

# PENNSYLVANIA BULLETIN

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

**No. 567, February 2022**

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

## *Pennsylvania Bulletin*

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

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

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

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

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

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

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

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

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

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

## ***Pennsylvania Code***

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

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

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

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

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

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

A chronological table of the history of *Pennsylvania Code* sections may be found at [www.legis.state.pa.us/cfdocs/legis/CH/Public/pcde\\_index.cfm](http://www.legis.state.pa.us/cfdocs/legis/CH/Public/pcde_index.cfm).

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

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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.

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# THE GOVERNOR

## Title 4—ADMINISTRATION

### PART I. GOVERNOR'S OFFICE

[ 4 PA. CODE CH. 1 ]

[ EXECUTIVE ORDER 2016-02 AS AMENDED ]

#### Minimum Wage for Employees of the Commonwealth and of Organizations Receiving State Contracts

January 25, 2022

*Whereas*, the inflation-adjusted hourly earnings of the bottom fifth of Pennsylvania workers are lower today than they were in 1968; and

*Whereas*, the shifts in the labor market, economy, and public health have led workers to seek out quality jobs to meet their needs; and

*Whereas*, quality jobs require wages that keep up with rising costs so individuals can maintain or grow their purchasing power; and

*Whereas*, studies have consistently shown that an increase in the minimum wage will result in increased consumer spending at Pennsylvania businesses; and

*Whereas*, studies have consistently shown that increases in the minimum wage have not reduced the employment of low-wage workers; and

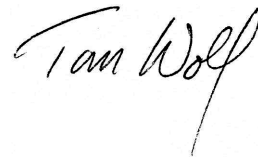
*Whereas*, an increase in the minimum wage will lead to increases in employee morale, productivity, and quality of work and decreases in turnover and training costs; and

*Whereas*, it is the policy of this administration to increase efficiency and achieve cost savings in state government; and

*Whereas*, the minimum wage increases since 2016 under this Executive Order have raised the standards to better align with current cost of living for Commonwealth employees and applicable contractor employees; and

*Whereas*, accelerating the increase in the minimum wage will achieve even greater efficiency and cost savings for state government and reduce state expenditures on income support programs.

*Now, Therefore*, I, Tom Wolf, Governor of the Commonwealth of Pennsylvania, by virtue of the authority vested in me by the Constitution of the Commonwealth of Pennsylvania and other laws do hereby order and direct the following:



Governor

**Fiscal Note:** GOV-2016-02 (Amended). (1) Multiple Funds;

(7) State Stores Fund; (2) Implementing Year 2021-22 is \$3,899,000; (3) 1st Succeeding Year 2022-23 through 5th Succeeding Year 2026-27 are \$3,899,000;

(7) General Fund; (2) Implementing Year 2021-22 is \$199,000; (3) 1st Succeeding Year 2022-23 through 5th Succeeding Year 2026-27 are \$199,000;



(7) Motor License Fund; (2) Implementing Year 2021-22 is \$162,000; (3) 1st Succeeding Year 2022-23 through 5th Succeeding Year 2026-27 are \$162,000;

(7) Game Fund; (2) Implementing Year 2021-22 is \$36,000; (3) 1st Succeeding Year 2022-23 through 5th Succeeding Year 2026-27 are \$36,000;

(7) All Other Funds; (2) Implementing Year 2021-22 is \$26,000; (3) 1st Succeeding Year 2022-23 through 5th Succeeding Year 2026-27 are \$26,000;

(4) 2020-21 Program—\$N/A; 2019-20 Program—\$N/A; 2018-19 Program—\$N/A;

(8) recommends adoption. Funds have been included in the budget to cover this increase.

#### Annex A

### TITLE 4. ADMINISTRATION

#### PART I. GOVERNOR'S OFFICE

#### CHAPTER 1. AGENCY OPERATION AND ORGANIZATION

#### Subchapter EEE. MINIMUM WAGE FOR EMPLOYEES OF THE COMMONWEALTH AND OF ORGANIZATIONS RECEIVING STATE CONTRACTS

##### § 1.841. Minimum wage.

All employees covered by this subchapter, other than tipped employees, shall be paid no less than:

(1) \$15.00 per hour after the effective date of this subchapter.

(2) Beginning 2023 and thereafter, the minimum wage rate will be increased by an annual cost-of-living adjustment using the percentage change in the Consumer Price Index for All Urban Consumers (CPI-U) for Pennsylvania, New Jersey, Delaware and Maryland. The application amount shall be published in the *Pennsylvania Bulletin* by March 1 of each year to be effective the following July 1.

(3) Employees of contractors and lessors covered by § 1.842(2) (relating to coverage) with contracts or leases that were executed prior to the issuance of this amended subchapter and contain requirements for an enhanced minimum wage shall continue to operate under the contract or lease requirements unless a bilateral modification is negotiated and executed.

##### § 1.842. Coverage.

The employees covered by this subchapter are:

(1) Employees of Commonwealth agencies under the jurisdiction of the Governor.

(2) Employees, as defined in section 3 of the Minimum Wage Act of 1968 (43 P.S. § 333.103), who, as set forth in a new lease of property or contract for services or construction executed after the effective date of this subchapter that exceeds the applicable small purchase threshold and is entered into with a Commonwealth agency under the jurisdiction of the Governor, including bilateral modifications to existing leases or contracts:

(i) directly perform services or construction; or

(ii) directly perform services for the Commonwealth and are employed by a lessor of property to the Commonwealth; or

(iii) spend at least 20% of their working time in a given work week performing an ancillary service.

##### § 1.843. Implementation.

All Commonwealth agencies under the jurisdiction of the Governor shall take all steps necessary to implement this subchapter. Independent agencies, State-affiliated entities and State-related institutions are also strongly encouraged to implement this subchapter.

**§ 1.844. Sanctions.**

Failure of a covered contractor or lessor to comply with the provisions of this subchapter may result in the imposition of sanctions, which may include, but shall not be limited to, termination of the contract or lease, nonpayment, debarment or referral to the Office of General Counsel for appropriate civil or criminal referral.

**§ 1.845. Application.**

(a) Nothing in this subchapter shall be construed to contravene or supersede:

- (1) any State or Federal law or collective bargaining agreement; or
- (2) any State or local policy requiring a covered employee to be paid more than the minimum wage required by this subchapter.

(b) The provisions of this subchapter shall not be applicable when the provisions may jeopardize the receipt of Federal funds.

(c) This subchapter is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the Commonwealth, its departments, agencies or entities, its officers, employees or agents, or any other person.

**§ 1.846. Effective dates.**

This subchapter shall take effect on the following dates and shall remain in effect until modified or rescinded:

(1) For employees described in § 1.842(1) (relating to coverage), on January 31, 2022.

(2) For employees described in § 1.842(2), on the effective date of the applicable contract or lease solicited or bilaterally modified on or after July 1, 2022.

[Pa.B. Doc. No. 22-221. Filed for public inspection February 11, 2022, 9:00 a.m.]

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## GOVERNOR'S OFFICE

### Proclamation of Disaster Emergency

January 28, 2022

*Whereas*, on January 28, 2022, the Forbes Avenue Bridge collapsed in the City of Pittsburgh, Allegheny County; and

*Whereas*, multiple vehicles were driving on the bridge at the time of the collapse;

*Whereas*, vehicles, motorists and passengers fell approximately 100 feet during the collapse;

*Whereas*, motorists and first responders sustained injuries as a result of the collapse; and

*Whereas*, the City of Pittsburgh and surrounding political subdivisions are experiencing adverse effects to include ongoing traffic disruptions in and around the scene of the incident; and

*Whereas*, these adverse impacts are of such magnitude or severity as to render essential the Commonwealth's supplementation of county and municipal efforts and resources and the activation of all applicable state, county, and municipal emergency response plans.

*Now Therefore*, pursuant to Article IV, Section 20 of the Pennsylvania Constitution, I do hereby proclaim the existence of a general disaster emergency in Allegheny County and authorize and direct that the Pennsylvania Emergency Management Agency Director, or designee, assume command and control of all statewide emergency operations and that all

Commonwealth departments and agencies, under the direction of the Pennsylvania Emergency Management Agency Director, or designee, utilize all available powers, resources and personnel as is deemed necessary to cope with the magnitude and severity of this emergency event pursuant to the provisions of the Emergency Management Services Code, Title 35, Part V of *Pennsylvania's Consolidated Statutes*. 35 Pa.C.S. § 7101, et seq.

*Further*, I hereby transfer \$1,000,000 in unused appropriated funds to the Pennsylvania Emergency Management Agency for Emergency Management Assistance Compact expenses related to this emergency, to be increased or decreased as conditions require pursuant to the provisions of section 7604(a) of the Emergency Management Services Code, 35 Pa.C.S. § 7604(a). In addition, I hereby transfer \$2,000,000 in unused appropriated funds, to be increased or decreased as conditions require, to the Pennsylvania Emergency Management Agency pursuant to section 1508 of the Act of April 9, 1929, P.L. 343, No. 176 (the Fiscal Code), 72 P.S. § 1508. The aforementioned funds shall be used for expenses authorized and incurred related to this emergency. These funds shall be credited to a special account established by the Office of the Budget. I hereby direct that any funds transferred herein that remain unused after all costs related to this emergency have been satisfied shall be returned to the General Fund.

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

*Further*, I hereby direct the Pennsylvania Emergency Management Agency to staff the Commonwealth Response Coordination Center for the duration of this emergency event, and to augment it with personnel from other Commonwealth agencies and departments. I also authorize the Pennsylvania Emergency Management Agency to direct and coordinate the emergency response, recovery, and mitigation activities of other Commonwealth agencies and departments as deemed necessary to deal with the exigencies of this disaster emergency through implementation of the State Emergency Operations Plan; and

*Further*, I hereby authorize the Secretary of Transportation to use all available equipment, resources, and personnel of the Department of Transportation, in whatever manner that she deems necessary, to ensure that all property, roads and highways in the areas that may be affected by the emergency event are cleared of debris or any other obstructions resulting from this event and to ensure that highways, bridges, roadbeds, and related facilities and structures that may sustain damage in the disaster affected areas are immediately repaired, maintained, reconstructed, or replaced, or that new construction is undertaken where necessary. In addition, I hereby waive any laws or regulations that would restrict the application and use of the Department's equipment, resources, and personnel to assist local jurisdictions in the repairs, maintenance, reconstruction, construction and clearing and removal of debris or obstructions from non-state-owned property, roads or highways. This assistance to local jurisdictions may be provided solely at the discretion of the Secretary of Transportation. I hereby authorize the Secretary of Transportation, in her sole discretion, to waive any provision of the Vehicle Code or any other law or regulation which she is authorized by law to administer or enforce as may be necessary to respond to this emergency event; and

*Further*, I hereby authorize the Commissioner of the Pennsylvania State Police to use all available resources and personnel of the Pennsylvania State Police, in whatever manner he deems necessary, to aid in the recovery aspects related to all interstate and other federal and state highways in the Commonwealth to address this emergency event; and

*Further*, I hereby direct that the emergency response, recovery, and mitigation aspects of the Commonwealth and all applicable county, municipal, and other emergency response plans be activated and that all state,

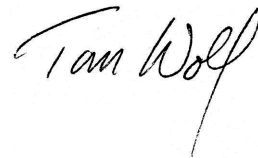
## THE GOVERNOR

county, and municipal actions taken to implement those plans be coordinated through the Pennsylvania Emergency Management Agency; and

*Further*, I hereby suspend the provisions of any other regulatory statute prescribing the procedures for conduct of Commonwealth business, or the orders, rules or regulations of any Commonwealth agency, if strict compliance with the provisions of any statute, order, rule or regulation would in any way prevent, hinder, or delay necessary action in coping with this emergency event. All Commonwealth agencies may implement their emergency assignments without regard to procedures required by other laws, except mandatory constitutional requirements, pertaining to the performance of public work, entering into contracts, incurring of obligations, employment of temporary workers, rental of equipment, purchase of supplies and materials, and expenditures of public funds; and

*Still Further*, I hereby urge the governing bodies and executive officers of all political subdivisions that may be affected by this emergency event to act as necessary to meet the current exigencies as legally authorized under this proclamation, including by the employment of temporary workers; by the rental of equipment; and by entering into such contracts and agreements as may be required to meet the emergency, all without regard to those time-consuming procedures and formalities normally prescribed by law, mandatory constitutional requirements excepted.

*Given* under my hand and the Seal of the Governor, at the city of Harrisburg, on this twenty-eighth day of January two thousand twenty-two, the year of the commonwealth the two hundred and forty-sixth.



Governor

[Pa.B. Doc. No. 22-222. Filed for public inspection February 11, 2022, 9:00 a.m.]

# THE GENERAL ASSEMBLY

## COMMISSION ON SENTENCING

### Public and Virtual Meetings Scheduled

The Commission on Sentencing (Commission) announces the following meetings to be held in Harrisburg, PA and by means of Zoom:

Wednesday, March 9, 2022	6 p.m.	Dinner Meeting	Harrisburg Hilton and Towers Hotel
Thursday, March 10, 2022	9 a.m.	Policy Committee Meeting	523 Irvis Building, Capitol Complex Harrisburg, PA Zoom Webinar <a href="https://bit.ly/PCS2022March10">https://bit.ly/PCS2022March10</a>
	11 a.m.	Quarterly Commission Meeting	523 Irvis Building, Capitol Complex Harrisburg, PA Zoom Webinar <a href="https://bit.ly/PCS2022March10">https://bit.ly/PCS2022March10</a>

MARK H. BERGSTROM,  
*Executive Director*

[Pa.B. Doc. No. 22-223. Filed for public inspection February 11, 2022, 9:00 a.m.]

## THE GENERAL ASSEMBLY

### Recent Actions during the 2022 Regular Session of the General Assembly

The following is a summary of recent actions of the General Assembly during the 2022 Regular Session:

<i>Doc. No.</i>	<i>Date of Action</i>	<i>Bill Number</i>	<i>Printer's Number</i>	<i>Effective Date</i>	<i>Subject Matter</i>
<b>2022 General Acts of Regular Session Enacted—Act 001 through 003</b>					
001	Jan 26	S0324	PN0850	Immediately	Public School Code of 1949—assisting students experiencing education instability
002	Jan 26	H0253	PN2653	Immediately	Fiscal Code—money in account, Opioid Abuse Child Impact Task Force and ARPA health care workforce supports
003	Jan 26	H1122	PN2657	Immediately*	Game and Wildlife Code (34 Pa.C.S.)—organization of commission, resident license and fee exemptions and license cost and fees
<b>2022 Vetoes of Regular Session of Bills—Veto 001 through 002</b>					
001	Jan 10	SCRRR 1	Reg # 7-559		Senate Concurrent Regulatory Review Resolution Number 1—Department of Environmental Protection's Final-Form Regulation 7-559
002	Jan 26	H2146	PN2541		Congressional Redistricting Act of 2021—enactment

\* denotes an effective date with exceptions

#### Effective Dates of Statutes

The effective dates specified for laws and appropriation acts were contained in the applicable law or appropriation act. Where no date is specified or where the effective date specified is prior to the date of enactment, the effective date is 60 days after final enactment except for statutes making appropriations or affecting budgets of political subdivisions. See 1 Pa.C.S. §§ 1701—1704 (relating to effective date of statutes).

#### Advance Copies of Statutes

Section 1106 of 1 Pa.C.S. (relating to prothonotaries to keep files of advance copies of statutes) provides that the prothonotaries of each county shall file advance copies of statutes in their offices for public inspection until the *Laws of Pennsylvania* are generally available.

One-time purchases of the advance copies of statutes can be purchased through the State Bookstore's web site at [www.shoppaheritage.com](http://www.shoppaheritage.com).

VINCENT C. DeLIBERATO, Jr.,  
*Director*  
*Legislative Reference Bureau*

[Pa.B. Doc. No. 22-224. Filed for public inspection February 11, 2022, 9:00 a.m.]

# THE COURTS

## Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

### PART V. PROFESSIONAL ETHICS AND CONDUCT [ 204 PA. CODE CHS. 81 and 83 ]

#### Proposed Amendments to the Pennsylvania Rules of Disciplinary Enforcement 102, 201, 204, 205, 208, 212, 216, 217, 218, 219, 221, 301, 321, 401, 402, 403, 502, 521, and 531 and Pennsylvania Rule of Professional Conduct 1.17

Notice is hereby given that The Disciplinary Board of the Supreme Court of Pennsylvania (“Board”) is considering recommending to the Supreme Court of Pennsylvania (“Court”) that the Court amend the Pennsylvania Rules of Disciplinary Enforcement (“Pa.R.D.E.”) and Pennsylvania Rules of Professional Conduct (“RPC”), as set forth in Annex A. The focal point of this omnibus package is the proposal to amend Pa.R.D.E. 219 governing annual registration and assessment of attorneys, administrative suspension, and administrative status changes.

#### EXPLANATORY REPORT

*Pa.R.D.E. 219. Annual registration and assessment. Administrative suspension. Administrative changes in status.*

Current Pa.R.D.E. 219 addresses the annual attorney registration process and the consequences of an attorney’s failure to complete that process. The rule also governs certain status changes. The Board recently undertook a full review of the rule, following which the Board determined that the rule lacks some critical procedural information and is not well-organized. The comprehensive revisions are intended to improve readability, consistency, and flow of information and ensure that all aspects of the registration process and the requirements pertaining to status changes are addressed so that attorneys can more easily understand and fulfill their annual license obligations.

The proposal changes the rule’s title to “Annual registration and assessment. Administrative suspension. Administrative changes in status.” The new title more accurately describes the scope of the rule. Subdivisions (a) through (g) govern the registration process and the consequences of an attorney’s failure to complete registration. Subdivisions (h) and (i) govern administrative status changes processed by the Attorney Registration Office (“ARO”) and set forth the requirements necessary for an attorney to assume a different status. Subdivision (j) governs status changes for judges who sit on courts as specified under the rule and who are assigned “judge status” by the ARO.

- Subdivision (a) sets forth the registration period and specifies which license statuses are required to register and which license statuses are exempt.

- Subdivision (b) sets forth the requirement to pay the annual assessment, how it is to be paid, and the amount for active status, inactive status, and limited licenses. The Note informs how the total assessment is apportioned among the Board, IOLTA Board, and Pennsylvania Lawyers Fund for Client Security.

- Subdivision (c) sets forth the requirement to electronically file an annual registration form and further

provides that upon written request and for good cause shown, the ARO shall grant an exemption from the electronic filing requirement and allow a paper filing.

- Paragraphs (c)(1)(i)—(vii) set forth the information required to be provided by the attorney on the registration form. Proposed paragraph (c)(1)(vi) maintains the current requirement that the attorney indicate whether he or she is covered by professional liability insurance, along with a new requirement that the attorney identify the professional liability insurance carrier.

- Paragraph (c)(3) maintains the requirement that every attorney who files the form notify the ARO of changes in contact information, license status in other jurisdictions, and change in professional liability coverage, within 30 days of the change.

- Paragraph (c)(4) is new and requires every attorney regardless of registration status, to provide contact information to the ARO and update the information within 30 days of any change. This includes attorneys who cannot or are not required to annually register, such as disbarred, suspended, administratively suspended, and retired attorneys.

- Subdivision (d) provides that the ARO will issue a license card or certificate to acknowledge completion of registration and payment of the annual assessment.

- Subdivision (e) addresses incomplete registration.

- Subdivision (f) addresses late payment penalties and sets forth the dates when such are assessed. The subdivision further informs that the Board will charge a collection fee for any payment that has been returned to the Board unpaid.

- Subdivision (g) governs administrative suspension, which is the result of failure to comply with the registration requirements, failure to comply with CLE requirements, or failure to comply with Pa.R.D.E. 208(g) (non-payment of costs and fees). This subdivision also addresses notice to the attorney of the order of administrative suspension and the restrictions on an attorney’s practice during the time that the attorney fails to satisfy the deficiency that led to the administrative suspension.

- Subdivision (h) governs administrative changes to active status. These are requests to the ARO from attorneys who have been administratively suspended, retired, or on inactive status for three years or less and seek active status. Paragraphs (h)(1)(4) guide the attorney through the requirements to resume active status. Paragraph (h)(5) sets forth those categories of attorneys who are excluded from resuming active status under the procedures set forth in (h). Included in paragraph (h)(5) is a formerly admitted attorney who, on the date of the request for active status, has an outstanding obligation to the Pennsylvania Lawyers Fund for Client Security, as an attorney who owes monies to the Fund should not be permitted to resume active status until the Fund is reimbursed.

- Subdivision (i) governs administrative changes from active status to inactive status, active or inactive status to retired status, administrative suspension to inactive status, and administrative suspension to retired status. A notable change is that an attorney on administrative suspension is permitted to assume retired status. The new language further provides that if the administratively suspended attorney assumes retired status and

then attempts to assume active status within three years, that attorney must pay all outstanding arrears and satisfy all deficiencies in connection with the transfer to administrative suspension.

- Subdivision (j) addresses judge status and provides that judges serving on certain courts are assigned judge status by the ARO (which exempts them from annual registration under subdivision (a)(2)). The language in this subdivision is substantially based on current Pa.R.D.E. 219(n), with a few additions to conform to office procedures and help ARO track individuals on this status.

- Paragraph (j)(2) directs that at the conclusion of judicial service, an attorney on judge status must within 20 days, notify ARO in writing of the conclusion of judicial service and within 60 days, elect either active status or retired status.

- Paragraph (j)(3) sets forth the procedure to assume active status. The former judge must provide a notice in writing of any discipline imposed within six years by the Court of Judicial Discipline and any proceeding before either the Court of Judicial Discipline or Judicial Conduct Board that settled within six years on the condition that the judge resign from judicial office or enter into a rehabilitation program. In addition to this notice, the former judge must provide a signed waiver of confidentiality of the record described in the notice for the limited purpose of making the record available to the Board in any subsequent proceeding. The requirement to provide the notice and waiver is in the current rule.

- Paragraph (j)(4) sets forth the procedure to assume retired status.

- Paragraph (j)(6) provides that an individual on judge status who fails to elect a new registration status within 60 days of concluding judicial service shall be placed on retired status by the ARO.

#### *Conforming Amendments*

The Board proposes amending the following rules to conform to changes to Pa.R.D.E. 219 and to address certain inconsistencies and gaps in the current rules.

#### *Pa.R.D.E. 102. Definitions.*

- The proposed amendments define the following terms: active status, disability inactive status, disbarment, emeritus status, inactive status, judge status, permanent resignation, retired status, and suspension. Many of these terms are used frequently throughout the rules and defining them will enhance the reader's understanding. The proposal makes minor edits to existing terms.

#### *Pa.R.D.E. 201. Jurisdiction.*

- Minor edits to paragraph (a)(3) add "temporary suspension" and "disability inactive status" to the disciplinary jurisdiction provisions regarding acts prior to that status or subsequent thereto. In the current rule, there may be confusion as to whether the term "suspension" includes "temporary suspension" and whether the phrase "transfer to inactive status" means disability inactive status by Court order. Throughout this proposal, changes are made to add "temporary suspension" and "disability inactive status" where necessary and appropriate.

- Minor edits to paragraphs (a)(4) and (5) to change "district justice" to "magisterial district judge," which is the correct terminology.

#### *Pa.R.D.E. 204. Types of discipline.*

- Minor edits to subdivision (c) to clarify "disability inactive status" and to conform to the new titles of Pa.R.D.E. 218 and 219.

#### *Pa.R.D.E. 205. The Disciplinary Board of the Supreme Court of Pennsylvania.*

- Subdivision (c) of this rule sets forth the Board's powers and duties. The proposed amendments to paragraphs (c)(17), (18), and (19) give the Board the power and duty to establish, assess and collect expenses, late payment penalties, and administrative fees; to assess and collect reinstatement filing fees, administrative fees based on the imposition of discipline or transfer to disability inactive status, and penalties on unpaid taxed expenses and administrative fees; and to establish, charge and collect a collection fee for payment returned to the Board unpaid. While these powers currently exist and are set forth in various Enforcement Rules, it is appropriate to consolidate them within subdivision (c).

- Minor edit to paragraph (c)(7)(iii) to conform to the new title of Pa.R.D.E. 218.

#### *Pa.R.D.E. 208. Procedure.*

- Minor edit to paragraph (f)(1) to conform to proposed Pa.R.D.E. 219.

- The proposed amendments to subdivision (g) change the title to "Costs and fees" and rearrange the order of information in the current rule to set forth the administrative fee schedule in paragraph (g)(3), followed by the notification in paragraph (g)(4) that failure to pay taxed expenses and administrative fees within 30 days after the date of the entry of the order taxing such expenses under certain circumstances will be deemed a request to be administratively suspended.

- The proposal adds a Note to inform that the Board charges a collection fee for any payment that has been returned to the Board unpaid. As described above, the Board has the power to charge the collection fee. The Note serves as a reminder.

#### *Pa.R.D.E. 212. Substituted service.*

- Minor edit to conform to proposed Pa.R.D.E. 219.

#### *Pa.R.D.E. 216. Reciprocal discipline and disability.*

- Minor edit to subdivision (a) to conform to proposed Pa.R.D.E. 219.

#### *Pa.R.D.E. 217. Formerly admitted attorneys.*

- Minor edits to add "temporary suspension" and "disability inactive status" where necessary throughout the rule, in order to clarify that the rule provisions govern attorneys on these statuses.

#### *Pa.R.D.E. 218. Reinstatement proceeding.*

- The proposal changes the title of the current rule to "Reinstatement proceedings."

- Subdivision (a) lists those attorneys who must petition and be reinstated by Court order. The proposal clarifies language pertaining to sale of a law practice, adds transfer to disability inactive status except as pursuant to Pa.R.D.E. 301(c), and adds a Note that an attorney who has been on retired status, inactive status, or administrative suspension for three years or less may be eligible for reinstatement to active status under proposed Pa.R.D.E. 219(h), which governs administrative changes in status.

- A revision to subdivision (c) adds “disability inactive status” to those attorneys required to petition for reinstatement under the subdivision. This added language is appropriate and consistent with Pa.R.D.E. 301(h), which provides that a disabled attorney may not resume active status until reinstated by the Court upon petition for reinstatement. A minor edit to paragraph (c)(2) clarifies existing language.

- Minor edit to subdivision (d) to clarify language.

- Revisions to subdivision (f) include an edit to the filing fee schedule in paragraph (f)(1) to clarify “disability inactive status” under Pa.R.D.E. 301; an edit to paragraph (f)(2) to clarify that the petitioner-attorney shall pay the necessary expenses incurred in the investigation and processing of the petition and in any proceeding that results in the grant, denial or withdrawal of the petition; and a Note that the Board charges a collection fee for any payment that has been returned to the Board unpaid.

- Minor edit to paragraphs (g)(1) and (2)(iii) to add “temporary suspension.”

- Current subdivision (h) is deleted and subsumed into proposed Pa.R.D.E. 219(h).

- Paragraph (i)(1) provides that the Board may transmit to president judges a notice of any action by the ARO administratively reinstating an attorney to active status. This changes the current rule language related to a “certification filed with the Court Prothonotary,” which is not the current process.

*Pa.R.D.E. 221. Funds of clients and third persons. Mandatory overdraft notification.*

- Minor edit to paragraph (g)(1) to conform to proposed Pa.R.D.E. 219.

- The proposal adds new subdivision (q) related to the financial accounts and information required to be listed on the annual registration form filed by attorneys. This information is required under current Pa.R.D.E. 219(d)(1)(iii)—(v); however, the inclusion of the detailed financial information in the annual registration section of the rules makes the rule very lengthy. Placing the language in Pa.R.D.E. 221 is logical as it concerns financial information. Proposed Pa.R.D.E. 219(c)(1)(iii) sets forth that financial accounts and information must be provided on the registration form and directs the reader to new Pa.R.D.E. 221(q) to obtain the specifics of the required financial information.

- The proposal adds new subdivision (r) to define “funds subject to RPC 1.15” and “funds of a third person.”

*Pa.R.D.E. 301. Proceedings where an attorney is declared to be incapacitated or severely mentally disabled.*

- Minor edits to add “disability “ to the phrase “inactive status” in order to clarify that an attorney transferred to inactive status by Court order under this rule is transferred to disability inactive status.

*Pa.R.D.E. 321. Appointment of conservator to protect interests of clients of absent attorney.*

- Minor edit to add “disability” to “inactive status.”

*Pa.R.D.E. 401. Expenses.*

- Minor edits to conform to new titles of Rules 208 and 219.

*Pa.R.D.E. 402. Access to Disciplinary Information and Confidentiality.*

- Minor edits to add “disability” to “inactive status.”

*Pa.R.D.E. 403. Emeritus Status.*

- Minor edits to conform to proposed Pa.R.D.E. 219.

*Pa.R.D.E. 502, 521, and 531. Pennsylvania Lawyers Fund for Client Security rules.*

- Minor edits to conform to proposed Pa.R.D.E. 219.

*RPC 1.17. Sale of Law Practice.*

- Minor edit to conform to proposed Pa.R.D.E. 219.

Interested persons are invited to submit written comments, suggestions or objections by mail, email or facsimile to the Executive Office, The Disciplinary Board of the Supreme Court of Pennsylvania, 601 Commonwealth Avenue, Suite 5600, PO Box 62625, Harrisburg, PA 17106-2625, facsimile number (717-231-3381), email address [Dboard.comments@pacourts.us](mailto:Dboard.comments@pacourts.us) on or before March 18, 2022.

*By The Disciplinary Board of the Supreme Court of Pennsylvania*

JESSE G. HEREDA,  
Executive Director

### Annex A

## TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

### PART V. PROFESSIONAL ETHICS AND CONDUCT

#### Subpart A. PROFESSIONAL RESPONSIBILITY

#### CHAPTER 81. RULES OF PROFESSIONAL CONDUCT

#### Subchapter A. RULES OF PROFESSIONAL CONDUCT

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

The following are the Rules of Professional Conduct:

#### CLIENT-LAWYER RELATIONSHIP

#### Rule 1.17. Sale of Law Practice.

\* \* \* \* \*

(f) In the case of a sale by reason of disability, if a proceeding under Rule 301 of the Pennsylvania Rules of Disciplinary Enforcement has not been commenced against the seller, the seller shall file the notice and request for transfer to voluntary inactive status, as of the date of the sale, pursuant to **Enforcement** Rule [ 219(j) thereof ] **219(i)(1)**.

\* \* \* \* \*

#### Subpart B. DISCIPLINARY ENFORCEMENT

#### CHAPTER 83. PENNSYLVANIA RULES OF DISCIPLINARY ENFORCEMENT

#### Subchapter A. PRELIMINARY PROVISIONS

#### Rule 102. Definitions.

(a) *General Rule.*—Subject to additional definitions contained in subsequent provisions of these rules which are applicable to specific provisions of these rules, the following words and phrases when used in these rules shall have, unless the context clearly indicates otherwise, the meanings given to them in this rule:

\* \* \* \* \*

**“Active status.”** The license status of an attorney who is admitted in Pennsylvania and is registered as active under Enforcement Rule 219 (relating to



annual registration and assessment). An attorney on active status is eligible to practice law in Pennsylvania.

\* \* \* \* \*

*“Administrative suspension.”* The license [ Status ] status of an attorney, after Court order under Enforcement Rule 219(g), who: failed to pay the annual [ fee and/or file the form ] assessment and file the form required by subdivisions [ (a) ] (b) and [ (d) ] (c) of Enforcement Rule 219; failed to satisfy the requirements of the Pennsylvania Rules for Continuing Legal Education and was reported to the Court by the Pennsylvania Continuing Legal Education Board under Rule 111(b), Pa.R.C.L.E. [ , for having failed to satisfy the requirements of the Pennsylvania Rules for Continuing Legal Education ]; failed to pay any [ expenses taxed ] costs and fees pursuant to Enforcement Rule 208(g); or failed to meet the requirements for maintaining a limited law license as a Limited In-House Corporate Counsel, a foreign legal consultant, an attorney participant in defender or legal services programs, a military attorney, or attorney spouse of an active-duty service member. An attorney on administrative suspension status is ineligible to practice law in Pennsylvania.

\* \* \* \* \*

*“Attorney participant in defender or legal services programs.”* An attorney or the license status of an attorney holding a limited admission to practice under Pennsylvania Bar Admission Rule 311 (relating to limited admission of participants in defender or legal services programs).

*“Attorney Registration Office.”* The administrative division of the Disciplinary Board which governs the annual registration of every attorney admitted to, or engaging in, the practice of law in this Commonwealth, with the exception of attorneys admitted to practice pro hac vice under [ Pa.B.A.R. ] Pennsylvania Bar Admission Rule 301.

*“Attorney spouse of an active-duty service member.”* An attorney or the license status of an attorney holding a limited admission to practice under Pennsylvania Bar Admission Rule 304 (relating to limited admission of spouses of active-duty members of the United States Uniformed Services).

\* \* \* \* \*

*“Censure.”* Public censure by the Supreme Court under Enforcement Rule 204(a)(3) (relating to types of discipline).

\* \* \* \* \*

*“Disability inactive status.”* The license status of an attorney who: has been transferred to this status by order of the Court under Enforcement Rule 301(c) after having been judicially declared incapacitated by another court; has been declared incapacitated by order of the Court under Enforcement Rule 301(d) from continuing the practice of law; is transferred to disability inactive status by order of the Court under Enforcement Rule 301(e) after contending during a pending disciplinary proceeding that he or she is suffering from a disability by reason of physical or mental infirmity or illness that makes it impossible for the attorney to prepare an adequate defense; or has been placed on disability inactive status in another jurisdiction and is

transferred to disability inactive status by reciprocal order of the Court under Enforcement Rule 216. The term “disability inactive status” includes any transfer to inactive status based on disability under Rule 216 or 301. An attorney on disability inactive status is ineligible to practice law in Pennsylvania.

*“Disbarment.”* A type of discipline in which the Court withdraws the offending attorney’s privilege to practice law for an unspecified period of at least five years with no basis for an expectation to resume the practice of law.

\* \* \* \* \*

*“Disciplinary Rules.”* The provisions of the Code of Professional Responsibility as adopted by the Supreme Court of Pennsylvania May 20, 1970, 438 Pa. XXV, as amended from time to time by special order of the Court and governing lawyer conduct occurring or beginning on or before March 31, 1988 as well as the provisions of the Rules of Professional Conduct as adopted by the Supreme Court of Pennsylvania on October 16, 1987, 515 Pa. LXIX, and effective on April 1, 1988, as amended from time to time by special order of the Court.

*“Emeritus status.”* The license status of an attorney admitted in Pennsylvania who has elected emeritus status, pursuant to Enforcement Rule 403, in order to provide the type of pro bono services authorized by Rule 403 and is current on all registration requirements under that rule.

\* \* \* \* \*

*“Foreign legal consultant.”* A person or the license status of a person who holds a current license as a foreign legal consultant issued under [ Rule 341 of the ] Pennsylvania Bar Admission [ Rules ] Rule 341 (relating to the licensing of foreign legal consultants).

*“Formerly admitted attorney.”* A disbarred, suspended, temporarily suspended, administratively suspended, permanently resigned, retired, [ or ] inactive, or disability inactive attorney.

\* \* \* \* \*

*“Inactive status.”* The license status of an attorney who is admitted in Pennsylvania and has either elected inactive status under Enforcement Rule 219 (relating to annual registration and assessment) or has sold his or her practice by reason of disability pursuant to Rule 1.17(f) of the Pennsylvania Rules of Professional Conduct. An attorney on inactive status is ineligible to practice law in Pennsylvania.

*“Informal admonition.”* [ Private informal admonition ] A type of private discipline administered by Disciplinary Counsel.

*“Judge status.”* The license status of a justice or judge serving on the following Pennsylvania courts of record: Supreme, Superior, Commonwealth, Common Pleas, and Philadelphia Municipal; and a justice or judge serving an appointment for life on any federal court.

\* \* \* \* \*

*“Limited In-House Corporate Counsel.”* An attorney or the license status of an attorney holding a limited admission to practice under Pennsylvania Bar Admission Rule 302 (relating to limited admission of in-house corporate counsel).

*“Military attorney.”* An attorney or the license status of an attorney holding a limited admission to practice

under Pennsylvania Bar Admission Rule 303 (relating to limited admission of military attorneys).

**“Permanent resignation.” The license status of an attorney who has elected to permanently resign from the Pennsylvania bar under Enforcement Rule 404. An attorney on permanent resignation status is ineligible to practice law in Pennsylvania.**

\* \* \* \* \*

**“Private reprimand.” [ Private reprimand ] A type of private discipline imposed by the Board.**

\* \* \* \* \*

**“Public [ Reprimand ] reprimand.” [ Public reprimand ] A type of discipline imposed by the Board.**

\* \* \* \* \*

**“Retired status.” The license status of an attorney admitted in Pennsylvania who elects this status after having ceased the practice of law in Pennsylvania. An attorney on retired status is ineligible to practice law in Pennsylvania.**

\* \* \* \* \*

**“Suspension.” A type of discipline in which the Court withdraws the offending attorney’s privilege to practice law for a period not exceeding five years. A suspended attorney may resume the practice of law only upon the entry of an order of the Court reinstating the attorney to active status.**

\* \* \* \* \*

**Subchapter B. MISCONDUCT**

**Rule 201. Jurisdiction.**

(a) The exclusive disciplinary jurisdiction of the Supreme Court under these rules extends to:

\* \* \* \* \*

(3) Any formerly admitted attorney, with respect to acts prior to suspension, disbarment, **temporary suspension**, administrative suspension, permanent resignation, or transfer to or assumption of retired, [ or ] inactive **or disability inactive** status, or with respect to acts subsequent thereto which amount to the practice of law or constitute the violation of the Disciplinary Rules, these rules or rules of the Board adopted pursuant hereto.

(4) Any attorney who is a justice, judge or **magisterial district [ justice ] judge**, with respect to acts prior to taking office as a justice, judge or **magisterial district [ justice ] judge**, if the Judicial Conduct Board declines jurisdiction with respect to such acts.

(5) Any attorney who resumes the practice of law, with respect to nonjudicial acts while in office as a justice, judge or **magisterial district [ justice ] judge**.

\* \* \* \* \*

**Rule 204. Types of discipline.**

\* \* \* \* \*

(c) A reference in these rules to disbarment, suspension, temporary suspension, administrative suspension, permanent resignation, or transfer to or assumption of retired, [ or ] inactive **or disability inactive** status, shall be deemed to mean, in the case of a respondent-attorney who holds a Limited In-House Corporate Counsel License, expiration of that license. A respondent-attorney whose Limited In-House Corporate Counsel License expires for any reason:

(1) shall be deemed to be a formerly admitted attorney for purposes of Rule 217 (relating to formerly admitted attorneys); and

(2) shall not be entitled to seek reinstatement under Rule 218 (relating to reinstatement **proceedings**) or Rule 219 (relating to [ **annual registration of attorneys** ] **administrative changes in status**) and instead must reapply for a Limited In-House Corporate Counsel License under Pennsylvania Bar Admission Rule 302.

**Rule 205. The Disciplinary Board of the Supreme Court of Pennsylvania.**

\* \* \* \* \*

(c) The Board shall have the power and duty:

\* \* \* \* \*

(7) To assign:

\* \* \* \* \*

(iii) senior or experienced hearing committee members to consider a petition for reinstatement to active status from retired or inactive status, or administrative suspension, under Enforcement Rule 218 (relating to reinstatement **proceedings**) of a formerly admitted attorney who has not been suspended or disbarred.

\* \* \* \* \*

(17) **To establish, assess and collect;**

**(i) the necessary expenses incurred in the investigation and prosecution of a proceeding that results in the imposition of discipline, or the investigation and processing of a petition for reinstatement and in any proceeding resulting therefrom;**

**(ii) late payment penalties under Enforcement Rule 219(f)(1) for failure to timely complete annual registration; and**

**(iii) administrative fees for status changes where a petition for reinstatement is not required.**

**(18) To assess and collect reinstatement filing fees, administrative fees based on the imposition of a type of discipline or transfer to disability inactive status under Enforcement Rule 301(e), and penalties on unpaid taxed expenses and administrative fees.**

**(19) To establish, charge and collect a collection fee for any payment under paragraphs (17) and (18) that has been returned to the Board unpaid.**

(20) To exercise the powers and perform the duties vested in and imposed upon the Board by law.

\* \* \* \* \*

**Rule 208. Procedure.**

\* \* \* \* \*

(f) *Emergency temporary suspension orders and related relief.*

(1) Disciplinary Counsel, with the concurrence of a reviewing member of the Board, whenever it appears by an affidavit demonstrating facts that the continued practice of law by a person subject to these rules is causing immediate and substantial public or private harm because of the misappropriation of funds by such person to his or her own use, or because of other egregious conduct, in manifest violation of the Disciplinary Rules or the Enforcement Rules, may petition the Supreme Court for injunctive or other appropriate relief. A copy of the petition shall be personally served upon the respondent-attorney by Disciplinary Counsel. If Disciplinary Counsel cannot make personal service after reasonable efforts to

locate and serve the respondent-attorney, Disciplinary Counsel may serve the petition by delivering a copy to an employee, agent or other responsible person at the office of the respondent-attorney, and if that method of service is unavailable, then by mailing a copy of the petition by regular and certified mail addressed to the addresses furnished by the respondent-attorney in the last registration [ **statement** ] **form** filed by the respondent-attorney pursuant to **Enforcement** Rule [ **219(d)** ] **219(c)**. Service is complete upon delivery or mailing, as the case may be. The Court, or any justice thereof, may enter a rule directing the respondent-attorney to show cause why the respondent-attorney should not be placed on temporary suspension, which rule shall be returnable within ten days. The Court, or any justice thereof, may, before or after issuance of the rule, issue:

(i) such orders to the respondent-attorney, and to such financial institutions or other persons as may be necessary to preserve funds, securities or other valuable property of clients or others which appear to have been misappropriated or mishandled in manifest violation of the Disciplinary Rules;

(ii) an order directing the president judge of the court of common pleas in the judicial district where the respondent-attorney maintains his or her principal office for the practice of law or conducts his or her primary practice, to take such further action and to issue such further orders as may appear necessary to fully protect the rights and interests of the clients of the respondent-attorney when:

(A) the respondent-attorney does not respond to a rule to show cause issued after service of the petition pursuant to subdivision (f)(1); or

(B) Disciplinary Counsel's petition demonstrates cause to believe that the respondent-attorney is unavailable to protect the interests of his or her clients for any reason, including the respondent-attorney's disappearance, abandonment of practice, incarceration, or incapacitation from continuing the practice of law by reason of mental infirmity or illness or because of addiction to drugs or intoxicants.

Where the Court enters an order under (f)(1)(ii), the Board shall promptly transmit a certified copy of the order to the president judge, whose jurisdiction and authority under this rule shall extend to all client matters of the respondent-attorney.

Where the Court enters an order under (f)(1)(i) or (ii) before the issuance of a rule or before the entry of an order of temporary suspension under paragraph (f)(2), the Court Prothonotary shall serve a certified copy of the Court's order on the respondent-attorney by regular mail addressed to the address furnished by the respondent-attorney in the last registration [ **statement** ] **form** filed by the respondent-attorney and to an address where the respondent-attorney is located if that address is known.

\* \* \* \* \*

(g) *Costs and fees.*—

(1) [ **The** ] **Unless otherwise directed by the Supreme Court, [ in its discretion may direct that ] the respondent-attorney shall pay** the necessary expenses incurred in the investigation and prosecution of a proceeding which results in the imposition of discipline **or transfer to disability inactive status [ shall be paid by the respondent-attorney ]**. All expenses taxed under this paragraph pursuant to orders of suspension that are not stayed in their entirety or disbarment shall be

paid by the respondent-attorney within 30 days after notice transmitted to the respondent-attorney of taxed expenses. In all other cases, expenses taxed under this paragraph shall be paid by the respondent-attorney within 30 days of entry of the order taxing the expenses against the respondent-attorney.

(2) In the event a proceeding is concluded by informal admonition, private reprimand or public reprimand, the Board in its discretion may direct that the necessary expenses incurred in the investigation and prosecution of the proceeding shall be paid by the respondent-attorney. All expenses taxed by the Board under this paragraph shall be paid by the respondent-attorney within 30 days of entry of the order taxing the expenses against the respondent-attorney. The expenses which shall be taxable under this paragraph shall be prescribed by Board rules.

[ (3) **Failure to pay taxed expenses within 30 days after the date of the entry of the order taxing such expenses in cases other than a suspension that is not stayed in its entirety or disbarment will be deemed a request to be administratively suspended pursuant to Rule 219(l).**

(4) **In addition to the payment of any expenses under paragraph (1) or (2), the respondent-attorney shall pay upon final order of discipline an administrative fee pursuant to the following schedule:**

<b>Informal Admonition:</b>	<b>\$250</b>
<b>Private Reprimand:</b>	<b>\$400</b>
<b>Public Reprimand:</b>	<b>\$500</b>
<b>Public Censure:</b>	<b>\$750</b>
<b>Suspension (1 year or less):</b>	<b>\$1,000</b>
<b>Suspension (more than 1 year):</b>	<b>\$1,500</b>
<b>Disbarment:</b>	<b>\$2,000</b>
<b>Disbarment on Consent:</b>	<b>\$1,000</b>
<b>Transfer to Inactive Status following discipline</b>	<b>\$1,000</b>

(i) **Where a disciplinary proceeding concludes by Joint Petition for Discipline on Consent other than disbarment prior to the commencement of the hearing, the fee imposed shall be reduced by 50%.**

(ii) **Where a disciplinary proceeding concludes by Joint Petition for Discipline on Consent other than disbarment subsequent to the commencement of the hearing, the Board in its discretion may reduce the fee by no more than 50%. ]**

**(3) In addition to the payment of any expenses under paragraph (1) or (2), the respondent-attorney shall pay upon assessment an administrative fee pursuant to the following schedule:**

<b>Informal Admonition:</b>	<b>\$250</b>
<b>Private Reprimand:</b>	<b>\$400</b>
<b>Public Reprimand:</b>	<b>\$500</b>
<b>Public Censure:</b>	<b>\$750</b>
<b>Suspension (1 year or less):</b>	<b>\$1,000</b>
<b>Suspension (more than 1 year):</b>	<b>\$1,500</b>
<b>Disbarment:</b>	<b>\$2,000</b>
<b>Disbarment on Consent:</b>	<b>\$1,000</b>
<b>Disability Inactive under Rule 301(e):</b>	<b>\$500</b>

(i) Where a disciplinary proceeding concludes by Joint Petition for Discipline on Consent other than disbarment prior to the commencement of the hearing, the fee imposed shall be reduced by 50%.

(ii) Where a disciplinary proceeding concludes by Joint Petition for Discipline on Consent other than disbarment subsequent to the commencement of the hearing, the Board in its discretion may reduce the fee by no more than 50%.

(4) Failure to pay taxed expenses and administrative fees within 30 days after the date of the entry of the order taxing such expenses in cases other than a suspension that is not stayed in its entirety or disbarment will be deemed a request to be administratively suspended pursuant to Enforcement Rule 219(g)(3).

(5) *Assessed Penalties on Unpaid Taxed Expenses and Administrative Fees.*

(i) Failure to pay taxed expenses within thirty days of the assessment becoming final in accordance with subdivisions (g)(1) [ and ] or (g)(2), [ and/or ] or failure to pay administrative fees assessed in accordance with subdivision [ (g)(4) ] (g)(3) within thirty days of notice transmitted to the respondent-attorney, shall result in the assessment of a penalty, levied monthly at the rate of 0.8% of the unpaid principal balance, or such other rate as established by the Supreme Court of Pennsylvania, from time to time.

(ii) Monthly penalties shall not be retroactively assessed against unpaid balances existing prior to the enactment of the rule; monthly penalties shall be assessed against these unpaid balances prospectively, starting 30 days after the effective date of the rule.

(iii) The Disciplinary Board for good cause shown, may reduce the penalty or waive it in its entirety.

**Note: The Board shall charge a collection fee for any payment that has been returned to the Board unpaid.**

\* \* \* \* \*

**Rule 212. Substituted service.**

In the event a respondent-attorney cannot be located and personally served with notices required under these rules, such notices may be served upon the respondent-attorney by addressing them to the address furnished by the respondent-attorney in the last registration [ **statement** ] **form** filed by such person in accordance with Enforcement Rule [ **219(d)** ] **219(c)** (relating to annual registration [ **of attorneys** ] **and assessment**) or, in the case of a foreign legal consultant, by serving them pursuant to the designation filed by the foreign legal consultant under Pennsylvania Bar Admission Rule 341(b)(8).

**Rule 216. Reciprocal discipline and disability.**

(a) Upon receipt of a certified copy of a final adjudication of any court or any body authorized by law or by rule of court to conduct disciplinary proceedings against attorneys by any state or territory of the United States or of the District of Columbia, a United States court, or a federal administrative agency or a military tribunal demonstrating that an attorney admitted to practice in this Commonwealth has been disciplined by suspension, disbarment, or revocation of license or pro hac vice admission, or has resigned from the bar or otherwise relinquished his or her license to practice while under

disciplinary investigation in another jurisdiction or has been transferred to disability inactive status, the Supreme Court shall forthwith issue a notice directed to the respondent-attorney containing:

(1) a copy of the final adjudication described in paragraph (a); and

(2) an order directing that the respondent-attorney inform the Court within 30 days from service of the notice, of any claim by the respondent-attorney that the imposition of the identical or comparable discipline or disability inactive status in this Commonwealth would be unwarranted, and the reasons therefor.

The Board shall cause this notice to be served upon the respondent-attorney by mailing it to the address furnished by the respondent-attorney in the last registration [ **statement** ] **form** filed by such person in accordance with Enforcement Rule [ **219(d)** ] **219(c)** (relating to annual registration [ **of attorneys** ] **and assessment**) or, in the case of a foreign legal consultant, by serving it pursuant to the designation filed by the foreign legal consultant under Pennsylvania Bar Admission Rule 341(b)(8).

\* \* \* \* \*

**Rule 217. Formerly admitted attorneys.**

(a) A formerly admitted attorney shall promptly notify, or cause to be promptly notified, all clients being represented in pending matters, other than litigation or administrative proceedings, of the disbarment, suspension, **temporary suspension**, administrative suspension or transfer to **disability** inactive status and the consequent inability of the formerly admitted attorney to act as an attorney after the effective date of the disbarment, suspension, **temporary suspension**, administrative suspension or transfer to **disability** inactive status and shall advise said clients to seek legal advice elsewhere. The notice required by this subdivision (a) may be delivered by the most efficient method possible as long as the chosen method is successful and provides proof of receipt. At the time of the filing of the verified statement of compliance required by subdivision (e)(1) of this Rule, the formerly admitted attorney shall file copies of the notices required by this subdivision and proofs of receipt with the Board and shall serve a conforming copy on Disciplinary Counsel. See D.Bd. Rules § 91.91(b) (relating to filing of copies of notices).

*(Editor’s Note: Pa.R.D.E. 217 as printed in 204 Pa. Code reads “Official Note” rather than “Note.”)*

*Note:* Notice may be accomplished, for example, by delivery in person with the lawyer securing a signed receipt, electronic mailing with some form of acknowledgement from the client other than a “read receipt,” and mailing by registered or certified mail, return receipt requested.

(b) A formerly admitted attorney shall promptly notify, or cause to be promptly notified, all clients who are involved in pending litigation or administrative proceedings, and the attorney or attorneys for each adverse party in such matter or proceeding, of the disbarment, suspension, **temporary suspension**, administrative suspension or transfer to **disability** inactive status and consequent inability of the formerly admitted attorney to act as an attorney after the effective date of the disbarment, suspension, **temporary suspension**, administrative suspension or transfer to **disability** inactive status. The notice to be given to the client shall advise the prompt substitution of another attorney or attorneys in place of the

formerly admitted attorney. In the event the client does not obtain substitute counsel before the effective date of the disbarment, suspension, **temporary suspension**, administrative suspension or transfer to **disability** inactive status, it shall be the responsibility of the formerly admitted attorney to move in the court or agency in which the proceeding is pending for leave to withdraw. The notice to be given to the attorney or attorneys for an adverse party shall state the place of residence of the client of the formerly admitted attorney. The notice required by this subdivision (b) may be delivered by the most efficient method possible as long as the chosen method is successful and provides proof of receipt. See Note after subdivision (a), *supra*. At the time of the filing of the verified statement of compliance required by subdivision (e)(1) of this Rule, the formerly admitted attorney shall file copies of the notices required by this subdivision and proofs of receipt with the Board and shall serve a conforming copy on Disciplinary Counsel. See D.Bd. Rules § 91.92(b) (relating to filing of copies of notices).

(c) A formerly admitted attorney shall promptly notify, or cause to be promptly notified, of the disbarment, suspension, **temporary suspension**, administrative suspension or transfer to **disability** inactive status:

(1) all persons or their agents or guardians, including but not limited to wards, heirs and beneficiaries, to whom a fiduciary duty is or may be owed at any time after the disbarment, suspension, **temporary suspension**, administrative suspension or transfer to **disability** inactive status;

(2) all other persons with whom the formerly admitted attorney may at any time expect to have professional contacts under circumstances where there is a reasonable probability that they may infer that he or she continues as an attorney in good standing; and

(3) any other tribunal, court, agency or jurisdiction in which the attorney is admitted to practice.

The notice required by this subdivision (c) may be delivered by the most efficient method possible as long as the chosen method is successful and provides proof of receipt. See Note after subdivision (a), *supra*. At the time of the filing of the verified statement of compliance required by subdivision (e)(1) of this Rule, the formerly admitted attorney shall file copies of the notices required by this subdivision and proofs of receipt with the Board and shall serve a conforming copy on Disciplinary Counsel. The responsibility of the formerly admitted attorney to provide the notice required by this subdivision shall continue for as long as the formerly admitted attorney is disbarred, suspended, **temporarily suspended**, administratively suspended or on **disability** inactive status.

(d)(1) Orders imposing suspension, disbarment, **temporary suspension**, administrative suspension or transfer to **disability** inactive status shall be effective 30 days after entry. The formerly admitted attorney, after entry of the disbarment, suspension, **temporary suspension**, administrative suspension or transfer to **disability** inactive status order, shall not accept any new retainer or engage as attorney for another in any new case or legal matter of any nature. However, during the period from the entry date of the order and its effective date the formerly admitted attorney may wind up and complete, on behalf of any client, all matters which were pending on the entry date.

\* \* \* \* \*

(e)(1) Within ten days after the effective date of the disbarment, suspension, **temporary suspension**, administrative suspension or transfer to **disability** inactive status order, the formerly admitted attorney shall file with the Board a verified statement and serve a copy on Disciplinary Counsel. In the verified statement, the formerly admitted attorney shall:

(i) aver that the provisions of the order and these rules have been fully complied with;

(ii) list all other state, federal and administrative jurisdictions to which the formerly admitted attorney is admitted to practice, aver that he or she has fully complied with the notice requirements of paragraph (3) of subdivision (c) of this Rule, and aver that he or she has attached copies of the notices and proofs of receipt required by (c)(3); or, in the alternative, aver that he or she was not admitted to practice in any other tribunal, court, agency or jurisdiction;

(iii) aver that he or she has attached copies of the notices required by subdivisions (a), (b), and (c)(1) and (c)(2) of this Rule and proofs of receipt, or, in the alternative, aver that he or she has no clients, third persons to whom a fiduciary duty is owed, or persons with whom the formerly admitted attorney has professional contacts, to so notify;

(iv) in cases of disbarment or suspension for a period exceeding one year, aver that he or she has attached his or her attorney registration **license card** or certificate for the current year, certificate of admission, any certificate of good standing issued by the Court Prothonotary, and any other certificate required by subdivision (h) of this Rule to be surrendered; or, in the alternative, aver that he or she has attached all such documents within his or her possession, or that he or she is not in possession of any of the certificates required to be surrendered;

(v) aver that he or she has complied with the requirements of paragraph (2) of subdivision (d) of this Rule, and aver that he or she has, to the extent practicable, attached proof of compliance, including evidence of the destruction, removal, or abandonment of indicia of Pennsylvania practice; or, in the alternative, aver that he or she neither had nor employed any indicia of Pennsylvania practice;

(vi) in cases of disbarment, suspension for a period exceeding one year, temporary suspension under Enforcement Rule 208(f) or 213(g), or disability inactive status under Enforcement Rule 216 or 301, aver that he or she has complied with the requirements of paragraph (3) of subdivision (d) of this Rule, and aver that he or she has attached proof of compliance, including resignation notices, evidence of the closing of accounts, copies of cancelled checks and other instruments demonstrating the proper distribution of client and fiduciary funds, and requests to cancel advertisements and telecommunication listings; or, in the alternative, aver that he or she has no applicable appointments, accounts, funds, advertisements, or telecommunication listings;

(vii) aver that he or she has served a copy of the verified statement and its attachments on Disciplinary Counsel;

(viii) set forth the residence or other address where communications to such person may thereafter be directed; and

(ix) sign the statement.

The statement shall contain an averment that all statements contained therein are true and correct to the

best of the formerly admitted attorney’s knowledge, information and belief, and are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

(Editor’s Note: Pa.R.D.E. 217 as printed in 204 Pa. Code reads “Official Note” rather than “Note.”)

Note: A respondent-attorney who is placed on temporary suspension is required to comply with subdivision (e)(1) and file a verified statement. Upon the entry of a final order of suspension or disbarment, the respondent-attorney must file a supplemental verified statement containing the information and documentation not applicable at the time of the filing of the initial statement, or all of the information and documentation required by subdivision (e)(1) if the respondent-attorney has failed to file the initial statement. Although the grant of retroactivity is always discretionary, a respondent-attorney who fails to file a verified statement at the time of temporary suspension should not expect a final order to include a reference to retroactivity.

\* \* \* \* \*

(f) The Board shall cause a notice of the suspension, disbarment, **temporary suspension**, administrative suspension or transfer to **disability** inactive status to be published in the legal journal and a newspaper of general circulation in the county in which the formerly admitted attorney practiced. The cost of publication shall be assessed against the formerly admitted attorney.

(g) The Board shall promptly transmit a certified copy of the order of suspension, disbarment, **temporary suspension**, administrative suspension or transfer to **disability** inactive status to the president judge of the court of common pleas in the judicial district in which the formerly admitted attorney practiced. The president judge shall make such further order as may be necessary to fully protect the rights of the clients of the formerly admitted attorney.

(h) Within ten days after the effective date of an order of disbarment or suspension for a period longer than one year, the formerly admitted attorney shall surrender to the Board the **license card or** certificate issued by the Attorney Registration Office under **Enforcement Rule [ 219(e) ] 219(d)** (relating to annual registration **[ of attorneys ] and assessment**) for the current year, along with any certificate of good standing issued under Pennsylvania Bar Admission Rule **[ 201(d) ] 201(c)** (relating to certification of good standing), certificate of admission issued under Pennsylvania Bar Admission Rule 231(d)(3) (relating to action by Court Prothonotary), certificate of licensure issued under Pennsylvania Bar Admission Rule 341(e)(3) (relating to motion for licensure), Limited In-House Corporate Counsel License issued under Pennsylvania Bar Admission Rule 302 (relating to limited in-house corporate counsel license), limited certificate of admission issued under Pennsylvania Bar Admission Rule 303 (relating to limited admission of military attorneys), limited certificate of admission issued under Pennsylvania Bar Admission Rule 304 (relating to limited admission of attorney spouses of active-duty service members), or limited certificate of admission issued under Pennsylvania Bar Admission Rule 311 (relating to attorney participants in defender or legal services programs). The Board may destroy the annual **license card or** certificate issued under **Enforcement Rule [ 219(e) ] 219(d)**, but shall retain any other documents surrendered under this subdivision and shall return those documents to the formerly admitted attorney in the event that he or she is subsequently reinstated.

(i) A formerly admitted attorney shall keep and maintain records of the various steps taken by such person under these rules so that, upon any subsequent proceeding instituted by or against such person, proof of compliance with these rules and with the disbarment, suspension, **temporary suspension**, administrative suspension or transfer to **disability** inactive status order will be available. Proof of compliance with these rules shall be a condition precedent to any petition for reinstatement.

(j) A formerly admitted attorney may not engage in any form of law-related activities in this Commonwealth except in accordance with the following requirements:

\* \* \* \* \*

(4) Without limiting the other restrictions in this subdivision (j), a formerly admitted attorney is specifically prohibited from engaging in any of the following activities:

(i) performing any law-related activity for a law firm, organization or lawyer if the formerly admitted attorney was associated with that law firm, organization or lawyer on or after the date on which the acts which resulted in the disbarment, **[ or ] suspension or temporary suspension** occurred, through and including the effective date of disbarment, **[ or ] suspension or temporary suspension**;

(ii) performing any law-related services from an office that is not staffed by a supervising attorney on a **[ full time ] full-time** basis;

(iii) performing any law-related services for any client who in the past was represented by the formerly admitted attorney;

(iv) representing himself or herself as a lawyer or person of similar status;

(v) having any contact with clients either in person, by telephone, or in writing, except as provided in paragraph (3);

(vi) rendering legal consultation or advice to a client;

(vii) appearing on behalf of a client in any hearing or proceeding or before any judicial officer, arbitrator, mediator, court, public agency, referee, magistrate, hearing officer or any other adjudicative person or body;

(viii) appearing as a representative of the client at a deposition or other discovery matter;

(ix) negotiating or transacting any matter for or on behalf of a client with third parties or having any contact with third parties regarding such a negotiation or transaction; **and**

(x) receiving, disbursing or otherwise handling client funds.

\* \* \* \* \*

Rule 218. Reinstatement **proceedings**.

(a) An attorney may not resume practice until reinstated by order of the Supreme Court after petition pursuant to this rule if the attorney **[ was ]**:

**[ (1) suspended for a period exceeding one year;**

**(2) (1) is on** retired **status**, **[ on ]** inactive status or **[ on ]** administrative suspension **[ if the formerly admitted attorney ] and** has not been on active status at any time within the **[ past ] preceding** three years;

**Note: An attorney who has been on retired status, inactive status, or administrative suspension for three years or less may be eligible for reinstatement to active status under Enforcement Rule 219(h).**

[ (3) ] (2) [ transferred to ] **assumed** inactive status [ as a result of the sale of ] **under Enforcement Rule 219(i)(1) in connection with** the sale of his or her practice pursuant to Rule 1.17(f) of the Pennsylvania Rules of Professional Conduct **(relating to the sale of a law practice by reason of disability); [ or ]**

**(3) was transferred to disability inactive status, except that an attorney who is on disability inactive status under Enforcement Rule 301(c) shall be subject to the provisions of this rule only if the Court so directs;**

**(4) was suspended for a period exceeding one year; or**

[ (4) ] (5) **was** disbarred.

\* \* \* \* \*

(c) The procedure for petitioning for reinstatement from **disability inactive status**, suspension for a period exceeding one year or disbarment is as follows:

(1) Petitions for reinstatement shall be filed with the Board.

(2) Within 60 days after the filing of a petition for reinstatement, Disciplinary Counsel shall file a response thereto with the Board and serve a copy on the formerly admitted attorney. Upon receipt of the response, the Board shall refer the petition and response to a hearing committee in the disciplinary district in which the formerly admitted attorney maintained an office at the time of the disbarment or suspension. If any other formal disciplinary proceedings are then pending [ **or have been authorized** ] against the formerly admitted attorney **at the time the Board refers the matter to a hearing committee or are authorized after the referral and at any time prior to the hearing**, the reinstatement and disciplinary matters may be heard by the same hearing committee. In such case the combined hearing shall be held not later than 45 days after receipt by the Board of the response to the petition for reinstatement.

*(Editor's Note: Pa.R.D.E. 218 as printed in 204 Pa. Code reads "Official Note" rather than "Note.")*

*Note: If Disciplinary Counsel objects to reinstatement of the formerly admitted attorney, the response to the petition for reinstatement should explain in reasonable detail the reasons for the objection.*

\* \* \* \* \*

(d) The procedure for petitioning for reinstatement from: retired status for more than three years; inactive status for more than three years; administrative suspension for more than three years; retired status, inactive status or administrative suspension if the formerly admitted attorney has not been on active status at any time within the past three years; or after transfer to inactive status as a result of the sale of a law practice pursuant to Rule 1.17 of the Pennsylvania Rules of Professional Conduct, is as follows:

(1) Petitions for reinstatement shall be filed with the Board.

(2) Within 60 days after the filing of a petition for reinstatement, Disciplinary Counsel shall either:

(i) file a response thereto with the Board and serve a copy on the formerly admitted attorney; or

(ii) file a certification with the Board stating that after a review of the petition for reinstatement and reasonably diligent inquiry, Disciplinary Counsel has determined that there is no impediment to reinstatement and that the petitioner-attorney will meet his or her burden of proof under paragraph (d)(3) if the petition were to proceed to hearing under (d)(4).

*(Editor's Note: Pa.R.D.E. 218 as printed in 204 Pa. Code reads "Official Note" rather than "Note.")*

*Note: If Disciplinary Counsel objects to reinstatement of the formerly admitted attorney under (d)(2)(i), the response to the petition for reinstatement should explain in reasonable detail the reasons for the objection.*

(3) A formerly admitted attorney [ **who has been on retired status, inactive status or administrative suspension** ] **seeking reinstatement under this subdivision (d)** shall have the burden of demonstrating that such person has the moral qualifications, competency and learning in the law required for admission to practice in the Commonwealth.

(4) Upon receipt of a response under (d)(2)(i), the Board shall refer the petition and response to a single senior or experienced hearing committee member in the disciplinary district in which the formerly admitted attorney maintained an office at the time of transfer to or assumption of retired or inactive status, or transfer to administrative suspension; the single senior or experienced hearing committee member shall promptly schedule a hearing during which the hearing committee member shall perform the functions of a hearing committee under this subdivision (d). The rules of the Board may provide for abbreviated procedures to be followed by the hearing committee member, except that the abbreviated procedure shall not be available at any hearing conducted after review by a designated Board Member pursuant to paragraph (d)(6) of this rule. If any other formal disciplinary proceedings are then pending [ **or have been authorized** ] against the formerly admitted attorney **at the time the Board refers the matter to a hearing committee or are authorized after the referral and at any time prior to the hearing**, the reinstatement and disciplinary matters may be heard by the same hearing committee. In such case the combined hearing shall be held not later than 45 days after receipt by the Board of the response to the petition for reinstatement.

\* \* \* \* \*

(f)(1) At the time of the filing of a petition for reinstatement with the Board, a non-refundable reinstatement filing fee shall be assessed against a petitioner-attorney. The filing fee schedule is as follows:

Reinstatement from disbarment or suspension for more than one year:	\$1,000
Reinstatement from administrative suspension (more than three years):	\$500
Reinstatement from inactive/retired status (more than three years):	\$250
Reinstatement from <b><u>disability</u></b> inactive status [ <b><u>pursuant to</u></b> ] <b><u>under</u></b> Enforcement Rule 301:	\$250

(2) [ **The** ] **Unless otherwise directed by the Supreme Court, [ in its discretion may direct that ] the petitioner-attorney shall pay** the necessary expenses

incurred in the investigation and processing of the petition for reinstatement **[ be paid by the petitioner-attorney ] and in any proceeding that results in the grant, denial or withdrawal of the petition.** After **[ the ]** a Supreme Court Order **granting reinstatement** is entered, the annual **[ fee ] assessment** required by **Enforcement Rule [ 219(a) ] 219(b)** for the current year shall be paid to the Attorney Registration Office.

(3) Failure to pay expenses taxed under Enforcement Rule 218(f)(2) within thirty days of the entry of the Supreme Court Order shall result in the assessment of a penalty, levied monthly at the rate of 0.8% of the unpaid principal balance, or such other rate as established by the Supreme Court from time to time. The Board, for good cause shown, may reduce the penalty or waive it in its entirety.

**Note: The Board shall charge a collection fee for any payment that has been returned to the Board unpaid.**

\* \* \* \* \*

(g)(1) Upon the expiration of any term of suspension not exceeding one year and upon the filing thereafter by the formerly admitted attorney with the Board of a verified statement showing compliance with all the terms and conditions of the order of suspension and of Enforcement Rule 217 (relating to formerly admitted attorneys), along with the payment of a non-refundable filing fee of \$250, the Board shall certify such fact to the Supreme Court, which shall immediately enter an order reinstating the formerly admitted attorney to active status, unless such person is subject to another outstanding order of **temporary suspension**, suspension or disbarment.

(2) Paragraph (1) of this subdivision shall not be applicable and a formerly admitted attorney shall be subject instead to the other provisions of this rule requiring the filing of a petition for reinstatement, if:

(i) other formal disciplinary proceedings are then pending or have been authorized against the formerly admitted attorney;

(ii) the formerly admitted attorney has been on retired status, inactive status or administrative suspension for more than three years;

(iii) the formerly admitted attorney has not been on active status for more than three years due to a combination of retired status, inactive status, administrative suspension, **temporary suspension** and/or a term of suspension not exceeding one year and had not been on active status at any time within the three-year period preceding the entry of the order; or

(iv) the order of suspension has been in effect for more than three years.

**[ (h) Attorneys who have been on inactive status, retired status or administrative suspension for three years or less may be reinstated to the roll of those classified as active pursuant to Enforcement Rule 219(h), (i), (j) or (m) (relating to annual registration of attorneys) as appropriate. This subdivision (h) does not apply to:**

(1) a formerly admitted attorney who, on the date of the filing of the request for reinstatement, had not been on active status at any time within the preceding three years; or

(2) an attorney who has sold his or her practice pursuant to Rule 1.17 of the Pennsylvania Rules of Professional Conduct.

(i) **[ (h) The Board may cause a notice of the reinstatement to be published in one or more appropriate legal journals and newspapers of general circulation. The cost of publication shall be assessed against the petitioner-attorney.**

**[ (j) ] (i) The Board when appropriate shall promptly transmit to the president judge of the court of common pleas in the judicial district in which the formerly admitted attorney practiced a copy of:**

(1) **[ the certification filed with the Court Prothonotary under Enforcement Rule 219(h) or (m) ] a notice of any action by the Attorney Registration Office administratively reinstating an attorney to active status under Enforcement Rule 219(h); or**

(2) any other order of reinstatement entered under these rules.

**[ (k) ] (j) If Disciplinary Counsel shall have probable cause to believe that any formerly admitted attorney:**

(1) has failed to comply with this rule or **Enforcement Rule 217** (relating to formerly admitted attorneys), or

(2) is otherwise continuing to practice law, Disciplinary Counsel may bring an action in any court of competent jurisdiction for such injunctive and other relief as may be appropriate.

#### **[ Rule 219. Annual registration of attorneys.**

(a) Every attorney admitted to practice law in this Commonwealth shall pay an annual fee of \$145.00 and electronically file the annual fee form provided for in this rule by July 1. The fee shall be collected under the supervision of the Attorney Registration Office, which shall make the annual fee form available for filing through a link on the Board's website (<http://www.padisiplinaryboard.org>) or directly at <https://ujportal.pacourts.us>. The said fee shall be used to defray the costs of disciplinary administration and enforcement under these rules, and for such other purposes as the Board shall, with the approval of the Supreme Court, from time to time determine. Upon an attorney's written request submitted to the Attorney Registration Office and for good cause shown, the Attorney Registration Office shall grant an exemption from the electronic filing requirement and permit the attorney to file the annual fee form in paper form.

**Note:** Pa.R.P.C. 1.15(u) imposes an additional annual fee for use by the IOLTA Board, and Pa.R.D.E. 502(b) imposes an additional annual fee for use by the Pennsylvania Lawyers Fund for Client Security.

(b) The following shall be exempt from paying the annual fee required by subdivision (a):

(1) Justices or judges serving in the following Pennsylvania courts of record shall be exempt for such time as they serve in office: Supreme, Superior, Commonwealth, Common Pleas, and Philadelphia Municipal; and justices or judges serving an appointment for life on any federal court;

(2) retired attorneys;

(3) permanently resigned attorneys under Enforcement Rule 404; and

(4) military attorneys holding a limited certificate of admission issued under Pa.B.A.R. 303 (relating to admission of military attorneys).



*Note:* The exemption created by subdivision (b)(1) does not include Pittsburgh Municipal Court judges, magisterial district judges, arraignment court magistrates or administrative law judges.

(c) On or before May 15 of each year, the Attorney Registration Office shall transmit to all attorneys required by this rule to pay an annual fee a notice by e-mail to register electronically by July 1. Failure to receive notice shall not excuse the filing of the annual fee form or payment of the annual fee.

(d) On or before July 1 of each year all attorneys required by this rule to pay an annual fee shall electronically file with the Attorney Registration Office an electronically endorsed form prescribed by the Attorney Registration Office in accordance with the following procedures:

(1) The form shall set forth:

(i) The date on which the attorney was admitted to practice, licensed as a foreign legal consultant, granted limited admission as an attorney participant in defender or legal services programs, issued a Limited-In-House Corporate Counsel License, or granted limited admission as an attorney spouse of an active-duty service member, and a list of all courts (except courts of this Commonwealth) and jurisdictions in which the person has ever been licensed to practice law, with the current status thereof.

(ii) The current e-mail, residence and office addresses of the attorney, the latter two of which shall be an actual street address or rural route box number. The Attorney Registration Office shall refuse to accept a form that sets forth only a post office box number for either the residence or office address. A preferred mailing address different from those addresses may also be provided on the form and may be a post office box number. The attorney shall indicate which of the addresses, the residence, office or mailing address, as well as telephone and fax number will be accessible through the website of the Board (<http://www.padisiplinaryboard.org>) and by written or oral request to the Board. Upon an attorney's written request submitted to the Attorney Registration Office and for good cause shown, the contact information provided by the attorney will be nonpublic information and will not be published on the Board's website or otherwise disclosed.

*Note:* Public web docket sheets will show the attorney's address as entered on the court docket.

(iii) The name of each Financial Institution, as defined in Pa.R.P.C. 1.15(a)(4), within or outside this Commonwealth in which the attorney, from May 1 of the previous year to the date of the filing of the annual fee form, held funds of a client or a third person subject to Rule 1.15 of the Pennsylvania Rules of Professional Conduct. The form shall include the name and account number for each account in which the attorney held such funds, and each IOLTA Account shall be identified as such. The form provided to a person holding a Limited In-House Corporate Counsel License or a Foreign Legal Consultant License need not request the information required by this subparagraph.

For purposes of this subparagraph, the phrase "funds of a client or a third person subject to Rule 1.15 of the Pennsylvania Rules of Professional Con-

duct" means funds that belong to a client or third person and that an attorney receives:

(A) in connection with a client-lawyer relationship;

(B) as an escrow agent, settlement agent, representative payee, personal representative, guardian, conservator, receiver, trustee, agent under a durable power of attorney, or other similar fiduciary position;

(C) as an agent, having been designated as such by a client or having been so selected as a result of a client-lawyer relationship or the lawyer's status as such;

(D) in connection with nonlegal services that are not distinct from legal services;

(E) in connection with nonlegal services that are distinct from legal services, and the attorney knows or reasonably should know that the recipient of the service might believe that the recipient is receiving the protection of a client-lawyer relationship; or

(F) as an owner, controlling party, employee, agent, or as one who is otherwise affiliated with an entity providing nonlegal services and the attorney knows or reasonably should know that the recipient of the service might believe that the recipient is receiving the protection of a client-lawyer relationship.

*Note:* For purposes of subparagraph (iii), "funds of a third person" shall not include funds held in: 1) an attorney's personal account held jointly; or 2) a custodial account for a minor or dependent relative unless the source of any account funds is other than the attorney and his or her spouse.

*Note:* If an attorney employed by a law firm receives fiduciary funds from or on behalf of a client and deposits or causes the funds to be deposited into a law firm account, the attorney must report the account of deposit under this subparagraph (iii).

(iv) Every account not reported under subparagraph (iii), that held funds of a client or a third person, and over which the attorney had sole or shared signature authority or authorization to transfer funds to or from the account, during the same time period specified in subparagraph (iii). For each account, the attorney shall provide the name of the financial institution (whether or not the entity qualifies as a "Financial Institution" under Pa.R.P.C. 1.15(a)(4)), location, and account number.

*Note:* Regarding "funds of a third person," see Note to Rule 219(d)(1)(iii)

(v) Every business operating account maintained or utilized by the attorney in the practice of law during the same time period specified in subparagraph (iii). For each account, the attorney shall provide the name of the financial institution, location and account number.

(vi) A statement that the attorney is familiar and in compliance with Rule 1.15 of the Pennsylvania Rules of Professional Conduct regarding the handling of funds and other property of clients and others and the maintenance of IOLTA Accounts, and with Rule 221 of the Pennsylvania Rules of Disci-

plinary Enforcement regarding the mandatory reporting of overdrafts on fiduciary accounts.

(vii) A statement that any action brought against the attorney by the Pennsylvania Lawyers Fund for Client Security for the recovery of monies paid by the Fund as a result of claims against the attorney may be brought in the Court of Common Pleas of Allegheny, Dauphin or Philadelphia County.

(viii) Whether the attorney is covered by professional liability insurance on the date of registration in the minimum amounts required by Rule of Professional Conduct 1.4(c). Rule 1.4(c) does not apply to attorneys who do not have any private clients, such as attorneys in full-time government practice or employed as in-house corporate counsel.

*Note:* The Disciplinary Board will make the information regarding insurance available to the public upon written or oral request and on its website. The requirement of Rule 219(d)(3) that every attorney who has filed an annual fee form must give written notice to the Attorney Registration Office of any change in the information previously submitted within 30 days after such change will apply to the information regarding insurance.

(ix) Such other information as the Attorney Registration Office may from time to time direct.

(2) Payment of the annual fee shall be made in one of two ways: a) electronically by credit or debit card at the time of electronic transmission of the form through the online system of the Attorney Registration Office, which payment shall include a nominal fee to process the electronic payment; or b) by check or money order drawn on a U.S. bank, in U.S. dollars using a printable, mail-in voucher. IOLTA, trust, escrow and other fiduciary account checks tendered in payment of the annual fee will not be accepted. If the annual fee form, voucher or payment is incomplete or if a payment of the annual fee has been returned to the Board unpaid, the annual fee shall not be deemed to have been paid until a collection fee, and one or both of the late payment penalties prescribed in subdivision (f) of this rule if assessed, shall also have been paid. The amount of the collection fee shall be established by the Board annually after giving due regard to the direct and indirect costs incurred by the Board during the preceding year for payment returned to the Board unpaid.

(3) Every attorney who has filed the form shall notify the Attorney Registration Office in writing of any change in the information previously submitted, including e-mail address, within 30 days after such change, which notice shall be sent by mail or facsimile transmission, provided, however, that any change in the information required by subsections (d)(1)(iii), (iv) and (v) (collectively relating to financial account information) that occurs after the filing of the form required by subdivisions (a) and (d)(1) of this rule need only be reported on the next regular annual fee form due July 1. Attorneys must promptly ensure that IOLTA accounts are properly enrolled with the Pennsylvania IOLTA Board pursuant to the applicable IOLTA regulations. Failure to timely register and file the next annual fee form shall not excuse this subsection's requirement of reporting changes in financial account information

on an annual basis on or before July 1, and failure to make such a report shall constitute a violation of this rule.

(4) Upon original admission to the bar of this Commonwealth, licensure as a Foreign Legal Consultant, issuance of a Limited In-House Corporate Counsel License, limited admission as an attorney participant in defender or legal services programs, or limited admission as an attorney spouse of an active-duty service member, a person shall concurrently file a form under this subdivision for the current assessment year, but no annual fee shall be payable for the assessment year in which originally admitted or licensed.

(5) Submission of the annual fee form through electronic means signifies the attorney's intent to sign the form. By submitting the form electronically, the attorney certifies that the electronic filing is true and correct.

*Note:* Subsection (5) of subdivision (d) incorporates the language of *In Re: Provisions for Electronic Filing of Attorney Registration Statements*, No. 99 Disciplinary Rules Docket (Pa. Supreme Court, April 13, 2011).

(e) Upon receipt of a form, or notice of change of information contained therein, filed by an attorney in accordance with the provisions of subdivision (d) of this rule, and of payment of the required annual fee to practice law in this Commonwealth, receipt thereof shall be acknowledged on a certificate or license.

(f) Any attorney who fails to complete registration by July 16 shall be automatically assessed a non-waivable late payment penalty established by the Board. A second, non-waivable late payment penalty established by the Board shall be automatically added to the delinquent account of any attorney who has failed to complete registration by August 1, at which time the continued failure to comply with this rule shall be deemed a request to be administratively suspended. Thereafter, the Attorney Registration Office shall certify to the Supreme Court the name of every attorney who has failed to comply with the registration and payment requirements of this rule, and the Supreme Court shall enter an order administratively suspending the attorney. The Chief Justice may delegate the processing and entry of orders under this subdivision to the Court Prothonotary. Upon entry of an order of administrative suspension, the Attorney Registration Office shall transmit by certified mail, addressed to the last known mailing address of the attorney, or by electronic means, the order of administrative suspension and a notice that the attorney shall comply with Enforcement Rule 217 (relating to formerly admitted attorneys), a copy of which shall be included with the notice.

For purposes of assessing the late payment penalties prescribed by this subdivision (f), registration shall not be deemed to be complete until the Attorney Registration Office receives a completed annual fee form and satisfactory payment of the annual fee and of all outstanding collection fees and late payment penalties. If payment of the delinquency has been returned to the Board unpaid, a collection fee, as established by the Board under subdivision (d)(2) of this rule, shall be added

to the attorney's delinquent account and registration shall not be deemed to be complete until the delinquent account has been paid in full.

The amount of the late payment penalties shall be established by the Board annually pursuant to the provisions of subdivision (h)(3) of this rule.

(g) The Attorney Registration Office shall provide to the Board a copy of any certification filed by the Attorney Registration Office with the Supreme Court pursuant to the provisions of this rule.

(h) An attorney who has been administratively suspended pursuant to subdivision (f) for three years or less is not eligible to file the annual fee form electronically. The procedure for reinstatement is as follows:

(1) The formerly admitted attorney shall submit to the Attorney Registration Office the form required by subdivision (d)(1) along with payment of:

- (i) the current annual fee;
- (ii) the annual fee that was due in the year in which the attorney was administratively suspended;
- (iii) the late payment penalties required by paragraph (3);
- (iv) any unpaid collection fee; and
- (v) a reinstatement fee of \$300.00.

(2) Upon receipt of the annual fee form, a verified statement showing compliance with Enforcement Rule 217 (relating to formerly admitted attorneys), and the payments required by paragraph (1), the Attorney Registration Office shall so certify to the Board and to the Supreme Court. Unless the formerly admitted attorney is subject to another outstanding order of suspension or disbarment or the order has been in effect for more than three years, the filing of the certification from the Attorney Registration Office with the Court Prothonotary of the Supreme Court shall operate as an order reinstating the person to active status.

Where payment of the fees and late payment penalties has been returned to the Board unpaid, the Attorney Registration Office shall immediately return the attorney to administrative suspension, and the arrears shall not be deemed to have been paid until a collection fee, as established by the Board under subdivision (d)(2) of this rule, shall also have been paid.

(3) A formerly admitted attorney who is administratively suspended must pay the late payment penalties incurred in the year in which the formerly admitted attorney is transferred to administrative suspension. The amount of the late payment penalties shall be established by the Board annually after giving due regard to such factors as it considers relevant, including the direct and indirect costs incurred by the Board during the preceding year in processing the records of attorneys who fail to timely file the form required by subdivision (d) of this rule.

(i) *Retired Status:* An attorney who has retired must file by mail or deliver in person to the Attorney Registration Office an application for retirement and payment of any applicable late fees or penalties pursuant to subdivision (f). Upon the transmission of such application from the Attorney

Registration Office to the Supreme Court, the Court shall enter an order transferring the attorney to retired status, and the attorney shall no longer be eligible to practice law. The retired attorney will be relieved from payment of the annual fee imposed by this rule upon active practitioners and Enforcement Rule 217 (relating to formerly admitted attorneys) shall not be applicable to the formerly admitted attorney unless ordered by the Court in connection with the entry of an order of suspension or disbarment under another provision of these rules. An attorney on retired status for three years or less may be reinstated in the same manner as an inactive attorney, except that the retired attorney shall pay the annual active fee for the three most recent years or such shorter period in which the attorney was on retired status instead of the amounts required to be paid by an inactive attorney seeking reinstatement. The Chief Justice may delegate the processing and entry of orders under this subdivision to the Court Prothonotary.

(j) *Inactive Status:* An attorney who is not engaged in practice in Pennsylvania, has sold his or her practice pursuant to Rule 1.17 of the Pennsylvania Rules of Professional Conduct, or is not required by virtue of his or her practice elsewhere to maintain active licensure in the Commonwealth may request inactive status or continue that status once assumed. The attorney shall be removed from the roll of those classified as active until and unless such inactive attorney makes a request under paragraph (2) of this subdivision (j) for an administrative return to active status and satisfies all conditions precedent to the grant of such request; or files a petition for reinstatement under subdivision (d) of Enforcement Rule 218 (relating to procedure for reinstatement of an attorney who has been on inactive status for more than three years, or who is on inactive status and had not been on active status at any time within the prior three years) and is granted reinstatement pursuant to the provisions of that Enforcement Rule.

(1) An inactive attorney under this subdivision (j) shall continue to file the annual form required by subdivision (d), shall file the form through the online system identified in subdivision (a), and shall pay an annual fee of \$100.00 in the manner provided in subdivision (d)(2). Noncompliance with this provision will result in the inactive attorney incurring late payment penalties, incurring a collection fee for any payment that has been returned to the Board unpaid, and being placed on administrative suspension pursuant to and in accordance with the provisions of subdivision (f) of this rule.

(2) *Administrative Change in Status from Inactive Status to Active Status:* An attorney on inactive status may request a resumption of active status form from the Attorney Registration Office. The form must be filed by mail or delivered in person to the Attorney Registration Office. Resumption of active status shall be granted unless the inactive attorney is subject to an outstanding order of suspension or disbarment, unless the inactive attorney has sold his or her practice pursuant to Rule 1.17 of the Pennsylvania Rules of Professional Conduct (see Enforcement Rule 218(h)), unless the inactive status has been in effect for more than three years, or unless the inactive attorney had not

been on active status at any time within the preceding three years (see Enforcement Rule 218(h)), upon the payment of:

(i) the active fee for the assessment year in which the application for resumption of active status is made or the difference between the active fee and the inactive fee that has been paid for that year; and

(ii) any collection fee or late payment penalty that may have been assessed pursuant to subdivision (f), prior to the inactive attorney's request for resumption of active status.

Where payment of fees and penalties has been returned to the Board unpaid, the Attorney Registration Office shall immediately return the attorney to inactive status, and the arrears shall not be deemed to have been paid until a collection fee, as established by the Board under subdivision (d)(2), shall also have been paid.

*Note:* Subdivisions (h), (i) and (j) of this rule do not apply if, on the date of the filing of the request for reinstatement, the formerly admitted attorney has not been on active status at any time within the preceding three years. See Enforcement Rule 218(h)(1).

(k) *Administrative Change in Status From Administrative Suspension to Inactive Status:* An inactive attorney who has been administratively suspended for failure to file the annual form and pay the annual fee required by subdivision (j)(1) of this rule, may request an administrative change in status form from the Attorney Registration Office. The form must be filed by mail or delivered in person to the Attorney Registration Office and said Office shall change the status of an attorney eligible for inactive status under this subdivision upon receipt of:

- (1) the annual form required by subdivision (d);
- (2) payment of the annual fee required by subdivision (j)(1);
- (3) payment of the annual fee that was due in the year in which the attorney was administratively suspended;
- (4) payment of all collection fees and late payment penalties assessed under subdivisions (d)(2) and (f); and
- (5) payment of an administrative processing fee of \$100.00.

Where payment of the fees and penalties has been returned to the Board unpaid, the Attorney Registration Office shall immediately return the attorney to administrative suspension, and the arrears shall not be deemed to have been paid until a collection fee, as established by the Board under subdivision (d)(2), shall also have been paid.

An active attorney who has been administratively suspended for failure to file the annual form and pay the annual fee required by this rule must comply with subdivision (h) before becoming eligible to register as inactive or retired.

*Note:* Former subdivision (k), which was adopted by Order dated April 16, 2009 (No. 75 Disciplinary Rules Docket No. 1, Supreme Court), effective May 2, 2009, established a grace period of one year commencing on July 1, 2009 in which any attorney

who was on inactive status by order of the Supreme Court, could request and achieve reinstatement to active status under Enforcement Rule 218 or another applicable subdivision of Enforcement Rule 219 in order to avoid an automatic change in status to administrative suspension. The grace period was administratively extended to August 31, 2010, and any involuntarily inactive attorney who did not achieve active status by that date was transferred to administrative suspension on September 1, 2010.

(l) The Board shall transmit by certified mail to every attorney who fails to pay any taxed expenses under Enforcement Rule 208(g)(3) (relating to costs), addressed to the last known address of the attorney, a notice stating:

(1) That unless the attorney shall pay all such expenses within 30 days after the date of the notice, such failure to pay will be deemed a request to be administratively suspended, and at the end of such period the name of the attorney will be certified to the Supreme Court, which will enter an order administratively suspending the attorney.

(2) That upon entry of the order of administrative suspension, the attorney shall comply with Enforcement Rule 217 (relating to formerly admitted attorneys), a copy of which shall be enclosed with the notice.

(m) Upon payment of all expenses taxed pursuant to Enforcement Rule 208(g) by a formerly admitted attorney on administrative suspension solely for failure to comply with subdivision (l) of this rule, the Board shall so certify to the Supreme Court. Unless such person is subject to another outstanding order of suspension or disbarment or the order has been in effect for more than three years, the filing of the certification from the Board with the Court Prothonotary shall operate as an order reinstating the person to active status.

(n) A former or retired justice or judge who is not the subject of an outstanding order of discipline affecting his or her right to practice law and who wishes to resume the practice of law shall file with the Attorney Registration Office a notice in writing. The notice shall:

(1) describe:

(i) any discipline imposed within six years before the date of the notice upon the justice or judge by the Court of Judicial Discipline;

(ii) any proceeding before the Judicial Conduct Board or the Court of Judicial Discipline settled within six years before the date of the notice on the condition that the justice or judge resign from judicial office or enter a rehabilitation program; and

(2) include a waiver available through the Attorney Registration Office and signed by the justice or judge, if the notice discloses a proceeding described in subsection (1), of the confidentiality of the record in that proceeding for the limited purpose of making the record available to the Board in any subsequent proceeding under these rules.

An annual fee form will be provided by the Attorney Registration Office. The form must be filed by mail or delivered in person to said Office and be accompanied by payment of the full annual fee for the assessment year in which the notice is filed. ]

Rule 219. Annual registration and assessment. Administrative suspension. Administrative changes in status.

(a) Annual Registration Period. The annual registration period shall run from July 1 to June 30. On or before May 15 of each year, the Attorney Registration Office shall transmit an electronic notice to register and pay the annual assessment by July 1. Failure to receive notice shall not excuse the filing of the annual registration form and payment of the annual assessment.

(1) Attorneys required to register. Attorneys on the following license statuses are required to register annually:

(i) Active status.

(ii) Attorneys holding the following limited licenses:

(A) Foreign legal consultant;

(B) Limited In-House Corporate Counsel;

(C) Attorney participant in defender or legal services programs; and

(D) Attorney spouse of an active-duty service member.

(iii) Inactive status.

Note: Attorneys admitted to the bar less than one year prior to July 1 are required to register.

(2) Attorneys exempt from registration. Attorneys on the following license statuses shall be exempt from annual registration:

(i) Judge status.

(ii) Retired status.

(iii) Emeritus status, except that such attorneys shall be governed by the renewal provisions of Enforcement Rule 403(g).

(iv) Military attorney status.

(b) Annual Assessment. On or before July 1 of each year, all attorneys required by paragraph (a)(1) of this rule to register, and who elect one of those statuses, shall pay an annual assessment. Payment of the annual assessment shall be made by credit or debit card or by check or money order drawn on a U.S. financial institution in U.S. dollars. Payment shall not be made using an IOLTA, trust, escrow, or other fiduciary account.

(1) Active status. The total annual assessment for active status is \$225.

(2) Limited licenses. The total annual assessment for attorneys holding limited licenses under paragraph (a)(1)(ii) is \$225.

(3) Inactive status. The annual assessment for inactive status is \$100.

Note: The total annual assessment required by paragraphs (b)(1) and (2) is apportioned as follows: \$145 to the Disciplinary Board; \$50 to the Pennsylvania Lawyers Fund for Client Security, see Enforcement Rule 502(b); and \$30 to the Pennsylvania Interest on Lawyers Trust Accounts Board, see Pa.R.P.C. 1.15(u).

(c) Annual Registration Form. On or before July 1 of each year, all attorneys required by paragraph (a)(1) of this rule to register shall electronically file

with the Attorney Registration Office a registration form. Upon an attorney's written request and for good cause shown, the Attorney Registration Office shall grant an exemption from the electronic filing requirement and provide a paper registration form to the attorney for filing.

(1) The attorney shall provide the following information on the form:

(i) The attorney's current license status in this Commonwealth and all other state, federal, and foreign courts and jurisdictions in which the attorney is or has ever been licensed to practice law.

(ii) The attorney's contact information, which shall specify information accessible to the public. Upon an attorney's written request and for good cause shown, the contact information will not be accessible to the public.

(iii) The financial accounts and information identified in Enforcement Rule 221(q).

(iv) A statement that:

(A) the attorney is familiar and in compliance with Rule 1.15 of the Pennsylvania Rules of Professional Conduct regarding the handling of funds and other property of clients and others and the maintenance of IOLTA accounts;

(B) the attorney's Trust Accounts comply with Enforcement Rule 221(h) regarding the mandatory reporting of overdrafts on fiduciary accounts; and

(C) the attorney has reported all of the financial accounts and information identified in Enforcement Rule 221(q).

(v) A statement that any action brought against the attorney by the Pennsylvania Lawyers Fund for Client Security for the recovery of monies paid by the Fund as a result of claims against the attorney may be brought in the Court of Common Pleas of Allegheny, Dauphin or Philadelphia County.

(vi) Whether the attorney is covered by professional liability insurance on the date of registration in the minimum amounts set forth in Rule of Professional Conduct 1.4(c); a covered attorney shall identify the insurance carrier.

(vii) Such other information as the Board may from time to time direct.

(2) Submission of the annual registration form through electronic means signifies the attorney's intent to sign the form. By submitting the form electronically, the attorney certifies that the electronic filing is true and correct.

(3) Every attorney who files the form shall notify the Attorney Registration Office in writing of any change in the information required under paragraphs (c)(1)(i), (ii), and (vi) (relating to license status in other jurisdictions, contact information, and professional liability insurance) within 30 days of such change.

(i) Changes to the information required by paragraph (c)(1)(iii) (relating to financial account information) that occurs after the filing of the registration form need only be reported on the next annual registration form.

(ii) Failure to timely register and file the next annual registration form shall not excuse this subdivision's requirement of reporting changes in fi-

nancial account information on an annual basis on or before July 1, and failure to make such a report shall constitute a violation of this rule.

(iii) Attorneys must promptly ensure that IOLTA accounts are properly enrolled with the Pennsylvania IOLTA Board pursuant to the applicable IOLTA regulations.

(4) Every attorney, regardless of registration status, shall provide his or her contact information to the Attorney Registration Office and shall update such information within 30 days of any change. Upon an attorney's written request and for good cause shown, the contact information will not be accessible to the public.

(d) *Proof of Registration.* The Attorney Registration Office shall issue a license card or certificate to attorneys on active status and to attorneys holding limited licenses under paragraph (a)(1)(ii) as acknowledgement of an attorney's completion of registration and payment of the required annual assessment.

(e) *Incomplete Registration.* The annual registration requirement is not satisfied if the registration form is incomplete, if the payment is incomplete, or if payment of the annual assessment has been returned to the Board unpaid. Registration will be deemed complete upon receipt of the completed registration form, satisfactory payment of the annual assessment, and payment of any penalties or fees assessed under subdivision (f).

(f) *Late Payment Penalties; Collection Fee.*

(1) *Late payment penalties.*

(i) An attorney who fails to complete registration on or before July 16 shall be automatically assessed a late payment penalty that cannot be waived.

(ii) An attorney who fails to complete registration on or before August 1 shall be automatically assessed a second late payment penalty that cannot be waived.

(2) *Collection fee.* The Board shall charge a collection fee for any payment that has been returned to the Board unpaid.

(g) *Administrative Suspension.*

(1) *Failure to comply with the annual registration requirements.*

(i) After August 1, the Attorney Registration Office shall certify to the Supreme Court the name of every attorney who has failed to comply with the requirements of this rule.

(ii) The Supreme Court shall enter an order administratively suspending the named attorneys.

(2) *Failure to comply with the Pennsylvania Rules for Continuing Legal Education requirements.*

(i) As set forth in Pa.R.C.L.E. 111(b), the Pennsylvania Continuing Legal Education Board shall report to the Supreme Court the name of every attorney who has failed to comply with the Pennsylvania Rules for Continuing Legal Education.

(ii) The Supreme Court shall enter an order administratively suspending the named attorneys.

(3) *Failure to comply with Enforcement Rule 208(g) (relating to costs and fees).*

(i) As set forth in Enforcement Rule 208(g)(4), the Board shall certify to the Supreme Court the name of every attorney who has failed to pay taxed expenses and administrative fees in cases other than a suspension that is not stayed in its entirety or disbarment.

(ii) The Supreme Court shall enter an order administratively suspending the named attorneys.

(4) *Notice.* Upon entry of an order of administrative suspension, the Board shall send to the formerly admitted attorney by certified mail or by electronic means the order of administrative suspension and provide notice that the attorney shall comply with Enforcement Rule 217 (relating to formerly admitted attorneys).

(5) *Immediate and subsequent restrictions.* From the date of entry of the order of administrative suspension until the effective date of the order or such earlier date on which the attorney satisfies the deficiency that resulted in the order of administrative suspension, the attorney shall not accept any new cases or other client matters but may continue to represent existing clients on existing matters. On and after the effective date of the order, the formerly admitted attorney shall comply with all requirements of Enforcement Rule 217 pertaining to administratively suspended attorneys.

(h) *Administrative Change to Active Status.*

(1) *Administrative suspension three years or less.* The formerly admitted attorney shall submit to the Attorney Registration Office:

(i) a form available through the Attorney Registration Office;

(ii) a verified statement that complies with Enforcement Rule 217(e)(1) and also demonstrates compliance with Rule 217 during the term of administrative suspension; and

(iii) payment of any of the following as may be applicable:

(A) the active annual assessment for the year in which the request for active status is made;

(B) the assessment that was due for the year in which the attorney was administratively suspended;

(C) late payment penalties under subdivision (f);

(D) a collection fee under subdivision (f);

(E) payment of any outstanding costs and fees under Enforcement Rule 208(g); and

(F) an administrative fee.

If the order of administrative suspension was for the failure to comply under paragraph (g)(2) with the Pennsylvania Rules of Continuing Legal Education requirements, then administrative change to active status under this paragraph is contingent on the Attorney Registration Office confirming that the formerly admitted attorney has complied with the rules and regulations of the Continuing Legal Education Board and is eligible for reinstatement under these Enforcement Rules.

(2) *Inactive status three years or less.* The formerly admitted attorney shall submit to the Attorney Registration Office:

(i) a form available through the Attorney Registration Office;

(ii) payment of any of the following as may be applicable:

(A) the active annual assessment for the year in which the request for active status is made or the difference between the active annual assessment and the inactive annual assessment previously paid for that year;

(B) late payment penalties under subdivision (f); and

(C) a collection fee under subdivision (f).

(3) Retired status three years or less. The formerly admitted attorney shall submit to the Attorney Registration Office:

(i) a form available through the Attorney Registration Office; and

(ii) the active annual assessment for the year in which the request for active status is made.

(4) Upon determination by the Attorney Registration Office that the applicable requirements have been satisfied, the Attorney Registration Office shall process the requested status change.

(5) The procedures under paragraph (1), (2) and (3) do not apply to:

(i) a formerly admitted attorney who, on the date of the request for active status, has not been on active status at any time within the preceding three years;

(ii) a formerly admitted attorney who has sold his or her law practice by reason of disability and who has been transferred to inactive status pursuant to Enforcement Rule 301 or 219(i)(1), as required by Rule of Professional Conduct 1.17(f) (relating to the sale of a law practice by reason of disability);

(iii) a formerly admitted attorney who is subject to an outstanding order of disability inactive status, suspension, temporary suspension, or disbarment; or

(iv) a formerly admitted attorney who, on the date of the request for active status, has an outstanding obligation to the Lawyers Fund for Client Security.

(i) Administrative Change to Inactive or Retired Status.

(1) Active status to inactive status. An attorney on active status seeking to assume inactive status during a time outside the annual attorney registration period shall submit a request for inactive status form to the Attorney Registration Office.

Note: An attorney who is not engaged in practice in Pennsylvania, handling Pennsylvania legal matters, or required by his or her practice elsewhere to maintain active licensure in the Commonwealth may request inactive status. An attorney who sells his or her practice by reason of disability must transfer to inactive status pursuant to this paragraph (i)(1) unless a transfer to disability inactive status pursuant to Enforcement Rule 301 occurs. See Pennsylvania Rule of Professional Conduct 1.17(f).

(2) Active or inactive status to retired status. An attorney on active or inactive status seeking to

assume retired status during a time outside the annual attorney registration period shall submit a request for retired status form to the Attorney Registration Office.

(3) Administrative suspension to inactive status. A formerly admitted attorney seeking to resume inactive status after transfer to administrative suspension from inactive status shall submit to the Attorney Registration Office:

(i) a form available through the Attorney Registration Office;

(ii) a verified statement that complies with Enforcement Rule 217(e)(1) and also demonstrates continued compliance with Rule 217 during the term of administrative suspension; and

(iii) payment of any of the following as may be applicable:

(A) the inactive annual assessment for the year in which the request for inactive status is made;

(B) the inactive annual assessment that was due in the year in which the attorney was administratively suspended;

(C) late payment penalties under subdivision (f);

(D) a collection fee under subdivision (f);

(E) payment of any outstanding costs and fees under Enforcement Rule 208(g); and

(F) an administrative fee.

(4) Administrative suspension to retired status. A formerly admitted attorney seeking retired status after transfer to administrative suspension shall submit to the Attorney Registration Office:

(i) a form available through the Attorney Registration Office;

(ii) a verified statement that complies with Enforcement Rule 217(e)(1) and also demonstrates continued compliance with Rule 217 during the term of administrative suspension;

(iii) payment of any outstanding costs and fees under Enforcement Rule 208(g); and

(iv) an administrative fee.

A formerly admitted attorney retired under paragraph (i)(4) who seeks to resume active status where a petition for reinstatement is not required shall pay all outstanding arrears assessed and satisfy all deficiencies in connection with the transfer to administrative suspension.

(5) Upon determination by the Attorney Registration Office that the applicable requirements have been satisfied, the Attorney Registration Office shall process the requested status change.

(j) Judge status.

(1) An attorney who commences judicial service as a justice or judge on the following courts shall be assigned judge status by the Attorney Registration Office:

(i) Pennsylvania courts of record: Supreme, Superior, Commonwealth, Common Pleas, and Philadelphia Municipal; and

(ii) federal courts holding an appointment for life.

(2) At the conclusion of judicial service, an attorney holding judge status shall:

(i) within 20 days, notify the Attorney Registration Office in writing of the conclusion of judicial service; and

(ii) within 60 days, elect either active status under paragraph (3) or retired status under paragraph (4).

(3) Administrative change to active status within 60 days of conclusion of judicial service. A former justice or judge on judge status who seeks to resume active status upon conclusion of judicial service shall, within 60 days, submit to the Attorney Registration Office:

(i) a form available through the Attorney Registration Office;

(ii) a notice in writing which shall set forth:

(A) any discipline imposed within six years before the date of the notice upon the justice or judge by the Court of Judicial Discipline; and

(B) any proceeding before the Judicial Conduct Board or the Court of Judicial Discipline settled within six years before the date of the notice on the condition that the justice or judge resign from judicial office or enter a rehabilitation program;

(iii) a waiver available through the Attorney Registration Office and signed by the former justice or judge of the confidentiality of the record in any proceeding disclosed in the notice provided under paragraph (ii), for the limited purpose of making the record available to the Board in any subsequent proceeding under these rules;

(iv) payment of the active annual assessment for the year in which the request for active status is made.

(4) Administrative change to retired status within 60 days of conclusion of judicial service. A former justice or judge on judge status who seeks to assume retired status upon conclusion of judicial service shall, within 60 days, submit to the Attorney Registration Office a form available through that office.

(5) Upon determination by the Attorney Registration Office that the application requirements of paragraph (3) or (4) have been satisfied, the Attorney Registration Office shall process the requested status change.

(6) A former justice or judge on judge status who fails to elect a new registration status within 60 days of concluding judicial service shall be placed on retired status by the Attorney Registration Office.

**Rule 221. Funds of clients and third persons. Mandatory overdraft notification.**

\* \* \* \* \*

(g) The records required to be maintained by Pa.R.P.C. 1.15 shall be readily accessible to the lawyer and available for production to the Pennsylvania Lawyers Fund for Client Security and the Office of Disciplinary Counsel in a timely manner upon request or demand by either agency made pursuant to these Enforcement Rules, the Rules of the Board, the Pennsylvania Lawyers Fund for Client Security Board Rules and Regulations, agency practice, or subpoena.

(1) Upon a request by Disciplinary Counsel under this subdivision (g), which request may take the form of a letter to the respondent-attorney briefly stating the basis for the request and identifying the type and scope of the records sought to be produced, a respondent-attorney must produce the records within ten business days after personal service of the letter on the respondent-attorney or after the delivery of a copy of the letter to an employee, agent or other responsible person at the office of the respondent-attorney as determined by the address furnished by the respondent-attorney in the last registration [ statement ] form filed by the respondent-attorney pursuant to Enforcement Rule [ 219(d) ] 219(c), but if the latter method of service is unavailable, within ten business days after the date of mailing a copy of the letter to the last registered address or addresses set forth on the [ statement ] form.

\* \* \* \* \*

(q) An attorney required to file the registration form under Enforcement Rule 219(a), with the exception of a person holding a Limited In-House Corporate Counsel License under Pennsylvania Bar Admission Rule 302 or a foreign legal consultant license under Pennsylvania Bar Admission Rule 341, shall identify the financial accounts enumerated in paragraphs (1)—(3) during the period from May 1 of the previous year to the date of the filing of the registration form. For each account, the attorney shall provide the name of the Financial Institution, as defined in Pa.R.P.C. 1.15(a)(4), or other bank or investment fund as allowed by Pa.R.P.C. 1.15(k) and (l), its location within or outside the Commonwealth, account number, type of account, and whether the account held funds subject to Pa.R.P.C. 1.15. The attorney shall identify:

(1) all accounts in which the attorney held funds of a client or a third person subject to Pa.R.P.C. 1.15;

Note: See paragraph (r)(1) of this rule for the definition of “funds of a client or a third person subject to Pa.R.P.C. 1.15” and paragraph (r)(2) for exclusions from the definition of “funds of a third person.”

Note: If an attorney employed by a law firm receives fiduciary funds from or on behalf of a client and deposits or causes the funds to be deposited into a law firm account, the attorney must report the account of deposit pursuant to this paragraph (1).

(2) every account not reported under paragraph (1) that held funds of a client or a third person (whether or not subject to Pa.R.P.C. 1.15) over which the attorney had sole or shared signature authority or authorization to transfer funds to or from the account; and

(3) every business operating account maintained or utilized by the attorney in the practice of law.

Note: The type of account shall be identified as an IOLTA Trust Account, see Pa.R.P.C. 1.15(a)(5); Non-IOLTA Trust Account (Interest for Clients), see Pa.R.P.C. 1.15(a)(7), (k), (l); IOLTA-exempt Trust Account (non-interest bearing), see Pa.R.P.C. 1.15(n); other authorized investments or accounts, see Pa.R.P.C. 1.15(k) and (l); or Business/Operating Account, see Pa.R.P.C. 1.15(j).



(r) For purposes of subdivision (q) of this rule, the phrase:

(1) “funds of a client or a third person subject to Pa.R.P.C. 1.15” means funds that belong to a client or third person and that an attorney receives:

(i) in connection with a client-attorney relationship;

(ii) as an escrow agent, settlement agent, representative payee, personal representative, guardian, conservator, receiver, trustee, agent under a durable power of attorney, or other similar fiduciary position;

(iii) as an agent, having been designated as such by a client or having been so selected as a result of a client-attorney relationship or the attorney’s status as such;

(iv) in connection with nonlegal services that are not distinct from legal services;

(v) in connection with nonlegal services that are distinct from legal services, and the attorney knows or reasonably should know that the recipient of the service might believe that the recipient is receiving the protection of a client-attorney relationship; or

(vi) as an owner, controlling party, employee, agent, or as one who is otherwise affiliated with an entity providing nonlegal services and the attorney knows or reasonably should know that the recipient of the service might believe that the recipient is receiving the protection of a client-attorney relationship;

(2) “funds of a third person” shall not include funds held in:

(i) an attorney’s personal account held jointly; or

(ii) a custodial account for a minor or dependent relative unless the source of any account funds is other than the attorney and his or her spouse or spousal equivalent.

**Subchapter C. DISABILITY AND RELATED MATTERS**

**Rule 301. Proceedings where an attorney is declared to be incapacitated or severely mentally disabled.**

\* \* \* \* \*

(c) Where an attorney has been judicially declared incapacitated or involuntarily committed on the grounds of incapacity or severe mental disability, the Supreme Court, upon proper proof of the fact, shall enter an order transferring such attorney to **disability** inactive status effective immediately and for an indefinite period until the further order of the Court. A copy of such order shall be served upon such formerly admitted attorney, the guardian of such person and/or the director of the institution to which such person has been committed in such a manner as the Court may direct. Where an attorney has been transferred to **disability** inactive status by an order in accordance with the provisions of this subdivision and, thereafter, in proceedings duly taken, the person is judicially declared to be competent, the Court upon application may dispense with further evidence that the disability has been removed and may direct reinstatement to active status upon such terms as are deemed proper and advisable.

(d) Whenever the Board shall petition the Court to determine whether an attorney is incapacitated from

continuing the practice of law by reason of mental infirmity or illness or because of addiction to drugs or intoxicants, the Court may take or direct such action as it deems necessary or proper to determine whether the attorney is so incapacitated, including the examination of the attorney by such qualified medical experts as the Court shall designate. If, upon due consideration of the matter, the Court concludes that the attorney is incapacitated from continuing to practice law, it shall enter an order transferring the attorney to **disability** inactive status on the grounds of such disability for an indefinite period and until the further order of the Court. If examination of a respondent-attorney by a qualified medical expert reveals that the respondent lacks the capacity to aid effectively in the preparation of a defense, the Court may order that any pending disciplinary proceeding against the respondent shall be held in abeyance except for the perpetuation of testimony and the preservation of documentary evidence. The order of abatement may provide for re-examinations of the respondent-attorney at specified intervals or upon motion by Disciplinary Counsel. The Court shall provide for such notice to the respondent-attorney of proceedings in the matter as it deems proper and advisable and may appoint an attorney to represent the respondent if the respondent is without adequate representation.

(e) If, during the course of a disciplinary proceeding, the respondent contends that the respondent is suffering from a disability by reason of mental or physical infirmity or illness, or because of addiction to drugs or intoxicants, which makes it impossible for the respondent to prepare an adequate defense, the respondent shall complete and file with the Court a certificate of admission of disability. The respondent shall serve a copy of the certificate on the Board and Disciplinary Counsel. The certificate shall:

(1) identify the precise nature of the disability and the specific or approximate date of the onset or initial diagnosis of the disabling condition;

(2) contain an explanation of the manner in which the disabling condition makes it impossible for the respondent to prepare an adequate defense;

(3) have appended thereto the opinion of at least one medical expert that the respondent is unable to prepare an adequate defense and a statement containing the basis for the medical expert’s opinion; and

(4) contain a statement, signed by the respondent, that all averments of material fact contained in the certificate and attachments are true upon the respondent’s knowledge or information and belief and made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

The respondent may attach to the certificate affidavits, medical records, additional medical expert reports, official records, or other documents in support of the existence of the disabling condition or the respondent’s contention of lack of physical or mental capacity to prepare an adequate defense.

Upon receipt of the certificate, the Court thereupon shall enter an order immediately transferring the respondent to **disability** inactive status until a determination is made of the respondent’s capacity to aid effectively in the preparation of a defense or to continue to practice law in a proceeding instituted in accordance with the provisions of subdivision (d) of this rule unless the Court finds that the certificate does not comply with the requirements of this subdivision, in which case the Court may deny the request for transfer to disability inactive status or enter

any other appropriate order. Before or after the entry of the order transferring the respondent to **disability** inactive status under this subdivision, the Court may, upon application by Disciplinary Counsel and for good cause shown, take or direct such action as the Court deems necessary or proper to a determination of whether it is impossible for the respondent to prepare an adequate defense, including a direction for an examination of the respondent by such qualified medical experts as the Court shall designate. In its discretion, the Court may direct that the expense of such an examination shall be paid by the respondent.

The order transferring the attorney to disability inactive status under this subdivision shall be a matter of public record. The certificate of admission of disability and attachments to the certificate shall not be publicly disclosed or made available for use in any proceeding other than a subsequent reinstatement or disciplinary proceeding except:

- (i) upon order of the Supreme Court;
- (ii) pursuant to an express written waiver by the attorney; or
- (iii) upon a request by the Pennsylvania Lawyers Fund for Client Security Board pursuant to Enforcement Rule 521(a) (relating to cooperation with Disciplinary Board).

If the Court shall determine at any time that the respondent is able to aid effectively in the preparation of a defense or is not incapacitated from practicing law, it shall take such action as it deems proper and advisable including a direction for the resumption of the disciplinary proceeding against the respondent.

(f) The Board shall cause a notice of transfer to **disability** inactive status to be published in the legal journal and a newspaper of general circulation in the county in which the disabled attorney practiced.

(g) The Board shall promptly transmit a certified copy of the order of transfer to **disability** inactive status to the president judge of the court of common pleas of the judicial district in which the disabled attorney practiced and shall request such action under the provisions of Enforcement Rule 321 (relating to appointment of conservator to protect interests of clients of absent attorney) as may be indicated in order to protect the interests of the disabled attorney and the clients of the disabled attorney.

(h) Except as provided in subdivision (c), a disabled attorney may not resume active status until reinstated by order of the Court upon petition for reinstatement pursuant to Rule 218 (relating to reinstatement **proceedings**). A disabled attorney shall be entitled to apply for reinstatement to active status once a year or at such shorter intervals as the Court may direct in the order transferring the respondent to **disability** inactive status or any modification thereof. Such application shall be granted by the Court upon a showing by clear and convincing evidence that the formerly admitted attorney's disability has been removed and such person is fit to resume the practice of law. Upon such application, the Court may take or direct such action as it deems necessary or proper to a determination of whether the formerly admitted attorney's disability has been removed including a direction for an examination of the formerly admitted attorney by such qualified medical experts as the Court shall designate. In its discretion, the Court may direct that the expense of such an examination shall be paid by the formerly admitted attorney.

(i) In a proceeding seeking a transfer to **disability** inactive status under this Rule, the burden of proof shall rest with the Board. In a proceeding seeking an order of reinstatement to active status under this rule, the burden of proof shall rest with the respondent-attorney.

(j) The filing of an application for reinstatement to active status by a formerly admitted attorney transferred to **disability** inactive status [ **because of disability** ] shall be deemed to constitute a waiver of any doctor-patient privilege with respect to any treatment of formerly admitted attorney during the period of disability. The formerly admitted attorney shall be required to disclose the name of every psychiatrist, psychologist, physician and hospital or other institution by whom or in which the formerly admitted attorney has been examined or treated since transfer to **disability** inactive status and shall furnish to the Court written consent to each to divulge such information and records as requested by court appointed medical experts.

(k) As used in this rule, the term "disabled attorney" means an attorney transferred to **disability** inactive status under this rule.

\* \* \* \* \*

**CONSERVATORS FOR INTERESTS OF CLIENTS**

**Rule 321. Appointment of conservator to protect interests of clients of absent attorney.**

(a) Upon application of Disciplinary Counsel or any other interested person with the written concurrence of Disciplinary Counsel, the president judge of a court of common pleas shall have the power to appoint one or more eligible persons to act as conservators of the affairs of an attorney or formerly admitted attorney if:

- (1) the attorney maintains or has maintained an office for the practice of law within the judicial district; and
- (2) any of the following applies:

(i) the attorney is made the subject of an order under Enforcement Rule 208(f) (relating to emergency interim suspension orders and related matters); or

(ii) the president judge of the court of common pleas pursuant to Enforcement Rule 217(g) (relating to formerly admitted attorneys) by order directs Disciplinary Counsel to file an application under this rule; or

(iii) the attorney abandons his or her practice, disappears, dies or is transferred to **disability** inactive status [ **because of incapacity or disability** ]; and

(3) no partner or other responsible successor to the practice of the attorney is known to exist.

\* \* \* \* \*

**Subchapter D. MISCELLANEOUS PROVISIONS**

**Rule 401. Expenses.**

The salaries of the Disciplinary Board employees, their expenses, administrative costs, expenses of the members of the Board and of hearing committees, and expenses and compensation, if any, of special masters shall be paid by the Board out of the funds collected under the provisions of Enforcement Rule 219 (relating to annual registration [ **of attorneys** ] **and assessment**) and Enforcement Rule 208 (relating to **costs and fees**). The Board shall annually obtain an independent audit by a certified public accountant of the funds entrusted to it and their disposition and shall file a copy of such audit with the Court.

**Rule 402. Access to Disciplinary Information and Confidentiality.**

\* \* \* \* \*

(c) Until the proceedings are open under subdivision (a) or (b), all proceedings involving allegations of misconduct by or disability of an attorney shall be kept confidential unless:

(1) the respondent-attorney requests that the matter be public, or waives confidentiality for a particular purpose specified in writing;

(2) the investigation is predicated upon a conviction of the respondent-attorney for a crime or reciprocal discipline;

(3) the proceeding is based on an order of temporary suspension from the practice of law entered by the Court pursuant to Enforcement Rule 208(f)(1) (relating to emergency temporary suspension orders and related relief);

(4) in matters involving alleged disability, the Supreme Court enters its order transferring the respondent-attorney to **disability** inactive status pursuant to Enforcement Rule 301 (relating to proceedings where an attorney is declared to be incompetent or is alleged to be incapacitated); or

(5) there is a need to notify another person or organization, including the Lawyers' Fund for Client Security, in order to protect the public, the administration of justice, or the legal profession.

\* \* \* \* \*

(i) The Board shall transmit notice of all public discipline imposed by the Supreme Court, transfers to or from **disability** inactive status [ **for disability** ], and reinstatements to the National Lawyer Regulatory Data Bank maintained by the American Bar Association.

\* \* \* \* \*

**Rule 403. Emeritus Status.**

\* \* \* \* \*

(g) *Renewal of Emeritus Status.* An emeritus attorney who is registered to provide services under this rule may renew the status on an annual basis.

(1) On or before January 1 of each year, the Attorney Registration Office shall transmit to all emeritus attorneys a notice to register by January 31.

(2) On or before January 31 of each year, emeritus attorneys who seek to renew the status shall pay an annual [ **fee** ] **assessment** of \$35.00 and shall file with the Attorney Registration Office a form prescribed by the Office which shall include the following:

(i) The name, attorney identification number, telephone number, current email and residence address of the attorney, the latter of which shall be an actual street address, a rural route box number, or a post office box number. Upon an attorney's written request submitted to the Attorney Registration Office and for good cause shown, the contact information provided by the attorney will be nonpublic information and will not be published on the Board's website or otherwise disclosed;

(ii) A list of all courts (except courts of this Commonwealth) and jurisdictions in which the attorney has been licensed to practice law, with the current status thereof;

(iii) Prior disciplinary record in other jurisdictions;

(iv) Verification that the attorney is authorized solely to provide pro bono services to eligible legal aid organizations;

(v) Verification that the attorney is not permitted to handle client funds;

(vi) Verification that the attorney will neither ask for nor receive compensation of any kind for the legal services authorized under this rule;

(3) Failure to file the annual [ **fee** ] **registration** form and pay the annual [ **fee** ] **assessment** by January 31 shall result in the transfer to retired status.

(h) An emeritus attorney seeking to resume active status should refer to the procedures **under** [ **provided for in** ] Enforcement Rule 218(d) [ **and (h)** ] **or 219(h)(3), as applicable.**

\* \* \* \* \*

**Subchapter E. PENNSYLVANIA LAWYERS FUND FOR CLIENT SECURITY  
GENERAL PROVISIONS**

**Rule 502. Pennsylvania Lawyers Fund for Client Security.**

\* \* \* \* \*

(b) *Additional fee.*—Every attorney who is required to pay an active annual [ **fee** ] **assessment** under Rule 219 (relating to annual registration [ **of attorneys** ] **and assessment**) shall pay an additional annual [ **fee** ] **assessment** of \$50.00 for use by the Fund. Such additional [ **fee** ] **assessment** shall be added to, and collected with and in the same manner as, the basic annual [ **fee** ] **assessment**. All amounts received pursuant to this subdivision shall be credited to the Fund.

\* \* \* \* \*

**PAYMENT OF CLAIMS**

**Rule 521. Investigation and payment of claims.**

\* \* \* \* \*

(b) *Hearing committees.* The Board may utilize a hearing committee to conduct any hearings under this subchapter for the purpose of resolving factual issues. Imposition of discipline under Rule 204 (relating to types of discipline) or otherwise shall not be a prerequisite for favorable action by the Board with respect to a claim against the Fund, but the Covered Attorney involved shall be given notice of and an opportunity to contest any claim made with respect to his or her alleged Dishonest Conduct. Notice mailed to the Covered Attorney at the address of record with Attorney Registration per Rule of Disciplinary Enforcement 219 (relating to annual registration [ **of attorneys** ] **and assessment**) shall satisfy this notice requirement.

\* \* \* \* \*

**REINSTATEMENT**

**Rule 531. Restitution a condition for reinstatement.**

The Board shall file with the Supreme Court a list containing the names of all formerly admitted attorneys with respect to the Dishonest Conduct of which the Board has made unrecovered disbursements from the Fund. No person will be reinstated by the Supreme Court under Rule 218 (relating to reinstatement **proceedings**), Rule 219 (relating to [ **annual registration of attorneys** ] **administrative changes in status**), Rule 301(h) (relating to proceedings where an attorney is declared to be incapacitated or severely mentally disabled), Pennsylvania Rules of Continuing Legal Education[ , ] Rule 111(b)

(relating to noncompliance with continuing legal education rules) or who has been suspended from the practice of law for any period of time, including, but not limited to suspensions under Rule 208(f) (relating to emergency temporary suspension) and [ 219(f) ] 219(g) (relating to administrative suspension) until the Fund has been repaid in full, plus 10% per annum interest, for all disbursements made from the Fund with respect to the Dishonest Conduct of such person.

[Pa.B. Doc. No. 22-225. Filed for public inspection February 11, 2022, 9:00 a.m.]

**Title 204—JUDICIAL SYSTEM  
GENERAL PROVISIONS**

**PART V. PROFESSIONAL ETHICS AND CONDUCT  
[ 204 PA. CODE CH. 82 ]**

**Order Amending Rules 106 and 108 of the Pennsylvania Rules for Continuing Legal Education and Approving Amendments to Regulations §§ 1, 5 and 13 of the Continuing Legal Education Board Regulations; No. 905 Supreme Court Rules Docket**

**Order**

*Per Curiam*

And Now, this 31st day of January, 2022, pursuant to Article V, Section 10 of the Constitution of Pennsylvania, It Is Ordered that:

A. Rules 106 and 108 of the Pennsylvania Rules for Continuing Legal Education are amended in the attached form;

B. Revisions to Regulations §§ 1, 5 and 13 of the Pennsylvania Continuing Legal Education Board Regulations are approved in the attached form.

This Order shall be processed in accordance with Pa.R.J.A. 103(b) and shall be effective immediately.

Additions are shown in bold and are underlined.

Deletions are shown in bold and in brackets.

**Annex A**

**TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS**

**PART V. PROFESSIONAL ETHICS AND CONDUCT**

**Subpart A. PROFESSIONAL RESPONSIBILITY**

**CHAPTER 82. CONTINUING LEGAL EDUCATION**

**Subchapter A. PROFESSIONAL RESPONSIBILITY**

**Rule 106. Providers.**

\* \* \* \* \*

(c) *Minimum Standards for Providers.*

1. A provider shall be an organization engaged in CLE which, during the two (2) years immediately preceding its application has sponsored at least five (5) separate courses which would comply with the requirements for course approval under these rules. A provider may be an ABA accredited law school or a bar association or **Board approved legal service organization** within the Commonwealth of Pennsylvania.

\* \* \* \* \*

**Rule 108. Credit for Continuing Legal Education Courses and Activity.**

\* \* \* \* \*

**(f) Pro Bono CLE.**

**The number of credits earned by providing approved pro bono service that may be applied to the annual compliance requirement shall not exceed three (3).**

**Subchapter B. CONTINUING LEGAL EDUCATION BOARD REGULATIONS**

**Section 1. Definitions.**

\* \* \* \* \*

**“Accredited Pro Bono CLE Provider”. A legal service provider accredited by the Board in accordance with the rules and regulations.**

\* \* \* \* \*

**Section 5. Credit for CLE Activities.**

\* \* \* \* \*

(c) *Carry Forward Credits.* A lawyer may carry forward a balance of credit hours in excess of the current annual CLE requirement for the next two (2) succeeding years. No more than two (2) times the current annual CLE requirement may be carried forward into the two (2) succeeding years. CLE credits for ethics, professionalism or substance abuse may be applied as provided in Section 3(d). **Distance Learning credits may be applied as provided in Section 13(n). Pro bono credits may be applied as provided in Section 13(o).**

\* \* \* \* \*

**(i) CLE for Pro Bono.**

**1. The CLE Board may allow one (1) CLE credit hour for every (5) hours of pro bono legal service performed, up to a maximum of three (3) credit hours per compliance period.**

**2. Organizations eligible for accreditation as a Pro Bono CLE Provider:**

**a. An organization that receives funding from the Pennsylvania Legal Aid Network (PLAN) or the Pennsylvania Interest on Lawyers Trust Accounts Board (IOLTA).**

**b. A non-profit organization with a partnership or referral relationship with PLAN or IOLTA or project that receives funding.**

**Section 13. Standards for Approved CLE Activities.**

All CLE activities approved for credit shall meet the following standards:

\* \* \* \* \*

**(o) Credit for Pro Bono Legal Service may be approved for credit in accordance with standards determined by the Board:**

**a. Credit may only be earned for pro bono service that is assigned, verified and reported by an Accredited Pro Bono CLE Provider.**

**b. CLE credit may be received when services are performed for a person of limited means or charitable organization.**

**c. Credits earned through pro bono service in excess of the annual credit limit will not carry forward into subsequent compliance periods.**

[Pa.B. Doc. No. 22-226. Filed for public inspection February 11, 2022, 9:00 a.m.]

## Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

### PART V. PROFESSIONAL ETHICS AND CONDUCT

#### [ 204 PA. CODE CH. 83 ]

**Proposed Amendment to Pennsylvania Rule of Disciplinary Enforcement 208(f) to Allow Disciplinary Counsel to Request and the Court to Issue a Rule Upon a Temporarily Suspended Respondent-Attorney to Show Cause Why He or She Should Not Be Disbarred When the Respondent-Attorney Has Been on Temporary Suspension for More than Two Years, a Formal Proceeding Has Not Been Commenced, and Disciplinary Counsel Demonstrates Post-Suspension Factors that Warrant Disbarment.**

Notice is hereby given that The Disciplinary Board of the Supreme Court of Pennsylvania (“Disciplinary Board”) is considering recommending to the Pennsylvania Supreme Court (“Court”) that the Court amend Rule 208(f) of the Pennsylvania Rules of Disciplinary Enforcement (“Enforcement Rules”) by adding paragraphs (8) and (9), as set forth in Annex A. The intent of the amendment is that the disciplinary system dispense with the requirement of a formal proceeding in order to achieve final discipline when one or more enumerated facts or circumstances, as identified in the proposed rule, have occurred after the entry of the order of temporary suspension and are of such gravity that the disciplinary system is justified in assigning to the respondent-attorney the ultimate burden of convincing the Court that the respondent-attorney should not be disbarred from the legal profession at that time. Disciplinary Counsel will not be able to employ this procedure unless the respondent-attorney has had at least two years to satisfactorily remediate the situation that resulted in the order of temporary suspension. The proposal places the initial burden on Disciplinary Counsel to demonstrate facts that warrant the Court’s issuance of the rule to show cause and gives the respondent-attorney the opportunity to submit a response to the rule within thirty days.

The current proposal does not affect the rights conferred by paragraphs (f)(4) and (f)(6) of current Enforcement Rule 208. Paragraph (f)(4) gives a temporarily suspended attorney the right at any time to petition the Court for dissolution or modification of the order of temporary suspension. Paragraph (f)(6) gives the temporarily suspended attorney the right to request an accelerated disposition of the charges which formed the basis for the temporary suspension.

Some temporarily suspended attorneys make a legitimate effort to resolve pending disciplinary matters with a view to restoring their ability to practice law as soon as reasonably possible or at some other time in the future. Proposed paragraphs (f)(8) and (9) are intended to address those situations where the respondent-attorney, after the entry of the order of temporary suspension: fails to cooperate with Disciplinary Counsel to resolve pending disciplinary matters; shows disrespect or disdain toward the disciplinary system or defiance and contempt for the authority of the Court; or exhibits no interest in restoring his or her license to practice law. Such post-suspension aggravators could include the respondent-attorney’s:

- failure to comply with conditions imposed in the order of temporary suspension or with the requirements of Enforcement Rule 217.

- conduct that materially delays or obstructs Disciplinary Counsel’s ability to fully investigate the allegations of misconduct that formed the basis for the order of temporary suspension, or any other investigation or proceeding pending against the respondent-attorney.

- failure to respond to a DB-7 letter or subpoena or otherwise provide information or records.

- disappearance or efforts to evade disciplinary authorities, thereby preventing Disciplinary Counsel, despite reasonably diligent efforts, from contacting the respondent-attorney and establishing actual service of notices or other process at the respondent-attorney’s last known addresses.

- disappearance or inertia that requires the appointment of a conservator to protect the interests of the respondent-attorney’s clients or their funds, or both.

- failure to participate in proceedings before the Pennsylvania Lawyers Fund for Client Security resulting in an award.

When a respondent-attorney is recalcitrant or disappears during the early stages of Disciplinary Counsel’s investigation into the respondent-attorney’s misconduct, Disciplinary Counsel is often faced with the prospect of moving forward with formal charges on a case that is less-than-fully investigated, which may allow the respondent-attorney to avoid a discipline that might be enhanced if the investigation were complete. At times, the lack of active participation by the respondent-attorney leaves a record with no explanation (or a speculative one) of the reason for the misconduct or the respondent-attorney’s absence, or both. In any event, Disciplinary Counsel should not be faced with the choice of allowing a case to remain in limbo indefinitely or moving forward on less than a complete investigation, nor should the disciplinary system be forced to devote its limited resources to pursuing formal charges in cases where the respondent-attorney has shown no interest for more than two years in retaining his or her privilege of practicing law in the Commonwealth. Additionally, the proposed amendments would advance the disciplinary system’s goal of deterrence, in that the amendments would signal to respondent-attorneys who are suspended on an interim basis that the failure to comply with post-suspension professional obligations, or engaging in obstructionist conduct to impede pending investigations or proceedings, will not be tolerated. The current proposal supports the Board’s compelling interest in fostering efficiency within the disciplinary system while simultaneously advancing its goals.

Interested persons are invited to submit written comments by mail or facsimile regarding the proposed amendments to the Executive Office, The Disciplinary Board of the Supreme Court of Pennsylvania, 601 Commonwealth Avenue, Suite 5600, PO Box 62625, Harrisburg, PA 17106-2625, Facsimile number (717-231-3381), Email address [Dboard.comments@pacourts.us](mailto:Dboard.comments@pacourts.us) on or before March 14, 2022.

*By The Disciplinary Board of the  
Supreme Court of Pennsylvania*

JESSE G. HEREDA,  
*Executive Director*

## Annex A

## TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

## PART V. PROFESSIONAL ETHICS AND CONDUCT

## Subpart B. DISCIPLINARY ENFORCEMENT

## CHAPTER 83. PENNSYLVANIA RULES OF DISCIPLINARY ENFORCEMENT

## Subchapter B. MISCONDUCT

## Rule 208. Procedure.

\* \* \* \* \*

(f) *Emergency temporary suspension orders and related relief.*

(1) Disciplinary Counsel, with the concurrence of a reviewing member of the Board, whenever it appears by an affidavit demonstrating facts that the continued practice of law by a person subject to these rules is causing immediate and substantial public or private harm because of the misappropriation of funds by such person to his or her own use, or because of other egregious conduct, in manifest violation of the Disciplinary Rules or the Enforcement Rules, may petition the Supreme Court for injunctive or other appropriate relief. A copy of the petition shall be personally served upon the respondent-attorney by Disciplinary Counsel. If Disciplinary Counsel cannot make personal service after reasonable efforts to locate and serve the respondent-attorney, Disciplinary Counsel may serve the petition by delivering a copy to an employee, agent or other responsible person at the office of the respondent-attorney, and if that method of service is unavailable, then by mailing a copy of the petition by regular and certified mail addressed to the addresses furnished by the respondent-attorney in the last registration statement filed by the respondent-attorney pursuant to Rule 219(d). Service is complete upon delivery or mailing, as the case may be. The Court, or any justice thereof, may enter a rule directing the respondent-attorney to show cause why the respondent-attorney should not be placed on temporary suspension, which rule shall be returnable within ten days. The Court, or any justice thereof, may, before or after issuance of the rule, issue:

(i) such orders to the respondent-attorney, and to such financial institutions or other persons as may be necessary to preserve funds, securities or other valuable property of clients or others which appear to have been misappropriated or mishandled in manifest violation of the Disciplinary Rules;

(ii) an order directing the president judge of the court of common pleas in the judicial district where the respondent-attorney maintains his or her principal office for the practice of law or conducts his or her primary practice, to take such further action and to issue such further orders as may appear necessary to fully protect the rights and interests of the clients of the respondent-attorney when:

(A) the respondent-attorney does not respond to a rule to show cause issued after service of the petition pursuant to subdivision (f)(1); or

(B) Disciplinary Counsel's petition demonstrates cause to believe that the respondent-attorney is unavailable to protect the interests of his or her clients for any reason, including the respondent-attorney's disappearance, abandonment of practice, incarceration, or incapacitation from

continuing the practice of law by reason of mental infirmity or illness or because of addiction to drugs or intoxicants.

Where the Court enters an order under (f)(1)(ii), the Board shall promptly transmit a certified copy of the order to the president judge, whose jurisdiction and authority under this rule shall extend to all client matters of the respondent-attorney.

Where the Court enters an order under (f)(1)(i) or (ii) before the issuance of a rule or before the entry of an order of temporary suspension under paragraph (f)(2), the Court Prothonotary shall serve a certified copy of the Court's order on the respondent-attorney by regular mail addressed to the address furnished by the respondent-attorney in the last registration statement filed by the respondent-attorney and to an address where the respondent-attorney is located if that address is known.

(2) If a rule to show cause has been issued under paragraph (1), and the period for response has passed without a response having been filed, or after consideration of any response, the Court may enter an order requiring temporary suspension of the practice of law by the respondent-attorney pending further definitive action under these rules.

(3) Any order of temporary suspension which restricts the respondent-attorney from maintaining an attorney or other trust account shall, when served on any bank or other financial institution maintaining an account against which the respondent-attorney may make withdrawals, serve as an injunction to prevent the financial institution from making further payment from the account on any obligation except in accordance with restrictions imposed by the Court. Any order of temporary suspension issued under this rule shall preclude the respondent-attorney from accepting any new cases or other client matters, but shall not preclude the respondent-attorney from continuing to represent existing clients on existing matters during the 30 days following entry of the order of temporary suspension. Such order may also provide that any fees or portion thereof tendered to the respondent-attorney during such 30-day period shall be deposited into a trust fund from which withdrawals may be made only in accordance with restrictions imposed by the Court.

(4) The respondent-attorney may at any time petition the Court for dissolution or amendment of an order of temporary suspension. A copy of the petition shall be served upon Disciplinary Counsel and the Board. A hearing on the petition before a member of the Board designated by the Chair of the Board shall be held within ten business days after service of the petition on the Board. The designated Board member shall hear the petition and submit a transcript of the hearing and a recommendation to the Court within five business days after the conclusion of the hearing. Upon receipt of the recommendation of the designated Board member and the record relating thereto, the Court shall dissolve or modify its order, if appropriate.

(5) The Board on its own motion, or upon the petition of Disciplinary Counsel, may issue a rule to show cause why the respondent-attorney should not be placed on temporary suspension whenever it appears that the respondent-attorney has disregarded an applicable provision of the Enforcement Rules, failed to maintain or produce the records required to be maintained and produced under Pa.R.P.C. 1.15(c) and subdivisions (e) and (g) of Enforcement Rule 221 in response to a request or

demand authorized by Enforcement Rule 221(g) or any provision of the Disciplinary Board Rules, failed to comply with a valid subpoena or engaged in other conduct that in any such instance materially delays or obstructs the conduct of a proceeding under these rules. The rule to show cause shall be returnable within ten days. If the response to the rule to show cause raises issues of fact, the Board Chair may direct that a hearing be held before a member of the Board who shall submit a report to the Board upon the conclusion of the hearing. If the period for response to the rule to show cause has passed without a response having been filed, or after consideration of any response and any report of a Board member following a hearing under this paragraph, the Board may recommend to the Supreme Court that the respondent-attorney be placed on temporary suspension. The recommendation of the Board shall be reviewed by the Supreme Court as provided in subdivision (e) of this rule, although the time for either party to file with the Court a petition for review of the recommendation or determination of the Board shall be fourteen days after the entry of the Board's recommendation or determination, and any answer or responsive pleading shall be filed within ten days after service of the petition for review.

(6) A respondent-attorney who has been temporarily suspended pursuant to this rule for conduct described in paragraph (1), or pursuant to the procedures of paragraph (5) where a formal proceeding has not yet been commenced shall have the right to request an accelerated disposition of the charges which form the basis for the temporary suspension by filing a notice with the Board and Disciplinary Counsel requesting accelerated disposition. Within 30 days after filing of such a notice, Disciplinary Counsel shall file a petition for discipline under subdivision (b) of this rule and the matter shall be assigned to a hearing committee for accelerated disposition. Thereafter the matter shall proceed and be concluded by the hearing committee, the Board and the Court without appreciable delay. If a petition for discipline is not timely filed under this paragraph, the order of temporary suspension shall be automatically dissolved, but without prejudice to any pending or further proceedings under this rule.

(7) A proceeding involving a respondent-attorney who has been temporarily suspended pursuant to this rule at a time when a formal proceeding has already been commenced shall proceed and be concluded without appreciable delay.

(*Editor's Note:* Pa.R.D.E. 208 as printed in 204 Pa. Code reads "Official Note" rather than "Note.")

*Note:* The "without appreciable delay" standard of subdivisions (f)(6) and (7) of the rule is derived from *Barry v. Barchi*, 443 U.S. 55, 66 (1979). Appropriate steps should be taken to satisfy this requirement, such as continuous hearing sessions, procurement of daily transcript, fixing of truncated briefing schedules, conducting special sessions of the Board, etc.

**(8) Where a respondent-attorney has been temporarily suspended pursuant to paragraph (1) or paragraph (5) and more than two years have passed without the commencement of a formal proceeding, and it appears by an affidavit demonstrating facts that:**

**(i) the respondent-attorney has not complied with conditions imposed in the order of temporary suspension or with the requirements of Enforcement Rule 217;**

**(ii) the order of temporary suspension was based, in whole or in part, on the respondent-attorney's failure to provide information or records, and the respondent-attorney has not provided the information or records, or otherwise cured the deficiency;**

**(iii) the respondent-attorney has engaged in post-suspension conduct, by act or omission, that materially delays or obstructs Disciplinary Counsel's ability to fully investigate allegations of misconduct against the respondent-attorney;**

**(iv) the respondent-attorney's whereabouts are unknown, in that despite reasonably diligent efforts, Disciplinary Counsel has not been able to contact or locate the respondent-attorney for information or to serve notices or other process at the address provided by the respondent-attorney in the verified statement required by Enforcement Rule 217(e)(1) or at any other known addresses that might be current;**

**(v) a conservatorship of the affairs of the respondent-attorney has been appointed pursuant to Enforcement Rule 321; or**

**(vi) the respondent-attorney has not participated in proceedings before the Pennsylvania Lawyers Fund for Client Security in which an adjudicated claim has resulted in an award,**

**Disciplinary Counsel may petition the Court for the issuance of a rule to show cause why an order of disbarment should not be entered. The provisions of paragraph (1) apply to service of the petition upon the respondent-attorney by Disciplinary Counsel. Upon the filing by Disciplinary Counsel of an affidavit establishing compliance with the service requirements of paragraph (1), the Court may enter a rule directing the respondent-attorney to show cause why the respondent-attorney should not be disbarred, which rule shall be returnable within thirty days. The respondent-attorney shall serve a copy of any response on Disciplinary Counsel, who shall have fourteen days after receipt to file a reply.**

**(9) If a rule to show cause has been issued under paragraph (8), and the period for response has passed without a response having been filed, or after consideration of any responses, the Court may enter an order disbarring the respondent-attorney from the practice of law, discharging the rule to show cause, or directing such other action as the Court deems appropriate.**

(g) *Costs.*—

(1) The Supreme Court in its discretion may direct that the necessary expenses incurred in the investigation and prosecution of a proceeding which results in the imposition of discipline shall be paid by the respondent-attorney. All expenses taxed under this paragraph pursuant to orders of suspension that are not stayed in their entirety or disbarment shall be paid by the respondent-attorney within 30 days after notice transmitted to the respondent-attorney of taxed expenses. In all other cases, expenses taxed under this paragraph shall be paid by the respondent-attorney within 30 days of entry of the order taxing the expenses against the respondent-attorney.

\* \* \* \* \*

[Pa.B. Doc. No. 22-227. Filed for public inspection February 11, 2022, 9:00 a.m.]

## Title 255—LOCAL COURT RULES

### GREENE COUNTY

#### Designation of a Central Location for Holding Certain Preliminary Hearings in Court Cases; C.A. No. 1 of 2022

##### Administrative Order

#### Designation of a Central Location for Holding Certain Preliminary Hearings in Court Cases

*And Now*, this 27th day of January, 2022, due to the relatively large geographic area of the 13th Judicial District and for the fair and efficient administration of justice, it is the opinion of this Court that the administration of justice may be more expeditiously accomplished by the establishment of a new central place, within the Judicial District, for conducting certain preliminary hearings in court cases in which the Authorities of the various Magisterial Districts shall have jurisdiction.

*Wherefore*, it is the Order of this Court that, effective April 1, 2022, and continuing until further Order of Court, a Courtroom on the 1st floor of the Greene County Courthouse, located at 10 East High Street, Waynesburg, Pennsylvania, is hereby designated as the place for conducting certain preliminary hearings within the 13th Judicial District of Pennsylvania; the same shall be known as the “Central Court of Greene County” (Central Court).

Pending further Order of the Court, only a certain category of cases shall be heard by the Central Court of Greene County. This Court may, from time to time, enter Orders expanding the parameters of the Central Court consistent with the administration of justice.

Pending further Order of the Court, any criminal complaint that includes a charge of Driving Under the Influence of Alcohol and/or Controlled Substances, and is initiated by summons pursuant to the Pennsylvania Rules of Criminal Procedure, shall be heard in Central Court by the District Judge presiding over Central Court. All criminal complaints that include Driving Under the Influence shall be filed in the District Court with appropriate jurisdiction. Upon the filing of the criminal complaint as described above, the issuing authority shall then schedule the matter for a preliminary hearing in the Central Court. The issuing authority shall schedule the preliminary hearing at the next available Central Court date with at least forty-five (45) days notice.

The Central Court shall convene for the holding of preliminary hearings at 9:00 a.m. on the third Wednesday of each month, unless such day shall be a legal holiday, in which event the regular session of Central Court for that month shall convene at 9:00 a.m. on the Thursday immediately following such holiday. Special sessions of said Central Court may be scheduled for other days (of the month) as the need arises.

This Court shall provide for the assignment of Magisterial District Judges to preside at said Central Court, and also shall establish from time to time such procedures for the Central Court as the needs of justice and the efficient administration thereof may require.

The Magisterial District Justices, when assigned to preside at Central Court, shall exercise all powers given to Magisterial District Judges by the laws of this Commonwealth and the Rules of Criminal Procedure promulgated by the Supreme Court of Pennsylvania.

District Court Administration, acting through the Central Court Manager, shall exercise administrative control over the operation of Central Court, and shall supervise and administer the operation of the same.

The Central Court shall have a new designation as Court 13-3-00. Criminal Complaints initiated by an arrest (with or without a warrant) shall continue to be heard by the issuing authority in the Court in which the complaint has been filed. Pending further order of the Court, criminal complaints that are initiated by summons that do not include a charge of Driving Under the Influence shall continue to be heard at the District Court of the issuing authority.

This Order shall be adopted by the local rule. This rule will be designated “G131-ESTABLISHMENT OF CENTRAL COURT.”

*Further*, the District Court Administrator shall file the original of this order with the Prothonotary.

*So Ordered and Decreed*

*By the Court*

LOUIS DAYICH,  
*President Judge*

#### Local Rule G131. Establishment of Central Court.

Due to the relatively large geographic area of the 13th Judicial District and for the fair and efficient administration of justice, it is the opinion of this Court that the administration of justice may be more expeditiously accomplished by the establishment of a new central place, within the Judicial District, for conducting certain preliminary hearings in court cases in which the Authorities of the various Magisterial Districts shall have jurisdiction.

1. *Wherefore*, it is the Order of this Court that, effective April 1, 2022, and continuing until further Order of Court, a Courtroom on the 1st floor of the Greene County Courthouse, located at 10 East High Street, Waynesburg, Pennsylvania, is hereby designated as the place for conducting certain preliminary hearings within the 13th Judicial District of Pennsylvania; the same shall be known as the “Central Court of Greene County” (Central Court).

2. Pending further Order of the Court, only a certain category of cases shall be heard by the Central Court of Greene County. This Court may, from time to time, enter Orders expanding the parameters of the Central Court consistent with the administration of justice.

3. Pending further Order of the Court, any criminal complaint that includes a charge of Driving Under the Influence of Alcohol and/or Controlled Substances, and is initiated by summons pursuant to the Pennsylvania Rules of Criminal Procedure, shall be heard in Central Court by the District Judge presiding over Central Court. All criminal complaints that include Driving Under the Influence shall be filed in the District Court with appropriate jurisdiction. Upon the filing of the criminal complaint as described above, the issuing authority shall then schedule the matter for a preliminary hearing in the Central Court. The issuing authority shall schedule the preliminary hearing at the next available Central Court date with at least forty-five (45) days notice.

4. The Central Court shall convene for the holding of preliminary hearings at 9:00 a.m. on the third Wednesday of each month, unless such day shall be a legal holiday, in which event the regular session of Central Court for that month shall convene at 9:00 a.m. on the Thursday



immediately following such holiday. Special sessions of said Central Court may be scheduled for other days (of the month) as the need arises.

5. This Court shall provide for the assignment of Magisterial District Judges to preside at said Central Court, and also shall establish from time to time such procedures for the Central Court as the needs of justice and the efficient administration thereof may require.

6. The Magisterial District Justices, when assigned to preside at Central Court, shall exercise all powers given to Magisterial District Judges by the laws of this Commonwealth and the Rules of Criminal Procedure promulgated by the Supreme Court of Pennsylvania.

7. District Court Administration, acting through the Central Court Manager, shall exercise administrative control over the operation of Central Court, and shall supervise and administer the operation of the same.

8. The Central Court shall have a new designation as Court 13-3-00. Criminal Complaints initiated by an arrest (with or without a warrant) shall continue to be heard by the issuing authority in the Court in which the complaint has been filed. Pending further order of the Court, criminal complaints that are initiated by summons that do not include a charge of Driving Under the Influence shall continue to be heard at the District Court of the issuing authority.

9. This local rule shall become effective thirty (30) days from its publication in the *Pennsylvania Bulletin*.

[Pa.B. Doc. No. 22-228. Filed for public inspection February 11, 2022, 9:00 a.m.]

## Title 255—LOCAL COURT RULES

### LACKAWANNA COUNTY

#### Adoption of Local Rules of Juvenile Court Procedure; 2022 MD 45

##### Order

*And Now*, this 1st day of February, 2022, *It Is Hereby Ordered and Decreed* as follows:

1. The following Lackawanna County Local Rules are *Hereby Adopted* pursuant to Pa.R.J.C.P. 205 and Pa.R.J.C.P. 1205 effective March 14, 2022.

2. The adopted Local Rules shall be disseminated and published in the following manner:

One (1) certified copy of the adopted Local Rules shall be filed with the Administrative Office of the Pennsylvania Courts;

The adopted Local Rules shall be distributed to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*;

A copy of the adopted Local Rules shall be published on the Unified Judicial System's website through the Pennsylvania Judiciary's Web Application Portal;

The adopted Local Rules shall be kept continuously available for the public inspection and copying in the Office of the Clerk of Judicial Records, Family Court Juvenile Delinquency Division and Family Court Dependency Division, and upon request and payment of reasonable costs of reproduction and mailing, the Clerk of Judicial Records shall furnish to any requesting person a copy of the requested Local Rule; and

The adopted Local Rules shall be distributed to the Lackawanna Bar Association for publication on the website of the Lackawanna Bar Association.

The adopted Local Rules shall be published on the website of the Lackawanna County Court of Common Pleas.

*By the Court*

PATRICIA CORBETT,  
*President Judge*

#### Rule 205. Electronic Filing and Service of Legal Papers.

##### (A) *General Scope and Purpose of this Rule.*

In agreement with the Administrative Office of Pennsylvania Courts, the electronic filing of legal papers in Lackawanna County Court of Common Pleas, 45th Judicial District, is hereby authorized in accordance with Pa.R.J.C.P. 205 and this Rule. The applicable general rules of court and court policies that implement the rules shall continue to apply to all filings regardless of the method of filing.

(B) *Legal Papers Defined.* The legal Papers which shall be filed electronically shall encompass all written motions, written answers, and any notices or documents for which filings are required or permitted, including orders, copies of exhibits, and attachments except for the following:

1. Applications for search warrants;
2. Applications for arrest warrants;
3. Exhibits offered into evidence, whether or not admitted, in a court proceedings; and
4. Submissions filed ex parte as authorized by law.

(C) All attorneys shall establish a PACFile account using the United Judicial System of Pennsylvania Web Portal at <http://ujportal.pacourts.us/MyServices.aspx> and participation is permissive. Parties who are proceeding without counsel are not required to establish a PACFile account and are not required to file legal papers using the electronic PACFile system.

(D) Applicable filing fees shall be paid electronically through procedures established by the Clerk of Court and at the same time and in the same amount as required by statute, court rule, or order, or established by a published fee schedule.

##### (E) *Service.*

1. Upon submission of a legal paper for electronic filing, the PACFile system shall provide an electronic notification to other parties and attorneys to the case who are participating in electronic filing that the legal paper has been submitted. This notification upon submission shall satisfy the service requirements of Rules 167(B) and 345(B) on any attorney or party who has established a system account.

2. Service of electronic filings on any attorney or party who has not established a UJS web portal account or who is unable to file or receive legal papers electronically or otherwise unable to access the system shall be made by the procedures provided under Rules 167(B) and 345(B).

3. Attorney or self-represented parties who are unable or unwilling to participate in electronic filing of documents are permitted to file and serve the legal papers in a physical paper format.

4. Where an electronic filing cannot be submitted to no fault of the filing party, traditional filing shall be accepted.

(F) *Legal Papers Filed in a Paper Format.* Any legal paper submitted for filing to the Clerk of Courts in a paper (or “hard-copy”) format shall be accepted by the Clerk of Courts in that format and shall be retained by the Clerk of Courts as may be required by rules of Court and record retention policies. The Clerk of Courts shall convert such hard-copy legal paper to PDF and add it to the system, except those legal papers excluded from electronic filing pursuant to Pa.R.J.C.P. 205(C). Once converted to PDF, the PDF version of the legal paper shall be deemed and treated as the original legal paper and may be used by the parties and the Court for all purposes, including but not limited to, court hearings and trials.

(G) *Confidential Information.* Counsel and unrepresented parties must adhere to the Public Access Policy of the Unified Judicial System of Pennsylvania and refrain from including confidential information in legal papers filed with the Clerk of Courts or the Court whether filed electronically or in paper format. Counsel and unrepresented parties must include confidential information relevant to the case on the approved AOPC Confidential Information Form. The Confidential Information shall be served on and made available to the parties to the case, the Court, and appropriate Court staff, as provided in the Public Access Policy. This Rule shall be effective (30) days from date of publication.

**Rule 1205. Electronic Filing and Service of Legal Papers.**

(A) *General Scope and Purpose of this Rule.*

In agreement with the Administrative Office of Pennsylvania Courts, the electronic filing of legal papers in Lackawanna County Court of Common Pleas, 45th Judicial District, is hereby authorized in accordance with Pa.R.J.C.P. 1205 and this Rule. The applicable general rules of court and court policies that implement the rules shall continue to apply to all filings regardless of the method of filing.

(B) *Legal Papers Defined.* The legal Papers which shall be filed electronically shall encompass all written motions, written answers, and any notices or documents for which filings are required or permitted, including orders, copies of exhibits, and attachments except for the following:

1. Submissions filed ex parte as authorized by law; and
2. Exhibits offered into evidence, whether or not admitted, in a court proceedings.

(C) All attorneys shall establish a PACFile account using the United Judicial System of Pennsylvania Web Portal at <http://ujportal.pacourts.us/MyServices.aspx> and participation is permissive. Parties who are proceeding without counsel are not required to establish a PACFile account and are not required to file legal papers using the electronic PACFile system.

(D) Applicable filing fees shall be paid electronically through procedures established by the Clerk of Court and at the same time and in the same amount as required by statute, court rule, or order, or established by a published fee schedule.

(E) *Service.*

1. Upon submission of a legal paper for electronic filing, the PACFile system shall provide an electronic notification to other parties and attorneys to the case who are participating in electronic filing that the legal paper has been submitted. This notification upon submission shall satisfy the service requirements of Rules 1167(B) and 1345(B) on any attorney or party who has established a system account.

2. Service of electronic filings on any attorney or party who has not established a UJS web portal account or who is unable to file or receive legal papers electronically or otherwise unable to access the system shall be made by the procedures provided under Rules 1167(B) and 1345(B).

3. Attorney or self-represented parties who are unable or unwilling to participate in electronic filing of documents are permitted to file and serve the legal papers in a physical paper format.

4. Where an electronic filing cannot be submitted to no fault of the filing party, traditional filing shall be accepted.

(F) *Legal Papers Filed in a Paper Format.* Any legal paper submitted for filing to the Clerk of Courts in a paper (or “hard-copy”) format shall be accepted by the Clerk of Courts in that format and shall be retained by the Clerk of Courts as may be required by rules of Court and record retention policies. The Clerk of Courts shall convert such hard-copy legal paper to PDF and add it to the system, except those legal papers excluded from electronic filing pursuant to Pa.R.J.C.P. 1205(C). Once converted to PDF, the PDF version of the legal paper shall be deemed and treated as the original legal paper and may be used by the parties and the Court for all purposes, including but not limited to, court hearings and trials.

(G) *Confidential Information.* Counsel and unrepresented parties must adhere to the Public Access Policy of the Unified Judicial System of Pennsylvania and refrain from including confidential information in legal papers filed with the Clerk of Courts or the Court whether filed electronically or in paper format. Counsel and unrepresented parties must include confidential information relevant to the case on the approved AOPC Confidential Information Form. The Confidential Information shall be served on and made available to the parties to the case, the Court, and appropriate Court staff, as provided in the Public Access Policy. This Rule shall be effective (30) days from date of publication.

[Pa.B. Doc. No. 22-229. Filed for public inspection February 11, 2022, 9:00 a.m.]

# RULES AND REGULATIONS

## Title 34—LABOR AND INDUSTRY

### DEPARTMENT OF LABOR AND INDUSTRY

#### [ 34 PA. CODE CHS. 401 AND 403 ]

#### Uniform Construction Code

In accordance with section 304 of the Pennsylvania Construction Code Act (PCCA) (35 P.S. § 7210.304) the Department of Labor and Industry (Department) amends Chapters 401 and 403 (relating to Uniform Construction Code (UCC) training and certification of code administrators; and administration) to read as set forth in Annex A.

#### *Statutory Authority*

This final-omitted rulemaking is issued under the authority provided in section 304(a)(1)(i) and (2) of the PCCA. Section 304(a)(1)(i) provides that, within 33 months after commencement of the review process, the Department “shall promulgate final-omitted regulations” adopting the revisions provided in a report issued by the Uniform Construction Code Review and Advisory Council (RAC) to the Secretary of Labor and Industry (Secretary) specifying the 2018 code revisions of the International Code Council (ICC) codes. The Department must adopt the RAC’s revisions “without change.” Section 304(a)(2) exempts the regulations from section 205 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. § 1205), referred to as the Commonwealth Documents Law and sections 204(b) and 301(10) of the Commonwealth Attorneys Act (71 P.S. §§ 732-204(b) and 732-301(10)).

#### *Background*

In 1999, the Legislature established the PCCA (35 P.S. §§ 7210.101—7210.1103) and directed the Department to promulgate regulations adopting certain building codes as the UCC. See 35 P.S. §§ 7210.102(a)(3) and 7210.301. Since then, various codes issued by the ICC, including the International Building Code (IBC), the International Energy Conservation Code (IECC), the International Existing Building Code (IEBC), the International Fire Code (IFC), the International Fuel Gas Code (IFGC), International Mechanical Code (IMC), International Performance Code (IPFC), International Plumbing Code (IPC), International Residential Code (IRC), International Swimming Pool and Spa Code (ISPSA) and International Wildland-Urban Interface Code (IWUIC) have been adopted, in whole or in part, by reference into the UCC. See §§ 401.1 and 403.21 (relating to definitions; and Uniform Construction Code). Every 3 years, the ICC publishes revisions to these codes.

Under the act of October 9, 2008, (P.L. 1386, No. 106) the General Assembly established the RAC whose members represent industry sectors that participate in the various aspects relating to building construction including building component design, construction, building code enforcement and local government representation. The RAC is charged to review the periodic changes to the revised ICC codes prior to adoption into the UCC. See 35 P.S. § 7210.107.

The UCC requires the RAC to begin its review 21 months following the publication of a new edition of the ICC Codes. 35 P.S. § 7210.108(a)(1)(i). The ICC published the 2018 ICC codes on August 31, 2017. In accordance with the PCCA, the RAC began its review of the new ICC codes on May 14, 2019.

In its review, the RAC was required to consider: 1) the impact that the section may have upon the health, safety and welfare of the public; 2) the economic and financial impact of the section, including impact on the end consumer; and 3) the technical feasibility of the section. 35 P.S. § 7210.108(a)(2).

For the 2018 code review, the RAC was required to submit a report to the Secretary outlining the ICC codes that the RAC was adopting or modifying. 35 P.S. § 7210.108(b). The recommendations of the RAC must be adopted by the Department “without change,” under section 304(a)(1) of the PCCA, and are to be effective 33 months after the commencement of the code review. 35 P.S. §§ 7210.108(a)(1)(i) and 7210.304(a)(1)(i).

After its review of the 2018 ICC codes was complete, the RAC submitted its report to the Secretary on April 29, 2021, outlining its decisions on which ICC codes must be incorporated into the UCC. Under section 304(a)(1) of the PCCA the Department is required to promulgate final-omitted regulations adopting, “without change” the provisions of the ICC Codes outlined in the RAC’s April 29, 2021, report. These regulations will be effective February 14, 2022.

#### *Compliance with Executive Order 1996-1, Regulatory Review and Promulgation*

On June 13, 2019, the RAC opened public comment on the 2018 ICC Codes. This public comment period remained open for 120 days. The RAC received 128 individual comments which, in accordance with section 108(a)(3)(iii) of the PCCA (35 P.S. § 7210.108(a)(3)(iii)) it assigned to the chairs of the Technical Advisory Committees in charge of the ICC codes that received the comments.

The RAC held three public hearings on these regulations on December 15, 16 and 17, 2020. In addition to the public hearings, the RAC debated and adopted portions of the 2018 ICC codes at public meetings held on January 7, 2021, January 21, 2021, February 4, 2021, February 18, 2021, March 11, 2021, and April 22, 2021.

#### *Purpose*

The purpose of this final-omitted rulemaking is to amend §§ 401.1, 403.1, 403.21, 403.23, 403.26—403.28, 403.42, 403.42a, 403.44—403.46 and 403.103 to adopt the revisions specified in the RAC’s April 29, 2021, report, as required by section 304(a)(1) of the PCCA.

#### *Summary of Proposed Rulemaking*

##### *§ 401.1. Definitions*

The Department amends this section to add a definition for The American Society of Testing and Materials (ASTM). The Department is doing this because this regulation is incorporating a standard that the ASTM publishes.

##### *§ 403.1. Scope*

The Department amends subsection (g) to reflect that coal-fired boilers are subject to the IRC of 2018. This is being done in accordance with the RAC’s vote and report.

##### *§ 403.21. Uniform Construction Code*

##### *International Building Code (IBC)*

The RAC voted to adopt Chapters 2—10, 12—29 and 31—35 of the IBC of 2018 with some exclusions and modifications and memorialized this vote in their report.

As such, the Department amends subsection (a)(1) to indicate these chapters of the IBC of 2018 are adopted with some exclusions and modifications.

The RAC voted to adopt section 3002.1 (relating to hoistway enclosure protection) of the IBC of 2018 and memorialized this vote in their report. As such, the Department adds subsection (a)(1)(ii)(A) to incorporate this addition.

The RAC voted to adopt section 3002.2 (relating to number of elevator cars in a hoistway) of the IBC of 2018 and memorialized this vote in their report. As such, the Department adds subsection (a)(1)(ii)(B) to incorporate this addition.

The RAC voted to adopt section 3002.4 (relating to elevator car to accommodate ambulance stretcher) of the IBC of 2018 and memorialized this vote in their report. As such, the Department adds subsection (a)(1)(ii)(C) to incorporate this addition.

The RAC voted to adopt section 3002.7 (relating to common enclosure with stairway) of the IBC of 2018 and memorialized this vote in their report. As such, the Department adds subsection (a)(1)(ii)(D) to incorporate this addition.

The RAC voted to adopt section 3004.2.1 (relating to enclosure) of the IBC of 2018 and memorialized this vote in their report. As such, the Department adds subsubsection (a)(1)(ii)(E) to incorporate this addition.

The RAC voted to adopt section 3004.3.1 (relating to enclosure) of the IBC of 2018 and memorialized this vote in their report. As such, the Department adds subsection (a)(1)(ii)(F) to incorporate this addition.

The RAC voted to adopt section 3005.4 (relating to machine rooms, control rooms, machinery spaces, and control spaces) of the IBC of 2018 and memorialized this vote in their report. As such, the Department adds subsection (a)(1)(ii)(G) to incorporate this addition.

The RAC voted to adopt section 3006 (relating to elevator lobbies and hoistway opening protection) of the IBC of 2018 and memorialized this vote in their report. As such, the Department adds subsection (a)(1)(ii)(H) to incorporate this addition.

The RAC voted to adopt section 3007 (relating to fire service access elevators) of the IBC of 2018 and memorialized this vote in their report. As such, the Department adds subsection (a)(1)(ii)(I) to incorporate this addition.

The RAC voted to adopt section 3008 (relating to occupant evacuation elevators) of the IBC of 2018 and memorialized this vote in their report. As such, the Department adds subsection (a)(1)(ii)(J) to incorporate this addition.

The RAC voted to modify section 803.3 (relating to heavy-timber exemption) of the IBC of 2018 to add the phrase: "In buildings equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3" before the word exposed and memorialized this vote in their report. As such, the Department modifies subsection (a)(1)(iii) to incorporate this modification.

The RAC voted to exclude section 704.2 (relating to column protection) of the IBC of 2018 and memorialized this vote in their report. As such, the Department adds subsection (a)(1)(iv)(A) to incorporate this exclusion.

The RAC voted to exclude section 704.4.1 (relating to light frame construction) of the IBC of 2018 and memorialized this vote in their report. As such, the Department adds subsection (a)(1)(iv)(B) to incorporate this exclusion.

The RAC voted to adopt section 704.2 of the IBC of 2015 and memorialized this vote in their report. As such, the Department adds subsection (a)(1)(v)(A) to incorporate this adoption.

The RAC voted to adopt section 704.4.1 of the IBC of 2015 and memorialized this vote in their report. As such, the Department adds subsection (a)(1)(v)(B) to incorporate this adoption.

#### *International Mechanical Code (IMC)*

The RAC voted to adopt the International Mechanical Code of 2018 in its entirety and memorialized this vote in their report. As such, the Department amends subsection (a)(3) to incorporate the entirety of the IMC of 2018.

#### *International Fuel Gas Code (IFGC)*

The RAC voted to adopt the International Fuel Gas Code of 2018 in its entirety and memorialized this vote in their report. As such, the Department amends subsection (a)(4) to incorporate the entirety of the IFGC of 2018.

#### *International Performance Code (IPFC)*

The RAC voted to adopt the International Performance Code of 2018 in its entirety and memorialized this vote in their report. As such, the Department amends subsection (a)(5) to incorporate the entirety of the IPFC of 2018.

#### *International Plumbing Code (IPC)*

The RAC voted to adopt the International Plumbing Code of 2018 in its entirety and memorialized this vote in their report. As such, the Department amends subsection (a)(6) to incorporate the entirety of the IPC of 2018 with the exception of the provisions regarding accessibility. Section 304(a)(3) of the PCCA grants the Department the sole authority to regulate the accessibility of structures.

#### *International Residential Code (IRC)*

The RAC voted to adopt the IRC of 2018 with some exclusions and modifications and memorialized this vote in their report. As such, the Department amends subsection (a)(7) to indicate the IRC of 2018 was adopted with some exceptions and modifications.

The RAC voted to exclude Exception 2 of section R325.5 (relating to openness) of the IRC of 2018 and memorialized this vote in their report. As such, the Department amends subsection (a)(7)(iii)(D) to incorporate this exclusion.

The RAC voted to exclude section R703.7.1 (relating to lath) of the IRC of 2018 and memorialized this vote in their report. As such, the Department amends subsection (a)(7)(iii)(E) to incorporate this exclusion.

The RAC voted to exclude section R703.7.2 (relating to plaster) of the IRC of 2018 and memorialized this vote in their report. As such, the Department amends subsection (a)(7)(iii)(F) to incorporate this exclusion.

The RAC voted to exclude section R703.7.3 (relating to water-resistive barriers) of the IRC of 2018 and memorialized this vote in their report. As such, the Department amends subsection (a)(7)(iii)(G) to incorporate this exclusion.

The RAC voted to exclude section R806.2 (relating to minimum vent area) of the IRC of 2018 and memorialized this vote in their report. As such, the Department amends subsection (a)(7)(iii)(H) to incorporate this exclusion.

The RAC voted to exclude section R1005.8 (relating to insulation shield) of the IRC of 2018 and memorialized this vote in their report. As such, the Department amends subsection (a)(7)(iii)(I) to incorporate this exclusion.

The RAC voted to exclude section N1101.4 (relating to above code programs) of the IRC of 2018 and memorialized this vote in their report. As such, the Department amends subsection (a)(7)(iii)(J) to incorporate this exclusion.

The RAC voted to exclude section N1103.3.5 (relating to building cavities) of the IRC of 2018 and memorialized this vote in their report. As such, the Department amends subsection (a)(7)(iii)(K) to incorporate this exclusion.

The RAC voted to exclude section N1105.4.2 (relating to compliance report) of the IRC of 2018 and memorialized this vote in their report. As such, the Department amends subsection (a)(7)(iii)(L) to incorporate this exclusion.

The RAC voted to exclude section N1106.3 (relating to energy rating index) of the IRC of 2018 and memorialized this vote in their report. As such, the Department adds subsection (a)(7)(iii)(M) to incorporate this exclusion.

The RAC voted to exclude section N1106.6.1 (relating to compliance software tools) of the IRC of 2018 and memorialized this vote in their report. As such, the Department adds subsection (a)(7)(iii)(N) to incorporate this exclusion.

The RAC voted to exclude section N1106.6.4 (relating to specific approval) of the IRC of 2018 and memorialized this vote in their report. As such, the Department adds subsection (a)(7)(iii)(O) to incorporate this exclusion.

The RAC voted to exclude section N1106.6.5 (relating to input values) of the IRC of 2018 and memorialized this vote in their report. As such, the Department adds subsection (a)(7)(iii)(P) to incorporate this exclusion.

The RAC voted to exclude N1108.1.1.2 (relating to heating and cooling systems) of the IRC of 2018 and memorialized this vote in their report. As such, the Department adds subsection (a)(7)(iii)(Q) to incorporate this exclusion.

The RAC voted to exclude section N1109.1.2 (relating to heating and cooling systems) of the IRC of 2018 and memorialized this vote in their report. As such, the Department adds subsection (a)(7)(iii)(R) to incorporate this exclusion.

The RAC voted to exclude section M1305.1.3.2 (relating to pit locations) of the IRC of 2018 and memorialized this vote in their report. As such, the Department adds subsection (a)(7)(iii)(S) to incorporate this exclusion.

The RAC voted to exclude section M1502.3.1 (relating to exhaust termination outlet and passageway size) of the IRC of 2018 and memorialized this vote in their report. As such, the Department adds subsection (a)(7)(iii)(T) to incorporate this exclusion.

The RAC voted to exclude section P2503.5.1 (relating to rough plumbing) of the IRC of 2018 and memorialized this vote in their report. As such, the Department adds subsection (a)(7)(iii)(U) to incorporate this exclusion.

The RAC voted to exclude section P2903.5 (relating to water hammer) of the IRC of 2018 and memorialized this vote in their report. As such, the Department adds subsection (a)(7)(iii)(V) to incorporate this exclusion.

The RAC voted to exclude section P2906.6.1 (relating to saddle tap fittings) of the IRC of 2018 and memorialized this vote in their report. As such, the Department adds subsection (a)(7)(iii)(W) to incorporate this exclusion.

The RAC modified section R311.7.4 (relating to walkline) of the IRC of 2018 to add a figure that was proposed to be part of the IRC of 2018 but did not make the final edition. The RAC memorialized this vote in their

report. As such, the Department amends subsection (a)(7)(iv)(A) to include this figure.

The RAC voted to modify section R325.6 (relating to habitable attic) of the IRC of 2018 to delete subsection 4 and memorialized this vote in their report. As such, the Department amends subsection (a)(7)(iv)(B) to incorporate this modification.

The RAC voted to modify subsection 2.4 of section R408.3 (relating to unvented crawl space) of the IRC of 2018 as follows: “Dehumidification sized in accordance with manufacturer’s specifications” and memorialized this vote in their report. As such, the Department amends subsection (a)(7)(iv)(C) to incorporate this modification.

The RAC voted to modify subsection 1 of section R702.7.3 (relating to minimum clear airspaces and vented openings for vented cladding) of the IRC of 2018 as follows: “Vinyl, polypropylene or horizontal aluminum siding applied over a weather-resistive barrier as specified in Table R703.3(1)” and memorialized this vote in their report. As such, the Department amends subsection (a)(7)(iv)(D) to incorporate this modification.

The RAC voted to modify section R703.7 (relating to exterior plaster (stucco)) of the IRC of 2018 by requiring compliance with ASTM standards C926-2018B and C1063-2018B and memorialized this vote in their report. As such, the Department amends subsection (a)(7)(iv)(E) to incorporate this modification.

The RAC voted to modify section R806.1 of 2018 (relating to ventilation required) by amending it to read as follows: “required ventilation openings shall open directly to the outside air” and memorialized this vote in their report. As such, the Department amends subsection (a)(7)(iv)(F) to incorporate this modification.

The RAC voted to modify the first sentence of section R806.3 of the IRC of 2018 (relating to vent and insulation clearance) to read as follows: “Where eave or cornice vents are installed nothing shall block the free flow of air” and memorialized this vote in their report. As such, the Department amends subsection (a)(7)(iv)(G) to incorporate this modification.

The RAC voted to modify the Fenestration *U*-Factor in Climate Zone 3 for table N1102.1.2 (relating to insulation and fenestration requirements by component) of the IRC of 2018 to 0.35 and memorialized this vote in their report. As such, the Department amends subsection (a)(7)(iv)(H) to incorporate this modification.

The RAC voted to modify section N1105.2 (relating to mandatory requirements) of the IRC of 2018 to require compliance with the mandatory provisions of section N1102.4.1.2 (relating to testing) of the IRC of 2018 and memorialized this vote in their report. As such, the Department adds subsection (a)(7)(iv)(I) to incorporate this modification.

The RAC voted to modify section E3901.11 (relating to foyers) of the IRC of 2018 by replacing 3 feet (914 mm) with 6 feet (1829 mm) and a minimum of one receptacle. As such, the Department adds subsection (a)(7)(iv)(J) to incorporate this modification.

The RAC voted to adopt section E3901.7 (relating to outdoor outlets) of the IRC of 2018 and memorialized this vote in their report. As such, the Department deletes subsection (a)(7)(v)(G).

The RAC voted to adopt section R806.2 (relating to minimum vent area) of the IRC of 2015 and memorialized

this vote in their report. As such, the Department modifies subsection (a)(7)(vi)(A) to incorporate this adoption.

The RAC voted to adopt section N1105.4.2 (relating to compliance report) of the IRC of 2015 and memorialized this vote in their report. As such, the Department modifies subsection (a)(7)(vi)(B) to incorporate this adoption.

The RAC voted to adopt section N1106.3 (relating to energy rating index) of the IRC of 2015 and memorialized this vote in their report. As such, the Department modifies subsection (a)(7)(vi)(C) to incorporate this adoption.

The RAC voted to adopt section N1106.3.1 (relating to ERI reference design) of the IRC of 2015 and memorialized this vote in their report. As such, the Department modifies subsection (a)(7)(vi)(D) to incorporate this adoption.

The RAC voted to adopt section N1106.6.1 (relating to compliance software tools) of the IRC of 2015 and memorialized this vote in their report. As such, the Department modifies subsection (a)(7)(vi)(E) to incorporate this adoption.

The RAC voted to adopt section N1106.7 (relating to calculation software tools) of the IRC of 2015 and memorialized this vote in their report. As such, the Department modifies subsection (a)(7)(vi)(F) to incorporate this adoption.

The RAC voted to adopt section N1106.7.1 (relating to minimum capabilities) of the IRC of 2015 and memorialized this vote in their report. As such, the Department modifies subsection (a)(7)(vi)(G) to incorporate this adoption.

The RAC voted to adopt section N1106.7.2 (relating to specific approval) of the IRC of 2015 and memorialized this vote in their report. As such, the Department modifies subsection (a)(7)(vi)(H) to incorporate this adoption.

The RAC voted to adopt section N1106.7.3 (relating to input values) of the IRC of 2015 and memorialized this vote in their report. As such, the Department adds subsection (a)(7)(vi)(I) to incorporate this adoption.

The RAC voted to adopt section N1108.1.1.2 (relating to heating and cooling systems) of the IRC of 2015 and memorialized this vote in their report. As such, the Department adds subsection (a)(7)(vi)(J) to incorporate this adoption.

The RAC voted to adopt section N1109.1.2 (relating to heating and cooling systems) of the IRC of 2015 and memorialized this vote in their report. As such, the Department adds subsection (a)(7)(vi)(K) to incorporate this adoption.

The RAC voted to adopt section M1305.1.4.2 (relating to excavations) of the IRC of 2015 and memorialized this vote in their report. As such, the Department adds subsection (a)(7)(vi)(L) to incorporate this adoption.

The RAC voted to adopt section P2903.5 (relating to water hammer) of the IRC of 2015 and memorialized this vote in their report. As such, the Department adds subsection (a)(7)(vi)(M) to incorporate this adoption.

The RAC voted to adopt section R703.7.1 (relating to lath) of the IRC of 2021 and memorialized this vote in their report. As such, the Department adds subsection (a)(7)(vii)(A) to incorporate this adoption.

The RAC voted to adopt section R703.7.1.1 (relating to furring) of the IRC of 2021 and memorialized this vote in their report. As such, the Department adds subsection (a)(7)(vii)(B) to incorporate this adoption.

The RAC voted to adopt section R703.7.2 (relating to plaster) of the IRC of 2021 and memorialized this vote in their report. As such, the Department adds subsection (a)(7)(vii)(C) to incorporate this adoption.

The RAC voted to adopt section R703.7.3 (relating to water-resistive barriers) of the IRC of 2021 and memorialized this vote in their report. As such, the Department adds subsection (a)(7)(vii)(D) to incorporate this adoption.

The RAC voted to adopt section R703.7.3.1 (relating to dry climates) of the IRC of 2021 and memorialized this vote in their report. As such, the Department adds subsection (a)(7)(vii)(E) to incorporate this adoption.

The RAC voted to adopt section R703.7.3.2 (relating to moist or marine climates) of the IRC of 2021 and memorialized this vote in their report. As such, the Department adds subsection (a)(7)(vii)(F) to incorporate this adoption.

The RAC voted to adopt section M1411.6.1 (relating to refrigerant line insulation protection) of the IRC of 2021 and memorialized this vote in their report. As such, the Department is adding subsection (a)(7)(vii)(G) to incorporate this adoption.

#### *International Fire Code (IFC)*

The RAC voted to adopt the IFC of 2018 to the extent it is referenced by other ICC codes adopted in Chapter 403 and memorialized this vote in their report. As such, the Department amends subsection (a)(8) to incorporate this adoption.

#### *International Energy Conservation Code (IECC)*

The RAC voted to adopt the IECC of 2018 with some exclusions and modifications and memorialized this vote in their report. As such, the Department amends subsection (a)(9) to indicate the IECC of 2018 was adopted with some exceptions and modifications.

The RAC voted to exclude section C105.2.6 (relating to final inspection) of the IECC of 2018 and memorialized this vote in their report. This section of the IECC was designated as section C104.2.6 in the IECC of 2015. As such, the Department amends subsection (a)(9)(i)(B) to incorporate this exclusion.

The RAC voted to exclude section C402.2.1 (relating to roof assembly) of the IECC of 2018 and memorialized this vote in their report. As such, the Department amends subsection (a)(9)(i)(D) to incorporate this exclusion.

The RAC voted to exclude section R405.4.2 (relating to compliance report) of the IECC of 2018 and memorialized this vote in their report. As such, the Department amends subsection (a)(9)(i)(E) to incorporate this exclusion.

The RAC voted to exclude section R406.3 (relating to energy rating index) of the IECC of 2018 and memorialized this vote in their report. As such, the Department amends subsection (a)(9)(i)(F) to incorporate this exclusion.

The RAC voted to exclude section R406.6.1 (relating to compliance software tools) of the IECC of 2018 and memorialized this vote in their report. As such, the Department adds subsection (a)(9)(i)(G) to incorporate this exclusion.

The RAC voted to exclude section R406.6.4 (relating to specific approval) of the IECC of 2018 and memorialized this vote in their report. As such, the Department adds subsection (a)(9)(i)(H) to incorporate this exclusion.

The RAC voted to exclude section R406.6.5 (relating to input values) of the IECC of 2018 and memorialized this

vote in their report. As such, the Department adds subsection (a)(9)(i)(I) to incorporate this exclusion.

The RAC voted to exclude section R502.1.1.2 (relating to heating and cooling systems) of the IECC of 2018 and memorialized this vote in their report. As such, the Department adds subsection (a)(9)(i)(J) to incorporate this exclusion.

The RAC voted to exclude section R503.1.2 (relating to heating and cooling systems) of the IECC of 2018 and memorialized this vote in their report. As such, the Department adds subsection (a)(9)(i)(K) to incorporate this exclusion.

The RAC voted to modify table R402.1.2 of IECC of 2018 by changing the Fenestration *U*-Factor in Climate Zone 3 to 0.35 and memorialized this vote in their report. As such, the Department amends subsection (a)(9)(ii)(B) to incorporate this modification.

The RAC voted to modify section R405.2 (relating to mandatory requirements) of the IECC of 2018 by requiring compliance with the mandatory provisions of section R402.4.1.2 (relating to testing) and memorialized this vote in their report. As such, the Department amends subsection (a)(9)(ii)(C) to incorporate this modification.

The Department deletes subsection (a)(9)(ii)(D) and (E) in accordance with the RAC's vote and report.

The Department adds quotations in subsection (a)(9)(iii) and (iv) to indicate the title of the ICC codes.

The RAC voted to adopt section C402.2.2 (relating to roof assembly) of the IECC of 2015 and memorialized this vote in their report. As such, the Department amends subsection (a)(9)(iv)(A) to incorporate this adoption.

The RAC voted to adopt exception 1 of section C402.5.3 (relating to rooms containing fuel-burning appliances) of the IECC of 2015 and memorialized this vote in their report. As such, the Department amends subsection (a)(9)(iv)(B) to incorporate this adoption.

The RAC voted to adopt section R405.4.2 (relating to compliance report) of the IECC of 2015 and memorialized this vote in their report. As such, the Department amends subsection (a)(9)(iv)(C) to incorporate this adoption.

The RAC voted to adopt section R406.3 (relating to energy rating index) of the IECC of 2015 and memorialized this vote in their report. As such, the Department adds subsection (a)(9)(iv)(D) to incorporate this adoption.

The RAC voted to adopt section R406.3.1 (relating to ERI reference design) of the IECC of 2015 and memorialized this vote in their report. As such, the Department adds subsection (a)(9)(iv)(E) to incorporate this adoption.

The RAC voted to adopt section R406.6.1 (relating to compliance software tools) of the IECC of 2015 and memorialized this vote in their report. As such, the Department adds subsection (a)(9)(iv)(F) to incorporate this adoption.

The RAC voted to adopt section R406.7 (relating to calculation software tools) of the IECC of 2015 and memorialized this vote in their report. As such, the Department adds subsection (a)(9)(iv)(G) to incorporate this adoption.

The RAC voted to adopt section R406.7.1 (relating to minimum capabilities) of the IECC of 2015 and memorialized this vote in their report. As such, the Department adds subsection (a)(9)(iv)(H) to incorporate this adoption.

The RAC voted to adopt section R406.7.2 (relating to specific approval) of the IECC of 2015 and memorialized

this vote in their report. As such, the Department adds subsection (a)(9)(iv)(I) to incorporate this adoption.

The RAC voted to adopt section R406.7.3 (relating to input values) of the IECC of 2015 and memorialized this vote in their report. As such, the Department adds subsection (a)(9)(iv)(J) to incorporate this adoption.

The RAC voted to adopt section R502.1.1.2 (relating to heating and cooling systems) of the IECC of 2015 and memorialized this vote in their report. As such, the Department adds subsection (a)(9)(iv)(K) to incorporate this adoption.

The RAC voted to adopt section R503.1.2 (relating to heating and cooling systems) of the IECC of 2015 and memorialized this vote in their report. As such, the Department adds subsection (a)(9)(iv)(L) to incorporate this adoption.

*International Existing Building Code (IEBC)*

The RAC voted to adopt the IEBC of 2018 with some exclusions and modifications and memorialized this vote in their report. As such, the Department amends subsection (a)(10) to indicate the IRC of 2018 was adopted with some exceptions and modifications. This does not include the accessibility provisions of the IEBC of 2018. Section 304(a)(3) of the PCCA grants the Department the sole authority to regulate the accessibility of structures.

The RAC voted to exclude section 1106 (relating to storm shelters) of the IEBC of 2018 and memorialized this vote in their report. As such, the Department adds subparagraph (ii) to incorporate this exclusion.

The RAC voted to modify the second sentence in section 106.2.5 (relating to exterior balconies and elevated walking surfaces) of the IEBC of 2018 to read as follows: "The manufacturer's installation instructions shall be available to the code official during inspection as a deferred submittal" and memorialized this vote in their report. As such, the RAC voted to add subparagraph (iii) to incorporate this modification.

*International Wildland-Urban Interface Code (IWUIC)*

The RAC voted to adopt the IWUIC of 2018 in its entirety and memorialized this vote in their report. As such, the Department amends subsection (a)(11) to incorporate the entirety of the IWUIC of 2018.

*International Swimming Pool and Spa Code (ISPSC)*

The RAC voted to adopt the ISPSC of 2018 in its entirety and memorialized this vote in their report. As such, the Department adds subsection (a)(14) to incorporate the entirety of the ISPSC of 2018. This does not include the accessibility provisions of the ISPSC of 2018. Section 304(a)(3) of the PCCA grants the Department the sole authority to regulate the accessibility of structures.

The Department amends subsection (b) to reflect the RAC's vote and report to adopt the entirety of the IBC of 2018 with some exclusions and modifications.

The Department amends subsection (c) to reflect the RAC's vote and report to adopt the entirety of the IEBC of 2018 with some exclusions and modifications.

The Department amends subsection (d)(1) and (2) to reflect the RAC's vote and report to adopt the entirety of the IECC of 2018 with some exclusions and modifications.

The Department amends subsection (f) to reflect the RAC's vote and report to adopt the entirety of the IBC of 2018 and IECC of 2018 with some exclusions and modifications.

§ 403.23. *Child day care facilities*

The Department amends subsection (d) to reflect the RAC's vote and report to adopt the entirety of the IBC of 2018 with some exclusions and modifications.

§ 403.26. *Swimming pools*

The Department amends subsections (a) and (b) to reflect the RAC's vote and report to adopt the entirety of the ISPSC of 2018.

§ 403.27. *Applicability and use of standards*

The Department amends subsection (a)(1) to reflect the RAC's vote and report to adopt the entirety of the IBC of 2018 with some exclusions and modifications.

The Department amends subsection (a)(2) to reflect the RAC's vote and report to adopt the entirety of the IRC of 2018 with some exclusions and modifications.

The Department amends subsection (a)(3) to reflect the RAC's vote and report to adopt the entirety of the IPC of 2018.

The Department amends subsection (a)(4) to reflect the RAC's vote and report to adopt the entirety of the IMC of 2018.

The Department amends subsection (b) to reflect the RAC's vote and report to adopt the entirety of the IEBC with some exclusions and modifications and the IRC of 2018 with some exclusions and modifications.

The Department amends subsection (f) to reflect the RAC's vote and report to adopt the entirety of the IMC.

§ 403.28. *Uncertified buildings*

The Department amends subsection (b)(1) to reflect the RAC's vote and report to adopt the entirety of the IBC of 2018 with some exclusions and modifications.

The Department amends subsection (b)(2) to reflect the RAC's vote and report to adopt the entirety of the IBC of 2018 with some exclusions and modifications.

The Department amends subsection (b)(4) to reflect the RAC's vote and report to adopt the entirety of the IEBC of 2018 with some exclusions and modifications.

The Department amends subsection (c)(1) to reflect the RAC's vote and report to adopt the entirety of the IBC of 2018 with some exclusions and modifications and the IEBC of 2018 with some exclusions and modifications.

§ 403.42. *Permit requirements and exemptions*

The Department amends subsection (c)(1)(xi) to reflect the RAC's vote and report to adopt the entirety of the IBC of 2018 with some exclusions and modifications.

§ 403.42a. *Permit application*

The Department amends subsection (f)(3)(ii) to reflect the RAC's vote and report to adopt the entirety of the IBC of 2018 with some exclusions and modifications.

The Department amends subsection (i) to reflect the RAC's vote and report to adopt the entirety of the IBC of 2018 with some exclusions and modifications.

The Department amends subsection (k) to reflect the RAC's vote and report to adopt the entirety of the IBC of 2018 with some exclusions and modifications.

§ 403.44. *Alternative construction materials and methods*

The Department amends subsection (c) to reflect the RAC's vote and report to adopt the entirety of the IPFC of

2018 with some exclusions and modifications. The Department adds quotation marks to indicate the title of the ICC code.

§ 403.45. *Inspections*

The Department amends subsection (f) to reflect the RAC's vote and report to adopt the entirety of the IBC of 2018 with some exclusions and modifications.

§ 403.46. *Certificate of occupancy*

The Department amends subsection (b)(6) and (7) to reflect the RAC's vote and report to adopt the entirety of the IBC of 2018 with some exclusions and modifications.

§ 403.103. *Municipalities electing not to enforce the Uniform Construction Code*

The Department amends subsection (c) to reflect the RAC's vote and report to adopt the entirety of the IPFC of 2018.

The Department amends subsection (d) to reflect the RAC's vote and report to adopt the entirety of the IRC of 2018 with some exclusions and modifications.

*Affected Persons*

This final-omitted rulemaking will affect all builders and contractors in the construction industry and all building code officials who enforce the regulations.

*Fiscal Impact*

All building code officials, including the Department, will need to own the applicable 2009, 2015, 2018 and 2021 ICC code books to enforce these regulations. The Department already possesses all applicable 2009, 2015, 2018 and 2021 ICC code books to enforce the current regulations and presumably building code officials will possess some of those same ICC code books.

Builders and contractors will have to absorb some costs to comply with the updated standards. The Department does not possess specific data on any increase of costs to builders or contractors.

*Reporting, Recordkeeping and Paperwork Requirements*

The Department will update the following forms: Accessibility Advisory Board Petition, Application for Building Permit, and Special Inspections and Observation Statement. There are no additional reporting, record keeping or paperwork requirements.

*Sunset Date*

There is no sunset date for these regulations. The PCCA requires referenced standards to be reviewed every 3 years following publication of the triennial revisions to the ICC codes.

*Effective Date*

This final-omitted rulemaking will take effect on February 14, 2022.

*Contact Person*

The contact person is Matthew W. Kegg, Director, Bureau of Occupational and Industrial Safety, Department of Labor and Industry, 651 Boas Street, Room 1613, Harrisburg, PA 17121, (717) 783-6304, mkegg@pa.gov.

*Regulatory Review*

Under section 5.1(c) of the Regulatory Review Act (71 P.S. § 745.5a(c)), on December 15, 2021, the Department submitted a copy of this final-omitted rulemaking and a copy of a Regulatory Analysis Form to the Independent



Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Committees on Labor and Industry.

Under section 5.1(j.2) of the Regulatory Review Act, on January 25, 2022, the final-omitted rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on January 26, 2022, and approved the final-omitted rulemaking.

*Findings*

The Department finds that:

(a) This final-omitted rulemaking is authorized by section 304(a)(1) and (2) of the PCCA.

*Order*

The Department, acting under authorizing statute, orders that:

(a) The regulations of the Department, 34 Pa. Code, Chapters 401 and 403, are amended by amending §§ 401.1, 403.1, 403.21, 403.23, 403.26—403.28, 403.42, 403.42a, 403.44—403.46 and 403.103 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

(b) The Department submitted these regulations to the Independent Regulatory Review Commission and the Senate and House Labor and Industry Committees.

(c) The Secretary of the Department shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(d) This order shall become effective on February 14, 2022.

JENNIFER BERRIER,  
*Secretary*

*(Editor’s Note: See 52 Pa.B. 1079 (February 12, 2022) for IRRC’s approval order.)*

**Fiscal Note:** Fiscal Note 12-116 remains valid for the final adoption of the subject regulations.

**Annex A**

**TITLE 34. LABOR AND INDUSTRY**

**PART XIV. UNIFORM CONSTRUCTION CODE**

**CHAPTER 401. UNIFORM CONSTRUCTION CODE TRAINING AND CERTIFICATION OF CODE ADMINISTRATORS**

**§ 401.1. Definitions.**

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

\* \* \* \* \*

*ASME*—The American Society of Mechanical Engineers, Three Park Avenue, New York, New York 10016-5990.

*ASTM*—The American Society of Testing and Materials, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, Pennsylvania 19428-2959.

*Accessibility Advisory Board*—The Department’s Accessibility Advisory Board created under section 106 of the act (35 P.S. § 7210.106).

\* \* \* \* \*

**CHAPTER 403. ADMINISTRATION GENERALLY**

**§ 403.1. Scope.**

\* \* \* \* \*

(f) The electrical, plumbing and lumber and wood provisions, except for the wood provisions related to pressure treatment, of the Uniform Construction Code do not apply to a dwelling unit or one-room school house utilized by a member or members of a recognized religious sect if a code administrator grants an exemption under section 901(b) of the act (35 P.S. § 7210.901(b)) as follows:

(1) The permit applicant shall file an application with the code administrator stating the manner in which an electrical provision, a plumbing provision or a lumber and wood provision of the Uniform Construction Code conflicts with the applicant’s religious beliefs. The application must also contain an affidavit by the applicant stating:

(i) The permit applicant is a member of a religious sect.

(ii) The religious sect has established tenets or teachings which conflict with an electrical, a plumbing or a lumber and wood provision of the Uniform Construction Code.

(iii) The permit applicant adheres to the established tenets or teachings of the sect.

(A) For a dwelling unit, the dwelling will be used solely as a residence for the permit applicant and the applicant’s household.

(B) For a one-room school house, the school house will be used solely by members of the religious sect.

(2) The code administrator shall grant the application for the exemption if made in accordance with paragraph (1).

(3) If the permit applicant receives an exemption for a building under section 901(b) of the act and the applicant subsequently sells or leases the building, the applicant shall bring the building into compliance with the provision of the Uniform Construction Code from which it was exempted prior to the sale or lease of the building unless the prospective subsequent owner or lessee files an affidavit in compliance with paragraph (1).

(g) Coal-fired boilers installed in residential buildings must be designed, constructed and tested in accordance with the requirements of Chapter 20, section M2001.1.1 of the “International Residential Code of 2018,” except for the ASME stamping requirement.

**STANDARDS**

**§ 403.21. Uniform Construction Code.**

(a) The Department adopts and incorporates by reference the following codes as the Uniform Construction Code:

(1) The provisions of Chapters 2—10, 12—29 and 31—35 of the “International Building Code of 2018,” except:

(i) In occupancies in Use Group R-3 and within dwelling units in occupancies in Use Group R-2 the maximum riser height shall be 8 1/4 inches (210 mm) and the minimum tread depth shall be 9 inches (229 mm). A 1-inch (25 mm) nosing shall be provided on stairways with solid risers.

(ii) The following provisions of Chapter 30 are adopted:

(A) Section 3002.1 (relating to hoistway enclosure protection).

(B) Section 3002.2 (relating to number of elevator cars in a hoistway).

(C) Section 3002.4 (relating to elevator car to accommodate ambulance stretcher).

(D) Section 3002.7 (relating to common enclosure with stairway).

(E) Section 3004.2.1 (relating to enclosure).

(F) Section 3004.3.1 (relating to enclosure).

(G) Section 3005.4 (relating to machine rooms, control rooms, machinery spaces, and control spaces).

(H) Section 3006 (relating to elevator lobbies and hoistway opening protection).

(I) Section 3007 (relating to fire service access elevators).

(J) Section 3008 (relating to occupant evacuation elevators).

(iii) Section 803.3 (relating to heavy-timber exemption) is modified to add the phrase: "In buildings equipped throughout with an automatic sprinkler system installed in accordance with section 903.3" before the word exposed.

(iv) The following provisions are excluded:

(A) Section 704.2 (relating to column protection).

(B) Section 704.4.1 (relating to light frame construction).

(v) The following provisions of the "International Building Code of 2015" are adopted:

(A) Section 704.2 (related to column protection).

(B) Section 704.4.1 (relating to light-frame construction).

(2) Chapter 11 of the "International Building Code of 2018."

(3) The "International Mechanical Code of 2018."

(4) The "International Fuel Gas Code of 2018."

(5) The "International Performance Code for Buildings and Facilities of 2018."

(6) The "International Plumbing Code of 2018" except:

(i) A municipality within a county of the second class may not administer and enforce the "International Plumbing Code" adopted under this chapter.

(ii) A municipality within a county of the second class that has adopted a plumbing code and accompanying rules and regulations under the Local Health Administration Law (16 P.S. §§ 12001—12028), shall retain the authority to promulgate and enforce this plumbing code and to make any changes it deems necessary if the changes meet the Uniform Construction Code's minimum requirements.

(iii) The accessibility provisions contained in the following sections of the "International Plumbing Code of 2018" are adopted:

(A) Section 403.4 (relating to signage).

(B) Section 403.5 (relating to drinking fountain location).

(C) Section 404 (relating to accessible plumbing facilities).

(D) Section 405.3.1 (relating to water closets, urinals, lavatories and bidets).

(7) The "International Residential Code of 2018," except that:

(i) The provisions of R314.4 requiring interconnected smoke alarms do not apply to one-family and two-family dwellings undergoing alterations, repairs or additions. Noninterconnected battery operated smoke alarms shall be installed in these dwellings.

(ii) The following specifications apply to residential stairway treads and risers.

(A) The maximum riser height is 8 1/4 inches. There may be no more than a 3/8 inch variation in riser height within a flight of stairs. The riser height is to be measured vertically between leading edges of the adjacent treads.

(B) The minimum tread depth is 9 inches measured from tread nosing to tread nosing.

(C) The greatest tread depth within any flight of stairs may not exceed the smallest by more than 3/8 inch.

(D) Treads may have a uniform projection of not more than 1 1/2 inches when solid risers are used.

(E) Stairways may not be less than 3 feet in clear width and clear headroom of 6 feet 8 inches shall be maintained for the entire run of the stair.

(F) Handrails may project from each side of a stairway a distance of 3 1/2 inches into the required width of the stair.

(iii) The following provisions are excluded:

(A) Section R302.5.1 (relating to opening protection).

(B) Section R322.2.1 (relating to elevation requirements for flood hazard areas).

(C) Section R322.3.2 (relating to elevation requirements for coastal high hazard areas).

(D) Exception 2 of section R325.5 (relating to openness).

(E) Section R703.7.1 (relating to lath).

(F) Section R703.7.2 (relating to plaster).

(G) Section R703.7.3 (relating to water-resistive barriers).

(H) Section R806.2 (relating to minimum vent area).

(I) Section R1005.8 (relating to insulation shield).

(J) Section N1101.4 (relating to above code programs).

(K) Section N1103.3.5 (relating to building cavities).

(L) Section N1105.4.2 (relating to compliance report).

(M) Section N1106.3 (relating to energy rating index).

(N) Section N1106.6.1 (relating to compliance software tools).

(O) Section N1106.6.4 (relating to specific approval).

(P) Section N1106.6.5 (relating to input values).

(Q) Section N1108.1.1.2 (relating to heating and cooling systems).

(R) Section N1109.1.2 (relating to heating and cooling systems).

(S) Section M1305.1.3.2 (relating to pit locations).

(T) Section M1502.3.1 (relating to exhaust termination outlet and passageway size).

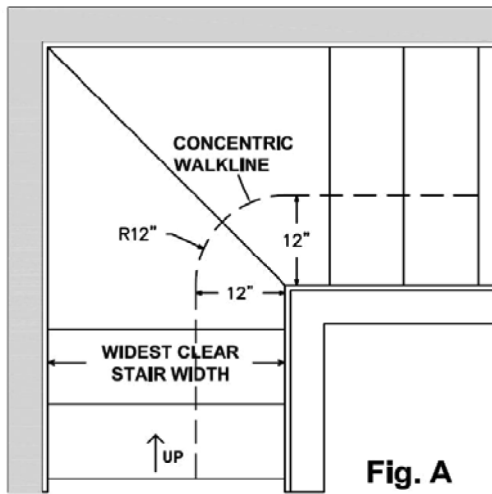
(U) Section P2503.5.1 (relating to rough plumbing).

(V) Section P2903.5 (relating to water hammer).

(W) Section P2906.6.1 (relating to saddle tap fittings).

(iv) The following provisions are modified:

(A) Section R311.7.4 (relating to walkline) is amended by adding figure R311.7.4 (relating to winder tread and landing detail).



**Fig. A**

(B) Section R325.6 (relating to habitable attic) is amended by removing subsection 4.

(C) Subsection 2.4 of section R408.3 (relating to unvented crawl space) is amended to read as follows: “Dehumidification sized in accordance with manufacturer’s specifications.”

(D) Section R702.7.3 (relating to minimum clear air-spaces and vented openings for vented cladding) is amended by adding a comma after the word “vinyl” in subsection 1.

(E) Section R703.7 (relating to exterior plaster (stucco)) is amended by requiring compliance with ASTM standards C926-2018B and C1063-2018B.

(F) The last sentence of section R806.1 (relating to ventilation required) is amended to read as follows: “Required ventilation openings shall open directly to the outside air.”

(G) The first sentence of section R806.3 (relating to vent and insulation clearance) is amended to read as follows: “Where eave or cornice vents are installed, nothing shall block the free flow of air.”

(H) The Fenestration *U*-Factor in Climate Zone 3 for Table N1102.1.2 (relating to insulation and fenestration requirements by Component) is amended to 0.35.

(I) Section N1105.2 (relating to mandatory requirements) is amended to require compliance with the mandatory provisions of section N1102.4.1.2 (relating to testing).

(J) Section E3901.11 (relating to foyers) is amended by replacing 3 feet (914 mm) with 6 feet (1829 mm) and a minimum of one receptacle.

(v) The following provisions of the International Residential Code of 2009 are adopted:

\* \* \* \* \*

(F) Section P2503.5.1 (relating to rough plumbing).

(G) (Reserved).

(vi) The following provisions of the “International Residential Code of 2015” are adopted:

(A) Section R806.2 (relating to minimum vent area).

(B) Section N1105.4.2 (relating to compliance report).

(C) Section N1106.3 (relating to energy rating index).

(D) Section N1106.3.1 (relating to ERI reference design).

(E) Section N1106.6.1 (relating to compliance software tools).

(F) Section N1106.7 (relating to calculation software tools).

(G) Section N1106.7.1 (relating to minimum capabilities).

(H) Section N1106.7.2 (relating to specific approval).

(I) Section N1106.7.3 (relating to input values).

(J) Section N1108.1.1.2 (relating to heating and cooling systems).

(K) Section N1109.1.2 (relating to heating and cooling systems).

(L) Section M1305.1.4.2 (relating to excavations).

(M) Section P2903.5 (relating to water hammer).

(vii) The following provisions of the “International Residential Code of 2021” are adopted:

(A) Section R703.7.1 (relating to lath).

(B) Section R703.7.1.1 (relating to furring).

(C) Section R703.7.2 (relating to plaster).

(D) Section R703.7.3 (relating to water-resistive barriers).

(E) Section R703.7.3.1 (relating to dry climates).

(F) Section R703.7.3.2 (relating moist or marine climates).

(G) Section M1411.6.1 (relating to refrigerant line insulation protection).

(8) The “International Fire Code of 2018” to the extent it is referenced by other ICC codes adopted in this chapter.

(9) The “International Energy Conservation Code of 2018” except that:

(i) The following provisions are excluded:

(A) Section R102.1.1 (relating to above code programs)

(B) Section C105.2.6 (relating to final inspection).

(C) Section R403.3.5 (relating to building cavities (mandatory)).

(D) Section C402.2.1 (relating to roof assembly).

(E) Section R405.4.2 (relating to compliance report).

(F) Section R406.3 (relating to energy rating index).

(G) Section R406.6.1 (relating to compliance software tools).

(H) Section R406.6.4 (relating to specific approval).

(I) Section R406.6.5 (relating to input values).

(J) Section R502.1.1.2 (relating to heating and cooling systems).

(K) Section R503.1.2 (relating to heating and cooling systems).

(ii) The following provisions are modified:

(A) Chapter RE 2 is amended by adding the definition of “framing factor” as the fraction of the total building component area that is structural framing.

(B) Table R402.1.2 (relating to insulation and fenestration requirements by component) is amended by modifying the Fenestration *U*-Factor in Climate Zone 3 to 0.35.

(C) Section R405.2 (relating to mandatory requirements) is amended to require compliance with the mandatory provisions of section R402.4.1.2 (relating to testing).

(D) (Reserved).

(E) (Reserved).

(iii) The following provisions of the “International Energy Conservation Code of 2009” are adopted:

(A) Section 102.1.1 (relating to above code programs).

(B) Section 104.3 (relating to final inspection).

(C) Section 403.2.3 (relating to building cavities).

(iv) The following provisions of the “International Energy Conservation Code of 2015” are adopted:

(A) Section C402.2.2 (relating to roof assembly).

(B) Exception 1 of section C402.5.3 (relating to rooms containing fuel-burning appliances).

(C) Section R405.4.2 (relating to compliance report).

(D) Section R406.3 (relating to energy rating index).

(E) Section R406.3.1 (relating to ERI reference design).

(F) Section R406.6.1 (relating to compliance software tools).

(G) Section R406.7 (relating to calculation software tools).

(H) Section R406.7.1 (relating to minimum capabilities).

(I) Section R406.7.2 (relating to specific approval).

(J) Section R406.7.3 (relating to input values).

(K) Section R502.1.1.2 (relating to heating and cooling systems).

(L) Section R503.1.2 (relating to heating and cooling systems).

(10) The “International Existing Building Code of 2018” except:

(i) The accessibility provisions contained in the following sections of the “International Existing Building Code of 2018” are adopted:

(A) Section 301.5 (relating to compliance with accessibility).

(B) Section 305 (relating to accessibility for existing buildings).

(C) Section 1101.2 (relating to creation or extension of nonconformity).

(D) Appendix “B” (relating to supplementary accessibility requirements for existing buildings and facilities).

(ii) Section 1106 (relating to storm shelters) is excluded.

(iii) The second sentence in section 106.2.5 is modified to read as follows: “The manufacturer’s installation instructions shall be available to the code official during inspection as a deferred submittal.”

(11) The “International Wildland-Urban Interface Code of 2018.”

(12) Appendix E of the “International Building Code of 2018.”

(13) Appendix H of the “International Building Code of 2009.”

(14) The “International Swimming Pool and Spa Code of 2018.”

(b) The code adopted under subsection (a)(8) is part of the Uniform Construction Code to the extent that it is referenced in Chapter 35 of the “International Building Code of 2018” under section 302(a)(1) of the act (35 P.S. § 7210.302(a)(1)). The provisions of the Uniform Construction Code apply if there is a difference between the Uniform Construction Code and the codes or standards adopted in subsection (a). This chapter’s administrative provisions govern under § 403.27(e) (relating to applicability and use of standards) if there is a conflict with the provisions of the codes relating to administration incorporated under subsection (a).

(c) Appendices to a code or standard listed in subsection (a) are not adopted in the Uniform Construction Code except for the appendices and resource information found in the “International Existing Building Code of 2018” and the appendices found in subsection (a)(12) and (13).

(d) A permit applicant may utilize one of the following prescriptive methods to demonstrate compliance with the energy conservation requirements of the Uniform Construction Code. The standards are those listed for the climatic zone of this Commonwealth where the building or structure is located:

(1) The prescriptive methods for detached residential buildings contained in the “International Energy Conservation Code of 2018” compliance guide containing State maps, prescriptive energy packages and related software published by the United States Department of Energy, Building Standards and Guidelines Program (REScheck™) or “Pennsylvania’s Alternative Residential Energy Provisions.”

(2) The prescriptive methods for all other buildings or structures contained in the “International Energy Conservation Code of 2018” compliance guide containing State maps, prescriptive packages and related software published by the United States Department of Energy, Building Standards and Guidelines Program (COMcheck™).

(e) Construction of individual sewage disposal systems is governed under 25 Pa. Code Chapter 73 (relating to standards for onlot sewage treatment facilities).

(f) The repair, alteration, change of occupancy, addition and relocation of existing buildings must comply with Chapter 34 of the “International Building Code of 2018” or with the “International Existing Building Code of 2018.”

#### § 403.23. Child day care facilities.

\* \* \* \* \*

(c) A day care facility that is an R-3 occupancy under subsection (a) which provides day care services to 7–12 children shall comply with all of the following:

(1) Have an interconnected smoke detector system.

(2) Have a fire extinguisher rated for Class B fires in the kitchen and other cooking areas.

(3) Meet the exiting requirements for an R-3 occupancy and licensure under 55 Pa. Code Chapter 3280 (relating to group child day care homes).

(d) All other child day care facilities shall be classified under Chapter 3 of the “International Building Code of 2018.” The facilities shall meet all Uniform Construction Code standards for these occupancy classifications.

**§ 403.26. Swimming pools.**

(a) A swimming pool, hot tub and spa which is accessory to a one-family or two-family dwelling must comply with the “International Swimming Pool and Spa Code of 2018.”

(b) A swimming pool, hot tub or spa that is not accessory to a one-family or two-family dwelling must comply with the Public Bathing Law (35 P.S. §§ 672—680d) and the “International Swimming Pool and Spa Code of 2018.” The accessibility provisions contained in section 307.1.4 (relating to general design requirements) of the “International Swimming Pool and Spa Code of 2018” are adopted.

**§ 403.27. Applicability and use of standards.**

(a) Portions of this chapter designate and incorporate portions of the following ICC copyrighted works:

- (1) The “International Building Code of 2018.”
- (2) The “International Residential Code of 2018.”
- (3) The “International Plumbing Code of 2018.”
- (4) The “International Mechanical Code of 2018.”

(b) The “International Residential Code of 2018” and the “International Existing Building Code of 2018” apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, removal and demolition of detached one-family and two-family dwellings and multiple single-family dwellings no more than three stories in height with a separate means of egress and their accessory structures.

(c) The ICC owns the copyrighted works in subsection (a). Reproduced with permission. All rights reserved.

(d) If different sections of this chapter specify different materials, method of construction or other requirements, the most restrictive material, method of construction or other requirement shall govern. The specific requirement of this part applies if there is a conflict between a general requirement and a specific requirement.

(e) This chapter governs if there is a conflict between this chapter and the provisions of the codes relating to administration incorporated under § 403.21(a) (relating to Uniform Construction Code).

(f) A provision of the “International Mechanical Code of 2018” does not apply if the provision conflicts with the Boiler and Unfired Pressure Vessel Law (35 P.S. §§ 1331.1—1331.18).

**§ 403.28. Uncertified buildings.**

(a) Under section 902(b)(6) of the act (35 P.S. § 7210.902(b)(6)), an uncertified building that was built before April 27, 1927, is deemed to be legally occupied until the owner proposes to renovate, add an addition, alter or change the occupancy of the building. The renovation, addition, alteration or change in occupancy must comply with the Uniform Construction Code.

(b) Under section 902(b) of the act, uncertified buildings within the Department’s jurisdiction must meet the following requirements which do not apply to uncertified buildings under subsection (a):

(1) Maximum story height, minimum allowable construction type based on floor area, vertical opening and shaft protection requirements, means of egress requirements pertaining to minimum number of exits, maximum travel distances to exits, means of egress illumination, minimum egress widths and heights for exit doors, exit

stairs, exit ramps and exit corridors requirements under the “International Building Code of 2018.”

(2) Fire safety requirements in the “International Building Code of 2018” for fire alarms, fire extinguishers, heat and smoke detectors, automatic sprinkler systems and occupancy and incidental use separations. The following also apply:

(i) If construction began on a building before May 19, 1984, the installation of automatic sprinkler systems is not required.

(ii) If construction began on a building after May 19, 1984, automatic sprinklers are only required if the building is classified in use groups E (educational), H (high-hazard), I (institutional), or R-1 or R-2 (residential) or if the building has occupied floors more than 75 feet above lowest level of fire department access. Buildings in use groups R-1 and R-2 which do not have occupied floors more than 75 feet above lowest level of fire department access may, instead of installing automatic sprinkler systems, install hard-wired interconnected heat and smoke detectors in all rooms or spaces, whether they are occupied or unoccupied.

(iii) If construction of a building began after May 18, 1984, automatic sprinkler installation shall be completed by December 22, 2010, or any certificate of occupancy issued shall be invalid.

(3) Accessibility requirements are applicable as follows:

(i) If construction of an uncertified building began before September 1, 1965, accessibility requirements will not be imposed by the Department.

(ii) If construction of a building began after August 31, 1965, and before February 18, 1989, and if the building is a State-owned building, a restaurant or a retail commercial establishment, the building must have at least one accessible main entrance, an accessible route from the accessible entrance to any public spaces on the same level as the accessible entrance and, if toilet rooms are provided, the building must have at least one toilet room for each sex or a unisex toilet room complying with the accessibility requirements of the “International Building Code of 2018.”

(iii) If construction of the building began after February 17, 1989, all accessibility requirements of the “International Building Code of 2018” shall be met.

(4) Structural requirements will not be imposed unless the Department determines that the building or a portion of the building has defects that are defined as dangerous in section 202 of the “International Existing Building Code of 2018.” If the building is dangerous, the Department may impose only those requirements minimally necessary to remove danger to the building’s occupants.

(5) A construction code official may deny the issuance of a certificate of occupancy if the official deems that a building is unsafe because of inadequate means of egress, inadequate lighting and ventilation, fire hazards or other dangers to human life or to public welfare.

(c) The following apply to uncertified buildings where the Department does not have jurisdiction and which are not governed under subsection (a):

(1) A construction code official shall issue a certificate of occupancy to an uncertified building if it meets the requirements of the latest version of the “International Existing Building Code of 2018” or Chapter 34 of the “International Building Code of 2018.” The construction

code official shall utilize the code for the municipality which best applies, in the official’s professional judgment.

(2) A construction code official may deny the issuance of a certificate of occupancy if the official deems that a building is unsafe because of inadequate means of egress, inadequate lighting and ventilation, fire hazards or other dangers to human life or to public welfare.

(3) A municipality governed under this subsection may utilize the standards of subsection (b) for the issuance of certificates of occupancy to uncertified buildings if the municipality adopts an ordinance.

**PERMIT AND INSPECTION PROCESS FOR COMMERCIAL CONSTRUCTION**

**§ 403.42. Permit requirements and exemptions.**

\* \* \* \* \*

(b) Emergency repairs or replacement of equipment may be made without first applying for a permit if a permit application is submitted to the building code official within 3 business days of the repair or replacement.

(c) A permit is not required for the exceptions listed in § 403.1(b) (relating to scope) and the following construction as long as the work does not violate a law or ordinance:

- (1) Building construction for the following:

\* \* \* \* \*

(x) Swings and other playground equipment accessory to one- or two-family dwellings.

(xi) Window awnings supported by an exterior wall which do not project more than 54 inches from the exterior wall and do not require additional support of group R-3 as applicable in the “International Building Code of 2018,” and Group U occupancies.

(xii) Movable cases, counters and partitions that are not over 5 feet 9 inches in height.

\* \* \* \* \*

**§ 403.42a. Permit application.**

\* \* \* \* \*

(e) The permit applicant shall submit construction documents in a format approved by the building code official. Construction documents shall be clear, indicate the location, nature and extent of the work proposed, and show in detail that the work will conform to the Uniform Construction Code.

(f) All of the following fire egress and occupancy requirements apply to construction documents:

(1) The permit applicant shall submit construction documents that show in sufficient detail the location, construction, size and character of all portions of the means of egress in compliance with the Uniform Construction Code.

(2) The construction documents for occupancies other than Groups R-2 and R-3 shall contain designation of the number of occupants to be accommodated on every floor and in all rooms and spaces.

(3) The permit applicant shall submit shop drawings for a fire protection system that indicates conformance with the Uniform Construction Code in accordance with the following:

(i) The shop drawings shall be approved by the building code official before the start of the system installation.

(ii) The shop drawings must contain the information required by the referenced installation standards contained in Chapter 9 of the “International Building Code of 2018.”

(g) Construction documents shall contain the following information related to the exterior wall envelope:

(1) Description of the exterior wall envelope indicating compliance with the Uniform Construction Code.

(2) Flashing details.

(3) Details relating to intersections with dissimilar materials, corners, end details, control joints, intersections at roof, eaves, or parapets, means of drainage, water-resistive membrane and details around openings.

(h) Construction documents shall contain a site plan that is drawn to scale. The building code official may waive or modify the following site plan requirements if the permit application is for an alteration or repair or if waiver or modification is warranted. Site plan requirements include all of the following:

(1) The size and location of new construction and existing structures on the site.

(2) Accurate boundary lines.

(3) Distances from lot lines.

(4) The established street grades and the proposed finished grades.

(5) If the construction involves demolition, the site plan shall indicate construction that is to be demolished and the size and location of existing structures and construction that will remain on the site or plot.

(6) Location of parking spaces, accessible routes, public transportation stops and other required accessibility features.

(i) A permit applicant shall submit certifications required in the “International Building Code of 2018” for construction in a flood hazard area to the building code official.

(j) A permit applicant shall identify, on the application, the name and address of the licensed architect or engineer in responsible charge. The permit applicant shall notify the building code official in writing if another licensed architect or engineer assumes responsible charge.

(k) The permit applicant shall describe an inspection program, identify a person or firm who will perform special inspections and structural observations if section 1704 and 1705 of the “International Building Code of 2018” requires special inspections or structural observations for the construction.

(l) A building code official may waive or modify the submission of construction documents, that are not required to be prepared by a licensed architect or engineer, or other data if the nature of the work applied for does not require review of construction documents or other data to obtain compliance with the Uniform Construction Code. The building code official may not waive the submission of site plans that relate to accessibility requirements.

\* \* \* \* \*

**§ 403.44. Alternative construction materials and methods.**

\* \* \* \* \*

(b) Materials, equipment and devices bearing the label or listed by a testing laboratory or quality assurance agency accredited by the International Accreditation Ser-

vice, Inc. or another agency accredited under the “Calibration and Testing Laboratory Accreditation Systems-General Requirements for Operation and Recognition” issued by ISO (ISO Guide 58) are approved for use if:

(1) The testing laboratory or quality assurance agency deemed the material as meeting Uniform Construction Code-required standards.

(2) The scope of accreditation is applicable to Uniform Construction Code-required standards.

(c) A new building or remodeling, alteration, addition or change of use and occupancy of an existing building which complies with the “International Performance Code of 2018” shall also be in compliance with the Uniform Construction Code.

§ 403.45. Inspections.

\* \* \* \* \*

(e) A construction code official shall conduct a final inspection of the completed construction work and file a final inspection report, which indicates that all of the following areas met Uniform Construction Code requirements after a final inspection of the completed construction work:

- (1) General building under § 401.7(6) (relating to certification category specification).
- (2) Electrical under § 401.7(7).
- (3) Plumbing under § 401.7(9).
- (4) Accessibility under § 401.7(11).
- (5) Fire protection under § 401.7(6).
- (6) Mechanical under § 401.7(8).
- (7) Energy conservation under § 401.7(10)

(f) A code administrator may act in place of a lumber grading or inspection agency to satisfy the requirements under section 2303.1.1 of the “International Building Code of 2018” or its successor code.

§ 403.46. Certificate of occupancy.

(a) A building, structure or facility may not be used or occupied without a certificate of occupancy issued by a building code official.

(b) A building code official shall issue a certificate of occupancy within 5 business days after receipt of a final inspection report that indicates compliance with the Uniform Construction Code. The certificate of occupancy shall contain the following information:

\* \* \* \* \*

(6) The use and occupancy classification under Chapter 3 (Use and Occupancy Classification) of the “International Building Code of 2018,” when designated.

(7) The type of construction defined in Chapter 6 (Types of Construction) of the “International Building Code of 2018,” when designated.

(8) Special stipulations and conditions relating to the permit and board of appeals’ decisions and variances for accessibility requirements granted by the Secretary.

(9) The date of the final inspection.

(c) A building code official may issue a certificate of occupancy for a portion of a building, structure or facility if the portion independently meets the Uniform Construction Code.

\* \* \* \* \*

MUNICIPAL ELECTION

§ 403.103. Municipalities electing not to enforce the Uniform Construction Code.

(a) A municipality shall provide written notification to the Department before August 7, 2004, if it elects not to administer and enforce the Uniform Construction Code.

(b) An applicant for a residential building permit shall obtain the services of a third-party agency certified in the appropriate categories to conduct the plan review and inspections under §§ 403.61—403.66 (relating to permit and inspection process for residential buildings).

(c) A building code official shall approve an alternative material, design or method of construction if the proposed design is satisfactory and complies with the intent of the Uniform Construction Code and the offered material, method or work is equivalent to Uniform Construction Code requirements for its intended purpose. The building code official shall accept compliance with the “International Performance Code of 2018” as an alternative to compliance with the Uniform Construction Code.

(d) A building code official shall determine the climatic and geographic design criteria contained in Table R301.2(1) of the “International Residential Code of 2018” for residential construction.

(e) A third-party agency which conducts plan review and inspection of residential buildings and utility and miscellaneous use structures shall retain copies of all final inspection reports relating to Uniform Construction Code compliance.

\* \* \* \* \*

[Pa.B. Doc. No. 22-230. Filed for public inspection February 11, 2022, 9:00 a.m.]

Title 58—RECREATION

FISH AND BOAT COMMISSION

[ 58 PA. CODE CH. 113 ]

Boating; Aids to Navigation and Obstructions to Navigation

The Fish and Boat Commission (Commission) amends Chapter 113 (relating to aids to navigation and obstructions to navigation). The Commission is publishing this final-omitted rulemaking under the authority of 30 Pa.C.S. (relating to Fish and Boat Code) and other authorities described as follows.

A. Effective Date

This final-omitted rulemaking will go into effect immediately upon publication in the *Pennsylvania Bulletin*.

B. Contact Person

For further information on this final-omitted rulemaking, contact Wayne Melnick, Esq., P.O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7810. This final-omitted rulemaking is available on the Commission’s web site at [www.fishandboat.com](http://www.fishandboat.com).

C. Statutory Authority

These amendments are published under the statutory authority of section 506 of The Administrative Code of 1929 (71 P.S. § 186). These amendments also are published in accordance with section 204 of the act of July 31, 1968 (P.L. 769, No. 240), referred to as the Common-

wealth Documents Law (CDL) (45 P.S. § 1204), which provides that an agency may omit or modify the procedures specified in sections 201 and 202 of the CDL (45 P.S. §§ 1201 and 1202) if, among other things, the administrative regulation or change relates to agency organization, management or personnel; agency procedure or practice; or Commonwealth property or the agency for good cause finds (and incorporates the finding and a brief statement of the reasons therefor in the order adopting the administrative regulation or change therein) that the procedures specified in sections 201 and 202 of the CDL are under the circumstances impracticable, unnecessary or contrary to the public interest.

#### D. Purpose and Background

Under § 51.5 (relating to correction of regulations), the Executive Director is authorized to take immediate corrective action on the Commission's behalf if the Executive Director or the Commission's staff discovers an error or omission in the text of a Commission regulation as published in the *Pennsylvania Code* or *Pennsylvania Bulletin*. The purpose of this final-omitted rulemaking is to update the Commission's regulations with current agency contact information.

#### E. Summary of Changes

The Commission amends § 113.4 (relating to permits) because a recent review of the Commission's regulations by staff revealed that some of the information in the current regulation is inaccurate or no longer current and needs updating. The Commission therefore amends this section to read as set forth in Annex A.

#### F. Paperwork

This final-omitted rulemaking will not increase paperwork and will create no new paperwork requirements.

#### G. Fiscal Impact

This final-omitted rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions. This final-omitted rulemaking will impose no new costs on the private sector or the general public.

#### H. Public Involvement

Under section 204 of the CDL, an agency may omit the procedures specified in sections 201 and 202 of the CDL if the administrative regulation or change relates to agency organization, management or personnel or agency procedure or practice. The Commission, therefore, did not publish these amendments as a notice of proposed rulemaking or solicit public comment.

#### Findings

The Commission finds:

(1) Inaccurate or outdated contact information was discovered in the text of § 113.4 as published in the *Pennsylvania Code*.

(2) Under § 51.5, the Executive Director is authorized to take immediate corrective action on behalf of the

Commission, including, if necessary, the issuance of an order to make the necessary correction, if the Executive Director or the Commission's staff discovers an error in the text of a Commission regulation as published in the *Pennsylvania Code*.

(3) Because the nature of the amendments is minor and designed to correct errors or update agency contact information, the Commission finds that the procedures of sections 201 and 202 of the CDL are unnecessary.

#### Order

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

(A) The regulations of the Commission in 58 Pa. Code Chapter 113 are amended by amending § 113.4 to read as set forth at Annex A.

(B) The Executive Director will submit this order and Annex A to the Attorney General for approval as to legality as required by law.

(C) The Executive Director shall certify this order and Annex A and deposit the same with the Legislative Reference Bureau as required by law.

(D) This order shall take effect immediately upon publication in the *Pennsylvania Bulletin*.

TIMOTHY D. SCHAEFFER,  
*Executive Director*

**Fiscal Note:** 48A-322. No fiscal impact; (8) recommends adoption.

#### Annex A

#### TITLE 58. RECREATION

#### PART II. FISH AND BOAT COMMISSION

#### Subpart C. BOATING

#### CHAPTER 113. AIDS TO NAVIGATION AND OBSTRUCTIONS TO NAVIGATION

#### § 113.4. Permits.

(a) Persons, including clubs, individuals, State agencies, municipalities and other groups, wishing to establish an aid shall apply for permission from the Commission on Form PFBC-277 at least 30 days prior to the intended date of installation. Application forms are available from and should be submitted to:

Aids to Navigation  
Bureau of Boating  
Pennsylvania Fish and Boat Commission  
Post Office Box 67000  
Harrisburg, Pennsylvania 17106-7000

(b) The authorization of the placement of a private aid to navigation does not grant exclusive privileges nor does it eliminate the necessity to comply with other Federal or state permitting requirements.

[Pa.B. Doc. No. 22-231. Filed for public inspection February 11, 2022, 9:00 a.m.]



# PROPOSED RULEMAKINGS

## STATE BOARD OF MEDICINE

[ 49 PA. CODE CH. 18 ]

### Acupuncturists and Practitioners of Oriental Medicine

The State Board of Medicine (Board) proposes to amend Chapter 18, Subchapter B (relating to registration and practice of acupuncturists and practitioners of Oriental medicine) to read as set forth in Annex A. Specifically, the Board is proposing amendments to §§ 18.11, 18.13, 18.13a, 18.15, 18.15a and 18.18 and adding § 18.20 (relating to professional liability insurance coverage for acupuncturists and practitioners of Oriental medicine).

#### *Effective Date*

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

#### *Statutory Authority*

The primary statutory authority to regulate acupuncturists is granted by the Acupuncture Licensure Act (ALA) (63 P.S. §§ 1801—1806.1). Specifically, section 3(b) of the ALA (63 P.S. § 1803(b)) authorizes the Board to promulgate regulations requiring the proper training of individuals, including physicians, before they may be licensed to practice acupuncture in this Commonwealth and further authorizes the Board to promulgate other regulations as may be deemed proper and necessary regarding the practice of acupuncture.

#### *Background and Need for Amendments*

Beginning in 2018, the Board undertook a comprehensive review of its regulatory scheme for acupuncturists and practitioners of Oriental medicine. As a result of that review, the Board is proposing comprehensive amendments to Chapter 18, Subchapter B to: (1) update outdated terminology; (2) remove outdated licensure provisions; (3) conform the regulations to the act of September 24, 2014 (P.L. 2472, No. 134) (Act 134 of 2014); (4) restructure requirements in § 18.15 (relating to practice responsibilities of acupuncturist and practitioner of Oriental medicine who is not a medical doctor) based on the type of license held; (5) expand the list of opportunities to demonstrate English language proficiency; and (6) rename the subchapter to reflect the fact that since 2008, acupuncturists are licensed (not registered).

#### *Updating outdated terminology*

As part of its review, the Board explored the feasibility of eliminating the words “Chinese” and “Oriental” from the regulations altogether to eliminate terms that may be considered culturally insensitive.

#### *The term “Chinese herbology”*

The Board proposes to replace the term “Chinese herbology” with the term “East Asian herbology.” While the term “Chinese herbology” is a term of art accepted and utilized within the regulated community, it is generally associated with the traditional herbal practices and theories commonly associated with those utilized in China, Taiwan, Korea and Japan. During the development of this proposed rulemaking, several alternative terms were discussed, including “herbology,” “Asian herbology,” “Eastern Asian herbology” and “East Asian herbology.” The alternative term which appears to be

most acceptable to the regulated community and the least likely to cause confusion with the public is “East Asian herbology.”

The Board initially considered, but rejected, the simple term “herbology” because it appeared to be overly broad. Other board-regulated practitioners may utilize herbs, minerals and compounds as part of their practice (albeit, utilizing Western herbs and philosophies). Consequently, the term “herbology” without further modification was deemed to be too broad of a term to accurately reflect the intended scope of practice for a practitioner of Oriental medicine.

Similarly, “Asian herbology” was considered but rejected because it too could imply the inclusion of traditional herbal practices and theories which may be inconsistent with traditional herbs and herbal theories from China, Taiwan, Korea and Japan. In theory, the term “Asian herbology” could include herbal therapies and theories from all areas of Asia; including India, Saudi Arabia and north-central Russia. Those locales are likely to have their own distinct herbal remedy traditions and may utilize herbs which do not naturally grow, and until recently, have not been routinely available in areas which traditionally employed what the current regulations refer to as “Chinese herbology.” Consequently, “Asian herbology” appeared to be a term not compatible with the historic traditions and herbs of what the current regulations refer to as “Chinese herbology.”

“Eastern Asian herbology” likewise suffered from encompassing too broad of a geographic area in its potential reach, as it could potentially include areas such as eastern Russia, the Philippines, Thailand and Indonesia—countries which have land masses at similar longitudes as countries which utilize traditional “Chinese herbology,” but which do not necessarily share the same herbal theories and traditions.

East Asia is a generally recognized geographic term encompassing the countries/territories commonly known as China, Hong Kong, Japan, Macau, Mongolia, North Korea, South Korea and Taiwan. Consequently, the term “East Asian herbology” was selected as the most appropriate substitute term for “Chinese herbology” and, where appropriate, the Board has substituted “East Asian herbology” for that term. The Board has also proposed a new definition of “East Asian herbology” to assist the public and regulated community in understanding the scope of the practice. It should be noted that the Board does propose to retain several references to “Chinese herbology” within the regulations. Those instances were limited to circumstances where a third-party certifying organization requires completion of a specified examination or educational program and the examination/educational program continues to utilize the term “Chinese herbology” within the name.

#### *The term “Oriental medicine”*

After much deliberation, the Board proposes to keep the term “Oriental medicine.” Comments from interested stakeholders, additional research and discussions with the public during Board committee meetings revealed that the term “Oriental medicine” is currently a generally accepted term of art within the regulated community and is recognized and understood by members of the public who wish to seek those types of services. The term

“Oriental medicine” is used within the name of the specialized school accrediting body recognized by the United States Department of Education (the Accreditation Commission for Acupuncture and Oriental Medicine (ACAOM®)), the name of the certifying body recognized/accepted by the Board as well as approximately 45 other states (the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM®)), the name of one of the two recognized programs of study by NCCAOM® (Oriental Medicine Program), and is part of the school name of at least 15 ACAOM® accredited and candidate schools.

The Board noted during its outreach, as well as during committee meetings to discuss drafts of this proposed rulemaking, that there was overwhelming opposition within the regulated community itself to changing the title of the “practitioner of Oriental medicine” license. Additionally, the Board considered the potential impact on the regulated community which may occur by changing the name of the license to some other title. Individuals who previously obtained services from a practitioner of Oriental medicine may become confused as to the services which may be lawfully provided by an individual who would be required to describe his or her practice utilizing a new term.

Similarly, utilizing terminology which is different than that used by the certifying and accrediting bodies and educational facilities could lead to reasonable concern by the public whether a practitioner is truly qualified to engage in these activities. Finally, the selection of a different and unique title which is not generally utilized or recognized within other jurisdictions may impact the portability of licensure.

Given the potential confusion by the public regarding the scope of licensure and services which may be provided if a unique term was utilized, the lack of support within the regulated community to alter the name of the authorization to practice using herbal therapy, and the potential economic impact on the regulated community by altering the name, the Board proposes to maintain the name of the authorization for an acupuncturist to practice East Asian herbology as “practitioner of Oriental medicine.”

The Board additionally noted that it could not control the names utilized by other organizations such as accrediting bodies, certification bodies, schools and the names those organizations may utilize to describe the programs of instruction and examinations they offer. Therefore, in addition to maintaining the name “practitioner of Oriental medicine,” this proposed rulemaking also maintains many of the other references to “Oriental medicine” which currently are used within the existing regulations.

#### *Removal of outdated regulations related to acupuncture licensure*

As part of the Board’s ongoing work to continuously review and address outdated regulations, this proposed rulemaking will delete § 18.13(c) (relating to requirements for licensure as an acupuncturist). The specific subsection was related to the registration requirements for medical doctors applying for registration as acupuncturists prior to January 1, 1988. As the provision is no longer relevant, the Board proposes to delete it.

#### *Amendments to conform to Act 134 of 2014*

##### *Diagnosis by a physician, dentist or podiatrist*

This proposed rulemaking will incorporate statutory amendments to the ALA made by the Act 134 of 2014. Act

134 of 2014 amended the ALA to authorize acupuncturists to treat individuals who do not present any symptoms of a condition for an unlimited period of time. See section 3.1(c) of the ALA (63 P.S. § 1803.1(c)).

The Board proposes to amend its regulations to more clearly state how long an acupuncturist may treat a person without having received a diagnosis from a physician, dentist or podiatrist. The Board did receive a comment during consideration of this proposed rulemaking inquiring why the Board limited the authority to diagnose to only physicians, dentists and podiatrists instead of including in the proposed regulations other practitioners who may be authorized to diagnose conditions, such as chiropractors or certified registered nurse practitioners. The Board notes that the General Assembly specified in section 3.1 of the ALA that the required diagnosis be made by “physician, dentist or podiatrist.” Consequently, the Board determined it is without statutory authority to extend the diagnosis authority to other licensing classifications and did not alter the proposed rulemaking in response to the comment.

##### *Professional liability insurance*

Act 134 of 2014 also imposed a new requirement that acupuncturists obtain and maintain professional liability insurance of at least \$1 million per occurrence or claims made. See section 3.2 of the ALA (63 P.S. § 1803.2). The Board has already implemented the requirement in practice given the statutory requirements expressed within Act 134 of 2014. Nevertheless, the Board has included with this proposed rulemaking package provisions addressing the professional liability insurance requirement to be consistent with Act 134 of 2014, and so that the regulated community and public may more easily understand the need for acupuncturists to obtain and maintain professional liability insurance.

##### *Restructuring of duties and responsibilities based on license held*

The Board proposes to substantially restructure § 18.15 to more clearly reflect the varying duties and responsibilities of: (1) an individual who is licensed as an acupuncturist but who is not licensed as a physician; (2) an individual who is licensed as a practitioner of Oriental medicine but who is not licensed as a physician; and (3) an individual who is licensed as an acupuncturist and who is also actively licensed as a medical doctor by the Board.

By way of example, the existing regulation in § 18.15(a)(4) requires acupuncturists to refer a patient to a physician, dentist or podiatrist for diagnosis if acupuncture services are contraindicated. In general, the concept of requiring an acupuncturist to refer a patient to another type of practitioner when the services which may be provided by means of acupuncture are contraindicated is appropriate. However, in considering the literal wording of the regulation, the Board determined that an across-the-board requirement that all individuals licensed as an acupuncturist make a referral to another practitioner was illogical because there are a number of acupuncturists who are also actively licensed as medical doctors. It appears clear that the ALA contemplated that physicians may also wish to incorporate acupuncture within their practice. See section 3(a) of the ALA, which requires physicians who wish to practice acupuncture to obtain separate licensure as an acupuncturist. There appears to be no compelling reason to require a patient to be referred to a second physician under circumstances where a physician-acupuncturist initially evaluates a patient for

acupuncture services, but determines that acupuncture will not be effective or is contraindicated. The Board could perceive no compelling reason which would prevent the physician-acupuncturist from simply “changing hats” and then providing an evaluation and medical care according to Western modalities. Requiring a physician who happens to also be licensed as an acupuncturist to refer the patient to a second physician simply because the physician-acupuncturist had initially considered, but ultimately excluded, potential acupuncture treatment did not appear in the best interest of patients and, in fact, could potentially harm the public health by delaying treatment and increasing costs.

Similarly, a prohibition on the use of titles or abbreviations implying that an acupuncturist is a doctor or physician could not reasonably be enforced against an acupuncturist already actively licensed as a physician. Consequently, the Board proposes separating the duties and responsibilities of individuals authorized to perform acupuncture by the types of licenses actually held by the individual. This separation will permit the Board to specifically tailor the duties and responsibilities appropriately and will provide the regulated community and the public with clear guidance regarding what a practitioner may and may not do.

#### *English proficiency examination*

The Board is proposing to expand the options for an applicant for licensure to demonstrate English language proficiency. The Board’s current regulations offer only two options to demonstrate English language proficiency—either the acupuncture licensure examination was taken in English, or the applicant has obtained a passing score (currently set at 550) on the Test of English as a Foreign Language (TOEFL®) examination. After reviewing English language proficiency requirements for acupuncturists in other states, the Board determined that it should be acceptable for an applicant to demonstrate one of the following: (1) that the applicant’s licensure examination was taken in English, (2) that the applicant’s educational program was conducted in English or (3) that the applicant has achieved an acceptable score on the TOEFL®, the Occupational English Test (OET) for health-related professionals, or a substantially equivalent English language proficiency examination approved by the Board.

With regard to the acceptable score on the TOEFL®, the Board notes that since the last time the Board updated its regulations on this topic, the TOEFL® has been revised numerous times. The current version of the TOEFL® is the TOEFL iBT® (internet-based test). This version of the exam has a total possible scaled score of 120. The Board determined that a score of 83 or higher on this version of the TOEFL® exam (which represents the average score attained by individuals taking the exam for licensure purposes, as well as the average score attained by all test takers) is acceptable to demonstrate English language proficiency for individuals seeking licensure. The Board 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 only in those limited circumstances that an individual has no possible access to the Internet—the TOEFL® paper-delivered test. This version only includes three of the four sections of the TOEFL iBT® exam (excluding the speaking portion) and is not given a total scaled score—only individual scores on each portion completed. The Board does not expect any applicants to have completed this version of the exam but wants to provide for that possibility in the regulations. In addition, in the event the

scoring system for the TOEFL® is altered again in the future, the Board would not need to immediately revise its regulations but could accept a comparable score.

#### *Description of Proposed Amendments*

The Board is proposing comprehensive amendments to Chapter 18, Subchapter B, including renaming the subchapter to reflect the fact that since 2008, acupuncturists are licensed (not registered).

The definition of “acupuncture examination” in § 18.11 (relating to definitions) is proposed to be amended to reflect that the Board itself does not offer an examination in acupuncture, and to delete references to herbal therapy and the practice of Oriental medicine to more accurately reflect that the examination required to be licensed as an acupuncturist in the Commonwealth is the NCCAOM Acupuncture Program examination.

This proposed rulemaking would add three new definitions to § 18.11 for “East Asian herbology,” “East Asian herbology examination” and the acronym “TOEFL®.” Additionally, the definition of herbal therapy would be amended by replacing the word “Chinese” with the phrase “East Asian,” and the definition of “Chinese herbology” would be deleted. The definition for the acronym “NCCAOM” would be amended to include potential successor organizations. In addition, minor typographical corrections are being made.

The Board proposes to amend § 18.13(a) to update the list of acceptable methods for demonstrating English language proficiency for those applicants who did not take the acupuncture examination in English. In addition, the Board proposes to delete subsection (c) pertaining to requirements for licensure as an acupuncturist by a medical doctor prior to 1988 because it is no longer relevant.

The Board proposes to amend § 18.13a (relating to requirements for licensure as a practitioner of Oriental medicine) by changing the required program of study from “Chinese herbology” to a program of study consistent with the new definition of “East Asian herbology,” and by changing the required examination from “the NCCAOM examination component on Chinese herbology” to “an East Asian herbology examination.” The Board is retaining the references to the NCCAOM certification in Chinese herbology to be consistent with the name of the credential issued by NCCAOM.

Section 18.15 is proposed to be renamed and substantially reorganized into distinct subsections—one for persons licensed solely as an acupuncturist, a second subsection for persons licensed as a practitioner of Oriental medicine and a third subsection for acupuncturists who are also licensed as medical doctors by the Board.

Subsection (a) is proposed to be amended so that it more clearly sets forth the practice responsibilities to the patient and the public for a person licensed as an acupuncturist who is not also licensed as a physician. In summary, the changes to the subsection incorporate the amendments in Act 134 of 2014 by clarifying that an acupuncturist may treat individuals with no symptoms of a condition for an unlimited time; may treat an individual presenting with symptoms of a condition for up to 60 days before referral for diagnosis by a physician, dentist or podiatrist; and may treat an individual presenting with symptoms of a condition after 60 days if the patient has been examined and diagnosed a physician, dentist or podiatrist. Additionally, due to the restructuring of the subsection, a new paragraph has been added specifically

addressing the name tag or badge which must be worn and the information which may or may not be present on the name tag or badge.

Subsection (b) is proposed to be deleted and a new subsection (b.1) added that would set forth the practice responsibilities to the patient and the public for a person licensed as a practitioner of Oriental medicine who is not licensed as a physician. In summary, a practitioner of Oriental medicine must comply with the general requirements of acupuncturists found in subsection (a)(1)–(9). Additionally, a practitioner of Oriental medicine is required to perform an herbal therapy evaluation and, if appropriate, develop a treatment plan incorporating East Asian herbology modalities. In the event the practitioner of Oriental medicine determines that the patient's symptoms have worsened, that further treatment by East Asian herbology modalities is contraindicated, or that East Asian herbology practices may interfere with known drugs already prescribed to the patient, the practitioner of Oriental medicine must refer the patient to a physician, dentist or podiatrist as appropriate. Finally, paragraph (3) would address the name tag or badge which must be worn and the information which may or may not be present on the name tag or badge.

Subsection (c) is proposed to be added to specifically set forth the practice responsibilities to the patient and the public for a person licensed as an acupuncturist who is also actively licensed as a medical doctor by the Board. Many practice duties and responsibilities are already imposed on medical doctors under Chapter 16 (relating to State Board of Medicine—general provisions), consequently, restating those requirements is not necessary. A medical doctor licensed as an acupuncturist will be required to include in the patient's medical records evidence of having performed an acupuncture evaluation and development of an acupuncture treatment plan for patients who were considered for, or who receive acupuncture services. Additionally, the subsection clarifies the duty of a medical doctor providing acupuncture services to comply with sterilization standards.

Section 18.15a(a) (relating to scope of practice of acupuncturists and practitioners of Oriental medicine) is proposed to be amended to clarify that an acupuncturist may utilize all supplemental techniques except herbal therapy unless licensed by the board as a practitioner of Oriental medicine. The proposed regulation clarifies that non-prescription topical remedies may be utilized by acupuncturists even though they may contain as active ingredients parts of plants, minerals and other organic materials. Subsection (b) is proposed to be amended to clarify that a practitioner of Oriental medicine may utilize therapeutic herbs that contain active ingredients that are similar or equivalent to active ingredients in drugs classified by the Federal Food and Drug Administration unless otherwise prohibited by law or regulation. Additionally, subsection (c) will be amended to correct a typographical error.

Section 18.18 (relating to disciplinary and corrective measures) is proposed to be amended to clarify that an individual licensed as an acupuncturist or as a practitioner of Oriental medicine is subject to all of the disciplinary sanctions authorized under section 42 of the Medical Practice Act of 1985 (MPA) (63 P.S. § 422.42) and 63 Pa.C.S. § 3108(b) (relating to civil penalties) for failing to comply with § 18.15, practicing or holding out as being able to practice acupuncture without a current and valid license as an acupuncturist, practicing or holding out as being able to practice East Asian herbology without a

current and valid license as a practitioner of Oriental medicine, practicing acupuncture or East Asian herbology without current professional liability insurance, and engaging in conduct prohibited under section 41 of the MPA (63 P.S. § 422.41).

Finally, the Board proposes to add § 18.20 (relating to professional liability insurance coverage for acupuncturists). In conformity with Act 134 of 2014, subsection (a) will require an acupuncturist to maintain professional liability insurance coverage in the minimum amount of \$1 million per occurrence or claims made. Subsection (b) provides that proof of insurance coverage may be provided by: (1) a certificate of insurance or copy of the declaration page from a personally purchased professional liability insurance policy setting forth the effective date, expiration date and dollar amounts of coverage; (2) a certificate of insurance or copy of the declaration page from an employer purchased professional liability insurance policy describing the licensee by name as a covered party under the policy, the effective date, expiration date and dollar amounts of coverage; or (3) evidence of a plan of self-insurance approved by the Insurance Commissioner under regulations of the Insurance Department in 31 Pa. Code Chapter 243 (relating to medical malpractice and health-related self-insurance plans). Subsection (c) would provide that a licensee who does not have current professional liability insurance coverage as required may not practice as an acupuncturist or practitioner of Oriental medicine in this Commonwealth. Subsection (d) would require that the professional liability insurance coverage for a licensed practitioner of Oriental medicine shall cover claims related to acupuncture as well as claims related to the provision of herbal therapy.

#### *Fiscal Impact and Paperwork Requirements*

The only costs and additional paperwork associated with this proposed rulemaking are related to the requirement for acupuncturists and practitioner of Oriental medicine to obtain professional liability insurance and to provide proof to the Board, which was imposed by the General Assembly in 2014, and was implemented by the Board at that time. The Board estimates these costs to be approximately \$425 annually per licensee.

#### *Sunset Date*

The Board continuously monitors the effectiveness of its regulations. Therefore, no sunset date has been assigned.

#### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on January 26, 2022, the Board submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate Consumer Protection and Professional Licensure Committee and the House Professional Licensure Committee. A copy of this material is available to the public upon request.

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

*Public Comment*

Interested persons are invited to submit written comments, suggestions or objections regarding this proposed rulemaking to Dana Wucinski, Counsel, State Board of Medicine, P.O. Box 69523, Harrisburg, PA 17106-9523, or by e-mail to RA-STRegulatoryCounsel@pa.gov, within 30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Include in the subject line "16A-4956 (Acupuncturists and Practitioners of Oriental Medicine)" when submitting comments.

MARK B. WOODLAND, MD,  
Chairperson

**Fiscal Note:** 16A-4956. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS**

**PART I. DEPARTMENT OF STATE**

**Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS**

**CHAPTER 18. STATE BOARD OF MEDICINE—PRACTITIONERS OTHER THAN MEDICAL DOCTORS**

Subchapter B. [ **REGISTRATION** ] **LICENSURE** AND PRACTICE OF ACUPUNCTURISTS AND PRACTITIONERS OF ORIENTAL MEDICINE

§ 18.11. **Definitions.**

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

\* \* \* \* \*

**Acupuncture examination**—An examination [ **offered or** ] recognized by the Board to test whether an individual has accumulated sufficient academic knowledge with respect to the practice of acupuncture [ **and herbal therapy** ] to qualify for the privilege of practicing as an acupuncturist [ **or as a practitioner of Oriental medicine** ] **in the Commonwealth**. The Board recognizes the NCCAOM component examinations in acupuncture and sterilization procedures as the examination for [ **registration** ] **licensure** as an acupuncturist [ **and the NCCAOM examination component in Chinese herbology as the examination for registration as a practitioner of Oriental medicine** ].

**Acupuncture medical program**—An academic or clinical program of study in acupuncture which has been given category I continuing medical education credit by an institution accredited or recognized by the Accreditation Council on Continuing Medical Education to conduct category I continuing medical education courses.

**Acupuncturist**—An individual licensed to practice [ **acupuncture** ] **acupuncture** by the Board.

[ **Chinese herbology**—The study of the use of herbs in the Oriental medicine tradition. ]

**East Asian herbology**—The use of **herbal preparations and products that contain as active ingredients parts of plants, minerals and other organic materials, or a combination thereof, administered according to East Asian medicine tradition to normalize function.**

**East Asian herbology examination**—An examination recognized by the Board to test whether an acupuncturist has accumulated sufficient academic knowledge with respect to the practice of herbal therapy to qualify for licensure as a practitioner of Oriental medicine in the Commonwealth. The Board recognizes the NCCAOM examination component in Chinese herbology and the NCCAOM examination for Oriental medicine as the examinations for licensure as a practitioner of Oriental medicine.

**Herbal therapy**—The application of [ **Chinese** ] **East Asian** herbology to the treatment of acupuncture patients.

**NCCAOM**—The National Certification Commission for Acupuncture and Oriental Medicine **or its successor organization.**

**Practitioner of Oriental medicine**—An acupuncturist who is licensed by the Board to use herbal therapy.

**Supplemental techniques**—The use of traditional and modern Oriental therapeutics, heat therapy, moxibustion, electrical and [ **low level** ] **low-level** laser stimulation, acupressure and other forms of massage, and counseling that includes the therapeutic use of foods and supplements and lifestyle modifications.

**TOEFL®**—The Test of English as a Foreign Language offered by Educational Testing Service (ETS).

§ 18.13. **Requirements for licensure as an acupuncturist.**

(a) The Board will license as an acupuncturist a person who satisfies the following requirements:

(1) Has successfully completed an acupuncture educational program which includes a course in needle sterilization techniques.

(2) Has obtained a passing grade on an acupuncture examination or has been certified by NCCAOM. If the examination was not taken in English, but is otherwise acceptable and a passing score was secured, the Board will accept the examination result if the applicant has also [ **secured a score of 550 on the test of English as a Foreign Language (TOEFL)** ] **demonstrated English language proficiency by one of the following methods:**

(i) **Demonstrating that the applicant's acupuncture educational program was conducted in English.**

(ii) **Demonstrating that the applicant has achieved a scaled score of at least 83, or similar score acceptable to the Board, on the TOEFL®.**

(iii) **Demonstrating that the applicant has 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.**

(iv) **Demonstrating that the applicant has achieved a passing score on a substantially equivalent English language proficiency examination, as approved by the Board.**

(b) The Board will license as an acupuncturist a medical doctor who satisfies the following requirements:

(1) Has successfully completed 200 hours of training in acupuncture medical programs including examinations required by those programs.

(2) Submits an application to register as an acupuncturist accompanied by the required fee as provided under § 16.13 (relating to licensure, certification, examination and registration fees).

(c) **[ Prior to January 1, 1988, the Board will register as an acupuncturist a medical doctor who satisfies the requirements of subsection (a), (b) or the following:**

(1) **Has at least 3 years of acupuncture practice—a minimum of 500 patient visits per year—documented to the satisfaction of the Board.**

(2) **Submits an application to register as an acupuncturist accompanied by the required fee. For the fee amount, see § 16.13. ] (Reserved).**

**§ 18.13a. Requirements for licensure as a practitioner of Oriental medicine.**

(a) An acupuncturist who also intends to use herbal therapy is required to be licensed by the Board as a practitioner of Oriental medicine.

(b) The Board will license an acupuncturist as a practitioner of Oriental medicine if the licensee, in addition to meeting the requirements under § 18.13 (relating to requirements for licensure as an acupuncturist) has fulfilled one of the following:

(1) Successfully completed an acupuncture education program that includes the study of **[ Chinese ] East Asian** herbology and has passed **[ the NCCAOM examination component on Chinese herbology ] an East Asian herbology examination.**

(2) Has obtained NCCAOM certification in Chinese herbology or Oriental medicine, which includes passing the NCCAOM examination component in Chinese herbology.

(c) An acupuncturist registered with the Board prior to April 14, 2007, may obtain a license as a practitioner of Oriental medicine if the acupuncturist can demonstrate one of the following:

(1) Successful completion of **[ a Chinese ] an East Asian** herbology or Oriental medicine education program recognized by the licensing authority of another state or United States territory for the practice of herbal therapy or Oriental medicine and successful completion of an examination in **[ Chinese ] East Asian** herbology or Oriental medicine recognized by the licensing authority of another state or United States territory for the practice of herbal therapy or Oriental medicine.

(2) NCCAOM certification in Chinese herbology or Oriental medicine.

(3) The achievement of cumulative qualifications that the Board determines to be equivalent to the standard requirements for registration as a practitioner of Oriental medicine.

(d) This **[ subsection ] section** does not apply to a medical doctor licensed as an acupuncturist nor does it restrict the practice of medicine by a medical doctor.

**§ 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.**

(a) **Responsibilities to patient and public—acupuncturist who is not a physician.** **[ In relation to the acupuncture patient, the acupuncturist and the**

**practitioner of Oriental medicine ] An acupuncturist who is not a physician:**

(1) Shall perform an acupuncture **[ or Oriental medicine ]** evaluation and develop an acupuncture **[ or Oriental medicine ]** treatment plan.

**(1.1) May treat an individual presenting with no symptoms of a condition for an unlimited period of time.**

(2) May treat **[ the patient's symptoms without the condition being diagnosed by a physician, dentist or podiatrist ] an individual presenting with symptoms of a condition** for 60 calendar days from the date of the first treatment **without the condition being diagnosed by a physician, dentist or podiatrist.**

(3) May treat **[ the patient's ] an individual presenting with symptoms of a condition** beyond 60 calendar days from the date of first treatment if the patient has obtained an examination and diagnosis from a physician, dentist or podiatrist.

(4) Shall promptly refer the patient **presenting with symptoms of a condition** to a physician, dentist or podiatrist, as appropriate to the patient's condition, if the acupuncturist **[ or practitioner of Oriental medicine ]** determines that further acupuncture **[ or Oriental medicine ]** treatment is contraindicated for the patient or determines that the patient's symptoms have worsened.

(5) Shall consult with the patient's physician, dentist, podiatrist or other health care practitioner upon request of the patient.

(6) Shall cooperate with the patient's physician, dentist or podiatrist in regard to the coordination of the patient's care, and comply with restrictions or conditions as directed by the physician, dentist or podiatrist.

(7) May not diagnose a physical or mental ailment or condition or prescribe or dispense a drug. This provision does not prohibit the use of diagnostic billing codes for billing or reimbursement purposes.

(8) Shall comply strictly with sterilization standards relative to aseptic practices.

(9) Shall maintain patient records in a manner consistent with § 16.95 (relating to medical records).

**(10) Shall wear a tag or badge with lettering clearly visible to the patient bearing the acupuncturist's name and the title "acupuncturist." The use of the words doctor, physician or any title or abbreviation implying licensure as a physician on this tag or badge is prohibited.**

(b) **[ Identification of acupuncturist or practitioner of Oriental medicine. An acupuncturist who is not a medical doctor shall wear a tag or badge with lettering clearly visible to the patient bearing the acupuncturist's name and the title "acupuncturist" or "practitioner of Oriental medicine," as appropriate. The use of the word doctor on this tag or badge is prohibited. ] (Reserved).**

**(b.1) Additional responsibilities to patient and public—practitioner of Oriental medicine who is not a physician. In addition to the responsibilities in subsection (a)(1)—(9), a licensed practitioner of Oriental medicine who provides, or contemplates providing, herbal therapy:**

(1) Shall perform an herbal therapy evaluation and, if appropriate, develop an appropriate treatment plan utilizing, in whole or in part, East Asian herbology modalities.

(2) Shall promptly refer a patient presenting with symptoms of a condition to a physician, dentist or podiatrist, as appropriate to the patient's condition, if the practitioner of Oriental medicine determines that further treatment of the patient by East Asian herbology modalities is contraindicated for the patient, may interfere with known drugs prescribed to the patient or determines that the patient's symptoms have worsened.

(3) Shall wear a tag or badge with lettering clearly visible to the patient bearing the licensee's name, as well as the title "Practitioner of Oriental Medicine." The use of the words doctor, physician or any title or abbreviation implying licensure as a physician on this tag or badge is prohibited.

(c) Responsibilities to patient and public—acupuncturist who is currently licensed as a medical doctor. An acupuncturist who also holds a current and active license as a medical doctor in this Commonwealth:

(1) Shall include in the patient's medical records evidence of having performed an acupuncture evaluation and development of an acupuncture treatment plan for patients considered for, or who receive, acupuncture services.

(2) Shall comply strictly with sterilization standards relative to aseptic practices when providing acupuncture services to patients.

**§ 18.15a. Scope of practice of acupuncturists and practitioners of Oriental medicine.**

(a) An acupuncturist may practice acupuncture and use supplemental techniques, including the use of non-prescription topical remedies which contain as active ingredients parts of plants, minerals and other organic materials, but may not use herbal therapy as defined in § 18.11 (relating to definitions) unless licensed by the Board as a practitioner of Oriental medicine.

(b) A practitioner of Oriental medicine may practice acupuncture and use supplemental techniques including herbal therapy. A practitioner of Oriental medicine is not prohibited from dispensing or administering therapeutic herbs that contain ingredients that are similar or equivalent to active ingredients in drugs as classified by the Federal Food and Drug Administration, unless otherwise prohibited by law or regulation.

(c) This [ subsection ] section does not limit the scope of practice of a medical doctor who is [ registered ] licensed as an acupuncturist.

**§ 18.18. Disciplinary and corrective measures.**

(a) The Board may [ refuse, revoke, suspend, limit or attach conditions to the license of an acupuncturist or practitioner of Oriental medicine for engaging ] impose any of the disciplinary sanctions authorized under section 42 of the Act (63 P.S. § 422.42) or 63 Pa.C.S. § 3108(b) (relating to civil penalties) for any of the following:

(1) Failing to comply with the duties and requirements in § 18.15 (relating to practice responsibilities of acupuncturist and practitioner of Oriental medicine who is not a physician; practice responsibilities of medical doctor licensed as an acupuncturist).

(2) Practicing or holding out as being able to practice acupuncture without a current and valid license to practice acupuncture.

(3) Practicing or holding out as being able to practice East Asian herbology without a current and valid license as a practitioner of Oriental medicine.

(4) Practicing acupuncture or East Asian herbology without current professional liability insurance coverage as required under section 3.2 of the Acupuncture Licensure Act (63 P.S. § 1803.2).

(5) Engaging in conduct prohibited under section 41 of the Act (63 P.S. § 422.41) for Board-regulated practitioners.

(b) The Board will order the emergency suspension of the license of an acupuncturist or practitioner of Oriental medicine who presents an immediate and clear danger to the public health and safety, as required under section 40 of the Act (63 P.S. § 422.40).

(c) The license of an acupuncturist or practitioner of Oriental medicine shall automatically be suspended, as required under section 40 of the Act .

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

**§ 18.20. Professional liability insurance coverage for acupuncturists and practitioners of Oriental medicine.**

(a) A licensed acupuncturist shall maintain a level of professional liability insurance coverage in the minimum amount of \$1 million per occurrence or claims made, as required under section 3.2 of the Acupuncture Licensure Act (63 P.S. § 1803.2).

(b) Proof of professional liability insurance coverage may include:

(1) A certificate of insurance or copy of the declaration page from a personally purchased professional liability insurance policy setting forth the effective date, expiration date and dollar amount of coverage.

(2) A certificate of insurance or copy of the declaration page from an employer purchased professional liability insurance policy describing the licensee by name as a covered party under the policy, the effective date, expiration date and dollar amount of coverage.

(3) Evidence of a plan of self-insurance approved by the Insurance Commissioner of the Commonwealth under regulations of the Insurance Department in 31 Pa. Code Chapter 243 (relating to medical malpractice and health-related self-insurance plans).

(c) A licensee who does not have current professional liability insurance coverage as required under section 3.2 of the Acupuncture Licensure Act may not practice as an acupuncturist or as a practitioner of Oriental medicine in this Commonwealth.

(d) The professional liability insurance coverage for a licensed practitioner of Oriental medicine shall cover claims related to acupuncture as well as claims related to the provision of herbal therapy.

[Pa.B. Doc. No. 22-232. Filed for public inspection February 11, 2022, 9:00 a.m.]

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

[ 52 PA. CODE CH. 59 ]

### Rulemaking Regarding Hazardous Liquid Public Utility Safety Standards at 52 Pa. Code Chapter 59; Notice of Proposed Rulemaking

Public Meeting held  
July 15, 2021

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

*Rulemaking Regarding Hazardous Liquid Public Utility  
Safety Standards at 52 Pa. Code Chapter 59;  
L-2019-3010267*

#### Notice of Proposed Rulemaking Order

*By the Commission:*

The Pennsylvania Public Utility Commission (Commission) adopts this Notice of Proposed Rulemaking (NOPR) Order and seeks comment on proposed amendments to our existing regulations and the addition of new regulations in Chapter 59 of Title 52, 52 Pa. Code, Chapter 59, to enable more comprehensive regulation of public utilities that transport petroleum products and other hazardous liquids in intrastate commerce.

#### *Background*

Under Section 501(b) of the Public Utility Code, the Commission has the general administrative power and authority to supervise and regulate all public utilities doing business within the Commonwealth and to make such regulations as may be necessary or proper in the exercise of its powers or for the performance of its duties. 66 Pa.C.S. § 501(b). Section 102, in pertinent part, defines a public utility as:

(1) Any person or corporations now or hereafter owning or operating in this Commonwealth equipment or facilities for:

\* \* \* \* \*

(v) Transporting or conveying natural or artificial gas, crude oil, gasoline, or petroleum products, materials for refrigeration, or oxygen or nitrogen, or other fluid substance, by pipeline or conduit, for the public for compensation.

66 Pa.C.S. § 102, definition of public utility (1)(v). Accordingly, the Commission has jurisdiction over and authority to regulate, inter alia, the transportation of petroleum products transported via pipeline or conduit for the public for compensation. 66 Pa.C.S. §§ 102, 501(b); see also 66 Pa.C.S. § 506 (inspection of facilities and records). The term “petroleum products” includes refined petroleum products such as fuel oil and diesel as well as natural gas liquids such as ethane, benzene and propane. See e.g., Petition of Granger Energy of Honey Brook, LLC, Docket

No. P-00032043 (Order entered September 8, 2004) (“petroleum products” as used in Section 102 of the Code, has a broad meaning as a “catch all phrase” to include what would otherwise be an exhaustive list of products); see also 49 CFR § 195.2 (defining a petroleum product as “flammable, toxic, or corrosive products obtained from distilling and processing of crude oil, unfinished oils, natural gas liquids, blend stocks and other miscellaneous hydrocarbon compounds.”).

Consistent with that authority, effective September 22, 2012, the Commission amended its regulations at Chapter 59 to address the safety of petroleum products pipelines by incorporating the Federal pipeline safety regulations at 49 CFR Part 195. See 42 Pa.B. 5967; Rulemaking Re Liquid Fuels Pipeline Regulations, Docket No. L-2008-2034622 (Order entered March 1, 2012).

The Commission participates as a certified state in the pipeline safety program administered by the U.S. Department of Transportation’s Pipeline and Hazardous Materials Safety Administration (PHMSA) under 49 U.S.C. § 60105(a).<sup>1</sup> The Commission incorporated 49 CFR Part 195 in its regulations, in part, to comport with the requirements of PHMSA’s pipeline safety program. Participating certified states must adopt the minimum Federal pipeline safety standards and are permitted to adopt additional more stringent regulations so long as they are compatible with the minimum Federal pipeline safety standards. As stated in Appendix A to Part 195:

For the remainder of pipeline facilities, denominated “intrastate pipeline facilities,” the [Hazardous Liquids Pipeline Safety Act (HLPESA)] provides that the same Federal regulation and enforcement will apply unless a State certifies that it will assume those responsibilities. A certified State must adopt the same minimal standards but may adopt additional more stringent standards so long as they are compatible.

49 CFR Part 195, Appendix A to Part 195—Delineation Between Federal and State Jurisdiction—Statement of Agency Policy and Interpretation. Based on the foregoing, as a certified state in PHMSA’s pipeline safety program, the Commission may adopt additional standards beyond the minimum Federal pipeline safety standards.

Part 195 prescribes safety standards and reporting requirements for pipeline facilities used in the transportation of hazardous liquids. 49 CFR 195.0. Under Part 195, hazardous liquids include “petroleum, petroleum products, anhydrous ammonia, or ethanol.” 49 CFR 195.2. In sequence, Part 195 addresses the following: General; Annual, Accident, and Safety-Related Condition Reporting; Design Requirements; Construction; Pressure Testing; Operation and Maintenance; Qualification of Pipeline Personnel; and Corrosion Control. See 49 CFR Subparts A—H.

At present, the safety standards for hazardous liquid public utilities are limited to the Commission’s adoption of the minimum standards in Part 195 in Chapter 59 of the Commission’s regulations. Section 59.33 provides in relevant part, as follows:

(b) *Safety code.* The minimum safety standards for all natural gas and hazardous liquid public utilities in the Commonwealth shall be those included under

<sup>1</sup> Certification is an annual process, in which PHMSA makes available appropriate forms to each State agency, which is included with the annual grant program. Each year, the Commission completes and submits these forms to PHMSA. To view the Commission’s 2021 certification status, refer to Appendix F—State Program Certification/Agreement Status, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation (Last accessed May 12, 2021) available at [https://www.phmsa.dot.gov/sites/phmsa.dot.gov/files/2021-03/2021%20Appendix%20F%20-%20State%20Program%20Certification%20Agreement%20Status\\_0.pdf](https://www.phmsa.dot.gov/sites/phmsa.dot.gov/files/2021-03/2021%20Appendix%20F%20-%20State%20Program%20Certification%20Agreement%20Status_0.pdf).



the pipeline safety laws as found in 49 U.S.C.A. §§ 60101—60503 and as implemented at 49 CFR Parts 191—193, 195 and 199, including all subsequent amendments thereto. Future Federal amendments to 49 CFR Parts 191—193, 195 and 199, as amended or modified by the Federal government, shall have the effect of amending or modifying the Commission's regulations with regard to the minimum safety standards for all natural gas and hazardous liquid public utilities. The amendment or modification shall take effect 60 days after the effective date of the Federal amendment or modification, unless the Commission publishes a notice in the *Pennsylvania Bulletin* stating that the amendment or modification may not take effect.

(c) *Definition.* For the purposes of this section, "hazardous liquid public utility" means a person or corporation now or hereafter owning or operating in this Commonwealth equipment or facilities for transporting or conveying crude oil, gasoline, petroleum or petroleum products by pipeline or conduit, for the public for compensation.

52 Pa. Code § 59.33(b)-(c).

In order to more comprehensively regulate the design, construction, and operations and maintenance of public utilities transporting petroleum products and other hazardous liquids under the jurisdiction of the Commission, on June 13, 2019, the Commission entered an Advanced Notice of Proposed Rulemaking (ANOPR) inviting comments on the amendment and enhancement of Chapter 59. In particular, the ANOPR focused on expanding Section 59.33 to provide a more complete regulatory framework for hazardous liquid public utilities. The ANOPR was published in the *Pennsylvania Bulletin* on June 29, 2019, and comments from interested stakeholders were due within 60 days. Upon review and consideration of the comments received, the Commission hereby proceeds with this NOPR to begin the process of modifying the regulations at Chapter 59 as proposed in the attached Annex.

#### *Discussion*

#### *Comments*

In response to the ANOPR, the Commission received a total of 93 comments, ranging from one-page resolutions to 339-page submissions. A variety of interested stakeholders filed comments including advocates, industry affiliates, local governments, members of the Pennsylvania General Assembly, and private citizens. Below, we summarize the comments received from each of the above groups in the subject areas identified in the ANOPR and in other subject areas. To the extent that the Commission does not identify a particular comment herein, it has nonetheless been duly considered.

#### *Advocates*

The following advocates filed comments with the Commission in response to the ANOPR: Bucks County Concerned Citizens Against the Pipelines, the Clean Air Council, the Conservation Voters of PA, Del Chesco United for Pipeline Safety, the Pipeline Safety Coalition, and the Responsible Drilling Alliance (collectively, advocates). The advocates generally seek strengthened regulations for new and existing pipelines. The advocates also express concern about aging pipeline infrastructure and pipeline integrity. They point to pipeline incidents, including spills, leaks, sinkholes, and private well contamination, as the basis for strengthening regulations. The advocates note that any new regulations should consider

the needs of the public, the environment, and pipeline infrastructure. Accordingly, the advocates seek new regulations that provide for meaningful public engagement and take into account industry best practices.

For example, some advocates state that the Commission should develop a regulatory process to address pipeline siting, including a permitting process to determine where pipelines facilities are located. The advocates also recommend that hazardous liquid public utilities be required to periodically review and reassess the depth of pipeline cover. In addition, the advocates suggest that all new valves be remote operated, and that emergency flow restricting devices (EFRDs) be installed in high consequence areas (HCAs) in consultation with public officials. The advocates also suggest additional regulations for HCAs. Moreover, the advocates recommend that the Commission regulate construction techniques, such as horizontal directional drilling (HDD), and require the identification of water supplies as well as the use of geophysical testing.

Further, the advocates recommend enhanced pressure testing and maximum operating pressure requirements. The advocates suggest the use of in-line inspection tools. Additionally, the advocates propose requirements for the placement of additional line markers and the provision of additional information regarding line markers. The advocates also comment on pipeline rights-of-way. One advocate proposes, inter alia, the creation of natural habitats on rights-of-way. Another advocate suggests that the Commission require hazardous liquid public utilities to inspect rights-of-way on foot once per quarter. Some advocates also call for the use of enhanced leak detection technology. Moreover, the advocates suggest improved pipeline personnel training and additional qualifications for individuals acting as land agents. Similarly, at least one advocate recommends that background checks be required for contractors and laborers.

Regarding hazardous liquid public utility interactions with the community, the advocates recommend that the Commission require communications with public officials, emergency responders, and landowners. The advocates also recommend the development of emergency plans, including evacuation plans in areas of high population density. One advocate recommends tabletop and functional exercises for emergency responders, including the creation of After Action Reports by an impartial entity. One advocate also requests that the Commission revise its formal complaint process to be more accessible to all residents regardless of economic or financial resources.

In addition to the advocates identified above, the Commission's Bureau of Investigation and Enforcement (BIE), filed Comments with the Commission in response to the ANOPR. BIE's recommendations are based on the experience of and research conducted by staff in BIE's Safety Division. According to BIE, the objective of its comments is to ensure the safety of utilities, utility personnel, and the general public.

BIE's design and construction comments focus on external loads, miter joints, pipeline location, cover over buried pipelines, and valves. For example, regarding location, BIE recommends that no pipelines be installed under any building or structure intended for human occupancy. BIE also submitted comments regarding HDD techniques, including water well and supply protection. Additionally, BIE commented on pressure testing, including hydrostatic testing. BIE's operation and maintenance comments focus on requiring additional liaison activities, line markers, inspections of pipeline rights-of-way, and leak detection

measures. In this regard, BIE suggests, inter alia, enhanced requirements for patrolling pipeline facilities as well as the use of odorant for leak detection purposes. BIE also recommends that hazardous liquid public utilities file notifications with the Commission prior to any major construction or maintenance activities. Further, BIE recommends more stringent qualifications for pipeline personnel, including requalification intervals. Finally, regarding corrosion control measures, BIE focuses on cathodic protection requirements.

#### *Industry Affiliates*

The following industry affiliates filed comments with the Commission in response to the ANOPR: the American Society of Civil Engineers, Associated Petroleum Industries of Pennsylvania, the Association of Oil Pipelines, JARI, the Marcellus Shale Coalition, Operating Engineers Local 542, the PA Chamber of Business and Industry, the Pennsylvania Energy Infrastructure Alliance, Schmid & Co., Inc., Steamfitters Local 420, Shepstone Management Company, Inc., SolSpec Aerial Analytics, Sunoco Pipeline, L.P., and the Washington Chamber of Commerce (collectively, industry affiliates). The industry affiliates largely contend that Pennsylvania's energy success relies on increased pipeline construction, that pipelines are the safest and most reliable mode of energy transportation, and that new pipeline regulations will result in increased inefficiencies. The industry affiliates recommend, generally, that the Commission defer to existing Federal regulations and not add to the American Petroleum Institute (API) Recommended Practices already incorporated into PHMSA's regulations. The industry affiliates posit that more comprehensive regulations may reverse hard-earned energy growth that the Commonwealth has experienced.

The industry affiliates also recommend that the Commission exercise caution in integrating new regulation on existing facilities, noting that retroactive applicability is barred in certain instances. They remind the Commission that, while states may promulgate additional regulations for pipelines, new regulations must be compatible with Federal regulations. The industry affiliates also direct the Commission's attention to pending Federal rulemaking proceedings and note that PHMSA's rules are intentionally rigorous to mitigate risks and protect communities as well as the environment. Further, the industry affiliates advise in their comments that many hazardous liquid public utilities face heightened scrutiny and already exceed required standards to ensure public safety.

Regarding construction as well as operation and management standards, the industry affiliates advise that pipelines are built from materials that exceed the Federal density standards, are often buried deeper than required, are pressure tested well above operational level, are treated with cathodic protection, and incorporate required EFRDs. Thus, the industry affiliates argue that any prospective changes to such standards should occur at the Federal level. Some industry affiliates also claim that the Commission has not explained the risk to be mitigated or the basis for needing regulatory changes. In this regard, the industry affiliates generally contend that enhancements to pipeline cover, valve, line marker, and pipeline personnel qualifications are not necessary. The industry affiliates also ask that Federal accident reporting requirements be given great deference.

The industry affiliates also state that the Commission should work with the Pennsylvania Department of Environmental Protection (DEP) and partner with hazardous liquid public utilities to enforce existing regulations, rather than adding additional rules. The industry affil-

ates also suggest that the Commission defer to the expertise of the DEP for HDD standards and standards for other construction techniques. Regarding HDD, the industry affiliates also note that HDD is cost effective and minimizes surface disturbance and environmental impacts. Some commenters also address claims regarding inadvertent returns, noting that there are no long term hazards for ground water.

With regard to utility interaction with public officials and the community, the industry affiliates recommend that the Commission's regulations align with existing API Recommended Practices. Some industry affiliates also stated that they have already developed resources aimed at addressing public awareness. In addition, one industry affiliate suggests that the Commission conduct a survey of past public awareness meetings and emergency drill attendance, noting that public officials rarely attend.

Finally, the industry affiliates stressed the need to safeguard sensitive information and pointed to the Public Utility Confidential Security Information Disclosure Protection Act, 35 P.S. §§ 2141.1—2141.6, and the Right-to-Know Law, 65 P.S. §§ 67.101, et seq., as being provisions that the Commission's NOPR may not override.

#### *Local Government*

The following local government bodies and associations also filed comments with the Commission in response to the ANOPR: the Borough of Lemoyne, Capital Region Council of Governments, the Chester County Association of Township Officials, the County Commissioners Association of Pennsylvania, the County of Chester, the Cumberland County Board of Commissioners, Downingtown Area School District, the East Goshen Township Board of Supervisors, the Hampden Township Board of Supervisors, the Lower Allen Township Board of Supervisors, the Monroe Township Board of Supervisors, the Pennsylvania State Association of Township Supervisors, the Silver Spring Township Board of Supervisors, the Township of Middletown in Delaware County, the Uwchlan Township Board of Supervisors, and the West Whiteland Township Board of Supervisors (collectively, government entities). Generally, the government entities seek additional regulations with a focus on public awareness.

A number of government entities filed identical resolutions calling for public awareness meetings. The resolutions noted that the operation of pipelines may pose a danger to the public without adequate safety measures and regulatory oversight, and that efforts should be made to enhance the public's trust. The resolutions stated that one hazardous liquid public utility has refused invitations to county-hosted meetings addressing citizens' concerns on three occasions. The resolutions also noted that, since the Commission has the authority to require hazardous liquid public utilities to conduct regional and periodic public outreach meetings, public awareness meetings should be held at least once a year on a local or regional basis.

Aside from these resolutions, the government entities submitted comments focusing on many of the same areas as the advocates. For example, the government entities suggest, the creation of an approval process for pipeline siting, requirements for the replacement of depth of cover, the installation of remote valves, requirements for additional line markers, mandatory notice to Commission before construction activity, and the registration of land agents.

The government entities also recommend enhancements to pipeline conversion requirements, such as Commission

approval prior to pipeline conversion, including public notice and hearings. In addition, the government entities suggest that the Commission impose strict regulatory practices to protect stored pipelines prior to construction and to limit the exposure of pipelines to natural elements. In this regard, the government entities suggest reporting requirements for construction delays, including the length of pipeline exposure and corrosion data. The government entities also recommend that construction permits consider the impact of HDD on residents. Further, the government entities state that risk information regarding pipelines should be provided to emergency responders and that hazardous liquid public utilities create emergency plans for schools at their own expense. The government entities also suggest that accident reports be filed with the Commission.

#### *Members of the Pennsylvania General Assembly*

The following members of the Pennsylvania General Assembly filed comments with the Commission: Representative Carolyn Comitta, Representative Danielle Otten, Senator Andrew Dinniman, Senator Judith Schwank, and Senator Tom Killion (collectively, the legislators). The legislators encourage the Commission to promulgate regulations for all areas of the ANOPR. The legislators note that local and county public officials as well as constituents have concerns regarding pipeline conversion, older pipelines, geophysical testing, the protection of public and private water wells, and communication with public officials and the community. Accordingly, the legislators ask the Commission to consider, *inter alia*, construction methods, leak detection, public notification systems, and the role of land agents. For example, the legislators ask the commission to establish increased requirements for cover over buried pipelines and underground clearances. The legislators also request enhanced requirements for valve spacing and the use of vehicle barriers as well as additional placement of line markers. Moreover, the legislators note the importance of requiring hazardous liquid public utilities to develop emergency response plans in coordination with public officials and emergency responders, as well as public education plans.

#### *Individual Commenters*

Finally, approximately 51 individuals filed comments with the Commission. These individuals largely focus their comments on the same areas as the advocates, government entities, and legislators. Many of the individuals included personal anecdotes in their comments regarding experiences they had while living near pipelines in the Commonwealth. For example, some individuals described their experience with the Revolution Pipeline incident in 2018. The individual commenters generally call for additional regulation of hazardous liquid public utilities, and primarily take issue with HDD practices, land agents and the use of eminent domain, and a lack of communication and public outreach by hazardous liquid public utilities.

Regarding HDD, the individual commenters echo concerns regarding geological impacts as well as the contamination of private wells, inadvertent returns, sink holes, and the exposure of adjacent pipelines. Some individuals also note concerns regarding noise. For instance, one individual states that he lives in an area where constant noise and vibrations continued for months due to drilling. The individual commenters maintain that HDD should only be used when absolutely necessary and that hazardous liquid public utilities must be required to adhere to noise ordinances.

As it pertains to land agents, some individuals note that their neighbors have been coerced by land agents, and state that land agents should not bully homeowners into agreeing to allow a pipeline to pass through their property. The individual commenters suggest that land agents be monitored and held responsible for deceiving landowners during negotiations and engaging in fraudulent or unlawful practices. In addition, the individual commenters claim that hazardous liquid public utilities are misusing the eminent domain process and that eminent domain should only be used for the greater good when landowners are adequately compensated.

Finally, regarding public outreach, the individual commenters request that hazardous liquid public utilities be required to provide emergency responders, the affected public, and public officials with contact information prior to the operation of a pipeline. One individual notes that referring to line markers for emergency information is not practical as line markers may be in forests or on property that they do not own. Another individual states that she lives in an “evacuation zone” and has never received information regarding emergency procedures. She notes that the hazardous liquid public utility claims it is not required to provide such information due to security concerns. The individual commenters request meetings with public officials regarding construction and frequent public awareness meetings with the public, emergency responders, and schools.

#### *Gas Service and Facilities Provisions*

First, the Commission proposes to create a new heading within Chapter 59 to encompass the “Hazardous Liquid Public Utility Safety Standards.” In conjunction with the creation of this new heading, we propose revising the existing “Service and Facilities” heading for Sections 59.11—59.38 to “Gas Service and Facilities.” This revision is intended to indicate that Sections 59.11—59.38 of the Commission’s existing regulations are applicable to only natural gas distribution public utilities.

##### *§ 59.33. Safety.*

Section 59.33, which addresses safety, will continue to fall under the heading for “Gas Service and Facilities.” Currently, Section 59.33 addresses both natural gas distribution utilities and hazardous liquid public utilities. We propose to remove all references to “hazardous liquid public utilities” in Section 59.33. Thus, we will amend Section 59.33(b) and mark Section 59.33(c) as “reserved.” The provisions of Section 59.33 pertaining to hazardous liquid public utilities will now be addressed in “Hazardous Liquid Public Utility Safety Standards.” We do not propose any changes to the remaining portions of Section 59.33.

#### *Hazardous Liquid Public Utility Safety Standards*

As noted above, the Commission will create a new heading within Chapter 59 to encompass the “Hazardous Liquid Public Utility Safety Standards.” This heading indicates that Sections 59.131—59.143 of the Commission’s proposed regulations are applicable only to hazardous liquid public utilities.

##### *§ 59.131. Purpose.*

Section 59.131 of the Commission’s proposed regulations formalizes the notion that, as a certified State participating in PHMSA’s hazardous liquid pipeline safety program, the Commonwealth must adopt and enforce, as a minimum, all Federal pipeline safety standards at 49 CFR Parts 195 and 199 for hazardous liquid public utilities. As a certified State, however, the Commonwealth

may also promulgate additional regulations for hazardous liquid public utility pipeline safety that are more stringent than the PHMSA federal regulations so long as the state regulations are compatible with the HLPESA and the minimum safety standards in PHMSA's regulations. Thus, Section 59.131 states that the purpose of the proposed regulations encompassed in the Commission's "Hazardous Liquid Public Utility Safety Standards" is to set forth the safety standards for all hazardous liquid public utilities in the Commonwealth, implicitly recognizing that these standards apply only to intrastate hazardous liquid pipelines operated by public utilities.

§ 59.132. *Definitions.*

Section 59.132 of the Commission's proposed regulations sets forth general definitions pertinent to the regulations of hazardous liquid pipeline safety. We define "hazardous liquid public utility" consistent with the definition formally found in Section 59.33 of the Commission's regulations.<sup>2</sup> Thus, a "hazardous liquid public utility" is a person or corporation now or hereafter owning or operating in this Commonwealth equipment or facilities for transporting or conveying crude oil, gasoline, petroleum or petroleum products, by pipeline or conduit, for the public for compensation.

Additionally, we explain the difference between the terms "pipe or line pipe," "pipeline," and "pipeline facility" as it pertains to the transportation of hazardous liquids. For example, the term "pipeline" refers to all parts of a pipeline facility through which a hazardous liquid moves in transportation, including, but not limited to, line pipe, valves and other appurtenances connected to line pipe, pumping units, fabricated assemblies associated with pumping units, metering and delivery stations and fabricated assemblies therein, and breakout tanks. The definitions are compatible with those in 49 CFR 195.2.

Moreover, in Section 59.132, we delineate key stakeholders implicated in the proposed regulations by defining the terms "affected public," "emergency responders," and "public officials." "Affected public" refers to residents and places of congregation (businesses, schools, etc.) along the pipeline and the associated right-of-way within 1,000 feet, or within the lower flammability limit (LFL), of a pipeline or pipeline facility, whichever is greater. "Emergency responders" refers to local fire, police, and emergency medical services, along with county hazmat teams, Department of Emergency Services, and 911 centers, and other emergency local, city, county, or state officials and representatives. "Public officials" refers to elected local, city, county, and state officials and their staff having land use and street or road jurisdiction along the pipeline route.

Further, in Section 59.132, we incorporate by reference the definitions of a number of technical terms in 49 CFR Part 195, including "computation pipeline monitoring," "external corrosion direct assessment," "EFRD," and "HCA." We incorporate these terms to ensure consistency and compatibility among the proposed regulations and the minimum safety standards in PHMSA's regulations. The definitions of other technical terms are also consistent with PHMSA guidance and documents.

The Commission welcomes comments regarding the definitions proposed in Section 59.132. The Commission also seeks comment regarding the need for additional definitions to enhance the readability of the proposed

<sup>2</sup> As noted earlier, the definition of "hazardous liquid public utility" was removed from Section 59.33(c) because that portion of the regulations will now address only "Gas Service and Facilities."

regulations and better clarify any technical terms or references to technical documents therein.

§ 59.133. *General.*

Section 59.133 of the Commission's proposed regulations establishes general provisions applicable to hazardous liquid public utilities. Subsection (a) stems in part from the existing regulation at Section 59.33(b) under "Gas Service and Facilities." Subsection (a) here mirrors Section 59.33(b) in that it adopts the Federal pipeline safety standards, as a minimum, as required by the Commonwealth's participation in PHMSA's hazardous liquid pipeline safety program. The Federal pipeline standards are the minimum safety standards, unless otherwise specified in the proposed regulations at Sections 59.131—59.143.<sup>3</sup> Future Federal amendments will automatically take effect for purposes of the Commission's regulations after 60 days, unless otherwise directed. In this regard, we created new language to indicate that future amendments to the Federal regulations that are more stringent than the Commission's requirements under proposed Sections 59.131—59.143 will control.

Section 59.133 also addresses enforcement and records. Subsections (b) and (c) provide for the inspection of hazardous liquid public utilities for compliance purposes, require hazardous liquid public utilities to make their facilities, books, and records accessible to the Pipeline Safety Section, and require the provision of reports, data, and other information to the Pipeline Safety Section upon request. These subsections will aid the Commission in ensuring compliance with the proposed regulations.

Finally, Section 59.133 addresses pipeline conversion. Subsection (d) directs hazardous liquid public utilities to notify the Commission's Pipeline Safety Section before a pipeline is converted from service not previously covered by the "Hazardous Liquid Pipeline Safety Standards." This subsection also requires hazardous liquid public utilities engaged in conversion, flow reversal, or commodity change subject to 49 CFR 195.5 to comply with Pipeline Safety: Guidance for Pipeline Flow Reversals, Product Changes and Conversion to Service, PHMSA Advisory Bulletin ADB-201-04, Docket No. 2014-0040; 79 FR 56121-56122. These requirements will provide additional oversight for pipeline conversions.

With regard to Section 59.133, the Commission seeks comment on the impact of future amendments to the Federal regulations that are more stringent than proposed Sections 59.131—59.143, and the language addressing such amendments in subsection (a). The Commission also seeks comment regarding the pipeline conversion notification and compliance provisions set forth in subsection (c).

§ 59.134. *Accident reporting.*

Section 59.134 of the Commission's proposed regulations set forth requirements for hazardous liquid public utilities reporting accidents. Section 59.134 works in conjunction with 49 CFR 195.50 and 49 CFR 195.52. Subsections (b) and (c) require that, after any accident causing the conditions described in 49 CFR 195.50, a hazardous liquid public utility must provide a failure analysis report and a root cause analysis report to the Commission's Pipeline Safety Section. The failure analysis report and root cause analysis report must be provided within 120 days of the accident or within 10 days of report completion, whichever comes first. The failure

<sup>3</sup> The Commission may promulgate additional regulations that are more stringent than the PHMSA Federal regulations so long as the state regulations are compatible with the HLPESA and the minimum safety standards in PHMSA's regulations.

analysis and root cause analysis must be performed by an independent third-party laboratory and an independent third-party consultant, respectively. A hazardous liquid public utility must provide status reports to the Pipeline Safety Section every 14 days if the respective deadlines are not met. Subsection (d) sets forth the process for obtaining approval of a third-party laboratory and consultant.

Subsection (e) requires that, after the release of a hazardous liquid causing the conditions described in 49 CFR 195.52, a hazardous liquid public utility must provide immediate notice to the Pipeline Safety Section and emergency responders. Notice must be provided at the earliest practicable moment and no later than one hour after confirmed discovery. The accident reports required by Section 59.134 will provide the Commission's Pipeline Safety Section, and emergency responders in the case of subsection (e), with additional information regarding pipeline accidents.

The Commission welcomes comment on the accident reporting requirements proposed in Section 59.134, including the timeframe for reporting accidents and the content of a hazardous liquid public utility's accident reports.

*§ 59.135. Construction, operation and maintenance, and other reports.*

Section 59.135 of the Commission's proposed regulations sets forth requirements for hazardous liquid public utilities reporting construction, operation and maintenance, and other activities. Subsection (b) requires hazardous liquid public utilities to notify the Pipeline Safety Section of (1) proposed major construction, major reconstruction, or major maintenance involving an expenditure in excess of \$300,000 or 10% of the cost of the pipe in service, whichever is less, and (2) maintenance, verification digs, and assessments involving an expenditure in excess of \$50,000, and the unearthing of suspected leaks, dents, pipe ovality features, cracks, gouges or corrosion anomalies, or other suspected metal losses, 45 days prior to commencement and 10 days prior to commencement, respectively. Subsection (b) also requires hazardous liquid public utilities to immediately notify the Commission's Pipeline Safety section of excavation damages, washout, or unplanned replacement of any pipeline section or cut out.

Subsections (c), (d), and (e) detail requirements for the content of these notices. For example, a hazardous liquid public utility must provide the following information in its notice to the Commission's Pipeline Safety Section: name, pipeline route, length, of the pipeline, the counties and municipalities traversed, estimated start and completion dates; pipeline identification information; any change in flow direction, and commodity or product. A hazardous liquid public utility may be required to provide additional information regarding, *inter alia*, the following areas upon request from the Commission's Pipeline Safety Section: project information; pipe specifications; operating pressure and stress; welding; railroad, road, and water crossings; valves; minimum cover and clearance; piping; pressure and leakage tests; and pipeline rights-of-way.

Moreover, Section 59.135 addresses notice for variations from a hazardous liquid public utility's established construction methodologies, requiring notice to the Pipeline Safety Section 30 days prior to commencement, and notice prior to the introduction of a hazardous liquid, requiring notice to the Pipeline Safety Section and public officials 30 days prior to introduction. These notification

requirements and the other notification requirements in Section 59.135 detailed above will provide the Commission's Pipeline Safety Section, and public officials in the case of hazardous liquid introduction, with further information on construction, operation and maintenance, and other activities.

The Commission seeks comment on the construction, operation and maintenance, and other reporting requirements proposed in Section 59.135, including the types of activities for which notice is required, the timeframe for providing notice, and the content of the notice provided to the Commission's Pipeline Safety Section and the information provided to the Pipeline Safety Section upon request.

*§ 59.136. Design requirements.*

Section 59.136 of the Commission's proposed regulations sets forth design requirements for hazardous liquid public utilities constructing new pipelines, and converting, relocating, replacing, or otherwise changing existing pipelines. In particular, subsection (b) works in conjunction with 49 CFR 195.410(a) and requires that, in addition to providing external loads for earthquakes, vibration, and thermal expansion and contraction, a hazardous liquid public utility must account for anticipated external loads for landslides, sinkholes, subsidence, and other geotechnical hazards. This requirement is intended to require hazardous liquid public utilities to account external loads for all common geotechnical hazards that may impact pipelines in the Commonwealth.

The Commission seeks comment regarding whether other specific geotechnical hazards should be included in the proposed external load provision at Section 59.136.

*§ 59.137. Construction.*

Section 59.137 of the Commission's proposed regulations prescribes construction standards for hazardous liquid public utilities constructing new pipelines, and converting, relocating, replacing, or otherwise changing existing pipelines. Subsection (b) addresses pipeline location and provides that, in addition to the requirements of 49 CFR 195.210, no pipeline may be located under private dwellings, industrial buildings, and places of public assembly. Subsections (c) and (d) address welding, providing that miter joints are not permitted and that all welds must be nondestructively tested using the methods set forth in 49 CFR 195.234. Additionally, subsections (e) and (f) establish requirements for cover over buried pipelines and clearances between pipe and underground structures. Subsection (e) works in conjunction with 49 CFR 195.248, and provides for set-interval testing for depth of cover, which will aid in ensuring the proper depth of cover is maintained. Subsection (f) requires a minimum of 12 inches between the outside of a pipe and any underground structure, including structures owned by the hazardous liquid public utility and foreign structures, without exception.

Further, Section 59.137 addresses valves placement and vehicle barriers. For pipelines transporting HVLs, subsection (g) requires the installation of EFRDs on a main line every five miles and the installation of additional valves based on a pipeline's proximity to schools, churches, hospitals, daycares, nursing facilities, commercial facilities, sport complexes, and public parks with the outer most areas of the LFL. Subsection (g) also requires a hazardous liquid public utility to develop and maintain a risk-based plan addressing valve spacing. Finally, subsection (h) requires a hazardous liquid public utility to install barriers designed to protect against large vehicles

at above-ground valve stations adjacent to roadways. These requirements will provide for enhanced shut off capabilities, including remote shut off, and additional protection for valve stations, including protection from large vehicles.

The Commission seeks comment regarding the construction requirements proposed in Section 59.137. We note that, like the design requirements in Section 59.136, the construction requirements detailed above are applicable to hazardous liquid public utilities constructing new pipelines, and converting, relocating, replacing, or otherwise changing existing pipelines. The Commission seeks comment regarding the applicability of these requirements to other hazardous liquid public utilities.

§ 59.138. *Horizontal directional drilling and trenchless technology, or direct buried methodologies.*

Section 59.138 of the Commission's proposed regulations sets forth requirements for hazardous liquid public utilities using HDD, trenchless technology (TT), or direct buried methodologies in construction or operation and maintenance. Subsection (b) requires a hazardous liquid public utility to provide both a 30-day and a 24-hour notice to the Commission's Pipeline Safety Section and the affected public before beginning HDD, TT, or direct buried construction or operation and maintenance activities. This requirement will ensure that the Pipeline Safety Section and the affected public receive adequate notice of HDD or TT.

Further, subsection (c) requires hazardous liquid public utilities using HDD or TT for construction or operation and maintenance activities to consider geological and environmental impacts and to comply with DEP Trenchless Technology Technical Guidance. For example, this subsection requires a hazardous liquid public utility to, inter alia, conduct a geotechnical evaluation of subsurface conditions along a pipeline facility and conduct geological sampling at locations where suspected anomalous conditions are identified through geophysics, including post-construction geophysics. Subsection (c) also requires the hazardous liquid public utility to provide information, including geotechnical reports, regarding HDD or TT to the Commission's Pipeline Safety Section upon request. These provisions are intended to enhance the safety of hazardous liquid public utilities' service and facilities.

Additionally, Section 59.138 addresses the protection of water wells and supplies. Subsections (d) requires, inter alia, that a hazardous liquid public utility comply with all relevant DEP regulations, including but not limited to 25 Pa. Code § 78a.68a and 25 Pa. Code Chapters 102, 105, and 109, and all DEP Trenchless Technology Technical Guidance when using HDD or TT for construction or operation and maintenance activities near private or public water supply sources, such as wells or reservoirs. In the event that HDD, TT, or direct buried methodologies cause adverse impacts for a private or public water supply source, subsection (e) sets forth certain compliance, notification, and corrective action requirements for hazardous liquid public utilities. Like subsection (c), subsections (d) and (e) are intended to enhance safety.

The Commission welcomes comment regarding the provisions addressing a hazardous liquid public utility's HDD, TT, and direct buried methodologies proposed in Section 59.138, including the requirements for geological testing and the protection of water wells and supplies. The Commission also seeks comment regarding the notice requirements in Section 59.138.

§ 59.139. *Pressure testing.*

Section 59.139 of the Commission's proposed regulations sets forth the pressure testing requirements for hazardous liquid public utilities. Section 59.139 works in conjunction with 49 CFR 195.304. Subsection (b) addresses hydrostatic testing and reassessment, and sets forth requirements for pipelines installed before 1970, pipelines installed after 1970, and pipelines that have been placed back in service after a leak has been repaired. Subsection (c) addresses hydrostatic testing in HCAs. Further, subsection (d) requires that a hazardous liquid public utility notify the Commission's Pipeline Safety Section and public officials prior to beginning testing. Section 59.139 is intended to enhance testing requirements, while ensuring that methods and frequency are suitable for the type of pipeline involved.

The Commission seeks comment regarding the hydrostatic testing requirements proposed in Section 59.139, including the frequency at which testing should be conducted and whether additional testing intervals should be established.

§ 59.140. *Operation and maintenance.*

Section 59.140 of the Commission's proposed regulations sets forth operation and maintenance requirements for hazardous liquid public utilities. In particular, this Section provides standards for emergency procedures manuals, liaison activities with emergency responders, liaison activities with school administrators when a school building or facility is within 1,000 feet or within the LFL of a pipeline or pipeline facility, public awareness communications, line markers, inspections of pipeline rights-of-way, leak detection and odorization, and EFRDs in HCAs.

Subsection (b) requires hazardous liquid public utilities to consult with emergency responders in developing and updating an emergency procedures manual. The manual must address (1) steps to inform emergency responders of the practices and procedures to be followed for providing them with information regarding the pipeline, (2) the development of a continuing education program for emergency responders and the affected public, and (3) tabletop drills to be conducted twice a year and a response drill to be conducted annually to simulate a pipeline emergency.

Subsections (c) and (d) address liaison activities. As it pertains to emergency responders, subsection (c) requires a hazardous liquid public utility to conduct the liaison activities set forth in 49 CFR 195.402(c)(12) via in-person meetings held twice a year. Subsection (c) prescribes the way in which a hazardous liquid public utility must attempt to arrange these meetings, including via mail, or telephone call, facsimile, or e-mail. A hazardous liquid public utility is permitted to utilize alternative conduct liaison activities by alternative means if attempts to arrange an in-person meeting are unsuccessful. Similarly, subsection (d) requires hazardous liquid public utilities to engage in certain liaison activities with school administrators when a school building or facility is located within 1,000 feet, or within the LFL, of a pipeline or pipeline facility, whichever is greater. For example, a hazardous liquid public utility must appear regularly at school administrator meetings for such schools upon request. The liaison requirements in subsections (c) and (d) are similar to those required by other states, including Texas, and are intended to improve relations between hazardous liquid public utilities and the affected public, emergency responders, and public officials.

Moreover, subsection (e) provides for further hazardous liquid public utility interaction with emergency responders, public officials, and the affected public. Subsection (e) works in conjunction with and goes beyond the practices set forth in API Recommended Practice 1162. For example, subsection (e) requires a hazardous liquid public utility to provide baseline messages to the affected public and emergency responders at least twice a year and to public officials annually. This subsection also requires a hazardous liquid public utility to hold at least one open house or group meeting with the affected public annually, meet with emergency responders once per quarter, and meet with public officials annually. These requirements are intended to increase communications and information sharing.

The remaining portions of Section 59.140 address the more technical aspects of operations and maintenance. For example, subsection (f) builds upon 49 CFR 195.410 by setting forth requirements for the placement of additional line markers. Subsection (g) likewise builds upon 49 CFR 195.412 by requiring group patrol of pipeline facilities in non-HCAs at least twice a year and ground patrol in HCAs at least four times a year. Section 59.132 defines “ground patrol” as a method of non-aerial patrol that includes walking, driving, using a low-flying drone with sufficient optical resolution operated by a qualified drone operator with an altitude limit of 25 feet, or other like non-aerial means of traversing a pipeline right-of-way. Further, Section 59.140 addresses leak detection. Subsection (h) builds upon 49 CFR 195.444 by requiring, inter alia, leak detection systems that are Real Time Transient Models under API Recommended Practice 1130. A hazardous liquid public utility is required to odorize an HVL pipeline if it does not meet the requirements of subsection (h) within five years. Finally, subsection (i) builds upon 49 CFR 195.452 by requiring a hazardous liquid public utility to install EFRDs in consultation with public officials in all HCAs, based on limiting the LFL to 660 feet on either side of a pipeline. These provisions are intended to enhance the current operation and maintenance requirements for hazardous liquid public utilities.

The Commission seeks comments on the emergency procedures manual, liaison activity, public awareness, line marker, inspection of pipeline rights-of-way, leak detection and odorization, and HCA EFRD requirements proposed in Section 59.140.

*§ 59.141. Qualification of pipeline personnel.*

Section 59.141 of the Commission’s proposed regulations prescribes requirements for hazardous liquid public utilities qualifying individuals to perform covered tasks on a pipeline facility. Section 59.141 of the proposed regulations defines “covered task.” The term “covered task” carries the same meaning as in 49 CFR 195.501, but also includes a construction task identified by a hazardous liquid public utility.

Section 59.141 works in conjunction with 49 CFR 195.505, which requires the development of a written qualification program meeting certain criteria. Subsection (b) requires that a hazardous liquid public utility’s qualification program also include (1) the adoption of the provisions for a written qualification program for construction tasks, (2) a process that trains all individuals qualified to identify and react to facility specific abnormal operating conditions, and (3) requalification intervals for each covered task. Additionally, subsection (c) makes the record keeping requirements for covered tasks in 49 CFR 195.507 applicable to construction tasks. These additional requirements will provide increased training opportuni-

ties for individuals performing covered tasks and enhanced oversight of pipeline personnel.

The Commission welcomes comment on the additional qualification program requirements proposed in Section 59.141, including the definition of “covered task.”

*§ 59.142. Land agents.*

Section 59.142 of the Commission’s proposed regulations sets forth requirements for hazardous liquid public utilities employing or contracting land agents. In particular, Section 59.142 requires land agents to hold a valid Pennsylvania professional license as an attorney, real estate salesperson, real estate broker, professional engineer, professional land surveyor, or professional geologist during the performance of land agent work or services. This requirement will prevent hazardous liquid public utilities from employing or contracting individuals who are not properly qualified to act as a land agent and provide additional accountability in the performance of land agent work or services.

The Commission seeks comment regarding the need for additional requirements addressing hazardous liquid public utilities employing or contracting land agents.

*§ 59.143. Corrosion control.*

Section 59.143 of the Commission’s proposed regulations prescribes the requirements for hazardous liquid public utilities protecting pipelines against corrosion. Subsection (b) requires written procedures for the design, installation, operation, and maintenance of cathodic protection systems, including, inter alia, the average and the worst-case corrosion rate experienced for each pipeline segment. Subsections (c) and (d) address the level of cathodic protection that a cathodic protection system must provide and the frequency at which a hazardous liquid public utility is required to test a cathodically-protected pipeline, respectively. Subsection (e) requires a hazardous liquid public utility to conduct close interval surveys, including paved surfaces, every three years and to adhere to the standards set forth in NACE International Standard Practice 0207-2007, Performing Close-Interval Potential Surveys and DC Surface Potential Gradient Surveys on Buried or Submerged Metallic Pipelines (March 10, 2007).<sup>4</sup>

The Commission seeks comment regarding the cathodic protection provisions proposed in Section 59.143, including the level of cathodic protection and the frequency of testing to determine the adequacy of cathodic protection. The Commission also seeks comment regarding the requirements for close interval surveys and interference currents at Section 59.143. Finally, the Commission welcomes comment regarding the need for any additional corrosion control measures.

*Conclusion*

For the reasons set forth above, the Commission commences the rulemaking process. The Commission seeks comments from all interested parties regarding the proposed regulations in the Annex to this Notice of Proposed Rulemaking as well as regarding the need for any additional provisions addressing hazardous liquid pipeline safety standards within the Commission’s jurisdiction.

Accordingly, under 66 Pa.C.S. §§ 501 and 1501 (relating to general powers and character of service and facilities); sections 201 and 202 of the Act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201 and 1202), referred to

<sup>4</sup> NACE International was initially the National Association of Corrosion Engineers. NACE International and the Society for Protective Coatings are now the Association for Materials Protection and Performance.

as the Commonwealth Documents Law and the regulations promulgated thereunder at 1 Pa. Code §§ 7.1, 7.2 and 7.5 (relating to notice of proposed rulemaking required; adoption of regulations; and approval as to legality), section 204(b) of the Commonwealth Attorneys Act (71 P.S. § 732.204(b)); section 745.5 of the Regulatory Review Act (71 P.S. § 745.5); and section 612 of The Administrative Code of 1929 (71 P.S. § 232), and the regulations promulgated thereunder at 4 Pa. Code §§ 7.231, 7.232 and 7.234 (relating to policy; definitions; and responsibilities), the Commission is considering adopting the proposed regulations set forth in Annex A, attached hereto; *Therefore,*

*It Is Ordered:*

1. That a proposed rulemaking be opened to consider the regulations set forth in the Annex.

2. That the Law Bureau shall submit this Notice of Proposed Rulemaking Order and the Annex to the Office of Attorney General for review as to form and legality and to the Governor’s Budget Office for review for fiscal impact.

3. That the Law Bureau shall submit this Notice of Proposed Rulemaking Order and the Annex for review and comment to the Independent Regulatory Review Commission and Legislative Standing Committees.

4. That the Law Bureau shall deposit this Notice of Proposed Rulemaking Order and the Annex with the Legislative Reference Bureau to be published in the *Pennsylvania Bulletin*.

5. That interested parties may submit written comments, via the Commission’s electronic filing system, referencing Docket No. L-2019-3010267 within sixty (60) days from the date the Notice of Proposed Rulemaking Order is published in the *Pennsylvania Bulletin*, and reply comments thirty (30) days thereafter. Comments shall be filed consistent with the Commission’s July 27, 2020 Secretarial Letter. Modification to Filing and Service Requirements Emergency Order, Docket No. M-2020-3019262 (Secretarial Letter issued July 27, 2020). Pursuant to this Secretarial Letter, all filings are to be made by e-filing or by electronic mail. This information can be found on the Commission’s website at [www.puc.pa.gov/filing-resources/efiling/](http://www.puc.pa.gov/filing-resources/efiling/).

6. That the Secretary shall serve this Notice of Proposed Rulemaking Order and Annex upon all jurisdictional hazardous liquids public utilities; the Office of Consumer Advocate; the Office of Small Business Advocate; and the Commission’s Bureau of Investigation and Enforcement.

7. That a copy of this Order and Annex shall be posted on the Commission’s website, [www.pa.puc.gov](http://www.pa.puc.gov), at the web page for Pipeline Safety.

8. The contact persons for this matter are Assistant Counsel Colin W. Scott, (717) 783-5949, [colin.scott@pa.gov](mailto:colin.scott@pa.gov); Hayley E. Dunn, (717) 214-9594, [haydunn@pa.gov](mailto:haydunn@pa.gov); Adam D. Young, (717) 787-4700, [adyoung@pa.gov](mailto:adyoung@pa.gov); Erin N. Tate, (717) 214-1956, [etate@pa.gov](mailto:etate@pa.gov); and Melanie J. El Atieh, (717) 783-2811, [melatieh@pa.gov](mailto:melatieh@pa.gov) in the Commission’s Law Bureau.

ROSEMARY CHIAVETTA,  
*Secretary*

ORDER ADOPTED: July 15, 2021

ORDER ENTERED: July 15, 2021

**Fiscal Note:** 57-335. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 52. PUBLIC UTILITIES**  
**PART I. PUBLIC UTILITY COMMISSION**  
**Subpart C. FIXED SERVICE UTILITIES**  
**CHAPTER 59. GAS SERVICE**  
**GAS SERVICE AND FACILITIES**

**§ 59.33. Safety.**

\* \* \* \* \*

(b) *Safety code.* The minimum safety standards for all natural gas [ **and hazardous liquid** ] public utilities in this Commonwealth shall be those issued under the pipeline safety laws found in 49 U.S.C.A. §§ 60101—60503 and as implemented at 49 CFR Parts 191—193, [ **195** ] and 199, including all subsequent amendments thereto. Future Federal amendments to 49 CFR Parts 191—193, [ **195** ] and 199, as amended or modified by the Federal government, shall have the effect of amending or modifying the Commission’s regulations with regard to the minimum safety standards for all natural gas [ **and hazardous liquid** ] public utilities. The amendment or modification shall take effect 60 days after the effective date of the Federal amendment or modification, unless the Commission publishes a notice in the *Pennsylvania Bulletin* stating that the amendment or modification may not take effect.

(c) [ **Definition. For the purposes of this section, “hazardous liquid public utility” means a person or corporation now or hereafter owning or operating in this Commonwealth equipment or facilities for transporting or conveying crude oil, gasoline, petroleum or petroleum products, by pipeline or conduit, for the public for compensation.** ] **Reserved.**

\* \* \* \* \*

(*Editor’s Note:* The following sections are proposed to be added and are printed in regular type to enhance readability.)

**HAZARDOUS LIQUID PUBLIC UTILITY SAFETY STANDARDS**

**§ 59.131. Purpose.**

For hazardous liquid public utilities in the Commonwealth, under the HLPESA, as implemented at 49 CFR Parts 195 and 199 (relating to transportation of hazardous liquids by pipeline; and to drug and alcohol testing), the Commonwealth, as a certified State participating in PHMSA’s Federal hazardous liquid pipeline safety program, must adopt and enforce, as a minimum, all Federal pipeline safety standards at 49 CFR Parts 195 and 199. As a certified State, the Commonwealth may also promulgate additional regulations for hazardous liquid pipeline safety that are more stringent than the PHMSA Federal regulations so long as the state regulations are compatible with the HLPESA and the minimum safety standards in PHMSA’s regulations.

The purpose of §§ 59.131—59.143 (relating to hazardous liquid public utility safety standards) is to set forth safety standards for all hazardous liquid public utilities in the Commonwealth. These sections establish design and construction standards for hazardous liquids public utilities constructing new pipelines and converting, relocating, replacing, or otherwise changing existing pipelines, as well as accident reporting, other reporting, HDD and TT, pressure testing, operations and maintenance,



qualification of pipeline personnel, land agent, and corrosion control standards for all hazardous liquids public utilities.

**§ 59.132. Definitions.**

The following words and terms, when used in §§ 59.131—59.143 (relating to hazardous liquid public utility safety standards), have the following meanings, unless the context clearly indicates otherwise:

*API RP 1130—API Recommended Practice 1130*—The term as defined in 49 CFR 195.3 (relating to document incorporated by reference partly or wholly).

*API RP 1162—API Recommended Practice 1162*—The term as defined in 49 CFR 195.3.

*Affected public*—Residents and places of congregation (businesses, schools, and the like) along the pipeline and the associated right-of-way within 1,000 feet, or within the LFL, of a pipeline or pipeline facility, whichever is greater.

*As-called anomaly*—In-line inspection predicted anomaly.

*As-found anomaly*—Field measured anomaly.

*CPM—Computation pipeline monitoring*—The term as defined in 49 CFR 195.2 (relating to definitions).

*Covered task*—The term as defined in 49 CFR 195.501 (relating to scope) but modifying that term to also include a construction task identified by a hazardous liquid public utility.

*EFRDs—Emergency flow restricting device*—The term as defined in 49 CFR 195.450 (relating to definitions).

*Emergency responders*—Local fire, local police and local emergency medical services; county hazmat teams, Department of Emergency Services and 911 centers; and other emergency local, city, county or state officials or representatives.

*Geotechnical hazard*—A geological and environmental feature which may be caused by natural or human-induced conditions, involve long-term or short-term geological processes, and lead to widespread damage or risk.

*Ground patrol*—A method of non-aerial patrol that includes walking, driving, using a low-flying drone with sufficient optical resolution operated by a qualified drone operator with an altitude limit of 25 feet or other like non-aerial means of traversing a pipeline right-of-way.

*HCA—High consequence area*—The term as defined in 49 CFR 195.450.

*HDD—Horizontal directional drilling*—A trenchless construction methodology for installing pipelines, conduits or cable utilizing drilling fluid, often pressurized, and consisting of a directionally controlled (e.g., steerable) pilot hole drilled along a predetermined path extending from grade at one end of drilled segment to grade at the opposite end; enlarging the pilot hole to a size which will accommodate a pipeline; pulling a pipeline/conduit into the enlarged hole; and a method accomplished using horizontal drilling rig.

*HLPSA—Hazardous Liquid Pipeline Safety Act of 1979*—Federal safety legislation governing the transportation of hazardous liquids by pipeline at 49 U.S.C.A. §§ 60101—60143, and as implemented at 49 CFR Part 195 (relating to transportation of hazardous liquids by pipeline).

*HVL—Highly volatile liquid*—The term as defined in 49 CFR 195.2.

*Hazardous liquid*—Crude oil, gasoline, petroleum or petroleum products.

*Hazardous liquid public utility*—A person or corporation now or hereafter owning or operating in this Commonwealth equipment or facilities for transporting or conveying crude oil, gasoline, petroleum or petroleum products, by pipeline or conduit, for the public for compensation.

*LFL—Lower flammability limit*—Usually expressed in volume percent, the lower end of the concentration range over which flammable mixture of gas or vapor in air can be ignited at a given temperature and pressure; and the flammability range is delineated by the upper and lower flammability limits.

*Land agent*—A person who negotiates easements on behalf of a hazardous liquid public utility for use in connection with a pipeline.

*PHMSA—Pipeline and Hazardous Materials Safety Administration*—The administration within the U.S. Department of Transportation responsible for the safe transportation of energy and other hazardous materials.

*Pipe or line pipe*—A tube that may be used or is used for the transportation of a hazardous liquid.

*Pipeline*—Parts of a pipeline facility through which a hazardous liquid moves in transportation, including, but not limited to, line pipe, valves and other appurtenances connected to line pipe, pumping units, fabricated assemblies associated with pumping units, metering and delivery stations and fabricated assemblies therein, and break-out tanks.

*Pipeline facility*—New and existing pipe, rights-of-way, and any equipment, facility, or building used in the transportation of hazardous liquids.

*Pipeline Safety Section*—The section of the Safety Division within the Commission's Bureau of Investigation and Enforcement responsible for pipeline safety.

*Public officials*—Elected local, city, county or state officials, and their staff, having land use and street or road jurisdiction along the pipeline route.

*TT—Trenchless technology*—A type of subsurface construction work that requires few trenches or no trenches which includes any trenchless construction methodology, including without limitation, horizontal direction drilling, guided auger bore, cradle bore, conventional auger bore, jack bore/hammer bore, guided bores, and proprietary trenchless technology.

**§ 59.133. General.**

(a) *Minimum safety standards.* The minimum safety standards for all hazardous liquid public utilities in this Commonwealth shall be those issued under the pipeline safety laws as found in 49 U.S.C.A. §§ 60101—60503 and as implemented at 49 CFR Parts 195 and 199 (relating to transportation of hazardous liquids by pipeline; and to drug and alcohol testing), including all subsequent amendments thereto, unless otherwise specified herein. Future Federal amendments to 49 CFR Parts 195 and 199, as amended or modified by the Federal government, shall have the effect of amending or modifying the Commission's regulations with regard to the minimum safety standards for hazardous liquid public utilities. The amendment or modification shall take effect 60 days after the effective date of the Federal amendment or modification, unless the Commission publishes a notice in the *Pennsylvania Bulletin* stating that the amendment or modification may not take effect. If future Federal

amendments to 49 CFR Parts 195 and 199 have the effect of making a Federal PHMSA safety requirement more stringent than a like requirement under §§ 59.131—59.143 (relating to hazardous liquid public utility safety standards), the more stringent Federal safety standard shall control.

(b) *Enforcement.* A hazardous liquid public utility shall be subject to inspections by the Pipeline Safety Section as may be necessary to assure compliance with the minimum safety standards in subsection (a) and the safety standards in §§ 59.134—59.143. The facilities, books and records of a hazardous liquid public utility must be made accessible to the Pipeline Safety Section for the inspections upon request. A hazardous liquid public utility shall provide to the Pipeline Safety Section the reports, supplemental data and information as the Pipeline Safety Section may request in the administration and enforcement of §§ 59.134—59.143.

(c) *Records.* A hazardous liquid public utility shall keep adequate records to demonstrate compliance with the minimum safety standards in subsection (a) and the safety standards in §§ 59.134—59.143. The records must be made accessible to the Pipeline Safety Section upon request.

(d) *Pipeline conversion.*

(1) A hazardous liquid public utility converting a pipeline from service not previously covered by this part must notify the Pipeline Safety Section no later than 60 days before the conversion occurs. This paragraph shall apply to pipelines already designed for bi-directional flow.

(2) In addition to the requirements set forth in 49 CFR 195.5 (relating to conversion to service subject to this part), a hazardous liquid public utility engaged in conversion, flow reversal or commodity change of pipelines subject to 49 CFR 195.5, shall adhere to Pipeline Safety: Guidance for Pipeline Flow Reversals, Product Changes and Conversion to Service, PHMSA Advisory Bulletin ADB-2014-04, Docket No. 2014-0040; 79 FR 56121-56122, and any updates thereto.

#### § 59.134. Accident reporting.

(a) *Scope.* This section establishes requirements for a hazardous liquid public utility reporting an accident.

(b) *Failure analysis reports.* Following an accident that causes any of the results identified in 49 CFR 195.50 (relating to reporting accidents), a hazardous liquid public utility shall provide to the Pipeline Safety Section an unredacted failure analysis report based on laboratory testing within 120 days of an accident or within 10 days of the report completion, whichever comes first. The failure analysis must be conducted by a Pipeline Safety Section-approved independent third-party laboratory. If the report cannot be completed in the allotted time, the hazardous liquid public utility shall provide a status update to the Pipeline Safety Section every 14 days.

(c) *Root cause analysis reports.* Following an accident that causes any of the results identified in 49 CFR 195.50, a hazardous liquid public utility shall provide to the Pipeline Safety Section a root cause analysis report within 120 days of the accident or within 10 days of report completion, whichever comes first. The root cause analysis must be conducted by a Pipeline Safety Section-approved independent third-party consultant. If the report cannot be completed in the allotted time, the hazardous liquid utility shall provide a status update to the Pipeline Safety Section every 14 days.

(d) *Process for obtaining approval of a third-party laboratory and consultant.* This subsection establishes the process through which a hazardous liquid public utility obtains approval of a third-party laboratory and third-party consultant to conduct the analyses required by subsections (b) and (c), respectively.

(1) Upon receipt of an accident notification from the Pipeline Safety Section, a hazardous liquid public utility shall submit a recommendation to the Pipeline Safety Section regarding the third-party laboratory that will conduct the failure analysis and the third-party consultant that will conduct the root cause analysis with 20 days.

(2) The Pipeline Safety Section will review the hazardous liquid public utility's recommendation and make a determination as to whether the third-party laboratory or third-party consultant:

(i) Are not affiliated with the hazardous liquid public utility.

(ii) Have not conducted work on behalf of the hazardous liquid public utility in the past 5 years that would potentially create a conflict of interest.

(iii) Are capable of performing the failure analysis and root cause analysis, respectively, using required equipment and industry best practices.

(3) The Pipeline Safety Section will approve or disapprove the recommendation within 14 days of a hazardous liquid public utility's submission. If the recommendation is not approved or disapproved within 14 days, the hazardous liquid public utility's recommendation is presumed approved. If disapproved, the Pipeline Safety Section will describe in detail the reasons for disapproval. The Pipeline Safety Section will serve its determination on the hazardous liquid public utility.

(4) The hazardous liquid public utility may respond to the disapproval within 5 days. The Pipeline Safety Section will approve or disapprove the recommendation within 14 days of the hazardous liquid public utility's response to the disapproval. The Pipeline Safety Section will serve its determination on the hazardous liquid public utility.

(5) The hazardous liquid public utility may appeal the determination of the Pipeline Safety Section in accordance with § 5.44 (relating to petitions for reconsideration from actions of the staff). An appeal will not stay the requirements of subsection (d).

(e) *Immediate notice of certain accidents.* In addition to the requirement that a hazardous liquid public utility report accident information to the National Response Center under 49 CFR 195.52 (relating to immediate notice of certain accidents), at the earliest practicable moment following discovery of a release of the hazardous liquid transported resulting in an event described in 49 CFR 195.50, but no later than one hour after confirmed discovery, the hazardous liquid public utility shall report the accident to the Pipeline Safety Section and to emergency responders, providing the information listed in 49 CFR 195.52(b).

#### § 59.135. Construction, operation and maintenance, and other reports.

(a) *Scope.* This section establishes requirements for a hazardous liquid public utility reporting construction, operation and maintenance, and other activities.

(b) *Timeframe for notice.* A hazardous liquid public utility shall notify the Pipeline Safety Section of the following:

(1) Proposed major construction, major reconstruction, or major maintenance involving an expenditure in excess of \$300,000 or 10% of the cost of the pipe in service, whichever is less, 45 days prior to commencement.

(2) Maintenance, verification digs, and assessments involving an expenditure in excess of \$50,000, and the unearthing of suspected leaks, dents, pipe ovality features, cracks, gouges or corrosion anomalies, or other suspected metal losses 10 days prior to commencement.

(3) Excavation damages, washouts, or unplanned replacements of any pipeline section or cut out immediately.

(4) A variation to the hazardous liquid public utility's established construction methodologies 30 days prior to commencement.

(5) The introduction of a hazardous liquid 30 days prior to the introduction. This notice shall also be given to public officials.

(c) *Content of notice generally.* Notice provided to the Pipeline Safety Section under subsection (b)(1)—(3) must include the following information:

- (1) The hazardous liquid public utility's name.
- (2) Pipeline route.
- (3) Length of the pipeline.
- (4) The counties and municipalities traversed.
- (5) Estimated start and completion dates.
- (6) Pipeline identification information.
- (7) Any change in flow direction.
- (8) Commodity or product.

(d) *Information to be provided upon request generally.* Upon request, a hazardous liquid public utility shall provide the following information to the Pipeline Safety Section with its notice under subsection (b)(1)—(3):

- (1) *Project information.*
  - (i) A description of the work to be completed.
  - (ii) The location of the project, including counties, municipalities and cross streets.
  - (iii) Contact information.
- (2) *Pipe Specifications.*
  - (i) Nominal outside diameter, D (inches).
  - (ii) Nominal wall thickness, t (inches).
  - (iii) Type and grade of pipe.
  - (iv) Manufacturers of steel and pipe.
  - (v) Longitudinal joint type.
  - (vi) Specified minimum yield strength, SMYS (psi).
  - (vii) Nominal ultimate strength (psi).
  - (viii) Fracture toughness (minimum Charpy Energy in ft. lbs. at 20° F for buried pipe and -20° F for exposed pipe).
  - (ix) Mill test pressure (psi).
  - (x) A statement indicating whether pipe is new or used.
  - (xi) If used pipe is employed, a description of the inspection and reconditioning procedures utilized.
  - (xii) The physical and chemical specifications of pipe verified by outside laboratories.

(3) *Operating Pressure and Stress.*

- (i) Maximum operating pressure, P (psi).
- (ii) Calculated pipe stress (hoop stress) =  $PD/2t$  (psi).
- (iii) Ratio of pipe stress to SMYS (percent).

(4) *Welding.*

- (i) Percentage of welds to be radiographed, by location.
- (ii) The method for certifying the radiographic technician.

(5) *Railroad, Road, and Water Crossings.*

(i) The location of each pipe at a lake, river, stream, or creek crossing, and a description of special construction precautions to be followed.

(ii) Encroachments to railroads or roads, by location, and a description of special construction precautions to be followed.

(iii) The location of each pipe at a railroad and road crossing and a statement indicating whether each pipe is cased or uncased and whether heavier wall carrier pipe is used. If a pipe is uncased, the notification must provide the reason.

(6) *Valves.*

(i) Number and spacing of manual sectionalizing valves.

(ii) The type, make and location of any automatic valves.

(7) *Minimum Cover and Clearance.*

(i) The location, nature of the problem, cover, and clearance, if the minimum prescribed cover and clearance cannot be maintained.

(ii) Special precautions to be observed.

(8) *Piping.*

(i) The type of field coating.

(ii) The type of coating test.

(iii) The type of cathodic protection system.

(9) *Pressure and leakage tests.*

(i) Test pressure.

(ii) Test medium.

(iii) Test duration.

(iv) The Length of the test section(s).

(10) *Pipeline rights-of-way.*

(i) A statement indicating whether the necessary right-of-way has been maintained from each party having an interest in the right-of-way.

(ii) A statement indicating whether formal approval and all necessary permits have been obtained from appropriate agencies.

(e) *Information to be provided upon request for assessments and verification digs involving an expenditure in excess of \$50,000 and the unearthing of suspected anomalies.* Upon request, a hazardous liquid public utility shall provide the following information to the Pipeline Safety Section with their notice under subsection (b)(2) only as it pertains to assessments and verification digs involving an expenditure in excess of \$50,000, and the unearthing of the suspected anomalies identified in subsection (b)(2):

(1) Identification information for the pipeline to be assessed.

- (2) The location range of the area to be assessed.
- (3) A description of the assessment.
- (4) Discovery method.
- (5) The type and specification of any as-called and as-found anomaly, and the location of the anomaly with latitude and longitude coordinates.
- (6) The estimated assessment start and completion dates and dig dates.

**§ 59.136. Design requirements.**

(a) *Scope.* This section establishes requirements for hazardous liquid public utilities constructing new pipelines, and converting, relocating, replacing or otherwise changing existing pipelines.

(b) *External loads.* In addition to the external loads named in 49 CFR 195.110(a) (relating to external loads), a hazardous liquid public utility designing a pipeline shall account for anticipated external loads from landslides, sinkholes, subsidence and other geotechnical hazards.

**§ 59.137. Construction.**

(a) *Scope.* This section establishes requirements for hazardous liquid public utilities constructing new pipelines, and converting, relocating, replacing or otherwise changing existing pipelines.

(b) *Pipeline location.* In addition to the requirements of 49 CFR 195.210 (relating to pipeline location), no pipeline may be located under private dwellings, industrial buildings, and places of public assembly, including as follows and like locations: a location of assembly for civic, educational, religious, social or recreational purposes; a location provided by a common carrier for passengers awaiting transportation, or a location where persons are housed for medical or charitable care, or held for public, civic or correctional purposes.

(c) *Welding: Miter joints.* Miter joints of any deflection are not permitted.

(d) *Welds: Nondestructive testing.* A hazardous liquid public utility shall nondestructively test all girth welds. Nondestructive testing must be performed under 49 CFR 195.234(b) (relating to welds: nondestructive testing).

(e) *Cover over buried pipeline.* In addition to the requirements of 49 CFR 195.248 (relating to cover over buried pipeline):

(1) Pipe under active commercial farms that have been cultivated 2 or more of the past 5 years, as identified by the farmland owner or farmland operator, must be buried so that it is below the level of cultivation with at least 40 inches of cover. A hazardous liquid public utility shall verify and maintain the depth of cover for active commercial farms at least every 3 years.

(2) A hazardous liquid public utility shall specify the intervals at which to verify and maintain the depth over cover for all pipe.

(f) *Clearance between pipe and underground structures.* A hazardous liquid public utility shall maintain a minimum of 12 inches of clearance between the outside of the pipe and the extremity of any other underground structure, including structures owned by the hazardous liquid public utility and foreign structures.

(g) *Valves for pipelines transporting HVLs.*

(1) A hazardous liquid public utility shall install EFRDs on a main line with lateral spacing not to exceed five miles.

(2) In addition to the requirements of 49 CFR 195.260 (relating to valves: location), a hazardous liquid public utility shall install valves based on a pipeline's proximity to schools, churches, hospitals, daycares, nursing facilities, commercial facilities, industrial facilities, sport complexes and public parks within the outer most area of the LFL.

(3) A hazardous liquid public utility shall develop and maintain a risk-based plan to address valve spacing.

(h) *Vehicle barriers.* A hazardous liquid public utility shall install vehicle barriers at an above-ground valve station adjacent to a roadway. The vehicle barriers must be designed and constructed to protect the above-ground valve station from the largest types of vehicles.

**§ 59.138. Horizontal directional drilling and trenchless technology, or direct buried methodologies.**

(a) *Scope.* This section establishes requirements for hazardous liquid public utilities using HDD, TT, or direct buried methodologies for constructing new pipelines, and converting, relocating, replacing, or otherwise changing existing pipelines (the foregoing terms individually or in the aggregate shall constitute the term "construction" for purposes of this section), or in the operation and maintenance O&M of pipelines.

(b) *Notification.* A hazardous liquid public utility shall notify the Pipeline Safety Section and the affected public at least 30 days prior to commencement of drilling, and again 24 hours prior to the commencement of HDD, TT, or direct buried construction or O&M activities.

(c) *Geological and environmental impacts.* For a pipeline with a bore diameter 8 inches or greater, a bore depth greater than 10 feet, or pipeline length greater than 250 feet, a hazardous liquid public utility using HDD or TT methodology shall:

(1) Consider geological and environmental impacts and comply with Department of Environmental Protection Trenchless Technology Technical Guidance and subsequent updates thereto.

(2) Conduct a geotechnical evaluation of subsurface conditions along a pipeline facility at a minimum of every 250 feet using seismic, gravitational and electrical resistivity techniques with results of high resolution.

(3) Conduct geological sampling at the locations where suspected anomalous conditions are identified through geophysics and conduct post-construction geophysics within 30 days of pipeline installation using the techniques in paragraph (2).

(4) Maintain the integrity of affected pipeline facilities and take actions to mitigate risk including:

(i) Beginning mitigation of all adverse impacts as soon as practicable, but no later than 30 days after the identification of the impact if anomalous conditions are found.

(ii) Performing pipeline shut in or pressure reductions.

(iii) Following 49 CFR 195.55 (relating to reporting safety-related conditions) and applicable state laws and regulations.

(5) Provide the Pipeline Safety Section with the following upon request:

(i) HDD design plans reviewed and sealed by a licensed Pennsylvania professional engineer and professional geologist, including:

- (A) The exact location and a general area map.
- (B) A description of the project, including the pipeline identification information, size and grade.
- (C) The total project cost.
- (D) The estimated start and completion date.
- (ii) Proof of required notifications.
- (iii) Geotechnical sampling, at a minimum, every 500 feet.
- (iv) Geotechnical report.

(d) *Protection of water wells and supplies.* For HDD or TT construction or O&M activities near a private water supply source, a public water supply source, or both, such as a well or a reservoir, a hazardous liquid public utility shall:

(1) Comply with relevant regulations of the Department of Environmental Protection, including but not limited to 25 Pa. Code § 78a.68a (relating to horizontal directional drilling for oil and gas pipelines), 25 Pa. Code Chapter 102 (relating to erosion and sediment control), 25 Pa. Code Chapter 105 (relating to dam safety and waterway management), and 25 Pa. Code Chapter 109 (relating to safe drinking water), and comply with Department of Environmental Protection Trenchless Technology Technical Guidance and subsequent updates thereto.

(2) Identify public and private water supply wells within 1/2 mile of HDD or TT construction or O&M activities, surface water intakes within one mile downstream, and water supplies deemed at potential risk due to geological structures.

(3) Identify public and private water supply owners within 1,000 feet of HDD or TT construction or O&M activities.

(4) Notify owners of a water supply identified in paragraph (3) prior to HDD or TT construction or O&M activities and provide them with an opportunity to have their water supplies tested before, during and after HDD or TT construction or O&M activities.

(e) *Adverse impacts to water wells and supplies.* In the event that a hazardous liquid public utility's HDD, TT, or direct buried construction or O&M activities cause adverse impacts to a private water supply source, a public water supply source, or both, the hazardous liquid public utility shall:

(1) Comply with all relevant regulations of the Department of Environmental Protection, including but not limited to 25 Pa. Code § 78a.68a, 25 Pa. Code Chapter 102, 25 Pa. Code Chapter 105, and 25 Pa. Code Chapter 109, and comply with Department of Environmental Protection Trenchless Technology Technical Guidance and subsequent updates thereto.

(2) Notify the Pipeline Safety Section, Department of Environmental Protection and affected water supply owners immediately, but not to exceed 24 hours.

(3) Supply affected private or public water supply owners with alternative clean water sources immediately, but not to exceed 24 hours.

(4) Implement corrective action under Department of Environmental Protection regulations that addresses the

impacts caused by the HDD, TT, or direct buried construction or O&M activities, including restoration or water supply replacement.

(f) *Records.* A hazardous liquid public utility shall maintain records documenting compliance with the requirement of this section. The records must be made accessible to the Pipeline Safety Section upon request. A hazardous liquid public utility shall retain the records for the life of the pipeline.

#### § 59.139. Pressure testing.

(a) *Scope.* This section establishes requirements for a hazardous liquid public utility conducting pressure testing.

(b) *Hydrostatic testing and reassessment generally.*

(1) Pipelines installed before 1970, must be hydrostatically tested under 49 CFR 195.304 (relating to test pressure) every 10 years and must be assessed using appropriate in-line inspection tools at least every 2 years. In-line inspection tools must be chosen to detect system-specific threats. A hazardous liquid public utility shall use alternating in-line inspection technologies meeting industry best practices, such as deformation, magnetic-flux leakage, ultrasonic testing and electromagnetic acoustic transducer, to monitor pipeline-specific threats.

(2) Pipelines installed after 1970, must be hydrostatically tested under 49 CFR 195.304 at least every 3 years.

(3) A pipeline that has been placed back in service after a leak has been repaired must be reassessed using in-line inspection at least every year until 6 years pass without another leak.

(c) *Hydrostatic testing in HCAs.* A new pipeline, a converted, relocated, replaced, or otherwise changed existing pipeline, or a reactivated segment of pipeline must be hydrostatically tested and reassessed using in-line inspection under subsection (b) to substantiate the current or proposed maximum operating pressure. A pipeline, or segment thereof, for which the maximum operating pressure is to be increased must be hydrostatically tested under subsection (b).

(d) *Notification.* At least 5 business days prior to starting a test, a hazardous liquid public utility shall notify the Pipeline Safety Section of the scheduled testing. To maintain continuity of service during emergencies, shorter notice is permissible. A hazardous liquid public utility shall notify the public officials wherein the test is to be conducted.

(e) *Records.* A hazardous liquid public utility shall maintain records documenting compliance with the requirement of this section. The records must be made accessible to the Pipeline Safety Section upon request. A hazardous liquid public utility shall retain the records for the life of the pipeline.

#### § 59.140. Operation and maintenance.

(a) *Scope.* This section establishes requirements for a hazardous liquid public utility operating and maintaining a pipeline.

(b) *Emergency procedures manual and activities.* A hazardous liquid public utility shall establish and maintain liaison with emergency responders and shall consult with them in developing and updating an emergency procedures manual addressing the following:

(1) Reasonable and practicable steps to inform emergency responders of the practices and procedures to be followed to provide them with relevant information, in-

cluding information regarding the product in the pipeline and the associated risk, consistent with the hazardous liquid public utility's emergency procedures manual.

(2) The development of a continuing education program for emergency responders and the affected public to inform them of the location of the pipeline, potential emergency situations involving the pipeline and the safety procedures to be followed in the event of an emergency.

(3) Tabletop drills to be conducted twice a year and a response drill conducted annually by the hazardous liquid public utility to simulate a pipeline emergency. The table-top drills and response drills must be conducted on different pipelines and products and in each geographic area where the hazardous liquid public utility's pipelines are located.

(c) *Liaison activities with emergency responders.* A hazardous liquid public utility shall communicate and conduct liaison activities at least twice a year with emergency responders. The liaison activities are those required by 49 CFR 195.402(c)(12) (relating to procedural manual for operations, maintenance, and emergencies). Liaison activities must be conducted in person, except as provided by paragraph (2).

(1) *Meetings in person.* When a hazardous liquid public utility makes contact with the emergency responders and schedules a meeting in person, no further attempts to make contact under this paragraph are required. If a scheduled meeting does not take place, the hazardous liquid public utility shall make an effort to reschedule the meeting in person using at least one of the methods in this paragraph before arranging liaison activities under paragraph (2).

(i) Mailing a written request for a meeting in person to the emergency responders by certified mail, return receipt requested.

(ii) Making at least one telephone call, facsimile transmission or e-mail message transmission to the emergency responders to request a meeting in person.

(2) *Alternative methods.* A hazardous liquid public utility may conduct required liaison activities by the following alternative methods only if the hazardous liquid public utility has completed at least one of the steps in paragraph (1) to conduct a community liaison meeting in person with the emergency responders. If a hazardous liquid public utility cannot arrange a meeting in person after complying with paragraph (1), the hazardous liquid public utility shall conduct liaison activities by:

(i) Holding a telephone conference with the emergency responders.

(ii) Delivering the liaison information required to be conveyed by certified mail, return receipt requested.

(3) *Hazard assessment zone analysis.* A hazardous liquid public utility shall conduct an annual hazard assessment zone analysis and present its findings to emergency responders that have executed a nondisclosure agreement within 60 days of completion of the analysis.

(4) *Records of liaison activities with emergency responders.* A hazardous liquid public utility shall maintain records documenting compliance with this subsection. Records must be retained for 7 years from the date of the event commemorated by the record.

(d) *Liaison activities with school administrators when a school building or facility is located within 1,000 feet, or within the LFL, of a pipeline or pipeline facility, which-*

*ever is greater.* A hazardous liquid public utility shall comply with this section when a school building containing classrooms or any other school facility where students congregate is located within 1,000 feet, or within the LFL, of a pipeline or pipeline facility.

(1) *Maintaining records.* For a school building containing classrooms or school facility where students congregate located within 1,000 feet, or within the LFL, of a pipeline or pipeline facility, whichever is greater, a hazardous liquid public utility shall maintain and, upon request, provide the Pipeline Safety Section, with the following information:

(i) The name of the school and the contact information for the school administrators.

(ii) The street address of the school building or facility.

(iii) Pipeline identification information.

(2) *Furnishing records.* A hazardous liquid public utility shall, upon written request from a school administrator with a school building or facility where students congregate within 1,000 feet, or within the LFL, of a pipeline or pipeline facility, whichever is greater, provide in writing the following parts of a pipeline emergency response plan that are relevant to the school:

(i) A description of the pipeline or pipeline facilities.

(ii) A list of any product transported in the segment of the pipeline.

(iii) Emergency contact information.

(iv) Information regarding the Commonwealth's One Call system.

(v) Information regarding how to recognize, report and respond to a product release.

(3) *School administrator meetings.* A hazardous liquid public utility subject to paragraph (2) shall appear at a regularly scheduled meeting of school administrators, upon request by the school administration, to explain the items listed in paragraph (1).

(4) *Records.* A hazardous liquid public utility shall retain records documenting compliance with this subsection for 7 years from the date of the event that is commemorated by the record.

(e) *Public awareness communication requirements beyond API RP 1162.* The requirements of this subsection apply to the affected public, emergency responders and public officials within the LFL of a pipeline.

(1) *Baseline messages.* A hazardous liquid public utility shall provide baseline messages, as prescribed in Table 2-1 of API RP 1162:

(i) To the affected public at least twice a year, with additional frequency and supplemental efforts as determined by specifics of the pipeline segment or environment under Section 6 of API RP 1162.

(ii) To emergency responders at least twice a year, with additional frequency and supplemental efforts as determined by specifics of the pipeline segment or environment under Section 6 of API RP 1162.

(iii) To public officials annually with additional frequency and supplemental efforts as determined by specifics of the pipeline segment or environment under Section 6 of API RP 1162.

(2) *Meetings.* A hazardous liquid public utility shall:

(i) Hold at least one open house or group meeting annually whereby the affected public can receive informa-

tion or an overview as part of the hazardous liquid public utility's Supplemental Activities for the Affected Public, as prescribed in Table 2-1 of API RP 1162.

(ii) Meet with emergency responders once per quarter to discuss emergency response as part of the hazardous liquid public utility's Baseline Activities for Emergency Officials, as prescribed in Table 2-1 of API RP 1162.

(iii) Meet with public officials annually, upon request.

(3) *Updates.* A hazardous liquid public utility shall evaluate its written continuing public education program annually. An update to a program must be provided to the Pipeline Safety Section for review for compliance with 49 CFR 195.440 (relating to public education).

(f) *Line markers.* In addition to the requirements set forth in 49 CFR 195.410 (relating to line markers) a hazardous liquid public utility shall place line markers for buried and above-ground pipelines as follows:

(1) Along a pipeline's right-of-way in such a manner that two line markers, one in each direction, are visible at any point while standing at ground level at the pipeline, except in a heavily developed urban areas where the placement of the markers is impractical. In a heavily developed urban environment, the hazardous liquid public utility shall use low-profile markers.

(2) At either side of a water crossing.

(3) At all above-ground pipeline appurtenances.

(g) *Inspection of pipeline rights-of-way.* In addition to the requirements of 49 CFR 195.412 (relating to inspection of rights-of-way and crossings under navigable waters), a hazardous liquid public utility shall inspect pipeline facilities in non-HCAs using ground patrol at least twice a year, not to exceed every 6 1/2 months, and in HCAs using ground patrol at least four times a year, not to exceed every 3 1/2 months. The ground patrol shall include inspection along the right-of-way to ascertain surface conditions on or adjacent to the right-of-way. The ground patrol path must not exceed lateral distance of 25 feet from the center of the right-of-way.

(h) *Leak detection and odorization.* In addition to the requirements of 49 CFR 195.444 (relating to leak detection), a leak detection system must be designed as a robust, Real Time Transient Model, under API RP 1130, capable of identifying small leaks. A CPM system must be designed with high sensitivity to commodity releases. Implementation must be prioritized as set forth in subparagraphs (1)–(4). If these requirements cannot be met within 5 years, a hazardous liquid public utility shall odorize all HVL pipelines.

(1) Pre-1970 HVL pipelines.

(2) Post-1970 HVL pipelines

(3) Pre-1970 pipelines.

(4) Post-1970 pipelines.

(i) *EFRDs in HCAs.* In addition to the requirements of 49 CFR 195.452 (relating to pipeline integrity management in high consequence areas), a hazardous liquid public utility shall determine the need for remote controlled EFRDs in consultation with public officials in all HCAs. The need for emergency flow restriction devices in HCAs must be based on limiting the LFL to 660 feet on either side of a pipeline.

#### § 59.141. Qualification of pipeline personnel.

(a) *Scope.* This section establishes requirements for a hazardous liquid public utility to qualify an individual

that performs covered tasks, as defined in § 59.132 (relating to definitions) to include construction tasks, on a pipeline facility.

(b) *Qualification program.* In addition to the provisions of a written qualification program as required in 49 CFR 195.505 (relating to qualification program), a qualification program must include:

(1) The adoption of the provisions for a written qualification program, as required in 49 CFR 195.505, for construction tasks.

(2) A process that trains an individual qualified, as defined in 49 CFR 195.503 (relating to definitions), to identify and react to facility specific abnormal operating conditions.

(3) Requalification intervals for each covered task. A hazardous liquid public utility shall requalify an individual for each covered task at intervals not exceeding those required by the hazardous liquid public utility's qualification program. Requalification must include training and evaluation for a hazardous liquid public utility employee or contractor using the same company procedures and equipment required for initial qualification.

(c) *Records.* In addition to the provisions of recordkeeping as required by 49 CFR 195.507 (relating to recordkeeping), a hazardous liquid public utility shall maintain qualification records as required in 49 CFR 195.507 for construction tasks. A hazardous liquid public utility shall provide qualification records of an individual performing covered tasks, as described in 49 CFR 195.507, to the Pipeline Safety Section upon request.

#### § 59.142. Land agents.

A land agent employed or contracted by a hazardous liquid public utility must hold a valid Pennsylvania professional license in one of the following fields: attorney, real estate salesperson, real estate broker, professional engineer, professional land surveyor or professional geologist. A land agent's Pennsylvania professional license must be in good standing during the performance of the land agent work or services on behalf of the hazardous liquid public utility.

#### § 59.143. Corrosion control.

(a) *Scope.* This section establishes requirements for hazardous liquid public utilities protecting pipelines against corrosion.

(b) *Procedures.* A hazardous liquid public utility shall have written procedures for the design, installation, operation and maintenance of cathodic protection systems. The procedures must be specific and written for each cathodic protection test, survey, and inspection and must be carried out by, or under the direction of, a person qualified in pipeline corrosion control methods. A hazardous liquid public utility shall determine and document the average and the worst-case corrosion rate experienced for each pipeline segment.

(c) *Criteria for cathodic protection.* Each cathodic protection system must provide a level of cathodic protection over the entire pipeline that complies with at least one of the following:

(1) A negative (cathodic) potential of at least 850mV with voltage drops removed from all current sources in the pipe to soil measurement. This potential is measured with respect to a saturated copper/copper sulfate reference electrode contacting the electrolyte.

(2) A negative polarized potential of at least 850mV relative to a saturated copper/copper sulfate reference electrode.

(3) A minimum of 100mV of cathodic polarization between the structure surface and a stable reference electrode contacting the electrolyte. The formation or decay of polarization to satisfy this criterion and the length of time with current sources off must be based upon measured soil resistivities. The length of time must not allow exposure of an area of the pipeline and other foreign pipelines to the detrimental effects of corrosion.

(d) *Adequacy of cathodic protection.* A hazardous liquid public utility shall test a cathodically-protected pipeline at the corrosion test station to determine the adequacy of cathodic protection as follows:

(1) Each pipeline must be tested at least once each calendar year, with intervals not exceeding 15 months, to determine whether the cathodic protection meets the requirements of subsection (c). Each impressed current ground bed must be tested as part of this monitoring.

(2) Each pipeline transporting HVLs must be tested at least twice each calendar year, but with intervals not exceeding 7 1/2 months, to determine whether the cathodic protection meets the requirements of subsection (c). Each impressed current ground bed must be tested as part of this monitoring.

(3) Each cathodic protection rectifier must be inspected once each calendar month but with intervals not exceeding 37 days, to ensure that it is operating properly. Remote monitoring devices are permissible to accomplish monitoring; however, physical inspection of the facilities must occur at least six times per calendar year, in alternating calendar months, to verify the integrity of the impressed current system.

(4) Each reverse current switch, each diode, and each interference bond whose failure could jeopardize structure protection on a pipeline transporting HVLs must be electrically checked for proper performance 12 times each calendar year, with intervals not exceeding 37 days.

(5) A hazardous liquid public utility shall initiate actions to start remedial measures within 14 days upon discovery to correct any deficiencies indicated by the monitoring. At no point shall the completion of the remedial measures exceed the next scheduled inspection.

(e) *Close Interval Surveys.* A hazardous liquid public utility shall conduct close internal surveys, including paved surfaces, every 3 years not to exceed 39 months. A hazardous liquid public utility shall use close interval potential surveys or close interval depolarization surveys. The method used shall determine the adequacy of cathodic protection over the entire pipeline. A hazardous liquid public utility shall comply with NACE International Standard Practice 0207-2007, Performing Close-Interval Potential Surveys and DC Surface Potential Gradient Surveys on Buried or Submerged Metallic Pipelines (March 10, 2007).

(f) *Interference currents.*

(1) A hazardous liquid public utility shall have a written continuing program to minimize the detrimental effects of stray currents from foreign pipelines, railways, mining operations or other direct current sources. The program must include provisions for adequately documenting actions and activities for mitigating interference currents.

(2) Each impressed current system shall be designed and installed to minimize detrimental effects to foreign pipelines and other underground metallic structures.

[Pa.B. Doc. No. 22-233. Filed for public inspection February 11, 2022, 9:00 a.m.]



# STATEMENTS OF POLICY

## Title 22—EDUCATION

### PROFESSIONAL STANDARDS AND PRACTICES COMMISSION

[ 22 PA. CODE CH. 238 ]

#### Pennsylvania Model Code of Ethics for Educators—Statement of Policy

##### *Statutory Authority*

This statement of policy is authorized by section 5(a)(12.2) of the Educator Discipline Act (act) (24 P.S. § 2070.5(a)(12.2)).

##### *Purpose and Background*

The Professional Standards and Practices Commission (PSPC) is committed to providing leadership for improving the quality of education in this Commonwealth by establishing high standards for preparation, certification, practice and ethical conduct in the teaching profession.

Educators are often faced with “gray areas” where there is no clear “right” or “wrong” path. The Model Code of Ethics for Educators (MCEE), which was developed as a collaborative effort of the National Association of State Directors of Teacher Education and Certification and the National Council for the Advancement of Educator Ethics, is a guiding document to prepare educators to select the best course of action in ethical dilemmas in their practice, and provides a basis for educator preparation, self-reflection, and self-accountability.

Section 5(a)(12.2) of the act empowers the PSPC “[t]o develop outreach programs, professional development and courses designed to improve the quality of practice and ethical conduct in the teaching profession.” By formally adopting the MCEE as the Pennsylvania Model Code of Ethics for Educators and incorporating it into its outreach programs, the Commission intends to provide Pennsylvania educators with a tool to help guide their decision-making and to promote an intentional emphasis on professional ethics in the teaching profession.

##### *Fiscal Impact and Paperwork Requirements*

This statement of policy has no fiscal impact and imposes no additional reporting or paperwork requirements.

##### *Effective Date*

This statement of policy shall be effective immediately upon publication in the *Pennsylvania Bulletin*.

##### *Regulatory Review*

This statement of policy is not subject to the Regulatory Review Act (71 P.S. §§ 745.1—745.14). However, the PSPC adopted this statement of policy after consultation with interested representatives of affected parties at public meetings.

##### *Contact Person*

Questions or comments regarding this statement of policy should be directed to Shane Crosby, Executive Director, 333 Market Street, 14th Floor, Harrisburg, PA 17126, (717) 787-6576. This statement of policy is available on the PSPC’s web site at [www.pspc.education.pa.gov](http://www.pspc.education.pa.gov).

SHANE F. CROSBY,  
*Executive Director*

*(Editor’s Note: Title 22 of the Pennsylvania Code is amended by adding §§ 238.1—238.3 to read as set forth in Annex A.)*

**Fiscal Note:** 6-350. No fiscal impact; (8) recommends adoption.

#### Annex A

#### TITLE 22. EDUCATION

#### PART XIV. PROFESSIONAL STANDARDS AND PRACTICES COMMISSION

#### CHAPTER 238. PENNSYLVANIA MODEL CODE OF ETHICS FOR EDUCATORS—STATEMENT OF POLICY

##### Sec.

- 238.1. Adoption of the Pennsylvania Model Code of Ethics for Educators—statement of policy.
- 238.2. Using the Pennsylvania Model Code of Ethics for Educators—statement of policy.
- 238.3. Clarification on the use of the Pennsylvania Model Code of Ethics for Educators—statement of policy.

#### § 238.1. Adoption of the Pennsylvania Model Code of Ethics for Educators—statement of policy.

The Professional Standards and Practices Commission (PSPC) adopts by reference the Model Code of Ethics for Educators, 2015 Edition, published by the National Association of State Directors of Teacher Education and Certification, as the Pennsylvania Model Code of Ethics for Educators. A copy of the publication may be obtained from the National Association of State Directors of Teacher Education and Certification, 1629 K Street NW, Suite 300, Washington, DC 20006, on the Internet web site of the National Association of State Directors of Teacher Education and Certification at [https://www.nasdtdec.net/page/MCEE\\_Doc](https://www.nasdtdec.net/page/MCEE_Doc), and on the Internet web site of the PSPC at <https://www.pspc.education.pa.gov>.

#### § 238.2. Using the Pennsylvania Model Code of Ethics for Educators—statement of policy.

(a) The PSPC will use the Pennsylvania Model Code of Ethics for Educators to:

(1) Assist current and future educators and other persons employed by a school entity in making ethical decisions.

(2) Facilitate discussion among current and future educators and other persons employed by a school entity concerning issues related to ethical questions. The Executive Director shall plan training for school entities and educator preparation providers that includes the Pennsylvania Model Code of Ethics for Educators.

(b) The Executive Director shall also identify and publish on the PSPC’s web site a list of available resources to assist school entities, educator preparation providers, and educational organizations in incorporating the Pennsylvania Model Code of Ethics for Educators and ethical instruction into their programs and practices.

#### § 238.3. Clarification on the use of the Pennsylvania Model Code of Ethics for Educators—statement of policy.

The Pennsylvania Model Code of Ethics for Educators will not be used to constitute standards of professional conduct for educators.

[Pa.B. Doc. No. 22-234. Filed for public inspection February 11, 2022, 9:00 a.m.]

# NOTICES

## DEPARTMENT OF BANKING AND SECURITIES

### Actions on Applications

The Department of Banking and Securities (Department), under the authority in the Banking Code of 1965 (7 P.S. §§ 101—2204), the Department of Banking and Securities Code (71 P.S. §§ 733-1—733-1203) and 17 Pa.C.S. (relating to Credit Union Code), has taken the following actions on applications received for the week ending February 1, 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>
01-26-2022	Citizens & Northern Bank Wellsboro Tioga County	500 Chesterbrook Boulevard Wayne Chester County	Filed
01-28-2022	CNB Bank Clearfield Clearfield County	164 Market Street Westlake Cuyahoga County, OH	Approved
01-28-2022	First Citizens Community Bank Mansfield Tioga County	3630 Rothsville Road Ephrata Lancaster County	Approved

### CREDIT UNIONS

#### Consolidations, Mergers and Absorptions

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Action</i>
01-27-2022	Belco Community Credit Union Harrisburg Dauphin County  Application for approval to merge Wilmac Employees Credit Union, York, with and into Belco Community Credit Union, Harrisburg.	Filed

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

RICHARD VAGUE,  
*Secretary*

[Pa.B. Doc. No. 22-235. Filed for public inspection February 11, 2022, 9:00 a.m.]

## DEPARTMENT OF BANKING AND SECURITIES

### Maximum Lawful Rate of Interest for Residential Mortgages for the Month of March 2022

The Department of Banking and Securities (Department), under the authority contained in section 301 of the act of January 30, 1974 (P.L. 13, No. 6) (41 P.S. § 301), determines that the maximum lawful rate of interest for residential mortgages for the month of March 2022, is 4 1/2%.

The interest rate limitations under the Commonwealth's usury statute were pre-empted to a great extent

by Federal law, the Depository Institutions Deregulation and Monetary Control Act of 1980 (Pub.L. No. 96-221). Further pre-emption was instituted with the signing of Pub.L. No. 96-399, which overrode State interest rate limitations on any individual who finances the sale or exchange of residential real property which the individual owns and which the individual occupies or has occupied as his principal residence.

Each month the Department is required by State law to compute and announce the ceiling rate on residential mortgages in this Commonwealth. This maximum rate is determined by adding 2.50 percentage points to the yield rate on long-term government bonds as published by the Federal Reserve Board or the United States Treasury, or both. The latest yield rate on long-term government securities is 2.00 to which was added 2.50 percentage

points for a total of 4.50 that by law is rounded off to the nearest quarter at 4 1/2%.

RICHARD VAGUE,  
Secretary

[Pa.B. Doc. No. 22-236. Filed for public inspection February 11, 2022, 9:00 a.m.]

## DEPARTMENT OF EDUCATION

### Availability of the Nita M. Lowey 21st Century Community Learning Centers Cohort 11 Grant Instructions for Application

The Department of Education (Department) announces the availability of the Nita M. Lowey 21st Century Community Learning Centers (CCLC) Cohort 11 Grant Instructions for Application (IFA). The Cohort 11 application for the 21st CCLC grant will be submitted by the eGrants system starting February 15, 2022. The period of availability is 5 years, which is anticipated to begin October 1, 2022, and end September 30, 2027, subject to availability of funds from the United States Department of Education and satisfactory performance of the grantee in the previous year.

The Nita M. Lowey 21st CCLC grant is a competitive grant that provides Federal funding to establish community learning centers that provide academic, artistic and cultural enrichment opportunities for students and their families. These opportunities must occur during nonschool hours or periods when school is not in session to help students attending high-poverty and low-performing schools to meet State and local standards in core academic subjects. Centers must also offer students a broad array of activities that can complement their regular academic programs and literacy and other educational services to their families. The 21st CCLC program is authorized under Title IV, Part B of the Elementary and Secondary Education Act, 20 U.S.C.A. §§ 6301—7981, as amended by the No Child Left Behind Act of 2001 (Pub.L. No. 107-110) and reauthorized by the Every Student Succeeds Act (ESSA) (Pub.L. No. 114-95).

The 21st CCLC Non-Regulatory Guidance is found at [www2.ed.gov/programs/21stcclc/guidance2003.pdf](http://www2.ed.gov/programs/21stcclc/guidance2003.pdf).

#### *Program Purpose*

The purpose of the 21st CCLC program is to provide opportunities for communities to establish or to expand activities in community learning centers that:

1. provide opportunities for academic enrichment, including providing tutorial services to help students, particularly students who attend low-performing schools, to meet the challenging State academic standards.

2. offer students a broad array of additional services, programs and activities, such as youth development activities, tutoring, service learning, nutrition and health education, drug and violence prevention programs, counseling programs, arts, music, physical fitness and wellness programs, technology education programs, financial literacy programs, environmental literacy programs, mathematics, science, career and technical programs, internship or apprenticeship programs and other ties to an in-demand industry sector or occupation for high school students that are designed to reinforce and complement the regular academic program of participating students; and

3. offer families of students served by community learning centers opportunities for active and meaningful engagement in their children's education, including opportunities for literacy and related educational development.

#### *Funding Availability*

The Department will have approximately \$20 million available for Cohort 11 grants. Applicants may choose to provide out-of-school time programming (for example, before school, afterschool, holidays, weekends and summer school services) focused on providing opportunities for academic enrichment, including tutorial services to assist students, particularly those who attend low performing schools and to assist them in meeting the challenging academic standards in kindergarten through grade 12. The performance measures of school attendance, classroom performance and reduced disciplinary referrals and meeting State and local academic achievement standards in reading, math and science must be addressed by all applicants.

Applicants may request funds ranging from a minimum of \$50,000 to a maximum of up to \$500,000. Programs that propose to provide both school year and summer programming are more powerful for results and data. There will be no summer-only applicants in this grant round. Requests for funding should be based on a maximum per pupil-cost of \$1,500—\$1,800, which includes administrative and transportation costs.

#### *Eligible Applicants*

Public or private organizations that meet the eligibility requirements can apply for 21st CCLC funding. This includes public school districts, charter schools, private schools, nonprofit agencies, city or county government agencies, faith-based organizations, institutions of higher education, Indian tribes or tribal organizations and for-profit corporations. Programs must be implemented through a partnership that includes at least one local educational agency receiving funds under Part A of Title I and at least one nonprofit agency, city or county government agency, faith-based organization, institution of higher education, Indian tribe or tribal organization or for-profit corporation with a demonstrated record of success in designing and implementing before school, after school, summer learning or expanded learning time activities.

Applicants must target students in the lowest 5% to 10% of Title I schools or those listed as focus and priority schools. To be eligible for this grant, at least 85% of the students an applicant is proposing to serve, must attend: schools that are Title 1, TSI, ATSI or CSI.

A current list of TSI, ATSI and CSI schools is available at [www.education.pa.gov/K-12/ESSA](http://www.education.pa.gov/K-12/ESSA).

Current Cohort 9 and 10 grantees are eligible to apply but cannot duplicate services of their current grants or propose to provide services to the identical target population of students. Cohort 11 applicants selected for funding are not eligible to amend their target populations to include current Cohort 9 or 10 grants once funding for previously awarded grants has ended.

#### *Program Conditions*

Programming must be high quality and evidence-based, connected to school day learning and outcomes, conducted in a safe and accessible facility, and offer every participating student a minimum of 240 to 300 nonschool hours of programming during the school year.

Unsuccessful applicants are eligible for due process under 34 CFR 76.401 (relating to disapproval of an

application—opportunity for a hearing), <https://www.ecfr.gov/current/title-34/subtitle-A/part-76>.

*Grant Award Process and Key Dates*

Potential applicants must complete the following steps:

1. Read grant qualifications—Beginning January 27, 2022, the Cohort 11 grant IFA can be found by visiting the Department’s web site at [www.education.pa.gov](http://www.education.pa.gov), using the search keywords 21st CCLC.

2. Notify the Department by e-mail at [RA-21stCCLC@pa.gov](mailto:RA-21stCCLC@pa.gov) of the applicant’s intent to submit an application (must be received at the 21st CCLC office by Thursday, February 10, 2022). Include in the letter:

- a. The legal name of the entity.
- b. The Administrative Unit Number (AUN) and vendor number for the lead organization (to find the individual AUN visit the Education Names and Addresses web site at [www.edna.pa.gov](http://www.edna.pa.gov)).

c. The target population to be served by the program including grade levels, proposed site locations, district and school names and community-based organization partners.

d. The name of the Agency Administrator and any agency signatory authority.

*Note:*

From the individual’s e-mailed letter of intent to the 21st CCLC Office at [RA-21stCCLC@pa.gov](mailto:RA-21stCCLC@pa.gov) by Thursday, February 10, 2022, the Department will create the entity account which will grant access to the Division of Student Services grants.

3. Confirm the individual’s access to the eGrants system (If the individual does not have an AUN number or if the individual has questions regarding eGrants registration, contact the Program Office Administrator, Joseph Eye at [jeye@pa.gov](mailto:jeye@pa.gov)).

4. Attend the Grant Writing Webinar on February 4, 2022. Registration for this event is available on the Center for Schools web site at <https://www.centersforschoolsandcommunities.org>.

5. EGrants opens for 21st CCLC Cohort 11 grant applications February 15, 2022. The deadline for submission is 5 p.m. on March 25, 2022.

6. Awarded applicants will be notified by June 2022.

7. The contract effective date is anticipated to be October 1, 2022. The deadline for the program to begin is October 3, 2022.

*More Application Information Available:*

- Visit the Department’s web site at [www.education.pa.gov](http://www.education.pa.gov), using the search keywords 21st CCLC.
- E-mail additional questions to [RA-21stCCLC@pa.gov](mailto:RA-21stCCLC@pa.gov) or to N. Craig Scott, 21st CCLC Education Administration Supervisor, Division of Student Services, Bureau of School Support, at [nscot@pa.gov](mailto:nscot@pa.gov) or (717) 346-3251.
- Department of Education, Bureau of School Support, 333 Market Street, 3rd Floor, Harrisburg, PA 17010, (717) 783-6466, fax (717) 783-4392, [www.education.pa.gov](http://www.education.pa.gov).

NOE ORTEGA,  
*Secretary*

[Pa.B. Doc. No. 22-237. Filed for public inspection February 11, 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](http://www.dep.pa.gov) and select Businesses, Water, Bureau of Clean Water, Wastewater Management, and NPDES and WQM Permitting Programs).

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

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

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

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

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

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

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

Comments received within the appropriate comment periods for WQM and NPDES permit applications will be retained by DEP and considered in the final determinations regarding the applications. A comment submittal should include the name, address and telephone number of the writer and a concise statement to inform DEP of the exact basis of a comment and the relevant facts upon which it is based.

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

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

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

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

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

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

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

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

DEP will also accept requests or petitions for public hearings on applications. The request or petition must indicate the interest of the party filing and the reasons why a hearing is warranted. A hearing will be held if the Department determines that there is a significant public interest. If a hearing is scheduled, a notice of the hearing will be published in the *Pennsylvania Bulletin* and a newspaper of general circulation within the relevant geographical area. DEP will postpone its final determination until after a public hearing is held.

Persons with a disability who require an auxiliary aid, service, including TDD users, or other accommodations to seek additional information should contact the Department through the Pennsylvania Hamilton Relay Service at (800) 654-5984.

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

<i>Application Number</i>	<i>Permit Type</i>	<i>Application Type</i>	<i>Applicant Name &amp; Address</i>	<i>Municipality, County</i>	<i>DEP Office</i>
PA0281786	CAFO Individual NPDES Permit	Transfer	Boyles Robert R Jr 2088 Cleman Hollow Road Unityville, PA 17774-9115	Franklin Township Lycoming County	SCRO
0117808	Joint DEP/PFBC Pesticides Permit	Renewal	Carroll Valley Borough Adams County 5658 Fairfield Road Fairfield, PA 17320	Carroll Valley Borough Adams County	SCRO
PA0103713	Minor Industrial Waste Facility with ELG Individual NPDES Permit	Transfer	Scrubgrass Reclamation Co. LP 2151 Lisbon Road Kennerdell, PA 16374-3305	Scrubgrass Township Venango County	NWRO
PA0222763	Minor Industrial Waste Facility with ELG Individual NPDES Permit	Transfer	WL Plastics Manufacturing, LLC 3575 Lone Star Circle Fort Worth, TX 76177-8904	Titusville City Crawford County	NWRO
6519400	Minor and Non-NPDES Sewage Treatment Facility Individual WQM Permit	Transfer	West Newton DJVNW Sewickley, LLC 812 18th Street Ambridge, PA 15003-1803	Sewickley Township Westmoreland County	SWRO
NOEXNW054	No Exposure Certification	Renewal	Baker Petrolite, LLC 48 Susquehanna Road Custer City, PA 16725	Bradford Township McKean County	NWRO
NOEXNW169	No Exposure Certification	Renewal	Checon, LLC 600 Industrial Park Road Kersey, PA 15846-8912	Fox Township Elk County	NWRO
NOEXSC321	No Exposure Certification	Transfer	GXO Whse Co. Inc. 4406 Industrial Park Road Camp Hill, PA 17011	Hampden Township Cumberland County	SCRO
NOEXSE161	No Exposure Certification	Renewal	Triumph Controls, Inc. 205 Church Road North Wales, PA 19454-4137	Upper Gwynedd Township Montgomery County	SERO
PAG036152	PAG-03 NPDES General Permit for Industrial Stormwater	Amendment	Covestro, LLC 1 Covestro Circle Pittsburgh, PA 15205	Robinson Township Allegheny County	SWRO
PAG123928	PAG-12 NPDES General Permit for CAFOs	New	Reiff Kenton 1775 Pinkerton Road Mount Joy, PA 17552-9319	Rapho Township Lancaster County	SCRO
0221404	Sewer Extensions WQM Individual Permit	New	Pittsburgh Water Sewer Authority 3300 Preble Avenue Pittsburgh, PA 15233-1025	Pittsburgh City Allegheny County	SWRO
3622401	Sewer Extensions WQM Individual Permit	New	West Cocalico Township Authority Lancaster County 156B West Main Street P.O. Box 95 Reinholds, PA 17569-0095	West Cocalico Township Lancaster County	SCRO
PA0271730	Single Residence STP Individual NPDES Permit	Transfer	Reinard Douglas 285 Rosewae Avenue Cortland, OH 44410-1237	Harmony Township Forest County	NWRO

NOTICES

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<i>Application Number</i>	<i>Permit Type</i>	<i>Application Type</i>	<i>Applicant Name &amp; Address</i>	<i>Municipality, County</i>	<i>DEP Office</i>
PA0289540	Single Residence STP Individual NPDES Permit	Transfer	Meeder Sarah 136 Cherry Valley Road Saxonburg, PA 16056-9126	Clinton Township Butler County	NWRO
1021410	Single Residence Sewage Treatment Plant Individual WQM Permit	Transfer	Meeder Sarah 136 Cherry Valley Road Saxonburg, PA 16056-9126	Clinton Township Butler County	NWRO
2022401	Single Residence Sewage Treatment Plant Individual WQM Permit	New	Smith Keith W 612 North Street Ellwood City, PA 16117-1064	West Shenango Township Crawford County	NWRO
2522401	Single Residence Sewage Treatment Plant Individual WQM Permit	New	Hunt Chris 91 E Townhall Road Waterford, PA 16441-4209	Summit Township Erie County	NWRO
2522402	Single Residence Sewage Treatment Plant Individual WQM Permit	New	Tabich Dean 2130 Warfel Avenue Erie, PA 16503-2346	North East Township Erie County	NWRO
2718401	Single Residence Sewage Treatment Plant Individual WQM Permit	Transfer	Reinard Douglas 285 Rosewae Avenue Cortland, OH 44410-1237	Harmony Township Forest County	NWRO
6222401	Single Residence Sewage Treatment Plant Individual WQM Permit	New	Check Whitney 76 Mossy Oak Lane Warren, PA 16365-7451	Pleasant Township Warren County	NWRO
WQG02632201	WQG-02 WQM General Permit	New	GSP Management Co. 800 W Hershey Park Drive Hershey, PA 17033-2400	Donegal Township Washington County	SWRO

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

*Northcentral Regional Office*

**PA0028681**, Sewage, SIC Code 4952, **Kelly Township Municipal Authority, Union County**, 405 Winter Farm Lane, Lewisburg, PA 17837-6358. Facility Name: Kelly Township Municipal Authority Sewer System. This existing facility is located in Kelly Township, **Union 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), West Branch Susquehanna River (WWF, MF), is located in State Water Plan watershed 10-D and is classified for Migratory Fishes and Warm Water Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of 3.75 MGD.

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>		<i>Minimum</i>	<i>Concentrations (mg/L)</i>		<i>Instant. Maximum</i>
	<i>Average Monthly</i>	<i>Daily Maximum</i>		<i>Average Monthly</i>	<i>Daily Maximum</i>	
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Dissolved Oxygen	XXX	XXX	Inst Min Report	XXX	XXX	XXX
Total Residual Chlorine (TRC)	XXX	XXX	XXX	0.5	XXX	1.6
Carbonaceous Biochemical Oxygen Demand (CBOD <sub>5</sub> )	782	1,251 Wkly Avg	XXX	25	40 Wkly Avg	50

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>		<i>Minimum</i>	<i>Concentrations (mg/L)</i>		<i>Instant. Maximum</i>
	<i>Average Monthly</i>	<i>Daily Maximum</i>		<i>Average Monthly</i>	<i>Daily Maximum</i>	
Biochemical Oxygen Demand (BOD <sub>5</sub> ) Raw Sewage Influent	Report	Report	XXX	Report	XXX	XXX
Total Suspended Solids Raw Sewage Influent	Report	Report	XXX	Report	XXX	XXX
Total Suspended Solids	938	1,407 Wkly Avg	XXX	30	45 Wkly Avg	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
E. Coli (No./100 ml)	XXX	XXX	XXX	XXX	XXX	Report
Nitrate-Nitrite as N	XXX	XXX	XXX	Report	XXX	XXX
Nitrate-Nitrite as N (Total Load, lbs) (lbs)	Report Total Mo	XXX	XXX	XXX	XXX	XXX
Total Nitrogen	XXX	XXX	XXX	Report	XXX	XXX
Total Nitrogen (Total Load, lbs) (lbs)	Report Total Mo	XXX	XXX	XXX	XXX	XXX
Ammonia-Nitrogen	XXX	XXX	XXX	Report	XXX	XXX
Ammonia-Nitrogen (Total Load, lbs) (lbs)	Report Total Mo	XXX	XXX	XXX	XXX	XXX
Total Kjeldahl Nitrogen	XXX	XXX	XXX	Report	XXX	XXX
Total Kjeldahl Nitrogen (Total Load, lbs) (lbs)	Report Total Mo	XXX	XXX	XXX	XXX	XXX
Total Phosphorus	XXX	XXX	XXX	Report	XXX	XXX
Total Phosphorus (Total Load, lbs) (lbs)	Report Total Mo	XXX	XXX	XXX	XXX	XXX
Copper, Total (ug/L)	XXX	Report	XXX	XXX	Report	XXX
Zinc, Total (ug/L)	XXX	Report	XXX	XXX	Report	XXX
1,2,4-Trichlorobenzene (ug/L)	XXX	Report	XXX	XXX	Report	XXX
Bis (2-Ethylhexyl) Phthalate (ug/L)	XXX	Report	XXX	XXX	Report	XXX
Hexachlorobutadiene (ug/L)	0.035	0.054	XXX	1.11	1.73	2.77

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

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>		<i>Monthly</i>	<i>Concentrations (mg/L)</i>		<i>Instant. Maximum</i>
	<i>Monthly</i>	<i>Annual</i>		<i>Monthly Average</i>	<i>Maximum</i>	
Total Nitrogen (Total Load, lbs) (lbs)	XXX	Report Total Annual	XXX	XXX	XXX	XXX
Total Nitrogen (Total Load, lbs) (lbs) Effluent Net	XXX	68,492 Annual	XXX	XXX	XXX	XXX
Ammonia-Nitrogen (Total Load, lbs) (lbs)	XXX	Report Total Annual	XXX	XXX	XXX	XXX
Total Phosphorus (Total Load, lbs) (lbs) Effluent Net	XXX	9,132 Annual	XXX	XXX	XXX	XXX
Total Phosphorus (Total Load, lbs) (lbs)	XXX	Report Total Annual	XXX	XXX	XXX	XXX

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

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

- Stormwater Requirements
- WET Testing

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.



**PA0114821 A-2**, Sewage, SIC Code 4952, **Gregg Township Municipal Authority, Union County**, 16436 US Route 15, Allenwood, PA 17810-9137. Facility Name: Gregg Township Municipal Authority Sewer System STP. This existing facility is located in Gregg Township, **Union County**.

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

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

The proposed effluent limits for Outfall 001 are based on a design flow of 1.26 MGD.

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>		<i>Minimum</i>	<i>Concentrations (mg/L)</i>		<i>Instant. Maximum</i>
	<i>Average Monthly</i>	<i>Weekly Average</i>		<i>Average Monthly</i>	<i>Weekly Average</i>	
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Dissolved Oxygen	XXX	XXX	Inst Min Report	XXX	XXX	XXX
Total Residual Chlorine (TRC)	XXX	XXX	XXX	0.5	XXX	1.6
Carbonaceous Biochemical Oxygen Demand (CBOD <sub>5</sub> )	263	420	XXX	25	40	50
Biochemical Oxygen Demand (BOD <sub>5</sub> )	Report	Report	XXX	Report	XXX	XXX
Raw Sewage Influent						
Total Suspended Solids	Report	Report	XXX	Report	XXX	XXX
Raw Sewage Influent						
Total Suspended Solids	315	473	XXX	30	45	60
Fecal Coliform (No./100 ml)						
Oct 1 - Apr 30	XXX	XXX	XXX	2,000	XXX	10,000
May 1 - Sep 30	XXX	XXX	XXX	Geo Mean 200	XXX	1,000
Nitrate-Nitrite as N	XXX	XXX	XXX	Report	XXX	XXX
Nitrate-Nitrite as N (Total Load, lbs) (lbs)	Report	XXX	XXX	XXX	XXX	XXX
Total Nitrogen	XXX	XXX	XXX	Report	XXX	XXX
Total Nitrogen (Total Load, lbs) (lbs)	Report	XXX	XXX	XXX	XXX	XXX
Effluent Net						
Total Nitrogen (Total Load, lbs) (lbs)	Report	XXX	XXX	XXX	XXX	XXX
Ammonia-Nitrogen	XXX	XXX	XXX	Report	XXX	XXX
Ammonia-Nitrogen (Total Load, lbs) (lbs)	Report	XXX	XXX	XXX	XXX	XXX
Total Kjeldahl Nitrogen	XXX	XXX	XXX	Report	XXX	XXX
Total Kjeldahl Nitrogen (Total Load, lbs) (lbs)	Report	XXX	XXX	XXX	XXX	XXX
Total Phosphorus	XXX	XXX	XXX	Report	XXX	XXX
Total Phosphorus (Total Load, lbs) (lbs)	Report	XXX	XXX	XXX	XXX	XXX
Effluent Net						
Total Phosphorus (Total Load, lbs) (lbs)	Report	XXX	XXX	XXX	XXX	XXX
E. Coli	XXX	XXX	XXX	XXX	XXX	Report

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

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>		<i>Minimum</i>	<i>Concentrations (mg/L)</i>		<i>Instant. Maximum</i>
	<i>Average Monthly</i>	<i>Average Weekly</i>		<i>Average Monthly</i>	<i>Daily Maximum</i>	
Total Suspended Solids	XXX	XXX	XXX	XXX	Report	XXX
Oil and Grease	XXX	XXX	XXX	XXX	Report	XXX

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

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>		<i>Monthly</i>	<i>Concentrations (mg/L)</i>		<i>Instant. Maximum</i>
	<i>Monthly</i>	<i>Annual</i>		<i>Monthly Average</i>	<i>Maximum</i>	
Total Nitrogen (Total Load, lbs) (lbs) Effluent Net	XXX	24,301 Total	XXX	XXX	XXX	XXX
Total Nitrogen (Total Load, lbs) (lbs)	XXX	Annual Report Total	XXX	XXX	XXX	XXX
Ammonia-Nitrogen (Total Load, lbs) (lbs)	XXX	Annual Report Total	XXX	XXX	XXX	XXX
Total Phosphorus (Total Load, lbs) (lbs) Effluent Net	XXX	3,278 Total Annual	XXX	XXX	XXX	XXX
Total Phosphorus (Total Load, lbs) (lbs)	XXX	Annual Report Total Annual	XXX	XXX	XXX	XXX

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

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

- WET Testing
- Stormwater Monitoring Requirements

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 570-327-3693.

The EPA Waiver is not in effect.

*Northwest Regional Office*

**PA0093149**, Sewage, SIC Code 0182, **Creekside Mushrooms, Ltd**, 1 Moonlight Drive, Worthington, PA 16262-9730. Facility Name: Creekside Mushrooms. This existing facility is located in West Franklin Township, **Armstrong 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), Buffalo Creek (HQ-TSF), is located in State Water Plan watershed 18-F and is classified for High Quality Waters—Trout Stocking, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of .0915 MGD.—Limits.

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>		<i>Minimum</i>	<i>Concentrations (mg/L)</i>		<i>IMAX</i>
	<i>Average Monthly</i>	<i>Average Weekly</i>		<i>Average Monthly</i>	<i>Maximum</i>	
Flow (MGD)	Report	Report Daily Max	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Dissolved Oxygen	XXX	XXX	Inst Min Report Inst Min	XXX	XXX	XXX
Total Residual Chlorine (TRC)	XXX	XXX	XXX	0.5	XXX	1.6
Carbonaceous Biochemical Oxygen Demand (CBOD <sub>5</sub> )	XXX	XXX	XXX	25.0	XXX	50
Total Suspended Solids	XXX	XXX	XXX	30.0	XXX	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	15.0	XXX	30
May 1 - Oct 31	XXX	XXX	XXX	5.0	XXX	10
Aluminum, Total	XXX	XXX	XXX	4.0	XXX	8
Iron, Total	XXX	XXX	XXX	2.0	XXX	4
Manganese, Total	XXX	XXX	XXX	1.0	XXX	2

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 814-332-6078.

The EPA Waiver is in effect.

**PA0093033**, Sewage, SIC Code 4952, **Eastern Armstrong County Municipal Authority**, P.O. Box 262, Elderton, PA 15736-0262. Facility Name: Elderton STP. This existing facility is located in Elderton Borough, **Armstrong 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, an Unnamed Tributary to the Crooked Creek (WWF), is located in State Water Plan watershed 17-E 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 0.058 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	9.0	XXX
Dissolved Oxygen	XXX	XXX	Daily Min 4.0	XXX	Daily Max XXX	XXX
Carbonaceous Biochemical Oxygen Demand (CBOD <sub>5</sub> )	4.8	XXX	Daily Min XXX	10.0	XXX	20.0
Biochemical Oxygen Demand (BOD <sub>5</sub> )	Report	XXX	XXX	Report	XXX	XXX
Raw Sewage Influent Total Suspended Solids	12.0	XXX	XXX	25.0	XXX	50.0
Total Suspended Solids Raw Sewage Influent	Report	XXX	XXX	Report	XXX	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
E. Coli (No./100 ml)	XXX	XXX	XXX	Geo Mean XXX	XXX	Report
Ultraviolet light transmittance (%)	XXX	XXX	XXX	Report	XXX	XXX
Ammonia-Nitrogen						
Nov 1 - Apr 30	4.2	XXX	XXX	9.0	XXX	18.0
May 1 - Oct 31	1.4	XXX	XXX	3.0	XXX	6.0
Total Nitrogen	XXX	XXX	XXX	XXX	Report Daily Max	XXX
Total Phosphorus	XXX	XXX	XXX	XXX	Report Daily Max	XXX

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 814-332-6078.

The EPA Waiver is in effect.

**PA0239658**, Sewage, SIC Code 8800, **Gregory Renninger**, 138 Buena Vida Lane, Shippenville, PA 16254-3828. Facility Name: Gregory Renninger SRSTP. This existing facility is located in Millcreek Township, **Clarion County**.

Description of Existing Activity: The application is for a renewal of an NPDES permit for an existing discharge of treated SRSTP sewage. Ownership will also be transferred from Matthew C. Culp to Gregory Renninger.

The receiving stream, an Unnamed Tributary to the Blyson Run (EV), is located in State Water Plan watershed 17-B and is classified for Exceptional Value Waters, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

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

Parameters	Mass Units (lbs/day)			Concentrations (mg/L)		IMAX
	Average Monthly	Average Weekly	Minimum	Annual Average	Maximum	
Flow (GPD)	Report	XXX	XXX	XXX	XXX	XXX
pH (S.U.)	Annl Avg XXX	XXX	6.0	XXX	9.0	XXX

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

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

The EPA Waiver is in effect.

**PA0290131**, Sewage, SIC Code 8800, **Garrett Blasco**, 10721 Old Route 99, McKean, PA 16426. Facility Name: Garrett Blasco SRSTP. This proposed facility is located in Washington Township, **Erie County**.

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

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

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

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

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

The EPA Waiver is in effect.

**PA0290301**, Sewage, SIC Code 4952, 8800, **Ryan Day**, 140 Bloomster Hollow, Smethport, PA 16749-2404. Facility Name: Ryan Day SRSTP. This proposed facility is located in Hamlin Township, **McKean County**.

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

The receiving stream is an Unnamed Tributary to Bloomster Hollow, located in State Water Plan watershed 16-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 0.0005 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 Daily Min	XXX	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0 Inst Min	XXX	XXX	9.0
Biochemical Oxygen Demand (BOD <sub>5</sub> )	XXX	XXX	XXX	10.0	XXX	20.0
Total Suspended Solids	XXX	XXX	XXX	10.0	XXX	20.0
Fecal Coliform (No./100 ml)	XXX	XXX	XXX	200	XXX	XXX

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

The EPA Waiver is in effect.

*Southcentral Regional Office*

**PA0291480**, Storm Water, SIC Code 4225, **Amazon.com Services, LLC**, P.O. Box 80842, Seattle, WA 98108-0842. Facility Name: Amazon.com Services LLC DPL2. This proposed facility is located in Swatara Township, **Dauphin County**.

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

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

The proposed effluent limits for Outfall 001 are based on a design flow of 0 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>Daily Maximum</i>	
Total Suspended Solids	XXX	XXX	XXX	XXX	Report	XXX
Oil and Grease	XXX	XXX	XXX	XXX	Report	XXX

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

- Stormwater Outfalls and Authorized Non-Stormwater Discharges
- Best Management Practices (BMPs), including applicable BMPs from Appendix L from the PAG-03
- Routine Inspections
- Preparedness, Prevention, and Contingency (PPC) Plan
- Stormwater Monitoring Requirements (including Benchmarks for TSS, Oil and Grease)
- Other Requirements

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

The EPA Waiver is in effect.

**PA0081655 A-1**, Industrial, SIC Code 3569, **Philadelphia Mixing Solutions, Ltd**, 1221 E Main Street, Palmyra, PA 17078-9506. Facility Name: Philadelphia Mixing Solutions. This existing facility is located in Palmyra Borough, **Lebanon County**.

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

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

The proposed effluent limits for Outfall 001 are based on a design flow of .5 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>Daily Maximum</i>	
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0 Inst Min	XXX	XXX	9.0
Total Dissolved Solids	XXX	XXX	XXX	XXX	Report	XXX
Cobalt, Total	XXX	XXX	XXX	XXX	Report	XXX
Sodium, Total	XXX	XXX	XXX	XXX	Report	XXX
Sulfate, Total	XXX	XXX	XXX	XXX	Report	XXX
Chloride	XXX	XXX	XXX	XXX	Report	XXX
Bromide	XXX	XXX	XXX	XXX	Report	XXX

The proposed effluent limits for Outfall 002 are based on a design flow of 0 MGD.—Limits.

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>		<i>Minimum</i>	<i>Concentrations (mg/L)</i>		<i>IMAX</i>
	<i>Average Monthly</i>	<i>Average Weekly</i>		<i>Average Monthly</i>	<i>Daily Maximum</i>	
Total Suspended Solids	XXX	XXX	XXX	XXX	Report	XXX
Oil and Grease	XXX	XXX	XXX	XXX	Report	XXX
Aluminum, Total	XXX	XXX	XXX	XXX	Report	XXX
Copper, Total	XXX	XXX	XXX	XXX	Report	XXX
Iron, Total	XXX	XXX	XXX	XXX	Report	XXX
Lead, Total	XXX	XXX	XXX	XXX	Report	XXX

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

The EPA Waiver is in effect.

**PA0021539**, Sewage, SIC Code 4952, **Williamsburg Municipal Authority, Blair County**, 305 E 2nd Street, Williamsburg, PA 16693-1041. Facility Name: Williamsburg Municipal Authority STP. This existing facility is located in Williamsburg Borough, **Blair 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), Frankstown Branch Juniata River (TSF), is located in State Water Plan watershed 11-A 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 .331 MGD.—Limits.

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>		<i>Instantaneous Minimum</i>	<i>Concentrations (mg/L)</i>		<i>IMAX</i>
	<i>Average Monthly</i>	<i>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
Carbonaceous Biochemical Oxygen Demand (CBOD <sub>5</sub> )	69	110	XXX	25.0	40.0	50
Biochemical Oxygen Demand (BOD <sub>5</sub> ) Raw Sewage Influent	Report	Report Daily Max	XXX	Report	XXX	XXX
Total Suspended Solids	83	124	XXX	30.0	45.0	60
Total Suspended Solids Raw Sewage Influent	Report	Report Daily Max	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
Nitrate-Nitrite as N (Total Load, lbs) (lbs)	Report Total Mo	XXX	XXX	XXX	XXX	XXX
Total Nitrogen	XXX	XXX	XXX	Report	XXX	XXX
Total Nitrogen (Total Load, lbs) (lbs)	Report Total Mo	XXX	XXX	XXX	XXX	XXX
Total Nitrogen (Total Load, lbs) (lbs) Effluent Net	Report Total Mo	XXX	XXX	XXX	XXX	XXX
Ammonia-Nitrogen	XXX	XXX	XXX	Report	XXX	XXX
Ammonia-Nitrogen (Total Load, lbs) (lbs)	Report Total Mo	XXX	XXX	XXX	XXX	XXX
Total Kjeldahl Nitrogen	XXX	XXX	XXX	Report	XXX	XXX
Total Kjeldahl Nitrogen (Total Load, lbs) (lbs)	Report Total Mo	XXX	XXX	XXX	XXX	XXX
Total Phosphorus	XXX	XXX	XXX	Report	XXX	XXX
Total Phosphorus (Total Load, lbs) (lbs)	Report Total Mo	XXX	XXX	XXX	XXX	XXX
Total Phosphorus (Total Load, lbs) (lbs) Effluent Net	Report Total Mo	XXX	XXX	XXX	XXX	XXX
Ultraviolet light dosage (mjoules/cm <sup>2</sup> )	XXX	XXX	Report	XXX	XXX	XXX

The proposed effluent limits for Outfall 001 are based on a design flow of .331 MGD.—Limits.

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>		<i>Instantaneous Minimum</i>	<i>Concentrations (mg/L)</i>		<i>IMAX</i>
	<i>Average Monthly</i>	<i>Weekly Average</i>		<i>Average Monthly</i>	<i>Weekly Average</i>	
E. Coli (No./100 ml)	XXX	XXX	XXX	XXX	Report Daily Max	XXX

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

The EPA Waiver is not in effect.

**PA0043273**, Sewage, SIC Code 4952, **Hollidaysburg Borough Sewer Authority, Blair County**, 401 Blair Street, Hollidaysburg, PA 16648-1805. Facility Name: Hollidaysburg STP. This existing facility is located in Frankstown Township, **Blair 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), Brush Run (WWF), Unnamed Tributary to Beaverdam Branch (WWF), Beaverdam Branch (WWF), and Frankstown Branch Juniata River (WWF), is located in State Water Plan watershed 11-A 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 6 MGD.—Limits.

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>		<i>Instantaneous Minimum</i>	<i>Concentrations (mg/L)</i>		<i>IMAX</i>
	<i>Average Monthly</i>	<i>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
Carbonaceous Biochemical Oxygen Demand (CBOD <sub>5</sub> )						
Nov 1 - Apr 30	1,250	2,000	XXX	25	40	50
May 1 - Oct 31	750	1,125	XXX	15.0	22.5	30
Biochemical Oxygen Demand (BOD <sub>5</sub> )	Report	Report Daily Max	XXX	Report	XXX	XXX
Raw Sewage Influent Total Suspended Solids	Report	Report Daily Max	XXX	Report	XXX	XXX
Raw Sewage Influent Total Suspended Solids	1,500	2,250	XXX	30	45	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
E. Coli (No./100 ml)	XXX	XXX	XXX	XXX	Report Daily Max	XXX
Ultraviolet light intensity (mW/cm <sup>2</sup> )	XXX	XXX	Report	XXX	XXX	XXX
Nitrate-Nitrite as N	XXX	XXX	XXX	Report	XXX	XXX
Nitrate-Nitrite as N (Total Load, lbs) (lbs)	Report Total Mo	XXX	XXX	XXX	XXX	XXX
Total Nitrogen	XXX	XXX	XXX	Report	XXX	XXX
Total Nitrogen (Total Load, lbs) (lbs)	Report Total Mo	XXX	XXX	XXX	XXX	XXX
Ammonia-Nitrogen						
Nov 1 - Apr 30	525	XXX	XXX	10.5	XXX	21
May 1 - Oct 31	175	XXX	XXX	3.5	XXX	7
Ammonia-Nitrogen (Total Load, lbs) (lbs)	Report Total Mo	XXX	XXX	XXX	XXX	XXX
Total Kjeldahl Nitrogen	XXX	XXX	XXX	Report	XXX	XXX
Total Kjeldahl Nitrogen (Total Load, lbs) (lbs)	Report Total Mo	XXX	XXX	XXX	XXX	XXX
Total Phosphorus	XXX	XXX	XXX	Report	XXX	XXX
Total Phosphorus (Total Load, lbs) (lbs)	Report Total Mo	XXX	XXX	XXX	XXX	XXX
Copper, Total	2.7	XXX	XXX	0.055	XXX	XXX
Zinc, Total	Report	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 717-705-4732.

The EPA Waiver is not in effect.

**PA0080748**, Sewage, SIC Code 4952, **Northern Lebanon County Authority**, P.O. Box 434, Jonestown, PA 17038-0434. Facility Name: Jonestown STP. This existing facility is located in Union Township, **Lebanon 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), Swatara Creek (WWF, MF), is located in State Water Plan watershed 7-D and is classified for Migratory Fishes and Warm Water Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of .75 MGD.—Limits.

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>			<i>Concentrations (mg/L)</i>		<i>Instant. Maximum</i>
	<i>Average Monthly</i>	<i>Weekly Average</i>	<i>Daily Minimum</i>	<i>Average Monthly</i>	<i>Weekly Average</i>	
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	Daily Max XXX	6.0 Inst Min	XXX	XXX	9.0
Dissolved Oxygen	XXX	XXX	5.0	XXX	XXX	XXX
CBOD <sub>5</sub>	156	250	XXX	25.0	40.0	50
BOD <sub>5</sub>	Report	Report	XXX	Report	XXX	XXX
Raw Sewage Influent		Daily Max				
Total Suspended Solids	Report	Report	XXX	Report	XXX	XXX
Raw Sewage Influent		Daily Max				
Total Suspended Solids	188	281	XXX	30.0	45.0	60
Fecal Coliform (No./100 ml)						
Oct 1 - Apr 30	XXX	XXX	XXX	2,000	XXX	10,000
May 1 - Sep 30	XXX	XXX	XXX	Geo Mean 200	XXX	1,000
Nitrate-Nitrite as N	XXX	XXX	XXX	Report	XXX	XXX
Nitrate-Nitrite as N	Report	XXX	XXX	XXX	XXX	XXX
(Total Load, lbs)	Total Mo					
Total Nitrogen	XXX	XXX	XXX	Report	XXX	XXX
Total Nitrogen	Report	XXX	XXX	XXX	XXX	XXX
(Total Load, lbs)	Total Mo					
Ammonia-Nitrogen						
Nov 1 - Apr 30	Report	XXX	XXX	Report	XXX	XXX
May 1 - Oct 31	84	XXX	XXX	13.5	XXX	27
Ammonia-Nitrogen	Report	XXX	XXX	XXX	XXX	XXX
(Total Load, lbs)	Total Mo					
Total Kjeldahl Nitrogen	XXX	XXX	XXX	Report	XXX	XXX
Total Kjeldahl Nitrogen	Report	XXX	XXX	XXX	XXX	XXX
(Total Load, lbs)	Total Mo					
Total Phosphorus	12.5	XXX	XXX	2.0	XXX	4
Total Phosphorus	Report	XXX	XXX	XXX	XXX	XXX
(Total Load, lbs)	Total Mo					
Ultraviolet light dosage	XXX	XXX	Report	XXX	XXX	XXX
(mjoules/cm <sup>2</sup> )						
E. Coli (No./100 ml)	XXX	XXX	XXX	XXX	XXX	Report
Copper, Total	Report	XXX	XXX	Report	XXX	XXX
Zinc, Total	Report	XXX	XXX	Report	XXX	XXX

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

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

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

- The permittee is authorized to use 1,575 lbs/year as Total Nitrogen (TN) offsets toward compliance with the Annual Net TN mass load limitations (Cap Loads)



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

- Stormwater Prohibition, Approval Contingencies, Solids Management, Restriction on receipt of hauled in waste under certain conditions.

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.

**PA0267619**, Sewage, SIC Code 8811, **Terry L. Seibert**, 568 Ridge Road, Lewisberry, PA 17339-9591. Facility Name: Seibert Residence. This proposed facility is located in Fairview Township, **York 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 Fishing Creek (TSF, MF), is located in State Water Plan watershed and is classified for Migratory Fishes and Trout Stocking, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

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

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

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

**PA0255823**, Industrial, SIC Code, **The AMES Companies, Inc.**, 135 Roaring Run Road, Champion, PA 15622-3095. Facility Name: The AMES Companies, Inc. (Champion Facility). This proposed facility is located in Donegal Township, **Westmoreland County**.

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

The receiving stream(s), Indian Creek (HQ-CWF) and Unnamed Tributary to Indian Creek (HQ-CWF), is located in State Water Plan watershed 19-E and is classified for High Quality Waters—Cold Water Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001:

Parameters	Mass Units (lbs/day)			Concentrations (mg/L)		IMAX
	Average Monthly	Average Weekly	Minimum	Average Monthly	Daily Maximum	
pH (S.U.)	XXX	XXX	XXX	XXX	Report	XXX
Chemical Oxygen Demand (COD)	XXX	XXX	XXX	XXX	Report	XXX
Total Suspended Solids	XXX	XXX	XXX	XXX	Report	XXX

The proposed effluent limits for Outfall 002:

Parameters	Mass Units (lbs/day)			Concentrations (mg/L)		IMAX
	Average Monthly	Average Weekly	Instant. Minimum	Average Monthly	Daily Maximum	
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Chemical Oxygen Demand (COD)	XXX	XXX	XXX	XXX	Report	XXX
Total Suspended Solids	XXX	XXX	XXX	XXX	Report	XXX

The proposed effluent limits for Outfall 003:

Parameters	Mass Units (lbs/day)			Concentrations (mg/L)		IMAX
	Average Monthly	Average Weekly	Minimum	Average Monthly	Daily Maximum	
pH (S.U.)	XXX	XXX	XXX	XXX	Report	XXX
Chemical Oxygen Demand (COD)	XXX	XXX	XXX	XXX	Report	XXX
Total Suspended Solids	XXX	XXX	XXX	XXX	Report	XXX

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.

**PA0203726**, Sewage, SIC Code 7389, **Harry M Elder**, 921 Georgetown Road, Sandy Lake, PA 16145. Facility Name: US Post Ofc STP. This existing facility is located in Addison Borough, **Somerset County**.

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

The receiving stream(s), Chub Run (WWF), is located in State Water Plan watershed 19-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 .0004 MGD.—Limits.

Parameters	Mass Units (lbs/day)		Minimum	Concentrations (mg/L)		IMAX
	Average Monthly	Average Weekly		Annual Average	Maximum	
Flow (MGD)	0.0004	XXX	XXX	XXX	XXX	XXX
	Annl Avg					
Biochemical Oxygen Demand (BOD <sub>5</sub> )	XXX	XXX	XXX	10.0	XXX	20.0
Total Suspended Solids	XXX	XXX	XXX	10.0	XXX	20.0
Fecal Coliform (No./100 ml)	XXX	XXX	XXX	200	XXX	1,000

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

Parameters	Mass Units (lbs/day)		Minimum	Concentrations (mg/L)		IMAX
	Average Monthly	Average Weekly		Annual Average	Maximum	
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
			Inst Min			
Total Residual Chlorine (TRC)	XXX	XXX	XXX	Report Avg Mo	XXX	3.3

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

- Septic tank pumping requirement
- Optimization of chlorine dosage

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.

**PA0217506**, Sewage, SIC Code 6515, **Borland Robert**, 116 Minter Road, Butler, PA 16001-8559. Facility Name: Whispering Woods. This existing facility is located at 479 Big Knob Road, Rochester, PA 15074, located in New Sewickley 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 34805 to Brush Creek (WWF), is located in State Water Plan watershed 20-G and is classified for Warm Water Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of .01 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.)	XXX	XXX	6.0	XXX	XXX	9.0
			Daily Min			
Dissolved Oxygen	XXX	XXX	4.0	XXX	XXX	XXX
			Daily Min			
Total Residual Chlorine (TRC)	XXX	XXX	XXX	0.1	XXX	0.3
Carbonaceous Biochemical Oxygen Demand (CBOD <sub>5</sub> )	XXX	XXX	XXX	25.0	XXX	50.0
Total Suspended Solids	XXX	XXX	XXX	30.0	XXX	60.0
Fecal Coliform (No./100 ml)						
Oct 1 - Apr 30	XXX	XXX	XXX	2,000	XXX	10,000
				Geo Mean		
May 1 - Sep 30	XXX	XXX	XXX	200	XXX	1,000
				Geo Mean		
Ammonia-Nitrogen						
Nov 1 - Apr 30	XXX	XXX	XXX	9.0	XXX	18.0
May 1 - Oct 31	XXX	XXX	XXX	3.0	XXX	6.0
E. Coli (No./100 ml)	XXX	XXX	XXX	XXX	XXX	Report

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>		<i>Minimum</i>	<i>Concentrations (mg/L)</i>		<i>IMAX</i>
	<i>Average Monthly</i>	<i>Average Weekly</i>		<i>Average Monthly</i>	<i>Maximum</i>	
Total Nitrogen	XXX	XXX	XXX	Report Daily Max	XXX	XXX
Total Phosphorus	XXX	XXX	XXX	Report Daily Max	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.

**PA0218561**, Sewage, SIC Code 4952, **Cambria County Commissioners**, 200 S Center Street, Ebensburg, PA 15931-1941. Facility Name: Duman Lake Park. This existing facility is located in Barr Township, **Cambria 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), Crooked Run (CWF), is located in State Water Plan watershed 18-D 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 .00315 MGD.—Limits.

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>		<i>Minimum</i>	<i>Concentrations (mg/L)</i>		<i>IMAX</i>
	<i>Average Monthly</i>	<i>Average Weekly</i>		<i>Average Monthly</i>	<i>Maximum</i>	
Flow (MGD)	0.00315	Report Daily Max	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0 Inst Min	XXX	XXX	9.0
Dissolved Oxygen	XXX	XXX	4.0 Inst Min	XXX	XXX	XXX
Total Residual Chlorine (TRC)	XXX	XXX	XXX	0.1	XXX	0.3
Carbonaceous Biochemical Oxygen Demand (CBOD <sub>5</sub> )	XXX	XXX	XXX	25.0	XXX	50.0
Total Suspended Solids	XXX	XXX	XXX	30.0	XXX	60.0
Fecal Coliform (No./100 ml)						
Oct 1 - Apr 30	XXX	XXX	XXX	2,000 Geo Mean	XXX	10,000
May 1 - Sep 30	XXX	XXX	XXX	200 Geo Mean	XXX	1,000
Ammonia-Nitrogen						
Nov 1 - Apr 30	XXX	XXX	XXX	10.2	XXX	20.4
May 1 - Oct 31	XXX	XXX	XXX	3.4	XXX	6.8

The proposed effluent limits for Outfall 001 are based on a design flow of .00315 MGD.—Limits.

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

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

The EPA Waiver is in effect.

*Northeast Regional Office*

**PAS602204**, Storm Water, SIC Code 5015, **SR Recycling, Inc.**, 400 Daniels Road (State Route 946), Nazareth, PA 18064-8753. Facility Name: SR Recycling, Inc. This existing facility is located in Bushkill Township, **Northampton County**.

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

The receiving stream(s), Unnamed Tributary of East Branch Monocacy Creek (HQ-CWF, MF), is located in State Water Plan watershed 2-C and is classified for High Quality—Cold Water and Migratory Fish, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of 0 MGD (Stormwater).

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>		<i>Minimum</i>	<i>Concentrations (mg/L)</i>		<i>IMAX</i>
	<i>Average Monthly</i>	<i>Average Weekly</i>		<i>Average Monthly</i>	<i>Daily Maximum</i>	
Total Suspended Solids	XXX	XXX	XXX	XXX	Report	XXX
Oil and Grease	XXX	XXX	XXX	XXX	Report	XXX
Aluminum, Total	XXX	XXX	XXX	XXX	Report	XXX
Iron, Total	XXX	XXX	XXX	XXX	Report	XXX
Lead, Total	XXX	XXX	XXX	XXX	Report	XXX

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

- Stormwater Outfalls and Authorized Non-Stormwater Discharges
- Best Management Practices (BMPs)
- Routine Inspections
- Preparedness, Prevention and Contingency (PPC) Plan
- Stormwater Monitoring Requirements

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.

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

<i>Application Number</i>	<i>Application Type</i>	<i>Applicant Name &amp; Address</i>	<i>Municipality, County</i>	<i>Office</i>
PAD510012 A-13	Amendment	Philadelphia Authority for Industrial Development Dylan Langley 4747 South Broad Street Building 101 Suite 120 Philadelphia, PA 19112	City of Philadelphia Philadelphia County	SERO
PAD210064 A-1	Major Amendment	Diakon Lutheran Social Ministries 960 Century Drive Mechanicsburg, PA 17055	South Middleton Township Cumberland County	SCRO
PAD070026	New	Frankstown Township Supervisors 2122 Frankstown Road Hollidaysburg, PA 16648	Frankstown Township Blair County	SCRO
PAD360073	New	Bart Township 46 Quarry Road Quarryville, PA 17566	Bart Township Eden Township Lancaster County	SCRO
PAD070027	New	PA Department of Military and Veterans Affairs Fort Indiantown Gap Building 11-64 Utility Road Annville, PA 17002	Allegheny Township Blair County	SCRO
PAD020050	PAG-02 Individual Permit	Hawkins Companies 885 West Broad Street Boise, ID 83702-7154	Hampton Township Richland Township Allegheny County	SWRO
PAD100017	New	Laurel Hills Partners, LP 361 Mars Valencia Road Mars, PA 16046	Buffalo Township Butler County	NWRO

**STATE CONSERVATION COMMISSION  
PROPOSED NUTRIENT MANAGEMENT PLANS RELATED TO APPLICATIONS  
FOR NPDES PERMITS FOR CAFOs**

This notice provides information about agricultural operations that have submitted nutrient management plans (NMPs) for approval under 3 Pa.C.S. Chapter 5 and that have or anticipate submitting applications for new, amended or renewed (National Pollutant Discharge Elimination System) NPDES permits, or Notices of Intent (NOIs) for coverage under a general permit, for CAFOs, under 25 Pa. Code Chapter 92a. This notice is provided in accordance with 25 Pa. Code Chapter 92a and 40 CFR Part 122, implementing The Clean Streams Law and the Federal Clean Water Act.

Based upon preliminary reviews, the State Conservation Commission (SCC) or County Conservation Districts (CCD) working under a delegation agreement with the SCC have completed an administrative review of NMPs described. These NMPs are published as proposed plans for comment prior to taking final actions. The NMPs are available for review at the CCD office for the county where the agricultural operation is located. A list of CCD office locations is available at <http://www.nacdnet.org/about/districts/directory/pa.phtml> or can be obtained from the SCC at the office address listed or by calling (717) 787-8821.

Persons wishing to comment on an NMP are invited to submit a statement outlining their comments on the plan to the CCD, with a copy to the SCC for each NMP, within 30-days from the date of this public notice. Comments received within the respective comment periods will be considered in the final determinations regarding the NMPs. Comments should include the name, address and telephone number of the writer and a concise statement to inform the SCC of the exact basis of the comments and the relevant facts upon which they are based. Comments should be sent to the SCC, Agriculture Building, Room 310, 2301 North Cameron Street, Harrisburg, PA 17110.

Persons with a disability who require an auxiliary aid, service, including TDD users or other accommodations to seek additional information should contact the SCC through the Pennsylvania Hamilton Relay Service at (800) 654-5984.

**ACT 38  
NUTRIENT MANAGEMENT PLANS  
CAFO PUBLIC NOTICE SPREADSHEET—APPLICATIONS**

<i>Agricultural Operation Name and Address</i>	<i>County</i>	<i>Total Acres</i>	<i>Animal Equivalent Units</i>	<i>Animal Type</i>	<i>Special Protection Waters (HQ or EV or NA)</i>	<i>Renewal/ New</i>
Pennwood Farms 262 Sugar Grove School Road Berlin, PA 15530	Somerset	1,769.6	2,004.7	Dairy	NA	Renewal
Springfield Manor Farm, LLC 3241 Blue Rock Road Lancaster, PA 17603	Lancaster	104.4	325.97	Layer/ Swine	NA	Renewal

**PUBLIC WATER SUPPLY PERMITS**

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

Persons wishing to comment on permit applications are invited to submit statements to the office listed before the application within 30 days of this public notice. Comments received within this 30-day comment period will be considered in the formulation of the final determinations regarding an application. A comment should include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based. A public hearing may be held after consideration of comments received during the 30-day public comment period.

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

The permit application and related documents are on file at the office listed before the application and available

for public review. Arrangements for inspection and copying information should be made with the office listed before the application.

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

**SAFE DRINKING WATER**

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

*Southeast Region: Safe Drinking Water Program,  
2 East Main Street, Norristown, PA 19401, 484-250-5980.*

<b>Permit No. 4622502</b> , Public Water Supply.
Applicant <b>Aqua Pennsylvania</b> 762 West Lancaster Avenue Bryn Mawr, PA 19010
Township Lower Merion
County <b>Montgomery</b>

Responsible Official Joseph G. Thurwanger  
Vice President  
Planning & Engineering  
762 West Lancaster Avenue  
Bryn Mawr, PA 19010

Type of Facility PWS

Consulting Engineer Hyon Duk Shin  
Senior Project Manager  
1010 Adams Avenue  
Audubon, PA 19403

Application Received Date January 26, 2022

Description of Action Addition of Resin Units for PFAS Treatment and chemical storage & feed for sodium hypochlorite, ammonium sulfate, ortho polyphosphate.

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

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

**Application No. 4022501**, Public Water Supply.

Applicant **Hazleton City Authority**  
400 East Arthur  
Gardner Parkway  
Hazleton, PA 18201

Municipality City of Hazleton

County **Luzerne**

Responsible Official John Synoski, PE  
Engineer Hazleton City Authority  
400 East Arthur  
Gardner Parkway  
Hazleton, PA 18201

Type of Facility PWS

Consulting Engineer John Synoski, PE  
Engineer Hazleton City Authority  
400 East Arthur  
Gardner Parkway  
Hazleton, PA 18201-7359

Application Received Date January 27, 2022

Description of Action The applicant proposes the following: upgrade raw water booster pumps to 5 MGD units with VFDs; raw water transmission main installation; chlorine dioxide system modifications; SCADA upgrades; clarifier and filter console upgrades; lime feed system upgrades; chemical flow pacing upgrades; on-line Zeta Meter installation; and minor safety improvements.

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

**Permit No. 0422501**, Public Water Supply.

Applicant **Borough of Monaca**  
928 Pennsylvania Avenue  
Monaca, PA 15061

Township or Borough Monaca Borough

County **Beaver**

Responsible Official David L. Kramer, Jr.  
Borough Manager

Type of Facility Water system

Consulting Engineer Widmer Engineering, Inc.  
806 Lincoln Place  
Beaver Falls, PA 15010

Application Received Date January 6, 2022

Description of Action Installation of a new disinfection system (sodium hypochlorite).

#### WATER ALLOCATIONS

**Applications received under the Act of June 24, 1939 (P.L. 842, No. 365) (35 P.S. §§ 631—641) relating to the Acquisition of Rights to Divert Waters of the Commonwealth.**

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

**WA2-1024**, Water Allocations. **Borough of Aspinwall**, 217 Commercial Avenue, Pittsburgh, PA 15215, Aspinwall Borough, **Allegheny County**. Applicant requests the right to purchase 450,000 gallons of water per day, peak month, from the Fox Chapel Authority.

#### 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.*

**Panzer Residence**, 10 Unity Turn, Levittown, PA 19056, Middletown Township, **Bucks County**. Richard D. Trimpi, Trimpi Associates, Inc., 1635 Old Plains Road, Pennsburg, PA 18073 on behalf of Andrea Gluch, State Farm Insurance, P.O. Box 106169, Atlanta, GA 30348-6169 submitted a Notice of Intent to Remediate. A release of petroleum impacted shallow soil and groundwater on the Panzer property. The current use and proposed future use of the property is residential. The proposed cleanup standard for the site is the Statewide health standard. The Notice of Intent to Remediate was published in the *Bucks County Courier Times* on December 10, 2021.

**Premier Window Cleaning**, 2948-2964 East Venango Street, Philadelphia, PA 19134, City of Philadelphia, **Philadelphia County**. David Berry, The Vertex Companies, Inc., 2501 Seaport Drive, Suite 110, Chester, PA 19013 on behalf of John Zurzolo, Premier Window Cleaning, P.O. Box 8930, Turnersville, NJ 08012 submitted a Notice of Intent to Remediate. The site has been found to be contaminated with certain VOCs, which has impacted site soil and groundwater. The site is currently operated as a warehouse facility. The proposed future use of the site will continue to be a warehouse facility. The proposed cleanup standard for the site is the background standard/Statewide health standard. The Notice of Intent to Remediate was published in the *Metro Philadelphia* on December 6, 2021.

**Wawa Store 193**, 6001 Harbison Avenue, Philadelphia, PA 19135, City of Philadelphia, **Philadelphia County**. Geoff Kristof, Aquaterra Technologies, Inc., 901 South Bolmar Street, Suite A, West Chester, PA 19382 on behalf of Joseph Standen Jr., PG, Wawa, Inc., 260 West Baltimore Pike, Wawa, PA 19063 submitted a Notice of Intent to Remediate. Soil and groundwater have been contaminated with benzene, toluene, ethylbenzene, naphthalene,

1,2,4-TMB and 1,3,5-TMB. The future use of the site is nonresidential. The proposed cleanup standard for the site is the site-specific standard. The Notice of Intent to Remediate was published in the *Roxborough Review* on April 6, 2021.

**2636 East York Street**, 2636 East York Street, Philadelphia, PA 19122, City of Philadelphia, **Philadelphia County**. Jennifer Poole, Pennoni, 1900 Market Street, Suite 300, Philadelphia, PA 19103 on behalf of Lawrence McKnight, L&M Real Estate Development, LLC, 3020 Richmond Street, Philadelphia, PA 19134 submitted a Notice of Intent to Remediate. Soil and groundwater at the site have been contaminated with metals. The site will be developed for a future residential use. The proposed cleanup standard for the site is the site-specific standard/Statewide health standard. The Notice of Intent to Remediate was published in the *Metro Philadelphia* on January 10, 2022.

**2101 South Swanson Street**, 2101 South Swanson Street, Philadelphia, PA 19148, City of Philadelphia, **Philadelphia County**. David Farrington, PG, Brickhouse Environmental, 515 South Franklin Street, West Chester, PA 19382 on behalf of David Newman, NDA Swanson, LLC, 601 Gates Road, Suite 1, Vestal, NY 13850 submitted a Notice of Intent to Remediate. The site has been found to be impacted by metals, alcohols, VOCs and SVOCs which have impacted soil and groundwater on the site. The proposed future use of the property will remain nonresidential. The proposed cleanup standard for the site is the site-specific standard/Statewide health standard. The Notice of Intent to Remediate was published in the *South Philly Review* on November 17, 2021.

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

*Contact: Eric Supey, Environmental Program Manager.*

**J. Griffiths Pad 1**, 1007 Hoag Hill Road, Montrose, PA 18801, Rush Township, **Susquehanna County**. Resource Environmental Management, 50 Maple Street, Montrose, PA 18801, on behalf of Coterra Energy Inc., 2000 Park Lane, Suite 300, Pittsburgh, PA 15275, submitted a Notice of Intent to Remediate. Soil was contaminated by releases of diesel-based drilling mud to soil. Future use of the site will be residential. The Notice of Intent to Remediate was published in *The Susquehanna County Independent* on January 19, 2022.

**Franclaire Pad**, 276 Pig Barn Road, Laceyville, PA 18623, Braintrim 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 Notice of Intent to Remediate. Soil was contaminated by release of production fluid (brine). Future use of the site will be residential. The Notice of Intent to Remediate was published in *The Daily Review* on January 11, 2022.

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

**MBMA Property—Former Elevated Water Storage Tank**, intersection of Industrial Park Rd and Industrial Parkway, Muncy, PA 17756, Muncy Creek Township, **Lycoming County**. Entech Engineering, 201 Penn Street, Reading, PA 19603, on behalf of Muncy Borough Municipal Authority, P.O. Box 201, Muncy, PA 17756, has submitted a Notice of Intent to Remediate concerning site soil contaminated with lead. The applicant proposes to remediate the site to meet the Statewide health standard.

A summary of the Notice of Intent to Remediate was published in the *Williamsport Sun-Gazette* on December 23, 2021.

**Residential Property AST HHO Release**, 102 Bucksey Road, Center Township, 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 Notice of Intent to Remediate concerning site soil contaminated with heating oil. The applicant proposes to remediate the site to meet the Statewide health standard. A summary of the Notice of Intent to Remediate was published in the *Snyder County Times* on January 21, 2022.

**Former John Raptis 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 Notice of Intent to Remediate concerning site soil contaminated with heating oil. The applicant proposes to remediate the site to meet the Statewide health standard. A summary of the Notice of Intent to Remediate was published in the *Snyder County Times* on January 21, 2022.

## 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.

**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.*

**38-05017B: Greater Lebanon Refuse Authority**, 1610 Russell Road, Lebanon, PA 17046, for the lateral and vertical expansion of their municipal solid waste landfill in North Lebanon Township, **Lebanon County**. The expansion will increase the landfill’s volumetric disposal capacity by approximately 6,053,752 cubic yards (CY) and will involve a new double-lined “piggyback” landfill constructed on top of the existing closed GLRA portion (Site No. 100825). The proposed expansion will not increase the daily average and maximum waste tonnage and there are no expected changes of the current traffic flow. The expansion will increase the facility’s potential emissions to: 22.6 tpy CO, 9.0 tpy NO<sub>x</sub>, 3.8 tpy PM<sub>10</sub>/PM<sub>2.5</sub>, 21.9 tpy SO<sub>x</sub>, 11.8 tpy VOC, 1.1 tpy of a single HAP (toluene), and 3.1 tpy of multiple HAPs. DEP’s review of the information submitted by the applicant indicates that the air contamination sources as constructed or modified will comply with all regulatory requirements pertaining to air contamination sources and the emission of air contaminants including the best available technology requirements (BAT) of 25 Pa. Code §§ 127.1 and 127.12, 40 CFR 60, Subpart XXX—Standards of Performance for Municipal Solid Waste Landfills That Commenced Construction, Reconstruction, or Modification After July 17, 2014 and 40 CFR 63,



Subpart AAAA—National Emission Standards for Hazardous Air Pollutants: Municipal Solid Waste Landfills. Based on these findings, the Department proposes to issue a plan approval for the proposed construction. If, after the project has been implemented, the Department determines that the sources are constructed and operated in compliance with the plan approval conditions and the specification of the application for plan approval, the requirements established in the plan approval will be incorporated into an operating permit pursuant to the administrative amendment provisions of 25 Pa. Code § 127.450.

### 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.**

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

*Contact: Matthew Williams, Facilities Permitting Chief, (814) 332-6328.*

**10-00285: Waste Management Disposal Services of Pennsylvania, Inc.**, 1436 West Sunbury Road, West Sunbury, PA 16061. The Department intends to renew the Title V permit for the municipal waste landfill located in Clay Township, **Butler County**. The facility's emission sources include a municipal waste landfill, a diesel fueled emergency generator, and an odor neutralizing system. The facility is not a major source for any criteria pollutants. The facility is considered a Title V facility under paragraph (iv) of 25 Pa. Code § 121.1. Actual reported emissions for the facility for 2020 were: 1.52 tons NO<sub>x</sub>; 6.63 tons SO<sub>x</sub>; 17.21 tons CO; 1.29 tons PM<sub>10</sub>; 1.12 tons PM<sub>2.5</sub>; 5.34 tons VOCs; 0.19 ton all HAPs combined; and 9,563 tons CO<sub>2</sub>. This facility is subject to 40 CFR Part 60 Subpart WWW, Standards of Performance for Municipal Solid Waste Landfills; Part 61 Subpart M pertaining to Asbestos; Part 62 Subpart OOO, the Federal Plan for Landfills; and Part 63 Subpart AAAA, NESHAP for MSW Landfills. The emergency engine is subject to 40 CFR Part 63 Subpart ZZZZ, National Emission Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines. The facility is subject to the Title V Operating Permit requirements adopted in 25 Pa. Code Chapter 127, Subchapter G. The permit contains emission restrictions, recordkeeping, work practice, testing, and additional requirements to ensure compliance with the Clean Air Act and the Air Pollution Control Act. The conditions of the previous plan approvals and operating permit are incorporated into the renewal permit.

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

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

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

**04-00400: Columbia Gas Transmission, LLC**, 455 Racetrack Road, Washington, PA 15301, to issue a renewal State Only "Synthetic Minor" Operating Permit for their Ellwood City Compressor Station located in North Sewickley Township, **Beaver County**. The facility is currently operating under State Only Operating Permit 04-00400. The significant emissions sources at the facility are the two 500 brake-horsepower natural gas-fired com-

pressor engines. The facility has potential emissions of 5.2 tons per year of carbon monoxide, 96.9 tons per year of nitrogen oxides, 0.03 ton per year of sulfur oxides, 0.8 ton per year of particulate matter, 2.4 tons per year of volatile organic compounds, 0.8 ton per year of total Hazardous Air Pollutants, and 2,920 tons per year of carbon dioxide equivalents (greenhouse gases). No emissions or equipment changes are being proposed by this renewal. 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 and 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.

**49-00056: Quikrete Co. Inc.**, 5517 Snyderstown Road, Paxinos, PA 17860, to issue a renewal State Only Operating Permit for their Harrisburg Plant facility located in Shamokin Township, **Northumberland County**. The facility is currently operating under State Only Operating Permit 49-00056. The facility's main sources include wet receiving and drying systems (Source ID P101) which includes one 80 ton per hour Astec rotary drum aggregate (sand and gravel) dryer equipped with a Hauck Starjet model SJ150 natural gas-fired burner with a maximum capacity of 27.9 million Btu per hour, four 250 ton "wet" aggregate (sand and gravel) storage bins, two aggregate (sand and gravel) feed hoppers, one bucket elevator, and associated belt conveyors and screw conveyors; Q-line storage silos and batch system (Source ID P102) which includes one 50 ton capacity Astec pneumatically-loaded lime storage silo, one 90 ton capacity Astec pneumatically-loaded two compartment lime/masonry sand and flyash storage silo ("powders split silo"), one 95 ton capacity Astec pneumatically-loaded Portland cement storage silo, one 90 ton capacity Astec two compartment dried aggregate (sand and gravel) storage silo ("aggregate split silo"), one weigh hopper, and associated screw conveyors; Q-line mixing and packaging system (Source ID P103) which includes one pan mixer, one rotary screen, one bucket elevator, triple air packers, one bulk bag filling station, and associated hoppers, belt conveyors; C-line and OMB packaging systems (Source ID P104) which includes one dual impeller packer, one OMB packer, one OMB sealer, one bucket elevator, and associated hoppers, belt conveyors; and one 0.388 MMBtu/hr natural-gas fired HVAC unit (identified in the miscellaneous section as insignificant). This facility has the potential to emit 52.70 tons of carbon monoxide, 17.69 tons of nitrogen oxides, 19.41 tons of particulate matter (including particulate matter less than 10 microns and particulate matter less than 2.5 microns), 0.12 ton of sulfur oxides, 2.88 tons of volatile organic compounds, insignificant amount of hazardous air pollutants, and 14,483.39 tons of carbon dioxide equivalent. The emission restrictions, testing, monitoring, recordkeeping, reporting and work practice conditions of the NMOP have been derived from the applicable requirements of 25 Pa. Code Article III, Chapters 121—145 to ensure the facility complies with all applicable air quality regulations. All pertinent documents used in the evaluation of the application are available for public review during normal business hours at the Department's Northcentral Re-

gional 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.*

**11-00277: Northern Cambria School District (NCSD)/Northern Cambria Elementary and Middle School**, 601 Joseph St., Barnesboro, PA 15714-1233. In accordance with 25 Pa. Code §§ 127.424, 127.425 and 127.521, the Department is providing notice of intent to issue a synthetic minor State Only Operating Permit for the operation of combustion units at a school district located in Northern Cambria Borough, **Cambria County**.

NCSD operates one coal-fired boiler rated 7.74 MMBtu/hr, one oil-fired boiler rated at 8.37 MMBtu/hr, and one 150 kW diesel-fired generator. The facility is limited to 2,000 tons of coal per 12-consecutive month period (12-cmp). The generator is limited to 500 hours/12-cmp of operation. The coal fired at this facility is subject to a sulfur content limit of 2.5% and an ash content limitation of 10%. Fuel oil is limited to a sulfur content of 15 ppm (0.0015%). The emergency generator is limited to 9.2 g/KW-hr of NO<sub>x</sub>, 11.4 g/KW-hr of CO, 0.54 g/KW-hr of PM, and 1.3 g/KW-hr of HC. This facility has a potential to emit 16.7 tons/12-cmp of NO<sub>x</sub>, 12.8 tons/12-cmp of CO, 77.65 tons/12-cmp of SO<sub>x</sub>, 1.5 tons/12-cmp of VOCs, 5.2 tons/12-cmp of PM, 2.6 tons/12-cmp of PM<sub>10</sub>, and 1.2 tons/12-cmp of HAPs. The proposed operating permit includes conditions relating to applicable emission restrictions, testing, monitoring, recording, 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 (11-00277) 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 deter-

mines 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.

**65-00630: MSA Safety Pittsburgh Mfg LLC/Murrysville Plant**, 1000 Cranberry Woods Drive, Cranberry Township, PA 16066. 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 manufacture of safety products by pressure molding resin coated thermoset materials at their facility located in Murrysville Township, **Westmoreland County**.

MSA Safety's air contamination sources consist of five (5) air rotation units, pad print-ink dispensers, fourteen (14) lenses bonding and assembly units, one (1) emergency diesel generator rated at 100 kW fired on ultra-low sulfur diesel fuel, one (1) 1.7 MMBtu/hr boiler, and one (1) parts washer. VOC sources at this facility include a paint booth, a cooling tower with non-contact cooling water, buffing stations, and ink-mix stations. Particulate matter sources include a phenolic splitter, band saws, sanders, and buffers. The facility is limited to 20% opacity up to 3 minutes/hr and 60% at any time. The emergency engine is limited to 500 hours of operation per 12-consecutive month period (12-cmp) This facility is limited to 9.01 tons/12-cmp of NO<sub>x</sub>, 2.6 tons/12-cmp of CO, 0.087 ton/12-cmp of SO<sub>x</sub>, 3.9 tons/12-cmp of PM<sub>10</sub>, 16.74 tons/12-cmp 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 (65-00630) 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.

**26-00588: Laurel Mountain Midstream Operating, LLC**, Park Place Corporate Center 2, 2000 Commerce Drive, Pittsburgh, PA 15275. In accordance with 25 Pa. Code §§ 127.424, 127.425 and 127.521, the Department is providing notice that it intends to issue an initial Synthetic Minor Operating Permit for operation of the Shamrock Compressor Station located in German Township, **Fayette County**.

The emission sources covered by this operating permit includes one (1) Caterpillar Model G3516B natural gas-fired compressor engine rated at 1,380 bhp at 1,400 rpm controlled by oxidation catalyst and regulated by automatic air/fuel ratio controllers; one (1) Solar Mars 100-16000S natural gas-fired compressor turbine rated at 15,252 bhp equipped with SoLoNO<sub>x</sub> combustion control; one (1) Solar Titan 130-23502S natural gas-fired compressor turbine rated at 21,158 bhp equipped with SoLoNO<sub>x</sub> combustion control; one (1) Caterpillar Model G3516B natural gas-fired emergency generator engine rated at 1,818 bhp controlled by oxidation catalyst and regulated by automatic air/fuel ratio controller; two (2) tri-ethylene glycol (TEG) dehydrators rated at 200 MMscf/day each controlled by their respective reboilers; two (2) natural gas-fired reboilers rated at 1.71 MMBtu/hr each; one (1) natural gas-fired glycol processing unit engine rated at 19.5 bhp; one (1) natural gas-fired glycol processing unit heater rated at 0.5 MMBtu/hr; five (5) produced water storage tanks; pigging activities; piping and fitting plant fugitive emissions; startup/shutdown/maintenance/blowdown fugitive emissions; compressor rod packing fugitive emissions; engine crank case fugitive emissions; dry gas seal leaks fugitive emissions; and truck loadout of produced water fugitive emissions.

Potential emissions for the sources covered by this operating permit including emission restrictions have been calculated as follows: 69.93 tons per year of carbon monoxide (CO), 64.14 tons per year of nitrogen oxides (NO<sub>x</sub>), 19.09 tons per year of particulate matter less than 10-microns (PM<sub>10</sub>), 19.09 tons per year of particulate matter less than 2.5-microns (PM<sub>2.5</sub>), 18.66 tons per year of volatile organic compounds (VOC), 5.08 tons per year of formaldehyde, 7.81 tons per year of total Hazardous Air Pollutants (HAP), and 177,136 tons per year of greenhouse gases (GHGs).

The facility is subject to the applicable requirements of 25 Pa. Code Article III, Chapters 121–145. The proposed operating permit includes emission limitations, monitoring, testing, work practice standards, reporting, and recordkeeping requirements for the facility.

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>.

Any person may submit comments, a request for the Department to hold a public hearing, or a protest to the proposed operating permit or a condition thereof by submitting the information to Nick Waryanka, P.E., Air Quality Engineer, at the Southwest Regional Office. A 30-day comment period from the date of publication of this notice will exist for the submission of comments. Each written comment must contain the name, address

and telephone number of the person submitting the comments, identification of the proposed permit (specify Operating Permit 26-00588) and concise statements regarding the relevancy of the information in the proposed permit or objections to issuance of the permit.

A public hearing may be held in accordance with 25 Pa. Code § 127.429, if the Department, in its discretion, decides that such a hearing is warranted based on the information received. If a public hearing is held, all persons who have properly filed a protest under 25 Pa. Code § 127.426 may appear and give testimony. The applicant, the protestant, and other participants will be notified of the decision to hold a hearing (and the time, place and purpose of such hearing) by publication in the newspaper or by the *Pennsylvania Bulletin*, or by telephone, where the Department determines such notification by telephone is sufficient.

**63-00938: MarkWest Liberty Midstream & Resources, LLC**, 4600 J. Barry Ct., Ste. 500, Canonsburg, PA 15317-5854, initial Natural Minor State-Only Operating Permit is for the Brighich natural gas compressor station located in Blaine Township, **Washington County**.

In accordance with 25 Pa. Code §§ 127.424 and 127.425, the Department of Environmental Protection (DEP) has received an application and is providing notice that it intends to issue an Air Quality Operating Permit for the previously-mentioned facility. Sources of emissions consist of four (4) 1,340-HP Caterpillar G3516LE compressor engines controlled by oxidation catalysts, one (1) 40.0 MMscf/day dehydration unit and associated 0.75 MMBtu/hr reboiler, one (1) 7.0 MMBtu/hr enclosed flare, two (2) 400-bbl condensate storage tanks, one (1) 520-gallon methanol storage tank, pneumatic devices, venting/blowdowns, fugitives, condensate loadout, crankcase vents, pigging operations, and miscellaneous sources that includes rod packing and measurement analyzers. The facility is required to conduct regular surveys of the site while operating to ensure compliance with visible, fugitive, and malodor emission requirements and maintain records of those surveys. The facility-wide potential-to-emit is 80.3 TPY NO<sub>x</sub>, 31.5 TPY CO, 37.0 TPY VOC, 1.9 TPY PM, 1.9 TPY PM<sub>10</sub>/PM<sub>2.5</sub>, 0.20 TPY SO<sub>x</sub>, 35,287 TPY CO<sub>2e</sub>, 7.7 TPY total HAP, and 5.0 TPY single HAP. The air quality operating permit includes emission limitations, operating requirements, monitoring requirements, work practice standards, testing, reporting, and recordkeeping requirements for the site.

Those who wish to provide the Department with additional written information that they believe should be considered prior to the issuance of the Natural Minor 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 (63-00938) 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>.

**63-00954: MarkWest Liberty Midstream & Resources, LLC**, 4600 J. Barry Ct., Ste. 500, Canonsburg, PA 15317-5854, initial Natural Minor State-Only Operating Permit is for the Brigich natural gas compressor station located in Chartiers Township, **Washington County**.

In accordance with 25 Pa. Code §§ 127.424 and 127.425, the Department of Environmental Protection (DEP) has received an application and is providing notice that it intends to issue an Air Quality Operating Permit for the previously-mentioned facility. Sources of emissions consist of two (2) 1,340-HP Caterpillar G3516LE compressor engines controlled by oxidation catalysts, three (3) 1,380-HP Caterpillar G3516B compressor engines controlled by oxidation catalysts, one (1) 45.0 MMscf/day dehydration unit and associated 0.75 MMBtu/hr reboiler, one (1) 7.0 MMBtu/hr enclosed flare, two (2) 400-bbl condensate storage tanks, one (1) 400-bbl gunbarrel tank, one (1) 520-gallon methanol storage tank, pneumatic devices, venting/blowdowns, fugitives, condensate loadout, crankcase vents, pigging operations, and miscellaneous sources that includes rod packing and measurement analyzers. The facility is required to conduct regular surveys of the site while operating to ensure compliance with visible, fugitive, and malodor emission requirements and maintain records of those surveys. The facility-wide potential-to-emit is 61.4 TYPY NO<sub>x</sub>, 26.2 TYPY CO, 41.5 TYPY VOC, 2.4 TYPY PM, 2.4 TYPY PM<sub>10</sub>/PM<sub>2.5</sub>, 0.20 TYPY SO<sub>x</sub>, 41,547 TYPY CO<sub>2e</sub>, 9.1 TYPY total HAP, and 6.9 TYPY single HAP. The air quality operating permit includes emission limitations, operating requirements, monitoring requirements, work practice standards, testing, reporting, and recordkeeping requirements for the site.

Those who wish to provide the Department with additional written information that they believe should be considered prior to the issuance of the Natural Minor 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 (63-00954) 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>.

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

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

**24-00150: Horizon Wood Products**, P.O. Box 471, Ridgway, PA 15853. The Department intends to renew a State Only Operating Permit for the facility located in Fox Township, **Elk County**. The facility is a Natural Minor. The primary sources at the facility are a Biomass Wood Boiler and a Natural-Gas Boiler. Potential emissions from the boilers are as follows: 4.35 tpy NO<sub>x</sub>; 2.36 tpy CO; 2.41 tpy PM; 0.08 tpy SO<sub>2</sub>; 0.34 tpy VOC. The wood fueled boiler is subject to 40 CFR Part 63 Subpart JJJJJ, the NESHAP for Area Source Boilers. The permit contains emission restrictions, recordkeeping, and work practice requirements to ensure compliance with the Clean Air Act and the Air Pollution Control Act.

**42-00187: Resting Acres Pet Cemetery**, 1353 South Avenue, Bradford, PA 16701. The Department intends to issue a State Only Operating Permit renewal for the facility located in Bradford Township, **McKean County**. The facility is a Natural Minor. The primary sources at the facility are 3 natural gas fueled crematories: Crematory A, rated at 1.5 million Btu/hr; and Crematories B and C, each rated at 1.3 million Btu/hr. Annual emissions from the facility are less than 1 tpy for all regulated pollutants. The renewal permit contains emission restrictions, recordkeeping, and work practice requirements to ensure compliance with the Clean Air Act and the Air Pollution Control Act.

*Philadelphia: Air Management Services, 321 University Avenue, Philadelphia, PA 19104-4543.*

*Contact: Edward Wiener, Chief, Source Registration at 215-685-9426.*

The City of Philadelphia, Air Management Services (AMS) intends to issue a renewal for a Synthetic Minor (State Only) Operating Permit for the following facility:

**OP21-000022: Fox Chase Cancer Center**, 7701 Burholme Avenue, Philadelphia, PA 19111, for the operation of air pollution sources at a cancer treatment center, in the City of Philadelphia, **Philadelphia County**. The facility's air emission sources include the following:

- Two (2) dual-fired boilers, rated 3.188 million British thermal units per hour (MMBtu/hr) and 3.0 MMBtu/hr, respectively
- Five (5) natural gas-fired boilers, with one (1) rate 17 MMBtu/hr, one (1) rated 8.5 MMBtu/hr, and three (3) rated 5.5 MMBtu/hr
- Four (4) natural gas-fired emergency generators, rated 350 kilowatts (kW), 285 kW, 45 kW, and 40 kW
- Three (3) diesel-fired emergency generators, rated 750 kW, 300 kW, and 200 kW

The operating permit will be issued under 25 Pa. Code, Philadelphia Code Title 3 and Air Management Regulation XIII. Permit copies and other supporting information

are available for public inspection at AMS, 321 University Avenue, Philadelphia, PA 19104. For further information, contact Edward Wiener at (215) 685-9426.

Persons wishing to file protest, comments, or request a public hearing on the previously listed operating permit must submit the protest, comments or request for public hearing within 30 days from the date of this notice. Any protests or comments filed with AMS must include a concise statement of the objections to the permit issuance and the relevant facts upon which the objections are based. Based upon the information received during the public comment period, AMS may modify the operating permit or schedule a public hearing. The hearing notice will be published in the *Pennsylvania Bulletin* and a local newspaper at least thirty days before the hearing.

## 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 Received*

*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.			

*California District Office: 25 Technology Drive, Coal Center, PA 15423, (724) 769-1100, (Contact: Bonnie Herbert).*

**Permit No. 33071301 and NPDES No. PA0236080. Rosebud Mining Company**, 301 Market Street, Kittanning, PA 16201, to renew the permit and related NPDES Permit in Snyder Township, **Jefferson County** and Horton Township, **Elk County**. Application received: November 22, 2021.

**Permit No. 30841316 and NPDES No. PA0213535. Consol Pennsylvania Coal Company, LLC**, 1000 Consol Energy Drive, Suite 100, Canonsburg, PA 15317, to revise the permit and related NPDES Permit for installation of degas boreholes in Richhill and Aleppo Townships, **Greene County**, affecting 16.3 surface acres. Application received: December 7, 2021.

*Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900, RA-EPCAMBRIA@pa.gov (Contact: Melanie Ford-Wigfield).*

**Mining Permit No. 11100104. RJC Kohl, Inc.**, 1927 Killen School Road, Nicktown, PA 15762, renewal for reclamation only of a bituminous surface and auger mine in Susquehanna, West Carroll and Elder Townships, **Cambria County**, affecting 98.5 acres. Receiving streams: unnamed tributaries to Fox Run classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received: January 26, 2022.

*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).*

**SMP/Renewal 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.

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200, RA-EPMOSHANNON@pa.gov (Contact: Cassandra Stanton).*

**Mining Permit No. 65970103. Derry Stone & Lime Company, Inc.**, 117 Marcia Street, Latrobe, PA 15650-4300. Renewal of an existing bituminous surface mine permit in Derry Township, **Westmoreland County**, affecting 139.1 acres. This renewal is issued for reclamation only. Receiving streams: unnamed tributaries to McGee Run and Stony Run to Conemaugh River, classified for the following uses: CWF. Application received: January 28, 2022.

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

**Permit No. GP12-40030202. Pioneer Equipment Rentals, Inc.**, 645 Laurel Run Road, Bear Creek Township, PA 18702, application to operate a coal preparation plant whose pollution control equipment is required to meet all applicable limitations, terms and conditions of General Permit, BAQ-GPA/GP-12 on Surface Mining Permit No. 40030202 in Duryea and Hughesstown Borough, **Luzerne County**. Application received: January 10, 2022.

#### *Coal Applications Withdrawn*

*California District Office: 25 Technology Drive, Coal Center, PA 15423, (724) 769-1100 (Contact: Bonnie Herbert).*

**Permit No. 17171601 and NPDES No. PA0236535. Strishock, LLC**, 220 Hillcrest Drive, DuBois, PA 15801, to operate a new permit and related NPDES permit to construct and operate a new preparation plant in Union Township, **Clearfield County**, affecting 8.5 surface acres. Receiving stream: Laborde Branch, classified for the following use: CWF. Application received: November 7, 2019. Application withdrawn: January 11, 2022.

#### *Noncoal Applications Received*

*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.			

*Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900, RA-EPCAMBRIA@pa.gov (Contact: Melanie Ford-Wigfield).*

**Mining Permit No. 11220801 and GP104 PAM422001, Daniel L. Himmel**, 238 Dutch Road, Carrolltown, PA 15722, commencement, operation, and restoration of small industrial minerals operation in East Carroll Township, **Cambria County**, affecting 5.0 acres. Receiving streams: Unnamed Tributary to Chest Creek classified for the following use: HQ-CWF. Application received: January 25, 2022.

**Mining Permit No. 21140301 and NPDES No. PA0594296, Hempt Brothers, Inc.**, 3912 Brumbaugh Road, New Enterprise, PA 16664, renewal of NPDES permit, Silver Spring Township, **Cumberland County**. Receiving stream: unnamed tributary to Hogestown Run classified for the following use: CWF. Application received: January 25, 2022.

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

**NPDES Permit No. PA0595543 (Mining Permit No. 38870301). Pennsy Supply, Inc.**, 2400 Thea Drive, Suite 3A, Harrisburg, PA 17110, renewal of NPDES Permit on a quarry operation in North and South Annville, Annville and North Londonderry Townships, **Lebanon County**. Receiving streams: Killinger and Quittapahilla Creeks, classified for the following use: TSF. Application received: January 21, 2022.

**NPDES Permit No. PA0225649 (Mining Permit No. 7975SM5). KPK Development Corp.**, 149 Newbold Road, Fairless Hills, PA 19030, renewal of NPDES Permit on a quarry operation in Falls Township, **Bucks County**. Receiving stream: Martins Creek, classified for the following uses: WWF, MF. Application received: January 18, 2022.

**NPDES Permit No. PA0612880 (Mining Permit No. 7874SM2). New Enterprise Stone & Lime Co., Inc.**, 3912 Brumbaugh Road, New Enterprise, PA 16664, renewal of NPDES Permit on a quarry operation in North Whitehall Township, **Lehigh County**. Receiving stream: Coplay Creek, classified for the following use: CWF. Application received: January 24, 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.

#### *Coal NPDES Draft Permits*

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

**NPDES No. PA0225193 (Mining Permit No. 40990101). Hazleton Shaft Division, LLC, P.O. Box 39, Hazleton, PA 18201, renewal and transfer of NPDES permit in the City of Hazleton and Hazle Township, Luzerne County, affecting**

157.9 acres related to a coal mining activity permit. Receiving stream: Hazle Creek, classified for the following uses: HQ-CWF, MF, TMDL. This permit has no discharge. Application received: June 12, 2020.

*Noncoal NPDES Draft Permits*

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200, RA-EPMOSHANNON@pa.gov (Contact: Cassandra Stanton).*

**NPDES Permit No. PA0256323 (Mining Permit No. 14060301), Glenn O. Hawbaker, Inc.**, 711 East College Avenue, Bellefonte, PA 16823, renewal of an NPDES permit for discharge of water resulting from large noncoal (industrial mineral) mining in Rush Township, **Centre County**, affecting 159.0 acres. Receiving stream(s): Unnamed tributary to Moshannon Creek and Moshannon Creek, classified for the following use(s): CWF, MF. This receiving stream is included in the Moshannon Creek TMDL. Application received: December 9, 2021.

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

The following outfalls discharge to Moshannon Creek:

<i>Outfall No.</i>	<i>New or Existing</i>	<i>Type</i>	<i>Discharge Rate</i>
004	Existing	E&S Basin E/S-3	Precipitation Induced
005	Existing	E&S Basin E/S-4	Precipitation Induced

The following outfalls discharge to Unnamed Tributary to Moshannon Creek:

<i>Outfall No.</i>	<i>New or Existing</i>	<i>Type</i>	<i>Discharge Rate</i>
001	Existing	E&S Basin E/S-1	Precipitation Induced
002	Existing	Treatment Basin TB-1	Intermittent
003	Existing	E&S Basin E/S-2	Precipitation Induced
006	Existing	Treatment Basin TB-2	Intermittent

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

<i>Outfalls: 002 &amp; 006 (All Weather Conditions)</i>	<i>30-Day</i>	<i>Daily</i>	<i>Instant.</i>
<i>Parameter</i>	<i>Average</i>	<i>Maximum</i>	<i>Maximum</i>
Iron (mg/L)	3.0	6.0	7.0
Manganese (mg/L)	2.0	4.0	5.0
Aluminum (mg/L)	0.75	0.75	0.75
Total Suspended Solids (mg/L)	35.0	70.0	90.0
Sulfate (mg/L)		Report	
Flow (gpm)		Report	
Temperature (°C)		Report	
Specific Conductivity (µmhos/cm)		Report	

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

Alkalinity must exceed acidity at all times.

<i>Outfalls: 001 &amp; 003 (All Weather Conditions)</i>	<i>30-Day</i>	<i>Daily</i>	<i>Instant.</i>
<i>Parameter</i>	<i>Average</i>	<i>Maximum</i>	<i>Maximum</i>
Iron (mg/L)	3.2	6.4	8.0
Manganese (mg/L)	4.3	8.6	10.7
Aluminum (mg/L)	3.2	6.4	8.0
Total Suspended Solids (mg/L)	35.0	70.0	90.0
Sulfate (mg/L)		Report	
Flow (gpm)		Report	
Temperature (°C)		Report	
Specific Conductivity (µmhos/cm)		Report	

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

Alkalinity must exceed acidity at all times.

<i>Outfalls: 004 &amp; 005 (All Weather Conditions)</i>	<i>30-Day</i>	<i>Daily</i>	<i>Instant.</i>
<i>Parameter</i>	<i>Average</i>	<i>Maximum</i>	<i>Maximum</i>
Iron (mg/L)	3.2	6.4	8.0
Manganese (mg/L)	1.9	3.8	4.7
Aluminum (mg/L)	0.75	0.75	0.75
Total Suspended Solids (mg/L)	35.0	70.0	90.0
Sulfate (mg/L)		Report	
Flow (gpm)		Report	
Temperature (°C)		Report	
Specific Conductivity (µmhos/cm)		Report	

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

Alkalinity must exceed acidity at all times.



**NPDES Permit No. PA0115525 (Mining Permit No. 4775SM14), Hanson Aggregates Pennsylvania, LLC**, 7660 Imperial Way, Allentown, PA 18195, renewal of an NPDES permit for discharge of water resulting from surface mining of industrial minerals in Lamar Township, **Clinton County**, affecting 163.2 acres. Receiving stream(s): Fishing Creek and Long Run, classified for the following use(s): HQ-CWF. Application received: August 26, 2021.

The following outfalls discharge to Fishing Creek or Long Run:

<i>Outfall No.</i>	<i>New or Existing</i>	<i>Type</i>	<i>Discharge Rate</i>
001	Existing	Sediment Pond A	Precipitation Induced
002	Existing	Treatment Pond B	Precipitation Induced and Intermittent (Pumped)
003	Existing	Sediment Pond C	Precipitation Induced

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

<i>Outfalls: 002 (All Weather Conditions)</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
<i>Parameter</i>			
Total Suspended Solids (mg/L)	35.0	70.0	90.0
Flow (gpm)	Report	Report	Report
pH (S.U.): Must be between 6.0 and 9.0 standard units.			
<i>Outfalls: 001 and 003 (Dry Weather Conditions)</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
<i>Parameter</i>			
Total Suspended Solids (mg/L)	35.0	70.0	90.0
Flow (gpm)		Report	
pH (S.U.): Must be between 6.0 and 9.0 standard units.			
<i>Outfalls: 001 and 003 (≤10-yr/24-hr Precip. Event)</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
<i>Parameter</i>			
Total Settleable Solids (mL/L)	N/A	N/A	0.5
Flow (gpm)		Report	
pH (S.U.): Must be between 6.0 and 9.0 standard units at all times.			
<i>Outfalls: 001 and 002 (&gt;10-yr/24-hr Precip. Event)</i>			
pH (S.U.): Must be between 6.0 and 9.0 standard units at all times.			

The following outfall discharges to Long Run:

<i>Outfall Nos.</i>	<i>New or Existing</i>	<i>Type</i>
004	New	ST-A Sediment Trap Emergency Spillway

Stormwater will be contained in the Sediment Trap. The only potential point source discharges to surface water are the discharges from the emergency spillway of a sediment trap during precipitation that exceeds a 10 yr/24 hr event. Effluent limits for the emergency spillway are as follows:

<i>Outfalls: 004 Sediment Trap Emergency Spillway (During &gt;10-yr/24-hr Precipitation Event)</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
<i>Parameter</i>			
Total Suspended Solids (mg/L)	N/A	N/A	90.0
pH (S.U.): Must be between 6.0 and 9.0 standard units at all times.			

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

**NPDES No. PA PA0201294 (Mining Permit No. 26950401), Amerikohl Aggregates, Inc.**, 202 Sunset Drive, Butler, PA 16001, renewal of an NPDES permit in Springfield Township, **Fayette County**, affecting 640.0 acres. Receiving streams: Unnamed Tributaries to Clay Run, Clay Run, Sugarcamp Hollow, Unnamed Tributaries Buck Run, and Buck Run, classified for the following use: HQ-CWF. Application received: October 13, 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 Sugarcamp Hollow, Clay Run, Buck Run, and infiltration galleries:

<i>Outfall number</i>	<i>New or Existing</i>	<i>Type</i>	<i>Discharge Rate</i>
001 Sugarcamp Hollow	Existing	SWO	Precipitation Dependent
002 Buck Run	Existing	SWO	Precipitation Dependent
003 Sugarcamp Hollow	Existing	SWO	Precipitation Dependent
006 Buck Run	Existing	SWO	Precipitation Dependent

<i>Outfall number</i>	<i>New or Existing</i>	<i>Type</i>	<i>Discharge Rate</i>
007 Buck Run	Existing	SWO	Precipitation Dependent
009 Clay Run	Existing	SWO	Precipitation Dependent
010 Sugarcamp Hollow	Existing	SWO	Precipitation Dependent
011 Sugarcamp Hollow	Existing	SWO	Precipitation Dependent
012 Clay Run	Existing	SWO	Precipitation Dependent
013 Clay Run	Existing	SWO	Precipitation Dependent
014 Infiltration gallery	Existing	SWO	Precipitation Dependent
015 Infiltration gallery	Existing	SWO	Precipitation Dependent
016 Infiltration gallery	Existing	SWO	Precipitation Dependent
017 Infiltration gallery	Existing	SWO	Precipitation Dependent
018 Infiltration gallery	Existing	SWO	Precipitation Dependent

The proposed effluent limits for the previously listed outfalls are as follows: 001 and 003, to Sugarcamp Hollow:

<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)	N/A	35.0	70.0	90.0
Iron, Total (mg/L)	N/A	3.0	6.0	7.0
Manganese, Total (mg/L)	N/A	2.0	4.0	5.0
Aluminum, Total (mg/L)	N/A	0.75	1.50	1.88
Net Alkalinity (as CaCO <sub>3</sub> , mg/L)	0.0			
Alkalinity, Total (as CaCO <sub>3</sub> , mg/L)				Report
Acidity, Total (as CaCO <sub>3</sub> , mg/L)				Report
Flow (gpm)				Report
Temperature (°C)				Report
Specific Conductance (µmhos/cm)				Report
Sulfate, Total (mg/L)				Report
Osmotic Pressure (mOsm/kg)				Report

The proposed effluent limits for the previously listed outfalls are as follows: 002, 006 and 007, to Buck Run:

<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)	N/A	35.0	70.0	90.0
Iron, Total (mg/L)	N/A	3.0	6.0	7.0
Manganese, Total (mg/L)	N/A	2.0	4.0	5.0
Aluminum, Total (mg/L)	N/A	2.0	4.0	5.0
Net Alkalinity (as CaCO <sub>3</sub> , mg/L)	0.0			
Alkalinity, Total (as CaCO <sub>3</sub> , mg/L)				Report
Acidity, Total (as CaCO <sub>3</sub> , mg/L)				Report
Flow (gpm)				Report
Temperature (°C)				Report
Specific Conductance (µmhos/cm)				Report
Sulfate, Total (mg/L)				Report
Osmotic Pressure (mOsm/kg)				Report

The proposed effluent limits for the previously listed outfalls are as follows: 014—018, to infiltrations galleries:

<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)				90.0
Iron, Total (mg/L)				7.0

<i>Parameter (unit)</i>	<i>Minimum</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
Manganese, Total (mg/L)				5.0
Aluminum, Total (mg/L)				5.0
Net Alkalinity (as CaCO <sub>3</sub> , mg/L)	0.0			
Alkalinity, Total (as CaCO <sub>3</sub> , mg/L)				Report
Acidity, Total (as CaCO <sub>3</sub> , mg/L)				Report
Flow (gpm)				Report
Temperature (°C)				Report
Specific Conductance (µmhos/cm)				Report
Sulfate, Total (mg/L)				Report

The proposed effluent limits for the previously listed outfalls are as follows: 009—013, to emergency spillways (in response to precipitation that exceeds a 10year/24-hour event):

<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)				90.0
Iron, Total (mg/L)				7.0
Manganese, Total (mg/L)				5.0
Aluminum, Total (mg/L)				5.0
Net Alkalinity (as CaCO <sub>3</sub> , mg/L)	0.0			
Alkalinity, Total (as CaCO <sub>3</sub> , mg/L)				Report
Acidity, Total (as CaCO <sub>3</sub> , mg/L)				Report
Temperature (°C)				Report
Specific Conductance (µmhos/cm)				Report
Sulfate, Total (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)).

*Southcentral Region: Waterways & Wetlands Program, 909 Elmerton Avenue, Harrisburg, PA 17110.*

**E0503221-005: Justin Michaels**, 6585 Bismark Road, Colorado Springs, CO 80922, in Monroe Township, **Bedford County**, U.S. Army Corps of Engineers Baltimore District.

To construct and maintain an 84-foot long, 60-inch wide, 6-inch depressed, HDPE culvert in and across an Unnamed Tributary (UNT) to Piney Creek (EV, MF), permanently impacting 84 linear feet (341 square feet) and temporarily impacting 39 linear feet (157 square feet) of the UNT to Piney Creek (EV, MF). The project will also result in 6,111.04 square feet of permanent and 2,013.72 square feet of temporary impacts to the floodway of the UNT to Piney Creek (EV). All for the purpose of providing driveway access to a single-family residential home site to be constructed near 136 Five Forks Road, Monroe Township, Bedford County (39.828895, -78.392043). No wetlands will be impacted by this project.

*Northcentral Region: Waterways & Wetlands Program, 208 West Third Street, Williamsport, PA 17701, 570-327-3636.*

**E1804222-001: Clinton County Commissioners**, 232 E. Main Street, Lock Haven, PA 17745, Brewery Run ATV Trail in Renovo Borough and Chapman and Noyes Townships, **Clinton County**, Baltimore ACOE (Renovo West, PA Quadrangle N: 41° 19' 37.07"; W: -77° 46' 22.28").

The Clinton County Commissioners are proposing the Brewery Run ATV Trail which will consist of 4,725 ft x 8 ft of ATV Trail to connect existing DCNR trail systems to Renovo. The trail will cross Brewery Run utilizing a bottomless arch culvert. The proposed culvert will be a single span 36.26 foot-long 22 ft 1-inch clear span by 6 ft 6-inch-high corrugated aluminum culvert on precast foundations. There are no anticipated adverse impacts to waters of the U.S. or aquatic resources from this crossing project. No wetlands will be impacted. The drainage area at the crossing site is 1.81 square miles. Brewery Run is listed in the 25 Pa. Code Chapter 93 designation as a High Quality—Cold Water Fishery (HQ-CWF) with Migratory Fish (MF).

**E1804222-002: Mas Wayne RNG, LLC**, 3340 Peachtree Road, Suite 170, Atlanta, GA 30326, WTL to UGI Connection, Pine Creek and Wayne Townships, **Clinton County**, Baltimore ACOE (Jersey Shore, PA Quadrangle N: 41° 10' 8.91"; W: -77° 20' 24.82").

The proposed WTL to UGI Connection project is for the installation of one four-inch pipeline that will transfer gas from the Wayne Township Landfill (WTL) to a new UGI tap location along SR 150. The gas will be produced and collected by the WTL and ultimately will connect into the existing UGI system servicing the area. The proposed pipeline will be bored under two wetlands and two streams, including the West Branch Susquehanna River and a tributary, as well as US Route 220. No changes in channel dimensions or floodplain elevations will result. Area disturbed during construction will be restored seeded, mulched, and allowed to return to original conditions. West Branch Susquehanna River is listed in the 25 Pa. Code Chapter 93 designation as a Warm Water Fishery (WWF).

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

*Contact: Dana Drake.*

**E0205221-029, # 1 Cochran Automotive**, 4520 William Penn Highway, Monroeville, PA 15146, Harrison Township, **Allegheny County**, Pittsburgh ACOE District.

The applicant proposes to:

Place and maintain fill in approximately 0.19 acre of PEM Wetland (W001), for the purpose of constructing an expansion of an existing warehouse and associated parking area. Mitigation will be provided through the purchase of wetland credits from an approved mitigation bank (Furnace Run Mitigation Bank).

The project site is located at the intersection of State Route 908 and State Route 1039, on Acee Drive (Freeport, PA USGS topographic quadrangle; N: 40°, 40', 5.56"; W: -79°, 42', 40.61"; Sub-basin 18A; USACE Pittsburgh District), in Harrison Township, Allegheny County.

**E6505221-008, Lyons Run Watershed Association**, 2500 Eldo Road, Monroeville, PA 15146, Murrysville Borough and Penn Township, **Westmoreland County**, Pittsburgh ACOE District.

The applicant proposes to:

Construct and maintain an abandoned mine drainage (AMD) treatment facility, consisting of three collection basins, two settling ponds, inlets and storm sewers, and to create 0.41-acre of wetlands while enhancing an existing wetland, for the purpose of removing acidity and metals from the drainage and thereby improve downstream water quality, ecological functions and aquatic life

in the Lyons Run watershed. The project will permanently impact 648-ft of the unnamed tributaries (UNT) to Lyons Run (TSF), 1.04-acre of the floodway and 0.30-acre of wetlands and will temporarily impact 270-ft of the UNTs, 0.68-acre of the floodway and 0.12-acre of wetlands.

The project site is located 0.3-mile south of the intersection of Boxcartown Road (SR 4047) and School Road South, in the floodways of the UNT to Lyons Creek (Murrysville, PA USGS topographic quadrangle; N: 40°, 23', 58.45"; W: -79°, 39', 17.49"; Sub-basin 19A; USACE Pittsburgh District), in Penn Township and the Municipality of Murrysville, Westmoreland County.

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

**E1006221-014, Jim and Bridget Kreider**, 213 Salt Works Road, Harmony, PA 16037, Kreider Joint Permit, in Lancaster Township, **Butler County**, ACOE Pittsburgh District (Evans City; Zelienople, PA Quadrangle N: 40°, 49', 43"; W: -80°, 7', 36.1779").

To construct and maintain a single family residence including: a driveway with a 40 feet long, 20 feet wide by 4 feet high concrete box culvert carrying Scholars Run; four utility line crossings of Scholars Run and adjacent wetlands; and post construction stormwater management facilities across Scholars Run, located along the west side of Route 19 in Lancaster Township, Butler County.

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

**E0829222-001: Chesapeake Appalachia, LLC**, 14 Chesapeake Lane, Sayre, PA 18840, Albany Township, **Bradford County**, ACOE Baltimore District.

To construct, operate and maintain:

1. a permanent access road impacting 3,920 square feet of a Palustrine Emergent Wetland (Dushore, PA Quadrangle Latitude: 41.588861°, Longitude: -76.452183°);
2. a permanent access road impacting 4,008 square feet of a Palustrine Emergent Wetland (EV) (Dushore, PA Quadrangle Latitude: 41.589410°, Longitude: -76.452471°);
3. a 300' by 400' well pad permanently impacting 5,445 square feet of a Palustrine Forested Wetland (EV) and converted 19,950 square feet of Palustrine Forested Wetland (EV) (Dushore, PA Quadrangle Latitude: 41.591163°, Longitude: -76.454646°);
4. a 300' by 400' well pad permanently impacting 2,962 square feet of a Palustrine Forested Wetland (EV) and converted 14,331 square feet of Palustrine Forested Wetland (EV) (Dushore, PA Quadrangle Latitude: 41.591188°, Longitude: -76.454910°);

This project is an after-the-fact permit that is associated with the Chesapeake Audit and will result in 7,928 square feet (0.182 acre) of permanent PEM wetland impacts and 42,688 square feet (0.98 acre) of permanent PFO wetland impacts, all for the purpose of installing a natural gas well pad and permanent access road for Marcellus Shale development in West Burlington Township, Bradford County. The permittee will provide 7.22 acres of PFO and PEM mitigation at Camp Brook Restoration (Elkland, PA Quadrangle, Latitude: 41.988385°, Longitude: -77.337152°), permit application number E5929221-006.

**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.

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**Applications received under Sections 5 and 402 of the Clean Streams Law (35 P.S. §§ 691.5 and 691.402).**


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*Southwest District: Oil & Gas Management Program, 400 Waterfront Drive, Pittsburgh, PA 15222, (412) 442-4281.*

ESCGP-3 # ESG073021016-00  
Applicant EQM Gathering OPCO LLC 2200 Energy Drive  
Canonsburg, PA 15317  
Contact Person Gregg West  
County Greene  
Township(s) Aleppo, Freeport, Springhill  
Receiving Stream(s) and Classification(s) UNTs to PA Fork Fish Creek (WWF), UNTs to Herod Run & Herod Run (WWF), PA Fork Fish Creek (siltation impaired) (WWF); Wheeling Buffalo Creek (TSF)

ESCGP-3 # ESG070421001-00  
Applicant ETC Northeast Fld Svc LLC 6051 Wallace Road  
Ext, Fl 3 Wexford, PA 15090-7386  
Contact Person Nicholas J Bryan  
County Beaver  
Township(s) New Sewickley  
Receiving Stream(s) and Classification(s) Trib 34803 to Brush Creek (WWF), Trib 34807 to Brush Creek (WWF), Trib 34809 to Brush Creek (WWF), UNT 1 to Trib 34803 to Brush Creek (WWF), UNT 2 to Trib 34803 to Brush Creek (WWF), UNT 3 to Trib 34803 to Brush Creek (WWF), UNT 4 to Trib 34803 to Brush Creek (WWF); Brush Creek (WWF), Trib 34803 to Brush Creek (WWF)

ESCGP-3 # ESG073021013-00  
Applicant EQM Gathering OPCO LLC 2200 Energy Drive  
Canonsburg, PA 15317  
Contact Person Gregg West  
County Greene  
Township(s) Aleppo, Jackson, Springhill  
Receiving Stream(s) and Classification(s) UNTs to Job Creek & Job Creek (TSF), UNTs to PA Fish Fork Creek and PA Fish Fork Creek (WWF), UNT to Herod Run & Herod Run (WWF); Wheeling—Buffalo Creeks (TSF)

ESCGP-3 # ESG073020013-00  
Applicant EQM Gathering OPCO LLC 2200 Energy Drive  
Canonsburg, PA 15317  
Contact Person Erin Debias  
County Greene  
Township(s) Wayne  
Receiving Stream(s) and Classification(s) UNTs to Rudolf Run (WWF), UNTs to Sharp Run (WWF), Sharp Run (WWF); Rudolf Run (WWF), Sharp Run (WWF), Dunkard Creek (WWF)

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**ACTIONS**

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**THE PENNSYLVANIA CLEAN STREAMS LAW AND  
THE FEDERAL CLEAN WATER ACT****FINAL ACTIONS TAKEN FOR NPDES PERMITS AND WQM PERMITS**

The Department has taken the following actions on previously received applications for new, amended, and renewed NPDES and WQM permits, applications for permit waivers, and NOIs for coverage under General Permits, as listed in the following tables. This notice of final action is published in accordance with 25 Pa. Code Chapters 91, 92a, and 102 and 40 CFR Part 122, implementing provisions of The Clean Streams Law (35 P.S. §§ 691.1—691.1001) and the Federal Clean Water Act (33 U.S.C.A. §§ 1251—1376). The official file for each listed action can be reviewed at the DEP or delegated county conservation district (CCD) office identified in the table for the action. DEP/CCD office contact information is listed as follows for Section I and is contained within the table for Section II. Additional information for permits issued under 25 Pa. Code Chapters 91 and 92a, including links to Individual NPDES and WQM Permits, may be reviewed by generating the “Final Actions Report” on DEP’s website at [www.dep.pa.gov/CWPUBLICNOTICE](http://www.dep.pa.gov/CWPUBLICNOTICE).

DEP office contact information to review official files relating to the final actions in Section I is as follows:

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

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

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

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

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

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

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

Persons aggrieved by an action may appeal that action to the Environmental Hearing Board (Board) under section 4 of the Environmental Hearing Board Act (35 P.S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to Administrative Agency Law). The appeal should be sent to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P.O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Board through the Pennsylvania Hamilton Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30-days of publication of this notice in the *Pennsylvania Bulletin* unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create a right of appeal beyond that permitted by applicable statutes and decisional law.

For individuals who wish to challenge an action, the appeal must reach the Board within 30-days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should contact a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

#### **I. Final Actions on NPDES and WQM Permit Applications and NOIs for Sewage, Industrial Waste, Industrial Stormwater, MS4s, Pesticides and CAFOs.**

<i>Application Number</i>	<i>Permit Type</i>	<i>Action Taken</i>	<i>Permittee Name &amp; Address</i>	<i>Municipality, County</i>	<i>DEP Office</i>
0117808	Joint DEP/PFBC Pesticides Permit	Issued	Carroll Valley Borough Adams County 5658 Fairfield Road Fairfield, PA 17320	Carroll Valley Borough Adams County	SCRO
0121808	Joint DEP/PFBC Pesticides Permit	Issued	Smith Don & Amy 4062 York Road New Oxford, PA 17350-9118	Mount Pleasant Township Adams County	SCRO
0814801	Joint DEP/PFBC Pesticides Permit	Issued	Calumet Enterprises 2205 Old Philadelphia Pike Lancaster, PA 17602-3400	Overton Township Bradford County	NCRO
0821802	Joint DEP/PFBC Pesticides Permit	Issued	Johnson Kevin A 333 Harrison Road Rome, PA 18837-8111	Stevens Township Bradford County	NCRO
PA0096342	Major Sewage Facility >= 1 MGD and < 5 MGD Individual NPDES Permit	Issued	Fairchance Georges Joint Municipal Sewer Authority Fayette County 141 Big Six Road Smithfield, PA 15478-1601	Georges Township Fayette County	SWRO
PA0043486	Minor Industrial Waste Facility with ELG Individual NPDES Permit	Issued	Lancaster County SWMA 1299 Harrisburg Pike Lancaster, PA 17603	Manor Township Lancaster County	SCRO

## NOTICES

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<i>Application Number</i>	<i>Permit Type</i>	<i>Action Taken</i>	<i>Permittee Name &amp; Address</i>	<i>Municipality, County</i>	<i>DEP Office</i>
PA0102288	Minor Industrial Waste Facility with ELG Individual NPDES Permit	Issued	Casella Waste Management of PA Inc. 25 Green Hills Lane Rutland, VT 05071-3804	Sergeant Township McKean County	NWRO
PA0032603	Minor Sewage Facility < 0.05 MGD Individual NPDES Permit	Issued	Trillium Tiny Home & RV Comm LLC 1501 E Poland Avenue Bessemer, PA 16112-9249	Mahoning Township Lawrence County	NWRO
PA0098060	Minor Sewage Facility < 0.05 MGD Individual NPDES Permit	Issued	Smith Eugene J 106 Chrissys Crossing Fombell, PA 16123-1804	Franklin Township Beaver County	SWRO
PA0104558	Minor Sewage Facility < 0.05 MGD Individual NPDES Permit	Issued	Stone Diversified LLC 152 Ketchum Road Utica, PA 16362-1230	Fairfield Township Crawford County	NWRO
PA0112020	Minor Sewage Facility < 0.05 MGD Individual NPDES Permit	Issued	UMH Properties Inc. 3499 Route 9 N Suite 3C Freehold, NJ 07728	North Centre Township Columbia County	NCRO
PA0244074	Minor Sewage Facility < 0.05 MGD Individual NPDES Permit	Issued	Aqua PA Wastewater Inc. 762 W Lancaster Avenue Bryn Mawr, PA 19010	Worcester Township Montgomery County	SERO
PA0036773	Minor Sewage Facility >= 0.05 MGD and < 1 MGD Individual NPDES Permit	Issued	Shinglehouse Borough Potter County P.O. Box 156 Shinglehouse, PA 16748-0156	Shinglehouse Borough Potter County	NCRO
0621203	Minor and Non-NPDES Industrial Waste Treatment Facility Individual WQM Permit	Issued	M&G Realty Inc. 2100 North George Street York, PA 17404	Maxatawny Township Berks County	SCRO
0621203	Minor and Non-NPDES Industrial Waste Treatment Facility Individual WQM Permit	Issued	M&G Realty Inc. 2100 North George Street York, PA 17404	Maxatawny Township Berks County	SCRO
6377204	Minor and Non-NPDES Industrial Waste Treatment Facility Individual WQM Permit	Issued	Langeloth Metallurgical Co. LLC P.O. Box 608 Langeloth, PA 15054-0608	Smith Township Washington County	SWRO
4613403	Minor and Non-NPDES Sewage Treatment Facility Individual WQM Permit	Issued	Worcester Township Montgomery County 1721 Valley Forge Road P.O. Box 767 Worcester, PA 19490-0767	Worcester Township Montgomery County	SERO
NOEXNW164	No Exposure Certification	Issued	Corry Fabrication LLC 21 Maple Avenue Corry, PA 16407-1630	Corry City Erie County	NWRO

## NOTICES

<i>Application Number</i>	<i>Permit Type</i>	<i>Action Taken</i>	<i>Permittee Name &amp; Address</i>	<i>Municipality, County</i>	<i>DEP Office</i>
NOEXSC193	No Exposure Certification	Issued	GXO Whse Co. Inc. 1301 Distribution Drive Carlisle, PA 17013-7457	North Middleton Township Cumberland County	SCRO
NOEXSC261	No Exposure Certification	Issued	GXO Logistics Supply Chain, Inc. 381 Freight Street Camp Hill, PA 17011-5711	Hampden Township Cumberland County	SCRO
NOEXSC321	No Exposure Certification	Issued	GXO Whse Co., Inc. 4406 Industrial Park Road Camp Hill, PA 17011	Hampden Township Cumberland County	SCRO
NOEXSW005	No Exposure Certification	Issued	USPS Washington 15 Jefferson Avenue Washington, PA 15301-9721	Washington City Washington County	SWRO
PAG030077	PAG-03 NPDES General Permit for Industrial Stormwater	Issued	Eastern Concrete Materials, Inc. 250 Pehle Avenue Plaza One Suite 503 Saddle Brook, NJ 07663-5830	Darby Township Delaware County	SERO
PAR203555	PAG-03 NPDES General Permit for Industrial Stormwater	Issued	Penn Mar Castings LLC 500 Broadway Hanover, PA 17331-2001	Hanover Borough York County	SCRO
PAR800046	PAG-03 NPDES General Permit for Industrial Stormwater	Issued	UPS Ground Freight 55 Glenlake Parkway Atlanta, GA 30328	Bensalem Township Bucks County	SERO
PAR806118	PAG-03 NPDES General Permit for Industrial Stormwater	Issued	First Transit Inc. 110 Perimeter Park Road Suite E Knoxville, TN 37922-2200	Bethel Park Borough Allegheny County	SWRO
PAG040216	PAG-04 NPDES General Permit for Small Flow Treatment Facilities	Issued	Marley John 694 Apple Road Quakertown, PA 18951-4907	Haycock Township Bucks County	SERO
PAG046334	PAG-04 NPDES General Permit for Small Flow Treatment Facilities	Issued	William L Cramer Jr & Pamela L Knox 4003 Ridge Road Aliquippa, PA 15001-5821	Independence Township Beaver County	SWRO
PAG120005	PAG-12 NPDES General Permit for CAFOs	Issued	Astle Arthur 560 Lancaster Pike Oxford, PA 19363-1176	Lower Oxford Township Chester County	SCRO
PAG123529	PAG-12 NPDES General Permit for CAFOs	Issued	Deiter Jay 2040 River Road Bainbridge, PA 17502-9329	Conoy Township Lancaster County	SCRO
PAG123582	PAG-12 NPDES General Permit for CAFOs	Issued	Weaver Andrew L & Weaver Lester B 2560 Sunnyside Road Manheim, PA 17545-9685	Rapho Township Lancaster County	SCRO
PAG124866	PAG-12 NPDES General Permit for CAFOs	Issued	Weaver Melvin 359 Timber Road Beavertown, PA 17813-9140	Adams Township Snyder County	SCRO
PAG126104	PAG-12 NPDES General Permit for CAFOs	Issued	Blue Springs Farm LLC 174 Stair Farm Lane Berlin, PA 15530-6024	Brothersvalley Township Somerset County	SCRO
PAG133722	PAG-13 NPDES General Permit for MS4s	Waived	Hamburg Borough Berks County 61 North 3rd Street Hamburg, PA 19526	Hamburg Borough Berks County	SCRO



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<i>Application Number</i>	<i>Permit Type</i>	<i>Action Taken</i>	<i>Permittee Name &amp; Address</i>	<i>Municipality, County</i>	<i>DEP Office</i>
PAG136313	PAG-13 NPDES General Permit for MS4s	Waived	Homewood Borough Beaver County 102 2nd Avenue Beaver Falls, PA 15010-5762	Homewood Borough Beaver County	SWRO
0921409	Pump Stations WQM Individual Permit	Issued	Bucks County Water & Sewer Authority 1275 Almshouse Road Warrington, PA 18976-1209	Doylestown Township Bucks County	SERO
0995418	Sewage Land Application Individual WQM Permit	Issued	Buckingham Township Bucks County P.O. Box 413 Buckingham, PA 18912-0413	Buckingham Township Bucks County	SERO
2091407	Sewage Treatment Facilities Individual WQM Permit	Issued	Stone Diversified LLC 152 Ketchum Road Utica, PA 16362-1230	Fairfield Township Crawford County	NWRO
2516413	Sewage Treatment Facilities Individual WQM Permit	Issued	Ricketts Chelsey 10851 Sidehill Road North East, PA 16428-4963	North East Township Erie County	NWRO
3772401	Sewage Treatment Facilities Individual WQM Permit	Issued	Trillium Tiny Home & RV Comm, LLC 1501 E Poland Avenue Bessemer, PA 16112-9249	Mahoning Township Lawrence County	NWRO
PA0054551	Single Residence STP Individual NPDES Permit	Issued	Rhodes John 4 Fox Run Lane Newtown Square, PA 19073-1004	Willistown Township Chester County	SERO
PA0239364	Single Residence STP Individual NPDES Permit	Issued	Gail A & Richard H Cannon 2482 W Washington Street Bradford, PA 16701-2415	Corydon Township McKean County	NWRO
PA0255912	Single Residence STP Individual NPDES Permit	Issued	Kay Danielle L 330 Stuber Road New Brighton, PA 15066-3343	Daugherty Township Beaver County	SWRO
PA0264148	Single Residence STP Individual NPDES Permit	Issued	Hoover Matthew W 4551 Greenlee Road McKean, PA 16426-1813	McKean Township Erie County	NWRO
PA0264814	Single Residence STP Individual NPDES Permit	Issued	Ricketts Chelsey 10851 Sidehill Road North East, PA 16428-4963	North East Township Erie County	NWRO
PA0272329	Single Residence STP Individual NPDES Permit	Issued	Husband Robert A 81 Plum Street Greenville, PA 16125-1804	Sugar Grove Township Mercer County	NWRO
PA0290041	Single Residence STP Individual NPDES Permit	Issued	Timothy & Lorri Stafford 1217 Avonia Road Fairview, PA 16415-1453	Fairview Township Erie County	NWRO
PA0290068	Single Residence STP Individual NPDES Permit	Issued	Ryan Caldwell 19711 Morris Road Meadville, PA 16335-9625	Woodcock Township Crawford County	NWRO
0421402	Single Residence Sewage Treatment Plant Individual WQM Permit	Issued	Kay Danielle L 330 Stuber Road New Brighton, PA 15066-3343	Daugherty Township Beaver County	SWRO

<i>Application Number</i>	<i>Permit Type</i>	<i>Action Taken</i>	<i>Permittee Name &amp; Address</i>	<i>Municipality, County</i>	<i>DEP Office</i>
0998409	Single Residence Sewage Treatment Plant Individual WQM Permit	Issued	Marley John 694 Apple Road Quakertown, PA 18951-4907	Haycock Township Bucks County	SERO
1592403	Single Residence Sewage Treatment Plant Individual WQM Permit	Issued	Rhodes John 4 Fox Run Lane Newtown Square, PA 19073-1004	Willistown Township Chester County	SERO
2021418	Single Residence Sewage Treatment Plant Individual WQM Permit	Issued	Ryan Caldwell 19711 Morris Road Meadville, PA 16335-9625	Woodcock Township Crawford County	NWRO
2521430	Single Residence Sewage Treatment Plant Individual WQM Permit	Issued	Timothy & Lorri Stafford 1217 Avonia Road Fairview, PA 16415-1453	Fairview Township Erie County	NWRO
4319407	Single Residence Sewage Treatment Plant Individual WQM Permit	Issued	Husband Robert A 81 Plum Street Greenville, PA 16125-1804	Sugar Grove Township Mercer County	NWRO
WQG016134	WQG-01 WQM General Permit	Issued	William L Cramer Jr & Pamela L Knox 4003 Ridge Road Aliquippa, PA 15001-5821	Independence Township Beaver County	SWRO

**II. Final Actions on PAG-02 General NPDES Permit NOIs and Individual NPDES Permit Applications for Construction Stormwater.**

<i>Permit Number</i>	<i>Permit Type</i>	<i>Action Taken</i>	<i>Applicant Name &amp; Address</i>	<i>Municipality, County</i>	<i>Office</i>
PAC150278	PAG-02	Issued	Longview Homes 1379 Dilworthtown Crossing Suite 125 West Chester, PA 19382	Downingtown Borough Chester County	SERO
PAC510182	PAG-02 General Permit	Issued	Fairmount Manor Realty Co., LP 740 Sansom Street Philadelphia, PA 19106	City of Philadelphia Philadelphia County	SERO
PAC230205	General	Permit Issuance	City of Chester One 4th Street Chester, PA 19013	Chester City Delaware County	SERO
PAC090512	PAG-02 General Permit	Issued	Gibson Holdings, LLC 300 Farm Lane Doylestown, PA 18901-4871	Bensalem Township Bucks County	SERO
PAD510012 Renewal	PAG-02 General Permit	Issued	Philadelphia Authority for Industrial Development 4747 South Broad Street Philadelphia, PA 19112-1699	City of Philadelphia Philadelphia County	SERO
PAD230043	PAG-02 General Permit	Issued	MCBH Drexeline Plaza, LP 2701 North Charles Street Suite 404 Baltimore, MD 21218-4351	Upper Darby Township Delaware County	SERO

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<i>Permit Number</i>	<i>Permit Type</i>	<i>Action Taken</i>	<i>Applicant Name &amp; Address</i>	<i>Municipality, County</i>	<i>Office</i>
PAC400226	PAG-02 General Permit	Issued	Jeffrey F. Sikora and John P. Sikora 110 Nevel Hollow Road Hunlock Creek, PA 18621	Ross Township Luzerne County	Luzerne Conservation District 325 Smiths Pond Road Shavertown, PA 18708 570-674-7991
PAC660028	PAG-02 General Permit	Issued	Kintner Modular Homes, Inc. 119 Modular Lane Tunkhannock, PA 18657	Tunkhannock Township Wyoming County	Wyoming County Conservation District 1 Hollowcrest Complex Tunkhannock, PA 18657 570-836-2589
PAC660030	PAG-02 General Permit	Issued	MHW Construction, LLC 1100 N. Lackawanna Trail Dalton, PA 18414	Clinton and Nicholson Townships Wyoming County	Wyoming County Conservation District 1 Hollowcrest Complex Tunkhannock, PA 18657 570-836-2589
PAD450154	Individual NPDES	Issued	John and Tiffany Burlew 177 Balson Road Stroudsburg, PA 18360	Chestnuthill Township Monroe County	NERO
PAC400223	PAG-02 General Permit	Issued	Lineage PA Hazleton RE, LLC Robert Sangdahl 46500 Humboldt Drive Novi, MI 48377	Hazle Township Luzerne County	Luzerne Conservation District 325 Smiths Pond Road Shavertown, PA 18708 570-674-7991
PAC390159	PAG-02 General Permit	Issued	Kay Walbert, LLC 5930 Hamilton Blvd. Suite 10 Allentown, PA 18106	South Whitehall Township Lehigh County	Lehigh County Conservation District 4184 Dorney Park Road Suite 105 Allentown, PA 18104 610-391-9583
PAD480160	Individual NPDES	Issued	Pack Leader Properties, LLC c/o John McDonald 5322 Lindsay Lane Schnecksville, PA 18078-2371	Forks Township Northampton County	NERO
PA350001D	Individual NPDES	Issued	PPL Elec Utilities Corp 827 Hausman Road Genn4 Allentown, PA18104-9392	Madison Township Lackawanna County	NERO
PAD210078	Individual NPDES	Issued	Woodstork Watch, LLC 1022 Stonehill Lane Carlisle, PA 17015-8959	South Middleton Township Cumberland County	SCRO
PAD500010	Individual NPDES	Issued	Anthony and Tricia Liddick 1764 Old Trail Road Liverpool, PA 17045	Buffalo Township Perry County	SCRO
PAD060049	Individual NPDES	Issued	Alcon Research LLC 700 Old Fritztown Road Sinking Spring, PA 19608	Spring Township Berks County	NERO
PAC220295	General Permit	Denied	Hanover Logistics, LLC c/o Crossroads Commercial Realty & Development, LLC 201 Iron Valley Drive Lebanon, PA 17042-8812	East Hanover Township Dauphin County	SCRO

<i>Permit Number</i>	<i>Permit Type</i>	<i>Action Taken</i>	<i>Applicant Name &amp; Address</i>	<i>Municipality, County</i>	<i>Office</i>
PAC380234	General Permit	Issued	Dwight Family Limited Partnership II 1650 Crooked Oak Drive Suite 310 Lancaster, PA 17601	Palmyra Borough Lebanon County	Lebanon County Conservation District 2120 Cornwall Road Lebanon, PA 17042-9788 717.277.5275
PAC30173	General Permit	Issued	Joseph Silbaugh, Jr. 1649 Broadway Box 2 Hanover, PA 17331	East Hanover Township Lebanon County	Lebanon County Conservation District 2120 Cornwall Road Lebanon, PA 17042-9788 717.277.5275
PAC380235	General Permit	Issued	Denise Bollard 231 Northwood Drive Lebanon, PA 17042	South Anneville Township South Londonderry Township Lebanon County	Lebanon County Conservation District 2120 Cornwall Road Lebanon, PA 17042-9788 717.277.5275
PAC380237	General Permit	Issued	Jenell Martin 501 East Main Avenue Myerstown, PA 17067	Jackson Township Lebanon County	Lebanon County Conservation District 2120 Cornwall Road Lebanon, PA 17042-9788 717.277.5275
PAC210269	General Permit	Issued	JLM Real Estate Investments, LLC 950 East Main Street Schuylkill Haven, PA 17972	Mt. Holly Springs Borough Cumberland County	Cumberland County Conservation District 310 Allen Road Suite 301 Carlisle, PA 17013-9101 717.240.7812
PAC210265	General Permit	Issued	North Middleton Authority 240 Clearwater Drive Carlisle, PA 17013	North Middleton Township Cumberland County	Cumberland County Conservation District 310 Allen Road Suite 301 Carlisle, PA 17013-9101 717.240.7812
PAC670513	General Permit	Issued	Hickory Enterprises, LLC Lynn Snyder 5158 Lehman Road Spring Grove, PA 17362	North Codorus Township York County	York County Conservation District 2401 Pleasant Valley Road Suite 101 Room 139 York, PA 17402 717.840.7430
PAC670535	General Permit	Issued	Keel-Mar Farms, LLC 12006 Baltimore Street Glen Rock, PA 17327	York Township York County	York County Conservation District 2401 Pleasant Valley Road Suite 101 Room 139 York, PA 17402 717.840.7430
PAC670516	General Permit	Issued	Newberry Township 1915 Old Trail Road Etters, PA 17319	Newberry Township York County	York County Conservation District 2401 Pleasant Valley Road Suite 101 Room 139 York, PA 17402 717.840.7430

<i>Permit Number</i>	<i>Permit Type</i>	<i>Action Taken</i>	<i>Applicant Name &amp; Address</i>	<i>Municipality, County</i>	<i>Office</i>
PAC590044	PAG-02 GP	Issued	Tyoga Container Co. 9 Fish Street Tioga, PA 16946	Tioga Borough Tioga County	Tioga County Conservation District 1867 Shumway Hill Road Wellsboro, PA 16901-1766
PAC250153	PAG-02 General Permit	Issued	MCH Corp. 5515 Peach Street Erie, PA 16509	Millcreek Township Erie County	Erie County Conservation District 1927 Wager Road Erie, PA 16509 814-825-6403
PAG098301	Site Suitability Notification	Issued	Williams & Sons Services, Inc. Murray Farm Biosolids Site Field 1 583 Murray Road Brookville, PA 15825	Warsaw Township Jefferson County	NWRO

**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 Ostrum, Clerk Typist 2, 570-830-3077.*

**Permit No. 4021505MA, Construction Permit, Public Water Supply.**

Applicant	<b>Pennsylvania American Water Company</b> 852 Wesley Drive Mechanicsburg, PA 17055
Municipality	Jackson Township
County	<b>Luzerne</b>
Type of Facility	Public Water Supply
Consulting Engineer	Joseph S. Durkin, P.E. Reilly Associates 49 S. Main Street Suite 200 Pittston, PA 18640
Permit to Construct Issued	January 20, 2022
Description of Action	Sutton Hills tank replacement project

**Permit No. 2660035, Operation Permit, Public Water Supply.**

Applicant	<b>The Village of Mountain Heights MHP, LLC</b> 100 East 8th Street Milton, PA 17847
Municipality	Overfield Township
County	<b>Wyoming</b>
Type of Facility	Public Water Supply
Consulting Engineer	Franko’s Water Quality, LLC 3132 Walnut Road Falls, PA 18615
Permit Issued	January 31, 2022
Description of Action	Demonstration of 4-Log treatment of viruses.

*Northcentral Region: Safe Drinking Water Program, 208 West Third Street, Williamsport, PA 17701.*

**Construction Permit No. 1421509, Public Water Supply.**

Applicant	<b>Haines-Aaronsburg Municipal Authority</b> P.O. Box 254 Aaronsburg, PA 16820
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Municipality Haines Township  
 County Centre  
 Consulting Engineer Patrick Ward, P.E.  
 Uni-Tec Consulting  
 Engineers, Inc.  
 2007 Cato Avenue  
 State College, PA 16801

Permit Issued January 24, 2022

Description This permit authorizes the development of Well No. 8 as an additional source of supply and construction of a Pall Aria AP-3 continuous microfiltration plant.

**Construction Permit No. 4921504MA Minor Amendment Public Water Supply.**

Applicant **Pennsylvania American Water Company**  
 852 Wesley Drive  
 Mechanicsburg, PA 17055

Municipality Milton Borough  
 County Northumberland  
 Consulting Engineer Ewoud Hulstein P.E.  
 Pennsylvania-American  
 Water Company  
 852 Wesley Drive  
 Mechanicsburg, PA 17055

Permit Issued January 24, 2022

Description This permit authorizes Pennsylvania American Water Company to replace the settled water chlorine analyzer at Milton Water Treatment Plant with a new amperometric analyzer to measure free chlorine residual, temperature and pH continuously in water leaving the flocculation and sedimentation units.

**Operation Permit No. 1717512-A1** issued to: **Aqua Pennsylvania, Inc.**, 1775 North Main Street, Honesdale, PA 18436, PWSID No. 6170048, Sandy Township, **Clearfield County**, on January 24, 2022 for the operation of facilities approved under construction permit # 1717512-A1. Permit No. 1717512-A1 supersedes Operation Permit No. 1717512, which was issued on May 10, 2019. Specifically, Special Condition B has been amended to reduce the required methane sampling at Entry Point 107 from weekly to monthly.

**Operation Permit No. GWR** issued to: **Seven Mountains Campground**, 101 Seven Mountains Campground Road, Spring Mill, PA 16875, PWSID No. 4140889, Potter Township, **Centre County**, on February 1, 2022, for the operation of facilities approved under construction permit # GWR This permit authorizes operation of Well # 2, constant pressure manifold, raw water tap, cartridge filtration, flow meter, PCM for sodium hypochlorite pump, sodium hypochlorite pump, four 120-gallon retention tanks having baffling factor 0.5 in series, 12 gallon per minute flow control, Entry Point 100, and distribution system. Note that the entire water system is now approved by a public water supply operation permit under 25 Pa. Code § 109.504 and no longer qualifies for noncommunity approval under § 109.505.

**Operation Permit No. 4920507** issued to: **Pennsylvania-American Water Company**, 852 Wesley Drive, Mechanicsburg, PA 17055, PWSID No. 4490023 West Chillisquaue, **Northumberland County**, on January 26, 2022 for the operation of facilities approved under construction Permit No. 4920507. This permit authorizes operation of the recently constructed Montandon Booster Pump Station, including the generator.

**SEWAGE FACILITIES ACT PLAN APPROVAL**

**Plan Approvals Granted Under the Pennsylvania Sewage Facilities Act, Act of January 24, 1966, P.L. 1535, as amended, 35 P.S. § 750.5.**

*Southcentral Region: Clean Water Program, 909 Elmer-ton Avenue, Harrisburg, PA 17110.*

*Plan Location:*

<i>Township</i>	<i>Township Address</i>	<i>County</i>
West Cocalico Township	P.O. Box 244 Reinholds, PA 17569	Lancaster

*Plan Description:*

Approval of a revision to the official plan of West Cocalico Township, Lancaster County has been issued. This action is a result of the review of a planning module for the **Nathan Monyer Subdivision** (DEP Code No. A3-36957-251-3S; APS ID No. 1052053). The proposed development—to be located at 406 Greenville Road in Denver—consists of adding a fourth bedroom to an existing single-family dwelling that is currently served by a substandard on-lot disposal system and also constructing a one-unit rooming house attached to an existing garage, with the combined sewage flows of 900 gallons per day to be served by a small-flow treatment facility discharging to Cocalico Creek. The Department's review of the plan revision has not identified any significant impacts resulting from this proposal. Any permits must be obtained in the name of the property owner.

**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.*

**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, York Road-Bladco LP, 15 Montgomery Avenue, Suite 3, Narberth, PA 19072, submitted a Remedial Investigation Report/Cleanup Plan concerning remediation of site soil contaminated with pesticides. The report is intended to document remediation of the site to meet the site-specific standard.

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

*Contact: Eric Supey, Environmental Program Manager.*

**J. Griffiths Pad 1**, 1007 Hoag Hill Road, Montrose, PA 18801, Rush Township, **Susquehanna County**. Resource Environmental Management, 50 Maple Street, Montrose, PA 18801, on behalf of Coterra Energy Inc., 2000 Park Lane, Suite 300, Pittsburgh, PA 15275, submitted a Final Report concerning remediation of soil contaminated by releases of diesel-based drilling mud. The report is intended to document remediation of the site to meet a combination of Background and Statewide health standards.

**Franclaire Pad**, 276 Pig Barn Road, Laceyville, PA 18623, Braintrim 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 releases production fluid (brine). The report is intended to document remediation of the site to meet Statewide health standards.

*Southcentral Region: Environmental Cleanup & Brownfields Program, 909 Elmerton Avenue, Harrisburg, PA 17101.*

**1501 North George Street**, 1501 North George Street, York, PA 17404, Manchester Township, **York County**. Liberty Environmental, Inc., 505 Penn Street, Suite 400, Reading, PA 19601 on behalf of George Street Investors LLC, P.O. Box 429, Conshohocken, PA 19428 submitted a

Final Report concerning remediation of site soils and groundwater contaminated with leaded and unleaded gasoline. The Final Report is intended to document remediation of the site to meet the site-specific standard.

**Former Alcoa Property**, 300 State Drive, Lebanon, PA 17042, South Lebanon Township, **Lebanon County**. Liberty Environmental, Inc., 505 Penn Street, Suite 400, Reading, PA 19601 on behalf of Mr. Joseph Stein, Warehouse, 320 North George Street, Suite 100, York, PA 17401 submitted a Final Report concerning remediation of site soils and groundwater contaminated with metals, polyaromatic hydrocarbons. The Final Report is intended to document remediation of the site to meet the Site-Specific and Statewide Standards.

**Plaza 2331**, 2331 East Market Street, York, PA 17402, Springettsbury Township, **York County**. Weaver Consultants Group, LLC, 2225 Sycamore Street, Harrisburg, PA 17111 on behalf of Satya Ganti, 2331 East Market Street, LLC, 25 Marianne Drive, York, PA 17406 submitted a Remedial Investigation Report concerning remediation of soil and groundwater contaminated with chlorinated solvents. The Remedial Investigation Report is intended to document remediation of the site to meet the site-specific standard.

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

**37 Grant Street UST Closure**, 37 Grant Street, Wellsboro, PA 16901, Wellsboro Borough, **Tioga County**. Penn Environmental & Remediation, Inc., 13180 Route 6, Mansfield, PA 16933, on behalf of UPMC Wellsboro, 32 Central Avenue, Wellsboro, PA 16901, has submitted a Final Report concerning remediation of site soil contaminated with heating oil. The report is intended to document remediation of the site to meet the Statewide health standard.

**Ayers Trucking Motor Vehicle Accident**, 1056 Mountain Road, Monroeton, PA 18832, Franklin Township, **Bradford County**. Penn Environmental & Remediation, Inc., 13180 Route 6, Mansfield, PA 16933, on behalf of M.R. Dirt, Inc., 21189 Route 187, Towanda, PA 18848, has submitted a Final Report concerning remediation of site soil contaminated with drill cuttings. The report is intended to document remediation of the site to meet the Statewide health standard.

**MBMA Property—Former Elevated Water Storage Tank**, Intersection of Industrial Park Road & Industrial Parkway, Muncy, PA 17756, Muncy Creek Township, **Lycoming County**. Entech Engineering, 201 Penn Street, Reading, PA 19603, on behalf of Muncy Borough Municipal Authority, P.O. Box 201, Muncy, PA 17756, has submitted Final Report concerning remediation of site soil contaminated with lead. The report is intended to document remediation of the site to meet the Statewide health standard.

*Southwest Region: Environmental Cleanup & Brownfield Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**Morrow Refuse**, Storage Tank Facility ID # 02-81370, 4985 Bakerstown-Culmerville Road, Tarentum, PA 15084, West Deer Township, **Allegheny County**. Flynn Environmental, Inc., 5640 Whipple Avenue NW, North Canton, OH 44720, on behalf of Mr. John Morrow, 4985 Bakerstown-Culmerville Rd., Tarentum, PA 15084, submitted a Remedial Action Plan concerning remediation of soil and groundwater contaminated with diesel fuel.

The plan is intended to document the remedial actions for meeting the statewide health or background standard.

**Sunoco DUNS 0002-1576**, Storage Tank Facility ID # 65-32308, 106 North Center Avenue, New Stanton, PA 15672, New Stanton Borough, **Westmoreland County**. EnviroTrac, Ltd., 176 Thorn Hill Road, Warrendale, PA 16365, on behalf of Sunoco, Inc., 2 Righter Parkway, Suite 120, Wilmington, DE 19803, submitted a Remedial Action Completion Report concerning remediation of soil and groundwater contaminated with petroleum products. The report is intended to document remediation of the site to meet the residential, used aquifer Statewide health standard and the residential, used aquifer site-specific 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.*

**Former Wright's Knitwear**, 1727-1829 Union Boulevard, Allentown, PA 18109, Allentown City, **Lehigh County**. MEA, 1365 Ackermanville Road, Bangor, PA 18013, on behalf of Lehigh Valley Commercial Properties, LLC, 903 Chestnut Street, Emmaus, PA 18049, submitted a Baseline Environmental Report concerning remediation of groundwater contaminated with impacted by PCE and 1,1-Dichloroethylene. The Baseline Environmental Report demonstrated attainment of Special Industrial Area Standards and was approved by DEP on January 27, 2022.

**Westminster Village**, 801 North Wahneta Street, Allentown, PA 18109, Allentown City, **Lehigh County**. United Environmental Services, P.O. Box 701, Schuylkill Haven, PA 17972, on behalf of Presbyterian Homes Inc., 1 Trinity Drive, Suite 201, Dillsburg, PA 17019, submitted a Final Report concerning remediation of soil contaminated by a release of diesel from an aboveground storage tank. The final report was not acceptable to meet Statewide health standards and was disapproved by DEP on February 1, 2022.

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

**Covington 5H on the Covington BRA Pad**, 984 E Warner Hill Road, Ulster, PA 18850, Sheshequin 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 the remediation of site soil contaminated with produced water. The Final report demonstrated attainment of the Statewide health standard and was approved by the Department on January 24, 2022.

**Inflection TLC Well Site Release**, 367 Yeagle Road, Montoursville, PA 17754, Eldred Township, **Lycoming County**. Penn Environmental & Remediation, Inc., 13180 Route 6, Mansfield, PA 16933, on behalf of Inflection Energy PA, LLC, 101 W 3rd Street, 5th Fl, Williamsport, PA 17701, has submitted a Final Report concerning remediation of site soil contaminated with produced water. The Final report demonstrated attainment of the Statewide health standard and was approved by the Department on January 21, 2022.

**Estate of Ruth Longer Property**, Intersection of Montour Boulevard and Grovania Drive, Danville, PA 17821, Cooper Township, **Montour County**. BL Companies, 2601 Market Place, Suite 350, Harrisburg, PA 17110, on behalf of IA Construction Corporation, P.O. Box 568, Franklin, PA 16323, has submitted a Revised Remedial Investigation Report and Cleanup Plan concerning remediation of site soil and groundwater contaminated with chlorinated solvents. The Revised Remedial Investigation Report and Cleanup Plan was approved by the Department on January 26, 2022.



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

Contact: Charline Bass.

**Delaware Generating Station**, 1325 North Beach Street, Philadelphia, PA 19125, City of Philadelphia, **Philadelphia County**. Mark Fortna, Penn E&R, 400 Old Dublin Pike, Doylestown, PA 18901 on behalf of Tony Bates, L-A Battery QOZ, LLC, 2400 Market Street, Suite 301, Philadelphia, PA 19103 submitted a Final Report concerning the remediation of site soil and groundwater contaminated with acetone, acenaphthene, acenaphthylene, anthracene, barium, cadmium, chloroethane, chromium, cumene, cyclohexane, 1,1-dichloroethane, fluoranthene, fluorene, hexachlorobenzene, lead, methyl ethyl ketone, naphthalene, PCB-Aroclor 1242, PCB-Aroclor 1248, PCB-Aroclor 1260, phenanthrene, pyrene, selenium, toluene, 1,1,1-trichloroethane and xylenes in groundwater, and for acetone, acenaphthene, acenaphthylene, anthracene, barium, benzene, benzo-(g,h,i)perylene, benzo(k)fluoranthene, carbon disulfide, chrysene, dibenzo(a,h)anthracene, ethylbenzene, fluoranthene, fluorene, mercury, methyl ethyl ketone, methyl tert butyl ether (MTBE), methylene chloride, naphthalene, PCB-Aroclor 1248, PCB-Aroclor 1254, PCB-Aroclor 1260, phenanthrene, pyrene, tetrachloroethene, toluene, 1,2,4-trimethylbenzene (TMB), and 1,3,5-TMB in soil. The Final Report demonstrated attainment of the Statewide health standard/site-specific standard and was approved by the Department on January 18, 2022.

**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, New Britain, PA 18901 on behalf of Phil Ehlinger, Borough of Doylestown, 57 West Court Street, Borough of Doylestown, PA 18901 submitted a Final Report concerning the remediation of site soil contaminated with cadmium, chromium, arsenic, beryllium and benzo(a)pyrene. The Report was reviewed by the Department which issued a technical deficiency letter on January 19, 2022.

**Ponds and Gardens**, 200 Limekiln Pike, Glenside, PA 19038, Cheltenham Township, **Montgomery County**. Philip M. Donmoyer, PG, ECS Mid-Atlantic, 52-6 Grumbacher Road, York, PA 17406 on behalf of Greg Baltz, Grindstone Properties LP, 1259 Cox Road, Rydal, PA 19046 submitted a Risk Assessment Report/Remedial Investigation Report/Cleanup Plan/Final Report concerning the remediation of site soil contaminated with arsenic. The Final Report demonstrated attainment of the site-specific standard and was approved by the Department on January 14, 2022.

**Superior Scaffold Services, Inc.**, 520 East Luzerne Street, Philadelphia, PA 19124, City of Philadelphia, **Philadelphia County**. Christopher M. Kern, PG, Liberty Environmental, Inc., 505 Penn Street, Suite 400, Reading, PA 19601 on behalf of Guy L. Bianchini, Superior Scaffold Services, Inc., 600 Center Avenue, Bensalem, PA 19020 submitted a Remedial Investigation Report/Risk Assessment Report/Cleanup Plan concerning the remediation of site soil and groundwater contaminated with ethylbenzene, naphthalene, 1,2,4-TMB, and xylenes. The Report was disapproved by the Department on January 13, 2022.

**2610 West Fletcher Street**, 2610 West Fletcher Street, Philadelphia, PA 19132, City of Philadelphia, **Philadelphia County**. Natalie Griffith, REPSG, Inc.,

6901 Kingessing Avenue, Philadelphia, PA 19142 on behalf of David Alexander, Susquehanna Net Zero Housing, LP, 1707 North Charles Street, Apt 200A, Baltimore, MD 21201 submitted a Remedial Investigation Report/Cleanup Plan concerning the remediation of site soil contaminated with leaded and unleaded gasoline, benzo(a)pyrene, metals, arsenic, thallium and vanadium. The Report was approved by the Department on January 13, 2022.

**Philadelphia Coke Plant**, 4501 Richmond Street, Philadelphia, PA 19137, City of Philadelphia, **Philadelphia County**. Daniel P. Sheehan, PE, Arcadius U.S. Inc., 824 North Market Street, Suite 820, Wilmington, DE 19801 on behalf of Brian M. Stearns, National Grid, 300 Erie Boulevard, West Syracuse, NY 13202 submitted a Remedial Investigation Report/Cleanup Plan concerning the remediation of site soil contaminated with PAHs, metals and VOCs. The Report was disapproved by the Department on January 14, 2022.

**Hoplamazan Property**, 1890 Middletown Road, Glen Mills, PA 19342, Edgemont Township, **Delaware County**. Joseph Diamadi, Jr., PG, Marshall Geoscience, Inc., 170 East First Avenue, Collegeville, PA 19426 on behalf of Sona Hoplamazan, 4 Hampton Lane, Glen Mills, PA 19342 submitted a Final Report concerning the remediation of site soil and groundwater contaminated with benzene, toluene, ethylbenzene, xylenes, naphthalene, methyl tertiary butyl ether, isopropyl benzene, 1,2,3-trimethylbenzene, and 1,3,5-trimethylbenzene. The Final Report demonstrated attainment of the Statewide health standard/site-specific standard and was approved by the Department on January 18, 2022.

**54 Wentworth Lane**, 54 Wentworth Lane, Bryn Mawr, PA 19010, Radnor Township, **Delaware County**. Gilbert J. Marshall, PG, Marshall Geoscience, Inc., 170 1st Avenue, Collegeville, PA 19426 on behalf of Marc Schwarz, 54 Wentworth Lane, Bryn Mawr, PA 19010 submitted a Final Report concerning the remediation of site soil contaminated with No. 2 heating oil. The Final Report demonstrated attainment of the Statewide health standard and was approved by the Department on January 21, 2022.

**Tesno Residence**, 2582 Church Lane, Kintenersville, PA 18930, Nockamixon Township, **Bucks County**. Richard Trimpi, PG, Trimpi Associates Inc., 1635 Old Plains Road, Pennsburg, PA 18073 on behalf of Andrea Gluch, State Farm Insurance, P.O. Box, 106169, Atlanta, GA 30348 submitted a Final Report concerning the remediation of site soil and groundwater contaminated with benzene, toluene, ethylbenzene, isopropyl benzene, MTBE, naphthalene, 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 January 21, 2022.

#### DETERMINATION OF APPLICABILITY FOR MUNICIPAL WASTE GENERAL PERMITS

**Determination of Applicability for General Permit Issued Under the Solid Waste Management Act (35 P.S. §§ 6018.101—6018.1003); the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P.S. §§ 4000.101—4000.1904); and 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 No. WMGM055NC003. MAS Wayne RNG, LLC**, 3340 Peachtree Road, NE, Suite 17, Atlanta, GA 30326, Wayne Township, **Clinton County**. This General Permit is for processing prior to beneficial use of Landfill Gas generated by the decomposition of municipal and residential waste for use as an alternative fuel for generators to produce electricity. The Department issued the determination of applicability on January 31, 2022.

Persons interested in reviewing the 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.

**OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE**

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

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

**Permit No. 100955. Clinton County Solid Waste Authority**, P.O. Box 209, 15 Landfill Lane, McElhattan, PA 17748, Wayne Township, **Clinton County**. This is a minor modification to Solid Waste Permit No. 100955 for the operation of Wayne Township Landfill, providing updates to the Operations Plan, Gas Management Plan and PPC Plan. The permit was issued by Northcentral Regional Office on January 31, 2022.

Persons interested in reviewing the 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 18711-0790.*

*Contact: Raymond Kempa, New Source Review Chief—Telephone: 570-826-2531.*

**AG5A-58-00039A: Cotterra Energy**, 2000 Park Lane, Suite 300, Pittsburgh PA 15275, on January 10, 2022 a General Operating Permit GP5A issued for the construction & operation of a Unconventional Natural Gas Well Site at Meyers R 1 Pad located in Lathrop Township, **Susquehanna County**.

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

*Contact: Edward Orris, New Source Review Chief—Telephone: 412-442-4168.*

**GP3-63-01058A: Alex E. Paris Contracting Co., Inc.**, 1595 Smith Township State Road, Atlasburg, PA 15004, on January 27, 2022, for moving the previously

authorized portable Norberg Model # LT105 rock crusher and associated Tier-2 certified 300 bhp Caterpillar Model # C-9 DITA diesel engine to the North Branch Road Fill Site located in Robinson Township, **Washington County**.

**GP11-63-01058A: Alex E. Paris Contracting Co., Inc.**, 1595 Smith Township State Road, Atlasburg, PA 15004, on January 27, 2022, for moving the previously authorized portable Norberg Model # LT105 rock crusher and associated Tier-2 certified 300 bhp Caterpillar Model # C-9 DITA diesel engine to the North Branch Road Fill Site located in Robinson Township, **Washington County**.

**GP1-63-00631A: Columbia Gas Transmission, LLC**, 1700 MacCorkle Avenue, SE, Charleston, WV 25314, on February 1, 2022, for the authorization to install and operate one (1) natural gas fuel Teri indirect fired line heater, Model No. 7500, rated at 13.22 MMBtu/hr; pursuant to the General Plan Approval and/or General Operating Permit for Small Gas and No. 2 Oil-Fired Combustion Units (BAQGPA/GP-1) at the Donegal Compressor Station in Donegal Township, **Washington 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.*

**09-0152E: Gelest, Inc.**, 11 E. Steel Road, Morrisville, PA 19067. On January 27, 2022, for the installation of a new chilled dewar trap (condenser) on an existing source at their facility in Falls Township, **Bucks County**.

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

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

**05-05021D: Creative Pultrusions Inc.**, 214 Industrial Lane, Alum Bank, PA 15521-8304 on February 1, 2022, for additional In-Mold coating (IMC) units for the fiberglass pultrusion operation located in West Saint Clair Township, **Bedford County**.

**Plan Approval Revisions Issued including Extensions, Minor Modifications and Transfers of Ownership under the Air Pollution Control Act (35 P.S. §§ 4001—4015) and 25 Pa. Code §§ 127.13, 127.13a and 127.32.**

*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.*

**67-05107B: Crown Cork & Seal USA, Inc.**, 1650 Broadway, Hanover, PA 17331, on January 31, 2022, for the installation of a new two-piece food can line and RTO control device at the food can manufacturing plant in Penn Township, **York County**. The food can line includes a wash line/dryer and two-piece LSM/bake oven and is

controlled by a regenerative thermal oxidizer and baghouse. The plan approval was extended.

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

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

**49-00067A: Custom Container Solutions, LLC**, 201 North Industrial Road, Milton, PA 17847, on January 20, 2022, was issued an authorization to extend the plan approval expiration date to July 21, 2022, for temporary operation of sources at their facility located in Milton Borough, **Northumberland County**. The plan approval has been extended.

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

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

*Contact: Janine Tulloch-Reid, Facilities Permitting Chief—Telephone: 484-250-5920.*

**46-00060: PA DHS—Norristown State Hospital**, 1001 East Sterigere Street, Norristown, PA 19401, for the renewal of Title V Operating Permit (TVOP) No. 46-0060 for the long-term psychiatric facility located in Norristown Borough, East Norriton Township, and West Norriton Township, **Montgomery County**.

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**Operating Permits for Non-Title V Facilities Issued under the Air Pollution Control Act (35 P.S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.**

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

*Contact: Janine Tulloch-Reid, Facilities Permitting Chief—Telephone: 484-250-5920.*

**15-00138: Aqua Pennsylvania, Inc./Pickering Water Treatment Plant**, 1050 Valley Forge Road, Phoenixville, PA 19460-2657. On January 27, 2022, for operation of seven (7) units of diesel-fired emergency generators and one (1) unit of natural gas-fired boiler at their Pickering facility located in Schuylkill Township, **Chester County**.

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

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

**22-03046: Pennsy Supply, Inc.**, 1001 Paxton Street, P.O. Box 3331, Harrisburg, PA 17105-3331, on January 25, 2022, for the stone crushing operation at the Fiddlers Elbow North Quarry facility located in Lower Swatara Township, **Dauphin County**. The State-Only Permit was renewed.

**36-03005: Intellicor, LLC**, 330 Eden Road, Lancaster, PA 17601-4218, on January 25, 2022, for the commercial printing facility located in Manheim Township, **Lancaster County**. The State-Only permit was renewed.

**67-03041: County Line Quarry, Inc.**, P.O. Box 99, Wrightsville, PA 17368-0099, on January 24, 2022, for the stone crushing and concrete production operations at the County Line Quarry located in Wrightsville Borough, **York County**. The State-Only permit was renewed.

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

*Contact: Matthew Williams, Facilities Permitting Chief—Telephone: 814-332-6940.*

**32-00445: Indiana County Humane Society**, 191 Airport Road, Indiana, PA 15701, on January 25, 2022, the Department issued the initial State-Only Operating Permit of an animal crematory located in White Township, **Indiana County**. The animal crematory was initially authorized through PA 32-445A. In the initial Operating Permit, requirements established through PA 32-445A are incorporated. A requirement on the use of opacity monitoring devices to monitor visible emissions is added. For permitting purposes, the facility operating the animal crematory is Natural Minor.

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**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.**

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

*Contact: Janine Tulloch-Reid, New Source Review Chief—Telephone: 484-250-5920.*

**46-00014: Knoll, Inc.**, 1235 Water Street, East Greenville, PA 18041, located in Upper Hanover Township, **Montgomery County**. Knoll, Inc. is a minor source for Volatile Organic Compound (VOC) emissions and an area source for Hazardous Air Pollutant (HAP) emissions, currently operating under Synthetic Minor Operating Permit No. 46-00014. Administrative Amendment of the State Only Operating Permit is issued under the Air Pollution Control Act (35 P.S. §§ 4001—4015) and 25 Pa. Code § 127.450. The Administrative Amendment incorporates terms and conditions from Plan Approval No. 46-0014G which is for the installation of a new plastic and metal saw (Source ID 413) at the existing facility. The amended permit will include monitoring, recordkeeping, and reporting requirements designed to keep the facility within all applicable air quality requirements.

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**De Minimis Emissions Increases Authorized under 25 Pa. Code § 127.449.**

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*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.*

**31-05019: Texas Eastern Transmission, LP—Entriken Compressor Station**, 5400 Westheimer Court, Houston, TX 77056. Pursuant to 25 Pa. Code § 127.449(i), this *Pennsylvania Bulletin* Notice is for a de minimis emissions increase of approximately 0.53 tpy of VOC resulting from additional piping equipment associated with a seal gas conditioning skid and booster pump for the dry gas seal system on the Titan 250 turbine (ID 034), at the natural gas transmission station located in Todd Township, **Huntingdon County**. This is the first de minimis emissions increase at the facility during the term of the current Operating Permit.

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**Operating Permits Denied, Terminated, Suspended or Revoked under the Air Pollution Control Act (35 P.S. §§ 4001—4015) and 25 Pa. Code §§ 127.431 and 127.461.**

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

*Contact: Matthew Williams, Facilities Permitting Chief—Telephone: 814-332-6940.*

**03-00270: Diversified Production LLC, Clark Compressor Station**, 395 Airport Drive Indiana, PA 15701) on January 13, 2022, the State Only Operating Permit was revoked for the facility located in Kiskiminetas Township, **Armstrong County**. This Permit was revoked because the sources were exempted from plan approval, the actual emissions are less than the permitting thresholds, and therefore, an Operating Permit is not required for the site.

## ACTIONS ON COAL AND NONCOAL APPLICATIONS

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**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).**

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### *Coal, Permits Issued*

*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. 32150102 and NPDES No. PA0279439, Coal Loaders, Inc.**, 210 East Main Street, Ligonier, PA 15658, permit renewal for continued operation and restoration of a bituminous surface mine in West Wheatfield Township, **Indiana County**, affecting 122 acres. Receiving streams: unnamed tributaries to and Blacklick Creek to Conemaugh River, classified for the following uses: CWF, TSF & WWF. Application Received: September 3, 2021. Permit issued: January 27, 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 10210101. Seneca Landfill, Inc.**, P.O. Box 1080, Mars, PA 16046, Commencement, operation, and restoration of a bituminous surface mine located in Jackson and Lancaster Townships, **Butler County**, affecting 65.6 acres. Receiving stream(s): Unnamed tributary to Connoquenessing Creek, classified for the following use: WWF. Application received: January 4, 2021. Permit issued: January 28, 2022.

**GP-104 No. PAM621003. Seneca Landfill, Inc.**, P.O. Box 1080, Mars, PA 16046, Coverage under General NPDES Permit for stormwater discharges (BMP GP-104) associated with mining activities on **Surface Mine Permit No. 10210101** in Jackson and Lancaster Townships, **Butler County**. Receiving stream(s): Unnamed tributary to Connoquenessing Creek, classified for the following use: WWF. Application received: January 4, 2021. Permit issued: January 28, 2022.

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

**Permit No. 40663033 and NPDES Permit No. PA0225231. Jeddo-Highland Coal Company**, 144 Brown Street, Yatesville, PA 18640, renewal of an anthracite surface mine, coal refuse reprocessing and coal refuse disposal operation and NPDES Permit in Butler and Foster Townships, **Luzerne County**, affecting 1,515.0 acres. Receiving streams: Nescopeck Creek, Little Nescopeck Creek and Pond Creek. Application received: February 23, 2021. Renewal issued: January 28, 2022.

**Permit No. 49803202. Reading Anthracite Company**, P.O. Box, 1200, Pottsville, PA 17901, correction of an existing coal refuse reprocessing operation to include biosolids for reclamation in Zerbe Township, **Northumberland County**, affecting 45.0 acres. Receiving stream: Zerbe Run. Application received: May 5, 2021. Correction issued: January 28, 2022.

**Permit No. 54851601. Superior Coal Preparation Co-Op, LLC**, 184 Schwenks Road, Hegins, PA 17838, renewal of an anthracite coal preparation plant operation in Hegins and Hubley Townships, **Schuylkill County**, affecting 19.0 acres. Receiving stream: Pine Creek. Application received: May 4, 2021. Renewal issued: January 28, 2022.

**Permit No. GP12-54851601. Superior Coal Preparation Co-Op, LLC**, 184 Schwenks Road, Hegins, PA 17838, renewal of general operating permit to operate a coal preparation plant on Surface Mining Permit No. 54851601 in Hegins and Hubley Townships, **Schuylkill County**. Application received: May 5, 2021. Coverage renewed: January 28, 2022.

**Permit No. PAM111073. Superior Coal Preparation Co-Op, LLC**, 184 Schwenks Road, Hegins, PA 17838, renew coverage under the General NPDES Permit for Stormwater Discharges Associated with Mining Activities (BMP-GP-104) on Surface Mining Permit No. 54851601 in Hegins and Hubley Townships, **Schuylkill County**, receiving stream: Pine Creek. Application received: May 5, 2021. Coverage issued: January 28, 2022.

### *Noncoal Permits Issued*

*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).*

**Permit No. 10960304 and NPDES No. PA0227218. Allegheny Mineral Corp.**, P.O. Box 1022, Kittanning, PA 16201, Renewal of NPDES Permit No. PA0227218 in Washington Township, **Butler County**, affecting 544.6 acres. Receiving stream(s): Unnamed tributaries of South Branch Slippery Rock Creek, classified for the following use: CWF. Application received: September 20, 2022. Permit issued: January 19, 2022.

**Permit No. 10210302. Three Rivers Aggregates, LLC**, 321 Currie Road, Slippery Rock, PA 16057, Commencement, operation, and restoration of a large industrial minerals surface mine in Worth Township, **Butler County**, affecting 42.4 acres. Receiving stream(s): Unnamed tributaries to Black Run, classified for the following use: CWF. Application received: April 26, 2021. Permit issued: January 26, 2022.

**GP-104 No. PAM621006. Three Rivers Aggregates, LLC**, 321 Currie Road, Slippery Rock, PA 16057, Coverage under General NPDES Permit for stormwater discharges (BMP GP-104) associated with mining activities on **Surface Mining Permit No. 10210302** in Worth Township, **Butler County**. Receiving stream(s): Unnamed tributaries to Black Run, classified for the following use: CWF. Application received: April 26, 2021. Permit issued: January 26, 2022.

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

**NPDES Permit No. PA0225282 (Mining Permit No. 7873SM1). Penn Big Bed Slate Co., Inc.**, 10096 Sandmeyer Lane, Philadelphia, PA 190116, renewal of NPDES Permit and relocation of the NPDES Point on a quarry operation in Washington Township, **Lehigh County**. Receiving stream: unnamed tributary to Trout Creek. Application received: June 23, 2020. Renewal issued: January 28, 2022.

**Permit No. PAM121029. Douglas G. Kilmer**, 205 Elk Manor Estates, Clifford Township, PA 18470, coverage under the General NPDES Stormwater Permit for stormwater discharges associated with mining activities (BMP-GP-104) on Surface Mining Permit No. 58122514 in Harford Township, **Susquehanna County**, receiving stream: Nine Partners Creek. Application received: June 14, 2021. Coverage issued: January 31, 2022.

**Permit No. PAM121030. Adam Wilber**, 22 Imex Drive, Hallstead, PA 18822, coverage under the General NPDES Stormwater Permit for stormwater discharges associated with mining activities (BMP-GP-104) on Surface Mining Permit No. 58132509 in Liberty Township, **Susquehanna County**, receiving stream: unnamed tributary to Dubois Creek. Application received: June 14, 2022. Coverage issued: January 31, 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. 06224101. Maine Drilling & Blasting, Inc.**, P.O. Box 1140, Gardiner, ME 04345, construction blasting for Berks 183 Warehouse in Upper Tulpehocken Township, **Berks County** with an expiration date of January 10, 2023. Permit issued: January 21, 2022.

**Permit 36214103. Abel Construction Co., Inc.**, 3925 Columbia Avenue, Mountville, PA 17554, construction blasting for Lime Spring Village in East Hempfield

Township, **Lancaster County** with an expiration date of January 13, 2023. Permit issued: January 21, 2022.

**Permit No. 38224101. Maine Drilling & Blasting, Inc.**, P.O. Box 1140, Gardiner, ME 04345, construction blasting for Lebanon County Department of Emergency Services in North Cornwall Township, **Lebanon County** with an expiration date of January 6, 2023. Permit issued: January 24, 2022.

**Permit No. 40224102. Maine Drilling & Blasting, Inc.**, P.O. Box 1140, Gardiner, ME 04345, construction blasting for Humboldt Industrial Park Lot 57B in Hazle Township, **Luzerne County** with an expiration date of January 14, 2023. Permit issued: January 25, 2022.

**Permit No. 22224101. M & J Explosives, LLC**, 104 East Main Street, Carlisle, PA 17015, construction blasting for Saturday's Market Warehouse in Londonderry Township, **Dauphin County** with an expiration date of January 11, 2023. Permit issued: January 26, 2022.

**Permit No. 38224102. Keystone Blasting Service**, 15 Hopeland Road, Lititz, PA 17543, construction blasting for Pumping Station Run 111 in North Londonderry Township, **Lebanon County** with an expiration date of February 28, 2022. Permit issued: January 26, 2022.

**Permit No. 40224101. Maine Drilling & Blasting, Inc.**, P.O. Box 1140, Gardiner, ME 04345, construction blasting for Humboldt Industrial Park Lot 57A in Ashley Borough, **Luzerne County** with an expiration date of January 14, 2023. Permit issued: January 26, 2022.

**Permit No. 35224101. Maine Drilling & Blasting, Inc.**, P.O. Box 1140, Gardiner, ME 04345, construction blasting for Project Thunder in Olyphant Borough, **Lackawanna County** with an expiration date of January 17, 2023. Permit issued: January 31, 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.**

*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. E5101220-024, Morris Iron and Steel Company, Inc., 7777 State Road, Philadelphia, PA 19136, City of Philadelphia, Philadelphia County, ACOE Philadelphia District.**

To perform the following-listed water obstruction and encroachment activities associated with the Morris Iron and Steel project. The proposed project involves the rehabilitation of 2,400 linear feet of cellular bulkhead by installing a sheet pile wall in and along the Delaware River (WWF). The project proposes 0.26-acre permanent stream impacts. There are no impacts in wetlands.

The site is approximately located at 7777 State Road, Philadelphia (Philadelphia, PA, Latitude: 39° 57' 25"; Longitude: -75° 07' 26") in the City of Philadelphia, Philadelphia County. Permit issued January 24, 2022.

*Southcentral Region: Waterways & Wetlands Program, 909 Elmerton Avenue, Harrisburg, PA 17101.*

**E2103221-001. Hampden Township, 209 South Sporting Hill Road, Mechanicsburg, PA 17050, Hampden Township, Cumberland County, ACOE Baltimore District.**

To construct and maintain a 15-vehicle gravel/asphalt parking area, a 20.0-foot by 40.0-foot pavilion with ADA accessible restrooms including associated waterline and sewerline, an 8.0-foot wide walking trail loop, and an improved 10.0-foot wide boat ramp, all totaling 0.58 acre of impacts in the floodway and floodplain of Conodoguinet Creek (WWF) and 10 linear feet of impact to Conodoguinet Creek (WWF). The purpose of the project is to provide upgrades to Srouji Park, located along Good Hope Road in Hampden Township, Cumberland County (Latitude: 40.2435; Longitude: -76.9703). The permit was issued on January 26, 2022.

*Northcentral Region: Waterways & Wetlands Program, 208 West Third Street, Williamsport, PA 17701, 570-327-3636.*

**E1404221-006: Haines Township, P.O. Box 244, Aaronsburg, PA 16820. Ingleby Road Culverts, Haines Township, Centre County, U.S. Army Corps of Engineers Baltimore District (Coburn Quadrangle; 40° 51' 32.3744" N, 77° 25' 29.4268" W).**

The applicant is authorized to construct and maintain nine culvert installations within the floodway of High Valley Run (HQ-CWF). The purpose and need of this project is to increase the safety of the traveling public on Ingleby Road. The project proposes .03 acre of permanent direct floodway impacts.

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

**E0306121-002, PADOT, Engineering District 10-0, 2550 Oakland Avenue, Indiana, PA 15701. SR 0422, Section 19B—Margaret Road Intersection Project, in Plumcreek Township, Armstrong County, ACOE Pittsburgh District (Whitesburg, PA Quadrangle N: 40°, 43', 32.73"; W: 79°, 23', 1.23").**

Removing the existing structure and construct and maintain a two-span steel girder bridge on integral abutments over Cherry Run having spans of 176'-0" and 150'-0", an underclearance of 60'-0", and an out-to-out width of 56'-0" (Whitesburg, PA Quadrangle N: 40°, 43', 32.50"; W: 79°, 22', 57.50"); and to construct and maintain a 236-ft long precast concrete box stream enclosure having a span of 17'-0" and a rise of 7'-0" (6'-0" effective with baffles) over Cherry Run (Whitesburg, PA Quadrangle N: 40°, 43', 38.72"; W: 79°, 23', 13.78"); along with associated fills and stream realignments as indicated on the approved plans, for the purpose of a roadway safety improvement project to realign the existing SR 0422, Section 19B corridor in Plumcreek Township, Armstrong County resulting in a total of 1446-ft of perennial stream impacts & 1118-ft of intermittent stream impacts and 0.99-ac of permanent wetland impacts and 0.77-ac of temporary wetland impacts. The proposed stream and wetland impacts are to be mitigated by the relocation and restoration of 1608-ft of perennial stream channel and 1316-ft of intermittent stream channel and the construction of 1.31-ac of on-site wetlands.

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

**MB990367-0002. First Pennsylvania Resource, LLC, E. Springfield Road and Dunkard Valley Road, York, PA 17403. East branch Codorus Creek Mitigation Bank Phase 2, Springfield Township, York County, U.S. Army Corps of Engineers Baltimore District (Latitude 39.84956°; Longitude -76.69107°).**

Approval is granted to construct an aquatic resource compensation East Branch Codorus Creek Mitigation Bank Phase 2 site by enhancing, restoring, and conserving waters and lands that currently comprise 38.88 acres consisting of 11,847.6 linear feet of stream and associated floodplains and 1.89 acres of wetlands. The project will generate aquatic resource compensatory mitigation credits within the PA Compensation Service Area Subbasin 07 West upon successfully meeting performance measures and success criteria. The approved credits would be provided in accordance with the terms and conditions of the previously approved permit MB9915-0001. The enhancement and restoration activities vary along the course of the stream depending upon existing conditions and propose to approximately result in the restoration, rehabilitation and/or enhancement of 12,061.59 linear feet of stream and associated floodplains and approximately 9.78 acres of wetlands. Additional upland plantings on approximately 28.91 acres of uplands are proposed to certain areas adjacent to the floodplain.

The results of the work performed under this permit may generate credits that the permittee could utilize

through permittee's Water Obstruction and Encroachment Compensation Operations Permit MB9915-0001, provided the permittee meets the terms and conditions of all applicable permits. The initial credit baseline is set at 10,472.8 watercourse credits and 8.8 palustrine wetland credits.

#### 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 # ESG076321020-00  
Applicant Name CNX Midstream OPR CO, LLC  
Contact Person Carol Phillips  
Address 1000 Consol Energy Drive  
City, State, Zip Canonsburg, PA 15317  
County Washington  
Township(s) Morris  
Receiving Stream(s) and Classification(s) Unnamed Tributaries to Short Creek (TSF); Unnamed Tributaries to Short Creek (TSF)

ESCGP-3 # ESX15-007-0009  
Applicant Name Penn Energy Resources, LLC  
Contact Person Richard M Watson  
Address 1000 Commerce Drive, Park Place One Suite 400  
City, State, Zip Pittsburgh, PA 15275  
County Beaver  
Township(s) New Sewickley  
Receiving Stream(s) and Classification(s) Pine Run (WWF), UNT to Crows Run (WWF); Crows Run (WWF)

ESCGP-3 # ESG076518004-01  
Applicant Name Olympus Energy, LLC  
Contact Person Brian Dillemath  
Address 501 Technology Drive Suite 1200  
City, State, Zip Canonsburg, PA 15317  
County Westmoreland  
Township(s) Upper Burrell

Receiving Stream(s) and Classification(s) Tributary 42917 to Pine Run (WWF), Tributary 42916 to Pine Run (WWF); Pine Run (WWF)

ESCGP-3 # ESG17-129-0003  
Applicant Name Olympus Energy, LLC  
Contact Person Brian Dillemath  
Address 501 Technology Drive Suite 1200  
City, State, Zip Canonsburg, PA 15317  
County Westmoreland  
Township(s) Washington  
Receiving Stream(s) and Classification(s) UNTs to Thorn Run (HQ-CWF); Thorn Run (HQ-CWF)

ESCGP-3 # ESG073021011-00  
Applicant Name EQM Gathering OPCO, LLC  
Contact Person Gregg West  
Address 2200 Energy Drive  
City, State, Zip Canonsburg, PA 15317  
County Greene  
Township(s) Whiteley  
Receiving Stream(s) and Classification(s) Trib 41290 to Whiteley Creek (TSF), Trib 41289 to Whiteley Creek (TSF), Trib 41283 to Whiteley Creek (TSF), Trib 41282 to Whiteley Creek (TSF), Whiteley Creek (TSF), Dyers Fork (TSF);  
Secondary Receiving Waters: Whiteley Creek (TSF), Monongahela River (WWF)

ESCGP-3 # ESG076321017-00  
Applicant Name Markwest Liberty Midstream & Resources, LLC  
Contact Person Gregory Bezdek  
Address 4600 J Barry Court Suite 500  
City, State, Zip Canonsburg, PA 15317  
County Washington  
Township(s) Smith  
Receiving Stream(s) and Classification(s) Burgetts Fork (WWF), UNT to Burgetts Fork (WWF); Raccoon Creek (WWF)

ESCGP-3 # ESX17-129-0012  
Applicant Name Olympus Energy, LLC  
Contact Person Brian Dillemath  
Address 501 Technology Drive Suite 1200  
City, State, Zip Canonsburg, PA 15317  
County Westmoreland  
Township(s) Penn  
Receiving Stream(s) and Classification(s) UNTs to Bushy Run (TSF); Bushy Run (TSF)

ESCGP-3 # ESG14-125-0008  
Applicant Name Markwest Liberty Midstream & Resources, LLC  
Contact Person Brian Elliot  
Address 4600 J Barry Court Suite 500  
City, State, Zip Canonsburg, PA 15317  
County Washington  
Township(s) Buffalo  
Receiving Stream(s) and Classification(s) UNT to Buffalo Creek (HQ-WWF); Buffalo Creek (HQ-WWF)

ESCGP-3 # ESX17-059-0019  
Applicant Name EQT Production Company  
Contact Person Todd Klaner  
Address 400 Woodcliff Drive  
City, State, Zip Canonsburg, PA 15317  
County Greene  
Township(s) Perry  
Receiving Stream(s) and Classification(s) UNT to Dunkard Creek (WWF), Watkins Run (WWF); Dunkard Creek (WWF)

- ESCGP-3 # ESG073021014-00  
 Applicant Name EQM Gathering Opco, LLC  
 Contact Person Gregg West  
 Address 2200 Energy Drive  
 City, State, Zip Canonsburg, PA 15317  
 County Greene  
 Township(s) Richhill  
 Receiving Stream(s) and Classification(s) UNTs to Polen Run & Polen Run (TSF), UNTs to Whitehorn Run & Whitehorn Run (TSF); Wheeling—Buffalo Creek (TSF)
- ESCGP-3 # ESG17-059-0008  
 Applicant Name EQM Gathering OPCO, LLC  
 Contact Person Gregg West  
 Address 2200 Energy Drive  
 City, State, Zip Canonsburg, PA 15317  
 County Greene  
 Township(s) Wayne  
 Receiving Stream(s) and Classification(s) Turkey Hollow (HQ-WWF), Pursley Creek (HQ-WWF), UNTs to Hargus Creek (HQ-WWF); Pursley Creek (HQ-WWF), South Fork Tenmile Creek (HQ-WWF), Hargus Creek (HQ-WWF)
- ESCGP-3 # ESG18-125-0026  
 Applicant Name EQM Gathering OPCO, LLC  
 Contact Person Gregg West  
 Address 2200 Energy Drive  
 City, State, Zip Canonsburg, PA 15317  
 County Washington  
 Township(s) Amwell & West Bethlehem, Marianna Borough  
 Receiving Stream(s) and Classification(s) UNTs to Little Tenmile Creek, Little Tenmile Creek, Patterson Run, and Tenmile Creek of Tenmile Creek Watershed. The Chapter 93 designatated uses are Trout Stock Fishes (TSF)
- ESCGP-3 # ESX12-125-0101  
 Applicant Name HG Energy II Appalachia, LLC  
 Contact Person Matt McGuire  
 Address 5260 Dupont Road  
 City, State, Zip Parkersburg, WV 26101  
 County Washington  
 Township(s) West Finley  
 Receiving Stream(s) and Classification(s) Three units to Enlow Fork (TSF), Enlow Fork (TSF), Wheeling Creek (WWF)
- ESCGP-3 # ESG073020006-00  
 Applicant Name CNX Gas Company, LLC  
 Contact Person Sarah Weigand  
 Address 1000 Consol Energy Drive  
 City, State, Zip Canonsburg, PA 15317  
 County Greene  
 Township(s) Center  
 Receiving Stream(s) and Classification(s) UNTs to Lightner Run (HQ-WWF); Lightner Run (HQ-WWF)
- ESCGP-3 # ESG076320019-00  
 Applicant Name Range Resources Appalachia LLC  
 Contact Person Karl Matz  
 Address 3000 Town Center Boulevard  
 City, State, Zip Canonsburg, PA 15317  
 County Washington  
 Township(s) Canton  
 Receiving Stream(s) and Classification(s) UNTs to and Georges Run (WWF); Chartiers Creek (WWF)
- ESCGP-3 # ESG076320010-00  
 Applicant Name EQM Gathering OPCO, LLC  
 Contact Person Gregg West  
 Address 2200 Energy Drive  
 City, State, Zip Canonsburg, PA 15317  
 County Washington  
 Township(s) North Bethlehem, West Bethlehem  
 Receiving Stream(s) and Classification(s) UNTs to Daniels Run (TSF); Tenmile Creek (TSF)
- ESCGP-3 # ESG073021007-00  
 Applicant Name EQM Gathering OPCO, LLC  
 Contact Person Gregg West  
 Address 2200 Energy Drive  
 City, State, Zip Canonsburg, PA 15317  
 County Greene  
 Township(s) Franklin & Whiteley  
 Receiving Stream(s) and Classification(s) Patterson Run (TSF), Smith Creek (WWF); Whiteley Creek (TSF), South Fork Tenmile Creek (WWF)  
*Northwest District: Oil & Gas Management Program, 230 Chestnut Street, Meadville, PA 16335-3481.*
- ESCGP-3 # ESX160050006-01  
 Applicant Name Snyder Brothers Inc.  
 Contact Person Mr. Carl Rose  
 Address P.O. Box 1022  
 City, State, Zip Kittaning, PA 16201  
 County Armstrong  
 Township(s) South Buffalo Township  
 Receiving Stream(s) and Classification(s) Tributary 46148 to Hill Run (WWF), Hill Run (WWF), Tributary 46143 to Allegheny River (WWF), Tributary 46139 to Allegheny River (WWF), Allegheny River (WWF)  
 Secondary: Allegheny River (WWF)
- ESCGP-3 # ESG140190041-02—West Pad 55 Major Modification  
 Applicant Name PennEnergy Resources LLC  
 Contact Person Cody Salmon  
 Address 1000 Commerce Drive Ste 400  
 City, State, Zip Pittsburgh, PA 15275  
 County Butler  
 Township(s) Jefferson Township  
 Receiving Stream(s) and Classification(s) Sarver Run (HQ, TSF)  
 Secondary: Little Buffalo Run (HQ, TSF)  
*Southwest District: Oil & Gas Management Program, 400 Waterfront Drive, Pittsburgh, PA 15222, (412) 442-4281.*
- ESCGP-3 # ESG070421004-00—Ferrebee BEA Impoundment  
 Applicant Name Geopetro, LLC  
 Contact Person Andrew Stafford  
 Address 7100 North High Street Ste 303  
 City, State, Zip Worthington, OH 43085-2316  
 County Beaver County  
 Township(s) Ohioville Borough  
 Receiving Stream(s) and Classification(s) Wolf Run (WWF)  
 Secondary: Ohio River (WWF)  
*Eastern District: Oil & Gas Management Program, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448.*
- ESCGP-3 # ESG295921008-00  
 Applicant Name Seneca Resources Co LLC 51 Zents Blvd.  
 Brookville, PA 15825-2701  
 Contact Person Doug Kepler  
 County Tioga  
 Township(s) Chatham and Middlebury  
 Receiving Stream(s) and Classification(s) Losey Creek (WWF, MF), Crooked Creek (WWF, MF)  
 Secondary: Crooked Creek (WWF, MF), Tioga River (WWF, MF)



ESCGP-3 # ESG290821063-00  
 Applicant Name and Address Blackhill Energy LLC  
 4600 J Barry Court Suite 220 Canonsburg, PA 15317  
 Contact Person Eric Reigle  
 County Bradford  
 Township(s) Springfield  
 Receiving Stream(s) and Classification(s) UNT to Mill  
 Creek (TSF, MF)  
 Secondary: Mill Creek (TSF, MF)

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

ESCP No. ESG001021002-00  
 Applicant Name and Address Mountain Gathering LLC  
 190 Thorn Hill Road Warrendale, PA 15086  
 County Butler  
 Municipality Penn Township  
 Receiving Water/Use Thorn Creek CWF Contact Butler  
 County Conservation District 120 Hollywood Drive  
 Suite 201 Butler, PA 16001 724-284-5270

## 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.*

**121 Point Breeze Term, 51-07149**, 6310 Passyunk Ave., Philadelphia, PA 19134, City of Philadelphia, **Philadelphia County**. Groundwater and Environmental Services, 440 Creamery Way, Suite 500, Exton, PA 19341, on behalf of Kinder Morgan Liquids Terminals, LLC, 1 Terminal Road, Carteret, NJ 07008, submitted a Remedial Action Completion Report concerning remediation of soil and groundwater contaminated with unleaded gasoline. The report is intended to document remediation of the site to meet nonresidential Statewide health and site-specific standards.

**Upper Pottsgrove Township, Montgomery County, 46-45263**, 1420 Heather Pl., Pottstown, PA 19464, **Montgomery County**. Reliance Environmental Inc., 235 N Duke St., Lancaster, PA 17602, on behalf of Upper Pottsgrove Township, 1409 Farmington Ave., Pottstown, PA 19464, submitted a Remedial Action Completion Report concerning remediation of soil and groundwater contaminated with unleaded gasoline. The report is intended to document remediation of the site to meet residential Statewide health standards.

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

*Contact: Eric Supey, Environmental Program Manager.*

**Atlantic Oil & Heating Company**, Storage Tank ID # 13-14253, Blakeslee Boulevard, Lehighton, PA 18235, Lehighton Borough, **Carbon County**. MEA, 1365 Ackermanville Road, Bangor, PA 18013, on behalf of Pipeline Petroleum, Inc., P.O. Box 159, Macungie, PA 18062, has submitted a Remedial Action Completion Report concerning remediation of soil and groundwater contaminated with fuel oil. The report is intended to document remediation of the site to meet site-specific standards.

**Allentown Sunoco**, Storage Tank ID # 39-23145, 2255 Lehigh Street, Allentown, PA 18103, Allentown City, **Lehigh County**. Reliance Environmental, 235 North Duke Street, Lancaster, PA 17602, on behalf of HSR, Inc., 101 Parsons Lane, Newtown, PA 18940, submitted a Remedial Action Completion Report concerning remediation of soil contaminated with petroleum. The report is intended to document the remedial actions for meeting the Statewide health standards.

**Sunoco 0363 0233**, Storage Tank ID # 40-24230, 08 South Main Street, Pittston, PA 18640, Pittston City, **Luzerne County**. Groundwater & Environmental Services, 440 Creamery Way, Suite 500, Exton, PA 19341, on behalf of Evergreen Resources Group LLC, 2 Righter Parkway, Suite 120, Wilmington, DE 19803, submitted a Remedial Action Plan concerning remediation of soil and groundwater contaminated with gasoline. The report is intended to document remediation of the site to meet a combination of Site Specific and Statewide health standards.

**Main Street Convenience**, Storage Tank ID # 40-50040, 699 East Main Street, Plymouth, PA 18651, Larksville Borough, **Luzerne County**. MEA, 1365 Ackermanville Road, Bangor, PA 18013, on behalf of Main Street Convenience, LLC, 699 East Main Street, Plymouth, PA 18651, submitted a Remedial Action Completion Report concerning remediation of soil and groundwater contaminated with petroleum. The report is intended to document remediation of the site to meet Statewide health standards.

**Saint Mary's Cemetery Association**, Storage Tank ID # 40-50489, 1594 South Main Street, Wilkes-Barre, PA 18701, Hanover Township, **Luzerne County**. Terraphase Engineering, 1100 East Hector Street, Suite 416, Conshohocken, PA 19428, on behalf of Saint Mary's Cemetery Association, 134 South Washington Street, Wilkes-Barre, PA 18701, has submitted a Remedial Action Completion Report concerning remediation of groundwater contaminated with petroleum. The report is intended to document remediation of the site to meet Statewide health standards.

**Met-Ed Stroudsburg Office**, Storage Tank ID # 45-05507, 231 Independence Road, East Stroudsburg, PA 18301, Smithfield Township, **Monroe County**. Langan Engineering and Environmental Services, 2700 Kelly Road, Warrington, PA 18976, on behalf of FirstEnergy Corporation, 800 Cabin Hill Drive, Greensburg, PA 15601, has submitted a Remedial Action Completion Report concerning remediation of soil and groundwater contaminated with diesel. The report is intended to document remediation of the site to meet Statewide health standards.

*Northcentral Region: Environmental Cleanup & Brownfields Program, 208 West Third Street, Suite 101, Williamsport, PA 17701, 570-327-3636.*

*Contact: Randy Farmerie, P.G., Environmental Program Manager.*

**Rich Oil Company/Rich Tank Lines**, Storage Tank Facility ID # 49-25326, 1072 Point Township Drive, RR1 Route 11, Northumberland, PA 17857, Point Township, **Northumberland County**. Quad Three Group, Inc., 37 N Washington St., Wilkes-Barre, PA 18701, on behalf of Rich Oil Company, 1072 Point Township Drive, Northumberland, PA 17857, submitted a Remedial Action Completion Report concerning remediation of soil contaminated with petroleum. The report is intended to document remediation of the site to meet the nonresidential Statewide health standard.

**Former Acorn Market # 35**, Storage Tank Facility ID # 59-36841, 210 Main Street, Blossburg, PA 16912, Blossburg Borough, **Tioga County**. EnviroTrac, Ltd, 176 Thorn Hill Road, Warrendale, PA 15086, on behalf of United Refining Company, 15 Bradley Street, Warren PA 16365, submitted a Remedial Action Completion Report concerning remediation of soil contaminated with petroleum. The report is intended to document remediation of the site to meet the nonresidential Statewide health standard.

*Northwest Region: Environmental Cleanup & Brownfields Program, 230 Chestnut Street, Meadville, PA 16335-3481, 814-332-6648.*

*Contact: Kim Bontrager, Clerk Typist 3.*

**Harrisville Boro Lift Station**, Storage Tank Facility ID # 10-55574, 555 South Main Street, Harrisville, PA 16038, Borough of Harrisville, **Butler County**. Environmental Remediation & Recovery, Inc., 4250 Route 6N, Edinboro, PA 16412, on behalf of Borough of Harrisville, 117 South Main Street, Harrisville, PA 160385 submitted a Remedial Action Completion Report concerning remediation of soil and groundwater contaminated with diesel fuel constituents. The report is intended to document remediation of the site to meet the 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:

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

*Contact: Eric Supey, Environmental Program Manager.*

**Former Speedway # 6711**, Storage Tank ID # 39-23152, 1518 South Fourth Street, Allentown, PA 18103, Allentown City, **Lehigh County**. EMS Environmental, 4550 Bath Pike, Bethlehem, PA 18017, on behalf of Speedway LLC, 500 Speedway Drive, Enon, OH 45323, submitted a Remedial Action Completion Report concerning remediation of soil and groundwater contaminated with petroleum. The report was not acceptable to meet a combination of Site-Specific and Statewide health standards and was disapproved by DEP on January 27, 2022.

**Fuel Depot Bulk Plant**, Storage Tank ID # 45-29829, 157 North Second Street, Stroudsburg, PA 18360, Stroudsburg Borough, **Monroe County**, MEA, 1365 Ackermanville Road, Bangor, PA 18013, on behalf of Fuel Depot, LLC, P.O. Box 427, Stroudsburg, PA 18360, submitted a combined Remedial Action Plan and Remedial Action Completion Report concerning remediation of soil

and groundwater contaminated with petroleum. The Remedial Action Completion Report demonstrated attainment of a combination of site-specific and Statewide health standards and was approved by DEP on January 28, 2022.

*Northcentral Region: Environmental Cleanup & Brownfields Program, 208 West Third Street, Suite 101, Williamsport, PA 17701, 570-327-3636.*

*Contact: Randy Farmerie, P.G., Environmental Program Manager.*

**Rich Oil Company/Rich Tank Lines**, Storage Tank Facility ID # 49-25326, 1072 Point Township Drive, RR1 Route 11, Northumberland, PA 17857, Point Township, **Northumberland County**. Quad Three Group, Inc., 37 N Washington St., Wilkes-Barre, PA 18701, on behalf of Rich Oil Company, 1072 Point Township Drive, Northumberland, PA 17857, submitted a Remedial Action Completion Report concerning remediation of soil contaminated with petroleum. The Remedial Action Completion Report did not demonstrate attainment of the Statewide health standard and was disapproved by DEP on January 31, 2022.

*Northwest Region: Environmental Cleanup & Brownfields Program, 230 Chestnut Street, Meadville, PA 16335-3481, 814-332-6648.*

*Contact: Kim Bontrager, Clerk Typist 3.*

**D. Gresko Holdings**, Storage Tank Facility ID # 32-15586, 19859 State Route 286 West, Saltsburg, PA 15681, Conemaugh Township, **Indiana County**. Cribbs & Associates, Inc., P.O. Box 44, Delmont, PA 15626, on behalf of D. Gresko Holdings, 19859 State Route 286 West, Saltsburg, PA 15681, submitted a Remedial Action Completion Report concerning remediation of groundwater contaminated with benzene and 1,2,4-trimethylbenzene (1,2,4-TMB). The Remedial Action Completion Report demonstrated attainment of the Statewide health standard and was approved by DEP on January 27, 2022.

**Sheetz 75R**, Storage Tank Facility ID 10-91749, 107 Franklin Street, Slippery Rock, PA 16057, Slippery Rock Borough, **Butler County**. Envirotrac Ltd., 176 Thorn Hill Road, Warrendale, PA 16365, on behalf of Sheetz, Inc., 351 Sheetz Way, Claysburg, PA 16625 submitted a Remedial Action Completion Report concerning remediation of soil and groundwater contaminated with petroleum constituents. The Remedial Action Completion Report did not demonstrate attainment of the Site-Specific and Statewide health standards and was disapproved by DEP on January 28, 2022.

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## SPECIAL NOTICES

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### WATER PROGRAMS

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#### Erosion and Sediment Control.

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*Regional Permit Coordination Office: 400 Market Street, Harrisburg, PA 17101, Email: RA-EPREGIONALPERMIT@pa.gov.*

**ESG830421001.** The Department of Environmental Protection (Department) provides notice of final action regarding the following Chapter 102, Erosion and Sediment Control Permit Application related to Earth Disturbance Associated with Oil and Gas Exploration, Production, Processing or Treatment Operations or Transmission Facilities.

LN-25/LN-35 Pipeline Replacement Project located in Big Beaver Borough, **Beaver County**.

Permit No.	Applicant Name & Address	Counties	DEP Office
ESG830421001	Eastern Gas Transmission & Storage, Inc. 925 White Oaks Boulevard Bridgeport, WV 26330	Beaver County	Regional Permit Coordination Office

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). You should promptly consult with a lawyer on the steps to take if you wish to challenge this action and to best protect your interests. Important legal rights are at stake. You should show this document to a lawyer at once.

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#### Application for National Pollutant Discharge Elimination System (NPDES) Permit for Discharges of Stormwater Associated with Construction Activities.

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*Northwest Region: Waterways & Wetlands Program, 230 Chestnut Street, Meadville, PA 16335, 814.332.6945.*

The Department of Environmental Protection (DEP) has received the following applications for an Individual NPDES Permit from the applicants named below to authorize discharges of stormwater associated with construction activities from the project sites named below to surface waters of the Commonwealth.

**PAD240011, Ryan Vollmer, R.C. Realty, LLC**, 1067 Trout Run Road, St. Marys, PA 15857. Project Site Name: Autumn Court Subdivision, Oak Street and S.R. 948, Kersey, PA 15846, Fox Township, **Elk County**. Total Earth Disturbance Area: 38.16 acres. Surface Waters Receiving Stormwater Discharges: Byrnes Run (EV).

**Project Description:** The proposed project seeks to develop approximately 38.16 acres of agricultural and brush/meadow landcovers into a residential subdivision consisting of eleven (11) lots. Stormwater runoff will be mitigated through the use of seven (7) vegetated swales. Water quality will be preserved through the use of these BMPs as well. Project site is tributary to Byrnes Run (EV).

The DEP has made a tentative decision to deny the application for the Individual NPDES Permit. Interested persons may submit written comments to DEP at the address above for DEP's consideration in taking a final action on the permit application. You may also review the permit application file by contacting DEP's File Review Coordinator at 814.332.6945.

**NPDES Permit No. PAD250013, Erie Solar, LLC**, 3402 Pico Boulevard, Santa Monica, CA 90405. Project Site Name: Erie Solar, West Ridge Road/US Highway 20, Girard, PA 16417, Girard Township, **Erie County**. Total Earth Disturbance Area: 169.38 acres. Surface Waters Receiving Stormwater Discharges: Godfrey Run (HQ, CWF).

**Project Description:** This project proposes the installation of a  $\pm 20$  MW ground-mounted principal solar energy system across 1 parcel that is comprised of a total of  $\pm 250$  acres. This project includes the construction of an SES (solar energy system) with associated solar arrays, access roads, and other necessary improvements to the site.

The DEP has made a tentative decision to deny the application for the Individual NPDES Permit. Interested persons may submit written comments to DEP at the previously listed address for DEP's consideration in taking a final action on the permit application. You may also review the permit application file by contacting DEP's File Review Coordinator at 814.332.6945.

[Pa.B. Doc. No. 22-238. Filed for public inspection February 11, 2022, 9:00 a.m.]

## DEPARTMENT OF ENVIRONMENTAL PROTECTION

### Interstate Pollution Transport Reduction; Proposed 2022 Ozone Season Nitrogen Oxide Emission Limits for Nonelectric Generating Units

The Department of Environmental Protection (Department) is providing notice and an opportunity for public comment on the proposed Nonelectric Generating Unit (non-EGU) 2022 Ozone Season (OS) Nitrogen Oxide (NO<sub>x</sub>) emission limitations established under 25 Pa. Code § 145.8(d) (relating to transition to CAIR NO<sub>x</sub> trading programs). The 17-day public comment period will close on February 28, 2022.

Specifically, 25 Pa. Code § 145.8(d) establishes a non-EGU NO<sub>x</sub> Trading Program budget of 3,619 tons of NO<sub>x</sub>, less a specified adjustment amount, to serve as a Statewide OS NO<sub>x</sub> emissions cap for new and existing non-EGUs. The Statewide OS NO<sub>x</sub> emissions cap is 3,438 tons, with an adjustment amount of 181 tons. This emissions cap also applies to EGUs subject to the NO<sub>x</sub> Budget Trading Program, but which are not subject to the Clean Air Interstate Rule (CAIR) (70 FR 25162 (May 12, 2005)) or its replacement, the United States Environmental Protection Agency (EPA) administered Cross-State Air Pollution Rule (CSAPR) (76 FR 48208 (August 8, 2011)). If the total emissions from all the units exceed the Statewide NO<sub>x</sub> emissions cap of 3,438 tons, the owners and operators of non-EGUs must comply with the NO<sub>x</sub> emission limitations established under 25 Pa. Code § 145.8(d). The proposed NO<sub>x</sub> emissions limitations for individual units ensure that non-EGUs in this Commonwealth continue to meet the emission limits of the NO<sub>x</sub> Budget Trading Program. The difference between the calculated total OS NO<sub>x</sub> limit for all units in the following Table 1 and the total NO<sub>x</sub> limit of 3,438 tons is due to rounding when calculating the NO<sub>x</sub> limit for each individual unit.

Owners and operators of affected non-EGUs reported NO<sub>x</sub> emissions of 662 tons to the EPA for the 2021 OS (May through September), and the Statewide cap for 2021

was not exceeded. Therefore, non-EGUs do not need to purchase allowances to meet their 2021 OS NO<sub>x</sub> emission limitations established under 25 Pa. Code § 145.8(d). The Department's permanent retirement of 3,438 NO<sub>x</sub> allowances under 25 Pa. Code § 145.8(b) covers all the NO<sub>x</sub> emissions from the affected non-EGUs in 2021.

In addition to the 3,438-ton non-EGU cap previously described, 25 Pa. Code § 145.8(d)(12) provides 181 tons of NO<sub>x</sub> emissions annually for non-EGUs and the other units that need to address their emissions through accounting adjustments, including units that previously participated in the NO<sub>x</sub> Budget Trading Program. The Department may use a portion of the 181 tons of the budgeted NO<sub>x</sub> emissions, if necessary, to address mistakes or miscalculations. This year, the Department is not proposing to use any of the 181 tons of NO<sub>x</sub> for accounting adjustments or to make corrections.

The following "Proposed Non-EGU 2022 Ozone Season NO<sub>x</sub> Emission Limits" table lists the following: the 'facility name,' 'ORIS code,' the 'unit ID' for each non-EGU unit, the '2021 NO<sub>x</sub> mass' or the 2021 Ozone Season emissions, the '2021 heat input' for the 2021 OS, the 'county' location of the facility, the calculated '2022 rate,' and the '2022 OS limit.'

Interested persons may submit written comments on the proposed non-EGU 2022 Ozone Season NO<sub>x</sub> Emission Limits through Monday, February 28, 2022. 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](http://www.ahs.dep.pa.gov/eComment) or by e-mail to [ecomment@pa.gov](mailto:ecomment@pa.gov). Written comments can be mailed to the Policy Office, Department of Environmental Protection, Rachel Carson State Office Building, P.O. Box 2063, Harrisburg, PA 17105-2063. Use "Proposed non-EGU 2022 Ozone Season NO<sub>x</sub> emission limits" as the subject line in written communication.

Questions concerning this notice should be directed to Randy Bordner at [ranbordner@pa.gov](mailto:ranbordner@pa.gov) or (717) 772-3921. TDD users may contact the Pennsylvania Hamilton Relay Service at (800) 654-5984 to discuss how the Department can best accommodate their needs.

Table 1: Proposed Non-EGU 2022 Ozone Season NO<sub>x</sub> Emission Limits

<i>Facility Name</i>	<i>ORIS Code</i>	<i>Unit Id</i>	<i>2021 NO<sub>x</sub> Mass (tons)</i>	<i>Heat Input MMBtu</i>	<i>County</i>	<i>2022 Rate (lbs/MMBtu)</i>	<i>2022 OS Limit (tons NO<sub>x</sub>)</i>
AdvanSix Resins & Chemicals, LLC	880007	52	31.705	894,491.6	Philadelphia	0.32	143
Armagh Compressor Station	880071	31301	0	0	Indiana	0.32	0
Bernville Station	880049	32001	0	0	Berks	0.32	0
Domtar Paper Company, LLC	54638	40	14.605	631,223	Elk	0.32	101
Domtar Paper Company, LLC	54638	41	14.913	646,702	Elk	0.32	103
Entriken Compressor Station	880072	31601	0	0	Huntingdon	0.32	0
Merck & Company—West Point	52149	39	12.331	291,928.2	Montgomery	0.32	47
Merck & Company—West Point	52149	40	18.236	1,377,497	Montgomery	0.32	220
Philadelphia Refinery	52106	150137	2.284	153,273.6	Philadelphia	0.32	24
Pixelle Specialty Solutions	50397	36	145.775	1,267,773	York	0.32	202
Pixelle Specialty Solutions	50397	38	7.549	530,254.1	York	0.32	85
Pixelle Specialty Solutions	50397	39	10.207	765,179.2	Wyoming	0.32	122
Procter & Gamble Paper Products	50463	328001	104.435	1,980,857	Wyoming	0.32	316
Procter & Gamble Paper Products	50463	328002	7.919	1,815,738	Wyoming	0.32	290
SPMT Marcus Hook Industrial Complex	880107	AB01	4.811	374,482	Delaware	0.32	60
SPMT Marcus Hook Industrial Complex	880107	AB03	6.592	559,437.4	Delaware	0.32	89
SPMT Marcus Hook Industrial Complex	880107	AB04	3.853	463,317.4	Delaware	0.32	74
Shermans Dale Station	880050	31801	0	0	Perry	0.32	0
Trainer Refinery	880025	34	1.444	570,385.4	Delaware	0.32	91
Trainer Refinery	880025	35	1.471	549,077.3	Delaware	0.32	88
Trainer Refinery	880025	53	1.73	903,600.1	Delaware	0.32	144
US Steel (Clairton Coke)	50729	CLBLR1	155.912	1,621,414	Allegheny	0.32	259
US Steel (Clairton Coke)	50729	CLBLR2	60.158	860,142.3	Allegheny	0.32	137
US Steel (Edgar Thomson)	50732	ETBLR1	12.017	1,598,831	Allegheny	0.32	255
US Steel (Edgar Thomson)	50732	ETBLR2	15.226	1,590,993	Allegheny	0.32	254
US Steel (Edgar Thomson)	50732	ETBLR3	13.01	1,560,627	Allegheny	0.32	249
Veolia Energy Philadelphia—Edison Station	880006	1	0	0	Philadelphia	0.32	0
Veolia Energy Philadelphia—Edison Station	880006	2	0	0	Philadelphia	0.32	0
Veolia Energy Philadelphia—Edison Station	880006	3	0.505	3,740.7	Philadelphia	0.32	1
Veolia Energy Philadelphia—Edison Station	880006	4	1.272	6,923.6	Philadelphia	0.32	1
Veolia Energy Philadelphia—Schuylkill	50607	23	0	0	Philadelphia	0.32	0
Veolia Energy Philadelphia—Schuylkill	50607	24	0	0	Philadelphia	0.32	0
Veolia Energy Philadelphia—Schuylkill	50607	26	13.063	379,670.8	Philadelphia	0.32	61
Veolia Energy Philadelphia—Schuylkill	50607	RSB1	0.387	76,746.01	Philadelphia	0.32	12

<i>Facility Name</i>	<i>ORIS Code</i>	<i>Unit Id</i>	<i>2021 NO<sub>x</sub> Mass (tons)</i>	<i>Heat Input MMBtu</i>	<i>County</i>	<i>2022 Rate (lbs/ MMBtu)</i>	<i>2022 OS Limit (tons NO<sub>x</sub>)</i>
Veolia Energy Philadelphia—Schuylkill	50607	RSB2	0.242	53,805.69	Philadelphia	0.32	9
<i>Totals:</i>			661.652	21,528,110		3,437	

PATRICK McDONNELL,  
Secretary

[Pa.B. Doc. No. 22-239. Filed for public inspection February 11, 2022, 9:00 a.m.]

## DEPARTMENT OF HEALTH

### Ambulatory Surgical Facilities; Requests for Exceptions

The following ambulatory surgical facilities (ASF) have filed requests for exceptions under 28 Pa. Code § 51.33 (relating to requests for exceptions) with the Department of Health (Department), which has authority to license ASFs under the Health Care Facilities Act (35 P.S. §§ 448.101—448.904b). The following requests for exceptions relate to regulations governing ASF licensure in 28 Pa. Code Chapters 51 and 551—571 (relating to general information; and ambulatory surgical facilities).

<i>Facility Name</i>	<i>Regulation and relating to</i>
Greater Pittsburgh Surgery Washington	28 Pa. Code § 569.35(7) (relating to general safety precautions)
Physician's Care Surgery Center	28 Pa. Code § 551.21(d)(1) (relating to criteria for ambulatory surgery)

These previously listed requests are on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, ra-paexcept@pa.gov. Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division at the previously listed address. Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980, or for speech and/or hearing-impaired persons, call the Pennsylvania Hamilton Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

KEARA KLINEPETER, MSHCPM,  
Acting Secretary

[Pa.B. Doc. No. 22-240. Filed for public inspection February 11, 2022, 9:00 a.m.]

## DEPARTMENT OF HEALTH

### Hospitals; Requests for Exceptions

The following hospitals have filed requests for exceptions under 28 Pa. Code § 51.33 (relating to requests for exceptions) with the Department of Health (Department), which has authority to license hospitals under the Health Care Facilities Act (35 P.S. §§ 448.101—448.904b). The following requests for exceptions relate to regulations governing hospital licensure in 28 Pa. Code Chapters 51 and 101—158 (relating to general information; and general and special hospitals).

<i>Facility Name</i>	<i>Regulation and relating to</i>
Geisinger Saint Luke's Hospital	28 Pa. Code § 107.62(a) and (b) (relating to oral orders)
	28 Pa. Code § 127.32 (relating to written orders)
Saint Luke's Hospital of Bethlehem, PA	28 Pa. Code § 109.2(b) (relating to director of nursing services)
Saint Luke's Hospital—Carbon Campus	28 Pa. Code § 109.2(b)
	28 Pa. Code § 123.25(2) (relating to regulations for control of anesthetic explosion hazards)

<i>Facility Name</i>	<i>Regulation and relating to</i>
Saint Luke's Hospital—Miners Campus	28 Pa. Code § 109.2(b)
UPMC Cole	28 Pa. Code § 107.61 (relating to written orders)

The following hospitals have filed requests for exceptions under 28 Pa. Code § 153.1 (relating to minimum standards). Requests for exceptions under this section relate to minimum standards that hospitals must comply with under the *Guidelines for Design and Construction of Hospitals and Outpatient Facilities—2014 Edition*, or *Guidelines for Design and Construction of Hospitals—2018 Edition*, *Guidelines for Design and Construction of Outpatient Facilities—2018 Edition*. The following list includes the citation to the section under the *Guidelines* that the hospital is seeking an exception.

<i>Facility Name</i>	<i>FGI Guidelines Section and relating to</i>	<i>Yr<sup>1</sup></i>
Crozer-Chester Medical Center	2.1-2.4.3.1(3) general	18
	2.1-7.2.2.3(2)(a)(i) doors and door hardware	18
	2.1-7.2.2.10(1) handrails	18
	2.5-2.2.1.2 general	18
	2.5-2.2.8.13(1) and (5) equipment and supply storage	18
	2.5-2.2.8.16(1) consultation room(s)	18
	2.5-2.2.8.17 conference room	18
	2.5-2.2.8.18 space for group therapy	18
	2.5-2.2.10.5 visitor storage facilities	18
	2.5-2.4.2.1(2) space requirements	18
The Milton S. Hershey Medical Center	2.5-2.4.10.1 social spaces	18
	2.5-2.4.10.2 bathing facilities	18
	2.1-3.2.1.2(2)(b)(i) single-patient examination/observation room	18-O
Penn Highlands Dubois	2.1-3.2.1.2(2)(a)(i) single-patient examination/observation room	18-O
	2.1-3.8.8.2(1)(a) work areas for preparing, dispensing and administering medications	18-O
	2.1-3.8.11.3 clean supply room	18-O
	2.1-7.2.2.3(2)(a) doors and door hardware	18-O
	2.1-8.3.6 electrical receptacles	18-O
	2.1-8.4.3.2(2) hand-washing station sinks	18-O
	2.6-3.1.2.1(1) area	18-O
UPMC Passavant	2.2-3.4.2.2(2)(a) space requirements	18

<sup>1</sup> 2018 Year FGI Regulations for Outpatient Facilities are indicated by “-O.”

The previously listed requests are on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, ra-paexcept@pa.gov. Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division at the previously listed address. Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980, for speech and/or hearing impaired persons V/TT (717) 783-6154, or for speech and/or hearing impaired persons, call the Pennsylvania Hamilton Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

KEARA KLINEPETER, MSHCPM,  
Acting Secretary

[Pa.B. Doc. No. 22-241. Filed for public inspection February 11, 2022, 9:00 a.m.]

## DEPARTMENT OF HEALTH

### Long-Term Care Nursing Facilities; Requests for Exception

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 201.22(d), (e) and (j) (relating to prevention, control and surveillance of tuberculosis (TB)):

Berks Heim Nursing and Rehabilitation  
1011 Berks Road  
Leesport, PA 19533  
FAC ID # 021202

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 201.22(e):

Mountain Laurel Healthcare and Rehabilitation Center  
700 Leonard Street  
Clearfield, PA 16830  
FAC ID # 032702

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 201.22(h):

Bradford County Manor  
15900 Route 6  
Troy, PA 16947  
FAC ID # 022302

The following long-term care nursing facilities are seeking exceptions to 28 Pa. Code § 201.22(j):

ProMedica Skilled Nursing and Rehabilitation (Oxford Valley)  
1480 Oxford Valley Road  
Yardley, PA 19067  
FAC ID # 125802

The Glen at Willow Valley  
675 Willow Valley Square  
Lancaster, PA 17602  
FAC ID # 077902

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 205.6(a) (relating to function of building):

Monumental Post-Acute Care at Woodside Park  
4001 Ford Road  
Philadelphia, PA 19131  
FAC ID # 041402

These requests are on file with the Department of Health (Department). Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Nursing Care Facilities, Room 526, Health and Welfare Building, Harrisburg, PA 17120, (717) 787-1816, fax (717) 772-2163, ra-paexcept@pa.gov.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division at the previously listed address.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of the request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone number, or for speech and/or

hearing-impaired persons, call the Pennsylvania Hamilton Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

KEARA KLINEPETER, MSHCPM,  
*Acting Secretary*

[Pa.B. Doc. No. 22-242. Filed for public inspection February 11, 2022, 9:00 a.m.]

## DEPARTMENT OF HUMAN SERVICES

### Availability of Renewals of the Office of Developmental Programs' Consolidated, Person/Family Directed Support and Community Living Waivers

The Department of Human Services (Department) is making available for public review and comment the Office of Developmental Programs' proposed renewals of the Consolidated, Community Living and Person/Family Directed Support (P/FDS) Waivers.

#### *Background*

Home and community-based waivers permitted under section 1915(c) of the Social Security Act (42 U.S.C.A. § 1396n(c)) are approved by the Centers for Medicare & Medicaid Services (CMS) for a 5-year renewal period. The current Consolidated, Community Living and P/FDS Waivers expire on June 30, 2022; therefore, the proposed renewals of the waivers are to be submitted to CMS no later than April 1, 2022.

In the request for the renewals of the Consolidated, Community Living and P/FDS Waivers the Department proposes the following substantive changes effective July 1, 2022:

- Assure effective communication by waiver participants by clarifying the activities that can be performed under the communication specialist service, increasing the amount of communication specialist services that waiver participants can receive each year and requiring the communication specialist to successfully complete training provided by the Office of Developmental Programs.
- Promote competitive integrated employment by increasing the amount of benefits counseling services that waiver participants can receive each year, expanding companion to support additional waiver participants at their place of employment and allowing supported employment services to support waiver participants during work-related trips.
- Encourage self-direction, choice and control by expanding options for participant directed goods and services and music, art and equine assisted therapy, creating a separate and distinct waiver service for remote supports and clarifying the purpose of the supports broker service.
- Support people with complex needs by allowing life sharing to be rendered in homes owned by the provider of life sharing services.
- Promote health, wellness and safety by expanding the specialized supplies service to cover personal protective equipment, adding provider qualification requirements for residential habilitation, life sharing and supported living providers and allowing the continuation of remote monitoring of waiver participants by supports coordinators.



- Develop and support qualified staff by adding recertification requirements for supports brokers and clarifying experience and education requirements for supports coordinators and supports coordinator supervisors.

#### *Fiscal Impact*

It is anticipated that there will be no fiscal impact to the Commonwealth in Fiscal Year 2022-2023 and subsequent years.

#### *Public Comment*

The proposed renewals of the Consolidated, Community Living and P/FDS Waivers are available at <https://dhs.pa.gov/Services/Disabilities-Aging/Pages/July-2022-ID-A-Waiver-Renewals-Public-Comment.aspx>.

Interested persons are invited to submit written comments regarding the proposed waiver renewals. Comments should be addressed to Julie Mochon, Department of Human Services, Office of Developmental Programs, 625 Forster Street, Room 510, Harrisburg, PA 17120. Comments may also be submitted to the Department at [RA-odpcomment@pa.gov](mailto:RA-odpcomment@pa.gov) using subject header "Waiver Renewal Comments."

Comments received within 30 days of publication of this notice will be reviewed and considered for revisions to the proposed waiver renewals.

The Department will also hold two webinars to receive comments on the proposed waiver renewals. The dates, times and links for registration to attend the webinars are as follows:

March 1, 2022  
2 p.m. to 3:30 p.m.  
<https://attendee.gotowebinar.com/register/3855221339495759631>

March 4, 2022  
10 a.m. to 11:30 a.m.  
<https://attendee.gotowebinar.com/register/9071748704362734348>

Participants who are interested in participating in the webinars may do so by phone, but will need a computer to provide comments during the webinars. To assist the Department in accurately capturing comments provided during the webinars, individuals are asked to submit a written copy of their comments by e-mail or mail to the previously listed address.

Persons with a disability who require an auxiliary aid or service may submit comments using the Pennsylvania Hamilton Relay Service by dialing 711 or by using one of the toll-free numbers: (800) 654-5984 (TDD users), (800) 654-5988 (voice users), (844) 308-9292 (Speech-to-Speech) or (844) 308-9291 (Spanish).

Copies of this notice and documents containing the changes proposed in the waiver renewals may be obtained by contacting Julie Mochon, Office of Developmental Programs, 625 Forster Street, Room 510, Harrisburg, PA 17120, [RA-odpcomment@pa.gov](mailto:RA-odpcomment@pa.gov).

MEG SNEAD,  
*Acting Secretary*

**Fiscal Note:** 14-NOT-1494. No fiscal impact; (8) recommends adoption.

[Pa.B. Doc. No. 22-243. Filed for public inspection February 11, 2022, 9:00 a.m.]

## DEPARTMENT OF HUMAN SERVICES

### Disproportionate Share Hospital Payments to Qualifying Hospitals

The Department of Human Services (Department) is announcing its intent to allocate funds for Fiscal Year (FY) 2021-2022 disproportionate share hospital (DSH) payments to qualifying acute care general hospitals that serve the indigent population of cities in this Commonwealth with an average per capita income significantly below the Statewide average. These payments are intended to provide additional financial support to hospitals that serve an inordinate amount of low-income individuals and Medical Assistance (MA) beneficiaries in impoverished areas of this Commonwealth. The Department does not intend to otherwise change the qualifying criteria or payment methodology for these payments.

Payment limitations are applicable, including those limitations that the Commonwealth may not exceed its aggregate annual DSH allotment, and that no hospital may receive DSH payments in excess of its hospital-specific limit.

#### *Fiscal Impact*

The FY 2021-2022 impact, as a result of the funding allocation for these payments, is \$14.732 million in total funds (State and Federal) upon approval by the Centers for Medicare & Medicaid Services.

#### *Public Comment*

Interested persons are invited to submit written comments regarding this notice to the Department of Human Services, Office of Medical Assistance Programs, c/o Regulations Coordinator, Room 515, Health and Welfare Building, Harrisburg, PA 17120. The Department will review and consider comments received within 30 days in determining the final payment methodology for these payments.

Persons with a disability who require an auxiliary aid or service may submit comments using the Pennsylvania Hamilton Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

MEG SNEAD,  
*Acting Secretary*

**Fiscal Note:** 14-NOT-1491. (1) General Fund; (2) Implementing Year 2021-22 is \$6,058,000; (3) 1st Succeeding Year 2022-23 through 5th Succeeding Year 2026-27 are \$0; (4) 2020-21 Program—\$808,350,000; 2019-20 Program—\$344,107,000; 2018-19 Program—\$342,544,000; (7) MA—Fee-for-Service; (8) recommends adoption. Funds have been included in the budget to cover this increase.

[Pa.B. Doc. No. 22-244. Filed for public inspection February 11, 2022, 9:00 a.m.]

**DEPARTMENT OF HUMAN SERVICES**

**Medical Assistance Program Fee Schedule; Addition of Procedure Code for the Dispensing of Oral Antiviral Treatments with Emergency Use Authorization from the United States Food and Drug Administration for Treatment of SARS-CoV-2 (COVID-19)**

In accordance with 55 Pa. Code § 1150.61(a) (relating to guidelines for fee schedule changes), the Department of Human Services (Department) announces the addition of a procedure code to the Medical Assistance (MA) Program Fee Schedule.

The United States Food and Drug Administration (FDA) recently issued an emergency use authorization (EUA) for oral antiviral medications for the treatment of COVID-19 for Pfizer’s Paxlovid (nirmatrelvir tablets and ritonavir tablets, copackaged for oral use) on December 22, 2021, and for Merck’s molnupiravir capsules on December 23, 2021. To allow payment to pharmacies for the dispensing to MA beneficiaries of these and any other oral antiviral treatments for SARS-CoV-2 (COVID-19) with EUA from the FDA, the Department added a procedure code to the MA Program Fee Schedule, effective December 22, 2021.

The Department updated the MA Program Fee Schedule to include the Current Procedural Terminology (CPT) code for the dispensing of oral antiviral treatments with EUA from the FDA for the treatment of COVID-19, as set forth as follows.

<i>Procedure Code</i>	<i>Procedure Code Description</i>	<i>MA Fee</i>	<i>Limits</i>
S5001	Prescription Drug, Brand	\$10	1 per day

The Department issued an MA Bulletin to providers enrolled in the MA Program advising of the addition of the new CPT code to the MA Program Fee Schedule.

*Fiscal Impact*

The estimated cost for Fiscal Year 2021-2022 is \$0.018 million in total (State and Federal) funds.

*Public Comment*

Interested persons are invited to submit written comments regarding this notice to the Department of Human Services, Office of Medical Assistance Programs, c/o Regulations Coordinator, Room 515, Health and Welfare Building, Harrisburg, PA 17120. Comments received within 30 days will be reviewed and considered for any subsequent revision to the MA Program Fee Schedule.

Persons with a disability who require an auxiliary aid or service may submit comments using the Pennsylvania Hamilton Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

MEG SNEAD,  
*Acting Secretary*

**Fiscal Note:** 14-NOT-1495. (1) General Fund; (2) Implementing Year 2021-22 is \$7,000; (3) 1st Succeeding Year 2022-23 through 5th Succeeding Year 2026-27 are \$0; (4) 2020-21 Program—\$808,350,000; 2019-20 Program—\$344,107,000; 2018-19 Program—\$342,544,000; (7) MA—Fee-for-Service; (8) recommends adoption. Funds have been included in the budget to cover this increase.

[Pa.B. Doc. No. 22-245. Filed for public inspection February 11, 2022, 9:00 a.m.]

**DEPARTMENT OF MILITARY AND VETERANS AFFAIRS**

**Per Diem Rates at Pennsylvania State Veterans’ Homes**

The Department of Military and Veterans Affairs (Department) has established the following per diem rates for the costs of care for residents at Pennsylvania’s six State Veterans’ Homes. These rates are based on costs of care for the period July 1, 2020, to June 30, 2021.

These per diem rates are effective February 1, 2022, until further notice:

*Hollidaysburg Veterans’ Home, Hollidaysburg:*

Nursing Care	\$559
Personal Care (Domiciliary)	\$374

*Pennsylvania Soldiers’ and Sailors’ Home, Erie:*

Nursing Care	\$561
Personal Care (Domiciliary)	\$294

*Southeastern Veterans’ Center, Spring City:*

Nursing Care	\$601
Personal Care (Domiciliary)	\$340

*Gino J. Merli Veterans’ Center, Scranton:*

Nursing Care	\$503
Personal Care (Domiciliary)	N/A

*Southwestern Veterans’ Center, Pittsburgh:*

Nursing Care	\$472
Personal Care (Domiciliary)	N/A

*Delaware Valley Veterans’ Home, Philadelphia:*

Nursing Care	\$568
Personal Care (Domiciliary)	N/A

MARK J. SCHINDLER,  
*Major General, PAARNG  
Adjutant General*

[Pa.B. Doc. No. 22-246. Filed for public inspection February 11, 2022, 9:00 a.m.]

## DEPARTMENT OF TRANSPORTATION

### State Transportation Commission Virtual Meeting

The State Transportation Commission (Commission) will hold a virtual meeting on Wednesday, February 16, 2022, from 10 a.m. to 12 p.m. This virtual meeting will be held by means of Microsoft Teams. Meeting information

including log-in, participation information for computer, mobile app and telephone participation, and the agenda is available at <https://bit.ly/351iNX0>.

For more information, contact the Commission, (717) 787-2913, RA-PennDOTSTC@pa.gov.

YASSMIN GRAMIAN,  
*Secretary*

[Pa.B. Doc. No. 22-247. Filed for public inspection February 11, 2022, 9:00 a.m.]

## FISH AND BOAT COMMISSION

### Classification of Wild Trout Streams; Proposed Additions; April 2022

Under 58 Pa. Code § 57.11 (relating to listing of wild trout streams), it is the policy of the Fish and Boat Commission (Commission) to accurately identify and classify stream sections supporting naturally reproducing populations of trout as wild trout streams. The Commission's Fisheries Management Division maintains the list of wild trout streams. The Executive Director, with the approval of the Commission, will from time-to-time publish the list of wild trout streams in the *Pennsylvania Bulletin*. The listing of a stream section as a wild trout stream is a biological designation that does not determine how it is managed. The Commission relies upon many factors in determining the appropriate management of streams.

At the next Commission meeting on April 25 and 26, 2022, the Commission will consider changes to its list of wild trout streams. Specifically, the Commission will consider the addition of the following streams or portions of streams to the list:

<i>County of Mouth</i>	<i>Stream Name</i>	<i>Section Limits</i>	<i>Tributary to</i>	<i>Mouth Lat / Lon</i>
Elk	UNT to East Branch Spring Creek (RM 5.36)	Headwaters to Mouth	East Branch Spring Creek	41.561695 78.937836
Forest	UNT to Ross Run (RM 2.97)	Headwaters to Mouth	Ross Run	41.546901 79.314027
Forest	UNT to Wolf Run (RM 1.88)	Headwaters to Mouth	Wolf Run	41.477333 79.021655
McKean	Ice Pond Brook Hollow Run	Headwaters to Mouth	Blacksmith Run	41.810751 78.466298
McKean	UNT to Blacksmith Run (RM 2.26)	Headwaters to Mouth	Blacksmith Run	41.811228 78.489634
McKean	UNT to Blacksmith Run (RM 3.85)	Headwaters to Mouth	Blacksmith Run	41.806667 78.516277
McKean	UNT to Buck Lick Run (RM 1.09)	Headwaters to Mouth	Buck Lick Run	41.880356 78.793597
McKean	UNT to Mud Lick Run (RM 0.41)	Headwaters to Mouth	Mud Lick Run	41.784800 78.907860
McKean	UNT to Mudlick Run (RM 0.46)	Headwaters to Mouth	Mudlick Run	41.731823 78.856819
Northumberland	UNT to Mahanoy Creek (RM 8.26)	Headwaters to Mouth	Mahanoy Creek	40.744209 76.790913
Perry	UNT to Shaeffer Run (RM 6.88)	Headwaters to Mouth	Shaeffer Run	40.239710 77.587227
Schuylkill	Deep Creek	Headwaters to inflow of Beury Lake	Pine Creek	40.636944 76.616389
Schuylkill	UNT (RM 0.68) to UNT to Deep Creek (RM 17.36)	Headwaters to Mouth	UNT to Deep Creek (RM 17.36)	40.714108 76.431548
Schuylkill	UNT to Deep Creek (RM 17.36)	Headwaters to Mouth	Deep Creek	40.708721 76.422577
Schuylkill	UNT to Wolf Creek (RM 2.22)	Headwaters to Mouth	Wolf Creek	40.755793 76.166239
Snyder	Potato Valley Run	Headwaters to Mouth	North Branch Mahantango Creek	40.714057 77.001815

<i>County of Mouth</i>	<i>Stream Name</i>	<i>Section Limits</i>	<i>Tributary to</i>	<i>Mouth Lat/Lon</i>
Venango	UNT (RM 0.11) to UNT to Cherrytree Run (RM 4.52)	Headwaters to Mouth	UNT to Cherrytree Run (RM 4.52)	41.534246 79.718203
Venango	UNT (RM 0.76) to UNT to Two Mile Run Reservoir (RM 5.93)	Headwaters to Mouth	UNT to Two Mile Run Reservoir (RM 5.93)	41.479742 79.760332
Venango	UNT (RM 1.02) to UNT to Cherrytree Run (RM 4.52)	Headwaters to Mouth	UNT to Cherrytree Run (RM 4.52)	41.542366 79.730233
Venango	UNT to Cherrytree Run (RM 5.65)	Headwaters to Mouth	Cherrytree Run	41.548913 79.714886
Venango	UNT to Twomile Run (RM 0.70)	Headwaters to Mouth	Twomile Run	41.416340 79.794890
Venango	UNT to Twomile Run (RM 4.68)	Headwaters to Mouth	Twomile Run	41.461338 79.776647
Warren	UNT to West Branch Tionesta Creek (RM 1.66)	Headwaters to Mouth	West Branch Tionesta Creek	41.695336 79.031578

Persons with comments, objections or suggestions concerning the classification of the streams listed may submit them in writing to the Executive Director, Fish and Boat Commission, P.O. Box 67000, Harrisburg, PA 17106-7000, within 30 days after publication of this notice in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted.

Comments also may be submitted electronically by completing the form at [www.fishandboat.com/regcomments](http://www.fishandboat.com/regcomments). If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt. Electronic comments submitted in any other manner will not be accepted.

TIMOTHY D. SCHAEFFER,  
*Executive Director*

[Pa.B. Doc. No. 22-248. Filed for public inspection February 11, 2022, 9:00 a.m.]

## FISH AND BOAT COMMISSION

### Proposed Changes to List of Class A Wild Trout Waters; April 2022

The Fish and Boat Commission (Commission) is considering changes to its list of Class A Wild Trout Streams. Under 58 Pa. Code § 57.8a (relating to Class A wild trout streams), it is the Commission's policy to manage self-sustaining Class A wild trout populations as a renewable natural resource to conserve that resource and the angling it provides. Class A wild trout populations represent the best of this Commonwealth's naturally reproducing trout fisheries. With rare exceptions, the Commission manages these stream sections solely for the perpetuation of the wild trout fishery with no stocking.

Criteria developed for Class A Wild Trout fisheries are species specific. Wild Trout Biomass Class Criteria include provisions for:

(i) *Wild Brook Trout Fisheries*

(A) Total brook trout biomass of at least 30 kg/ha (26.7 lbs/acre).

(B) Total biomass of brook trout less than 15 cm (5.9 inches) in total length of at least 0.1 kg/ha (0.089 lbs/acre).

(C) Brook trout biomass must comprise at least 75% of the total trout biomass.

(ii) *Wild Brown Trout Fisheries*

(A) Total brown trout biomass of at least 40 kg/ha (35.6 lbs/acre).

(B) Total biomass of brown trout less than 15 cm (5.9 inches) in total length of at least 0.1 kg/ha (0.089 lbs/acre).

(C) Brown trout biomass must comprise at least 75% of the total trout biomass.

(iii) *Mixed Wild Brook and Brown Trout Fisheries*

(A) Combined brook and brown trout biomass of at least 40 kg/ha (35.6 lbs/acre).

(B) Total biomass of brook trout less than 15 cm (5.9 inches) in total length of at least 0.1 kg/ha (0.089 lbs/acre).

(C) Total biomass of brown trout less than 15 cm (5.9 inches) in total length of at least 0.1 kg/ha (0.089 lbs/acre).

(D) Brook trout biomass must comprise less than 75% of the total trout biomass.

(E) Brown trout biomass must comprise less than 75% of the total trout biomass.

(iv) *Wild Rainbow Trout Fisheries*

Total biomass of rainbow trout less than 15 cm (5.9 inches) in total length of at least 2.0 kg/ha (1.78 lbs/acre).

(v) *Mixed Wild Brook and Rainbow Trout Fisheries*

(A) Combined brook and rainbow trout biomass of at least 40 kg/ha (35.6 lbs/acre).

(B) Total biomass of brook trout less than 15 cm (5.9 inches) in total length of at least 0.1 kg/ha (0.089 lbs/acre).

(C) Total biomass of rainbow trout less than 15 cm (5.9 inches) in total length of at least 0.1 kg/ha (0.089 lbs/acre).

(D) Brook trout biomass shall comprise less than 75% of the total trout biomass.

(E) Rainbow trout biomass shall comprise less than 75% of the total trout biomass.

(vi) *Mixed Wild Brown and Rainbow Trout Fisheries*

(A) Combined brown and rainbow trout biomass of at least 40 kg/ha (35.6 lbs/acre).

(B) Total biomass of brown trout less than 15 cm (5.9 inches) in total length of at least 0.1 kg/ha (0.089 lbs/acre).

(C) Total biomass of rainbow trout less than 15 cm (5.9 inches) in total length of at least 0.1 kg/ha (0.089 lbs/acre).

(D) Brown trout biomass shall comprise less than 75% of the total trout biomass.

(E) Rainbow trout biomass shall comprise less than 75% of the total trout biomass.

During recent surveys, Commission staff documented the following stream sections to have Class A wild trout populations. The Commission intends to consider adding these waters to its list of Class A Wild Trout Streams at its meeting on April 25 and 26, 2022.

<i>County</i>	<i>Stream</i>	<i>Section</i>	<i>Limits</i>	<i>Tributary to</i>	<i>Mouth Lat/Lon</i>	<i>Brook Trout (kg/ha)</i>	<i>Brown Trout (kg/ha)</i>	<i>Rainbow Trout (kg/ha)</i>	<i>Length (miles)</i>	<i>Survey year</i>
Cameron	Gravelly Run	1	Headwaters to Mouth	Lick Island Run	41.385624 78.068235	37.10	—	—	1.71	2021
Cameron	Lick Island Run	1	Headwaters to Gravelly Run	First Fork Sinnemahoning Creek	41.369444 78.050278	31.04	0.10	—	3.10	2021
Cameron	UNT to Lick Island Run (RM 2.74)	1	Headwaters to Mouth	Lick Island Run	41.393091 78.084941	39.33	—	—	1.30	2021
Centre	Meyers Run	1	Headwaters to Mouth	Black Moshannon Creek	40.970001 78.042778	50.15	0.25	—	0.90	2021
Clinton	Greene Branch	1	Headwaters to Mouth	Trout Run	41.456667 77.948611	42.22	—	—	1.28	2021
Clinton	Wykoff Branch	1	Headwaters to Mouth	Trout Run	41.451524 77.947551	33.23	—	—	1.65	2021
McKean	UNT to Blacksmith Run (RM 2.26)	1	Headwaters to Mouth	Blacksmith Run	41.811228 78.489634	38.89	—	—	1.46	2021

Persons with comments, objections or suggestions concerning the additions are invited to submit comments in writing to the Executive Director, Fish and Boat Commission, P.O. Box 67000, Harrisburg, PA 17106-7000, within 30 days after publication of this notice in the *Pennsylvania Bulletin*. Comments also may be submitted electronically by completing the form at [www.fishandboat.com/regcomments](http://www.fishandboat.com/regcomments). If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt. Electronic comments submitted in any other manner will not be accepted.

TIMOTHY D. SCHAEFFER,  
*Executive Director*

[Pa.B. Doc. No. 22-249. Filed for public inspection February 11, 2022, 9:00 a.m.]

## INDEPENDENT REGULATORY REVIEW COMMISSION

### Actions Taken by the Commission

The Independent Regulatory Review Commission met publicly at 10 a.m., Wednesday, January 26, 2022, and announced the following:

#### *Actions Taken—Regulations Approved:*

Department of Labor and Industry # 12-116: Uniform Construction Code (amends 34 Pa. Code, Part XIV, Chapters 401 and 403)

Environmental Quality Board # 7-525: Control of VOC Emissions from Gasoline Dispensing Facilities (Stage I and Stage II) (amends 25 Pa. Code Chapters 121 and 129)

Unemployment Compensation Board of Review # 12-112: Appeals from Determinations of Department (amends 34 Pa. Code Chapter 101)

State Board of Social Workers, Marriage/Family Therapists and Professional Counselors # 16A-6919: Child Abuse Reporting Requirements (amends 49 Pa. Code Chapters 47, 48 and 49)

State Board of Medicine # 16A-4941: Child Abuse Reporting Requirements (amends 49 Pa. Code §§ 16.12, 16.15, 16.18, 16.19, 16.101—16.107, 17.1—17.7, 18.2, 18.3, 18.13, 18.14, 18.141, 18.145, 18.307, 18.309a, 18.504, 18.511, 18.523, 18.525, 18.603, 18.610, 18.703, 18.704, 18.709, 18.814, 18.824, 18.833, 18.843 and 18.862, and is adding 16.108 and 16.109 (relating to child abuse recognition and reporting—mandatory training requirement; and child abuse recognition and reporting course approval process))

State Board of Nursing # 16A-5140: Child Abuse Reporting Requirements (amends 49 Pa. Code Chapter 21)

State Board of Funeral Directors # 16A-4824: Child Abuse Reporting Requirements (amends 49 Pa. Code Chapter 13)

State Board of Barber Examiners # 16A-4211: Fees (amends 49 Pa. Code Chapter 3)

### Approval Order

Public Meeting Held  
January 26, 2022

*Commissioners Voting:* George D. Bedwick, Chairperson; John F. Mizner, Esq., Vice Chairperson; John J. Soroko, Esq.; Murray Ufberg, Esq.; Dennis A. Watson, Esq.

*Department of Labor and Industry—  
Uniform Construction Code  
Regulation No. 12-116 (# 3326)*

On December 15, 2021, the Independent Regulatory Review Commission (Commission) received this regulation from the Department of Labor and Industry (Department). This rulemaking amends 34 Pa. Code, Part XIV, Chapters 401 and 403. Notice of proposed rulemaking was omitted for this regulation; it will become effective upon publication in the *Pennsylvania Bulletin*.

This regulation updates the Uniform Construction Code (UCC) by adopting nearly all provisions of the 2018 International Code Council Codes, as directed by the UCC Review and Advisory Council.

We have determined this regulation is consistent with the statutory authority of the Department (35 P.S. § 7210.108(a)(1) and 35 P.S. § 7210.304(a)(2)) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

*By Order of the Commission:*

This regulation is approved.

### Approval Order

Public Meeting Held  
January 26, 2022

*Commissioners Voting:* George D. Bedwick, Chairperson; John F. Mizner, Esq., Vice Chairperson; John J. Soroko, Esq.; Murray Ufberg, Esq.; Dennis A. Watson, Esq.

*Environmental Quality Board—  
Control of VOC Emissions from Gasoline Dispensing  
Facilities (Stage I and Stage II)  
Regulation No. 7-525 (# 3266)*

On September 17, 2020, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Environmental Quality Board (Board). This rulemaking amends 25 Pa. Code Chapters 121 and 129. The proposed regulation was published in the September 26, 2020 *Pennsylvania Bulletin* with a public comment period ending on November 30, 2020. The final-form regulation was submitted to the Commission on December 14, 2021.

This regulation amends air quality regulations relating to control of volatile organic compound emissions at gasoline dispensing facilities during loading of underground gasoline storage tanks (or Stage I vapor recovery), during filling of motor vehicles (or Stage II vapor recovery), and during and after decommissioning of Stage II vapor recovery equipment.

We have determined this regulation is consistent with the statutory authority of the Board (35 P.S. § 4005(a)(1)) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

*By Order of the Commission:*

This regulation is approved.

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**Approval Order**

Public Meeting Held  
January 26, 2022

*Commissioners Voting:* George D. Bedwick, Chairperson; John F. Mizner, Esq., Vice Chairperson; John J. Soroko, Esq.; Murray Ufberg, Esq.; Dennis A. Watson, Esq.

*Unemployment Compensation Board of Review—  
Appeals from Determinations of Department  
Regulation No. 12-112 (# 3295)*

On March 1, 2021, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Unemployment Compensation Board of Review (Board). This rulemaking amends 34 Pa. Code Chapter 101. The proposed regulation was published in the March 13, 2021 *Pennsylvania Bulletin* with a public comment period ending on April 12, 2021. The final-form regulation was submitted to the Commission on December 3, 2021.

This final-form regulation provides for filing appeals of unemployment compensation determinations of the Department of Labor and Industry and appeals of Board referee decisions by e-mail and through the Pennsylvania UC Claims System. This final-form regulation also establishes filing dates, timelines to file an appeal, and methods for issuing notices, determinations and decisions.

We have determined this regulation is consistent with the statutory authority of the Board (43 P.S. § 763(d)) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

*By Order of the Commission:*

This regulation is approved.

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**Approval Order**

Public Meeting Held  
January 26, 2022

*Commissioners Voting:* George D. Bedwick, Chairperson; John F. Mizner, Esq., Vice Chairperson; John J. Soroko, Esq.; Murray Ufberg, Esq.; Dennis A. Watson, Esq.

*State Board of Social Workers, Marriage and Family  
Therapists and Professional Counselors—  
Child Abuse Reporting Requirements  
Regulation No. 16A-6919 (# 3281)*

On November 24, 2020, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the State Board of Social Workers, Marriage and Family Therapists and Professional Counselors (Board). This rulemaking amends 49 Pa. Code Chapters 47, 48 and 49. The proposed regulation was published in the January 2, 2021 *Pennsylvania Bulletin* with a public comment period ending on February 1, 2021. The final-form regulation was submitted to the Commission on November 30, 2021.

This final-form regulation updates the Board's child abuse reporting regulations to be consistent with the Child Protective Services Law, including the act of April 15, 2014 (P.L. 411, No. 31). 23 Pa.C.S. §§ 6301—6388. Social workers, marriage and family therapists, and professional counselors are mandated reporters who are required to immediately report suspected child abuse and complete training in child abuse recognition and reporting as a condition of licensure or certification.

We have determined this regulation is consistent with the statutory authority of the Board (63 P.S. § 1906(2)) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

*By Order of the Commission:*

This regulation is approved.

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**Approval Order**

Public Meeting Held  
January 26, 2022

*Commissioners Voting:* George D. Bedwick, Chairperson; John F. Mizner, Esq., Vice Chairperson; John J. Soroko, Esq.; Murray Ufberg, Esq.; Dennis A. Watson, Esq.

*State Board of Medicine—  
Child Abuse Reporting Requirements  
Regulation No. 16A-4941 (# 3287)*

On January 15, 2021, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the State Board of Medicine (Board). This rulemaking amends 49 Pa. Code §§ 16.12, 16.15, 16.18, 16.19, 16.101—16.107, 17.1—17.7, 18.2, 18.3, 18.13, 18.14, 18.141, 18.145, 18.307, 18.309a, 18.504, 18.511, 18.523, 18.525, 18.603, 18.610, 18.703, 18.704, 18.709, 18.814, 18.824, 18.833, 18.843 and 18.862, and is adding 16.108 and 16.109 (relating to child abuse recognition and reporting—mandatory training requirement; and child abuse recognition and reporting course approval process). The proposed regulation was published in the January 30, 2021 *Pennsylvania Bulletin* with a public comment period ending on March 1, 2021. The final-form regulation was submitted to the Commission on November 30, 2021.

This rulemaking updates the Board's existing regulations pertaining to child abuse reporting to be consistent with amendments to the Child Protective Services Law (CPSL) (23 Pa.C.S. §§ 6301—6388), including the requirement imposed by the act of April 15, 2014 (P.L. 411, No. 31) on all health-related boards to require training in child abuse recognition and reporting for licensees who are considered mandated reporters under the CPSL.

We have determined this regulation is consistent with the statutory authority of the Board (63 P.S. § 422.8 and 23 Pa.C.S. § 6383(b)(2)) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

*By Order of the Commission:*

This regulation is approved.



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**Approval Order**

Public Meeting Held  
January 26, 2022

*Commissioners Voting:* George D. Bedwick, Chairperson;  
John F. Mizner, Esq., Vice Chairperson; John J. Soroko,  
Esq.; Murray Ufberg, Esq.; Dennis A. Watson, Esq.

*State Board of Nursing—  
Child Abuse Reporting Requirements  
Regulation No. 16A-5140 (# 3288)*

On January 15, 2021, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the State Board of Nursing (Board). This rulemaking amends 49 Pa. Code Chapter 21. The proposed regulation was published in the January 30, 2021 *Pennsylvania Bulletin* with a public comment period ending on March 1, 2021. The final-form regulation was submitted to the Commission on November 30, 2021.

This final-form regulation updates the Board's child abuse reporting regulations to be consistent with the Child Protective Services Law, including the act of April 15, 2014 (P.L. 411, No. 31). 23 Pa.C.S. §§ 6301—6388. Registered nurses, certified registered nurse practitioners, clinical nurse specialists, practical nurses and licensed dietitian-nutritionists are mandated reporters who are required to immediately report suspected child abuse and complete training in child abuse recognition and reporting as a condition of licensure or certification.

We have determined this regulation is consistent with the statutory authority of the Board (63 P.S. §§ 212.1(k) and 667.6) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

*By Order of the Commission:*

This regulation is approved.

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**Approval Order**

Public Meeting Held  
January 26, 2022

*Commissioners Voting:* George D. Bedwick, Chairperson;  
John F. Mizner, Esq., Vice Chairperson; John J. Soroko,  
Esq.; Murray Ufberg, Esq.; Dennis A. Watson, Esq.

*State Board of Funeral Directors—  
Child Abuse Reporting Requirements  
Regulation No. 16A-4824 (# 3293)*

On February 26, 2021, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the State Board of Funeral Directors (Board). This rulemaking amends 49 Pa. Code Chapter 13. The proposed regulation was published in the March 13, 2021 *Pennsylvania Bulletin* with a public comment

period ending on April 12, 2021. The final-form regulation was submitted to the Commission on November 30, 2021.

This final-form regulation updates the Board's child abuse reporting regulations to be consistent with the Child Protective Services Law, including the act of April 15, 2014 (P.L. 411, No. 31). 23 Pa.C.S. §§ 6301—6388. Funeral directors are mandated reporters who are required to immediately report suspected child abuse and complete training in child abuse recognition and reporting as a condition of licensure or certification.

We have determined this regulation is consistent with the statutory authority of the Board (63 P.S. § 479.16(a)) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

*By Order of the Commission:*

This regulation is approved.

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**Approval Order**

Public Meeting Held  
January 26, 2022

*Commissioners Voting:* George D. Bedwick, Chairperson;  
John F. Mizner, Esq., Vice Chairperson; John J. Soroko,  
Esq.; Murray Ufberg, Esq.; Dennis A. Watson, Esq.

*State Board of Barber Examiners—  
Fees  
Regulation No. 16A-4211 (# 3306)*

On June 1, 2021, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the State Board of Barber Examiners (Board). This rulemaking amends 49 Pa. Code Chapter 3. The proposed regulation was published in the June 19, 2021 *Pennsylvania Bulletin* with a public comment period ending on July 19, 2021. The final-form regulation was submitted to the Commission on December 14, 2021.

This final-form regulation increases biennial license renewal fees and application fees in graduated phases in 2022 and 2024.

We have determined this regulation is consistent with the statutory authority of the Board (63 P.S. § 564(b)) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

*By Order of the Commission:*

This regulation is approved.

GEORGE D. BEDWICK,  
*Chairperson*

[Pa.B. Doc. No. 22-250. Filed for public inspection February 11, 2022, 9:00 a.m.]

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## INDEPENDENT REGULATORY REVIEW COMMISSION

### Notice of Filing of Final Rulemakings

The Independent Regulatory Review Commission (Commission) received the following regulations. They are scheduled to be considered on the dates 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](http://www.irrc.state.pa.us).

<i>Final-Form Reg. No.</i>	<i>Agency/Title</i>	<i>Received</i>	<i>Public Meeting</i>
16A-6219	State Board of Examiners of Nursing Home Administrators Continuing Education	1/12/22	3/10/22
14-550	Department of Human Services Definitions and Redetermination	1/24/22	3/10/22
6-346	State Board of Education Certification of Professional Personnel	1/27/22	3/10/22

GEORGE D. BEDWICK,  
*Chairperson*

[Pa.B. Doc. No. 22-251. Filed for public inspection February 11, 2022, 9:00 a.m.]

## INSURANCE DEPARTMENT

### Alleged Violation of Insurance Laws; Brittany Locke-Perez; Doc. No. SC22-01-025

Notice is hereby given of the Order to Show Cause issued on January 25, 2022, by the Deputy Insurance Commissioner in the previously-referenced matter. Violations of the following are alleged: sections 611-A(2), (6), (7), (9), (14), (17) and (20) and 678-A(b) of The Insurance Department Act of 1921 (40 P.S. §§ 310.11(2), (6), (7), (9), (14), (17) and (20) and 310.78(b)).

The respondent shall file a written answer to the Order to Show Cause within 30 days of the date of issue. If respondent files a timely answer, a formal administrative hearing shall be held in accordance with 2 Pa.C.S. §§ 501—588 (relating to Administrative Agency Law), 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure), 31 Pa. Code §§ 56.1—56.3 (relating to Special Rules of Administrative Practice and Procedure) and other relevant procedural provisions of law.

Answers, motions preliminary to those at hearing, protests, petitions to intervene or notices of intervention, if any, must be filed in writing with the Hearings Administrator, Insurance Department, Administrative Hearings Office, 901 North 7th Street, Harrisburg, PA 17102, ra-hearings@pa.gov.

Persons with a disability who wish to attend the previously-referenced administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing, contact Domenica Dean, Agency ADA Coordinator, at (717) 705-4194.

JESSICA K. ALTMAN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 22-252. Filed for public inspection February 11, 2022, 9:00 a.m.]

## INSURANCE DEPARTMENT

### Alleged Violation of Insurance Laws; Stanford Lyons; Doc. No. SC22-01-023

Notice is hereby given of the Order to Show Cause issued on January 25, 2022, by the Deputy Insurance Commissioner in the previously-referenced matter. Violations of the following are alleged: section 611-A(6), (7), (17) and (20) of The Insurance Department Act of 1921 (40 P.S. § 310.11(6), (7), (17) and (20)).

The respondent shall file a written answer to the Order to Show Cause within 30 days of the date of issue. If respondent files a timely answer, a formal administrative hearing shall be held in accordance with 2 Pa.C.S. §§ 501—588 (relating to Administrative Agency Law), 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure), 31 Pa. Code §§ 56.1—56.3 (relating to Special Rules of Administrative Practice and Procedure) and other relevant procedural provisions of law.

Answers, motions preliminary to those at hearing, protests, petitions to intervene or notices of intervention, if any, must be filed in writing with the Hearings Administrator, Insurance Department, Administrative Hearings Office, 901 North 7th Street, Harrisburg, PA 17102, ra-hearings@pa.gov.

Persons with a disability who wish to attend the previously-referenced administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing, contact Domenica Dean, Agency ADA Coordinator, at (717) 705-4194.

JESSICA K. ALTMAN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 22-253. Filed for public inspection February 11, 2022, 9:00 a.m.]

## INSURANCE DEPARTMENT

### Peter A. DiPippa; Order to Show Cause; Doc. No. SC21-09-012

The proceedings in this matter will be governed by 2 Pa.C.S. §§ 501—508, 561—588 and 701—704 (relating to Administrative Agency Law), 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure) and 31 Pa. Code §§ 56.1—56.3 (relating to Special Rules of Administrative Practice and Procedure).

A prehearing videoconference initiated by this office is scheduled for March 29, 2022, at 9:30 a.m. A date for a hearing will be determined, if necessary, at the prehearing videoconference.

Protests, petitions to intervene or notices of intervention, if any, must be electronically filed on or before March 15, 2022. The e-mail address to be used for the Administrative Hearings Office is ra-hearings@pa.gov. Answers to protests, petitions to intervene or notices of intervention, if any, shall be electronically filed on or before March 28, 2022.

Persons with a disability who wish to attend the previously-referenced administrative proceedings and require an auxiliary aid, service or other accommodation to participate in the hearing, contact Joseph Korman, (717) 787-4429, jkorman@pa.gov.

JESSICA K. ALTMAN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 22-254. Filed for public inspection February 11, 2022, 9:00 a.m.]

## INSURANCE DEPARTMENT

### Notice to Workers' Compensation Insurance Carriers; Special Schedule "W" Data Call

The Insurance Department (Department) is conducting its annual workers' compensation Special Schedule "W" data call. Authority for this data call can be found in section 655 of The Insurance Company Law of 1921 (40 P.S. § 815).

Insurance companies that write workers' compensation insurance in this Commonwealth are required to complete the data call on or before April 15, 2022.

Consistent with prior Special Schedule "W" data calls, the cover letter, general instructions and instructions for constraints affecting unpaid claims estimates are available on the Department's web site at [www.insurance.pa.gov](http://www.insurance.pa.gov) (select "Companies," then "Industry Activity," then scroll down to Product and Rate Activity and select "Data Calls").

An e-mail announcing the data call was sent to insurance carriers writing workers' compensation insurance policies in this Commonwealth.

The Pennsylvania Compensation Rating Bureau's (Bureau) Financial Data Manager (FDM) should be used to report all Special Schedule "W" information (including Coal Mine experience) instead of submitting directly to the Department. Refer to the Bureau's web site, [www.pcrb.com](http://www.pcrb.com), for further information on reporting workers' compensation experience for Special Schedule "W" using the FDM.

Questions regarding this data call should be directed to Bojan Zorkic, Actuary, (717) 787-6968, bzorkic@pa.gov.

JESSICA K. ALTMAN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 22-255. Filed for public inspection February 11, 2022, 9:00 a.m.]

## INSURANCE DEPARTMENT

### Elizabeth Wine; License Denial Appeal; Doc. No. AG22-01-026

Under Article VI-A of The Insurance Department Act of 1921 (40 P.S. §§ 310.1—310.99a), Elizabeth Wine has appealed the denial of an application for an insurance producer's license. The proceedings in this matter will be governed by 2 Pa.C.S. §§ 501—508, 561—588 and 701—704 (relating to Administrative Agency Law), 1 Pa. Code Part II (relating to General Rules of Administrative

Practice and Procedure) and 31 Pa. Code §§ 56.1—56.3 (relating to Special Rules of Administrative Practice and Procedure).

A prehearing videoconference initiated by this office is scheduled for February 22, 2022, at 9:30 a.m. A date for a hearing shall be determined, if necessary, at the prehearing videoconference.

Protests, petitions to intervene or notices of intervention, if any, must be electronically filed on or before February 15, 2022. The e-mail address to be used for the Administrative Hearings Office is [ra-hearings@pa.gov](mailto:ra-hearings@pa.gov). Answers to protests, petitions to intervene or notices of intervention, if any shall be electronically filed on or before February 28, 2022.

Persons with a disability who wish to attend the previously referenced administrative hearing and require an auxiliary aid, service or other accommodations to participate in the hearing should contact Joseph Korman, (717) 787-4429, jkorman@pa.gov.

JESSICA K. ALTMAN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 22-256. Filed for public inspection February 11, 2022, 9:00 a.m.]

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

### General Rule Transaction

**A-2022-3030687. Intrado Communications, LLC.** Application of Intrado Communications, LLC for approval of a general rule transaction resulting in a change in control.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities) on or before February 28, 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](http://www.puc.pa.gov) and at the applicant's business address.

*Applicant:* Intrado Communications, LLC

*Through and By:* Michael A. Gruin, Stevens & Lee, 17 North 2nd Street, 16th Floor, Harrisburg, PA 17101, (717) 255-7365, fax (610) 988-0852, [michael.gruin@stevenslee.com](mailto:michael.gruin@stevenslee.com)

ROSEMARY CHIAVETTA,  
*Secretary*

[Pa.B. Doc. No. 22-257. Filed for public inspection February 11, 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 February 28, 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 February 28, 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](http://www.puc.pa.gov) by searching under the previously listed docket number or by searching the applicant's web site.

**Application of the following for approval to begin operating as common carriers for transportation of persons as described under the application.**

**A-2022-3030587. Elia Transportation, Inc.** (1210 Hazleton Apartments, Hazle Township, Luzerne County, PA 18202) for the right to begin to transport, as a common carrier, by motor vehicle, persons in paratransit service, from points in the Hazleton Area School District to Hazleton Area School District Schools, and vice versa.

**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-2022-3030574. Werner Bus Lines, Inc.** (144 Chester Avenue, Phoenixville, Chester County, PA 19460) discontinuance of service and cancellation of its certificate, to transport, as a common carrier, by motor vehicle, persons on schedule, as more thoroughly described in the original ordering paragraphs at A-00092344, F.2, F.2, Am-A, F.2, Am-B and F.5.

**A-2022-3030626. Rite Lane Motors, LLC** (333 Scott Road, South Abington Township, Lackawanna County, PA 18411) for the discontinuance and cancellation of its right to transport, as a common carrier, by motor vehicle, persons in paratransit service, from points in the Counties of Lackawanna, Luzerne, Monroe, Pike, Susquehanna, Wayne and Wyoming, to points in Pennsylvania and return; subject to the following conditions and restrictions: no right, power or privilege is sought or shall be granted to originate or to terminate any service in that portion of Luzerne County which is located within an airline distance of 15 statute miles of the Borough of Berwick, Columbia County, PA; provided further that any transports shall be limited to persons requiring service to and from Marworth Alcohol & Chemical Dependency Treatment Center in Lackawanna County using a luxury vehicle and not a wheelchair van, as originally docketed at A-2014-2447662. *Attorney:* John McGovern, 321 Spruce Street, Suite 201 Bank Towers, Scranton, PA 18503.

**A-2022-3030630. Rite Lane Motors, LLC** (333 Scott Road, South Abington Township, Lackawanna County, PA 18411) for the discontinuance and cancellation of its right to transport, as a common carrier, by motor vehicle, persons, in group and party service, in vehicles seating 11 to 15 passengers, including the driver, from points in the Counties of Berks, Bradford, Bucks, Carbon, Chester, Columbia, Dauphin, Delaware, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Monroe, Montgomery, Montour, Northampton, Northumberland, Pike, Schuylkill, Sullivan, Susquehanna, Wayne, Wyoming and York, as originally docketed at A-2018-3001203. *Attorney:* John McGovern, 321 Spruce Street, Suite 201 Bank Towers, Scranton, PA 18503.

ROSEMARY CHIAVETTA,  
*Secretary*

[Pa.B. Doc. No. 22-258. Filed for public inspection February 11, 2022, 9:00 a.m.]

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

### Water Service

**A-2022-3030651. Pennsylvania-American Water Company.** In the matter of the application of Pennsylvania-American Water Company for approval of the right to offer, render, furnish or supply water service to the public in an additional portion of Silver Spring Township, Cumberland County.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities) on or before February 28, 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](http://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](http://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:* Pennsylvania-American Water Company, 852 Wesley Drive, Mechanicsburg, PA 17055

*Through and By Counsel for:* Teresa Harrold, Esquire, Pennsylvania-American Water Company, 852 Wesley Drive, Mechanicsburg, PA 17055

ROSEMARY CHIAVETTA,  
*Secretary*

[Pa.B. Doc. No. 22-259. Filed for public inspection February 11, 2022, 9:00 a.m.]

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

### Working Group on Medical Certificates, Other Court Orders and Privacy Guidelines Relating to the Rulemaking to Amend the Provisions of 52 Pa. Code, Chapter 56 to Comply with the Amended Provisions of 66 Pa.C.S. Chapter 14

Public Meeting held  
December 16, 2021

*Commissioners Present:* Gladys Brown Dutrieuille, Chairperson; John F. Coleman, Jr., Vice Chairperson; Ralph V. Yanora

*Working Group on Medical Certificates, Other Court Orders and Privacy Guidelines Relating to the Rulemaking to Amend the Provisions of 52 Pa. Code, Chapter 56 to Comply with the Amended Provisions of 66 Pa.C.S. Chapter 14; L-2015-2508421*

#### Order

*By the Commission:*

On February 25, 2021, the Pennsylvania Public Utility Commission (Commission) entered a Tentative Order affording interested stakeholders with a final opportunity to comment on three issues deferred from the Commission's February 28, 2019 Final Rulemaking Order in the above-referenced proceeding. The Final Rulemaking Order revised our regulations at 52 Pa. Code, Chapter 56, which administer and enforce Chapter 14 of the Public Utility Code, 66 Pa.C.S. §§ 1401–1419. The Tentative Order allowed stakeholders to provide input and advice on issues related to the amendments to 66 Pa.C.S. §§ 1403, 1406, and 1417, involving the form of medical certificates, other court orders related to domestic violence, and privacy guidelines, respectively. Upon consideration of the comments filed by stakeholders in response to the Tentative Order, the Commission issues this Order.

#### *Background*

On October 22, 2014, Governor Tom Corbett signed into law House Bill 939, or Act 155 of 2014, which became effective on December 22, 2014. Act 155 reauthorized and amended Chapter 14 of the Public Utility Code, 66 Pa.C.S. §§ 1401–1419, addressing responsible utility customer protection. Act 155 is intended to protect responsible bill paying customers from rate increases attributable to other customers' delinquencies in payment. Act 155 provides public utilities with collection mechanisms and procedures that promote more timely collections, while protecting vulnerable customers by ensuring that utility service remains available to all customers on reasonable terms and conditions. Act 155 is applicable to electric distribution utilities, water distribution utilities, natural gas distribution utilities, steam heat utilities, and wastewater utilities.

The Commission revised its regulations at 52 Pa. Code, Chapter 56, relating to the standards and billing practices for residential utility service, because Chapter 14 of the Public Utility Code, as amended, superseded a number of Chapter 56 regulations. The Commission was directed to revise Chapter 56 and promulgate regulations in order to administer and enforce Chapter 14 of the Public Utility Code. Pursuant to Act 155, the Commission must report to the General Assembly regarding the implementation and effectiveness of the amended Act five

years after the effective date of Chapter 14 and every five years thereafter. 66 Pa.C.S. § 1415. Chapter 14 of the Public Utility Code will expire on December 31, 2024, unless reenacted. 66 Pa.C.S. § 1419.

The Commission issued a Final Order regarding the implementation of Chapter 14 on July 9, 2015. Chapter 14 Implementation, Docket No. M-2014-2448824 (Final Order entered July 9, 2015) (Final Implementation Order). In its Final Implementation Order, the Commission issued guidance as to the form and content of a medical certificate, as defined in 66 Pa.C.S. § 1403. Additionally, the Commission summarized guidelines for 66 Pa.C.S. § 1410.1(3) regarding reporting requirements for accounts exceeding \$10,000 in arrearages. The Commission also summarized guidelines for 66 Pa.C.S. § 1410.1(4) regarding reporting requirements for medical certificates.

On July 21, 2016, the Commission adopted a Notice of Proposed Rulemaking (NOPR) Order to solicit comments about amending the provisions of Chapter 56 of the Commission's regulations to implement Chapter 14 of the Public Utility Code. Rulemaking to Amend the Provisions of 52 Pa. Code, Chapter 56 to Comply with the Amended Provisions of 66 Pa.C.S. Chapter 14, Docket No. L-2015-2508421 (Order entered July 21, 2016). The NOPR Order addressed numerous issues involving the application of the amended Chapter 14 provisions. On July 12, 2017, the Commission entered an Order seeking additional comments. Rulemaking to Amend the Provisions of 52 Pa. Code, Chapter 56 to Comply with the Amended Provisions of 66 Pa.C.S. Chapter 14, Docket No. L-2015-2508421 (Order entered July 12, 2017).

On February 28, 2019, the Commission adopted a Final Rulemaking Order revising Chapter 56 of its regulations, which administer and enforce Chapter 14 of the Public Utility Code. Rulemaking to Amend the Provisions of 52 Pa. Code, Chapter 56 to Comply with the Amended Provisions of 66 Pa.C.S. Chapter 14, Docket No. L-2015-2508421 (Order entered February 28, 2019) (Final Rulemaking Order). On June 1, 2019, the final regulations were published in the *Pennsylvania Bulletin* at 49 Pa.B. 2815. The regulations became effective upon publication.

In the Final Rulemaking Order, however, the Commission deferred three issues to a working group. See Final Rulemaking Order, Attachment One at 21, 56, 139, 166. The three outstanding issues relate to amendments to Sections 1403, 1406, and 1417 of the Public Utility Code, 66 Pa.C.S. §§ 1403, 1406, 1417. These issues include:

1. Form of medical certificates—Section 1403 (relating to definitions). “Medical certificate. A written document, in a form approved by the commission. . .” 66 Pa.C.S. § 1403.
2. Other court orders—Section 1417 (relating to nonapplicability). “This chapter shall not apply to victims under a protection from abuse order as provided by 23 Pa.C.S. Ch. 61 (relating to protection from abuse) or a court order issued by a court of competent jurisdiction in this commonwealth, which provides clear evidence of domestic violence against the applicant or customer.” 66 Pa.C.S. § 1417.
3. Privacy guidelines—Section 1406(b)(1)(ii)(C) (relating to notice of termination of service). “. . . by email, text message or other electronic messaging format consistent with the commission's privacy guidelines and approved by commission order.” 66 Pa.C.S. § 1406 (b)(1)(ii)(C).

On August 29, 2019, the Commission issued a Secretarial Letter announcing the establishment of a Chapter 56 working group to address the three remaining issues.

The Commission invited all interested stakeholders to participate, including parties from the Final Rulemaking Order, and directed a collaborative meeting. On October 4, 2019, interested stakeholders filed comments with the Commission and, on October 29, 2019, the stakeholders participated in a collaborative meeting to discuss the issues.

On February 25, 2021, the Commission entered a Tentative Order providing yet another opportunity for any interested parties to offer input and advise on these matters. The Tentative Order was published in the *Pennsylvania Bulletin* at 51 Pa.B. 1762 on March 27, 2021. Comments were due within 45 days of publication. The Commission received comments from the following parties: Philadelphia Gas Works (PGW); the Office of Consumer Advocate (OCA), PECO Energy Company (PECO); the Energy Association of Pennsylvania (EAP); PPL Electric Utilities (PPL); the Joint Coalition for Affordable Utility Service and Energy Efficiency, the Tenant Union Representative Network, the Pennsylvania Coalition Against Domestic Violence (collectively, CAUSE-PA); the Health, Education & Legal Assistance Project: A Medical-Legal Partnership (HELP: MLP); Duquesne Light Company (Duquesne), Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, and West Penn Power Company (collectively, the FirstEnergy Companies), and Columbia Gas of Pennsylvania, Inc. (Columbia).<sup>1</sup> These comments are discussed below. Upon review of the comments, we issue this Order on the form of medical certificates, other court orders related to domestic violence, and privacy guidelines.

#### *Discussion*

We note that any issues we do not specifically address herein have been duly considered and are denied without further discussion. It is well settled that the Commission is not required to consider expressly or at length each contention or argument raised by the parties. *Consolidated Rail Corp. v. Pa. Pub. Util. Comm'n.*, 625 A.2d 741 (Pa. Cmwlth. 1993); see also, generally, *University of Pennsylvania v. Pa. Pub. Util. Comm'n.*, 485 A.2d 1217 (Pa. Cmwlth. 1984).

### **I. Form of Medical Certificates**

In the Tentative Order, we proposed the use of a standard medical certificate form. The proposed form includes the five elements necessary for a valid medical certificate pursuant to the Commission's regulations. It does not include the medical professional's license number. In addition, we proposed medical certificate guidance for consumers and medical professionals. The guidance is intended to assist in educating all parties about the medical certificate process. We proposed to add the standard medical certificate form and the medical certificate guidance to the Commission's website. We included copies of the form and guidance as Appendices A and B to the Tentative Order, respectively.

#### *A. Comments on Form of Medical Certificates*

PGW supports the use of a standard medical certificate form and written guidance regarding medical certificates available on the Commission's website. PGW suggests, however, that medical professionals be required to provide their license number on the medical certificate form. PGW argues that the license number is vital to the ability to validate the certificate, prevent fraud, and maintain

the integrity of the certification process. PGW also asserts that medical professionals are accustomed to including this information on documentation and that including the license number would not present any impediment to customers. PGW Comments at 2-3.

The OCA states that a sample medical certification form is beneficial and that the form should be publicly available on the Commission's website. While the OCA notes that creating an optional, standard, statewide format will provide consistency, it argues that a specific standard form should not be required. The OCA avers that flexible requirements would help ensure that medically vulnerable customers can access timely relief. OCA Comments at 5-6.

In addition, the OCA notes that the Request for Medical Certification form included in the Tentative Order contains a field for the "Account Number." The OCA argues that an account number is not required by the Commission's regulations and that this field should be removed from the form. The OCA claims that this requirement will result in delays in processing the medical certification form. The OCA maintains that medical certification procedures should ensure that medical certificates are readily accessible with no unnecessary barriers. In this regard, the OCA also states that it supports the Commission's determination not to require medical professionals to include their license number on the form. The OCA notes that the Commission has never requested medical license numbers for the submission of a medical certificate and that the absence of this information has not been an issue. Finally, the OCA states that it supports the Commission's proposed medical certificate guidance. OCA Comments at 3-5.

PECO states that it agrees with the form of standard medical certificate proposed by the Commission because the form contains the requirements set forth by 52 Pa. Code § 56.113. PECO also notes that it supports the view that forms should include the license number of the health professional submitting the form. PECO Comments at 2.

Like PGW and PECO, EAP supports a requirement for authorized medical professionals to include their license number on any medical certificate form. EAP argues that this is a prudent and simple requirement that will ensure integrity and protect against fraud. EAP argues that license numbers are required for a variety of routine matters, including issuing prescriptions. EAP further argues that utilities have not had any issues within service territories requesting this information. With regard to the medical certificate guidance document, EAP suggests making the following statement bold or otherwise emphasized earlier in the document: "You still have the responsibility to pay your current bills or your budget billing amount during the postponement and any renewal thereof." EAP also asked the Commission to state as follows in the guidance: "Should you need further financial assistance beyond what is afforded by a medical certificate and available renewals, the Commission urges you to contact your utility. Your utility can evaluate your eligibility for additional assistance programs. Additional financial assistance may also be available through federal or state programs." EAP Comments at 3.

PPL states that it agrees with the use of a standard medical certificate form and written guidance. PPL suggests that the form include a check-box to confirm that the physician, physician assistant, or nurse practitioner is licensed in Pennsylvania. PPL states that this information is required by 52 Pa. Code § 56.2, and that this

<sup>1</sup> Columbia filed a Letter in lieu of Comments stating that it already established its position through previously filed comments and through its participation in the working group. Columbia also notes that it generally agrees with and supports the Comments filed by EAP in this matter.

approach is a compromise to requiring medical professionals' license numbers. PPL Comments at 3.

CAUSE-PA states that it is generally supportive of the standardization of the medical certificate form and the written guidance. However, CAUSE-PA recommends adjustments to further improve the accessibility of the medical certificate process. First, CAUSE-PA recommends that the Commission require utilities to link the form and guidance on utilities' websites. CAUSE-PA notes that many customers are unaware of the Commission as a resource and will first look to utilities. CAUSE-PA also suggests that utilities be required to include clear and simple directions on their websites explaining how to submit a medical certificate form. In addition, CAUSE-PA requests that the Commission clarify that, in addition to the standard medical certificate form, utilities must accept any other written documents that include the required elements of a medical certificate as set forth in 52 Pa. Code § 56.113. In this regard, CAUSE-PA argues that the form should not be viewed as the only acceptable means to transmit a medical certificate. CAUSE-PA Comments at 4–6.

CAUSE-PA provided recommended amendments to the standard medical certificate form and guidance in Appendices A and B to its Comments. CAUSE-PA notes that requesting a license number on the form could have a chilling effect on the ability of medically vulnerable consumers to prevent imminent termination. CAUSE-PA recommends, however, changing the term "affliction" to "medical condition" on the form and adding the word "utility" in front of the word "account" to clarify that this is not a medical account number. CAUSE-PA also suggests adding check-boxes to indicate whether the length of the medical condition is shorter or longer than 30 days so that the medical professional only provides the estimated duration if it is shorter than 30 days, which is the maximum duration for a medical certificate. CAUSE-PA further suggests that the Commission add its logo to the form and name it "Medical Certificate." As for the guidance document, CAUSE-PA suggests describing, *inter alia*, the process for obtaining and submitting a medical certificate and referencing the new standard form in the guidance. CAUSE-PA also notes that both the the form and guidance should be provided in multiple languages. CAUSE-PA Comments at 6–11, Appendices A and B.

HELP: MLP notes that medical professionals often decline medical certificates due to a misunderstanding of the purpose or the time involved in obtaining and completing the forms. Thus, HELP: MLP commends the Commission for creating a standard form. Like CAUSE-PA, however, HELP: MLP requests that the Commission change "affliction" to "condition" on the form because "condition" is more in line with the statute and "affliction" implies something more severe than what the statute requires. HELP: MLP also notes that the term "condition" is more comfortable for medical professionals. Additionally, while HELP: MLP agrees that the form should be posted on the Commission's website, it urges the Commission to make the standard form available on utility websites since that is where customers will naturally look for the form. Further, HELP: MLP asks the Commission to make clear that the medical certificate form is not necessary to prevent utility termination. HELP: MLP Comments at 2.

Duquesne states that it does not oppose the Commission's proposal to develop a standardized form for medical certificates that includes the five elements required by Chapter 14 of the Public Utility Code. While Duquesne

notes that requiring a medical practitioner's license number may reduce fraudulent certificates, it acknowledges, based on comments and the working group, that doctors prefer not to include a license number and that some medical systems prohibit this practice. Duquesne states that, if the requirement to include a license number truly presents a barrier to those in need of assistance, it will not oppose this change. Duquesne asks that the Commission revisit the issue in the future if utilities begin to see an increased incident in potentially fraudulent use of medical certificates. Duquesne Comments at 3.

Additionally, Duquesne requests clarification regarding how medical certificates are to be received. Duquesne claims that the Tentative Order suggests that medical certificates can be provided to the utility directly by a customer or medical office, while the consumer and medical professional guidance in Appendix B seems to suggest that the medical professional must contact the utility directly. Duquesne states that the Commission should allow the customer to receive the certificate and submit it directly to the utility. Duquesne argues that medical offices are busy and may forget to submit a certificate on time, and that allowing a customer to submit the certificate reduces the risk that the customer will lose service. Further, Duquesne asks the Commission to revise language in Appendix B stating that a medical professional can "call" the utility. Duquesne avers that this language is misleading since 52 Pa. Code § 56.113 states that medical certifications must be in writing. Duquesne Comments at 3-4.

The FirstEnergy Companies echo the requests of PGW, PECO, EAP, and PPL to require medical professionals to provide their license number on the medical certificate form. The FirstEnergy Companies explain that their additional recommendations include (1) that medical professionals be allowed to submit medical certificate information on letterhead, (2) that medical certificate forms not be posted online, and (3) that customers be allowed to obtain only a limited number of medical certificates while they continue to have an outstanding balance. The FirstEnergy Companies note that they have a number of high-balance accounts where customers obtain medical certificates and file informal and formal complaints to avoid termination while making few, if any, payments. The FirstEnergy Companies state that, in some cases, there may not be valid underlying medical conditions. The FirstEnergy Companies also claim that allowing access to certificates with relative ease reduces the incentive for the customer to engage with the utility to find a long-term solution to an arrearage or low-income assistance. As such, FirstEnergy Companies ask that the Commission adopt their recommendations, although they were not adopted in the Tentative Order. FirstEnergy Comments at 2.

#### *B. Disposition on Form of Medical Certificates*

First, with regard to the Standard Medical Certificate Form<sup>2</sup> (Form), we agree with CAUSE-PA's suggestion to clarify that the "Account Number" sought on the Form is the customer's "utility" account number. We will modify the Form accordingly. We note that the OCA is correct that a utility account number is not one of the five criteria for a medical certificate under 52 Pa. Code § 56.113. Nonetheless, providing the customer's utility account number on the Form may assist a utility in expediting the medical certificate. As such, we find value

<sup>2</sup> We agree with the suggestion to rename the proposed form for medical certifications for clarity. We will refer to this as the "Standard Medical Certificate Form." The document will be marked accordingly.

in maintaining this portion of the Form. We agree with the OCA, however, that a medical professional may not be able to readily obtain a customer's utility account number from the customer or otherwise. Therefore, in order to avoid any burden to medical professionals in the medical certificate process, we will state on the Form that providing the customer's utility account number is optional.

Additionally, we agree with CAUSE-PA and HELP: MLP that the Form should be modified with respect to the use of the term "affliction." The Commission's regulations at 52 Pa. Code § 56.2 refer to a "medical condition" in the definition of medical certificate, while the regulations at 52 Pa. Code § 56.113 refer to an "affliction" in listing the requirements for a medical certificate. We will include both terms on the Form to ensure that the Form reflects these regulations. We will also mirror this change in the Medical Certificate Guidance. Moreover, we disagree with CAUSE-PA that the portion of the Form addressing the duration of the medical condition or affliction should be modified. The regulations at 52 Pa. Code § 56.113 require information on the "anticipated length of the affliction," regardless of duration. Contrary to CAUSE-PA's assertion, the requirement must be included even when the duration is less than 30 days.

We also disagree with the suggestion to incorporate the Commission's logo on the Form. The Form is intended to serve as a resource and template for customers, medical professionals, and utilities in submitting and processing medical certificates. Adding the Commission's logo to the Form may create confusion by leading customers or medical professionals to submit the Form to the Commission, rather than the utility, which may result in unnecessary processing delays.

Moreover, we agree with PWSA, PECO, EAP, and PPL's recommendation that a medical professional's license number should be included on Form. PPL notes that the definition of "medical certificate" in the Commission's regulations at 52 Pa. Code § 56.2 provides, in part, that a medical certificate must be "signed by a *licensed* physician, nurse practitioner or physician assistant." (emphasis added). We note that, in Section 1403 of the Public Utility Code, the General Assembly defined a "medical certificate" as:

A written document, in a form approved by the commission:

- (1) certifying that a customer or member of the customer or member of the customer's household is seriously ill or has been diagnosed with a medical condition which requires the continuation of service to treat the medical condition; and
- (2) signed by a *licensed* physician, nurse practitioner or physician's assistant.

66 Pa.C.S. § 1403 (emphasis added). This definition includes two main elements for the written document and a signature from a "licensed" medical professional is one of those elements. We find that including a field for the license number on the Form is a lawful and reasonable way to give effect to all the words of the definition. See 1 Pa.C.S. § 1921(a) (every statute shall be construed to give effect to all its provisions). The inclusion of the license number on the Form will also prevent against fraud and misuse of the medical certificate process and, thereby, advance the General Assembly's policy goal of

protecting the interests of timely paying customers.<sup>3</sup> Thus, we will add a field to the Form for the license number of the physician, nurse practitioner, or physician's assistant. We will also reflect this change in the Medical Certificate Guidance.

Finally, with respect to the Form, we note that, while we strongly encourage use of the Form, it is not required. Pursuant to the Commission's regulations at 52 Pa. Code § 56.113, "[p]ublic utilities may develop a medical certificate form," but it "may not be mandatory." Consistent with the intent of the regulations to afford some flexibility in the medical certificate process, we will not require the use of the Form. The Form is a tool to help simplify the medical certificate process for customers, medical professionals, and utilities. Utilities continue to be required to accept medical certifications "in writing" that satisfy the definition of "medical certificate" and include all of the criteria set forth in 52 Pa. Code § 56.113. For example, with respect to the Form being signed by a licensed physician, nurse practitioner, or physician's assistant, the medical professional may submit a written document containing the required information on their own letterhead and a utility may find that the information is of sufficient detail to establish that the medical professional is licensed or that the communication allows the utility to easily verify that the medical professional is licensed. In this regard, we remind utilities that they must provide service in an efficient, safe, and reasonable manner in their review of medical certificates. We also remind utilities that they are expected to exercise sound judgement and utilize their discretion in addressing exigent circumstances affecting the health and safety of their customers.

Next, as it pertains to the Medical Certificate Guidance<sup>4</sup> (Guidance) for consumers and medical professionals, we agree with EAP, CAUSE-PA, and Duquesne that including additional information in the Guidance would be useful. As EAP suggests, we will modify the Guidance to emphasize the following statement earlier in the document: "You still have the responsibility to pay your current bills or your budget billing amount during the postponement and any renewal thereof." We also agree with EAP's suggestion to add the following statement to the Guidance: "Should you need further financial assistance beyond what is afforded by a medical certificate and available renewals, the Commission urges you to contact your utility. Your utility can evaluate your eligibility for additional assistance programs. Additional financial assistance may also be available through federal or state programs." In addition, we will add language to the Guidance directing customers to call Pennsylvania 211 or visit the Pennsylvania 211 website for additional assistance. Pennsylvania 211 provides free access to utility assistance, including payment assistance, shut-off suspension programs, payment plan negotiation assistance, and weatherization programs, as well as access to a number of other types of assistance. This language will help resolve the FirstEnergy Companies' concerns that the medical certificate process reduces the incentive for customers to engage with utilities to find long-term solutions or low-income assistance.

<sup>3</sup> In enacting Chapter 14 of the Public Utility Code, the General Assembly intended, in part, to protect responsible bill-paying customers from rate increases attributable to other customer's delinquencies. The General Assembly identified these concerns in its declaration of policy, observing that increasing amounts of unpaid bills threaten "timely paying customers" with higher rates, and that Chapter 14 is intended to provide "greater equity" among all customers. 66 Pa.C.S. § 1402(1)-(2). We are required to ascertain and effectuate the intention of the General Assembly in our construction of statutes. 1 Pa.C.S. § 1921(a).

<sup>4</sup> Like we did with the Standard Medical Certificate Form, we will rename the proposed guidance document as "Medical Certificate Guidance" for clarity. The document will be marked accordingly.



In addition, we will modify the Guidance to explain the medical certificate process generally to customers. CAUSE-PA suggests that the following language be added to the Guidance to address how to use a medical certificate:

1. Contact the utility and tell them you have a medical emergency, and that you are seeking a medical certificate.
2. Contact your medical provider and ask them to complete the medical certificate form. You can use the Public Utility Commission's standard medical certificate form, but it is not required. You can use a form provided by the utility or your medical provider can simply provide the required information (listed below) in writing.
3. You or your medical provider should fax or e-mail the form directly to the utility. Contact your utility to ask where the form should be sent.

We will adopt this language and most of the other suggestions for changes and additions to the Guidance reflected in Appendix B to CAUSE-PA's Comments.<sup>5</sup> We believe that these changes promote clarity in the Guidance and provide additional, relevant information to customers and medical professionals submitting medical certificates.

Lastly, with respect to the Medical Certificate Guidance, we agree with Duquesne that the following statement is confusing: "For a medical certificate to be accepted by the public utility, a physician, physician assistance, or nurse practitioner must *call* or write the public utility..." (emphasis added). The Commission's regulations require medical certificates to be in writing. 52 Pa. Code §§ 56.2, 56.113. Accordingly, we will modify the Guidance to state that a medical professional must provide the requisite information for a medical certificate in writing. We will also modify the Guidance to clarify that the medical professional need not always submit the medical certificate directly to the utility. Medical professionals may provide a medical certificate to the utility directly, or to the customer for the customer's submission of the medical certificate to the utility.

We are including the updated Standard Medical Certificate Form and the updated Medical Certificate Guidance for consumers and medical professionals in this Order as Appendices A and B, respectively. These documents will be posted on the Commission's website at [www.puc.pa.gov](http://www.puc.pa.gov), on the webpage for "Utility Assistance Programs." Spanish versions of these documents will also be posted on the Commission's website. Additionally, the Commission agrees with CAUSE-PA and HELP: MLP that utilities should make these documents available through their websites to promote accessibility. The Commission directs all public utilities to post links to the Standard Medical Certificate Form and Medical Certificate Guidance on their website. This link may direct customers to the Commission's webpage where the documents are posted or to the documents directly, as the utility deems appropriate.

<sup>5</sup> We will not adopt the following language as it is repetitive of statements already included in the Guidance: "You can renew your medical certificate twice regardless of payment, for a total of 90 days of protection from termination. If you pay your current charges or budget bill amount while protected from termination by a medical certificate, you may obtain additional medical certificates without limitation." We also will not adopt the proposed changes regarding the number of medical certificates in the Guidance. The Guidance is referring to circumstances in which one medical certificate has been granted and two renewals are permitted. See 52 Pa. Code § 56.114 ("the number of renewals for the customer's household is limited to two 30-day certifications filed for the same set of arrearages").

## II. Other Court Orders

In the Tentative Order, we maintained our prior position that, when presented with cases of domestic violence and PFAs, the Commission expects utilities to operate in good faith. We agreed that both utilities and the Commission should defer to groups with expertise in this area and, therefore, we declined to provide specific definitions for terms relevant to domestic violence. We noted that the Bureau of Consumer Services (BCS) has coordinated training for utilities with the Pennsylvania Coalition Against Domestic Violence (PCADV) in the past and will continue to do so. We encouraged utilities to contact their local PCADV for additional training. We also reminded utilities that they should consult with their in-house counsel and, if needed, experts, including PCADV, when presented with cases of domestic violence and PFAs or other court orders.

Additionally, we noted that Section 1417 of the Public Utility Code clearly states that Chapter 14 shall not apply to victims under a PFA. We agreed that PFAs, including those outside the Commonwealth, are entitled to the protections of the Commission's regulations at Chapter 56, Subchapters L—V. We noted that, non-PFA court orders or court orders issued by a court of competent jurisdiction "in this commonwealth" are included in the protections of Subchapters L—V, while non-PFA court orders outside the Commonwealth are not included in those protections. We explained that the amended Chapter 14 statutory section prohibits certain foreign non-PFA orders from being capable of providing the additional customer protections of Subchapters L—V.

### A. Comments on Other Court Orders

While PGW offered comments on medical certifications as discussed above and privacy guidelines as discussed below, PGW did not provide comments on court orders. See gen'l'y PGW Comments.

As it pertains to court orders, PPL claims that relying on outside agencies and utilities' in-house legal resources to address questions regarding Section 1417 of the Public Utility Code is not a workable alternative to the Commission providing rules. PPL notes that electric distribution companies (EDCs) could adopt inconsistent policies and practices if requirements are vague. PPL also argues that it is inefficient and resource-intensive for every court order to be reviewed by an EDC's in-house counsel and that inefficiencies may lead to delays in determining if a customer is entitled to domestic violence victim protection. PPL Comments at 3-4.

The OCA states that it supports the Commission's determination that Protection From Abuse orders (PFAs) are valid and enforceable and are entitled to the protections of the Commission's regulations at Chapter 56, Subchapters L—V. The OCA also notes that it supports the Commission's determination that PFAs issued outside the Commonwealth are entitled to the same protection. OCA Comments at 6-7.

PECO proposes to accept a wide range of domestic violence orders and commits to reviewing PFA orders in good faith. PECO argues that the Commission should have an accelerated review process to allow customers to obtain review in instances where a utility concludes that the customer has not presented clear evidence of domestic violence. Additionally, PECO states that it supports the Commission's position that non-PFA court orders issued outside the Commonwealth are not subject to protections under the regulations at Chapter 56, Subchapters L—V. In this regard, PECO notes that Chapter 14 of the Public

Utility Code identifies only two categories of orders for purposes of the domestic violence exemption: (1) PFAs, and (2) court orders issued by a court of competent jurisdiction in the Commonwealth. PECO Comments at 3-4.

EAP states that it supports the Commission's conclusions in the Tentative Order regarding utilities operating in good faith, PFAs being subject to Subchapters L—V of the Chapter 56 regulations, including non-PFA court orders in the Commonwealth in the protections of Subchapters L—V, and not including non-PFA court orders outside the Commonwealth in those protections. EAP Comments at 4.

CAUSE-PA notes that the domestic violence exemption is intentionally broad in recognition of the fact that not all victims of domestic violence are able to obtain a PFA. CAUSE-PA states that it supports the Commission's decision not to provide a formal definition of domestic violence and instead to refer utilities to seek technical assistance from experts. CAUSE-PA argues that utilities should consult with a professional if there are any questions around the dynamics of domestic violence and domestic violence victimization. CAUSE-PA also suggests that the definition of domestic violence may not be limited to the definition of "abuse" in the PFA Act because it would inappropriately restrict the applicability of the Chapter 14 exemption to only those who are able to obtain a PFA. CAUSE-PA Comments at 12-13.

Additionally, CAUSE-PA disagrees that other court orders, aside from PFAs, outside the Commonwealth are excluded from the Chapter 56 protections. CAUSE-PA notes that PCADV explained that court orders from other states can be authenticated by the Court of Common Pleas and that the PFA Act sets forth how to certify a PFA from another state. CAUSE-PA argues that, if a court order is recognized as effective and enforceable by a court of this Commonwealth, it becomes an order issued by a court of competent jurisdiction in this Commonwealth and is not prohibited from inclusion as an order that provides clear evidence of domestic violence. CAUSE-PA asks the Commission to recognize that orders outside the Commonwealth may gain effect through Pennsylvania courts and qualify for the exemption. CAUSE-PA Comments at 13-14.

CAUSE-PA also requests that the Commission adopt the additional processes identified in CAUSE-PA's prior comments, although these processes were not adopted in the Tentative Order. These processes include screening customers to identify whether they are victims of domestic violence, transferring victims to a CARES team with the utility that is highly trained on domestic violence issues, and encouraging utilities to invite staff from local domestic violence programs to participate in the utility's universal service advisory group. CAUSE-PA indicates that it agrees with the Commission's suggestion that utilities seek training in domestic violence, but argues that a single training is not sufficient. CAUSE-PA suggests that training occur at least annually. CAUSE-PA also notes that local domestic violence agencies vary and, therefore, suggests that utilities reach out to PCADV as a first step. CAUSE-PA further recommends that utilities provide cross-training to local domestic violence programs about programs that could help survivors of domestic violence. CAUSE-PA Comments at 14—17.

Moreover, CAUSE-PA reiterates recommendations from its prior comments regarding the handling and retention of sensitive documentation and information from victims of domestic violence. CAUSE-PA also notes that the Commission's current regulations offer significant protec-

tion for victims of domestic violence as being exempt from third party liability, including debt accrued by any third party. CAUSE-PA recommends that the Commission reinforce the third-party liability standards that apply to victims. CAUSE-PA Comments at 17-18.

While HELP: MLP offered comments on medical certificates as discussed above, it did not provide comments on other court orders. See gen'y HELP: MLP Comments.

Duquesne claims that there is a lack of clarity regarding what orders constitute "other court orders." In this regard, Duquesne argues that utilities are not equipped and should not be required to be equipped to make judgements about what constitutes domestic violence or judgments on the validity of other court orders. Duquesne also argues that utilities' call center representatives are not qualified to read and interpret legal documents and that examining evidence of domestic violence in court documents is beyond the scope of in-house lawyers' knowledge and expertise. Duquesne asks the Commission to establish definitions, while also allowing room for utilities to exercise flexibility based on a customer's unique circumstances. Duquesne Comments at 4-5.

The FirstEnergy Companies state that they do not have any proposed changes related to other court orders. The FirstEnergy Companies note that Chapter 56 provides sufficient explanation regarding the protections that apply to victims of domestic violence. FirstEnergy Comments at 1.

#### B. *Disposition on Other Court Orders*

We note that the parties generally agree that the Commission has appropriately resolved questions regarding which orders are entitled to the protections of Chapter 56, Subchapters L—V of the Commission's regulations. The majority of the parties support the Commission's determination that PFAs, including those outside the Commonwealth, and non-PFA court orders or court orders issued by a court of competent jurisdiction "in this commonwealth" are entitled to these protections, while non-PFA court orders outside the Commonwealth are not. We disagree with CAUSE-PA that the statute somehow encompasses court orders originally issued outside of a court of competent jurisdiction in the Commonwealth. As PECO notes, Section 1417 of the Public Utility Code provides only two categories for the domestic violence exemption: (1) PFAs, and (2) court orders issued by a court of competent jurisdiction in the Commonwealth. 66 Pa.C.S. § 1417.

Additionally, we recognize that some parties ask the Commission to provide specific definitions related to domestic violence, while other parties ask the Commission to avoid restrictive definitions due to the intentionally broad nature of the domestic violence exemption in Section 1417 and argue that utilities should be afforded flexibility based on a customer's unique circumstances. Upon consideration of the totality of the comments, we continue to provide that the best option for utilities, with questions regarding domestic violence, within the parameters of Section 1417 is to consult with experts and expert organizations, such as the PCADV, for technical assistance. We wish to avoid narrow definitions of domestic violence since cases of domestic violence vary and may require consultation with experts. The Commission also seeks to afford utilities the flexibility necessary to apply the Section 1417 exemption to domestic violence victims and to avoid unnecessarily limiting application of the exemption.

We reiterate our expectation that utilities will operate in good faith when presented with cases of domestic violence. We continue to emphasize the need for utilities

to undertake regular training regarding domestic violence with local domestic violence agencies and PCADV. We note that training opportunities are not limited to these organizations. Other organizations, such as the Public Utility Law Project (PULP) or the Energy Association of Pennsylvania (EAP), may offer training resources. We agree with CAUSE-PA's suggestion that utilities should also offer cross-training to local domestic violence programs, PCADV, and other organizations about utility programs that could help survivors of domestic violence. We encourage utilities to offer such training. Consulting with experts on cases of domestic violence, engaging in regular domestic violence training, and developing a relationship with organizations like PCADV will allow utilities to learn from experts and resolve concerns that utilities need more information on the subject with respect to the Section 1417 exemption.

### III. Privacy Guidelines

In the Tentative Order, we explained that privacy guidelines are relevant to the Commission's regulations at 52 Pa. Code §§ 56.93, 56.333 regarding personal contact. We noted changes to two of these sections in the Final Rulemaking Order. We further noted that the Commission does not currently allow the release of a customer's telephone number for any purpose. We agreed that telephone numbers and e-mail addresses should not be shared with third parties absent express and clearly defined permission from the customer. Additionally, we proposed a separate and distinct notice for customers choosing to enroll in receiving electronic notifications at Sections 56.93 and 56.333. We stated that the notice should explain and inform the customer that enrolling is voluntary and that the purpose is to receive notification of a pending termination electronically and that consent should not be a check-box. We proposed that customers be able to revoke their consent at any time and by any clear means. We also proposed that utilities send a notice to all customers yearly reminding them to review their account information and the other electronic notifications the customer may have signed up to receive.

#### A. *Comments on Privacy Guidelines*

With regard to privacy guidelines, PGW agrees that there should be a separate notice for customers enrolled in electronic notifications and that the notice should explain that enrollment is voluntary and that the purpose is to receive notification of a pending termination electronically. PGW encourages the Commission to establish guidelines for customers to elect to receive all communications electronically. PGW recommends that customers be enrolled in electronic notifications online, by mail, or over the telephone. PGW suggests that online enrollment include a notice regarding voluntary election and revoking consent, while mail and telephone enrollment involve a notice sent by mail or electronically. PGW agrees that customers should be able to revoke their consent at any time by any clear means. PGW also agrees that utilities should send a yearly notice to all customers asking them to review their account information, including electronic notifications. PGW suggests using a bill insert or bill message, or electronic means if elected. Overall, PGW argues that the guidelines should allow customers to determine how they receive communications, with no preference for mail. PGW Comments at 3.

PPL proposes to add a separate option to its existing catalog of customer alerts. PPL states that customers who expressly consent to these types of notifications will receive electronic messages periodically as desired. PPL notes that it will also update its electronic communication consent form to inform customers that they are agreeing

to receive electronic communications, including electronic termination notices. When customers consent to electronic communications, PPL will use a separate and distinct pop-out box that fully explains that the consent includes electronic termination notices. The text will explain the purpose of electronic termination notices, that receiving these notices electronically is voluntary, and that the customer can cancel participation at any time. PPL states that it will provide clear choices to confirm the customer's decision, such as, "I Agree" or "I Disagree." PPL also states that it will include a notice once a year in its Connect customer newsletter advising all customers to review and confirm their electronic communication choices. PPL Comments at 5.

Additionally, PPL notes that it disagrees with comments that suggest electronic notification is inferior. PPL claims that it sees higher response rates with electronic communications and that data demonstrates that the most reliable way to reach customers is via email or text message. PPL also cites frequent mail delays and an unwillingness to answer calls from phone numbers that customers do not recognize as reasons for the use of emails or text messages to reach customers. PPL claims that the Commission's regulations make it harder for customers to choose to receive electronic notifications and argues that the Commission should encourage EDCs to use electronic communications more. PPL notes that, if barriers to sign up for electronic termination notices are too high, customers will not sign up and will not be able to receive important information in the manner most likely to reach them. PPL Comments at 5-6.

The OCA states that it supports the Commission's determination that customers' e-mail addresses and telephone numbers should not be shared with third parties absent express and clearly defined permission from the ratepayer. The OCA maintains that information provided by customers for personal contact should be treated as private information and should not be shared. The OCA also notes that it supports the use of a separate and distinct notice for ratepayers choosing to enroll in electronic notifications and that consent to receive such notification should not be a check-box. The OCA further states that it agrees that customers should be able to revoke consent at any time and by any clear means. Additionally, the OCA notes that it agrees that utilities should send a reminder to ratepayers on an annual basis so that they can review electronic notifications that they may have signed up to receive. OCA Comments at 7-9.

Like the OCA, PECO supports the position that e-mail addresses and telephone numbers should not be shared with third parties absent permission from customers. In this regard, PECO notes that the Commission's regulations provide specific guidance for maintaining the confidentiality of customer information. PECO also agrees that utilities should obtain customer consent before sending electronic notifications. However, PECO argues that utilities should have flexibility in the manner in which they are permitted to notify customers of the pending termination of service. PECO states that privacy guidelines should not be part of the Commission's regulations and that the Commission should not be overly prescriptive. PECO also argues that privacy guidelines should not go beyond those imposed by federal law and points out that the suggestion that a customer's consent cannot be a check-box goes beyond federal law. PECO also states that standalone consent to certain email communications is not necessary. PECO argues that utilities should be afforded flexibility to implement procedures based on their application processes, billing software, and online account management tools. Moreover, PECO notes that

customer consent to the use of electronic means does not expire. PECO argues that allowing customers to revoke consent at any time by any clear means is burdensome for utilities. For example, PECO states that piecemeal revocation of one type of communication, but not another, i.e., text message, but not email, is problematic. PECO argues instead that revocation be communicated by “any reasonable means.” Finally, PECO does not object to the proposal for utilities to send annual notices to customers to review their electronic notification preferences. PECO Comments at 5–8.

Like PECO, EAP argues that the guidelines, not prescriptive regulations, are the best path forward in a future where technology and privacy issues are evolving. Regarding customer enrollment and consent, EAP suggests that utilities clearly indicate when/where customers provide their email addresses or mobile phone number that they are agreeing to permit the utility to contact them via email or text message for all routine matters, including billing, newsletters, service outage notices, and termination. EAP notes that, as long as the information is clearly explained at that time, a separate notice of consent for electronic notification for termination is not necessary. EAP Comments at 5.

CAUSE-PA supports the general position that phone numbers and electronic contact information should not be subject to third party disclosure absent express and clearly defined permission. CAUSE-PA avers that additional clarity is necessary to safeguard personal identifiable information from disclosure. CAUSE-PA seeks a separate statewide proceeding on data privacy guidelines. CAUSE-PA questions the purpose for which information may be disclosed, the parameters placed on a third party once disclosed, issues regarding profit from disclosure, and disclosure to government agencies. CAUSE-PA argues that, while consent for disclosure may be warranted in certain narrow circumstances, consent should always be specific and time-limited, should fully appraise the customer of the nature and purpose of the disclosure and the entities that could access information, and should require the customers to “opt in,” rather than “opt out.” CAUSE-PA states that utilities should not be permitted to sell data to third parties even with consent. CAUSE-PA Comments at 20–23.

Additionally, CAUSE-PA supports the Commission’s proposal that utilities obtain consent for electronic notice of termination through a separate and distinct notice and that customers can revoke consent at any time by any clear means. CAUSE-PA, however, avers that additional clarity is needed to ensure that consumers consent to receiving electronic notice of termination. CAUSE-PA asks that the Commission establish a clear signatory process for consent and argues that utilities should be required to obtain consent in writing. CAUSE-PA suggests the use of a standard consent form by utilities and the use of a two-step authorization process. CAUSE-PA also suggests that the Commission issue guidance regarding the information required to be included in electronic notices of termination. Further, CAUSE-PA recommends that the Commission clarify what may be considered “clear means” to revoke consent and require utilities to affirmatively verify customers consent and update the customer’s contact information during any non-emergency point of contact. CAUSE-PA also recommends that the annual reminder notices from utilities be provided in March each year at the end of the winter moratorium on utility terminations. CAUSE-PA Comments at 20, 23–26.

While HELP: MLP offered comments on medical certificates as discussed above, it did not provide comments on privacy guidelines. See gen’ly HELP: MLP Comments.

Duquesne states that customers prefer electronic communications and that there are benefits to providing notice of termination by electronic means. For example, Duquesne notes that electronic communications allow a customer to be notified of a termination immediately so that the customers may rectify the situation more quickly. Duquesne also argues that electronic communication better protects a customer’s privacy because only the customer will see the notice. Additionally, Duquesne points to recent Commission action as supporting electronic communication. First, Duquesne argues that that the Commission’s move to electronic service on an opt-out basis for formal complaints due to the COVID-19 pandemic supports greater use of electronic communication. Second, Duquesne notes that the Commission recently approved petitions from Duquesne and PPL to provide the triennial Eligible Customers List update communication electronically to all customers who have provided an email address, rather than only those receiving an electronic bill, as previously allowed. Duquesne Comments at 6–8.

Moreover, regarding a separate and distinct notice for customers enrolling in electronic notifications, Duquesne argues that such notice is not necessary if a customer elects to receive all communications electronically. If the Commission nonetheless moves forward with its proposal, Duquesne suggests that a clearly marked check-box is sufficient. Further, Duquesne states that it is not opposed to allowing customers to revoke consent at any time by any clear means. Duquesne, however, does not support the requirement for utilities to send a notice to all customers on a yearly basis to remind them to review their account information and electronic notifications. Duquesne notes that customers who have opted into electronic billing receive and pay an electronic bill on a monthly basis and, therefore, further reminder is unnecessary. Duquesne asks that, if the Commission moves forward with its proposal, utilities be given flexibility in how to deliver the reminder notice via email or bill message, which would be less expensive or burdensome than a separate mailing. Duquesne Comments at 8-9.

The FirstEnergy Companies note that they do not currently utilize electronic messaging to customers during the service disconnection process, although they may do so in the future. The FirstEnergy Companies suggest that utilities be allowed to use an electronic-message-preference management tool to enable customers to choose which messages to receive electronically. The FirstEnergy Companies note that customers would have the option to receive some messages by traditional means and others electronically and to adjust their preferences at any time such that there is no need for a reminder each year. FirstEnergy Comments at 2.

#### *B. Disposition on Privacy Guidelines*

Initially, we note that Section 1406 of the Public Utility Code mentions “the commission’s privacy guidelines” only in the context of notices of termination of service and, specifically, e-mail, text message, and other electronic messaging format for termination notices. 66 Pa.C.S. § 1406(b)(1)(ii)(C). Thus, the scope of this proceeding is limited to creating privacy guidelines pertaining solely to electronic termination notices. We decline to address privacy issues related to other types of electronic notices, and we reject the parties’ requests to create privacy guidelines for enrollment, consent, and other issues related to non-termination notices in this proceeding. The

Privacy Guidelines set forth herein are limited to electronic termination notices consistent with Section 1406.

Moreover, we agree with PECO and EAP that the Commission should use guidelines, not regulations, to address privacy issues. We previously explained that the General Assembly referred to “guidelines,” rather than regulations, in Section 1406 and referenced approval “by commission order.” 66 Pa.C.S. § 1406(b)(1)(ii)(C); see Final Implementation Order at 56. Therefore, guidelines are the appropriate vehicle to address privacy issues related to electronic termination notices. Further, we agree that any guidelines should not be overly prescriptive, given ever-changing technology.

With respect to the Privacy Guidelines, all parties generally agree that telephone numbers, e-mail addresses, and other electronic contact information should not be shared with third parties without customer permission. Accordingly, we reiterate that utilities should not share telephone numbers or e-mail addresses with third parties absent express and clearly defined permission from customers. We agree with CAUSE-PA that customers should be notified of the nature and purpose of the disclosure. Additionally, we find that the Commission’s regulations for electricity generation and natural gas supply customer choice are instructive here with respect to customer “opt-in” versus “opt-out” provisions. See 52 Pa. Code §§ 54.8, 62.78(a). Consistent with these regulations, utilities should provide customers with a convenient method of notifying the utility of their desire to restrict the release of a telephone number or e-mail address.

With regard to consent for electronic termination notices, we disagree with some parties’ claims that enrollment in other types of electronic communications or the provision of a customer’s email address to a utility generally are sufficient to serve as consent for electronic termination notices. We remind the parties that Section 1406 of the Public Utility Code requires that, “[i]n the case of electronic notification only, the customer must affirmatively consent to be contacted using a specific electronic messaging format for purpose of termination.” 66 Pa.C.S. § 1406(b)(1)(ii)(D). Therefore, a separate and distinct consent notice is appropriate for electronic termination notices. The consent notice should state that the purpose of the consent is to receive electronic termination notices, that receiving electronic termination notices is voluntary, and that the customer may revoke consent at any time by any clear means. We note that most parties support customers’ ability to revoke consent at any time by any clear means.

We also agree with PECO that utilities should be afforded flexibility in determining the method of obtaining customer consent based on the capabilities of the utility, including their application process, billing software, and online management tools. We note, however, that, since the electronic notifications pertain to termination of service, consent is of great importance. As such, we strongly encourage utilities to avoid the use of a check-box to obtain consent. The Commission believes that a more robust form of consent will benefit both customers and utilities. For instance, using more than a check-box may help ensure that customers are aware of their election and limit the number of complaints filed against utilities regarding a lack of notice for termination.

Finally, we maintain that utilities should send a notice to customers on an annual basis to remind them to review whether they elected to receive electronic termination notices. We recognize that some parties claim that

this requirement is not necessary or is duplicative. We find, however, that this reminder to customers is important, at least at the outset, to ensure that customers receive termination notices in the manner of their choice. This reminder notice would also prompt customers to update any out-of-date telephone numbers or e-mail addresses. We note that we may revisit this requirement after some time has passed so that we can further evaluate whether the reminder notice is beneficial. In addition, we agree with PGW and Duquesne that utilities should be afforded an option regarding how to send the reminder notice to customers. At a minimum, however, utilities should provide the reminder notice using a customer’s preferred method of contact, if designated. The Commission also finds that a bill insert or bill message would be most appropriate in addition to a customer’s designated preferred method of contact. Further, we agree with CAUSE-PA that utilities should send reminder notices to customers in the first quarter of the year, noting that reminder notices are helpful to customers prior to the conclusion of the winter moratorium on utility service terminations. We encourage utilities to utilize this approach.

The Privacy Guidelines relevant to Section 1416 of the Public Utility Code and Sections 56.93 and 56.333 of the Commission’s regulations are included in this Order as Appendix C. As noted earlier, the Privacy Guidelines are intended to serve as an evolving document that may be revised when changes in technology occur in the future.

#### *Conclusion*

We again thank the stakeholders for their participation in this proceeding and for their helpful assistance during the collaborative process. Upon consideration of the comments filed by the stakeholders in response to the Tentative Order and for the reasons set forth herein, the Commission hereby issues this Order on the form of medical certificates, other court orders related to domestic violence, and privacy guidelines; *Therefore,*

#### *It Is Ordered That:*

1. The Commission hereby adopts the Standard Medical Certificate Form, Medical Certificate Guidance, and Privacy Guidelines, attached as Appendices A, B, and C respectively, and as set forth herein.
2. The Standard Medical Certificate Form and Medical Certificate Guidance, attached as Appendix A and B respectively, shall be posted on the Commission’s website, [www.puc.pa.gov](http://www.puc.pa.gov), on the webpage for “Utility Assistance Programs” along with Spanish versions of the documents.
3. All public utilities shall post links to the Standard Medical Certificate Form and Medical Certificate Guidance, attached as Appendices A and B respectively, on their websites.
4. The Law Bureau shall deposit this Order and Appendices A, B, and C with the Legislative Reference Bureau to be published in the *Pennsylvania Bulletin*.
5. A copy of this Order and Appendices A, B, and C shall be posted on the Commission’s website, [www.puc.pa.gov](http://www.puc.pa.gov).
6. The Secretary shall serve this Order and Appendices A, B, and C on all parties that submitted comments at Docket No. L-2015-2508421.
7. The proceeding at Docket No. L-2015-2508421 be marked closed.

ROSEMARY CHIAVETTA,  
*Secretary*

ORDER ADOPTED: December 16, 2021

ORDER ENTERED: January 5, 2022

**Appendix A  
STANDARD MEDICAL CERTIFICATE FORM**

To Be Completed By The Physician, Nurse Practitioner, or Physician's Assistant

Name of the customer or applicant in whose name the utility account is or will be registered:
Utility account number (optional):
Address of the customer or applicant in whose name the utility account is or will be registered:  Name and address of patient if different from the customer or applicant above:  Relationship of patient to customer or applicant if patient is different from the customer or applicant above:
Anticipated length of the affliction/medical condition:
Printed name of the Physician, Nurse Practitioner, or Physician's Assistant:
License number of the Physician, Nurse Practitioner, or Physician's Assistant:
Office address and Office Phone number of the Physician, Nurse Practitioner, or Physician's Assistant:
Signature (or E-signature) of the Physician, Nurse Practitioner, or Physician's Assistant and the Date signed:

**Appendix B**

**Medical Certificate Guidance**

*Guidance for Consumers:*

If you are behind on your utility bills, you may be able to avoid shutoff or obtain restoration of public utility service if there is a medical emergency in your household. A medical emergency exists if you or a member of your household are seriously ill or have a medical condition that will be worsened if you do not have public utility service.

To use a medical certificate to avoid termination or restore service, you or someone in your household must be a customer of the public utility. After your service is terminated or discontinued, you remain a customer of a public utility for 30 days. After 30 days have passed, the public utility considers you to be an applicant for new services. Once you revert to applicant status you are no longer a customer, and your medical certificate may not be enough to restore service. A payment may be required with the medical certificate in that case.

Below are steps for consumers regarding how to obtain a medical certificate and how to use a medical certificate:

1. Contact the utility and tell them you have a medical emergency, and that you are seeking a medical certificate.

2. Contact your medical professional and ask them to complete the medical certificate form. You can use the Public Utility Commission's Standard Medical Certificate Form, but it is not required. You can use a form provided by the utility or your medical professional can simply provide the required information (listed below) in writing.

3. You or your medical professional should fax or e-mail the form directly to the utility. Contact your utility to ask where the form should be sent.

A licensed physician, nurse practitioner, or physician's assistant must sign the medical certificate and include their license number on the medical certificate. The following information from the licensed physician, physician assistant, or a nurse practitioner is required in writing on a medical certificate:

1. The name and address of the customer or applicant in whose name the account is registered.

2. The name and address of the afflicted person/person with medical condition and the relationship to the customer or applicant.

3. The anticipated length of the affliction/medical condition.

4. The name, office address, and telephone number of the certifying physician, physician assistant, or nurse practitioner.

5. Signature of the certifying physician, physician assistant, or nurse practitioner.

Once a medical certificate is accepted by a public utility, a pending shutoff must be postponed for a maximum of 30 days. The shutoff can then be postponed for a maximum of 30 days and renewed for additional 30-day periods. However, you still have the responsibility to pay your current bills or your budget billing amount during the postponement and any renewal thereof.

If your service has already been shut off, you may provide a medical certificate to the public utility to have service restored within 24 hours. If your service has been terminated for more than 30 days, you will revert to applicant status. A payment may be required with the medical certificate if you are an applicant seeking restoration and you still have an outstanding balance due.

A single medical certification will result in postponement or restoration of service for a maximum of 30 days. If you do not pay your current bills or budget bill amount, the utility is not required to accept more than two medical certification renewals.

Should you need further financial assistance beyond what is afforded by a medical certificate and available renewals, the Commission urges you to contact your utility. Your utility can evaluate your eligibility for additional assistance programs. Additional financial assistance may also be available through federal or state programs. Please call Pennsylvania 211 by dialing "211" or visit <https://www.pa211.org/> for other types of assistance available.

#### *Guidance for Medical Professionals:*

Consumers may be able to avoid shutoff or obtain restoration of public utility service if there is a medical emergency in the household. A medical emergency exists if the consumer or a member of the consumer's household is seriously ill or has a medical condition that will be worsened if the consumer does not have utility service.

The determination of whether a medical condition qualifies for the purposes of this section resides entirely with the physician, nurse practitioner, or physician assistant and not with the public utility.

A single medical certificate will result in the postponement or restoration of service for a maximum of 30 days. Consumers have the responsibility to pay current bills or the budget billing amount during the postponement. The medical certificate can be renewed for additional 30-day periods.

Medical professionals may provide a medical certificate to the utility directly, or to the customer for the customer's submission to the utility. A licensed physician, nurse practitioner, or physician's assistant must sign the medical certificate and include their license number on the medical certificate. For a medical certificate to be accepted by the public utility, the licensed physician, physician assistant, or a nurse practitioner must provide in writing on the medical certificate:

1. The name and address of the customer or applicant in whose name the account is registered.

2. The name and address of the afflicted person/person with medical condition and the relationship to the customer or applicant.

3. The anticipated length of the affliction/medical condition.

4. The name, office address, and telephone number of the certifying physician, physician assistant, or nurse practitioner.

5. Signature of the certifying physician, physician assistant, or nurse practitioner.

This medical certificate information can be provided to a utility in any written format. The Public Utility Commission provides a Standard Medical Certificate Form on its website, [www.puc.pa.gov](http://www.puc.pa.gov). However, no particular form is required.

### **Appendix C**

#### **Privacy Guidelines Relevant to 66 Pa.C.S. § 1416 and 52 Pa. Code §§ 56.93, 56.333**

##### *Release of Customer Telephone Numbers and E-Mail Addresses:*

1. Public utilities should maintain the confidentiality of a customer's telephone number and e-mail address.

2. Public utilities should not release a customer's telephone number or e-mail address to a third party unless the customer has been notified of the intent.

3. Public utilities should not release a customer's telephone number or e-mail address to a third party absent express and clearly defined permission from the customer.

4. Public utilities should inform a customer of and provide the customer with a convenient method of notifying the utility of the customer's desire to restrict the release of a telephone number or e-mail address.

##### *Customer Consent to Electronic Notifications for Termination:*

5. Public utilities should provide a separate and distinct consent notice to a customer enrolling to receive electronic notifications for termination.

6. The consent notice for electronic notifications of termination provided to the customer should include statements informing the customer that:

a. The purpose of the consent is to receive electronic notifications of termination;

b. Receiving electronic notifications of termination is voluntary; and

c. The customer may revoke consent at any time by any clear means.

7. Public utilities may exercise discretion in determining the method of obtaining customer consent to electronic notifications of termination. The Commission, however, strongly encourages utilities to avoid the use of a check-box for this notice.

8. Public utilities should allow a customer to revoke consent to receive electronic notifications of termination at any time by any clear means.

*Reminder Notices regarding Electronic Notifications of Termination:*

9. Public utilities should send a notice to a customer on an annual basis to remind the customer to review whether the customer elected to receive electronic notifications of termination.

10. Public utilities may exercise discretion in determining how to send the annual reminder notice to a customer. Public utilities should, at a minimum, provide the reminder notice using a customer's preferred method of contact, if designated. The Commission encourages utilities to use a bill insert or bill message in addition to the customer's preferred method of contact.

11. The Commission encourages public utilities to send the annual reminder notice to a customer in the first quarter of the year prior to the conclusion of the winter moratorium on service terminations.

[Pa.B. Doc. No. 22-260. Filed for public inspection February 11, 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 February 28, 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-22-02-01. Dilwar Trans, Inc.** (14 South 40th Street, Philadelphia, PA 19104): 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.

**Doc. No. A-22-02-02. Shapla Trans, Inc.** (783 Shelbourne 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.

SCOTT PETRI,  
*Executive Director*

[Pa.B. Doc. No. 22-261. Filed for public inspection February 11, 2022, 9:00 a.m.]

**PUBLIC SCHOOL EMPLOYEES'  
RETIREMENT BOARD**

**Hearing Scheduled**

A hearing has been scheduled, as authorized by 24 Pa.C.S. Part IV (relating to Public School Employees' Retirement Code), in connection with the Public School Employees' Retirement System's (System) denial of claimant's request concerning the indicated account.

The hearing will be held before a hearing examiner at the Public School Employees' Retirement System, 5 North Fifth Street, Harrisburg, PA 17101.

April 27, 2022	Account of Allen M. Hofknecht (Deceased) (Contested Death Benefit)	10 a.m.
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Persons with a disability who wish to attend the previously listed hearing and require an auxiliary aid, service or other accommodation to attend the proceeding should contact the Appeal Docket Clerk at (717) 720-4888 to discuss how the System may best accommodate their needs.

Parties may appear with or without counsel and offer relevant testimony or evidence to support their respective positions. The hearing will be held in accordance with the requirements of 2 Pa.C.S. §§ 501—508 and 701—704 (relating to Administrative Agency Law). Under 22 Pa. Code § 201.1 (relating to applicability of general rules), procedural matters will be in conformance with 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure) unless specific exemption is granted.

TERRILL J. SANCHEZ,  
*Interim Executive Director*

[Pa.B. Doc. No. 22-262. Filed for public inspection February 11, 2022, 9:00 a.m.]

**STATE BOARD OF MEDICINE**

**Physician Assistant Review Process**

The State Board of Medicine (Board) hereby provides notice of its physician assistant written agreement review process. This notice is published to comply with section 13 of the Medical Practice Act of 1985 (act) (63 P.S. § 422.13), as amended by the act of October 7, 2021 (P.L. 418, No. 79) (Act 79 of 2021). Specifically, subsection (e)(7) directs the Board to submit the review process for the written agreements under subsection (e)(6) to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*. Therefore, notice is hereby given that the written agreement review process used by the Board has been completed as follows, and is published on the Board's publicly available web site at <https://www.dos.pa.gov/ProfessionalLicensing/BoardsCommissions/Medicine>.

*Background and Purpose*

Section 13 of the act, as amended, helps physician assistants work and practice with increased efficiency in this Commonwealth and encourages physician assistants to stay and practice in this Commonwealth after graduating from their education program. Specifically, subsection (e)(6) allows a written agreement to be submitted to the



Board for filing before engaging in practice and is effective upon submission, as opposed to waiting for the previously required approval by the Board prior to practice.

Under the language of subsection (e)(6), the Board is responsible for conducting a full review of 10% of the written agreements submitted to the Board. That means that 90% of written agreements submitted to the Board are not fully reviewed; however, a cursory review is made of the 90% of the written agreements not subject to full review. This cursory review is made to ensure that both parties to the written agreement are actively licensed in the Commonwealth, that the physician assistant has complied with the malpractice insurance requirement and that the supervising physician is not responsible for more than six physician assistants. Written agreements are effective upon submission.

#### *Description of the Written Agreement Review Process*

As previously stated, under section 13(e)(6) of the act, a 10% review of all written agreement applications submitted to the Board on or after the effective date of the act 2021, is required.

Consequently, 90% of written agreement applications received by the Board are not subject to full review. The written agreement review process for 90% of written agreement applications submitted to the Board is as follows:

1. Board staff checks to make sure that both parties to the written agreement, the physician and the physician assistant, have an active Pennsylvania license. If one or both parties do not have an active Pennsylvania license, a discrepancy notice is issued by Board staff.

2. Board staff checks the number of physician assistants the supervising physician currently supervises to assure compliance with the limitation in section 13(e), as amended. If the supervising physician is responsible for more than six physician assistants and has not requested approval from the Board to supervise more than six physician assistants, Board staff will process the written agreement application and forward the written agreement on to the Department of State, Professional Compliance Office for further action, if appropriate. If the written agreement application is submitted with a request for the physician assistant to supervise more than six physician assistants, the request is placed on the Board's next agenda for review.

3. Board staff checks the certificate of insurance or letter of intention from the insurance company to ensure that the physician assistant meets the malpractice insurance requirement set forth in section 36(f) of the act (63 P.S. § 422.36(f)). If the proof of insurance provided with the written agreement application does not meet the malpractice insurance requirements, Board staff processes the written agreement application and forwards the written agreement to the Department of State, Professional Compliance Office for further action, if appropriate.

Under section 13(e)(6) of the act, 10% of written agreement applications received by the Board are subject to full review and are effective upon submission. The written agreement review process for 10% of written agreement applications submitted to the Board is as follows:

1. Board staff randomly reviews every tenth written agreement application.

2. Board staff checks to make sure that both parties to the agreement, the physician and the physician assistant, have an active Pennsylvania license. If one or both parties do not have an active Pennsylvania license, a discrepancy notice is issued by the Board.

3. Board staff checks the number of physician assistants the supervising physician currently supervises to assure compliance with the limitation in section 13(e), as amended. If the supervising physician is responsible for more than six physician assistants and has not requested approval from the Board to supervise more than six physician assistants, Board staff issues a discrepancy notice.

4. Board staff checks that the written agreement meets the following criteria, as required under section 13(e)(1)—(4) of the act:

a. The written agreement identifies and is signed by the primary supervising physician.

b. The written agreement describes the physician assistant's scope of practice.

c. The written agreement describes the nature and degree of supervision the primary supervising physician will provide to the physician assistant.

d. The written agreement is prepared and submitted by the primary supervising physician, physician assistant or a delegate of the supervising physician and physician assistant.

If the written agreement does not meet the requirements outlined in 4(a)—(d), Board staff sends a discrepancy notice to the supervising physician and physician assistant indicating that the written agreement application is subject to the 10% review. Within that discrepancy notice, Board staff provides the list of items that need to be remedied within the written agreement and a notification that the parties have 2 weeks to respond to the discrepancy notice. If the parties do not respond to the discrepancy notice within 2 weeks, the written agreement is void and the application status will be changed to expired. The physician assistant and supervising physician must submit an entirely new written agreement. The new written agreement is effective upon submission and is subject to 10% review.

If a response to the discrepancy is received by the Board outside of the 2-week period, a second discrepancy notice will be sent to the parties indicating that the response is outside of the 2-week period and informing the parties that a new written agreement application must be submitted.

MARK B. WOODLAND, MD,  
*Chairperson*

[Pa.B. Doc. No. 22-263. Filed for public inspection February 11, 2022, 9:00 a.m.]

## STATE BOARD OF OSTEOPATHIC MEDICINE

### Physician Assistant Review Process

The State Board of Osteopathic Medicine (Board) hereby provides notice of its physician assistant written

agreement review process. This notice is published to comply with section 10(g) of the Osteopathic Medicine Practice Act (act) (63 P.S. § 271.10(g)) as amended by the act of October 7, 2021 (P.L. 412, No. 78) (Act 78 of 2021). Specifically, paragraph (g)(3) directs the Board to submit the review process for the written agreements under paragraph (g)(2) to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*. Therefore, notice is hereby given that the written agreement review process used by the Board has been completed as follows and is published on the Board's publicly available web site at <https://www.dos.pa.gov/ProfessionalLicensing/BoardsCommissions/OsteopathicMedicine>.

#### *Background and Purpose*

Section 10(g) of the act, as amended, helps physician assistants work and practice with increased efficiency in this Commonwealth and encourages physician assistants to stay and practice in this Commonwealth after graduating from their education program. Specifically, paragraph (g)(2) allows a written agreement to be submitted to the Board for filing before engaging in practice and is effective upon submission, as opposed to waiting for the previously required approval by the Board prior to practice.

Under the language of paragraph (g)(2), the Board is responsible for conducting a full review of 10% of the written agreements submitted to the Board. That means that 90% of written agreements submitted to the Board are not fully reviewed; however, a cursory review is made of the 90% of the written agreements that are not subject to full review. This cursory review is made to ensure that both parties to the written agreement are actively licensed in the Commonwealth, that the physician assistant has complied with the malpractice insurance requirement and that the supervising physician is not responsible for more than six physician assistants. Written agreements are effective upon submission.

#### *Description of the Written Agreement Review Process*

As previously stated, under section 10(g)(2) of the act, a 10% review of all written agreement applications submitted to the Board or after the effective date of the act is required.

Consequently, 90% of written agreement applications received by the Board are not subject to full review. The written agreement review process for 90% of written agreement applications submitted to the Board is as follows:

1. Board staff checks to make sure that both parties to the written agreement, the physician and the physician assistant, have an active Pennsylvania license. If one or both parties do not have an active Pennsylvania license, a discrepancy notice is issued by Board staff.
2. Board staff checks the number of physician assistants the supervising physician currently supervises to assure compliance with section 10(g)(4) of the act. If the supervising physician is responsible for more than six physician assistants and has not requested approval from the Board to supervise more than six physician assistants, Board staff will process the written agreement application and forward the written agreement on to the Department of State's Professional Compliance Office for

further action, if appropriate. If the written agreement application is submitted with a request for the physician assistant to supervise more than six physician assistants, the request is placed on the Board's next agenda for review.

3. Board staff checks the certificate of insurance or letter of intention from the insurance company to ensure that the physician assistant meets the malpractice insurance requirement in section 10(g.3) of the act. If the proof of insurance provided with the written agreement application does not meet the malpractice insurance requirements, Board staff processes the written agreement application and forwards the written agreement to the Department of State's Professional Compliance Office for further action, if appropriate.

Under section 10(g)(2) of the act, 10% of written agreement applications received by the Board are subject to full review and are effective upon submission. The written agreement review process for 10% of written agreement applications submitted to the Board is as follows:

1. Board staff randomly reviews every tenth written agreement application.
2. Board staff checks to make sure that both parties to the agreement, the physician and the physician assistant, have an active Pennsylvania license. If one or both parties do not have an active Pennsylvania license, a discrepancy notice is issued by the Board.
3. Board staff checks the number of physician assistants the supervising physician currently supervises to assure compliance with section 10(g)(4) of the act. If the supervising physician is responsible for more than six physician assistants and has not requested approval from the Board to supervise more than six physician assistants, Board staff issues a discrepancy notice.
4. Board staff checks that the written agreement meets the following criteria, as required under section 10(g)(1) and (g.4) of the act:
  - a. The written agreement identifies and is signed by the primary supervising physician.
  - b. The written agreement describes the physician assistant's scope of practice.
  - c. The written agreement describes the nature and degree of supervision the primary supervising physician will provide to the physician assistant.
  - d. The written agreement is prepared and submitted by the primary supervising physician, physician assistant or a delegate of the supervising physician and physician assistant.

If the written agreement does not meet the requirements outlined in 4(a)—(d), Board staff sends a discrepancy notice to the supervising physician and physician assistant indicating that the written agreement application is subject to the 10% review. Within that discrepancy notice, Board staff provides the list of items that need to be remedied within the written agreement and a notification that the parties have 2 weeks to respond to the discrepancy notice. If the parties do not respond to the discrepancy notice within 2 weeks, the written agreement is void and the application status will be changed to expired. The physician assistant and supervising physician must then submit an entirely new written agreement. The new written agreement is effective upon submission and is subject to 10% review.

If a response to the discrepancy notice is received by the Board outside of the 2-week period, a second discrepancy notice will be sent to the parties indicating that the response is outside of the 2-week period and informing the parties that a new written agreement application must be submitted.

WILLIAM SWALLOW, DO,  
*Chairperson*

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