. 1 and No. 2 to Watts Creek classified for the following use(s): HQ. Application received: October 28, 2020. Permit Issued: March 31, 2022.

Mining Permit No. 17000111. NPDES PA0243027. Gregg Barrett Coal, 288 Watts Road, Curwensville, PA 16833. Renewal of a mining permit and NPDES permit for continued operation and restoration of a bituminous surface coal mine located in Ferguson Township, **Clearfield County**, affecting 60 acres. Receiving stream(s): Unnamed Tributary to Watts Creek, classified for the following use(s): HQ. Application received: April 12, 2021. Permit Issued: March 31, 2022.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118, RA-EP PottsvilleDMO@pa.gov, (Contact: Theresa Reilly-Flannery).

Mining Permit No. 54803019. Rausch Creek Coal Mining Good Spring, LLC, 978 Gap Street, Valley View, PA 17983, renewal of an anthracite surface mine operation for reclamation activities only in Hegins and Porter Townships, **Schuylkill County**, affecting 951.69 acres. Receiving stream: East Branch Rausch Creek. Application received: November 19, 2020. Renewal issued: April 8, 2022.

Mining Permit No. PAM122013. Rausch Creek Coal Mining Good Spring, LLC, 978 Gap Street, Valley View, PA 17983, coverage under the General NPDES Stormwater Permit for stormwater discharges associated with mining activities (BMP-GP-104) on Surface Mining Permit No. 54803019 in Hegins and Porter Townships, **Schuylkill County**, receiving stream: East Branch Rausch Creek. Application received: February 16, 2022. Coverage issued: April 8, 2022.

Mining Permit No. 54070101. Premium Fine Coal, Inc., P.O. Box 268, Tamaqua, PA 18252, renewal of an anthracite surface mine operation in Blythe Township, **Schuylkill County**, affecting 121.6 acres. Receiving stream: Schuylkill River. Application received: November 4, 2021. Renewal issued: April 8, 2022.

Noncoal Permits

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900, RA-EP CAMBRIA@pa.gov, (Contact: Melanie Ford-Wigfield).

Mining Permit No. 50210301. Centre Lime & Stone Company, Inc., 1952 Waddle Road, Suite 203, State College, PA 16803-1649, commencement, operation and restoration of a large noncoal (industrial minerals) operation in Centre Township, **Perry County**, affecting 29.3 acres. Receiving stream(s): Unnamed Tributary to Little Juniata Creek classified for the following use(s): CWF & MF. Application received: June 28, 2021. Permit issued: April 1, 2022.

Mining Permit No. PAM421004. Centre Lime & Stone Company, Inc., 1952 Waddle Road, Suite 203, State College, PA 16803-1649. Coverage under the General NPDES Permit for Stormwater Discharges Associated with Mining Activities (BMP GP-104) on Noncoal Permit No. 50210301 located in Centre Township, **Perry County**. Receiving stream(s): Unnamed Tributary to Little Juniata Creek classified for the following use(s):

CWF & MF. Notice of Intent for Coverage received: June 28, 2021. Permit issued: April 1, 2022.

Mining Permit No. 21050301. NPDES No. PA0224456. JR Zimmerman Enterprises, LLC, 35 Ridge Road, Newville, PA 17241, renewal of an NPDES permit, located in North Newton Township, **Cumberland County**. Receiving stream: unnamed tributary to Green Spring Creek classified for the following uses: CWF. Application received: June 22, 2021. Permit issued: April 7, 2022.

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200, RA-EP MOSHANNON@pa.gov, (Contact: Cassandra Stanton).

Mining Permit No. BMR GP-103 No. 18221001. R.C. Bowman, Inc., 7436 Nittany Valley Drive, Mill Hall, PA 17751, approval of registration under General Permit for Short-Term Construction Projects (BMP-GP-103) to remove limestone from the existing abandoned quarry located in Green Township, **Clinton County**. Receiving stream: Fishing Creek classified as HQ-CWF. Application received: February 11, 2022. Permit Issued: April 5, 2022.

Mining Permit No. 17060301. NPDES No. PA0256307. Kinkead Aggregates, LLC, 2311 Rt. 56 Hwy East, Homer City, PA 15748, renewal of an NPDES permit for a large noncoal mining site located in Bell Township, **Clearfield County**, affecting 137.4 acres. Receiving stream(s): Unnamed Tributary to Bear Run and Bear Run classified for the following use(s): CWF. Application received: August 16, 2021. Permit Issued: April 5, 2022.

Mining Permit No. 08830301. NPDES No. PA0608874. Chemung Plant and 08140301, Chemung Plant # 2, Dalrymple Gravel & Contracting Co, Inc., 2105 South Broadway, Pine City, NY 14871, renewal of an NPDES permit for Non Coal Surface Mine in Athens Township, **Bradford County**, affecting 337.3 acres. Receiving stream(s): Chemung River, classified for the following use(s): Warm Water Fishes (WWF). Application received: August 6, 2020. Permit Issued: April 1, 2022.

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, RA-EP PottsvilleDMO@pa.gov, (Contact: Theresa Reilly-Flannery).

Permit No. 36224109. Pact Construction, Inc., P.O. Box 74, Rigoes, NJ 08551, construction blasting for Regional Waste Water Treatment Plant and Collection System Plant in East Earl Township, **Lancaster County**, with an expiration date of March 18, 2023. Permit issued: April 5, 2022.

Permit No. 36224110. Pact Construction, Inc., P.O. Box 74, Rigoes, NJ 08551, construction blasting for Regional Waste Water Treatment Plant and Collection System Terre Hill Pumping Station in East Earl Township and Terre Hill Borough, **Lancaster County**, with an expiration date of March 18, 2023. Permit issued: April 5, 2022.

Permit No. 36224111. Pact Construction, Inc., P.O. Box 74, Rigoes, NJ 08551, construction blasting for Regional Waste Water Treatment Plant and Collection System Frogtown Road Pumping Station in East Earl Township, **Lancaster County**, with an expiration date of April 1, 2023. Permit issued: April 5, 2022.

Permit No. 38224104. Keystone Blasting Service, 15 Hopeland Road, Lititz, PA 17543, construction blasting for Rick Pieffer Dwelling in Jackson Township, **Lebanon County**, with an expiration date of April 30, 2022. Permit issued: April 5, 2022.

Permit No. 35224102. Maine Drilling & Blasting, Inc., P.O. Box 1140, Gardiner, ME 04345, construction blasting for Lengen Development in Olyphant Borough, **Lackawanna County**, with an expiration date of April 4, 2023. Permit issued: April 7, 2022.

Permit No. 36224112. Maine Drilling & Blasting, Inc., P.O. Box 1140, Gardiner, ME 04345, construction blasting for Russo Residence in Lancaster Township, **Lancaster County**, with an expiration date of March 23, 2023. Permit issued: April 8, 2022.

Permit No. 36224113. Maine Drilling & Blasting, Inc., P.O. Box 1140, Gardiner, ME 04345, construction blasting for Rapho Sewer Extension in Rapho Township, **Lancaster County**, with an expiration date of March 29, 2023. Permit issued: April 8, 2022.

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.

Eastern Region: Oil & Gas Management Program, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448.

E0829221-019: Chesapeake Appalachia, LLC, 14 Chesapeake Lane, Sayre, PA 18840, Troy Township, Bradford County, ACOE Baltimore District.

To construct, operate and maintain the Brad 9—Earl Brown Frac Pond Project, which consists of the following impacts:

1. 610 square feet of previously unauthorized temporary impacts to Palustrine Emergent (PEM) Wetlands via temporary construction workspace (Canton, PA Quadrangle, Latitude: N 41° 44' 45.29", Longitude: W -76° 45' 13.41");

2. 1,525 square feet of previously unauthorized permanent impacts to Palustrine Emergent (PEM) Wetlands via the placement of fill (Canton, PA Quadrangle, Latitude: N 41° 44' 45.03", Longitude: W -76° 45' 13.55");

3. 653 square feet of permanent impacts to Palustrine Emergent (PEM) Wetlands for the purpose of on-site restoration (Canton, PA Quadrangle, Latitude: N 41° 44' 45.02", Longitude: W -76° 45' 13.29"); and

4. 1,002 square feet of temporary impacts to Palustrine Emergent (PEM) Wetlands for the purpose of on-site restoration (Canton, PA Quadrangle, Latitude: N 41° 44' 44.74", Longitude: W -76° 45' 12.75").

This project is an after-the-fact permit that is associated with the Chesapeake Audit and will result in 1,612 square feet (0.037 acre) of temporary PEM wetland impacts and 2,178 square feet (0.050 acre) of permanent PEM wetland impacts, all for the purpose of establishing a frac pond for Marcellus well development in Troy Township, Bradford County.

Regional Permit Coordination Office: 400 Market Street, Harrisburg, PA 17101; Email: RA-EPREGIONAL PERMIT@pa.gov.

E0603221-004. Shoemakersville Municipal Authority, 115 East Ninth Street, Shoemakersville, PA 19555, Shoemakersville Borough, Berks County, U.S. Army Corps of Engineers, Philadelphia District.

To construct and maintain a wastewater treatment plant headworks facility and associated appurtenances in the floodplain of the Schuylkill River (WWF, MF). The project will result in 0.02 acre of permanent and 0.13 acre of temporary floodplain impacts.

The project is located at the existing Shoemakersville Wastewater Treatment Plant on 2nd Street (Temple, PA Quadrangle, Latitude: 40.493683°; Longitude: -75.970019°) in Shoemakersville Borough, Berks County.

E0603221-005. Dalfen Industrial, 17304 Preston Road, Dallas, TX 75252, Bethel Township, Berks County, Army Corps of Engineers Baltimore District.

To place fill in 0.21 acre of PEM wetland (Other) within the Little Swatara Creek watershed (CWF, MF) for the purpose of constructing and maintaining a 699,600-sf warehouse with associated entrance, parking, and stormwater facilities.

The project is located along Camp Swatara Road (Bethel, PA Quadrangle, Latitude: 40.459444°; Longitude: -76.333056°) in Bethel Township, Berks County.

ENVIRONMENTAL ASSESSMENTS

Northwest Region: Waterways & Wetlands Program, 230 Chestnut Street, Meadville, PA 16335-3481.

EA2506222-001. Western Pennsylvania Conservancy, 800 Waterfront Drive, Pittsburgh, PA 15222. Elk Creek Restoration Project, in Girard Township, Erie County, ACOE Pittsburgh District (Fairview, PA Quadrangle N: 42.011377; W: -80.361635).

The applicant is conducting approximately 600 linear feet of bank stabilization and remediation in and along Elk Creek to repair severely eroded stream bank. The project also includes the installation of numerous rock weirs and stone deflectors along with riparian plantings. The project is located approximately 0.2 mile east of the intersection of North Creek Road (T543) and the CNX railroad crossing. The project extends from the existing railroad crossing upstream approximately 600 linear feet.

DAM SAFETY

Central Office: Bureau of Waterways Engineering and Wetlands, Rachel Carson State Office Building, Floor 2, 400 Market Street, Harrisburg, PA 17101, 717-787-8568.

D67-001. Lake Williams Dam, The York Water Company, 130 E. Market Street, York, PA 17401. Permit issued to modify the Lake Williams Dam across East Branch Codorus Creek (WWF, MF), impacting 0.019 acre of PEM wetland and 107 feet of stream for the purpose of constructing a labyrinth spillway structure in order to pass the required design storm and to ensure compliance with Department regulations. (York, PA Quadrangle; Latitude: 39.8906N, Longitude: -76.7297W) in York Township, York County.

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, 400 Waterfront Drive, Pittsburgh, PA 15222, (412) 442-4281.

ESCGP-3 # ESG073022003-00
Applicant Name EQM Gathering OPCO, LLC
Contact Person Gregg West
Address 2200 Energy Drive
City, State, Zip Canonsburg, PA 15317
Township(s) Washington
County Greene
Receiving Stream(s) and Classification(s) Trib 40395 to Ruff Creek (WWF), Trib 40398 to Ruff Creek (WWF); Ruff Creek (WWF)

ESCGP-3 # ESG070421005-00
Applicant Name Geopetro LLC
Contact Person Paul L Archer
Address 7100 N High St Ste 303
City, State, Zip Worthington, OH 43085-2316
Township(s) South Beaver
County Beaver
Receiving Stream(s) and Classification(s) Painter Run (HQ-CWF); North Fork Little Beaver Creek (HQ-CWF)

Eastern Region: Oil & Gas Management Program, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448.

ESCGP-3 # ESG296622002-00
Applicant Name Chesapeake Appalachia LLC
Contact Person Eric Haskins
Address 14 Chesapeake Lane
City, State, Zip Sayre, PA 18840
Township(s) North Branch
County Wyoming
Receiving Stream(s) and Classification(s) Trib 29347 to Little Mehoopany Creek (CWF, MF), UNT to Little Mehoopany Creek (CWF, MF), Little Mehoopany Creek (CWF, MF)
Secondary: Little Mehoopany Creek (CWF, MF), Susquehanna River (WWF, MF)

ESCGP-3 # ESG291422001-00
Applicant Name Range Resources Appalachia LLC
Contact Person Karl Matz
Address 3000 Town Center Blvd
City, State, Zip Canonsburg, PA 15317-5839
Township(s) Snow Shoe
County Centre
Receiving Stream(s) and Classification(s) UNT to North Fork Beech Creek (CWF, MF)
Secondary: North Fork Beech Creek (CWF, MF)

CORRECTIVE ACTION UNDER ACT 32, 1989

PREAMBLE 2

The following plans and reports were submitted under the Storage Tank and Spill Prevention Act (35 P.S. §§ 6021.101—6021.2104).

Provisions of 25 Pa. Code Chapter, 245 Subchapter D, Administration of the Storage Tank and Spill Prevention Program, require the Department of Environmental 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 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.

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 the DEP 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, 2 East Main Street, Norristown, PA 19401, 484-250-5960.

Contact: Richard Staron, Professional Geologist Manager.

Phila Ref Point Breeze Proc Area, 51-33620, 3144 W. Passyunk Ave., Philadelphia, PA 19145, **City of Philadelphia**. Terraphase Engineering, 100 Canal Pointe Boulevard, Suite 108, Princeton, NJ 08540, on behalf of Philadelphia Energy Solutions Refining and Marketing LLC, 111 S. Wacker Dr., Suite 3000, Chicago, IL 60606, submitted a Remedial Action Plan concerning remediation of soil contaminated with petroleum. The report is intended to document remediation of the site to meet nonresidential Statewide health standards.

Bergeys Fuel Ctr, 46-11173, 436 Harleysville Pike, Souderton, PA 18964, Franconia Township, **Montgomery County**. Penn's Trail Environmental, LLC, 21 East Lincoln Avenue, Suite 160, Hatfield, PA 19440, on behalf of Bergey's Realty Co., submitted a Remedial Action Completion Report concerning remediation of soil and groundwater contaminated with petroleum products. The report is intended to demonstrate attainment of the site to meet Statewide health standards.

Southcentral Region: Environmental Cleanup & Brownfields Program, 909 Elmerton Avenue, Harrisburg, PA 17110, 717-705-4705.

Contact: Greg Bowman, Environmental Group Manager.

Rutter's Farm Store No. 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 report is intended to document remediation of the site to meet the Statewide health standard and the site-specific standard.

Northwest Region: Environmental Cleanup & Brownfields Program, 230 Chestnut Street, Meadville, PA 16335-3481, 814-332-6648.

Contact: Kim Bontrager, Clerk Typist 3.

Nelson's Mini Mart, Storage Tank Facility ID # 32-82000, 109 Main Street, Home, PA 15747, Plumville Borough, **Indiana County**. Mountain Research, LLC, 825 25th Street, Altoona, PA 16601, on behalf of Larry Nelson, P.O. Box 164, Yatesboro, PA 16263, submitted a Remedial Action Plan concerning remediation of groundwater and soil contaminated with 1,2,4-Trimethylbenzene, 1,3,5-Trimethylbenzene, benzene, toluene, ethylbenzene, MTBE, cumene, and naphthalene. The plan is intended to document the remedial actions for meeting the nonresidential Statewide health 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:

Southcentral Region: Environmental Cleanup & Brownfields Program, 909 Elmerton Avenue, Harrisburg, PA 17110, 717-705-4705.

Contact: Robin L. Yerger, LPG.

Rutter's Farm Store No. 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 DEP on April 7, 2022.

Contact: Cherie Campbell, Soil Scientist.

Hi Way Mobil SVC, Storage Tank Facility ID # 50-62357, 322 Tuscarora Path, Ickesburg, PA 17037-9533, Saville Township, **Perry County**. United Environmental Services, Inc., P.O. Box 701, Schuylkill Haven, PA 17972, on behalf of Hi Way Mobil Service, 322 Tuscarora Path, Ickesburg, PA 17037-9533 submitted a Remedial Action Plan concerning remediation of soil and groundwater contaminated with petroleum constituents. The Remedial Action Plan was not acceptable to meet the Statewide health standards and was disapproved by DEP on April 13, 2022.

SPECIAL NOTICES

WATER PROGRAMS REQUEST FOR COMMENT

Proposed Total Maximum Daily Loads (TMDLs) for the Upper Cedar Run Watershed in Centre County.

Central Office: Bureau of Clean Water, P.O. Box 8774, Harrisburg, PA 17105-8774.

The Department of Environmental Protection will accept comments on the proposed "TMDLs" developed for the Upper Cedar Run Watershed under Section 303(d) of the Clean Water Act. The Pennsylvania Integrated Water Quality Monitoring and Assessment Report included stream segments listed as impaired for aquatic life in the watershed. The impairments addressed by this document were caused by excessive siltation due to agriculture.

There currently are no State or Federal in-stream numerical water quality criteria for sediment. Therefore, the Department utilized a reference watershed approach to implement the applicable narrative criteria. The proposed TMDL document sets allowable loading of sediment in the Upper Cedar Run Watershed. The "TMDLs" included allocations for nonpoint sources, wasteload allocations for an existing wastewater treatment plant, reserves for future point sources, as well as margin of safety factors. Nonpoint source load allocations were made for cropland, hay/pasture land and streambank source sectors present in the watershed. Data used in establishing the TMDL were primarily generated using a water quality analysis model (Model My Watershed) made available through the Stroud Water Research Center.

The following table shows the estimated current sediment loadings within the watershed, the prescribed "TMDL" values, and % reductions needed under annual average conditions.

<i>Summary of "TMDL" -Based Load Reductions (expressed as annual averages) in the Upper Cedar Run Watershed</i>				
<i>Watershed</i>	<i>Pollutant</i>	<i>Existing Load (lbs/yr)</i>	<i>"TMDL" (lbs/yr)</i>	<i>% Reduction</i>
Upper Cedar Run	Sediment	6,226,074	3,862,695	38

The following table shows the estimated current sediment loading within the watershed, the prescribed "TMDL" values, and % reductions needed under 99th percentile daily loading conditions.

<i>Summary of "TMDL" -Based Load Reductions (expressed as 99th percentile daily loading) in the Upper Cedar Run Watershed</i>				
<i>Watershed</i>	<i>Pollutant</i>	<i>Existing Load (lbs/d)</i>	<i>TMDL (lbs/d)</i>	<i>% Reduction</i>
Upper Cedar Run	Sediment	318,067	167,208	47

The proposed TMDL document can be viewed at: <http://www.dep.state.pa.us/dep/deputate/watermgt/wqp/wqstandards/tmdl/UpperCedarRunTMDL.pdf>

Otherwise, copies of the proposed TMDL document or supporting information may be requested by emailing Michael Morris by e-mail at michamorri@pa.gov or by telephone at 717-772-5670.

Written/typed comments will be accepted at the previous e-mail address. While emailed comments are preferable, written comments may also be sent by mail to:

Michael Morris, Water Program Specialist
Bureau of Clean Water
Pennsylvania Department of Environmental Protection
Rachel Carson State Office Building
400 Market Street
Harrisburg, PA 17105

Comments must be submitted within 30-days after publication of this notice in the April 23, 2022 issue of the *Pennsylvania Bulletin*. The Department will consider all written/typed comments submitted within the deadline prior to submitting the final TMDL document to EPA for approval.

REQUEST FOR COMMENT

Proposed Total Maximum Daily Loads (TMDLs) for the UNT South Branch Conewago Creek Watershed in Adams County.

Central Office: Bureau of Clean Water, P.O. Box 8774, Harrisburg, PA 17105-8774.

The Department of Environmental Protection will accept comments on the proposed "TMDLs" developed for an Unnamed Tributary to (UNT) the South Branch Conewago Creek under Section 303(d) of the Clean Water Act. The Pennsylvania Integrated Water Quality Monitoring and Assessment Report included stream segments listed as impaired for aquatic life in the watershed. The impairments addressed by this document were caused by excessive siltation due to agriculture.

There currently are no State or Federal in-stream numerical water quality criteria for sediment. Therefore, the Department utilized a reference watershed approach to implement the applicable narrative criteria. The proposed TMDL document sets allowable loading of sediment in the UNT South Branch Conewago Creek Watershed. The "TMDLs" included allocations for nonpoint sources, reserves for future point sources, as well as margin of safety factors. Nonpoint source load allocations were made for cropland, hay/pasture land and streambank source sectors present in the watershed. Data used in establishing the TMDL were primarily generated using a water quality analysis model (Model My Watershed) made available through the Stroud Water Research Center.

The following table shows the estimated current sediment loadings within the watershed, the prescribed "TMDL" values, and % reductions needed under annual average conditions.

<i>Summary of "TMDL" -Based Load Reductions (expressed as annual averages) in the UNT South Branch Conewago Creek Watershed</i>				
<i>Watershed</i>	<i>Pollutant</i>	<i>Existing Load (lbs/yr)</i>	<i>"TMDL" (lbs/yr)</i>	<i>% Reduction</i>
UNT South Branch Conewago Creek	Sediment	1,855,856	354,166	81

The following table shows the estimated current sediment loading within the watershed, the prescribed "TMDL" values, and % reductions needed under 99th percentile daily loading conditions.

<i>Summary of "TMDL" -Based Load Reductions (expressed as 99th percentile daily loading) in the UNT South Branch Conewago Creek Watershed</i>				
<i>Watershed</i>	<i>Pollutant</i>	<i>Existing Load (lbs/d)</i>	<i>TMDL (lbs/d)</i>	<i>% Reduction</i>
UNT South Branch Conewago Creek	Sediment	98,962	21,134	79

The proposed TMDL document can be viewed at: <http://www.dep.state.pa.us/dep/deputate/watermgt/wqp/wqstandards/tmdl/UNTSouthBranchConewagoTMDL.pdf>

Otherwise, copies of the proposed TMDL document or supporting information may be requested by emailing Michael Morris by e-mail at michamorri@pa.gov or by telephone at 717-772-5670.

Note that a prior draft version was made available for review and advertised in the September 4, 2021 issue of the *Pennsylvania Bulletin*. Significant updates occurred since the prior draft, so a new draft is being made available for public review.

Written/typed comments will be accepted at the previous email address. While emailed comments are preferable, written comments may also be sent by mail to:

Michael Morris, Water Program Specialist
Bureau of Clean Water
Pennsylvania Department of Environmental Protection
Rachel Carson State Office Building
400 Market Street
Harrisburg, PA 17105

Comments must be submitted within 30 days after publication of this notice in the April 23, 2022 issue of the *Pennsylvania Bulletin*. The Department will consider all written/typed comments submitted within the deadline prior to submitting the final TMDL document to EPA for approval.

EROSION AND SEDIMENT CONTROL PERMIT AMENDMENT

Southeast Region: Waterways and Wetlands Program, 2 East Main Street, Norristown, PA 19401, Telephone 484.250.5160.

The Department of Environmental Protection (Department) provides notice of the Department's approval of modifications (Major Amendment) to the following Chapter 102, Erosion and Sediment Control Permit, issued for the Pennsylvania Pipeline Project (PPP)/Mariner East II.

<i>Ch. 102 Permit No.</i>	<i>Applicant Name & Address</i>	<i>Counties</i>	<i>DEP Regional Office</i>
ESG0100015001	Sunoco Pipeline, LP (SPLP) 535 Fritztown Road Sinking Spring, PA 19608	Chester	Southeast Region

Chapter 102 Permit No. ESG0100015001.

On January 19, 2022, the Department received a Major Amendment Request for Marsh Creek Sediment Remediation, Upper Uwchlan Township, Chester County. The Request was submitted pursuant to the terms of a Consent Order and Agreement entered into between the Pennsylvania Department of Environmental Protection, the Pennsylvania Department of Conservation and Natural Resources, and SPLP on December 6, 2021. The Department approved the Request as a Major Amendment to the Permit on April 7, 2022.

The Amendment will support the dewatering of sediment dredged from a predetermined area of Marsh Creek Lake. The sediment dredging plan is detailed in the Marsh Creek Lake Impact Assessment and Restoration Plan dated December 3, 2021, approved by the Department on December 6, 2021, and amended in February 2022, with final approval by the Department on March 22, 2022.

Hydraulically dredged sediments will be pumped to an upland sediment management area (SMA) to be passively dewatered using geotextile tubes. Following completion of sufficient dewatering, sediment will be loaded onto trucks for transportation off-site for disposal at an approved disposal facility. All facilities will be temporary, and all upland areas will be restored to existing conditions, grades, and elevations following completion of sediment load-out work. Access to the workspace will utilize a rock construction entrance off Lakeview Road.

The Amendment increases the limit of disturbance (LOD) by 4.06 acres. This includes 1.37 acres of proposed bulk earthwork where areas will be topsoiled and graded for the purposes of installing the rock construction entrance, a temporary construction road, and the preparation of the SMA where the geotubes will be placed. The remaining 2.69 acres will be used for the temporary storage of materials, products and equipment associated with dredging and dewatering activity, and will not be topsoiled or graded. These areas are subject to erosion and sedimentation (E&S) controls, and have been included as part of the LOD, even though utilization of these areas will not result in earth disturbance.

For more detailed information regarding the Southeast Regional Office Chapter 102 Permit (ESG0100015001) related to this project, which is available in the Department's Regional Office and available online at dep.pa.gov/pipelines, contact the Southeast Regional Office, (484) 250-5160 to request a file review.

Any person aggrieved by these actions may appeal, pursuant to Section 4 of the Environmental Hearing Board Act, 35 P.S. Section 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 receipt of written notice of this action 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.

[Pa.B. Doc. No. 22-604. Filed for public inspection April 22, 2022, 9:00 a.m.]

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Bid Opportunity

OSM 63(3803)102.1, Abandoned Mine Reclamation Project, Monongahela South No. 1—Phase 2, City of Monongahela, Washington County. The principal items of work and approximate quantities include: excavation and backfilling: excavation, 6,080 cubic yards; backfill 5,830 cubic yards; subsurface drains: toe key, 192 linear feet; geogrid reinforcements, 23,650 square yards; cast in-place concrete driveway, 2,752 square feet; and gravel driveway, 4,666 square feet.

This bid issues on April 15, 2022, and bids will be opened on May 19, 2022, at 2 p.m. A mandatory prebid conference is scheduled for May 3, 2022, at 10 a.m. Representatives from the Department of Environmental Protection (Department) will meet the contractors at the Department's Cambria District Office, 286 Industrial Park Road, Ebensburg, PA 15931. Failure to attend the prebid conference will be cause for rejection of the bid. Bid documents, including drawings in PDF format and AutoCAD Map 3D format, may be downloaded for free beginning on the issue date from the Department by going to www.BidExpress.com. This project is financed by the Federal government under the authority given it by the Surface Mining Control and Reclamation Act of 1977 (act) (30 U.S.C.A. § 1201—1328) and is subject to the act and to the Federal grant for this project. Contact the Construction Contracts Section at (717) 787-7820 or RA-ConstructionContr@pa.gov for more information on this bid.

PATRICK McDONNELL,
Secretary

[Pa.B. Doc. No. 22-605. Filed for public inspection April 22, 2022, 9:00 a.m.]

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Federal Consistency under the Coastal Zone Management Act; Erie Harbor North Pier Repair Project

This notice is published under section 306(d)(14) of the Federal Coastal Zone Management Act of 1972 (CZMA) (16 U.S.C.A. § 1455(d)(14)), relating to public participation in consistency determinations. The Department of Environmental Protection (Department) Coastal Resources Management Program has received notice that

the United States Army Corps of Engineers (applicant) is proposing the Erie Harbor North Pier Repair Project (Project).

The proposed Project includes two primary repair needs in the form of a failed section of the timber crib and concrete cap as well as sheet pile separation. A third issue identified as cracking of the concrete cap at the east head of the structure will also be evaluated for severity and repair need. These issues are further detailed as follows:

1. *Timber crib failure:* An approximate 40-foot section of the North Pier has partially collapsed to the east of the United States Coast Guard Erie Station embayment. This section was built in 1899 and consists of timber crib filled with stone and a series of piles driven approximately 1 foot waterward of the crib and supports a horizontal timber and concrete cap that has separated from the piles and settled. The timber crib failure would be encased between parallel sheet pile walls connected with tie rods and capped with reinforced concrete similar to the repairs completed to the east and west of the failed section. The sheet pile encasement would be implemented for approximately 250 feet of the North Pier and tie in directly with sheet pile encasement completed to the east of the failed area. New sheet pile would be installed within a few feet of the face of the existing structure and match the offset and alignment of the encasement repair complete to the east of the failure.

2. *Sheet pile separation:* Separation of the sheet pile is occurring east of the collapsed section along the North Pier. This separation occurs where there are failures of the bolts attaching the seawall to the whaler, allowing the sheets to bend toward the channel without restraint. Sheet pile separation would be repaired by replacing the existing bolts reconnecting to the existing wales or by installing new bolts, or both to directly connect the sheet pile to the existing concrete cap. The new bolts would be used to draw the sheet pile back to the cap where possible. Another alternative considered was to use new steel brackets to connect the sheet pile to the existing wale. In areas where the sheet cannot be drawn back to the cap and where new brackets are installed the void would be filled with grout or concrete. The grout/concrete would be placed within the sheet pile and above water with no material being allowed to enter the water.

3. *Cracked concrete cap:* Cracking of the concrete cap was noted at the east head of the structure during period inspection of the North Pier during the summer of 2021. The crack will be monitored as a part of this Project to determine the need for repair.

This Project is subject to Department review for Federal consistency because it is a Federal agency activity and will have reasonably foreseeable effects on this Commonwealth's coastal resources or uses.

In accordance with section 307 of the CZMA (16 U.S.C.A. § 1456) and the National Oceanic and

Atmospheric Administration (NOAA) regulations at 15 CFR Part 930, Subpart C (relating to consistency for Federal agency activities), the applicant has determined that the proposed activity will be conducted in a manner consistent with the applicable enforceable policies of the Commonwealth's NOAA-approved Coastal Resources Management Program. Interested parties may request a copy of the Federal Consistency Determination from the Department contact listed as follows.

Questions regarding this review can be directed to Matthew Walderon, Federal Consistency Coordinator, at RA-Fed_Consistency@pa.gov or (717) 772-2196.

The Department will consider all comments received on or before Saturday, May 7, 2022, before issuing a final Federal consistency concurrence or objection. Comments

submitted by facsimile will not be accepted. Comments, including comments submitted by e-mail, must include the commentator's name and address. Commentators are encouraged to submit comments using the Department's online eComment tool at www.ahs.dep.pa.gov/eComment. Written comments can be submitted by e-mail to ecomment@pa.gov or by mail to the Department of Environmental Protection, Policy Office, 400 Market Street, P.O. Box 2063, Harrisburg, PA 17105-2063.

PATRICK McDONNELL,
Secretary

[Pa.B. Doc. No. 22-606. Filed for public inspection April 22, 2022, 9:00 a.m.]

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Recycling Grant Awards under the Municipal Waste Planning, Recycling and Waste Reduction Act of 1988, Act 101

The Department of Environmental Protection announces the following grants to municipalities for recycling programs under section 902 of the Municipal Waste Planning, Recycling and Waste Reduction Act (act) (53 P.S. § 4000.902). An amount of \$30.5 million in grants was awarded to 157 municipalities as outlined as follows.

Grant funds are used to develop and implement recycling programs. Municipalities and counties are eligible for up to 90% funding of approved recycling program costs. Municipalities considered financially distressed by the Department of Community and Economic Development under the Municipalities Financial Recovery Act (53 P.S. §§ 11701.101—11701.712), also known as the Financially Distressed Municipalities Act, are eligible for 100% of approved costs. Grant awards are predicated on the receipt of recycling fees required by sections 701 and 702 of the act (53 P.S. §§ 4000.701 and 4000.702) and the availability of moneys in the Recycling Fund.

Inquiries regarding the grant offerings should be directed to Mark Vottero, Recycling Grants Coordinator, Department of Environmental Protection, Bureau of Waste Management, Division of Waste Minimization and Planning, Rachel Carson State Office Building, P.O. Box 8472, Harrisburg, PA 17105-8472.

	<i>Municipality/County</i>	<i>Project</i>	<i>Award</i>
<i>Southeast Region</i>			
1	Lower Makefield Township Bucks County	Leaf and Yard Waste Collection Program	\$78,195
2	Quakertown Borough Bucks County	Curbside Recycling Collection Program	\$244,640
3	Middletown Township Bucks County	Curbside Recycling and Program Development Programs	\$132,713
4	Caln Township Chester County	Curbside Recycling Collection Program	\$216,940
5	Chester County SWA Chester County	Drop-Off Recycling Program	\$161,471
6	Upper Uwchlan Township Chester County	Curbside Recycling Collection Program	\$17,540
7	Phoenixville Borough Chester County	Commercial Recycling Collection Program	\$272,093
8	East Fallowfield Township Chester County	Curbside Recycling Collection	\$192,600
9	SE Chester County RA Chester County	Curbside Collection and Leaf Waste Collection Programs	\$295,862
10	South Coatesville Borough Chester County	Curbside Recycling Collection Program	\$8,224
11	Modena Borough Chester County	Curbside Recycling Collection Program	\$18,000
12	Springfield Township Delaware County	Recycling Collection Program	\$116,507
13	Marple Township Delaware County	Recycling Collection Program	\$171,468

	<i>Municipality / County</i>	<i>Project</i>	<i>Award</i>
14	Haverford Township Delaware County	Recycling and Yard Waste Collection Programs	\$283,068
15	Folcroft Borough Delaware County	Curbside Collection and Leaf Waste Processing Programs	\$50,100
16	Lower Moreland Township Montgomery County	Leaf and Yard Waste Composting Program	\$310,748
17	Bridgeport Borough Montgomery County	Leaf and Yard Waste Collection Program	\$32,229
18	Jenkintown Borough Montgomery County	Leaf and Yard Waste Collection Program	\$139,500
19	Upper Dublin Township Montgomery County	Leaf and Yard Waste Collection Program	\$350,000
20	Hatboro Borough Montgomery County	Leaf and Yard Waste Collection Program	\$185,622
21	Whitemarsh Township Montgomery County	Leaf and Yard Waste Collection Program	\$267,107
22	Abington Township Montgomery County	Leaf and Yard Waste Collection Program	\$350,000
23	Upper Moreland Township Montgomery County	Leaf and Yard Waste Collection Program	\$350,000
24	Plymouth Township Montgomery County	Leaf and Yard Waste Collection Program	\$231,383
25	Philadelphia City Philadelphia County	Curbside Recycling Collection Program	\$350,000
<i>Northeast Region</i>			
26	Towamensing Township Carbon County	Recycling Center	\$51,625
27	Scranton City Lackawanna County	Curbside Recycling Program	\$350,000
28	Lackawanna County Lackawanna County	Recycling Program for County Buildings	\$9,530
29	Blakely Borough Lackawanna County	Leaf Waste Collection Program	\$114,414
30	Moosic Borough Lackawanna County	Curbside Leaf Waste Collection Program	\$267,368
31	Jessup Borough Lackawanna County	Curbside Leaf Waste Collection Program	\$195,975
32	Allentown City Lehigh County	Curbside Recycling Program and Recycling Center	\$350,000
33	Coplay Borough Lehigh County	Curbside Recycling Program	\$9,243
34	Salisbury Township Lehigh County	Curbside and Leaf Waste Recycling Programs	\$132,598
35	Emmaus Borough Lehigh County	Curbside Leaf Waste Collection Program	\$65,421
36	Fountain Hill Borough Lehigh County	Curbside Leaf Waste Collection Program	\$34,821
37	Whitehall Township Lehigh County	Curbside Leaf Waste Collection Program and Recycling Center	\$68,006
38	Dallas Area Municipal Authority Luzerne County	Curbside Recycling Program	\$350,000
39	West Wyoming Borough Luzerne County	Leaf Waste Composting Program	\$206,729
40	Wyoming Borough Luzerne County	Curbside Recycling Program	\$32,938

	<i>Municipality / County</i>	<i>Project</i>	<i>Award</i>
41	Exeter Borough Luzerne County	Curbside Recycling Program	\$350,000
42	Duryea Borough Luzerne County	Curbside Recycling Program	\$269,833
43	Chestnuthill Township Monroe County	Recycling Center	\$350,000
44	Polk Township Monroe County	Recycling Center	\$78,626
45	Oak Grove Compost Processing Monroe County	Leaf Waste Composting Program	\$229,819
46	Monroe County MWMA Monroe County	Recycling Center and Drop-off Site	\$350,000
47	Smithfield Township Monroe County	Curbside Leaf Waste Collection Program	\$186,981
48	Coolbaugh Township Monroe County	Leaf Waste Composting Program	\$350,000
49	East Stroudsburg Borough Monroe County	Leaf Waste Composting Program	\$47,694
50	Upper Nazareth Township Northampton County	Curbside Leaf Waste Collection Program	\$114,489
51	First Regional Compost Authority Northampton County	Leaf Waste Composting Program	\$350,000
52	Bethlehem City Northampton County	Recycling Center	\$195,957
53	Forks Township Northampton County	Recycling and Leaf Waste Composting Center	\$159,171
54	Palmer Township Northampton County	Recycling Center	\$350,000
55	Wilson Borough Northampton County	Curbside Leaf Waste Collection Program	\$44,352
56	Nazareth Borough Northampton County	Recycling and Leaf Waste Composting Center	\$167,172
57	Pike County Pike County	Recycling Center	\$207,350
58	Wayne County Wayne County	Recycling Center	\$219,717
<i>Southcentral Region</i>			
59	Wyomissing Borough Berks County	Curbside Leaf and Yard Waste Collection and Processing Programs	\$100,343
60	Muhlenberg Township Berks County	Curbside Leaf and Yard Waste Collection and Processing Programs	\$348,392
61	Sinking Spring Borough Berks County	Curbside Leaf and Yard Waste Collection and Processing Programs	\$134,518
62	Maidencreek Township Berks County	Yard Waste Facility, Curbside Collection and Recycling Education	\$78,813
63	Heidelberg Township Berks County	Yard Waste Facility, Leaf and Yard Waste Collection and Processing	\$264,804
64	Bernville Borough Berks County	Yard Waste Facility, Leaf and Yard Waste Collection and Processing	\$158,818
65	Kenhorst Borough Berks County	Curbside Leaf and Yard Waste Collection and Processing Programs	\$212,540
66	Laureldale Borough Berks County	Leaf and Yard Waste Collection, Curbside Recycling, Education	\$314,139
67	Mohnton Borough Berks County	Leaf and Yard Waste Facility and Processing, Curbside Recycling	\$88,308

	<i>Municipality / County</i>	<i>Project</i>	<i>Award</i>
68	Spring Township Berks County	Yard Waste Facility, Leaf and Yard Waste Collection, Education	\$346,234
69	Exeter Township Berks County	Leaf and Yard Waste Facility and Processing, Curbside Recycling	\$345,477
70	Berks County Solid Waste Authority Berks County	Recycling Facility and Collection Programs	\$100,206
71	Robesonia Borough Berks County	Leaf and Yard Waste Facility and Collection Program	\$129,154
72	Reading City Berks County	Leaf and Yard Waste Facility, Curbside Recycling and Education	\$347,235
73	Intermunicipal Relations Committee Blair County	Leaf and Yard Waste Processing and Recycling Collection Programs	\$317,847
74	Altoona City Blair County	Leaf Waste and Recycling Collection Programs	\$278,271
75	Logan Township Blair County	Leaf and Yard Waste Collection Equipment	\$216,195
76	Hampden Township Cumberland County	Leaf Waste Collection and Recycling Education Programs	\$208,008
77	Middlesex Township Cumberland County	Leaf and Yard Waste Processing Program	\$31,511
78	Cumberland County Cumberland County	Recycling and Food Waste/ Organics Processing Programs	\$346,076
79	Camp Hill Borough Cumberland County	Leaf and Yard Waste Collection and Processing Programs	\$219,396
80	Lower Paxton Township Dauphin County	Leaf and Yard Waste Collection and Processing Programs	\$350,000
81	Hummelstown Borough Dauphin County	Leaf and Yard Waste Collection and Processing Programs	\$217,259
82	Middletown Borough Dauphin County	Leaf and Yard Waste Collection and Processing Programs	\$276,919
83	Harrisburg City Dauphin County	Curbside Recycling Collection Program	\$350,000
84	Lancaster City Lancaster County	Recycling Collection and Education Programs	\$73,183
85	East Petersburg Borough Lancaster County	Recycling Education Program	\$1,404
86	Mount Joy Borough Lancaster County	Leaf Waste Processing and Recycling Education Programs	\$208,693
87	West Earl Township Lancaster County	Yard Waste Facility and Recycling Education	\$26,940
88	Greater Lebanon Refuse Authority Lebanon County	Recycling Drop-Off Center and Yard Waste Facility	\$80,782
89	North Lebanon Township Lebanon County	Curbside and Leaf Waste Collection Programs	\$213,707
90	Lebanon City Lebanon County	Recycling Collection and Education Programs	\$8,041
91	Union Township Lebanon County	Recycling Drop-Off Facility	\$23,161
92	South Lebanon Township Lebanon County	Leaf and Yard Waste Processing Program	\$339,103
93	West York Borough York County	Curbside and Leaf Waste Collection Programs	\$103,607
94	Fairview Township York County	Leaf Waste Facility and Processing Program	\$153,728
95	Red Lion Borough York County	Curbside Recycling Collection Program	\$9,198

	<i>Municipality / County</i>	<i>Project</i>	<i>Award</i>
96	Hanover Borough York County	Curbside and Leaf Waste Collection and Processing Programs	\$282,125
97	Dallastown Borough York County	Leaf Waste Processing and Recycling Education Programs	\$69,284
98	North Hopewell Township York County	Leaf Waste Facility and Processing Program	\$303,964
<i>Northcentral Region</i>			
99	Cameron County Cameron County	Recycling Center	\$127,444
100	Centre County Centre County	Recycling Collection, Processing and Education Programs	\$350,000
101	Spring Township Centre County	Leaf and Yard Waste Collection Programs	\$268,335
102	State College Borough Centre County	Leaf and Yard Waste Processing Program	\$344,950
103	Bellefonte Borough Centre County	Leaf and Yard Waste Collection and Processing Programs	\$310,070
104	Harris Township Centre County	Leaf and Yard Waste Collection Program	\$69,692
105	Snow Shoe Township Centre County	Leaf and Yard Waste Collection and Processing Programs	\$136,256
106	Centre Hall Borough Centre County	Leaf and Yard Waste Collection Program	\$316,157
107	Philipsburg Borough Centre County	Leaf Waste and Recycling Collection Programs	\$44,268
108	Millheim Borough Centre County	Leaf and Yard Waste Collection and Processing Programs	\$55,500
109	Curwensville Borough Clearfield County	Leaf and Yard Waste Collection Program	\$203,684
110	Clearfield Borough Clearfield County	Recycling Collection Program	\$114,606
111	Lawrence Township Clearfield County	Leaf and Yard Waste Collection and Processing Programs	\$350,000
112	Clinton County SWA Clinton County	Recycling and Leaf Waste Collection and Education Programs	\$349,844
113	Berwick Borough Columbia County	Recycling and Leaf Waste Collection Programs	\$275,271
114	Lycoming County Lycoming County	Recycling and Leaf Waste Collection and Education Programs	\$210,526
115	South Williamsport Borough Lycoming County	Leaf and Yard Waste Collection and Processing Programs	\$219,782
116	Sunbury Municipal Authority Northumberland County	Recycling and Leaf Waste Collection and Processing Programs	\$220,611
117	Shamokin City Northumberland County	Recycling and Leaf and Yard Waste Collection Programs	\$114,016
118	Coal Township Northumberland County	Leaf and Yard Waste Collection and Processing Programs	\$350,000
119	Milton Borough Northumberland County	Recycling and Leaf Yard Waste Collection Programs	\$160,875
120	Snyder County Snyder County	Recycling Collection and Education Programs	\$75,350
121	Mansfield Borough Tioga County	Leaf and Yard Waste Collection and Processing Programs	\$59,394
122	Union County Union County	Recycling and Leaf Waste Collection and Education Programs	\$114,908

<i>Municipality / County</i>		<i>Project</i>	<i>Award</i>
<i>Southwest Region</i>			
123	Bridgeville Borough Allegheny County	Leaf Waste Collection and Recycling Education Programs	\$229,250
124	Fox Chapel Borough Allegheny County	Curbside and Leaf Waste Collection and Drop-off Programs	\$83,503
125	Penn Hills Municipality Allegheny County	Leaf Waste Collection, Curbside Collection and Recycling Education	\$211,714
126	West Mifflin Borough Allegheny County	Curbside Collection Program	\$71,568
127	Crafton Borough Allegheny County	Leaf Waste Collection and Recycling Education Programs	\$65,841
128	Elizabeth Township Allegheny County	Curbside Collection Program	\$276,085
129	Pittsburgh City Allegheny County	Curbside Collection, Drop-off Recycling and Recycling Education	\$349,557
130	Beaver County Beaver County	Drop-off Recycling, Leaf Waste and Recycling Processing Programs	\$350,000
131	Aliquippa City Beaver County	Leaf Waste Processing Program	\$70,000
132	Beaver Borough Beaver County	Recycling Center	\$109,215
133	Rochester Township Beaver County	Drop-off Recycling, Curbside Collection and Recycling Education	\$19,143
134	Patterson Township Beaver County	Recycling Center	\$216,000
135	Cambria County SWA Cambria County	Drop-Off Recycling Program	\$47,414
136	North Union Township Fayette County	Curbside Collection, Leaf Waste Processing and Recycling Education	\$67,500
137	Uniontown City Fayette County	Curbside Collection and Recycling Education Programs	\$180,000
138	German Township Fayette County	Leaf Waste Processing, Drop-off Recycling, and Recycling Education	\$149,400
139	Connellsville City Fayette County	Curbside Collection Program	\$80,919
140	Washington Township Fayette County	Leaf Waste Collection Program	\$49,500
141	Fayette County Fayette County	Recycling Center, Drop-off Recycling and Recycling Education	\$350,000
142	Greensburg City Westmoreland County	Leaf Waste Collection and Processing Program	\$70,461
<i>Northwest Region</i>			
143	Armstrong County Armstrong County	Recycling Collection and Processing Programs	\$350,000
144	Mars Borough Butler County	Leaf and Yard Waste Collection Program	\$140,069
145	Cranberry Township Butler County	Curbside Recycling Collection Program	\$350,000
146	Ridgway Borough Elk County	Leaf and Yard Waste Collection Program	\$212,025
147	Elk County Elk County	Recycling Center	\$219,902
148	Millcreek Township Erie County	Organics Collection and Processing Program	\$350,000
149	Erie City Erie County	Leaf and Yard Waste Processing Program	\$350,000

	<i>Municipality / County</i>	<i>Project</i>	<i>Award</i>
150	Edinboro Borough Erie County	Leaf and Yard Waste Collection and Processing Programs	\$291,103
151	Fairview Township Erie County	Curbside Recycling Program	\$153,000
152	Erie County Erie County	Curbside Recycling and Educational Programs	\$334,622
153	Indiana County SWA Indiana County	Leaf and Yard Waste Processing and Education Programs	\$300,131
154	Jefferson County SWA Jefferson County	Curbside Collection and Educational Programs	\$339,022
155	Bradford City McKean County	Recycling Center and Leaf and Yard Waste Processing	\$117,160
156	Greenville Borough Mercer County	Leaf and Yard Waste Processing Program	\$41,171
157	Venango County Venango County	Recycling Center and Drop-off Recycling Programs	\$300,286

PATRICK McDONNELL,
Secretary

[Pa.B. Doc. No. 22-607. Filed for public inspection April 22, 2022, 9:00 a.m.]

DEPARTMENT OF GENERAL SERVICES

Exemption from Requirements

A study to determine if Slippery Rock University (State System of Higher Education) located in Slippery Rock Borough, Butler County should be exempted from the requirements of section 2420 of The Administrative Code of 1929 (71 P.S. § 650) will be performed within the next 90 days. The results of this study may result in the conversion of Slippery Rock University coal fired heating system to a fuel other than coal.

For additional information, contact Mark Guida, Director, Capital Project Design Management, Bureau of Preconstruction, Department of General Services, 2nd Floor, Arsenal Building, 1800 Herr Street, Harrisburg, PA 17103, (717) 787-1867, maguida@pa.gov.

CURTIS M. TOPPER,
Secretary

[Pa.B. Doc. No. 22-608. Filed for public inspection April 22, 2022, 9:00 a.m.]

DEPARTMENT OF HEALTH

Organ Donation Advisory Committee Virtual Public Meeting

The Organ Donation Advisory Committee established under 20 Pa.C.S. § 8622 (relating to The Governor Robert

P. Casey Memorial Organ and Tissue Donation Awareness Trust Fund), will hold a virtual public meeting on Thursday, May 5, 2022, from 10 a.m. to 1:30 p.m. The purpose of the virtual public meeting is to review progress in the area of organ and tissue donation in this Commonwealth, recommend education and awareness activities, recommend priorities in expenditures from the Organ and Tissue Donation Awareness Fund (Fund) and advise the Acting Secretary on matters relating to the administration of the Fund. The virtual public meeting will be conducted using Microsoft Teams. The call-in number is (267) 332-8737 and the conference ID is 496 606 721#. Contact the Organ Donation Program at (717) 787-5876 or ra-dhorgandonation@pa.gov with questions regarding connecting to the virtual public meeting.

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 at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

This virtual public meeting is subject to cancellation without notice.

Dr. DENISE JOHNSON,
Acting Secretary

[Pa.B. Doc. No. 22-609. Filed for public inspection April 22, 2022, 9:00 a.m.]

DEPARTMENT OF HUMAN SERVICES

Income Limits and Co-payments for the Subsidized Child Care Program

This notice increases the income limits codified at 55 Pa. Code Chapter 3041, Appendix B (relating to co-payment chart family co-payment scale (based on the 2022 Federal Poverty Income Guidelines)) under 55 Pa. Code § 3041.107(b) (relating to availability and use of the Federal Poverty Income Guidelines). This increase is effective May 2, 2022.

Section 3041.107(b) of 55 Pa. Code requires the Department of Human Services to update the co-payment schedule in 55 Pa. Code Chapter 3041, Appendix B to reflect changes in the Federal Poverty Income Guidelines (FPIG). Effective May 2, 2022, the income guidelines for the subsidized child care program are being raised due to increases in the FPIG. Under section 408.3 of the Human Services Code (62 P.S. § 408.3), the co-payment schedule is adjusted to reflect the increases. Chapter 3041, Appendix B of 55 Pa. Code also establishes the family co-payment levels according to the family's computed annual income and lists the weekly family co-payment based on the annual family income.

MEG SNEAD,
Acting Secretary

Fiscal Note: 14-NOT-1505. No fiscal impact; (8) recommends adoption.

CO-PAYMENT CHART

FAMILY CO-PAYMENT SCALE EFFECTIVE MAY 2, 2022

(BASED ON THE 2022 FEDERAL POVERTY INCOME GUIDELINES)

<i>Weekly Co-pay</i>	<i>Family Size: 1 Annual Income</i>		<i>Weekly Co-pay</i>	<i>Family Size: 2 Annual Income</i>		<i>Weekly Co-pay</i>	<i>Family Size: 3 Annual Income</i>	
\$5	Less than:	\$7,186	\$5	Less than:	\$7,530	\$5	Less than:	\$8,118
\$6	\$7,186.01	\$8,783	\$6	\$7,530.01	\$8,606	\$6	\$8,118.01	\$9,471
\$7	\$8,783.01	\$9,581	\$7	\$8,606.01	\$9,681	\$7	\$9,471.01	\$10,824
\$8	\$9,581.01	\$10,379	\$8	\$9,681.01	\$10,757	\$8	\$10,824.01	\$12,177
\$9	\$10,379.01	\$11,178	\$9	\$10,757.01	\$11,833	\$10	\$12,177.01	\$13,530
\$10	\$11,178.01	\$11,976	\$10	\$11,833.01	\$12,909	\$11	\$13,530.01	\$14,883
\$11	\$11,976.01	\$12,775	\$11	\$12,909.01	\$13,984	\$12	\$14,883.01	\$16,236
\$12	\$12,775.01	\$13,573	\$12	\$13,984.01	\$15,060	\$14	\$16,236.01	\$17,589
\$13	\$13,573.01	\$14,371	\$13	\$15,060.01	\$16,136	\$15	\$17,589.01	\$18,942
\$14	\$14,371.01	\$15,170	\$15	\$16,136.01	\$17,211	\$17	\$18,942.01	\$20,295
\$15	\$15,170.01	\$15,968	\$16	\$17,211.01	\$18,287	\$19	\$20,295.01	\$21,648
\$16	\$15,968.01	\$16,767	\$18	\$18,287.01	\$19,363	\$20	\$21,648.01	\$23,001
\$17	\$16,767.01	\$17,565	\$19	\$19,363.01	\$20,439	\$22	\$23,001.01	\$24,354
\$18	\$17,565.01	\$18,363	\$20	\$20,439.01	\$21,514	\$24	\$24,354.01	\$25,707
\$20	\$18,363.01	\$19,162	\$22	\$21,514.01	\$22,590	\$26	\$25,707.01	\$27,060
\$21	\$19,162.01	\$19,960	\$23	\$22,590.01	\$23,666	\$27	\$27,060.01	\$28,413
\$22	\$19,960.01	\$20,759	\$25	\$23,666.01	\$24,741	\$29	\$28,413.01	\$29,766
\$23	\$20,759.01	\$21,557	\$26	\$24,741.01	\$25,817	\$31	\$29,766.01	\$31,119
\$24	\$21,557.01	\$22,356	\$28	\$25,817.01	\$26,893	\$33	\$31,119.01	\$32,472
\$26	\$22,356.01	\$23,154	\$30	\$26,893.01	\$27,969	\$35	\$32,472.01	\$33,825
\$27	\$23,154.01	\$23,952	\$31	\$27,969.01	\$29,044	\$37	\$33,825.01	\$35,178
\$28	\$23,952.01	\$24,751	\$33	\$29,044.01	\$30,120	\$39	\$35,178.01	\$36,531
\$30	\$24,751.01	\$25,549	\$35	\$30,120.01	\$31,196	\$42	\$36,531.01	\$37,884
\$31	\$25,549.01	\$26,348	\$37	\$31,196.01	\$32,271	\$44	\$37,884.01	\$39,237
\$33	\$26,348.01	\$27,146	\$38	\$32,271.01	\$33,347	\$46	\$39,237.01	\$40,590
\$34	\$27,146.01	\$27,944	\$40	\$33,347.01	\$34,423	\$48	\$40,590.01	\$41,943
\$36	\$27,944.01	\$28,743	\$42	\$34,423.01	\$35,499	\$51	\$41,943.01	\$43,296
\$37	\$28,743.01	\$29,541	\$44	\$35,499.01	\$36,574	\$53	\$43,296.01	\$44,649
\$39	\$29,541.01	\$30,340	\$46	\$36,574.01	\$37,650	\$55	\$44,649.01	\$46,002
\$40	\$30,340.01	\$31,138	\$48	\$37,650.01	\$38,726	\$58	\$46,002.01	\$47,355
\$42	\$31,138.01	\$31,937	\$50	\$38,726.01	\$39,801	\$60	\$47,355.01	\$48,708
	200% FPIG	\$27,180	\$52	\$39,801.01	\$40,877	\$63	\$48,708.01	\$50,061

NOTICES

2435

<i>Weekly Co-pay</i>	<i>Family Size: 1 Annual Income</i>		<i>Weekly Co-pay</i>	<i>Family Size: 2 Annual Income</i>		<i>Weekly Co-pay</i>	<i>Family Size: 3 Annual Income</i>	
			\$54	\$40,877.01	\$41,953	\$66	\$50,061.01	\$51,414
			\$56	\$41,953.01	\$43,029	\$68	\$51,414.01	\$52,767
				200% FPIG	\$36,620	\$71	\$52,767.01	\$54,121
							200% FPIG	\$46,060

<i>Weekly Co-pay</i>	<i>Family Size: 4 Annual Income</i>		<i>Weekly Co-pay</i>	<i>Family Size: 5 Annual Income</i>		<i>Weekly Co-pay</i>	<i>Family Size: 6 Annual Income</i>	
\$5	Less than:	\$8,152	\$5	Less than:	\$9,538	\$5	Less than:	\$8,740
\$6	\$8,152.01	\$9,782	\$7	\$9,538.01	\$11,446	\$6	\$8,740.01	\$10,925
\$7	\$9,782.01	\$11,412	\$8	\$11,446.01	\$13,353	\$8	\$10,925.01	\$13,109
\$8	\$11,412.01	\$13,043	\$10	\$13,353.01	\$15,261	\$9	\$13,109.01	\$15,294
\$10	\$13,043.01	\$14,673	\$12	\$15,261.01	\$17,169	\$11	\$15,294.01	\$17,479
\$11	\$14,673.01	\$16,303	\$13	\$17,169.01	\$19,076	\$13	\$17,479.01	\$19,664
\$13	\$16,303.01	\$17,933	\$15	\$19,076.01	\$20,984	\$15	\$19,664.01	\$21,849
\$15	\$17,933.01	\$19,564	\$17	\$20,984.01	\$22,891	\$18	\$21,849.01	\$24,034
\$17	\$19,564.01	\$21,194	\$19	\$22,891.01	\$24,799	\$20	\$24,034.01	\$26,219
\$18	\$21,194.01	\$22,824	\$22	\$24,799.01	\$26,707	\$22	\$26,219.01	\$28,404
\$20	\$22,824.01	\$24,455	\$24	\$26,707.01	\$28,614	\$25	\$28,404.01	\$30,589
\$22	\$24,455.01	\$26,085	\$26	\$28,614.01	\$30,522	\$27	\$30,589.01	\$32,774
\$24	\$26,085.01	\$27,715	\$29	\$30,522.01	\$32,429	\$30	\$32,774.01	\$34,959
\$27	\$27,715.01	\$29,346	\$31	\$32,429.01	\$34,337	\$33	\$34,959.01	\$37,144
\$29	\$29,346.01	\$30,976	\$34	\$34,337.01	\$36,245	\$36	\$37,144.01	\$39,328
\$31	\$30,976.01	\$32,606	\$36	\$36,245.01	\$38,152	\$39	\$39,328.01	\$41,513
\$33	\$32,606.01	\$34,237	\$39	\$38,152.01	\$40,060	\$41	\$41,513.01	\$43,698
\$35	\$34,237.01	\$35,867	\$41	\$40,060.01	\$41,967	\$44	\$43,698.01	\$45,883
\$38	\$35,867.01	\$37,497	\$44	\$41,967.01	\$43,875	\$47	\$45,883.01	\$48,068
\$40	\$37,497.01	\$39,128	\$47	\$43,875.01	\$45,783	\$50	\$48,068.01	\$50,253
\$42	\$39,128.01	\$40,758	\$50	\$45,783.01	\$47,690	\$54	\$50,253.01	\$52,438
\$45	\$40,758.01	\$42,388	\$53	\$47,690.01	\$49,598	\$57	\$52,438.01	\$54,623
\$47	\$42,388.01	\$44,018	\$55	\$49,598.01	\$51,506	\$60	\$54,623.01	\$56,808
\$50	\$44,018.01	\$45,649	\$59	\$51,506.01	\$53,413	\$64	\$56,808.01	\$58,993
\$53	\$45,649.01	\$47,279	\$62	\$53,413.01	\$55,321	\$67	\$58,993.01	\$61,178
\$55	\$47,279.01	\$48,909	\$65	\$55,321.01	\$57,228	\$71	\$61,178.01	\$63,362
\$58	\$48,909.01	\$50,540	\$68	\$57,228.01	\$59,136	\$74	\$63,362.01	\$65,547
\$61	\$50,540.01	\$52,170	\$71	\$59,136.01	\$61,044	\$78	\$65,547.01	\$67,732
\$64	\$52,170.01	\$53,800	\$75	\$61,044.01	\$62,951	\$82	\$67,732.01	\$69,917
\$67	\$53,800.01	\$55,431	\$78	\$62,951.01	\$64,859	\$86	\$69,917.01	\$72,102
\$70	\$55,431.01	\$57,061	\$82	\$64,859.01	\$66,766	\$89	\$72,102.01	\$74,287
\$73	\$57,061.01	\$58,691	\$85	\$66,766.01	\$68,674	\$94	\$74,287.01	\$76,472
\$76	\$58,691.01	\$60,322	\$89	\$68,674.01	\$70,582	\$98	\$76,472.01	\$78,657
\$79	\$60,322.01	\$61,952	\$93	\$70,582.01	\$72,489	\$102	\$78,657.01	\$80,842
\$82	\$61,952.01	\$63,582	\$96	\$72,489.01	\$74,397	\$106	\$80,842.01	\$83,027
\$86	\$63,582.01	\$65,213	\$100	\$74,397.01	\$76,305	\$110	\$83,027.01	\$85,212
	200% FPIG	\$55,500		200% FPIG	\$64,940	\$115	\$85,212.01	\$87,397
							200% FPIG	\$74,380

NOTICES

<i>Weekly Co-pay</i>	<i>Family Size: 7 Annual Income</i>		<i>Weekly Co-pay</i>	<i>Family Size: 8 Annual Income</i>		<i>Weekly Co-pay</i>	<i>Family Size: 9 Annual Income</i>	
\$5	Less than:	\$9,849	\$5	Less than:	\$10,958	\$5	Less than:	\$9,050
\$7	\$9,849.01	\$12,311	\$7	\$10,958.01	\$13,698	\$6	\$9,050.01	\$12,067
\$8	\$12,311.01	\$14,773	\$9	\$13,698.01	\$16,437	\$8	\$12,067.01	\$15,084
\$11	\$14,773.01	\$17,235	\$12	\$16,437.01	\$19,177	\$10	\$15,084.01	\$18,101
\$13	\$17,235.01	\$19,698	\$14	\$19,177.01	\$21,916	\$13	\$18,101.01	\$21,118
\$15	\$19,698.01	\$22,160	\$17	\$21,916.01	\$24,656	\$16	\$21,118.01	\$24,135
\$17	\$22,160.01	\$24,622	\$19	\$24,656.01	\$27,395	\$18	\$24,135.01	\$27,151
\$20	\$24,622.01	\$27,084	\$22	\$27,395.01	\$30,135	\$21	\$27,151.01	\$30,168
\$22	\$27,084.01	\$29,547	\$25	\$30,135.01	\$32,874	\$24	\$30,168.01	\$33,185
\$25	\$29,547.01	\$32,009	\$28	\$32,874.01	\$35,614	\$27	\$33,185.01	\$36,202
\$28	\$32,009.01	\$34,471	\$31	\$35,614.01	\$38,353	\$31	\$36,202.01	\$39,219
\$31	\$34,471.01	\$36,933	\$34	\$38,353.01	\$41,093	\$34	\$39,219.01	\$42,235
\$34	\$36,933.01	\$39,395	\$38	\$41,093.01	\$43,832	\$38	\$42,235.01	\$45,252
\$37	\$39,395.01	\$41,858	\$41	\$43,832.01	\$46,572	\$41	\$45,252.01	\$48,269
\$40	\$41,858.01	\$44,320	\$45	\$46,572.01	\$49,311	\$45	\$48,269.01	\$51,286
\$43	\$44,320.01	\$46,782	\$48	\$49,311.01	\$52,051	\$49	\$51,286.01	\$54,303
\$47	\$46,782.01	\$49,244	\$52	\$52,051.01	\$54,790	\$53	\$54,303.01	\$57,319
\$50	\$49,244.01	\$51,706	\$56	\$54,790.01	\$57,530	\$57	\$57,319.01	\$60,336
\$53	\$51,706.01	\$54,169	\$59	\$57,530.01	\$60,269	\$61	\$60,336.01	\$63,353
\$57	\$54,169.01	\$56,631	\$63	\$60,269.01	\$63,009	\$65	\$63,353.01	\$66,370
\$60	\$56,631.01	\$59,093	\$67	\$63,009.01	\$65,748	\$70	\$66,370.01	\$69,387
\$64	\$59,093.01	\$61,555	\$71	\$65,748.01	\$68,488	\$74	\$69,387.01	\$72,404
\$68	\$61,555.01	\$64,018	\$75	\$68,488.01	\$71,227	\$78	\$72,404.01	\$75,420
\$72	\$64,018.01	\$66,480	\$80	\$71,227.01	\$73,967	\$83	\$75,420.01	\$78,437
\$76	\$66,480.01	\$68,942	\$84	\$73,967.01	\$76,706	\$88	\$78,437.01	\$81,454
\$80	\$68,942.01	\$71,404	\$89	\$76,706.01	\$79,446	\$93	\$81,454.01	\$84,471
\$84	\$71,404.01	\$73,866	\$93	\$79,446.01	\$82,185	\$97	\$84,471.01	\$87,488
\$88	\$73,866.01	\$76,329	\$98	\$82,185.01	\$84,925	\$102	\$87,488.01	\$90,504
\$92	\$76,329.01	\$78,791	\$102	\$84,925.01	\$87,664	\$108	\$90,504.01	\$93,521
\$96	\$78,791.01	\$81,253	\$107	\$87,664.01	\$90,404	\$113	\$93,521.01	\$96,538
\$101	\$81,253.01	\$83,715	\$112	\$90,404.01	\$93,143	\$118	\$96,538.01	\$99,555
\$105	\$83,715.01	\$86,177	\$117	\$93,143.01	\$95,883	\$124	\$99,555.01	\$102,572
\$110	\$86,177.01	\$88,640	\$122	\$95,883.01	\$98,622	\$129	\$102,572.01	\$105,588
\$115	\$88,640.01	\$91,102	\$128	\$98,622.01	\$101,362	\$135	\$105,588.01	\$108,605
\$119	\$91,102.01	\$93,564	\$133	\$101,362.01	\$104,101	\$141	\$108,605.01	\$111,622
\$124	\$93,564.01	\$96,026	\$138	\$104,101.01	\$106,841	\$146	\$111,622.01	\$114,639
\$129	\$96,026.01	\$98,488	\$144	\$106,841.01	\$109,581	\$152	\$114,639.01	\$117,656
	200% FPIG	\$83,820		200% FPIG	\$93,260	\$158	\$117,656.01	\$120,673
							200% FPIG	\$102,700

<i>Weekly Co-pay</i>	<i>Family Size: 10 Annual Income</i>		<i>Weekly Co-pay</i>	<i>Family Size: 11 Annual Income</i>		<i>Weekly Co-pay</i>	<i>Family Size: 12 Annual Income</i>	
\$5	Less than:	\$9,882	\$5	Less than:	\$10,714	\$5	Less than:	\$11,546
\$6	\$9,882.01	\$13,176	\$7	\$10,714.01	\$14,286	\$7	\$11,546.01	\$15,395
\$9	\$13,176.01	\$16,471	\$10	\$14,286.01	\$17,857	\$10	\$15,395.01	\$19,244
\$11	\$16,471.01	\$19,765	\$12	\$17,857.01	\$21,428	\$13	\$19,244.01	\$23,092
\$14	\$19,765.01	\$23,059	\$15	\$21,428.01	\$25,000	\$16	\$23,092.01	\$26,941

<i>Weekly Co-pay</i>	<i>Family Size: 10 Annual Income</i>		<i>Weekly Co-pay</i>	<i>Family Size: 11 Annual Income</i>		<i>Weekly Co-pay</i>	<i>Family Size: 12 Annual Income</i>	
\$17	\$23,059.01	\$26,353	\$18	\$25,000.01	\$28,571	\$20	\$26,941.01	\$30,790
\$20	\$26,353.01	\$29,647	\$22	\$28,571.01	\$32,143	\$23	\$30,790.01	\$34,638
\$23	\$29,647.01	\$32,941	\$25	\$32,143.01	\$35,714	\$27	\$34,638.01	\$38,487
\$26	\$32,941.01	\$36,235	\$29	\$35,714.01	\$39,286	\$31	\$38,487.01	\$42,336
\$30	\$36,235.01	\$39,529	\$32	\$39,286.01	\$42,857	\$35	\$42,336.01	\$46,185
\$34	\$39,529.01	\$42,823	\$36	\$42,857.01	\$46,428	\$39	\$46,185.01	\$50,033
\$37	\$42,823.01	\$46,118	\$40	\$46,428.01	\$50,000	\$44	\$50,033.01	\$53,882
\$41	\$46,118.01	\$49,412	\$45	\$50,000.01	\$53,571	\$48	\$53,882.01	\$57,731
\$45	\$49,412.01	\$52,706	\$49	\$53,571.01	\$57,143	\$53	\$57,731.01	\$61,579
\$49	\$52,706.01	\$56,000	\$54	\$57,143.01	\$60,714	\$58	\$61,579.01	\$65,428
\$54	\$56,000.01	\$59,294	\$58	\$60,714.01	\$64,285	\$63	\$65,428.01	\$69,277
\$58	\$59,294.01	\$62,588	\$63	\$64,285.01	\$67,857	\$68	\$69,277.01	\$73,126
\$62	\$62,588.01	\$65,882	\$68	\$67,857.01	\$71,428	\$73	\$73,126.01	\$76,974
\$67	\$65,882.01	\$69,176	\$72	\$71,428.01	\$75,000	\$78	\$76,974.01	\$80,823
\$71	\$69,176.01	\$72,470	\$77	\$75,000.01	\$78,571	\$83	\$80,823.01	\$84,672
\$76	\$72,470.01	\$75,765	\$82	\$78,571.01	\$82,142	\$89	\$84,672.01	\$88,520
\$81	\$75,765.01	\$79,059	\$88	\$82,142.01	\$85,714	\$94	\$88,520.01	\$92,369
\$86	\$79,059.01	\$82,353	\$93	\$85,714.01	\$89,285	\$100	\$92,369.01	\$96,218
\$91	\$82,353.01	\$85,647	\$98	\$89,285.01	\$92,857	\$106	\$96,218.01	\$100,067
\$96	\$85,647.01	\$88,941	\$104	\$92,857.01	\$96,428	\$112	\$100,067.01	\$103,915
\$101	\$88,941.01	\$92,235	\$110	\$96,428.01	\$100,000	\$118	\$103,915.01	\$107,764
\$106	\$92,235.01	\$95,529	\$115	\$100,000.01	\$103,571	\$124	\$107,764.01	\$111,613
\$112	\$95,529.01	\$98,823	\$121	\$103,571.01	\$107,142	\$131	\$111,613.01	\$115,461
\$117	\$98,823.01	\$102,117	\$127	\$107,142.01	\$110,714	\$137	\$115,461.01	\$119,310
\$123	\$102,117.01	\$105,412	\$134	\$110,714.01	\$114,285	\$144	\$119,310.01	\$123,159
\$129	\$105,412.01	\$108,706	\$140	\$114,285.01	\$117,857	\$151	\$123,159.01	\$127,008
\$135	\$108,706.01	\$112,000	\$146	\$117,857.01	\$121,428	\$158	\$127,008.01	\$130,856
\$141	\$112,000.01	\$115,294	\$153	\$121,428.01	\$124,999	\$165	\$130,856.01	\$134,705
\$147	\$115,294.01	\$118,588	\$160	\$124,999.01	\$128,571	\$172	\$134,705.01	\$138,554
\$153	\$118,588.01	\$121,882	\$166	\$128,571.01	\$132,142	\$179	\$138,554.01	\$142,402
\$160	\$121,882.01	\$125,176	\$173	\$132,142.01	\$135,714	\$187	\$142,402.01	\$146,251
\$166	\$125,176.01	\$128,470	\$180	\$135,714.01	\$139,285	\$194	\$146,251.01	\$150,100
\$173	\$128,470.01	\$131,765	\$187	\$139,285.01	\$142,857	\$202	\$150,100.01	\$153,949
	200% FPIG	\$112,140		200% FPIG	\$121,580		200% FPIG	\$131,020

<i>Weekly Co-pay</i>	<i>Family Size: 13 Annual Income</i>		<i>Weekly Co-pay</i>	<i>Family Size: 14 Annual Income</i>		<i>Weekly Co-pay</i>	<i>Family Size: 15 Annual Income</i>	
\$5	Less than:	\$12,378	\$5	Less than:	\$13,210	\$5	Less than:	\$9,361
\$8	\$12,378.01	\$16,504	\$9	\$13,210.01	\$17,613	\$6	\$9,361.01	\$14,042
\$11	\$16,504.01	\$20,630	\$12	\$17,613.01	\$22,017	\$9	\$14,042.01	\$18,722
\$14	\$20,630.01	\$24,756	\$15	\$22,017.01	\$26,420	\$12	\$18,722.01	\$23,403
\$18	\$24,756.01	\$28,882	\$19	\$26,420.01	\$30,823	\$16	\$23,403.01	\$28,084
\$21	\$28,882.01	\$33,008	\$23	\$30,823.01	\$35,227	\$20	\$28,084.01	\$32,764
\$25	\$33,008.01	\$37,134	\$27	\$35,227.01	\$39,630	\$24	\$32,764.01	\$37,445
\$29	\$37,134.01	\$41,260	\$31	\$39,630.01	\$44,033	\$28	\$37,445.01	\$42,126
\$33	\$41,260.01	\$45,386	\$35	\$44,033.01	\$48,436	\$33	\$42,126.01	\$46,806
\$37	\$45,386.01	\$49,512	\$40	\$48,436.01	\$52,840	\$38	\$46,806.01	\$51,487

<i>Weekly Co-pay</i>	<i>Family Size: 13 Annual Income</i>		<i>Weekly Co-pay</i>	<i>Family Size: 14 Annual Income</i>		<i>Weekly Co-pay</i>	<i>Family Size: 15 Annual Income</i>	
\$42	\$49,512.01	\$53,638	\$45	\$52,840.01	\$57,243	\$43	\$51,487.01	\$56,167
\$47	\$53,638.01	\$57,764	\$50	\$57,243.01	\$61,646	\$48	\$56,167.01	\$60,848
\$52	\$57,764.01	\$61,890	\$55	\$61,646.01	\$66,050	\$53	\$60,848.01	\$65,529
\$57	\$61,890.01	\$66,016	\$61	\$66,050.01	\$70,453	\$59	\$65,529.01	\$70,209
\$62	\$66,016.01	\$70,142	\$66	\$70,453.01	\$74,856	\$64	\$70,209.01	\$74,890
\$67	\$70,142.01	\$74,268	\$72	\$74,856.01	\$79,260	\$70	\$74,890.01	\$79,570
\$73	\$74,268.01	\$78,394	\$78	\$79,260.01	\$83,663	\$77	\$79,570.01	\$84,251
\$78	\$78,394.01	\$82,520	\$83	\$83,663.01	\$88,066	\$82	\$84,251.01	\$88,932
\$84	\$82,520.01	\$86,646	\$89	\$88,066.01	\$92,470	\$89	\$88,932.01	\$93,612
\$89	\$86,646.01	\$90,772	\$95	\$92,470.01	\$96,873	\$95	\$93,612.01	\$98,293
\$95	\$90,772.01	\$94,898	\$102	\$96,873.01	\$101,276	\$101	\$98,293.01	\$102,973
\$101	\$94,898.01	\$99,024	\$108	\$101,276.01	\$105,680	\$108	\$102,973.01	\$107,654
\$107	\$99,024.01	\$103,150	\$115	\$105,680.01	\$110,083	\$115	\$107,654.01	\$112,335
\$114	\$103,150.01	\$107,276	\$121	\$110,083.01	\$114,486	\$122	\$112,335.01	\$117,015
\$120	\$107,276.01	\$111,402	\$128	\$114,486.01	\$118,889	\$129	\$117,015.01	\$121,696
\$127	\$111,402.01	\$115,528	\$135	\$118,889.01	\$123,293	\$136	\$121,696.01	\$126,377
\$133	\$115,528.01	\$119,654	\$142	\$123,293.01	\$127,696	\$144	\$126,377.01	\$131,057
\$140	\$119,654.01	\$123,780	\$150	\$127,696.01	\$132,099	\$151	\$131,057.01	\$135,738
\$147	\$123,780.01	\$127,906	\$157	\$132,099.01	\$136,503	\$159	\$135,738.01	\$140,418
\$154	\$127,906.01	\$132,032	\$165	\$136,503.01	\$140,906	\$167	\$140,418.01	\$145,099
\$162	\$132,032.01	\$136,158	\$172	\$140,906.01	\$145,309	\$175	\$145,099.01	\$149,780
\$169	\$136,158.01	\$140,284	\$180	\$145,309.01	\$149,713	\$183	\$149,780.01	\$154,460
\$177	\$140,284.01	\$144,410	\$188	\$149,713.01	\$154,116	\$192	\$154,460.01	\$159,141
\$184	\$144,410.01	\$148,536	\$197	\$154,116.01	\$158,519	\$200	\$159,141.01	\$163,821
\$192	\$148,536.01	\$152,662	\$205	\$158,519.01	\$162,923	\$209	\$163,821.01	\$168,502
\$200	\$152,662.01	\$156,788	\$214	\$162,923.01	\$167,326	\$218	\$168,502.01	\$173,183
\$208	\$156,788.01	\$160,914	\$222	\$167,326.01	\$171,729	\$227	\$173,183.01	\$177,863
\$217	\$160,914.01	\$165,041	\$231	\$171,729.01	\$176,133	\$236	\$177,863.01	\$182,544
	200% FPIG	\$140,460		200% FPIG	\$149,900	\$246	\$182,544.01	\$187,225
							200% FPIG	\$159,340

<i>Weekly Co-pay</i>	<i>Family Size: 16 Annual Income</i>		<i>Weekly Co-pay</i>	<i>Family Size: 17 Annual Income</i>		<i>Weekly Co-pay</i>	<i>Family Size: 18 Annual Income</i>	
\$5	Less than:	\$9,916	\$5	Less than:	\$10,470	\$5	Less than:	\$11,025
\$6	\$9,916.01	\$14,874	\$7	\$10,470.01	\$15,706	\$7	\$11,025.01	\$16,538
\$10	\$14,874.01	\$19,832	\$10	\$15,706.01	\$20,941	\$11	\$16,538.01	\$22,050
\$13	\$19,832.01	\$24,790	\$14	\$20,941.01	\$26,176	\$15	\$22,050.01	\$27,563
\$17	\$24,790.01	\$29,747	\$18	\$26,176.01	\$31,411	\$19	\$27,563.01	\$33,075
\$21	\$29,747.01	\$34,705	\$22	\$31,411.01	\$36,646	\$24	\$33,075.01	\$38,588
\$26	\$34,705.01	\$39,663	\$27	\$36,646.01	\$41,882	\$28	\$38,588.01	\$44,100
\$30	\$39,663.01	\$44,621	\$32	\$41,882.01	\$47,117	\$33	\$44,100.01	\$49,613
\$35	\$44,621.01	\$49,579	\$37	\$47,117.01	\$52,352	\$39	\$49,613.01	\$55,125
\$40	\$49,579.01	\$54,537	\$42	\$52,352.01	\$57,587	\$44	\$55,125.01	\$60,638
\$45	\$54,537.01	\$59,495	\$48	\$57,587.01	\$62,823	\$50	\$60,638.01	\$66,150
\$50	\$59,495.01	\$64,453	\$53	\$62,823.01	\$68,058	\$56	\$66,150.01	\$71,663
\$56	\$64,453.01	\$69,411	\$59	\$68,058.01	\$73,293	\$62	\$71,663.01	\$77,175
\$62	\$69,411.01	\$74,369	\$65	\$73,293.01	\$78,528	\$69	\$77,175.01	\$82,688

NOTICES

2439

<i>Weekly Co-pay</i>	<i>Family Size: 16 Annual Income</i>		<i>Weekly Co-pay</i>	<i>Family Size: 17 Annual Income</i>		<i>Weekly Co-pay</i>	<i>Family Size: 18 Annual Income</i>	
\$68	\$74,369.01	\$79,327	\$72	\$78,528.01	\$83,763	\$76	\$82,688.01	\$88,200
\$74	\$79,327.01	\$84,285	\$79	\$83,763.01	\$88,999	\$83	\$88,200.01	\$93,713
\$81	\$84,285.01	\$89,242	\$86	\$88,999.01	\$94,234	\$90	\$93,713.01	\$99,225
\$87	\$89,242.01	\$94,200	\$92	\$94,234.01	\$99,469	\$97	\$99,225.01	\$104,738
\$94	\$94,200.01	\$99,158	\$99	\$99,469.01	\$104,704	\$104	\$104,738.01	\$110,250
\$101	\$99,158.01	\$104,116	\$106	\$104,704.01	\$109,939	\$112	\$110,250.01	\$115,763
\$107	\$104,116.01	\$109,074	\$113	\$109,939.01	\$115,175	\$119	\$115,763.01	\$121,275
\$114	\$109,074.01	\$114,032	\$121	\$115,175.01	\$120,410	\$127	\$121,275.01	\$126,788
\$122	\$114,032.01	\$118,990	\$128	\$120,410.01	\$125,645	\$135	\$126,788.01	\$132,300
\$129	\$118,990.01	\$123,948	\$136	\$125,645.01	\$130,880	\$143	\$132,300.01	\$137,813
\$137	\$123,948.01	\$128,906	\$144	\$130,880.01	\$136,116	\$152	\$137,813.01	\$143,325
\$144	\$128,906.01	\$133,864	\$152	\$136,116.01	\$141,351	\$160	\$143,325.01	\$148,838
\$152	\$133,864.01	\$138,822	\$161	\$141,351.01	\$146,586	\$169	\$148,838.01	\$154,350
\$160	\$138,822.01	\$143,779	\$169	\$146,586.01	\$151,821	\$178	\$154,350.01	\$159,863
\$168	\$143,779.01	\$148,737	\$178	\$151,821.01	\$157,056	\$187	\$159,863.01	\$165,375
\$177	\$148,737.01	\$153,695	\$187	\$157,056.01	\$162,292	\$197	\$165,375.01	\$170,888
\$185	\$153,695.01	\$158,653	\$196	\$162,292.01	\$167,527	\$206	\$170,888.01	\$176,400
\$194	\$158,653.01	\$163,611	\$205	\$167,527.01	\$172,762	\$216	\$176,400.01	\$181,913
\$203	\$163,611.01	\$168,569	\$214	\$172,762.01	\$177,997	\$226	\$181,913.01	\$187,425
\$212	\$168,569.01	\$173,527	\$224	\$177,997.01	\$183,232	\$236	\$187,425.01	\$192,938
\$221	\$173,527.01	\$178,485	\$234	\$183,232.01	\$188,468	\$246	\$192,938.01	\$198,450
\$231	\$178,485.01	\$183,443	\$244	\$188,468.01	\$193,703	\$257	\$198,450.01	\$203,963
\$241	\$183,443.01	\$188,401	\$254	\$193,703.01	\$198,938	\$267	\$203,963.01	\$209,475
\$250	\$188,401.01	\$193,359	\$264	\$198,938.01	\$204,173	\$278	\$209,475.01	\$214,988
\$260	\$193,359.01	\$198,317	\$275	\$204,173.01	\$209,409	\$289	\$214,988.01	\$220,501
	200% FPIG	\$168,780		200% FPIG	\$178,220		200% FPIG	\$187,660

<i>Weekly Co-pay</i>	<i>Family Size: 19 Annual Income</i>		<i>Weekly Co-pay</i>	<i>Family Size: 20 Annual Income</i>		<i>Weekly Co-pay</i>	<i>Family Size: 21 Annual Income</i>	
\$5	Less than:	\$11,580	\$5	Less than:	\$12,134	\$5	Less than:	\$12,689
\$7	\$11,580.01	\$17,369	\$8	\$12,134.01	\$18,201	\$8	\$12,689.01	\$19,033
\$11	\$17,369.01	\$23,159	\$12	\$18,201.01	\$24,268	\$12	\$19,033.01	\$25,378
\$15	\$23,159.01	\$28,949	\$16	\$24,268.01	\$30,336	\$17	\$25,378.01	\$31,722
\$20	\$28,949.01	\$34,739	\$21	\$30,336.01	\$36,403	\$22	\$31,722.01	\$38,066
\$25	\$34,739.01	\$40,529	\$26	\$36,403.01	\$42,470	\$27	\$38,066.01	\$44,411
\$30	\$40,529.01	\$46,319	\$31	\$42,470.01	\$48,537	\$33	\$44,411.01	\$50,755
\$35	\$46,319.01	\$52,108	\$37	\$48,537.01	\$54,604	\$38	\$50,755.01	\$57,100
\$41	\$52,108.01	\$57,898	\$43	\$54,604.01	\$60,671	\$45	\$57,100.01	\$63,444
\$47	\$57,898.01	\$63,688	\$49	\$60,671.01	\$66,738	\$51	\$63,444.01	\$69,789
\$53	\$63,688.01	\$69,478	\$55	\$66,738.01	\$72,805	\$58	\$69,789.01	\$76,133
\$59	\$69,478.01	\$75,268	\$62	\$72,805.01	\$78,872	\$65	\$76,133.01	\$82,477
\$66	\$75,268.01	\$81,057	\$69	\$78,872.01	\$84,940	\$72	\$82,477.01	\$88,822
\$72	\$81,057.01	\$86,847	\$76	\$84,940.01	\$91,007	\$79	\$88,822.01	\$95,166
\$80	\$86,847.01	\$92,637	\$83	\$91,007.01	\$97,074	\$87	\$95,166.01	\$101,511
\$87	\$92,637.01	\$98,427	\$91	\$97,074.01	\$103,141	\$95	\$101,511.01	\$107,855
\$95	\$98,427.01	\$104,217	\$99	\$103,141.01	\$109,208	\$104	\$107,855.01	\$114,199
\$102	\$104,217.01	\$110,006	\$107	\$109,208.01	\$115,275	\$112	\$114,199.01	\$120,544

<i>Weekly Co-pay</i>	<i>Family Size: 19 Annual Income</i>		<i>Weekly Co-pay</i>	<i>Family Size: 20 Annual Income</i>		<i>Weekly Co-pay</i>	<i>Family Size: 21 Annual Income</i>	
\$110	\$110,006.01	\$115,796	\$115	\$115,275.01	\$121,342	\$120	\$120,544.01	\$126,888
\$117	\$115,796.01	\$121,586	\$123	\$121,342.01	\$127,409	\$129	\$126,888.01	\$133,233
\$125	\$121,586.01	\$127,376	\$131	\$127,409.01	\$133,476	\$137	\$133,233.01	\$139,577
\$134	\$127,376.01	\$133,166	\$140	\$133,476.01	\$139,544	\$146	\$139,577.01	\$145,921
\$142	\$133,166.01	\$138,956	\$149	\$139,544.01	\$145,611	\$156	\$145,921.01	\$152,266
\$151	\$138,956.01	\$144,745	\$158	\$145,611.01	\$151,678	\$165	\$152,266.01	\$158,610
\$159	\$144,745.01	\$150,535	\$167	\$151,678.01	\$157,745	\$175	\$158,610.01	\$164,955
\$168	\$150,535.01	\$156,325	\$176	\$157,745.01	\$163,812	\$185	\$164,955.01	\$171,299
\$178	\$156,325.01	\$162,115	\$186	\$163,812.01	\$169,879	\$195	\$171,299.01	\$177,644
\$187	\$162,115.01	\$167,905	\$196	\$169,879.01	\$175,946	\$205	\$177,644.01	\$183,988
\$197	\$167,905.01	\$173,694	\$206	\$175,946.01	\$182,013	\$216	\$183,988.01	\$190,332
\$206	\$173,694.01	\$179,484	\$216	\$182,013.01	\$188,080	\$226	\$190,332.01	\$196,677
\$217	\$179,484.01	\$185,274	\$227	\$188,080.01	\$194,148	\$237	\$196,677.01	\$203,021
\$227	\$185,274.01	\$191,064	\$238	\$194,148.01	\$200,215	\$248	\$203,021.01	\$209,366
\$237	\$191,064.01	\$196,854	\$249	\$200,215.01	\$206,282	\$260	\$209,366.01	\$215,710
\$248	\$196,854.01	\$202,643	\$260	\$206,282.01	\$212,349	\$272	\$215,710.01	\$222,054
\$259	\$202,643.01	\$208,433	\$271	\$212,349.01	\$218,416	\$283	\$222,054.01	\$228,399
\$270	\$208,433.01	\$214,223	\$283	\$218,416.01	\$224,483	\$295	\$228,399.01	\$234,743
\$281	\$214,223.01	\$220,013	\$294	\$224,483.01	\$230,550	\$308	\$234,743.01	\$241,088
\$292	\$220,013.01	\$225,803	\$306	\$230,550.01	\$236,617	\$320	\$241,088.01	\$247,432
\$304	\$225,803.01	\$231,593	\$319	\$236,617.01	\$242,685	\$333	\$247,432.01	\$253,777
	200% FPIG	\$197,100		200% FPIG	\$206,540		200% FPIG	\$215,980

[Pa.B. Doc. No. 22-610. Filed for public inspection April 22, 2022, 9:00 a.m.]

INDEPENDENT REGULATORY REVIEW COMMISSION

Notice of Comments Issued

Section 5(g) of the Regulatory Review Act (71 P.S. § 745.5(g)) provides that the Independent Regulatory Review Commission (Commission) may issue comments within 30 days of the close of the public comment period. The Commission comments are based upon the criteria contained in section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b).

The Commission has issued comments on the following proposed regulation. The agency must consider these comments in preparing the final-form regulation. The final-form regulation must be submitted within 2 years of the close of the public comment period or it will be deemed withdrawn.

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Close of the Public Comment Period</i>	<i>IRRC Comments Issued</i>
16A-4956	State Board of Medicine Acupuncturists and Practitioners of Oriental Medicine 52 Pa.B. 985 (February 12, 2022)	2/12/22	4/13/22

Comments of the Independent Regulatory Review Commission

State Board of Medicine Regulation # 16A-4956 (IRRC # 3332)

Acupuncturists and Practitioners of Oriental Medicine

April 13, 2022

We submit for your consideration the following comments on the proposed rulemaking published in the

February 12, 2022 *Pennsylvania Bulletin*. Our comments are based on criteria in Section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P.S. § 745.5a(a)) directs the State Board of Medicine (Board) to respond to all comments received from us or any other source.

1. Compliance with the RRA.

Section 5.2 of the RRA (71 P.S. § 745.5b) directs this Commission to determine whether a regulation is in the public interest. When making this determination, the

Commission considers criteria such as economic or fiscal impact and reasonableness. To make that determination, the Commission must analyze the text of the proposed rulemaking and the reasons for the new or amended language. The Commission also considers the information a promulgating agency is required to provide under Section 5(a) of the RRA (71 P.S. § 745.5(a)) in the Regulatory Analysis Form (RAF). Some of the information contained in the RAF submitted with this rulemaking is not sufficient to allow this Commission to determine if the regulation is in the public interest.

RAF question # 22 asks the promulgating agency to submit, for each of the groups and entities identified in items (19)–(21), a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for the implementation of the regulation. RAF question # 22(b) requires the agency to attach copies of the forms, or if it uses electronic forms, to provide links to each form or a detailed description of the information required to be reported.

The Board states that it has “[a]ttached the application checklists for initial licensure as an acupuncturist and as a practitioner of Oriental medicine detailing the information required, which reflect the required professional liability insurance.” The checklists, submitted as part of the regulatory package, also provide instruction to applicants regarding education verification, educational transcripts, and exam results that are necessary for compliance under this rulemaking. For instance, under the block labeled “Malpractice Insurance,” the applicant is instructed to upload proof of professional liability insurance coverage. It further details that the proof must include the name of the applicant and indicate that they are covered under the policy while performing “acupuncture services” in the Commonwealth of Pennsylvania. This term is not defined in the proposal (please refer to our comments in Issue # 4). Additionally, the instructions (under this block) for the Practitioner of Oriental Medicine checklist should specify that professional liability insurance must cover claims related to acupuncture and herbal therapy. (Section 18.20(d))

Likewise, all of the methods available to an applicant to demonstrate English language proficiency should be detailed in the “Exam Results” box. (Section 18.13(a)(2)) We ask the Board, when it submits the final version of this rulemaking, to make certain that the terminology in the checklists is consistent with the regulatory language in the Annex.

2. Section 18.11. Definitions.—Clarity.

“Acupuncture examination” and “East Asian herbology examination”

The definition of “Acupuncture examination” states the Board recognizes NCAAOM component examinations in acupuncture and sterilization procedures as the examination for licensure as an acupuncturist. Similarly, the definition of “East Asian herbology examination” states the Board recognizes NCAAOM examination component in Chinese herbology and the NCAAQM examination for Oriental medicine as the examinations for licensure as a practitioner of Oriental medicine.” Do these provisions preclude all other examinations that may come along in the future? The Board should clarify its intent in the final-form regulation.

The Board’s recognition of the National Certification Commission for Acupuncture and Oriental Medicine examinations for licensure as an acupuncturist and practi-

tioner of Oriental medicine are substantive provisions and may not be used in a definitions section. Section 2.11(e) of the *Pennsylvania Code & Bulletin Style Manual* states that substantive provisions may not be contained in a definition section. For clarity, we recommend moving the Board’s recognition of these examinations to the body of the regulations.

“Occupational English Test”

In proposed Section 18.13(a)(2)(iii) (relating to Requirements for licensure as an acupuncturist) the “Occupational English Test” for any of the health-related professions is listed as a method that may be used by an applicant to demonstrate English language proficiency. This term and its definition should be included in the Definitions section of the final-form rulemaking.

3. Section 18.13. Requirements for licensure as an acupuncturist.—Clarity and lack of ambiguity; Need for the regulation; and Economic and fiscal impacts of the regulation.

The Board proposes to amend § 18.13(a) to update the list of acceptable methods for demonstrating English language proficiency for an applicant who did not take the acupuncture examination in English but which examination is otherwise acceptable and a passing score was secured. The Board will accept the examination result if the applicant has also demonstrated English language proficiency by either demonstrating that (1) their acupuncture educational program was conducted in English; or, (2) they have achieved a scaled score of at least 83, or a similar score acceptable to the Board, on the Test of English as a Foreign Language (TOEFL); or, (3) they have achieved a score of at least 350 on each of the four sub-tests of the Occupational English Test for any of the health-related professions; or, (4) achieved a passing score on a substantially equivalent English language proficiency examination, as approved by the Board.

The Board explains, in the Preamble, that it is providing for the possibility of “a similar score acceptable to the Board” because there is a second version of the TOEFL which is rarely given and is a paper-delivered test. It contains only three of the four sections of the internet-based version examination and is not given a total scaled score but individual scores on each portion completed. The Board also explains that in the event the scoring system for the TOEFL is altered in the future, it would not need to immediately revise its regulations but could accept a comparable score.

We have three concerns with this approach. First, it does not account for the TOEFL test variants, as described by the Board in the Preamble and Regulatory Analysis Form (RAF). Second, it uses non-regulatory language. Regulations have the full force and effect of law and establish a binding norm that is applicable to all that fall under its jurisdiction. They must be clear and unambiguous. The phrase “or similar score acceptable to the Board,” does not set a binding norm that could be predicted by the regulated community. Finally, in order to change a regulatory requirement, such as a test score, a new rulemaking is needed. Otherwise, permitting the Board to revise a requirement, by accepting a comparable score without notice, would create confusion for individuals applying for licensure as an acupuncturist under this subsection. We recommend the Board revise Section 18.13(a)(2)(ii) to provide greater clarity and more regulatory certainty.

In Section 18.13(a)(2)(iv), the Board is proposing to expand the options for an applicant, whose acupuncture examination was not conducted in English, to demon-

strate English proficiency by achieving a passing score on a substantially equivalent English language proficiency examination, as approved by the Board. What is the need for this subparagraph? How will applicants know which test scores have been approved, including the scores determined to be acceptable, by the Board? The Board should delete subparagraph (iv) or explain why it is needed in the Preamble to the final-form regulation.

The Board’s response to RAF question # 17 notes that applicants will benefit from the expanded options for demonstrating English language proficiency but it does not discuss the financial impact on individuals. Likewise, the Board’s response to RAF question # 19 does not provide a specific estimate of the costs and/or savings to the regulated community to comply with the English language proficiency provision in Section 18.13(a)(2). The Board should submit a revised RAF to the final-form regulation that considers the costs for these English language proficiency examinations.

Section 18.13(a)(2)(i) provides the option for demonstrating that the applicant’s acupuncture educational program was conducted in English. The checklists for initial licensure as an acupuncturist and practitioner of Oriental medicine state under “Education Verification” that all documents must be in English or an official translation must be submitted to the Board from an official translation agency or professor of the language. The Board should account for these costs in a revised RAF to the final-form regulation.

4. Section 18.15. Practice responsibilities of acupuncturist and practitioner of Oriental medicine who is not a physician; practice responsibilities of an acupuncturist who is licensed as a medical doctor.—Clarity.

Subsection (c)

This subsection sets forth the practice responsibilities to the patient and the public for an acupuncturist who is also licensed as a medical doctor by the Board. Under this subsection, a medical doctor who is also a licensed acupuncturist must include in the patient’s medical records evidence of having performed an acupuncture evalu-

ation and development of a treatment plan for patients considered for, or who receive “acupuncture services.” It also clarifies the duty of a medical doctor to comply with sterilization standards when providing “acupuncture services.”

The Board’s existing regulations define “Acupuncture” and “Supplemental techniques” which are part of “acupuncture.” Do “acupuncture services” encompass something different than “acupuncture?” If so, the Board should define and include “acupuncture services” in the Definitions section of the final-form regulation. If not, it should revise this subsection by removing “acupuncture services” and replacing it with “acupuncture.”

5. Section 18.18. Disciplinary and corrective measures.—Clarity.

Section 3.2(c) of the Acupuncture Licensure Act (Act) (63 P.S. §§ 1801—1806.1) requires a licensee to notify the Board within 30 days of the licensee’s failure to be covered by the required insurance. Failure to notify the Board is actionable under sections 3 (relating to Regulation of the practice of acupuncture) and 5 (relating to Penalties) of the Act. The license to practice will automatically be suspended upon failure to be covered by the required license and will not be restored until submission to the Board of satisfactory evidence that the licensee has the required professional liability insurance coverage. (63 P.S. § 1803.2(c)) This statutory provision is not carried over in the Board’s proposal. We believe it would be beneficial to the regulated community if they could rely primarily on one document, the Board’s regulation, to assist in their understanding of and compliance with the liability insurance requirements. To improve the overall clarity of this section, we ask the Board to incorporate the noncompliance provisions in Section 3.2(c) of the Act into the final version of this rulemaking.

GEORGE D. BEDWICK,
Chairperson

[Pa.B. Doc. No. 22-611. Filed for public inspection April 22, 2022, 9:00 a.m.]

INDEPENDENT REGULATORY REVIEW COMMISSION

Notice of Filing of Final Rulemaking

The Independent Regulatory Review Commission (Commission) received the following regulation. It is scheduled to be considered on the date noted. The Commission’s public meetings are held at 333 Market Street, 14th Floor, Harrisburg, PA at 10 a.m. To obtain a copy of the regulation, interested parties should first contact the promulgating agency. If a copy cannot be obtained from the promulgating agency, the Commission will provide a copy or it can be viewed at the Commission’s web site at www.irrc.state.pa.us.

<i>Final-Form Reg. No.</i>	<i>Agency/Title</i>	<i>Received</i>	<i>Public Meeting</i>
57-330	Pennsylvania Public Utility Commission Rulemaking to Implement Act 120 of 2018	4/11/22	5/19/22

GEORGE D. BEDWICK,
Chairperson

[Pa.B. Doc. No. 22-612. Filed for public inspection April 22, 2022, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

General Rule Transaction and Transfer of Control

A-2022-3031834 and A-2022-3031835. Lingo Management, LLC, Lingo Communications, LLC, B. Riley Principal Investments, LLC, Lingo Telecom, LLC and BullsEye Telecom, Inc. Joint application of Lingo Management, LLC, Lingo Communications, LLC, B. Riley Principal Investments, LLC, Lingo Telecom, LLC and BullsEye Telecom, Inc. for approval of a general rule transaction in the proposed transfer of control of BullsEye Telecom, Inc. and the resulting organizational structure.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities) on or before May 9, 2022. Filings must be made with the Secretary of the Pennsylvania Public Utility Commission, 400 North Street, 2nd Floor, Harrisburg, PA 17120, with a copy served on the applicant. The documents filed in support of the application are available only online for inspection and copying on the Pennsylvania Public Utility Commission's web site at www.puc.pa.gov and at the applicant's business address.

Joint Applicants: Lingo Management, LLC; Lingo Communications, LLC; B. Riley Principal Investments, LLC; Lingo Telecom, LLC; BullsEye Telecom, Inc.

Through and By: Kenneth R. Stark, McNees Wallace & Nurick, LLC, 100 Pine Street, P.O. Box 1166, Harrisburg, PA 17108-1166, (717) 237-5254, fax (717) 260-1666, kstark@mcneeslaw.com

ROSEMARY CHIAVETTA,
Secretary

[Pa.B. Doc. No. 22-613. Filed for public inspection April 22, 2022, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Natural Gas Service

A-2022-3031832. Columbia Gas of Pennsylvania, Inc. Application for approval of abandonment of natural gas service by Columbia Gas of Pennsylvania, Inc. to one idle residential premises in Fayette County.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities) on or before May 9, 2022. Filings must be made with the Secretary of the Pennsylvania Public Utility Commission, 400 North Street, 2nd Floor, Harrisburg, PA 17120, with a copy served on the applicant. The documents filed in support of the application are available only online for inspection and copying on the Pennsylvania Public Utility Commission's (Commission) web site at www.puc.pa.gov and at the applicant's business address. Parties to proceedings pending before the Commission must open and use an eFiling account through the Commission's web site at www.puc.pa.gov or may submit the filing by overnight delivery to the Secretary, Pennsylvania Public Utility Commission, 400 North Street, Harrisburg, PA 17120. If a filing contains confidential or proprietary material, the filing is required to be submitted by overnight delivery. Large filings containing confidential or proprietary material may be submitted through the Commission's Share Point File system with advanced notice to the Commission prior to submittal.

Applicant: Columbia Gas of Pennsylvania, Inc., 121 Champion Way, Suite 100, Canonsburg, PA 15317

Through and By Counsel for: Amy E. Hirakis, Esquire, 800 North Third Street, Suite 204, Harrisburg, PA 17102, ahirakis@nisource.com; Theodore J. Gallagher, Esquire, 121 Champion Way, Suite 100, Canonsburg, PA 15317, tjgallagher@nisource.com

ROSEMARY CHIAVETTA,
Secretary

[Pa.B. Doc. No. 22-614. Filed for public inspection April 22, 2022, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Natural Gas Service

A-2022-3031833. Columbia Gas of Pennsylvania, Inc. Application for approval of abandonment of natural gas service by Columbia Gas of Pennsylvania, Inc. to one active residential premises in Washington County.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities) on or before May 9, 2022. Filings must be made with the Secretary of the Pennsylvania Public Utility Commission, 400 North Street, 2nd Floor, Harrisburg, PA 17120, with a copy served on the applicant. The documents filed in support of the application are available only online for inspection and copying on the Pennsylvania Public Utility Commission's (Commission) web site at www.puc.pa.gov and at the applicant's business address. Parties to proceedings pending before the Commission must open and use an eFiling account through the Commission's web site at www.puc.pa.gov or may submit the filing by overnight delivery to the Secretary, Pennsylvania Public Utility Commission, 400 North Street, Harrisburg, PA 17120. If a filing contains confidential or proprietary material, the filing is required to be submitted by overnight delivery. Large filings containing confidential or proprietary material may be submitted through the Commission's Share Point File system with advanced notice to the Commission prior to submittal.

Applicant: Columbia Gas of Pennsylvania, Inc., 121 Champion Way, Suite 100, Canonsburg, PA 15317

Through and By Counsel for: Amy E. Hirakis, Esquire, 800 North Third Street, Suite 204, Harrisburg, PA 17102, ahirakis@nisource.com; Theodore J. Gallagher, Esquire, 121 Champion Way, Suite 100, Canonsburg, PA 15317, tjgallagher@nisource.com

ROSEMARY CHIAVETTA,
Secretary

[Pa.B. Doc. No. 22-615. Filed for public inspection April 22, 2022, 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 May 9, 2022. Filings are recommended to 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 May 9, 2022. 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 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-2022-3031026. Adrienne Lamonaca (102 Railway Drive, Kirkwood, Lancaster County, PA 17536) to transport, as a common carrier, by motor vehicle, in paratransit service, limited to persons whose personal convictions prevent them from owning or operating motor vehicles, from points in the County of Lancaster, to points in Pennsylvania, and return.

A-2022-3031114. Pamela Degasperi and Charles Degasperi, t/a Pam Degasperi Rides (295 Amanda Drive, Littlestown, Adams County, PA 17340) to transport persons in paratransit service whose personal convictions prevent them from owning or operating motor vehicles, from points in Adams, Lancaster and York Counties, to points in Pennsylvania, and return.

A-2022-3031413. Philalimoservice, LLC (514 Alexander Avenue, Drexel Hill, PA 19026) for the right to begin to transport, as a common carrier, by motor vehicle, persons in limousine service, between points in Pennsylvania; excluding service that is under the jurisdiction of the Philadelphia Parking Authority. *Attorney:* David P. Temple, Gallagher Law, PC, 1600 Market Street, Suite 1320, Philadelphia, PA 19103-4104.

A-2022-3031494. Alantra Enterprises, LLC (501 Cambria Avenue, Bensalem, Bucks County, PA 19020) persons in limousine service, from points in Bucks County, to points in Pennsylvania, and return; excluding areas under the jurisdiction of the Philadelphia Parking Authority.

A-2022-3031757. All Blue Taxi Service, LLC (1000 Scenery Drive, Harrisburg, Dauphin County, PA 17109) persons in paratransit service, from points in the Counties of Adams, Berks, Lancaster and York, to points in Pennsylvania, and return.

Applications of the following for the approval of the right and privilege to discontinue/abandon operating as common carriers by motor vehicle and for cancellation of the certificate of public convenience as described under each application.

A-2022-3031768. Lee M. Stoltzfus (17 Ocola Drive, Paradise, Lancaster County, PA 17562) discontinuance of service and cancellation of its certificate, to transport, as a common carrier, persons in paratransit service, limited to persons whose personal convictions prevent them from owning or operating motor vehicles, between points in the County of Lancaster, and from points in said county, to points in Pennsylvania, and return.

A-2022-3031779. McCarthy Flowered Cabs, Inc. (7500 Brooktree Road, Wexford, Allegheny County, PA 15090) for the discontinuance and cancellation of its right to transport, as a common carrier, persons in airport transfer service, from the Wilkes-Barre/Scranton Airport, located in the Township of Pittston, Luzerne County, to points within an airline distance of 50-statute miles of said airport, and vice versa as originally docketed at A-00113298, F.2.

ROSEMARY CHIAVETTA,
Secretary

[Pa.B. Doc. No. 22-616. Filed for public inspection April 22, 2022, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Water Service

A-2022-3031852. Veolia Water Pennsylvania, Inc., f/k/a SUEZ Water Pennsylvania, Inc. In the matter of the application of Veolia Water Pennsylvania, Inc., f/k/a SUEZ Water Pennsylvania, Inc. nunc pro tunc, under 66 Pa.C.S. § 1102(a)(3) (relating to enumeration of acts requiring certificate) for approval of the acquisition of certain real estate in Cooper Township, Montour County.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities) on or before May 9, 2022. Filings must be made with the Secretary of the Pennsylvania Public Utility Commission, 400 North Street, 2nd Floor, Harrisburg, PA 17120, with a copy served on the applicant. The documents filed in support of the application are available only online for inspection and copying on the Pennsylvania Public Utility Commission's (Commission) web site at www.puc.pa.gov and at the applicant's business address. Parties to proceedings pending before the Commission must open and use an eFiling account through the Commission's web site at www.puc.pa.gov or may submit the filing by overnight delivery to the Secretary, Pennsylvania Public Utility Commission, 400 North Street, Harrisburg, PA 17120. If a filing contains confidential or proprietary material, the filing is required to be submitted by overnight delivery. Large filings containing confidential or proprietary material may be submitted through the Commission's Share Point File system with advanced notice to the Commission prior to submittal.

Applicant: Veolia Water Pennsylvania, Inc., f/k/a SUEZ Water Pennsylvania, Inc.

Through and By Counsel for: Jonathan P. Nase, Esquire, Michael D. Klein, Esquire, Cozen O'Connor, 17 North Second Street, Suite 1410, Harrisburg, PA 17101, (717) 773-4191, jnase@cozen.com, mklein@cozen.com

ROSEMARY CHIAVETTA,
Secretary

[Pa.B. Doc. No. 22-617. Filed for public inspection April 22, 2022, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Water Service

A-2022-3031857. Veolia Water Pennsylvania, Inc., f/k/a SUEZ Water Pennsylvania, Inc. In the matter of

the application of Veolia Water Pennsylvania, Inc., f/k/a SUEZ Water Pennsylvania, Inc. nunc pro tunc under 66 Pa.C.S. § 1102(a)(3) (relating to enumeration of acts requiring certificate) for approval of the acquisition of certain real estate in Montour Township, Columbia County.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities) on or before May 9, 2022. Filings must be made with the Secretary of the Pennsylvania Public Utility Commission, 400 North Street, 2nd Floor, Harrisburg, PA 17120, with a copy served on the applicant. The documents filed in support of the application are available only online for inspection and copying on the Pennsylvania Public Utility Commission's (Commission) web site at www.puc.pa.gov and at the applicant's business address. Parties to proceedings pending before the Commission must open and use an eFiling account through the Commission's web site at www.puc.pa.gov or may submit the filing by overnight delivery to the Secretary, Pennsylvania Public Utility Commission, 400 North Street, Harrisburg, PA 17120. If a filing contains confidential or proprietary material, the filing is required to be submitted by overnight delivery. Large filings containing confidential or proprietary material may be submitted through the Commission's Share Point File system with advanced notice to the Commission prior to submittal.

Applicant: Veolia Water Pennsylvania, Inc., f/k/a SUEZ Water Pennsylvania, Inc.

Through and By Counsel for: Jonathan P. Nase, Esquire, Michael D. Klein, Esquire, Cozen O'Connor, 17 North Second Street, Suite 1410, Harrisburg, PA 17101, (717) 773-4191, jnase@cozen.com, mklein@cozen.com

ROSEMARY CHIAVETTA,
Secretary

[Pa.B. Doc. No. 22-618. Filed for public inspection April 22, 2022, 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 May 9, 2022. 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-22-04-07. SRN Taxi, LLC (7804 Brier Street, Philadelphia, PA 19152): An application 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. *Attorney for Applicant:* David R. Alperstein, Esq., 314 Cherry Avenue, Voorhees, NJ 08043.

Doc. No. A-22-04-08. Ardaas, LLC (117 Ardsley Road, Upper Darby, PA 19082): 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.

Doc. No. A-22-04-09. ML Trans, LLC (7704 Woodlawn Avenue, 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:* Charles Milstein, Esq., 7102 Frankford Avenue, Philadelphia, PA 19135.

DENNIS WELDON,
Temporary Executive Director

[Pa.B. Doc. No. 22-619. Filed for public inspection April 22, 2022, 9:00 a.m.]

SUSQUEHANNA RIVER BASIN COMMISSION

Grandfathering Registration Notice

The Susquehanna River Basin Commission lists the following Grandfathering (GF) Registration for projects under 18 CFR 806, Subpart E (relating to registration of grandfathered projects) from March 1, 2022, through March 31, 2022.

For further information contact Jason E. Oyler, General Counsel and Secretary, (717) 238-0423, Ext. 1312, fax (717) 238-2436, joyler@srbc.net. Regular mail inquiries may be sent to the Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, PA 17110-1788.

Supplementary Information

This notice lists GF Registration for projects, described as follows, under 18 CFR 806, Subpart E for the time period previously specified:

GF Registration Under 18 CFR Part 806, Subpart E:

1. Furman Farms, Inc., GF Certificate No. GF-202203207, various municipalities and counties, PA; see Addendum; Issue Date: March 11, 2022.
2. Motor Components, LLC, GF Certificate No. GF-202203208, Town of Horseheads and Village of Elmira Heights, Chemung County, NY; Wells 1—3; Issue Date: March 11, 2022.
3. Pennsy Supply, Inc.—Penn Township Quarry, GF Certificate No. GF-202203209, Penn Township, Cumberland County, PA; Wells 1 and 3; Issue Date: March 1, 2022.
4. City of Hornell—Public Water Supply System, GF Certificate No. GF-202203210, Towns of Hornellsville and Fremont, Steuben County, NY; Reservoir 1 and combined withdrawal from Wells 1 and 2; Issue Date: March 17, 2022.
5. Cortland Country Club, Inc.—Cortland Country Club, GF Certificate No. GF-202203211, Town of Cortlandville, Cortland County, NY; combined withdrawal from Wells 1 and 2 and consumptive use; Issue Date: March 17, 2022.

Authority: Pub.L. No. 91-575, 84 Stat. 1509 et seq., 18 CFR Parts 806 and 808

Dated: April 8, 2022

ANDREW D. DEHOFF,
Executive Director

[Pa.B. Doc. No. 22-620. Filed for public inspection April 22, 2022, 9:00 a.m.]

SUSQUEHANNA RIVER BASIN COMMISSION

Projects Approved for Consumptive Uses of Water

The Susquehanna River Basin Commission (Commission) has approved by rule the following list of projects from March 1, 2022, through March 31, 2022.

For further information contact Jason E. Oyler, General Counsel and Secretary, (717) 238-0423, Ext. 1312, fax (717) 238-2436, joyler@srbc.net. Regular mail inquiries may be sent to the Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, PA 17110-1788.

Supplementary Information

This notice lists the projects, described as follows, receiving approval for the consumptive use of water under the Commission's approval by rule process in 18 CFR 806.22(e) and (f) (relating to standards for consumptive uses of water) for the time period previously specified:

Water Source Approval—Issued Under 18 CFR 806.22(f):

1. Coterra Energy, Inc.; Pad ID: BrazitisD P1; ABR-202203002; Lenox Township, Susquehanna County, PA; Consumptive Use of Up to 5.0000 mgd; Approval Date: March 9, 2022.

2. EXCO Resources (PA), LLC; Pad ID: Patterson Drilling Pad # 1; ABR-20100146.R21; Shrewsbury Township, Sullivan County, PA; Consumptive Use of Up to 5.0000 mgd; Approval Date: March 9, 2022.

3. Pennsylvania General Energy Company, LLC; Pad ID: COP Tract 356 Pad J; ABR-201201014.R2; Cummings Township, Lycoming County, PA; Consumptive Use of Up to 3.0000 mgd; Approval Date: March 11, 2022.

4. SWN Production Company, LLC; Pad ID: FIELDS PAD 1; ABR-201202015.R2; Herrick Township, Bradford County, PA; Consumptive Use of Up to 4.9990 mgd; Approval Date: March 11, 2022.

5. Chesapeake Appalachia, LLC; Pad ID: Otis; ABR-20100318.R2; Herrick Township, Bradford County, PA; Consumptive Use of Up to 7.5000 mgd; Approval Date: March 14, 2022.

6. Chief Oil & Gas, LLC; Pad ID: AMBROSIUS B PAD; ABR-201703002.R1; Wilmot Township, Bradford County, PA; Consumptive Use of Up to 2.5000 mgd; Approval Date: March 14, 2022.

7. Repsol Oil & Gas USA, LLC; Pad ID: Spencer 729; ABR-201009065.R2; Liberty Township, Tioga County, PA; Consumptive Use of Up to 4.9900 mgd; Approval Date: March 15, 2022.

8. Repsol Oil & Gas USA, LLC; Pad ID: Red Run Mountain, Inc. 739; ABR-201010006.R2; McIntyre Township, Lycoming County, PA; Consumptive Use of Up to 4.9900 mgd; Approval Date: March 15, 2022.

9. Repsol Oil & Gas USA, LLC; Pad ID: Parent 749; ABR-201012054.R2; Canton Township, Bradford County, PA; Consumptive Use of Up to 4.9900 mgd; Approval Date: March 15, 2022.

10. SWN Production Company, LLC; Pad ID: WATTS; ABR-201202028.R2; New Milford Township, Susquehanna County, PA; Consumptive Use of Up to 4.9990 mgd; Approval Date: March 15, 2022.

11. Seneca Resources Company, LLC; Pad ID: Covington Pad R; ABR-202203001; Covington Township, Tioga County, PA; Consumptive Use of Up to 4.0000 mgd; Approval Date: March 16, 2022.

12. Coterra Energy, Inc.; Pad ID: TompkinsJ P1; ABR-202203006; Gibson Township, Susquehanna County, PA; Consumptive Use of Up to 5.0000 mgd; Approval Date: March 23, 2022.

13. Coterra Energy, Inc.; Pad ID: RayiasE P2; ABR-202203005; Brooklyn Township, Susquehanna County, PA; Consumptive Use of Up to 5.0000 mgd; Approval Date: March 23, 2022.

14. Big Dog Energy, LLC; Pad ID: Cowfer B (CC-09) Pad; ABR-201107010.R2; Gulich Township, Clearfield County, PA; Consumptive Use of Up to 5.0000 mgd; Approval Date: March 23, 2022.

15. Big Dog Energy, LLC; Pad ID: River Hill Power Karthaus Pad; ABR-201107014.R2; Karthaus Township, Clearfield County, PA; Consumptive Use of Up to 5.0000 mgd; Approval Date: March 23, 2022.

16. Chesapeake Appalachia, LLC; Pad ID: Cappucci; ABR-20100312.R2; Mehoopany Township, Wyoming County, PA; Consumptive Use of Up to 7.5000 mgd; Approval Date: March 23, 2022.

17. Seneca Resources Company, LLC; Pad ID: Murray Pad A; ABR-20100317.R2; Richmond Township, Tioga County, PA; Consumptive Use of Up to 4.0000 mgd; Approval Date: March 23, 2022.

18. Repsol Oil & Gas USA, LLC; Pad ID: MORGAN (01 074) W; ABR-20100302.R2; Armenia Township, Bradford County, PA; Consumptive Use of Up to 6.0000 mgd; Approval Date: March 23, 2022.

19. Repsol Oil & Gas USA, LLC; Pad ID: DCNR 587 (02 013); ABR-20100308.R2; Ward Township, Tioga County, PA; Consumptive Use of Up to 6.0000 mgd; Approval Date: March 23, 2022.

20. SWN Production Company, LLC; Pad ID: GOOD; ABR-201201027.R2; Cogan House Township and Jackson Township, Lycoming County, PA; Consumptive Use of Up to 4.9990 mgd; Approval Date: March 23, 2022.

21. Coterra Energy, Inc.; Pad ID: HinkleyR P1; ABR-20100322.R2; Springville Township, Susquehanna County, PA; Consumptive Use of Up to 5.0000 mgd; Approval Date: March 23, 2022.

22. Coterra Energy, Inc.; Pad ID: LauerD P1; ABR-202203004; Springville Township, Susquehanna County, PA; Consumptive Use of Up to 5.0000 mgd; Approval Date: March 29, 2022.

23. Coterra Energy, Inc.; Pad ID: ManzerA P1; ABR-201203013.R2; Gibson Township, Susquehanna County, PA; Consumptive Use of Up to 5.0000 mgd; Approval Date: March 29, 2022.

24. Coterra Energy, Inc.; Pad ID: RussoB P2; ABR-20100326.R2; Springville Township, Susquehanna County, PA; Consumptive Use of Up to 5.0000 mgd; Approval Date: March 29, 2022.

25. Chesapeake Appalachia, LLC; Pad ID: Marbaker; ABR-20100321.R2; Auburn Township, Susquehanna County, PA; Consumptive Use of Up to 7.5000 mgd; Approval Date: March 29, 2022.

26. Inflection Energy (PA), LLC; Pad ID: Nature Boy East; ABR-201203010.R2; Upper Fairfield Township, Lycoming County, PA; Consumptive Use of Up to 4.0000 mgd; Approval Date: March 31, 2022.

27. SWN Production Company, LLC; Pad ID: GREM-MEL; ABR-201203005.R2; Jackson Township, Susquehanna County, PA; Consumptive Use of Up to 4.9990 mgd; Approval Date: March 31, 2022.

28. Chesapeake Appalachia, LLC; Pad ID: Rose; ABR-20100327.R2; Towanda Township, Bradford County, PA; Consumptive Use of Up to 7.5000 mgd; Approval Date: March 31, 2022.

29. Chesapeake Appalachia, LLC; Pad ID: Walt; ABR-20100329.R2; Albany Township, Bradford County, PA; Consumptive Use of Up to 7.5000 mgd; Approval Date: March 31, 2022.

30. Seneca Resources Company, LLC; Pad ID: Webster 549; ABR-20100335.R2; Delmar Township, Tioga County, PA; Consumptive Use of Up to 4.0000 mgd; Approval Date: March 31, 2022.

31. Chief Oil & Gas, LLC; Pad ID: Stasiak Drilling Pad # 1; ABR-201203025.R2; Ward Township, Tioga County, PA; Consumptive Use of Up to 6.0000 mgd; Approval Date: March 31, 2022.

32. Coterra Energy, Inc.; Pad ID: WarnerA P1; ABR-20100331.R2; Delmar Township, Susquehanna County, PA; Consumptive Use of Up to 5.0000 mgd; Approval Date: March 31, 2022.

33. Coterra Energy, Inc.; Pad ID: GrosvenorD P1; ABR-20100333.R2; Dimock Township, Susquehanna County, PA; Consumptive Use of Up to 5.0000 mgd; Approval Date: March 31, 2022.

34. Blackhill Energy, LLC; Pad ID: WOLFE B Pad; ABR-201203002.R2; Athens Township, Bradford County, PA; Consumptive Use of Up to 4.9900 mgd; Approval Date: March 31, 2022.

Authority: Pub.L. No. 91-575, 84 Stat. 1509 et seq., 18 CFR Parts 806 and 808

Dated: April 8, 2022

ANDREW D. DEHOFF,
Executive Director

[Pa.B. Doc. No. 22-621. Filed for public inspection April 22, 2022, 9:00 a.m.]

SUSQUEHANNA RIVER BASIN COMMISSION

Projects Approved for Minor Modification

The Susquehanna River Basin Commission (Commission) lists the minor modification approved for a previously approved project from March 1, 2022, through March 31, 2022.

For further information contact Jason E. Oyler, General Counsel, (717) 238-0423, Ext. 1312, fax (717) 238-2436, joyler@srbc.net. Regular mail inquiries may be sent to the Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, PA 17110-1788.

Supplementary Information

This notice lists a previously approved project, receiving approval of minor modifications, described as follows, under 18 CFR 806.18 (relating to approval modifications) or to Commission Resolution Nos. 2013-11 and 2015-06 for the time period previously specified:

Minor Modification Issued Under 18 CFR 806.18

1. Sunset Golf Club, LLC, Docket No. 20220317, Oneida Township, Huntington County, PA; modification

approval to change the consumptive use mitigation method; Approval Date: March 18, 2022.

Authority: Pub.L. No. 91-575, 84 Stat. 1509 et seq., 18 CFR Parts 806 and 808

Dated: April 8, 2022

ANDREW D. DEHOFF,
Executive Director

[Pa.B. Doc. No. 22-622. Filed for public inspection April 22, 2022, 9:00 a.m.]

SUSQUEHANNA RIVER BASIN COMMISSION

Public Hearing

The Susquehanna River Basin Commission (Commission) will hold a public hearing on May 5, 2022, at 6:30 p.m. The Commission will hold this public hearing in-person and telephonically. Individuals may attend in-person at the Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, PA or join by conference call at (888) 387-8686, conference room number 917 968 6050. The public hearing will end at 9 p.m. or at the conclusion of public testimony, whichever is earlier. At this public hearing, the Commission will hear testimony on the projects listed in the Supplementary Information section of this notice. The projects and proposals are intended to be scheduled for Commission action at its next business meeting, tentatively scheduled for June 16, 2022, which will be noticed separately. The public should take note that this public hearing will be the only opportunity to offer oral comment to the Commission for the listed projects and proposals. The deadline for the submission of written comments is May 16, 2022.

For further information contact Jason Oyler, General Counsel and Secretary, (717) 238-0423, joyler@srbc.net.

Information concerning the applications for the projects is available at the Commission's Water Application and Approval Viewer at <https://www.srbc.net/waav>. Information concerning the proposals can be found at <https://www.srbc.net/about/meetings-events/>. Additional supporting documents are available to inspect and copy in accordance with the Commission's Access to Records Policy at www.srbc.net/regulatory/policies-guidance/docs/access-to-records-policy-2009-02.pdf.

Supplementary Information

The public hearing will cover the following projects:

Projects Scheduled for Action:

1. Project Sponsor and Facility: Blackhill Energy, LLC (Susquehanna River), Ulster Township, Bradford County, PA. Application for surface water withdrawal of up to 3.024 mgd (peak day).

2. Project Sponsor and Facility: Chesapeake Appalachia, LLC (Susquehanna River), Mehoopany Township, Wyoming County, PA. Application for renewal of surface water withdrawal of up to 0.999 mgd (peak day) (Docket No. 20170603).

3. Project Sponsor and Facility: Chesapeake Appalachia, LLC (Susquehanna River), Wysox Township, Bradford County, PA. Application for renewal of surface water withdrawal of up to 0.999 mgd (peak day) (Docket No. 20170604).

4. Project Sponsor and Facility: Chesapeake Appalachia, LLC (Wyalusing Creek), Rush Township, Susque-

hanna County, PA. Application for renewal of surface water withdrawal of up to 0.715 mgd (peak day) (Docket No. 20170605).

5. Project Sponsor: Corning Incorporated. Project Facility: Houghton Park, City of Corning, Steuben County, NY. Application for renewal of groundwater withdrawal of up to 1.080 mgd (30-day average) from Well 5 (Docket No. 19970503).

6. Project Sponsor and Facility: East Cocalico Township Authority, East Cocalico, West Cocalico and Brecknock Townships, Lancaster County, PA. Applications for renewal of groundwater withdrawals (30-day averages) of up to 0.081 mgd from Well 11, 1.150 mgd from Well F and 1.395 mgd from Well M (Docket Nos. 19920702 and 20070606).

7. Project Sponsor: Golf Acres, Inc. Project Facility: Chapel Hill Golf Course (Little Muddy Creek), Spring Township, Berks County, PA. Applications for surface water withdrawal of up to 0.180 mgd (peak day) and consumptive use of up to 0.162 mgd (peak day).

8. Project Sponsor and Facility: Hydrage, LLC, East Union and Mahanoy Townships, Schuylkill County, PA. Application for renewal of consumptive use of up to 0.200 mgd (peak day) (Docket No. 20070603).

9. Project Sponsor and Facility: Lykens Valley Golf Course & Resort, Inc. (unnamed tributary to Wiconisco Creek), Upper Paxton Township, Dauphin County, PA. Applications for renewal of surface water withdrawal of up to 0.200 mgd (peak day) and consumptive use of up to 0.200 mgd (peak day) (Docket No. 20080614).

10. Project Sponsor and Facility: Municipal Authority of the Township of East Hempfield, d/b/a Hempfield Water Authority, East Hempfield Township, Lancaster County, PA. Applications for renewal of groundwater withdrawals (30-day averages) of up to 0.353 mgd from Well 6, 0.145 mgd from Well 7, 1.447 mgd from Well 8, and 1.800 mgd from Well 11, and Commission-initiated modification to Docket No. 20120906, which approves withdrawals from Wells 1—5 and Spring S-1 (Docket Nos. 19870306, 19890503, 19930101 and 20120906).

11. Project Sponsor: New Enterprise Stone & Lime Co., Inc. Project Facility: Tyrone Quarry, Warriors Mark Township, Huntingdon County, PA. Application for groundwater withdrawal of up to 0.173 mgd (30-day average) from Well MW-36B and modification to increase consumptive use (peak day) by an additional 0.238 mgd, for a total consumptive use of up to 0.532 mgd (Docket No. 20031205).

12. Project Sponsor and Facility: Repsol Oil & Gas USA, LLC (Towanda Creek), Franklin Township, Bradford County, PA. Application for renewal of surface water withdrawal of up to 1.000 mgd (peak day) (Docket No. 20170611).

13. Project Sponsor and Facility: Shrewsbury Borough, Shrewsbury Township and Shrewsbury Borough, York County, PA. Applications for renewal of groundwater withdrawals (30-day averages) of up to 0.099 mgd from the Meadow Well and 0.180 mgd from the Village Well (Docket Nos. 19890501 and 19900105).

14. Project Sponsor: SUEZ Water Pennsylvania, Inc. Project Facility: Grantham Operation, Upper Allen Township, Cumberland County, PA. Application for renewal of groundwater withdrawal of up to 0.395 mgd (30-day average) from Well 2 (Docket No. 19901104).

15. Project Sponsor and Facility: SWN Production Company, LLC (Susquehanna River), Oakland Township, Susquehanna County, PA. Application for surface water withdrawal of up to 3.000 mgd (peak day).

16. Project Sponsor and Facility: Town of Kirkwood, Broome County, NY. Application for renewal of groundwater withdrawal of up to 0.841 mgd (30-day average) from Well 3 (Docket No. 19920304).

17. Project Sponsor and Facility: Village of Canisteo, Steuben County, NY. Application for renewal of groundwater withdrawal of up to 0.499 mgd (30-day average) from Well 2 (Docket No. 19950902).

18. Project Sponsor: Vulcan Construction Materials, LLC Project Facility: Havre de Grace Quarry (Susquehanna River), Havre de Grace District, Harford County, MD. Applications for renewal of surface water withdrawal of up to 0.234 mgd (peak day) and consumptive use of up to 0.823 mgd (peak day) (Docket No. 19920105).

Project Scheduled for Action Involving a Diversion:

19. Project Sponsor and Facility: Patrick Hoopes Trucking, Inc., Eulalia Township, Potter County, PA. Application for an into-basin diversion from the Ohio River Basin of up to 1.000 mgd (peak day) from the Allegheny River.

Commission Initiated Project Approval Modification:

20. Project Sponsor and Facility: Lebanon Valley College, Annville and North Annville Townships, Lebanon County, PA. Conforming the grandfathered amount with the forthcoming determination for groundwater withdrawals (30-day averages) of up to 0.019 mgd from the Football Well, 0.044 mgd from the Baseball Well and 0.042 mgd from the West (Soccer) Well, as well as modify monitoring and reporting requirements for the project (Docket No. 20030409).

Opportunity to Appear and Comment:

Interested parties may call into the hearing to offer comments to the Commission on any business previously listed required to be the subject of a public hearing. Given the nature of the meeting, the Commission strongly encourages those members of the public wishing to provide oral comments to pre-register with the Commission by e-mailing Jason Oyler at joyler@srbc.net prior to the hearing date. The presiding officer reserves the right to limit oral statements in the interest of time and to otherwise control the course of the hearing. Access to the hearing by telephone will begin at 6:15 p.m. Guidelines for the public hearing are posted on the Commission's web site, www.srbc.net, prior to the hearing for review. The presiding officer reserves the right to modify or supplement the guidelines at the hearing. Written comments on any business previously listed required to be the subject of a public hearing may also be mailed to Jason Oyler, Secretary, Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, PA 17110-1788, or submitted electronically through <https://www.srbc.net/regulatory/public-comment/>. Comments mailed or electronically submitted must be received by the Commission on or before May 16, 2021, to be considered.

Authority: Pub.L. No. 91-575, 84 Stat. 1509 et seq., 18 CFR Parts 806—808

Dated: April 8, 2022

ANDREW D. DEHOFF,
Executive Director

[Pa.B. Doc. No. 22-623. Filed for public inspection April 22, 2022, 9:00 a.m.]

PENNSYLVANIA BULLETIN

Volume 52

Number 17

Saturday, April 23, 2022 • Harrisburg, PA

Part II

This part contains the
Rules and Regulations



RULES AND REGULATIONS

Title 22—EDUCATION

STATE BOARD OF EDUCATION

[22 PA. CODE CH. 49]

Certification of Professional Personnel

The State Board of Education (Board) amends Chapter 49 (relating to certification of professional personnel) to read as set forth in Annex A. Notice of proposed rulemaking was published at 50 Pa.B. 7164 (December 19, 2020).

Statutory Authority

The Board is acting under the authority of sections 1109, 1141, 2603-B and 2604-B of the Public School Code of 1949 (24 P.S. §§ 11-1109, 11-1141, 26-2603-B and 26-2604-B).

Purpose

Chapter 49 sets forth requirements for educator preparation, certification, induction and ongoing professional education.

Background

In July 2018, the Department of Education (Department) invited interested stakeholders to participate in dialog on issues surrounding educator preparation and certification. Attendees at forums held in Philadelphia, Harrisburg and Pittsburgh provided input on potential changes to state policy that could strengthen preparation and certification and strategies to advance the Department's other priorities for the educator workforce, including diversifying Pennsylvania's educator workforce and ensuring all students have equitable access to effective teachers. Stakeholder feedback from these convenings was considered in tandem with a review of research on the impact and effectiveness of policy changes suggested by stakeholders in a report prepared for the Department by the Learning Policy Institute (LPI).

Guided then by input from diverse stakeholders and a review of related academic literature, the Secretary of Education (Secretary) presented a set of recommendations for updating Chapter 49 to the Board in November 2018. The Board accepted the Secretary's recommendations on its agenda for consideration and initiated a major review of Chapter 49 that is to occur at 10-year intervals per 22 Pa. Code § 49.51(b) (relating to review of certification) with the Secretary's recommendations serving as a starting point for that review.

The Board, through its Teacher and School Leader Effectiveness Committee (Committee), held four public hearings on the Secretary's recommended updates to Chapter 49 and invited additional testimony from stakeholders on the Chapter broadly. In advance of the hearings, draft proposed amendments to Chapter 49 prepared by the Secretary were posted on the Board's web site for public review. Hearings were held at the Philadelphia School District administration building on March 4, 2019, at the Department of Education in Harrisburg on March 14, 2019, at Lock Haven University on March 28, 2019, and at the Allegheny Intermediate Unit on April 23, 2019. In addition to providing an opportunity to testify before the Committee, the Board also invited individuals to submit written testimony on draft proposed amendments to Chapter 49.

Individuals affiliated with small businesses were welcome to participate in the public hearings convened by the Committee and to submit written testimony to the Board. In addition, the Board invited comments on the impact of draft proposed amendments on small businesses directly from the Pennsylvania chapter of the National Federation of Independent Business prior to adopting the proposed rulemaking.

Comments received during this process were taken into consideration by the Board in making further amendments to the Secretary's recommendations. Draft proposed amendments to Chapter 49 were reviewed and approved by the Committee and by the Council of Higher Education before being adopted by the Board as a proposed rulemaking at its public meeting on July 8, 2020.

The Board's proposed rulemaking was published at 50 Pa.B. 7164 for a 30-day public comment period. The Board received and considered comments from faculty in schools of education, educators and parents, as well as comments from the Independent Regulatory Review Commission (IRRC).

The Board prepared amendments to this final-form rulemaking to address concerns raised by stakeholders and IRRC through public comment. Those amendments clarified the scope of applicability of requirements for training in structured literacy, deleted references to "cognitive competencies" that was identified as duplicative, deleted a proposal to permit the Secretary to determine the length of field experiences for prospective educators that more appropriately should be considered through amendments to Chapter 354 (relating to preparation of professional educators), and deleted the proposal for annual data reporting on first-generation students that are admitted, retained and graduated from educator preparation programs that affected stakeholders identified as not reasonable. The additional amendments also established new definitions for "cultural awareness" and "trauma-informed approaches to instruction," as suggested by IRRC, to provide greater clarity in this final-form rulemaking. Final amendments also deleted a proposal to permit school psychologists with 5 years of satisfactory experience to be issued a Special Education Supervisory certificate in response to concerns raised by faculty in schools of education and parents over whether school psychologists have the requisite knowledge and skills to support and evaluate special education teachers, whether they have the requisite knowledge to design, implement and assess related instructional programs, and whether the change may exacerbate the shortage of school psychologists. Finally, the Board made other clarifying amendments in this final-form rulemaking as requested by IRRC. Those clarifying amendments are explained in detail in the following section titled "Summary of the Final Rulemaking."

A revised final-form rulemaking encompassing the amendments previously described was approved by the Council of Higher Education and by the Board on September 9, 2021.

Need for the rule

This final-form rulemaking has two aims—conforming the chapter to changes in State statute and enhancing educator preparedness by establishing new training re-

quirements related to culturally responsive and sustaining education (CR-SE), structured literacy and professional ethics.

The majority of final amendments reflect technical amendments to align certain provisions of Chapter 49 with statutory changes to the Public School Code of 1949 (24 P.S. §§ 1-101—27-2702), clarify ambiguous language and update language for relevancy.

Substantive changes related to educator training are needed to address concerns surrounding this Commonwealth's supply of effective educators. Chapter 49 directs the Department to report annually to the Board on the status of certification in the Commonwealth (see § 49.51(a)). Data presented in the Department's July 2020 annual human capital report shows that enrollment in traditional educator preparation programs in this Commonwealth has decreased by 67% since 2010, with a slight increase between 2017 and 2018.

This downward trend is consistent with declines in educator preparation program enrollments. Nationally that fell by 35% between 2009 and 2014. Data on National educator preparation program enrollments was presented by LPI in a presentation titled "*National Trends in Teacher Preparation and Certification*" that was delivered at a public meeting of the Board in March 2019. The steep decline in the number of individuals preparing for a career in education is a contributing factor to the challenges districts face in hiring fully prepared educators. Issues surrounding educator supply further are compounded by persistent teacher shortages in certain geographic areas and subject areas.

The decline in supply and resulting shortages disproportionately impact inequities in access to qualified teachers for low-income students and students of color. A report prepared by LPI titled "*Examining Educator Certification in Pennsylvania: Research and Recommendations for Chapter 49*" notes that the eight districts that top the State's list for teacher shortages based on unfilled vacancies are all Title I districts. Title I is a Federal program that provides financial assistance to local education agencies and schools with high numbers or high percentages of children from low-income families. Collectively, in 2016-2017, these districts served over 13% of the State's overall student population and over 30% of students of color in this Commonwealth. According to the LPI report, six of the eight districts with the greatest teacher shortages serve primarily students of color.

To address these gaps, the State has become increasingly reliant on long-term substitutes serving on emergency permits to staff classrooms as evidenced by a 100% increase in the number of emergency permits issued to districts in this Commonwealth between 2014-2015 and 2016-2017. Data on the increasing reliance on emergency permits was presented to the Board in the Department's 2018 annual certification report and further reported in the aforementioned report prepared by LPI. These circumstances are concerning because research demonstrates that teachers with little or no preparation often lead classrooms with lower student outcomes and experience a higher attrition rate from the field. Nationally, 66% of teacher turnover in 2015-2016 was due to pre-retirement attrition, as reported by LPI in its March 2019 presentation at a public meeting of the Board.

While significant turnover occurs before educators reach retirement age, the Board also gauged this Commonwealth's educator workforce needs by reviewing data on the supply gap as measured by potential retirements.

In 2018-2019, 12% of teachers were close to or at the age of retirement (defined as 55 years of age or older) and, in that same year, 5% of teachers were close to retirement based on years of services (defined as 30 or more years of service) as evidenced by data in the Department's July 2020 annual human capital report.

Amendments in this final-form rulemaking are also intended to reinforce the professional integrity expected of both new and experienced educators. The Professional Standards and Practices Commission, the State body charged with adjudicating educator misconduct, has seen its caseload more than triple over the past 5 years according to data from the Commission. The Commission disciplines nearly 300 educators annually, and the Department's Office of Chief Counsel had more than 2,000 educator misconduct complaints pending as of November 2020. Protecting students from educator misconduct is of the utmost imperative. Through these amendments, the Board seeks to ensure that Commonwealth educators are prepared not just in pedagogy and content knowledge, but that they also possess a clear understanding of the ethical practice that is expected of them.

Collectively, these challenging circumstances require attention to ensure that all students in this Commonwealth are served by teachers fully prepared to meet their needs. To address these challenges, the Board is establishing new educator training requirements that would be integrated throughout three points in an educator's career to provide a continuum of professional learning.

First, this final-form rulemaking adds requirements for instruction for preservice educators, which would be delivered as part of undergraduate or alternative post-baccalaureate programs for individuals who are working toward earning a teaching certificate. Under this final-form rulemaking, individuals studying to become teachers would need to receive instruction in professional ethics and CR-SE. CR-SE is inclusive of mental wellness, trauma-informed instruction, cultural awareness, and technological and virtual engagement. Preservice instruction in structured literacy also would be required for individuals seeking to earn the following instructional certificates: Early Childhood; Elementary/Middle; Special Education PreK—12; English as a Second Language; and Reading Specialist.

Second, this final-form rulemaking adds requirements for training as newly-employed teachers enter the profession. When teachers enter the classroom for the first time, they are required to complete an induction program that includes a variety of professional support services, often delivered under the guidance of a mentor teacher, to facilitate entry into the education profession. At present, induction programs typically span an educator's first year in the classroom. This final-form rulemaking extends induction supports to the first 2 years of an educator's career. This final-form rulemaking also requires induction programs for newly-employed educators to include training in CR-SE, as previously described and in professional ethics.

Finally, this final-form rulemaking adds requirements for training as part of continuing professional development for current educators. The act of November 23, 1999 (P.L. 529, No. 48), requires educators in this Commonwealth to complete continuing education requirements every 5 years to maintain an active teaching certificate. Educators must earn either six credits of collegiate study, six credits of Department-approved continuing professional education courses or 180 hours of continuing

professional education programs, activities or learning experiences through a Department-approved provider to maintain active certification status.

Further, both section 1205.1 of the Public School Code of 1949 (24 P.S. § 12-1205.1) and § 49.17 (relating to continuing professional education) require school entities to develop continuing professional education plans every 3 years. The existing requirements of Chapter 49 further require that professional education plans must address training in meeting the needs of diverse learners (defined as students with limited English language proficiency or students with disabilities), improving language and literacy acquisition, and closing the achievement gap among students. This final-form rulemaking requires that continuing professional education for current educators also include training in CR-SE and professional ethics for all educators, as well as training in structured literacy for educators who hold instructional certificates in Early Childhood, Elementary/Middle, Special Education PreK–12, English as a Second Language and Reading Specialist.

The amendments are intended to support efforts to improve educator recruitment, increase the number of classrooms staffed by fully prepared teachers, increase retention in the profession, and improve student outcomes by strengthening the preparation of new educators, creating conditions to provide more support for educators as they enter the classroom and by improving the skill sets of current educators in working with an increasingly diverse student population.

Provisions of this Final-Form Rulemaking

The majority of amendments in this final-form rulemaking make technical amendments to either align provisions of Chapter 49 with statutory changes, clarify language or update language for relevancy. The balance of amendments establish new competencies to be incorporated both in preservice instruction for individuals preparing to enter the education profession and in training delivered through induction programs and professional development for current educators. This final-form rulemaking also strengthens supports for beginning educators by extending the length of induction programs and requires annual reporting of data on students admitted, retained and graduated from educator preparation programs including disaggregated data for students of color and economically disadvantaged students.

§ 49.1. Definitions

Amendments to § 49.1 (relating to definitions) add a new definition for “alternative program provider.” The act of June 30, 2011 (P.L. 112, No. 24) (Act 24 of 2011) created new powers and duties for the Secretary through the addition of section 1207.1 to the Public School Code of 1949 (24 P.S. § 12-1207.1). These powers permit the Secretary to evaluate and approve postbaccalaureate certification programs and to evaluate and approve qualified providers of postbaccalaureate certification programs, which may include providers other than institutions of higher education. The definition of “alternative program provider” is added as a technical revision to align the regulation with the authorization in statute permitting the Secretary to approve these providers and to acknowledge the current landscape of educator preparation providers that is inclusive of approved alternative programs. References to alternative program providers are also incorporated throughout Chapter 49 as appropriate to recognize the presence of alternative program providers. Final amendments to this definition update the citation

to the Public School Code of 1949 referenced within the definition to correctly refer to section 1207.1(a) of the act as requested by IRRC in its comments dated February 17, 2021.

In the Board’s proposed rulemaking, the term “approved teacher certification program” was updated for relevance to refer to “approved educator preparation program” to recognize that preservice education providers offer a breadth of programming that extends beyond preparing individuals to serve only as classroom teachers. The definition was also updated to reflect the presence of alternative program providers, as described in the new definition for “alternative program provider.” In its comments to the Board, IRRC correctly noted that the term “approved educator certification program” is not used in the regulation. Final amendments to Chapter 49 correct this drafting error by amending the defined term to read “approved educator preparation program” for consistency with references to approved preparation programs throughout Annex A.

A definition of “baccalaureate degree” is included as a technical amendment in the Board’s proposed rulemaking to provide context for individuals qualified to pursue certification through an alternative program provider as defined in statute. Requirements established in section 1207.1 of the Public School Code of 1949 set forth that these programs may be offered at the postbaccalaureate level. Final amendments to the definition of “baccalaureate degree” delete the last sentence of the definition because it contained a substantive provision relating to graduate degrees. Per § 2.11(e) (relating to definition section) of the *Pennsylvania Code and Bulletin Style Manual*, substantive provisions may not be included in a definition. To correct this, the Board created a new paragraph within § 49.12 (relating to eligibility) and moved the language being deleted from the proposed definition of “baccalaureate degree” to § 49.12(4).

The existing definition of “professional certified personnel” is amended to refer to “certified personnel” to clarify professional as certified and to reflect the application of the term as applied in current inter-State reciprocity agreements.

The definition of “completer” is deleted from this final-form rulemaking because the term is not used in the regulation.

A definition for “cultural awareness” is added to this final-form rulemaking, as requested by IRRC, to improve the clarity of the regulation and the clarity of the definition of “culturally relevant and sustaining education” that contains a reference to cultural awareness.

A definition for “culturally relevant and sustaining education” (CR-SE) is added to describe new competencies for educators in which instruction and training would be required under this final-form rulemaking. The definition of CR-SE includes the following specific competencies: mental wellness, trauma-informed approaches to instruction, technological and virtual engagement, and cultural awareness. The proposed definition of CR-SE also included reference to “. . .any factors that inhibit equitable access for all students in this Commonwealth.” The Board determined that the use of the word “any” in the proposed definition was too broad and, in this final-form rulemaking, replaced the word “any” with the word “emerging” to more accurately express the intent of the Board that educator training in CR-SE is not static and should address factors that may inhibit equitable access for all students as they arise.

The existing definition for the “Professional Educator Discipline Act” is updated to the “Educator Discipline Act” to appropriately refer to the Act as it was renamed by the act of December 18, 2013 (P.L. 1205, No. 120). References to the “Professional Educator Discipline Act” throughout the entirety of the chapter are also updated accordingly to align with the title as changed in statute.

A definition for “historically underrepresented groups” provides context for the disaggregated reporting requirements set forth in § 49.14(4)(v) (relating to approval of institutions and alternative program providers). As proposed, educator preparation programs would have been required to annually submit data to the Department on students admitted, retained and graduated, including disaggregated data for students of color, economically disadvantaged students and first-generation college-goers. Final amendments to the definition of “historically underrepresented groups” delete the requirement to annually report data on first-generation college-goers in response to concerns from educator preparation programs that colleges and universities do not have reliable data on this student subgroup.

A definition for “professional ethics” is added to provide context for instruction and training for educators in ethical practice and professional integrity that is required under this final-form rulemaking. Final amendments to the definition of “professional ethics” deleted language that referred to standards of behavior, values and principles as “accepted and collectively agree[d] upon” as this language is determined to be too subjective. Further amendments to the definition deleted reference to “applicable laws and regulations” generally that was determined not to be specific enough. Finally, the definition is amended to delete reference to the Model Code of Ethics for Education, as published by the National Association of State Directors of Teacher Education, as a guiding document on standards of behavior, values and principles related to professional ethics for educators to address concerns that referring to a National code could appear as an unlawful delegation of authority. Rather, the final definition is amended to refer to the Pennsylvania Model Code of Ethics for Educators as adopted by the Professional Standards and Practices Commission.

The term “school entity” is updated to replace the existing reference to “area vocational-technical schools” with “area career and technical schools.” This amendment aligns language included in the definition with terminology as it was updated throughout the Public School Code of 1949 under amendments enacted by the act of October 30, 2019 (P.L. 460, No. 76) (Act 76 of 2019).

A definition for “structured literacy” is added to provide context for instruction and training for educators in these competencies as required under this final-form rulemaking. Final amendments further refine the definition to clarify the purpose of systematic, explicit instruction in structured literacy as providing a strong core of foundational skills in the language systems of English. The final definition is also amended to add “spelling” to the foundational skills cited in the definition in response to stakeholder requests to include this related skill among those already identified.

A definition of “subject area” is added to distinguish content instruction from grade spans.

This final-form rulemaking also includes a definition for “trauma-informed approaches to instruction” as requested by IRRC to improve the clarity of the regulation and the clarity of the definition of “culturally relevant

and sustaining education” that contains a reference to trauma-informed approaches to instruction.

§ 49.12. Eligibility

References to providing a physician’s certification in § 49.12(2) are deleted as these certificates are no longer required in statute.

Current § 49.12(4) is renumbered as § 49.12(3) to maintain appropriate sequence following the deletion of the current § 49.12(2). Clarifying amendments in this section update terminology to replace references to “vocational” with “career and technical.” This terminology update is consistent with the same terminology changes made throughout the Public School Code of 1949 under amendments enacted by Act 76 of 2019.

As previously described relative to § 49.1, § 49.12(4) is added to address language previously contained within the proposed definition of “baccalaureate degree” that was deleted from the definition because it contained a substantive provision. That language is more appropriately situated within this section.

§ 49.13. Policies

Amendments replacing the term “teacher education” with “educator preparation” are reflected in subsection (b)(1) and (4) (relating to policies) to update language for relevancy and to reflect updates to the definition of “approved educator preparation program” in § 49.1. Parallel amendments to this terminology are reflected throughout the balance of Chapter 49 for greater accuracy and relevancy in identifying the breadth of program offerings by preservice education providers that extend beyond preparing classroom teachers.

Final amendments to subsection (b)(4)(i) contain a technical correction to replace the word “of” with the word “or” as it pertains to the pathways through which educator preparation programs can demonstrate they are meeting existing requirements for at least nine credits or 270 hours of instruction in accommodations and adaptations for students with disabilities in inclusive settings. This technical correction makes the language consistent with how a reference to this language is presented later in the same paragraph.

Subsection (b)(4)(ii) requires instruction in professional ethics and culturally relevant and sustaining education to be integrated throughout educator preparation programs and directs the Department to determine whether this requirement is being satisfied by educator preparation providers. This instruction must align with competencies and associated standards in professional ethics and culturally relevant and sustaining education developed by the Department as set forth elsewhere in § 49.14(4)(i) of this final-form rulemaking. The Department will evaluate whether educator preparation program providers are meeting these requirements through its existing major review process for approved program providers.

Final amendments add subsection (b)(4)(iii) as a new subsection requiring instruction in structured literacy to be included in educator preparation program pathways that prepare candidates to earn an instructional certificate in Early Childhood, Elementary/Middle, Special Education PreK–12, English as a Second Language and Reading Specialist. This section further directs the Department to determine whether this requirement is being satisfied by educator preparation providers. This instruction must align with competencies and associated standards in structured literacy developed by the Department as set forth elsewhere in § 49.14(4)(i) of this final-form

rulemaking. The Department will evaluate whether educator preparation program providers are meeting this requirement through its existing major review process for approved program providers.

Current subsection (b)(4)(iii) is renumbered as subsection (b)(4)(iv) to maintain appropriate sequence following the addition of subsection (b)(4)(iii) as previously described.

Subsection (c) is amended for clarity and to reference the new definition of “alternative program provider” to recognize the presence of alternative providers in the landscape of educator preparation programs.

Subsection (f) is added to the regulation to address procedures for evaluating applicants for certification who seek certification after their educator preparation program has closed or been discontinued. This addition is intended to ensure there are no gaps in the evaluation of applicants for certification. This section is also amended to comply with § 6.7(c) (relating to use of “shall,” “will,” “must” and “may”) of the *Pennsylvania Code and Bulletin Style Manual*, which states that the term “will” applies to a pledge of action by the Commonwealth. As drafted, the section inappropriately uses the term “shall” in directing action by the Department, which is a Commonwealth entity. Technical amendments in this final-form rule-making update the term “shall” to the correct term “will.”

§ 49.14. *Approval of institutions and alternative program providers*

The title of this section is being updated to reference the proposed new definition of “alternative program provider” to recognize the inclusion of the providers in section 1207.1 of the Public School Code of 1949 and their presence in the landscape of educator preparation providers. References to “alternative program provider” are added throughout the section, and throughout the balance of Chapter 49 as appropriate, to reflect the Secretary’s responsibility for approving these providers as established by Act 24 of 2011.

Amendments to § 49.14(4)(i) require educator preparation program providers to deliver instruction that includes competencies, coursework, and field experiences in professional ethics and CR-SE, inclusive of mental wellness, trauma-informed approaches to instruction, cultural awareness, and technological and virtual engagement, for all educators. In response to comments from interested stakeholders, final amendments also clarify the scope of required preservice instruction in structured literacy. Individuals studying to earn an instructional certificate in Early Childhood, Elementary/Middle, Special Education PreK–12, English as a Second Language and Reading Specialist must receive training in structured literacy as part of their preservice preparation. Finally, this section requires the Department to identify competencies and develop associated standards for educator training in professional ethics, structured literacy and CR-SE.

Section 49.14(4)(iv) requires the Secretary to consult with the Board in making determinations related to participation in sequential clinical experiences for candidates studying to earn an educator certification.

Section 49.14(4)(v) establishes annual reporting requirements for educator preparation programs on students admitted, retained and graduated, including students from historically underrepresented groups. In response to concerns raised by educator preparation programs about the availability of reliable data, the definition of “historically underrepresented groups” in § 49.1 is amended to remove first generation college-

goers from annual reporting requirements included in the Board’s proposed rulemaking. As defined in this final-form rulemaking, disaggregated annual reporting would be required for students of color and economically disadvantaged students.

Section 49.14(4)(v) is also updated to comply with § 6.7(a) of the *Pennsylvania Code and Bulletin Style Manual*, which states that the term “shall” expresses a duty or obligation as it applies to a person, committee or other nongovernmental entity. As proposed, § 49.14(4)(v) incorrectly used the term “will” to direct action required of institutions and alternative program providers related to annual reporting requirements. This final-form rule-making includes a technical amendment to replace the term “will” with the correct term “shall.”

Amendments to § 49.14(4)(vii) better clarify the institutional approval process by including reference to designations for at-risk or low performing educator preparation program providers. In its comments to the Board, IRRC asked where the Department defines these terms, requested that the Board revise this paragraph by adding a citation, and asked that the Board explain these standards. As requested by IRRC, final amendments to § 49.14(4)(vii) add a citation to the Federal Higher Education Act of 1965 (HEA) (20 U.S.C.A. §§ 1001–1161aa-1), from which the Department derives its authority to identify at-risk or low performing programs.

The United States Congress enacted Title II provisions to the HEA authorizing Federal grant programs to improve the recruitment, retention, preparation and support of new teachers. Title II also included accountability measures in the form of reporting requirements for institutions and states on educator preparation and licensing. Section 207 of Title II (20 U.S.C.A. § 1022F(a)) reporting requirements mandate that the United States Secretary of Education collect data on standards for educator certification and licensure, as well as data on the performance of educator preparation programs. The law requires the Secretary to use these data in submitting its annual report on the quality of educator preparation to Congress.

In addition, states were required to develop criteria, procedures or processes to identify institutions that are at-risk of becoming low performing and low-performing institutions. These levels of performance shall be determined solely by the state and may include criteria based upon information collected under Title II. In keeping with the Federal requirements, the Department developed criteria to address the performance standards/criteria. The Department is currently working on updating these standards. The Department’s current criteria for identifying at-risk and low performing educator preparation programs can be found on the Department’s web site at <https://www.education.pa.gov/Teachers%20-%20Administrators/Teacher%20Quality/Pages/default.aspx>.

Proposed amendments to § 49.14(4)(viii) that would have granted more discretion over field experiences to the Secretary in consultation with the Board are deleted from this final-form rulemaking. In its comments to the Board, IRRC stated that this proposed amendment circumvented the regulatory process by not adequately revising § 354.25 (relating to preparation program curriculum), which sets standards for the student teaching experience and cooperating teachers. As such, this proposed amendment is deleted.

Section 49.14(4)(x) is amended to clarify the Board’s role in consulting with the Secretary to approve achievement targets.

Amendments to § 49.14(6) are added to acknowledge the need of educator preparation programs to comply with Federal requirements. Section 49.14(6) is also updated to comply with § 6.7(a) of the *Pennsylvania Code and Bulletin Style Manual*, which states that the term “shall” expresses a duty or obligation as it applies to a person, committee or other nongovernmental entity. As proposed, the section inappropriately used the term “will” as it applied to a requirement for institutions to comply with Federal law. This final-form rulemaking includes a technical amendment to replace the term “will” with the correct term “shall.”

§ 49.15. Approval of experimental programs

As noted in the previous section, the proposed definition for “alternative program provider” is added to relevant provisions throughout Chapter 49 to recognize inclusion in the landscape of educator preparation programs.

Section 49.15 (relating to approval of experimental programs) also adds a cross-reference to § 49.13 for clarification to highlight needs for experimental programs to meet requirements established in § 49.13.

§ 49.16. Approval of induction plans

Amendments to § 49.16(a) (relating to approval of induction plans) strengthen the supports available to beginning educators by extending the length of induction programs to 2 years. Existing requirements for induction direct school entities to include long-term substitutes who are hired in a position for 45 days or more in their induction plans. In its comments to the Board, IRRC asked the Board to explain the rationale for requiring long-term substitutes to participate in a 2-year induction program. As drafted in the proposed rulemaking, the amendment to subsection (a) could require long-term substitutes to participate in induction for a period that exceeds the duration of their service as a long-term substitute. The Board concurred that this requirement is not reasonable and, in response, reconsidered the proposed amendment to subsection (a). The Board adopted final amendments to subsection (a) to clarify that long-term substitutes hired for a position for 45 days or more must participate in an induction program only for the period of time in which they serve in that capacity, which may be less than 2 years.

Subsection (c) was added as a new subsection in the Board’s proposed rulemaking. This new subsection requires school entities to include competencies related to professional ethics and CR-SE in induction program plans for new educators. Consistent with changes made elsewhere in this final-form rulemaking, a proposed requirement to include “cognitive competencies” as part of induction plans is deleted in the final amendments adopted by the Board due to concerns expressed by stakeholders that the term was too vague and redundant with existing competencies and, therefore, did not add value to current programs.

Existing subsections (c) and (d) are being renumbered as subsections (d) and (e), respectively. These technical amendments are being made to maintain proper sequencing following the addition of the new subsection (c) as previously described.

§ 49.17. Continuing professional education

Amendments to subsection (a)(6) require school entities to address delivery of training in professional ethics and in CR-SE for all educators as part of existing continuing professional education plans.

As defined in § 49.1, CR-SE encompasses a number of competencies, including trauma-informed approaches to instruction. Addressing trauma-informed approaches to instruction as a component of professional development for current educators, which would be required by the inclusion of CR-SE in subsection (a)(6), is consistent with the recent additions of section 1205.1 and section 1205.7 to the Public School Code of 1949 (24 P.S. § 12-1205.7) that require school entities’ professional education plans to include trauma-informed approaches.

Final amendments to subsection (a)(6) also clarify new requirements related to training for current educators in structured literacy. The amendments delete the proposal for school entities to provide training in structured literacy to elementary-level educators generally and, instead, refine the scope of required professional development in structured literacy to include educators who hold an instructional certificate in Early Childhood, Elementary/Middle, Special Education PreK–12, English as a Second Language and Reading Specialist. This amendment is consistent with the scope of required instruction in structured literacy for individuals studying to earn a teaching certification set forth in amendments to § 49.14(4)(i) of this final-form rulemaking.

Subsections (b) and (c) reflect technical amendments to align the regulation with section 1205.5 and section 1217 of the Public School Code of 1949 (24 P.S. § 12-1217) that sets forth requirements for continuing professional education for school and system leaders. Final amendments to subsection (c) also reflect a technical amendment requested by IRRC in its comments to the Board by adding the phrase “of the Act” for context following the citation to section 1205.5(g) of the Public School Code of 1949.

Amendments to subsection (d) align terminology in this section with amendments to the definition of “certified personnel” in § 49.1.

§ 49.18. Assessment

Amendments to § 49.18(a) (relating to assessment) and its subdivisions provide clarification that assessments used to demonstrate the knowledge and skills delineated in this section may be stand-alone measures. These clarifications reflect existing practice in preservice assessment.

Subsection (b) is amended for grammatical consistency with the amendments to subsection (a) and its subdivisions.

Subsection (c) is amended for clarification and for cross-reference to changes enacted by the act of October 22, 2014 (P.L. 2624, No. 168) (Act 168 of 2014). Act 168 of 2014 established satisfactory achievement of the basic skills assessment as a requirement to be reached prior to formal entry into an educator certification preparation program and further established that candidates enrolled in a postbaccalaureate certification program are not required to take and pass a basic skills assessment.

In subsection (d), the Board is establishing a more feasible timeframe for conducting periodic reviews of assessments required for certification by changing the timeframe from every 3 years to every 5 years.

Subsection (e) is amended to clarify that certifications added-on through testing by individuals with an Instructional I or Intern Certificate may be issued in related subject areas and retains the exclusion for all Special Education certificates to be added-on through testing. Amendments to this section also clarify the Board’s role in consulting with the Secretary in identifying other

certification areas that may be excluded from being added-on by passing related subject matter tests.

§ 49.31. *Criteria for eligibility*

Section 49.31 (relating to criteria for eligibility) adds language to include eligible providers for the PA Pre-K Counts program, as defined in Chapter 405 (relating to PA Pre-K Counts) and in section 1511-D of the Public School Code of 1949 (24 P.S. § 15-1511-D), as entities to which the Department may issue an emergency, long-term or day-to-day substitute permit. These eligible providers should have the ability to request these permits from the Department to address staffing needs as requirements for their program staffing set forth in § 405.44(a)(4) (relating to staffing and professional development) require all teachers in program classrooms to possess an early childhood education certification.

Proposed language that also extended this provision to an approved private school is deleted in this final-form rulemaking. In its comments to the Board, IRRC noted that Chapter 49 establishes requirements for certification and permitting of individuals in public school entities. IRRC further questioned whether the Board holds the statutory authority to include approved private schools in the rulemaking and whether there is a need to do so in Chapter 49.

Section 1377.2 of the Public School Code of 1949 (24 P.S. § 13-1377.2) permits approved private schools to apply for emergency permits under § 49.31 as if the teachers were employed by a public school entity, provided all other conditions for obtaining an emergency permit are met. The Board included references to approved private schools in its proposed rulemaking to provide context in Chapter 49 for the breadth of certification changes enacted to the Public School Code of 1949 over the past decade. However, approved private schools are not included in the definition of school entity in § 49.1 that defines the scope of the regulated community subject to Chapter 49. Therefore, for clarity and consistency with the regulated community to which Chapter 49 applies, the Board deletes the reference to approved private schools in this final-form rulemaking. Deleting this reference from Chapter 49 will not affect the Department's authority to issue emergency permits for service in an approved private school because that authority is derived from the Public School Code of 1949.

§ 49.65. *Out-of-State and Nationally-certified applicants*

Section 49.65(a)(3) (relating to out-of-State and Nationally-certified applicants) is amended to make clear that the section refers to subjects on out-of-State certificates, rather than to subjects that the candidate desires to teach.

Subsection (d) is added to permit school psychologists certified by the National Association of School Psychologists to be granted the highest-level certificate available for certification as a school psychologist. This revision parallels existing policy for classroom teachers in subsection (c) that permits educators certified by the National Board for Professional Teaching Standards to be granted the highest-level certificate applicable.

Existing subsection (d) is being renumbered as subsection (e) to maintain appropriate sequencing due to the addition of new subsection (d) as previously described. New subsection (e) is revised to reflect more accurate terminology and to make clear that a candidate must demonstrate mastery of the "certification" area, not the "subject" area. Also in this section, the existing reference to "bachelor's" is replaced with "baccalaureate" to align

with the terminology used in the new definition of "baccalaureate degree" in § 49.1.

Existing subsection (e) is renumbered as subsection (f) to maintain appropriate sequencing due to renumbering of the immediately preceding section. Multiple provisions of Chapter 49 are updated to reflect changes made to statute by Act 24 of 2011, including amendments to subsection (f), as renumbered. Act 24 of 2011 modified eligibility requirements, set forth in section 1206(a) of the Public School Code of 1949 (24 P.S. § 12-1206(a)), for issuing instructional certificates to candidates who hold a valid certificate from another state. Technical amendments presented in subsection (f) bring the regulation in line with eligibility requirements as now defined in statute regarding the experience that must be demonstrated by out-of-State candidates certified in another state who are seeking certification in this Commonwealth. Amendments to this section also add references to educational specialist, supervisory and administrative certificates to clarify the types of certificates to which these requirements apply.

§ 49.72. *Categories of certificates and letters of eligibility*

Section 49.72(a)(10) (relating to categories of certificates and letters of eligibility) renames the category of "Vocational Education Certificates" as "Career and Technical Education Certificates." This terminology update is consistent with global terminology changes enacted throughout the Public School Code of 1949 by Act 76 of 2019 that replaced references to "vocational" with "career and technical."

§ 49.82. *Instructional I*

Section 49.82(a) (relating to Instructional I) adds language for consistency with Chapter 405 regarding eligible providers and in acknowledgement of additional providers for qualified service leading to conversion of Instructional Level I to Instructional Level II certification.

§ 49.83. *Instructional II*

The final amendment to § 49.83(1) (relating to Instructional II) establishes completion of a 2-year induction program as a requirement to earn an Instructional II certification. This revision is included for consistency with amendments to § 49.16(a) that strengthen the supports available to beginning educators by extending the length of induction programs to 2 years.

§ 49.84. *Collegiate credit acceptable for conversion of the Instructional I Certificate*

Section 49.84(a) (relating to collegiate credit acceptable for conversion of the Instructional I Certificate) adds reference to "State-approved associate degree-granting institutions" to permit credits earned at a community college to be accepted toward credits required to convert an Instructional Level I Certificate to an Instructional Level II Certificate.

Subsection (c) adds language to permit graduate credits earned before an individual becomes certified to count toward the credits required for conversion of a Level I Certificate.

§ 49.85. *Limitations*

Final amendments to § 49.85(c) (relating to limitations) and the addition of subsection (d) reflect technical amendments to align the regulation with changes to Special Education certificates enacted by the act of October 19, 2018 (Act 82 of 2018). These statutory changes modified the scope of grade spans and ages for Special Education certificates and decoupled the requirement for Special

Education certificates to be issued in tandem with an additional content area certificate. As set forth in statute, Special Education certificates will be issued to educators to work with students in prekindergarten through grade 12 or under 21 years of age on or after January 1, 2022. These technical amendments are reflected in subsection (d)(5) and (6).

In its comments to the Board, IRRC requested that the Board reorganize proposed amendments to subsection (c) to provide greater clarity about the dates of validity for current certifications and Special Education certification as amended in the Public School Code of 1949. To be more clear about the dates of validity, the Board deleted language in its proposed amendments to subsection (c) that addressed the January 1, 2022, effective date for issuing new Special Education certifications. Alternatively, the Board adds subsection (d) to this final-form rulemaking that comprehensively reflects the grade level limitations for instructional certificates that will be issued on or after January 1, 2022. This new subsection is added for clarity and does not make any substantive changes to the grade level limitations for existing certificates, save for updating the grade level and age limitations for Special Education certificates to reflect changes to these certificates previously enacted by Act 82 of 2018.

The remaining provisions of § 49.85 are renumbered to maintain appropriate sequencing following the addition of subsection (d) as previously described. Further, language in renumbered subsection (g)(2) is being updated for clarity.

Subsection (h), as renumbered, updates existing language that permits the Secretary to grant exceptions in response to shortages of certified personnel to include an effective date of January 1, 2022. This revision aligns the date of applicability with Act 82 of 2018.

§ 49.86. Accelerated program for Early Childhood and Elementary/Middle level certificate holders

The amendments to § 49.86 (relating to accelerated program for Early Childhood and Elementary/Middle Level certificate holders) separate the words “certificate” and “holders” to correct typographical errors in the existing text of the regulation.

§ 49.90. Criteria for eligibility

Language in § 49.90(a)(1) (relating to criteria for eligibility) regarding eligibility criteria for a Temporary Teaching Certificate is deleted as the criteria are no longer used due to changes in statute.

§ 49.91. Criteria for eligibility

Consistent with amendments elsewhere in the regulation, § 49.91(c) (relating to criteria for eligibility) is amended for clarity to refer to “certification” area rather than “subject” area.

Subsection (d) reflects amendments both for clarity and to align with practice that an Intern Certificate is valid for 3 years of service, rather than 3 calendar years.

§ 49.92. Term of validity

Like the amendment to § 49.91(d), the revision to § 49.92 (relating to term of validity) reflects both clarity and alignment with practice that an Intern Certificate is valid for 3 years of service, rather than 3 calendar years.

§ 49.104. College credit acceptable for conversion of Educational Specialist I Certificate

Section 49.104(c) (relating to college credit acceptable for conversion of Educational Specialist I Certificate)

permits graduate credits earned before certification as an Educational Specialist to count toward conversion of the certificate from Level I to Level II.

§ 49.111. Supervisory Certificate

Final amendments to § 49.111(a)(2) and (d)(2) (relating to Supervisory Certificate) add reference to approved alternative program providers. As previously described, this final-form rulemaking adds a definition for “alternative program provider” in § 49.1 as a technical revision to align the regulation with new powers and duties delegated to the Secretary by Act 24 of 2011. Act 24 of 2011 added section 1207.1 to the Public School Code of 1949, which permits the Secretary to evaluate and approve postbaccalaureate certification programs and to evaluate and approve qualified providers of postbaccalaureate certification programs, including providers other than higher education institutions. References to alternative program providers were incorporated throughout the chapter in the Board’s proposed rulemaking to recognize the presence of alternative program providers in the current landscape of educator preparation programs, but inclusion of these technical amendments in subsections (a)(2) and (d)(2) was overlooked. The Board is adding reference to alternative program providers to this section as appropriate in this final-form rulemaking.

Amendments to subsection (a) also reflect a technical edit to clarify that criteria for being issued a Supervisory Certificate includes 5 years of satisfactory “certified” experience, rather than “professional” experience.

Subsections (b) and (c) permit individuals certified in one area of supervision to add-on another area by demonstrating expertise in the content of that area. Special Education Supervisory Certificates would be excluded from this add-on pathway.

In the proposed rulemaking, the Board added subsection (e) to permit school psychologists who have completed 5 years of satisfactory certified experience as a school psychologist to be issued a Special Education Supervisory Certificate. This subsection is deleted from this final-form rulemaking in response to opposition from multiple stakeholder groups. In reconsidering its proposed amendment, the Board reviewed concerns expressed by stakeholders about creating a pathway to a supervisory position that bypasses teacher certification, whether school psychologists have requisite classroom teaching experience to be aware of the variables involved in creating quality instructional opportunities and best practices for classroom management in a manner that would allow them to effectively serve as evaluators or to support teachers in revision of practice, whether school psychologists have adequate experience in writing and implementing Individualized Education Plans, and whether allowing school psychologists to move into Special Education supervisory positions would simply increase one area of educator shortage to address another by exacerbating the shortage of school psychologists. Given these concerns, the proposed amendment is deleted from this final-form rulemaking.

§ 49.121. Administrative Certificate

Section 49.121(a) (relating to Administrative Certificate) aligns the regulation with requirements of the act of July 20, 2007 (P.L. 278, No. 45), that established school leadership standards that must be addressed in principal and superintendent leadership programs.

Subchapter C. Career and Technical Education Certification

Throughout the entirety of Subchapter C (relating to career and technical education certification), and the balance of Chapter 49, references to “vocational-technical education” are updated to refer to the more current term “career and technical education.” These amendments are included for consistency with the same terminology updates that were reflected globally in the Public School Code of 1949 under amendments enacted by Act 76 of 2019.

§ 49.131. *Basic requirements for baccalaureate and nonbaccalaureate programs.*

Amendments to § 49.131(a) (relating to basic requirements for baccalaureate and nonbaccalaureate programs) replace “teacher education” with a more current and more accurate reference to “educator preparation,” as reflected throughout the chapter and in the updated definition for “approved education preparation program” in § 49.1. Amendments to this section also add a reference to the definition for “alternative program provider” in § 49.1 to recognize the presence of these providers in the landscape of educator preparation.

§ 49.142. *Career and Technical Instructional I*

Amendments to § 49.142(a)(1) and (b) (relating to Career and Technical Instructional I) align these provisions with statutory changes enacted by the act of June 22, 2018 (P.L. 241, No. 39) (Act 39 of 2018) that address requirements for issuing Career and Technical Instructional I, Career and Technical Instructional II, and Career and Technical Intern certification.

§ 49.143. *Career and Technical Instructional II*

Amendments to § 49.143(2) (relating to Career and Technical Instructional II) align this provision with statutory changes enacted by Act 39 of 2018 that address requirements for issuing Career and Technical Instructional I, Career and Technical Instructional II, and Career and Technical Intern certification.

Paragraph (3) is updated for clarity to bring the conversion of Career and Technical I certification to Career and Technical II certification into alignment with conversion from Instructional I to Instructional II under § 49.18(a).

Paragraph (4) establishes completion of a 2-year induction program as a requirement to earn a Career and Technical Instructional II certification. This revision is included for consistency with amendments to § 46.16(a) that would strengthen the supports available to beginning educators by extending the length of induction programs to 2 years.

§ 49.151. *Eligibility and criteria*

Section 49.151(a)(1) (relating to eligibility and criteria) includes a technical amendment to update the cross-reference to § 49.12(4) for accuracy as that section was renumbered due to updates in § 49.12. A corrected reference to the renumbered § 49.12(3) is included in this final-form rulemaking.

Amendments to subsection (b) align this provision with statutory changes enacted by Act 39 of 2018 that address requirements for issuing Career and Technical Instructional I, Career and Technical Instructional II, and Career and Technical Intern certification.

Subsection (c) is added to clarify that continuing enrollment in a State-approved teacher intern program is a condition for maintaining the validity of a Career and

Technical Education Intern Certificate from one year to the next. This clarification aligns with language regarding eligibility for Intern Certificates as set forth in § 49.91(d).

§ 49.153. *Career and Technical Day-to-Day Substitute Permit*

Section 49.153(b) (relating to Career and Technical Day-to-Day Substitute Permit) deletes a cross-reference to § 49.32 (relating to exceptional case permits).

§ 49.163. *Career and Technical Administrative Director*

Amendments to § 49.163(1) (relating to Career and Technical Administrative Director) modify requirements for issuing a Career and Technical Administrative Director Certificate by reducing the minimum number of years of relevant professional experience in a Career and Technical Education school required from 5 years to 3 years. This technical amendment aligns with statutory changes to the issuance of this administrative certificate set forth in section 1207.1(d)(1)(ii) of the Public School Code of 1949. Further amendments to this section provide clarity and relevancy by amending the phrase “successful teaching in vocational education” with the phrase “relevant professional experience in a Career and Technical Education School.”

Paragraph (2) adds a cross-reference to § 49.111(a) and adds a reference to an “approved alternative program” as established in section 1207.1 of the Public School Code of 1949 and defined in § 49.1.

§ 49.172. *Letter of eligibility*

Section 49.172(a)(3) (relating to letter of eligibility) reflects technical amendments to align eligibility requirements for receiving a Superintendent’s Letter of Eligibility with changes to section 1000.3 of the Public School Code of 1949 (24 P.S. § 10-1000.3) enacted by Act 82 of 2012. These changes permit individuals to earn a Superintendent’s Letter of Eligibility based on prior experience in higher education.

§ 49.182. *Letter of eligibility*

Section 49.182(d) (relating to letter of eligibility) permits Intermediate Unit (I.U.) Boards of Directors to address vacancies in Executive Director positions by appointing an Acting Director to serve in that capacity for not more than 1 year if the I.U. Board finds it impossible or impractical to fill the vacancy.

§ 49.191. *Letters of equivalency*

Section 49.191(1) (relating to letters of equivalency) clarifies procedures for earning a letter of equivalency for a baccalaureate degree by removing the requirement that the minimum number of credits toward the equivalency that must be earned at a State-approved baccalaureate degree granting institution, currently set at 18 of the 90 total credits required, must be completed during the final 30 credits. Existing provision of paragraph (1) permit these letters of equivalency to be issued to individuals who hold certificates in Career and Technical Instructional I, Career and Technical Instructional II or the equivalents for salary purposes only.

Paragraph (2) updates language for clarity to refer to certification area as opposed to primary teaching assignment. Based on this clarification, the Department will recognize college-level credits earned in pursuit of a Letter of Equivalency for a master’s degree in the candidate’s certification area(s) rather than in the primary teaching assignment. This amendment improves the alignment of the credits with the candidate’s formal

education and area(s) of expertise if these are different from the primary teaching assignment. In addition, this amendment streamlines application reviews by the Department as staff examining applications have ready access to the candidate's certification area(s) but not the primary teaching assignment.

Affected Parties

This final-form rulemaking affects educator preparation program providers and the students enrolled in their programs, public school entities and educators.

Cost and Paperwork Estimates

Extending induction programs to 2 years may result in a cost for school entities that do not currently offer that length of support for beginning educators. Currently, 58 school entities offer a 2-year induction program and another 68 school entities offer a 3-year induction program. There are 551 school entities that offer a 1-year induction program. This final-form rulemaking impacts those 551 school entities that will need to extend induction programs for another year. Costs to districts could range from \$1,000 to \$5,000 per second-year teacher to support mentor stipends and additional professional development days. The estimated cost to school entities for scaling up to 2-year induction programs Statewide is \$9,643,000 (based on the 551 school entities that will need to convert from a 1-year to a 2-year induction model and an assumption that each of those school entities would support seven second-year teachers annually at a cost of \$2,500 per second-year teacher).

The Department would incur costs to support the delivery of training in new competencies for educators as part of both induction programs and professional education for current classroom educators, as well as to extend offerings to participate in these trainings to faculty in educator preparation programs. Some training opportunities focused on the new competencies identified in this final-form rulemaking are already available through the State's existing network of I.U.s and other professional development educational entities within this Commonwealth. Work to develop additional trainings in mental wellness, trauma-informed instruction, cultural awareness and virtual and technological engagement, and to provide professional development to I.U. staff to serve as trainers, is estimated at a one-time cost of \$26,700. This estimate is based on engaging 10 stakeholders over a 2-day period to develop new topics and trainings at a cost of \$3,000 for facilitators and \$2,000 to support expenses related to this work, and an additional cost of \$21,700 to train one staff person in each of the State's 29 I.U.s at a cost of \$750 per I.U.

Support for providing training in structured literacy to educator preparation program faculty and educators who hold designated instructional certificates (Early Childhood, Elementary/Middle, Special Education PreK—12, English as a Second Language and Reading Specialist) is estimated at \$350,000 annually. Professional development training and technical assistance in structure literacy currently is available at no cost to school entities through the Pennsylvania Training and Technical Assistance Network. To support the amendments to Chapter 49 that would require this training for educators with designated instructional certificates, the Department intends to enhance and scale up the current offerings by hiring a Statewide lead for structured literacy efforts and establishing a Statewide system of supports in structured literacy through the existing network of I.U.s. The estimated annual cost to support this work is based on a cost

of \$203,000 to support trainings to be offered by 29 I.U.s (estimated at \$700/day for 10 days annually) and to support the salary and benefits of hiring a Statewide lead. Support for the first 2 years of this work has been budgeted through Federal funds available through the Federal Coronavirus Aid, Relief, and Economic Security Act (P.L. No. 116-136), referred to as the CARES Act, to set aside funds.

Additional support for training in structured literacy, mental wellness and trauma-informed approaches to instruction is available through the Commonwealth's allocation of Federal funds from the American Rescue Plan (ARP) Elementary and Secondary Schools Relief Fund (ESSER). The act of June 30, 2021 (P.L. 62, No. 24) appropriated approximately \$250 million of ARP ESSER State reserve funds to local education agencies (LEAs) to address gaps in students' learning and social and emotional wellness through evidence-based interventions. Eight percent of each LEAs allocation must be used to address student learning gaps in reading, and 30% of each LEAs allocation must be used to address the social, emotional and mental health needs of students. Professional development for educators in structured literacy, mental health and trauma-informed instruction is among the allowable uses of these Federal funds.

Effective Date

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

Sunset Date

The Board will review the effectiveness of Chapter 49 every 10 years in accordance with § 49.51(b) that directs the Board to conduct a major review of certification regulations at 10-year intervals. Thus, no sunset date is necessary.

Regulatory Review

Under section 5(a) and (f) of the Regulatory Review Act (71 P.S. § 745.5(a) and (f)), on December 8, 2020, the Board submitted a copy of the notice of proposed rulemaking, published at 50 Pa.B. 7164, and a copy of the Regulatory Analysis Form to IRRC for review and comment. Under section 5(f) of the Regulatory Review Act, the Board submitted the notice of proposed rulemaking and a copy of the Regulatory Analysis Form to the Chairpersons of the House and Senate Education Committees for review and comment on February 16, 2021, following formation of the Committees at the start of the 2021-2022 legislative session.

Under section 5(c) of the Regulatory Review Act, the Board is required to submit to IRRC and the House and Senate Education Committees copies of the comments received during the public comment period. In preparing this final-form rulemaking, the Board considered comments from IRRC and the public. No comments were received from the House or Senate Education Committees.

Under section 5.1(j.2) of the Regulatory Review Act (71 P.S. § 745.5a(j.2)), the final-form rulemaking was deemed approved by the House and Senate Education Committees on March 9, 2022. Under section 5.1(e) of the Regulatory Review Act, IRRC met on March 10, 2022, and approved this final-form rulemaking.

Contact Person

Persons who require additional information about this final-form rulemaking may submit inquiries to Karen

Molchanow, Executive Director, State Board of Education, 333 Market Street, 1st Floor, Harrisburg, PA 17126, ra-stateboardofed@pa.gov.

Findings

The Board finds that:

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

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

(3) This final-form rulemaking does not enlarge the purpose of the proposed rulemaking published at 50 Pa.B. 7164.

(4) This final-form rulemaking is necessary and appropriate for the administration of the Public School Code of 1949.

Order

The Board, acting under authorizing statute, orders that:

(a) The regulations of the Board, 22 Pa. Code Chapter 49 are amended, by amending §§ 49.1, 49.12—49.18, 49.31, 49.64a, 49.65, 49.68, 49.71, 49.72, 49.82—49.86, 49.90—49.92, 49.104, 49.111, 49.121, 49.131—49.133, 49.141—49.143, 49.151—49.153, 49.161, 49.163, 49.172, 49.182 and 49.191 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

(b) The Board shall submit this final-form rulemaking to the Office of General Counsel and Office of Attorney General (OAG) for review and approval as required by law. The OAG approved this final-form rulemaking as to form and legality on April 11, 2022.

(c) The Board shall submit this final-form rulemaking to IRRC and the Legislative Standing Committees as required by law.

(d) The Board shall certify this final-form rulemaking, as approved for legality and form, and shall deposit it with the Legislative Reference Bureau as required by law.

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

KAREN MOLCHANOW,
Executive Director

(Editor's Note: See 52 Pa.B. 1845 (March 26, 2022) for IRRC's approval order.)

Fiscal Note: Fiscal Note 6-346 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 22. EDUCATION

PART I. STATE BOARD OF EDUCATION

Subchapter C. HIGHER EDUCATION

CHAPTER 49. CERTIFICATION OF PROFESSIONAL PERSONNEL

Subchapter A. GENERAL PROVISIONS

THE PROGRAM

§ 49.1. Definitions.

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

Act—The Public School Code of 1949 (24 P.S. §§ 1-101—27-2702).

Alternative program provider—A provider of accelerated post-baccalaureate preparation program, other than an institution of higher education, that has been approved by the Department in accordance with section 1207.1(a) of the act (24 P.S. § 12-1207.1(a)).

Approved educator preparation program—A sequence of courses and experiences, offered by a preparing institution or alternative program provider, that is reviewed and approved by the Department.

Articulation agreement—A formal agreement between two higher educational institutions, stating specific policies relating to transfer and recognition of academic achievement to facilitate the successful transfer of students without duplication of course work.

* * * * *

Assessment of subject matter—A measurement of a candidate's knowledge of an academic field or discipline to be taught in the public schools of this Commonwealth.

Baccalaureate degree—A conferred bachelor's degree from an approved 4-year college or university.

Candidate—A person seeking certification in any of the areas outlined in this chapter.

Certificate—A document prepared and issued by the Department indicating that the holder has completed an approved professional preparation program and is qualified to perform specific professional duties.

Certified personnel—Professional employees, excluding school secretaries, as defined in section 1101 of the act (24 P.S. § 11-1101) or educators, or both, holding a comparable certificate from another state.

Chief school administrator—The superintendent, intermediate unit executive director, or equivalent private school administrator.

* * * * *

Community provider—A not-for-profit or for-profit organization that operates prekindergarten programs.

Continuing professional education—The formal acquisition of collegiate or in-service credits designed to improve and expand the expertise of professional personnel.

Core academic subject—Includes reading, language arts, mathematics, science, foreign languages, social studies and the arts.

Cultural awareness—Understanding, consideration, and integration of individuals' culture, language, heritage, and experiences.

Culturally relevant and sustaining education (CR-SE)—Education that ensures equity for all students and seeks to eliminate systemic institutional racial and cultural barriers that inhibit the success of all students in this Commonwealth—particularly those who have been historically underrepresented. Culturally relevant and sustaining education encompasses skills for educators including, but not limited to, approaches to mental wellness, trauma-informed approaches to instruction, technological and virtual engagement, cultural awareness and emerging factors that inhibit equitable access for all students in this Commonwealth.

Day-to-day substitute permit—A permit issued for no longer than 20 consecutive days to fill a position due to the absence of professional certified personnel.

* * * * *

Educational specialist—Professional certified personnel whose primary responsibility is to render professional service other than classroom teaching, such as dental hygienist, home and school visitor, instructional technology specialist, social restoration specialist, nutrition service specialist, elementary counselor, secondary counselor, school nurse and school psychologist.

Educator Discipline Act—24 P.S. §§ 2070.1a—2070.18a.

Emergency permit—A permit issued to fill a vacancy resulting from resignation, termination, retirement, death or the creation of a new position.

Exceptional case permit—A permit issued to fill a vacancy due to exceptional conditions.

Historically underrepresented groups—Groups that are documented to have been represented across time in the educator population in proportions below their representation in the general population. These include, but are not limited to, people of color and the economically disadvantaged.

Inclusive setting—The placement of a diverse learner in a regular classroom setting

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PSPC—Professional Standards and Practices Commission—A body composed of educators from the fields of basic and higher education, members of the general public and an ex officio member of the Board established by the Educator Discipline Act.

* * * * *

Preparing institution—A college or university that offers a program approved by the Department to prepare professional personnel for employment in the public schools.

Professional duties—A duty the performance of which is restricted to personnel by the scope of their certificate.

Professional ethics—The standards of behavior, values, and principles that inform and guide professional decision-making. These standards of behavior, values and principles include those detailed in the Pennsylvania Model Code of Ethics for Educators, as adopted by the Professional Standards and Practices Commission.

Satisfactory achievement—An acceptable level of performance as determined by the Secretary in consultation with the Board on the Department-prescribed assessments required in this chapter.

School entity—Public schools, school districts, intermediate units, area career and technical schools, charter schools, cyber schools and independent schools.

Structured literacy—Systematic, explicit instruction that provides a strong core of foundational skills in the language systems of English, integrates listening, speaking, reading, spelling, and writing and emphasizes the structure of language across the speech sound system (phonology), the writing system (orthography), the structure of sentences (syntax), the meaningful parts of words (morphology), the relationships among words (semantics), and the organization of spoken and written discourse.

Subject Area—Specific areas of instructional content.

Term of validity—A period of time as specified in §§ 49.33, 49.34, 49.82, 49.92, 49.102, 49.142 and 49.152 in which the holder of a certificate is entitled to perform the professional duties for which the certificate was issued.

Trauma-informed approaches to instruction—Pedagogy that recognizes the signs and symptoms of trauma and

integrates knowledge about trauma for the purpose of promoting resiliency among students.

§ 49.12. Eligibility.

In accordance with sections 1109, 1202 and 1209 of the act (24 P.S. §§ 11-1109, 12-1202 and 12-1209), every professional employee certified or permitted to serve in the schools of this Commonwealth shall:

- (1) Be of good moral character.
- (2) Be at least 18 years of age.
- (3) Except in the case of the Resource Specialist Permit, Career and Technical Emergency Permit, Career and Technical Instructional Intern Certificate, and Career and Technical Instructional Certificate, have earned a baccalaureate degree.
- (4) For the purposes of certification, the Department will accept a conferred graduate degree from an accredited college or university in lieu of a baccalaureate degree.

§ 49.13. Policies.

* * * * *

(b) The Department will have the following responsibilities with respect to certification and permitting of professional personnel in the schools of this Commonwealth:

- (1) Provision of advisory services to college and school personnel in matters pertaining to educator preparation and certification.
- (2) Designation of professional titles for personnel.
- (3) Prescription of procedures for issuance of certificates and permits.
- (4) Evaluation and approval of educator preparation programs leading to the certification and permitting of professional personnel.

(i) The evaluation by the Department will provide assurance that, on or before January 1, 2011, teacher education programs will require at least nine credits or 270 hours, or an equivalent combination thereof, regarding accommodations and adaptations for students with disabilities in an inclusive setting. Within the context of these nine credits or 270 hours, instruction in literacy skills development and cognitive skill development for students with disabilities must be included, as determined by the institution. At least three credits or 90 additional hours, or an equivalent combination thereof, must address the instructional needs of English language learners. For purposes of this requirement, one credit equals 30 hours of coursework. Applicable hours are limited to a combination of seat hours of classroom instruction, field observation experiences, major research assignments, and development and implementation of lesson plans with accommodations and adaptations for diverse learners in an inclusive setting.

(ii) The evaluation by the Department will provide assurance that educator preparation programs demonstrate the integration of culturally relevant and sustaining education and professional ethics throughout the preparation program.

(iii) The evaluation by the Department will provide assurance that educator preparation programs include instruction in structured literacy as part of programs that prepare candidates to earn an instructional certificate in Early Childhood, Elementary/Middle, Special Education (PK—12), English as a second language and Reading Specialist.

(iv) Program approval reviews shall be conducted by professional educators from basic and higher education.

* * * * *

(c) Except for applicants whose certification status is subject to subsection (b)(9) and § 49.171 (relating to general requirements), the Department will require that an applicant for a certificate shall have completed an approved preparation program and shall be recommended by the preparing institution or alternative program provider.

(d) The Department will have the right to review approved programs at any time. Major evaluations shall be conducted at 7-year intervals, by professional educators appointed by the Department in accordance with subsection (b)(4), to review process and content.

(e) The Department will accept the request of an institution to withdraw from an approved program. The Department will have the right to withdraw the approval of a program from an institution. New students may not be accepted in a program which has lost its approved status after the date of the action.

(f) The Department will prescribe procedures for evaluation of an applicant's preparation in the event that application for a certificate is made after the program at a preparing college or university has closed or been discontinued.

§ 49.14. Approval of institutions and alternative program providers.

To be authorized to conduct programs that lead to certificates for professional positions, institutions and any of their off-campus centers as well as alternative program providers engaged in the preparation of educators shall meet the following requirements:

(1) Be approved as a baccalaureate or graduate degree granting institution or alternative program provider by the Department.

(2) Be evaluated and approved as an educator preparing institution or alternative program provider to offer specific programs leading to certification in accordance with procedures established by the Department.

(3) Report to the Department, for approval, all planned changes in previously approved programs. This report shall be made 90 days prior to the implementation of the planned changes.

(4) Follow Department prescribed standards developed from the following principles:

(i) Institutions and alternative program providers develop clear goals and purposes for each program, which shall include competencies, coursework and field experiences that address professional ethics, structured literacy (for programs that lead to certification in Early Childhood, Elementary/Middle, Special Education PK—12, English as a second language and Reading Specialist), and culturally relevant and sustaining education. The Department will identify these competencies and develop associated standards.

(ii) Institutions and alternative program providers are able to demonstrate how instructional and clinical activities provide educator candidates with the capacity to enable the achievement of all students, including diverse learners in an inclusive setting.

(iii) Institutions and alternative program providers are able to demonstrate that educator candidates have participated in instructional activities that enable the candi-

dates to provide instruction to students to meet the provisions of Chapter 4 (relating to academic standards and assessment).

(iv) Institutions and alternative program providers are able to demonstrate that educator candidates successfully participate in sequential clinical experiences fully integrated within the instructional program as determined by the Secretary in consultation with the Board.

(v) Institutions and alternative program providers have clearly expressed standards for admission to, retention in and graduation from approved programs and can demonstrate recruitment and participation of students from historically underrepresented groups. Institutions and alternative program providers annually shall report on students admitted, retained, and graduated from their programs, including numbers from historically underrepresented groups.

(vi) Institutions and alternative program providers shall provide ongoing assessment of educator candidates' knowledge, skills, dispositions and performance with which to identify needs for further study, certification assessment assistance or clinical experience or dismissal from the program.

(vii) Institutions and alternative program providers can demonstrate how information from systematic evaluations of their programs, including students and educator evaluators, and achievement levels of candidates for certification in the Department-designed assessment program, are used for continual program improvement and shall develop corrective action steps if identified as at-risk or low performing program providers as defined by the Department in accordance with section 207 of the Higher Education Act of 1965 (20 U.S.C.A. § 1022F(A)).

(viii) Institutions and alternative program providers, in partnership with local education agencies, provide a school-based experience integrating the teacher candidates' knowledge, skills and dispositions in professional practice. This experience shall be fully supported by institutional faculty, including frequent observation, consultation with supervising teachers and opportunities for formative and summative evaluation.

(ix) Institutions and alternative program providers provide ongoing support for novice educators in partnership with local education agencies during their induction period, including observation, consultation and assessment.

(x) Institutions and alternative program providers supply evidence that an acceptable percentage of candidates applying for certification as determined by the Secretary and approved by the Board achieve at a satisfactory level on all assessments appropriate to initial certification in each program for which they are approved.

(5) Institutions and alternative program providers may enter into articulation agreements with community colleges that permit students to earn credits toward meeting the requirements of this chapter.

(6) Institutions shall comply with requirements set forth in the Federal Elementary and Secondary Education Act (20 U.S.C.A. §§ 6301—7981) and the Federal Higher Education Act (20 U.S.C.A. §§ 1001—1019d).

§ 49.15. Approval of experimental programs.

The Department may enter into a written agreement with a preparing institution or alternative program provider wishing to conduct an experimental program. The institution and alternative program provider shall meet

the requirements described in §§ 49.13 and 49.14 (relating to policies; and approval of institutions and alternative program providers). Certification shall be given to graduates of an experimental program upon recommendation by the institution or alternative program provider if the provider has met all of the following requirements:

(1) Submitted a detailed explanation of the experimental program to the Department for approval.

(2) Planned a thorough procedure conforming to accepted canons of educational research for evaluating results of the experimental program. These results shall be reported to the Department in accordance with a schedule approved at the time of the agreement.

(3) Agreed to terminate the experimental program upon request by the Department when it is judged by a program approval team to be inadequate for preparation of professional personnel.

§ 49.16. Approval of induction plans.

(a) Each school entity shall submit to the Department for approval a plan for a 2-year induction experience for first-year teachers (including teachers in prekindergarten programs, when offered) and educational specialists. Long-term substitutes who are hired for a position for 45 days or more also shall be included in a school entity's induction plan and shall participate in an induction experience for the period of time in which they serve in that capacity. The induction plan shall be submitted every 6 years as required under § 4.13(b) (relating to strategic plans). The induction plan shall be prepared by teacher or educational specialist representatives, or both, chosen by teachers and educational specialists and administrative representatives chosen by the administrative personnel of the school entity. Newly employed professional personnel with prior school teaching experience may be required by the school entity to participate in an induction program. A school entity shall make its induction plan available for public inspection and comment for a minimum of 28 days prior to approval of the plan by the school entity's governing board and submission of the plan to the Department.

(b) The Department will establish guidelines and will review for approval induction plans submitted by school entities.

(c) Induction plan guidelines shall include professional ethics, and culturally relevant and sustaining education as determined by the Secretary.

(d) The induction plan shall reflect a mentor relationship between the first-year teacher, long-term substitute or educational specialist, teacher educator and the induction team.

(e) Criteria for approval of the induction plans will be established by the Secretary in consultation with the Board and must include induction activities that focus on teaching diverse learners in inclusive settings.

§ 49.17. Continuing professional education.

(a) As required under § 4.13(a) (relating to strategic plans), a school entity shall submit to the Secretary for approval a 3-year professional education plan every 3 years in accordance with the professional education guidelines established by the Secretary and section 1205.1 of the act (24 P.S. § 12-1205.1). A school entity shall make its professional education plan available for public inspection and comment for a minimum of 28 days

prior to approval of the plan by the school entity's governing board and submission of the plan to the Secretary.

* * * * *

(6) The continuing professional education plan must include a section which describes how the professional education needs of the school entity, including those of diverse learners, and its professional employees are to be met through implementation of the plan. The plan must describe how professional development activities will improve language and literacy acquisition for all students, including the provision of training in structured literacy for professional employees who hold instructional certificates in Early Childhood, Elementary/Middle, Special Education PK—12, English as a second language and Reading Specialists. The plan must contribute to closing achievement gaps among students, and improve professional employees knowledge of professional ethics and culturally relevant and sustaining education.

* * * * *

(b) A commissioned officer who holds a Letter of Eligibility for Superintendent shall satisfy the requirements for continuing professional education through the completion of courses and credits approved by the Department to address the school leadership standards of section 1217 of the act (24 P.S. § 12-1217) in accordance with section 1205.5 of the act (24 P.S. § 12-1205.5) every 5 years.

(c) Certified personnel including school or system leaders defined in section 1205.5(g) of the act who fail to comply with the continuing professional education plan under subsection (a) or fail to complete the requirements of sections 1205.1, 1205.2 and 1205.5 of the act will have their certificates or Letter of Eligibility rendered inactive by the Department until the requirement is met. Certified personnel and school or system leaders whose certificate or Letter of Eligibility is rendered inactive shall have a right to appeal the action to the Secretary.

(d) School districts that employ certified personnel or commissioned officers with inactive certificates or commissions are subject to penalties provided for under section 2518 of the act (24 P.S. § 25-2518).

(e) Certified personnel are responsible for monitoring their own progress toward completing the requirements prescribed by sections 1205.1 and 1205.2 of the act and for notifying the Department of any changes to their home mailing address.

§ 49.18. Assessment.

(a) The Secretary will establish assessments for candidates for certification designed to assess their basic skills; professional knowledge and practice; and subject matter knowledge. Candidates for elementary, K—12 instructional, Special Education and Early Childhood Certificates shall also be assessed in the area of general knowledge. The following principles will guide the Secretary in the development of any assessment:

(1) Assessments will be based in the standards developed for each certificate.

(2) Assessments will measure the candidate's abilities across the domains of basic skills knowledge, professional knowledge and practice, and subject matter knowledge employing a variety of measures at a minimum of three points:

(i) During the candidate's preparation program.

(ii) Upon application for initial certification.

(iii) Upon application for Level II, supervisory or administrative certification.

(3) Assessments will be developed in consultation with teachers, administrators, teacher educators and educational specialists with relevant certification.

(4) Assessments will employ, when appropriate, available assessment tools, instruments and procedures.

(b) The Secretary, in consultation with the Board, will establish a satisfactory achievement level for any assessments in subsection (a).

(c) The assessments in basic skills will be given, and satisfactory achievement levels shall be reached, prior to formal entry into a certification preparation program in accordance with section 1207.3 of the act (24 P.S. § 12-1207.3). The assessments in general knowledge; professional knowledge and practice; and subject matter knowledge will be given, and satisfactory achievement levels shall be obtained, prior to the issuance of a certificate. Candidates who will complete all certification requirements at the post-baccalaureate level are not required to take and pass assessments in basic skills (See 24 P.S. § 12-1207.3).

(d) A periodic review of the assessments will be made by the Board every 5 years.

(e) The Department may issue additional subject areas to holders of Instructional (see §§ 49.82 and 49.83 (relating to Instructional I; and Instructional II)) or Intern (see § 49.91 (relating to criteria for eligibility)) certification in related subject areas and who pass the appropriate subject matter testing components. All Special Education areas are excluded. The Department may identify other certification areas to be excluded from eligibility based on criteria established by the Secretary in consultation with the Board.

**EMERGENCY, LONG-TERM AND DAY-TO-DAY
SUBSTITUTE PERMITS**

§ 49.31. Criteria for eligibility.

The Department may issue an emergency, Long-Term or Day-to-Day Substitute Permit for service in the public schools or an eligible provider setting as defined in § 405.2 (relating to definitions), at the request of the employing entity, to an applicant who is a graduate of a 4-year college or university to fill a vacant position or to serve as a long-term or day-to-day substitute teacher, when a fully qualified and properly certificated applicant is not available. The permit is issued on the basis of terms and conditions agreed upon between the requesting public school entity and the Department. Each July, the Department will report to the Board the number and nature of emergency, Long-Term and Day-to-Day Substitute Permits issued during that year. A long-term substitute permit may be issued only after the position has been posted a minimum of 10 days on the school entity's web site and no qualified candidate has been identified.

MISCELLANEOUS PROVISIONS

§ 49.64a. Authority to annul and reinstate certificates and discipline professional educators.

(a) A professional certificate or letter of eligibility obtained by fraud or mistake shall be considered void "ab initio" and shall be annulled by the Secretary. An annulment will not be effected without prior notice and hearing in accordance with reasonable procedures as the Secretary will prescribe, after review of and comment on the procedures by the Board.

(b) In accordance with the authority vested with the PSPC by the Educator Discipline Act, the Commission may discipline professional educators.

(c) In accordance with the authority vested with the PSPC by section 16 of the Teacher Certification Law (24 P.S. § 2070.16), the Commission may reinstate a professional educator's certificate.

§ 49.65. Out-of-State and Nationally-certified applicants.

(a) The Department will issue the appropriate Commonwealth certificate to applicants who have:

(1) Graduated from a State approved out-of-State college or university whose educator preparation requirements are comparable to those of this Commonwealth.

(2) Completed the preparing institution's preparation program.

(3) Received the recommendation of the preparing institution for the out-of-State certificate issued.

(4) Presented evidence of satisfactory achievement in assessments prescribed by the Department under § 49.18(a) (relating to assessment) and the requirements of Chapter 354 (relating to teacher preparation).

(b) The Department may enter into a reciprocal certification agreement with the appropriate authority of another state to recognize comparable certificates. A temporary teaching permit may be issued to educators prepared outside of this Commonwealth in accordance with the current reciprocity agreement with other states. It will be valid for 1 year to allow the teacher to meet the Commonwealth's requirements as out lined in the reciprocity agreement.

(c) Candidates certified by the National Board for Professional Teaching Standards will be granted the highest level certificate applicable.

(d) School psychologists certified by the National Association of School Psychologists will be granted the highest level certificate available for certification as a school psychologist.

(e) Candidates successfully completing other National teacher training programs that require a candidate to demonstrate mastery of the certification area to be taught and professional knowledge needed for classroom effectiveness as approved by the Board, will be certified to teach in this Commonwealth, provided the approved program includes 1 year of intensive supervision in an internship program approved by the Secretary and the teacher has satisfied the basic certification requirements of the act (see 24 P.S. §§ 12-1202 and 12-1209), such as having good moral character, being at least 18 years old and having a baccalaureate degree.

(f) Candidates holding a valid and current instructional, educational specialist, supervisory, or administrative certificate issued by another state may be eligible for comparable certification if the applicant has 2 years of successful classroom or school experience in the area for which State certification is sought and has achieved the qualifying score on the appropriate content area test required by the Commonwealth.

§ 49.68. Evaluation of prescribed requirements and standards.

Institutions of higher education within this Commonwealth with approved educator preparation programs are authorized to evaluate, equate, and accredit educational experience and background of candidates for meeting the

specific requirements for certification. A candidate may not be recommended for certification until providing evidence of satisfactory achievement in the assessments under § 49.18 (relating to assessment).

Subchapter B. CERTIFICATION OF GRADUATES FROM COMMONWEALTH INSTITUTIONS
GENERAL PROVISIONS

§ 49.71. Basic requirements.

Applicants for a certificate shall have completed, in addition to all legal requirements, a program of educator preparation approved by the Department and shall have the recommendation of the preparing institution.

§ 49.72. Categories of certificates and letters of eligibility.

(a) The following basic categories of certificates and letters of eligibility will be issued by the Department:

- (1) Temporary Permit.
- (2) Emergency and Substitute Permits.
- (3) Intern Certificates.
- (4) Instructional Certificates.
- (5) Educational Specialist Certificates.
- (6) Supervisory Certificate.
- (7) Administrative Certificate.
- (8) Program Specialist Certificate.
- (9) Letters of Eligibility.
- (10) Career and Technical Education Certificates.
- (11) Exceptional Case Permits.
- (12) Resource Specialist Permits.

(b) The Secretary annually will disseminate an approved list of official titles of all certificates and letters of eligibility which the Department has issued during the past fiscal year or proposes to issue in the ensuing year.

INSTRUCTIONAL CERTIFICATES

§ 49.82. Instructional I.

(a) The Instructional I Certificate is valid for 6 years of teaching in public schools or in eligible provider settings (as defined in § 405.2 (relating to definitions)) in this Commonwealth in the area for which it applies. It may be converted to an Instructional II Certificate as provided by § 49.83 (relating to Instructional II).

(b) The Instructional I Certificate will be issued to applicants who:

- (1) Possess a baccalaureate degree.
- (2) Present evidence of successful completion of a Department-approved teacher preparation program.
- (3) Present evidence of satisfactory achievement in assessments prescribed by the Department under § 49.18(a) (relating to assessment).
- (4) Receive recommendation for certification from the preparing college or university or alternative program provider.

§ 49.83. Instructional II.

The Instructional II Certificate will be issued to an applicant who has completed:

- (1) A Department-approved 2-year induction program.

* * * * *

§ 49.84. Collegiate credit acceptable for conversion of the Instructional I Certificate.

(a) College credit acceptable for conversion to the Instructional II Certificate shall be earned at a State-approved associate degree-granting institution, baccalaureate or graduate degree granting institution.

(b) Credits earned in programs designed to prepare for professional fields such as law, medicine or theology, when relevant to the area of certification, will be considered acceptable for purposes of renewing or converting the Instructional I Certificate.

(c) Credits shall be earned subsequent to the conferring of the baccalaureate degree. Graduate credits earned prior to obtaining the Instructional I Certificate are considered acceptable for purposes of converting the Instructional I Certificate.

§ 49.85. Limitations.

* * * * *

(b) For instructional certificates issued on or after January 1, 2013, the grade level limitations shall be the following:

- (1) Early Childhood (prekindergarten, kindergarten, grades one through four or ages 3 through 9).
- (2) Elementary/Middle (grades four through eight or ages 9 through 14). Elementary/Middle Certificates permit instruction in any subject in grades four, five and six and in a core academic subject or subjects in grades seven and eight.
- (3) Secondary (grades seven through twelve or ages 11 through 21).
- (4) Specialized Areas (prekindergarten through grade twelve or up through age 21).
- (5) Special Education—PK—8 (prekindergarten through grade eight (ages 3 through 14)). Applicants for this certificate shall also obtain certification in one of the following certificates:

- (i) Early Childhood—in accordance with paragraph (1).
- (ii) Elementary/Middle—in accordance with paragraph (2).
- (iii) Reading Specialist—in accordance with paragraph (4).

(6) Special Education—7—12 (grades seven through twelve (ages 11 through 21)). Applicants for this certificate shall also obtain certification in one of the following certificates:

- (i) Secondary—in accordance with paragraph (3).
- (ii) Reading Specialist—in accordance with paragraph (4).

(7) Special Education Hearing Impaired, Visually Impaired and Speech/Language Impaired Certificates (prekindergarten, kindergarten, grades one through twelve or ages 3 through 21).

(c) Instructional certificates issued beginning January 1, 2013, through December 31, 2021, remain valid for the term of the certificate for the grade spans and age levels outlined in subsection (b) paragraphs (1)—(7).

(d) For instructional certificates issued on or after January 1, 2022, the grade level limitations shall be the following:

- (1) Early Childhood (prekindergarten, kindergarten, grades one through four or ages 3 through 9).

(2) Elementary/Middle (grades four through eight or ages 9 through 14). Elementary/Middle Certificates permit instruction in any subject in grades four, five and six and in a core academic subject or subjects in grades seven and eight.

(3) Secondary (grades seven through twelve or ages 11 through 21).

(4) Specialized areas (prekindergarten through grade twelve or up through age 21).

(5) Special Education PK—12 (prekindergarten through grade 12 or under 21 years of age). Applicants for this certificate are not required to obtain any additional certificates.

(6) Special Education Hearing Impaired, Visually Impaired and Speech/Language Impaired Certificates (prekindergarten, kindergarten, grades one through twelve or a person 3 years of age and a person under the age of 21).

(e) The decision about staffing based on age or grade level rests with the school entity.

(f) The Secretary may grant exceptions to the grade and age level limitations between Early Childhood (subsection (b)(1)), Elementary/Middle (subsection (b)(2)), Special Education-PK—8 (subsection (b)(5)) and Special Education—7—12 (subsection (b)(6)) for individual teachers on a case-by-case basis. The school entity shall submit a written request to the Secretary that provides justification for the exception. The Secretary will set a time limit for each individual exception granted. The Secretary will issue guidelines that outline the circumstances under which exceptions will be granted.

(g) When a school district contracts with a community provider for the provision of prekindergarten services, prekindergarten teachers providing the services shall possess a certificate in early childhood as provided in subsection (a)(1) or subsection (b)(1) within the following time frame:

(1) For contracts in place prior to September 22, 2007, September 24, 2012.

(2) For first-time contracts, 5 years from the start of services.

(h) The Secretary may grant exceptions in response to shortages of certified personnel that apply Statewide to specific provisions of this section when it is necessary to facilitate transition to the revised provisions scheduled to become effective on January 1, 2022. Exceptions may be granted under the following conditions:

(1) The Secretary will provide a written certification to the Board that includes relevant information and justification of the need for the exception. If the Board does not disapprove the exception within 90 days of receipt of the certification, the exception will stand approved.

(2) The exception will be valid for a limited term not to exceed 3 years.

(3) The Secretary will report annually to the Board on the nature and status of exceptions made under this section.

§ 49.86. Accelerated program for Early Childhood and Elementary/Middle Level Certificate holders.

(a) The Department will establish standards consistent with the criteria outlined in subsection (d) for an accelerated program for Early Childhood and Elementary/Middle Level Certificate holders to be effective January 1, 2013.

(b) Early Childhood Instructional I or Instructional II Certificate holders may add the Elementary/Middle Level I Certificate through the successful completion of a Department approved accelerated program of study offered by an approved Commonwealth institution.

(c) Elementary/Middle Level Instructional I or Instructional II Certificate holders may add the Early Childhood Instructional I Certificate through the successful completion of a Department approved accelerated program of study offered by an approved Commonwealth institution.

(d) Accelerated programs must include appropriate level academic content aligned with State academic standards, child development and instructional practice appropriate for the developmental level covered by the certificate. Applicants shall demonstrate subject matter knowledge by passing the appropriate assessment under § 49.18 (relating to assessment).

TEMPORARY TEACHING PERMITS

§ 49.90. Criteria for eligibility.

(a) The Department may make a one-time issuance of a Temporary Teaching Permit for service in a specific area of instruction for use in elementary, middle or secondary schools to applicants who, in addition to meeting the requirements of § 49.12 (relating to eligibility), hold a credential issued by a Board-approved National alternative certification program and completed any ancillary requirements agreed upon by the Department and the credentialing authority.

(b) The Temporary Teaching Permit will be valid for 1 calendar year from the date of issuance.

(c) The Department will issue an Instructional I Certificate when the prescribed courses or ancillary requirements are satisfied.

INTERN CERTIFICATES

§ 49.91. Criteria for eligibility.

* * * * *

(c) Intern Certificate programs must provide flexible and accelerated pedagogical training to teachers who have demonstrated competency in a certification area, provided that the first year of teaching includes a minimum of one classroom observation each month by an approved college/university in this Commonwealth.

(d) An Intern Certificate is valid for 3 years of service. This professional certificate may be issued only to an applicant who is a graduate of an accredited 4-year college or university. During the first year, the applicant shall complete all tests, enroll in an authorized program and complete a minimum of nine credits per year. The certificate requires continuing enrollment in a State-approved teacher intern program. This certificate cannot be renewed.

§ 49.92. Term of validity.

The Intern Certificate will be issued for the period of time necessary for the candidate to complete the approved intern program, but this time period will not exceed 3 years of service.

EDUCATIONAL SPECIALIST CERTIFICATES

§ 49.104. College credit acceptable for conversion of Educational Specialist I Certificate.

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(c) Credits shall be earned subsequent to the conferring of the baccalaureate degree. Graduate credits earned prior to obtaining the Educational Specialist I Certificate

are considered acceptable for purposes of converting the Educational Specialist I Certificate.

SUPERVISORY CERTIFICATES

§ 49.111. Supervisory Certificate.

(a) The Department will issue Supervisory Certificates for positions in the schools of this Commonwealth to persons who:

(1) Have completed 5 years of satisfactory certified experience in the area in which the Supervisory Certificate is sought.

(2) Have completed an approved graduate or approved alternative program preparing the applicant for the responsibilities of supervising in the program area and of directing the activities of certified professional employees.

(3) Present evidence of satisfactory achievement in assessments prescribed by the Department under § 49.18(a) (relating to assessment).

(4) Are able to help students achieve under Chapter 4 (relating to academic standards and assessment).

(5) Meet the following standards:

(i) The supervisor understands the central concepts of organizational leadership, tools of research and inquiry and principles of teaching and learning that make supervision effective and efficient.

(ii) The supervisor understands how all children learn and develop and configures resources to support the intellectual, social and personal growth of all students.

(iii) The supervisor knows and understands effective instructional strategies and encourages and facilitates employment of them by teachers.

(iv) The supervisor uses an understanding of individual and group motivation to create a professional development environment that engages teachers to develop and apply effective instructional techniques for all students.

(v) The supervisor is an effective communicator with various school communities.

(vi) The supervisor organizes resources and manages programs effectively.

(vii) The supervisor understands and uses formative and summative assessment strategies to gauge effectiveness of people and programs on student learning.

(viii) The supervisor understands the process of curriculum development, implementation and evaluation and uses this understanding to develop high quality curricula for student learning in collaboration with teachers, administrators, parents and community members.

(ix) The supervisor possesses knowledge and skills in observation of instruction and conducting conferences with professional staff that are intended to improve their performance and enhance the quality of learning experiences for all students.

(x) The supervisor thinks systematically about practice, learns from experience, seeks the advice of others, draws upon educational research and scholarship and actively seeks out opportunities to grow professionally.

(xi) The supervisor contributes to school effectiveness by collaborating with other professionals and parents, by using community resources, and by working as an advocate to improve opportunities for student learning.

(b) Notwithstanding the requirements of subsection (a), and excluding Special Education Supervisory Certification, the Department may issue additional Supervisory

Certificate areas to individuals who already hold a valid State Supervisory Certificate if they demonstrate competency in the requested supervisory area by one of the following:

(1) complete 12 Department-approved credits of collegiate study in the supervisory area sought, or

(2) achieve a passing score on the applicable content test.

(c) For Supervisory Certificates issued under paragraph (b), 5 years of service in the area is not required.

(d) A Supervisory Certificate for either Curriculum and Instruction or Pupil Personnel Services will be issued to persons who:

(1) Have 5 years of satisfactory professional certified service in the school program area for which the comprehensive certificate is sought.

(2) Have completed an approved graduate or approved alternative program preparing the applicant for the broad area, districtwide supervisory functions specified by the endorsement area of the certificate.

(3) Present evidence of satisfactory achievement in assessments prescribed by the Department under § 49.18(a).

ADMINISTRATIVE CERTIFICATES

§ 49.121. Administrative Certificate.

(a) The Department will issue Administrative Certificates to persons who have a minimum of 3 years of satisfactory instructional or student support experience completed in a public or private PK—12 school or accredited institution of higher education and have completed an approved program of graduate study, approved alternative program, or completed the alternative route in accordance with section 1207.1(d) of the act (24 P.S. § 12-1207.1(d)) preparing the applicant to direct, operate, supervise and administer the organizational and general educational activities of a school. Applicants shall be recommended by the preparing institution or alternative program provider in which the program was completed. Candidates for Administrative Certificates shall be able to help students achieve under Chapter 4 (relating to academic standards and assessment).

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Subchapter C. CAREER AND TECHNICAL EDUCATION CERTIFICATION

GENERAL PROVISIONS

§ 49.131. Basic requirements for baccalaureate and nonbaccalaureate programs.

(a) Applicants for a certificate shall have completed, in addition to all legal requirements, a program of educator preparation approved by the Department and shall have received the recommendation of the preparing institutions or alternative program provider.

* * * * *

§ 49.132. Types of certificates.

Five basic types of certificates will be issued, as follows:

(1) Career and Technical Instructional Intern.

(2) Career and Technical Instructional.

(3) Supervisor of Career and Technical Education.

(4) Career and Technical Administrative Director.

(5) Vocational Career and Technical Substitute Permits.

§ 49.133. Levels of certification.

Career and Technical Instructional Certificates shall be issued for the following levels of qualifications:

- (1) Level I (Provisional).
- (2) Level II (Permanent).

CAREER AND TECHNICAL INSTRUCTIONAL CERTIFICATES

§ 49.141. General.

(a) The Department will issue Career and Technical Instructional Certificates to persons whose primary responsibility is teaching occupational skills in State approved career and technical education programs in the public schools of this Commonwealth. The certificates will be valid for teaching in any career and technical or technical area for which the holder has registered his occupational competency credential with the Department in the manner prescribed by the Department.

(b) The holder of a Career and Technical Teaching Certificate may also teach the technical skills and knowledge of the holder's occupation in courses of comparable content provided in secondary school programs which have not been accorded State approval as career and technical education programs under conditions in the policies and standards of the Department. Candidates for Career and Technical Teaching Certificates shall be able to help students achieve under Chapter 4 (relating to academic standards and assessment).

§ 49.142. Career and Technical Instructional I.

(a) A single certificate will be issued and titled, "Career and Technical Instructional Certificate." Individuals qualifying for this certificate shall be authorized to teach in the areas for which they also hold an occupational competency credential. The occupational competency credential will be issued by the Department or an institution of higher education approved by the Secretary. The applicant shall have:

(1) A minimum of 8,000 hours (equivalent to 4 years full-time) wage-earning experience in the occupational area to be taught or 4,000 hours (equivalent to 2 years) wage-earning experience plus a baccalaureate degree.

(2) Successfully completed the occupational competency examination or evaluation of credentials for occupations where examinations do not exist or present evidence of satisfactory achievement on an assessment of subject matter under § 49.18 (relating to assessment).

(3) Completed 18 credit hours in an approved program of career and technical educator preparation. For Career and Technical I Certificates issued on or after January 1, 2013, the 18 credit hours must include at least 3 credits or 90 hours, or equivalent combination thereof, regarding accommodations and adaptations for diverse learners in an inclusive setting. For purposes of this requirement, 1 credit equals 30 hours of coursework. Applicable hours are limited to a combination of seat hours of classroom instruction, field observation experiences, major research assignments, and development and implementation of lesson plans with accommodations and adaptations for diverse learners in an inclusive setting.

(4) Presented evidence of satisfactory achievement on the assessment of basic skills under § 49.18.

(b) The Career and Technical Instructional I Certificate shall be valid for 8 years during which time the applicant shall complete the approved preparation program leading to the Career and Technical Instructional II Certificate.

§ 49.143. Career and Technical Instructional II.

The Career and Technical Instructional II Certificate shall be a permanent certificate issued to an applicant who has:

(1) Completed 3 years of satisfactory teaching on a Career and Technical Instructional I Certificate attested to by the chief school administrator of the approved public or nonpublic school entity in which the most recent service of the applicant was performed.

(2) Completed an additional 42 credit hours including at least 6 credits or 180 hours, or an equivalent combination thereof, regarding accommodations and adaptations for students with disabilities in an inclusive setting and at least 3 credits or 90 hours, or an equivalent combination thereof, in teaching English language learners, in an approved program in the appropriate field of career and technical education. For purposes of this requirement, one credit equals 30 hours of coursework. Applicable hours are limited to a combination of seat hours of classroom instruction, field observation experiences, major research assignments, and development and implementation of lesson plans with accommodations and adaptations for diverse learners in an inclusive setting.

(3) Presented evidence of satisfactory achievement in assessments under § 49.18(a) (relating to assessment).

(4) Completed a Department-approved 2-year induction program.

CAREER AND TECHNICAL INTERN CERTIFICATES

§ 49.151. Eligibility and criteria.

(a) The Department will issue Career and Technical Intern Certificates for teaching in State approved programs of career and technical education in the public schools of this Commonwealth to applicants who have:

(1) Met all eligibility requirements stipulated in § 49.12 (relating to eligibility) except for the baccalaureate degree requirement in § 49.12(3).

(2) Provided evidence of satisfactory achievement in assessments of subject matter under § 49.18 (relating to assessment) or satisfactory occupational competency by one of the following:

(i) Successfully completing the occupational competency examination of the Department.

(ii) Securing recognition of occupational competency upon the basis of credentials review and adequate work experience beyond the learning period as established by the Department in those competency areas where occupational competency examinations do not exist.

(iii) Receiving State licensure or occupational accreditation by a Board of Examiners recognized by the Commonwealth.

(iv) Receiving certification from another state whose certification criteria are similar to those of this Commonwealth.

(3) Been accepted for enrollment in a State approved career and technical educator preparation program at a Commonwealth college or university.

(4) Been recommended for the certificate by the institution at which they are enrolled or accepted.

(b) The applicant shall be issued a Career and Technical Instructional I Certificate upon presenting evidence of 8,000 hours (equivalent to 4 years full-time) wage-earning

experience in the occupational area to be taught and satisfactory achievement on the assessment of basic skills.

(c) The certificate requires continued enrollment in a State-approved teacher intern program.

§ 49.152. Term of validity.

The Career and Technical Instructional Intern Certificate shall be issued for the period of time needed by the applicant to complete 18 semester hours within the approved career and technical educator preparation program, but in no case shall the validity period exceed 3 years from the date of issuance.

§ 49.153. Career and Technical Day-to-Day Substitute Permit.

(a) The chief school administrator or career and technical school administrative director having jurisdiction over any approved Career and Technical Education program is authorized to issue a special Day-to-Day Substitute Permit to an occupational practitioner when no properly certified teachers are available. The teacher shall function under the supervision of a properly certified supervisor or administrator. Assignments as described in this section shall be made only in case of an emergency and may not exceed 20 consecutive school days. This permit will be valid for 20 days of substitute service and may be renewed for an additional 20 school days upon the approval of the Secretary.

(b) This permit does not qualify the holder to serve as a regularly employed teacher to fill a vacant position or as a long-term substitute. These positions shall be filled by a person holding a valid Career and Technical Instructional or a State issued Long-term or Day-to-Day Substitute Permit.

SUPERVISOR OF CAREER AND TECHNICAL EDUCATION CERTIFICATE

§ 49.161. Supervisor of Career and Technical Education.

(a) The Department will issue a Supervisor of Career and Technical Education Certificate to a person who has a minimum of 3 years satisfactory certified career and technical teaching experience and whose primary assignment will be one or more of the following:

(1) Instructional supervision in the fields of career and technical education—career and technical agriculture, career and technical business, distributive education, health occupations, career and technical home economics, and career and technical industrial, or trade and industrial—in area career and technical schools and corresponding career and technical courses in the public secondary schools of this Commonwealth.

(2) Directing the activities of professional staff teaching in the program areas specified in paragraph (1).

(b) The Department will issue a Supervisor of Career and Technical Education Certificate to a person who shall meet the requirements of § 49.111(a)(3)—(5) (relating to Supervisory Certificate).

CAREER AND TECHNICAL ADMINISTRATIVE DIRECTOR CERTIFICATE

§ 49.163. Career and Technical Administrative Director.

The Department will issue the Career and Technical Administrative Director Certificate to persons who:

(1) Have a minimum of 3 years of relevant professional experience in a Career and Technical Education School.

(2) Have completed an approved program of graduate study following standards listed in §§ 49.111(a) and 49.121(d) (relating to Supervisory Certificate; and Administrative Certificate) or an approved alternative program under section 1207.1 of the act (24 P.S. § 12-1207.1) preparing them to direct, operate, supervise, and administer the organizational and educational activities of a career and technical school or department; applicants shall be recommended by the preparing institution in which the graduate program was completed.

(3) Present evidence of satisfactory achievement on assessments prescribed by the Department under § 49.18(a) (relating to assessment).

Subchapter D. OUT-OF-STATE APPLICANTS

§ 49.172. Letter of eligibility.

(a) The Department will issue the appropriate letter of eligibility for consideration for appointment as a district superintendent or an assistant district superintendent to an applicant who:

(1) Has completed a State-approved graduate level program of educational administrative study for the preparation of chief school administrators or been prepared through an out-of-State graduate level program equivalent to those approved in this Commonwealth.

(2) Has received the recommendation of the preparing institution for certification as a chief school, district level, administrator.

(3) Has provided evidence of 6 years of satisfactory educational or student support service in private or public K—12 schools or an accredited institution of higher education of which at least 3 years must be service in supervisory or administrative positions.

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Subchapter E. COMMISSIONS AND CERTIFICATES FOR INTERMEDIATE UNITS

§ 49.182. Letter of eligibility.

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(c) A commission will be issued to a person holding an appropriate letter of eligibility upon the candidate's election as the executive director or assistant executive director of an intermediate unit by its respective board of directors.

(d) When an Intermediate Unit Board of Directors finds it impossible or impractical to fill immediately a vacancy occurring in the position of intermediate unit executive director or assistant intermediate unit executive director, the board may appoint an acting intermediate unit executive director or an acting intermediate unit executive director who does not meet the requirements of subsection (a) to serve no more than 1 year from the time of the appointment as acting intermediate unit executive director or acting assistant intermediate unit executive director.

Subchapter F. LETTERS OF EQUIVALENCY FOR PAY PURPOSES

§ 49.191. Letters of Equivalency.

A Letter of Equivalency will be issued for salary purposes only, subject to the following terms and conditions:

(1) The Letter of Equivalency for Baccalaureate Degree is issued to holders of Career and Technical Instructional

I, Career and Technical Instructional II or their equivalents upon the accumulation of 90 college credits. A minimum of 18 credit hours shall be earned at a State-approved baccalaureate degree granting institution. Twelve of the final 30 credit hours may be satisfied, in full or in part, through in-service programs approved by the Secretary for meeting baccalaureate equivalency requirements.

(2) The Letter of Equivalency for Master’s Degree is issued to persons holding a valid Instructional I, Instructional II, Educational Specialist I, Educational Specialist II Certificate, Career and Technical Instructional I, Career and Technical Instructional II Certificate, or their equivalents, upon the accumulation of 36 hours of graduate level credit. A minimum of 18 academic graduate credits shall be earned in the content area of the applicant’s certification area(s) at a college or university approved to offer graduate work. A maximum of 18 of the credit requirement may be satisfied through in-service programs approved by the Secretary for meeting master’s equivalency requirements.

(3) A grade of “C” or better is required in college and university courses in which grades are given and a letter of satisfactory completion is required for all in-service courses used toward the attainment of the certificate.

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**Title 25—ENVIRONMENTAL
PROTECTION
ENVIRONMENTAL QUALITY BOARD
[25 PA. CODE CH. 145]
CO₂ Budget Trading Program**

The Environmental Quality Board (Board) amends Chapter 145 (relating to interstate pollution transport reduction) to add Subchapter E (relating to CO₂ budget trading program) to establish a program to limit the emissions of carbon dioxide (CO₂) from fossil fuel-fired electric generating units (EGU) located in this Commonwealth, with a nameplate capacity equal to or greater than 25 megawatts (MWe) as set forth in Annex A.

This final-form rulemaking was adopted by the Board at its meeting of July 13, 2021.

A. Effective Date

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

B. Contact Persons

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ment) web site at www.dep.pa.gov (select “Public Participation,” then “Environmental Quality Board”).

C. Statutory Authority

This final-form rulemaking is authorized under section 5(a)(1) of the Air Pollution Control Act (APCA) (35 P.S. § 4005(a)(1)), which grants the Board the authority to adopt rules and regulations for the prevention, control, reduction and abatement of air pollution in this Commonwealth. Section 6.3(a) of the APCA (35 P.S. § 4006.3(a)) also authorizes the Board by regulation to establish fees to support the air pollution control program authorized by the APCA and not covered by fees required by section 502(b) of the Clean Air Act (CAA) (42 U.S.C.A. § 7661a(b)).

D. Background and Purpose

The purpose of this final-form rulemaking is to reduce anthropogenic emissions of CO₂, a greenhouse gas (GHG) and major contributor to climate change impacts, in a manner that is protective of public health, welfare and the environment in this Commonwealth. This final-form rulemaking would reduce CO₂ emissions from sources within this Commonwealth and establish the Commonwealth’s participation in the Regional Greenhouse Gas Initiative (RGGI), a regional CO₂ Budget Trading Program. This final-form rulemaking would establish a CO₂ Budget Trading Program for this Commonwealth which is capable of linking with similar regulations in states participating in RGGI (participating states). These independently promulgated and implemented CO₂ Budget Trading Program regulations together make up the regional CO₂ Budget Trading Program or RGGI.

This final-form rulemaking would effectuate least-cost CO₂ emission reductions for the years 2022 through 2030. The declining CO₂ Emissions Budget in this final-form rulemaking directly results in CO₂ emission reductions of around 20 million short tons in this Commonwealth as well as emission reductions across the broader PJM regional electric grid. However, the Department projects that 97—227 million short tons of CO₂ that would have been emitted by EGUs in this Commonwealth over the next decade are avoided by participation in RGGI. According to data from the United States Energy Information Administration (EIA), this Commonwealth generates the fifth most CO₂ emissions from EGUs in the country. Since CO₂ emissions are a major contributor to regional climate change impacts, the Department developed this final-form rulemaking to establish this Commonwealth’s participation in a regional approach that significantly reduces CO₂ emissions and this Commonwealth’s contribution to regional climate change.

RGGI equity principles

Throughout the development and implementation of this final-form rulemaking, the Commonwealth is committed to striving to develop a power sector carbon-reduction program and investment strategy, through RGGI, that embodies a set of equity principles. These equity principles advance the Department’s commitment to equity and were developed by the Department with input from environmental justice stakeholders, including the Department’s Environmental Justice Advisory Board (EJAB). First, the Commonwealth will strive to inclusively gather public input using multiple methods of engaging the public, especially environmental justice communities and meaningfully consider that input in making decisions related to the design and implementation of the power sector carbon-reduction program and disseminate any final decisions that are made that affect such im-

pacted communities in a timely manner. Second, the Commonwealth will strive to protect public health, safety and welfare, mitigating any adverse impacts on human health, especially in environmental justice communities and seek to ensure environmental and structural racism are not replicated in the engagement process. Third, the Commonwealth will strive to work equitably and with intentional consideration to distribute environmental and economic benefits of auction proceeds in communities that have been disproportionately impacted by air pollution. As part of this third principle, the Commonwealth will seek to address legacy impacts related to emissions and pollution in vulnerable populations and among environmental justice communities. The Commonwealth will also develop and provide data about emissions in environmental justice communities to inform the investment process. The development of an Annual Air Quality Impact Assessment is discussed further under the subsection titled “Modifications from RGGI Model Rule.” Lastly, as part of the third principle, the Commonwealth will strive to provide access to investment programs for all members of the community, especially low-income communities.

Climate change impacts and the greenhouse effect

Like every state in the country, this Commonwealth has already begun to experience adverse impacts from climate change, such as higher temperatures, changes in precipitation and frequent extreme weather events, including large storms, flooding, heat waves, heavier snowfalls and periods of drought. These impacts could alter the many fundamental assumptions about climate that are intrinsic to this Commonwealth’s infrastructure, governments, businesses and the stewardship of its natural resources and environment. If not properly accounted for, changes in climate could result in more frequent road washouts, higher likelihood of power outages and shifts in economic activity, among other significant impacts. Climate change can also affect vital determinants of health such as clean air, safe drinking water, sufficient food and secure shelter. These vital determinants are particularly affected by the increased extreme weather events, in addition to decreased air quality and an increase in illnesses transmitted by food, water and disease carriers such as mosquitos and ticks. If these impacts are to be avoided, GHG emissions must be reduced expeditiously.

The impacts of climate change are vast and what was predicted 10 years ago is being confirmed today. Climate change impacts are being caused by the emission and atmospheric concentration of GHGs, namely, but not exclusively, CO₂. Scientists have confirmed that increased CO₂ emissions from human activity are causing changes to global climate. Ninety-seven percent of the actively publishing climate scientists agree that climate warming trends over the past century are extremely likely due to human activities. Major scientific institutions including the United States National Academy of Sciences, the United States Global Change Research Program (USGCRP), the American Medical Association, the American Association for the Advancement of Science, and many others endorse this position. In the Fifth Assessment Report of the Intergovernmental Panel on Climate Change (IPCC) released in 2014, the IPCC concluded that, “human influence on the climate system is clear, and recent anthropogenic emissions of GHGs are the highest in history.” See IPCC, 2014: Climate Change 2014: Synthesis Report. Contribution of Working Groups I, II and III to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change.

While CO₂ is a necessary element of life on Earth and acts as a fundamental aspect of nearly every critical

system on the planet, CO₂ in high concentrations in the atmosphere leads to the greenhouse effect. The greenhouse effect occurs when CO₂ (and other GHG) molecules absorb solar energy and re-emit infrared energy back to the Earth’s surface. This absorption and re-emitting of infrared energy is what makes certain gases trap heat in the lower atmosphere, not allowing it to go back out to space. The greenhouse effect disrupts the normal process whereby solar energy is absorbed at the Earth’s surface and is radiated back through the atmosphere and back to space. Maintaining the surface temperature of the Earth depends on this balance of incoming and outgoing solar radiation. See the National Aeronautics and Space Administration, “The Causes of Climate Change,” <https://climate.nasa.gov/causes/>.

Global temperatures are increasing due to the greenhouse effect. Significantly changing the global temperature has impacts to every other weather and climate cycle occurring across the world. For instance, global average sea level, which has risen by about 7-8 inches since 1900 (with about 3 inches of that increase occurring since 1993), is expected to rise at least several inches in the next 15 years and by 1–4 feet by 2100. The impacts of increased GHGs in the atmosphere, including extreme weather and catastrophic natural disasters, have become more frequent and more intense. Extreme weather events also contribute to deaths from extreme heat or cold exposure and lost work hours due to illness. The World Health Organization expects climate change to cause around 250,000 additional deaths globally per year between 2030 and 2050, with additional direct damage costs to health estimated to be around \$2–\$4 billion per year by 2030. Based on the overwhelming scientific evidence, these harms are likely to increase in number and severity unless aggressive steps are taken to reduce GHG emissions.

Climate change impacts assessments

Since 2009, the Department has released Climate Change Impacts Assessments, as required under the Pennsylvania Climate Change Act (71 P.S. §§ 1361.1–1361.8), which have underscored the critical need to take action to reduce GHG emissions and address climate change. The Department’s climate change impact assessments are available at <https://www.dep.pa.gov/Citizens/climate/Pages/CCAC.aspx>. On May 5, 2021, the Department, with support from ICF and Penn State University, released the most recent Pennsylvania Climate Impacts Assessment. The 2021 Pennsylvania Climate Impacts Assessment found that the average annual temperature Statewide will continue to rise and is expected to increase by 5.9°F (3.3°C) by midcentury compared to a baseline period of 1971–2000. Additionally, this Commonwealth could experience more total average rainfall, occurring in less frequent but heavier rain events. Extreme rainfall events are projected to increase in magnitude, frequency and intensity, while drought conditions are also expected to occur more frequently due to more extreme, but less frequent precipitation patterns.

There will also be more frequent and intense extreme heat events with temperatures expected to reach at least 90°F on 37 days per year on average across the State, up from the 5 days during the baseline period. Days reaching temperatures above 95°F and 100°F will become more frequent as well. These increasing temperatures will continue to alter the growing season and increase the number of days that individuals and businesses will have to run air conditioning. As heat waves become increasingly common, individuals will be more susceptible to

health and economic risks. This is particularly true for vulnerable populations, including low-income populations, the elderly, pregnant women, people with certain mental illnesses, outdoor workers and those with cardiovascular conditions. Most notable from the 2021 Pennsylvania Climate Impacts Assessment is that climate change will not affect all the residents of this Commonwealth equally. Some may be more at risk because of their location, income, housing, health or other factors. As shown by all of the Pennsylvania Climate Change Impacts Assessments, climate risks and related impacts in this Commonwealth could be severe, potentially causing increased infrastructure disruptions, higher risks to public health, economic impacts and other changes, unless actions are taken by the Commonwealth to avoid and reduce the consequences of climate change.

In April 2020, the Environment and Natural Resources Institute at Penn State University released an updated Climate Change Impacts Assessment for the Department, which states that the expected disruptions to this Commonwealth's climate and impacts on this Commonwealth's climate sensitive sectors remain as dire as presented in the 2015 Climate Change Impacts Assessment. The 2015 Climate Change Impacts Assessment found that this Commonwealth has undergone a long-term warming of more than 1.8°F over the prior 110 years, and that due to increased GHG emissions, current warming trends are expected to increase at an accelerated rate with average temperatures projected to increase an additional 5.4 degrees by 2050. This warming will have potential adverse impacts related to agriculture, forests, aquatic ecosystems, water resources, wildlife and public health across this Commonwealth. In this Commonwealth, average annual precipitation has increased by approximately 10% over the past 100 years and, by 2050, is expected to increase by an additional 8%, with a 14% increase during the winter season. In particular, climate change will worsen air quality relative to what it would otherwise be, causing increased respiratory and cardiac illness. Air quality impacts from climate change are due to the combination of pollutants emitted from anthropogenic sources and weather conditions. Climate change can potentially also worsen water quality, affecting health through consumption of diminished quality drinking water and through contact with surface waters during outdoor recreation. The risk of injury and death from extreme weather events could also increase as a consequence of climate change. Additionally, climate change could affect the prevalence and virulence of air-borne infectious diseases such as influenza.

In 2009, the Department released its first Climate Change Impacts Assessment which showed that this Commonwealth was already experiencing some of the harmful effects of climate change. That same year, under CAA section 202(a)(1), (42 U.S.C.A. § 7521(a)(1)), the United States Environmental Protection Agency (EPA) issued an "Endangerment Finding," that six GHGs—CO₂, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons and sulfur hexafluoride—endanger both the public health and the public welfare of current and future generations by causing or contributing to climate change. See 74 FR 66496 (December 15, 2009). The EPA's 2009 endangerment finding particularly concerned GHG emissions released from motor vehicles. However, in 2015, the EPA issued an endangerment finding for GHG emissions released from new EGUs through the promulgation of its regulation concerning "Standards of Performance for Greenhouse Gas Emissions From New, Modified, and Reconstructed Stationary Sources: Electric Utility Gener-

ating Units." See 80 FR 64509 (October 23, 2015). On January 19, 2021, the D.C. Circuit Court of Appeals affirmed that the endangerment finding issued for new EGUs provided a sufficient basis for the EPA's regulation controlling GHG emissions from existing EGUs, commonly known as the "Affordable Clean Energy Rule or ACE rule" in its decision vacating the rule and remanding it back to the EPA. See *Am. Lung Ass'n v. Env't Prot. Agency*, 985 F.3d 914, 977 (D.C. Cir. 2021). In other words, the EPA made a source-specific finding that GHG emissions, principally CO₂, from EGUs endanger public health and welfare and cause or contribute to climate change. Additionally, the EPA's Endangerment Findings are further reinforced by the findings of the USGCRP's Fourth National Climate Assessment (NCA4) which is consistent with the Commonwealth's 2015, 2020 and 2021 Climate Change Impacts Assessments. While these Federal studies inform the Department's decision to regulate CO₂ emissions within this Commonwealth, they are not determinative because this final-form rulemaking is being promulgated by the Board under the authority of the APCA, not the CAA.

On November 23, 2018, the USGCRP released the NCA4, a scientific assessment of the National and regional impacts of natural and human-induced climate change. See USGCRP, "Impacts, Risks, and Adaptation in the United States: Fourth National Climate Assessment, Volume II," (D.R. Reidmiller et al. eds., 2018), <https://nca2018.globalchange.gov/>. The NCA4 represents the work of over 300 government and nongovernment experts, led by experts within the EPA, the United States Department of Energy and 11 other Federal agencies. The NCA4 shows how the impacts of climate change are already occurring across the country and emphasizes that future risks from climate change will depend on the decisions made today. It is worth noting that the NCA4 mentions that the Northeast region is a model for other states, as it has traditionally been a leader in GHG mitigation action.

By 2035, the NCA4 projects that the Northeast will see the largest temperature increase in the country of more than 3.6°F on average higher than the preindustrial era. This would occur as much as two decades before global average temperatures reach a similar milestone. The changing climate of the Northeast threatens the health and public welfare of its residents and will lead to health-related impacts and costs, including additional deaths, emergency room visits and hospitalizations, higher risk of infectious diseases, lower quality of life and increased costs associated with healthcare utilization. Mosquitoes, fleas and ticks and the diseases they carry have been a particular concern in the Northeast in recent years. Scientists have linked these diseases, specifically tick-related Lyme disease, to climate change.

Climate change also threatens to reverse the advances in air quality that the states in the Northeast, including this Commonwealth, have worked so hard to achieve over the past few decades. In particular, climate change will increase levels of ground-level ozone pollution in the Northeast through changes in weather and increased ozone precursor emissions. Ozone is an irritant and repeated exposure to ozone pollution for both healthy people and those with existing conditions may cause a variety of adverse health effects, including difficulty in breathing, chest pains, coughing, nausea, throat irritation and congestion. In addition, people with bronchitis, heart disease, emphysema, asthma and reduced lung capacity may have their symptoms exacerbated by ozone pollution. Asthma, in particular, is a significant and growing threat to children and adults in this Commonwealth. The threat

of asthma is particularly pronounced in Philadelphia, which has especially high asthma prevalence and hospitalization rates—affecting approximately one out of four children in West Philadelphia alone. Asthma disproportionately affects African Americans and those below or near the poverty line, highlighting key environmental justice considerations for pollution control. See United States EPA Region 3, EPA Mid-Atlantic Recognizes First Asthma Community Champion, May 2021, <https://www.epa.gov/newsreleases/epa-mid-atlantic-recognizes-first-asthma-community-champion>. The NCA4 refers to this reversal as a “climate penalty” and projects it could cause hundreds more ozone pollution-related deaths per year.

Over the past several decades, the Department has made substantial progress in decreasing ground-level ozone pollution in this Commonwealth, including limiting precursor emissions. However, Bucks, Chester, Delaware, Montgomery and Philadelphia Counties are designated as marginal nonattainment areas for the 2015 ozone National ambient air quality standards (NAAQS). See 83 FR 25776 (June 4, 2018). There is still more work that needs to be done to reduce emissions in these nonattainment areas and to avoid backsliding on the improvements to air quality across this Commonwealth. An increase in ground-level ozone levels due to climate change would interfere with continued attainment of the ozone NAAQS, hinder progress in marginal nonattainment areas and put public health and welfare at risk.

Immediate action is needed to address this Commonwealth's contribution to climate change

Given the urgency of the climate crisis, including the significant impacts on this Commonwealth, the Board determined that concrete, economically sound and immediate steps to reduce GHG emissions are necessary. As one of the top GHG emitting states in the country, the Board has a compelling interest to reduce GHG emissions to address climate change and protect public health, welfare and the environment. Based on the most recent data from the EPA's State Inventory Tool, in 2018, this Commonwealth generated net GHG emissions equal to 227.04 million metric tons CO₂ equivalent (MMTCO₂e) Statewide, the vast majority of which are CO₂ emissions. In the context of the world, this Commonwealth's electricity generation sector alone emits more CO₂ than many entire countries including Greece, Sweden, Israel, Singapore, Austria, Peru and Portugal. See Joint Research Centre, European Commission, “JRC Science for Policy Report: Fossil CO₂ emissions of all world countries,” 2020, <https://publications.jrc.ec.europa.eu/repository/handle/JRC121460>.

Historically, the electricity generation sector has been the leading source of CO₂ emissions in this Commonwealth. Based upon data contained in the Department's 2020 GHG Inventory, 29% of this Commonwealth's total GHG emissions are produced by the electricity generation sector. The Department's GHG inventory and related information is available at <https://www.dep.pa.gov/Citizens/climate/Pages/CCAC.aspx>. In recent years, this Commonwealth has seen a shift in the electricity generation portfolio mix, resulting from market forces and the establishment of alternative energy goals, and energy efficiency targets. Since 2005, this Commonwealth's electricity generation has shifted from higher carbon-emitting electricity generation sources, such as coal, to lower and zero emission generation sources, such as natural gas, wind and solar. At the same time, overall energy use in the residential, commercial, transportation and electric power sectors has reduced.

However, looking forward, the Department projects CO₂ emissions from the electricity generating sector will increase due to reduced switching from coal to natural gas, the potential closure of zero carbon emitting nuclear power plants, and the addition of new natural gas-fired units in this Commonwealth. The Three Mile Island nuclear power plant already closed on September 20, 2019, amounting to a loss of 818 MWe of carbon free generation. However, the modeling conducted for this final-form rulemaking predicts no further nuclear power plant retirements through 2030 with implementation of this final-form rulemaking. Without this final-form rulemaking, this Commonwealth's nuclear fleet may remain at-risk of closure. In fact, on March 13, 2020, Energy Harbor, the owner of the Beaver Valley nuclear power plant, responsible for 1,845 MW of carbon free generation, withdrew its closure announcement, specifically citing this Commonwealth's intended participation in RGGI as a key determinant in continuing operations.

This final-form rulemaking is necessary to ensure CO₂ emissions continue to decrease and at a rate that shields this Commonwealth from the worst impacts of climate change. RGGI plays an important role in providing a platform whereby this Commonwealth can reduce CO₂ emissions using a market-based approach. As the electricity generation sector remains one of the leading sources of CO₂ in this Commonwealth, it is imperative that emissions continue to decrease from that sector.

The Commonwealth's GHG emission reduction goals

On January 8, 2019, Governor Tom Wolf signed Executive Order 2019-01, Commonwealth Leadership in Addressing Climate Change and Promoting Energy Conservation and Sustainable Governance, codified in 4 Pa. Code §§ 5.1001—5.1009 (relating to Governor's Green Government Council). This Executive Order set the first ever climate change goal for this Commonwealth to reduce net GHG emissions from 2005 levels by 26% by 2025 and 80% by 2050. These climate change goals align this Commonwealth with the reduction targets under the Paris Agreement aimed at keeping global temperature rise below the 2-degree Celsius threshold. According to climate experts, the 2-degree Celsius threshold is the level beyond which dire global consequences would occur, including sea level rise, superstorms and crippling heat waves.

On April 29, 2019, the Department issued a Pennsylvania Climate Action Plan that identified GHG emission trends and baselines in this Commonwealth and recommended cost-effective strategies for reducing or offsetting GHG emissions. The Department's climate action plans are available at <https://www.dep.pa.gov/Citizens/climate/Pages/CCAC.aspx>. The Climate Action Plan determined that reducing the overall carbon intensity of the electricity generated in this Commonwealth is one of the most critical strategies for reducing GHG emissions. The Climate Action Plan also identified many different strategies and actions that all the residents of this Commonwealth can take to combat climate change. According to the Climate Action Plan, one of the most cost-effective emissions reduction strategies is to limit CO₂ emissions through an electricity sector cap and trade program. This Commonwealth participating in a cap and trade program is expected to result in the largest near-term reduction in emissions and was deemed cost-effective relative to the social cost of carbon. The Climate Action Plan modeled a cap and trade program that requires a carbon cap equal to a 30% reduction from 2020 CO₂ emissions levels by 2030, which is equivalent to RGGI stringency.

On October 3, 2019, Governor Tom Wolf signed Executive Order 2019-07, Commonwealth Leadership in Addressing Climate Change through Electric Sector Emissions Reductions, codified in 4 Pa. Code §§ 7a.181—7a.183 (relating to Commonwealth leadership in addressing climate change through electric sector emissions reductions), which directed the Department to use its existing authority under the APCA to develop a rulemaking to abate, control or limit CO₂ emissions from fossil fuel-fired electric power generators. This Executive Order also directed the Department to present a proposed rulemaking to the Board by July 31, 2020. On June 22, 2020, Governor Tom Wolf amended this Executive Order to extend the deadline to September 15, 2020. As directed by this Executive Order, this final-form rulemaking establishes a CO₂ budget consistent in stringency to that established by the participating states, provides for the annual or more frequent auction of CO₂ emissions allowances through a market-based mechanism, and is sufficiently consistent with the RGGI Model Rule such that CO₂ allowances may be traded with holders of allowances from other states.

Considering that this Commonwealth has the fifth leading CO₂ emitting electricity generation sector in the country, this final-form rulemaking is a significant component in achieving the Commonwealth's goals to reduce GHG emissions. Although this final-form rulemaking will not solve global climate change, it will aid this Commonwealth in addressing its share of the impact, joining other states and countries that are addressing their own impacts. The statutory authority for this final-form rulemaking, the APCA, is built on a precautionary principle to protect the air resources of this Commonwealth for the protection of public health and welfare and the environment, including plant and animal life and recreational resources, as well as development, attraction and expansion of industry, commerce and agriculture. To be proactive, this final-form rulemaking is needed to address this Commonwealth's contributions to climate change, particularly CO₂ emissions. The Board determined to address CO₂ emissions through a regional initiative because regional cap and trade programs have proven to be beneficial and cost-effective at reducing air pollutant emissions. In fact, this Commonwealth has and continues to participate in successful regional cap and trade programs.

History and success of this Commonwealth's participation in cap and trade programs

In the 1990 CAA Amendments, the United States Congress determined that the use of market-based principles, such as emissions banking and trading, are effective ways of achieving emission reductions. See 42 U.S.C.A. §§ 7651—7651o. According to the EPA, emissions trading programs are best implemented when the environment and public health concerns occur over a relatively large geographic area and effectively designed emissions trading programs provide flexibility for individual emissions sources to tailor their compliance path to their needs. See generally, 63 FR 57356 (October 27, 1998). The EPA has also determined that reducing emissions using a market-based system provides regulated sources with the flexibility to select the most cost-effective approach to reduce emissions and has proven to be a highly effective way to achieve emission reductions, meet environmental goals and improve human health. 63 FR 57356, 57458 (October 27, 1998). In contrast to traditional command and control regulatory methods that establish specific emissions limitations and technology use with limited or no flexibility, cap and trade programs harness

the economic incentives of the market to reduce pollution. The Board has a decades-long history of promulgating regulations that have established this Commonwealth's participation in successful cap and trade programs.

Beginning in 1995, this Commonwealth participated in the first National cap and trade program in the United States, the Acid Rain Program, which was established under Title IV of the 1990 CAA Amendments and required, in part, major emission reductions of sulfur dioxide (SO₂) through a permanent cap on the total amount emitted by EGUs. See 24 Pa.B. 5899 (November 26, 1994) and 25 Pa. Code § 127.531 (relating to special conditions related to acid rain). For the first time, the Acid Rain Program introduced a system of allowance trading that used market-based incentives to reduce pollution. The Acid Rain Program reduced SO₂ emissions by 14.5 million tons (92%) from 1990 levels and 16.0 million tons (93%) from 1980 levels. Information related to the Acid Rain Program is available at <https://www.epa.gov/airmarkets/progress>. The undisputed success of achieving significant emission reductions in a cost-effective manner led to the application of the market-based cap and trade tool for other regional environmental problems.

From 1999 to 2002, this Commonwealth participated in the Ozone Transport Commission's (OTC) NO_x Budget Program, an allowance trading program designed to reduce summertime NO_x emissions from EGUs to reduce ground-level ozone, which included all the current states participating in RGGI. See 27 Pa.B. 5683 (November 1, 1997) and 25 Pa. Code §§ 123.101—123.121 (relating to NO_x allowance requirements). According to the OTC's NO_x Budget Program 1999—2002 Progress Report, NO_x Budget Program units successfully reduced ozone season NO_x emissions in 2002 by nearly 280,000 tons, or about 60%, from 1990 baseline levels, achieving greater reductions than required each year of the program. The Progress Report is available on the EPA's webpage for the National Service Center for Environmental Publications, <https://nepis.epa.gov>. Based on the success of the OTC's NO_x Budget Program and the Acid Rain Program, in 2003 the EPA implemented a regional NO_x cap and trade program under the NO_x SIP Call, which closely resembled the OTC NO_x Budget Program. 63 FR 57356 (October 27, 1998). The EPA again noted the cost savings of achieving emissions reductions through trading. The EPA's regional NO_x cap and trade program was adopted by the Board on September 23, 2000, to reduce NO_x emissions Statewide. See 30 Pa.B. 4899 (September 23, 2000) and 25 Pa. Code Chapter 145, Subchapter A (relating to NO_x Budget Trading Program).

Beginning in 2009, the EPA's NO_x Budget Trading Program was replaced by the Clean Air Interstate Rule (CAIR) trading program, covering 28 eastern states, which required further summertime NO_x reductions from the power sector as well as SO₂ reductions. See 70 FR 25162 (May 12, 2005). The Board adopted the CAIR program in 2008. See 38 Pa.B. 1705 (April 12, 2008) and 25 Pa. Code Chapter 145, Subchapter D (relating to CAIR NO_x and SO₂ Trading Programs). Finally, in 2015, CAIR was replaced by the Cross-State Air Pollution Rule trading program.

Regional Greenhouse Gas Initiative (RGGI)

RGGI is a cooperative regional market-based cap and trade program designed to reduce CO₂ emissions from fossil fuel-fired EGUs. RGGI is currently composed of eleven northeastern and Mid-Atlantic states, including Connecticut, Delaware, Maine, Maryland, Massachusetts,

New Hampshire, New Jersey, New York, Rhode Island, Vermont and Virginia. Since its inception on January 1, 2009, RGGI has utilized a market-based mechanism to cap and cost-effectively reduce CO₂ emissions that cause climate change. Because CO₂ from large fossil fuel-fired EGUs is a major contributor to regional climate change, the participating states developed a regional approach to address CO₂ emissions. This regional approach resulted in a Model Rule applicable to fossil fuel-fired EGUs with a nameplate capacity equal to or greater than 25 MWE.

RGGI is implemented in the participating states through each state's independent CO₂ Budget Trading Program regulations, based on the Model Rule, which link together. It is also important to note that states do not execute a multistate agreement or compact to participate in RGGI, and states may withdraw from participation at any time. There is also no central RGGI authority as states jointly oversee the program. The key piece to becoming a "participating state," as the term is defined under § 145.302 (relating to definitions), is the establishment of a corresponding regulation as part of the CO₂ Budget Trading Program. As defined under § 145.302, the "CO₂ Budget Trading Program" is a multistate CO₂ air pollution control and emissions reduction program established under this final-form rulemaking and corresponding regulations in other participating states as a means of reducing emissions of CO₂ from CO₂ budget sources. For this Commonwealth to participate in RGGI, the Board is promulgating this final-form rulemaking which is consistent with the Model Rule.

RGGI is a "cap and trade" program that sets a regulatory limit on CO₂ emissions from fossil fuel-fired EGUs and permits trading of CO₂ allowances to effect cost-efficient compliance with the regulatory limit. RGGI is also referred to as a "cap and invest" program, because unlike traditional cap and trade programs, RGGI provides a "two-prong" approach to reducing CO₂ emissions from fossil fuel-fired EGUs. The first prong is a declining CO₂ emissions budget and the second prong involves investment of the proceeds resulting from the auction of CO₂ allowances to further reduce CO₂ emissions.

CO₂ emissions budget and CO₂ allowance budget

Each participating state establishes its own annual CO₂ emissions budget which sets the total amount of CO₂ emitted from fossil fuel-fired EGUs in a year. What is commonly referred to as the "RGGI cap" on emissions is a reference to the total of all the state CO₂ emissions budgets. This final-form rulemaking includes a declining annual CO₂ emissions budget, which starts at 78 million tons in 2022 and ends at 58,085,040 tons in 2030. This is anticipated to reduce CO₂ emissions in this Commonwealth by 31% compared to 2019. The declining annual CO₂ emissions budget is equivalent to the CO₂ allowance budget, which is the number of CO₂ allowances available each year. A CO₂ allowance represents a limited authorization by the Department or a participating state under the CO₂ Budget Trading Program to emit up to one ton of CO₂. The number of CO₂ allowances available each year decreases along with the CO₂ emissions budget.

One of the benefits of participating in a regional market-based program is that CO₂ allowances are fungible across the participating states. This means that regulated sources within this Commonwealth may, at their option, purchase or sell CO₂ allowances with other regulated sources inside or outside of this Commonwealth. Although this Commonwealth has an established CO₂ allowance budget for each year, this Commonwealth's CO₂ allowances are available to meet the compliance

obligations in any other participating state and vice versa at the option of those regulated sources. Therefore, CO₂ emissions from this Commonwealth's power sector are not "capped" by the CO₂ emissions budget, meaning they are not limited to strictly the amount of this Commonwealth's CO₂ allowances. This provides additional compliance flexibility and the regional market assists in achieving least cost compliance for all participating states.

Authority to limit CO₂ emissions and to participate in RGGI through this final-form rulemaking

The Board has the authority to promulgate this final-form rulemaking under the APCA. Specifically, section 5(a)(1) of the APCA provides the Board with broad authority to adopt rules and regulations for the prevention, control, reduction and abatement of air pollution in this Commonwealth. The purpose of the APCA is expansive because it seeks "to protect the air resources of the Commonwealth to the degree necessary for the . . . protection of public health, safety and well-being of its citizens. . ." See 35 P.S. § 4002(a). When the APCA was enacted, the General Assembly was concerned with air pollution generally and that it be remedied no matter what the source. *Id.* This is shown by the broad scope of the definitions of "air contamination," "air contamination source" and "air pollution" under section 3 of the APCA (35 P.S. § 4003). The broad language in the APCA shows an overall legislative policy to provide regulatory flexibility to the Board to address a pollutant like CO₂ proven to be inimical to public health and welfare and to be a key contributor to climate change. Therefore, this final-form rulemaking is consistent with the legislative intent and purpose under the APCA.

Through the APCA, the Legislature granted the Department and the Board the authority to protect the air resources of this Commonwealth, which is inclusive of controlling CO₂ pollution. CO₂ falls under the definition of "air pollution" in section 3 of the APCA. First, CO₂ is a gas, and falls within the definition of "air contaminant" under section 3 of the APCA, which is defined as "[s]moke, dust, fume, gas, odor, mist, radioactive substance, vapor, pollen or any combination thereof." By extension, CO₂ is also "air contamination" under section 3 of the APCA, which is defined as "[t]he presence in the outdoor atmosphere of an air contaminant which contributes to any condition of air pollution." The term "air pollution" is defined as "[t]he presence in the outdoor atmosphere of any form of contaminant. . . in such place, manner or concentration inimical or which may be inimical to the public health, safety or welfare or which is or may be injurious to human, plant or animal life or to property or which unreasonably interferes with the comfortable enjoyment of life or property" under section 3 of the APCA. Therefore, CO₂ is also considered to be "air pollution" under the APCA. Additionally, there is a significant body of scientific literature to show that CO₂ meets the definition of air pollution under the APCA. As mentioned previously, numerous sources, including the EPA, Penn State University, the USGCRP and the IPCC, have confirmed that CO₂ emissions cause harmful air pollution that is inimical to the public health, safety and welfare, as well as human, plant and animal life. CO₂ is also a GHG and the largest contributor to climate change.

Section 5(a)(1) of the APCA also provides the Board with authority to regulate CO₂ emitted from fossil fuel-fired EGUs in this Commonwealth. Since the EGUs regulated under this final-form rulemaking emit CO₂, they fall within the definition of "air contamination source" under section 3 of the APCA, which is "[a]ny

place, facility or equipment, stationary or mobile, at, from or by reason of which there is emitted into the outdoor atmosphere any air contaminant.” As noted previously, the EPA has issued an Endangerment Finding for CO₂ emissions resulting from fossil fuel-fired EGUs. See 80 FR 64509 (October 23, 2015); *Am. Lung Ass’n v. Env’t Prot. Agency*, 985 F.3d 914 (D.C. Cir. 2021). CO₂ is also a Federally regulated air pollutant under the CAA (42 U.S.C.A. §§ 7401–7671q). See *Massachusetts v. EPA*, 549 U.S. 497 (2007). Accordingly, regulating CO₂ emissions from fossil fuel-fired EGUs is necessary to protect public health and welfare from harmful air pollution and to address climate change.

In *Marcellus Shale Coalition v. Department of Environmental Protection*, 216 A.3d 448 (Cmwlth. Ct. 2019), the Commonwealth Court outlined the test for determining whether a legislative rulemaking has statutory authority. To determine whether a regulation is adopted within an agency’s granted power, the Commonwealth Court stated that it looks to the statutory authority authorizing the agency to promulgate the legislative rule and examines that language to determine whether the rule falls within that grant of authority. The Court also found that the legislature’s delegation must be clear and unmistakable. In particular, the Court considers the letter of the statutory delegation to create the rule and the purpose of the statute and its reasonable effect. *Id.*

As this final-form rulemaking would limit CO₂ pollution by regulating CO₂ emitted from fossil fuel-fired EGUs to ensure protection of public health, welfare and the environment, this final-form rulemaking is clearly within the Board’s granted authority under the APCA and advances the purposes of the APCA to abate air pollution.

Furthermore, the auction proceeds amount to fees authorized under section 6.3(a) of the APCA and not an illegal tax. Section 6.3(a) of the APCA provides the Department with the authority to establish fees to support the air pollution control program. The Department is limited by its existing statutory authority under section 9.2(a) of the APCA (35 P.S. § 4009.2) to only use fees for “the elimination of air pollution.” Since the auction proceeds generated as a result of this final-form rulemaking would be used to reduce GHG emissions, further eliminating air pollution, the fees would be used to support the “air pollution control program” in accordance with section 6.3(a) of the APCA.

Under RGGI, regulated EGUs are required to purchase one CO₂ allowance per ton of CO₂ they emit through multistate auctions or on the secondary market. The proceeds of the multistate auctions are then provided back to the participating states. The purchase of CO₂ allowances generating auction proceeds is a fee because these purchases are one component of the “regulatory measures intended to cover the cost of administering a regulatory scheme authorized under the police power of the government.” See *City of Philadelphia v. Southeastern Pennsylvania Transp. Auth.*, 303 A.2d 247, 251 (1973). As mentioned previously, RGGI provides a “two-prong” approach to reducing CO₂ emissions from fossil fuel-fired EGUs. The second prong involves the proper investment of the auction proceeds to further reduce CO₂ emissions, as well as other harmful GHG emissions. This investment therefore fulfills the purpose and administration of this final-form rulemaking. This final-form rulemaking does not create a tax which is a “revenue-producing measure authorized under the taxing power of the government.” *Id.* The intent of RGGI is not to generate revenue for general government or public purposes, but to achieve a common goal of reducing CO₂ emissions from EGUs.

As provided under section 9.2(a) of the APCA, this Commonwealth’s auction proceeds will be held in a subaccount within the Clean Air Fund, which is administered by the Department “for the use in the elimination of air pollution.” Section 9.2(a) of the APCA authorizes the Department to establish separate accounts in the Clean Air Fund as may be necessary or appropriate to implement the requirements of the APCA. Under section 9.2(a) of the APCA, the Board was required to adopt a regulation for the management and use of the money in the Clean Air Fund. The Board adopted Chapter 143 (relating to disbursements from the Clean Air Fund) to provide for the monies paid into the Clean Air Fund to be disbursed at the discretion of the Secretary for use in the elimination of air pollution. See 25 Pa. Code § 143.1(a) (relating to general). Under § 143.1(b), the full and normal range of activities of the Department are considered to contribute to the elimination of air pollution, including purchase of contractual services and payment of the costs of a public project necessary to abate air pollution.

Lastly, section 5(a)(1) of the APCA provides the Board with authority to establish a CO₂ Budget Trading Program through this final-form rulemaking. As mentioned previously, this Commonwealth has and continues to participate in cap and trade programs. Specifically, the Board promulgated the NO_x Budget Trading Program in Chapter 145, Subchapter A (relating to NO_x Budget Trading Program) and the CAIR NO_x and SO₂ Trading Programs in Chapter 145, Subchapter D (relating to CAIR NO_x and SO₂ Trading Programs). See 30 Pa.B. 4899 (September 23, 2000) and 38 Pa.B. 1705 (April 12, 2008). Although those cap and trade program regulations were promulgated in response to initiatives at the Federal level, both subchapters were promulgated under the broad authority of section 5(a)(1) of the APCA, as is this final-form rulemaking. The statutory authority granted to the Board under section 5(a)(1) of the APCA is broad related to the adoption of any rule or regulation for the “prevention, control, reduction and abatement of air pollution.” The comprehensive scope of this directive provides the Board with the discretion to promulgate a trading program to reduce CO₂ emissions from fossil fuel-fired EGUs in this Commonwealth.

Consistent with framework of the RGGI Model Rule

As mentioned previously, the participating states developed a Model Rule to use as the framework for each state’s independent CO₂ Budget Trading Program regulation. The development of the RGGI Model Rule was supported by an extensive regional stakeholder process that engaged the regulated community, environmental nonprofits and other organizations with technical expertise in the design of cap and trade programs. The Board is familiar with the structure of the RGGI Model Rule, because it was drafted based on the language in the EPA’s NO_x Budget Trading Program rule in 40 CFR Part 96 (relating to NO_x budget trading program and CAIR NO_x and SO₂ trading programs for state implementation plans), which the Board used as a model for Chapter 145, Subchapter A.

States that participate in RGGI develop regulations that are compatible with the RGGI Model Rule to ensure consistency among the individual programs. Key areas of compatibility include alignment of the main program elements, stringency of the CO₂ allowance budgets and consistency of regulatory language. This consistency is necessary to ensure the fungibility of CO₂ allowances across the participating states, which supports the regional trading of CO₂ allowances and the use of a CO₂

allowance issued in one participating state for compliance by a regulated source in another participating state.

This final-form rulemaking therefore adopts the main program elements of the RGGI Model Rule, including the definitions, applicability, standard regulatory requirements, monitoring and reporting requirements, the CO₂ Allowance Tracking System (COATS), the emissions containment reserve, the cost containment reserve and the CO₂ emissions offset project provisions. The CO₂ allowance budgets in this final-form rulemaking are sufficiently stringent to align with RGGI's goal of reducing CO₂ emissions by 30% from 2020 to 2030. This final-form rulemaking also contains regulatory language consistent with the RGGI, Inc. auction platform, the online platform used to sell CO₂ allowances. RGGI, Inc. is a nonprofit corporation created to provide technical and administrative support services to the participating states in the development and implementation of their CO₂ Budget Trading Programs. Each participating state is also allotted two positions on the Board of Directors of RGGI, Inc.

Under this final-form rulemaking, RGGI, Inc. would provide technical and administrative services to support the Department's implementation of this final-form rulemaking. This support would include maintaining COATS and the auction platform and providing assistance with market monitoring. Any assistance provided by RGGI, Inc. would follow the requirements of this final-form rulemaking. RGGI, Inc. has neither any regulatory or enforcement authority within this Commonwealth nor the ability to restrict or interfere with the Department's implementation of this final-form rulemaking.

Each participating state's regulation provides for the distribution of CO₂ allowances from its CO₂ allowance budget. The majority of CO₂ allowances are distributed at auction and each CO₂ allowance sold at auction returns proceeds from the sale to that state to invest in energy efficiency, renewable energy and GHG abatement programs. Some states have elected to designate a limited amount of CO₂ allowances to be "set-aside" in a designated account and distributed to advance individual state policy goals and objectives. Since this final-form rulemaking is consistent with the RGGI Model Rule, the Commonwealth's CO₂ allowances will have equal value to the CO₂ allowances held in the other participating states, meaning they may be freely acquired and traded across the region.

Although CO₂ allocation provisions may vary from state to state, to be consistent with the RGGI Model Rule each participating state allocates a minimum of 25% of its CO₂ allowance budget to a general account from which CO₂ allowances will be sold or distributed to provide funds for energy efficiency measures, renewable or noncarbon-emitting energy technologies and CO₂ emissions abatement technologies, as well as programmatic costs. Consistent with the RGGI Model Rule, this final-form rulemaking establishes a general account from which CO₂ allowances will be sold or distributed, which is labeled as the Department's Air Pollution Reduction Account. Each year, the Department will allocate CO₂ allowances representing 100% of the tons of CO₂ emitted from the Commonwealth's CO₂ allowance budget to the Air Pollution Reduction Account, except for the CO₂ allowances that the Department has set aside for a designated purpose as discussed in the following section. CO₂ allowances in the Air Pollution Reduction Account will be sold or distributed to provide funds for use in the elimination of air pollution and programmatic costs.

Modifications from RGGI Model Rule

While this final-form rulemaking is sufficiently consistent with the Model Rule and corresponding regulations in the participating states, the Board, in the exercise of its own independent rulemaking authority, also accounts for the unique environmental, energy and economic intricacies of this Commonwealth. This provides the Board the flexibility to limit CO₂ emissions from fossil fuel-fired EGUs in a way that aligns with the other participating states, while tailoring this final-form rulemaking to this Commonwealth's energy markets. In this final-form rulemaking, the Board made modifications from the language in the Model Rule to include permitting requirements and definitions specific to this Commonwealth, as well as stylistic changes. The Board also made adjustments to the language, including the adjustment for banked allowances and control periods, to reflect the timing of this Commonwealth's participation in RGGI. In addition to these modifications, there are six main areas in which this final-form rulemaking differs from the Model Rule.

First, under § 145.306(b)(3) (relating to standard requirements), the Department is making an annual commitment to assess changes in emissions and air quality in this Commonwealth as it relates to implementation of this final-form rulemaking. The Board received several comments that requested monitoring of the air quality impacts of this final-form rulemaking and in particular an assessment of any impacts on environmental justice communities. The Department also heard concerns about potential impacts on environmental justice communities from members of EJAB. To address these concerns, the Department is committing to providing an Annual Air Quality Impact Assessment. The report will include at a minimum the baseline air emissions data from each CO₂ budget unit for the calendar year prior to the year this Commonwealth becomes a participating state and the annual emissions measurements provided from each unit. The Department will not only be assessing the CO₂ emission data provided under the requirements of this final-form rulemaking but will be assessing the entirety of the data submitted from each CO₂ budget unit as required under the Department's regulations. The Department will assess the emission data to determine whether areas of this Commonwealth have been disproportionately impacted by increased air pollution as a result of implementation of this final-form rulemaking. The Department will also publish notice of the availability of the report and the determination in the *Pennsylvania Bulletin* on an annual basis.

Second, under § 145.342(i) (relating to CO₂ allowance allocations), the Department will set aside 12.8 million CO₂ allowances at the beginning of each year for waste coal-fired units located in this Commonwealth. The amount of the set aside increased in this final-form rulemaking from 9.3 million CO₂ allowances in the proposed rulemaking to account for one of the waste coal-fired units remaining in operation and to provide additional compliance assistance. One waste coal-fired unit had originally indicated it was shutting down operations when the Department was developing the proposed rulemaking. Since that waste coal-fired unit will remain in operation, its legacy emissions are now included in this final-form rulemaking. Legacy emissions, as defined under § 145.302, for that waste coal-fired unit amount to 1.18 million tons of CO₂ or 1.18 million CO₂ allowances. The Department added the 1.18 million to the proposed set-aside amount of 9.3 million and further adjusted the value to provide additional compliance assistance. Given recent policy changes impacting the waste coal industry,

including the recent legislative adjustment to Tier II of the Alternative Energy Portfolio Standards Act, the Department also made an adjustment in this final-form rulemaking to the definition of “legacy emissions.” Instead of determining the amount of legacy emissions based on the amount of CO₂ emissions in tons equal to the highest year of CO₂ emissions from a waste coal-fired unit during the 5-year period beginning January 1, 2015, through December 31, 2019, the Department will determine the legacy emissions based on the 10-year period beginning January 1, 2010, through December 31, 2019. Reviewing a 10-year period as opposed to a 5-year period better reflects the operation levels of waste coal-fired units in this Commonwealth. Including a slightly higher set-aside amount in this final-form rulemaking will also enable the Department to provide additional compliance assistance to owners or operators of waste coal-fired units, the majority of which are small businesses. The Department took into consideration all comments submitted pertaining to the waste coal set-aside and made the determination to maintain the set-aside provision, and make an adjustment to the definition of legacy emissions that was included in the proposed rulemaking. The Department made this determination because waste coal-fired units provide an environmental benefit of reducing the amount of waste coal piles in this Commonwealth.

Reducing waste coal piles is a significant environmental issue in this Commonwealth, because waste coal piles cause air and water pollution, as well as safety concerns. Waste coal-fired units burn waste coal to generate electricity, thereby reducing the size, number and impacts of these piles otherwise abandoned and allowed to mobilize and negatively impact air and water quality in this Commonwealth. In recent years, waste coal-fired units have struggled to compete in the energy market, due in part to low natural gas prices, and several units have shut down or announced anticipated closure dates. Given the environmental benefit provided, the Board determined that it is necessary to encourage owners or operators of waste coal-fired units to continue burning waste coal to generate electricity. This legacy environmental issue from this Commonwealth’s long history of coal mining further underscores why it is vital to not leave additional environmental issues, like climate change, for future generations to solve.

By providing a set aside, as opposed to an exemption, the CO₂ emissions from waste coal-fired units are included in this Commonwealth’s CO₂ emissions budget and owners or operators of waste coal-fired units are still required to satisfy compliance of all the regulatory requirements in this final-form rulemaking. After reviewing the last 10 years of CO₂ emission data from waste coal-fired units, the Department determined that the CO₂ allowance set aside should be equal to the total of each waste coal-fired unit’s highest year of CO₂ emissions from that 10-year period, referred to as “legacy emissions.” That total is 12.8 million tons of CO₂ emissions. Thus, the Department will set aside 12.8 million CO₂ allowances annually. Each year, the Department will allocate the CO₂ allowances directly to the compliance accounts of the waste coal-fired units equal to the unit’s actual emissions. However, if the waste coal-fired units emit over 12.8 million tons of CO₂ emissions sector-wide in any year, then the units must acquire the remaining CO₂ allowances needed to satisfy their compliance obligation.

Third, under § 145.342(j), the Department will set aside CO₂ allowances for a strategic use allocation. By April 1 of each calendar year, the Department will allocate any undistributed CO₂ allowances from the waste

coal set-aside to the strategic use set-aside account. Given the possibility that waste coal-fired units may emit less than 12.8 million tons of CO₂ each year, the Department could be left with undistributed CO₂ allowances. Under the strategic use set-aside, the Department will allocate these undistributed CO₂ allowances directly to eligible projects that result in GHG emission reductions. Eligible projects include those that implement energy efficiency measures, implement renewable or noncarbon-emitting energy technologies or develop innovative GHG emissions abatement technologies. In response to comments received, in this final-form rulemaking the Department adjusted the strategic use set-aside provision to further clarify the process to apply for CO₂ allowances. The owner of an eligible project will need to submit a complete strategic use application to the Department. At a minimum the application must specify how the project will result in GHG emission reductions, the number of CO₂ allowances requested, and the calculations and supporting data used to determine the emission reductions. After verifying that the information in the application is complete and accurate, the Department will determine the number of CO₂ allowances to distribute based on the emission reductions achieved. The Department will then distribute CO₂ allowances upon completion of the eligible project and will not award CO₂ allowances to an eligible project that is required under law, regulation or court order.

Fourth, under § 145.342(k), the Department will set-aside CO₂ allowances for combined heat and power units. The proposed rulemaking included a set-aside provision for cogeneration units, which also covered combined heat and power (CHP) systems. In this final-form rulemaking, the Department changed the name of the set-aside from “cogeneration” to “combined heat and power.” This change was made to clarify that it is CHP units that will be qualified for CO₂ allowances under the set-aside provision. A CHP unit is defined as an electric-generating unit that simultaneously produces both electricity and useful thermal energy. Due to the efficiency and environmental benefits that CHP units provide, the Department understands that it is beneficial to incentivize new CHP buildout in this Commonwealth. In addition, incentivizing future CHP units provides economic development benefits and can be a significant factor for manufacturers and other industrial facilities looking to expand operations within or to this Commonwealth. In fact, the most recent Pennsylvania Climate Action Plan recognized the benefits and importance of incentivizing CHP. In the proposed rulemaking, the Department included a set provision that involved adjusting the compliance obligation of a CHP unit. As proposed, the Department would have adjusted the compliance obligation by reducing the total CO₂ emissions by an amount equal to the CO₂ that is emitted as a result of providing useful thermal energy or electricity, or both, supplied directly to a co-located facility during the allocation year. In this final-form rulemaking, the Department instead includes two tiers for the retirement of CO₂ allowances from the combined heat and power set-aside account. Under the first tier, which is an addition at final-form, applicable combined heat and power units may request that the Department retire CO₂ allowances equal to the total amount of CO₂ emitted as a result of providing all useful thermal energy and electricity during each allocation year. Under the second tier, which was included in the proposed rulemaking, applicable combined heat and power units may request that the Department retire CO₂ allowances equal to the partial amount of CO₂ emitted as a result of supplying useful thermal energy or electricity, or both, to an

interconnected industrial, institutional or commercial facility during the allocation year. This two-tier approach aligns the overall environmental benefits of CHP units with the CO₂ allowances that may be requested.

As in the proposed rulemaking, the combined heat and power units must submit a complete application to request that CO₂ allowances be retired by the Department on behalf of the unit. The Department adds in this final-form rulemaking that if the unit is requesting total retirement of CO₂ allowances, then the unit must satisfy the more stringent requirements. The unit must submit an application, including documentation that the useful thermal energy is at least 25% of the total energy output of the combined heat and power unit on an annual basis and that the overall efficiency of the combined heat and power unit is at least 60% on an annual basis. If the unit is requesting partial retirement of CO₂ allowances, the unit must submit an application which includes documentation of the amount of useful thermal energy or electricity, or both, supplied to an interconnected industrial, institutional or commercial facility. Unlike the waste coal set-aside, the Department would not distribute CO₂ allowances directly to the unit, but rather retire CO₂ allowances on behalf of the unit to reduce its compliance obligation. The owner or operator of a unit requiring additional CO₂ allowances to satisfy the CO₂ requirements under § 145.306(c) shall transfer CO₂ allowances for compliance deductions to the compliance account of the unit.

Fifth, under § 145.305 (relating to limited exemption for CO₂ budget units with electrical output to the electric grid restricted by permit conditions), the Board provides additional flexibility in the form of a limited exemption for CHP units that are interconnected and supply power to an industrial, institutional or commercial facility. In the proposed rulemaking, the interconnected facility was required to be a manufacturing facility. In response to comments received, in this final-form rulemaking the Department broadens the language to allow for the interconnected facility to be an industrial, institutional or commercial facility. A CHP unit that supplies less than 15% of its annual total useful energy to the electric grid, not including energy sent to the interconnected facility, does not have a compliance obligation under this final-form rulemaking. The owner or operator of the CHP unit claiming this limited exemption must have a permit issued by the Department containing a condition restricting the supply to the electric grid. This limited exemption is in addition to the exemption in the RGGI Model Rule for fossil fuel-fired EGUs with a capacity of 25 MWe or greater that supply less than 10% of annual gross generation to the electric grid. The Board includes this additional exemption for CHP units that primarily send energy to an interconnected facility because these CHP units provide a CO₂ emission reduction benefit. These units provide useful thermal energy, a byproduct of electricity generation, to the interconnected facility which helps prevent the need for the facility to run additional boilers onsite to generate electricity which in turn avoids additional CO₂ emissions.

Lastly, this final-form rulemaking includes §§ 145.401–145.409 (relating to CO₂ allowance auctions) outlining the procedure for auctioning CO₂ allowances, which is not contained in the RGGI Model Rule. Several participating states have also added auction procedure language to their CO₂ Budget Trading Program regulations or developed separate auction regulations. By including the auction procedure in this final-form rule-

making, the Board seeks to ensure that auction participants fully understand the auction process and the associated requirements.

In § 145.401 (relating to auction of CO₂ allowances), the Board includes a provision for the Department to participate in multistate CO₂ allowance auctions in coordination with other participating states based on specific conditions. First, a multistate auction capability and process must be in place for the participating states. A multistate auction must also provide benefits to this Commonwealth that meet or exceed the benefits conferred on this Commonwealth through a Commonwealth-run auction process. The criteria that the Department will use to determine if the multistate auction “meets or exceeds the benefits” of a Commonwealth-run auction are whether the auction results in reduced emissions and environmental, public health and welfare and economic benefits. As discussed further under section G, participation in RGGI would provide those benefits to this Commonwealth. Additionally, the multistate auction process must be consistent with the process described in this final-form rulemaking and include monitoring of each CO₂ allowance auction by an independent market monitor. Since the multistate auctions conducted by RGGI, Inc. satisfy all four of the conditions, the Department will participate in the multistate auctions. However, the Board also states that if the Department finds these four conditions are no longer met, the Department may determine to conduct a Commonwealth-run auction. By including the ability to conduct a Commonwealth-run action in this final-form rulemaking, the Board provides for flexibility in case the benefits of the multistate auctions diminish in the future.

Compliance and the RGGI CO₂ Allowance Tracking System (COATS)

Under § 145.304 (relating to applicability), the owner or operator of a fossil fuel-fired EGU with a nameplate capacity equal to or greater than 25 MWe that sends more than 10% of its annual gross generation to the electric grid will have a compliance obligation. These regulated EGUs are referred to as “CO₂ budget units” and a facility that includes one or more CO₂ budget units is a “CO₂ budget source,” as defined under § 145.302. Under § 145.306, the owner or operator of each CO₂ budget source will be required to have a permit under Chapter 127 (relating to construction, modification, reactivation and operation of sources) which incorporates the requirements of the CO₂ Budget Trading Program. The owner or operator will be required to operate the CO₂ budget source and each CO₂ budget unit at the source in compliance with the permit.

Based on the most recent data from the EPA’s Clean Air Market Division, the EIA and the Department’s emission inventory, the Department estimates that as of the end of 2020, 63 CO₂ budget sources (facilities) with 150 CO₂ budget units would have a compliance obligation under this final-form rulemaking. However, due to the dynamic nature of the electricity generation sector, the number of covered facilities will likely change by the time this final-form rulemaking is implemented. The Department projects, based on announced closures and future firm capacity builds, that in 2022 there will be 66 CO₂ budget sources with 158 CO₂ budget units with a compliance obligation under this final-form rulemaking. The Department conducted an analysis of power sector emissions and the facilities that meet the applicability criteria in this final-form rulemaking and determined that around 99% of this Commonwealth’s power sector CO₂ emissions would be covered under this final-form rulemaking.

Within the participating states and under this final-form rulemaking, the owner or operator of a CO₂ budget unit must obtain one CO₂ allowance for each ton of CO₂ emitted from the CO₂ budget unit each year. The owner or operator may use a CO₂ allowance issued by any participating state to demonstrate compliance with any state's regulation, including this final-form rulemaking. RGGI operates on 3-year control periods for compliance, meaning full compliance is evaluated at the end of each 3-year control period. As described under § 145.306(c), at the end of a control period, the owner or operator is required as a permit condition to hold enough CO₂ allowances in their compliance account to cover the CO₂ budget source's CO₂ emissions during the period. The owner or operator must also show interim control period compliance during each of the first 2 calendar years of a control period. During each interim control period, the owner or operator must hold CO₂ allowances equal to 50% of CO₂ emissions in the compliance account for the CO₂ budget source. As outlined under § 145.355 (relating to compliance), at the end of the control period or interim control period, CO₂ allowances will be deducted from each CO₂ budget source's compliance account to cover each of the CO₂ budget unit's CO₂ emissions at the source for the control period or interim control period.

Owners or operators of CO₂ budget sources are required to open a compliance account in COATS to transfer and hold CO₂ allowances for compliance purposes. The Department will use COATS to determine compliance with this final-form rulemaking by comparing the covered emissions of a CO₂ budget source with the CO₂ allowances held in its compliance account. COATS is a publicly accessible platform that records and tracks data for each state's CO₂ Budget Trading Program, including the transfer of CO₂ allowances that are offered for sale by the participating states and purchased in the quarterly auctions. On the COATS web site, the public can view and download reports of RGGI program data and CO₂ allowance market activity. COATS is used to allocate, award and transfer CO₂ allowances, to certify and provide CO₂ allowances for compliance-related tasks and to register and submit applications and reports for offset projects.

Under § 145.352 (relating to establishment of accounts), any person may apply to open a general account for the purpose of holding and transferring CO₂ allowances by submitting a complete application for a general account to the Department or its agent. A general account can be used for the receipt, transfer and banking of CO₂ allowances in COATS, but unlike a compliance account, it does not provide for the CO₂ allowance compliance deduction process outlined in this final-form rulemaking. A compliance account is associated with an EGU, a CO₂ budget source, regulated under a state CO₂ Budget Trading Program. These accounts are used for compliance with the requirements of each state's CO₂ Budget Trading Program. Only one compliance account will be assigned to each CO₂ budget source. An applicant must have either a general or compliance account to participate in CO₂ allowance auctions. CO₂ allowances can be "banked" meaning they may be held for future compliance as they have no expiration date.

CO₂ allowances may be acquired through purchases in quarterly multistate auctions, through secondary markets or by obtaining CO₂ offset allowances. Once a CO₂ allowance is purchased in an auction, it can then be resold in the secondary market. The secondary market assists with compliance by allowing CO₂ allowances to be traded in between quarterly auctions. As previously mentioned, every auction is overseen by an independent

market monitor. Trading in the secondary market is also monitored by an independent market monitor to identify anticompetitive conduct. The quarterly multistate auction process continues each consecutive year of the CO₂ Budget Trading Program with fewer CO₂ allowances distributed into the auctions by the participating states each year.

As provided under section 4 of the Environmental Hearing Board Act (35 P.S. § 7514), persons adversely affected by a final Department action have the opportunity to appeal that action to the Environmental Hearing Board.

Offsets

As an additional compliance option under this final-form rulemaking, owners or operators of CO₂ budget sources may complete an offset project to reduce or avoid atmospheric loading of CO₂ or CO₂ equivalent (CO₂e) emissions. CO₂e refers to the quantity of a given GHG, other than CO₂, multiplied by its global warming potential. By completing an offset project, the owner or operator will generate CO₂ offset allowances which can be used to offset a portion of the CO₂ budget source's emissions. A CO₂ offset allowance is equivalent to a CO₂ allowance, however a CO₂ offset allowance represents a project-based GHG emission reduction outside of the electric generation sector. This project must be in addition to, not in place of, an existing legal requirement. Under § 145.355(a)(3), consistent with the RGGI Model Rule and the regulations in the participating states, the number of CO₂ offset allowances available to be deducted for compliance purposes may not exceed 3.3% of the CO₂ budget source's CO₂ emissions for a control period or interim control period.

As described under § 145.395 (relating to CO₂ emissions offset project standards), the three eligible offset categories include landfill methane capture and destruction projects, projects that sequester carbon due to reforestation, improved forest management or avoided conversion and projects that avoid methane emissions from agricultural manure management operations. Each of the three offset categories are designed to further reduce or sequester emissions of CO₂ or methane within the north-east region. In the RGGI Model Rule, the participating states cooperatively developed prescriptive regulatory requirements for each of the offset categories that have been incorporated into this final-form rulemaking. These requirements ensure that awarded CO₂ offset allowances represent CO₂e emission reductions or carbon sequestration that are real, additional, verifiable, enforceable and permanent.

Under § 145.393 (relating to general requirements), offset projects must be located in this Commonwealth or partly in this Commonwealth and partly within one or more of the participating states, provided that the majority of the CO₂e emission reductions or carbon sequestration occurs in this Commonwealth. Massachusetts, New Hampshire, Rhode Island and Virginia have determined not to award CO₂ offset allowances, but CO₂ budget sources located within those states may use CO₂ offset allowances awarded by a participating state, including this Commonwealth. By recognizing CO₂e emission reductions and carbon sequestration outside the electric generation sector and this Commonwealth's CO₂ emissions budget, offset projects provide compliance flexibility and create opportunities for low-cost emission reductions and other co-benefits across various sectors. Thus, including offset projects in this final-form rulemaking provides two crucial benefits, an additional compliance option for own-

ers or operators and the potential for this Commonwealth to further reduce GHG emissions.

Auction proceeds

The auction proceeds are an integral part to carrying out the purpose of this final-form rulemaking, which is to reduce anthropogenic emissions of CO₂, a GHG, from CO₂ budget sources in a manner that is protective of public health, welfare and the environment. By requiring the attainment of CO₂ allowances, this final-form rulemaking establishes a monetary obligation per ton of CO₂ emitted from a CO₂ budget source. The value of CO₂ allowances is used to further support the CO₂ Budget Trading Program and reduce GHG emissions and any associated costs related to achieving the emission reduction goals. The CO₂ allowances purchased in the multistate auctions generate proceeds that are provided back to the participating states, including this Commonwealth, for investment in initiatives that will further reduce CO₂ emissions. The fee amounts generated each year are a function of the CO₂ allowance budget and the CO₂ allowance price. Each participating state determines how best to invest auction proceeds to provide public health benefits and further reduce GHG emissions. Historically, RGGI-funded programs, including energy efficiency, clean and renewable energy, GHG abatement and direct bill assistance programs, have saved consumers money and helped support businesses, all with a net positive economic impact. The investment of auction proceeds is discussed further under section G.

Benefits

In addition to decreasing CO₂ emissions and addressing this Commonwealth's contribution to regional climate change impacts, this final-form rulemaking provides numerous co-benefits to public health and welfare and the environment. The co-benefits include job creation and worker training, decreased incidences of asthma, respiratory illness and hospital visits, avoidance of premature deaths, avoidance of lost work and school days due to illness and future electric bill savings. This Commonwealth will also see a decrease in harmful NO_x, SO₂ and particulate matter (PM) emissions, as well as ground level ozone pollution. This will particularly benefit those most often impacted by marginal air quality, such as low income and environmental justice communities. Emerging evidence links chronic exposure to air pollution with higher rates of morbidity and mortality from the novel coronavirus (COVID-19). As such, reductions in CO₂ emissions are even more significant now more than ever before. The COVID-19 pandemic has resulted in a renewed focus on climate change, local air quality impacts and opportunities for economic development, all areas where RGGI participation can provide value. The benefits of this final-form rulemaking are discussed further under section G.

RGGI provides regulatory certainty

This final-form rulemaking provides regulatory certainty for CO₂ budget sources in this Commonwealth. Although RGGI is a market-based approach, there are also price fluctuation protections that are built into the auction platform to help ensure that CO₂ allowance prices are predictable. Specifically, there are auction mechanisms that identify a precipitous increase or decrease in price, and trigger what are referred to as the Cost Containment Reserve (CCR) and Emissions Containment Reserve (ECR). The CCR process triggers additional CO₂ allowances to be offered for sale in the case of higher than projected emissions reduction costs. Similarly, states

implementing the ECR, including this Commonwealth, will withhold CO₂ allowances from the auction to secure additional emissions reductions if prices fall below the established trigger price, so that the ECR will only trigger if emission reduction costs are lower than projected. This provides predictability in terms of the cost of compliance for covered entities. CO₂ allowances may also be purchased through the secondary market when costs are low and held for future compliance years.

Public outreach

As required under the Regulatory Review Act (RRA) (71 P.S. §§ 745.1—745.14) and further emphasized by Executive Order 2019-07, the Department conducted a robust public outreach effort, including the business community, energy producers, energy suppliers, organized labor, environmental groups, low-income and environmental justice advocates and others, to ensure that the development and implementation of this program results in reduced emissions, economic gains and consumer savings. The Department, working with the Pennsylvania Public Utility Commission (PUC), engaged with PJM Interconnection to promote the integration of the CO₂ Budget Trading program in a manner that preserves orderly and competitive economic dispatch within PJM and minimizes emissions leakage. The Department also met with various stakeholders to receive additional input on this final-form rulemaking on numerous occasions throughout the development process. In particular, the Department met with environmental groups, residents, businesses, legislators, owners and operators of affected sources, industry groups and environmental justice stakeholders during the development of this final-form rulemaking.

Additionally, the Department consulted with the Air Quality Technical Advisory Committee (AQTAC), the Citizens Advisory Council (CAC), the Small Business Compliance Advisory Committee (SBCAC) and EJAB throughout the development of this final-form rulemaking.

Air Quality Technical Advisory Committee (AQTAC)

AQTAC was established under section 7.6 of the APCA (35 P.S. § 4007.6) to provide technical advice at the request of the Department on policies, guidance and regulations. On December 12, 2019, the Department presented concepts to AQTAC on a potential rulemaking to participate in RGGI. The Department returned to AQTAC on February 13, 2020, to discuss the preliminary draft proposed Annex A. At the April 16, 2020, AQTAC meeting, the Department provided a brief update on the development of the draft proposed rulemaking. In response to requests from committee members for more opportunities to learn about the CO₂ Budget Trading Program, on April 23, 2020, the Department presented on and provided the modeling results associated with the draft proposed rulemaking in a Special Joint Informational Meeting of AQTAC and CAC. The meeting was held by means of a webinar and over 225 members of the public were able to listen to the modeling results. Individuals interested in hearing the modeling results can also watch the meeting at any time through a link on the Department's web site.

On May 7, 2020, the draft proposed rulemaking was presented to AQTAC for review and technical advice before the Department moved the draft proposed rulemaking forward to the Board for consideration. The meeting was held by means of a webinar and over 200 members of the public had the opportunity to listen to the discussion and to request to provide comments. The AQTAC members were divided on whether to submit a

formal letter of concurrence on the draft proposed rulemaking and ultimately declined to do so without a majority decision.

On April 8, 2021, the Department presented an update on this final-form rulemaking to AQTAC. The update included information on the regulatory process, a summary of the comments received, the Department's key proposed regulatory changes from proposed to final and the Department's public outreach efforts. On May 17, 2021, at a special AQTAC meeting, the Department presented this final-form rulemaking and updated power sector modeling results. After the Department answered the members' remaining questions on this final-form rulemaking, the members voted in support of recommending that the Department move this final-form rulemaking forward to the Board. The supportive vote is particularly notable considering that the same committee had been divided on whether to concur with the draft proposed rulemaking.

The opportunity to provide public comment on the draft proposed rulemaking to AQTAC members was provided on three occasions, at the February 13, 2020, April 16, 2020, and May 7, 2020, AQTAC meetings. Additionally, the opportunity to provide public comment on this final-form rulemaking to AQTAC members was provided on April 8, 2021, and May 17, 2021.

Citizens Advisory Council (CAC)

Under section 7.6 of the APCA, the Department is required to consult with CAC in the development of the Department's regulations and State Implementation Plans. On November 19, 2019, the Department presented concepts to CAC on a potential rulemaking to participate in RGGI. The Department returned to CAC on February 18, 2020, for an informational presentation on a preliminary draft proposed Annex A. On April 23, 2020, the Department presented on and provided the modeling results associated with the draft proposed rulemaking in a Special Joint Informational Meeting of AQTAC and CAC. The Department also conferred with CAC's Policy and Regulatory Oversight Committee concerning the draft proposed rulemaking on May 8, 2020. At the May 19, 2020, CAC meeting, the draft proposed rulemaking was presented to CAC for review before the Department moved the draft proposed rulemaking forward to the Board for consideration. The CAC members ultimately declined to submit a formal letter of concurrence with the Department's recommendation to move the draft proposed rulemaking forward to the Board for consideration.

On April 20, 2021, the Department presented an update on this final-form rulemaking to CAC. The update included information on the regulatory process, a summary of the comments received, the Department's key proposed regulatory changes from proposed to final, and the Department's public outreach efforts. On May 19, 2021, the Department presented this final-form rulemaking and updated power sector modeling results to CAC. After the Department answered the members remaining questions on this final-form rulemaking, the members voted in support of recommending that the Department move this final-form rulemaking forward to the Board. Again, the supportive vote is particularly notable considering that the same committee had been divided on whether to concur with the draft proposed rulemaking.

The opportunity to provide public comment on the draft proposed rulemaking to CAC members was provided on three occasions, at the November 19, 2019, February 18, 2020, and May 19, 2020, CAC meetings. Additionally, the

opportunity to provide public comment on this final-form rulemaking to CAC members was provided on April 20, 2021, and May 19, 2021.

Small Business Compliance Advisory Committee (SBCAC)

Under section 7.8 of the APCA (35 P.S. § 4007.8), the SBCAC is required to review and advise the Department on rulemakings which affect small business stationary sources. The Department provided informational presentations on the draft proposed rulemaking to SBCAC on January 22, 2020, and April 22, 2020. On July 22, 2020, the Department presented the draft proposed rulemaking to SBCAC for review and advice on the potential small business stationary source impact of the draft proposed rulemaking. During the presentation, the Department mentioned that it had estimated that ten small business stationary sources, as defined under section 3 of the APCA (35 P.S. § 4003), may need to comply with the draft proposed rulemaking. Of those ten sources, seven were estimated to be waste coal-fired power plants. The Department also mentioned that it had included in the draft proposed rulemaking a CO₂ allowance set-aside provision to assist all waste coal-fired power plants located in this Commonwealth with their compliance obligation. The SBCAC ultimately voted not to concur with the Department's recommendation to move the draft proposed rulemaking forward to the Board.

On May 19, 2021, the Department presented this final-form rulemaking and updated power sector modeling results to SBCAC. During the presentation, the Department mentioned that it had estimated that now 12 small business stationary sources, as defined under section 3 of the APCA, may need to comply with this final-form rulemaking. Of those 12 sources, 8 were estimated to be waste coal-fired power plants. The Department also mentioned that, in this final-form rulemaking, it had retained the CO₂ allowance set-aside provision to assist all waste coal-fired power plants located in this Commonwealth with their compliance obligation. After the Department answered the members' remaining questions on this final-form rulemaking, the members voted in support of recommending that the Department move this final-form rulemaking forward to the Board. In light of the SBCAC vote in opposition to the draft proposed rulemaking, the members' support of this final-form rulemaking is particularly significant.

Environmental Justice Advisory Board (EJAB)

Additionally, the Department provided an informational presentation on the draft proposed rulemaking to EJAB on May 21, 2020, and had further engagement with environmental justice stakeholder groups such as the Chester Environmental Partnership and EJ Stakeholders Group throughout 2020. On July 16, 2020, the Department participated in a discussion with EJAB members centered around recommendations to the Department regarding RGGI. This conversation continued at the August 11, 2020, meeting and resulted in recommendations shared with the Department regarding RGGI program implementation in addition to review and discussion of the draft RGGI equity principles, developed in conjunction with EJAB. Discussion and consultation with EJAB regarding the draft RGGI Equity Principles continued during the November 17, 2020, meeting.

On May 20, 2021, the Department provided a presentation on this final-form rulemaking and updated power sector modeling, specifically highlighting environmental justice and equity concerns and how these were addressed in this final-form rulemaking and would be addressed in

an investment plan. The Delta Institute, with whom the Department collaborated to conduct outreach and research in communities impacted by this final-form rulemaking, also presented their findings and recommendations for the Department's efforts in affected communities. The Department also provided an opportunity to present public comments at this meeting. While EJAB did not vote on the draft proposed rulemaking in 2020, the EJAB members decided to vote unanimously in support of the Department moving this final-form rulemaking forward to the Board.

Other Advisory Committees

The Department also provided informational presentations on the draft proposed rulemaking to the Climate Change Advisory Committee on February 25, 2020, and the Oil and Gas Technical Advisory Board on May 20, 2020. Additionally, the Department provided updates to these committees on this final-form rulemaking.

E. Summary of Final-Form Rulemaking and Changes from Proposed to Final-Form Rulemaking

General provisions

§ 145.301. Purpose

This section establishes the purpose of the CO₂ Budget Trading Program.

There are no changes made to this section from proposed rulemaking to final-form rulemaking.

§ 145.302. Definitions

This section establishes definitions for the following terms: "account number," "acid rain emissions limitation," "acid rain program," "adjustment for banked allowances," "administrator," "agent," "air pollution reduction account," "allocate or allocation," "allocation year," "allowance auction or auction," "ascending price, multiple-round auction," "attribute," "attribute credit," "automated data acquisition and handling system," "award," "beneficial interest," "bidder," "boiler," "CEMS—continuous emissions monitoring system," "COATS—CO₂ allowance tracking system," "CO₂ allowance," "CO₂ allowance auction or auction," "CO₂ allowance deduction or deduct CO₂ allowances," "CO₂ allowances held or hold CO₂ allowances," "CO₂ allowance price," "COATS account," "CO₂ allowance transfer deadline," "CO₂ authorized account representative," "CO₂ authorized alternate account representative," "CO₂ budget emissions limitation," "CO₂ budget permit condition," "CO₂ budget source," "CO₂ Budget Trading Program," "CO₂ budget unit," "CO₂ CCR allowance or CO₂ cost containment reserve allowance," "CO₂ CCR trigger price or CO₂ cost containment reserve trigger price," "CO₂ ECR allowance or CO₂ emissions containment reserve allowance," "CO₂ ECR trigger price or CO₂ emissions containment reserve trigger price," "CO₂e—CO₂ equivalent," "CO₂ offset allowance," "combined cycle system," "combined heat and power set-aside account," "combined heat and power unit," "combustion turbine," "commence commercial operation," "commence operation," "compliance account," "control period," "decay rate," "descending price, multiple-round auction," "discriminatory price, sealed-bid auction," "electronic submission agent," "eligible biomass," "excess emissions," "excess interim emissions," "general account," "GWP—global warming potential," "gross generation," "interim control period," "legacy emissions," "life-of-the-unit contractual arrangement," "maximum potential hourly heat input," "minimum reserve price," "monitoring system," "nameplate capacity," "notice of CO₂ allowance auction," "operator," "owner," "participating state," "Pennsylvania CO₂ budget trading program ad-

justed budget," "Pennsylvania CO₂ budget trading program base budget," "qualified participant," "receive or receipt of," "recording, record or recorded," "reserve price," "reviewer," "source," "strategic use set-aside account," "ton or tonnage," "total useful energy," "undistributed CO₂ allowance," "uniform-price, sealed-bid auction," "unit," "unit operating day," "unsold CO₂ allowance," "useful thermal energy," "waste coal," "waste coal-fired," and "waste coal set-aside account." These defined terms are used in the substantive provisions of Subchapter E.

This section amends the definition of "allocate or allocation" by replacing the term "cogeneration" with "combined heat and power." The Board also amends the definition of "cogeneration set-aside account" to change it to "combined heat and power set-aside account" and to reflect the changes made to the combined heat and power set-aside provision under § 145.342(k). The Board also amends the definition of "cogeneration unit" to change it to "combined heat and power unit" and clarifies the production requirements for the electric-generating unit. The Board amends the definition of "control period" to delete the part of the definition that indicates when the Commonwealth will participate in the CO₂ Budget Trading Program. The Board amends the definition of "legacy emissions" to delete the language related to the 5-year period beginning January 1, 2015, and replace it with the 10-year period beginning January 1, 2010. The Board amends the definition of "minimum reserve price" by deleting the price for calendar year 2020 and adding the price for calendar year 2021. The Board amends the definition of "strategic use set-aside account" to reflect the changes made to the strategic use set-aside provision under § 145.342(j). The Board also adds a definition for the term "total useful energy." The Board slightly amends the definition of "undistributed CO₂ allowance" to reflect the proper verb tense. The Board amends the definition of "useful thermal energy" to add that the energy may come in the form of air. The Board amends the definition of "waste coal" to indicate that the term "waste coal" is defined within the definition of "alternative energy sources" under section 2 of the Alternative Energy Portfolio Standards Act (73 P.S. § 1648.2).

§ 145.303. Measurements, abbreviations and acronyms

This section establishes the measurements, abbreviations and acronyms used in Subchapter E.

There are no changes made to this section from proposed rulemaking to final-form rulemaking.

§ 145.304. Applicability

This section establishes that this final-form rulemaking would apply to the owner or operator of a CO₂ budget unit that serves an electricity generator with a nameplate capacity equal to or greater than 25 MWe. A CO₂ budget source is any source that includes one or more CO₂ budget unit.

This section is amended to delete the provision under subsection (a) indicating that applicable CO₂ budget units are in operation at any time on or after January 1, 2005, in response to comments that the date is unnecessary and may cause confusion.

§ 145.305. Limited exemption for CO₂ budget units with electrical output to the electric grid restricted by permit conditions

This section establishes a limited exemption as well as compliance requirements for a CO₂ budget source that has a permit issued by the Department containing a condition restricting the supply of the CO₂ budget unit's

annual electrical output to the electric grid to no more than 10% of the annual gross generation of the unit, or restricting the supply less than or equal to 15% of its annual total useful energy to any entity other than the industrial, institutional or commercial facility to which the CO₂ budget source is interconnected.

This section is amended to delete the language under subsection (a) indicating that the interconnected facility has to be a manufacturing facility and to instead broaden the language to allow for the interconnected facility to be an industrial, institutional or commercial facility. This amendment was made based on comments received that the prior exemption language was too narrow. This section is also amended to replace the January 1, 2022, commencement dates under subsection (c)(5) with an editor's note indicating that the commencement date shall be January 1, 2022, or the date of publication of the final-form rulemaking in the *Pennsylvania Bulletin*, whichever is later.

§ 145.306. *Standard requirements*

This section establishes the standard permit, monitoring, CO₂, excess emissions and recordkeeping and reporting requirements. This section also establishes liability for the CO₂ authorized account representative and the owner or operator of a CO₂ budget source or CO₂ budget unit.

This section is amended to add a provision under subsection (b)(3) for the Department to use the emissions measurements recorded and reported under Subpart C, Article III (relating to air resources) to determine whether areas of this Commonwealth have been disproportionately impacted by increased air pollution as a result of implementation of this final-form rulemaking. The Department will publish notice of the availability of a report of the emissions measurements and the determination in the *Pennsylvania Bulletin* on an annual basis, including the baseline air emissions data and the annual emissions measurements. This provision is added in response to comments received recommending that the Department ensure that this final-form rulemaking does not disproportionately impact environmental justice and low-income communities in this Commonwealth.

This section is also amended to replace the January 1, 2022, start date under subsection (c) for CO₂ budget units to be subject to the CO₂ requirements with an editor's note indicating that the start date will either be January 1, 2022, or the first day of the next calendar quarter following the date of publication of the final-form rulemaking in the *Pennsylvania Bulletin*, whichever is later.

§ 145.307. *Computation of time*

This section establishes the computation of any time period scheduled under the CO₂ Budget Trading Program.

There are no changes made to this section from proposed rulemaking to final-form rulemaking.

CO₂ authorized account representative for a CO₂ budget source

§ 145.311. *Authorization and responsibilities of the CO₂ authorized account representative*

This section establishes the authorization and responsibilities of the CO₂ authorized account representative.

There are no changes made to this section from proposed rulemaking to final-form rulemaking.

§ 145.312. *CO₂ authorized alternate account representative*

This section establishes the requirements for the designation of no more than one CO₂ authorized alternate

account representative to act on behalf of the CO₂ authorized account representative.

There are no changes made to this section from proposed rulemaking to final-form rulemaking.

§ 145.313. *Changing the CO₂ authorized account representative and the CO₂ authorized alternate account representative; changes in the owner or operator*

This section establishes the process and requirements for changing the CO₂ authorized account representative or the CO₂ authorized alternate account representative. This section also establishes the process and requirements for changes in the owner or operator.

There are no changes made to this section from proposed rulemaking to final-form rulemaking.

§ 145.314. *Account certificate of representation*

This section establishes the elements of a complete account certificate of representation for a CO₂ authorized account representative or a CO₂ authorized alternate account representative.

There are no changes made to this section from proposed rulemaking to final-form rulemaking.

§ 145.315. *Objections concerning the CO₂ authorized account representative*

This section establishes the procedure for objections concerning the CO₂ authorized account representative.

There are no changes made to this section from proposed rulemaking to final-form rulemaking.

§ 145.316. *Delegation of authority to make electronic submissions and review information in COATS*

This section establishes a provision for a CO₂ authorized account representative or a CO₂ authorized alternate account representative to delegate their authority to make an electronic submission in COATS.

There are no changes made to this section from proposed rulemaking to final-form rulemaking.

Permits

§ 145.321. *General requirements for a permit incorporating CO₂ Budget Trading Program requirements*

This section establishes the requirement for each CO₂ budget source to have a permit issued under Chapter 127 that incorporates the CO₂ Budget Trading Program requirements.

There are no changes made to this section from proposed rulemaking to final-form rulemaking.

§ 145.322. *Submission of an application for a new, renewed or modified permit incorporating CO₂ Budget Trading Program requirements*

This section establishes the process and deadlines for the CO₂ authorized account representative to submit a complete permit application to the Department.

There are no changes made to this section from proposed rulemaking to final-form rulemaking.

§ 145.323. *Contents of an application for a permit incorporating CO₂ Budget Trading Program requirements*

This section establishes the required contents of a complete permit application.

There are no changes made to this section from proposed rulemaking to final-form rulemaking.

Compliance certification§ 145.331. *Compliance certification report*

This section establishes the requirement for a CO₂ authorized account representative of a CO₂ budget source to submit to the Department a compliance certification report for each control period. This section includes the required contents of the report and compliance certification.

There are no changes made to this section from proposed rulemaking to final-form rulemaking.

§ 145.332. *Department action on compliance certifications*

This section establishes a provision for the Department or its agent's review of compliance certifications, the ability to conduct independent audits of submissions and to deduct or transfer CO₂ allowances based on the information in the compliance certification.

There are no changes made to this section from proposed rulemaking to final-form rulemaking.

CO₂ allowance allocations§ 145.341. *Pennsylvania CO₂ Budget Trading Program base budget*

This section establishes the Pennsylvania CO₂ Budget Trading Program declining base budget for the years 2022 through 2030 and each succeeding calendar year. For example, for 2022, if the Commonwealth is a participating State on January 1, 2022, the Pennsylvania CO₂ Budget Trading Program base budget is 78 million tons. By 2030 and each succeeding calendar year, the Pennsylvania CO₂ Budget Trading Program base budget is 58,085,040 tons.

This section is amended to add quarterly provisions under subsection (a) for the 2022 Pennsylvania CO₂ Budget Trading Program Base Budget if the Commonwealth is a participating State after January 1, 2022. If the Commonwealth is a participating State after January 1, 2022, but before or on April 1, 2022, then the Pennsylvania CO₂ Budget Trading Program Base Budget is 57,954,000 tons. If the Commonwealth is a participating State after April 1, 2022, but before or on July 1, 2022, then the Pennsylvania CO₂ Budget Trading Program Base Budget is 40,716,000 tons. If the Commonwealth is a participating State after July 1, 2022, but before or on October 1, 2022, then the Pennsylvania CO₂ Budget Trading Program Base Budget is 18,564,000 tons.

§ 145.342. *CO₂ allowance allocations*

Subsection (a) establishes that the Department will allocate CO₂ allowances representing 100% of the tons for each allocation year from the Pennsylvania CO₂ Budget Trading Program base budget to the air pollution reduction account, less those allowances set aside each allocation year.

Subsection (b) establishes the Department's set-aside accounts for waste coal, strategic use and combined heat and power. Subsection (b) is amended to replace the term "cogeneration" with "combined heat and power" to account for the name change of the set-aside account under subsection (k).

Subsection (c) establishes the Pennsylvania CO₂ Budget Trading Program adjusted budget for each allocation year. Subsection (c) clarifies that the provision is applicable to each allocation year and to delete the language distinguishing allocation year 2022.

Subsection (d) establishes the CCR allocation and the process by which the Department will allocate CO₂ CCR

allowances, separate from and additional to the Pennsylvania CO₂ Budget Trading Program base budget to the air pollution reduction account.

Subsection (e) establishes the ECR and the process by which the Department will convert and transfer any CO₂ allowances that have been withheld from any auction into the Pennsylvania ECR account.

Subsection (f) establishes a provision for the Department to determine whether to make an adjustment for banked allowances and the formula to be used.

Subsection (g) establishes a provision for the Department to establish the Pennsylvania CO₂ Budget Trading Program adjusted budget for an allocation year and the formula to be used.

Subsection (h) establishes a provision to require the Department to publish notice in the *Pennsylvania Bulletin* of the CO₂ Budget Trading Program adjusted budget for the allocation year, if the Department determines to adjust the budget for banked allowances.

Subsection (i) establishes the process for the waste coal set-aside allocation, including the establishment of a general account, allowance transfers, compliance allocation, an exception or exceedance of legacy emissions or 12.8 million tons during a calendar year, and the set-aside termination. This subsection applies to waste coal-fired units located in this Commonwealth that commenced operation on or before the effective date of this final-form rulemaking, that are subject to the CO₂ Budget Trading Program requirements.

Subsection (i) clarifies that the allowance transfer and compliance allocation under subsection (i)(3) and (4) occur each calendar year except for 2022. This subsection also increases the total amount of legacy emissions under subsection (i)(5) from 9.3 million tons from the proposed rulemaking to 12.8 million tons in this final-form rulemaking. This amendment is due to the changes to the definition of legacy emissions under § 145.301. This amount better reflects the operation levels of the waste coal-fired units in this Commonwealth and accounts for the CO₂ emissions from an additional waste coal-fired unit in the calculation for the total amount of legacy emissions.

Subsection (j) establishes the process for the strategic use set-aside allocation, including the establishment of a general account, allowance transfers, allocation to eligible projects, the strategic use application, CO₂ allowance determination, general requirements, use of CO₂ allowances and the transfer or retirement of CO₂ allowances. The strategic use set-aside allocation consists of undistributed CO₂ allowances from the waste coal set-aside account.

Subsection (j) clarifies the allocation of CO₂ allowances to eligible projects under subsection (j)(3) by adding a requirement for eligible projects to be located in this Commonwealth and result in a GHG emission reduction benefit. The Board also deletes language under subsection (j)(3)(i)—(iii) pertaining to the allocation to eligible projects for clarification purposes because the language was unnecessary and could cause confusion. Subsection (j) also adds the process for a strategic use application under subsection (j)(4). The Board clarifies that owners of eligible projects must submit an application that includes at a minimum the information required by the Department. This includes documentation that the project will result in GHG emission reductions, identification of the general account, specification of the number of CO₂ allowances requested and the calculations and supporting

data used to determine the GHG emission reductions. Subsection (j) also adds the process for the final CO₂ allowance determination by the Department, general requirements for eligibility, the use of CO₂ allowances by the owner of an eligible project and the transfer or retirement of CO₂ allowances at the end of each control period under subsection (j)(5)—(8).

Subsection (k) establishes the process for the combined heat and power set-aside allocation, including applicability, the establishment of a general account, the CO₂ allowance retirement, the required CO₂ allowance retirement application, the CO₂ allowance retirement determination and the retirement and transfer of CO₂ allowances.

Subsection (k) amends the name of the set-aside from “cogeneration” to “combined heat and power.” This amendment clarifies that it is combined heat and power units that will be qualified for CO₂ allowances under the set-aside provision. The term “cogeneration” could have included units that are less efficient and less environmentally beneficial than the narrower category of “combined heat and power” units that the Department intended to cover under the set aside provision. The Board also clarifies under subsection (k)(1) that for a unit to be applicable, it must be located in this Commonwealth and subject to the CO₂ Budget Trading Program requirements in this final-form rulemaking.

Subsection (k) also includes two options under subsection (k)(3) for the retirement of CO₂ allowances from the combined heat and power set-aside account. Under the first option, which is an addition at final-form, applicable combined heat and power units may request that the Department retire CO₂ allowances equal to the total amount of CO₂ emitted as a result of providing useful thermal energy and electricity during each allocation year. Under the second option, which was included in the proposed rulemaking, applicable combined heat and power units may request that the Department retire CO₂ allowances equal to the partial amount of CO₂ emitted as a result of supplying useful thermal energy or electricity, or both, to an interconnected industrial, institutional or commercial facility during the allocation year.

As in the proposed rulemaking, the combined heat and power units must submit a complete application to request that CO₂ allowances be retired by the Department on behalf of the unit. The Board adds under subsection (k)(4) that if the unit is requesting total retirement of CO₂ allowances, the unit must submit an application, including documentation that the useful thermal energy is at least 25% of the total energy output of the combined heat and power unit on an annual basis and that the overall efficiency of the combined heat and power unit is at least 60% on an annual basis. In this final-form rulemaking, the Board includes calculations for a unit to determine the percentage of useful thermal energy and the percentage of overall efficiency. The Board also adds under subsection (k)(4) that if the unit is requesting partial retirement of CO₂ allowances, the unit must submit an application which includes documentation of the amount of useful thermal energy or electricity, or both, supplied to an interconnected industrial, institutional or commercial facility. In this final-form rulemaking, the Board also includes language under subsection (k)(5) indicating that it will retire CO₂ allowances on behalf of the units based on the satisfaction of the application requirements. The Board also adds in this final-form rulemaking under subsection (k)(5) that the owner or operator of a unit requiring additional CO₂

allowances to satisfy the CO₂ requirements shall transfer CO₂ allowances for compliance deductions to the compliance account of the unit. Lastly, the Board adds under subsection (k)(6) that it will retire CO₂ allowances from the set-aside account in an amount equal to the determination for each unit at the end of each interim control period, in addition to the end of each control period.

§ 145.343. Distribution of CO₂ allowances in the air pollution reduction account

This section establishes a description for how the Department will distribute CO₂ allowances held in the air pollution reduction account. With the exception of CO₂ allowances held in a set-aside account, the Department makes available all CO₂ allowances for purchase or auction each allocation year. The proceeds of the auction will be used in the elimination of air pollution in accordance with the APCA and Chapter 143 and for programmatic costs associated with the CO₂ Budget Trading Program.

This section is amended to replace the term “cogeneration” under subsections (a) and (d) with the term “combined heat and power” to account for the name change of the set-aside account under § 145.342(k).

CO₂ allowance tracking system

§ 145.351. CO₂ Allowance Tracking System (COATS) accounts

This section establishes a description for the nature and function of compliance and general accounts. Compliance accounts are only for CO₂ budget sources, while any person may have a general account.

There are no changes made to this section from proposed rulemaking to final-form rulemaking.

§ 145.352. Establishment of accounts

This section establishes a provision for the establishment of a compliance account by the Department or its agent upon receipt of a complete account certificate of representation. This section also provides for any person to apply to open a general account by submitting a complete application to the Department or its agent that includes the required contents listed in this section. This section establishes the requirements for the authorization of a CO₂ authorized account representative, changing a CO₂ authorized account representative or a CO₂ authorized alternate account representative, changes in persons with ownership interest, objections concerning a CO₂ authorized account representative, delegation by a CO₂ authorized account representative and a CO₂ authorized alternate account representative and account identification.

There are no changes made to this section from proposed rulemaking to final-form rulemaking.

§ 145.353. COATS responsibilities of CO₂ authorized account representative and CO₂ authorized alternate account representative

This section establishes a provision that allows submissions to the Department or its agent pertaining to a COATS account to be only submitted by the CO₂ authorized account representative or CO₂ authorized alternate account representative for the account.

There are no changes made to this section from proposed rulemaking to final-form rulemaking.

§ 145.354. Recordation of CO₂ allowance allocations

This section establishes the deadlines for the Department or its agent to record and assign a serial number to

the CO₂ allowances allocated for the air pollution reduction account, the waste coal set-aside account, the strategic use set-aside account and the combined heat and power set-aside account.

This section adds under subsection (a) that the recordation of CO₂ allowances allocated for the air pollution reduction account will occur by January 1 of each calendar year except for 2022. This section also replaces the term “cogeneration” under subsection (b) with the term “combined heat and power” to account for the name change of the set-aside account under § 145.342(k).

§ 145.355. *Compliance*

This section establishes the requirements for allowances available for compliance deduction, deductions for compliance, allowance identification, deductions for excess emissions, recordation of deductions and action by the Department on submissions.

There are no changes made to this section from proposed rulemaking to final-form rulemaking.

§ 145.356. *Banking*

This section establishes a provision to allow a CO₂ allowance that is held in a compliance account or a general account to be banked or in other words to remain in the account until the CO₂ allowance is deducted or transferred.

There are no changes made to this section from proposed rulemaking to final-form rulemaking.

§ 145.357. *Account error*

This section establishes a provision to allow the Department or its agent to correct and notify a CO₂ authorized account representative of an error in a COATS account.

There are no changes made to this section from proposed rulemaking to final-form rulemaking.

§ 145.358. *Closing of general accounts*

This section allows the CO₂ authorized account representative of a general account to instruct the Department or its agent to close a general account and for a general account that shows no activity for 1 year or more and does not contain any CO₂ allowances to be closed. This section also describes the notification procedure for the closure.

There are no changes made to this section from proposed rulemaking to final-form rulemaking.

CO₂ allowance transfers

§ 145.361. *Submission of CO₂ allowance transfers*

This section establishes the requirements for a CO₂ authorized account representative to submit a CO₂ allowance transfer to the Department for recordation.

There are no changes made to this section from proposed rulemaking to final-form rulemaking.

§ 145.362. *Recordation*

This section establishes the requirements and process for the Department to record a CO₂ allowance transfer.

There are no changes made to this section from proposed rulemaking to final-form rulemaking.

§ 145.363. *Notification*

This section establishes the processes for notification of recordation and nonrecordation of a CO₂ allowance transfer and allows for the resubmission of a CO₂ allowance transfer for recordation.

There are no changes made to this section from proposed rulemaking to final-form rulemaking.

Monitoring, reporting and recordkeeping requirements

§ 145.371. *General monitoring requirements*

This section establishes the monitoring requirements that an owner or operator or CO₂ authorized account representative of a CO₂ budget unit must comply with, including applicable sections of 40 CFR Part 75 (relating to continuous emission monitoring). This section also includes the requirements for installation, certification and data accounting, compliance dates for recording, reporting and quality assuring data from the monitoring system, reporting data and prohibitions.

This section replaces the July 1, 2021, and January 1, 2022, dates under paragraph (2) with blanks along with editor’s notes indicating that the dates are based on the date of publication of this final-form rulemaking in the *Pennsylvania Bulletin*. Instead of July 1, 2021, the date will be 180 days prior to the date of publication. Instead of January 1, 2022, the date will be either January 1, 2022, or the date of publication.

§ 145.372. *Initial certification and recertification procedures*

This section establishes the conditions for an exemption from the initial certification requirements, the applicability of recertification, the process for petitions, the certification and recertification requirements, the approval process for initial certification and recertification, the procedures for loss of certification, initial certification and recertification procedures for low mass emissions units and certification and recertification procedures for an alternative monitoring system.

There are no changes made to this section from proposed rulemaking to final-form rulemaking.

§ 145.373. *Out-of-control periods*

This section establishes the quality assurance requirements and the audit decertification procedure.

There are no changes made to this section from proposed rulemaking to final-form rulemaking.

§ 145.374. *Notifications*

This section establishes the requirement for a CO₂ authorized account representative for a CO₂ budget unit to submit written notice to the Department and the Administrator in accordance with 40 CFR 75.61 (relating to notifications).

There are no changes made to this section from proposed rulemaking to final-form rulemaking.

§ 145.375. *Recordkeeping and reporting*

This section establishes the recordkeeping and reporting requirements, including monitoring plans, certification applications and quarterly reports.

This section deletes language under subsection (d) pertaining to when a quarterly report must be submitted based on the date of commencement of commercial operation because it was unnecessary, and the rest of the section provides sufficient information.

§ 145.376. *Petitions*

This section establishes the process and requirements for submitting a petition to the Department or the EPA Administrator requesting approval to apply an alternative monitoring requirement.

There are no changes made to this section from proposed rulemaking to final-form rulemaking.

§ 145.377. *CO₂ budget units that co-fire eligible biomass*

This section establishes reporting and data calculation requirements for the CO₂ authorized account representative of a CO₂ budget unit that co-fires eligible biomass as a compliance mechanism under the CO₂ Budget Trading Program.

There are no changes made to this section from proposed rulemaking to final-form rulemaking.

Auction of CO₂ CCR and ECR allowances

§ 145.381. *Purpose*

This section establishes a provision to allow the Department or its agent to specify additional information in the auction notice for each auction, including the time and location of the auction, auction rules, registration deadlines and any additional information deemed necessary or useful.

There are no changes made to this section from proposed rulemaking to final-form rulemaking.

§ 145.382. *General requirements*

This section establishes the required contents of an auction notice. This section also includes tables with the CCR trigger price and the ECR trigger price for the years 2023 through 2030. This section also establishes the process for the sale of CCR allowances, implementation of the reserve price and withholding ECR allowances from an auction.

There are no changes made to this section from proposed rulemaking to final-form rulemaking.

CO₂ emissions offset projects

§ 145.391. *Purpose*

This section establishes a provision to allow the Department to award CO₂ offset allowances to sponsors of CO₂ emissions offset projects that have reduced or avoided atmospheric loading of CO₂, CO₂e or sequestered carbon. CO₂ offset allowances must be real, additional, verifiable, enforceable and permanent within the framework of a standards-based approach.

There are no changes made to this section from proposed rulemaking to final-form rulemaking.

§ 145.392. *Definitions*

This section establishes definitions for the following terms: “AEPS—Alternative energy portfolio standards,” “anaerobic digester,” “anaerobic digestion,” “anaerobic storage,” “biogas,” “conflict of interest,” “forest offset project,” “forest offset project data report,” “forest offset protocol,” “independent verifier,” “intentional reversal,” “market penetration rate,” “offset project,” “project commencement,” “project sponsor,” “regional-type anaerobic digester,” “reporting period,” “reversal,” “system benefit fund,” “total solids,” “unintentional reversal,” “verification” and “volatile solids.” These defined terms are used in the substantive provisions of §§ 145.391—145.397 (relating to CO₂ emissions offset projects).

There are no changes made to this section from proposed rulemaking to final-form rulemaking.

§ 145.393. *General requirements*

This section establishes the requirements for an offset project to qualify for the award of CO₂ offset allowances, including the three eligible offset project types, offset project location requirements, the project sponsor, general

additionality requirements, maximum allocation periods for offset projects, offset project audits, as well as ineligibility of an offset project due to noncompliance.

There are no changes made to this section from proposed rulemaking to final-form rulemaking.

§ 145.394. *Application process*

This section establishes the requirement for a project sponsor to establish a general account and to submit a consistency application, including the deadlines and required contents of the consistency application and the process for the Department’s action on consistency applications.

There are no changes made to this section from proposed rulemaking to final-form rulemaking.

§ 145.395. *CO₂ emissions offset project standards*

This section establishes the eligibility, offset project description, calculation and monitoring and verification requirements for the categories of offset projects, landfill methane capture and destruction, sequestration of carbon due to reforestation, improved forest management or avoided conversion and avoided methane emissions from agricultural manure management operations.

There are no changes made to this section from proposed rulemaking to final-form rulemaking.

§ 145.396. *Accreditation of independent verifiers*

This section establishes the standards for accreditation of independent verifiers, the required contents of an application for accreditation, the process for Department action on applications for accreditation, reciprocity of independent verifiers across participating states and the required conduct of an accredited verifier.

There are no changes made to this section from proposed rulemaking to final-form rulemaking.

§ 145.397. *Award and recordation of CO₂ offset allowances*

This section establishes the process for awarding and recording CO₂ offset allowances. This section also establishes the deadlines for submittal of monitoring and verification reports, the required contents of monitoring and verification reports, the prohibition against filing monitoring and verification reports in more than one participating state and the process for Department action on monitoring and verification reports.

This section replaces the January 1, 2022, and June 30, 2022, dates under subsection (c) with blanks along with editor’s notes indicating that the dates are based on the date of publication of this final-form rulemaking in the *Pennsylvania Bulletin*. Instead of June 30, 2022, the date will be either June 30, 2022, or 180 days after the date of publication, whichever is later. Instead of January 1, 2022, the date will be either January 1, 2022, or the date of publication, whichever is later.

CO₂ allowance auctions

§ 145.401. *Auction of CO₂ allowances*

This section establishes that the Department will participate in a multistate CO₂ allowance auction in coordination with other participating states. However, the Department may determine to conduct a Commonwealth-run auction if the conditions for participating in a multistate auction are no longer met. The Department may delegate implementation and administrative support for any CO₂ allowance auction and retains its authority to

enforce compliance with the CO₂ Budget Trading Program and control over the proceeds.

There are no changes made to this section from proposed rulemaking to final-form rulemaking.

§ 145.402. *Auction format*

This section establishes the format of a CO₂ allowance auction, the lot of CO₂ allowances and the reserve price.

There are no changes made to this section from proposed rulemaking to final-form rulemaking.

§ 145.403. *Auction timing and CO₂ allowance submission schedule*

This section establishes the timing of a CO₂ allowance auction, the availability of CO₂ allowances held in the air pollution reduction account and the requirement for an auction to include a CCR reserve and trigger price.

This section replaces the term “cogeneration” with the term “combined heat and power” under subsection (b) to account for the name change of the set-aside account under § 145.342(k).

§ 145.404. *Auction notice*

This section establishes the requirement for notice to be provided of each CO₂ allowance auction and the required contents of the notice.

There are no changes made to this section from proposed rulemaking to final-form rulemaking.

§ 145.405. *Auction participant requirements*

This section establishes the eligibility requirements to participate in a CO₂ allowance auction as a bidder.

There are no changes made to this section from proposed rulemaking to final-form rulemaking.

§ 145.406. *Auction participant qualification*

This section establishes the requirement for the submittal of a qualification application, the deadline for submittal, the required contents of a qualification application, the process for Department review of a qualification application and changes in qualification status.

There are no changes made to this section from proposed rulemaking to final-form rulemaking.

§ 145.407. *Submission of financial security*

This section establishes the requirement for a qualified applicant to provide financial security to the Department to participate in a CO₂ allowance auction as a bidder and the process for requesting return of the financial security.

There are no changes made to this section from proposed rulemaking to final-form rulemaking.

§ 145.408. *Bid submittal requirements*

This section establishes the requirements and limitations of bid submittals.

There are no changes made to this section from proposed rulemaking to final-form rulemaking.

§ 145.409. *Approval of auction results*

This section establishes the requirement for an independent monitor to observe the conduct and outcome of each auction and issue a report to the Department. If the Department approves the outcome of an auction based on the contents of the report, the Department will transfer and record the CO₂ allowances to successful bidders and make available the auction clearing price and the number of CO₂ allowances sold in the auction.

There are no changes made to this section from proposed rulemaking to final-form rulemaking.

F. *Summary of Comments and Responses on the Proposed Rulemaking*

The Board adopted the proposed rulemaking at its meeting on September 15, 2020. On November 7, 2020, the proposed rulemaking was published for a 69-day comment period at 50 Pa.B. 6212 (November 7, 2020). Ten public hearings were held virtually with two each day on December 8, 9, 10, 11, and 14, 2020. Over 445 persons provided verbal testimony, including several in Spanish translation. The comment period closed on January 14, 2021. The Board received comments from 14,038 commentators, including the House and Senate Environmental Resources and Energy Committees (ERE Committees), members of the General Assembly and the Independent Regulatory Review Commission (IRRC). The majority of the commentators expressed their support of the CO₂ Budget Trading Program, noting the success of cap and trade programs in reducing emissions and the health, environmental and economic benefits that can be achieved through this final-form rulemaking. The comments received on the proposed rulemaking are summarized in this section and are addressed in a comment and response document which is available on the Department’s web site.

During the comment period, the Board sought comment specifically on potential approaches for the implementation of this final-form rulemaking that would address equity and environmental justice concerns in this Commonwealth. The Board received comments requesting that the Department monitor for any local air quality impacts resulting from this final-form rulemaking in environmental justice areas. The Board also received comments requesting that a portion of the auction proceeds be spent on projects located in environmental justice communities. Additionally, the Board received comments requesting that the Department continue to engage in public outreach with environmental justice communities throughout the implementation of this final-form rulemaking. In response to these comments, the Department developed three Equity Principles which have been incorporated under section D of this preamble. The Equity Principles consist of inclusively gathering and meaningfully considering input from environmental justice community members, mitigating any adverse impacts on human health in environmental justice communities and distributing environmental and economic benefits of auction proceeds in communities that have been disproportionately impacted by air pollution. The Board also adds language to this final-form rulemaking indicating that the Department will assess air emissions data each year to determine whether areas of this Commonwealth have been disproportionately impacted by increased air pollution as a result of implementation of this final-form rulemaking. Additionally, the Department is committed to allocating a portion of the auction proceeds to further eliminate air pollution in environmental justice communities.

During the comment period, the Board also sought comment on potential approaches that would assist the transition of workers and communities in a just and equitable manner as this Commonwealth continues on a path to cleaner electricity generation. The Board received comments expressing concern about the dependence certain communities have on fossil fuel-fired EGUs. Commentators noted that school districts, small businesses, municipalities, parks and recreation areas and other

community pillars depend on the economic productivity of these facilities. The concern is particularly acute in areas containing a concentrated number of fossil fuel-fired EGUs.

Many commentators implied that this final-form rulemaking would be the singular cause of economic challenges to fossil fuel-fired EGUs, specifically coal-fired EGUs, while other commentators recognized that these facilities are projected to cease operations in the near future with or without the implementation of this final-form rulemaking. Nonetheless, commentators acknowledged the economic impact of these facilities and recognized a need to both create a transition plan and invest auction proceeds in these communities. Specifically, commentators recommended a transition plan that includes economic diversification and workforce development that will lead to immediate job transition for workers employed at facilities expected to close in the near future. Commentators also recommended using auction proceeds as authorized under the APCA to invest in these communities in ways that would provide for job training and economic growth.

In response to these comments, the Department partnered with the Delta Institute, a nonprofit organization that has worked with communities to solve complex environmental challenges since 1998, to evaluate the potential impacts of a changing energy sector on this Commonwealth's energy workers and the surrounding communities. The Delta Institute is engaging with fossil fuel communities to understand the interdependence with large fossil fuel-fired EGUs, as well as surrounding communities, and to explore potential economic diversification strategies. Included in this engagement is discussions with community members representing nonprofit organizations, labor, workforce development boards, research institutions, regional planning commissions, universities, private citizens, utility providers, community organizations, industry groups, economic development entities, consumer advocates, environmental justice stakeholders and many others representing all the regions of this Commonwealth, including communities with significant employment in the fossil fuel sector. The Delta Institute's efforts, in coordination with the Department, will culminate in the development of a set of Guiding Principles and a final strategy document that will be used to guide the Department's implementation of this final-form rulemaking, including the investment of auction proceeds in projects that benefit communities dependent on fossil fuel-fired EGUs.

During the comment period, the Board also sought comment on ways to appropriately address the benefits of cogeneration in this Commonwealth, including the allocation of CO₂ allowances similar to the waste coal set-aside provision. The Board received comments requesting that the cogeneration set-aside, now the combined heat and power set-aside, be expanded to include more than useful thermal energy or electricity provided to a co-located facility. In response to comments, the Board included two tiers for the retirement of CO₂ allowances from the combined heat and power set-aside account in this final-form rulemaking. Under the first tier, which is an addition at final-form, applicable combined heat and power units may request that the Department retire CO₂ allowances equal to the total amount of CO₂ emitted as a result of providing all useful thermal energy and electricity during each allocation year. Under the second tier, which was included in the proposed rulemaking, applicable combined heat and power units may request that the Department retire CO₂ allowances equal to the

partial amount of CO₂ emitted as a result of supplying useful thermal energy or electricity, or both, to an interconnected industrial, institutional or commercial facility during the allocation year. This two-tier approach aligns the overall environmental benefits of CHP units with the CO₂ allowances that may be requested.

Numerous members of the General Assembly expressed their support of this final-form rulemaking and this Commonwealth's participation in RGGI. Some even highlighted that polling consistently shows that more than 70% of the residents in this Commonwealth strongly support action on climate change and that this final-form rulemaking has diverse support from businesses and institutions to environmental nonprofits and health organizations. Members also stressed that it is crucial to address climate change, lower emissions of harmful air pollutants, particularly given the COVID-19 pandemic, and consider environmental justice concerns. They noted that RGGI has proven successful and that RGGI participation will provide a multitude of benefits to public health, safety and welfare, as well as benefits to the environment and the economy. In particular, they stated that participating in RGGI will spur additional investments in renewable energy throughout this Commonwealth, ensuring that this Commonwealth's vital position in National energy markets is maintained. They also emphasized that reducing CO₂ emissions from the power generation sector would improve the environment for this Commonwealth's citizens and make this Commonwealth a more sustainable and innovative place in the future. In response, the Board acknowledges these comments and thanks the members for their support.

IRRC asks the Board to explain whether the regulation is in the public interest, particularly given the House and Senate ERE Committee objections noted in their disapproval letters, which are discussed as follows and addressed in the comment and response document.

In response, the Board explains how this final-form rulemaking is in the public interest. As required under section 745.5b of the RRA (71 P.S. § 745.5b), to determine whether a regulation is in the public interest, IRRC must first determine whether the agency has the statutory authority to promulgate the regulation and whether the regulation conforms to the intent of the General Assembly when it enacted the enabling statute. As discussed previously, the Board has the authority to promulgate this final-form rulemaking under section 5(a)(1) of the APCA. Additionally, this final-form rulemaking is consistent with the purpose of the APCA and the intent of the General Assembly. That is, among other things, to protect the air resources of the Commonwealth to the degree necessary for the protection of public health, safety and well-being of its citizens. 35 P.S. § 4002(a). Moreover, several members of the General Assembly, including minority members of the ERE Committees, provided supportive comments, specifically noting that the Board has the authority under the APCA to promulgate this final-form rulemaking and that it is in the public interest.

In determining whether a regulation is in the public interest, IRRC also must consider the additional criteria for review of regulations outlined under section 745.5b(b) of the RRA. The Board explains as follows how this final-form rulemaking satisfies the review criteria in detailed responses to comments and specifically notes the following: First, this final-form rulemaking will have a positive economic and fiscal impact on this Commonwealth. For example, the economic modeling conducted for this final-form rulemaking shows that this Common-

wealth's participation in RGGI will lead to a net increase of more than 30,000 jobs and spur further economic growth in this Commonwealth as it will result in an additional \$1.9 billion to the Gross State Product. Second, this final-form rulemaking protects the public health, safety and welfare and the environment from harmful CO₂ pollution from fossil fuel-fired EGUs. For instance, the Department calculated that if 188 million tons of CO₂ are avoided through 2030 then this Commonwealth's residents would see cumulative health benefits amounting to \$2.79—\$6.3 billion. Third, the requirements of this final-form rulemaking are both reasonable and feasible. One of the most cost-effective emissions reduction strategies to limit CO₂ emissions is through an electricity sector cap and trade program. Fourth, this final-form rulemaking does not represent a policy decision of such a substantial nature that it requires legislative review. That is, the General Assembly has already provided the Board with broad authority to promulgate this final-form rulemaking. Fifth, the Board has responded to the comments, objections and recommendations of the ERE Committees in this final-form rulemaking and associated comment and response document. Where warranted, changes are made to this final-form rulemaking in response to those comments. Sixth, the Board and the Department complied with the RRA and IRRC's regulations throughout the rulemaking process. Seventh, this final-form rulemaking is supported by a plethora of acceptable data and an extensive modeling effort as discussed throughout this preamble. Finally, while there is not a less costly or less intrusive method of achieving the goal of this final-form rulemaking, since a cap and trade program is the most effective means of reducing CO₂ emissions, provisions are included in this final-form rulemaking to address any impact on small business stationary sources.

Further, the Commonwealth Court has found that the regulation of air pollution has long been a valid public interest. See e.g., *Bortz Coal Co., v. Commonwealth*, 279 A.2d 388, 391 (Pa. Cmwlth. 1971); *DER v. Pennsylvania Power Co.*, 384 A.2d 273, 284 (Pa. Cmwlth. 1978); *Commonwealth v. Bethlehem Steel Corporation*, 367 A.2d 222, 225 (Pa. 1976). Moreover, the Commonwealth Court has endorsed the Department's position that the General Assembly, through the APCA, gave the agency the authority to reduce GHG emissions, including CO₂. *Funk v. Wolf*, 144 A.3d 228, 250 (Pa. Cmwlth. 2016).

1. Comments, objections or recommendations of the House and Senate ERE Committees.

IRRC noted that under the RRA, the comments, objections or recommendations of a Legislative Committee is one of the criteria that IRRC must consider when determining if a regulation is in the public interest. In response, the specific comments, objections and recommendations noted by IRRC will be addressed in turn as follows.

a. *The Board has the statutory authority under the APCA to promulgate this final-form rulemaking.*

The House and Senate ERE Committees objected to this final-form rulemaking stating that the Board lacks statutory authority under the APCA (35 P.S. §§ 4001—4015) to promulgate the regulation.

In response, the Board has the authority to promulgate this final-form rulemaking under the APCA. Through the APCA, the Legislature granted the Department and the Board the authority to protect the air resources of this Commonwealth for the protection of public health, safety

and the environment. Section 5(a)(1) of the APCA provides the Board with broad authority to adopt rules and regulations for the prevention, control, reduction and abatement of air pollution in this Commonwealth. In *Marcellus Shale Coalition v. Department of Environmental Protection*, 216 A.3d 448 (Cmwlth. Ct. 2019), the Commonwealth Court outlined the test for determining whether a legislative rulemaking has statutory authority. To determine whether a regulation is adopted within an agency's granted power, the Commonwealth Court stated that it looks to the statutory authority authorizing the agency to promulgate the legislative rule and examines that language to determine whether the rule falls within that grant of authority. The Court also found that the legislature's delegation must be clear and unmistakable. In particular, the Court considers the letter of the statutory delegation to create the rule and the purpose of the statute and its reasonable effect. *Id.* As this final-form rulemaking would limit CO₂ pollution by regulating CO₂ emitted from fossil fuel-fired EGUs to ensure protection of public health, welfare and the environment, this final-form rulemaking is clearly within the Board's granted authority under the APCA and advances the purposes of the APCA to abate air pollution.

b. *The auction proceeds are a fee under the APCA.*

The House and Senate ERE Committees objected to this final-form rulemaking stating that the proceeds generated through the auction procedures of the rulemaking and RGGI are not a fee under the APCA, but rather an illegal tax.

In response, the auction proceeds amount to fees authorized under section 6.3(a) of the APCA and not an illegal tax. Section 6.3(a) of the APCA provides the Department with the authority to establish fees to support the air pollution control program. The Department is limited by its existing statutory authority under section 9.2(a) of the APCA (35 P.S. § 4009.2) to only use fees for "the elimination of air pollution." Since the auction proceeds generated as a result of this final-form rulemaking would be used to reduce GHG emissions, further eliminating air pollution, the fees would be used to support the air pollution control program in accordance with section 6.3(a) of the APCA. There is also existing case law that supports the conclusion that auction proceeds are a fee, including *National Biscuit Company v. Philadelphia*, 98 A.2d 182 (Pa. 1953) and *White v. Com. Medical Professional Liability Catastrophe Loss Fund*, 571 A.2d 9 (Pa. Cmwlth. 1990).

Under RGGI, regulated EGUs are required to purchase one CO₂ allowance per ton of CO₂ they emit through multistate auctions or on the secondary market. The proceeds of the multistate auctions and the secondary market are then provided back to the participating states. The purchase of CO₂ allowances generating auction proceeds is a fee because these purchases are one component of the "regulatory measures intended to cover the cost of administering a regulatory scheme authorized under the police power of the government." See *City of Philadelphia v. Southeastern Pennsylvania Transp. Auth.*, 303 A.2d 247, 251 (Pa. Cmwlth. 1973). As mentioned previously, RGGI provides a "two-prong" approach to reducing CO₂ emissions from fossil fuel-fired EGUs. The second prong involves the proper investment of the auction proceeds to further reduce CO₂ emissions, as well as other harmful GHG emissions. This investment therefore fulfills the purpose and administration of this final-form rulemaking. This final-form rulemaking does not create a tax which is a "revenue-producing measure authorized under the tax-

ing power of the government.” Id. The intent of RGGI is not to generate revenue for general government or public purposes, but to achieve a common goal of reducing CO₂ emissions from EGUs.

Moreover, none of the 11 participating states consider their CO₂ budget trading program regulations, or the RGGI program overall, as establishing a tax. Also, no court has determined that RGGI amounts to a tax. Recently in *California Chamber of Commerce v. State Air Res. Bd.*, 10 Cal. App. 5th 604, 650, 216 Cal. Rptr. 3d 694, 728 (Cal. Ct. App. 2017), the California court determined that the California Air Resource Board’s cap and invest program did not create a tax.

c. The virtual public hearings were held in accordance with the APCA.

The House and Senate ERE Committees objected to this final-form rulemaking stating the Department violated the APCA’s mandate for public hearings to be held in impacted communities. They also noted that citizens without internet access or broadband capability were excluded from participating in the virtual hearings that were held. A few other commentators also believe that the APCA requires the Board to hold in-person public hearings.

In response, the APCA does not require the Board to hold “in-person” public hearings. Section 7(a) of the APCA (35 P.S. § 4007(a)) states “Public hearings shall be held by the board or by the department, acting on behalf and at the direction or request of the board, in any region of the Commonwealth affected before any rules or regulations with regard to the control, abatement, prevention or reduction of air pollution are adopted for that region or subregion.” The commentators and legislators seem to be interpreting the phrase “in any region of the Commonwealth affected” in section 7(a) as creating a requirement for “in-person” public hearings. The Board disagrees with this interpretation and contends that the intent of the statutory language is to ensure that a public hearing is held in a location that is actually impacted by a regulation. For instance, section 7(a) would prevent the Board from holding one public hearing in Harrisburg for a regulation that only impacts the Northwest region.

For this final-form rulemaking, the Board satisfies the public hearing requirement in section 7(a) of the APCA by holding ten well-attended virtual public hearings. As this final-form rulemaking impacts the entire Commonwealth, the virtual public hearings were accessible Statewide. The virtual public hearings were a necessity due to the COVID-19 pandemic and allowed hundreds of residents in this Commonwealth to deliver their comments without exposing themselves or their families to a widespread, communicable disease. To ensure that all residents in this Commonwealth had access to the ten virtual public hearings for this final-form rulemaking, the Department and the Board made the hearings accessible by means of any phone connection, including landline and cellular service, or internet connection. The public hearings were also held at varying times, including evening hours, so that members of the public could provide testimony outside of typical work hours. For the first time, the Department was able to provide real time English to Spanish translation during the virtual public hearings. Altogether, the Board and the Department saw record participation during the virtual public hearings and over 445 members of the public provided testimony on this final-form rulemaking. The Department also received feedback from many participants that the use of a virtual public hearing platform was preferred and resulted in

savings, in both time and money, for many residents who did not have to drive or find a way to attend a public hearing. Additionally, as with all the Department’s rulemakings, members of the public also had the opportunity to provide written comments by regular mail, the Department’s eComment system or e-mail during the comment period.

d. This final-form rulemaking will have a positive fiscal impact on this Commonwealth’s economy.

The House and Senate ERE Committees objected to this final-form rulemaking stating it will have a negative fiscal impact on this Commonwealth’s economy. In particular, they argue that the coal industry, fossil fuel-fired EGUs, large industrial users of electricity, small businesses, labor unions and individuals will be harmed financially.

In response, the Board explains that the implementation of this final-form rulemaking will provide public health, environmental and economic benefits to this Commonwealth. The Department calculates that if 188 million tons of CO₂ are avoided through 2030 then this Commonwealth’s residents would see cumulative health benefits amounting to \$2.79–\$6.3 billion. This equates to a range of \$232–\$525 million annually and is an extremely conservative estimate given these health benefits are only those benefits tied to the reduction of co-pollutants (NO_x, SO₂ and PM_{2.5}) and exclude the additional benefits provided from the reduction in CO₂ emissions. Further, calculations using the social cost of carbon would result in significantly higher benefit values for this final-form rulemaking.

The economic modeling conducted shows that this Commonwealth’s participation in RGGI will lead to a net increase of more than 30,000 jobs and add \$1.9 billion to the Gross State Product. Additionally, an independent study by Penn State University’s Center for Environmental Law and Policy confirms the economic benefits accruing as a result of this Commonwealth’s participation in RGGI and suggests positive economic impacts beyond even those calculated by the Department. See Penn State University Center for Energy Law and Policy, *Prospects for Pennsylvania in the Regional Greenhouse Gas Initiative Working Paper*, December 2020, https://sites.psu.edu/celp/files/2021/01/CELP_RGGI.pdf. In particular, the Penn State University study indicates that between 2022 and 2030 this Commonwealth’s participation in RGGI will yield \$2.6 billion in net economic benefits to the power sector within this Commonwealth. This study determined that economic benefits to electricity market participants include the higher net profits to the generation sector (additional revenue arising from higher wholesale electricity prices less new costs from the purchase of CO₂ allowances) and CO₂ allowance proceeds accruing to CO₂ allowance holders. Economic costs predominantly reflect the higher costs of purchasing bulk power by load-serving entities and direct access consumers in the PJM regional electricity market. This analysis is narrower in scope than the Department’s modeling but remains demonstrative of the positive economic impacts of this final-form rulemaking.

In 2010, coal generation accounted for 47% of the energy generated in this Commonwealth and by 2019, coal generation had decreased to 17%. The Department’s modeling indicates that this trend will continue with the majority of coal generation (with the exception of waste coal) ceasing by 2025. This is the current trajectory of coal which has been on the decline for decades, and in 2014 was finally usurped by natural gas as the leading

source of energy generation in this Commonwealth. These impacts are not resulting from RGGI participation as they will occur regardless of the implementation of this final-form rulemaking. However, RGGI participation presents an opportunity to assist transitioning communities, which would not exist without this final-form rulemaking.

While fossil fuel-fired EGUs subject to this final-form rulemaking will have costs associated with the purchase of CO₂ allowances, in most cases this minimal cost will be passed onto consumers. Cost impacts as a result of implementation of this final-form rulemaking are minimal and are less than the typical seasonal swing in electricity prices. Wholesale power prices (\$/MWh) are expected to be no more than 2.4% higher in 2022 and no more than 1.7% higher by 2030. These prices reflect the cost of a cap and trade program and are not reflective of the investment of the auction proceeds. Significant investments of the auction proceeds in the energy sector in this Commonwealth will have a price suppressing impact further decreasing any potential price impacts.

Additionally, based on information contained within the PUC's 2020 Rate Comparison Report, a small commercial customer's usage is the closest aligned with a small business as defined by the United States Small Business Administration, though it is not an exact match. See Pennsylvania PUC, 2020 Rate Comparison Report, https://www.puc.pa.gov/General/publications_reports/pdf/Rate_Comparison_Rpt2020.pdf. The PUC report indicates that average 2019 electricity consumption for this customer class is 1,000 kilowatt-hour/month (kWh/month) with total monthly bills ranging from \$106.29 to \$143.49, depending on the Electric Distribution Company service territory and the corresponding electricity rate. Using the same assumptions regarding the composition of an electric bill as used previously, a small commercial customer using 1,000 kWh/month could expect to see a potential increase of \$1.28 to \$1.72 per month in 2022.

According to the PUC, a large commercial customer using 200,000 kWh/month has a monthly bill ranging from \$11,788.08 to \$21,043.18. These customers could expect to see a 2022 potential price increase of \$141 to \$253 per month, again depending on their electric service territory and associated rates.

The Board understands the concerns that have been expressed regarding impacts on employees in this Commonwealth's energy sector. As mentioned previously, while there will be expansion and contraction within the energy sector as a result of implementation of this final-form rulemaking, this Commonwealth's participation in RGGI will lead to a net increase of more than 30,000 jobs. The Department has partnered with the Delta Institute to evaluate the potential impacts of a changing energy sector on this Commonwealth's energy workers and the surrounding communities. This will assist the Department in identifying community-driven ways to assist this Commonwealth's transition to a cleaner energy economy.

e. CO₂ is an "air pollutant" as defined under the APCA, and despite leakage, this final-form rulemaking will significantly reduce GHG emissions.

The House and Senate ERE Committees objected to this final-form rulemaking stating CO₂ is not an "air pollutant" as defined by the APCA. They stated that the proposal does not prevent or reduce GHGs because generation will shift to fossil fuel-fired EGUs in other states and emissions from those EGUs will pollute the environment of the Commonwealth. This is referred to as

leakage. Any reduction of pollution would be insignificant; thus, this final-form rulemaking fails to meet the APCA's standard that regulations must produce a meaningful reduction of "air pollution."

In response, the Board finds that CO₂ is in fact a regulated "air pollutant." Section 5(a)(1) of the APCA provides the Board with authority to regulate CO₂ emissions. CO₂ falls under the definition of "air pollution" in section 3 of the APCA. First, CO₂ is a gas, and falls within the definition of "air contaminant" under section 3 of the APCA, which is defined as "[s]moke, dust, fume, gas, odor, mist, radioactive substance, vapor, pollen or any combination thereof." By extension, CO₂ is also "air contamination" under section 3 of the APCA, which is defined as "[t]he presence in the outdoor atmosphere of an air contaminant which contributes to any condition of air pollution." The term "air pollution" is defined as "[t]he presence in the outdoor atmosphere of any form of contaminant...in such place, manner or concentration inimical or which may be inimical to the public health, safety or welfare or which is or may be injurious to human, plant or animal life or to property or which unreasonably interferes with the comfortable enjoyment of life or property." Therefore, CO₂ is also considered to be "air pollution" under the APCA. CO₂ is also a Federally regulated air pollutant under the CAA. See *Massachusetts v. EPA*, 549 U.S. 497 (2007). Moreover, the EPA has issued an Endangerment Finding for CO₂ emissions resulting from fossil fuel-fired EGUs. See 80 FR 64509 (October 23, 2015); *Am. Lung Ass'n v. Env't Prot. Agency*, 985 F.3d 914 (D.C. Cir. 2021).

While there is a potential for leakage as outlined in the Department's modeling for this final-form rulemaking, this potential leakage does not undermine the value of the significant benefits that will accrue to this Commonwealth and its residents as a result of this final-form rulemaking. The potential for CO₂ reductions in this Commonwealth by 2030 ranges from 97 million to 227 million tons. These emissions reductions will occur in this Commonwealth despite any generation changes that may occur in other states. The meaningful reductions of air pollution stemming from this final-form rulemaking have also been confirmed by independent power sector modeling conducted by PJM and the Penn State University Center for Energy Law and Policy. The Department further discusses the topic of leakage as follows.

f. *The modeling used by EQB to justify this final-form rulemaking is up to date, takes into account "leakage" and provides an accurate estimate of the economic impact of this final-form rulemaking.*

The House and Senate ERE Committees objected to this final-form rulemaking stating that the modeling used by the Board to justify the rulemaking is outdated and does not provide an accurate estimate of the economic impact that the rulemaking will have. They also state that the modeling does not account for leakage.

The Board received thoughtful comments and feedback on the 2020 power sector modeling results through the Department's extensive advisory committee meetings, webinars and the public comment period. The Board understood the concerns raised and wanted to make sure the modeling was as current as possible to ensure that all the provisions of this final-form rulemaking, specifically the starting CO₂ allowance budget, were still appropriate when this final-form rulemaking is implemented in 2022. Additionally, the Board wanted to verify previous conclusions based on the modeling. For this final-form rulemaking, the Department conducted additional power sec-

tor modeling which verified earlier modeling conclusions, confirming the 78 million CO₂ allowance budget for 2022 and the significant potential for CO₂ emissions reductions in this Commonwealth. The updated modeling also showed that in comparison to the previous 2020 round of modeling, impacts on natural gas generation, this Commonwealth's energy exports and electricity prices are even less than the slight impacts anticipated by the previous modeling. Furthermore, the modeling confirmed that the retirement of coal-fired EGUs in this Commonwealth will occur within a shorter time horizon. According to the updated modeling, most of the coal-fired generation in this Commonwealth will cease by 2025 in no part due to this final-form rulemaking, but rather decreased demand for electricity resulting in part from the COVID-19 pandemic and its impacts on the energy markets.

The Department's modeling used the Integrated Planning Model (IPM), which provides long-term projections of plant dispatch, capacity expansion and retirement, market prices and emissions projections for the power sector across the country. This specific analysis focused on this Commonwealth, the PJM states and the current states participating in RGGI. The results of the modeling include electricity transmission both into and out of this Commonwealth and the larger PJM and Eastern Interconnect regions. These values allow the Department to evaluate the changes in generation and the flows of electricity between states and across the region. It is through this data that the Department is able to evaluate the potential for and magnitude of emissions shifts within the region.

The Department's modeling indicates that there may be some future emissions leakage in terms of additional fossil fuel emissions outside of this Commonwealth's borders. Emissions leakage is the shifting of emissions from states with carbon pricing to states without carbon pricing. This leakage has no bearing on the environmental, health or economic benefits of this final-form rulemaking, and merely means that a portion of the emissions reductions achieved within this Commonwealth may shift to other states or areas without carbon pricing. Additionally, this final-form rulemaking will result in a net emissions reduction of 28 million tons of CO₂ across the broader PJM region through 2030.

It is important to note that the modeling results assume the only policy change impacting the power sector in the region between 2021 and 2030 is this Commonwealth's participation in RGGI. The Department finds that extremely unlikely given the ongoing efforts by PJM, the Federal Energy Regulatory Commission (FERC) and the Federal government. The Department has been an active participant in PJM's Carbon Pricing Senior Task Force (CPSTF), which is conducting additional modeling in an effort to better understand and control leakage across the entire PJM region. The FERC hosted a carbon pricing technical conference in the Fall of 2020, resulting in a policy statement requesting public comment on issues such as how to address shifting generation amongst states as a result of carbon pricing. Lastly, the Federal administration is seeking to reduce carbon emissions from the electric power sector, specifically aiming to produce 80% of the Nation's electricity from zero-carbon sources. The Department anticipates actions at the regional and Federal level will mitigate potential leakage impacts that may result from this final-form rulemaking.

Although there is the potential for leakage as confirmed in both the original and updated modeling results, this leakage does not undermine the benefits of this final-form

rulemaking to this Commonwealth, nor to the broader PJM region and Eastern Interconnection. The Department's modeling has not only accounted for leakage, but Department staff have actively engaged with stakeholders, PJM Interconnection and electricity generators specifically to discuss options for leakage mitigation.

g. This final-form rulemaking should proceed despite announcements of Federal climate change policies.

The House and Senate ERE Committees objected to this final-form rulemaking stating that the Federal government is moving forward with climate change policies. In response, while the current Federal Administration is currently in the process of developing climate change policies, there is no guarantee that those policies will come to fruition. For instance, the Obama Administration's regulation to control GHG emissions from existing fossil fuel-fired EGUs, commonly known as the Clean Power Plan, was stayed by the United States Supreme Court and later repealed and replaced by the Trump Administration's ACE rule. The Board contends that addressing the impacts of climate change is too pressing of an issue to wait any longer. As one of the top GHG emitting states in the country, the Board has a compelling interest to reduce GHG emissions to address climate change and protect public health, welfare and the environment.

h. The benefits of this final-form rulemaking outweigh potential costs, including during the time of the COVID-19 pandemic.

The House and Senate ERE Committees objected to this final-form rulemaking stating that the potential costs of the rulemaking outweigh any meaningful benefits that may result from it, especially during the time of the COVID-19 pandemic.

Emerging evidence links chronic exposure to air pollution with higher rates of morbidity and mortality from COVID-19. The current pandemic underscores the need for further emissions reductions. See Harvard University Study "Fine particulate matter and COVID-19 mortality in the United States: A national study on long-term exposure to air pollution and COVID-19 mortality in the United States", 2020, <https://projects.iq.harvard.edu/covid-pm>.

The implementation of this final-form rulemaking will have climate, environmental and health benefits. While there is a cost associated with implementation, the benefits far outweigh any costs. Although the methodology to determine climate and environmental impacts are complicated, calculating the health benefits is quite simple. The Department calculated the health impacts associated with the emissions reductions stemming from the implementation of this final-form rulemaking using the EPA's Benefit-per-Ton and Incidence-per-Ton (IPT) methodology. The Department calculated that if 188 million tons of CO₂ are avoided through 2030 then this Commonwealth's residents would see cumulative health benefits amounting to \$2.79—\$6.3 billion. This equates to a range of \$232—\$525 million annually and is an extremely conservative estimate given these health benefits are only those benefits tied to the reduction of co-pollutants (NO₂, SO_x and PM_{2.5}) and exclude the additional benefits provided from the reduction in CO₂ emissions. Further, calculations using the social cost of carbon would result in significantly higher benefit values for this final-form rulemaking.

The analysis conducted by Penn State University's Center for Energy Law and Policy estimated the health

benefits of this Commonwealth's participation in RGGI to be on the order of \$1 billion to \$4 billion per year over the initial decade of this Commonwealth's RGGI participation, specifically noting the conservative nature of the Department's calculations. Implementation of this final-form rulemaking does come with increased costs, in terms of impacts on electricity prices. Updated modeling shows that the impact on wholesale power prices is estimated to be 2.42% in 2022 and 1.73% by 2030. These minimal price impacts are exclusive of the price-suppressing impacts of any investments to be made in the energy sector using the auction proceeds.

The Department's economic modeling shows that even with consideration of these electricity price increases, this Commonwealth's participation in RGGI will lead to a net increase of more than 30,000 jobs and add \$1.9 billion to the Gross State Product. While implementation of this final-form rulemaking is not without cost, the economic and health benefits are considerable and far outweigh any implementation costs.

2. This final-form rulemaking does not represent a policy decision of such a substantial nature that it requires legislative review.

IRRC questions whether the regulation represents a policy decision of such a substantial nature that it requires legislative review. IRRC also notes that a Senate letter signed by 29 members states the following: "The proposed regulation joining Pennsylvania to RGGI represents the single, most significant energy policy reform since the deregulation of electric generation in the 1990's." IRRC also mentions the passage of House Bill 2025 of the 2019-2020 session and that 10 of the 11 states that currently participate in RGGI have done so with specific authority granted by their respective legislative branches. Additionally, IRRC notes that three advisory committees declined to support the proposed rulemaking. IRRC asks the Board to explain why it is appropriate to implement this carbon trading program through executive order and the rulemaking process instead of the legislative process.

In response, this final-form rulemaking is not a policy decision of such a substantial nature that it requires legislative review. The General Assembly provided the Board with broad authority to regulate sources of air pollution under the APCA. This final-form rulemaking directly falls within that statutory grant of authority as CO₂ emissions cause harmful air pollution. The APCA does not limit the Board in how it may regulate a source of pollution. This is shown by the Board's history of promulgating different types of regulations, including command and control and cap and trade regulations under the broad authority of section 5(a)(1) of the APCA. If House Bill 2025 had not been vetoed by the Governor, it would have taken away the Board's existing statutory authority to regulate CO₂ emissions. The bill went beyond preventing this Commonwealth from participating in RGGI to prohibit the Board from promulgating any regulation to address CO₂ emissions unless and until the General Assembly passed future authorizing legislation. This would have been extremely detrimental to the Department's efforts to address GHG emissions and climate change impacts. However, as explained previously, the General Assembly provided the Board with the authority to promulgate this final-form rulemaking through the expansive language in the APCA.

Through Executive Order 2019-07, Governor Tom Wolf directed the Department to develop and present to the Board a rulemaking to abate, control or limit CO₂

emissions from fossil-fuel-fired EGUs, as authorized by the APCA. In other words, the Department was directed to use its existing statutory authority, the APCA, to implement this final-form rulemaking. The Executive Order was an indication from the Governor that addressing CO₂ emissions from the electricity sector is necessary. However, this final-form rulemaking is not being implemented under the Executive Order as it is being implemented under the APCA, specifically sections 5(a)(1) and 6.3(a).

Although most of the participating states were directed to participate in RGGI through specific legislation, that does not necessarily mean that their environmental agencies lacked regulatory authority. It is more of an indication of the willingness to address climate change in those states. Furthermore, as discussed previously, four of the Department's advisory committees voted to support the Department's recommendation to move this final-form rulemaking forward to the Board. This includes the three advisory committees, AQTAC, SBCAC and CAC, which had voted against supporting the proposed rulemaking.

3. This final-form rulemaking sufficiently protects public health, safety and welfare and this Commonwealth's natural resources.

IRRC notes that some commentators have provided suggestions for amending the regulation to provide further environmental protections. These suggestions include: modifying or eliminating set-aside allowances for certain industries; inclusion of data collection mechanisms to ensure emissions are not shifted to generation facilities that fall below the 25 MW threshold of this final-form rulemaking because the facilities could have a negative impact on environmental justice communities; and ensuring that imported power does not contribute to leakage. IRRC also encourages the Board to consider all the recommendations provided by commentators as a means of further protecting the public health, safety and welfare of citizens of this Commonwealth and its natural resources and meeting the goal of this final-form rulemaking.

The Board has considered all the recommendations provided by commentators as a means of further protecting the public health, safety and welfare of citizens of this Commonwealth and its natural resources and meeting the goal of this final-form rulemaking. The Board made the following changes to this final-form rulemaking in response to comments. The Board increases the value of the waste coal set-aside in response to comments received to account for the continued operation of one waste coal-fired unit and to better reflect the operation levels of the waste coal-fired units in this Commonwealth. The waste coal set-aside is increased from 9.3 million CO₂ allowances in the proposed rulemaking to 12.8 million CO₂ allowances in this final-form rulemaking.

The Board received extensive comments on the cogeneration set-aside and made changes in response to those comments. Additionally, commentators expressed the potential for unintended consequences in the form of emissions increases potentially by disincentivizing the operation of current cogeneration facilities and the addition of future facilities. The Board was asked to clarify what was meant by cogeneration and to expand the set-aside to cover the full emissions of facilities that meet certain emissions criteria. In response, the Board clarifies that its intent was to be inclusive of CHP units and as a result changed the name of the set-aside to clarify that it was not applicable to all cogeneration, but specifically to CHP units as defined in this final-form rulemaking. Addition-

ally, the Board responds to the request for an expanded set-aside by including two tiers for qualifying CHP units to apply for CO₂ allowances to be retired on their behalf.

Commentators also requested additional clarification on the functioning of the strategic use set-aside. In response, the Department clarifies the objectives for the set-aside, provided additional specifics on the types of qualifying projects and outlined the application process by which an entity could submit a project for consideration to the Department. The Board also received comments that the scope of the limited exemption from the applicability requirements was too narrow and that the term “manufacturing facility” should be replaced with “industrial, institutional or commercial” facility. The Board makes this change in this final-form rulemaking in response to comments.

There were concerns expressed during the comment period regarding the impact of cap and trade programs on environmental justice communities. Environmental justice and other stakeholders specifically requested that the Department closely monitor the impacts of this final-form rulemaking on air quality in this Commonwealth, particularly in environmental justice communities. In response, the Board adds a provision for an annual air quality impact assessment in this final-form rulemaking. In response to comments received both prior to and during the public comment period, the Department, in partnership with external stakeholders develops equity principles for this final-form rulemaking. Through the establishment of these principles and their implementation, the Department pledges to inclusively gather public input on the rule and mitigate any adverse impacts with a focus on environmental justice communities.

The Board received comments urging additional flexibility in terms of the implementation date for this final-form rulemaking. Some commentators requested that the Board consider a mid-year start date if January 1, 2022, is not possible to avoid a delay in implementation until January 1 of the following year. In response, the Board adds quarterly CO₂ allowance budgets for 2022 which identify the starting CO₂ allowance budget for the beginning of each quarter. These budgets are based on the starting CO₂ allowance budget of 78 million CO₂ allowances and allocated to each quarter based on the seasonal emissions distributions during the past 5 years. For example, rather than assigning a value of 25% to each quarter, the value for each quarter is calculated based on historic emissions. The Department relied on actual historic emissions from the past 5 years to properly assign a quarterly emissions value.

4. The Board has the statutory authority to promulgate this final-form rulemaking.

IRRC asks the Board to consider all of the arguments on both sides of the statutory authority issues and provide a point-by-point analysis of why this final-form rulemaking is within the statutory authority granted by the APCA and also consistent with the intent of the General Assembly when that statute was enacted.

The Board has provided a point-by-point analysis of its statutory authority and explained how this final-form rulemaking is consistent with the intent of the General Assembly under the subsection titled Authority to limit CO₂ emissions and to participate in RGGI through this final-form rulemaking. Specifically, the Board explained how section 5(a)(1) of the APCA provides the Board with broad authority to promulgate regulations for the “prevention, control, reduction and abatement of air pollu-

tion.” The Board also explained in that subsection how CO₂ is included in the definition of “air pollution” under section 3 of the APCA. Additionally, the Board explained how the auction proceeds are a fee authorized under section 6.3(a), and not an illegal tax as some commentators have claimed. Further, the Board addresses leakage concerns in detailed responses as follows.

Members of the General Assembly and others have argued that the Department is violating section 4(24) of the APCA (35 P.S. § 4004(24)) by not submitting the interstate air pollution control compact or agreement to the General Assembly. Section 4(24) of the APCA provides that the Department shall “[c]ooperate with the appropriate agencies of the United States or of other states or any interstate agencies with respect to the control, prevention, abatement and reduction of air pollution, and where appropriate formulate interstate air pollution control compacts or agreements for the submission thereof to the General Assembly.” However, as states do not sign any sort of agreement or compact to participate in RGGI, there is no agreement to submit to the General Assembly under section 4(24) of the APCA. Instead, the key piece to becoming a “participating state,” as the term is defined in this final-form rulemaking, is the establishment of a corresponding regulation as part of the CO₂ Budget Trading Program. While this final-form rulemaking provides for this Commonwealth’s participation in RGGI by establishing a corresponding regulation, it does not amount to an agreement or compact subject to legislative approval.

RGGI is also not an interstate air pollution control compact. Instead it is a regional initiative, where participating states develop regulations that are capable of linking with similar regulations in other states. States may withdraw from participation at any time. A state may participate in RGGI once it meets the definition of a “participating state,” meaning the state has promulgated a regulation consistent with the RGGI Model Rule and has executed a service contract with RGGI, Inc.

Moreover, the APCA does not require the Board to hold “in-person” public hearings. Section 7(a) of the APCA states “[p]ublic hearings shall be held by the board or by the department, acting on behalf and at the direction or request of the board, in any region of the Commonwealth affected before any rules or regulations with regard to the control, abatement, prevention or reduction of air pollution are adopted for that region or subregion.” The commentators and legislators seem to be interpreting the phrase “in any region of the Commonwealth affected” in section 7(a) as creating a requirement for “in-person” public hearings. The Board disagrees with this interpretation and contends that the intent of the statutory language is to ensure that a public hearing is held in a location that is actually impacted by a regulation. For instance, section 7(a) would prevent the Board from holding one public hearing in Harrisburg for a regulation that only impacts the Northwest region. For this final-form rulemaking, the Board satisfied the public hearing requirement in section 7(a) of the APCA by holding ten well-attended virtual public hearings. As this final-form rulemaking impacts the entire Commonwealth, the virtual public hearings were accessible Statewide.

5. This final-form rulemaking is consistent with the intent of the General Assembly.

IRRC questions whether the regulation is consistent with the intent of the General Assembly. The commentator notes that the current balance of the Clean Air Fund is approximately \$26 million dollars and that the Depart-

ment anticipates that this final-form rulemaking will raise over \$2 billion dollars between 2022 and 2030. IRRC is concerned that the General Assembly did not contemplate or envision the Clean Air Fund growing to that amount and that it could be spent at the discretion of the Secretary under the guidance provided by a regulation (Chapter 143) promulgated over 40 years ago. IRRC asks the Board to explain how this process of collecting proceeds and distributing funds of this magnitude is consistent with the intent of the General Assembly when the APCA was enacted.

As the Board explained under the subsection titled Authority to limit CO₂ emissions and to participate in RGGI through this final-form rulemaking, this final-form rulemaking is consistent with the intent of the General Assembly. The Board is acting within the existing statutory authority granted by the General Assembly. Section 6.3(a) of the APCA provides the Board with broad authority to establish fees to support the air pollution control program authorized by the APCA and not covered by fees required by section 502(b) of the CAA. As provided under section 9.2(a) of the APCA, all auction proceeds will be used to support the elimination of air pollution and in furtherance of the purpose of the APCA. While the auction proceeds may appear to be significant, the fee amounts are necessary to further achieve through investments the GHG emission reductions needed to address climate change and protect public health and welfare.

IRRC notes that many of the commentators that support this final-form rulemaking provided suggestions on how the auction proceeds could be allocated. Some of the suggestions would appear to be outside of the parameters established by Chapter 143. IRRC agrees with comments submitted by the Pennsylvania Office of Consumer Advocate that suggest the Department should “seek further authority” to allow for a broader use of the auction proceeds. Alternatively, IRRC suggests that the Department could initiate a rulemaking to amend existing Chapter 143 to allow for a broader use of the proceeds.

In response, the Board and the Department are not planning on seeking further authority for the use of the auction proceeds as the authority provided under section 9.2(a) of the APCA is quite broad. Section 9.2(a) allows the Department to use fees to further eliminate air pollution in this Commonwealth. As required under section 9.2(a) of the APCA, the Board adopted Chapter 143 to further provide for the management and use of the money in the Clean Air Fund. Section 143.1(a) states that “[m]onies paid into the Clean Air Fund may be disbursed at the discretion of the Secretary for use in the elimination of air pollution.” See 25 Pa. Code § 143.1(a). Under § 143.1(b), the “full and normal range of activities” of the Department are considered to contribute to the elimination of air pollution. Section 143.1(b) also includes a nonexclusive list of purposes that the Clean Air Fund monies can be used for, including the purchase of contractual services and payment of the costs of a public project necessary to abate air pollution. Section 143.1(b) therefore specifically provides for the Department to both use the auction proceeds to invest in projects that further reduce GHG emissions and to contract with RGGI, Inc. for administrative and technical support services. For these reasons, the Board and the Department do not find it necessary to seek further authority or to initiate a rulemaking to amend Chapter 143. However, if the General Assembly enacts legislation that extends the Department’s authority to use the auction proceeds, the Department would be able to further assist transitioning workers and environmental justice communities.

6. Need for this final-form rulemaking; economic or fiscal impact.

IRRC questions whether the regulation is needed and asks the Board to address the economic and fiscal impact. IRRC notes that questions raised about the need for this final-form rulemaking are numerous but revolve around two main issues. The first, as noted by the Senate ERE Committee, is the fact that CO₂ emissions from fossil fuel power generation in this Commonwealth have been reduced by 38% since 2008. This reduction trend is likely to continue because of the price of natural gas and the development of renewable energy. Second, this final-form rulemaking will push the generation of electricity to states like West Virginia and Ohio that do not participate in RGGI. If these states increase their production of fossil fuel-generated electricity, as predicted by some commentators, the overall health benefits to this region of the country, and this Commonwealth specifically, will be minimal and come at a steep economic cost.

This final-form rulemaking is needed to reduce CO₂ emissions in this Commonwealth. This Commonwealth has established Statewide goals to reduce GHG emissions economy-wide by 26% by 2025 and 80% by 2050 in comparison to 2005 levels. While this Commonwealth has achieved reductions from all sectors, including the power sector, more is needed to meet these goals, set to avoid the worst impacts of climate change. This Commonwealth’s participation in RGGI would provide significant assurance that prudent investments of the auction proceeds coupled with other GHG abatement activities will allow this Commonwealth to remain on track to reach the 2025 reduction goal. Without the reductions associated with the implementation of this final-form rulemaking, this Commonwealth will fail to reach even the interim GHG reduction goal established for this Commonwealth.

While emissions from the generation sector have decreased since 2008, the current trajectory of emissions reductions in the power sector is not sustainable. There are few remaining coal-fired EGUs, which based on updated modeling are anticipated to cease most, if not all, generation by 2025. The air emissions gains that were realized through fuel switching (coal to natural gas) and replacing aging coal-fired facilities with new natural gas plants have mostly occurred. Moving forward a new approach is needed to achieve further reductions. Historic trends provide no guarantee of what the emissions profile for this Commonwealth’s electricity sector will look like in the future. For example, electricity generation is very sensitive to the costs of inputs, the major input of which is fuel. As this Commonwealth has seen over the last year, the COVID-19 pandemic led to an increase in natural gas prices, in turn generating electricity with natural gas became more expensive and in response production of electricity using coal as an input increased. In turn this led to an increase in emissions in this Commonwealth. Even though demand for electricity decreased, the method and fuel from which that electricity was created was more energy-intensive and emissions-intensive, leading to increased emissions even when the overall demand for electricity had decreased. The energy market is very dynamic, and historic emissions trends and profiles are not indicative of future trends, not without concrete targets and goals regarding emissions reductions. RGGI is a proven market-based program, and one that recognizes that CO₂ emissions from fossil fuel-fired EGUs exist, and the cost of this pollution should be factored into the price of that electricity. This allows this Commonwealth to value the real cost of electricity generation when the cost of these emissions is factored in

and helps position this Commonwealth to remain competitive in an ever-evolving energy market where clean energy is highly valued both in this Commonwealth and in the other states to which the Commonwealth exports electricity.

The Department's power sector modeling indicates a potential for emissions and generation leakage, meaning that some of the emissions decrease in this Commonwealth, tied to decreased generation in this Commonwealth, may be made up for by increased generation in other states across the region. This shift most often occurs between states that have implemented carbon pricing programs (like RGGI) and those states that do not have carbon pricing. The modeling indicates that this Commonwealth's participation in RGGI could lead to between 97 million and 227 million tons of CO₂ reductions between 2022 and 2030. These emissions reductions are going to occur in this Commonwealth and are not tied to or dependent on actions by other surrounding states. When this Commonwealth implements this final-form rulemaking, significant CO₂ emissions reductions occur within this Commonwealth. Tied to these significant emissions reductions are the resulting health impacts. The Department calculates that if 188 million tons of CO₂ are avoided through 2030 then this Commonwealth's residents would see cumulative health benefits amounting to \$2.79—\$6.3 billion. Penn State University's study projected even higher health benefits, on the order of \$1—\$4 billion per year over the initial decade of this Commonwealth's RGGI participation, specifically noting the conservative nature of the Department's calculations. These health benefits accrue within this Commonwealth as a result of this regulation, and again are not tied to decisions by outside actors.

Where leakage becomes a consideration is when the focus on emissions reductions is outside of this Commonwealth and across a broader region, for example, the PJM Interconnection, the regional transmission organization consisting of parts of 13 states and the District of Columbia. The potential for an evaluation of leakage has been a focus of PJM since the creation of RGGI as PJM has some member states that participate in RGGI (have a carbon price) and some that do not (have no carbon price). To more thoroughly study the potential for leakage and the magnitude of that leakage, PJM created the CPSTF. The CPSTF, in which the Department has been an active participant, has examined the impacts of both the recent entry of Virginia into RGGI and also the potential impacts of this Commonwealth's participation in RGGI. PJM's independent power sector modeling came to the same conclusions as the Department's modeling, that though there was some potential for leakage, this did not undermine the significant emissions reduction potential within this Commonwealth, nor did it undermine emissions benefits across the PJM region. See PJM Interconnection, Issue Charge of the Carbon Pricing Senior Task Force, 2019, www.pjm.com/-/media/committees-groups/task-forces/cpstf/postings/issue-charge.ashx?la=en. Even with the potential for leakage, PJM determined that, in addition to significant benefits within this Commonwealth, there was a net benefit across the PJM region as well. When this is extrapolated further to the Eastern Interconnection, there continues to be a net benefit, the value of which decreases as the lens through which the reductions are viewed becomes wider.

In addition to the modeling conducted by the Department and PJM, the report by the Penn State University Center for Energy Law and Policy also addresses leakage. Their associated modeling confirms the potential for

leakage, and bolsters results from PJM and the Department in confirming that despite leakage, CO₂ emissions in the multi-state PJM region decline following this Commonwealth participating in RGGI. Though some emissions may shift to other states, the potential increases in other states' emissions do not absorb the emissions reductions occurring in this Commonwealth. This Commonwealth's EGUs with close proximity to abundant and inexpensive natural gas have a competitive advantage over similar operations in other states. While some other states may experience some increased emissions, again any increase in emissions in the region is out-measured by the decrease in this Commonwealth, thereby resulting in net benefits across the region. Additionally, these leakage estimates and models are based on current and predicted market conditions based on existing laws and policies, exclusive of any further regional or National action on carbon pricing which would minimize or entirely eliminate the potential for leakage.

The Department compiled a Pennsylvania RGGI Modeling Report which provides a detailed explanation of modeling processes, assumptions, inputs and outputs to provide a broad understanding of the results. This summary report and all the modeling results and recordings of the public webinars providing further explanation of key results are available on the Department's RGGI webpage located at https://files.dep.state.pa.us/Air/AirQuality/AQPortalFiles/RGGI/PA_RGGI_Modeling_Report.pdf.

IRRC agrees that the goal of reducing GHGs through RGGI and this final-form rulemaking is laudable. However, IRRC mentions that the declining emissions from fossil fuel-fired EGUs that has occurred over recent years without participation in RGGI and the leakage that will occur if this Commonwealth does join RGGI raises the question of whether this final-form rulemaking and its potential benefits are needed compared to the potential negative fiscal impact that is predicted by the Committees, certain legislators and some members of the regulated community. To assist IRRC in determining if this final-form rulemaking is in the public interest, IRRC asks the Board to explain why the benefits of this final-form rulemaking outweigh the costs associated with its implementation.

The benefits of this final-form rulemaking far exceed any associated costs. According to the Department's 2021 Pennsylvania Climate Impacts Assessment, climate change is already having a negative impact on this Commonwealth with wide-ranging economic impacts, from disruptions to recreation and tourism to agriculture and infrastructure service disruptions. Furthermore, climate change will not affect all residents of this Commonwealth equally. Some may be more at risk because of their location, income, housing, health or other factors. As this Commonwealth works to reduce its climate risks, steps should be taken to ensure that these inequitable impacts are addressed and that efforts to address climate change do not inadvertently exacerbate inequities. The harm is already being felt by this Commonwealth's most vulnerable residents, and the Commonwealth must not delay implementation as this final-form rulemaking is clearly in the public interest. As mentioned previously, failure to implement this final-form rulemaking, or even a delay in implementation will cause this Commonwealth to miss its 2025 interim GHG reduction goal with concerns regarding the trajectory toward meeting the 2050 goal.

As CO₂ budget sources would need one allowance for each ton of CO₂ emitted, the owners or operators would

need to acquire 61 million CO₂ allowances at the estimated 2022 allowance price of \$3.24 (2017 \$/ton). If these CO₂ allowances were all purchased at quarterly multistate auctions in 2022, the total purchase cost would be \$198 million. The CO₂ budget sources would then most likely incorporate this compliance cost into their offer price for electricity. The price of electricity is then passed onto electric consumers. However, that does not mean that \$198 million will be passed on to this Commonwealth's electric consumers as 25% of this Commonwealth's electricity is sold out of State.

Even if assuming the \$198 million is the annual price tag of the program, which as explained previously is an over estimation, the resulting public health benefits alone are estimated to be higher at \$232—\$525 million annually. The value of partial benefits already exceeds the cost of the program, and this does not account for the total environmental, health and economic benefits of CO₂ reductions, nor does it include the benefits of the reinvestment of the quarterly auction proceeds, a major economic driver.

The independent Penn State University study also confirms that the climate benefits for this Commonwealth exceed the monetary costs of participation in RGGI. Penn State University's analysis projected even higher health benefits, on the order of \$1—\$4 billion per year over the initial decade of this Commonwealth's RGGI participation, specifically noting the conservative nature of the Department's calculations. Looking at the benefits even through the narrow lens of health benefits, the benefits exceed the costs, with additional benefits accruing from the reinvestment of the auction proceeds. This is consistent with the actual results of participation for the existing participating states over the last decade.

7. This final-form rulemaking is supported by acceptable data.

IRRC questions whether the regulation is supported by acceptable data. IRRC also notes that commentators have raised concerns about the modeling employed by the Board to quantify the economic and health benefits of this final-form rulemaking. They question if the data considered is acceptable and appropriate. First and foremost, commentators are concerned that the underlying assumptions and data used for the modeling have not been made available to the public. IRRC urges the Board to share the underlying assumptions and data used for its modeling and address the following issues to demonstrate the validity of the data upon which the regulation is based:

a) Emissions reductions in the Commonwealth have been overstated because of leakage; therefore, the monetized health benefits are also overstated.

b) The modeling compares cumulative data for the time from 2019—2030, but the Commonwealth will not join RGGI until 2022.

c) The model uses an estimate of future natural gas prices which could be much lower than predicted.

d) The model does not account for new natural gas generation, but it does account for new renewable generation.

e) The modeling was conducted before New Jersey and Virginia joined RGGI.

f) The actual cost of buying an allowance will be higher than projected.

g) The modeling fails to account for the economic downturn related to the COVID-19 pandemic.

h) The model fails to account for the expansion of other Federal and State regulations and initiatives that impact the production and distribution of electricity.

In response, the Department has been transparent in terms of the modeling and the inputs and assumptions that went into the modeling, both for the original 2020 modeling and the updated 2021 modeling runs as well. The underlying data and assumptions are sound, and the Department's modeling aligns with the real-world benefits that have accrued to the RGGI participating states. Modeling results, assumptions and raw data have been made available to the public through the Department's web site in several areas and has been presented and discussed with thousands of stakeholders through the course of this final-form rulemaking. The Department has also held individual meetings with stakeholders and the modeling contractor when requested to make sure that all questions and inquiries regarding the modeling were thoroughly answered. The modeling information posted to the Department's web site consists of comprehensive spreadsheets containing all the assumptions and raw data upon which the Department's analyses and conclusions were based.

The Department also compiled a Pennsylvania RGGI Modeling Report which provides a detailed explanation of modeling processes, assumptions, inputs and outputs to provide a broad understanding of the results. This summary report, all the modeling results and recordings of the public webinars providing further explanation of key results are available on the Department's RGGI webpage located at www.dep.pa.gov/RGGI.

The Board addresses the issues noted by IRRC and other commentators individually as follows in a)—h) to demonstrate the validity of the data upon which this final-form rulemaking is based.

a) In response, the modeling indicates that this Commonwealth's participation in RGGI could lead to between 97 million and 227 million tons of CO₂ reductions between 2022 and 2030. The Department's modeling indicates what emissions reductions will occur in this Commonwealth. These are not based on regional benefits, but State benefits alone. When this Commonwealth implements this final-form rulemaking, significant CO₂ emissions reductions occur within this Commonwealth. Tied to these significant emissions reductions are the resulting health impacts. The Department calculated that if 188 million tons of CO₂ are avoided through 2030 then residents in this Commonwealth would see cumulative health benefits amounting to \$2.79—\$6.3 billion. Penn State University's study projected even higher health benefits, on the order of \$1—\$4 billion per year over the initial decade of this Commonwealth's RGGI participation, specifically noting the conservative nature of the Department's calculations. These health benefits accrue within this Commonwealth as a result of implementation of this final-form rulemaking, and if anything, the Department's health benefits are understated.

b) In response, when evaluating the impacts of RGGI participation on the power sector, there are two separate modeling runs or scenarios. The first scenario, the Reference Case or Business-as-Usual Case projects what this Commonwealth's power sector will look like in the future without this Commonwealth's participation in RGGI, and the Policy Case or the RGGI case projects what this Commonwealth's power sector will look like with RGGI participation. These two modeling cases are then compared to help project the impacts of RGGI participation on electric transmission and generation and electric sec-

tor emissions, among others in this Commonwealth. When this modeling was first completed in 2020 for the proposed rulemaking, the most recent year of available data was 2019. Therefore, the 2019 data was included in the 2020 round of modeling. While the time period for the IPM analysis was 2019 through 2030, the modeling specifically provided projections for 2020, 2022, 2025, 2028 and 2030. When the modeling was updated in early 2021 for this final-form rulemaking, the most recent year of available data was 2020. Therefore, the 2020 data was included in the 2021 round of modeling and as such the time period for the updated IPM analysis was 2020 through 2030.

The time period for the IPM analysis includes years prior to the implementation of this final-form rulemaking for two reasons. First, as stated, the only available data for each round of modeling was either 2019 or 2020. Second, the Policy Case assumes this final-form rulemaking will be in effect in 2022, so the modeling needs to account for certain assumptions, for example legal or policy requirements that are projected to change, in years before 2022. This accounts for any differences between the Reference Case and the Policy Case in years prior to 2022. Lastly, these assumptions are not only a factor in the Department's modeling, but can also be seen by the functioning of the actual energy market. For example, on March 13, 2020, Energy Harbor, the owner of the Beaver Valley nuclear power plant, responsible for 1,845 MW of carbon-free generation, withdrew its closure announcement, specifically citing this Commonwealth's intended participation in RGGI as a key determinant in continuing operations.

c) In response, the modeling includes natural gas prices that are the average of the Annual Energy Outlook (AEO) Reference Case and the High Gas Resources Case which are published annually by the EIA. The AEO Reference Case is used as a starting point, and then averaged with the High Gas Resources Case because of this Commonwealth's location within the shale region. This hybrid method is used because neither the AEO Reference Case nor the AEO High Gas Resources Case are singularly representative of gas prices in this Commonwealth. Averaged together, the two cases provide as accurate a forecast as possible for modeling purposes. However, the Board notes that these are forecasted prices and there is a possibility that future prices could vary.

d) In response, the modeling accounts for all available data for new generation within this Commonwealth and the surrounding states despite the fuel source. The specific list of projects that were included as firm capacity additions for this Commonwealth is included in the publicly available modeling results on the "Assumptions Overview- Firm Capacity Changes in PA" tab on the Department's RGGI webpage located at www.dep.pa.gov/RGGI. In the 2020 power sector modeling, the Department included 3,131 MW of new natural gas-combined cycle capacity and 251 MW of new solar-generation capacity.

e) In response, in the Reference Case for the modeling, RGGI was modeled as an 11-state program, including the 9 states participating in RGGI at the end of 2019—Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New York, Rhode Island and Vermont. Additionally, New Jersey and Virginia were included in the modeling as projected to begin participation on January 1, 2020, and January 1, 2021, respectively. In particular, the starting CO₂ allowance budget for New Jersey was input at 18 million short tons, and the starting CO₂

allowance budget for Virginia was input at 27.16 million short tons. The IPM Policy Case uses similar assumptions as the Reference Case with the key difference being that it assumes that this Commonwealth will begin participation in RGGI on January 1, 2022.

f) In response, the RGGI auction clearing prices in late 2020 and early 2021 had a higher price compared to the projected CO₂ allowance prices in the Department's 2020 modeling. The difference between projected CO₂ allowance prices and actual CO₂ allowance prices can be due to a number of factors, including the end of the RGGI 3-year control period, the change of the Federal administration and the fact that Virginia began participating in RGGI at the start of 2021, among others. The IPM model generates a CO₂ allowance price based on actual market fundamentals, including the projected supply and demand of CO₂ allowances during the modeling period. However, the model does not take into account behavioral considerations that impact auction bidder behavior and expectations. Bidder expectations can influence the CO₂ allowance price, and therefore lead to a difference from the projected CO₂ allowance price.

g) In response, the Board and the Department received comments and feedback on the power sector modeling through our extensive advisory committee meetings, webinars, public hearings and the formal public comment period. Understanding the concerns that were raised, the Department conducted a second round of modeling to ensure that the modeling was as up to date as possible, specifically to confirm that the starting CO₂ allowance budget for 2022 and other components of this final-form rulemaking were still appropriate. In February of 2021, the Department updated the power sector modeling assumptions and inputs previously included in the 2020 round of modeling. These assumptions and inputs include the following: updated PJM electricity demand forecast, 2021 AEO Natural Gas Prices, updated capacity additions and retirements, updated technology costs and revisions to State law and policies which encompasses the new in-State generation requirement for Tier II resources under the Alternative Energy Portfolio Standards Act (73 P.S. §§ 1648.1—1648.9).

Most notably, the main difference in the modeling assumptions between 2020 and 2021 was the demand forecast for electricity. As a direct impact of the COVID-19 pandemic, the projections for the future demand of electricity are below the 2020 projections made prior to the onset of the pandemic. In sum, while the original 2020 modeling did not account for the impacts of the COVID-19 pandemic, the updated 2021 modeling conducted for this final-form rulemaking includes those impacts.

h) In response, the IPM model properly takes into account the expansion of other Federal and State regulations and initiatives that impact the production and distribution of electricity. IPM is a dynamic linear programming model that generates optimal decisions under the assumption of perfect foresight. It determines the least-cost method of meeting energy and peak-demand requirements over a specified period. In its solution, the model considers several key operating or regulatory constraints that are placed on the power, emissions and fuel markets. The constraints include, but are not limited to, emission limits, transmission capabilities, renewable generation requirements and fuel market constraints. The model is designed to accommodate complex treatment of emission regulations involving trading, banking and special provisions affecting emission allowances, as well as

traditional command-and-control emission policies. The specific Federal and State laws and policies that are included in the modeling runs are outlined on the “Assumptions Overview” tab in the Department’s RGGI webpage located at www.dep.pa.gov/RGGI, the very first tab located in each of the modeling results files.

8. This final-form rulemaking will not have a negative economic or fiscal impact to this Commonwealth.

IRRC notes that there is no consensus on how this final-form rulemaking will affect the economy of this Commonwealth. IRRC asks the Board to review the concerns of those commentators that have raised issues related to the effect on the economy and provide updated and revised information in the Regulatory Analysis Form (RAF) related to the potential economic and fiscal impact of this final-form rulemaking. In particular, commentators believe that the requirement to purchase allowances by coal and older natural gas-fired EGUs will result in those units becoming uneconomical to operate. As a result, these EGUs will close, impacting the coal mining industry of this Commonwealth and hundreds of small businesses and labor unions that support those industries. Another concern is that the price of electricity will increase. The price that electric utilities pay for electricity from fossil fuel-fired generators will increase and the additional cost will be passed on to residential, commercial and industrial rate payers. Low-income residents and those economically affected by the COVID-19 pandemic, small businesses and large industrial users will be impacted. Large industrial users of electricity may base a decision to locate or relocate a business based on the price of electricity in this Commonwealth. Additionally, IRRC mentions that commentators also note that local governments where the coal-related industries and small businesses operate will be negatively impacted because of the tax loss that will result from this final-form rulemaking. One commentator has stated that the fiscal impact of this final-form rulemaking will be the loss of over 8,000 jobs, the loss of \$2.82 billion in total economic impact, the loss of \$539 million in employee compensation and the loss of \$34.2 million in State and local tax revenue. However, other commentators believe any potential economic disruption caused by this final-form rulemaking will be negligible because of growth of other segments of the economy.

In response, the Department’s updated 2021 modeling shows that most if not all the coal-fired generation in this Commonwealth, except for waste coal-fired facilities, will cease generation by 2025. These are the results of the Business-as-Usual or Reference case which does not take into consideration the impacts of this Commonwealth’s participation in RGGI on the power sector. Notably, this is a divergence from the results of the Business-as-Usual or Reference case from the 2020 modeling which had projected that coal generation was expected to cease by 2030, though this Commonwealth’s participation in RGGI and the associated CO₂ allowance price were previously shown to accelerate these retirements to some extent.

As explained in detail in prior responses, the Department’s economic modeling shows that this Commonwealth’s participation in RGGI will lead to a net increase of more than 30,000 jobs and an addition of \$1.9 billion to the Gross State Product, a measurement of the value of the State’s economy, indicating economic growth. The Department’s modeling incorporates any impacts to economic activity, divestment and loss of tax base that would occur as a result of this final-form rulemaking. Further,

the Department’s modeling projects this Commonwealth will continue to have lower electricity prices than nearly all of the participating states from 2022 through 2030, demonstrating the continued advantage of operating a business in this Commonwealth relative to nearby states.

Additionally, Penn State University’s study confirms the economic benefits accruing as a result of this Commonwealth’s participation in RGGI and suggests positive economic impacts beyond even those calculated by the Department. Penn State University indicates that between 2022 and 2030, this Commonwealth’s participation in RGGI will yield \$2.6 billion in net economic benefit to this Commonwealth. These have also been the results reported by the participating states and summarized in the RGGI review conducted by the Analysis Group.

In an independent and nonpartisan evaluation of the first three control periods in RGGI, the Analysis Group, one of the largest economic consulting firms globally, found that the participating states experienced economic benefits in all three control periods while reducing CO₂ emissions. The participating states added between \$1.3 billion and \$1.6 billion in net economic value during each of the three control periods. The participating states also showed growth in economic output, increased jobs and reduced long-run wholesale electricity costs. In sum, RGGI has helped the participating states create jobs, save money for consumers and improve public health while reducing power sector emissions and transitioning to a cleaner electric grid.

The Board agrees with other commentators that any potential economic disruption caused by this final-form rulemaking will be negligible because of growth of other segments of the economy.

9. This final-form rulemaking complies with the provisions of the RRA.

IRRC requests additional information and more complete answers to the following sections of the RAF, in addition to the more thorough analysis regarding potential fiscal or economic impact requested. First, section 17 of the RAF asks an agency to identify the financial, economic and social impact of the regulation on individuals, small businesses, businesses and labor organizations and other public and private organizations. It also asks an agency to evaluate the benefits expected as a result of the regulation. The Board provides a detailed explanation of the expected environmental, health and economic benefits of the regulation for society as a whole. It also provides a dollar estimate of the potential cost to residential customers in terms of monthly electricity bills. However, the explanation does not provide a similar estimate for small businesses and other businesses. IRRC asks the Board to provide that information in the RAF submitted with this final-form rulemaking. Second, section 19 of the RAF asks an agency to estimate any costs or savings to the regulated community associated with legal, accounting or consulting procedures. IRRC asks the Board to estimate the cost associated with an owner or operator having an account representative required to participate in allowance auctions under RGGI.

In response, the Board added supplementary information to the responses to sections 17 and 19 of the RAF. The Board particularly added more detail regarding the estimates for small businesses and other businesses. Additionally, potential costs and savings to the regulated community are discussed in more detail in the RAF, including the estimated cost associated with an owner or operator having an account representative required to participate in the multistate auctions under RGGI.

10. This final-form rulemaking will not negatively impact small businesses and provisions have been made to assist small business stationary sources with compliance.

IRRC questions whether a less costly or less intrusive alternative method of achieving the goal of the regulation has been considered for the regulation impacting small businesses. IRRC asks the Board to consider the following options, and if it decides to proceed with this final-form rulemaking, provide an explanation of why these alternatives are not appropriate. First suggestion is do nothing: A comment letter signed by 40 Representatives of the General Assembly states that the current regulatory environment and existing market forces have already significantly reduced CO₂ emissions in this Commonwealth. The “status quo is a far less costly and intrusive method than RGGI at achieving tremendous reductions in carbon emissions.” Second, the letter states the Department could achieve its objective with a “gradually declining CO₂ emissions budget without the exorbitant costs proposed by this submission.” This could be accomplished by calculating a price to auction emissions that would cover the cost needed to administer RGGI.

As mentioned in the Board’s prior responses, status quo will not achieve the emissions reductions needed to protect public health and the environment, nor are current measures adequate to address climate change. The Department’s modeling effort as mentioned previously included two separate modeling runs, the first of which is (a) the reference case which reflects business-as-usual with no regulatory or policy changes, and (b) the policy case which is reflective of the impacts of this final-form rulemaking. In comparing these modeling scenarios, without this final-form rulemaking in place, this Commonwealth will emit 97–227 million tons of CO₂ more than with the implementation of this final-form rulemaking. Additionally, residents of this Commonwealth will not benefit from improved air quality or realize the economic, job impacts or health benefits that result from this final-form rulemaking.

Furthermore, rather than benefitting from implementation of this final-form rulemaking, there will be a deleterious impact on the environment, health and the economy without this meaningful and decisive action. Business-as-usual or status quo does not address climate change in a meaningful way. While there may be emissions reductions in the future, they do not occur at the rate or level at which is required to avoid the worst impacts of climate change. Additionally, as a Commonwealth we will not be capable of honoring our commitment to address climate change and will fall short of meeting the interim 2025 GHG reduction goal.

Part of what makes RGGI economically efficient is that it is a regional program, allowing for EGUs to achieve least-cost compliance by buying and selling CO₂ allowances whether in multistate auctions or in the secondary market. CO₂ allowances are fungible, meaning that though this Commonwealth has an established CO₂ allowance budget for each year, this Commonwealth’s CO₂ allowances are available to meet the compliance obligations in any other participating state and vice versa. Therefore, emissions from this Commonwealth’s power sector are not limited strictly to the amount of this Commonwealth’s CO₂ allowances. This cooperation allows EGUs more flexibility in terms of compliance and allows the market to signal entrance and exit of generation. In this respect, the market assists in achieving least-cost compliance for all participating states. Furthermore, stra-

tegic investments of the auction proceeds within this Commonwealth reduce GHG emissions even further than this Commonwealth’s annual CO₂ allowance budget alone.

11. Implementation procedures for the set-aside provisions and limited exemption.

IRRC asks the Board to respond to technical comments for and against the set-aside provisions and comments requesting full exemptions instead of set-asides. Additionally, IRRC asks the Board to respond to technical comments suggesting ways to improve the implementation of the set-asides and exemptions.

Each state has the authority and discretion as to how CO₂ allowances are treated which is memorialized in each state’s CO₂ Budget Trading Program regulation. Allocation of the CO₂ allowances is just one mechanism through which states further public policy goals. For example, each state must decide how to make the CO₂ allowances available. In addition to states offering CO₂ allowances for sale through the multistate auctions, most participating states also opt to have set-aside accounts. These states specifically carve out or “set aside” a portion of the state’s CO₂ allowance budget to assist certain sectors with part or all of their compliance obligations or allow other sectors to monetize the CO₂ allowances for further investment.

In this final-form rulemaking, the Board provides three set-aside options, which are discussed in detail in this preamble. First, the Board is setting aside CO₂ allowances to assist this Commonwealth’s waste coal-generation sector with compliance with this final-form rulemaking. While waste coal facilities are not exempt from this final-form rulemaking, the Department will oversee the sector’s compliance using CO₂ allowances that have specifically been carved out or “set aside” for this purpose. In other words, the compliance costs for waste coal-fired EGUs will be minimal.

At the beginning of each compliance year, the Department will set-aside CO₂ allowances for the waste coal facilities, thereby eliminating the need for the facilities to purchase these allowances in either the multistate auctions or on the secondary market. The waste coal set-aside is equal to 12.8 million tons of CO₂ emissions, an increase from the 9.3 million as outlined in the proposed rulemaking, in response to comments received during the public comment period. Some commentators requested an increase in the set-aside allocation to allow for future expansion of the waste coal industry, while others requested that the set-aside allocation be reduced or completely eliminated. In response, the Department slightly increases the value of the set-aside to account for a facility previously marked for closure that will now remain in operation and to better reflect the operation levels of the waste coal-fired units in this Commonwealth.

Much like the comments received on the waste coal set-aside, the Board received comments asking for both the expansion and elimination of the cogeneration (now CHP) set-aside. Furthermore, commentators asked for clarification as to what facilities would qualify for the set-aside and how those calculations would be performed. In response to comments, the Board changes the name and description of the set-aside to clarify that the specific type of cogeneration facilities the set-aside covers are CHP facilities.

Some commentators requested the elimination of the CHP set-aside, indicating the anti-competitive nature of this set-aside. In response, the Board notes that facilities

that would qualify for this set-aside are not strictly electricity producers in the plainest sense, but have onsite generation that is feeding an interconnected facility. In other words, while these facilities do have some electricity that is sold to the grid, that is not the key focus of their business model nor is the amount of electricity sold to the grid in a volume that allocation of CO₂ allowances would create an anti-competitive environment.

Comments were also made requesting that the Board expand the value of the CHP set-aside to account not only for a portion of the qualifying facility's compliance obligation, but to account for all of a qualifying facility's compliance obligation. Commentators indicated that without a full set-aside the Department may be creating a disincentive for existing CHP facilities to operate efficiently and a potential disincentive for the future buildout of additional CHP facilities. The commentators emphasized that this runs counter to the recommendations outlined in the Department's Climate Action Plan and the PUC's Policy Statement on Combined Heat and Power. Commentators indicated that any disincentive for these facilities to operate at anything but peak efficiency was undermining the environmental benefits of CHP and may lead to other facilities with higher emissions intensity generating the lost electricity.

In response, the Board includes a two-tier approach to the CHP set-aside whereby facilities meeting strict efficiency criteria may be eligible for a full set-aside, while other qualifying CHP facilities that do not meet those criteria may qualify for the partial set-aside. This allows for efficient operation of existing CHP facilities and does not interfere with the potential for future buildout of CHP in this Commonwealth.

The Board received comments asking that rather than depositing undistributed CO₂ allowances from the waste coal set-aside account into the strategic use set-aside account, that the strategic use set-aside account have its own independent CO₂ allowance allocation. In response, the Board notes that the Department has the flexibility in future years to deposit CO₂ allowances into the strategic use set-aside if the undistributed CO₂ allowances are not sufficient to support activity in this set-aside account. Because the Department has this flexibility already, the Board decided to maintain the allowance allocation structure as proposed.

Furthermore, comments were received asking that the Board add a new set-aside or modify the strategic use set-aside to develop a Voluntary Renewable Energy Set-aside akin to those established by a few of the participating states. In response, the Board elects to keep the strategic use set-aside as proposed, with some clarifications to explain that renewable and other nonemitting energy technologies would qualify for allocation of allowances under the strategic use set-aside. Rather than restrict the types of projects that would qualify for allowances, the Board elects to keep the broader, more inclusive nature of the strategic use set-aside.

The Board also received comments requesting that the process by which applicants could apply for allowance allocations be more clearly outlined in the regulation. The Board responded with modifications to the regulation clearly outlining the set-aside application process and requirements. An additional requirement was added clarifying that CO₂ allowances are distributed upon the completion of a project which is not legally required. Projects that are completed for compliance purposes or as the result of settlements do not qualify for an allocation of allowances under the strategic use set-aside account.

IRRC asks the Board to consider delaying the implementation of this final-form rulemaking for 1 year. IRRC suggests that this additional time would allow the regulated community an opportunity to adjust their business plans to account for the potential increased costs associated with this Commonwealth joining RGGI.

The Board understands the concerns expressed by IRRC and other commentators, however, this Commonwealth cannot wait any longer to address CO₂ emissions from fossil fuel-fired EGUs. On October 3, 2019, it was announced that the Department was going to begin this final-form rulemaking process, which provided more than 2 years' notice to the regulated community of the forthcoming regulation. As has been stated previously, further delay would compromise this Commonwealth's ability to meet the GHG emissions reductions goals, and cause harm to public health and the environment which the Department is responsible for protecting under the APCA. Furthermore, due to the nature of compliance in the RGGI program, the first real compliance deadline occurs more than a year after the anticipated January 1, 2022, start date, further extending the compliance horizon for covered facilities.

RGGI operates on a 3-year compliance schedule whereby only partial compliance is required within the first 2 years, and then full compliance is required after the end of the third year. The current RGGI 3-year compliance period began in 2021, so 2021 and 2022 are interim compliance years while 2023 is a full compliance year. What this means is that facilities only need to acquire 50% of the necessary CO₂ allowances during the interim compliance years, but need to hold 100% of CO₂ allowances for the entire 3-year control period by March 1 of the following year.

For example, while January 1, 2022, or the first day of the next calendar quarter following publication is the date upon which the CO₂ requirements begin for this Commonwealth, the first compliance deadline is not until more than a year later on March 1, 2023, with full compliance not required until March 1, 2024, providing ample time to comply.

12. Provisions of this final-form rulemaking are amended for clarity.

IRRC says the applicability provision under § 145.304 is unclear because it does not specify that only units that are operating would have to comply with the regulation. IRRC suggests that the final regulation be amended to improve the clarity of this requirement. In response, the Board amended § 145.304 to remove the language related to a unit operating at any time on or after January 1, 2005, to clarify that only fossil fuel-fired EGUs currently operating in this Commonwealth need to comply with this final-form rulemaking.

IRRC is concerned that § 145.314 (relating to account certificate of representation) does not require the owner or operator of a unit to verify anything. Section 145.314 specifies what must be included in a complete account certificate of representation for a CO₂ authorized account representative or a CO₂ authorized alternate account representative. IRRC recommends that this final-form regulation is amended to require the owner or operator of a unit to sign or verify in some manner that the representative is authorized to represent their interests under the CO₂ budget trading program.

In response, the Board notes that in addition to the language pertaining to the account representatives in § 145.314, there is language in § 145.311 (relating to

authorization and responsibilities of the CO₂ authorized account representative) providing that “the representative of the CO₂ budget source shall be selected by an agreement binding on the owner or operator of the source and all CO₂ budget units at the source and must act in accordance with the certificate of representation under § 145.314.” Additionally, the owner or operator should already have a designated representative who submits data to the EPA on behalf of the owner or operator. To participate in COATS, a representative of the CO₂ budget source must complete a Certificate of Representation form and submit the form to the EPA. The account representative listed on the form for a CO₂ budget source must match the representative for that facility in the EPA’s Clean Air Market Division system. The regulatory language in §§ 145.311 and 145.314 is also consistent with the existing language in the Board’s NO_x Budget Trading Program regulation in Chapter 145, Subchapter A and the RGGI Model Rule.

G. Benefits, Costs and Compliance

The CO₂ emission reductions accomplished through implementation of this final-form rulemaking would benefit the health and welfare of the approximately 12.8 million residents and the numerous animals, crops, vegetation and natural areas of this Commonwealth by reducing the amount of climate change causing pollution resulting from the regulated sources.

Reduction of CO₂ emissions

This final-form rulemaking includes a CO₂ emission budget which declines by approximately 20 million short tons from 2022 to 2030 within this Commonwealth. However, this Commonwealth projects to reduce its CO₂ emissions from EGUs within this Commonwealth by between 97 million short tons and 227 million short tons as a direct result of participation in RGGI. This results in CO₂ reductions in this Commonwealth and a net benefit to the entire PJM region. The Department’s modeling shows that this Commonwealth makes these significant emission reductions while maintaining historic electric generation levels, enhancing this Commonwealth’s status as a leading net energy exporter and creating economic opportunities.

The CO₂ emission reductions resulting from this final-form rulemaking are substantial and are the catalyst needed to meet the climate goals for this Commonwealth, as outlined in Executive Order 2019-01 codified in 4 Pa. Code §§ 5.1001–5.1009 (relating to Governor’s Green Government Council), to reduce net GHG emissions Statewide by 26% by 2025 from 2005 levels and by 80% by 2050 from 2005 levels. A predicted reduction from the 2021 modeling of approximately 11 million metric tons of CO₂ per year due to this Commonwealth’s potential participation in RGGI provides significant assurance that along with prudent investments of auction proceeds and other GHG abatement activities, this Commonwealth will remain on track to reach the 2025 net GHG reduction goal.

While efforts to model impacts of this final-form rulemaking focused on this Commonwealth, the impacts on the participating states in the PJM region, which consists of all or parts of 13 states and the District of Columbia, were also considered. Historically, the RGGI program has experienced some emissions leakage. Emissions leakage is the shifting of emissions from states with carbon pricing to states without carbon pricing. The Department’s modeling indicates that there may be some future emissions leakage in terms of additional fossil fuel emissions out-

side of this Commonwealth’s borders. Despite the leakage, this Commonwealth’s participation in RGGI would result in a net emissions reduction of 28 million tons of CO₂ across PJM for the period between 2021 and 2030.

It is important to note that the modeling results assume the only policy change impacting the power sector in the region between 2021 and 2030 is this Commonwealth’s participation in RGGI. The Department finds that extremely unlikely given the ongoing efforts by PJM, the FERC and the Federal government. The Department has been an active participant in PJM’s CPSTF which is conducting additional modeling in an effort to better understand and control leakage across the entire PJM region. The FERC hosted a carbon pricing technical conference in the Fall of 2020, resulting in a policy statement requesting public comment on issues such as how to address shifting generation amongst states as a result of carbon pricing. Lastly, the Federal administration is seeking to reduce carbon emissions from the electric power sector, specifically aiming to produce 80% of the Nation’s electricity from zero-carbon sources. The Department anticipates actions at the regional and Federal level will mitigate potential leakage impacts that may result from this final-form rulemaking.

The participating states together, including this Commonwealth, will achieve regional CO₂ emissions reductions of 30% by 2030. According to data from the World Bank, by 2022, based on Gross Domestic Product (GDP), the participating states would comprise the third largest economy in the world. See The World Bank, Calculation based on GDP (current US\$), 2019, <https://data.worldbank.org/indicator/NY.GDP.MKTP.CD>. These CO₂ emission reductions are even more significant when viewed from this collective impact. Reductions in CO₂ emissions will help decrease the adverse impacts of climate change on human health, the environment and the economy. Specifically, CO₂ emission reductions may decrease costs from extreme weather events and climate-related ailments that also result in increased health care costs.

Health benefits of this final-form rulemaking

According to the NCA4, climate-driven changes in weather, human activity and natural emissions are all expected to impact future air quality across the United States. Many emission sources of GHGs also emit air pollutants that harm human health. Controlling these common emission sources would both mitigate climate change and have immediate benefits for air quality and human health. The energy sector, which includes energy production, conversion and use, accounts for 84% of GHG emissions as well as 80% of emissions of NO_x and 96% of SO₂. Specifically, mitigating GHGs can lower emissions of SO₂, NO_x, PM, ozone and PM precursors and other hazardous pollutants, reducing the risks to human health from air pollution.

While this final-form rulemaking requires CO₂ emission reductions, co-pollutants will also be reduced, because multiple pollutants are emitted from fossil fuel-fired EGUs. While the benefits of the cumulative CO₂ emission reductions will be tremendous, the Department also estimates that this final-form rulemaking will lead to a reduction of co-pollutants as well. Based on the 2020 modeling, this final-form rulemaking would provide public health benefits due to the expected reductions in emissions of CO₂ and the ancillary emission reductions or co-benefits of SO₂ and NO_x reductions. The Department’s

2020 modeling projects cumulative emission reductions of 112,000 tons of NO_x and around 67,000 tons of SO₂ over the decade.

The Department used the EPA's Regional IPT methodology which calculates total avoided incidences of major health issues, and calculation of avoided lost work and school days due to reduced emissions. Based on an assumption that 188 million tons of CO₂ emissions are avoided through 2030, the Department estimates that between 283 and 641 premature deaths will be avoided in this Commonwealth due to emission reductions resulting directly from this final-form rulemaking. Children and adults alike will suffer less from respiratory illnesses, 30,000 less incidences of upper and lower respiratory symptoms which leads to reduced emergency department visits and avoided hospital admissions. Healthier children will be able to play more, as incidences of minor restricted-activity days decline on the order of almost 500,000 days between now and 2030. Adults would be healthier as well which results in over 83,000 avoided lost workdays due to health impacts. The public health benefits to this Commonwealth of these avoided SO₂ and NO_x emissions range between \$2.79—\$6.3 billion by 2030, averaging between \$232—\$525 million per year.

A 2017 independent study by Abt Associates, a global research firm focused on health and environmental policy, on the "Analysis of the Public Health Impacts of the Regional Greenhouse Gas Initiative, 2009—2014" showed that participating states gained significant health benefits in the first 6 years of RGGI implementation alone. From 2009—2014, the participating states avoided around 24% of CO₂ emissions that would have otherwise been emitted during that period, resulting in around \$5 billion in avoided health related costs. See Abt Associates, "Analysis of the Public Health Impacts of the Regional Greenhouse Gas Initiative, 2009—2014," January 2017, <https://www.abtassociates.com/sites/default/files/files/Projects/executive%20summary%20RGGI.pdf>. Since this final-form rulemaking would lead to a 31% reduction of projected CO₂ emissions, or avoided emissions, over the next decade, this Commonwealth is likely to see similar gains in health benefits.

A recent study led by researchers from the Columbia Center for Children's Environmental Health at Columbia University's Mailman School of Public Health (Columbia study), published on July 29, 2020, on the "Co-Benefits to Children's Health of the United States Regional Greenhouse Gas Initiative" indicates that the health benefits from RGGI are even more significant than estimated in 2017 by Abt Associates. The Columbia study concluded that the co-pollutant reductions resulting from RGGI have provided considerable child health benefits to participating and neighboring states. In particular, between 2009 and 2014, RGGI resulted in an estimated 537 avoided cases of childhood asthma, 112 avoided preterm births, 98 avoided cases of autism spectrum disorder and 56 avoided cases of term low birthweight. Those child health benefits also have significant economic value, estimated at \$199.6—\$358.2 million between 2009 and 2014 alone. However, the researchers note that the actual health benefits are even greater than estimated because the analysis does not capture the future health benefits related to reductions in childhood PM_{2.5} exposure and mitigating climate change, such as fewer heat-related illnesses or cases of vector-borne disease to which children are especially vulnerable. See Frederica Perera, David Cooley, Alique Berberian, David Mills and Patrick Kinney, "Co-Benefits to Children's Health of the U.S. Regional Greenhouse Gas Initiative," Environmental

Health Perspectives, Vol. 128, No. 7, July 2020, <https://ehp.niehs.nih.gov/doi/10.1289/EHP6706>.

Benefits of continued waste coal-pile remediation

While this Commonwealth's participation in RGGI will have tangible health, environmental and economic benefits, the inclusion of the waste coal set-aside has the additional benefit of avoiding unintended impacts to this generation sector, so that the environmental benefits of continuing to remediate this Commonwealth's legacy waste coal piles may continue. For context, since 1988 a total of 160.7 million tons of waste coal has been removed and burned to generate electricity, with an additional 200 million tons of coal ash beneficially used at mine sites. One of the important environmental benefits that waste coal ash provides is the neutralization of acid mine drainage, due to the use of limestone as an emission reduction additive during the combustion process. Of this Commonwealth's over 13,000 acres of waste coal piles cataloged by the Department, 3,700 acres have been reclaimed with roughly 9,000 acres remaining. Additionally, of the piles that remain, approximately 40 of them have ignited, and continually burn which significantly impacts local air quality as well as the Commonwealth's efforts to meet and maintain compliance with the NAAQS.

Benefits of CHP

As discussed previously, this final-form rulemaking provides a set-aside and limited exemption for CHP which will benefit existing systems while encouraging new installations in this Commonwealth. CHP units use energy efficiently by simultaneously producing electricity and useful thermal energy from the same fuel source. CHP captures the wasted heat energy that is typically lost through power generation, using it to provide cost-effective heating and cooling to factories, businesses, universities and hospitals. CHP units are able to use less fuel compared to other fossil fuel-fired EGUs to produce a given energy output. Less fuel being burned results in fewer air pollutant emissions, including CO₂ and other GHGs. In addition to reducing emissions, CHP benefits the economy and businesses by improving manufacturing competitiveness through increased energy efficiency and providing a way for businesses to reduce energy costs while enhancing energy reliability. Because CHP units are interconnected with a facility, the electricity consumed on-site is not reduced due to line losses, and climate change resiliency is increased.

Benefits of RGGI participation

As previously mentioned, cap and trade programs have an established track record as economically efficient, market-driven mechanisms for reducing pollution in a variety of contexts. Other countries and states have found that cap and trade programs are effective methods to achieve significant GHG emission reductions. RGGI is one of the most successful cap and trade programs and it is well-established with an active carbon trading market for the northeastern United States. This successful market-based program has significantly reduced and continues to reduce emissions. The participating states have collectively reduced power sector CO₂ pollution by over 45% since 2009, while experiencing per capita GDP growth and reduced energy costs. The program design of RGGI would enable the Board to regulate CO₂ emissions from the power sector in a way that is economically efficient, thereby driving long-term investments in cleaner sources of energy.

Part of what makes RGGI economically efficient is that it is a regional cap and invest program, which allows

EGUs to achieve least-cost compliance by buying and selling allowances in a multistate auction or in regional secondary markets. RGGI CO₂ allowances are fungible across the participating states, meaning that though this Commonwealth would have an established allowance budget for each year, this Commonwealth's allowances are available to meet the compliance obligations in any other RGGI state and vice versa at the option of the regulated sources. Therefore, CO₂ emissions from this Commonwealth's power sector are not limited to strictly the amount of this Commonwealth's CO₂ allowances. This cooperation allows EGUs more flexibility in terms of compliance and allows the market to continue to signal entrance and exit of generation. Though each state has its own annual allocation, compliance occurs at the regional level rather than on a state-by-state basis. In this respect, the market assists in achieving least-cost compliance for all participating states.

Another benefit of participating in multistate auctions run by RGGI, Inc. is that RGGI, Inc. has retained the services of an independent market monitor to monitor the auction, CO₂ allowance holdings and CO₂ allowance transactions, among other activities. The market monitor provides independent expert monitoring of the competitive performance and efficiency of the RGGI allowance market. This includes identifying attempts to exercise market power, collude or otherwise manipulate prices in the auction or the secondary market, or both, making recommendations regarding proposed market rule changes to improve the efficiency of the market for RGGI CO₂ allowances, and assessing whether the auctions are administered in accordance with the noticed auction rules and procedures. The market monitor will monitor bidder behavior in each auction and report to the participating states any activities that may have a material impact on the efficiency and performance of the auction. The participating states, through RGGI, Inc., release a Market Monitor Report shortly after each CO₂ allowance auction. The Market Monitor Report includes aggregate information about the auction, including the dispersion of projected demand, the dispersion of bids and a summary of bid prices, showing the minimum, maximum, average and clearing price and the CO₂ allowances awarded.

RGGI has helped the participating states create jobs, save money for consumers and improve public health, while reducing power sector emissions and transitioning to a cleaner electric grid. In an independent and nonpartisan evaluation of the first three control periods in RGGI, the Analysis Group, one of the largest economic consulting firms globally, found that the participating states experienced economic benefits in all three control periods, while reducing CO₂ emissions. The participating states added between \$1.3 billion and \$1.6 billion in net economic value during each of the three control periods. The participating states also showed growth in economic output, increased jobs and reduced long-run wholesale electricity costs. See Analysis Group, "The Economic Impacts of the Regional Greenhouse Gas Initiative on Northeast and Mid-Atlantic States," <https://www.analysisgroup.com/Insights/cases/the-economic-impacts-of-the-regional-greenhouse-gas-initiative-on-northeast-and-mid-atlantic-states/>.

A recent report from the Acadia Center, a nonprofit organization committed to advancing the clean energy future, titled "The Regional Greenhouse Gas Initiative: 10 Years in Review," shows that CO₂ emissions from power plants in the participating states have decreased 47%, which is 90% faster than in the rest of the country. The

participating states were able to achieve that significant reduction while the GDP grew by 47%, outpacing the rest of the country by 31%.

RGGI has also driven substantial reductions in harmful co-pollutants, making the region's air cleaner and its people healthier. Additionally, proceeds from RGGI auctions generated nearly \$3.3 billion in state investments from 2009 to 2019. See Acadia Center, "The Regional Greenhouse Gas Initiative 10 Years in Review," 2019, https://acadiacenter.org/wp-content/uploads/2019/09/Acadia-Center_RGGI_10-Years-in-Review_2019-09-17.pdf.

For comparison, according to the Department's 2019 GHG Inventory Report from 2005 to 2016, this Commonwealth reduced its net emissions by 33.5% while the participating states reduced CO₂ pollution from covered sources by over 45% over the same period. Additionally, this reduction was achieved while the region's per-capita GDP has continued to grow, highlighting the synergies between environmental protection and economic development.

Additionally, this final-form rulemaking may create economic opportunities for clean energy businesses. By establishing a cost for emitting CO₂, and pricing this externality into the energy market, the CO₂ Budget Trading Program will provide a market incentive for developing and deploying technologies that improve the fuel efficiency of electric generation, generate electricity from noncarbon-emitting resources, reduce CO₂ emissions from combustion sources and encourage carbon capture and sequestration. The energy efficiency sector is the largest component of all energy jobs in this Commonwealth and the renewable energy sector contains some of the fastest growing jobs in the country.

Investment of auction proceeds benefits consumers and the economy

The proceeds generated from this final-form rulemaking would be invested into programs that would reduce air pollution and create positive economic impacts in this Commonwealth. The Department plans to develop a draft plan for public comment outlining reinvestment options separate from this final-form rulemaking. However, the Department conducted modeling to estimate the economic impacts of this final-form rulemaking. The Department analyzed the net economic benefits of the program investments using the Regional Economic Model, Inc. model. The extensive economic modeling will help the Department determine the best ways to invest the auction proceeds in this Commonwealth to maximize emission reductions and economic benefits. The modeling anticipates that in the first year of participation in RGGI, hundreds of millions of dollars in auction proceeds will be generated for the use in the elimination of air pollution in this Commonwealth. The auction proceeds would be spent on programs related to the regulatory goal, and the Department modeled a scenario in which the proceeds are invested in energy efficiency, renewable energy and GHG abatement.

The proceeds will aid this Commonwealth in the transition toward a clean energy economy. In 2015, the EPA noted that the energy market was moving toward cleaner sources of energy and states needed to make plans for and invest in the next generation of power production, particularly considering that current assets and infrastructure were aging. By strategically investing the proceeds, this Commonwealth can help ensure that, as new investments are being made, they are integrated with the need to address GHG pollution from the electric genera-

tion sector. See 80 FR 64661, 64678 (October 23, 2015). These energy transitions are occurring both in this Commonwealth and Nationally.

Nationally, the last 10 years have seen coal's position steadily erode due to a combination of low electricity demand, mounting concern over climate and increased competition from natural gas and renewables. The same is true for coal generation in this Commonwealth. Since 2005, electricity generation in this Commonwealth has shifted from higher carbon-emitting electricity generation sources, such as coal, to lower and zero emissions generation sources, such as natural gas, and renewable energy. Between now and 2030, coal generation is expected to decline dramatically. In 2010, coal generation represented 47% of this Commonwealth's generation portfolio and is expected to decline to roughly 1% of this Commonwealth's generation portfolio in 2030. This shift away from coal-fired generation occurs irrespective of this Commonwealth's participation in RGGI. Anticipating the need for transition, for these communities and employees, auction proceeds can be used to mitigate these impacts and assist communities and families through the energy transition. This could include repowering of the existing coal-fired power plants to natural gas, investments in worker training or other community-based support programs.

The Department would invest a portion of the proceeds in energy efficiency initiatives because energy efficiency is a low-cost resource for achieving CO₂ emission reductions while reducing peak demand and ultimately reducing electricity costs. Lower energy costs create numerous benefits across the economy, allowing families to invest in other priorities and businesses to expand. Energy efficiency savings can be achieved cost-effectively by upgrading appliances and lighting, weatherizing and insulating buildings, upgrading HVAC and improving industrial processes. Additionally, all consumers benefit from energy efficiency programs, not just direct program participants because focused investment in energy efficiency can lower peak electricity demand and can decrease overall electricity costs which results in savings for all energy consumers. Additionally, energy efficiency projects are labor-intensive which create local jobs and boost local economy. For instance, projects involving home retrofits directly spur employment gains in the housing and construction industries.

Investing a portion of the auction proceeds into energy efficiency initiatives is also crucial to addressing the impacts of climate change on consumers. According to the NCA4, rising temperatures are projected to reduce the efficiency of power generation while increasing energy demands, resulting in higher electricity costs. Energy efficiency will help lessen those impacts by putting downward pressure on both demand and electricity costs.

Historically, the participating states have invested a significant portion of their auction proceeds in energy efficiency programs. According to RGGI's 2018 Investment Report, over the lifetime of the installed measures, the investments made in energy efficiency in 2018 alone are projected to save participants over \$1.2 billion on energy bills, providing benefits to more than 115,000 participating households and 1,200 participating businesses. The investments are also projected to further avoid the release of 1.4 million short tons of CO₂ pollution. See RGGI, Inc., *The Investment of RGGI Proceeds in 2018*, July 2020, https://www.rggi.org/sites/default/files/Uploads/Proceeds/RGGI_Proceeds_Report_2018.pdf.

The Department would also invest a portion of the proceeds in clean and renewable electricity generation,

such as energy derived from clean or zero emissions sources, including geothermal, hydropower, solar and wind. Clean and renewable energy systems reduce reliance on fossil fuels and provide climate resilience benefits, including reduced reliance on centralized power. They also offer the opportunity to save money on electricity costs by installing onsite renewable energy and also reduce power lost through transmission and distribution. Investing in clean and renewable projects will help this Commonwealth meet its climate goals, drive in-State investments and job creation and lessen the pressure on the CO₂ allowance budget by generating more electricity without additional emissions.

The participating states invested 19% of their 2018 auction proceeds in clean and renewable energy projects. Over the lifetime of the projects installed in 2018, these investments are projected to offset about \$600 million in energy expenses for households and businesses. The investments are also projected to avoid the release of 1.9 million short tons of CO₂ emissions.

The Department would also invest a portion of the proceeds in GHG abatement initiatives. GHG abatement includes a broad category of projects encompassing other ways of reducing GHGs, apart from energy efficiency and clean and renewable energy. Examples of potential programs in this Commonwealth include abandoned oil and gas well plugging, electric vehicle infrastructure, carbon capture, utilization and storage, combined heat and power, energy storage, repowering projects and vocational trainings, among others.

For reference, in 2018, an estimated 20% of RGGI investments were made in GHG abatement programs and projects. For the duration of the project lifetime, those investments are expected to avoid over 1.2 million short tons of CO₂ emissions across the region.

In the 2020 modeling, the Department modeled an investment scenario with 31% of annual proceeds for energy efficiency, 32% for renewable energy, 31% for GHG abatement and 6% for any programmatic costs related to administration and oversight of the CO₂ Budget Trading Program (5% for the Department and 1% for RGGI, Inc). These programmatic costs are in line with the historical amounts reserved by the participating states.

The results of the 2020 modeling show that this final-form rulemaking will not only combat climate change and improve air quality, but also provide positive economic value to this Commonwealth. The modeling estimates that from 2022 to 2030, this final-form rulemaking would lead to an increase in Gross State Product of \$1.9 billion and a net increase of over 30,000 jobs in this Commonwealth. The Department's modeling also indicates that investments from this final-form rulemaking would spur an addition of 9.4 gigawatts of renewable energy and result in a load reduction of 29 terawatt hours of electricity from energy efficiency projects.

Benefits of cap and trade v. traditional command and control

In 2003, the EPA issued "A Guide to Designing and Operating a Cap and Trade Program for Pollution Control," in which the EPA detailed the benefits of cap and trade programs and the advantages they provide over more traditional approaches to environmental regulation. By establishing an emissions budget, cap and trade programs can provide a greater level of environmental certainty than other environmental policy options. The regulated sources, across the region, must procure allow-

ances to cover emissions or risk being penalized for lack of compliance. Traditional command and control regulations, on the other hand, tend to rely on variable emission rates and usually only regulated existing or new sources. However, under cap and trade programs, new and existing sources must comply with the emissions budget. A cap and trade program may also encourage sources to achieve emission reductions in anticipation of future compliance, resulting in the earlier achievement of environmental and human health benefits. In fact, the Department's modeling shows that this is occurring as this Commonwealth prepares to participate in RGGI in 2022.

The EPA also noted in the guide that banking of allowances, which this final-form rulemaking allows, provides an additional incentive to reduce emissions earlier than required. Banking provides flexibility by allowing sources to save unused allowances for use in a later compliance period when the emissions budget is lower and the costs to reduce emissions may be higher. With command and control, the regulating authority specifies sector-wide technology and performance standards that each of the affected sources must meet, whereas cap and trade provides sources with the flexibility to choose the technologies that minimize their costs while achieving their emission target. Cap and trade programs also provide more accountability than a command and control program. Under this final-form rulemaking and other cap and trade programs, sources must account for every ton of emissions they emit by acquiring allowances. On the other hand, command and control programs tend to rely on periodic inspections and assumptions that control technology is functioning properly to show compliance. See EPA, "Tools of the Trade: A Guide to Designing and Operating a Cap and Trade Program for Pollution Control," June 2003, EPA430-B-03-002, <https://www.epa.gov/sites/production/files/2016-03/documents/tools.pdf>.

Compliance costs

This final-form rulemaking applies to owners or operators of fossil fuel-fired EGUs, within this Commonwealth, with a nameplate capacity equal to or greater than 25 MWe. This final-form rulemaking is designed to effectuate least cost CO₂ emission reductions for the years 2022 through 2030 within this Commonwealth. In addition to purchasing CO₂ allowances and completing offset projects to generate CO₂ offset allowances, CO₂ budget units may reduce their compliance obligations by reducing CO₂ emissions through other alternatives such as heat rate improvements, fuel switching and co-firing of biofuels.

To comply with this final-form rulemaking, each CO₂ budget unit within this Commonwealth will need to acquire CO₂ allowances equal to its CO₂ emissions. If CO₂ allowances are purchased through the multistate auctions, the owner or operator of a CO₂ budget unit will pay the auction allowance price, currently around \$5 per ton, for each ton of CO₂ the unit emits. As mentioned previously, reserved CO₂ CCR allowances can be released into the auction if allowance prices exceed predefined price levels, meaning emission reduction costs are higher than projected. The total cost of purchasing allowances will therefore vary per unit based on how much CO₂ the unit emits and the allowance price. The owner or operator may also purchase CO₂ allowances on the secondary market where they could potentially purchase CO₂ allowances at a price lower than the RGGI allowance price. CO₂ allowances also have no expiration date and can be acquired and banked to defray future compliance costs.

Since the Department will allocate CO₂ allowances to waste coal-fired units each year up to 12.8 million CO₂

allowances sector-wide, waste coal-fired units will incur minimal compliance costs. Owners or operators of waste coal-fired units will only need to purchase CO₂ allowances if the set-aside amount is exceeded. However, waste coal-fired units still have to comply with the other components of the regulation, including incorporating the CO₂ budget trading programs into their permits.

This final-form rulemaking will require the owner or operator of an applicable source to submit a complete application for a new, renewed or modified permit and pay the associated fee. The application must be submitted by the later of 6 months after the effective date of the final-form rulemaking or 12 months before the date on which the CO₂ budget source, or a new unit at the source, commences operation.

The Department estimates that the costs related to monitoring, recordkeeping and reporting will be minimal as this final-form rulemaking utilizes current methods and, in most instances, will require no additional emissions reporting. For instance, the continuous emission monitoring required under this final-form rulemaking is already in existence at the regulated source and the necessary emissions data is currently reported to the EPA. There may be minimal programmatic costs related to the submittal of compliance certification reports and auction, account and offset project-related forms.

Compliance costs will vary by CO₂ budget unit as the amount of CO₂ emitted is the primary driver of compliance costs. Overall CO₂ emissions are impacted by operational decisions such as run time, and by emissions intensity which varies by fuel type, and abatement technology employed. Additionally, certain sources may be eligible for set-aside allowances at no cost.

In 2022, this Commonwealth's CO₂ emissions from CO₂ budget sources are estimated to be 61 million short tons. Given the 3-year compliance schedule, all 61 million CO₂ allowances will not need to be purchased in the first year. The total amount of CO₂ allowances available will decline as the amount of CO₂ emissions in this Commonwealth decline.

As CO₂ budget sources would need one allowance for each ton of CO₂ emitted, the owners or operators would need to acquire 61 million CO₂ allowances at the estimated 2022 allowance price of \$3.24 (2017\$/ton). If these CO₂ allowances were all purchased at quarterly multistate auctions in 2022, the total purchase cost would be approximately \$198 million. The CO₂ budget sources would then most likely incorporate this compliance cost into their offer price for electricity. The price of electricity is then passed onto electric consumers. However, that does not mean that \$198 million will be passed onto this Commonwealth's electric consumers.

Electric consumer impact

Based on the Department's 2021 modeling, it can be expected that at least 25% of the cost of compliance would be borne by out-of-State electric consumers. In 2022, this Commonwealth's net electricity exports are estimated at 51,000 gigawatt hours (GWh), representing 25% of this Commonwealth's 2022 electricity generation of 201,221 GWh. As a result, without factoring in the strategic investment of auction proceeds, the remaining 75% of the cost of compliance or \$149 million would be borne by this Commonwealth. This percentage is also dependent on the CO₂ emissions intensity of the exported generation.

According to the EIA, the major components of the United States' average price of electricity in 2020 were 56% generation, 31% distribution and 13% transmission

costs. See EIA, Electricity explained: Factors affecting electricity prices, Major components of the U.S. average price of electricity, 2020, <https://www.eia.gov/energyexplained/electricity/prices-and-factors-affecting-prices.php>. This final-form rulemaking would only impact the generation portion of a consumer electric bill, which is a little more than half of the bill. The Department's 2021 modeling estimates that in 2022, wholesale energy prices will be 2.4% higher with RGGI participation. That amounts to a roughly 1.2% increase in the average retail electricity rate, which is less than the swing in prices traditionally seen as a result of seasonal fluctuations in the energy market.

The average residential electric consumer in this Commonwealth spends from \$97.04 to \$136.60 per month depending on whether they heat their homes with electricity or another fuel source. Although electricity rates vary in this Commonwealth by Electric Distribution Company service territories, these bill amounts represent the average electricity rates across this Commonwealth.

If this final-form rulemaking is implemented and this Commonwealth begins participating in RGGI in 2022, residential electric consumer bills will increase by an estimated 1.2% in the short-term. This amounts to an additional \$1.17 to \$1.65 per month depending on the home heating source. However, the Department's 2020 modeling shows that this minor increase is temporary. As shown in the 2020 modeling, as a result of the fee investments from the auction proceeds, by 2030, energy prices will fall below business-as-usual prices resulting in future consumer electricity cost savings. This means electric consumers will see greater electric bill savings in the future than if this final-form rulemaking were not implemented.

Additionally, based on information contained within the PUC's 2020 Rate Comparison Report, a small commercial customer's usage is the closest aligned with a small business as defined by the United States Small Business Administration, though it is not an exact match. See Pennsylvania PUC, 2020 Rate Comparison Report, https://www.puc.pa.gov/General/publications_reports/pdf/Rate_Comparison_Rpt2020.pdf. The PUC report indicates that average 2019 electricity consumption for this customer class is 1,000 kWh/month with total monthly bills ranging from \$106.29 to \$143.49 depending on the Electric Distribution Company service territory and the corresponding electricity rate. Using the same assumptions regarding the composition of an electric bill as used previously, a small commercial customer using 1,000 kWh/month could expect to see a potential increase of \$1.28 to \$1.72 per month in 2022.

According to the PUC, a large commercial customer using 200,000 kWh/month has a monthly bill ranging from \$11,788.08 to \$21,043.18. These customers could expect to see a 2022 potential price increase of \$141 to \$253 per month, again depending on their electric service territory and associated rates.

Compliance assistance plan

The Department will continue to educate and assist the public and the regulated community in understanding the requirements and how to comply with them throughout the rulemaking process. The Department will continue to work with the Department's provider of Small Business Stationary Source Technical and Environmental Compliance Assistance. These services are currently provided by the Environmental Management Assistance Program (EMAP) of the Pennsylvania Small Business Development

Centers. The Department has partnered with EMAP to fulfill the Department's obligation to provide confidential technical and compliance assistance to small businesses as required by the APCA, section 507 of the CAA (42 U.S.C.A. § 7661f) and authorized by the Small Business and Household Pollution Prevention Program Act (35 P.S. §§ 6029.201—6029.209).

In addition to providing one-on-one consulting assistance and onsite assessments, EMAP also operates a toll-free phone line to field questions from small businesses in this Commonwealth, as well as businesses wishing to start up in or relocate to this Commonwealth. EMAP operates and maintains a resource-rich environmental assistance web site and distributes an electronic newsletter to educate and inform small businesses about a variety of environmental compliance issues.

Paperwork requirements

The recordkeeping and reporting requirements for owners and operators of applicable sources under this final-form rulemaking are minimal because the records required align with the records already required to be kept for emission inventory purposes and for other Federal and State requirements.

H. Pollution Prevention

The Pollution Prevention Act of 1990 (42 U.S.C.A. §§ 13101—13109) established a National policy that promotes pollution prevention as the preferred means for achieving State environmental protection goals. The Department encourages pollution prevention, which is the reduction or elimination of pollution at its source, through the substitution of environmentally friendly materials, more efficient use of raw materials and the incorporation of energy efficiency strategies. Pollution prevention practices can provide greater environmental protection with greater efficiency because they can result in significant cost savings to facilities that permanently achieve or move beyond compliance.

This final-form rulemaking will help ensure that the citizens of this Commonwealth will benefit from reduced emissions of CO₂ from regulated sources. Reduced levels of CO₂ would promote healthful air quality and ensure the continued protection of the environment and public health and welfare.

I. Sunset Review

The Board is not establishing a sunset date for this final-form rulemaking, since it is needed for the Department to carry out its statutory authority. When published as a final-form rulemaking in the *Pennsylvania Bulletin*, the Department will closely monitor its effectiveness and recommend updates to the Board as necessary.

J. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on October 21, 2020, the Department submitted a copy of the notice of proposed rulemaking, published at 50 Pa.B. 6212, to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House and Senate Environmental Resources and Energy Committees for review and comment.

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

Under section 5.1(e) of the Regulatory Review Act, IRRC met on September 1, 2021, and approved this final-form rulemaking. This final-form rulemaking is deemed approved by the General Assembly.

(Editor's Note: This final-form rulemaking is the subject of litigation before the Commonwealth Court in *McDonnell v. Pennsylvania Legislative Reference Bureau*, 41 MD 2022, which involves the interpretation of the Regulatory Review Act, and the timelines and date on which the regulation was deemed approved by the General Assembly.)

K. Findings of the Board

The Board finds that:

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

(2) At least a 60-day public comment period was provided as required by law and all comments were considered.

(3) This final-form rulemaking does not enlarge the purpose of the proposed rulemaking published at 50 Pa.B. 6212.

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

L. Order of the Board

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

(a) The regulations of the Department, 25 Pa. Code Chapter 145, are amended by adding §§ 145.301—145.307, 145.311—145.316, 145.321—145.323, 145.331, 145.332, 145.341—145.343, 145.351—145.358, 145.361—145.363, 145.371—145.377, 145.381, 145.382, 145.391—145.397 and 145.401—145.409 to read as set forth in Annex A.

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

(c) The Chairperson of the Board shall submit this final-form rulemaking to IRRC and the House and Senate ERE Committees as required by the RRA (71 P.S. §§ 745.1—745.14).

(d) The Chairperson of the Board shall certify this final-form rulemaking and deposit it with the Legislative Reference Bureau as required by law.

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

PATRICK McDONNELL,
Chairperson

(Editor's Note: See 51 Pa.B. 6115 (September 18, 2021) for IRRC's approval order.)

Fiscal Note: Fiscal Note 7-559 remains valid for the final adoption of the subject regulations.

Annex A

**TITLE 25. ENVIRONMENTAL PROTECTION
PART I. DEPARTMENT OF ENVIRONMENTAL
PROTECTION**

**Subpart C. PROTECTION OF NATURAL
RESOURCES**

ARTICLE III. AIR RESOURCES

**CHAPTER 145. INTERSTATE POLLUTION
TRANSPORT REDUCTION**

Subchapter E. CO₂ BUDGET TRADING PROGRAM

GENERAL PROVISIONS

- Sec.
- 145.301. Purpose.
- 145.302. Definitions.
- 145.303. Measurements, abbreviations and acronyms.
- 145.304. Applicability.
- 145.305. Limited exemption for CO₂ budget units with electrical output to the electric grid restricted by permit conditions.
- 145.306. Standard requirements.
- 145.307. Computation of time.

**CO₂ AUTHORIZED ACCOUNT REPRESENTATIVE
FOR A CO₂ BUDGET SOURCE**

- Sec.
- 145.311. Authorization and responsibilities of the CO₂ authorized account representative.
- 145.312. CO₂ authorized alternate account representative.
- 145.313. Changing the CO₂ authorized account representative and the CO₂ authorized alternate account representative; changes in the owner or operator.
- 145.314. Account certificate of representation.
- 145.315. Objections concerning the CO₂ authorized account representative.
- 145.316. Delegation of authority to make electronic submissions and review information in COATS.

PERMITS

- Sec.
- 145.321. General requirements for a permit incorporating CO₂ Budget Trading Program requirements.
- 145.322. Submission of an application for a new, renewed or modified permit incorporating CO₂ Budget Trading Program requirements.
- 145.323. Contents of an application for a permit incorporating CO₂ Budget Trading Program requirements.

COMPLIANCE CERTIFICATION

- Sec.
- 145.331. Compliance certification report.
- 145.332. Department action on compliance certifications.

CO₂ ALLOWANCE ALLOCATIONS

- Sec.
- 145.341. Pennsylvania CO₂ Budget Trading Program base budget.
- 145.342. CO₂ allowance allocations.
- 145.343. Distribution of CO₂ allowances in the air pollution reduction account.

CO₂ ALLOWANCE TRACKING SYSTEM

- Sec.
- 145.351. CO₂ Allowance Tracking System (COATS) accounts.
- 145.352. Establishment of accounts.
- 145.353. COATS responsibilities of CO₂ authorized account representative and CO₂ authorized alternate account representative.
- 145.354. Recordation of CO₂ allowance allocations.
- 145.355. Compliance.
- 145.356. Banking.
- 145.357. Account error.
- 145.358. Closing of general accounts.

CO₂ ALLOWANCE TRANSFERS

- Sec.
- 145.361. Submission of CO₂ allowance transfers.
- 145.362. Recordation.
- 145.363. Notification.

MONITORING, REPORTING AND RECORDKEEPING REQUIREMENTS

- Sec.
 145.371. General monitoring requirements.
 145.372. Initial certification and recertification procedures.
 145.373. Out-of-control periods.
 145.374. Notifications.
 145.375. Recordkeeping and reporting.
 145.376. Petitions.
 145.377. CO₂ budget units that co-fire eligible biomass.

AUCTION OF CO₂ CCR AND ECR ALLOWANCES

- Sec.
 145.381. Purpose.
 145.382. General requirements.

CO₂ EMISSIONS OFFSET PROJECTS

- Sec.
 145.391. Purpose.
 145.392. Definitions.
 145.393. General requirements.
 145.394. Application process.
 145.395. CO₂ emissions offset project standards.
 145.396. Accreditation of independent verifiers.
 145.397. Award and recordation of CO₂ offset allowances.

CO₂ ALLOWANCE AUCTIONS

- Sec.
 145.401. Auction of CO₂ allowances.
 145.402. Auction format.
 145.403. Auction timing and CO₂ allowance submission schedule.
 145.404. Auction notice.
 145.405. Auction participant requirements.
 145.406. Auction participant qualification.
 145.407. Submission of financial security.
 145.408. Bid submittal requirements.
 145.409. Approval of auction results.

GENERAL PROVISIONS**§ 145.301. Purpose.**

This subchapter establishes the Pennsylvania component of the CO₂ Budget Trading Program, which is designed to reduce anthropogenic emissions of CO₂, a greenhouse gas, from CO₂ budget sources in a manner that is protective of public health, welfare and the environment.

§ 145.302. Definitions.

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

Account number—The identification number given by the Department or its agent to each CO₂ Allowance Tracking System (COATS) account.

Acid rain emissions limitation—A limitation on emissions of sulfur dioxide or NO_x under the Acid Rain Program under Title IV of the Clean Air Act (42 U.S.C.A. §§ 7651—7651o).

Acid Rain Program—A multi-state sulfur dioxide and NO_x air pollution control and emission reduction program established by the Administrator under Title IV of the Clean Air Act and 40 CFR Parts 72—78.

Adjustment for banked allowances—An adjustment that may be applied to the Pennsylvania CO₂ Budget Trading Program base budget for an allocation year to address CO₂ allowances held in general and compliance accounts, including compliance accounts established under the CO₂ Budget Trading Program, but not including accounts opened by participating states, that are in addition to the aggregate quantity of emissions from all CO₂ budget sources in all of the participating states at the end of the control period immediately preceding the allocation year and as reflected in the CO₂ Allowance Tracking System on March 15 of the year following the control period.

Administrator—The Administrator of the EPA or the Administrator's authorized representative.

Agent—A qualified entity that may assist the Department with technical and administrative support functions in accordance with the requirements of this subchapter.

Air pollution reduction account—The general account established by the Department from which CO₂ allowances will be sold or distributed to provide funds for use in the elimination of air pollution in accordance with the act and Chapter 143 (relating to disbursements from the clean air fund) and the administration of the Pennsylvania component of the CO₂ Budget Trading Program.

Allocate or allocation—The determination by the Department of the number of CO₂ allowances to be recorded in the compliance account of a CO₂ budget source, the waste coal set-aside account, the strategic use set-aside account, the combined heat and power set-aside account, the air pollution reduction account, or the general account of the sponsor of an approved CO₂ emissions offset project.

Allocation year—A calendar year for which the Department allocates or awards CO₂ allowances under §§ 145.341 and 145.391—145.397 (relating to Pennsylvania CO₂ Budget Trading Program base budget; and CO₂ emissions offset projects). The allocation year of each CO₂ allowance is reflected in the unique identification number given to the allowance under § 145.354(c) (relating to recordation of CO₂ allowance allocations).

Allowance auction or auction—A bidding process in which the Department or its agent offers CO₂ allowances for sale.

Ascending price, multiple-round auction—A bidding process that starts with an opening price that increases each round by predetermined increments. In each round, a bidder offers the quantity of CO₂ allowances the bidder is willing to purchase at the posted price. Rounds continue as long as demand exceeds the quantity of CO₂ allowances offered for sale. At the completion of the final round, CO₂ allowances will be allocated by one of three methods:

(i) At the final price to remaining bidders and unsold CO₂ allowances to be withheld for a future auction.

(ii) At the penultimate price, first to final round bidders and then to bidders in the penultimate round in chronological order of bid during the penultimate round for all remaining CO₂ allowances.

(iii) According to an alternative mechanism designed to effectuate the objectives of this subchapter.

Attribute—A characteristic associated with electricity generated using a particular renewable fuel, such as its generation date, facility geographic location, unit vintage, emissions output, fuel, state program eligibility, or other characteristic that can be identified, accounted for and tracked.

Attribute credit—A unit that represents the attributes related to 1 MW-hour of electricity generation.

Automated Data Acquisition and Handling System—The component of the continuous emissions monitoring system, or other emissions monitoring system approved for use under § 145.371 (relating to general monitoring requirements), designed to interpret and convert individual output signals from pollutant concentration monitors, flow monitors, diluent gas monitors and other component parts of the monitoring system to produce a

continuous record of the measured parameters in the measurement units required by § 145.371.

Award—The determination by the Department of the number of CO₂ offset allowances to be recorded in the general account of a project sponsor under § 145.397 (relating to award and recordation of CO₂ offset allowances). Award is a type of allocation.

Beneficial interest—A profit, benefit or advantage resulting from the ownership of a CO₂ allowance.

Bidder—A qualified participant who has met the requirements of §§ 145.405 and 145.406 (relating to auction participant requirements; and auction participant qualification) and has been determined by the Department to be eligible to participate in a specified CO₂ allowance auction under § 145.406.

Boiler—An enclosed fossil or other fuel-fired combustion device used to produce heat and to transfer heat to recirculating water, steam or other medium.

CEMS—continuous emissions monitoring system—The equipment required under § 145.371 to sample, analyze, measure and provide, by means of readings recorded at least once every 15 minutes, using an automated data acquisition and handling system, a permanent record of stack gas volumetric flow rate, stack gas moisture content, and oxygen or carbon dioxide concentration, as applicable, in a manner consistent with 40 CFR Part 75 (relating to continuous emission monitoring) and § 145.371. The following systems are types of continuous emissions monitoring systems required under § 145.371:

(i) A flow monitoring system, consisting of a stack flow rate monitor and an automated data acquisition and handling system and providing a permanent, continuous record of stack gas volumetric flow rate, in standard cubic feet per hour.

(ii) A nitrogen oxides emissions rate (or NO_x-diluent) monitoring system, consisting of a NO_x pollutant concentration monitor, a diluent gas (CO₂ or O₂) monitor, and an automated data acquisition and handling system and providing a permanent, continuous record of NO_x concentration, in parts per million, diluent gas concentration, in percent CO₂ or O₂; and NO_x emissions rate, in pounds per million British thermal units (lb/MMBtu).

(iii) A moisture monitoring system, as defined in 40 CFR 75.11(b)(2) (relating to specific provisions for monitoring SO₂ emissions) and providing a permanent, continuous record of the stack gas moisture content, in percent H₂O.

(iv) A carbon dioxide monitoring system, consisting of a CO₂ pollutant concentration monitor (or an oxygen monitor plus suitable mathematical equations from which the CO₂ concentration is derived) and an automated data acquisition and handling system and providing a permanent, continuous record of CO₂ emissions, in percent CO₂.

(v) An oxygen monitoring system, consisting of an O₂ concentration monitor and an automated data acquisition and handling system and providing a permanent, continuous record of O₂, in percent O₂.

COATS—CO₂ allowance tracking system—

(i) A system by which the Department or its agent records allocations, deductions and transfers of CO₂ allowances under the CO₂ Budget Trading Program.

(ii) The system may also be used to track all of the following:

- (A) CO₂ emissions offset projects.
- (B) CO₂ allowance prices.
- (C) Emissions from affected sources.

COATS account—An account established by the Department or its agent for purposes of recording the allocation, holding, transferring or deducting of CO₂ allowances. The tracking system may also be used to track CO₂ offset allowances, CO₂ allowance prices and emissions from affected sources.

CO₂ allowance—A limited authorization by the Department or a participating state under the CO₂ Budget Trading Program to emit up to 1 ton of CO₂, subject to all applicable limitations contained in this subchapter.

CO₂ allowance auction or auction—The sale of CO₂ allowances through competitive bidding as administered in accordance with §§ 145.401—145.409 (relating to CO₂ allowance auctions).

CO₂ allowance deduction or deduct CO₂ allowances—The permanent withdrawal of CO₂ allowances by the Department or its agent from a COATS compliance account to account for one of the following:

(i) The number of tons of CO₂ emitted from a CO₂ budget source for a control period or an interim control period, determined in accordance with § 145.371.

(ii) The forfeit or retirement of CO₂ allowances as provided by this subchapter.

CO₂ allowances held or hold CO₂ allowances—The CO₂ allowances recorded by the Department or its agent or submitted to the Department or its agent for recordation, in accordance with §§ 145.351 and 145.361 (relating to CO₂ Allowance Tracking System (COATS) accounts; and submission of CO₂ allowance transfers), in a COATS account.

CO₂ allowance price—The price for CO₂ allowances in the CO₂ Budget Trading Program for a particular time period as determined by the Department, calculated based on a volume-weighted average of transaction prices reported to the Department, and taking into account prices as reported publicly through reputable sources.

CO₂ allowance transfer deadline—Midnight of the March 1 occurring after the end of the relevant control period and each relevant interim control period or, if that March 1 is not a business day, midnight of the first business day thereafter and is the deadline by which CO₂ allowances must be submitted for recordation in a CO₂ budget source's compliance account in order for the source to meet the CO₂ requirements of § 145.306(c) (relating to standard requirements) for the control period and each interim control period immediately preceding the deadline.

CO₂ authorized account representative—

(i) For a CO₂ budget source and each CO₂ budget unit at the source, the person who is authorized by the owner or operator of the source and all CO₂ budget units at the source, in accordance with § 145.311 (relating to authorization and responsibilities of the CO₂ authorized account representative), to represent and legally bind each owner and operator in matters pertaining to the CO₂ Budget Trading Program.

(ii) For a general account, the person who is authorized under §§ 145.351—145.358 (relating to CO₂ allowance

tracking system) to transfer or otherwise dispose of CO₂ allowances held in the general account.

CO₂ authorized alternate account representative—

(i) For a CO₂ budget source and each CO₂ budget unit at the source, the alternate person who is authorized by the owner or operator of the source and all CO₂ budget units at the source, in accordance with § 145.311, to represent and legally bind each owner and operator in matters pertaining to the CO₂ Budget Trading Program.

(ii) For a general account, the alternate person who is authorized under §§ 145.351—145.358 to transfer or otherwise dispose of CO₂ allowances held in the general account.

CO₂ budget emissions limitation—For a CO₂ budget source, the tonnage equivalent, in CO₂ emissions in a control period or an interim control period, of the CO₂ allowances available for compliance deduction for the source for a control period or an interim control period.

CO₂ budget permit condition—The portion of the permit issued by the Department under Chapter 127 (relating to construction, modification, reactivation and operation of sources) to the owner or operator of a CO₂ budget source which specifies the CO₂ Budget Trading Program requirements applicable to the CO₂ budget source.

CO₂ budget source—A facility that includes one or more CO₂ budget units.

CO₂ Budget Trading Program—A multi-state CO₂ air pollution control and emissions reduction program established under this subchapter and corresponding regulations in other participating states as a means of reducing emissions of CO₂ from CO₂ budget sources.

CO₂ budget unit—A unit that is subject to the CO₂ Budget Trading Program requirements under § 145.304 (relating to applicability).

CO₂ CCR allowance or CO₂ cost containment reserve allowance—A CO₂ allowance that is offered for sale at an auction by the Department for the purpose of containing the cost of CO₂ allowances.

CO₂ CCR trigger price or CO₂ cost containment reserve trigger price—The minimum price at which CO₂ CCR allowances are offered for sale by the Department or its agent at an auction.

CO₂ ECR allowance or CO₂ emissions containment reserve allowance—A CO₂ allowance that is withheld from sale at an auction by the Department for the purpose of additional emission reduction in the event of lower than anticipated emission reduction costs.

CO₂ ECR trigger price or CO₂ emissions containment reserve trigger price—The price below which CO₂ allowances will be withheld from sale by the Department or its agent at an auction.

CO_{2e}—CO₂ equivalent—The quantity of a given greenhouse gas multiplied by its global warming potential.

CO₂ offset allowance—A CO₂ allowance that is awarded to the sponsor of a CO₂ emissions offset project under § 145.397 and is subject to the relevant compliance deduction limitations of § 145.355(a)(3) (relating to compliance).

Combined cycle system—A system comprised of one or more combustion turbine, heat recovery steam generator and steam turbine configured to improve overall efficiency of electricity generation or steam production.

Combined heat and power set-aside account—A general account established by the Department for the allocation of CO₂ allowances in an amount sufficient to retire CO₂ allowances equal to the CO₂ emissions from combined heat and power units under § 145.342(k) (relating to CO₂ allowance allocations).

Combined heat and power unit—An electric-generating unit that simultaneously produces both electricity and useful thermal energy.

Combustion turbine—An enclosed fossil or other fuel-fired device that is comprised of a compressor, if applicable, a combustor and a turbine, and in which the flue gas resulting from the combustion of fuel in the combustor passes through the turbine, rotating the turbine.

Commence commercial operation—With regard to a unit that serves a generator, to have begun to produce steam, gas or other heated medium used to generate electricity for sale or use, including test generation.

(i) For a unit that is a CO₂ budget unit under § 145.304 on the date the unit commences commercial operation, the date shall remain the unit's date of commencement of commercial operation even if the unit is subsequently modified, reconstructed or repowered.

(ii) For a unit that is not a CO₂ budget unit under § 145.304 on the date the unit commences commercial operation, the date the unit becomes a CO₂ budget unit under § 145.304 is the unit's date of commencement of commercial operation.

Commence operation—To have begun any mechanical, chemical or electronic process, including, with regard to a unit, start-up of the unit's combustion chamber.

(i) For a unit that is a CO₂ budget unit under § 145.304 on the date of commencement of operation, the date shall remain the unit's date of commencement of operation even if the unit is subsequently modified, reconstructed or repowered.

(ii) For a unit that is not a CO₂ budget unit under § 145.304 on the date of commencement of operation, the date the unit becomes a CO₂ budget unit under § 145.304 shall be the unit's date of commencement of operation.

Compliance account—A COATS account, established by the Department or its agent for a CO₂ budget source under § 145.351, that holds CO₂ allowances available for use by the owner or operator of the source for a control period and each interim control period for the purpose of meeting the CO₂ requirements of § 145.306(c).

Control period—A 3-calendar-year period. The fifth control period is from January 1, 2021, through December 31, 2023, inclusive. Each subsequent sequential 3-calendar-year period is a separate control period.

Decay rate—The amount of a gas removed from the atmosphere over a number of years.

Descending price, multiple-round auction—An auction that starts with a high provisional price, which falls in each round by predetermined increments. In each round, a bidder can lock in the purchase of some number of CO₂ allowances at the current provisional price and wait for the price to fall. Rounds continue so long as the number of CO₂ allowances locked-in is less than the quantity of CO₂ allowances offered for sale.

Discriminatory price, sealed-bid auction—A single-round, sealed-bid auction in which a bidder may submit multiple bids for CO₂ allowances at different prices. The price paid by winning bidders with the highest bids for CO₂ allowances is their own bid price.

Electronic submission agent—The person who is delegated authority by a CO₂ authorized account representative or a CO₂ authorized alternate account representative to make an electronic submission to the Department or its agent under this subchapter.

Eligible biomass—

(i) Sustainably harvested woody and herbaceous fuel sources that are available on a renewable or recurring basis, including dedicated energy crops and trees, agricultural food and feed crop residues, aquatic plants, unadulterated wood and wood residues, animal wastes, other clean organic wastes not mixed with other solid wastes, biogas and other neat liquid biofuels derived from these fuel sources.

(ii) This term does not include old growth timber.

Excess emissions—The amount of CO₂ emissions, in tons, emitted by a CO₂ budget source during a control period that exceeds the CO₂ budget emissions limitation for the source.

Excess interim emissions—The amount of CO₂ emissions, in tons, emitted by a CO₂ budget source during an interim control period multiplied by 0.50 that exceeds the CO₂ budget emissions limitation for the source.

GWP—Global Warming Potential—

(i) A measure of the radiative efficiency or heat-absorbing ability of a particular gas relative to that of CO₂ after taking into account the decay rate of each gas relative to that of CO₂.

(ii) GWPs used in this subchapter are consistent with the values used in the Intergovernmental Panel on Climate Change, Fifth Assessment Report.

General account—A COATS account established by the Department under § 145.351 that is not a compliance account.

Gross generation—The electrical output in MWe at the terminals of the generator.

Interim control period—A calendar-year period, during each of the first and second calendar years of each control period. The first interim control period for the fifth control period starts on January 1, 2021, and ends on December 31, 2021, inclusive. The second interim control period for the fifth control period starts on January 1, 2022, and ends on December 31, 2022, inclusive. Each successive 3-year control period will have 2 interim control periods, comprised of each of the first 2 calendar years of that control period.

Legacy emissions—The amount of CO₂ emissions in tons equal to the highest year of CO₂ emissions from a waste coal-fired unit during the 10-year period beginning January 1, 2010, through December 31, 2019, as determined by the Department.

Life-of-the-unit contractual arrangement—A unit participation power sales agreement under which a customer reserves, or is entitled to receive, a specified amount or percentage of nameplate capacity or associated energy from any specified unit under a contract for:

(i) The life of the unit.

(ii) A cumulative term of no less than 30 years, including a contract that permits an election for early termination.

(iii) A period equal to or greater than 25 years or 70% of the economic useful life of the unit determined as of the time the unit is built, with option rights to purchase

or release some portion of the nameplate capacity and associated energy generated by the unit at the end of the period.

Maximum potential hourly heat input—An hourly heat input used for reporting purposes when a unit lacks certified monitors to report heat input. If the unit intends to use 40 CFR Part 75, Appendix D (relating to optional SO₂ emissions data protocol for gas-fired and oil-fired units) to report heat input, this value shall be calculated, in accordance with 40 CFR Part 75, using the maximum fuel flow rate and the maximum gross calorific value. If the unit intends to use a flow monitor and a diluent gas monitor, this value shall be reported, in accordance with 40 CFR Part 75, using the maximum potential flow rate and either the maximum CO₂ concentration in percent CO₂ or the minimum O₂ concentration in percent O₂.

Minimum reserve price—The price for calendar year 2021 is \$2.38. Each calendar year thereafter, the minimum reserve price shall be 1.025 multiplied by the minimum reserve price from the previous calendar year, rounded to the nearest whole cent.

Monitoring system—A monitoring system that meets the requirements of this subchapter, including a CEMS, an excepted monitoring system or an alternative monitoring system.

Nameplate capacity—The maximum electrical output in MWe that a generator can sustain over a specified period of time when not restricted by seasonal or other deratings as measured in accordance with the United States Department of Energy standards.

Notice of CO₂ allowance auction—The notification for a specific auction or auctions issued under § 145.404 (relating to auction notice).

Operator—A person who operates, controls or supervises a CO₂ budget unit or a CO₂ budget source and shall include, but not be limited to, a holding company, utility system or plant manager of the unit or source.

Owner—Any of the following persons:

(i) A holder of any portion of the legal or equitable title in a CO₂ budget unit or a CO₂ budget source.

(ii) A holder of a leasehold interest in a CO₂ budget unit or a CO₂ budget source, other than a passive lessor, or a person who has an equitable interest through such lessor, whose rental payments are not based, either directly or indirectly, upon the revenues or income from the CO₂ budget unit.

(iii) A purchaser of power from a CO₂ budget unit under a life-of-the-unit contractual arrangement in which the purchaser controls the dispatch of the unit.

(iv) With respect to any general account, a person who has an ownership interest with respect to the CO₂ allowances held in the general account and who is subject to the binding agreement for the CO₂ authorized account representative to represent that person's ownership interest with respect to CO₂ allowances.

Participating state—A state that has established a corresponding regulation as part of the CO₂ Budget Trading Program.

Pennsylvania CO₂ Budget Trading Program adjusted budget—The annual amount of CO₂ tons available in Pennsylvania for allocation in a given allocation year, in accordance with the CO₂ Budget Trading Program, determined in accordance with § 145.342. CO₂ offset allowances allocated to project sponsors and CO₂ CCR allowances offered for sale at an auction are separate from and

additional to CO₂ allowances allocated from the Pennsylvania CO₂ Budget Trading Program adjusted budget.

Pennsylvania CO₂ Budget Trading Program base budget—The annual amount of CO₂ tons available in Pennsylvania for allocation in a given allocation year, in accordance with the CO₂ Budget Trading Program and as specified in § 145.341. CO₂ offset allowances allocated to project sponsors and CO₂ CCR allowances offered for sale at an auction are separate from and additional to CO₂ allowances allocated from the Pennsylvania CO₂ Budget Trading Program base budget.

Qualified participant—A person who has submitted a qualification application under § 145.406(a) and that the Department determines to be qualified to participate in CO₂ allowance auctions under § 145.406(e).

Receive or receipt of—When referring to the Department or its agent, to come into possession of a document, information or correspondence, whether sent in writing or by authorized electronic transmission, as indicated in an official correspondence log, or by a notation made on the document, information or correspondence, by the Department or its agent in the regular course of business.

Recordation, record or recorded—With regard to CO₂ allowances, the movement of CO₂ allowances by the Department or its agent from one COATS account to another, for purposes of allocation, transfer or deduction.

Reserve price—The minimum acceptable price for each CO₂ allowance offered for sale in a specific auction. The reserve price at an auction is either the minimum reserve price or the CCR trigger price, as specified in § 145.382 (relating to general requirements).

Reviewer—The individual who is delegated authority by a CO₂ authorized account representative or a CO₂ authorized alternate account representative to review information in COATS under this subchapter.

Source—A governmental, institutional, commercial or industrial structure, installation, plant, building or facility that emits or has the potential to emit any air pollutant. A source, including a source with multiple units, shall be considered a single facility.

Strategic use set-aside account—A general account established by the Department for the distribution of CO₂ allowances to reduce greenhouse gas emissions through energy efficiency measures, renewable or noncarbon-emitting energy technologies or innovative greenhouse gas emissions abatement technologies with significant greenhouse gas reduction potential.

Ton or tonnage—A short ton that is 2,000 pounds or 0.9072 metric ton.

Total useful energy—The sum of useful thermal energy and gross generation.

Undistributed CO₂ allowance—A CO₂ allowance originally allocated to a set-aside account under § 145.342 that was not distributed.

Uniform-price, sealed-bid auction—A single-round, sealed-bidding process in which a bidder may submit multiple bids at different prices. The price paid by all successful bidders will be uniform and equal to the highest rejected bid price.

Unit—A fossil fuel-fired stationary boiler, combustion turbine or combined cycle system.

Unit operating day—A calendar day in which a unit combusts any fuel.

Unsold CO₂ allowance—A CO₂ allowance that has been made available for sale in an auction conducted by the Department or its agent, but not sold.

Useful thermal energy—

(i) Energy in the form of direct heat, steam, hot water, air or other thermal form which is applied for a useful purpose in an industrial, institutional or commercial process.

(ii) This term does not include steam made available for electricity production.

Waste coal—The coal disposed or abandoned prior to July 31, 1982, or disposed of thereafter in a permitted coal refuse disposal site regardless of when disposed of and used to generate electricity, as defined in the definition of “alternative energy sources” under section 2 of the Alternative Energy Portfolio Standards Act (73 P.S. § 1648.2).

Waste coal-fired—The combustion of waste coal or, in combination with any other fuel, waste coal comprises 75% or greater of the annual heat input on a Btu basis. Facilities combusting waste coal shall use at a minimum a circulating fluidized bed boiler and be outfitted with a limestone injection system and a fabric filter particulate removal system.

Waste coal set-aside account—A general account established by the Department for the allocation of CO₂ allowances in an amount sufficient to provide CO₂ allowances equal to the legacy emissions from all waste coal-fired units under § 145.342(i).

§ 145.303. Measurements, abbreviations and acronyms.

Measurements, abbreviations and acronyms used in this subchapter are defined as follows:

CH₄—methane.

hr—hour.

lb—pounds.

MMBtu—Million Btu.

MW—megawatt.

MWe—megawatt electrical.

§ 145.304. Applicability.

(a) *CO₂ budget unit*. Beginning April 23, 2022, this subchapter applies to an owner or operator of a unit that serves an electricity generator with a nameplate capacity equal to or greater than 25 MWe.

(b) *CO₂ budget source*. Any source that includes one or more CO₂ budget units shall be a CO₂ budget source, subject to the requirements of this subchapter.

§ 145.305. Limited exemption for CO₂ budget units with electrical output to the electric grid restricted by permit conditions.

(a) *Exemption*. Notwithstanding § 145.304 (relating to applicability), a CO₂ budget source that has a permit issued by the Department containing a condition restricting the supply of the CO₂ budget unit's annual electrical output to the electric grid to no more than 10% of the annual gross generation of the unit, or restricting the supply less than or equal to 15% of its annual total useful energy to any entity other than the industrial, institutional or commercial facility to which the CO₂ budget source is interconnected and which complies with subsection (c), shall be exempt from the requirements of this subchapter, except for the provisions of this section,

§§ 145.302, 145.303, and 145.307 (relating to definitions; measurements, abbreviations and acronyms; and computation of time) and, if applicable because of the allocation of CO₂ allowances during the pre-exemption time period, §§ 145.341, 145.351 and 145.361 (relating to Pennsylvania CO₂ Budget Trading Program base budget; CO₂ Allowance Tracking System (COATS) accounts; and submission of CO₂ allowance transfers).

(b) *Effective date.* The exemption under subsection (a) shall become effective as of the January 1 on or after the date on which the restriction on the percentage of annual gross generation that may be supplied to the electric grid and the provisions in the permit required under subsection (a) become final.

(c) *Compliance.*

(1) The owner or operator of a CO₂ budget unit exempt under subsection (a) shall comply with the restriction on the percentage of annual gross generation that may be supplied to the electric grid described in subsection (a).

(2) The owner or operator of a CO₂ budget unit exempt under subsection (a) shall report to the Department the amount of annual gross generation and the amount of annual gross generation supplied to the electric grid during the calendar year by the following March 1.

(3) For a period of 10 years from the date the records are created, the owner or operator of a CO₂ budget unit exempt under subsection (a) shall retain, at the source that includes the unit, records demonstrating that the conditions of the permit under subsection (a) were met. The Department may, in writing, extend the 10-year period for keeping records, at any time prior to the end of the period. The owner or operator bears the burden of proof that the unit met the restriction on the percentage of annual gross generation that may be supplied to the electric grid.

(4) The owner or operator and, to the extent applicable, the CO₂ authorized account representative of a CO₂ budget unit exempt under subsection (a) shall comply with the requirements of this subchapter concerning all time periods for which the exemption is not in effect, even if the requirements arise, or must be complied with, after the exemption takes effect.

(5) A CO₂ budget unit exempt under subsection (a) will lose its exemption, on the earlier of the following dates:

(i) The restriction on the percentage of annual gross generation that may be supplied to the electric grid described in subsection (a) is removed from the unit's permit or otherwise becomes no longer applicable in any year that commences on or after April 23, 2022.

(ii) The unit fails to comply or the owner or operator fails to meet their burden of proving that the unit is complying with the restriction on the percentage of annual gross generation that may be supplied to the electric grid described in subsection (a) during any year that commences on or after April 23, 2022.

(6) A unit that loses its exemption in accordance with paragraph (5) shall be subject to the requirements of this subchapter. For the purposes of this subchapter, the unit shall be treated as commencing operation on the date the unit loses its exemption.

§ 145.306. Standard requirements.

(a) *Permit requirements.*

(1) The owner or operator of each CO₂ budget source shall have a CO₂ budget permit condition in their permit required under Chapter 127 (relating to construction,

modification, reactivation and operation of sources) and shall submit to the Department the following:

(i) A complete application for a new, renewed or modified permit under § 145.323 (relating to contents of an application for a permit incorporating CO₂ Budget Trading Program requirements) in accordance with the deadlines specified in § 145.322 (relating to submission of an application for a new, renewed or modified permit incorporating CO₂ Budget Trading Program requirements).

(ii) Any supplemental information that the Department determines is necessary to review the permit application and issue or deny a permit, permit renewal or permit modification that includes CO₂ Budget Trading Program requirements.

(2) The owner or operator of each CO₂ budget source required to have a permit under Chapter 127 shall ensure that the permit incorporates the requirements of the CO₂ Budget Trading Program and shall operate the CO₂ budget source and each CO₂ budget unit at the source in compliance with the permit.

(b) *Monitoring requirements.*

(1) The owner or operator and, to the extent applicable, the CO₂ authorized account representative of each CO₂ budget source and each CO₂ budget unit at the source, shall comply with the monitoring requirements of §§ 145.371—145.377 (relating to monitoring, reporting and recordkeeping requirements).

(2) The Department will use the emissions measurements recorded and reported in accordance with §§ 145.371—145.377 to determine the unit's compliance with the CO₂ requirements under subsection (c).

(3) The Department will use the emissions measurements recorded and reported to the Department under this article to determine whether areas of this Commonwealth have been disproportionately impacted by increased air pollution as a result of implementation of this subchapter. The Department will publish notice of the availability of a report of the emissions measurements and the determination in the *Pennsylvania Bulletin* on an annual basis. The report will include the following:

(i) Baseline air emissions data from each CO₂ budget unit for the calendar year prior to the year Pennsylvania becomes a participating state.

(ii) Annual emissions measurements recorded and reported to the Department from each CO₂ budget unit.

(c) *CO₂ requirements.* A CO₂ budget unit shall be subject to the CO₂ requirements starting on July 1, 2022, or the date on which the unit commences operation, whichever is later.

(1) For the purpose of determining compliance with paragraph (2), total tons for a control period or an interim control period shall be calculated as the sum of all recorded hourly emissions or the tonnage equivalent of the recorded hourly emissions rates, in accordance with §§ 145.371—145.377. The Department will round total CO₂ emissions to the nearest whole ton, so that any fraction of a ton equal to or greater than 0.50 ton is deemed to equal 1 ton and any fraction of a ton less than 0.50 ton is deemed to equal zero tons.

(2) The owner or operator of each CO₂ budget source and each CO₂ budget unit at the source shall, as of the CO₂ allowance transfer deadline, hold CO₂ allowances available for compliance deductions under § 145.355 (relating to compliance), in the source's compliance account, as follows:

(i) For a control period, the amount of CO₂ allowances held shall be no less than the total CO₂ emissions for the control period from all CO₂ budget units at the source, less the CO₂ allowances deducted to meet the requirements of subparagraph (ii), with respect to the previous 2 interim control periods, as determined in accordance with §§ 145.351—145.358 (relating to CO₂ allowance tracking system) and §§ 145.371—145.377.

(ii) For an interim control period, the amount of CO₂ allowances held shall be no less than the total CO₂ emissions for the interim control period from all CO₂ budget units at the source multiplied by 0.50, as determined in accordance with §§ 145.351—145.358 and 145.371—145.377.

(3) Each ton of CO₂ emitted in excess of the CO₂ budget emissions limitation for a control period shall constitute a separate violation of this subchapter and the act.

(4) Each ton of excess interim emissions shall constitute a separate violation of this subchapter and the act.

(5) CO₂ allowances shall be held in, deducted from, or transferred among COATS accounts in accordance with §§ 145.341—145.343 (relating to CO₂ allowance allocations), 145.351—145.358, 145.361—145.363 (relating to CO₂ allowance transfers) and 145.397 (relating to award and recordation of CO₂ offset allowances).

(6) A CO₂ allowance shall not be deducted, to comply with the requirements under this subsection, for a control period or interim control period that ends prior to the year for which the CO₂ allowance was allocated.

(7) A CO₂ offset allowance shall not be deducted, to comply with the requirements under this subsection, beyond the applicable percent limitations in § 145.355(a)(3).

(8) A CO₂ allowance is a limited authorization by the Department or a participating state to emit 1 ton of CO₂ in accordance with the CO₂ Budget Trading Program. No provision of the CO₂ Budget Trading Program, this subchapter, an application for a new, renewed or modified permit to incorporate the requirements of the CO₂ Budget Trading Program, a permit that includes the requirements of the CO₂ Budget Trading Program, or any provision of law shall be construed to limit the authority of the Department or a participating state to terminate or limit the authorization.

(9) A CO₂ allowance under the CO₂ Budget Trading Program does not constitute a property right.

(d) *Excess emissions requirements.* The owner or operator of a CO₂ budget source that has excess emissions in any control period or excess interim emissions for any interim control period shall do the following:

(1) Forfeit the CO₂ allowances required for deduction under § 145.355(d)(1) and (2).

(2) Pay any fine, penalty or assessment or comply with any other remedy imposed under § 145.355(d)(3).

(e) *Recordkeeping and reporting requirements.*

(1) Except as provided in subparagraph (i), the owner or operator of the CO₂ budget source and each CO₂ budget unit at the source shall maintain at a central location and provide upon request by the Department the following documents for 10 years from the date the document is created. This period may be extended for cause, at any time prior to the end of 10 years, in writing by the Department.

(i) The account certificate of representation for the CO₂ authorized account representative for the CO₂ budget source and each CO₂ budget unit at the source and all documents that demonstrate the truth of the statements in the account certificate of representation, in accordance with § 145.314 (relating to account certificate of representation). The certificate and documents shall be retained beyond the 10-year period until the documents are superseded because of the submission of a new account certificate of representation changing the CO₂ authorized account representative.

(ii) The emissions monitoring information, in accordance with §§ 145.371—145.377 and 40 CFR 75.57 (relating to general recordkeeping provisions).

(iii) Copies of all reports, compliance certifications and other submissions and all records made or required under the CO₂ Budget Trading Program.

(iv) Copies of the documents used to complete an application for a new or modified permit that incorporates the requirements of the CO₂ Budget Trading Program and any submission under the CO₂ Budget Trading Program or to demonstrate compliance with the requirements of the CO₂ Budget Trading Program.

(2) The CO₂ authorized account representative of a CO₂ budget source and each CO₂ budget unit at the source shall submit the reports and compliance certifications required under this subchapter, including the requirements under §§ 145.331 and 145.332 (relating to compliance certification report; and Department action on compliance certifications).

(f) *Liability.*

(1) Except as provided under § 127.403 (relating to permitting of sources operating lawfully without a permit), a permit revision may not excuse any violation of the requirements of this subchapter that occurs prior to the date that the revision takes effect.

(2) Any provision of this subchapter that applies to a CO₂ authorized account representative shall apply to the owner or operator of the source and of the CO₂ budget units at the source.

(3) Any provision of this subchapter that applies to a CO₂ budget source shall also apply to the owner or operator of the source and of the CO₂ budget units at the source.

(4) Any provision of this subchapter that applies to a CO₂ budget unit shall also apply to the owner or operator of the unit.

(g) *Effect on other authorities.* No provision of this subchapter, a permit application or a permit shall be construed as exempting or excluding the owner or operator and, to the extent applicable, the CO₂ authorized account representative, from compliance with any provision of the act, the Clean Air Act or the regulations promulgated under the Clean Air Act or the act.

§ 145.307. Computation of time.

(a) Unless otherwise stated, any time period scheduled, under the CO₂ Budget Trading Program, to begin on the occurrence of an act or event shall begin on the day the act or event occurs.

(b) Unless otherwise stated, any time period scheduled, under the CO₂ Budget Trading Program, to begin before the occurrence of an act or event shall be computed so that the period ends the day before the act or event occurs.

(c) Unless otherwise stated, if the final day of any time period, under the CO₂ Budget Trading Program, falls on a weekend or a State or Federal holiday, the time period shall be extended to the next business day.

CO₂ AUTHORIZED ACCOUNT REPRESENTATIVE FOR A CO₂ BUDGET SOURCE

§ 145.311. Authorization and responsibilities of the CO₂ authorized account representative.

(a) Except as provided under § 145.312 (relating to CO₂ authorized alternate account representative), each CO₂ budget source, including all CO₂ budget units at the source, shall have only one CO₂ authorized account representative, with regard to all matters under the CO₂ Budget Trading Program concerning the source or any CO₂ budget unit at the source.

(b) The CO₂ authorized account representative of the CO₂ budget source shall be selected by an agreement binding on the owner or operator of the source and all CO₂ budget units at the source and must act in accordance with the certificate of representation under § 145.314 (relating to account certificate of representation).

(c) Upon receipt by the Department or its agent of a complete account certificate of representation under § 145.314, the CO₂ authorized account representative of the source shall represent and, by their representations, actions, inactions or submissions, legally bind each owner and operator of the CO₂ budget source represented and each CO₂ budget unit at the source in all matters pertaining to the CO₂ Budget Trading Program, notwithstanding any agreement between the CO₂ authorized account representative and the owner or operator. The owner or operator shall be bound by any decision or order issued to the CO₂ authorized account representative by the Department or a court regarding the source or unit.

(d) The Department will issue a permit that incorporates the requirements of the CO₂ Budget Trading Program and establish a COATS account for a CO₂ budget source only after the Department or its agent has received a complete account certificate of representation under § 145.314 for a CO₂ authorized account representative of the source and the CO₂ budget units at the source.

(e) Each submission under the CO₂ Budget Trading Program shall be submitted, signed and certified by the CO₂ authorized account representative for each CO₂ budget source on behalf of which the submission is made. Each submission shall include the following certification statement by the CO₂ authorized account representative:

“I am authorized to make this submission on behalf of the owner or operator of the CO₂ budget sources or CO₂ budget units for which the submission is made. I certify under penalty of law that I have personally examined, and am familiar with, the statements and information submitted in this document and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief true, accurate and complete. I am aware that there are significant penalties under 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities) for submitting false statements and information or omitting required statements and information.”

(f) The Department or its agent will accept or act on a submission made on behalf of the owner or operator of a

CO₂ budget source or a CO₂ budget unit only if the submission has been made, signed and certified in accordance with subsection (e).

§ 145.312. CO₂ authorized alternate account representative.

(a) An account certificate of representation may designate only one CO₂ authorized alternate account representative who may act on behalf of the CO₂ authorized account representative. The agreement by which the CO₂ authorized alternate account representative is selected shall include a procedure for authorizing the CO₂ authorized alternate account representative to act instead of the CO₂ authorized account representative.

(b) Upon receipt by the Department or its agent of a complete account certificate of representation under § 145.314 (relating to account certificate of representation), any representation, action, inaction or submission by the CO₂ authorized alternate account representative shall be deemed to be a representation, action, inaction or submission by the CO₂ authorized account representative.

(c) Except in this section and §§ 145.311(a), 145.313, 145.314 and 145.352, whenever the term “CO₂ authorized account representative” is used in this subchapter, the term shall include the CO₂ authorized alternate account representative.

§ 145.313. Changing the CO₂ authorized account representative and the CO₂ authorized alternate account representative; changes in the owner or operator.

(a) *Changing the CO₂ authorized account representative.* The CO₂ authorized account representative may be changed at any time upon receipt by the Department or its agent of a superseding complete account certificate of representation under § 145.314 (relating to account certificate of representation). Notwithstanding a change, the representations, actions, inactions and submissions by the previous CO₂ authorized account representative or CO₂ authorized alternate account representative prior to the time and date when the Department or its agent receives the superseding account certificate of representation shall be binding on the new CO₂ authorized account representative and the owner or operator of the CO₂ budget source and the CO₂ budget units at the source.

(b) *Changing the CO₂ authorized alternate account representative.* The CO₂ authorized alternate account representative may be changed at any time upon receipt by the Department or its agent of a superseding complete account certificate of representation under § 145.314. Notwithstanding a change, the representations, actions, inactions and submissions by the previous CO₂ authorized alternate account representative prior to the time and date when the Department or its agent receives the superseding account certificate of representation shall be binding on the new CO₂ authorized alternate account representative and the owner or operator of the CO₂ budget source and the CO₂ budget units at the source.

(c) *Changes in the owner or operator.*

(1) If a new owner or operator of a CO₂ budget source or a CO₂ budget unit is not included in the list of owners and operators submitted in the account certificate of representation, the new owner or operator shall be deemed to be subject to and bound by the account certificate of representation, the representations, actions, inactions and submissions of the CO₂ authorized account representative and any CO₂ authorized alternate account representative of the source or unit, and the decisions,

orders, actions and inactions of the Department, as if the new owner or operator were included in the list.

(2) Within 30 days following any change in the owner or operator of a CO₂ budget source or a CO₂ budget unit, including the addition of a new owner or operator, the CO₂ authorized account representative or CO₂ authorized alternate account representative shall submit a revision to the account certificate of representation amending the list of owners and operators to include the change.

§ 145.314. Account certificate of representation.

(a) A complete account certificate of representation for a CO₂ authorized account representative or a CO₂ authorized alternate account representative shall include the following elements in a format prescribed by the Department or its agent:

(1) Identification of the CO₂ budget source and each CO₂ budget unit at the source for which the account certificate of representation is submitted.

(2) The name, address, e-mail address and telephone number of the CO₂ authorized account representative and any CO₂ authorized alternate account representative.

(3) A list of the owners and operators of the CO₂ budget source and of each CO₂ budget unit at the source.

(4) The following certification statement by the CO₂ authorized account representative and any CO₂ authorized alternate account representative:

"I certify that I was selected as the CO₂ authorized account representative or CO₂ authorized alternate account representative, as applicable, by an agreement binding on the owner or operator of the CO₂ budget source and each CO₂ budget unit at the source. I certify that I have all the necessary authority to carry out my duties and responsibilities under the CO₂ Budget Trading Program on behalf of the owner or operator of the CO₂ budget source and of each CO₂ budget unit at the source and that each owner and operator shall be fully bound by my representations, actions, inactions, or submissions and by any decision or order issued to me by the Department or a court regarding the source or unit."

(5) The signature of the CO₂ authorized account representative and any CO₂ authorized alternate account representative and the dates signed.

(b) Unless otherwise required by the Department or its agent, documents of agreement referred to in the account certificate of representation shall not be submitted to the Department or its agent. The Department and its agent are not under any obligation to review or evaluate the sufficiency of documents of agreement, if submitted.

§ 145.315. Objections concerning the CO₂ authorized account representative.

(a) Once a complete account certificate of representation under § 145.314 (relating to account certificate of representation) has been submitted and received, the Department and its agent will rely on the account certificate of representation unless the Department or its agent receives a superseding complete account certificate of representation under § 145.314.

(b) Except as provided in § 145.313(a) or (b) (relating to changing the CO₂ authorized account representative and the CO₂ authorized alternate account representative; changes in the owner or operator), an objection or other communication submitted to the Department or its agent concerning the authorization, or any representation, action, inaction or submission of the CO₂ authorized account representative will not affect any representation,

action, inaction or submission of the CO₂ authorized account representative or the finality of a decision or order by the Department or its agent under the CO₂ Budget Trading Program.

(c) The Department and its agent will not adjudicate any private legal dispute concerning the authorization or any representation, action, inaction or submission of a CO₂ authorized account representative, including private legal disputes concerning the proceeds of CO₂ allowance transfers.

§ 145.316. Delegation of authority to make electronic submissions and review information in COATS.

(a) A CO₂ authorized account representative or a CO₂ authorized alternate account representative may delegate, to one or more persons, their authority to make an electronic submission to the Department or its agent under this subchapter.

(b) To delegate authority to make an electronic submission to the Department or its agent, the CO₂ authorized account representative or CO₂ authorized alternate account representative must submit to the Department or its agent a notice of delegation, in a format prescribed by the Department that includes the following:

(1) The name, address, e-mail address and telephone number of the delegating CO₂ authorized account representative or CO₂ authorized alternate account representative.

(2) The name, address, e-mail address and telephone number of each electronic submission agent.

(3) For each electronic submission agent, a list of the type of electronic submissions under subsection (a) for which authority is delegated.

(4) The following certification statements by the delegating CO₂ authorized account representative or CO₂ authorized alternate account representative:

(i) "I agree that any electronic submission to the Department or its agent that is by the electronic submission agent identified in this notice of delegation and of a type listed for the electronic submission agent in this notice of delegation and that is made when I am a CO₂ authorized account representative or CO₂ authorized alternate account representative and before this notice of delegation is superseded by another notice of delegation under subsection (d) shall be deemed to be an electronic submission by me."

(ii) "Until this notice of delegation is superseded by another notice of delegation under subsection (d), I agree to maintain an e-mail account and to notify the Department or its agent immediately of any change in my e-mail address unless all delegation authority by me under this subsection is terminated."

(c) A notice of delegation submitted under subsection (b) will be effective, with regard to the CO₂ authorized account representative or CO₂ authorized alternate account representative identified in the notice, upon receipt of the notice by the Department or its agent and until receipt by the Department or its agent of a superseding notice of delegation by the CO₂ authorized account representative or CO₂ authorized alternate account representative. The superseding notice of delegation may replace any previously identified electronic submission agent, add a new electronic submission agent or eliminate entirely any delegation of authority.

(d) Any electronic submission covered by the certification under subsection (b)(4) and made in accordance with a notice of delegation effective under subsection (b) shall be deemed to be an electronic submission by the CO₂ authorized account representative or CO₂ authorized alternate account representative submitting the notice of delegation.

(e) A CO₂ authorized account representative or a CO₂ authorized alternate account representative may delegate, to one or more persons, their authority to review information in COATS under this subchapter.

(f) To delegate authority to review information in COATS under subsection (e), the CO₂ authorized account representative or CO₂ authorized alternate account representative must submit to the Department or its agent a notice of delegation, in a format prescribed by the Department that includes the following:

(1) The name, address, e-mail address and telephone number of the delegating CO₂ authorized account representative or CO₂ authorized alternate account representative.

(2) The name, address, e-mail address and telephone number of each reviewer.

(3) For each reviewer, a list of the type of information under subsection (e) for which authority is delegated.

(4) The following certification statements by the delegating CO₂ authorized account representative or CO₂ authorized alternate account representative:

(i) "I agree that any information that is reviewed by the reviewer identified in this notice of delegation and of a type listed for the information accessible by the reviewer in this notice of delegation and that is made when I am a CO₂ authorized account representative or CO₂ authorized alternate account representative and before this notice of delegation is superseded by another notice of delegation under subsection (g) shall be deemed to be a review by me."

(ii) "Until this notice of delegation is superseded by another notice of delegation under subsection (g), I agree to maintain an e-mail account and to notify the Department or its agent immediately of any change in my e-mail address unless all delegation authority by me under this subsection is terminated."

(g) A notice of delegation submitted under subsection (f) shall be effective, with regard to the CO₂ authorized account representative or CO₂ authorized alternate account representative identified in the notice, upon receipt of the notice by the Department or its agent and until receipt by the Department or its agent of a superseding notice of delegation by the CO₂ authorized account representative or CO₂ authorized alternate account representative. The superseding notice of delegation may replace any previously identified reviewer, add a new reviewer or eliminate entirely any delegation of authority.

PERMITS

§ 145.321. General requirements for a permit incorporating CO₂ Budget Trading Program requirements.

(a) Except as provided under § 127.403 (relating to permitting of sources operating lawfully without a permit), each CO₂ budget source must have a permit issued by the Department under Chapter 127 (relating to construction, modification, reactivation and operation of sources).

(b) The permit for each CO₂ budget source shall contain all applicable CO₂ Budget Trading Program requirements.

§ 145.322. Submission of an application for a new, renewed or modified permit incorporating CO₂ Budget Trading Program requirements.

(a) For any CO₂ budget source, the owner or operator shall submit a complete permit application under Chapter 127 (relating to construction, modification, reactivation and operation of sources) incorporating the CO₂ Budget Trading Program requirements in this subchapter to the Department by the later of the following:

(1) Six months after April 23, 2022.

(2) Twelve months before the date on which the CO₂ budget source or a new unit at the source commences operation.

(b) If the Department approves the incorporation of CO₂ Budget Trading Program requirements into a permit, the Department will establish permit conditions in the permit that will enable the Department to readily verify whether emissions from the source operations meet the requirements of this subchapter. Such permit conditions will set forth replicable procedures, including monitoring, source emissions testing and recordkeeping and reporting procedures, sufficient to ensure that emissions are quantified and recorded and that compliance with the emissions limitation under this subchapter is enforceable.

§ 145.323. Contents of an application for a permit incorporating CO₂ Budget Trading Program requirements.

A complete permit application shall include the following concerning the CO₂ budget source for which the application is submitted, in a format prescribed by the Department:

(1) Identification of the CO₂ budget source, including plant name and the Office of Regulatory Information Systems or facility code assigned to the source by the Energy Information Administration of the United States Department of Energy, if applicable.

(2) Identification of each CO₂ budget unit at the CO₂ budget source.

(3) The standard requirements under § 145.306 (relating to standard requirements).

(4) The compliance certification requirements under § 145.331 (relating to compliance certification report).

(5) The compliance requirements under § 145.355 (relating to compliance).

(6) The monitoring, recordkeeping and reporting requirements under §§ 145.371—145.377 (relating to monitoring, reporting and recordkeeping requirements).

COMPLIANCE CERTIFICATION

§ 145.331. Compliance certification report.

(a) *Applicability and deadline.* For each control period, except for an interim control period, in which a CO₂ budget source is subject to the CO₂ requirements of § 145.306(c) (relating to standard requirements), the CO₂ authorized account representative of the source shall submit a compliance certification report to the Department by March 1 following the relevant control period.

(b) *Contents of report.* The CO₂ authorized account representative shall include in the compliance certification report under subsection (a) the following:

(1) Identification of the CO₂ budget source and each CO₂ budget unit at the source.

(2) At the CO₂ authorized account representative's option, the serial numbers of the CO₂ allowances that are to be deducted from the source's compliance account under § 145.355 (relating to compliance) for the control period or an interim control period, including the serial numbers of any CO₂ offset allowances that are to be deducted subject to the limitations of § 145.355(a)(3).

(3) The compliance certification under subsection (c).

(c) *Compliance certification.* In the compliance certification report under subsection (a), the CO₂ authorized account representative shall certify, based on reasonable inquiry of those persons with primary responsibility for operating the source and the CO₂ budget units at the source in compliance with the CO₂ Budget Trading Program, whether the source and each CO₂ budget unit at the source for which the compliance certification is submitted was operated during the calendar years covered by the report in compliance with the requirements of the CO₂ Budget Trading Program, including the following:

(1) Whether the CO₂ budget source was operated in compliance with the CO₂ requirements of § 145.306(c).

(2) Whether the monitoring plan applicable to each unit at the source has been maintained to reflect the actual operation and monitoring of the unit and contains the information necessary to attribute CO₂ emissions to the unit, in accordance with §§ 145.371—145.377 (relating to monitoring, reporting and recordkeeping requirements).

(3) Whether all the CO₂ emissions from the units at the source were monitored or accounted for through the missing data procedures and reported in the quarterly monitoring reports, including whether conditional data were reported in the quarterly reports in accordance with §§ 145.371—145.377. If conditional data were reported, the owner or operator shall indicate whether the status of all conditional data has been resolved and all necessary quarterly report resubmissions have been made.

(4) Whether the facts that form the basis for certification under §§ 145.371—145.377 of each monitor at each unit at the source, or for using an excepted monitoring method or alternative monitoring method approved under §§ 145.371—145.377, if any, have changed.

(5) If a change is required to be reported under paragraph (4), specify the nature of the change, the reason for the change, when the change occurred and how the unit's compliance status was determined subsequent to the change, including what method was used to determine emissions when a change mandated the need for monitor recertification.

§ 145.332. Department action on compliance certifications.

(a) The Department or its agent may review and conduct independent audits concerning any compliance certification or any other submission under the CO₂ Budget Trading Program and make appropriate adjustments of the information in the compliance certification or other submission.

(b) The Department or its agent may deduct CO₂ allowances from or transfer CO₂ allowances to a CO₂ budget source's compliance account based on the information in the compliance certification or other submission, as adjusted under subsection (a).

CO₂ ALLOWANCE ALLOCATIONS

§ 145.341. Pennsylvania CO₂ Budget Trading Program base budget.

(a) For 2022, if Pennsylvania is a participating state on January 1, 2022, the Pennsylvania CO₂ Budget Trading Program base budget is 78 million tons. If Pennsylvania is a participating state after January 1, 2022, then the Pennsylvania CO₂ Budget Trading Program base budget for 2022 will be one of the following:

(1) If Pennsylvania is a participating state after January 1, 2022, but before or on April 1, 2022, then the Pennsylvania CO₂ Budget Trading Program base budget is 57,954,000 tons.

(2) If Pennsylvania is a participating state after April 1, 2022, but before or on July 1, 2022, then the Pennsylvania CO₂ Budget Trading Program base budget is 40,716,000 tons.

(3) If Pennsylvania is a participating state after July 1, 2022, but before or on October 1, 2022, then the Pennsylvania CO₂ Budget Trading Program base budget is 18,564,000 tons.

(b) For 2023, the Pennsylvania CO₂ Budget Trading Program base budget is 75,510,630 tons.

(c) For 2024, the Pennsylvania CO₂ Budget Trading Program base budget is 73,021,260 tons.

(d) For 2025, the Pennsylvania CO₂ Budget Trading Program base budget is 70,531,890 tons.

(e) For 2026, the Pennsylvania CO₂ Budget Trading Program base budget is 68,042,520 tons.

(f) For 2027, the Pennsylvania CO₂ Budget Trading Program base budget is 65,553,150 tons.

(g) For 2028, the Pennsylvania CO₂ Budget Trading Program base budget is 63,063,780 tons.

(h) For 2029, the Pennsylvania CO₂ Budget Trading Program base budget is 60,574,410 tons.

(i) For 2030 and each succeeding calendar year, the Pennsylvania CO₂ Budget Trading Program base budget is 58,085,040 tons.

§ 145.342. CO₂ allowance allocations.

(a) *General allocations.* The Department will allocate CO₂ allowances representing 100% of the tons for each allocation year from the Pennsylvania CO₂ Budget Trading Program base budget set forth in § 145.341 (relating to Pennsylvania CO₂ Budget Trading Program base budget) to the air pollution reduction account, less those CO₂ allowances set aside each allocation year under subsection (b).

(b) *Set-aside allocations.*

(1) *Waste coal set-aside account.* The Department will allocate CO₂ allowances to a waste coal set-aside account for each allocation year from the Pennsylvania CO₂ Budget Trading Program base budget set forth in § 145.341, as provided under subsection (i).

(2) *Strategic use set-aside account.* The Department will allocate undistributed CO₂ allowances to the strategic use set-aside account for each allocation year from the waste coal set-aside account, as provided under subsection (j).

(3) *Combined heat and power set-aside account.* The Department will allocate CO₂ allowances to a combined heat and power set-aside account for each allocation year

from the Pennsylvania CO₂ Budget Trading Program base budget set forth in § 145.341, as provided under subsection (k).

(c) *CO₂ allowances available for allocation.* For each allocation year, the Pennsylvania CO₂ Budget Trading Program adjusted budget shall be the maximum number of CO₂ allowances available for allocation in a given allocation year, except for CO₂ offset allowances and CO₂ CCR allowances. In any year in which there is no adjusted budget, the adjusted budget shall equal the base budget.

(d) *Cost Containment Reserve (CCR) allocation.* To contain the cost of CO₂ allowances, the Department will allocate CO₂ CCR allowances, separate from and additional to the Pennsylvania CO₂ Budget Trading Program base budget set forth in § 145.341, to the air pollution reduction account. The Department will allocate CO₂ CCR allowances by doing the following:

(1) The Department will initially allocate CCR allowances for calendar year 2022 in an amount equal to 10% of the Pennsylvania CO₂ Budget Trading Program base budget for 2022 set forth in § 145.341(a).

(2) On or before January 1, 2023, and on or before January 1 of each calendar year thereafter, the Department will allocate current vintage year CCR allowances equal to 10% of the Pennsylvania CO₂ Budget Trading Program base budget for the calendar year and withdraw the number of CO₂ CCR allowances that remain in the air pollutant reduction account at the end of the prior calendar year.

(e) *Emissions Containment Reserve (ECR) Withholding.* To provide additional emissions reductions in the event of lower than anticipated emissions reduction costs, the Department will convert and transfer any CO₂ allowances that have been withheld from any auction into the Pennsylvania ECR account. The Department will withhold CO₂ ECR allowances by doing the following:

(1) If the condition in § 145.382(d)(1) (relating to general requirements) is met at an auction, then the maximum number of CO₂ ECR allowances that will be withheld from that auction will be equal to 10% of the Pennsylvania CO₂ Budget Trading Program base budget for that calendar year minus the total quantity of CO₂ ECR allowances that have been withheld from any prior auction in that calendar year. Any CO₂ ECR allowances withheld from an auction will be transferred into the Pennsylvania ECR account.

(2) CO₂ allowances that have been transferred into the Pennsylvania ECR account will remain in the Pennsylvania ECR account as CO₂ ECR allowances and not be withdrawn.

(f) *Adjustment for banked allowances.* The Department may determine whether any adjustments for banked allowances will be made by using the following formula:

$$ABA = ((A - AE)/Y) \times RS\%$$

Where:

ABA = The adjustment for banked allowances quantity in tons.

A (adjustment) = The total quantity of CO₂ allowances of vintage years held in general and compliance accounts, including compliance accounts established under the CO₂ Budget Trading Program, but not including accounts opened by participating states, as reflected in COATS.

AE (adjustment emissions) = The total quantity of emissions from all CO₂ budget sources in all participating

states, reported under the CO₂ Budget Trading Program as reflected in COATS prior to the year of the adjustment.

RS% = The Commonwealth's adjustment year budget divided by the adjustment year regional budget.

Y = The time period in years over which the adjustment occurs.

(g) *CO₂ Budget Trading Program adjusted budget.* The Department may establish the Pennsylvania CO₂ Budget Trading Program adjusted budget for an allocation year by the following formula:

$$AB = BB - ABA$$

Where:

AB = The Pennsylvania CO₂ Budget Trading Program adjusted budget.

BB = The Pennsylvania CO₂ Budget Trading Program base budget.

ABA = The adjustment for banked allowances quantity in tons.

(h) *Publication.* If the Department determines to adjust the budget for banked allowances under subsections (f) and (g), the Department will publish in the *Pennsylvania Bulletin* the CO₂ Budget Trading Program adjusted budget for the allocation year.

(i) *Waste coal set-aside allocation.* The waste coal set-aside allocation will consist of tons from the Pennsylvania CO₂ Budget Trading Program base budget set forth in § 145.341, as applicable. The Department will administer the waste coal set-aside account in accordance with the following:

(1) *Applicability.* This subsection applies to waste coal-fired units located in Pennsylvania that commenced operation on or before April 23, 2022, that are subject to the CO₂ Budget Trading Program requirements under § 145.304 (relating to applicability).

(2) *General account.* The Department will open and manage a general account for the waste coal set-aside account.

(3) *Allowance transfer.* Except for 2022, by March 1 of each calendar year, the Department may transfer a portion of the CO₂ allowances allocated to the air pollution reduction account to the waste coal set-aside account in an amount equal to legacy emissions from waste coal-fired units applicable under paragraph (1). The Department has determined that the total amount of legacy emissions equal 12.8 million tons.

(4) *Compliance allocation.* Except for 2022 and a year with an exceedance of legacy emissions under paragraph (5), by March 1 of each calendar year, the Department will allocate CO₂ allowances from the waste coal set-aside account to the compliance account of each waste coal-fired unit in an amount equal to the actual number of CO₂ emissions in tons emitted from the waste coal-fired unit during the previous year.

(i) After allocating CO₂ allowances under this paragraph, the Department will transfer any undistributed CO₂ allowances from the waste coal set-aside account to the strategic use set-aside account.

(ii) CO₂ allowances allocated under this subsection must only be used for compliance with the CO₂ budget emissions limitation for the waste coal-fired unit. The sale or transfer of CO₂ allowances from the unit's compliance account will be considered a violation of this subchapter.

(5) *Exception for exceedance of legacy emissions.* If the total actual CO₂ emissions from waste coal-fired units exceed 12.8 million tons during a calendar year, the Department will account for the exceedance as follows:

(i) By February 15 of the year following the exceedance, the Department will determine the difference between each unit's legacy emissions and the unit's actual emissions during the previous year.

(ii) By February 15 of the year following the exceedance, the Department will allocate CO₂ allowances from the waste coal set-aside account to the compliance account of each waste coal-fired unit in an amount equal to the actual number of CO₂ emissions in tons emitted from the waste coal-fired unit during the previous year minus the exceedance of legacy emissions.

(iii) After the allocation under subparagraph (ii), if there are CO₂ allowances remaining in the waste coal set-aside account, the Department may distribute CO₂ allowances to each waste coal-fired unit requiring CO₂ allowances to meet the CO₂ requirements under § 145.306(c) (relating to standard requirements) in an amount proportionate to the exceedance.

(iv) By the CO₂ allowance transfer deadline of the year following the exceedance, the owner or operator of each waste coal-fired unit requiring additional CO₂ allowances to satisfy the CO₂ requirements under § 145.306(c) must transfer CO₂ allowances for compliance deductions under § 145.355 (relating to compliance) to the compliance account of the unit.

(6) *Set-aside termination.* If no CO₂ allowances are allocated under paragraph (4) in any calendar year due to the fact that there were no actual CO₂ emissions from waste coal-fired units subject to this subsection, then the CO₂ allowances remaining in the waste coal set-aside account will be transferred to the strategic use set-aside account. No additional CO₂ allowances will be allocated to the waste coal set-aside account under paragraph (3), and the Department will close the waste coal set-aside account.

(j) *Strategic use set-aside allocation.* The strategic use set-aside allocation will consist of undistributed CO₂ allowances from the waste coal set-aside account. The Department will administer the strategic use set-aside account in accordance with the following:

(1) *General account.* The Department will open and manage a general account for the strategic use set-aside account.

(2) *Allowance transfer.* By April 1 of each calendar year, the Department will transfer undistributed CO₂ allowances allocated to the waste coal set-aside account to the strategic use set-aside account.

(3) *Allocation to eligible projects.* The Department may distribute CO₂ allowances from the strategic use set-aside account to eligible projects located in Pennsylvania that result in a greenhouse gas emission reduction benefit including the following:

- (i) Implementation of energy efficiency measures.
- (ii) Implementation of renewable or noncarbon-emitting energy technologies.
- (iii) Development of innovative greenhouse gas emissions abatement technologies with significant greenhouse gas reduction potential.

(4) *Strategic use application.* To apply for CO₂ allowances, the owner of an eligible project shall submit to the

Department a complete application, in a format prescribed by the Department, that includes the following:

(i) Documentation that the project will result in greenhouse gas emission reductions.

(ii) Identification of the general account for the eligible project.

(iii) Specification of the number of CO₂ allowances being requested.

(iv) The calculations and supporting data used to determine the greenhouse gas emission reductions and an explanation of the data and the methods on which the calculations are based.

(5) *CO₂ allowance determination.* After verifying that the information submitted in the application under paragraph (4) is complete and accurate, the Department will determine the number of CO₂ allowances to distribute based on the greenhouse gas emission reductions achieved. The Department will distribute the allotted CO₂ allowances upon completion of the eligible project.

(6) *General requirements.* The Department will not award CO₂ allowances to an eligible project that is required under any local, State or Federal law, regulation, or administrative or judicial order.

(7) *Use of CO₂ allowances.* The owner of an eligible project may sell, transfer or submit a written request to the Department to retire allocated CO₂ allowances.

(8) *Transfer or retirement of CO₂ allowances.* At the end of each control period, the Department may retire or transfer to the air pollution reduction account any undistributed CO₂ allowances from the strategic use set-aside account.

(k) *Combined heat and power set-aside allocation.* The combined heat and power set-aside allocation will consist of tons from the Pennsylvania CO₂ Budget Trading Program base budget set forth in § 145.341, as applicable. The Department will administer the combined heat and power set-aside account in accordance with the following:

(1) *Applicability.* This subsection applies to combined heat and power units located in Pennsylvania that are subject to the CO₂ Budget Trading Program requirements under § 145.304 (relating to applicability).

(2) *General account.* The Department will open and manage a general account for the combined heat and power set-aside account.

(3) *CO₂ allowance retirement.* The Department will retire CO₂ allowances for a CO₂ budget unit that is a combined heat and power unit. Based on information provided under paragraph (4), the CO₂ authorized account representative of a CO₂ budget unit may request one of the following:

(i) Retirement of CO₂ allowances equal to the total amount of CO₂ emitted as a result of providing useful thermal energy or electricity, or both, during the allocation year.

(ii) Retirement of CO₂ allowances equal to the partial amount of CO₂ emitted as a result of supplying useful thermal energy or electricity, or both, to an interconnected industrial, institutional or commercial facility during the allocation year.

(4) *CO₂ allowance retirement application.* By January 30 of the year following the allocation year for which the retirement of CO₂ allowances is being requested, the CO₂ authorized account representative seeking the retirement

of CO₂ allowances for a combined heat and power unit shall submit to the Department a complete application, in a format prescribed by the Department, that includes the following:

(i) Documentation that the CO₂ budget unit is a combined heat and power unit that satisfies the applicability under paragraph (1).

(ii) Identification of the compliance account for the CO₂ budget unit.

(iii) Identification of the allocation year for which the retirement of CO₂ allowances request is being made.

(iv) Specification of the amount of the retirement of CO₂ allowances being requested, as determined under paragraph (5).

(v) The calculations and supporting data used to determine the amount of the retirement of CO₂ allowances being requested and an explanation of the data and the methods on which the calculations are based.

(vi) If the CO₂ budget unit is requesting retirement of CO₂ allowances under paragraph (3)(i), then the application must include the following:

(A) Documentation that the useful thermal energy is at least 25% of the total energy output of the combined heat and power unit on an annual basis.

(B) Documentation that the overall efficiency of the combined heat and power unit is at least 60% on an annual basis.

(C) The percentage of useful thermal energy and overall efficiency must be calculated as follows:

$$\text{Percentage of UTE} = \text{UTE} / (\text{UTE} + \text{TEO}) \times 100$$

$$\text{OE} = ((\text{UTE} + \text{TEO}) / \text{HI}) \times 100$$

Where:

- UTE = Useful Thermal Energy (MMBtu)
- OE = Overall Efficiency
- TEO = Total Electrical Output (MMBtu) = GG × 3.412
- GG = Gross Generation (MWe)
- HI = Total Heat Input (MMBtu)

(vii) If the CO₂ budget unit is requesting retirement of CO₂ allowances under paragraph (3)(ii), then the application must include documentation of the amount of useful thermal energy or electricity, or both, supplied to an interconnected industrial, institutional or commercial facility.

(5) *CO₂ allowance retirement determination.* After verifying that the information submitted in the application under paragraph (4) is complete and accurate, the Department will determine the number of CO₂ allowances to retire on behalf of a CO₂ budget unit that meets the applicability requirements under paragraph (1) and the application requirements under paragraph (4).

(i) For a CO₂ budget unit that meets the application requirements under paragraph (4)(vi), the Department will retire the number of CO₂ allowances equal to the amount of CO₂ that is emitted as a result of providing useful thermal energy or electricity, or both, during the allocation year.

(ii) For a CO₂ budget unit that meets the application requirements under paragraph (4)(vii), the Department will retire the number of CO₂ allowances equal to the amount of useful thermal energy or electricity, or both,

supplied to an interconnected industrial, institutional or commercial facility during the allocation year.

(iii) The owner or operator of each CO₂ budget unit requiring additional CO₂ allowances to satisfy the CO₂ requirements under § 145.306(c) shall transfer CO₂ allowances for compliance deductions under § 145.355 (relating to compliance) to the compliance account of the unit.

(6) *Retirement and transfer of CO₂ allowances.* At the end of each control period or interim control period, the Department will retire CO₂ allowances from the combined heat and power set-aside account in an amount equal to the determination under paragraph (5) for each CO₂ budget unit. The Department will transfer any remaining CO₂ allowances to the air pollution reduction account to be available for auction.

§ 145.343. Distribution of CO₂ allowances in the air pollution reduction account.

(a) Except for the CO₂ allowances allocated to the waste coal set-aside account under § 145.342(i) (relating to CO₂ allowance allocations), the strategic use set-aside account under § 145.342(j) and the combined heat and power set-aside account under § 145.342(k), the Department will make all CO₂ allowances for an allocation year that are held in the air pollution reduction account for that allocation year available for purchase or auction by no later than the December 31 of the calendar year that corresponds to that allocation year.

(b) The Department will administer the air pollution reduction account so that CO₂ allowances will be sold in a transparent allowance auction. The proceeds of the auction will be used in the elimination of air pollution in accordance with the act and Chapter 143 (relating to disbursements from the Clean Air Fund) and for programmatic costs associated with the CO₂ Budget Trading Program.

(c) The Department or its agent, will not be obligated to sell any CO₂ allowances for less than the reserve price.

(d) The Department may transfer to the air pollution reduction account undistributed or unsold CO₂ allowances at the end of each control period, including CO₂ allowances allocated to the waste coal set-aside account under § 145.342(i), the strategic use set-aside account under § 145.342(j) and the combined heat and power set-aside account under § 145.342(k).

CO₂ ALLOWANCE TRACKING SYSTEM

§ 145.351. CO₂ Allowance Tracking System (COATS) accounts.

(a) *Nature and function of compliance accounts.* Consistent with § 145.352(a) (relating to establishment of accounts), the Department or its agent will establish one compliance account for each CO₂ budget source. Allocations of CO₂ allowances under §§ 145.341—145.343 (relating to CO₂ allowance allocations) and deductions or transfers of CO₂ allowances under §§ 145.332, 145.355 and 145.357 (relating to Department action on compliance certifications; compliance; and account error) or §§ 145.361—145.363 (relating to CO₂ allowance transfers) will be recorded in the compliance accounts.

(b) *Nature and function of general accounts.* Consistent with § 145.352(b), the Department or its agent will establish, upon request, a general account for any person. Transfers of CO₂ allowances under §§ 145.361—145.363 will be recorded in the general account.

§ 145.352. Establishment of accounts.

(a) *Compliance accounts.* Upon receipt of a complete account certificate of representation under § 145.314 (relating to account certificate of representation), the Department or its agent will establish a compliance account for each CO₂ budget source for which the account certificate of representation was submitted.

(b) *General accounts.*

(1) *Complete application.* Any person may apply to open a general account for the purpose of holding and transferring CO₂ allowances by submitting a complete application for a general account to the Department or its agent that includes the following:

(i) The name, mailing address, e-mail address and telephone number of the CO₂ authorized account representative and any CO₂ authorized alternate account representative.

(ii) The organization name and type of organization.

(iii) A list of all persons subject to a binding agreement for the CO₂ authorized account representative or any CO₂ authorized alternate account representative to represent their ownership interest with respect to the CO₂ allowances held in the general account.

(iv) The following certification statement by the CO₂ authorized account representative and any CO₂ authorized alternate account representative:

“I certify that I was selected as the CO₂ authorized account representative or the CO₂ authorized alternate account representative by an agreement that is binding on all persons who have an ownership interest with respect to CO₂ allowances held in the general account. I certify that I have all the necessary authority to carry out my duties and responsibilities under the CO₂ Budget Trading Program on behalf of all persons and that each person shall be fully bound by my representations, actions, inactions or submissions and by any order or decision issued to me by the Department or its agent or a court regarding the general account.”

(v) The signature of the CO₂ authorized account representative and any CO₂ authorized alternate account representative and the dates signed.

(vi) Unless otherwise required by the Department or its agent, documents of agreement referred to in the application for a general account should not be submitted to the Department or its agent. The Department and its agent are not under any obligation to review or evaluate the sufficiency of any documents of agreement, if submitted.

(2) *Authorization of CO₂ authorized account representative.*

(i) Upon receipt by the Department or its agent of a complete application for a general account under paragraph (1), the Department or its agent will establish a general account for the person for whom the application is submitted.

(ii) The CO₂ authorized account representative and any CO₂ authorized alternate account representative for the general account shall represent and, by their representations, actions, inactions or submissions, legally bind each person who has an ownership interest with respect to CO₂ allowances held in the general account in all matters pertaining to the CO₂ Budget Trading Program, notwithstanding an agreement between the CO₂ authorized account representative or any CO₂ authorized alternate account representative and the person. This person shall

be bound by any order or decision issued to the CO₂ authorized account representative or any CO₂ authorized alternate account representative by the Department or its agent or a court regarding the general account.

(iii) Any representation, action, inaction or submission by any CO₂ authorized alternate account representative shall be deemed to be a representation, action, inaction or submission by the CO₂ authorized account representative.

(iv) Each submission concerning the general account shall be submitted, signed and certified by the CO₂ authorized account representative or any CO₂ authorized alternate account representative for the persons having an ownership interest with respect to CO₂ allowances held in the general account. Each submission shall include the following certification statement by the CO₂ authorized account representative or any CO₂ authorized alternate account representative:

“I am authorized to make this submission on behalf of the persons having an ownership interest with respect to the CO₂ allowances held in the general account. I certify under penalty of law that I have personally examined, and am familiar with, the statements and information submitted in this document and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief true, accurate and complete. I am aware that there are significant penalties under 18 Pa.C.S. § 4904 for submitting false statements and information or omitting required statements and information.”

(v) The Department or its agent will accept or act on a submission concerning the general account only if the submission has been made, signed and certified in accordance with subparagraph (iv).

(3) *Changing CO₂ authorized account representative and CO₂ authorized alternate account representative; changes in persons with ownership interest.*

(i) The CO₂ authorized account representative or the CO₂ authorized alternate account representative for a general account may be changed at any time upon receipt by the Department or its agent of a superseding complete application for a general account under paragraph (1). Notwithstanding a change, the representations, actions, inactions and submissions by the previous CO₂ authorized account representative, or the previous CO₂ authorized alternate account representative, prior to the time and date when the Department or its agent receives the superseding application for a general account shall be binding on the new CO₂ authorized account representative or the new CO₂ authorized alternate account representative and the persons with an ownership interest with respect to the CO₂ allowances in the general account.

(ii) A revision of ownership listing shall include the following:

(A) If a new person having an ownership interest with respect to CO₂ allowances in the general account is not included in the list of persons in the application for a general account, the new person shall be deemed to be subject to and bound by the application for a general account, the representations, actions, inactions and submissions of the CO₂ authorized account representative and any CO₂ authorized alternate account representative, and the decisions, orders, actions and inactions of the Department or its agent, as if the new person were included in the list.

(B) Within 30 days following any change in the persons having an ownership interest with respect to CO₂ allowances in the general account, including the addition or deletion of persons, the CO₂ authorized account representative or any CO₂ authorized alternate account representative shall submit a revision to the application for a general account amending the list of persons having an ownership interest with respect to the CO₂ allowances in the general account to include the change.

(4) *Objections concerning CO₂ authorized account representative.*

(i) Once a complete application for a general account under paragraph (1) has been submitted and received, the Department or its agent will rely on the application until a superseding complete application for a general account under paragraph (3)(i) is received by the Department or its agent.

(ii) Except as provided in paragraph (3)(i) and (ii), no objection or other communication submitted to the Department or its agent concerning the authorization, or any representation, action, inaction or submission of the CO₂ authorized account representative or any CO₂ authorized alternate account representative for a general account will affect any representation, action, inaction or submission of the CO₂ authorized account representative or any CO₂ authorized alternate account representative or the finality of any decision or order by the Department or its agent under the CO₂ Budget Trading Program.

(iii) The Department or its agent will not adjudicate a private legal dispute concerning the authorization or any representation, action, inaction or submission of the CO₂ authorized account representative or any CO₂ authorized alternate account representative for a general account, including private legal disputes concerning the proceeds of CO₂ allowance transfers.

(5) *Delegation by CO₂ authorized account representative and CO₂ authorized alternate account representative.*

(i) A CO₂ authorized account representative or a CO₂ authorized alternate account representative may delegate, to one or more persons, their authority to make an electronic submission to the Department or its agent under § 145.361 (relating to submission of CO₂ allowance transfers).

(ii) To delegate authority to make an electronic submission to the Department or its agent in accordance with subparagraph (i), the CO₂ authorized account representative or CO₂ authorized alternate account representative must submit to the Department or its agent a notice of delegation, in a format prescribed by the Department that includes the following:

(A) The name, address, e-mail address and telephone number of the CO₂ authorized account representative or CO₂ authorized alternate account representative.

(B) The name, address, e-mail address and telephone number of each electronic submission agent.

(C) For each electronic submission agent, a list of the type of electronic submissions under subparagraph (i) for which authority is delegated.

(D) The following certification statements by the delegating CO₂ authorized account representative or CO₂ authorized alternate account representative:

(I) "I agree that any electronic submission to the Department or its agent that is by an electronic submission agent identified in this notice of delegation and of a type listed for the electronic submission agent in this

notice of delegation and that is made when I am a CO₂ authorized account representative or CO₂ authorized alternate account representative before this notice of delegation is superseded by another notice of delegation under 25 Pa. Code § 145.352(b)(5)(ii) shall be deemed to be an electronic submission by me."

(II) "Until this notice of delegation is superseded by another notice of delegation under 25 Pa. Code § 145.352(b)(5)(ii), I agree to maintain an e-mail account and to notify the Department or its agent immediately of any change in my e-mail address unless all delegation authority by me under subsection (b)(5)(ii) is terminated."

(iii) A notice of delegation submitted under subparagraph (ii) shall be effective, with regard to the delegating CO₂ authorized account representative or CO₂ authorized alternate account representative identified in the notice, upon receipt of the notice by the Department or its agent and until receipt by the Department or its agent of a superseding notice of delegation by the CO₂ authorized account representative or CO₂ authorized alternate account representative. The superseding notice of delegation may replace any previously identified electronic submission agent, add a new electronic submission agent, or eliminate entirely any delegation of authority.

(iv) Any electronic submission covered by the certification in clause (D) and made in accordance with a notice of delegation effective under subparagraph (ii) shall be deemed to be an electronic submission by the CO₂ authorized account representative or CO₂ authorized alternate account representative submitting the notice of delegation.

(c) *Account identification.* The Department or its agent will assign a unique identifying number to each account established under subsections (a) or (b).

§ 145.353. COATS responsibilities of CO₂ authorized account representative and CO₂ authorized alternate account representative.

Following the establishment of a COATS account, the submissions to the Department or its agent pertaining to the account, including submissions concerning the deduction or transfer of CO₂ allowances in the account, shall be made only by the CO₂ authorized account representative or CO₂ authorized alternate account representative for the account.

§ 145.354. Recordation of CO₂ allowance allocations.

(a) Except for 2022, by January 1 of each calendar year, the Department or its agent will record the CO₂ allowances allocated for the air pollution reduction account under § 145.342(a) (relating to CO₂ allowance allocations).

(b) By January 1 of each calendar year, the Department or its agent will record the CO₂ allowances allocated for the waste coal set-aside account under § 145.342(b)(1), for the strategic use set-aside account under § 145.342(b)(2) and for the combined heat and power set-aside account under § 145.342(b)(3) for the year after the last year for which CO₂ allowances were previously allocated to the set-aside account.

(c) The Department or its agent will assign each CO₂ allowance a serial number that will include digits identifying the year for which the CO₂ allowance is allocated.

§ 145.355. Compliance.

(a) *Allowances available for compliance deduction.* The CO₂ allowances are available to be deducted for compli-

ance with the CO₂ requirements under § 145.306(c) (relating to standard requirements) for a control period or an interim control period only if the CO₂ allowances meet the following:

(1) The CO₂ allowances, other than CO₂ offset allowances, are allocated for a prior control period, the same control period or the interim control period for which the allowances will be deducted.

(2) The CO₂ allowances are held in the CO₂ budget source's compliance account as of the CO₂ allowance transfer deadline for that control period or the interim control period or are transferred into the compliance account by a CO₂ allowance transfer correctly submitted for recordation under § 145.361 (relating to submission of CO₂ allowance transfers) by the CO₂ allowance transfer deadline for that control period or the interim control period.

(3) For CO₂ offset allowances, the number of CO₂ offset allowances available to be deducted for a CO₂ budget source to comply with the CO₂ requirements under § 145.306(c) for a control period or an interim control period may not exceed 3.3% of the CO₂ budget source's CO₂ emissions for that control period or 3.3% of 0.50 times the CO₂ budget source's CO₂ emissions for an interim control period, as determined in accordance with §§ 145.351—145.358 (relating to CO₂ allowance tracking system) and 145.371—145.377 (relating to monitoring, reporting and recordkeeping requirements).

(4) The CO₂ allowances are not necessary for deductions for excess emissions for a prior control period under subsection (d).

(b) *Deductions for compliance.* Following the recordation, in accordance with § 145.362 (relating to recordation), of CO₂ allowance transfers submitted for recordation in the CO₂ budget source's compliance account by the CO₂ allowance transfer deadline for a control period or interim control period, the Department or its agent will deduct CO₂ allowances available under subsection (a) to cover the source's CO₂ emissions for the control period or interim control period, as follows:

(1) Until the amount of CO₂ allowances deducted equals the number of tons of total CO₂ emissions, or 0.50 times the number of tons of total CO₂ emissions for an interim control period, less any CO₂ emissions attributable to the burning of eligible biomass, determined in accordance with §§ 145.371—145.377, from all CO₂ budget units at the CO₂ budget source for the control period or interim control period.

(2) Until there are no more CO₂ allowances remaining in the compliance account that are available to be deducted under subsection (a), if there are insufficient CO₂ allowances to complete the deductions in paragraph (1).

(c) *Allowance identification.*

(1) The CO₂ authorized account representative for a CO₂ budget source's compliance account may identify by serial number the CO₂ allowances to be deducted from the compliance account for emissions or excess emissions for a control period or an interim control period in accordance with subsection (b) or subsection (d). The identification shall be made in the compliance certification report submitted in accordance with § 145.331 (relating to compliance certification report).

(2) The Department or its agent will deduct CO₂ allowances for a control period or an interim control period from the CO₂ budget source's compliance account,

in the absence of an identification or in the case of a partial identification of available CO₂ allowances by serial number under paragraph (1), in the following order:

(i) CO₂ offset allowances subject to the relevant compliance deduction limitations under subsection (a)(3) will be deducted in chronological order. In the event that some, but not all, CO₂ offset allowances from a particular allocation year are to be deducted, CO₂ offset allowances will be deducted by serial number, with lower serial number allowances deducted before higher serial number allowances.

(ii) CO₂ allowances, other than CO₂ offset allowances, that are available for deduction under subsection (a) will be deducted in chronological order. In the event that some, but not all, CO₂ allowances from a particular allocation year are to be deducted, CO₂ allowances will be deducted by serial number, with lower serial number allowances deducted before higher serial number allowances.

(d) *Deductions for excess emissions.*

(1) After making the deductions for compliance under subsection (b), the Department or its agent will deduct from the CO₂ budget source's compliance account a number of CO₂ allowances, equal to 3 times the number of the CO₂ budget source's excess emissions.

(2) If the compliance account does not contain sufficient CO₂ allowances to cover 3 times the number of the CO₂ budget source's excess emissions, the CO₂ budget source shall immediately transfer CO₂ allowances into its compliance account in an amount equal to 3 times the number of the CO₂ budget source's excess emissions. No CO₂ offset allowances may be deducted to account for the source's excess emissions.

(3) A CO₂ allowance deduction required under paragraph (1) will not affect the liability of the owner or operator of the CO₂ budget source or the CO₂ budget units at the source for any fine, penalty or assessment, or their obligation to comply with any other remedy, for the same violation, as ordered under the Clean Air Act or the act. The following guidelines will be followed by the Department in assessing fines, penalties or other obligations:

(i) For purposes of determining the number of days of violation, if a CO₂ budget source has excess emissions for a control period or an interim control period, each day in the control period or an interim control period constitutes a day of violation unless the owner or operator of the unit demonstrates that a lesser number of days should be considered.

(ii) Each ton of excess emissions is a separate violation.

(e) *Recordation.* The Department or its agent will record in the appropriate compliance account all deductions from the account under subsections (b)—(d).

(f) *Action by the Department on submissions.*

(1) The Department may review and conduct independent audits concerning any submission under the CO₂ Budget Trading Program and make appropriate adjustments of the information in the submissions.

(2) The Department may deduct CO₂ allowances from or transfer CO₂ allowances to a CO₂ budget source's compliance account based on information in the submissions, as adjusted under paragraph (1).

§ 145.356. Banking.

A CO₂ allowance that is held in a compliance account or a general account will remain in the account until the

CO₂ allowance is deducted or transferred under § 145.332, § 145.355, § 145.357 or §§ 145.361—145.363 (relating to Department action on compliance certifications; compliance; account error; and CO₂ allowance transfers).

§ 145.357. Account error.

The Department or its agent may correct any error in a COATS account. Within 10 business days of making the correction, the Department or its agent will notify the CO₂ authorized account representative for the account.

§ 145.358. Closing of general accounts.

(a) The CO₂ authorized account representative of a general account may instruct the Department or its agent to close the account by submitting a statement requesting deletion of the account from COATS and by correctly submitting for recordation under § 145.361 (relating to submission of CO₂ allowance transfers) a CO₂ allowance transfer of all CO₂ allowances in the account to one or more other COATS account.

(b) If a general account shows no activity for 1 year or more and does not contain any CO₂ allowances, the Department or its agent may notify the CO₂ authorized account representative for the account that the account will be closed in COATS following 30 business days after the notice is sent. The Department or its agent will close the account after the 30-day period unless before the end of the 30-day period the Department or its agent receives a correctly submitted transfer of CO₂ allowances into the account under § 145.361 or a statement submitted by the CO₂ authorized account representative requesting that the account should not be closed. The Department or its agent will have sole discretion to determine if the owner or operator of the unit demonstrated that the account should not be closed.

CO₂ ALLOWANCE TRANSFERS

§ 145.361. Submission of CO₂ allowance transfers.

The CO₂ authorized account representatives seeking recordation of a CO₂ allowance transfer shall submit the transfer to the Department or its agent. The CO₂ allowance transfer shall include the following, in a format prescribed by the Department:

- (1) The numbers identifying the accounts of the transferor and transferee.
- (2) A specification by serial number of each CO₂ allowance to be transferred.
- (3) The printed name and signature of the CO₂ authorized account representative of the transferor account and the date signed.
- (4) The date of the completion of the last sale or purchase transaction for the CO₂ allowance, if any.
- (5) The purchase or sale price of the CO₂ allowance that is the subject of a sale or purchase transaction under paragraph (4).

§ 145.362. Recordation.

(a) Within 5 business days of receiving a CO₂ allowance transfer, except as provided in subsection (b), the Department or its agent will record a CO₂ allowance transfer by moving each CO₂ allowance from the account of the transferor to the account of the transferee as specified by the request, if the following are met:

- (1) The transfer is correctly submitted under § 145.361 (relating to submission of CO₂ allowance transfers).

(2) The account of the transferor includes each CO₂ allowance identified by serial number in the transfer.

(b) A CO₂ allowance transfer into or out of a compliance account that is submitted for recordation following the CO₂ allowance transfer deadline and that includes any CO₂ allowance allocated for a control period or interim control period prior to or the same as the control period or interim control period to which the CO₂ allowance transfer deadline applies will not be recorded until after completion of the process in § 145.355(b) (relating to compliance).

(c) A CO₂ allowance transfer submitted for recordation that fails to meet the requirements of subsection (a) will not be recorded.

§ 145.363. Notification.

(a) *Notification of recordation.* Within 5 business days of recordation of a CO₂ allowance transfer under § 145.362 (relating to recordation), the Department or its agent will notify each party to the transfer. Notice will be given to the CO₂ authorized account representative of the account of the transferor and the CO₂ authorized account representative of the account of the transferee.

(b) *Notification of non-recordation.* Within 10 business days of receipt of a CO₂ allowance transfer that fails to meet the requirements of § 145.362(a), the Department or its agent will notify the CO₂ authorized account representative of the account of the transferor and the CO₂ authorized account representative of the account of the transferee of the following:

- (1) A decision not to record the transfer.
- (2) The reasons for the non-recordation.

(c) *Resubmission.* Nothing in this section precludes the resubmission of a CO₂ allowance transfer for recordation following notification under subsection (b).

MONITORING, REPORTING AND RECORDKEEPING REQUIREMENTS

§ 145.371. General monitoring requirements.

The owner or operator, and to the extent applicable, the CO₂ authorized account representative of a CO₂ budget unit, shall comply with the monitoring, recordkeeping and reporting requirements as provided in this section and §§ 145.372—145.377 and all applicable sections of 40 CFR Part 75 (relating to continuous emission monitoring). Where referenced in §§ 145.371—145.377 (relating to monitoring, reporting and recordkeeping requirements), the monitoring requirements of 40 CFR Part 75 shall be adhered to in a manner consistent with the purpose of monitoring and reporting CO₂ mass emissions under this subchapter. For purposes of complying with these requirements, the definitions in § 145.302 (relating to definitions) and in 40 CFR 72.2 (relating to definitions) apply, and the terms “affected unit,” “designated representative” and “continuous emissions monitoring system” in 40 CFR Part 75 shall be replaced by the terms “CO₂ budget unit,” “CO₂ authorized account representative” and “continuous emissions monitoring system,” respectively, as defined in § 145.302. For units not subject to an acid rain emissions limitation, the term “Administrator” in 40 CFR Part 75 shall be replaced with “the Administrator, Department or its agent.” The owner or operator of a CO₂ budget unit who monitors a unit that is not a CO₂ budget unit pursuant to the common, multiple or bypass stack procedures in 40 CFR 75.72(b)(2)(ii) (relating to determination of NO_x mass emissions for common stack and multiple stack configurations) or 40 CFR 75.16(b)(2)(ii)(B) (relating

to special provisions for monitoring emissions from common, bypass, and multiple stacks for SO₂ emissions and heat input determinations) as pursuant to 40 CFR 75.13 (relating to specific provisions for monitoring CO₂ emissions) for purposes of complying with this subchapter, shall monitor and report CO₂ mass emissions from a unit that is not a CO₂ budget unit in accordance with the monitoring, reporting and recordkeeping requirements for a CO₂ budget unit under §§ 145.371—145.377.

(1) *Requirements for installation, certification and data accounting.* The owner or operator of each CO₂ budget unit must meet the following:

(i) Install all monitoring systems necessary to monitor CO₂ mass emissions in accordance with 40 CFR Part 75, except for equation G-1. This includes all systems required to monitor CO₂ concentration, stack gas flow rate, O₂ concentration, heat input and fuel flow rate, in accordance with 40 CFR Part 75, Subpart H (relating to NO_x mass emissions provisions).

(ii) Successfully complete all certification tests required under § 145.372 (relating to initial certification and recertification procedures) and meet all other provisions of this subchapter and 40 CFR Part 75 applicable to the monitoring systems under subparagraph (i).

(iii) Record, report and quality-assure the data from the monitoring systems under subparagraph (i).

(2) *Compliance dates.* The owner or operator of a CO₂ budget unit shall meet the monitoring system certification and other requirements of paragraph (1) and shall record, report and quality-assure data from the monitoring systems under paragraph (1)(i) according to the following schedule:

(i) Except for a CO₂ budget unit under subparagraph (ii), a CO₂ budget unit that commences commercial operation before October 25, 2021, shall comply with this section and §§ 145.372—145.377 by April 23, 2022.

(ii) A CO₂ budget unit that commences commercial operation on or after October 25, 2021, shall comply with the requirements of this section and §§ 145.372—145.377 by the later of the following dates:

(A) April 23, 2022.

(B) The earlier of:

(I) 90-unit operating days after the date on which the unit commences commercial operation.

(II) 180 calendar days after the date on which the unit commences commercial operation.

(iii) The owner or operator of a CO₂ budget unit for which construction of a new stack or flue installation is completed after the applicable deadline under subparagraphs (i) or (ii) by the earlier of:

(A) 90-unit operating days after the date on which emissions first exit to the atmosphere through the new stack or flue.

(B) 180 calendar days after the date on which emissions first exit to the atmosphere through the new stack or flue.

(3) *Reporting data.*

(i) Except as provided in subparagraph (ii), the owner or operator of a CO₂ budget unit that does not meet the applicable compliance date set forth in paragraph (2) for any monitoring system under paragraph (1)(i) shall, for each monitoring system, determine, record and report maximum potential, or as appropriate minimum poten-

tial, values for CO₂ concentration, CO₂ emissions rate, stack gas moisture content, fuel flow rate, heat input and any other parameter required to determine CO₂ mass emissions under 40 CFR 75.31(b)(2) or (c)(3) (relating to initial missing data procedures), or 40 CFR Part 75, Appendix D, section 2.4 (relating to optional SO₂ emissions data protocol for gas-fired and oil-fired units), regarding missing data procedures, as applicable.

(ii) The owner or operator of a CO₂ budget unit that does not meet the applicable compliance date set forth in paragraph (2)(iii) for any monitoring system under paragraph (1)(i) shall, for each monitoring system, determine, record and report substitute data using the applicable missing data procedures in 40 CFR Part 75, Subpart D (relating to missing data substitution procedures) or Appendix D, instead of the maximum potential, or as appropriate minimum potential, values for a parameter if the owner or operator demonstrates that there is continuity between the data streams for that parameter before and after the construction or installation under paragraph (2)(iii).

(A) A CO₂ budget unit subject to an acid rain emissions limitation that qualifies for the optional SO₂, NO_x and CO₂ emissions calculations for low mass emissions (LME) units under 40 CFR 75.19 (relating to optional SO₂, NO_x, and CO₂ emissions calculation for low mass emissions (LME) units) and report emissions for the acid rain program using the calculations under 40 CFR 75.19, shall also use the CO₂ emissions calculations for LME units under 40 CFR 75.19 for purposes of compliance with this subchapter.

(B) A CO₂ budget unit subject to an acid rain emissions limitation that does not qualify for the optional SO₂, NO_x and CO₂ emissions calculations for LME units under 40 CFR 75.19, shall not use the CO₂ emissions calculations for LME units under 40 CFR 75.19 for purposes of compliance with this subchapter.

(C) A CO₂ budget unit not subject to an acid rain emissions limitation shall qualify for the optional CO₂ emissions calculation for LME units under 40 CFR 75.19, if the unit emits less than 100 tons of NO_x annually and no more than 25 tons of SO₂ annually.

(4) *Prohibitions.*

(i) An owner or operator of a CO₂ budget unit may not use an alternative monitoring system, alternative reference method or another alternative for the required CEMS without having obtained prior written approval in accordance with § 145.376 (relating to petitions).

(ii) An owner or operator of a CO₂ budget unit may not operate the unit so as to discharge, or allow to be discharged, CO₂ emissions to the atmosphere without accounting for the emissions in accordance with the applicable provisions of this subchapter and 40 CFR Part 75.

(iii) An owner or operator of a CO₂ budget unit may not disrupt the CEMS, a portion thereof or another approved emissions monitoring method, and thereby avoid monitoring and recording CO₂ mass emissions discharged into the atmosphere, except for periods of recertification or periods when calibration, quality assurance testing or maintenance is performed in accordance with the applicable provisions of this subchapter and 40 CFR Part 75.

(iv) An owner or operator of a CO₂ budget unit may not retire or permanently discontinue use of the CEMS, any

component thereof or another approved emissions monitoring system under this subchapter, except under one of the following circumstances:

(A) The owner or operator is monitoring emissions from the unit with another certified monitoring system approved, in accordance with the applicable provisions of this subchapter and 40 CFR Part 75, by the Department for use at the unit that provides emissions data for the same pollutant or parameter as the retired or discontinued monitoring system.

(B) The CO₂ authorized account representative submits notification of the date of certification testing of a replacement monitoring system in accordance with § 145.372(d)(3)(i) (relating to initial certification and recertification procedures).

§ 145.372. Initial certification and recertification procedures.

(a) *Exemption.* The owner or operator of a CO₂ budget unit shall be exempt from the initial certification requirements for a monitoring system under § 145.371(1)(i) (relating to general monitoring requirements) if the following conditions are met:

(1) The monitoring system has been previously certified in accordance with 40 CFR Part 75 (relating to continuous emission monitoring).

(2) The applicable quality-assurance and quality-control requirements of 40 CFR 75.21 (relating to quality assurance and quality control requirements) and 40 CFR Part 75, Appendix B (relating to quality assurance and quality control procedures) and Appendix D (relating to optional SO₂ emissions data protocol for gas-fired and oil-fired units) are fully met for the certified monitoring system described in paragraph (1).

(b) *Applicability.* The recertification provisions of this section shall apply to a monitoring system under § 145.371(1)(i) that is exempt from initial certification requirements under subsection (a).

(c) *Petitions.* Notwithstanding subsection (a), if the Administrator approved a petition under 40 CFR 75.72(b)(2)(ii) or 40 CFR 75.16(b)(2)(ii)(B) (relating to determination of NO_x mass emissions for common stack and multiple stack configurations; and special provisions for monitoring emissions from common, bypass, and multiple stacks for SO₂ emissions and heat input determinations) as pursuant to 40 CFR 75.13 (relating to specific provisions for monitoring CO₂ emissions) for apportioning the CO₂ emissions rate measured in a common stack or a petition under 40 CFR 75.66 (relating to petitions to the administrator) for an alternative requirement in 40 CFR Part 75, the CO₂ authorized account representative shall submit the petition to the Department under § 145.376(a) (relating to petitions) to determine if the approval applies under the CO₂ Budget Trading Program.

(d) *Certification and recertification.* Except as provided in subsection (a), the owner or operator of a CO₂ budget unit shall comply with the initial certification and recertification procedures for a CEMS and an excepted monitoring system under 40 CFR Part 75, Appendix D and under § 145.371(1)(i). The owner or operator of a CO₂ budget unit that qualifies to use the low mass emissions excepted monitoring methodology in 40 CFR 75.19 (relating to optional SO₂, NO_x, and CO₂ emissions calculation for low mass emissions (LME) units) or that qualifies to use an alternative monitoring system under 40 CFR Part 75,

Subpart E (relating to alternative monitoring systems) shall comply with the procedures in subsections (e) or (f), respectively.

(1) *Requirements for initial certification.* The owner or operator of a CO₂ budget unit shall ensure that each CEMS required under § 145.371(1)(i), including the automated data acquisition and handling system, successfully completes all of the initial certification testing required under 40 CFR 75.20 (relating to initial certification and recertification procedures) by the applicable deadlines specified in § 145.371(2). In addition, whenever the owner or operator installs a monitoring system to meet the requirements of this subchapter in a location where no monitoring system was previously installed, initial certification in accordance with 40 CFR 75.20 is required.

(2) *Requirements for recertification.*

(i) Whenever the owner or operator makes a replacement, modification or change to a certified CEMS under § 145.371(1)(i) that the Administrator or the Department determines significantly affects the ability of the system to accurately measure or record CO₂ mass emissions or to meet the quality-assurance and quality-control requirements of 40 CFR 75.21 or 40 CFR Part 75, Appendix B, the owner or operator shall recertify the monitoring system according to 40 CFR 75.20(b).

(ii) For a system using stack measurements including stack flow, stack moisture content, CO₂ or O₂ monitors, whenever the owner or operator makes a replacement, modification or change to the flue gas handling system or the unit's operation that the Administrator or the Department determines to significantly change the flow or concentration profile, the owner or operator shall recertify the CEMS according to 40 CFR 75.20(b).

(3) *Approval process for initial certification and recertification.*

(i) *Notification of certification.* The CO₂ authorized account representative shall submit to the Department and the appropriate EPA Regional Office a written notice of the dates of certification in accordance with § 145.374 (relating to notifications).

(ii) *Certification application.* The CO₂ authorized account representative shall submit to the Department a certification application for each monitoring system required under 40 CFR 75.63 (relating to initial certification or recertification application). A complete certification application shall include the information specified in 40 CFR 75.63.

(iii) *Provisional certification data.* The provisional certification date for a monitor shall be determined in accordance with 40 CFR 75.20(a)(3). A provisionally certified monitor may be used under the CO₂ budget Trading Program for a period not to exceed 120 days after receipt by the Department of the complete certification application for the monitoring system or component thereof under subparagraph (ii). Data measured and recorded by the provisionally certified monitoring system or component thereof, in accordance with the requirements of 40 CFR Part 75, will be considered valid quality-assured data (retroactive to the date and time of provisional certification), if the Department does not invalidate the provisional certification by issuing a notice of disapproval within 120 days of receipt of the complete certification application by the Department.

(iv) *Certification application approval process.* The Department will issue a written notice of approval or disapproval of the certification application to the owner or

operator within 120 days of receipt of the complete certification application under subparagraph (ii). If the Department does not issue the notice within the 120-day period, each monitoring system which meets the applicable performance requirements of 40 CFR Part 75 and is included in the certification application will be deemed certified for use under the CO₂ Budget Trading Program.

(A) *Approval notice.* If the certification application is complete and shows that each monitoring system meets the applicable performance requirements of 40 CFR Part 75, the Department will issue a written notice of approval of the certification application within 120 days of receipt.

(B) *Incomplete application notice.* If the certification application is not complete, the Department will issue a written notice of incompleteness that sets a date by which the CO₂ authorized account representative must submit the additional information required to complete the certification application. If the CO₂ authorized account representative does not comply with the notice of incompleteness by the specified date, then the Department may issue a notice of disapproval under clause (C). The 120-day review period may not begin prior to receipt of a complete certification application.

(C) *Disapproval notice.* If the certification application shows that any monitoring system or component thereof does not meet the performance requirements of 40 CFR Part 75, or if the certification application is incomplete and the requirement for disapproval under clause (B) is met, then the Department will issue a written notice of disapproval of the certification application. Upon issuance of the notice of disapproval, the provisional certification is invalidated by the Department and the data measured and recorded by each uncertified monitoring system or component thereof will not be considered valid quality-assured data beginning with the date and hour of provisional certification. The owner or operator shall follow the procedures for loss of certification in subparagraph (v) for each monitoring system or component thereof which is disapproved for initial certification.

(D) *Audit decertification.* The Department may issue a notice of disapproval of the certification status of a monitor in accordance with § 145.373(b) (relating to out-of-control periods).

(v) *Procedures for loss of certification.* If the Department issues a notice of disapproval of a certification application under subparagraph (iv)(C) or a notice of disapproval of certification status under subparagraph (iv)(D), the following apply:

(A) The owner or operator shall substitute the following values, for each disapproved monitoring system, for each hour of unit operation during the period of invalid data beginning with the date and hour of provisional certification and continuing until the time, date and hour specified under 40 CFR 75.20(a)(5)(i) or (g)(7):

(I) For a unit using or intending to monitor for CO₂ mass emissions using heat input or for a unit using the low mass emissions excepted methodology under 40 CFR 75.19, the maximum potential hourly heat input of the unit.

(II) For a unit intending to monitor for CO₂ mass emissions using a CO₂ pollutant concentration monitor and a flow monitor, the maximum potential concentration of CO₂ and the maximum potential flow rate of the unit under 40 CFR Part 75, Appendix A, section 2.1 (relating to specifications and test procedures).

(B) The CO₂ authorized account representative shall submit a notification of certification retest dates and a new certification application in accordance with subparagraphs (i) and (ii).

(C) The owner or operator shall repeat all certification tests or other requirements that were failed by the monitoring system, as indicated in the Department's notice of disapproval, no later than 30-unit operating days after the date of issuance of the notice of disapproval.

(e) *Initial certification and recertification procedures for low mass emissions units using the excepted methodologies under § 145.371(3)(ii).* The owner or operator of a unit qualified to use the low mass emissions excepted methodology under § 145.371(3)(ii) shall meet the applicable certification and recertification requirements of 40 CFR 75.19(a)(2), 40 CFR 75.20(h) and this section. If the owner or operator of the unit elects to certify a fuel flow meter system for heat input determinations, the owner or operator shall also meet the certification and recertification requirements in 40 CFR 75.20(g).

(f) *Certification and recertification procedures for an alternative monitoring system.* The CO₂ authorized account representative of each unit for which the owner or operator intends to use an alternative monitoring system approved by the Administrator and, if applicable, by the Department under 40 CFR Part 75, Subpart E shall comply with the applicable notification and application procedures of 40 CFR 75.20(f).

§ 145.373. Out-of-control periods.

(a) *Quality assurance requirements.* Whenever a monitoring system fails to meet the quality assurance and quality control requirements or data validation requirements of 40 CFR Part 75 (relating to continuous emission monitoring), data shall be substituted using the applicable procedures in 40 CFR Part 75, Subpart D (relating to missing data substitution procedures) or Appendix D (relating to optional SO₂ emissions data protocol for gas-fired and oil-fired units).

(b) *Audit decertification.* Whenever both an audit of a monitoring system and a review of the initial certification or recertification application reveal that any monitoring system should not have been certified or recertified because it did not meet a particular performance specification or other requirement under § 145.372 (relating to initial certification and recertification procedures) or the applicable provisions of 40 CFR Part 75, both at the time of the initial certification or recertification application submission and at the time of the audit, the Department will issue a notice of disapproval of the certification status of the monitoring system. For the purposes of this paragraph, an audit shall be either a field audit or an audit of any information submitted to the Department or the Administrator. By issuing the notice of disapproval, the Department revokes prospectively the certification status of the monitoring system. The data measured and recorded by the monitoring system will not be considered valid quality-assured data from the date of issuance of the notification of the revoked certification status until the date and time that the owner or operator completes subsequently approved initial certification or recertification tests for the monitoring system. The owner or operator shall follow the initial certification or recertification procedures in § 145.372 for each disapproved monitoring system.

§ 145.374. Notifications.

The CO₂ authorized account representative for a CO₂ budget unit shall submit written notice to the Department and the Administrator in accordance with 40 CFR 75.61 (relating to notifications).

§ 145.375. Recordkeeping and reporting.

(a) *General provisions.* The CO₂ authorized account representative shall comply with the recordkeeping and reporting requirements in this section, the applicable recordkeeping and reporting requirements under 40 CFR 75.73 (relating to recordkeeping and reporting) and with the requirements of § 145.311(e) (relating to authorization and responsibilities of the CO₂ authorized account representative).

(b) *Monitoring plans.* The owner or operator of a CO₂ budget unit shall submit a monitoring plan in the manner prescribed in 40 CFR 75.62 (relating to monitoring plan submittals).

(c) *Certification applications.* The CO₂ authorized account representative shall submit an application to the Department within 45 days after completing all CO₂ monitoring system initial certification or recertification tests required under § 145.372 (relating to initial certification and recertification procedures) including the information required under 40 CFR 75.63 (relating to initial certification or recertification application) and 40 CFR 75.53(g) and (h) (relating to monitoring plan).

(d) *Quarterly reports.* The CO₂ authorized account representative shall submit quarterly reports, as follows:

(1) The CO₂ mass emissions data for the CO₂ budget unit, in an electronic format prescribed by the Administrator unless otherwise prescribed by the Administrator or the Department for each calendar quarter.

(2) The CO₂ authorized account representative shall submit each quarterly report to the Administrator and the Department or its agent within 30 days following the end of the calendar quarter covered by the report. Quarterly reports shall be submitted in the manner specified in 40 CFR Part 75, Subpart H (relating to NO_x mass emissions provisions) and 40 CFR 75.64 (relating to quarterly reports) and for each CO₂ budget unit, or group of units using a common stack, and shall include all the data and information required in 40 CFR Part 75, Subpart G (relating to reporting requirements), except for opacity, heat input, NO_x and SO₂ provisions.

(3) The CO₂ authorized account representative shall submit to the Administrator or the Department a compliance certification in support of each quarterly report based on reasonable inquiry of those persons with primary responsibility for ensuring that all the unit's emissions are correctly and fully monitored. The certification shall state that the following conditions have been met:

(i) The monitoring data submitted were recorded in accordance with the applicable requirements of this subchapter and 40 CFR Part 75 (relating to continuous emission monitoring), including the quality assurance procedures and specifications.

(ii) For a unit with add-on CO₂ emissions controls and for all hours where data are substituted in accordance with 40 CFR 75.34(a)(1) (relating to units with add-on emission controls), the add-on emissions controls were operating within the range of parameters listed in the quality assurance/quality control program under 40 CFR Part 75, Appendix B (relating to quality assurance and

quality control procedures) and the substitute values do not systematically underestimate CO₂ emissions.

(iii) The CO₂ concentration values substituted for missing data under 40 CFR Part 75, Subpart D (relating to missing data substitution procedures) do not systematically underestimate CO₂ emissions.

§ 145.376. Petitions.

(a) Except as provided in subsection (c), the CO₂ authorized account representative of a CO₂ budget unit that is subject to an acid rain emissions limitation may submit a petition to the Administrator under 40 CFR 75.66 (relating to petitions to the administrator) and to the Department requesting approval to apply an alternative to any requirement of 40 CFR Part 75 (relating to continuous emission monitoring).

(b) Application of an alternative to any requirement of 40 CFR Part 75 is in accordance with this subchapter only to the extent that the petition is approved in writing by the Administrator and subsequently approved in writing by the Department.

(c) The CO₂ authorized account representative of a CO₂ budget unit that is not subject to an acid rain emissions limitation may submit a petition to the Administrator under 40 CFR 75.66 and to the Department requesting approval to apply an alternative to any requirement of 40 CFR Part 75. Application of an alternative to any requirement of 40 CFR Part 75 is in accordance with this subchapter only to the extent that the petition is approved in writing by the Administrator and subsequently approved in writing by the Department.

(d) In the event that the Administrator declines to review a petition under subsection (c), the CO₂ authorized account representative of a CO₂ budget unit that is not subject to an acid rain emissions limitation may submit a petition to the Department requesting approval to apply an alternative to any requirement of §§ 145.371—145.377 (relating to monitoring, reporting and recordkeeping requirements). That petition shall contain all of the relevant information specified in 40 CFR 75.66. Application of an alternative to any requirement of §§ 145.371—145.377 is in accordance with §§ 145.371—145.377 only to the extent that the petition is approved in writing by the Department.

(e) The CO₂ authorized account representative of a CO₂ budget unit that is subject to an acid rain emissions limitation may submit a petition to the Administrator under 40 CFR 75.66 and to the Department requesting approval to apply an alternative to a requirement concerning any additional CEMS required under the common stack provisions of 40 CFR 75.72 (relating to determination of NO_x mass emissions for common stack and multiple stack configurations) or a CO₂ concentration CEMS used under 40 CFR 75.71(a)(2) (relating to specific provisions for monitoring NO_x and heat input for the purpose of calculating NO_x mass emissions). Application of an alternative to any requirement is in accordance with §§ 145.371—145.377 only to the extent the petition is approved in writing by the Administrator and subsequently approved in writing by the Department.

§ 145.377. CO₂ budget units that co-fire eligible biomass.

(a) The CO₂ authorized account representative of a CO₂ budget unit that co-fires eligible biomass as a compliance mechanism under this subchapter shall report the following information to the Department or its agent for each calendar quarter:

(1) For each shipment of solid eligible biomass fuel fired at the CO₂ budget unit:

(i) The total eligible biomass fuel input, on an as-fired basis, in pounds.

(ii) The moisture content, on an as-fired basis, as a fraction by weight.

(2) For each distinct type of gaseous eligible biomass fuel fired at the CO₂ budget unit:

(i) The density of the biogas, on an as-fired basis, in pounds per standard cubic foot.

(ii) The moisture content of the biogas, on an as-fired basis, as a fraction by total weight.

(iii) The total eligible biomass fuel input, in standard cubic feet.

(3) For each distinct type of eligible biomass fuel fired at the CO₂ budget unit:

(i) The dry basis carbon content of the fuel type, as a fraction by dry weight.

(ii) The dry basis higher heating value, in MMBtu per dry pound.

(iii) The total dry basis eligible biomass fuel input, in pounds, calculated in accordance with subsection (b).

(iv) The total eligible biomass fuel heat input, in MMBtu, calculated in accordance with subsection (d)(1).

(v) A chemical analysis, including heating value and carbon content.

(4) The total amount of CO₂ emitted from the CO₂ budget unit due to firing eligible biomass fuel, in tons, calculated in accordance with subsection (c).

(5) The total amount of heat input to the CO₂ budget unit due to firing eligible biomass fuel, in MMBtu, calculated in accordance with subsection (d)(2).

(6) A description and documentation of the monitoring technology employed, and a description and documentation of the fuel sampling methodology employed, including sampling frequency and carbon ash testing.

(b) An owner or operator of a CO₂ budget unit shall calculate and submit to the Department or its agent on a quarterly basis the total dry weight for each distinct type of eligible biomass fired by the CO₂ budget unit during the reporting quarter. The total dry weight shall be determined for each fuel type as follows:

(1) For solid fuel types:

$$F_j = \sum_{i=1}^m (1 - M_i) \times F_i$$

Where:

F_j = Total eligible biomass dry basis fuel input (lbs) for fuel type j.

F_i = Eligible biomass as fired fuel input (lbs) for fired shipment i.

M_i = Moisture content (fraction) for fired shipment i.
i = Fired fuel shipment.

j = Fuel type.

m = Number of shipments.

(2) For gaseous fuel types:

$$F_j = D_j \times V_j \times (1 - M_j)$$

Where:

F_j = Total eligible biomass dry basis fuel input (lbs) for fuel type j.

D_j = Density of biogas (lbs/scf) for fuel type j.

V_j = Total volume (scf) for fuel type j.

M_j = Moisture content (fraction) for fuel type j.

j = Fuel type.

(c) CO₂ emissions due to firing of eligible biomass shall be determined as follows:

(1) For any full calendar quarter during which no fuel other than eligible biomass is combusted at the CO₂ budget unit, as measured and recorded in accordance with §§ 145.371—145.377 (relating to monitoring, reporting and recordkeeping requirements).

(2) For any full calendar quarter during which fuels other than eligible biomass are combusted at the CO₂ budget unit, as determined using the following equation:

$$CO_2 \text{ tons} = \sum_{j=1}^n F_j \times C_j \times O_j \times \frac{44}{12} \times 0.0005$$

Where:

CO₂ tons = CO₂ emissions due to firing of eligible biomass for the reporting quarter.

F_j = Total eligible biomass dry basis fuel input (lbs) for fuel type j, as calculated in subsection (b).

C_j = Carbon fraction (dry basis) for fuel type j.

O_j = Oxidation factor for eligible biomass fuel type j, derived for solid fuels based on the ash content of the eligible biomass fired and the carbon content of this ash, as determined under subsection (a)(3)(v); for gaseous eligible biomass fuels, a default oxidation factor of 0.995 may be used.

44/12 = The number of tons of carbon dioxide that are created when 1 ton of carbon is combusted.

0.0005 = The number of short tons which is equal to 1 pound.

j = Fuel type.

n = Number of distinct fuel types.

(d) Heat input due to firing of eligible biomass for each quarter shall be determined as follows:

(1) For each distinct fuel type:

$$H_j = F_j \times HHV_j$$

Where:

H_j = Heat input (MMBtu) for fuel type j.

F_j = Total eligible biomass dry basis fuel input (lbs) for fuel type j, as calculated in subsection (b).

HHV_j = Higher heating value (MMBtu/lb), dry basis, for fuel type j, as determined through chemical analysis.

j = Fuel type.

(2) For all fuel types:

$$\text{Heat input MMBtu} = \sum_{j=1}^n H_j$$

Where:

H_j = Heat input (MMBtu) for fuel type j.

j = Fuel type.

n = Number of distinct fuel types.

AUCTION OF CO₂ CCR AND ECR ALLOWANCES

§ 145.381. Purpose.

The following requirements shall apply to each allowance auction. The Department or its agent may specify additional information in the auction notice for each auction. This additional information may include the time and location of the auction, auction rules, registration deadlines and any additional information deemed necessary or useful.

§ 145.382. General requirements.

(a) In the auction notice for each auction, the Department or its agent shall include the following:

(1) The number of CO₂ allowances offered for sale at the auction, not including any CO₂ CCR allowances.

(2) The number of CO₂ CCR allowances that will be offered for sale at the auction if the condition in subsection (b)(1) is met.

(3) The minimum reserve price for the auction.

(4) *The CCR trigger price for the auction.* The CCR trigger price in calendar year 2022 shall be \$13.91. Each calendar year after 2022, the CCR trigger price shall be 1.07 multiplied by the CCR trigger price from the previous calendar year, rounded to the nearest whole cent, as shown in Table 1.

Table 1. CO₂ CCR Trigger Price

2023	2024	2025	2026	2027	2028	2029	2030
\$14.88	\$15.92	\$17.03	\$18.22	\$19.50	\$20.87	\$22.33	\$23.89

(5) The maximum number of CO₂ allowances that may be withheld from sale at the auction if the condition in subsection (d)(1) is met.

(6) *The ECR trigger price for the auction.* The ECR trigger price in calendar year 2022 shall be \$6.42. Each calendar year after 2022, the ECR trigger price shall be 1.07 multiplied by the ECR trigger price from the previous calendar year, rounded to the nearest whole cent, as shown in Table 2.

Table 2. CO₂ ECR Trigger Price

2023	2024	2025	2026	2027	2028	2029	2030
\$6.87	\$7.35	\$7.86	\$8.41	\$9.00	\$9.63	\$10.30	\$11.02

(b) For the sale of CO₂ CCR allowances, the Department or its agent will do the following:

(1) CO₂ CCR allowances will only be sold at an auction in which the total demand for allowances, above the CCR trigger price, exceeds the number of CO₂ allowances available for purchase at the auction, not including any CO₂ CCR allowances.

(2) If the condition in paragraph (1) is met at an auction, then the number of CO₂ CCR allowances offered for sale by the Department or its agent at the auction will be equal to the number of CO₂ CCR allowances in the air pollution reduction account at the time of the auction.

(3) After all of the CO₂ CCR allowances in the air pollution reduction account have been sold in a given calendar year, no additional CO₂ CCR allowances will be sold at any auction for the remainder of that calendar year, even if the condition in paragraph (1) is met at an auction.

(4) At an auction in which CO₂ CCR allowances are sold, the reserve price for the auction shall be the CCR trigger price.

(5) If the condition in paragraph (1) is not satisfied, no CO₂ CCR allowances will be offered for sale at the auction and the reserve price for the auction will be equal to the minimum reserve price.

(c) The Department or its agent will implement the reserve price in the following manner:

(1) No CO₂ allowances will be sold at any auction for a price below the reserve price for that auction.

(2) If the total demand for CO₂ allowances at an auction is less than or equal to the total number of CO₂

allowances made available for sale in that auction, then the auction clearing price for the auction shall be the reserve price.

(d) For the withholding of CO₂ ECR allowances from an auction, the Department or its agent will do the following:

(1) CO₂ ECR allowances will only be withheld from an auction if the demand for allowances would result in an auction clearing price that is less than the ECR trigger price prior to the withholding from the auction of any ECR allowances.

(2) If the condition in paragraph (1) is met at an auction, then the maximum number of CO₂ ECR allowances that may be withheld from that auction will be equal to the quantity in § 145.342(e)(1) (relating to CO₂ allowance allocations) minus the total quantity of CO₂ ECR allowances that have been withheld from any prior auction in that calendar year. The Department will transfer any CO₂ ECR allowances withheld from an auction into the Pennsylvania ECR Account.

CO₂ EMISSIONS OFFSET PROJECTS

§ 145.391. Purpose.

The Department may award CO₂ offset allowances to sponsors of CO₂ emissions offset projects that have reduced or avoided atmospheric loading of CO₂, CO₂e or sequestered carbon as demonstrated in accordance with the applicable provisions of §§ 145.391—145.397 (relating to CO₂ emissions offset projects). The requirements of §§ 145.391—145.397 seek to ensure that CO₂ offset allowances awarded represent CO₂ equivalent emission reductions or carbon sequestration that are real, addi-

tional, verifiable, enforceable and permanent within the framework of a standards-based approach. Subject to the relevant compliance deduction limitations of § 145.355(a)(3) (relating to compliance), CO₂ offset allowances may be used by any CO₂ budget source for compliance purposes.

§ 145.392. Definitions.

The following words and terms, when used in §§ 145.391–145.397 (relating to CO₂ emissions offset projects), have the following meanings, unless the context clearly indicates otherwise:

AEPS—Alternative energy portfolio standards—Standards establishing that a certain amount of energy sold from alternative energy sources, as defined under section 2 of the Alternative Energy Portfolio Standards Act (73 P.S. § 1648.2), is included as part of the sources of electric generation by electric utilities within this Commonwealth.

Anaerobic digester—A device that promotes the decomposition of organic material to simple organics and gaseous biogas products, in the absence of elemental oxygen, usually accomplished by means of controlling temperature and volume, and that includes a methane recovery system.

Anaerobic digestion—The decomposition of organic material including manure brought about through the action of microorganisms in the absence of elemental oxygen.

Anaerobic storage—Storage of organic material in an oxygen-free environment, or under oxygen-free conditions, including holding tanks, ponds and lagoons.

Biogas—Gas resulting from the decomposition of organic matter under anaerobic conditions, the principle constituents of which are methane and carbon dioxide.

Conflict of interest—A situation that may arise with respect to an individual in relation to any specific project sponsor, CO₂ emissions offset project or category of offset projects, such that the individual's other activities or relationships with other persons or organizations render or may render the individual incapable of providing an impartial certification opinion, or otherwise compromise the individual's objectivity in performing certification functions.

Forest offset project—An offset project involving reforestation, improved forest management or avoided conversion.

Forest offset project data report—The report prepared by a project sponsor each year that provides the information and documentation required by §§ 145.391–145.397 or the forest offset protocol.

Forest offset protocol—The protocol titled “Regional Greenhouse Gas Initiative Offset Protocol U.S. Forest Projects,” published by the participating states on June 12, 2013.

Independent verifier—An individual that has been approved by the Department or its agent to conduct verification activities.

Intentional reversal—Any reversal caused by a forest owner's negligence, gross negligence or willful intent, including harvesting, development and harm to the area within the offset project boundary.

Market penetration rate—A measure of the diffusion of a technology, product or practice in a defined market, as represented by the percentage of annual sales for a product or practice, or as a percentage of the existing

installed stock for a product or category of products, or as the percentage of existing installed stock that utilizes a practice.

Offset project—

(i) All equipment, materials, items or actions directly related to the reduction of CO₂e emissions or the sequestration of carbon specified in a consistency application submitted under § 145.394 (relating to application process).

(ii) This term does not include equipment, materials, items or actions unrelated to an offset project reduction of CO₂e emissions or the sequestration of carbon but occurring at a location where an offset project occurs, unless specified in § 145.395 (relating to CO₂ emissions offset project standards).

Project commencement—

(i) For an offset project involving physical construction, other work at an offset project site or installation of equipment or materials, the date of the beginning of the activity.

(ii) For an offset project that involves the implementation of a management activity or protocol, the date on which the activity is first implemented or the protocol is first utilized.

(iii) For an offset project involving reforestation, improved forest management or avoided conversion, the date specified in section 3.2 of the forest offset protocol.

Project sponsor—The sponsor of an offset project under §§ 145.391–145.397.

Regional-type anaerobic digester—An anaerobic digester using feedstock from more than one agricultural operation or importing feedstock from more than one agricultural operation.

Reporting period—The period of time covered by a forest offset project data report. The first reporting period for a forest offset project in an initial crediting period may consist of 6 to 24 consecutive months; all subsequent reporting periods in an initial crediting and all reporting periods in any renewed crediting period must consist of 12 consecutive months.

Reversal—A greenhouse gas emission reduction or greenhouse gas removal enhancement for which CO₂ offset allowances have been issued that is subsequently released or emitted back into the atmosphere due to any intentional or unintentional circumstance.

System benefit fund—Any fund collected directly from retail electricity or natural gas ratepayers.

Total solids—The total of all solids in a sample, including the total suspended solids, total dissolved solids and volatile suspended solids.

Unintentional reversal—Any reversal, including wildfires, insects or disease, that is not the result of the forest owner's negligence, gross negligence or willful intent.

Verification—The confirmation by an independent verifier that certain parts of a CO₂ emissions offset project consistency application and measurement, monitoring or verification report conforms to the requirements of §§ 145.391–145.397.

Volatile solids—The fraction of total solids that is comprised primarily of organic matter as defined in EPA Method Number 160.4, Methods for the Chemical Analysis of Water and Wastes (MCAWW) (EPA/600/4-79/020).

§ 145.393. General requirements.

(a) *Eligibility.* To qualify for the award of CO₂ offset allowances, offset projects shall satisfy all the applicable requirements of §§ 145.391—145.397 (relating to CO₂ emissions offset projects).

(1) *Offset project types.* The following types of offset projects are eligible for the award of CO₂ offset allowances:

- (i) Landfill methane capture and destruction.
- (ii) Sequestration of carbon due to reforestation, improved forest management or avoided conversion.
- (iii) Avoided methane emissions from agricultural manure management operations.

(2) *Offset project locations.* To qualify for the award of CO₂ offset allowances, an offset project must be located in:

- (i) This Commonwealth.
- (ii) Partly in this Commonwealth and partly in one or more other participating states, provided that more of the CO₂e emissions reduction or carbon sequestration due to the offset project is projected to occur in this Commonwealth than in any other participating state.

(b) *Project sponsor.* Any person may act as the sponsor of an offset project, provided that person meets the requirements under § 145.394 (relating to application process).

(c) *General additionality requirements.* Except as provided under § 145.395 (relating to CO₂ emissions offset project standards), the Department will not award CO₂ offset allowances to an offset project that meets the following:

(1) An offset project that is required under any local, state or Federal law, regulation, or administrative or judicial order. If an offset project receives a consistency determination under § 145.394 and is later required by local, state or Federal law, regulation, or administrative or judicial order, then the offset project will remain eligible for the award of CO₂ offset allowances until the end of its current allocation period but its eligibility will not be extended for an additional allocation period.

(2) An offset project that includes an electric generation component, unless the project sponsor transfers legal rights to any and all attribute credits, other than the CO₂ offset allowances awarded under § 145.397 (relating to award and recordation of CO₂ offset allowances), generated from the operation of the offset project that may be used for compliance with AEPS or a regulatory requirement, to the Department or its agent.

(3) An offset project that receives funding or other incentives from any system benefit fund or other incentives provided through revenue from the auction or sale of CO₂ allowances in the air pollution reduction account under § 145.342(a) (relating to CO₂ allowance allocations).

(4) An offset project that is awarded credits or allowances under any other mandatory or voluntary greenhouse gas program, except as described in § 145.395(b)(10).

(d) *Maximum allocation periods for offset projects.*

(1) *Maximum allocation periods.* Except as provided in paragraph (2), the Department may award CO₂ offset allowances under § 145.397 for an initial 10-year allocation period. At the end of the initial 10-year allocation

period, the Department may award CO₂ offset allowances for a second 10-year allocation period, provided the project sponsor has submitted a consistency application under § 145.394 prior to the expiration of the initial allocation period, and the Department has issued a consistency determination under § 145.394(e)(2).

(2) *Maximum allocation period for sequestration of carbon due to reforestation, improved forest management or avoided conversion.* The Department may award CO₂ offset allowances under § 145.397 for any project involving reforestation, improved forest management or avoided conversion for an initial 25-year allocation period. At the end of the initial 25-year allocation period, or any subsequent crediting period, the Department may award CO₂ offset allowances for a subsequent 25-year allocation period, provided the project sponsor has submitted a consistency application for the offset project under § 145.394 prior to the expiration of the initial allocation period, and the Department has issued a consistency determination under § 145.394(e)(2).

(e) *Offset project audit.* A project sponsor shall provide in writing, an access agreement to the Department granting the Department or its agent access to the physical location of the offset project to inspect for compliance with §§ 145.391—145.397.

(f) *Ineligibility due to noncompliance.*

(1) If at any time the Department determines that a project sponsor has not complied with the requirements of §§ 145.391—145.397, then the Department may revoke and retire any and all CO₂ offset allowances in the project sponsor's account.

(2) If at any time the Department determines that an offset project does not comply with the requirements of §§ 145.391—145.397, then the Department may revoke any approvals it has issued relative to the offset project.

§ 145.394. Application process.

(a) *Establishment of general account.* The sponsor of an offset project must establish a general account under § 145.352(b) (relating to establishment of accounts). Submissions to the Department required for the award of CO₂ offset allowances under §§ 145.391—145.397 (relating to CO₂ emissions offset projects) must be from the CO₂ authorized account representative for the general account of the project sponsor.

(b) *Consistency application deadlines.* A consistency application for an offset project shall be submitted, in a format prescribed by the Department and consistent with the requirements of this section by the following deadlines:

(1) For an offset project not involving reforestation, improved forest management or avoided conversion, by the date that is 6 months after the offset project is commenced.

(2) For an offset project involving reforestation, improved forest management or avoided conversion the consistency application, by the date that is one year after the offset project is commenced, except as provided under § 145.395(b)(9) (relating to CO₂ emissions offset project standards).

(3) The Department will deny any consistency application that fails to meet the deadlines in this subsection.

(c) *Consistency application contents.* For an offset project, the consistency application must include the following:

(1) The project sponsor's name, address, e-mail address, telephone number, facsimile transmission number and account number.

(2) The offset project description as required by the relevant provisions under § 145.395.

(3) A demonstration that the offset project meets all applicable requirements in §§ 145.391—145.397.

(4) The emissions baseline determination as required by the relevant provisions under § 145.395.

(5) An explanation of how the projected reduction or avoidance of atmospheric loading of CO₂ or CO₂e or the sequestration of carbon is to be quantified, monitored and verified as required by the relevant provisions under § 145.395.

(6) A completed consistency application agreement signed by the project sponsor that reads as follows:

“The undersigned project sponsor recognizes and accepts that the application for, and the receipt of, CO₂ offset allowances under the CO₂ Budget Trading Program is predicated on the project sponsor following all the requirements of §§ 145.391—145.397. The undersigned project sponsor holds the legal rights to the offset project or has been granted the right to act on behalf of a party that holds the legal rights to the offset project. I understand that eligibility for the award of CO₂ offset allowances under §§ 145.391—145.397 is contingent on meeting the requirements of §§ 145.391—145.397. I authorize the Department or its agent to audit this offset project for purposes of verifying that the offset project, including the monitoring and verification plan, has been implemented as described in this application. I understand that this right to audit shall include the right to enter the physical location of the offset project. I submit to the legal jurisdiction of the Commonwealth of Pennsylvania.”

(7) A statement and certification report signed by the offset project sponsor certifying that all offset projects for which the sponsor has received CO₂ offset allowances under §§ 145.391—145.397, under the sponsor's ownership or control or under the ownership or control of any entity which controls, is controlled by, or has common control with the sponsor are in compliance with all applicable requirements of the CO₂ Budget Trading Program in all participating states.

(8) A verification report and certification statement signed by an independent verifier accredited under § 145.396 (relating to accreditation of independent verifiers) that expresses that the independent verifier has reviewed the entire application and evaluated the following in relation to the applicable requirements at § 145.393 (relating to general requirements) and § 145.395, and any applicable guidance issued by the Department:

(i) The adequacy and validity of information supplied by the project sponsor to demonstrate that the offset project meets the applicable eligibility requirements of §§ 145.393 and 145.395.

(ii) The adequacy and validity of information supplied by the project sponsor to demonstrate baseline emissions under the applicable requirements under § 145.395.

(iii) The adequacy of the monitoring and verification plan submitted under the applicable requirements under § 145.395.

(iv) Any other evaluations and statements as may be required by the Department.

(9) Disclosure of any voluntary or mandatory programs, other than the CO₂ Budget Trading Program, to which greenhouse gas emissions data related to the offset project has been or will be reported.

(d) *Consistency application submitted in another state.* The Department will not accept as submitted a consistency application for an offset project if a consistency application has already been submitted for the same project, or any portion of the same project, in another participating state, unless the consistency application was rejected by another participating state solely because more of the CO₂e emissions reduction or carbon sequestration resulting from the offset project is projected to occur in this Commonwealth than in any other participating state.

(e) *Department action on consistency applications.*

(1) *Completeness determination.* Within 30 days following receipt of the consistency application submitted under subsection (b), the Department will notify the project sponsor whether the consistency application is complete. A complete consistency application is one that is in a form prescribed by the Department and is determined by the Department to contain all applicable information and documentation required by §§ 145.391—145.397. In no event will a completeness determination prevent the Department from requesting additional information to make a consistency determination under paragraph (2).

(2) *Consistency determination.* Within 90 days of making the completeness determination under paragraph (1), the Department will issue a determination as to whether the offset project is consistent with the requirements of § 145.393 and this section and the requirements of the applicable offset project standard of § 145.395. For any offset project found to lack consistency with these requirements, the Department will inform the project sponsor of the offset project's deficiencies.

§ 145.395. CO₂ emissions offset project standards.

(a) *Landfill methane capture and destruction.* To qualify for the award of CO₂ offset allowances under §§ 145.391—145.397 (relating to CO₂ emissions offset projects), an offset project that captures and destroys methane from a landfill shall meet the requirements of this subsection and all other applicable requirements of §§ 145.391—145.397.

(1) *Eligibility.* An offset project shall occur at a landfill that is not subject to the New Source Performance Standards for municipal solid waste landfills, 40 CFR Part 60, Subpart Cc and Subpart WWW (relating to emission guidelines and compliance times for municipal solid waste landfills; and standards of performance for municipal solid waste landfills that commenced construction, reconstruction, or modification on or after May 30, 1991, but before July 18, 2014).

(2) *Offset project description.* The project sponsor shall provide a detailed narrative of the offset project actions to be taken, including documentation that the offset project meets the eligibility requirements of paragraph (1). The project narrative shall include the following:

(i) Identification of the owner or operator of the offset project.

(ii) Location and specifications of the landfill where the offset project will occur, including waste in place.

(iii) Identification of the owner or operator of the landfill where the offset project will occur.

(iv) Specifications of the equipment to be installed and a technical schematic of the offset project.

(3) *Emissions baseline determination.* The emissions baseline shall represent the potential fugitive landfill emissions of CH₄, in tons of CO₂e, as represented by the CH₄ collected and metered for thermal destruction as part of the offset project and calculated as follows:

$$\text{Emissions (tons CO}_2\text{e)} = (V \times M \times (1 - \text{OX}) \times \text{GWP})/2000$$

Where:

V = Volume of CH₄ collected (ft³).

M = Mass of CH₄ per cubic foot (0.04246 lbs/ft³ default value at 1 atmosphere, 20°C).

OX = Oxidation factor (0.10), representing estimated portion of collected CH₄ that would have eventually oxidized to CO₂ if not collected.

GWP = CO₂e global warming potential of CH₄ (28).

(4) *Calculating emissions reductions.* Emissions reductions shall be determined based on potential fugitive CH₄ emissions that would have occurred at the landfill if metered CH₄ collected from the landfill for thermal destruction as part of the offset project was not collected and destroyed. CO₂e emissions reductions shall be calculated as follows:

$$\text{Emissions (tons CO}_2\text{e)} = (V \times M \times (1 - \text{OX}) \times C_{ef} \times \text{GWP})/2000$$

Where:

V = Volume of CH₄ collected (ft³).

M = Mass of CH₄ per cubic foot (0.04246 lbs/ft³ default value at 1 atmosphere and 20°C).

OX = Oxidation factor (0.10), representing estimated portion of collected CH₄ that would have eventually oxidized to CO₂ if not collected.

Cef = Combustion efficiency of methane control technology (0.98).

GWP = CO₂e global warming potential of CH₄ (28).

(5) *Monitoring and verification requirements.* An offset project shall employ a landfill gas collection system that provides continuous metering and data computation of landfill gas volumetric flow rate and CH₄ concentration. Annual monitoring and verification reports shall include monthly volumetric flow rate and CH₄ concentration data, including documentation that the CH₄ was actually supplied to the combustion source. Monitoring and verification is also subject to the following:

(i) As part of the consistency application, the project sponsor shall submit a monitoring and verification plan that includes a quality assurance and quality control program associated with equipment used to determine landfill gas volumetric flow rate and CH₄ composition. The monitoring and verification plan shall also include provisions for ensuring that measuring and monitoring equipment is maintained, operated and calibrated based on manufacturer recommendations, as well as provisions for the retention of maintenance records for audit purposes. The monitoring and verification plan shall be certified by an independent verifier accredited under § 145.396 (relating to accreditation of independent verifiers).

(ii) The project sponsor shall annually verify landfill gas CH₄ composition through landfill gas sampling and independent laboratory analysis using applicable EPA laboratory test methods.

(b) *Sequestration of carbon due to reforestation, improved forest management or avoided conversion.* To qualify for the award of CO₂ offset allowances under §§ 145.391—145.397, an offset project that involves reforestation, improved forest management, or avoided conversion shall meet all requirements of this subsection and the forest offset protocol, and all other applicable requirements of §§ 145.391—145.397.

(1) *Eligibility.* A forest offset project shall satisfy all eligibility requirements of the forest offset protocol and this subsection.

(2) *Offset project description.* The project sponsor shall provide a detailed narrative of the offset project actions to be taken, including documentation that the offset project meets the eligibility requirements of paragraph (1). The offset project description must include all information identified in sections 8.1 and 9.1 of the forest offset protocol, and any other information deemed necessary by the Department.

(3) *Carbon sequestration baseline determination.* Baseline onsite carbon stocks shall be determined as required by sections 6.1.1, 6.1.2, 6.2.1, 6.2.2, 6.2.3, 6.3.1 and 6.3.2 of the forest offset protocol, as applicable.

(4) *Calculating carbon sequestered.* Net greenhouse gas reductions and greenhouse gas removal enhancements shall be calculated as required by section 6 of the forest offset protocol. The project's risk reversal rating shall be calculated using the forest offset protocol Determination of a Forest Project's Reversal Risk Rating assessment worksheet.

(5) *Monitoring and verification requirements.* Monitoring and verification are subject to the following:

(i) Monitoring and verification reports shall include all forest offset project data reports submitted to the Department, including any additional data required by section 9.2.2 of the forest offset protocol.

(ii) The consistency application shall include a monitoring and verification plan certified by an independent verifier accredited under § 145.396 and shall consist of a forest carbon inventory program, as required by section 8.1 of the forest offset protocol.

(iii) Monitoring and verification reports shall be submitted not less than every 6 years, except that the first monitoring and verification report for reforestation projects must be submitted within 12 years of project commencement.

(6) *Forest Offset Project Data Reports.* A project sponsor shall submit a forest offset project data report to the Department for each reporting period. Each forest offset project data report must cover a single reporting period. Reporting periods must be contiguous and there must be no gaps in reporting once the first reporting period has commenced.

(7) *Conversion.* Prior to the award of CO₂ offset allowances under § 145.397 (relating to award and recordation of CO₂ offset allowances), or to any surrender of allowances under § 145.395(b)(8)(ii)(C) (relating to CO₂ emissions offset project standards), any quantity expressed in metric tons, or metric tons of CO₂e, shall be converted to tons using the conversion factor specified in § 145.302 (relating to definitions).

(8) *Carbon sequestration permanence.* The project sponsor shall meet the following requirements to address reversals of sequestered carbon.

(i) *Unintentional reversals.* The project sponsor shall address an unintentional reversal of sequestered carbon as follows:

(A) Notify the Department of the reversal and provide an explanation for the nature of the unintentional reversal within 30 calendar days of its discovery.

(B) Submit to the Department a verified estimate of current carbon stocks within the offset project boundary within 1 year of the discovery of the unintentional reversal.

(ii) *Intentional reversals.* The project sponsor shall address an intentional reversal of sequestered carbon as follows:

(A) Notify the Department in writing of the intentional reversal and provide a written description and explanation of the intentional reversal within 30 calendar days of the intentional reversal.

(B) Submit to the Department a verified estimate of current carbon stocks within the offset project boundary within 1 year of the occurrence of an intentional reversal.

(C) If an intentional reversal occurs, and CO₂ offset allowances have been awarded to the offset project, the forest owner must surrender to the Department or its agent for retirement a quantity of CO₂ allowances corresponding to the quantity of CO₂e tons reversed within 6 months of notification by the Department.

(I) The Department will provide notification after the project sponsor has submitted a verified estimate of carbon stocks to the Department, or if the project sponsor fails to submit verified estimate of carbon stocks after 1 year has elapsed since the occurrence of the intentional reversal.

(II) If the forest owner does not surrender valid CO₂ allowances to the Department within 6 months of notification by the Department, the forest owner will be subject to enforcement action and each CO₂e ton of carbon sequestration intentionally reversed will constitute a separate violation of this subchapter and the act.

(D) *Project Termination Requirements.*

(I) The project sponsor must surrender to the Department or its agent for retirement a quantity of CO₂ allowances in the amount calculated under project termination provisions in the forest offset protocol within 6 months of project termination.

(II) If the project sponsor does not surrender to the Department or its agent a quantity of CO₂ allowances in the amount calculated under project termination provisions in the forest offset protocol within 6 months of project termination, the project sponsor will be subject to enforcement action and each CO₂ offset allowance not surrendered will constitute a separate violation of this subchapter and the act.

(iii) *Disposition of Forest Sequestration Projects After a Reversal.* The Department will terminate a forest offset project if a reversal lowers the forest offset project's actual standing live carbon stocks below its project baseline standing live carbon stocks.

(9) *Timing of forest offset projects.* The Department may award CO₂ offset allowances under § 145.397 only for forest offset projects that are initially commenced on or after January 1, 2014.

(10) *Projects that Have Been Awarded Credits by a Voluntary Greenhouse Gas Reduction Program.* The provisions of §§ 145.393(c)(4) and 145.394(b)(2) (relating to

general requirements; and application process) shall not apply to forest projects that have been awarded credits under a voluntary greenhouse gas reduction program. For those projects, the number of CO₂ offset allowances will be calculated under the requirements of this subsection, without regard to quantity of credits that were awarded to the project under the voluntary program, provided that the project satisfies the following:

(i) Other general requirements of §§ 145.391—145.397, including all specific requirements of this subsection, for all reporting periods for which the project has been awarded credits under a voluntary greenhouse gas program and also intends to be awarded CO₂ offset allowances under § 145.397.

(ii) At the time of submittal of the consistency application for the project, the project sponsor submits forest offset data reports and a monitoring and verification report covering all reporting periods for which the project has been awarded credits under a voluntary greenhouse gas program and also intends to be awarded CO₂ offset allowances under § 145.397. Forest offset data reports and monitoring and verification reports must meet all requirements of paragraphs (5) and (6).

(iii) The voluntary greenhouse gas program has published information to allow the Department to verify the information included in the consistency application and the consistency application includes information sufficient to allow the Department to determine the following:

(A) The offset project has met all legal and contractual requirements to allow it to terminate its relationship with the voluntary greenhouse gas program and the termination has been completed.

(B) The project sponsor or voluntary greenhouse gas program has cancelled or retired all credits that were awarded for carbon sequestration that occurred during the time periods for which the project intends to be awarded CO₂ offset allowances under § 145.397, and the credits were cancelled or retired for the sole purpose of allowing the project to be awarded CO₂ offset allowances under § 145.397.

(c) *Avoided methane emissions from agricultural manure management operations.* To qualify for the award of CO₂ offset allowances under §§ 145.391—145.397, an offset project that captures and destroys methane from animal manure and organic food waste using anaerobic digesters shall meet the requirements of this subsection and all other applicable requirements of §§ 145.391—145.397.

(1) *Eligibility.* To be eligible for CO₂ offset allowances, an offset project under this subsection shall:

(i) Consist of the destruction of that portion of methane generated by an anaerobic digester that would have been generated in the absence of the offset project through the uncontrolled anaerobic storage of manure or organic food waste.

(ii) Employ only manure-based anaerobic digester systems using livestock manure as the majority of digester feedstock, defined as more than 50% of the mass input into the digester on an annual basis. Organic food waste used by an anaerobic digester shall only be that which would have been stored in anaerobic conditions in the absence of the offset project.

(2) *Exceptions to the general requirements.* The provisions of § 145.393(c)(2) and (3) shall not apply to an agricultural manure management offset project that meets the following:

(i) The offset project is located in a participating state that has a market penetration rate for anaerobic digester projects of 5% or less. The market penetration determination shall utilize the most recent market data available at the time of submission of the consistency application under § 145.394 and shall be determined as follows:

$$MP (\%) = MG_{AD} / MG_{STATE}$$

Where:

MG_{AD} = Average annual manure generation for the number of dairy cows and swine serving all anaerobic digester projects in the applicable state at the time of submission of a consistency application under § 145.394.

MG_{STATE} = Average annual manure production of all dairy cows and swine in the participating state at the time of submission of a consistency application under § 145.394.

(ii) The offset project is located at a farm with 4,000 or less head of dairy cows, or a farm with equivalent animal units, assuming an average live weight for dairy cows in pounds per cow of 1,400 pounds, or, if the project is a regional-type anaerobic digester, total annual manure input to the digester is designed to be less than the average annual manure produced by a farm with 4,000 or less head of dairy cows, or a farm with equivalent animal units, assuming an average live weight for dairy cows in pounds per cow of 1,400 pounds.

(3) *Offset project description.* The project sponsor shall provide a detailed narrative of the offset project actions to be taken, including documentation that the offset project meets the eligibility requirements of paragraph (1). The offset project narrative shall include the following:

(i) Identification of the owner or operator of the offset project.

(ii) Location and specifications of the facility where the offset project will occur.

(iii) Identification of the owner or operator of the facility where the offset project will occur.

(iv) Specifications of the equipment to be installed and a technical schematic of the offset project.

(v) Location and specifications of the facilities from which anaerobic digester influent will be received, if different from the facility where the offset project will occur.

(4) *Emissions baseline determination.* The emissions baseline shall represent the potential emissions of the CH_4 that would have been produced in a baseline scenario under uncontrolled anaerobic storage conditions and released directly to the atmosphere in the absence of the offset project.

(i) Baseline CH_4 emissions shall be calculated as follows:

$$E_b = (V_m \times M) / 2000 \times GWP$$

Where:

E_b = Potential CO_2e emissions due to calculated CH_4 production under site-specific anaerobic storage and weather conditions (tons).

V_m = Volume of CH_4 produced each month from decomposition of volatile solids in a baseline uncontrolled anaerobic storage scenario under site-specific storage and weather conditions for the facility at which the manure or organic food waste is generated (ft^3).

M = Mass of CH_4 per cubic foot (0.04246 lb/ft^3 default value at one atmosphere and 20°C).

GWP = Global warming potential of CH_4 (28).

(ii) The estimated amount of volatile solids decomposed each month under the uncontrolled anaerobic storage baseline scenario in kilograms (kg) shall be calculated as follows:

$$VS_{dec} = VS_{avail} \times f$$

Where:

VS = Volatile solids as determined from the equation:

$$VS = M_m \times TS\% \times VS\%$$

Where:

M_m = Mass of manure or organic food waste produced per month (kg).

$TS\%$ = Concentration (%) of total solids in manure or organic food waste as determined through EPA 160.3 testing method (EPA Method Number 160.3, Methods for the Chemical Analysis of Water and Wastes (EPA/600/4-79/020)).

$VS\%$ = Concentration (%) of volatile solids in total solids as determined through EPA 160.4 testing method (EPA Method Number 160.4, Methods for the Chemical Analysis of Water and Wastes (EPA/600/4-79/020)).

VS_{avail} = Volatile solids available for decomposition in manure or organic food waste storage each month as determined from the equation:

$$VS_{avail} = VS_p + 1/2 VS_{in} - VS_{out}$$

Where:

VS_p = Volatile solids present in manure or organic food waste storage at beginning of month (left over from previous month) (kg).

VS_{in} = Volatile solids added to manure or organic food waste storage during the course of the month (kg). The factor of 1/2 is multiplied by this number to represent the average mass of volatile solids available for decomposition for the entire duration of the month.

VS_{out} = Volatile solids removed from the manure or organic food waste storage for land application or export (assumed value based on standard farm practice).

f = van't Hoff-Arrhenius factor for the specific month as determined using the equation below. Using a base temperature of 30°C, the equation is as follows:

$$f = \exp \{ [E(T_2 - T_1)] / (GC \times T_1 \times T_2) \}$$

Where:

f = Conversion efficiency of VS to CH_4 per month.

E = Activation energy constant (15,175 cal/mol).

T_2 = Average monthly ambient temperature for facility where manure or organic food waste is generated (converted from degrees Celsius to degrees Kelvin) as determined from the nearest National Weather Service certified weather station (if reported temperature °C > 5 °C; if reported temperature °C < 5 °C, then $f = 0.104$).

$T_1 = 303.15$ (30°C converted to °K).

GC = Ideal gas constant (1.987 cal/K mol).

(iii) The volume of CH_4 produced in cubic feet (ft^3) from decomposition of volatile solids shall be calculated as follows:

$$V_m = (VS_{dec} \times B_o) \times 35.3147$$

Where:

V_m = Volume of CH_4 (ft^3).

VS_{dec} = Volatile solids decomposed (kg).

B_o = Manure or organic food waste type-specific maximum methane generation constant ($\text{m}^3 \text{CH}_4/\text{kg}$ VS decomposed). For dairy cow manure, $B_o = 0.24 \text{ m}^3 \text{CH}_4/\text{kg}$ VS decomposed. The methane generation constant for other types of manure shall be those cited at the EPA, Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990—2010, Annex 3, Table A 180 (EPA, February 2017), unless the project sponsor proposes an alternate methane generation constant and that alternate is approved by the Department. If the project sponsor proposes to use a methane generation constant other than the ones found in the previously-cited reference, the project sponsor must provide justification and documentation to the Department.

(5) *Calculating emissions reductions.* Emissions reductions shall be calculated as follows:

$$\text{ER}_t = E_b - E_p$$

Where:

ER_t = CO_2e emissions reductions due to project activities (tons).

E_b = Potential CO_2e emissions due to calculated CH_4 production under site-specific anaerobic storage and weather conditions (tons).

E_p = CO_2e emissions due to project activities additional to baseline (tons), including manure transportation, flaring, venting and effluent management.

(6) *Transport CO_2 emissions.* Emissions reductions may not exceed the potential emissions of the anaerobic digester, as represented by the annual volume of CH_4 produced by the anaerobic digester, as monitored under paragraph (5). CO_2 emissions due to transportation of manure and organic food waste from the site where the manure and organic food waste was generated to the anaerobic digester shall be subtracted from the emissions calculated under paragraph (4)(i)—(iii). Transport CO_2 emissions shall be determined through one of the following methods:

(i) Documentation of transport fuel use for all shipments of manure and organic food waste from off-site to the anaerobic digester during each reporting year and a log of transport miles for each shipment. Off-site is defined as a location that is not contiguous with the property where the anaerobic digester is located. CO_2 emissions shall be determined through the application of an emissions factor for the fuel type used. If this option is chosen, the following emissions factors shall be applied as appropriate:

(A) Diesel fuel: 22.912 lbs. CO_2 /gallon.

(B) Gasoline: 19.878 lbs. CO_2 /gallon.

(C) Other fuel: submitted emissions factor approved by the Department.

(ii) Documentation of total tons of manure and organic food waste transported from off-site for input into the anaerobic digester during each reporting year, as monitored under paragraph (7)(i), and a log of transport miles and fuel type used for each shipment. CO_2 emissions shall be determined through the application of a ton-mile transport emission factor for the fuel type used. If this option is chosen, the following emissions factors shall be applied as appropriate for each ton of manure delivered and multiplied by the number of miles transported:

(A) Diesel fuel: 0.131 lb. CO_2 per ton-mile.

(B) Gasoline: 0.133 lb. CO_2 per ton-mile.

(C) Other fuel: submitted emissions factor approved by the Department.

(7) *Monitoring and verification requirements.* An offset project shall employ a system that provides metering of biogas volumetric flow rate and determination of CH_4 concentration. Annual monitoring and verification reports shall include monthly biogas volumetric flow rate and CH_4 concentration determination. Monitoring and verification shall also meet the following:

(i) If the offset project is a regional-type anaerobic digester, manure and organic food waste from each distinct source supplying to the anaerobic digester shall be sampled monthly to determine the amount of volatile solids present. Any emissions reduction will be calculated according to mass of manure and organic food waste in kilograms (kg) being digested and percentage of volatile solids present before anaerobic digestion, consistent with the requirements under subparagraph (iii) and paragraph (4) and apportioned accordingly among sources. The project sponsor shall provide supporting material and receipts tracking the monthly receipt of manure and organic food waste in kilograms (kg) used to supply the anaerobic digester from each supplier.

(ii) If the offset project includes the anaerobic digestion of organic food waste eligible under paragraph (1)(ii), organic food waste shall be sampled monthly to determine the amount of volatile solids present before anaerobic digestion, consistent with the requirements under subparagraph (iii) and paragraph (4), and apportioned accordingly.

(iii) The project sponsor shall submit a monitoring and verification plan as part of the consistency application that includes a quality assurance and quality control program associated with equipment used to determine biogas volumetric flow rate and CH_4 composition. The monitoring and verification plan shall be specified in accordance with the applicable monitoring requirements listed in Table 3. The monitoring and verification plan shall also include provisions for ensuring that measuring and monitoring equipment is maintained, operated and calibrated based on manufacturer's recommendations, as well as provisions for the retention of maintenance records for audit purposes. The monitoring and verification plan shall be certified by an independent verifier accredited under § 145.396.

Table 3. Monitoring requirements

Parameter	Measurement Unit	Frequency of Sampling	Sampling Methods
Influent flow (mass) into the digester	Kilograms (kg) per month (wet mass)	Monthly total into the digester	In descending order of preference: 1) Recorded mass 2) Digester influent pump flow 3) Livestock population and application of American Society of Agricultural and Biological Engineers (ASABE) standard (ASAE D384.2, March 2005)
Influent total solids concentration (TS)	Percent (of sample)	Monthly, depending upon recorded variations	EPA Method Number 160.3, Methods for the Chemical Analysis of Water and Wastes (EPA/600/4-79/020)
Influent volatile solids (VS) concentration	Percent (of TS)	Monthly, depending upon recorded variations	EPA Method Number 160.4, Methods for the Chemical Analysis of Water and Wastes (EPA/600/4-79/020)
Average monthly ambient temperature	Temperature °C	Monthly (based on farm averages)	Closest National Weather Service—certified weather station
Volume of biogas produced by digester	Standard cubic feet (scf)	Continuous, totalized monthly	Flow meter
Methane composition of biogas produced by digester	Percent (of sample)	Quarterly	Bag sampling and third party laboratory analysis using applicable EPA test methods

§ 145.396. Accreditation of independent verifiers.

(a) *Standards for accreditation.* An independent verifier may be accredited by the Department to provide verification services as required of a project sponsor under this subchapter, provided that an independent verifier meets all the requirements of this section.

(1) *Verifier minimum requirements.* Each accredited independent verifier shall demonstrate knowledge of the following:

- (i) Utilizing engineering principles.
- (ii) Quantifying greenhouse gas emissions.
- (iii) Developing and evaluating air emissions inventories.
- (iv) Auditing and accounting principles.
- (v) Information management systems.
- (vi) The requirements of this subchapter.
- (vii) Such other qualifications as may be required by the Department to provide competent verification services as required for individual offset categories under § 145.395 (relating to CO₂ emissions offset project standards).

(2) *Organizational qualifications.* An accredited independent verifier shall demonstrate that they meet the following:

- (i) No direct or indirect financial relationship, beyond a contract for provision of verification services, with any offset project developer or project sponsor.
- (ii) Employ staff with professional licenses, knowledge and experience appropriate to the specific category of offset projects under § 145.395 that they seek to verify.
- (iii) Hold a minimum of \$1 million of professional liability insurance. If the insurance is in the name of a related entity, the verifier shall disclose the financial relationship between the verifier and the related entity, and provide documentation supporting the description of the relationship.

(iv) Implementation of an adequate management protocol to identify potential conflicts of interest with regard to an offset project, offset project developer or project sponsor, or any other party with a direct or indirect financial interest in an offset project that is seeking or has been granted approval of a consistency application under § 145.394(e) (relating to application process), and remedy any conflicts of interest prior to providing verification services.

(3) *Pre-qualification of verifiers.* The Department may require prospective verifiers to successfully complete a training course, workshop or test developed by the Department or its agent, prior to submitting an application for accreditation.

(b) *Application for accreditation.* An application for accreditation shall not contain any proprietary information and shall include the following:

- (1) The applicant’s name, address, e-mail address, telephone number and facsimile transmission number.
- (2) Documentation that the applicant has at least 2 years of experience in each of the knowledge areas specified at subsection (a)(1)(i)—(v), and as may be required under subsection (a)(1)(vii).

(3) Documentation that the applicant has successfully completed the requirements at subsection (a)(3), as applicable.

(4) A sample of at least one work product that provides supporting evidence that the applicant meets the requirements at subsection (a)(1) and (2). The work product shall have been produced, in whole or part, by the applicant and shall consist of a final report or other material provided to a client under contract in previous work. For a work product that was jointly produced by the applicant and another entity, the role of the applicant in the work product shall be clearly explained.

(5) Documentation that the applicant holds professional liability insurance as required under subsection (a)(2)(iii).

(6) Documentation that the applicant has implemented an adequate management protocol to address and remedy any conflict of interest issues that may arise, as required under subsection (a)(2)(iv).

(c) *Department action on applications for accreditation.* The Department will approve or deny a complete application for accreditation within 45 days after submission. Upon approval of an application for accreditation, the independent verifier shall be accredited for a period of 3 years from the date of application approval.

(d) *Reciprocity.* Independent verifiers accredited in other participating states may be deemed to be accredited in this Commonwealth, at the discretion of the Department.

(e) *Conduct of an accredited verifier.*

(1) Prior to engaging in verification services for an offset project sponsor, the accredited verifier shall disclose all relevant information to the Department to allow for an evaluation of potential conflict of interest with respect to an offset project, offset project developer or project sponsor. The accredited verifier shall disclose information concerning its ownership, past and current clients, related entities, as well as any other facts or circumstances that have the potential to create a conflict of interest.

(2) An accredited verifier shall have an ongoing obligation to disclose to the Department any facts or circumstances that may give rise to a conflict of interest with respect to an offset project, offset project developer or project sponsor.

(3) The Department may reject a verification report and certification statement from an accredited verifier, submitted as part of a consistency application required under § 145.394(b) or submitted as part of a monitoring and verification report submitted under § 145.397(b) (relating to award and recordation of CO₂ offset allowances), if the Department determines that the accredited verifier has a conflict of interest related to the offset project, offset project developer or project sponsor.

(4) The Department may revoke the accreditation of a verifier at any time for the following:

(i) Failure to fully disclose any issues that may lead to a conflict of interest situation with respect to an offset project, offset project developer or project sponsor.

(ii) The verifier is no longer qualified due to changes in staffing or other criteria.

(iii) Negligence or neglect of responsibilities pursuant to the requirements of this subchapter.

(iv) Intentional misrepresentation of data or other intentional fraud.

§ 145.397. Award and recordation of CO₂ offset allowances.

(a) *Award of CO₂ offset allowances.* Following the issuance of a consistency determination under § 145.394(e)(2) (relating to application process) and the approval of a monitoring and verification report under the provisions of subsection (f), the Department will award one CO₂ offset allowance for each ton of demonstrated reduction in CO₂ or CO₂e emissions or sequestration of CO₂.

(b) *Recordation of CO₂ offset allowances.* After CO₂ offset allowances are awarded under subsection (a), the Department will record the CO₂ offset allowances in the project sponsor's general account.

(c) *Deadlines for submittal of monitoring and verification reports.*

(1) For an offset project undertaken prior to April 23, 2022, the project sponsor shall submit the monitoring and verification report covering the pre-2022 period by October 20, 2022.

(2) For an offset project undertaken on or after April 23, 2022, the project sponsor shall submit the monitoring and verification report within 6 months following the completion of the last calendar year during which the offset project achieved CO₂e reductions or sequestration of CO₂ for which the project sponsor seeks the award of CO₂ offset allowances.

(d) *Contents of monitoring and verification reports.* For an offset project, the monitoring and verification report must include the following:

(1) The project sponsor's name, address, e-mail address, telephone number, facsimile transmission number and account number.

(2) The CO₂ emissions reduction or CO₂ sequestration determination as required by the relevant provisions of § 145.395 (relating to CO₂ emissions offset project standards), including a demonstration that the project sponsor complied with the required quantification, monitoring and verification procedures under § 145.395, as well as those outlined in the consistency application approved under § 145.394(e)(2).

(3) A signed certification statement that reads "The undersigned project sponsor hereby confirms and attests that the offset project upon which this monitoring and verification report is based is in full compliance with all of the requirements of §§ 145.391—145.397. The project sponsor holds the legal rights to the offset project or has been granted the right to act on behalf of a party that holds the legal rights to the offset project. I understand that eligibility for the award of CO₂ offset allowances under §§ 145.391—145.397 is contingent on meeting the requirements of §§ 145.391—145.397. I authorize the Department or its agent to audit this offset project for purposes of verifying that the offset project, including the monitoring and verification plan, has been implemented as described in the consistency application that was the subject of a consistency determination by the Department. I understand that this right to audit shall include the right to enter the physical location of the offset project and to make available to the Department or its agent any and all documentation relating to the offset project at the Department's request. I submit to the legal jurisdiction of the Commonwealth of Pennsylvania."

(4) A certification signed by the project sponsor certifying that all offset projects for which the sponsor has received CO₂ offset allowances under this subchapter or similar provisions in the rules of other participating states, under the sponsor's ownership or control or under the ownership or control of any entity which controls, is controlled by, or has common control with the sponsor are in compliance with all applicable requirements of the CO₂ Budget Trading Program in all participating states.

(5) A verification report and certification statement signed by an independent verifier accredited under § 145.396 (relating to accreditation of independent verifiers) that documents that the independent verifier has reviewed the monitoring and verification report and evaluated the following in relation to the applicable requirements at § 145.395, and any applicable guidance issued by the Department:

(i) The adequacy and validity of information supplied by the project sponsor to determine CO₂ emissions reductions or CO₂ sequestration under the applicable requirements at § 145.395.

(ii) The adequacy and consistency of methods used to quantify, monitor and verify CO₂ emissions reductions and CO₂ sequestration in accordance with the applicable requirements at § 145.395 and as outlined in the consistency application approved under § 145.394(e)(2).

(iii) The adequacy and validity of information supplied by the project sponsor to demonstrate that the offset project meets the applicable eligibility requirements under § 145.395.

(iv) Other evaluations and verification reviews as may be required by the Department.

(6) Disclosure of any voluntary or mandatory programs, other than the CO₂ Budget Trading Program, to which greenhouse gas emissions data related to the offset project has been or will be reported.

(e) *Prohibition against filing monitoring and verification reports in more than one participating state.* The Department will only accept a monitoring and verification report for an offset project that has received a consistency determination under § 145.394(e)(2) and will not accept a monitoring and verification report for an offset project that has received a consistency determination in other participating states.

(f) *Department action on monitoring and verification reports.*

(1) A complete monitoring and verification report is one that is in an approved form and is determined by the Department to be complete for the purpose of commencing review of the monitoring and verification report. In no event shall a completeness determination prevent the Department from requesting additional information needed by the Department to approve or deny a monitoring and verification report.

(2) Within 45 days following receipt of a complete report, the Department will approve or deny a complete monitoring and verification report, in a format approved by the Department, filed with the Department under subsections (c) and (d).

CO₂ ALLOWANCE AUCTIONS

§ 145.401. Auction of CO₂ allowances.

(a) Except as provided under subsection (b), the Department will participate in a multistate CO₂ allowance auction in coordination with other participating states based on the following:

(1) A multistate auction capability and process is in place for the participating states.

(2) The multistate auction can provide benefits to this Commonwealth that meet or exceed the benefits conferred on Pennsylvania through its own Pennsylvania-run auction process.

(3) The multistate auction process is consistent with the process described in §§ 145.401—145.409 (relating to CO₂ allowance auctions).

(4) The multistate auction process includes monitoring of each CO₂ allowance auction by an independent monitor to identify any collusion, market power or price manipulation.

(b) Should the Department find that the conditions in subsection (a) are no longer met, the Department may

determine to conduct a Pennsylvania-run auction in accordance with §§ 145.341—145.343 (relating to Pennsylvania CO₂ Budget Trading Program base budget; CO₂ allowance allocations; and distribution of CO₂ allowances in the air pollution reduction account) and 145.401—145.409.

(c) The Department may delegate the implementation and administrative support functions for any CO₂ allowance auction conducted under §§ 145.401—145.409 to an agent qualified to conduct auctions, including a regional entity, provided that the agent shall perform all functions under the direction and oversight of the Department.

(d) The Department will retain its authority to enforce compliance with all sections of this subchapter and will retain control over the proceeds associated with the sale of Pennsylvania CO₂ allowances, whether sold in a multistate or Pennsylvania CO₂ allowance auction, and will credit the proceeds to the Clean Air Fund established under the act.

§ 145.402. Auction format.

(a) The format of a CO₂ allowance auction will be one or more of the following:

- (1) Uniform-price sealed-bid.
- (2) Discriminatory price sealed-bid.
- (3) Ascending price, multiple-round.
- (4) Descending price, multiple-round.

(b) CO₂ allowances will be auctioned in lots of 1,000 CO₂ allowances, unless the volume of CO₂ allowances auctioned requires an individual lot size smaller than 1,000.

(c) The Department will establish a reserve price for each CO₂ allowance auction, which will be either the minimum reserve price or the CCR trigger price, as specified under § 145.382 (relating to general requirements), Table 1 (relating to CO₂ CCR trigger price) and §§ 145.381 and 145.382 (relating to purpose; and general requirements).

§ 145.403. Auction timing and CO₂ allowance submission schedule.

(a) A CO₂ allowance auction will be held no less frequently than annually, and as frequently as the Department determines is necessary and practical to ensure the availability of CO₂ allowances to CO₂ budget units and CO₂ budget sources and to support the effective functioning of the CO₂ allowance market.

(b) Prior to the end of each control period or interim control period, the Department will make available for sale by auction, all CO₂ allowances held in the air pollution reduction account that are designated for the allocation years associated with that control period or interim control period. This will not include CO₂ allowances set aside in the waste coal set-aside account under § 145.342(i) (relating to CO₂ allowance allocations), the strategic use set-aside account under § 145.342(j) or the combined heat and power set-aside account under § 145.342(k).

(c) The number of CO₂ allowances to be made available for sale in an auction will be disclosed in the notice of CO₂ allowance auction issued under § 145.404 (relating to auction notice).

(d) An auction of CO₂ allowances will include a CO₂ cost containment reserve and a CCR trigger price, as provided under § 145.342.

§ 145.404. Auction notice.

(a) A notice of each CO₂ allowance auction will be provided no later than 45 days prior to the date upon which the auction will be conducted.

(b) In addition to the information specified under § 145.382(a) (relating to general requirements), the notice of a CO₂ allowance auction will include the following:

(1) The date, time and location of the CO₂ allowance auction.

(2) The format for the CO₂ allowance auction.

(3) The categories of bidders who will be eligible to bid.

(4) The number and allocation years of Pennsylvania CO₂ allowances to be auctioned.

(5) The minimum reserve price.

(6) All information regarding the CO₂ cost containment reserve, required to be in the notice under § 145.382(a).

(7) The procedures for conducting the CO₂ allowance auction, including the required bid submission format and process, and information regarding financial settling of CO₂ allowance payments.

(8) All CO₂ allowance auction participation requirements.

(9) The amount and type of financial security required and instructions for submitting acceptable financial surety.

(10) Participation limits, including bidding limits that may apply to an individual bidder or a group of related bidders.

(11) Application instructions for applying to participate in the CO₂ allowance auction.

(12) Identification of a Pennsylvania auction contact person for further information.

(13) Other pertinent rules or procedures of the auction as may be required to ensure a transparent, fair and competitive auction.

§ 145.405. Auction participant requirements.

(a) To be classified by the Department as a bidder eligible to participate in a specific CO₂ allowance auction, a qualified participant must meet the following:

(1) Be a member of a category of those eligible to participate in the specified CO₂ allowance auction as indicated by the notice of CO₂ allowance auction issued under § 145.404(b) (relating to auction notice).

(2) Open and maintain a compliance account or general account, established under § 145.351 (relating to CO₂ allowance tracking system (COATS) accounts).

(3) Submit financial security, such as a bond, cash, certified funds or an irrevocable stand-by letter of credit, in a manner and form acceptable to the Department, as specified in the notice of CO₂ allowance auction issued under § 145.404(b).

(b) The Department will announce the categories of parties that are eligible to participate in a specific CO₂ allowance auction as part of the notice of the CO₂ allowance auction, provided that an owner or operator of a CO₂ budget unit located in this Commonwealth is always eligible to participate in a CO₂ allowance auction.

(c) For a CO₂ allowance auction, the following categories of parties may be eligible to participate:

(1) The owner or operator of a CO₂ budget unit located in this Commonwealth.

(2) The owner or operator of a CO₂ budget unit located in a participating state.

(3) A broker.

(4) An environmental organization.

(5) A financial or investment institution.

(6) Any other market participant, as may be specified in the notice of the CO₂ allowance auction.

§ 145.406. Auction participant qualification.

(a) A person who intends to participate in a CO₂ allowance auction shall submit a qualification application to the Department, in the form and manner specified in the notice of the CO₂ allowance auction.

(b) The deadline for submitting a qualification application will be established in the notice of the CO₂ allowance auction.

(c) As part of a qualification application, an applicant shall provide information and documentation relating to the ability and authority of the applicant to execute bids and honor contractual obligations, including the following:

(1) Identification by the applicant of either a compliance account or general account established under § 145.351 (relating to CO₂ allowance tracking system (COATS) accounts) and identification of the CO₂ authorized account representative for the compliance account or general account.

(2) Information and documentation regarding the corporate identity, ownership, affiliations and capital structure of the entity represented by the applicant.

(3) Identification of any indictment or felony conviction of the applicant or any member, director, principal, partner or officer of the entity represented by the applicant or any affiliate or related entity.

(4) Identification of any previous or pending investigation of the applicant or the entity represented by the applicant or any affiliate or related entity, with respect to any alleged violation of any rule, regulation or law associated with any commodity market or exchange.

(5) Other information and declarations as the Department determines may be required of an applicant to ensure the integrity of the CO₂ allowance auction process.

(d) The Department will determine whether a qualification application is complete, or incomplete, or otherwise deficient. If the Department determines that an application is incomplete or otherwise deficient, the applicant will be given 10 business days to provide additional information to the Department to complete the application or remedy any application deficiency.

(e) The Department will review a complete qualification application, make a determination as to whether the applicant is qualified to participate in the CO₂ allowance auction and notify the applicant in writing not later than 15 days before the CO₂ allowance auction.

(f) The Department may deny qualification to an applicant based on information submitted in a qualification application to ensure the integrity of the CO₂ allowance auction process in accordance with the requirements and procedures for auctions established under §§ 145.405, 145.407 and 145.408 (relating to auction participant requirements; submission of financial security; and bid submittal requirements).

(g) The Department may revoke the qualification status of a qualified participant, if the participant fails to comply with the applicable requirements of this subchapter, or if the Department determines that they have knowingly provided false or misleading information or withheld pertinent information from the qualification application submitted under subsection (a). The Department may also prohibit the qualified participant from participating in a future CO₂ allowance auction where the Department determines that the prior conduct could compromise the integrity of a subsequent CO₂ allowance auction.

(h) A qualified participant will remain qualified to participate in future CO₂ allowance auctions after the Department's qualification determination, provided that there has been no material change to the information supplied to the Department in the qualification application submitted under subsection (a). If there is a material change to the information in the qualification application submitted under subsection (a), the qualification status will expire as of the date of the change, pending the submission of a new qualification application under subsection (a) and a determination by the Department that the applicant is qualified to participate in a CO₂ allowance auction.

(i) Prior to each CO₂ allowance auction, a qualified participant who intends to participate in the auction shall notify the Department, through a notice of intent to bid, that they intend to participate in the upcoming CO₂ allowance auction. The notice shall be submitted to the Department by the same date as that required for submitting a qualification application established in the notice of the CO₂ allowance auction.

(j) As part of a notice of intent to bid submitted to the Department under subsection (i), a qualified participant shall notify the Department whether there has been a material change to the information supplied in the qualification application submitted under subsection (a).

§ 145.407. Submission of financial security.

(a) To participate in a CO₂ allowance auction, a qualified participant shall provide financial security to the Department, including a bond, cash, certified funds or an irrevocable stand-by letter of credit, in a form and manner prescribed by the Department in the notice of the CO₂ allowance auction.

(b) The Department will approve the qualified participant to participate as a bidder in the specified CO₂ allowance auction after the Department has approved the financial security submitted under subsection (a). The eligibility to bid in any auction shall be limited to the level of financial security provided.

(c) A qualified participant who submits financial security may request return of the financial security at any time prior to or following a CO₂ allowance auction, subject to the following limitations:

(1) A request for the return of financial security prior to a CO₂ allowance auction will result in the Department revoking approval to participate in the CO₂ allowance auction, as of the date of the request.

(2) The Department will not return the financial security if the Department has a current or pending claim to the financial security as a result of the failure of the

bidder to abide by the requirements of this subchapter or to pay the full amount of a submitted bid when payment is due.

§ 145.408. Bid submittal requirements.

(a) A bidder shall submit a bid, in a form and manner prescribed by the Department, in an amount that does not exceed the amount of financial security provided to the Department.

(b) A bidder, including any affiliate or agent of the bidder, or any combination of bidders with related beneficial interests, shall purchase no more than 25% of the CO₂ allowances offered for sale in a CO₂ allowance auction. The limitation, which will not be increased by CCR allowances, will be published in the auction notice under § 145.404(b) (relating to auction notice).

(c) A bidder shall not use or employ any manipulative, misleading or deceptive practice in connection with its prequalification application or purchase of CO₂ allowances from the Department, including, any practice that contravenes or violates any applicable Federal or participating state law, rules or regulation.

(d) A bid submitted at a CO₂ allowance auction is a binding offer for the purchase of CO₂ allowances.

§ 145.409. Approval of auction results.

(a) An independent monitor, such as a certified public accounting firm or similar entity, shall observe the conduct and outcome of each auction and issue a report to the Department in accordance with professional auditing standards addressing whether the auction was conducted in accordance with the procedures and requirements under §§ 145.341—145.343 and 145.401—145.408 (relating to CO₂ allowance allocations; and CO₂ allowance auctions) and this section and whether there was any indication of collusive behavior among auction participants or attempts at market manipulation that impacted the results of the auction.

(b) The independent monitor shall monitor allowance market data and information known to the Department, including CO₂ allowance transactions and associated pricing reported in COATS, and other relevant data and information to ensure fair competition, efficient pricing and protection against collusive or manipulative behavior in the CO₂ allowance auctions and the CO₂ Budget Trading Program.

(c) The Department may approve the outcome of a CO₂ allowance auction following the completion of the auction, based on an evaluation of the report from the independent monitor.

(d) Upon receipt and approval by the Department of the report and upon payment in full by successful bidders, the Department or its agent shall transfer and record the corresponding CO₂ allowances to the compliance or general account of each successful bidder.

(e) After the Department has approved the results of a CO₂ allowance auction, the Department will make available the auction clearing price and the number of CO₂ allowances sold in the auction.

[Pa.B. Doc. No. 22-625. Filed for public inspection April 22, 2022, 9:00 a.m.]

Title 55—HUMAN SERVICES

DEPARTMENT OF HUMAN SERVICES

[55 PA. CODE CHS. 123 AND 133]

Definitions and Redetermination

Statutory Authority

The Department of Human Services (Department) amends Chapters 123 and 133 (relating to definitions; and redetermining eligibility) as set forth in Annex A under the authority of §§ 201(2), 403(b) and 432.2 of the Human Services Code (62 P.S. §§ 201(2), 403(b) and 432.2). Notice of proposed rulemaking was published at 50 Pa.B. 7193 (December 19, 2020).

Purpose of this Final-Form Rulemaking

The purpose of this final-form rulemaking is to expand the types of interviews available to Temporary Assistance for Needy Families (TANF) applicants and recipients to meet application and redetermination requirements. This final-form rulemaking removes the need for a face-to-face interview and adds a definition for “personal interview,” which enables TANF applicants and recipients to participate in required interviews by phone, in person or by other means approved by the Department. This change makes the TANF interview process more flexible, efficient and accessible for applicants and recipients.

Affected Individuals and Organizations

This final-form rulemaking affects TANF applicants and recipients.

Accomplishments and Benefits

These final-form amendments make the TANF interview process more flexible, and accessible for applicants and recipients. The change also makes the TANF review process more flexible and efficient for the Department. With these changes, the required personal interview may be in person, by telephone or by other means approved by the Department. With expanded interview options, the Department may plan with applicants and recipients the most convenient and efficient type of personal interview. For applicants and recipients, these options can save time and avoid the extra travel and childcare expenditures they might have with face-to-face interviews.

Contact Persons

For questions concerning this final-form rulemaking, contact Cathy Buhrig, Department of Human Services, Office of Income Maintenance, 1006 Hemlock Drive, Room 230, P.O. Box 2675, Harrisburg, PA 17110 or RA-oimcomments@pa.gov. Persons with a disability who require an auxiliary aid or service may use the Pennsylvania Hamilton Relay Service (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

Fiscal Impact

There are no costs associated with this final-form rulemaking. This final-form rulemaking may result in travel cost savings for applicants and recipients. Applicants and recipients may also avoid travel and childcare expenditures and lost wages from unpaid leave time.

Public Comment

Public meetings or community participation processes were not used to develop this final-form rulemaking. The Department received one public comment from the Homeless Assistance Program (HAP), and one comment from the House Health Committee in support of the final-form

amendments that would provide expanded interviews. There were no comments received from the Independent Regulatory Review Commission (IRRC), other legislators or other State agencies. The Department made no changes in response to the two favorable comments received.

Regulatory Review Act

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on December 7, 2020, the Department submitted notice of proposed rulemaking, published at 50 Pa.B. 7193, to IRRC for review and comment and the Chairpersons of the House Committee on Health and the Senate Committee on Health and Human Services on February 17, 2021, for review and comment.

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

Under section 5.1(j.2) of the Regulatory Review Act, (71 P.S. § 745.5a(j.2)) on March 9, 2022, the final-form rulemaking was deemed approved by the House and Senate Committees. Under section 5(g) of the Regulatory Review Act, the final-form rulemaking was deemed approved by IRRC effective March 10, 2022.

Findings

The Department finds:

(a) The public notice of intention to amend the administrative regulation by this order has been given under §§ 201 and 202 of the act of July 31, 2018 (P.L. 769, No. 240) (45 P.S. §§ 1201 and 1202), referred to as the Commonwealth Documents Law and the regulations at 1 Pa. Code §§ 7.1 and 7.2 (relating to notice of proposed rulemaking required; and adoption of regulations).

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

(c) That the adoption of this final-form rulemaking in the manner provided by this order is necessary and appropriate for the administration and enforcement of §§ 201(2), 403(b) and 432.2 of the Human Services Code.

Order

The Department acting under §§ 201(2), 403(b) and 432.2 of the Human Services Code orders:

(a) The regulations of the Department, 55 Pa. Code Chapters 123 and 133, are amended by amending §§ 123.22 and 133.23, to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

(b) The Secretary of the Department shall submit this final-form rulemaking to the Offices of General Counsel and Attorney General for approval as to legality and form as required by law.

(c) The Department shall submit this final-form rulemaking to IRRC and the Legislative Standing Committees as required by law.

(d) The Secretary of the Department shall certify and deposit this final-form rulemaking with the Legislative Reference Bureau as required by law.

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

MEG SNEAD,
Acting Secretary

Fiscal Note: Fiscal Note 14-550 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 55. HUMAN SERVICES

PART II. PUBLIC ASSISTANCE MANUAL

Subpart B. INTAKE AND REDETERMINATION

CHAPTER 123. DEFINITIONS

**TANF/GA INTAKE AND REDETERMINATION
DEFINITIONS**

§ 123.22. Definitions.

The following words and terms, when used in this chapter and Chapters 125, 133 and 141 (relating to application process; redetermining eligibility; and general eligibility provisions), have the following meanings, unless the context clearly indicates otherwise:

* * * * *

Application interview—A personal interview between an applicant and an eligibility worker, to gather and record information and to secure verification needed to establish eligibility.

* * * * *

Monthly assistance payment—The amount of money issued monthly that is based on the family size allowance plus, if applicable, a special need allowance, reduced by the net income of the budget group.

Personal interview—A meeting or discussion between an applicant or recipient and an eligibility worker, in person, by telephone or by other means approved by the Department.

Reapplication—A completed, signed form approved by the Department which is filed with the CAO by a recipient and used for a complete redetermination of continued eligibility of a budget group.

* * * * *

Screening interview—A personal interview between the applicant and an eligibility worker which includes a review of the application to assure that information necessary to determine eligibility is provided prior to determining a person ineligible or prior to scheduling an application interview.

CHAPTER 133. REDETERMINING ELIGIBILITY

**REDETERMINING ELIGIBILITY
PROVISIONS FOR TANF/GA**

§ 133.23. Requirements.

* * * * *

(c) *Redetermination contacts*. The Department shall schedule and conduct a personal interview with the recipient.

(d) *Controls for redeterminations*. To carry out the function of redetermining eligibility, a central control of necessary future actions is maintained to provide a method whereby reasonably predictable changes in the total caseload can be acted on within appropriate time limits.

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