

# PENNSYLVANIA BULLETIN

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

**No. 543, February 2020**

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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.pacode.com](http://www.pacode.com).

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

A chronological table of the history of *Pennsylvania Code* sections may be found at [www.legis.state.pa.us/cfdocs/legis/CH/Public/pcde\\_index.cfm](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 2020.

### 4 Pa. Code (Administration)

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# THE GENERAL ASSEMBLY

## COMMISSION ON SENTENCING

### Meetings Scheduled

The Commission on Sentencing (Commission) announces the following meetings to be held at the Pennsylvania Judicial Center, 601 Commonwealth Avenue, Harrisburg, PA, the Crowne Plaza Hotel, 23 South Second Street, Harrisburg, PA and at the Capitol Complex, 60 East Wing, Harrisburg, PA:

Wednesday, March 4, 2020	2 p.m.	Public Hearing Pennsylvania Judicial Center 601 Commonwealth Avenue Harrisburg, PA
	6:30 p.m.	Dinner Meeting Crowne Plaza Hotel 23 South Second Street Harrisburg, PA
Thursday, March 5, 2020	9 a.m.	Policy Committee Meeting 60 East Wing Capitol Complex Harrisburg, PA
	11 a.m.	Quarterly Commission Meeting 60 East Wing Capitol Complex Harrisburg, PA

MARK H. BERGSTROM,  
*Executive Director*

[Pa.B. Doc. No. 20-140. Filed for public inspection January 31, 2020, 9:00 a.m.]



# THE COURTS

## Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

### PART IV. ADMISSION TO PRACTICE LAW

[ 204 PA. CODE CH. 71 ]

#### Order Amending Rule 322 of the Pennsylvania Bar Admission Rules; No. 825 Supreme Court Rules Doc.

##### Order

*Per Curiam*

*And Now*, this 15th day of January, 2020, upon the recommendation of the Board of Law Examiners, the proposal having been published for public comment in the *Pennsylvania Bulletin* at 49 Pa.B. 5700 (October 5, 2019):

*It Is Ordered* pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rule 322 of the Bar Admission Rules is amended in the following form.

This *Order* shall be processed in accordance with Pa.R.J.A. No. 103(b), and the amendments shall be effective in thirty (30) days.

##### Annex A

## TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

### PART IV. ADMISSION TO PRACTICE LAW

#### CHAPTER 71. PENNSYLVANIA BAR ADMISSION RULES

##### Subchapter C. RESTRICTED PRACTICE OF LAW CERTIFIED LEGAL INTERNS

#### Rule 322. Authorized activities of certified legal interns.

(a) *General rule.* Subject to the restrictions of this subdivision, a certified legal intern may with the approval of a supervising attorney:

(1) Appear before any **court or other** government unit [ **other than the Supreme, Superior or Commonwealth Courts** ] in any civil or criminal matter on behalf of any indigent, if the person on whose behalf the legal intern is appearing consents to such appearance. [ **The supervising attorney must be personally present throughout the proceedings where the legal intern is appearing on behalf of the defendant in a criminal matter where the defendant has the right to counsel under any provision of law.** ]

(2) Appear in any civil or criminal matter on behalf of the Commonwealth, if the Attorney General (or the prosecuting attorney in the case of a criminal matter) or his or her authorized representative consents to such appearance.

The approval of the supervising attorney and the consent of the party represented required by this subdivision shall be in writing and filed of record in the matter and shall be brought to the attention of the judge or magisterial district judge or the presiding officer of the other government unit. **Appearances pursuant to this rule include provision of oral argument.**

(b) *Preparation of papers.* A certified legal intern may engage in other activities, [ **under the general supervision of a member of the bar of this Commonwealth, but outside the personal presence of the attorney,** ] including **the following**:

(1) Preparation of pleadings and other documents to be filed in any matter in which the legal intern is eligible to appear and in any appeals therefrom in the Supreme, Superior or Commonwealth Courts.

(2) Except when the assignment of counsel is required under any provision of law, **provision of** assistance to indigent inmates of correctional institutions or other persons who request such assistance in preparing applications for and supporting documents for post-conviction relief. If there is an attorney of record in the matter, all such assistance shall be supervised by the attorney of record.

Each pleading or other document shall contain the name of the legal intern who has participated in drafting it. If the legal intern participated in drafting only a portion of it, that fact may be stated. All pleadings or other documents shall be signed by the supervising attorney.

(c) *Supervising attorney.* The attorney under whose supervision a certified legal intern performs any of the services permitted by this rule shall [ : ]

(1) Be approved in writing as a supervising attorney for the purposes of this rule by the dean of the law school in which the legal intern is or was enrolled.

(2) Assume personal professional responsibility for the guidance of the legal intern in any work undertaken and for supervising the quality of the work of the legal intern.

(3) Assist the legal intern in his or her preparation to the extent the supervising attorney considers necessary.

**(4) Assure that the certified legal intern is fully prepared and appropriately supervised.**

**(5) Be present during any appearance the certified legal intern makes before any tribunal.**

*Official Note:* Based on former Supreme Court Rule 11 A, D and E and makes no change in substance.

[Pa.B. Doc. No. 20-141. Filed for public inspection January 31, 2020, 9:00 a.m.]

## Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

### PART V. PROFESSIONAL ETHICS AND CONDUCT

#### [ 204 PA. CODE CHS. 83, 85, 89, 91 AND 93 ]

#### **Proposed Amendments to the Disciplinary Board Rules and the Rules of Disciplinary Enforcement to Update the Disciplinary Board Rule Identifying the Procedure Applicable to Formal Proceedings; to Increase Efficiency In Formal Disciplinary Proceedings by Prohibiting Certain Types of Prehearing and Hearing Motions; to Clarify the Meaning and Application of the Board Rule Designating the Manner of Service of Documents Originating With the Board; and to Amend Certain Provisions of the Enabling Rules to Conform to the Rules That Allow a Single Board Member to Act for the Board on an Interlocutory Appeal**

Notice is hereby given that The Disciplinary Board of the Supreme Court of Pennsylvania (Board) is considering amending Disciplinary Board Rules (“D.Bd. Rules”) §§ 85.11, 89.2, 89.21, 89.55, 89.93, 91.3, 93.22 and 93.23 as set forth in Annex A, and planning to recommend to the Supreme Court of Pennsylvania that the Court amend Rules 205, 208 and 213 of the Pennsylvania Rules of Disciplinary Enforcement (“Enforcement Rules” or “Pa.R.D.E.”), as set forth in Annex B.

*The reference to “action in equity” in D.Bd. Rules § 89.2 is obsolete.*

D.Bd. Rules § 89.2, titled “Equity procedure to apply,” currently provides that except where inconsistent with the Disciplinary Board Rules, “formal proceedings before hearing committees, special masters and the Board shall conform generally to the practice in action in equity under the Pennsylvania Rules of Civil Procedure.” The “practice in action in equity” language provides no guidance in discerning the procedure to be followed in modern-day practice before the Board because “[t]he action in equity has been abolished. Equitable relief may be obtained through a civil action, Rule [Pa.R.C.P.] 1001 et seq.” See Note after Pa.R.C.P. 1501 (Rescinded). The Supreme Court merged actions in equity with civil actions by Order dated December 16, 2003, effective July 1, 2004. *In re: Consolidation of the Action in Equity with the Civil Action*, No. 402 Civil Procedural Rules Docket No. 5, 34 Pa.B. 9 (January 3, 2004). Attempting to extrapolate “equity practice” or even “equitable procedures” from the Rules of Civil Procedure for application to attorney disciplinary proceedings is an impossible task. In summary, the term “action in equity” is obsolete, no longer provides tangible guidance on procedure, and therefore should be deleted from D.Bd. Rules § 89.2.

*Substituting “civil action” for “action in equity” would be counterproductive.*

As explained above, in 2003 the Court abolished the separate action in equity and merged it into the civil action such that equitable causes of action now require analysis of the Rules of Civil Procedure governing the civil action—*i.e.*, Pa.R.C.P. 1001 et seq. With respect to D.Bd. Rules § 89.2, replacing the “action in equity” procedure with the “civil action” procedure as set forth in the Rules of Civil Procedure would be counterproductive

because the civil action rules contain a number of detailed procedural requirements that are not inconsistent with the Board Rules but foreign to established Board practice, such as attaching a writing to a pleading when a claim or defense is based thereon. See Pa.R.C.P. 1019(h). Adding such procedural requirements to the Board Rules would likely give rise to motions and litigation over a party’s nonconformity with the civil action rules, contrary to the purpose of these proposed amendments, which is to streamline the procedure in formal proceedings rather than to burden it.

*Proposed rewrite of D.Bd. Rules § 89.2 via new Enforcement Rule 208(c).*

To remedy the obsolete and uncertain language of current D.Bd. Rules § 89.2, the Board plans to recommend to the Court that Enforcement Rule 208(c), which is titled “Hearing procedures,” be retitled “Prehearing and hearing procedures”; provide that the rule govern the procedure in “formal” proceedings before “the Board” in addition to proceedings before hearing committees and special masters; and further provide that the procedure in proceedings before all three tribunals be governed by the Board Rules, the Enforcement Rules, and the decisional law of the Court and the Board in attorney discipline and reinstatement matters. If the Court adopts the Board’s recommendation, the Board would replace current D.Bd. Rules § 89.2 with proposed subdivision (a) of D.Bd. Rules § 89.2, which would reaffirm the applicable sources of procedural law established by new Enforcement Rule 208(c).

Including the Enforcement Rules within new Pa.R.D.E. 208(c) is appropriate because procedure applicable to formal proceedings can be found throughout the Enforcement Rules. *E.g.*, Pa.R.D.E. 214(f)(1) (hearing on a petition for discipline based on a criminal conviction “shall be deferred until sentencing and all direct appeals from the conviction have been concluded”); *id.* 213(g)(1) (party may file a motion to enforce subpoena if witness does not comply with a subpoena); *id.* 218(e) (“In all proceedings upon a petition for reinstatement, cross-examination of the petitioner-attorney’s witnesses and the submission of evidence, if any, in opposition to the petition shall be conducted by Disciplinary Counsel.”). The Board is confident that the procedural framework established by the current Board Rules and Enforcement Rules is sufficient to bring a discipline or reinstatement proceeding to a prompt and fair resolution in a procedurally uniform manner. *E.g.*, D.Bd. Rules § 89.92 (relating to order of procedure in a discipline matter and requiring Office of Disciplinary Counsel (ODC) to initiate the presentation of evidence while allowing ODC to present rebuttal evidence). Inclusion of the decisional law of the Court and the Board as a third source of disciplinary and reinstatement procedure serves as a supplement of and complement to the rules. See, *e.g.*, *Office of Disciplinary Counsel v. Duffield*, 644 A.2d 1186, 1188 (Pa. 1994) (the Board reviews a hearing committee’s actions on a *de novo* basis); *Office of Disciplinary Counsel v. Zdrok*, 645 A.2d 830, 833 (Pa. 1994) (holding that ODC is not required to charge a violation of Enforcement Rule 214(d) in a petition for discipline based on a criminal conviction because Rule 214(d) is a procedural rule rather than a substantive rule of law; ODC’s reference to Rule 214(d) and Rule 203 in the “Charge” section of the petition “clearly gives proper notice” of the charge); *Office of Disciplinary Counsel v. Frederick Seth Lowenberg*, No. 9 DB 2017, D.Bd. Rpt. 11/1/17, FOF 11 at pp. 4-5, p. 7 (a respondent-attorney who receives notice that he or she is to receive an informal admonition, does not exercise his or her right to

demand the institution of a formal proceeding, and does not appear for the imposition of the informal admonition, is conclusively deemed to have violated the Rules of Professional Conduct and the Enforcement Rules found to have been violated during the informal review) (S.Ct. Order 12/26/17).

The proposed Note after subdivision (a) of D.Bd. Rules § 89.2 provides that the Pennsylvania Rules of Civil Procedure relating to pleading and motion practice are *not* applicable to formal proceedings. This Note is designed to dispel any misunderstanding, possibly encouraged by current subdivision (a)'s reference to the Pennsylvania Rules of Civil Procedure, that the Pennsylvania Rules of Civil Procedure are applicable to pleading and motion practice within the disciplinary system. Parenthetically, Enforcement Rule 213(h) and D.Bd. Rules § 91.6 provide that any rule of the Court providing for discovery—which would include Rules of Civil Procedure providing for depositions, discovery, interrogatories, production of documents and things, and inspection (Pa.R.C.P. 4001–4025)—shall not be applicable to disciplinary proceedings.

*Limiting the types of motions permitted by the Rules of Civil Procedure.*

Uncertainty about the meaning of “equity procedure” promotes confusion about the permissible types of motions. Prehearing and hearing motions permitted by the Rules of Civil Procedure, such as motions for summary judgment and motions for directed verdict, are not specifically authorized or contemplated by Board rules and are foreign to established disciplinary practice. With a view toward streamlining the pre-hearing and hearing process by eliminating procedures that could be cumbersome or diversionary and impede the prompt disposition of a case, new proposed subdivision (b) of § 89.2 identifies several types of prehearing motions, and new proposed subdivision (c) of § 89.2 identifies several types of hearing motions, that are not to be accepted for filing, but if accepted for filing by the Board Prothonotary—who is not expected to screen every motion submitted for filing—are not to be entertained. The language of subdivision (b) that precludes “any motion attacking the validity of the proceedings or pre-petition [for discipline] procedures, or any similarly-styled motion,” is consistent with D.Bd. Rules § 89.1(b), which provides that the filing of a petition for discipline shall be conclusive evidence that all conditions precedent thereto have been satisfied and the failure to comply with any pre-petition requirement shall not affect the validity of formal proceedings. Proposed subdivision (b) does not preclude a party from filing a pre-hearing motion *in limine* for a ruling on the admissibility of evidence.

D.Bd. Rules § 89.93(a) provides, in pertinent part, that at the time of hearing, a party shall have a “right of presentation of evidence, cross-examination, objection, motion and argument.” (Emphasis added.) A proposed Note after D.Bd. Rules § 89.93(a) cross-references proposed D.Bd. Rules § 89.2(c) to alert the participants of the existence of limitations on the types of hearing motions that may be filed. It is important to recognize that the proposed limitations on hearing motions do not preclude a party from making appropriate oral or written motions at the time of hearing, such as a motion for sequestration of witnesses or a motion to strike a witness's answer to a question when the party's hearing objection is sustained. Nor is a respondent precluded from arguing, either during oral argument at the close of the taking of testimony or in a post-hearing brief to the

hearing committee or special master, that the hearing committee or special master recommend to the Board that the charges be dismissed based on insufficient evidence to sustain the charges.

*Limitation on pleadings.*

D.Bd. Rules § 89.55, titled “No other pleadings,” limits pleadings in formal proceedings to a petition for discipline or for reinstatement and an answer thereto. A proposed Note to the Rule is designed to curtail the filing of preliminary objections to the petition for discipline and to relieve a party of filing a responsive pleading to an answer containing new matter.

*The Board's “service” rule should be amended to clarify the meaning and application of the rule.*

D.Bd. Rules § 89.21, which addresses “service” by the Board of orders, notices and other documents “originating with” the Board, provides that service is to be made by mail except when another method of service is specifically required by Board rules, and when service is attempted but not accomplished by mail, the Board may authorize another person to make personal service.

The Board proposes that D.Bd. Rules § 89.21 be amended for two purposes: first, to clarify the meaning and application of the Rule; and second, to change the method of service of filings in the form of original process issued by the Board. The language of the current Rule, which is captioned “Service by the Board,” appears to have been intended to apply to “service” by the Board of original process in the form of a petition or order generated by the Board on *its own motion*, such as a petition authorized by Pa.R.D.E. 301(d) (relating to disability proceedings) or a rule to show cause authorized by Pa.R.D.E. 208(f)(5) (relating to temporary suspension proceedings), and not the notice of orders and other documents that the Board, as an adjudicatory body, would be required to give to the participants in the normal course of a formal proceeding not initiated by the Board on its own motion. Hence, the Board proposes that D.Bd. Rules § 89.21 be amended to provide, in new subsection (a), that the Board may give “notice” of orders, notices and other documents generated by the Board to the participants by mail. In contrast, the Board would be required, under new subsection (b), to attempt personal service of original process documents generated by the Board, although if personal service could not be made after reasonable efforts, service could be made by delivering a copy of the original process to an employee, agent or other responsible person at the respondent-attorney's office, and if that method of service is unavailable, substituted service could be made by mail as permitted by Pa.R.D.E. 212. The proposed service amendments are patterned after the service requirements approved by the Court in Pa.R.D.E. 208(f)(1) (relating to temporary suspension proceedings).

*Amending D.Bd. Rules § 89.21 will require a minor revision to two other rules.*

Section 89.21 appears elsewhere in the rules—namely, the first sentence of Enforcement Rule 213(d)(3) (relating to appeal of challenges to a subpoena) and the first sentence of that Rule's analog, D.Bd. Rules § 91.3(a)(3). Both references to § 89.21 will have to be changed to § 89.21(a) in light of the proposal to divide the Board's service rule into subparagraphs (a) and (b).

*The two Board rules that permit an interlocutory appeal require revision.*

Two Board rules authorize an interlocutory appeal to the Board from a hearing committee or special master



determination: D.Bd. Rules § 91.3(a)(3), which pertains to a challenge to a subpoena; and D.Bd. Rules § 85.11, which pertains to a motion to disqualify a hearing committee member or special master. Both rules require revision, as follows.

D.Bd. Rules § 91.3(a)(3)—as does its counterpart, Enforcement Rule 213(d)(3)—currently mentions an appeal only from a “hearing committee” but already has in place a well-defined procedure for pursuit of the appeal. Therefore, the only required revision to these two rules is to include “special master” as a person who may have presided over the initial attack on the subpoena.

In contrast, the language of D.Bd. Rules § 85.11(b) already includes an appeal from a special master but is lacking in procedure. This deficiency is remedied by new subparagraph (b)(4) of § 85.11, which includes a statement of the method of service to be employed by the appealing party and the time in which the non-appealing party may file a response. The proposed procedural additions are patterned after the procedure for appeal in D.Bd. Rules § 91.3(a)(3) and Enforcement Rule 213(d)(3). The new rule would also allow the Board Vice-Chair to decide the appeal when the Board Chair is unavailable, which would include the situation where the Board Chair is required to recuse him- or herself.

*The enabling rules should be amended to allow a single Board member or a three-member panel to act for the Board on an appeal.*

Both types of appeal under discussion are decided by a single Board member. An appeal from a challenge to a subpoena is decided by a designated lawyer-Member of the Board, while an appeal from a motion to disqualify is decided by the Board Chair.

The current enabling provisions of the Enforcement Rules do not clearly allow a single Board member to rule on an appeal if the appeal involves an issue of *substantive* law. Enforcement Rule 205(c)(12) gives the Board the power and duty “[t]o adopt rules of procedure not inconsistent with the [Enforcement R]ules. Such rules may provide for the delegation to the Board Chair or the Vice-Chair of the power to act for the Board on *administrative* and *procedural* matters.” (Emphasis added). In view of the possibility that any given appeal under either of the above-mentioned Board rules could require the interpretation or application of substantive law, the Board recommends that Enforcement Rule 205(b) and D.Bd. Rules § 93.22(a) be revised, and new Enforcement Rule 205(c)(16) and D.Bd. Rules § 93.23(a)(16) be added, to give the Board Chair, the Vice-Chair, a designated lawyer-Member of the Board, or a three-member panel of the Board the power to act for the Board on an appeal. The revisions are not intended to create new grounds for interlocutory appeal, as the proposed revisions to Enforcement Rule 205 delegate power to the Board member or panel to act only “when such appeal is permitted by the [Enforcement R]ules, the Board Rules, or other law.”

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 9, 2020.

*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 C. DISCIPLINARY BOARD OF THE SUPREME COURT OF PENNSYLVANIA

##### CHAPTER 85. GENERAL PROVISIONS

##### § 85.11. Recusal.

\* \* \* \* \*

(b) *Procedure for recusal.* Enforcement Rule 220(b) provides that a motion to disqualify a member of the Board or a hearing committee member or a special master shall be made in accordance with these rules, but the making of such a motion shall not stay the conduct of the proceedings or disqualify the challenged member or special master pending disposition of the motion. The procedures applicable to a motion for recusal shall be as follows:

(1) The motion shall be filed and served in accordance with Subchapter 89A (relating to preliminary provisions).

(2) In the case of a motion to disqualify a hearing committee member or special master, the motion must be filed within 15 days after the party filing the motion has been given notice of the referral of the matter to the hearing committee or special master **and must specify the grounds upon which the motion is based.**

(3) The motion shall be ruled upon by the challenged member or special master.

(4) An interlocutory appeal from the decision on the motion [ , **which appeal shall be ruled upon by the Board Chair,** ] may be filed **with the Board** within five **business** days after the decision on the motion. **The appealing party shall serve a copy of the appeal on the non-appealing party by mail on the date that the appealing party files the appeal, and the non-appealing party may file a response within five business days after delivery. The appeal shall be ruled upon by the Board Chair, or the Vice-Chair when the Chair is unavailable.**

#### CHAPTER 89. FORMAL PROCEEDINGS

##### Subchapter A. PRELIMINARY PROVISIONS

##### GENERAL MATTERS

§ 89.2. [ **Equity procedure to apply** ] **Procedure in formal proceedings to be governed by Board Rules, Enforcement Rules, and decisional law; limitations on motions.**

[ **Except where inconsistent with these rules, formal proceedings before hearing committees, special masters and the Board shall conform generally to the practice in actions in equity under the Pennsylvania Rules of Civil Procedure.** ]

**(a) Enforcement Rule 208(c) provides that the procedure in formal proceedings before hearing committees, special masters, and the Board shall be governed by these Rules, the Enforcement Rules, and the decisional law of the Court and the Board in attorney discipline and reinstatement matters.**

***Official Note:* The Pennsylvania Rules of Civil Procedure relating to pleadings, answers to pleadings, motions, and responses to motions, are not applicable to formal proceedings before hearing committees, special masters, and the Board.**

(b) Limitations on prehearing motions. A motion for summary judgment or judgment on the pleadings, a motion to strike the petition for discipline or portions thereof, a motion to dismiss based on insufficient evidence to proceed with formal charges, any motion attacking the validity of the proceedings or pre-petition procedures, or any similarly-styled motion, shall not be accepted for filing, but if accepted for filing, shall not be entertained.

(c) Limitations on hearing motions. A motion for directed verdict or nonsuit, a motion to dismiss based on insufficient evidence, any motion attacking the validity of the proceedings, or any similarly-styled motion, shall not be accepted for filing, but if accepted for filing, shall not be entertained.

**SERVICE OF DOCUMENTS**

§ 89.21. Notice by the Board to participants; Service of original process by the Board.

[ Orders, notices and other documents originating with the Board, including all forms of Board action, petitions and similar process, and other documents designated by the Board for this purpose, shall be served by the Executive Office by mail, except when service by another method shall be specifically required by these rules, by mailing a copy thereof to the person to be served, addressed to the person designated in the initial pleading or submittal at the address of record of such person. When service is not accomplished by mail, personal service may be effected by any one duly authorized by the Executive Office. ]

(a) Notice to participants. The Board shall give notice of orders, notices, and other documents generated by the Board by mailing a copy to the participants.

(b) Service of original process on the Board's own motion. A copy of original process in the form of a petition filed, or order issued, by the Board on its own motion shall be personally served upon the respondent-attorney by anyone duly authorized by the Executive Office unless another method of service shall be specifically required by these Rules or the Enforcement Rules, provided, however, that if personal service cannot be made after reasonable efforts to locate and serve the respondent-attorney, service may be made 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 in the manner provided in Enforcement Rule 212 (relating to substituted service).

**Subchapter B. INSTITUTION OF PROCEEDINGS**

§ 89.55. **No other pleadings.**

Pleadings shall be limited to a petition for discipline (or for reinstatement) and an answer thereto.

Official Note: Preliminary objections to the petition for discipline are not permitted. If an answer to a petition for discipline contains new matter, a reply to the new matter is not required.

**Subchapter C. HEARING PROCEDURES  
HEARING**

§ 89.93. **Presentation by the parties.**

(a) *General rule.* The respondent-attorney and staff counsel shall have the right of presentation of evidence, cross-examination, objection, motion and argument. The taking of evidence and subsequent proceedings shall proceed with all reasonable diligence and with the least practicable delay.

Official Note: See D.Bd. Rules § 89.2(c) for limitations on hearing motions.

\* \* \* \* \*

**CHAPTER 91. MISCELLANEOUS MATTERS**

**Subchapter A. SERVICE, SUBPOENAS,  
DEPOSITIONS AND RELATED MATTERS  
IN GENERAL**

§ 91.3. **Determination of validity of subpoena.**

(a) *In general.* Enforcement Rule 213(d) provides that any attack on the validity of a subpoena issued under these rules shall be handled as follows:

(1) A challenge to a subpoena authorized by § 91.2(a)(1) (relating to subpoenas and investigations) shall be heard and determined by the hearing committee or special master before whom the subpoena is returnable in accordance with the procedure established by the Board in subsection (b).

(2) A challenge to a subpoena authorized by § 91.2(a)(2) shall be heard and determined by a senior or experienced member of a hearing committee in the disciplinary district in which the subpoena is returnable in accordance with the procedure established by the Board in subsection (b).

(3) A determination under paragraph (1) or (2) may be appealed to a lawyer-Member of the Board within ten days after service pursuant to §§ [ 89.21 ] 89.21(a) and 89.24 of the determination on the party bringing the appeal by filing a petition with the Board setting forth in detail the grounds for challenging the determination. The appealing party shall serve a copy of the petition on the non-appealing party by mail on the date that the appealing party files the appeal, and the non-appealing party shall have five business days after delivery to file a response. No attack on the validity of a subpoena will be considered by the Designated lawyer-Member of the Board unless previously raised before the hearing committee or special master. The Board Member shall decide the appeal within five business days of the filing of the non-appealing party's response, if any. There shall be no right of appeal to the Supreme Court. Any request for review shall not serve to stay any hearing or proceeding before the hearing committee, special master, or the Board unless the Court enters an order staying the proceedings.

\* \* \* \* \*

**CHAPTER 93. ORGANIZATION AND  
ADMINISTRATION**

**Subchapter B. THE DISCIPLINARY BOARD**

§ 93.22. **Quorum and manner of acting.**

(a) *General rule.* Enforcement Rule 205(b) provides that seven members of the Board shall constitute a quorum and that, except when acting under § 93.23(a)(5), (7) [ and ], (8), and (16) (relating to powers and duties), the Board shall act only with the concurrence of not less than the lesser of:

- 1. seven members, or
- 2. a majority of the members in office who are not disqualified from participating in the manner or proceeding.

(b) *Determination of quorum.* Enforcement Rule 205(b) further provides that the presence of members who are disqualified from participating in one or more matters to be considered at a meeting shall nonetheless be counted for purposes of determining the existence of a quorum for the consideration of all matters on the agenda.

§ 93.23. Powers and duties.

(a) *General rule.* Enforcement Rule 205(c) provides that the Board shall have the power and duty:

\* \* \* \* \*

(15) To recommend the temporary suspension of a respondent-attorney pursuant to Enforcement Rule 208(f)(5) (relating to emergency temporary suspension orders and related relief).

(16) **To decide, through the Board Chair, the Vice-Chair, a designated lawyer-member of the Board, or a designated panel of three members, an interlocutory appeal to the Board when such appeal is permitted by the Enforcement Rules, these rules, or other law.**

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

(b) *Consultations with local bar associations.* Enforcement Rule 205(d) provides that the Board shall, to the extent it deems feasible, consult with officers of local bar associations in the counties affected concerning any appointment which it is authorized to make under the Enforcement Rules.

**Annex B**

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

\* \* \* \* \*

(b) The regular terms of members of the Board shall be for three years, and no member shall serve for more than two consecutive three-year terms. Except when acting under paragraph (c)(5), (7), (8) [ **and** ], (9), **and (16)** of this rule, the Board shall act only with the concurrence of not less than the lesser of:

- (i) seven members, or
- (ii) a majority of the members in office who are not disqualified from participating in the matter or proceeding.

Seven members shall constitute a quorum. The presence of members who are disqualified from participating in one or more matters to be considered at a meeting shall nonetheless be counted for purposes of determining the existence of a quorum for the consideration of all matters on the agenda.

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

\* \* \* \* \*

(15) To recommend the temporary suspension of a respondent-attorney pursuant to Enforcement Rule 208(f)(5) (relating to emergency temporary suspension orders and related relief).

(16) **To decide, through the Board Chair, the Vice-Chair, a designated lawyer-member of the Board, or a designated panel of three members, an interlocutory appeal to the Board when such appeal is permitted by these rules, the Board Rules, or other law.**

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

(d) The Board shall, to the extent it deems feasible, consult with officers of local bar associations in the counties affected concerning any appointment which it is authorized to make under these rules.

**Rule 208. Procedure.**

\* \* \* \* \*

(c) [ *Hearing procedures. Proceedings* ] **Prehearing and hearing procedures.—The procedure in formal proceedings** before hearing committees [ **and** ], special masters, **and the Board** shall be governed by Board rules, **the Enforcement Rules, and the decisional law of the Court and the Board in attorney discipline and reinstatement matters.** [ **except that, unless** ] **Unless** waived in the manner provided by [ **such rules** ] **the Board Rules**, at the conclusion of the hearing the hearing committee or special master shall submit a report to the Board containing the findings and recommendations of the hearing committee or special master.

\* \* \* \* \*

**Rule 213. Subpoena power, depositions and related matters.**

\* \* \* \* \*

(d) *Challenges; appeal of challenges to subpoena.* Any attack on the validity of a subpoena issued under this rule shall be handled as follows:

(1) A challenge to a subpoena authorized by subdivision (a)(1) shall be heard and determined by the hearing committee or special master before whom the subpoena is returnable in accordance with the procedure established by the Board. *See* D.Bd. Rules § 91.3(b) (relating to procedure).

(2) A challenge to a subpoena authorized by subdivision (a)(2) shall be heard and determined by a member of a hearing committee in the disciplinary district in which the subpoena is returnable in accordance with the procedure established by the Board. *See* D.Bd. Rules § 91.3(b) (relating to procedure).

(3) A determination under paragraph (1) or (2) may be appealed to a lawyer-Member of the Board, within ten days after service pursuant to D.Bd. Rules §§ [ **89.21** ] **89.21(a)** and 89.24 of the determination on the party bringing the appeal by filing a petition with the Board setting forth in detail the grounds for challenging the determination. The appealing party shall serve a copy of the petition on the non-appealing party by mail on the date that the appealing party files the appeal, and the non-appealing party shall have five business days after delivery to file a response. No attack on the validity of a subpoena will be considered by the Designated lawyer-Member of the Board unless previously raised before the



hearing committee or special master. The Board Member shall decide the appeal within five business days of the filing of the non-appealing party's response, if any. There shall be no right of appeal to the Supreme Court. Any request for review shall not serve to stay any hearing or proceeding before the hearing committee, special master, or the Board unless the Court enters an order staying the proceedings.

\* \* \* \* \*

[Pa.B. Doc. No. 20-142. Filed for public inspection January 31, 2020, 9:00 a.m.]

**Title 204—JUDICIAL SYSTEM  
GENERAL PROVISIONS**

**PART V. PROFESSIONAL ETHICS AND CONDUCT  
[ 204 PA. CODE CHS. 85, 91 AND 93 ]**

**Amendments to Rules of Organization and Procedure of the Disciplinary Board of The Supreme Court of Pennsylvania; Order No. 93**

By Order dated October 2, 2019, effective November 1, 2019, the Supreme Court of Pennsylvania amended Rules 102, 201, 217, and 219 of the Pennsylvania Rules of Disciplinary Enforcement related to the limited admission to the practice of law in Pennsylvania by attorney spouses of active-duty service members. By this Order, the Board is making conforming changes to its Rules to reflect the adoption of those amendments.

The Disciplinary Board of the Supreme Court of Pennsylvania finds that:

(1) To the extent that 42 Pa.C.S. § 1702 (relating to rule making procedures) and Article II of the act of July 31, 1968 (P.L. 769, No. 240), known as the Commonwealth Documents Law, would otherwise require notice of proposed rulemaking with respect to the amendments adopted hereby, those proposed rulemaking procedures are inapplicable because the amendments adopted hereby relate to agency procedure and are perfunctory in nature.

(2) The amendments to the Rules of Organization and Procedure of the Board adopted hereby are not inconsistent with the Pennsylvania Rules of Disciplinary Enforcement and are necessary and appropriate for the administration of the affairs of the Board.

The Board, acting pursuant to Pa.R.D.E. 205(c)(12), orders:

(1) Title 204 of the *Pennsylvania Code* is hereby amended as set forth in Annex A hereto.

(2) The Executive Director shall duly certify this Order, and deposit the same with the Administrative Office of Pennsylvania Courts as required by Pa.R.J.A. 103(c).

(3) The amendments adopted hereby shall take effect 30 days after publication in the *Pennsylvania Bulletin*.

*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 C. DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA  
CHAPTER 85. GENERAL PROVISIONS**

**§ 85.2. Definitions.**

(a) Subject to additional definitions contained in subsequent provisions of this subpart which are applicable to specific chapters, subchapters or other provisions of this subpart, the following words and phrases, when used in this subpart shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

*Absent attorney*—An attorney or formerly admitted attorney for whom a conservator has been sought or appointed under the Enforcement Rules.

*Administrative Office*—The Administrative Office of Pennsylvania Courts.

*Administrative suspension*—Status of an attorney, after Court order, who: failed to pay the annual fee and/or file the form required by subdivisions (a) and (d) of Enforcement Rule 219; 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 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 [ **and** ] **or** legal services programs [ **pursuant to Pa.B.A.R. 311, or** ], a military attorney, **or attorney spouse of an active-duty service member**.

*Attorney*—Includes any person subject to these rules.

***Attorney participant in defender or legal services programs*—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. 301.

***Attorney spouse of an active-duty service member*—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).**

*Board*—The Disciplinary Board of the Supreme Court of Pennsylvania.

\* \* \* \* \*

*Petitioner-attorney*—Includes any person subject to these rules who has filed a petition for reinstatement to the practice of law.

*Practice of law*—Includes the provision of legal services as a foreign legal consultant [ **or** ], military attorney, [ **or** ] **attorney spouse of an active-duty service member, attorney participant in defender or legal services programs, or** pursuant to a Limited In-House Corporate Counsel License.



*Private reprimand*—Private reprimand by the Board.

\* \* \* \* \*

### § 85.3. Jurisdiction.

(a) *General rule.* Enforcement Rule 201(a) provides that the exclusive disciplinary jurisdiction of the Supreme Court and the Board under the Enforcement Rules extends to:

(1) Any attorney admitted to practice law in this Commonwealth.

**Official Note:** The jurisdiction of the Board under this paragraph includes jurisdiction over a foreign legal consultant, military attorney, **attorney spouse of an active-duty service member, attorney participant in defender or legal services programs**, or a person holding a Limited In-House Corporate Counsel License. See the definitions of “attorney,” “practice of law” and “respondent-attorney” in § 85.2 (relating to definitions).

\* \* \* \* \*

## CHAPTER 91. MISCELLANEOUS MATTERS

### Subchapter E. FORMERLY ADMITTED ATTORNEYS

#### § 91.100. Indicia of licensure.

Enforcement Rule 217(h) provides that 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 certificate issued by the Attorney Registration Office under § 93.143 (relating to issue of certificate as evidence of compliance) for the current year, along with any certificate of good standing issued under Pennsylvania Bar Admission Rule 201(d) (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) [ **or** ], 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 certificate issued under § 93.143, 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.

## CHAPTER 93. ORGANIZATION AND ADMINISTRATION

### Subchapter G. FINANCIAL MATTERS

#### ANNUAL REGISTRATION OF ATTORNEYS

#### § 93.142. Filing of annual fee form by attorneys.

(a) *Transmission of form.* Enforcement Rule 219(c) provides that on or before May 15 of each year the Attorney Registration Office shall transmit to all attorneys required by the 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.

(b) *Filing of annual fee form.* Enforcement Rule 219(d) provides that on or before July 1 of each year all attorneys required by the rule to pay an annual fee shall file electronically 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 [ **and** ] **or** legal services programs [ **pursuant to Pa.B.A.R. 311, or** ], 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.

\* \* \* \* \*

(4) Upon original admission to the bar of this Commonwealth, licensure as a [ **Foreign Legal Consultant** ] **foreign legal consultant**, issuance of a Limited In-House Corporate Counsel License, [ **or** ] limited admission as an attorney participant in defender [ **and** ] **or** legal services programs [ **pursuant to Pa.B.A.R. 311** ], **or limited admission as an attorney spouse of an active-duty service member**, a person shall concurrently file a form under this section for the current registration year, but no annual fee shall be payable for the registration 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.

[Pa.B. Doc. No. 20-143. Filed for public inspection January 31, 2020, 9:00 a.m.]

## Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

### PART V. PROFESSIONAL ETHICS AND CONDUCT

#### [ 204 PA. CODE CH. 93 ]

#### Amendments to Rules of Organization and Procedure of the Disciplinary Board of The Supreme Court of Pennsylvania; Order No. 94

By Order dated November 18, 2019, effective December 18, 2019, the Supreme Court of Pennsylvania amended Rule 219 of the Pennsylvania Rules of Disciplinary Enforcement related to the form of payment to the Board. By this Order, the Board is making conforming changes to its Rules to reflect the adoption of those amendments.

The Disciplinary Board of the Supreme Court of Pennsylvania finds that:

(1) To the extent that 42 Pa.C.S. § 1702 (relating to rule making procedures) and Article II of the act of July

31, 1968 (P.L. 769, No. 240), known as the Commonwealth Documents Law, would otherwise require notice of proposed rulemaking with respect to the amendments adopted hereby, those proposed rulemaking procedures are inapplicable because the amendments adopted hereby relate to agency procedure and are perfunctory in nature.

(2) The amendments to the Rules of Organization and Procedure of the Board adopted hereby are not inconsistent with the Pennsylvania Rules of Disciplinary Enforcement and are necessary and appropriate for the administration of the affairs of the Board.

The Board, acting pursuant to Pa.R.D.E. 205(c)(12), orders:

(1) Title 204 of the *Pennsylvania Code* is hereby amended as set forth in Annex A hereto.

(2) The Executive Director shall duly certify this Order, and deposit the same with the Administrative Office of Pennsylvania Courts as required by Pa.R.J.A. 103(c).

(3) The amendments adopted hereby shall take effect 30 days after publication in the *Pennsylvania Bulletin*.

*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 C. DISCIPLINARY BOARD OF THE SUPREME COURT OF PENNSYLVANIA**

**CHAPTER 93. ORGANIZATION AND ADMINISTRATION**

**Subchapter G. FINANCIAL MATTERS**

**ANNUAL REGISTRATION OF ATTORNEYS**

**§ 93.142. Filing of annual fee form by attorneys.**

(a) *Transmission of form.* Enforcement Rule 219(c) provides that on or before May 15 of each year the Attorney Registration Office shall transmit to all attorneys required by the 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.

(b) *Filing of annual fee form.* Enforcement Rule 219(d) provides that on or before July 1 of each year all attorneys required by the rule to pay an annual fee shall file electronically with the Attorney Registration Office an electronically endorsed form prescribed by the Attorney Registration Office in accordance with the following procedures:

\* \* \* \* \*

(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 [ **check in** ] 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 shall also have been paid. The amount of the collection fee, and one or both of the late payment penalties prescribed in § 93.144(a)(1) and (2) of these rules if assessed, 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 [ **checks** ] **payment** returned to the Board unpaid. On or before July 1 of each year the Executive Office shall publish in the *Pennsylvania Bulletin* a notice of the collection fee established by the Board for the coming registration year.

\* \* \* \* \*

**§ 93.144. Administrative suspension for failure to comply.**

(a) *Action by Attorney Registration Office.* Enforcement Rule 219(f) provides that when any attorney fails to complete the registration required by §§ 93.141 and 93.142 by July 16, the Attorney Registration Office shall:

(1) automatically assess against the attorney a non-waivable late payment penalty established by the Board;

(2) automatically add to the delinquent account of any attorney who has failed to complete registration by August 1, a second, non-waivable late payment penalty established by the Board;

(3) after August 1, certify to the Supreme Court the name of every attorney who has failed to comply with the registration and payment requirements of §§ 93.141 and 93.142 of these rules; and

(4) upon the Supreme Court's entry of an order of administrative suspension as provided in subsection (b) of this rule, 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 section, 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 [ **a check in** ] payment of the delinquency has been returned to the Board unpaid, a collection fee, as established by the Board under § 93.142(b)(2) of these rules, 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 § 93.145(b) of these rules.

(b) *Action by the Supreme Court.* Enforcement Rule 219(g) provides that upon receipt of certification of the name of any attorney pursuant to paragraph (a)(3) of this section, the Supreme Court shall enter an order administratively suspending the attorney; and that the Chief Justice may delegate the processing and entry of orders under this subsection to the Court Prothonotary.

**§ 93.145. Reinstatement of administratively suspended attorneys.**

(a) *General rule.* An attorney who has been administratively suspended pursuant to § 93.144(b) of these rules for three years or less is not eligible to file the annual fee form electronically. Enforcement Rule 219(h) provides that the procedure for reinstatement is as follows:

\* \* \* \* \*

(3) Where [ **a check in** ] 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 § 93.142(b)(2) of these rules, shall also have been paid.

(b) *Late payment penalties.* Enforcement Rule 219(h)(3) provides that 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 § 93.142(b). On or before July 1 of each year the Executive Office shall publish in the *Pennsylvania Bulletin* a notice of the late payment penalty established by the Board for the coming registration year.

**§ 93.146. Selection of retired or inactive status and resumption of active status.**

\* \* \* \* \*

(b) *Inactive Status.* Enforcement Rule 219(j) provides that:

(1) 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 file either the annual form required by § 93.142(b) and request inactive status or file Form DB-28 (Notice of Voluntary Assumption of Inactive Status). The attorney shall be removed from the roll of those classified as active until and unless such inactive attorney makes a request under paragraph (3) of this section 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 § 89.273(b) (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 § 89.273(b) of these rules.

(2) An inactive attorney under this subsection (b) shall continue to file the annual form required by § 93.142(b), and shall file the form through the online system identified in § 93.141(a) and shall pay an annual fee of \$100.00 in the manner provided in § 93.142(b)(2). Noncompliance with this provision will result in the inactive attorney incurring late payment penalties, incurring a collection fee for any [ **check in** ] payment that has been returned to the Board unpaid, and being placed on administrative suspension in accordance with the provisions of § 93.144.

(3) *Administrative Change in Status from Inactive Status to Active Status:* An attorney on inactive status may request a resumption of active status by filing Form DB-29 (Application for Resumption of Active Status) with

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 § 89.273(b)), 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 § 89.273(b)), upon the payment of:

(i) the active fee for the registration 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 § 93.144 of these rules, prior to the inactive attorney's request for resumption of active status.

Where [ **a check in** ] payment of the 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 § 93.142(b)(2), shall also have been paid.

**Official Note:** The Note to Enforcement Rule 219(j) explains that § 93.145 (relating to reinstatement of administratively suspended attorneys) and § 93.146 (relating to resumption of active status by retired or inactive attorneys) 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 § 89.273(e)(1).

**§ 93.148. Administrative change in status from administrative suspension to inactive status.**

(a) Enforcement Rule 219(k) provides that an inactive attorney who has been administratively suspended for failure to file the annual form and pay the annual fee required by § 93.146(b)(2) of these rules, 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 subsection (a) upon receipt of:

(1) the annual form required by § 93.142 of these rules;

(2) payment of the annual fee required by § 93.141 of these rules;

(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 § 93.142(b)(2) and § 93.144 of these rules; and

(5) payment of an administrative processing fee of \$100.00.

Where [ **a check in** ] 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 § 93.142(b)(2), shall also have been paid.

(b) Enforcement Rule 219(k) provides that an active attorney who has been administratively suspended for failure to file the annual form required by § 93.142 and pay the annual fee required by § 93.141 must comply with § 93.145 (relating to reinstatement of administratively suspended attorneys) before becoming eligible to register as inactive or retired.

[Pa.B. Doc. No. 20-144. Filed for public inspection January 31, 2020, 9:00 a.m.]

## Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

### PART V. PROFESSIONAL ETHICS AND CONDUCT [ 204 PA. CODE CH. 93 ]

#### Amendments to Rules of Organization and Procedure of the Disciplinary Board of The Supreme Court of Pennsylvania; Order No. 95

By Order dated December 18, 2019, effective January 17, 2020, the Supreme Court of Pennsylvania amended Rule 205 of the Pennsylvania Rules of Disciplinary Enforcement related to the composition of the Board and membership terms. By this Order, the Board is making conforming changes to its Rules to reflect the adoption of those amendments.

The Disciplinary Board of the Supreme Court of Pennsylvania finds that:

(1) To the extent that 42 Pa.C.S. § 1702 (relating to rule making procedures) and Article II of the act of July 31, 1968 (P.L. 769, No. 240), known as the Commonwealth Documents Law, would otherwise require notice of proposed rulemaking with respect to the amendments adopted hereby, those proposed rulemaking procedures are inapplicable because the amendments adopted hereby relate to agency procedure and are perfunctory in nature.

(2) The amendments to the Rules of Organization and Procedure of the Board adopted hereby are not inconsistent with the Pennsylvania Rules of Disciplinary Enforcement and are necessary and appropriate for the administration of the affairs of the Board.

The Board, acting pursuant to Pa.R.D.E. 205(c)(12), orders:

(1) Title 204 of the *Pennsylvania Code* is hereby amended as set forth in Annex A hereto.

(2) The Executive Director shall duly certify this Order, and deposit the same with the Administrative Office of Pennsylvania Courts as required by Pa.R.J.A. 103(c).

(3) The amendments adopted hereby shall take effect 30 days after publication in the *Pennsylvania Bulletin*.

*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 C. DISCIPLINARY BOARD OF THE SUPREME COURT OF PENNSYLVANIA

##### CHAPTER 93. ORGANIZATION AND ADMINISTRATION

##### Subchapter B. THE DISCIPLINARY BOARD

##### § 93.21. The Disciplinary Board.

Enforcement Rule 205(a) and (b) provide that the Supreme Court shall appoint a board to be known as “The Disciplinary Board of the Supreme Court of Pennsylvania” which shall be composed of [ 11 ] ten members of the bar of this Commonwealth and two non-lawyer electors; that the regular [ terms ] term of members of the Board shall be for [ three years; ] six years, unless otherwise specified by order of the Court; and that no member shall serve for more than [ two consecutive three-year terms ] one term.

[Pa.B. Doc. No. 20-145. Filed for public inspection January 31, 2020, 9:00 a.m.]

## Title 210—APPELLATE PROCEDURE

### PART I. RULES OF APPELLATE PROCEDURE [ 210 PA. CODE CH. 37 ]

#### Amendments to Chapter 37 of the Pennsylvania Rules of Appellate Procedure, Business of the Commonwealth Court; No. 126 Misc. Doc. No. 3

#### Order

*Per Curiam*

*And Now*, this 17th day of January, 2020, it is Ordered pursuant to Pa.R.A.P. 104(a) that Chapter 37 of the Rules of Appellate Procedure, Business of the Commonwealth Court, is amended in the following form. These amendments shall be effective immediately upon publication in the *Pennsylvania Bulletin*.

## Annex A

### TITLE 210. APPELLATE PROCEDURE

#### PART I. RULES OF APPELLATE PROCEDURE

#### ARTICLE III. MISCELLANEOUS PROVISIONS

#### CHAPTER 37. BUSINESS OF THE COMMONWEALTH COURT

#### IN GENERAL

##### Rule 3701. Amendments to Chapter.

This chapter may be added to or otherwise amended by order of the Supreme Court, or by order of the Commonwealth Court pursuant to [ Rule 104 (rules of court) ] Pa.R.A.P. 104 (Rules of Court).

#### THE COMMONWEALTH COURT

##### Rule 3702. Office of the Prothonotary.

All business of the Commonwealth Court, except as otherwise provided by law, by these rules or by order of

[ **court** ] **Court**, shall be administered through the Office of the [ **Chief Clerk** ] **Prothonotary** maintained by the [ **court** ] **Court** at the seat of government in the City of Harrisburg. All matters within the jurisdiction of the [ **court** ] **Court** may be filed in the Office of the [ **Chief Clerk** ] **Prothonotary**. Writs or other process issuing out of the [ **court** ] **Court** shall exit from the Office of the [ **Chief Clerk** ] **Prothonotary** and shall be returnable there.

**Official Note:** Based on former Commonwealth Court Rule 2 and makes no change in substance.

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

**Rule 3702.1. Office of Chief Legal Counsel.**

The Office of Chief Legal Counsel shall provide legal support and counsel to the Judges, the Prothonotary, and the Executive Administrator; assist the Court in reviewing and processing filings; prepare memos for the Court as directed; screen cases; certify cases to advise the Court of apparent conflicts; prepare memos to inform the Court of recent Supreme Court decisions; and accept such other responsibilities as may be assigned by the Court or President Judge.

**Rule 3703. Regular Sessions.**

Regular sessions of the [ **court** ] **Court**, including regular sessions to hear cases listed for argument, shall be held at the seat of government in the City of Harrisburg and in the cities of Philadelphia and Pittsburgh as fixed by court calendars adopted from time to time.

**Official Note:** Former Commonwealth Court Rule 10 renumbered.

**Rule 3704. Special Sessions.**

(a) *General rule.*—A special session of the [ **court** ] **Court** may [ **also** ] be held in any judicial district of the Commonwealth whenever the [ **court** ] **Court** deems such a session to be in the interests of justice because of the convenience of parties or witnesses or both or for any other reason.

(b) *Application.*—An application for such a special session shall state in detail the reasons therefor and shall contain a certification pursuant to 42 Pa.C.S. § 563(b) (other sessions) of the availability, without cost to the Commonwealth, of suitable courtroom and related facilities, a court reporter and necessary personnel.

**Official Note:** Based on former Commonwealth Court Rule 11 and makes no change in substance.

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

**Rule 3706. Docketing Statement.**

(a) The Prothonotary shall develop such Docketing Statement forms as may be necessary for the purposes of reviewing new matters filed in the Court's appellate and original jurisdiction and screening matters for the Court's Mediation Program.

(b) In counseled matters, the Prothonotary shall send, along with the notice of docketing as required by Pa.R.A.P. 907(a) or 1514(a)(3), the relevant Docketing Statement form to counsel for the appellant, petitioner or plaintiff.

(1) Counsel for the appellant, petitioner or plaintiff shall file an original and one copy of the Docketing

Statement and all required attachments within ten days of receipt of the notice of docketing.

(2) An unrepresented party shall not be required to file a Docketing Statement.

(c) The party filing the Docketing Statement shall include as attachments:

(1) A statement of issues that shall be no more than two pages in length, and shall set forth a brief summary of the issues and the case sufficient for an understanding of the nature of the appeal, petition for review or complaint. Information in the statement of issues shall be used to screen cases for the Mediation Program, shall not bind any party, and any issue omitted shall not constitute a waiver of the issue before the Court. The statement of issues shall follow the format required by Pa.R.A.P. 124(a).

(2) In matters addressed to the Court's appellate jurisdiction, a copy of the judgment or order on appeal and any opinion or adjudication issued by the common pleas court or agency.

(3) Proof of Service of the Docketing Statement and all attachments indicating service on all parties in accordance with Pa.R.A.P. 121.

(d) Failure to file a Docketing Statement and all attachments as required may result in the dismissal of the matter.

**Official Note:** The Commonwealth Court Mediation Program is governed by Section 501 of the Internal Operating Procedures of the Commonwealth Court, 210 Pa. Code § 69.501 (Mediation). Counsel must draft the statement of issues so as to provide all the information required by paragraph (c)(1) and allow for adequate screening for mediation. Counsel should not simply attach a copy of the Pa.R.A.P. 1925(b) statement of issues complained of on appeal filed in the trial court, because that statement would not provide an adequate "summary of the issues and the case sufficient for an understanding of the nature" of the matter. The attachments required by paragraph (c)(2) may include, for example, the trial court order and opinion, the order and adjudication of a zoning hearing board, the decision of a Workers' Compensation Judge, and similar orders.

**Rule 3707. Preargument Matters; Applications and Motions.**

Prior to filing an application or a motion with the Court, a party shall confer with all counsel of record and any unrepresented parties to determine their position. Applications and motions shall include a paragraph indicating whether the other parties concur with the relief sought. If the other party does not respond to an inquiry regarding concurrence within a reasonable time, the party filing the application or motion shall set forth in detail the efforts made to obtain a response and that no response was received. This requirement shall not apply to preliminary objections, motions for judgments on the pleadings, motions for summary judgment or summary relief, petitions to open or strike judgments, applications for supersedeas, petitions to proceed in forma pauperis, and motions for post-trial relief. This requirement also shall not apply to actions involving incarcerated individuals.

**BRIEFING AND LISTING OF CASES FOR ARGUMENT**

**Rule 3711. All Cases to be Heard on Fixed Date.**

Cases shall be listed for argument on a fixed date during the regular sessions of the [ **court** ] **Court**.

**Official Note:** Former Commonwealth Court Rule 30 renumbered.

Rule 3712. [ **Method** ] **Manner** of Listing of Cases.

Subject to the time limitations and conditions of Pa.R.A.P. 3713 (argument en banc or before a panel) where applicable:

(1) Each appeal from a court of common pleas, each other matter which under the applicable law is required to be determined by the [ **court** ] **Court** upon the record before the government unit below, and each matter subject to Pa.R.A.P. 1542 [ **(oral argument and evidentiary hearing)** ] **(Evidentiary Hearing)** in which no order for an evidentiary hearing has been entered, shall be listed for argument by the [ **Chief Clerk** ] **Prothonotary** on a specified date, of which notice shall be given by the [ **Chief Clerk** ] **Prothonotary** to the parties.

(2) An election [ **case** ] **matter** shall be argued before the [ **judges** ] **Judge or Judges** to whom it is assigned immediately after the record is closed and briefs shall be submitted to the [ **court** ] **Court** at or before argument as directed.

(3) An appeal or petition for review (except a matter subject to Paragraphs (1) or (2) of this rule) which under the applicable law may be determined in whole or in part upon the record made before the [ **court** ] **Court**, shall be listed for argument by the [ **Chief Clerk** ] **Prothonotary** on a specified date upon order of the [ **judge** ] **Judge** to whom [ **the case was** ] **it is** assigned or upon *praecipe* of either party certifying that it is at issue for argument, and notice shall be given by the [ **Chief Clerk** ] **Prothonotary** to the parties of the date fixed.

(4) A matter, except a matter subject to Pa.R.A.P. 1542, commenced in the [ **court** ] **Court** within its original jurisdiction when at issue for argument on preliminary matters or after the record has been made shall be listed by the [ **Chief Clerk** ] **Prothonotary** for argument upon the order of the President Judge or the [ **judge** ] **Judge** before whom the record has been made.

**Official Note:** Based upon former Commonwealth Court Rule 31A to D.

**Rule 3713. Argument En Banc or Before a Panel.**

On the initiative of the [ **court** ] **Court**, or at the request of either party and approved by the [ **assigned judge** ] **Judge to whom the matter is assigned**, argument after the record has been made may be heard by the [ **court** ] **Court** en banc or by a panel of at least three [ **judges** ] **Judges**.

**Official Note:** Based on former Commonwealth Court Rule 31E and makes no change in substance.

**Rule 3714. Listing of Cases and Briefing Schedules.**

(a) *Matters heard solely on certified record.* An appeal from a court of common pleas and each other matter which under the applicable law is required to be determined by the [ **court** ] **Court** upon the record before the government unit below shall be eligible for listing for argument after the record has been filed. When all briefs and reproduced records have been filed, the [ **Chief Clerk** ] **Prothonotary** shall list the [ **case** ] **matter** for oral argument on a specified date and shall give at least

ten days written notice by first class mail to all parties of the date scheduled for the argument. The [ **court** ] **Court** may direct any matter to be submitted on briefs without oral argument.

(b) *Original jurisdiction matters.* A matter commenced in whole or in part within the original jurisdiction of the [ **court** ] **Court** including matters under Pa.R.A.P. 1571 (determinations of the Board of Finance and Revenue) when at issue for argument on preliminary matters or after the record has been made [ **shall** ] **may** be listed for oral argument after the [ **court** ] **Court** establishes a briefing schedule.

(c) *Extensions of [ Time to File Briefs or Reproduced Record ] time to file briefs or reproduced record.* A party may submit a written request for an extension of time to file briefs or the reproduced record, which the [ **chief clerk** ] **Prothonotary** may grant, if the requested extension is: (1) for thirty days or less; (2) the first one sought; and (3) unopposed by all other parties. If any of the three enumerated criteria do not exist, the party must submit its extension request by formal application. The [ **prothonotary, chief clerk or deputy prothonotary** ] **Prothonotary or Chief Legal Counsel** may act on the formal application.

**Official Note:** Under Rule 105 the court may reduce or enlarge any of the time periods specified in the rule. Preliminary matters referred to in Subdivision (b) include preliminary objections, motions for judgment on the pleadings, motions for summary judgment and motions to quash.

See Pa.R.A.P. 123 regarding the form of an application for relief, which is necessary if the three requirements in Pa.R.A.P. 3714(c) cannot be met.

**Rule 3715. Distribution of Briefs.**

The [ **Chief Clerk** ] **Prothonotary** shall distribute to each [ **judge** ] **Judge** who is to hear an argument, whether *en banc* or before a panel, at least five days before the argument date, copies of all briefs and reproduced records that have been filed by the parties.

**Official Note:** Based on former Commonwealth Court Rule 33 and makes no change in substance.

**Rule 3716. Citing Judicial Opinions in Filings.**

(a) A reported opinion of the Commonwealth Court en banc or [ **three-judge** ] **three-Judge** panel may be cited as binding precedent.

(b) An unreported panel decision of this Court issued after January 15, 2008, may be cited for its persuasive value, but not as binding precedent.

(c) Any unreported opinion of this Court may be cited and relied upon when it is relevant under the doctrine of law of the case, res judicata or collateral estoppel.

(d) A reported single [ **judge** ] **Judge** opinion in an election law matter filed after October 1, 2013, may be cited as binding precedent only in an election law matter.

(e) All other single [ **judge** ] **Judge** opinions of this Court, even if reported, shall be cited only for persuasive value and not as binding precedent.

**Official Note:** A special election panel is one designated by the president judge to hear election law matters on an expedited basis. Decisions by such panels are made by only the members of the panel without the participation of judges who are not part of the panel. See Internal



Operating Procedure § 112(b) (Courts En Banc and Panels; Composition), § 258 (Decision; Election Law Appeals), § 416 (Reporting of Unreported Opinions).

### ARGUMENT BEFORE COURT EN BANC OR A PANEL

#### Rule 3721. Composition of Court.

Argument of cases shall be heard by the [ **court** ] **Court** en banc or by a panel as determined by the [ **court** ] **Court** in its discretion. The President Judge shall, insofar as practicable, assign the members of the [ **court** ] **Court** to panels in such fashion that each member sits substantially the same number of times with each other member.

**Official Note:** The first sentence of the rule is based on former Commonwealth Court Rule 41.

#### Rule 3722. Presiding Judge of [ **Panels** ] **Panel**.

The President Judge or [ **his** ] **the President Judge's** designee shall preside over any panel.

#### Rule 3723. Application for Reargument [ **en** ] **En** Banc.

In [ **cases** ] **matters** argued before a single [ **judge** ] **Judge**, as in petitions for review of determinations of government units which are determined in whole or in part upon the record made before the [ **court** ] **Court**, or in [ **cases** ] **matters** argued before a panel of [ **judges** ] **Judges**, the [ **court** ] **Court**, at any time on its own initiative before its order becomes final, or upon application for reargument pursuant to these rules, may allow reargument before the [ **court** ] **Court** en banc. Such action will be taken only for compelling and persuasive reasons.

**Official Note:** Based on former Commonwealth Court Rule 43. The time for applying for reargument is increased from ten to 14 days. See Rule 2542(a)(1) (time for application for reargument).

### EVIDENTIARY HEARINGS

#### Rule 3731. Assignment of Judge.

Each matter which under the applicable law may be determined in whole or in part upon the record made before the [ **court** ] **Court**, and each election case shall be assigned by the President Judge to a [ **judge** ] **Judge**, who shall be responsible for all [ **matters in the case** ] **aspects of the matter** until such time as it is concluded by [ **him** ] **the Judge** or is at issue for argument.

**Official Note:** Based on former Commonwealth Court Rule 50 and makes no change in substance. See also 42 Pa.C.S. § 564 (evidentiary hearings) which provides that in any matter which requires the taking of testimony, the President Judge of the Commonwealth Court may assign a judge of the court, or another judge temporarily assigned to the court pursuant to 42 Pa.C.S. § 4121 (assignment of judges), to sit and receive evidence, and to perform such other duties as may be prescribed by rule or order of court.

#### Rule 3732. Setting of Hearing.

[ **Unless an evidentiary hearing is set by the President Judge or by the assigned judge, such a hearing shall be held only** ] **An evidentiary hearing shall be held when set by the President Judge or by the Judge to whom the matter is assigned or after a**

praecipe therefor has been filed by any party. If the President Judge has not set the time and place for an evidentiary hearing, the [ **assigned judge** ] **Judge to whom the matter is assigned** shall fix the time and place for hearing of each [ **case assigned to him** ] **matter**, subject to the approval of the President Judge as to space and staff limitations.

**Official Note:** Former Commonwealth Court Rule 51 renumbered.

#### Rule 3733. Rotation of Assignments.

Insofar as is practicable in view of the pending case loads of individual [ **judges** ] **Judges**, and the duties and responsibilities of the President Judge, assignments shall be made on a rotating basis to and among the [ **judges of the court** ] **Judges**.

**Official Note:** Former Commonwealth Court Rule 52 renumbered.

#### Rule 3734. Record in Evidentiary Hearing Cases.

In matters which under the applicable law may be determined in whole or in part upon the record made before the [ **court** ] **Court**, the record made before the [ **court** ] **Court** as transcribed and filed, together with the pleadings and other documents filed incident to the matter (including any record certified pursuant to Chapter 19 (preparation and transmission of the record and related matters)), shall comprise the record in the [ **court** ] **Court** and need not be reproduced for purposes of argument, except as prescribed in [ **Rule** ] **Pa.R.A.P. 2111(c)** (pleadings).

**Official Note:** Based on former Commonwealth Court Rule 81 and makes no change in substance.

#### Rule 3735. Jury Trials.

Upon notice from the Commonwealth Court that a matter in that [ **court** ] **Court** is to be tried by jury, the court of common pleas of a county in which the matter is to be tried shall provide courtroom facilities and a jury. The matter shall be tried as a Commonwealth Court case at such time as the president judge of the designated court of common pleas and the President Judge of the Commonwealth Court shall agree.

**Official Note:** The judge who presides over the trial of such a Commonwealth Court case will be a judge assigned under Rule 3731 (assignment of judge), who may be either a judge of the Commonwealth Court or another judge (whether or not of the judicial district which provides the jury) temporarily assigned to the Commonwealth Court pursuant to Rule 701 of the Pennsylvania Rules of Judicial Administration (assignment of judges to courts). See also note to Rule 3731 (assignment of judge).

### POST DECISION

#### Rule 3740. Request to Report Unreported Opinion.

Within 30 days after an opinion has been filed as unreported, any person may file an application to report the opinion. Except as noted in the next sentence, grant of the application requires an affirmative majority vote of the [ **commissioned judges** ] **Commissioned Judges**. Grant of an application to report an opinion of a single [ **judge** ] **Judge** or an opinion of a special election panel requires an affirmative two-thirds vote of the [ **commissioned judges** ] **Commissioned Judges**.

\* \* \* \* \*



**Rule 3751. Taxation of Costs.**

A party who desires costs to be taxed under Pa.R.A.P. 2762(b) (procedure for collection of costs on appeal) shall state them in an itemized and verified bill of costs which such party shall file with the [ **Chief Clerk** ] **Prothonotary** within 14 days after entry of the judgment or other final order.

**Official Note:** As to taxation of costs generally see Chapter 27 (fees and costs in appellate courts and on appeal).

**ENFORCEMENT OF AGENCY ORDER**

**Rule 3761. Enforcement Proceedings.**

\* \* \* \* \*

(c) *Hearing and Notice.* Upon the filing of a petition to enforce, the [ **court** ] **Court** will issue an order setting a date for a hearing and a date by which the respondent must answer the petition. The petitioner shall serve the [ **court's** ] **Court's** order upon the respondent in the manner prescribed by Pa.R.A.P. 121 and 122.

(d) *Relief.* Following the hearing, the [ **court** ] **Court** will enter such orders as may be appropriate.

(e) *Discovery.* Discovery shall be allowed only upon leave of court.

\* \* \* \* \*

**SUMMARY AND FORMAL PROCEEDINGS AGAINST INSURERS**

**Rule 3771. Scope of Rules.**

[ **Rules** ] **Pa.R.A.P.** 3771—3784 apply to all actions in the Commonwealth Court arising under Article V of The Insurance Department Act of 1921, Act of May 17, 1921, P.L. 789, added by the Act of December 14, 1977, P.L. 280, as amended, 40 P.S. §§ 221.1—221.63 (concerning summary and formal proceedings against insurers) (Article V). The rules are intended to govern practice and procedures in Article V proceedings. In the event of any inconsistency, the provisions of Article V control.

**Rule 3772. Definitions.**

\* \* \* \* \*

(c) *Adversarial proceeding*—Any action (1) initiated by the rehabilitator or liquidator against persons other than the insurer, (2) asserting a right or interest afforded by Article V and for which neither Article V nor prior orders of the Court provide an avenue for redress, and (3) that the Court determines shall be governed by [ **Rule** ] **Pa.R.A.P.** 3783 (adversarial proceedings) as an adversarial proceeding.

(d) *Ancillary case docket*—A docket created when an adversarial proceeding is initiated or when a creditor files an objection to the liquidator's claim determination under [ **Rule** ] **Pa.R.A.P.** 3781(c) (claim procedure).

(e) *Court*—The Commonwealth Court of Pennsylvania.

(f) *Formal proceeding*—An action to rehabilitate or liquidate an insurer pursuant to Sections 515 or 520 of Article V, 40 P.S. §§ 221.15, 221.20.

(g) *Master service list*—The list maintained by the Commissioner or receiver, as the case may be, as directed in [ **Rule** ] **Pa.R.A.P.** 3778 (master service list).

\* \* \* \* \*

**Rule 3773. Filings; Number of Copies.**

(a) *General rule.* Each paper filing shall consist of the original document, two (2) copies, and a labeled CD-ROM or USB flash drive containing a copy of the filing in portable document format (PDF).

(b) *Exception.* A copy on a labeled CD-ROM or USB flash drive is not required for a proof of service or report of the performance of a ministerial task.

(c) *No courtesy copies.* Courtesy copies of filings shall not be provided to the [ **judge's** ] **Judge's** chambers.

**Official Note: Electronic Filing**—The Court adopted these Rules before electronic filing became available. When electronic filing becomes available this Rule will be reviewed.

**Rule 3775. Intervention in Formal Proceedings.**

(a) *Intervention.* A person not named as a respondent in a formal proceeding who has a direct and substantial interest in the administration of the insurer's business or estate may request leave of court to intervene.

(b) *Application to intervene.* A request for leave to intervene, generally or for a limited purpose, shall be by application and answer, if any, in accordance with [ **Rule** ] **Pa.R.A.P.** 123 (application for relief). The application shall contain a concise statement of the interest of the applicant and the purposes for which the applicant seeks to intervene. A copy of the document to be filed if the Court allows intervention shall be attached to the application.

(c) *Action on application.* Intervention in a formal proceeding shall be allowed if the proven or admitted allegations of the application establish a sufficient interest in the proceedings, unless the interest of the applicant is already adequately represented or intervention will unduly delay or prejudice the adjudication of the rights of the parties.

\* \* \* \* \*

(d) Upon grant of an application to intervene, the document attached to the application to intervene, that is, the application for relief under [ **Rule** ] **Pa.R.A.P.** 3776 or complaint under [ **Rule** ] **Pa.R.A.P.** 3783, shall be deemed filed, and the Court shall direct the time for filing a response.

**Official Note: General or limited intervention**—Intervention, whether general or limited in scope, may be granted for purposes such as, but not limited to:

\* \* \* \* \*

(6) Compel the liquidator to issue a notice of determination if the liquidator has failed to do so in conformity with [ **Rule** ] **Pa.R.A.P.** 3781 (claim procedure).

*Relief from stay*—Intervention is a prerequisite to filing an application for relief from the stay of actions against the insurer that is imposed under Section 526, 40 P.S. § 221.26.

**Rule 3776. Applications for Relief or Court Approval.**

Relief or approval from the Court shall be requested by application. An application for relief or an application by the receiver for the Court's approval shall comply with [ **Rule** ] **Pa.R.A.P.** 123 (application for relief), except that a response, if any, shall be filed within thirty (30) days of service of an application for relief or an application for Court approval. Upon application, the Court may alter

the time for response. The application and any response may be supported by a memorandum of law.

**Official Note:** *Alteration of the time for response*—Requests based on an agreement of the parties are more likely to receive favorable consideration.

*Court approval*—From time to time, the receiver must obtain the Court's approval of an action proposed to be taken in the course of administering the estate, such as, but not limited to, making an interim distribution of assets.

**Rule 3777. Docketing.**

(a) *Administrative case docket.* Upon the filing of a petition to rehabilitate or liquidate an insurance company under Article V, the [ **chief clerk** ] **Prothonotary** shall create an administrative case docket and assign the petition a number thereon. All filings directly related to the Court's consideration of the petition for rehabilitation or liquidation shall be filed at that number, and this docket will contain all filings concerning the administration of the insurer's business or estate should the petition be granted.

\* \* \* \* \*

(c) *Ancillary case docket.* When a complaint is filed by or against the receiver to commence an adversarial proceeding under [ **Rule** ] **Pa.R.A.P.** 3783 (adversarial proceeding), when the Court *sua sponte* directs that a dispute initiated by an application for relief under [ **Rule** ] **Pa.R.A.P.** 3776 (applications) be treated as an adversarial proceeding under [ **Rule** ] **Pa.R.A.P.** 3783 or when an objection is filed to a notice of determination under [ **Rule** ] **Pa.R.A.P.** 3781 (claim procedure), the [ **chief clerk** ] **Prothonotary** will note such filing on the administrative case docket, establish an ancillary case docket and assign a number for each such matter. The party initiating an ancillary case shall file a completed cover sheet that may be obtained from the [ **chief clerk** ] **Prothonotary** or at [www.pacourts.us/T/Commonwealth/](http://www.pacourts.us/T/Commonwealth/).

(d) *Case caption—ancillary dockets.* Matters that receive ancillary case docket numbers shall be captioned substantially in accordance with the following examples:

(1) An adversarial proceeding under [ **Rule** ] **Pa.R.A.P.** 3783 (adversarial proceedings) shall be captioned:

\* \* \* \* \*

(2) An objection to the liquidator's determination on a proof of claim under [ **Rule** ] **Pa.R.A.P.** 3781 (claim procedure) shall be captioned:

\* \* \* \* \*

**Rule 3778. Master Service List.**

(a) *General rule.* As soon as practicable after filing a petition to rehabilitate or liquidate an insurer, the Commissioner shall create and maintain a master service list. If the Court grants the petition to liquidate or rehabilitate, the receiver will assume the duty to maintain the master service list. The master service list shall include the name, address, telephone number, facsimile (fax) number and electronic mail (e-mail) address of counsel for each party and for each pro se party in the proceeding at the administrative case docket number.

The receiver is not required to include on the master service list any limited intervenor or [ **his/her** ] **the limited intervenor's** counsel.

Changes in contact information, including transfer of responsibilities to another attorney in the firm and requests to be removed from the master service list may be accomplished by notifying the Commissioner or receiver, as the case may be, by e-mail, fax or mail in accordance with the Commissioner's or receiver's instructions.

(b) *Request of non-party for inclusion on master service list.* Any interested person may be added to the master service list by sending a written request to the Commissioner or receiver, as the case may be, including name, address, telephone number, facsimile number and electronic mail address. A person included on the master service list pursuant to this subsection shall be designated thereon as a non-party.

(c) *Availability of master service list.* The Commissioner or receiver, as the case may be, shall post and maintain the master service list on any website established under [ **Rule** ] **Pa.R.A.P.** 3779 (website). If no website has been established, the master service list shall be available by e-mail upon request. A paper copy of the master service list shall be available for a standard fee.

**Official Note:** *Court Maintains Its Own Service List*—The master service list maintained by the Commissioner or receiver is not the Court's service list. The two lists are separately managed. Amendment or deletion of information on one list does not affect the other list. Notice of any change must be given to both the Commissioner or receiver and the Court.

**Rule 3779. Website.**

Unless otherwise ordered by the Court, when the Commissioner files a petition to rehabilitate or liquidate an insurer, the Commissioner shall establish and maintain a website for the purpose of listing filings with and orders of the Court in accordance with these rules, and when required, posting access to the listed documents. If the Court grants the petition to liquidate or rehabilitate, the receiver will maintain the website.

On the website, the receiver shall post: all documents filed at the administrative case docket number; a proof of claim form; a statement describing the procedure for filing claims pursuant to [ **Rule** ] **Pa.R.A.P.** 3781 (claim procedure); and a statement regarding the requirements in [ **Rule** ] **Pa.R.A.P.** 3781(c)(4) (corporate representation) and (5) (*pro hac vice*), for corporate representation and admission *pro hac vice* for attorneys.

The receiver shall note any ancillary docket number on the website and state the nature of the dispute. The receiver may but is not required to post filings at an ancillary case docket number.

**Rule 3780. Service and Notice.**

(a) *Service of parties.* All documents filed by any party shall be served on all other parties at the appropriate docket number assigned to the matter in accordance with [ **Rule** ] **Pa.R.A.P.** 121 (filing and service). Proof of service shall comply with [ **Rule** ] **Pa.R.A.P.** 122 (proof of service).

\* \* \* \* \*

**Rule 3781. Claim Procedure in Liquidation Proceedings.**

\* \* \* \* \*

(b) *Notice of determination.*

\* \* \* \* \*

(2) The notice of determination shall include:

- (i) the allowed amount of the claim;
- (ii) the priority class assigned to the claim;

(iii) if the claim is disallowed in whole or in part, a brief statement of the reason(s) for the liquidator's determination;

(iv) a statement advising the claimant of the requirements set forth in [ Rule ] Pa.R.A.P. 3781(c)(1) (time for filing); and

(v) notice that if a claimant fails to file an objection with the Court within sixty (60) days from the mailing date on the notice of determination, the claimant cannot later object to the liquidator's determination.

(3) If the liquidator determines that the claim has been submitted to a state guaranty association, the liquidator may defer further review of the proof of claim until the guaranty association has made its final determination and has returned the closed claim file to the liquidator. In such a case, the liquidator shall notify the claimant of the decision to defer review.

(c) *Objections.*

\* \* \* \* \*

(2) *Service.* The claimant shall serve a copy of the objection on the liquidator in accordance with [ Rule ] Pa.R.A.P. 121 (service).

\* \* \* \* \*

(d) *Resolution of objections.*

(1) *Scheduling hearing.* Upon receipt of the liquidator's response to the objection, the Court shall establish a time for a hearing.

(2) *Assignment of [judge] Judge.* Objections may be assigned to a single [judge] Judge for disposition.

(3) *Assignment of referee.* Upon the parties' request or on its own initiative, the Court may appoint a referee to hear the objection and submit to the Court a recommended decision, which shall include findings of fact, conclusions of law, and a proposed order.

(e) *Referees.*

(1) *Compensation.* Referees serve at the pleasure of the Court and shall be compensated from the insurer's estate at an hourly rate to be set by the Court at the beginning of each calendar year and posted on the website created under [ Rule ] Pa.R.A.P. 3779 and on the Court's website. The hourly rate shall be clearly set forth in the appointment order, subject to any annual adjustment.

(2) *Litigation costs.* Each party shall bear its own costs associated with the hearing before the referee. Unless the Court orders otherwise, the parties shall share equally the costs for transcribing a hearing and any costs that may be incurred by a referee in complying with [ Rule ] Pa.R.A.P. 3781(e)(7) (maintaining a record) and (f)(4) (filing recommended decision).

\* \* \* \* \*

(8) *Filing recommended decision.* The referee shall file and serve a recommended decision, a proposed order, and a list of all documents submitted by the parties and compiled in accordance with [ Rule ] Pa.R.A.P. 3781(e)(7) (maintaining a record).

\* \* \* \* \*

(f) *Exceptions to the referee's recommended decision.*

\* \* \* \* \*

(6) *Final order.* Upon completion of its review of exceptions, the Court will enter a final order sustaining or overruling exceptions in whole or in part. An order of Court sustaining or dismissing an objection as a sanction pursuant to [ Rule ] Pa.R.A.P. 3781(e)(9) is the final disposition of a claim.

\* \* \* \* \*

**Rule 3782. Claim Procedure in Rehabilitation Proceedings.**

When an approved plan of rehabilitation includes the filing of claims by creditors, the rehabilitation plan shall follow the claim procedures set forth in [ Rule ] Pa.R.A.P. 3781, unless modified by the Court.

**Rule 3784. Reporting.**

(a) *Claims report.* At least annually, the liquidator shall file a report of the claims against the insurer's estate that have been resolved, with [ his ] the liquidator's recommendations ("Claims Report"). The Claims Report shall include the following: each claimant's name, address, priority class, allowed amount, and whether the claim determination was finalized because no objection was filed, no exceptions were taken to a referee's recommended decision, a recommended decision was sustained by the [ court ] Court or the parties agreed to a settlement. The liquidator shall serve a copy of the Claims Report on those listed on the master service list in accordance with these rules. No claim shall be paid, in part or in whole, until the report is approved by the Court.

(b) *Status report.* The receiver shall file a comprehensive report on the status of the insurer's business or the administration of the insurer's estate as frequently as ordered by the Court. The liquidator shall serve a copy of the Status Report on those listed on the master service list in accordance with these rules.

[Pa.B. Doc. No. 20-146. Filed for public inspection January 31, 2020, 9:00 a.m.]

**Title 210—APPELLATE  
PROCEDURE**

**PART II. INTERNAL OPERATING PROCEDURES  
[ 210 PA. CODE CH. 69 ]**

**Amendments to the Internal Operating Procedures  
of the Commonwealth Court of Pennsylvania;  
No. 126 Misc. Doc. No. 3**

**Order**

*Per Curiam*

And Now, this 17th day of January, 2020, it is Ordered that the Internal Operating Procedures of the Commonwealth Court of Pennsylvania are amended in the following form. These amendments shall be effective immediately upon publication in the *Pennsylvania Bulletin*.



## Annex A

## TITLE 210. APPELLATE PROCEDURE

## PART II. INTERNAL OPERATING PROCEDURES

CHAPTER 69. INTERNAL OPERATING  
PROCEDURES OF THE COMMONWEALTH  
COURT OF PENNSYLVANIA

## ORGANIZATION AND ASSIGNMENT OF JUDGES

## § 69.101. Classification of Judges; Definitions.

For the purpose of these Internal Operating Procedures, the following terms shall have the meanings indicated:

**“Assigned Judge” means a judge of the Commonwealth who has been assigned to serve this Court.**

“Commissioned Judge” means a judge serving as a member of this [ court ] **Court** by gubernatorial appointment or, pursuant to election, during an elective term as a member of this [ court ] **Court**.

“Duty Judge” means the [ judge ] **Judge** currently designated for service by the duty roster established under § 69.121.

**“Judge” shall include (1) each Commissioned Judge (2) each Senior Judge and Assigned Judge with respect to matters on which the Senior Judge or Assigned Judge has been designated to sit, and (3) each Assigned Judge with respect to designation as a Duty Judge.**

**“Mediation Judge” means a Judge of the Court, assigned on a periodic basis by the President Judge to conduct mediations under § 69.501 (Mediation).**

“Senior Judge” means a [ judge ] **Judge**, formerly elected as a member of this [ court ] **Court** or another court of the Commonwealth, who has retired and is designated to sit as a [ senior judge ] **Senior Judge** on panels of this [ court ] **Court**, whether or not also designated to serve as a [ duty judge ] **Duty Judge**.

[ **“Assigned Judge” means a judge, formerly elected as a member of this court or another court of the Commonwealth, who has been designated to serve as a duty judge, whether during active service upon such other court or after having attained retirement age.**

**“Judge” shall include (1) each commissioned judge with respect to all matters, (2) each senior judge with respect to matters before any panel on which the senior judge has been designated to sit, and (3) each assigned judge with respect to designation as a duty judge. ]**

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

## § 69.102. Court Officers; Definitions.

“Chief Legal Counsel” means the officer appointed by this Court to provide legal support and counsel to the Court and to manage the Office of Chief Legal Counsel, as described in Pa.R.A.P. 3702.1.

“Prothonotary” means the officer appointed by this Court in accordance with Pa.R.A.P. 3111 to administer the clerical duties and responsibilities of the business of the Court as described in Pa.R.A.P. 3702. This includes overseeing the receipt, docketing, and maintenance of all documents filed with the Court, the scheduling of the

Court’s argument sessions, and the maintenance of caseload inventory and statistics.

## § 69.111. Courts En Banc and Panels; Number of Judges Assigned.

An en banc [ court ] **Court** shall consist of [ seven commissioned judges ] **no more than seven Commissioned Judges**. Panels of the [ court ] **Court** shall consist of three [ judges ] **Judges**, except in the circumstance of a two-member panel in accordance with Pa.R.A.P. 3102(b).

## § 69.112. Courts En Banc and Panels; Composition.

(a) The [ president judge ] **President Judge** shall structure the judicial membership of en banc [ courts ] **Courts** and panels to provide for rotation of [ judges ] **Judges**. Before the day of argument, [ court ] **Court** personnel shall not identify the judicial membership of en banc [ courts ] **Courts** and of panels to any other persons.

(b) The [ president judge ] **President Judge** may designate [ judges ] **Judges** to serve on a special court en banc or panel to hear election law matters, appellate or original jurisdiction, on an expedited basis.

## § 69.121. Duty Rosters; Establishment.

The [ president judge ] **President Judge** shall annually establish a duty roster, which shall, on a weekly basis, provide for the assignment to each [ judge ] **Judge**, when designated as [ duty judge ] **Duty Judge** by the duty roster, all matters required by law or deemed necessary by the [ president judge ] **President Judge** for evidentiary hearing, oral argument or disposition on briefs or otherwise. The duty roster normally shall exclude weeks during which regular argument sessions of the [ court ] **Court** are scheduled. Court personnel shall not identify any designated [ duty judge ] **Duty Judge**, in advance of sitting, to any other person.

## § 69.122. [ Duty Rosters; ] Location of Proceedings.

All evidentiary hearings and arguments assigned to [ the duty judge ] **a Judge** shall be conducted at the seat of the [ court ] **Court** in Harrisburg unless [ originally ] ordered to be heard elsewhere or by [ teleconference under § 69.124, or unless the president judge orders or approves the conducting of them elsewhere pursuant to Pa.R.A.P. 3704 or Pa.R.A.P. 3735 ] **a method specified under § 69.124.**

## § 69.123. Duty Rosters; Availability.

[ **Each duty judge shall be present or available in Harrisburg throughout the week and shall make the prothonotary and chief clerk aware of where he or she can be reached when not at the Pennsylvania Judicial Center during regular hours. ] Each Duty Judge shall be present in Harrisburg or otherwise available from 8:00 a.m. on the Monday commencing the Duty Judge’s duty week and remain available until 7:59 a.m. on the following Monday and shall make the Prothonotary and Chief Legal Counsel aware of where the Duty Judge can be reached when not at the Pennsylvania Judicial Center during regular hours. The [ duty judge ] **Duty Judge** shall be in charge of making administrative decisions when the [ president judge ] **President****

Judge is not available by telephone communication, but the [president judge] President Judge shall be consulted if major decision making is required.

§ 69.124. [Duty Rosters; Teleconference Proceedings] Video or Teleconference Proceedings.

[Where the presentation of evidence is not involved, a duty judge may conduct an argument by conference telephone equipped with loudspeaker, pursuant to an order fixing the argument date and time at which the court shall call counsel at their respective offices to proceed, and stating the location where the judge will sit, which shall be open to public access] A Judge may conduct a proceeding by use of video or telephone conference pursuant to an order fixing the argument date and the time.

§ 69.125. [Duty Rosters; Special Trial] Case Assignments.

[The president judge may specially assign the trial of a case within the court's original jurisdiction to a particular judge] The President Judge may assign a matter within the Court's original jurisdiction to a particular Judge. Any [judge] Judge so assigned (a) may be relieved of other responsibilities during the pretrial, trial and decision processes, and (b) shall be responsible for the management of the case by such authorized procedures as the [judge] Judge shall elect to apply, including a pretrial order under § 69.313.

§ 69.126. Emergency Applications.

\* \* \* \* \*

(b) An emergency application shall include the following:

(1) An explanation of why an order of this Court is necessary, time sensitive and satisfies the threshold requirements set forth in (a)(1)—(2); and

(2) An explanation of how service has been perfected upon the opposing party or, if service has not been made, a summary of the efforts to perfect service or explanation of why service is impossible or impracticable; and

[(3) Unless already docketed with this Court, a stamped "filed" copy of the relevant common pleas court order being appealed, as well as a copy of the notice of appeal that will be filed with this Court;

(4) Unless already docketed with this Court, a copy of the relevant petition for review, whether addressed to this Court's appellate or original jurisdiction;

(5) The appropriate filing fee or a sufficient pauper's affidavit.

(c) Each duty judge shall be available from 12:01 a.m. on the Monday commencing his or her duty week and remain available until 12:00 midnight on the Sunday concluding the duty week. The duty judge shall be available in Harrisburg Monday through Friday or shall advise the prothonotary and chief clerk of a telephone number at which he or she may be reached when not present in the Court's Harrisburg offices. The assigned duty judge shall make decisions in all emergency applications.

(d) The filing of an emergency application should be made by contacting this Court's prothonotary, the chief clerk, or a deputy prothonotary who will

accept the papers by the most expeditious means available, including fax or e-mail attachment, and assign the matter a docket number, if needed.

(1) The Court officer accepting the filing shall contact the emergency judge to make arrangements for consideration and disposition of the emergency application.

(2) If the duty week judge is not available, the emergency application shall be referred to the president judge and then to the associate judges in descending order of seniority, if the president judge is not available.

(3) The telephone number of the court officer accepting the filing of emergency applications shall be made available through the Court's after hours telephone message system (717-255-1600 or 717-649-5153). ]

(3) Unless already docketed with this Court:

(i) a stamped "filed" copy of the relevant common pleas court order being appealed, as well as a copy of the notice of appeal that will be filed with this Court; or

(ii) a copy of the relevant petition for review, whether addressed to this Court's appellate or original jurisdiction; and

(4) The appropriate filing fee or a sufficient affidavit to proceed in forma pauperis.

(c) The filing of an emergency application should be made by contacting this Court's Prothonotary or designee, at one of the phone numbers provided in (c)(2), who will accept the papers by the most expeditious means available.

(1) The Court officer accepting the filing shall contact the Duty Judge to make arrangements for consideration and disposition of the emergency application. If the Duty Judge is not available, the emergency application shall be referred to the President Judge and then to the other Judges in descending order of seniority, if the President Judge is not available.

(2) The telephone number of the Court officer accepting the filing of emergency applications shall be made available through the Court's after hours telephone message system (717-255-1600 or 717-649-5153).

#### APPELLATE JURISDICTION

§ 69.201. Permission to Appeal; Interlocutory Orders.

The [prothonotary] Chief Legal Counsel shall present each petition for permission to appeal, together with opposing briefs and any recommendation, to the [duty judge] Duty Judge for appropriate action. In the absence of a recommendation by the [prothonotary] Chief Legal Counsel, the disposition of such petitions shall follow the procedure for petitions for reargument, stated in § 69.291.

§ 69.211. Petition for Review; Clarification.

When the [chief clerk] Prothonotary receives a written communication that evidences an intention to appeal an adjudication of a state administrative agency but does not conform to the rules for an appellate petition for review, the [chief clerk] Prothonotary shall time-

stamp the written communication with the date of receipt. The [ **chief clerk** ] **Prothonotary** shall advise the party by letter (1) of the procedures necessary to perfect the appeal and (2) that the date of receipt of the communication will be preserved as the date of filing of the appeal if that party files a fully conforming petition for review within 30 days of the date of the [ **chief clerk's** ] **Prothonotary's** letter. If the party fails to file a fully conforming petition for review within that period, the [ **chief clerk** ] **Prothonotary** shall advise the party by letter that the [ **court** ] **Court** will take no further action in the matter.

**§ 69.221. Preargument Matters; Applications, Motions and Petitions.**

The [ **chief clerk** ] **Prothonotary** shall promptly, after filing, submit preargument applications, motions and petitions requiring consideration by a [ **judge to the prothonotary. The prothonotary shall daily confer with the president judge or the duty judge** ] **Judge to the Chief Legal Counsel. The Chief Legal Counsel shall daily confer with the President Judge or the Duty Judge** on such matters, who shall act by order granting or denying the relief or remedy sought, directing the matter to be decided on submitted briefs, or listing the matter for argument before, or in conjunction with, argument on the merits of the appeal. [ **When required by law or rule, the judge shall defer acting upon the matter pending filing of an answer or until the time for answer has expired** ] **Applications for extensions of time and/or continuances shall be acted upon as soon as practicable unless the Judge determines an answer is necessary, in which case the Court may order an expedited answer.**

**§ 69.222. Preargument Matters; Arguments and Evidentiary Hearings.**

If an application pending appeal merits or requires an evidentiary hearing or argument, the [ **president judge or the duty judge** ] **President Judge or the Duty Judge** shall list the matter for hearing **or argument** at the earliest opportunity consistent with appropriate notice [ **of hearing** ] and any applicable statutory provisions or procedural rules, for disposition consistent with the procedure governing matters within the original jurisdiction of the [ **court** ] **Court**.

**§ 69.223. [ Preargument Matters; Extensions of Time ] (Reserved).**

[ **The chief clerk may grant a written request for an extension of time to file briefs or to file the reproduced record, where the requested extension is (a) for thirty days or less, (b) the first one sought, and (c) unopposed by all other parties. If any of the three enumerated requirements does not exist, the party shall submit the request by formal application upon which the prothonotary, chief clerk or deputy prothonotary may act for the court.** ]

**§ 69.231. Briefs; Advance Reading.**

Briefs timely filed as to cases to be heard by the [ **court** ] **Court** at its regular argument sessions are read in advance of oral argument by the [ **judges** ] **Judges** participating in an en banc session as to cases so listed, and by the [ **judges** ] **Judges** participating in a panel session as to cases listed before the panel to which

a [ **judge** ] **Judge** is assigned. Counsel should prepare for oral argument consistent with [ **this practice of the court** ] **the practice of this Court**.

**§ 69.232. Briefs; Submission of Cases on Briefs.**

Where cases are to be submitted for decision upon the briefs without oral argument, either by determination of the [ **court** ] **Court** or by leave to do so at the request of one or more of the parties, the [ **chief clerk** ] **Prothonotary** shall so designate them if they appear upon argument lists. Apart from argument lists, the [ **president judge** ] **President Judge** shall appoint additional panels, designated as "Submission Panels," for the disposition of cases thus submitted.

**§ 69.241. Arguments; Sessions.**

[ **Regular argument sessions of the court** ] **Argument sessions of the Court** shall be annually fixed by order of the [ **court** ] **Court**, the particular days to be devoted to en banc and panel sessions, or combinations thereof, to be determined by the [ **president judge. The president judge** ] **President Judge. The President Judge** shall allocate cases to be heard by panels or by the [ **court** ] **Court** en banc, except as otherwise directed by the [ **court** ] **Court** as to particular cases.

**§ 69.242. Arguments; Preparation of Lists.**

To aid the [ **president judge** ] **President Judge** in the allocation of cases to be heard by the [ **court** ] **Court** en banc or by panels, the [ **chief clerk** ] **Prothonotary** shall submit an analysis of the procedural posture and issues raised in each case ready for argument. The [ **prothonotary** ] **Chief Legal Counsel** shall review the list of cases, and present to the [ **president judge** ] **President Judge** recommendations as to cases on the list to be heard by the [ **court** ] **Court** en banc or by a panel. The [ **president judge** ] **President Judge** shall review the proposed argument list and make any changes deemed necessary. As approved or as modified by the [ **president judge, the chief clerk** ] **President Judge, the Prothonotary** shall proceed to publish the argument list and give notice to litigants. The argument list as published shall disclose a day certain for argument of each case listed.

**§ 69.243. Arguments; Number of Cases.**

The [ **president judge, the prothonotary and the chief clerk** ] **President Judge and the Prothonotary** shall determine the number of cases to be listed at a regular argument session before the [ **court** ] **Court** en banc and before panels, on the basis of expediting the disposition of cases ready for argument, to the maximum extent feasible.

**§ 69.244. Arguments; Time Allowed.**

As a general rule, the presiding [ **judge** ] **Judge** normally shall allow the parties on each side, including intervening parties, fifteen (15) minutes for argument in cases before the [ **court** ] **Court** en banc and seven and one-half (7 1/2) to ten (10) minutes in cases before panels. Exercising discretion, the presiding [ **judge** ] **Judge** may nevertheless limit any argument to a shorter period pursuant to Pa.R.A.P. 2315(a) or may allow additional time.



**§ 69.251. Decisions; Conferences and Assignments of Draft Opinions.**

(a) After argument sessions and consideration of argued and submitted cases in a conference of the [judges] **Judges** comprising the respective [court] **Court** en banc or panel, the presiding [judge] **Judge** shall assign each case to a [judge] **Judge** who represents the expressed majority view at the conference, for the preparation of the opinion of the [court] **Court**.

(b) The opinion-writing [judge] **Judge** shall proceed to prepare a draft opinion in accordance with the decision of the [court] **Court** en banc or of the panel or expressing any different views which the [judge] **Judge** may reach after subsequent study of the case, designated as an "Opinion" or "Memorandum Opinion" in accordance with § 69.413 below. The draft opinion shall ordinarily be one to be signed by the writer when final, but in appropriate cases it may be a briefer opinion recommended by the writer to be handed down per curiam. Except in the case of adoption of the reasoning in the opinion of the trial court, or where the appeal is meritless, the opinion shall state, at least summarily, the nature of the case, the principal question or questions involved, the holding of the court or agency below and the rationale of this [court's] **Court's** decision.

**§ 69.252. Decisions; Circulation of Draft Opinions.**

When the draft opinion has been prepared, the opinion-writing [judge] **Judge** shall transmit it, normally within forty-five days after the date of assignment, to the other [judges] **Judges**, with a face sheet bearing the date the case was argued or submitted on briefs, and also with a memorandum in standardized form requesting them to inform the writer of (1) their agreement or disagreement with the opinion and order in accordance with these rules, together with any suggestions which they may desire to make with respect to the draft opinion, and (2) any disagreement as to the writer's recommendation concerning reporting, in accordance with § 69.412. The writer shall also indicate by memorandum (1) when the draft proposes a result different from the tentative conference vote, and (2) when a proposed panel decision would overrule a previous panel decision of this [court] **Court**. The other [judges] **Judges** shall respond to the opinion-writing [judge] **Judge** within fifteen days. If no response is received in that time, the opinion-writing [judge] **Judge** shall consider nonresponse as indicating that each [judge] **Judge** not responding is willing to have the opinion filed as circulated.

**§ 69.253. Decisions; Concurrences and Dissents.**

If a [judge on the court] **Judge on the Court** en banc or the panel before which a case was argued, or to which it was submitted, responds by stating an intention to write a concurring opinion or a dissenting opinion, the opinion-writing [judge] **Judge** shall hold the opinion for an additional twenty days, during which period the concurring or dissenting [judge] **Judge** shall submit an opinion to the opinion-writing [judge] **Judge**, to be filed on the same date as the opinion of the [court] **Court**. A dissenting or concurring [judge]s **Judges** shall also inform all other [judges] **Judges** of such intention and shall circulate the opinion to them when written. The opinion-writing [judge] **Judge** shall con-

sider concurrences and dissents and the reasons for them, and may revise the draft opinion and recirculate it. If a concurring opinion or dissenting opinion is not received by the opinion-writing [judge] **Judge** within the twenty-day period, [he or she] **the opinion writing Judge** shall consider the previous intent to be waived and [shall] **may** proceed to file the opinion of the [court] **Court** and any concurring opinions or dissenting opinions actually submitted to the opinion-writing [judge. A judge on the court] **Judge. A Judge on the Court** en banc or panel may join in a concurring or dissenting opinion and shall so notify the opinion-writing [judge] **Judge**, who shall be responsible for noting the joinder of that [judge] **Judge** in such concurring opinion or dissenting opinion. When a [judge] **Judge** circulates a concurring or dissenting opinion, the opinion of the [court] **Court** and any concurring or dissenting opinion may be filed no earlier than ten days after the circulation of the concurring or dissenting opinion.

**§ 69.254. Decisions; Reassignments.**

If, in connection with a draft opinion in circulation, a majority of the [judges] **Judges** who heard the case, or to whom it was submitted on briefs, decline to join in that opinion and favor a result or rationale contrary to it, the presiding [judge] **Judge** with respect to that case shall reassign it to a [judge] **Judge** who represents the new majority view.

**§ 69.255. Decisions; Objections.**

(a) If a [judge] **Judge** who is not a member of the en banc [court] **Court** or of the panel before which a case is argued, or to which it is submitted, responds with an objection to the draft opinion, the opinion-writing [judge] **Judge** shall consider the objection and reasons for it, and may revise the draft opinion and recirculate it as deemed necessary.

(b) An objecting [judge] **Judge** shall also inform all other [judges] **Judges** of the objection and the reasons for it. An objection, however, shall not entitle the objecting [judge] **Judge** to file a concurring or dissenting opinion.

**§ 69.256. Decisions; Effect of Disagreements.**

(a) If a draft opinion in circulation in any case produces any combination of four or more proposed dissents, objections, or concurring opinions, the opinion-writing [judge] **Judge** shall not file the opinion but shall notify the [president judge] **President Judge** to list the case for consideration at the next judicial conference. For purposes of this subsection the notation "concur in result only" shall not be considered in the foregoing combination. If, pursuant to vote after judicial conference consideration, a majority of all of the [judges] **Judges**, as well as a majority of the [judges] **Judges** who heard the case or to whom it was submitted on briefs, favor the result reached in the circulated draft opinion, that opinion, together with any concurring or dissenting opinions and notations of concurrences or dissents, shall be filed. Otherwise, if judicial conference consideration and vote does not warrant reassignment in accordance with § 69.254, the [president judge] **President Judge** shall list the case for reargument before the [court] **Court** en banc.



(b) When there exists a vacancy or a recusal among the [ **commissioned judges** ] **Commissioned Judges** that results in an even number of [ **commissioned judges** ] **Commissioned Judges** voting on a circulating panel opinion or en banc opinion, and when the vote of all participating [ **commissioned judges** ] **Commissioned Judges** results in a tie, the opinion shall be filed as circulated. The opinion shall contain a footnote on the first page indicating that the opinion is filed pursuant to this paragraph. Unless there is a majority vote of the participating [ **commissioned judges** ] **Commissioned Judges** to report, the opinion shall not be reported.

**§ 69.257. Decisions; Overruling Previous Decisions.**

Pursuant to the circulation of a draft opinion accompanied by a notation in accordance with § 69.252 that the proposed panel decision would overrule a previous panel decision, if a majority of the [ **court** ] **Court** agrees that such an overruling would result, the [ **president judge** ] **President Judge** shall list the matter on the agenda of the next judicial conference for consideration as to reargument.

**§ 69.258. Decisions; Election Law Appeals.**

The procedures of §§ 69.252—69.257 shall not apply to election law appeals heard by a special [ **court** ] **Court** en banc or panel. The members of a special [ **court** ] **Court** en banc or panel, under the supervision of the [ **president judge** ] **President Judge** or presiding [ **judge** ] **Judge**, shall reach and file their decision, together with concurrences and dissents, if any, as soon as possible, without circulation to, or participation by, the [ **judges** ] **Judges** not sitting on the respective special [ **court** ] **Court** en banc or panel.

**§ 69.259. Decisions; Informational Circulation.**

When circulating draft opinions, memoranda, responses, dissenting opinions, concurring opinions, comments and other matters pursuant to §§ 69.252—69.258, the [ **judges** ] **Judges** shall also circulate copies for information to [ **senior judges** ] **Senior Judges** not members of the respective [ **court** ] **Court** en banc or panel.

**§ 69.261. Decisions; Notation of Recusals.**

If a [ **judge** ] **Judge** anticipates recusal with respect to a case on which the [ **judge** ] **Judge** has been assigned to sit, the [ **judge** ] **Judge** shall notify the presiding [ **judge of the court** ] **Judge of the Court** en banc or panel as soon as possible. A [ **commissioned judge** ] **Commissioned Judge** may also be recused with respect to responding with an objection or no objection under § 69.255. For the information of the [ **judge** ] **Judge** who, as the writer of the opinion of the [ **court** ] **Court**, has the responsibility for preparing the opinions to be filed in accordance with § 69.262, a recused [ **judge** ] **Judge**, whether sitting on the particular [ **court** ] **Court** en banc or panel or not, shall communicate the fact of recusal by notation upon the response form or in writing otherwise. The [ **judge** ] **Judge** responsible for preparing the opinions to be filed shall have the non-participation of a [ **judge** ] **Judge** noted upon the majority opinion of the [ **court** ] **Court**, whether such [ **judge** ] **Judge** was sitting as a member of the [ **court** ] **Court** en banc or panel or not.

**§ 69.262. Decisions; Filing.**

When the opinion of the [ **court** ] **Court** and any accompanying concurring opinions or dissenting opinions are ready to be filed, the opinion-writing [ **judge shall transmit to the president judge** ] **Judge shall transmit to the Prothonotary** the original opinions and such number of copies as the [ **president judge** ] **Prothonotary** shall from time to time specify, with each opinion of the [ **court** ] **Court** bearing notations as to any [ **judges** ] **Judges** who dissent without opinion, who concur in the result only, and who are recused. The [ **president judge shall transmit the original opinions and the copies for filing, docketing and distribution** ] **Prothonotary shall file, docket, and distribute the opinions.** The writer shall sign the original of each opinion, except that, in the case of a per curiam opinion, the writer shall identify [ **his** ] authorship by accompanying memorandum. [ **The opinion-writing judge shall also deliver one (1) copy of each such opinion to all other judges.** ] To enable the opinion-writing [ **judge** ] **Judge** to carry out this responsibility, any [ **judge** ] **Judge** writing a concurring opinion or dissenting opinion shall deliver to the opinion-writing [ **judge** ] **Judge** a sufficient number of copies. The opinion-writing [ **judge** ] **Judge** shall date [ **his or her** ] **the** opinion and any concurring opinions or dissenting opinions with the filing date.

**§ 69.291. Rearguments; Petitions for Reargument.**

The [ **president judge** ] **President Judge** shall distribute petitions for reargument and answers to them, involving cases decided by a panel of the [ **court or the court en banc, to all judges of the court** ] **Court or the Court en banc, to all Judges of the Court.** See **Pa.R.A.P. 2542 et seq.** After consideration pursuant to such circulation, the vote of the majority of the [ **commissioned judges of the court** ] **Commissioned Judges** to grant or deny the petition for reargument shall govern, although comments from the [ **court's senior judges** ] **Court's Senior Judges** shall be solicited. Where a party files [ **a petition** ] **an application** for reargument of an order issued by a single [ **judge, the prothonotary shall submit the petition, together with any answer, to that judge for disposition** ] **Judge, the Chief Legal Counsel shall submit the application, together with any answer, to that Judge for action, in accordance with Pa.R.A.P. 123(e).**

**ORIGINAL JURISDICTION**

**§ 69.301. General; Applicability of Appellate Jurisdiction Procedures.**

Sections 69.221 through 69.262, inclusive, of these Internal Operating Procedures under Appellate Jurisdiction, shall govern proceedings in original jurisdiction matters when those proceedings are before [ **courts** ] **Courts** en banc and panels. Election law matters assigned to a special [ **court** ] **Court** en banc or panel shall be subject to § 69.258.

**§ 69.311. Pretrial Matters; Applications, Motions, Petitions and Praecipes.**

The [ **chief clerk** ] **Prothonotary** shall promptly, after filing papers in original jurisdiction cases, submit

pretrial applications, praecipes for trial after a case is at issue, petitions for summary judgment or for judgment on the pleadings, statutory enforcement proceedings requiring a hearing before a [ **judge** ] **Judge**, praecipes for hearing in matters under Pa.R.A.P. 1571, and all other motions and matters requiring the consideration of a [ **judge** ] **Judge** before trial or argument on the merits, to the [ **prothonotary** ] **Chief Legal Counsel**, who shall, on a daily basis, confer with the [ **president judge or duty judge** ] **President Judge or Duty Judge** on such matters. Depending upon the nature of the matter, the [ **president judge or the duty judge** ] **President Judge or the Duty Judge** shall by order set the matter down for evidentiary hearing or formal trial, for argument before a single [ **judge** ] **Judge** in cases in which a single [ **judge** ] **Judge** may dispose of the matter, for argument before the [ **court** ] **Court** en banc or a panel, or for other disposition consistent with the applicable Rules of Appellate Procedure or Rules of Civil Procedure.

§ 69.312. **Pretrial Matters; Subpoenas.**

Subpoenas of the [ **court** ] **Court** may issue from the [ **principal office of the prothonotary in Harrisburg** ] **Office of the Prothonotary**.

§ 69.313. **Pretrial Matters; Pretrial Orders.**

To govern the expeditious disposition of [ **substantial trials** ] **matters filed within the Court's original jurisdiction**, pretrial orders may regulate discovery, set a pretrial conference, require consideration of settlement, make provision for the identification of issues, establish a procedure for the acceptance of evidence through stipulations, provide for the advance exchange of exhibits and experts' reports, and limit the number of witnesses, together with all other matters which the [ **designated judge** ] **Judge** shall deem proper.

§ 69.321. **Proceedings; Election Cases.**

Proceedings under the Pennsylvania Election Code within the [ **court's** ] **Court's** original jurisdiction (petitions for review in the nature of mandamus and objections to nomination petitions and papers) shall be under the direct supervision of the [ **president judge, the prothonotary and the chief clerk** ] **President Judge, the Prothonotary and the Chief Legal Counsel**. The **President Judge**, to dispose of such cases, shall establish a special election [ **court** ] **Court** schedule, assign [ **judges** ] **Judges** to hear cases or, when necessary, convene a special [ **court** ] **Court** en banc or panel to hear the same promptly.

§ 69.322. **Proceedings; Costs of Transcripts of Testimony.**

In any proceeding where a stenographer is present, the [ **presiding judge or duty judge** ] **Presiding Judge or Duty Judge** shall, incident to the disposition of the proceeding, provide by order for the allocation of the costs for the stenographer. Such costs normally include the appearance fee and the cost for the transcription of the notes of testimony, if the [ **court** ] **Court** orders transcription or the filing of a notice of an appeal requires it. Upon receipt of such an order, the [ **chief clerk** ] **Prothonotary** shall forthwith bill the responsible party. If the responsible party fails to pay the amount due

within thirty days of the date of the bill, the [ **court** ] **Court** shall impose appropriate sanctions to enforce payment.

§ 69.331. [ **Reconsideration; Petitions for Reconsideration** ] **Reargument; Applications for Reargument**.

When a party files [ **a petition for reconsideration of an order issued by a single judge, the prothonotary shall submit the petition,** ] **an application for reargument of an order issued by a single Judge, see Pa.R.A.P. 2541 et seq., the Chief Legal Counsel shall submit the application,** together with any answer, to the [ **judge** ] **Judge** for action, in accordance with Pa.R.A.P. 123(e). **When a party files an application for reargument of an order issued by a panel of the Court in its original jurisdiction, the President Judge shall distribute the application and any answers thereto, to all Judges of the Court, along with the recommendation of the authoring Judge.**

§ 69.341. **Process; Designation of Officials for Service of Process.**

The Commonwealth Court is a court of Statewide jurisdiction. Therefore, for purposes of Pa.R.C.P. No. 400(d), an action commenced in this [ **court** ] **Court** is deemed commenced in all counties of [ **the** ] **this** Commonwealth. Accordingly, where service is to be effectuated within this Commonwealth by a sheriff, the sheriff of any county where service may be made is authorized to serve process issuing from this [ **court** ] **Court** and does not need to be deputized.

§ 69.342. **Process; Designation of Officials for Execution of Bench Warrants of Arrest.**

By order in a particular case, a [ **judge** ] **Judge** may designate the Pennsylvania State Police or the sheriff of any county where the bench warrant may be executed as the official agency for the execution of a bench warrant of arrest.

## DECISIONS

§ 69.401. **Issuance of Decisions; Orders and Opinions.**

On the day each order or opinion and order is filed, the [ **chief clerk shall mail** ] **Prothonotary shall send** a copy to each counsel of record or pro se litigant. In matters on appeal from a trial court, the [ **chief clerk shall mail** ] **Prothonotary shall send** a copy of the opinion to the trial judge. [ **He** ] **The Prothonotary** shall also promptly distribute copies of opinions, when designated to be reported, to the list of distributees of opinions of the Commonwealth Court, as from time to time approved by the [ **president judge** ] **President Judge**.

§ 69.412. **Reporting of Opinions; Determination as to Reporting.**

(a) Each [ **judge** ] **Judge** who is the author of an opinion of a panel or the [ **court** ] **Court** en banc shall indicate, in circulating the opinion to the other members of the [ **court** ] **Court**, the authoring [ **judge's** ] **Judge's** recommendation as to whether the opinion shall be reported. A decision generally should be reported when it:

\* \* \* \* \*

The recommendation shall govern the determination as to reporting, unless a majority of the [ **commissioned members of the court** ] **Commissioned Judges** disagrees with it.

(b) Except as provided in subsection (c) (relating to single [ **judge** ] **Judge** opinions in election law matters), opinions of a single [ **judge** ] **Judge** shall be filed but not reported unless, because of the unique character of the case, the [ **prothonotary or the authoring judge shall recommend that the opinion be reported and a two-thirds majority of the commissioned members of the court** ] **Chief Legal Counsel or the authoring Judge shall recommend that the opinion be reported and two-thirds of the Commissioned Judges** shall concur with the recommendation.

(c) Opinions of a single [ **judge or a special court** ] **Judge or a special Court** en banc or panel in election law matters, original and appellate jurisdiction, shall be filed but not reported. Thereafter, the [ **prothonotary or authoring judge** ] **Chief Legal Counsel or authoring Judge** may recommend that the opinion be reported. The recommendation shall be transmitted to the [ **court** ] **Court**, together with a copy of the unreported opinion and order, requesting the [ **judges** ] **Judges** to indicate (1) their agreement or disagreement with the opinion and order, and (2) any disagreement as to the writer's recommendation concerning reporting. If [ **a two-thirds majority of the commissioned members of the court agrees** ] **two-thirds of the Commissioned Judges vote or agree** with the opinion and order and the recommendation concerning reporting, the unreported opinion and order shall be reported.

**§ 69.413. Reporting of Opinions; Designation as to Reporting.**

Each opinion which is to be reported shall be designated as an "OPINION." Each unreported opinion shall be designated as a "MEMORANDUM OPINION," its face sheet shall bear the advice, "OPINION NOT REPORTED," and the [ **court's** ] **Court's** docket shall note that it is an unreported opinion.

**§ 69.414. Citing Judicial Opinions in Filings.**

(a) An unreported opinion of this [ **court** ] **Court** may be cited and relied upon when it is relevant under the doctrine of law of the case, res judicata or collateral estoppel. Parties may also cite an unreported panel decision of this [ **court** ] **Court** issued after January 15, 2008, for its persuasive value, but not as binding precedent.

(b) Except as provided in subsection (d) (relating to [ **single judge** ] **single-Judge** opinions in election law matters), a [ **single-judge** ] **single-Judge** opinion of this [ **court** ] **Court**, even if reported, shall be cited only for its persuasive value and not as a binding precedent.

(c) A reported opinion of the Court en banc or panel may be cited as binding precedent.

(d) A reported opinion of a single [ **judge** ] **Judge** filed after October 1, 2013, in an election law matter may be cited as binding precedent in an election law matter only. For purposes of [ **IOP § 414** ] **§ 414**, "an election law matter" is one that involves the content of a ballot for the next ensuing election.

**§ 69.415. Reporting of Opinions; Adoption of Trial Court Opinions.**

When a reported opinion of the [ **court** ] **Court**, whether per curiam or signed by a [ **judge** ] **Judge**, adopts the trial court's opinion in its entirety, the opinion shall cite a publication containing the trial court opinion when possible; the citation may be to a reporter in which the trial court opinion has been published or to District & County Reports, if publication of the trial court opinion in that reporter is anticipated. If the opinion of this [ **court** ] **Court** so adopting a trial court opinion is unreported, the opinion shall include a reporter citation with respect to the trial court opinion only if it has in fact been reported in a publication.

**§ 69.416. Reporting of Unreported Opinions.**

After an opinion has been filed as unreported, the [ **court** ] **Court**, at any time on its own motion or on the [ **motion** ] **application** of any person, may order the opinion to be reported. [ **Motions** ] **Applications** to report unreported opinions shall be filed within 30 days after the filing of the opinion, and, except as otherwise provided in § 69.412(c), may be granted by majority vote of the [ **commissioned judges** ] **Commissioned Judges**.

MISCELLANEOUS

**§ 69.501. Mediation.**

[ **IN THE COMMONWEALTH COURT OF PENNSYLVANIA**

IN RE: ORDER :  
 ESTABLISHING : 126 M.D. No. 3  
 MEDIATION PROGRAM :  
 ORDER

And Now, this 15th day of September, 1999, It Is Hereby Ordered that effective January 1, 2000 counseled appeals of orders of the courts of common pleas and counseled petitions for review of state administrative agency action filed in Commonwealth Court's appellate jurisdiction and counseled actions filed in the Court's original jurisdiction may be referred at the discretion of the Court to the Court's Mediation Program to facilitate settlement and otherwise to assist in the expeditious resolution of matters before the Court. Cases that have not been selected by the Court for mediation may be referred at any time to the Mediation Program at the request of counsel or at the direction of any en banc or three-judge panel of the Court.

Tax appeals from orders of the Board of Finance and Revenue, which are now subject to a status conference program, and all pro se matters shall be exempt from the Mediation Program. Mediation shall be offered at no cost to the parties and shall be conducted by a senior or retired judge of the Court assigned on a periodic basis by the President Judge.

IT IS FURTHER ORDERED that within ten days after receipt of the notice of appeal, petition for review or complaint, the appellant, petitioner or plaintiff shall file with the Chief Clerk the required docketing statement on a form provided by the Court at the time of the notice of appeal, petition for review or complaint is filed. The appellant,



petitioner or plaintiff shall also file a Statement of Issues with the docketing statement. The Statement of Issues shall be no more than two pages in length and shall set forth a brief summary of the issues and a summary of the case necessary for an understanding of the nature of the appeal, petition for review or complaint. Service of the docketing statement and any attachments shall be made on all parties, and an original and one copy shall be filed with the Chief Clerk's Office along with a proof of service.

Cases shall be screened for referral to mediation immediately upon the filing of the docketing statement and any other form prescribed by the Court setting forth the issues and a summary of the case. After a case has been selected for mediation, the Chief Clerk shall notify counsel for all parties by letter of the referral to the Mediation Program and of the name of the mediation judge assigned to conduct mediation. The mediation judge shall promptly contact counsel to establish the location, date and time for mediation.

Within ten days of receiving notice of mediation, counsel shall provide the mediation judge with a mediation statement of no more than five pages, setting forth the positions of counsel as to the key disputed and undisputed facts and legal issues in the case and stating whether prior settlement negotiations have occurred. The mediation statement shall also identify any motions filed and their disposition; the mediation judge may dispose of only those motions related to scheduling or to the mediation process. In actions arising under the Court's appellate jurisdiction, counsel for the appellant or the petitioner shall attach as exhibits to the mediation statement a copy of the judgment or order on appeal and any opinion or adjudication issued by the common pleas court or agency. Copies of the mediation statement need not be served upon opposing counsel unless so directed by the mediation judge. Documents prepared solely for mediation and the notes of the mediation judge shall not be filed with the Chief Clerk.

All cases referred to mediation shall remain subject to the Court's normal scheduling for briefing and/or oral argument. The Court's briefing and/or oral argument schedule shall not be modified by the Chief Clerk unless so directed by the mediation judge to accommodate mediation.

All mediation sessions must be attended by counsel for each party with authority to settle the matter and, if required, such other person with actual authority to negotiate a settlement, whether involving the Commonwealth of Pennsylvania, a local government unit or an individual litigant. The mediation judge may at his or her discretion require the parties (or real parties in interest) to attend mediation. In cases involving the Commonwealth government, upon direction of the mediation judge, counsel shall have available someone from the appropriate agency with authority to settle who can be reached during mediation to discuss settlement if such person is not already required to be in attendance by the mediation judge. The mediation judge may in the alternative obtain the name and title of the government official or officials authorized to settle on behalf of the state or local government unit.

No future mediation shall be conducted unless the mediation judge determines that further sessions are necessary to effectuate a settlement. The mediation judge assigned to mediate a case shall attend all future mediation sessions scheduled in the case. The mediation judge shall possess authority to impose any necessary sanctions for the failure of counsel to comply with the requirements of this order.

The mediation judge shall not disclose the substance of the mediation settlement discussions and proceedings, and counsel likewise shall not disclose such discussions and proceedings to anyone other than to their clients or to co-counsel. No information obtained during settlement discussions shall be construed as an admission against interest, and counsel shall not use any information obtained during settlement discussions as the basis for any motion or application other than one related to the Court's briefing or argument scheduling. Where settlement is reached, counsel shall prepare a written settlement agreement and obtain all necessary signatures of the parties and counsel. The agreement shall be binding upon the parties to the agreement, and after execution counsel shall file a stipulation of dismissal within ten days thereof. Where necessary or upon the request of counsel the mediation judge may enter an appropriate order approving the settlement and remanding the case to the tribunal below for its enforcement and/or implementation.

Any case not resolved by mediation shall remain on the Court's docket and proceed as if mediation had not occurred. The mediation judge shall not participate in any decision on the merits of the case. Upon the termination of mediation either through settlement and dismissal or through a continuation of the case on the Court's docket, the mediation judge shall dispose of all documents obtained during mediation unless the mediation judge determines to retain any part of non-confidential documents until final disposition of a case. In any event, the mediation statements and any other confidential documents submitted to the mediation judge shall be destroyed immediately upon the termination of mediation.

The Court's order establishing a Mediation Program shall be published in the Pennsylvania Bulletin and in legal newspapers throughout the Commonwealth prior to the effective date of the Mediation Program. The order shall be posted in the Chief Clerk's Office and a copy thereof shall be mailed to all counsel whose cases have been selected for mediation. The Court also shall amend its Internal Operating Procedures to incorporate the mediation procedures and shall give notice thereof simultaneously with notice of the Court's order establishing the Mediation Program. This order may be amended at the discretion of the Court.]

(a) Scope; Costs; Mediation Judge; Form of Papers.

(1) To facilitate settlement and otherwise assist in the expeditious resolution of matters before the Commonwealth Court, appeals of orders of the courts of common pleas, petitions for review of state administrative agency decisions filed in the Court's appellate jurisdiction, and matters filed in

the Court's original jurisdiction may be selected for mediation by the Court's Mediation Program.

(2) Tax appeals from orders of the Board of Finance and Revenue, which are subject to a status conference program, shall be excluded from the Mediation Program.

(3) Mediation shall be offered at no cost to the parties.

(4) Mediation shall be conducted by a Mediation Judge. The Mediation Judge may dispose of motions related to the scheduling of mediation and the mediation process. The Mediation Judge shall have authority to impose any necessary sanctions for the failure of any attorney or party to comply with the requirements of the Mediation Program.

(5) The mediation statement required by this section, and any other documents prepared for submission to the Mediation Judge, shall follow the format required by Pa.R.A.P. 124(a).

(b) Selection of Cases and Scheduling; Mediation Statement.

(1) Counseled matters shall be screened for referral to mediation immediately upon the filing of the Docketing Statement and all attachments as required by Pa.R.A.P. 3706. Any matter not initially screened or selected for mediation may be referred to the Mediation Program at any time upon request of any party or at the direction of any Judge, en banc or three-judge panel of the Court.

(2) After a matter has been selected for mediation, the Prothonotary shall notify the parties of the referral to the Mediation Program and the name of the Mediation Judge assigned to conduct mediation. The Mediation Judge, when appropriate, shall promptly contact the parties to establish the location, date and time for mediation.

(3) Within ten days of receiving notice of mediation, or as otherwise directed, each party shall submit to the Mediation Judge a confidential mediation statement of no more than five pages, setting forth the positions of the party as to the key disputed and undisputed facts and legal issues in the matter, and stating whether prior settlement negotiations have occurred. The mediation statement shall focus on practical considerations in the matter and the party's good faith position on resolving issues by compromise and agreement. The mediation statement shall also identify any motions filed in Commonwealth Court and their disposition. The mediation statement shall not be filed with the Prothonotary or served upon opposing parties, and shall remain confidential.

(4) All matters referred to mediation shall remain subject to the Court's normal scheduling for briefing and oral argument. The Prothonotary shall not modify the Court's briefing or oral argument schedule unless so directed by the Mediation Judge to accommodate mediation.

(c) Sessions; Confidentiality; Settlement; Effect of Mediation.

(1) All mediation sessions must be attended by each unrepresented party and counsel for each represented party with authority to settle the matter and, if required, such other persons with actual authority to negotiate a settlement, whether involv-

ing the Commonwealth of Pennsylvania, a local government unit, or an individual litigant. The Mediation Judge may at his or her discretion require the parties (or real parties in interest) to attend mediation. In cases involving the Commonwealth government, upon direction of the Mediation Judge, counsel shall have available someone from the appropriate agency with authority to settle who can be reached during mediation to discuss settlement if such person is not already required to attend the mediation session. In the alternative, the Mediation Judge may obtain the name and title of the government official or officials authorized to settle on behalf of the state or local government unit.

(2) No future mediation shall be conducted unless the Mediation Judge determines that further sessions are necessary to effectuate a settlement. The Mediation Judge assigned to mediate a matter shall attend all future mediation sessions scheduled in the case.

(3) All participants in the Mediation Program shall act with due diligence and in good faith.

(4) The Mediation Judge shall not disclose the substance of the mediation settlement discussions and proceedings, and counsel likewise shall not disclose such discussions and proceedings to anyone other than their clients or co-counsel. No information obtained during settlement discussions shall be construed as an admission against interest, and the parties shall not use any information obtained during settlement discussions as the basis for any motion or application other than one related to the Court's briefing or argument scheduling. All mediation information, documents and communications are to be kept strictly confidential, not to be used or disclosed outside of mediation. All statements made in the course of mediation are for mediation purposes only and are not to be construed as representing the official position of the Mediation Judge, the Court, or any employee thereof.

(5) Where settlement is reached, the parties shall prepare a written settlement agreement and obtain all necessary signatures of the parties and counsel. The agreement shall be binding upon the parties to the agreement, and after execution or any necessary approval by a tribunal, the parties shall file a stipulation of dismissal within ten days thereof. Where necessary or upon the request of a party, the Mediation Judge may enter an appropriate order approving the settlement or remanding the matter to the tribunal below for its approval, enforcement, or implementation.

(6) Any matter not resolved by mediation shall remain on the Court's docket and proceed as if mediation had not occurred.

(7) A Mediation Judge who reviewed a mediation statement or conducted a mediation session shall not participate in any decision on the merits of the matter. Upon the termination of mediation, either through settlement and dismissal or through a continuation of the matter and final disposition on the Court's docket, the Mediation Judge shall dispose of all documents obtained during mediation.

*Official Note: The Commonwealth Court Mediation Program was established and initially gov-*

**erned by Order dated September 15, 1999, effective January 1, 2000. That Order has been withdrawn and supplanted by this section.**

**§ 69.502. Pennsylvania Cable Network (PCN) Guidelines.**

(a) *General Provisions*

(1) From the date of these Guidelines until further order of this Court, the recording by PCN of en banc proceedings before Commonwealth Court for future broadcast on PCN is permissible only in accordance with these Guidelines.

(2) Three business days advance notice is required of a request to be present to record a scheduled en banc proceeding electronically for future broadcast on PCN electronically. Such requests must be submitted to the Executive Administrator for approval by the President Judge. The President Judge, or presiding [**judge**] **Judge** of the en banc panel will retain the authority, in [**his or her**] **the Judge's** sole discretion, to prohibit camera coverage of any proceeding.

(3) There shall be no coverage of an en banc proceeding involving any case that the Court has designated SEALED, or of any case involving the expungement or the refusal to expunge founded or indicated reports of child abuse.

(4) The President Judge, or presiding [**judge**] **Judge** of an en banc proceeding may limit or terminate coverage, or direct the removal of camera coverage personnel when necessary to protect the rights of the parties or to assure the orderly conduct of the proceedings.

\* \* \* \* \*

(8) All copyrights to the broadcasts are the possession of the Commonwealth Court of Pennsylvania and may not be used without the approval of the Commonwealth Court of Pennsylvania. PCN shall provide to the [**court**] **Court** DVD or videotape recordings of all sessions covered by PCN, whether or not broadcasted.

(9) This shall become effective November 1, 2006.

(b) *Limitations*

\* \* \* \* \*

(2) There shall be no audio pickup or broadcast of conferences between co-counsel or among the [**judges**] **Judges**.

(c) *Equipment and Personnel*

\* \* \* \* \*

(3) Except as otherwise approved by the Executive Administrator, or designee, existing courtroom sound and light systems shall be used without modification. Audio pickup for all media purposes shall be accomplished from existing audio systems present in the [**court**] **Court** facility, or from a television camera's built-in microphone. If no technically suitable audio system exists in the [**court**] **Court** facility, microphones and related wiring

essential for media purposes shall be unobtrusive and shall be located in places designated in advance by the Executive Administrator or designee.

\* \* \* \* \*

[Pa.B. Doc. No. 20-147. Filed for public inspection January 31, 2020, 9:00 a.m.]

**Title 25—LOCAL COURT RULES**

**BUCKS COUNTY**

**Regional Central Booking Program; Administrative Order No. 56; AD-1-20**

**Order**

*And Now*, to wit, this 13th day of January, 2020, Administrative Order No. 56, promulgated on October 26th, 2009, and amended on May 11, 2015, is hereby amended as follows:

It is hereby ordered and directed that all defendants convicted of any misdemeanor or felony criminal offense or anyone accepted into Accelerated Rehabilitation Disposition in such matters, shall be assessed a fee of \$250.00 to offset costs of Central and/or Regional Booking Centers located throughout Bucks County. Said fees shall be assessed as court costs. This fee is in addition to all other authorized fines, costs and supervision fees legally assessed.

Fees so collected shall be paid into the General Fund of Bucks County. Each year, the Controller's Office shall proportionately disburse these funds to the participating jurisdictions in accordance with the Regional Booking Center Plan developed by those jurisdictions and approved by the Court.

This Order shall become effective March 1, 2020.

*By the Court*

WALLACE H. BATEMAN, Jr.,  
*President Judge*

[Pa.B. Doc. No. 20-148. Filed for public inspection January 31, 2020, 9:00 a.m.]

**DISCIPLINARY BOARD  
OF THE SUPREME COURT**

**Notice of Suspension**

Notice is hereby given that James Stephen DelSordo having been suspended from the practice of law in the State of Virginia; the Supreme Court of Pennsylvania issued an Order dated January 16, 2020 suspending James Stephen DelSordo from the practice of law in this Commonwealth for a period of one year and one day, effective February 15, 2020. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

MARCEE D. SLOAN,  
*Board Prothonotary*

[Pa.B. Doc. No. 20-149. Filed for public inspection January 31, 2020, 9:00 a.m.]



# PROPOSED RULEMAKING

## STATE BOARD OF EXAMINERS OF NURSING HOME ADMINISTRATORS

[ 49 PA. CODE CH. 39 ]

### Continuing Education

The State Board of Examiners of Nursing Home Administrators (Board) proposes to amend §§ 39.1, 39.11, 39.44, 39.51, 39.52 and 39.61, add §§ 39.11a and 39.11b (relating to reactivation; and continued competence) and delete § 39.71 (related to licensure renewal) to read as set forth in Annex A.

#### *Effective Date*

This proposed rulemaking will be effective upon final-form publication in the *Pennsylvania Bulletin*. The reduction in continuing education clock hours will be applied for the first time when licensees renew for the July 1, 2020, through June 30, 2022, biennial period. Licensees must have completed no less than 36 hours of continuing education as a condition of renewal in 2020.

#### *Statutory Authority*

Section 9(b) of the Nursing Home Administrators License Act (act) (63 P.S. § 1109(b)) requires licensees to complete not less than 24 hours of Board-approved continuing education courses and programs as a condition of biennial renewal. Section 9(e) of the act addresses reactivation of expired or inactive licenses. Section 4(a)(9) of the act (63 P.S. § 1104(a)(9)) provides the statutory authority for the proposed continued competency provision. Section 4(a)(9) also authorizes the Board to develop standards of professional practice and standards of professional conduct appropriate to establish and maintain a high level of integrity and performance in the practice of nursing home administration. Additionally, section 4(c) of the act authorizes the Board to promulgate regulations to effectuate the act.

#### *Background and Need for Amendments*

On October 24, 2017, Governor Tom Wolf signed Executive Order 2017-3, published at 47 Pa.B. 6929 (November 11, 2017), requiring the Commissioner of Professional and Occupational Affairs (Commissioner) to comprehensively review and catalog the processes, fees, training requirements, criminal history policies, portability and continuing education requirements for occupational and professional licensure within the purview of the 29 licensing boards and commissions under the Commissioner's authority. The order further directed the Commissioner to benchmark that data against regional averages from 12 states with similar or equivalent licenses that comprise the Northeast geographic region—Ohio, West Virginia, Maryland, Delaware, New Jersey, New York, Massachusetts, Rhode Island, Connecticut, New Hampshire, Vermont and Maine—to identify requirements or functions that presented unnecessary burdens to licensure and occupational employment within this Commonwealth.

That report, issued on June 12, 2018, revealed that the Commonwealth carried one of the highest continuing education requirements in the regional comparison group for seven different occupational/professional licenses, including nursing home administrators. The Wolf administration believes that public protection through the function of continuing education must be balanced against the burden to the regulated community. Therefore, because

these requirements are significantly above the regional average, and no superseding Federal requirement or imminent public threat to health and safety mandates the increase, the administration recommended that the biennial requirement for continuing education be reduced to the statutory minimum.

The Board initially considered reducing the continuing amount to at least 24 hours, as recommended. However, after discussion with stakeholders who opposed the reduction, the Board determined that a reduction by one-quarter to at least 36 hours per biennium would accomplish the Governor's goal of reducing the required continuing education while at the same time ensure that licensees obtain sufficient continuing education given the complexities of nursing home regulation. This proposed rulemaking effectuates the reduction to at least 36 hours and makes similar revisions related to the length of an educational program and the number of clock hours awarded for various continuing education activities. Applying this same logic, the Board would remove the proration provision for licensees renewing for the first time; and instead exempt them from completing the continuing education requirement for their first biennial renewal. This exemption is consistent with other licensure boards within the Health Licensing Division of the Bureau of Professional and Occupational Affairs.

Additionally, this proposed rulemaking would institute a continued competence provision. The Board believes that it is appropriate to require licensees whose licenses have been inactive or expired for 5 years or longer to demonstrate their competence to resume the practice of nursing home administration by passing the licensure examinations, taking additional coursework or otherwise demonstrating that they are or have been actively engaged in the practice of nursing home administration in another state, have been employed by a nursing home in a supervisory or consultant capacity, or have been teaching long term care subject matter in an accredited college or university or in a Board-approved 120-hour training program.

#### *Description of Proposed Amendments*

The definition of "clock hour" in § 39.1 (relating to definitions) is proposed to be amended to reduce the minimum course length to 30 minutes (.5 clock hours) and to grant additional credit in 15-minute increments.

Section 39.11(b) and (d) (relating to biennial renewal) is proposed to be amended to include current biennial renewal procedures. Rather than sending applications for renewal to licensees, the Board e-mails licensees approximately 3 months prior to the end of the biennial period and advises them about the availability of the online renewal process to renew licenses in the Pennsylvania Licensing System (PALS). Licensees are then required to submit the completed renewal application and the biennial renewal fee and, unless there is a discrepancy, will be accepted by the Board and renewed. Subsection (c) is proposed to be amended to reduce the minimum number of continuing education clock hours required for biennial renewal from 48 to 36. Subsection (e) is proposed to be deleted, as it is a reactivation provision, which has now been included in proposed § 39.11a (relating to reactivation).

Proposed § 39.11a sets forth the reactivation requirements for licenses that are expired or inactive. Subsection (a), which replaces current § 39.11(e), provides the re-



quirements when the license is expired or inactive for fewer than 5 years while subsection (b) provides the requirements when the license has been expired or inactive for 5 years or longer. In the latter circumstance, the licensee must also demonstrate continued competence as provided in proposed § 39.11b.

Proposed § 39.11b would provide five options for demonstrating continued competence: (1) passing the licensure examinations approved by the Board (the Core of Knowledge Exam for Long Term Care Administrators, the Line of Service Exam—Nursing Home Administrators, and the State Based Licensing Exam—Pennsylvania); (2) successfully reCompleting a Board-approved 120-hour program of study; (3) documenting that the licensee has practiced as a nursing home administrator in another jurisdiction for at least 2 of the last 5 years; (4) documenting that the licensee has served in a supervisory or consultant capacity in a nursing home for at least 3 of the last 5 years; or (5) documenting that the licensee taught long term care courses for a Board-approved 120-hour program of study provider or a college or university for at least 3 of the last 5 years. The Board believes that requiring licensees who have not had a current license for 5 years or longer to demonstrate continued competence assures their currency in nursing home administration thereby protecting the health, safety and welfare of the residents of nursing homes and their families, as well as nursing home employees. In the last three continued competence options, the licensee would be required to appear before the Board to demonstrate actual involvement in nursing home administration in another jurisdiction or through supervision, consultation or instruction. To meet the requirements of paragraph (4), the supervision or consulting provided to a nursing home in at least 3 of the last 5 years must be significant; merely providing supervision or consulting for 2 or 3 months a year does not demonstrate significant involvement.

Section 39.44(7) (relating to provider responsibilities) is proposed to be amended to set forth the items that must be contained in continuing education records. Section 39.51(b) (relating to standards for continuing education programs) is proposed to be amended to add the prohibition in paragraph (3) that continuing education programs may not be less than 30 minutes in length. The Board believes that there is not sufficient time to engage in meaningful learning in less than 30 minutes. Section 39.52(a) (relating to program registration) is proposed to be amended to correct a cross-reference to § 39.61 (relating to requirements).

Section 39.61 sets forth the continuing education requirement. Subsections (a) and (c) are proposed to be amended to reduce the minimum number of continuing education hours from 48 to 36. Additionally, the maximum number of clock hours for being an instructor in paragraph (c)(2), being an author in paragraph (c)(3), serving as an Administrator-In-Training supervisor in paragraph (c)(4) and for completing college or university courses in paragraph (c)(5) would be reduced incrementally to coincide with the overall reduction. Subsection (d) is proposed to be amended to remove the proration calculation for licensees' first biennial renewal in favor of an exemption of the continuing education requirement for that period. Proposed subsection (h) provides that licensees will not be awarded credit for programs that have less than 30 minutes of instruction. In addition, the Board proposes to replace the undesignated center heading "Clock Hours Requirement" with "Continuing Education"

to be more descriptive of the content of §§ 39.61 and 39.65 (relating to reporting continuing education clock hours).

The Board proposes to delete § 39.71 because the information contained in this section is either outdated or duplicative of § 39.11. In addition, the undesignated center heading "Renewal" is proposed to be amended with "Fees" because of the deletion of § 39.71, all that remains is § 39.72 (relating to fees).

#### *Fiscal Impact and Paperwork Requirements*

Because licensees will continue to renew their licenses in the same manner as they currently do, the reduction in the minimum number of continuing education clock hours that have to be completed per biennium will not result in any increased fiscal impact or additional paperwork requirements on the Board. For licensees, it will result in a decrease in costs as they will have to complete fewer required clock hours of continuing education.

Licensees who wish to reactivate licenses that have expired or been inactive for more than 5 years may have an increased fiscal impact depending upon the continued competence activity selected. Those who select completion of the 120-hour course in new § 39.11b(2) will experience the highest costs as the average cost for the 120-hour course is currently \$2,650. Individuals who chose to complete the licensure examinations would be required to pay the fee for the State and National portions of the examination, which is currently \$785. For either of these activities there will be no additional paperwork requirements, as § 39.11(e) currently requires application, a fee and documentation.

The continued competence activities in proposed § 39.11b(3), (4) and (5) will have no increased costs but will have some additional paperwork requirements. Each of these activities involve work experience. Under proposed § 39.11b(3), a licensee would have to document that the licensee practiced as a nursing home administrator in another jurisdiction for at least 2 of the last 5 years prior to application for reactivation. In proposed § 39.11b(4) and (5) the licensee would be required to demonstrate significant involvement in the field of nursing home administration or instruction in long term care during the time the license was expired or inactive. That involvement may include, for example, serving as an assistant nursing home administrator or department head or teaching a nursing home administration course within the 120-hour program or bachelor's degree program.

#### *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 16, 2020, 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 this proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections shall specify the regulatory

review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Board, the General Assembly and the Governor of comments, recommendations or objections raised.

*Public Comment*

Interested persons are invited to submit written comments, suggestions or objections regarding this proposed rulemaking to Jaime D. Black, Counsel, State Board of Examiners of Nursing Home Administrators, 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*. Reference No. 16A-6219 (Continuing Education) when submitting comments.

KIMBERLY COBAUGH,  
Chairperson

**Fiscal Note:** 16A-6219. 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 39. STATE BOARD OF EXAMINERS OF NURSING HOME ADMINISTRATORS**

**GENERAL**

**§ 39.1. Definitions.**

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

\* \* \* \* \*

*Clock hour*—A [ **minimum** ] unit of education consisting of 60 minutes of instruction. Programs longer than [ **60** ] **30** minutes will be credited in [ **30** ] **15** minute increments.

\* \* \* \* \*

**§ 39.11. Biennial renewal.**

(a) Licenses are renewable each biennium, in the even-numbered years.

(b) [ **Applications for renewal** ] **Notice of the availability of the renewal process** will be forwarded to each active licensee at the licensee's address of record **or current e-mail address on file** with the Board, **or both**, prior to the expiration of the current biennial period.

(c) As a condition of biennial renewal, licensees shall complete [ **48** ] **a minimum of 36** clock hours of continuing education during the preceding biennial period as required in § 39.61 (relating to requirements).

(d) Renewal applications shall be completed **in a format and manner required by the Board** and [ **returned to the Board office** ] accompanied by the required renewal fee **in § 39.72 (relating to fees)**. Upon [ **approval of each** ] **Board acceptance of the biennial renewal** application, the **license will be renewed and the applicant [ shall ] will** receive a certificate of registration for the current renewal period.

[ **(e) An application for the renewal of a license which has expired shall be accompanied by a late fee or a verification of nonpractice, the renewal fee and documentation evidencing the satisfactory completion of the continuing education requirement for the preceding biennial period.** ]

(*Editor's Note:* The following sections are proposed to be added and printed in regular type to enhance readability.)

**§ 39.11a. Reactivation.**

(a) A nursing home administrator who desires to reactivate a license that has been expired or inactive shall file an application for reactivation in a format and manner required by the Board and shall provide:

(1) A late fee as required by section 225 of the Bureau of Professional and Occupational Affairs Fee Act (63 P.S. § 1401-225) or a verification of nonpractice, as applicable.

(2) The renewal fee in § 39.72 (relating to fees).

(3) Documentation evidencing the satisfactory completion of the continuing education requirement for the preceding biennial period.

(b) In addition to complying with the requirements in subsection (a), a nursing home administrator whose license has been expired or inactive for 5 years or longer shall demonstrate continued competence under § 39.11b (relating to continued competence).

**§ 39.11b. Continued competence.**

A nursing home administrator applying to reactivate a license that has been expired or inactive for 5 years or longer shall demonstrate continued competence by doing one of the following:

(1) Passing the licensure examinations approved by the Board.

(2) Successfully recompleting 120 clock hours in a program of study approved by the Board as prescribed in § 39.14 (relating to approval of programs of study).

(3) Providing written documentation to the Board evidencing that the licensee has practiced nursing home administration in another jurisdiction for at least 2 years within the last 5 years under a current license in that jurisdiction. The licensee shall appear personally before the Board to demonstrate that practice.

(4) Providing written documentation to the Board that the licensee has been employed in a nursing home in a supervisory or consultant capacity for at least 3 years within the last 5 years. The licensee shall appear personally before the Board to demonstrate, to the Board's satisfaction, a significant involvement in the field of nursing home administration during the time the license has been expired or inactive. Sporadic or occasional involvement is not sufficient to demonstrate continued competence.

(5) Providing written documentation to the Board that the licensee has been teaching long term care subject matter for a continuing educational provider approved by the Board to offer the 120-hour program or an accredited college or university for at least 3 years within the last 5 years. The licensee shall appear personally before the Board to discuss the scope of the education provided during the time the license has been expired or inactive.

**APPROVAL PROCESS—PROVIDERS**

**§ 39.44. Provider responsibilities.**

For each program, providers shall:

\* \* \* \* \*

(7) Issue continuing education records[.] to each licensee who completed the course, which must include:

- (i) The name of the licensee.
- (ii) The title of the course or program.
- (iii) The date of the course or program.
- (iv) The number of continuing education clock hours provided.
- (v) The name of the course provider and the provider number.
- (vi) A statement that the course or program was approved by the Board or NAB, which must include the program approval number.

(8) Retain attendance records, written outlines and a summary of evaluations for a 5-year period.

**APPROVAL PROCESS—PROGRAMS**

**§ 39.51. Standards for continuing education programs.**

- (a) A program shall consist of the subjects listed in § 39.14(a)(2) (relating to approval of programs of study).
- (b) The Board does not deem the following programs acceptable:
  - (1) Inservice programs which are not open to licensees.
  - (2) Programs limited to the organization and operation of the employer.

**(3) Programs consisting of less than 30 minutes of instruction.**

**§ 39.52. Program registration.**

(a) All programs require preapproval, except as in § [ 39.61(b)(4) and (5) ] 39.61(c)(2)—(5) (relating to requirements).

\* \* \* \* \*

**[ CLOCK HOURS REQUIREMENT ]  
CONTINUING EDUCATION**

**§ 39.61. Requirements.**

- (a) A licensee shall complete at least [ 48 ] 36 clock hours of continuing education during the preceding biennial period.
- (b) All continuing education clock hours shall be completed in courses preapproved by NAB or the Board, except as provided in subsection (c)(2)—(5).
- (c) Of the [ 48 ] 36 clock hours required, the following apply:
  - (1) Up to [ 48 ] 36 clock hours may be taken in lecture, college or university, computer interactive, distance learning or correspondence courses preapproved by NAB or the Board.
  - (2) A maximum of [ 12 ] 9 clock hours may be earned by serving as an instructor of a NAB or Board-approved continuing education program or as an instructor of a college or university course approved by NAB or the Board. Instructors may earn 1 clock hour for each hour of instruction up to [ 12 ] 9 clock hours.
  - (3) Clock hours may be earned by authoring an article on long-term care as follows:

(i) Authors whose articles relating to long-term care are published in professional journals may earn 3 clock hours per article, up to a maximum of [ 12 ] 9 clock hours per biennium.

(ii) Additional credit per article, up to [ 12 ] 9 of the required clock hours, may be awarded based on the complexity of the subject matter or work.

(iii) In exceptional circumstances, when the article is published in a refereed journal, and the subject matter or work is complex, a licensee may be awarded up to [ 24 ] 18 clock hours.

(iv) Published articles used for continuing education credit shall be submitted to the Board within 60 days of publication. Upon review of the published article, the Board will determine the appropriate number of clock hours to be awarded based upon the complexity of the subject matter or work.

(4) Up to [ 24 ] 18 clock hours may be obtained by serving as a supervisor in a Board-approved AIT program, when the AIT successfully completes the AIT program.

(5) A maximum of [ 12 ] 9 clock hours may be awarded retroactively for attending programs, to include lectures, and college or university courses, which have not been preapproved. The attendee shall submit a written request for approval within 60 days of attending the program and document attendance. The attendee shall demonstrate to the Board's satisfaction that the programs meet the requirements in §§ 39.14(a)(2) and 39.51 (relating to approval of programs of study; and standards for continuing education programs).

**(d) A licensee [ who obtains a license after the biennial period begins shall complete a prorated amount of clock hours equal to 2 clock hours per month through the end of the biennial period. For the purpose of calculating the number of clock hours required, partial months shall count as whole months ] is not required to meet the continuing education requirement on the first renewal immediately following licensure.**

(e) A licensee suspended for disciplinary reasons is not exempt from the continuing education requirements in subsection (a).

(f) A licensee who cannot meet the overall continuing education clock hour requirement in subsection (a) or (d) due to illness, emergency or hardship may apply to the Board in writing prior to the end of the renewal period for an extension of time to complete the clock hours. A licensee who cannot meet any other requirement in this section due to illness, emergency or hardship may apply to the Board in writing prior to the end of the renewal period for a waiver of the requirement. An extension or waiver request must explain why compliance is impossible, and include appropriate documentation. An extension or waiver request will be evaluated by the Board on a case-by-case basis.

(g) A licensee will not be credited for repeating a program in the same renewal period unless the subject matter has substantially changed during that period.

**(h) A licensee will not be credited for any continuing education program less than 30 minutes of instruction in duration.**



**[ RENEWAL ] FEES**

§ 39.71. [ Licensure renewal ] (Reserved).

[ (a) Licensure renewal will be based on the payment of the required fee to the Commonwealth and submission of "certification of credit" form. This form is available from the State Board of Examiners of Nursing Home Administrators, Post Office Box 2649, Harrisburg, Pennsylvania 17105.

(b) Total credit hours for the 1982-84 biennium consist of 48 hours.

(c) Certification forms shall be submitted to the Board. Documentation of programs attended with proper signatures of provider and nursing home administrator shall be kept by the licensee for a period of 2 years.

(d) Certification of credit hours submitted by the nursing home administrator shall be properly signed as being correct and true. False statements shall be grounds for licensure revocation or suspension. ]

[Pa.B. Doc. No. 20-150. Filed for public inspection January 31, 2020, 9:00 a.m.]

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# NOTICES

## DELAWARE RIVER BASIN COMMISSION

### Public Hearing and Business Meeting

The Delaware River Basin Commission (Commission) will hold a public hearing on Wednesday, February 12, 2020, at the Delaware River Basin Commission, 25 Cosey Road, West Trenton, NJ. A business meeting will be held the following month on Wednesday, March 11, 2020, at the Washington Crossing Historic Park Visitor Center, 1112 River Road, Washington Crossing, PA. The hearing and business meeting are open to the public.

*Public hearing.* The public hearing on February 12, 2020, will begin at 1:30 p.m. Hearing items include draft dockets for withdrawals, discharges and other projects that could have a substantial effect on the basin's water resources, as well as a resolution to adopt the Fiscal Year 2020 Water Resources Program.

Written comments on matters scheduled for hearing on February 12, 2020, will be accepted through 5 p.m. on February 17, 2020. Time permitting, an opportunity for open public comment will be provided upon the conclusion of Commission business at the March 11, 2020, business meeting.

The public is advised to check the Commission's web site periodically prior to the hearing date, as items scheduled for hearing may be postponed if additional time is needed to complete the Commission's review and items may be added up to 10 days prior to the hearing date. In reviewing docket descriptions, the public is also asked to be aware that the details of projects may change during the Commission's review, which is ongoing.

1. *Upper Southampton Authority, D-1965-023 CP-3.* An application to renew the approval of an existing groundwater withdrawal with a decrease in allocation from 13.53 million gallons per month (mgm) to 11.8 mgm to supply the applicant's public water supply distribution system from existing Wells Nos. 3 and 7. The project wells are completed in the Stockton Formation. The project is located in the Commission's designated Southeastern Pennsylvania Groundwater Protected Area (GWPA) in the Southampton Creek Watershed, Southampton Township, Bucks County, PA.

2. *Brodhead Creek Regional Authority, D-1986-011 CP-5.* An application to renew approval of the existing 4.5 million gallon per day (mgd) Brodhead Creek Regional Authority Wastewater Treatment Plant (WWTP) and its discharge. The WWTP will continue to discharge to McMichael Creek at River Mile 213.0—4.0—0.2 (Delaware River—Brodhead Creek—McMichael Creek) and is located in the drainage area to the section of the nontidal Delaware River known as the Middle Delaware, which the Commission has classified as Special Protection Waters, in the Borough of Stroudsburg, Monroe County, PA.

3. *Easton Area Joint Sewer Authority, D-1987-010 CP-3.* An application to renew approval of the applicant's existing 10.0 mgd Eastern Area Joint Sewer Authority WWTP and its discharge and to approve a service area expansion for the WWTP. The WWTP facilities will not be modified, and the WWT will continue to discharge treated effluent directly to Water Quality Zone 1E of the Delaware River at River Mile 182.8, which is located in the section of the main stem Delaware River known as the

Lower Delaware, which the Commission has classified as Special Protection Waters, in the City of Easton, Northampton County, PA. The service area expansion consists of adding the Borough of Stockertown, for which sewage is currently conveyed to the Stockertown WWTP for treatment.

4. *Fleetwood Borough Authority, D-1987-054 CP-6.* An application to renew the approval of the existing 0.7 mgd Fleetwood Borough Authority WWTP and its discharge. The WWTP will continue to discharge to Willow Creek at River Mile 92.47—86.7—0.6—6.4 (Delaware River—Schuylkill River—Maiden Creek—Willow Creek), by means of Outfall No. 001, in Richmond Township, Berks County, PA.

5. *Spring Township, D-1988-077 CP-4.* An application to renew the approval of the docket holder's existing 2.0 mgd WWTP and its discharge. The WWTP will continue to discharge treated effluent to Cacoosing Creek at River Mile 92.47—76.8—4.0—2.0 (Delaware River—Schuylkill River—Tulpehocken Creek—Cacoosing Creek) by means of Outfall No. 001, in Spring Township, Berks County, PA.

6. *Wyomissing Valley Joint Municipal Authority, D-1991-009 CP-6.* An application to renew the approval of the docket holder's existing 4.0 mgd WWTP and its discharge. The WWTP will continue to discharge treated effluent to Wyomissing Creek at River Mile 92.47—75.4—0.22 (Delaware River—Schuylkill River—Wyomissing Creek), by means of Outfall No. 001, in Reading City, Berks County, PA.

7. *Exelon, D-1992-066 CP-3.* An application to renew approval of the applicant's existing 3,045 mgd Eddystone Generating Station Industrial Wastewater Treatment Plant and its discharges of treated industrial wastewater effluent and up to 832.2 mgd of noncontact cooling water (NCCW). Treated industrial effluent will continue to comeingle with NCCW prior to discharge to Delaware River Water Quality Zone 4 at River Mile 84.8, in the Borough of Eddystone, Delaware County, PA.

8. *Borough of Bally, D-1994-044 CP-4.* An application to renew the approval of the existing 0.5 mgd Borough of Bally WWTP and its discharge. The WWTP will continue to discharge treated effluent to West Branch Perkiomen Creek at River Mile 92.47—32.08—18.65—5.20—3.55 (Delaware River—Schuylkill River—Perkiomen Creek—Green Lane Reservoir—West Branch Perkiomen Creek) by means of Outfalls Nos. 001 and 002, in Washington Township, Berks County, PA.

9. *Aqua Pennsylvania, Inc., D-1995-057 CP-3.* An application to renew the approval to withdraw up to 46.2 mgm of groundwater from Wells 1—6 for public water supply. The wells are completed in the Catskill Formation in the West Branch Lackawaxen and Lackawaxen River Watersheds in Honesdale Borough and Texas Township, Wayne County, PA within the drainage area of the section of the main stem Delaware River known as the Upper Delaware, which the Commission has classified as Special Protection Waters.

10. *Northampton Generating Company, D-1998-040-2.* An application to renew the approval of an existing surface water withdrawal of up to 77.5 mgm to supply the applicant's 96 megawatt cogeneration facility from an existing intake on the Lehigh River. The requested allocation is not an increase from the previous allocation.

The project is located in the Lehigh River Watershed in Northampton Borough and Allen Township, both in Northampton County, PA within the drainage area of the section of the main stem Delaware River known as the Lower Delaware, which the Commission has classified as Special Protection Waters.

11. *Lehigh County Authority, D-1999-011 CP-3.* An application to renew the approval for the docket holder's existing 0.06 mgd Heidelberg Heights WWTP and its discharge. The WWTP will continue to discharge treated effluent to an unnamed tributary (UNT) to Mill Creek at River Mile 183.7—16.0—18.8—3.3 (Delaware River—Lehigh River—Jordan Creek—Mill Creek—UNT Mill Creek) by means of Outfall No. 001, in Heidelberg Township, Lehigh County, PA, located within the drainage area to the Lower Delaware River Special Protection Waters.

12. *Bucks County Water and Sewer Authority, D-1999-013 CP-4.* An application to renew the approval of the existing 1.6 mgd Harvey Avenue WWTP and its related discharge. The WWTP will continue to discharge treated effluent to Cooks Run at River Mile 115.6—38.1—2.6 (Delaware River—Neshaminy Creek—Cooks Run) by means of Outfall No. 001, in Doylestown Borough, Bucks County, PA.

13. *Dan Schantz Farm & Greenhouses, D-1999-014-3.* An application to renew the approval of an existing groundwater withdrawal of up to 3.57 mgm for nursery stock irrigation from existing Wells Nos. W-1, W-3, W-4, W-5, W-6, W-7 and W-8. The project wells are completed in the Brunswick Formation. The requested allocation is not an increase from the previous allocation. The wells are located in the Commission's designated GWPA in the Hosensack Creek Watershed in Lower Milford Township, Lehigh County, PA.

14. *Lehigh County Authority, D-2001-020 CP-6.* An application to renew the approval of the applicant's Central Lehigh Division System allocation of 264.78 mgm of groundwater from 18 existing wells and an interconnection with the City of Allentown for public water supply. The wells are completed in the Allentown, Jacksonburg and Beekmantown formations in the Little Lehigh Creek—Lehigh River, Liebert Creek—Little Lehigh Creek and Spring Creek watersheds in Lower Macungie, Upper Macungie and South Whitehall Townships, Lehigh County, PA within the drainage area of the section of the main stem Delaware River known as the Lower Delaware, which the Commission has classified as Special Protection Waters.

15. *Exelon, D-2010-036 CP-3.* An application to renew the approval of an existing average discharge of 42.6 mgd of NCCW and process water from the Fairless Hills Generating Station (FHGS) by means of Outfall No. 001. Outfall No. 001 discharges to Delaware River Water Quality Zone 2 at River Mile 126.85. The FHGS is located within the United States Steel complex in Falls Township, Bucks County, PA.

16. *Upper Makefield Township, D-2016-006 CP-2.* An application to renew the approval of the existing 0.0202 mgd Dutchess Farms WWTP and its discharge. The WWTP will continue to discharge treated effluent to land by means of a constructed wetland and discharge to a UNT to Jericho Creek at River Mile 143.2—3.7—0.85 (Delaware River—Jericho Creek—UNT Jericho Creek) by means of Outfall No. 001, within the drainage area to the portion of the Delaware River classified as Lower Delaware Special Protection Waters, in Upper Makefield Township, Bucks County, PA.

17. *Bristol Township, D-1990-098 CP-2.* An application to approve an upgrade and expansion to the docket holder's existing Croyden WWTP, consisting of constructing an additional secondary clarifier, constructing two additional chlorine contact tanks and replacing the existing grit removal system with a new grit removal system. As a result of the upgrade, the WWTP's annual average design flow will be expanded from 2.25 mgd to 3.75 mgd and the maximum monthly average design flow will be expanded from 3.0 mgd to 5.0 mgd. The WWTP will continue to discharge directly to Delaware River Water Quality Zone 2 at River Mile 116.9 in Bristol Township, Bucks County, PA.

18. *Plumstead Township, D-1997-033 CP-4.* An application to renew the approval of an existing groundwater withdrawal with an increase in total system allocation from 23.02 mgm to 35.1 mgm from 11 existing wells. Wells LG-6, CR-2, CR-3, MT-1 and MT-2 are completed in the mixed zone of the Brunswick and Lockatong formations. Wells NB-2 and NB-3 are completed in the Lockatong Formation. Wells DR-1, SH-5, SH-6 and SH-7 are completed in the Stockton Formation. The project is located in the Commission's designated GWPA in the Deep Run, North Branch Neshaminy Creek, Pine Run, Geddes Run and Cabin Run Watersheds in Plumstead Township, Bucks County, PA. The public water supply system is also located within the drainage area of the section of the nontidal Delaware River known as the Lower Delaware, which the Commission has classified as Special Protection Waters.

19. *Artesian Water Company, D-2001-034 CP-2.* An application to consolidate Docket Nos. D-2001-034 CP, D-2000-047 CP and D-2007-042 CP-1 into a single docket which makes up the docket holder's Church Creek Regional System. The application will also include Jonathans Landing Well No. 1, Hunters Ridge Well No. 1, Riverside Well No. 1R, Church Creek Well No. 3 and Riverview Well No. 1 into the Commission's Comprehensive Plan. The applicant also requests to renew the approval to withdraw up to 55.79 mgm of groundwater from 10 groundwater sources. The project's existing groundwater withdrawals are approved by the Delaware Department of Natural Resources and Environmental Control (DNREC) and will continue to be regulated by DNREC in accordance with the Administrative Agreement between the Commission and the State of Delaware. The wells are located in the Lower Saint Jones River, Spring Creek and Murderkill River Watersheds in Kent County, DE.

20. *Joe Jurgielewicz & Son, Ltd., D-2017-003-2.* An application to approve new Well No. PW-18 for inclusion into the applicant's agricultural duck farm and processing facility groundwater system and to renew a groundwater withdrawal of up to 5.425 mgm from 17 existing wells (Nos. PW-1—PW-17) and new Well No. PW-18. The project wells are completed in Ordovician sedimentary rock units of shale and graywacke of the Hamburg Sequence. The project is located in the Mill Creek Watershed in Tilden Township, Berks County, PA.

21. *NP New Castle, LLC, D-2019-004-1.* An application to approve the applicant's existing 0.05 mgd Schuylkill Mall WWTP and its discharge. The WWTP will continue to discharge treated effluent to a UNT to Mud Run at River Mile 92.5—123.0—5.7—0.9—0.2 (Delaware River—Schuylkill River—Mill Creek—Mud Run—UNT Mud Run) in New Castle Township, Schuylkill County, PA.

22. *Pocono Mountains Industries, Inc., D-2019-008-1.* An application to approve the applicant's existing 0.014



mgd WWTP and its discharge. The WWTP will continue to discharge treated effluent to Red Run at River Mile 183.7—83.5—11.4—6.4—3.6 (Delaware River—Lehigh River—Tobyhanna Creek—Upper Tuckhannock Creek—Red Run) and is located in the drainage area to the section of the nontidal Delaware River known as the Lower Delaware, which the Commission has classified as Special Protection Waters, in Coolbaugh Township, Monroe County, PA.

*Public meeting.* The public business meeting on March 11, 2020, will begin at 10:30 a.m. and will include: adoption of the minutes of the Commission's December 11, 2019, business meeting; announcement of upcoming meetings and events; a report on hydrologic conditions; a resolution to adopt the Fiscal Year 2020—2022 Water Resources Program; reports by the Executive Director and the Commission's General Counsel; and consideration of any items for which a hearing has been completed or is not required.

After all scheduled business has been completed and as time allows, the business meeting will also include up to 1 hour of open public comment.

There will be no opportunity for additional public comment for the record at the March 11, 2020, business meeting on items for which a hearing was completed on February 12, 2020, or a previous date. Commission consideration on March 11, 2020, of items for which the public hearing is closed may result in approval of the item (by docket or resolution) as proposed, approval with changes, denial or deferral. When the Commissioners defer an action, they may announce an additional period for written comment on the item, with or without an additional hearing date, or they may take additional time to consider the input they have already received without requesting further public input. Any deferred items will be considered for action at a public meeting of the Commission on a future date.

*Advance sign-up for oral comment.* Individuals who wish to comment on the record during the public hearing on February 12, 2020, or to address the Commissioners informally during the open public comment portion of the meeting on March 11, 2020, as time allows, are asked to sign-up in advance through EventBrite. Links to EventBrite for the public hearing and the business meeting are available at [www.drbc.gov](http://www.drbc.gov). For assistance contact Giselle Hernandez at [giselle.hernandez@drbc.gov](mailto:giselle.hernandez@drbc.gov).

*Submitting written comment.* Written comment on items scheduled for hearing may be made through the Commission's web-based comment system, a link to which is provided at [www.drbc.gov](http://www.drbc.gov). Use of the web-based system ensures that all submissions are captured in a single location and their receipt is acknowledged. Exceptions to the use of this system are available based on need by writing to the attention of the Commission Secretary, Delaware River Basin Commission, P.O. Box 7360, 25 Cosey Road, West Trenton, NJ 08628-0360. For assistance in using the web-based comment system contact Giselle Hernandez at [giselle.hernandez@drbc.gov](mailto:giselle.hernandez@drbc.gov).

*Accommodations for special needs.* Individuals in need of an accommodation as provided for in the Americans with Disabilities Act who wish to attend the meeting or hearing should contact the Commission Secretary directly at (609) 883-9500, Ext. 203 or through the Telecommunications Relay Services (TRS) at 711, to discuss how the Commission can accommodate their needs.

*Additional information and contacts.* Additional public records relating to hearing items may be examined at the

Commission's offices by appointment by contacting Denise McHugh, (609) 883-9500, Ext. 240. For other questions concerning hearing items contact David Kovach, Project Review Section Manager, at (609) 883-9500, Ext. 264.

PAMELA M. BUSH,  
Secretary

[Pa.B. Doc. No. 20-151. Filed for public inspection January 31, 2020, 9:00 a.m.]

## DEPARTMENT OF AGRICULTURE

### General Quarantine Order; Scrapie

#### *Recitals*

A. Scrapie is an infectious and progressive disease affecting the central nervous system (CNS) of ovine and caprine animals and belongs to a group of diseases called transmissible spongiform encephalopathies (TSEs).

B. There is no vaccine to protect animals against Scrapie, nor is there a known cure or treatment for this disease.

C. Scrapie is known to be transmissible from infected to uninfected ovine and caprine animals by birthing tissues and fluids.

D. Scrapie is specifically designated a "dangerous transmissible disease" of animals (3 Pa.C.S. § 2321(a)(40) (relating to dangerous transmissible diseases)).

E. The Department of Agriculture (Department) has broad authority under 3 Pa.C.S. §§ 2301—2389 (relating to the Domestic Animal Law) to regulate the keeping and handling of domestic animals to exclude, contain or eliminate dangerous transmissible diseases, such as Scrapie.

F. The Department also has broad authority under the Domestic Animal Law to issue general quarantines with respect to any area or locality within the Commonwealth of Pennsylvania (Commonwealth) to exclude, contain or eliminate dangerous transmissible diseases, such as Scrapie (3 Pa.C.S.A. § 2329(d)).

G. Scrapie is of particular concern to the ovine and caprine production industries, in that presence of Scrapie may result in the Department ordering the condemnation and destruction of the entire affected flock or herd and may severely limit the market for ovine and caprine animal products from this Commonwealth.

H. Scrapie is known to be present in ovine and caprine animals in States, Commonwealths and territories of the United States and in foreign countries outside of the Commonwealth of Pennsylvania and is occasionally diagnosed among ovine and caprine animals within this Commonwealth. In August 2018, a Pennsylvania goat, which had been sampled at slaughter in July, was confirmed positive for classical scrapie. The goat was traced to a Pennsylvania herd that has both sheep and goats. The herd was designated as a source flock by the United States Department of Agriculture (USDA) in September 2018. An additional 5 sheep and 1 goat were confirmed positive for classical scrapie within that herd.

I. As a condition of maintaining this Commonwealth's "Scrapie Consistent State Status" under the United States Department of Agriculture's ongoing Scrapie eradication effort, it is critical that the Department have the ability to promptly and accurately identify the source

of a Scrapie-infected ovine or caprine animal originating or residing within this Commonwealth.

*Order of Quarantine.*

With the foregoing recitals incorporated into this Order by reference, the Pennsylvania Department of Agriculture (PDA) hereby establishes, under authority of the Domestic Animal Law, at 3 Pa.C.S.A. § 2329(d) and § 1702 of the Administrative Code of 1929 (71 P.S. § 442), an Order of General Quarantine for the entire Commonwealth of Pennsylvania related to the dangerous transmissible disease Scrapie. Compliance and assurance of compliance with the provisions and terms of this Quarantine Order shall be the responsibility of all persons, individuals and entities subject to its terms. The terms of this Order are as follows:

1. *Quarantine Area.* This General Quarantine is applicable to the entire Commonwealth of Pennsylvania.

2. The current Quarantine Order, published on August 26, 2006 at 36 Pa.B. 4734 will remain in place and be rescinded upon the effective date, May 1, 2020, of this Quarantine Order.

3. *Applicable definitions:*

*“Department-approved form of identification/PDA-approved form of identification”*—Approved form of individual identification, as set forth in Paragraph 7 of this Order.

*“Direct movement to slaughter”*—Transported to a facility for slaughter, without stops or unloading unless required by the United States Department of Agriculture to unload for a minimum of five hours for rest, water and food, but no longer than 24 hours during which time the animals are not commingled with any other animals.

*“Interstate health certificate”*—A legible official document, made on a form issued by the chief livestock health official of the state of origin or the United States Department of Agriculture, prepared by an accredited veterinarian of the state of origin certifying the health of the animal described therein, and validated by the chief livestock health official of the state of origin.

*“Owner-shipper statement or owner/hauler statement”*—A statement which meets the definition of 9 CFR § 79.1:

A. A signed written statement by the owner or hauler that includes:

i. The name, address, and phone number of the owner and, if different, the hauler;

ii. The date the animals were moved;

iii. The flock identification number or PIN assigned to the flock or premises of the animals;

iv. If moving individually unidentified animals or other animals required to move with a group/lot identification number, the group/lot identification number and any information required to officially identify the animals;

v. The number of animals;

vi. The species, breed, and class of animals. If breed is unknown, for sheep the face color and for goats the type (milk, fiber, or meat) must be recorded instead; and

vii. The name and address of point of origin, if different from the owner's address, and the destination name and address.

B. An existing document that includes the information required in paragraphs (1)(i) to (vii) of this definition and that is signed by the owner or the hauler may be used as an owner/hauler statement.

*“Pennsylvania health certificate”*—A legible official document, made on a form (AAI-13) provided by the Department, prepared by an accredited Pennsylvania veterinarian or a representative of the Department certifying the health of animals described therein according to the health requirements established by this chapter.

*“Ship”*—Transport or transportation by means of any conveyance.

*“Slaughter establishment”*—Any slaughtering facility operating under the Federal Meat Inspection Act (21 U.S.C. 601 et seq.), the Poultry Products Inspection Act (21 U.S.C. 451 et seq.) or a State meat or poultry inspection act that is approved in accordance with 9 CFR 71.21.

*“Slaughter channels”*—Animals in slaughter channels including any animal that is sold, transferred, or moved either directly to or through a restricted animal sale or restricted livestock facility to an official slaughter establishment that is under United States Department of Agriculture, Food Safety and Inspection Service (FSIS) jurisdiction per the Federal Meat Inspection Act (FMIA) or under State inspection that FSIS has recognized as at least equal to Federal inspection or to a custom exempt slaughter establishment as defined by FSIS (9 CFR 303.1) for immediate slaughter or to an individual for immediate slaughter for personal use or to a terminal feedlot.

*“Source of origin”*—An ovine flock or caprine herd in which an animal was born; or an ovine flock or caprine herd in which an ewe or doe was used for breeding or lambing or kidded; or a ram or buck which was used for breeding.

*“Terminal feedlot”*—(1) A dry lot approved by a State or United States Department of Agriculture, APHIS (APHIS) representative or an accredited veterinarian who is authorized by the APHIS Administrator to perform this function where animals in the terminal feedlot are separated from all other animals by at least 30 feet at all times or are separated by a solid wall through, over, or under which fluids cannot pass and contact cannot occur and must be cleaned of all organic material prior to being used to contain ovine or caprine animals that are not in slaughter channels, where only castrated males are maintained with female animals and from which animals are moved only to another terminal feedlot or directly to slaughter; or (2) A dry lot approved by a State or APHIS representative or an accredited veterinarian authorized by the APHIS Administrator to perform this function where only animals that either are not pregnant based on the animal being male, an owner certification that any female animals have not been exposed to a male in the preceding 6 months, an ICVI issued by an accredited veterinarian stating the animals are not pregnant; or the animals are under 6 months of age at time of receipt, where only castrated males are maintained with female animals, and all animals in the terminal feedlot are separated from all other animals such that physical contact cannot occur including through a fence and from which animals are moved only to another terminal feedlot or directly to slaughter; or (3) A pasture when approved by and maintained under the supervision of the State and in which only nonpregnant animals are permitted based on the animal being male, an owner certification that any

female animals have not been exposed to a male in the preceding 6 months, or a health certificate issued by an accredited veterinarian stating the animals are not pregnant; or the animals are under 6 months of age at time of receipt, where only castrated males are maintained with female animals, where there is no direct fence-to-fence contact with another flock or herd, and from which animals are moved only to another terminal feedlot or directly to slaughter; and (4) Records of all animals entering and leaving a terminal feedlot must be maintained for 5 years after the animal leaves the terminal feedlot and must meet the requirements of 9 CFR § 79.2, including either a copy of the required owner/hauler statements for animals entering and leaving the facility or the information required to be on the statements.

“*Transfer*”—Any sale, distribution, exchange, barter, consignment, give away or transfer of ownership or title.

“*Unknown source of origin*”—Animals are not properly identified in a manner compliant with federal and Commonwealth requirements.

#### 4. PDA-approved form of identification required.

(a) *General Requirements.* All ovine or caprine animals born within the Commonwealth shall be identified by a PDA-approved form of official individual identification, meeting the requirements of Paragraph 7 of this Order, prior to being transported live from their premises of birth and prior to being commingled with ovine or caprine animals from other flocks or herds.

(b) *Responsibility.* The owner and any person responsible for animals leaving a premise shall ensure that each animal is properly identified as required by this Order.

(c) *Exhibition.* All ovine and caprine animals entered for exhibition purposes in the Commonwealth must also bear PDA-approved forms of official individual identification meeting the requirements of Paragraph 7 of this Order.

(d) *Exemptions.* Exemptions to PDA-approved forms of official individual identification requirements include animals moved from the farm of origin for veterinary medical examination or treatment and returned to the same location without change of ownership.

#### 5. Individual Identification of Animals and Records.

(a) *Individual Identification.* Each person who transfers, buys or sells, for his or her own account; acts as or transfers, buys or sells as a dealer or the agent of the buyer or seller; transports, receives for transportation, offers for sale or transportation, or otherwise handles ovine or caprine animals in intrastate commerce within Pennsylvania, shall ensure each animal is identified with a PDA-approved form of official individual identification, as set forth in Paragraph 6 of this Order, and as required in this General Quarantine Order.

(b) *Records.* All records shall include name and address of seller and buyer, date of transfer, number of animals, species and type (meat/fiber/dairy). Each person who transfers, buys or sells for his or her own account; acts as or transfers, buys or sells as a dealer or the agent of the buyer or seller; transports, receives for transportation, offers for sale or transportation, or otherwise handles ovine or caprine animals shall keep all the following records for each individual ovine or caprine animal:

(i) Records related to the transfer of ownership, such as bills of sale and tagging records.

(ii) Records related to shipment, such as bills of lading or owner-shipper statement or owner/hauler statement.

(iii) Records establishing the place and source of origin.

(iv) A copy of the Interstate Health Certificate or Pennsylvania Health Certificate.

(c) *Duration and availability of records.* Records shall be maintained for 5 years and made available to the Department or its agent within one business day upon request.

#### 6. Prohibitions.

(a) *Intrastate movement.* The following prohibitions and restrictions shall apply:

(i) *Shipment within the Commonwealth.* No ovine or caprine animal, of any age, shall be shipped within the Commonwealth without a PDA-approved form of official individual identification, as set forth in Paragraph 7 of this Order.

(ii) *Transfer of ownership.* No ovine or caprine animal, of any age, shall be offered for sale, sold or transferred unless that animal bears a PDA-approved form of official individual identification, as set forth in Paragraph 7 of this Order, and is accompanied by valid documents necessary to fulfill the recordkeeping provisions of Paragraph 5 of this Order.

(iii) *Through-shipment.* No ovine or caprine animal, of any age, that is being shipped through the Commonwealth to another destination outside of the Commonwealth shall be temporarily unloaded, in the Commonwealth, from the vehicle or conveyance in which it is being transported without a PDA-approved form of official individual identification, as required by Paragraph 7 of this Order.

(iv) *Livestock Auction Market Dock Slips.* A dock slip shall not be considered a valid owner-shipper statement or owner/hauler statement unless it meets the definition of 9 CFR § 79.1.

(b) *Remedies for Pennsylvania Origin animals found in commerce without identification.* The following shall apply to any ovine or caprine animals, of Pennsylvania origin, moving in commerce and not bearing a PDA-approved form of official individual identification as required by Paragraph 7 of this Order;

(i) *Animals for Sale or Transfer to a Licensed Livestock Dealer or Livestock Market.*

(A) *Unknown source of origin.* Upon transfer of any ovine or caprine animal with an unknown source of origin to a person licensed or required to be licensed as a dealer/hauler or livestock market, the animal shall be immediately tagged with an official USDA “slaughter-only”/“meat” scrapie tag, by the licensed entity and a record made of each animal which shall meet the standards established in Paragraph 5 of this Order. Such animals shall be designated slaughter only and must either be sold to a terminal feedlot or sent directly to slaughter.

(B) *Known Pennsylvania source of origin.* Upon transfer of any ovine or caprine animal with a known Pennsylvania source of origin to a person licensed or required to be licensed as a dealer/hauler or livestock market, a Department approved Ownership Transfer Statement shall be completed and signed, a PDA-approved form of official individual identification placed in each animal and a record made of each animal which shall meet the standards established in Paragraph 5 of this Order. The Ownership Transfer Statement form may



be used temporarily by a producer/owner until a premises identification number and official flock identification number is assigned by the United State Department of Agriculture Veterinary Services. Use of this form will result in follow up by the Pennsylvania Department of Agriculture or the United State Department of Agriculture Veterinary Services to ensure producer/owner establishes a premises identification number and an official flock identification number.

Once source of origin is documented the licensed dealer/hauler or livestock market shall apply an official USDA scrapie tag and the animal may be sold for breeding or slaughter. The Ownership Transfer Statement shall not be used for out of state animals.

(ii) *Animals for Private Sale or Other Transfer.* Any animal found in commerce without PDA-approved form of official individual identification not transferred to a dealer/hauler or livestock market shall either:

(A) Return to the farm of origin for application of PDA-approved form of official individual identification;

(B) Provide documentation of source of origin and proceed to the final-destination where, immediately upon arrival official USDA scrapie tags shall be applied, a PDA-approved form of official individual identification placed in each animal and a record made of each animal which shall meet the standards established in Paragraph 5 of this Order; or

(C) If source of origin is not known or cannot be properly documented in accordance with the requirements of this Order, proceed to a licensed dealer/hauler or livestock market where, immediately upon arrival each animal shall be tagged with a an official USDA "slaughter-only"/"meat" scrapie tag by the licensed entity and a record made of each animal which shall meet the standards established in Paragraph 5 of this Order.

7. *Types of PDA-approved Individual Identification.* PDA-approved forms of identification include the following:

(a) USDA official National Scrapie Eradication Program tag or official Scrapie Free Flock Certification Program tag.

(b) USDA official Animal Identification Number (AIN) Ear Tag approved for sheep and goats.

(c) A registration tattoo, if:

(i) The tattoo is legible; and

(ii) A registration certificate or a Certificate of Veterinary Inspection, listing the tattoo and registry, accompanies the tattooed ovine animal or caprine animal at all times from transport from premises of birth.

(d) A USDA-Approved Flock ID Tattoo.

(e) Another form of identification approved by PDA in writing.

8. *Violations/Penalties.* Any person violating the requirements of this Order shall be subject to enforcement and penalties as are allowed under the provisions of the Domestic Animal Law (3 Pa.C.S.A. § 2301 et seq.), which include, revocation of license, criminal prosecution and/or civil penalties of up to \$10,000 per violation and injunctive relief.

9. *No Restriction on Further Action by PDA.* This Order shall not be construed as limiting PDA's authority to establish additional quarantine or testing requirements or take any actions otherwise permitted under applicable statute or regulation.

10. *Contact information.* Questions regarding this Interstate and International Quarantine Order is to the Commonwealth of Pennsylvania, Department of Agriculture, Bureau of Animal Health, 2301 North Cameron Street, Harrisburg, PA 17110 or by telephone at 717-772-2852, or email at RA-ahds@pa.gov.

RUSSELL C. REDDING,  
*Secretary*

[Pa.B. Doc. No. 20-152. Filed for public inspection January 31, 2020, 9:00 a.m.]

## DEPARTMENT OF AGRICULTURE

### Interstate/International Quarantine Order; Scrapie

#### *Recitals*

A. Scrapie is an infectious and progressive disease affecting the central nervous system (CNS) of ovine and caprine animals and belongs to a group of diseases called transmissible spongiform encephalopathies (TSEs).

B. There is no vaccine to protect animals against Scrapie, nor is there a known cure or treatment for this disease.

C. Scrapie is known to be transmissible from infected to uninfected ovine and caprine animals by birthing tissues and fluids.

D. Scrapie is specifically designated a "dangerous transmissible disease" of animals (3 Pa.C.S. § 2321(a)(40) (relating to dangerous transmissible diseases)).

E. The Pennsylvania Department of Agriculture (Department) has broad authority under the Domestic Animal Law (3 Pa.C.S. §§ 2301—2389) to regulate the keeping and handling of domestic animals to exclude, contain or eliminate dangerous transmissible diseases, such as Scrapie.

F. The Department also has broad authority under the Domestic Animal Law to establish and enforce an Interstate and International quarantine against any place or places outside the Commonwealth of Pennsylvania (Commonwealth) to exclude, contain or eliminate dangerous transmissible diseases, such as Scrapie. (3 Pa.C.S.A. § 2329(c)).

G. Scrapie is of particular concern to the ovine and caprine animal production industries in that the presence of Scrapie may result in the Department ordering the condemnation and destruction of the entire affected flock or herd and may severely limit the market for ovine and caprine animal products from this Commonwealth.

H. Scrapie is known to be present in ovine and caprine animals in States, Commonwealths and territories of the United States and in foreign countries outside of the Commonwealth of Pennsylvania and is occasionally diagnosed among ovine and caprine animals within this Commonwealth. In August 2018, a Pennsylvania goat, which had been sampled at slaughter in July, was confirmed positive for classical scrapie. The goat was traced to a Pennsylvania herd that has both sheep and goats. The herd was designated as a source flock by the United States Department of Agriculture (USDA) in September 2018. An additional 5 sheep and 1 goat were confirmed positive for classical scrapie within that herd.

I. As a condition of maintaining the Commonwealth's "Scrapie Consistent State Status" under the United

States Department of Agriculture's ongoing Scrapie eradication effort, it is critical the Department has the ability to promptly and accurately identify the source of a Scrapie-infected ovine or caprine animal originating outside of the Commonwealth and now residing within the Commonwealth.

#### *Order of Quarantine*

With the foregoing recitals incorporated into this Order by reference, the Pennsylvania Department of Agriculture (Department) under authority of the Domestic Animal Law, at 3 Pa.C.S.A. § 2329(c) and § 1702 of the Administrative Code of 1929 (71 P.S. § 442), hereby establishes an Interstate and International Order of Quarantine related to the dangerous transmissible disease Scrapie and the importation or shipment of ovine and caprine animals into and through the Commonwealth of Pennsylvania. Compliance and assurance of compliance with the provisions and terms of this Quarantine Order shall be the responsibility of all persons, individuals and entities subject to its terms. The terms of this Order are as follows:

1. *Quarantine Area.* This Interstate and International Order of Quarantine is applicable to all States, Commonwealths and territories of the United States of America and any foreign country in which the dangerous transmissible disease Scrapie exists or there is a reasonable suspicion it exists.

#### 2. *Applicable definitions:*

*"Department-approved form of identification/PDA-approved form of identification"*—Approved form of individual identification, as set forth in Paragraph 5 of this Order.

*"Direct movement to slaughter"*—Transported to a facility for slaughter, without stops or unloading unless required by the United States Department of Agriculture to unload for a minimum of five hours for rest, water and food, but no longer than 24 hours during which time the animals are not commingled with any other animals.

*"Interstate Health Certificate"* or *"ICVI"*—A legible official document issued by the chief livestock health official of the state of origin, or the United States Department of Agriculture, prepared by an accredited veterinarian of the state of origin certifying the health of the animal described therein, and validated by the chief livestock health official of the state of origin.

*"Owner-shipper statement or owner/hauler statement"*—A statement which meets the definition of 9 CFR § 79.1:

A. A signed written statement by the owner or hauler that includes:

- i. The name, address, and phone number of the owner and, if different, the hauler;
- ii. The date the animals were moved;
- iii. The flock identification number or PIN assigned to the flock or premises of the animals;
- iv. If moving individually unidentified animals or other animals required to move with a group/lot identification number, the group/lot identification number and any information required to officially identify the animals;
- v. The number of animals;
- vi. The species, breed, and class of animals. If breed is unknown, for sheep the face color and for goats the type (milk, fiber, or meat) must be recorded instead; and

vii. The name and address of point of origin, if different from the owner's address, and the destination name and address.

B. An existing document that includes the information required in paragraphs (1)(i) to (vii) of this definition and that is signed by the owner or the hauler may be used as an owner/hauler statement.

*"Ship"*—Transport or transportation by means of any conveyance.

*"Slaughter establishment"*—Any slaughtering facility operating under the Federal Meat Inspection Act (21 U.S.C. 601 et seq.), the Poultry Products Inspection Act (21 U.S.C. 451 et seq.) or a State meat or poultry inspection act that is approved in accordance with 9 CFR 71.21.

*"Slaughter channels"*—Animals in slaughter channels include any animal that is sold, transferred, or moved either directly to or through a restricted animal sale or restricted livestock facility to an official slaughter establishment that is under United States Department of Agriculture, Food Safety and Inspection Service (FSIS) jurisdiction per the Federal Meat Inspection Act (FMIA); or under State inspection that FSIS has recognized as at least equal to Federal inspection or to a custom exempt slaughter establishment as defined by FSIS (9 CFR 303.1) for immediate slaughter; or to an individual for immediate slaughter for personal use; or to a terminal feedlot.

*"Source of origin"*—An ovine flock or caprine herd in which an animal was born; or an ovine flock or caprine herd in which an ewe or doe was used for breeding or lambed or kidded; or a ram or buck which was used for breeding.

*"Terminal feedlot"*—(1) A dry lot approved by a State or United States Department of Agriculture, APHIS (APHIS) representative or an accredited veterinarian who is authorized by the APHIS Administrator to perform this function where: (1) Animals in the terminal feedlot are separated from all other animals by at least 30 feet at all times or are separated by a solid wall through, over, or under which fluids cannot pass and contact cannot occur and must be cleaned of all organic material prior to being used to contain ovine or caprine animals that are not in slaughter channels, where only castrated males are maintained with female animals and from which animals are moved only to another terminal feedlot or directly to slaughter; or (2) A dry lot approved by a State or APHIS representative or an accredited veterinarian authorized by the APHIS Administrator to perform this function where only animals that either are not pregnant based on the animal being male, an owner certification that any female animals have not been exposed to a male in the preceding 6 months, an ICVI issued by an accredited veterinarian stating the animals are not pregnant; or the animals are under 6 months of age at time of receipt, where only castrated males are maintained with female animals, and all animals in the terminal feedlot are separated from all other animals such that physical contact cannot occur including through a fence and from which animals are moved only to another terminal feedlot or directly to slaughter; or (3) A pasture when approved by and maintained under the supervision of the State and in which only nonpregnant animals are permitted based on the animal being male, an owner certification that any female animals have not been exposed to a male in the preceding 6 months, or an ICVI issued by an accredited veterinarian stating the animals are not pregnant; or the animals are under 6 months of age at time of receipt,

where only castrated males are maintained with female animals, where there is no direct fence-to-fence contact with another flock or herd, and from which animals are moved only to another terminal feedlot or directly to slaughter; and (4) Records of all animals entering and leaving a terminal feedlot must be maintained for 5 years after the animal leaves the terminal feedlot and must meet the requirements of 9 CFR § 79.2, including either a copy of the required owner/hauler statements for animals entering and leaving the facility or the information required to be on the statements.

*“Transfer”*—Any sale, distribution, exchange, barter, trade, consignment, give away or transfer of ownership or title.

*“Unknown source of origin”*—Animals not properly identified in a manner compliant with federal and Commonwealth requirements, including those established in this Order and are not accompanied by a signed owner-shipper statement setting forth all the required information.

### 3. Individual Identification of Animals and Records.

(a) *Individual Identification.* Each person who transfers, buys or sells for his or her own account; acts as or transfers, buys or sells as a dealer or the agent of the buyer or seller; transports, receives for transportation, offers for sale or transportation, or otherwise handles ovine or caprine animals for importation or shipment into the Commonwealth of Pennsylvania shall ensure that each animal is identified with a Department-approved form of identification, as set forth in Paragraph 5 of this Order, and as otherwise required in this Interstate and International Quarantine Order.

(b) *Records.* All records shall include name and address of seller and buyer, date of transfer, number of animals, species and type (meat/fiber/dairy). Each person who transfers, buys or sells for his or her own account; acts as or transfers, buys or sells as a dealer or the agent of the buyer or seller; transports, receives for transportation, offers for sale or transportation, or otherwise handles ovine or caprine animals for importation or shipment into the Commonwealth of Pennsylvania shall keep all the following records for each individual ovine or caprine animal:

(i) Records related to the transfer of ownership, such as bills of sale and tagging records.

(ii) Records related to shipment, such as bills of lading and owner-shipper statements.

(iii) Records establishing the place and source of origin.

(iv) A copy of the Interstate Health Certificate.

(c) *Duration and availability of records.* Records shall be maintained for 5 years and made available to the Department or its agent upon request.

### 4. Prohibitions.

(a) *Importation.* The following prohibitions and restrictions shall apply:

(i) *Importation or shipment into the Commonwealth.* No ovine or caprine animal, of any age, shall be imported or shipped into the Commonwealth of Pennsylvania without a Department-approved form of individual identification; and must be accompanied in transit with either a valid Interstate Health Certificate or owner shipper statement if the animals are moving in slaughter channels.

(ii) *Transfer of ownership.* No ovine or caprine animal, of any age, shall be offered for sale, sold or transferred

unless that animal bears a Department-approved form of identification and is accompanied by a valid Interstate Health Certificate, or an owner-shipper statement if moving within slaughter channels, and any other documents necessary to fulfill the recordkeeping provisions of Paragraph 3 of this Order.

(iii) *Through-shipment.* No ovine or caprine animal, of any age, that is being shipped through the Commonwealth of Pennsylvania to another destination outside of the Commonwealth of Pennsylvania shall be temporarily unloaded, in the Commonwealth of Pennsylvania, from the vehicle or conveyance in which it is being transported without a Department-approved form of individual identification, as required by Paragraph 5 of this Order.

(iv) *Livestock Auction Market Dock Slips.* A dock slip shall not be considered a valid owner-shipper statement or owner/hauler statement unless it meets the definition of 9 CFR § 79.1.

(b) *Remedies for out of state animals found in commerce without identification.* The following shall apply to any ovine or caprine animal moving in commerce and not bearing a Department-approved form of identification and accompanied by a valid ICVI; or owner shipper statement if the animals are moving in slaughter channels.

(i) *Animals Entering the Commonwealth for Sale or Transfer to a Licensed Livestock Dealer or Livestock Market.*

*Unknown source of origin.* (A) Upon transfer of any ovine or caprine animal without official identification to a person licensed or required to be licensed as a dealer/hauler or livestock market, an official USDA “slaughter-only”/“meat” scrapie tag shall be applied by the licensed entity and a record made of each animal which shall meet the standards established in Paragraph 3 of this Order. Such animals shall be designated slaughter only and must either be sold to a terminal feedlot or sent directly to slaughter; or (B) Prior to unloading and transfer return to farm of origin and apply a Department-approved form of identification.

(ii) *Animals Entering the Commonwealth for Private Sale or Other Transfer.* Any animal found in commerce without Department-approved form of identification not transferred to a licensed dealer/hauler or livestock market shall either:

(A) Immediately and before unloading or commingling with any other ovine or caprine animals, be return to the farm of origin for application of Department-approved form of identification; Or

(B) If the source of origin is not known or cannot be properly documented in accordance with the requirements of this Order, proceed to a licensed dealer/hauler or livestock market where, immediately upon arrival each animal shall be tagged with an official USDA “slaughter-only”/“meat” scrapie tag and a record made as set forth in subparagraph (b)(i)(A) of this Paragraph 4.

5. *Department-approved Individual Identification.* Department-approved forms of identification include the following:

(a) USDA official National Scrapie Eradication Program tag or official Scrapie Free Flock Certification Program tag.

(b) USDA official Animal Identification Number (AIN) Ear Tag approved for sheep and goats.

(c) A registration tattoo, if:



(i) The tattoo is legible; and  
 (ii) A registration certificate or a Certificate of Veterinary Inspection, listing the tattoo and registry, accompanies the tattooed ovine animal or caprine animal at all times from transport from premises of birth.

(d) A USDA-Approved Flock ID Tattoo.

(e) Another form of identification approved by PDA in writing.

6. *Violations/Penalties.* Any person violating the requirements of this Order shall be subject to enforcement and penalties as are allowed under the provisions of the Domestic Animal Law (3 Pa.C.S.A. § 2301 et seq.), which include, revocation of license, criminal prosecution and/or civil penalties of up to \$10,000 per violation and injunctive relief.

7. *No Restriction on Further Action by the Department.* This Order shall not be construed as limiting the

Department's authority to establish additional quarantine or testing requirements or take any actions otherwise permitted under applicable statute or regulation.

8. *Contact information.* Questions regarding this Interstate and International Quarantine Order is to the Commonwealth of Pennsylvania, Department of Agriculture, Bureau of Animal Health, 2301 North Cameron Street, Harrisburg, PA 17110 or by telephone at 717-772-2852, or email at RA-ahds@pa.gov.

9. *Effective Date.* This Order is immediately effective as of May 1, 2020 and shall remain in effect unless rescinded or modified by subsequent order.

RUSSELL C. REDDING,  
*Secretary*

[Pa.B. Doc. No. 20-153. Filed for public inspection January 31, 2020, 9:00 a.m.]

## DEPARTMENT OF BANKING AND SECURITIES

### Actions on Applications

The Department of Banking and Securities (Department), under the authority in the Banking Code of 1965 (7 P.S. §§ 101—2204), the Department of Banking and Securities Code (71 P.S. §§ 733-1—733-1203) and 17 Pa.C.S. (relating to Credit Union Code), has taken the following actions on applications received for the week ending January 21, 2020.

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

#### BANKING INSTITUTIONS

##### Branch Applications

##### De Novo Branches

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
01-21-2020	Peoples Security Bank and Trust Company Scranton Lackawanna County	325 South Main Street Doylestown Bucks County	Filed

#### CREDIT UNIONS

No activity.

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

ROBIN L. WIESSMANN,  
*Secretary*

[Pa.B. Doc. No. 20-154. Filed for public inspection January 31, 2020, 9:00 a.m.]

## DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT

### Manufactured Home Community Rights Act; Maximum Relocation Fees Payable in the Event of Community Closure

Section 11.2(c) of the Manufactured Home Community Rights Act (act) (68 P.S. § 398.11.2(c)) requires that the Department of Community and Economic Development annually adjust relocation fees that may be owed to manufactured home owners in the event that the community closes. The fees are adjusted based on an increase on the Consumer Price Index.

The base amount of this fee in effect for calendar year 2013 was \$4,000 for single section manufactured homes and \$6,000 for multisection manufactured homes. The Consumer Price Index Inflation Calculator as provided by the United States Department of Labor adjusts the fees for calendar year 2020 as follows:

—\$4,463.68 for single section manufactured homes  
 —\$6,695.52 for multisection manufactured homes

Inquiries regarding the act should be directed to the Office of the Attorney General.

DENNIS M. DAVIN,  
*Secretary*

[Pa.B. Doc. No. 20-155. Filed for public inspection January 31, 2020, 9:00 a.m.]

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**Applications, Actions and Special Notices**

**APPLICATIONS**

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

This notice provides information about persons who have applied for a new, amended or renewed NPDES or WQM permit, a permit waiver for certain stormwater discharges or submitted a Notice of Intent (NOI) for coverage under a General Permit. The applications concern, but are not limited to, discharges regarding industrial, animal or sewage waste, discharges to groundwater, discharges associated with municipal separate storm sewer systems (MS4), stormwater associated with construction activities or concentrated animal feeding operations (CAFO). This notice is provided in accordance with 25 Pa. Code Chapters 91 and 92a and 40 CFR Part 122, implementing The Clean Streams Law (35 P.S. §§ 691.1—691.1001) and the Federal Clean Water Act (33 U.S.C.A. §§ 1251—1376).

<i>Location</i>	<i>Permit Authority</i>	<i>Application Type or Category</i>
Section I	NPDES	Renewals
Section II	NPDES	New or Amendment
Section III	WQM	Industrial, Sewage or Animal Waste; Discharge into Groundwater
Section IV	NPDES	MS4 Individual Permit
Section V	NPDES	MS4 Permit Waiver
Section VI	NPDES	Individual Permit Stormwater Construction
Section VII	NPDES	NOI for Coverage under NPDES General Permits

For NPDES renewal applications in Section I, the Department of Environmental Protection (Department) has made a tentative determination to reissue these permits for 5 years subject to effluent limitations and monitoring and reporting requirements in their current permits, with appropriate and necessary updated requirements to reflect new and changed regulations and other requirements.

For applications for new NPDES permits and renewal applications with major changes in Section II, as well as applications for MS4 Individual Permits and Individual Stormwater Construction Permits in Sections IV and VI, the Department, based upon preliminary reviews, has made tentative determinations of proposed effluent limitations and other terms and conditions for the permit applications. In accordance with 25 Pa. Code § 92a.32(d), the proposed discharge of stormwater associated with construction activities will be managed in accordance with the requirements of 25 Pa. Code Chapter 102. These determinations are published as proposed actions for comments prior to taking final actions.

Unless indicated otherwise, the United States Environmental Protection Agency (EPA) Region III Administrator has waived the right to review or object to proposed NPDES permit actions under the waiver provision in 40 CFR 123.24(d).

Persons wishing to comment on NPDES applications are invited to submit statements to the contact office noted before the application within 30-days from the date of this public notice. Persons wishing to comment on WQM permit applications are invited to submit statements to the office noted before the application within 15-days from the date of this public notice. Comments received within the respective comment periods will be considered in the final determinations regarding the applications. A comment submittal should include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based.

The Department will also accept requests for public hearings on applications. A public hearing may be held if the responsible office considers the public response significant. If a hearing is scheduled, a notice of the hearing will be published in the *Pennsylvania Bulletin* and a newspaper of general circulation within the relevant geographical area. The Department will postpone its final determination until after a public hearing is held.

Persons with a disability who require an auxiliary aid, service, including TDD users, or other accommodations to seek additional information should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

**I. NPDES Renewal Applications.**

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N?</i>
PA0085863 (IW)	SC Holdings, Inc. Harmony Grove Landfill 100 Brandywine Blvd Suite 300 Newtown, PA 18940	York County/ Dover Township	UNT Davidsburg Run/7F	Y

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N?</i>
PA0247154 (IW)	Possum Valley Muni Auth 609 Clearview Rd Aspers, PA 17304	Adams County/ Menallen Township	UNT Possum Valley Run/7F	Y

*Northcentral Regional Office: Clean Water Program Manager, 208 W Third Street, Suite 101, Williamsport, PA 17701-6448, Phone: 570.327.3636.*

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N?</i>
PA0233633 (Sewage)	Dyke SRSTP 260 Baney Road Julian, PA 16844-7907	Centre County Union Township	Dewitt Run (CWF) (9-C)	Yes
PA0228192 (Sewage)	Wallaceton Boggs Municipal Authority Sewage Treatment Facility P.O. Box 97 59 Blue Ball Road West Decatur, PA 16878-0097	Clearfield County Boggs Township	Laurel Run (CWF) (8-D)	Yes
PA0035688 (Sewage)	Potter Township CC Estates 124 Short Road Spring Mills, PA 16875-9326	Centre County Potter Township	Cedar Run (HQ-CWF) (9-C)	Yes
PA0228672 (Sewage)	Muddy Run Regional Authority— Glen Hope STP 813 Spruce Street Madera, PA 16661-9102	Clearfield County Glen Hope Borough	Clearfield Creek (8-C)	Yes
PA0232416 (Sewage)	Inn 287 22861 Route 287 Morris, PA 16938-9325	Lycoming County Pine Township	Hughes Run (EV) (9-A)	Yes

*Southwest Region: Clean Water Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, Phone: 412.442.4000.*

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N?</i>
PA0218219 (Industrial)	Georgetown Shipyard Foxpointe Center Bld 1 201 South Johnson Road Suite 303 Houston, PA 15342-1351	Beaver County Georgetown Borough	Ohio River (WWF) (20-D)	Yes

**II. Applications for New or Expanded Facility Permits, Renewal of Major Permits and EPA Non-Waived Permit Applications.**

*Northwest Region: Clean Water Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.*

**PA0206075**, Industrial, SIC Code 1389, **Fate Ventures LLC**, 587 Hollywood Road, Houma, LA 70361. Facility Name: Howard Treatment Facility. This existing facility is located in Burrell Township, **Indiana County**.

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

The receiving stream(s), Blacklick Creek (TSF), is located in State Water Plan watershed 18-D and is classified for Trout Stocking, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.07 MGD.

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>			<i>Concentrations (mg/L)</i>		<i>Instant. Maximum</i>
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Instantaneous Minimum</i>	<i>Average Monthly</i>	<i>Maximum</i>	
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	Daily Max XXX	6.0	XXX	9.0	XXX
Total Suspended Solids	XXX	XXX	Daily Min XXX	30.0	Daily Max XXX	60.0
Total Dissolved Solids	Report	Report	XXX	Report	Report	XXX
		Daily Max			Daily Max	



Parameters	Mass Units (lbs/day)		Instantaneous Minimum	Concentrations (mg/L)		Instant. Maximum
	Average Monthly	Average Weekly		Average Monthly	Maximum	
Total Dissolved Solids	Report Annl Avg	XXX	XXX	XXX	XXX	XXX
Oil and Grease	XXX	XXX	XXX	15.0	XXX	30.0
Acidity, Total (as CaCO <sub>3</sub> )	XXX	XXX	XXX	Report	XXX	XXX
Alkalinity, Total (as CaCO <sub>3</sub> )	XXX	XXX	0	XXX	XXX	XXX
Effluent Net	XXX	XXX	XXX	Report	XXX	XXX
Alkalinity, Total (as CaCO <sub>3</sub> )	XXX	XXX	XXX	0.75	0.75	XXX
Aluminum, Total	XXX	XXX	XXX		Daily Max	
Iron, Total	XXX	XXX	XXX	1.5	3.0	XXX
Manganese, Total	XXX	XXX	XXX	1.0	Daily Max	
					2.0	XXX
					Daily Max	
Sulfate, Total	Report	XXX	XXX	Report	XXX	XXX
Chloride	Report	XXX	XXX	Report	XXX	XXX
Bromide	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 814-332-6078.

The EPA Waiver is not in effect.

### III. WQM Industrial Waste and Sewerage Applications under The Clean Streams Law (35 P.S. §§ 691.1—691.1001).

*Northeast Region: Clean Water Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

**WQM Permit No. 4506408 A-3**, Sewerage, **Franconia Mennonite Camp Association Inc.**, 5389 Route 447, Canadensis, PA 18325-9795.

This existing facility is located in Barrett Township, **Monroe County**.

Description of Proposed Action/Activity: WQM Amendment for the extension of an existing sewer system to serve the Spruce Lake Retreat Cabins and for the addition of a Suspended Air Flotation System at the existing Wastewater Treatment Plant on SR 0447.

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

**WQM Permit No. 6719411**, Sewerage, **Douglas Deverter**, 265 Buchanan Valley Road, Orrtanna, PA 17363.

This proposed facility is located in Franklin Township, **York County**.

Description of Proposed Action/Activity: Seeking permit approval for construction/operation of a single residence sewage treatment plant to serve their property at 310 Scott Pine Road, Dillsburg, PA 17019.

**WQM Permit No. 6795411**, Amendment # 2, Sewerage, **PA DCNR Bureau of State Parks**, Gifford Pinchot State Park, 2200 Rosstown Road, Lewisberry, PA 17739-9787.

This proposed facility is located in Warrington Township, **York County**.

Description of Proposed Action/Activity: Seeking permit approval for rehabilitation to the existing sewage treatment plant.

**WQM Permit No. 0620401**, Sewerage, **SCFS, LLC**, 200 Penn Street, 2nd Floor, Reading, PA 19602.

This proposed facility is located in Exeter Township, **Berks County**.

Description of Proposed Action/Activity: Seeking permit approval for the construction/operation of a small flow sewage treatment system to serve the personal care home at 485 Walnut Road, Reading, PA 19606.

*Southwest Region: Clean Water Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, Phone: 412.442.4000.*

**WQM Permit No. 3006201 A-1**, Industrial, **Allegheny Energy Supply Company LLC**, 800 Cabin Hill Drive, Greensburg, PA 15601.

This existing facility is located in Monongahela Township, **Greene County**.

Description of Proposed Action/Activity: Operation of existing sodium hydroxide storage and feed equipment to control the pH of combustion residual leachate.

**WQM Permit No. 0291205 A-3**, Industrial, **United States Steel Corporation**, 400 State Street, Clairton, PA 15025-1855.

This existing facility is located in Clairton City, **Allegheny County**.

Description of Proposed Action/Activity: Installation of a collection and conveyance system to route storm water from a localized area of accumulation on a plant roadway to the Coal Yard Treatment Plant.

**WQM Permit No. 0275205 A-2**, Industrial, **United States Steel Corporation**, 400 State Street, Clairton, PA 15025-1855.

This existing facility is located in Clairton City, **Allegheny County**.

Description of Proposed Action/Activity: Installation of a second belt filter press at the Clairton Plant's Contaminated Wastewater Treatment Plant.

**WQM Permit No. 0219404**, Sewage, **McCandless Township Sanitary Authority Allegheny County**, 418 Arcadia Drive, Pittsburgh, PA 15237-5506.

This proposed facility is located in Hampton Township, **Allegheny County**.

Description of Proposed Action/Activity: construction of new sanitary sewer pump stations and force mains to replace the A&B sewage plant and the Peebles pump station.

*Northwest Region: Clean Water Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.*

**WQM Permit No. 0320401**, Sewage, **Ryan Janoski**, 114 Cadogan Slate Lick Road, Kittanning, PA 16201-8606.

This proposed facility is located in South Buffalo Township, **Armstrong County**.

Description of Proposed Action/Activity: Single Residence Sewage Treatment Plant.

**WQM Permit No. 3720401**, Sewage, **Denise Slagle**, 149 Springfield Drive, New Castle, PA 16105-5835.

This proposed facility is located in Neshannock Township, **Lawrence County**.

Description of Proposed Action/Activity: Single Residence Sewage Treatment Plant.

**WQM Permit No. 1020401**, Sewage, **Mary Waggoner**, P.O. Box 332, Lyndora, PA 16045-0332.

This proposed facility is located in Clay Township, **Butler County**.

Description of Proposed Action/Activity: Small flow treatment facility to service existing apartment building.

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#### **IV. NPDES Individual Permit Applications for Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4s).**

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*Southeast Region: Clean Water Program Manager, 2 East Main Street, Norristown, PA 19401, Telephone 484-250-5970.*

**PAI130514**, MS4, **East Pikeland Township Chester County**, 1158 Rapps Dam Road, P.O. Box 58, Kimberton, PA 19442-0058. The application is for a renewal of an individual NPDES permit for the discharge of stormwater from a regulated municipal separate storm sewer system (MS4) to waters of the Commonwealth in East Pikeland Township, **Chester County**. The receiving streams, Stony Run (HQ-TSF, MF), French Creek (TSF, MF), and Schuylkill River (WWF, MF) are located in State Water Plan watershed 3-D and are classified for Migratory Fishes, Trout Stocking, High Quality Waters—Trout Stocking, Warm Water Fishes, aquatic life, water supply and recreation. The applicant is classified as a small MS4.

The applicant has submitted the following plan with the application to reduce pollutant loads to impaired waters:

- A Pollutant Reduction Plan (PRP)

The Department has made a tentative determination to issue the NPDES permit. Written comments on the application and draft permit will be accepted for 30 days following publication of this notice. The period for comment may be extended at the discretion of DEP for one additional 15-day period. You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 484-250-5910.

The EPA waiver is in effect for small MS4s, and is not in effect for large MS4s.

**PAI130537**, MS4, **North Coventry Township Chester County**, 845 South Hanover Street, Pottstown, PA 19465. The application is for a renewal of an individual NPDES permit for the discharge of stormwater from a regulated municipal separate storm sewer system (MS4) to waters of the Commonwealth in North Coventry Township, **Chester County**. The receiving streams, Unnamed Tributaries to Schuylkill River (HQ-TSF, MF), Pigeon Creek (HQ-TSF, MF), and Schuylkill River (WWF, MF), are located in State Water Plan watershed 3-D and are classified for Migratory Fishes, High Quality Waters—Trout Stocking, Warm Water Fishes, aquatic life, water supply and recreation. The applicant is classified as a small MS4.

The applicant has submitted the following plan with the application to reduce pollutant loads to impaired waters:

- A Pollutant Reduction Plan (PRP)

The Department has made a tentative determination to issue the NPDES permit. Written comments on the application and draft permit will be accepted for 30 days following publication of this notice. The period for comment may be extended at the discretion of DEP for one additional 15-day period. You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 484-250-5910.

The EPA waiver is in effect for small MS4s, and is not in effect for large MS4s.

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**VI. NPDES Individual Permit Applications for Discharges of Stormwater Associated with Construction Activities.**


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*Southeast Region: Waterways & Wetlands Program Manager, 2 East Main Street, Norristown, PA 19401, Telephone 484-250-5160.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAD460043	Commerce Pursuit Capital, LP 1300 Virginia Drive Suite 215 Fort Washington, PA 19034	Montgomery	Lansdale Borough	Unnamed Tributary to Towamencin Creek TSF-MF

*Northeast Region: Watershed Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, 570-826-2511.*

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

*Lehigh County Conservation District, 4184 Dorney Park Road, Suite 105, Allentown, PA 18401, 610-391-9583.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAD390119	Traditions of America 1235 Westlakes Dr Ste 300 Berwyn, PA 19312	Lehigh and Bucks	Upper Saucon Twp Springfield Twp	Laurel Run (CWF, MF) UNT to Tomhicken Creek (TSF, MF) EV Wetlands

## STATE CONSERVATION COMMISSION

### PROPOSED NUTRIENT MANAGEMENT PLANS RELATED TO APPLICATIONS FOR NPDES PERMITS FOR CAFOs

This notice provides information about agricultural operations that have submitted nutrient management plans (NMPs) for approval under 3 Pa.C.S. Chapter 5 and that have or anticipate submitting applications for new, amended or renewed (National Pollutant Discharge Elimination System) NPDES permits, or Notices of Intent (NOIs) for coverage under a general permit, for CAFOs, under 25 Pa. Code Chapter 92a. This notice is provided in accordance with 25 Pa. Code Chapter 92a and 40 CFR Part 122, implementing The Clean Streams Law and the Federal Clean Water Act.

Based upon preliminary reviews, the State Conservation Commission (SCC) or County Conservation Districts (CCD) working under a delegation agreement with the SCC have completed an administrative review of NMPs described. These NMPs are published as proposed plans for comment prior to taking final actions. The NMPs are available for review at the CCD office for the county where the agricultural operation is located. A list of CCD office locations is available at <http://www.nacdnet.org/about/districts/directory/pa.phtml> or can be obtained from the SCC at the office address listed or by calling (717) 787-8821.

Persons wishing to comment on an NMP are invited to submit a statement outlining their comments on the plan to the CCD, with a copy to the SCC for each NMP, within 30-days from the date of this public notice. Comments received within the respective comment periods will be considered in the final determinations regarding the NMPs. Comments should include the name, address and telephone number of the writer and a concise statement to inform the SCC of the exact basis of the comments and the relevant facts upon which they are based. Comments should be sent to the SCC, Agriculture Building, Room 310, 2301 North Cameron Street, Harrisburg, PA 17110.

Persons with a disability who require an auxiliary aid, service, including TDD users or other accommodations to seek additional information should contact the SCC through the Pennsylvania AT&T Relay Service at (800) 654-5984.

#### ACT 38 NUTRIENT MANAGEMENT PLANS

#### CAFO PUBLIC NOTICE SPREADSHEET—APPLICATIONS

<i>Agricultural Operation Name and Address</i>	<i>County</i>	<i>Total Acres</i>	<i>Animal Equivalent Units</i>	<i>Animal Type</i>	<i>Special Protection Waters (HQ or EV or NA)</i>	<i>Renewal / New</i>
Brubaker Farms, LLC Mike Brubaker 493 Musser Road Mount Joy, PA 17552	Lancaster	2,150.7	3,220.31	Dairy/ Poultry	HQ	Renewal
Dan Bollinger 306 E. Lexington Road Lititz, PA 17543	Lancaster	47.9	404.09	Pullets/ Swine	NA	Renewal



<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>
Steven R. Hershey 1996 Donegal Springs Road Mount Joy, PA 17552	Lancaster	333.5	592.57	Pullets/ Beef/ Swine	HQ	Renewal
Clark Olberholtzer 433 Black Barren Rd. Peach Bottom, PA 17563	Lancaster	153.1	405.49	Swine	HQ	Renewal
Stonewall Pork, LLC 242 Alder Run Rd Millerton, PA 16936	Tioga	10	683.51	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 AT&T 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: Water Supply Management Program Manager, 2 East Main Street, Norristown, PA 19401, Telephone 484.250.5980.*

*Contact: Kimberleigh Rivers, Clerk Typist 2, 484.250.5887.*

**Permit No. 4619533, Public Water Supply.**

Applicant **Aqua Pennsylvania, Inc.**  
762 W. Lancaster Avenue  
Bryn Mawr, PA 19010

Township New Hanover  
County **Montgomery**  
Responsible Official Curt R. Steffy  
762 W. Lancaster Avenue  
Bryn Mawr, PA 19020  
Type of Facility PWS  
Consulting Engineer Jonathan R. Hawkes  
Entech Engineering, Inc.  
201 Penn Street  
Reading, PA 19003  
Application Received Date December 4, 2019  
Description of Action Installation of arsenic treatment at Aqua PA Superior Main System Well No. 1.

**Permit No. 0919540, Public Water Supply.**

Applicant **PA American Water Company**  
852 Wesley Drive  
Mechanicsburg, PA 17055  
Township Lower Makefield  
County **Bucks**  
Responsible Official Bruce Aiton  
852 Wesley Drive  
Mechanicsburg, PA 17055  
Type of Facility PWS  
Consulting Engineer Trisha L.K. Graves  
Gannett Fleming, Inc.  
P.O. Box 67100  
Harrisburg, PA 17106  
Application Received Date December 23, 2019  
Description of Action Modification to improve existing pretreatment and sludge processing facilities.

**Permit No. 0919540, Public Water Supply.**

Applicant **PA American Water Co, Yardley**  
852 Wesley Drive  
Mechanicsburg, PA 17055  
Township Lower Makefield  
County **Bucks**

Responsible Official Bruce Aiton  
Vice President Engineering  
852 Wesley Drive  
Mechanicsburg, PA 17055

Type of Facility PWS

Consulting Engineer Gannett Fleming, Inc.  
P.O. Box 67100  
Harrisburg, PA 17106

Application Received Date December 23, 2019

Description of Action Construction of new treatment process and replacement of aged and outdated equipment associated with disinfection facilities, pre-treatment process and residuals handling.

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

**Permit No. 0719508**, Public Water Supply.

Applicant **Altoona Water Authority**

Municipality Antis Township

County **Blair**

Responsible Official Mark A. Perry  
General Manager  
900 Chestnut Avenue  
Altoona, PA 16601

Type of Facility Public Water Supply

Consulting Engineer James F. Potopa, P.E.  
Gwin, Dobson & Foreman, Inc.  
3121 Fairway Drive  
Altoona, PA 16602-4496

Application Received: December 23, 2019

Description of Action Replacement of the existing ozone generation and feed systems at the Tipton, Plane Nine, and Mill Run Water Treatment Plants.

*Northcentral Region: Safe Drinking Water Program Manager, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448.*

**Application No. 4120503—Construction—Public Water Supply.**

Applicant **Pine Crest Village**

Township/Borough Eldred Township

County **Lycoming County**

Responsible Official Mr. Patrick Boyle  
127 Charles Ave  
Havertown, PA 19083

Type of Facility Public Water Supply—Construction

Consulting Engineer Mr. Kenneth R. Estep  
Mid-Penn Engineering Corporation  
2049 West Market Street  
Lewisburg, PA 17837

Application Received 1/8/2020

Description of Action Authorizes Pine Crest Village arsenic-reduction project, addition of absorptive media filtering to reduce arsenic.

#### 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.**

*Northcentral Region: Water Supply Management Program Manager, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448.*

**WA 17-106B**, Water Allocations. **Houtzdale Borough**, 561 Kirk Street, Houtzdale, PA 16651, Houtzdale Borough, **Clearfield County**. This Modification Order is being issued to extend the deadline to develop stage-discharge relations, install, and begin monitoring and recording of stream flows at the Upper Mountain Branch Intake and the Lower Mountain Branch Intake. The Modification Order reflects the change from 18 months from permit issuance to January 1, 2021 in Conditions 3 and 4.

#### 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, 303, 304 and 305 of the Land Recycling and Environmental Remediation Standards Act (Act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* an acknowledgment noting receipt of any Notices of Intent to Remediate. An acknowledgment of the receipt of a Notice of Intent (NOI) to Remediate is used to identify a site where a person proposes to, or has been required to, respond to a release of a regulated substance at a site. Persons intending to use the background standard, Statewide health standard, the site-specific standard, or who intend to remediate a site as a special industrial area, must file a (NOI) to Remediate with the Department. A NOI to Remediate filed with the Department provides a brief description of the location of the site, a list of known or suspected contaminants at the site, the proposed remediation measures for the site, and a description of the intended future use of the site. A person who demonstrates attainment of one, or a combination of the cleanup standards, or who receives approval of a special industrial area remediation identified under the Act, will be relieved of further liability for the remediation of the site for any contamination identified in reports submitted to and approved by the Department. Furthermore, the person shall not be subject to citizen suits or other contribution actions brought by responsible persons not participating in the remediation.

Under Sections 304(n)(1)(ii) and 305(c)(2) of the Act, there is a 30-day public and municipal comment period for sites proposed for remediation using a site-specific standard, in whole or in part, and for sites remediated as a special industrial area. This period begins when a summary of the NOI to Remediate is published in a newspaper of general circulation in the area of the site.

For the following identified site(s), proposed for remediation to a site-specific standard or as a special industrial area, the municipality, within which the site is located, may request to be involved in the development of the remediation and reuse plans for the site if the request is made within 30-days of the following specified date. During this comment period the municipality may request that the following identified person, as the remediator of the site, develop and implement a public involvement plan. Requests to be involved, and comments, should be directed to the remediator of the site.

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

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

*Southeast Region: Environmental Cleanup & Brownfields Program Manager, 2 East Main Street, Norristown, PA 19401.*

**2607-2643 W. Susquehanna Avenue**, 2607-2643 W. Susquehanna Avenue/2209-2227 N. 27th Street, City of Philadelphia, **Philadelphia County**. Natalie Griffith, REPSG, Inc., 6901 Kingsessing Avenue, Suite 201, Philadelphia, PA 19142 on behalf of David Alexander, Susquehanna Net Zero Housing, LP, 1710 N. Charles Street, Apartment 2002, Baltimore, MD 21201 submitted a Notice of Intent to Remediate. Soil and groundwater at the site have been contaminated with metals, lead and unleaded gasoline. The site is currently undeveloped, vacant land which is proposed to undergo comprehensive redevelopment for residential purposes. The proposed cleanup standard for the site is Statewide Health/Site-Specific. The Notice of Intent to Remediate was published in *The Philadelphia Daily News* on December 18, 2019.

**311 South Broad Street**, 311 South Broad Street, City of Philadelphia, **Philadelphia County**. Jennifer Poole, PG, Pennoni Associates, Inc., 1900 Market Street, Suite 300, Philadelphia, PA 19103 on behalf of Mitch Forman, Broad and Spruce Associates, 311-313 South Broad Street, Philadelphia, PA 19103 submitted a Notice of Intent to Remediate. Soil was contaminated with the release of No. 2 heating oil. The proposed cleanup standard for the site is Statewide Health. The Notice of Intent to Remediate was published in *The Metro Philadelphia* on November 14, 2019.

**Superior Scaffold Service Inc.**, 520 East Luzerne Street, City of Philadelphia, **Philadelphia County**. Christopher M. Kern, PG, Liberty Environmental, Inc., Three Westlakes, 1055 Westlakes Drive, 3rd Floor, Berwyn, PA 19312 on behalf of Guy L. Bianchini, Superior Scaffold Services, Inc., 520 East Luzerne Street, Philadelphia, PA 19124 submitted a Notice of Intent to Remediate. Site soils and groundwater have been found to be impacted with petroleum hydrocarbons. The proposed future use of the property will be non-residential. The proposed cleanup standard for the site is Statewide Health/Site-Specific. The Notice of Intent to Remediate was published in *The Philadelphia Daily News* on December 24, 2019.

**1952 East Allegheny Avenue**, 1952 East Allegheny Avenue, City of Philadelphia, **Philadelphia County**.

Natalie Griffith, REPSG Inc., 6901 Kingsessing Avenue, Philadelphia, PA 19142 on behalf of Casey O'Donnell, Impact Services Corporation, 1952 East Allegheny Avenue, Philadelphia, PA 19134 submitted a revised Notice of Intent to Remediate. Soil and groundwater at the site have been impacted with a release of No. 2 heating oil. The proposed cleanup standard for the site is Site-Specific/Statewide Health. The Notice of Intent to Remediate was published in *The Philadelphia Daily News* on July 24, 2019.

**512 East Haines Street**, 512 East Haines Street, City of Philadelphia, **Philadelphia County**. Richard S. Werner, PG, Environmental Consulting, Inc., 2002 Renaissance Boulevard, Suite 110, King of Prussia, PA 19406 on behalf of Lee Hecht, Haines Street Holdings, LLC, 126 Executive Drive, Ambler, PA 19002 submitted a Notice of Intent to Remediate. Soil was contaminated with petroleum hydrocarbons. The intended future use of the property is a plumbing supply warehouse. The proposed cleanup standard for the site is Statewide Health. The Notice of Intent to Remediate was published in *The Germantown Courier* on January 10, 2020.

**PECO Bristol MGP**, Mifflin and Linden Street, Bristol Borough, **Bucks County**. Douglas Kier, PG, AECOM, 625 West Ridge Pike, Suite E-100, Conshohocken, PA 19428 on behalf of Peter Farrand, PECO Energy Company, 2301 Market Street, S7-2, Philadelphia, PA 19103 submitted a Notice of Intent to Remediate. The investigation indicated MGP-related constituents in certain localized areas of soil and groundwater. PECO anticipates that the use of the offsite parcels will remain under as a light industrial zone under current ownership. The proposed cleanup standard for the site is Statewide Health/Site-Specific. The Notice of Intent to Remediate was published in *The Advance of Bucks County* on December 29, 2019.

**Kim Residence**, 2121 Springhouse Road, Marple Township, **Delaware County**. Sarah Szymanski, REPSG, Inc., 6901 Kingsessing Avenue, 2nd Floor, Philadelphia, PA 19142 on behalf of David Fentress, HEPACO, 6901 Kingsessing Avenue, 2nd Floor, Philadelphia, PA 19142 submitted a Notice of Intent to Remediate. Soil at the site was impacted with the release of No. 2 fuel oil. The proposed cleanup standard for the site is Statewide Health. The Notice of Intent to Remediate was published in *The Daily Times* and *Sunday Times* on September 25, 2019.

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

**NPS-Travis House Apartment**, 152 Route 209 South, Dingman Township, **Pike County**. Comstock Environmental Services, 806 Fayette Street, Conshohocken, PA 19428, on behalf of the National Park Service, 1978 River Road, Bushkill, PA 18324, submitted a Notice of Intent to Remediate. Soil was contaminated by a release of heating oil from an underground storage tank. Future use of the site will be residential. The Notice of Intent to Remediate was published in the *Pike County Dispatch* on January 16, 2020.

**NPS-Cliff Park Superintendent's House**, 155 Cliff Park Road, Dingman Township, **Pike County**. Comstock Environmental Services, 806 Fayette Street, Conshohocken, PA 19428, on behalf of the National Park Service, 1978 River Road, Bushkill, PA 18324, submitted a Notice of Intent to Remediate. Soil was contaminated by a release of heating oil from an underground storage tank. Future use of the site will be residential. The Notice



of Intent to Remediate was published in the *Pike County Dispatch* on January 16, 2020.

**Ruland Property**, 436 West South Street, Slatington Borough, **Lehigh County**. JMT Industrial & Environmental Contracting Services, 710 Uhler Road, Easton, PA 18040, on behalf of Kim Ruland, 436 West South Street, Slatington, PA 18080, submitted a Notice of Intent to Remediate. Soil was contaminated by a release of heating oil from a leaking furnace check valve. Future use of the site will be residential. The Notice of Intent to Remediate was published in *The Morning Call* on January 4, 2020.

**Kozicky Property**, 462 Main Street, Bethlehem City, **Northampton County**. Boucher & James, 559 Main Street, Bethlehem, PA 18018, on behalf of Christmas City Hotel LLC, 462 Main Street, Bethlehem, PA 18018, submitted a Notice of Intent to Remediate. Soil was contaminated by a release of heating oil from an underground storage tank. Future use of the site will be commercial and residential. The Notice of Intent to Remediate was published in *The Morning Call* on January 5, 2020.

**P&G 4 Well Pad**, 5207 State Route 87, Washington Township, **Wyoming County**. Apex Companies, 606 Main Street, Athens, PA 18810 on behalf of BKV Operating LLC, 12231 State Route 8706, Montrose, PA 18801, submitted a Notice of Intent to Remediate. Soil was contaminated by a release of drilling fluid. Future use of the site will be for natural gas production. The Notice of Intent to Remediate was published in the *Wyoming County Press Examiner* on January 15, 2020.

**P&G Warehouse OG Well Pad**, 120 P&G Warehouse Way, Washington Township, **Wyoming County**. Apex Companies, 606 Main Street, Athens, PA 18810 on behalf of BKV Operating LLC, 12231 State Route 8706, Montrose, PA 18801, submitted a Notice of Intent to Remediate. Soil was contaminated by a release of base oil and production fluid (brine). Future use of the site will be for natural gas production. The Notice of Intent to Remediate was published in the *Wyoming County Press Examiner* on January 15, 2020.

*Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA 17701, Telephone number: 570-237-3636.*

*Contact: Lisa Hensel, Clerk Typist II, 570-327-3653.*

**Hughes 02-204 Well Site**, 231 Lower Arnot Road, Liberty Township, **Tioga County**. Resource Environmental Management, Inc., 50 Maple Street, Montrose, PA 18801, on behalf of Repsol Oil & Gas USA, LLC, 337 Daniel Zenker Drive, Horseheads, NY 14845, has submitted a Notice of Intent to Remediate concerning site soil contaminated with production water. A summary of the Notice of Intent to Remediate was published in *The Wellsboro Gazette* on December 12, 2019.

*Northwest Region: Environmental Cleanup & Brownfields Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.*

**Tops Market No. 602**, 1520 West 26th Street, City of Erie, **Erie County**. Environmental Remediation & Recovery, Inc., 4250 Route 6N, Edinboro, PA 16412, on behalf of Tops Markets, LLC, P.O. Box 1027, Buffalo, NY 14240-1027, submitted a Notice of Intent to Remediate. Soil and pit water samples collected during underground storage tank closure revealed site soil and site groundwater has been impacted by leaded and unleaded gasoline constituents and Semi-Volatile Organic

Compounds. The Site-Specific Standard has been selected for remediation. Future use of the property will be non-residential. The Notice of Intent to Remediate was published in *The Erie-Times News* on December 25, 2019.

**Webco Manufacturing Facility**, 32 Progress Drive, Sugarcreek Borough, **Venango County**. Geosyntec Consultants, Inc., 5313 Campbells Run Road, Suite 150, Pittsburgh, PA 15205, on behalf of Webco Industries, 201 South Woodland Drive, Sand Springs, OK 74063, submitted a Notice of Intent to Remediate. A release of compressor condensate was released impacting site soil with Arsenic, Metals, Semi-Volatile Organic Compounds, and Volatile Organic Compounds. The Statewide Health and Background Standards have been selected for remediation of the site. Intended future use of the property will be commercial/industrial. The Notice of Intent to Remediate was published in *The Derrick and News-Herald* on January 8, 2020.

#### OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

**Application(s) 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.**

*Northeast Region: Regional Solid Waste Manager, 2 Public Square, Wilkes-Barre, PA 18701-1915.*

**Permit Application No. 101726. EIO Waste Solutions & Recycling, Inc.**, 5312 State Route 309, Dallas, PA 18618, Monroe Township, **Wyoming County**. An application for a new municipal waste transfer facility. The application was submitted to the Department on December 6, 2019 and was subject to the Local Municipality Involvement Process (LMIP). The LMIP meeting took place on January 15, 2020. The application was found to be administratively complete by the Northeast Regional Office on January 15, 2020.

Comments concerning the application should be directed to Roger Bellas, Regional Waste Management Program Manager, Department of Environmental Protection, Northeast Regional Office, 2 Public Square, Wilkes-Barre, PA 18704-1915 at 570-826-2511. TDD users may contact the Department through the Pennsylvania AT&T Relay Service, (800) 654-5984. Public comments must be submitted within 60 days of this notice and may recommend revisions to, and approval or denial of the application.

#### AIR QUALITY

#### PLAN APPROVAL AND OPERATING PERMIT APPLICATIONS

The Department has developed an “integrated” plan approval, State Operating Permit and Title V Operating Permit program. This integrated approach is designed to make the permitting process more efficient for the Department, the regulated community and the general public. This approach allows the owner or operator of a facility to submit permitting documents relevant to its application for all sources related to a facility or a proposed project, affords an opportunity for public input, and provides for a decision on the issuance of the necessary permits.

The Department received applications for Plan Approvals or Operating Permits from the following facilities.

Copies of the application, the Department's analysis, all pertinent documents used in the evaluation of the application and subsequently prepared proposed plan approvals/operating permits are available for public review during normal business hours at the appropriate Department Regional Office. Appointments for scheduling a review must be made by calling the appropriate Department Regional Office. The address and phone number of the Regional Office is listed before the application notices.

Persons wishing to file a written protest or provide comments or additional information, which they believe should be considered prior to the issuance of a permit, may submit the information to the Department's Regional Office. A 30-day comment period from the date of this publication will exist for the submission of comments, protests and information. Each submission must contain the name, address and telephone number of the person submitting the comments, identification of the proposed Plan Approval/Operating Permit including the permit number and a concise statement regarding the relevancy of the information or objections to issuance of the permit.

A person wishing to request a hearing may do so during the 30-day comment period. A public hearing may be held, if the Department, in its discretion, decides that a hearing is warranted based on the information received. Persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in the newspaper, the *Pennsylvania Bulletin* or by telephone, when the Department determines this type of notification is sufficient. Requests for a public hearing and any relevant information should be directed to the appropriate Department Regional Office.

Permits issued to the owners or operators of sources subject to 25 Pa. Code Chapter 127, Subchapter D or E, or located within a Title V facility or subject to 25 Pa. Code § 129.51(a) or permits issued for sources with limitations on their potential to emit used to avoid otherwise applicable Federal requirements may be submitted to the United States Environmental Protection Agency for review and approval as a revision to the State Implementation Plan. Final Plan Approvals and Operating Permits will contain terms and conditions to ensure that the sources are constructed and operating in compliance with applicable requirements in the Air Pollution Control Act (35 P.S. §§ 4001—4015), 25 Pa. Code Chapters 121—145, the Federal Clean Air Act (42 U.S.C.A. §§ 7401—7671q) and regulations adopted under the Federal Clean Air Act.

Persons with a disability who wish to comment and require an auxiliary aid, service or other accommodation to participate should contact the regional office listed before the application. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

**Intent to Issue Plan Approvals and Intent to Issue or Amend Operating Permits under the Air Pollution Control Act (35 P.S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter B. These actions may include the administrative amendments of an associated operating permit.**

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

*Contact: James Beach, New Source Review Chief, (484) 250-5920.*

**46-0005AW: Merck, Sharp & Dohme, Corp.** (770 Sunmeytown Pike, West Point, PA 19486-0004) for the

installation of a 1,300-kW natural gas fired non-emergency generator in Building 60 to upgrade the electric infrastructure and improve reliability in support of the operations in this building at an existing permitted Title V facility in Upper Gwynedd Township, **Montgomery County**. The non-emergency generator will be restricted to 500 hours of operation per 12-month rolling period. The proposed engine will be equipped by the manufacturer with computerized combustion controls, turbocharger, aftercoolers, NO<sub>x</sub> sensor, and lean-burn technology to comply with BAT. The generator will be subject to 40 CFR Part 60, Subpart JJJJ. The generator will result in the following ton/year air contaminants: VOC—0.7; NO<sub>x</sub>—1.0; CO—2.0; SO<sub>x</sub>—0.002; and PM<sub>10</sub>/PM<sub>2.5</sub>—0.04. The installation of this source does not trigger applicability toward NSR or PSD regulations. The plan approval will include monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

*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 Plan Approval for installation of air pollution sources at the following facility:

**IP19-000706: Lutheran Theological Seminary at Philadelphia** (7301 Germantown Avenue, Philadelphia, PA 19119) for the installation of air pollution sources at a private school, in the City of Philadelphia, **Philadelphia County**. The following significant stationary air emission sources are part of the Plan Approval: five (5) boilers firing natural gas each rated less than or equal to 2 MMBtu/hr, and one (1) emergency generator firing diesel fuel rated 207 HP. Additionally, three (3) insignificant hot water heaters firing natural gas each rated less than 0.2 MMBtu/hr and two (2) insignificant emergency generators firing natural gas each rated less than or equal to 30.2 HP, are also included in the Plan Approval for facility-wide emission calculation, and they are required to follow the applicable requirements in the Plan Approval. The potential emission from the installation are as follows: (1) 5.15 tons per year (tpy) of Nitrogen Oxides (NO<sub>x</sub>), (2) 3.26 tpy of Carbon Monoxide (CO), (3) 0.38 tpy of Particulate Matter (PM), (4) 0.32 tpy of Volatile Organic Compound (VOC), and (5) 0.13 tpy of Sulfur Oxides (SO<sub>x</sub>). The plan approval will contain operating, monitoring, and recordkeeping requirements to ensure operation within all applicable requirements.

The plan approval 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 plan approval must submit the protest, comments or request for a 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 plan approval 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.



## OPERATING PERMITS

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

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

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

**09-00017: Exelon Generation Co.**, Falls Generating Station (1123 Old Bristol Pike, Morrisville, PA 19067) located in Falls Township, **Bucks County**. This action is a renewal of the Title V Operating Permit. As a result of the potential emissions of NO<sub>x</sub> and SO<sub>x</sub>, the facility is a major stationary source as defined in Title I, Part D of the Clean Air Act Amendments, and is therefore subject to the Title V permitting requirements adopted in 25 Pa. Code Chapter 127, Subchapter G. This facility is an area source for HAP emissions. The main sources of air emissions are three (3) simple cycle fuel oil fired combustion turbines. There are no new applicable regulations and no sources have been installed or modified since the permit was last issued in August 2016. The renewal contains monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

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

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

**07-05001: Appvion Operations, Inc.** (100 Paper Mill Road, Roaring Spring, PA 16673-1488) for the pulp and paper mill located in Roaring Spring Borough, **Blair County**. The Title V Operating Permit is undergoing a significant modification related to the approval of a Reasonably Available Control Technology II (RACT II) plan. The permit modification will also include certain minor administrative updates, and addition of emission caps related to RACT 2 for certain sources.

Air emissions reported by the facility in calendar year 2018 were: CO 387 tpy; NO<sub>x</sub> 528 tpy; PM<sub>10</sub> 53 tpy; PM<sub>2.5</sub> 40 tpy; SO<sub>x</sub> 618 tpy; VOC 105 tpy; and HAP 78 tpy.

In accordance with 25 Pa. Code §§ 129.91—129.100, the Department has made a preliminary determination to approve a RACT II plan to be submitted as part of the PA State Implementation Plan (SIP) for the Appvion facility.

The proposed RACT II SIP revision does not adopt any new regulations. It incorporates the provisions and requirements contained in the amended RACT approval for the facility, which are intended to satisfy the requirements for the 1997, 2008 and 2015 National Ambient Air Quality Standards (NAAQS) for ozone.

The proposed RACT II plan, if approved by DEP, will be issued as a significant modification of the facility's Title V operating permit (07-05001). The relevant RACT II requirements will also be submitted to the U.S. Environmental Protection Agency (EPA) for approval and incorporation into Pennsylvania's State Implementation Plan. Requirements that are not part of the RACT II approval will be excluded from the SIP submittal.

The proposed RACT II requirements for this facility that are proposed to be submitted to the EPA as part of the SIP, are as follows:

I. Pursuant to 25 Pa. Code § 129.99, the following requirements constitute alternative RACT 2 for the No. 3 Recovery Boiler (Source ID 038):

(a) The No. 3 Recovery Boiler shall not emit NO<sub>x</sub> (expressed as NO<sub>2</sub>) in excess of 0.27 lb/MMBtu of heat input.

(b) Once per calendar year, the permittee shall conduct a performance test of the No. 3 Recovery Boiler to collect emissions data to verify compliance with the NO<sub>x</sub> emission limit of previously listed (a). The performance test shall be conducted as per Chapter 139 (Subchapter A) and the Department's Source Testing Manual. The performance test shall be conducted while the No. 3 Recovery Boiler is firing black liquor solids fuel exclusively and operating at its maximum normal operating capacity.

(c) The permittee shall calculate and record the No. 3 Recovery Boiler's actual annual NO<sub>x</sub> emissions using appropriate emissions factors from U.S. EPA Publication AP-42 or appropriate alternative emission factors based on the Department's review, coupled with appropriate operational and throughput data.

(d)(1) The permittee shall operate and maintain the No. 3 Recovery Boiler in accordance with the manufacturer's specifications and with good operating practices for the control of NO<sub>x</sub> emissions. The permittee shall maintain an operations and maintenance plan (O&M Plan) for the No. 3 Recovery Boiler. The permittee shall maintain records of any maintenance or modifications performed on the No. 3 Recovery Boiler.

(d)(2) The permittee shall maintain written documentation of the current O&M Plan for the No. 3 Recovery Boiler and any maintenance or modifications performed on the No. 3 Recovery Boiler for five years. The records shall be made available to the Department upon written request pursuant to 25 Pa. Code § 129.100(d) and (i).

II. Pursuant to 25 Pa. Code § 129.99, the following requirements constitute alternative RACT 2 for the Lime Kiln (Source ID 103A):

(a) The Lime Kiln shall not emit NO<sub>x</sub> (expressed as NO<sub>2</sub>) in excess of 0.36 lb/MMBtu of heat input.

(b) Once per calendar year, the permittee shall conduct a performance test of the Lime Kiln to collect emissions data to verify compliance with the NO<sub>x</sub> emission limit of previously listed (a). The performance test shall be conducted as per Chapter 139 (Subchapter A) and the Department's Source Testing Manual. The performance test shall be conducted while the Lime Kiln is firing natural gas fuel exclusively and operating at its maximum normal operating capacity.

(c) The permittee shall calculate and record the Lime Kiln's actual annual NO<sub>x</sub> emissions using appropriate emissions factors from U.S. EPA Publication AP-42 or appropriate alternative emission factors based on the Department's review, coupled with appropriate operational and throughput data.

(d)(1) The permittee shall operate and maintain the Lime Kiln in accordance with the manufacturer's specifications and with good operating practices for the control of NO<sub>x</sub> emissions. The permittee shall maintain an operations and maintenance plan (O&M Plan) for the Lime Kiln. The permittee shall maintain records of any maintenance or modifications performed on the Lime Kiln.

(d)(2) The permittee shall maintain written documentation of the current O&M Plan for the Lime Kiln and any



maintenance or modifications performed on the Lime Kiln for five years. The records shall be made available to the Department upon written request pursuant to 25 Pa. Code § 129.100(d) and (i).

III. Pursuant to 25 Pa. Code § 129.99, the following requirements constitute alternative RACT 2 for the No. 3 Smelt Tank (Source ID 108):

(a) The permittee shall operate and maintain the No. 3 Smelt Tank in accordance with the manufacturer's specifications and with good operating practices for the control of VOC emissions. The permittee shall maintain an operations and maintenance plan (O&M Plan) for the No. 3 Smelt Tank, which shall address, at a minimum, the following: continuous monitoring of scrubber flow rates and scrubber differential pressure through the Mill's distributed control system (DCS), and bimonthly scrubber flow meter verification.

(b) The permittee shall maintain records of any maintenance or modifications performed on the No. 3 Smelt Tank.

(c) The permittee shall calculate and record the No. 3 Smelt Tank's actual annual VOC emissions using appropriate emissions factors from U.S. EPA Publication AP-42 or appropriate alternative emission factors based on the Department's review, coupled with appropriate operational and throughput data.

(d) The permittee shall maintain written documentation of the current O&M Plan for the No. 3 Smelt Tank and any maintenance or modifications performed on the No. 3 Smelt Tank for five years. The records shall be made available to the Department upon written request pursuant to 25 Pa. Code § 129.100(d) and (i).

IV. Pursuant to 25 Pa. Code § 129.99, the following requirements constitute alternative RACT 2 for the Decker (Source ID 113A) and Pulp Bleaching (Source ID 114) and the Manufacture of Chlorine Dioxide (Source ID 115):

(a) The permittee shall operate and maintain Source IDs 113A, 114 and 115, and the Source ID C33 scrubber, in accordance with the manufacturer's specifications and with good operating practices for the control of VOC emissions. The permittee shall maintain an operations and maintenance plan (O&M Plan) for Source IDs 113A, 114 and 115, and the Source ID C33 scrubber, which shall address, at a minimum, the following: continuous monitoring of the scrubber recirculation flow rate, continuous monitoring and automated controls for scrubber recirculation flow pH, external inspection of the scrubber system once per month, and internal inspections of the scrubber performed every 18 months, or to coincide with extended maintenance outages.

(b) The permittee shall maintain records of any maintenance or modifications performed on Source IDs 113A, 114 and 115, and the Source ID C33 scrubber.

(c) The permittee shall calculate and record the actual annual VOC emissions from Source IDs 113A, 114 and 115 using appropriate emissions factors from U.S. EPA Publication AP-42 or appropriate alternative emission factors based on the Department's review, coupled with appropriate operational and throughput data.

(d) The permittee shall maintain written documentation of the current O&M Plan identified in part (a), previously listed and any maintenance or modifications performed on Source IDs 113A, 114 and 115, and the Source ID C33 scrubber for five years. The records shall be made

available to the Department upon written request pursuant to 25 Pa. Code § 129.100(d) and (i).

V. Pursuant to 25 Pa. Code § 129.99, the following requirements constitute alternative RACT 2 for the Wastewater Treatment Plant (Source ID 116):

(a) With regard to the Wastewater Treatment Plant, the permittee shall comply with all applicable requirements of 40 CFR Part 63, Subpart S—National Emission Standards for Hazardous Air Pollutants from the Pulp and Paper Industry (MACT Subpart S), including all applicable portions of 40 CFR Part 63, Subpart A (General Provisions).

(b) The permittee shall calculate and record the Wastewater Treatment Plant's actual annual VOC emissions using appropriate emissions factors from U.S. EPA Publication AP-42 or appropriate alternative emission factors based on the Department's review, coupled with appropriate operational and throughput data.

(c) The permittee shall operate and maintain the Wastewater Treatment Plant in accordance with the manufacturer's specifications and with good operating practices for the control of VOC emissions.

VI. Pursuant to 25 Pa. Code § 129.99, the following requirements constitute alternative RACT 2 for the Nos. 1, 2 and 3 Paper Machines (Source IDs 118, 119 and 120, respectively):

(a) The permittee shall operate and maintain Source IDs 118, 119 and 120 in accordance with the manufacturer's specifications and with good operating practices for the control of VOC emissions. The permittee shall maintain an operations and maintenance plan (O&M Plan) for Source IDs 118, 119 and 120, which shall address at least the following: automated defect detection equipment, daily inspections of paper machines, and periodic inspections of dryer and vent systems.

(b) The permittee shall maintain records of any maintenance or modifications performed on Source IDs 118, 119 and 120.

(c) The permittee shall calculate and record the actual annual VOC emissions from Source IDs 118, 119 and 120 using appropriate emissions factors from U.S. EPA Publication AP-42 or appropriate alternative emission factors based on the Department's review, coupled with appropriate operational and throughput data.

(d) The permittee shall maintain written documentation of the current O&M Plan identified in (a), and any maintenance or modifications performed on Source IDs 118, 119 and 120 for five years. The records shall be made available to the Department upon written request pursuant to 25 Pa. Code § 129.100(d) and (i).

VII. Pursuant to 25 Pa. Code § 129.99, the following requirements constitute alternative RACT 2 for the HVLC/LVHC Sources, which consist of the following sources:

Batch Digesters (Source ID 101A); LVHC gas stream; Rosenblad Evaporators (Source ID 109); LVHC gas stream; Brown Stock Washers (Source ID 111); HVLC gas stream; Knotters (Source ID 112); HVLC gas stream; LVHC/HVLC Venting (Source ID 121A); emergency venting; LVHC NCG Sources (Source ID 127); and HVLC NCG Sources (Source ID 128).

(a) Pursuant to 40 CFR Part 63, Subpart S—National Emission Standards for Hazardous Air Pollutants from

the Pulp and Paper Industry (MACT Subpart S), the permittee shall utilize either the John Zink Thermal Oxidizer (Source ID CD001) or the No. 3 Power Boiler (Source ID CDPB3) to incinerate VOC emissions from the following sources: Source ID 101A, Source ID 109, Source ID 111, Source ID 112, Source ID 127, and Source ID 128.

(b) Source IDs 101A, 109, 111, 112, 121A, 127, and 128 are subject to MACT Subpart S and shall comply with all applicable requirements of MACT Subpart S, including all applicable portions of 40 CFR Part 63, Subpart A (General Provisions).

(c) The permittee shall calculate and record Source ID 121A's actual annual VOC emissions using appropriate emissions factors from U.S. EPA Publication AP-42 or appropriate alternative emission factors based on the Department's review, coupled with appropriate operational and throughput data.

(d)(1) The permittee shall operate and maintain Source IDs 101A, 109, 111, 112, 121A, 127, and 128 in accordance with the manufacturer's specifications and with good operating practices for the control of VOC emissions. The permittee shall maintain an operations and maintenance plan (O&M Plan) for Source IDs 101A, 109, 111, 112, 121A, 127, and 128, which shall address, but not be limited to, regularly scheduled preventative maintenance on all of the LVHC and HVLC system emissions units, venting system components, and control devices, and compliance with the leak detection and repair provisions of MACT Subpart S for minimizing emergency venting to the atmosphere. The permittee shall maintain records of any maintenance or modifications performed on Source IDs 101A, 109, 111, 112, 121A, 127, and 128.

(d)(2) The permittee shall maintain written documentation of the current O&M Plan for Source IDs 101A, 109, 111, 112, 121A, 127, and 128 and any maintenance or modifications performed on these sources for five years. The records shall be made available to DEP upon written request pursuant to 25 Pa. Code § 129.100(d) and (i).

#### Public Comment Details:

Persons wishing to file a written protest or provide comments or additional information, which they believe should be considered prior to the issuance of a permit, may submit the information to Thomas Bianca, P.E., West Permit Section Chief, Air Quality Program, DEP Southcentral Regional Office, 909 Elmerton Avenue, Harrisburg, PA 17110. A 30-day comment period from the date of publication of this notice will exist for the submission of comments, protests and information. Each submission must contain the name, address and telephone number of the person submitting the comments, identification of the proposed RACT II Operating Permit including the permit number and a concise statement regarding the relevancy of the information or objections to issuance of the proposed RACT II Plan.

**Public Hearing:** A public hearing will be held on March 3, 2020, at 10:00 a.m. at the DEP Southcentral Regional Office, 909 Elmerton Avenue, Harrisburg, PA 17110, to accept oral comments on the proposed permit action and the proposed SIP revision. To register to speak at the hearing, please contact Thomas Bianca at 717.705.4863. Speakers must pre-register in order to testify at the hearing. The last day to pre-register to speak at the hearing will be February 25, 2020.

Oral testimony at the hearing will be limited to a maximum of 5 minutes per individual and two written copies of the oral testimony are requested. Each organization is requested to designate one witness to present

testimony on its behalf. Persons unable to attend the hearing, may submit three (3) copies of a written statement and exhibits within 10 days thereafter to Thomas Bianca at 909 Elmerton Avenue, Harrisburg, PA 17110.

All pertinent documents are available for public review between 8 a.m. and 4 p.m. at the DEP Southcentral Regional Office at 909 Elmerton Avenue, Harrisburg, PA 17110. Appointments for scheduling a review may be made by calling Thomas Bianca at 717.705.4863.

Individuals who are in need of an accommodation for the hearing as provided for in the Americans with Disabilities Act should contact Thomas Bianca at 717.705.4863 or make accommodations through the Pennsylvania AT&T Relay Service at 1.800.654.5984 (TDD).

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

*Contact: Matthew Williams, Facilities Permitting Chief, (814) 332-6328.*

**16-00128: County Landfill, Inc.** (344 Walley Run Dr, Leeper, PA 16233-4128). The Department is providing notice that they intend to renew a Title V Operating Permit for the municipal solid waste (MSW) landfill located in Farmington Township, **Clarion County**. The facility ceased accepting waste in May of 2008. The facility's primary emission sources include the landfill and a 237-hp diesel-fueled emergency power generator. The landfill gas generated is controlled and destroyed by an enclosed flare. With a design capacity exceeding 2.5 million megagrams or 2.5 million cubic meters, the facility is Title V due to rulemaking. The potential emissions of the primary pollutants from the facility are less than major thresholds, however. The facility is subject to 40 CFR 63 Subpart AAAA, NESHAP for MSW Landfills and 40 CFR 60 Subpart WWW, Standards of Performance for MSW Landfills. Expected to be promulgated within the permitting cycle, 40 CFR 60 Subpart Cf, which pertains to Emission Guidelines and Compliance Times for MSW Landfills applicable to MSW landfills constructed, reconstructed, or modified on or before July 17, 2014, is incorporated into the renewal permit. The emergency generator is subject to 40 CFR 60 Subpart IIII, Standards of Performance for Stationary Compression Ignition Internal Combustion Engines. The renewal permit will contain emission restrictions, recordkeeping, work practices, and additional requirements to ensure compliance with the Clean Air Act and the Air Pollution Control Act.

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

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

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

**46-00296: Woot Services LLC** (4121 International Pkwy., Carrollton, TX 75007) for the operation of three (3) UV Printers at an existing facility at 2455 Boulevard of the Generals, Norristown Borough, **Montgomery County**. The permit is for a non-Title V, Synthetic Minor facility. The permit will include monitoring, recordkeeping, reporting, and work practice standards designed to keep the facility operating within all applicable air quality requirements.

**15-00086: Darling Ingredients, Inc. d/b/a Bakery Feeds** (97 Westbrook Drive, Honey Brook, PA 19344) located in Honey Brook Township, **Chester County**, for a renewal of State Only Operating Permit (SOOP) No. 15-00086. No physical changes have occurred at the facility since the SOOP was last amended in 2018.

While the potential to emit volatile organic compounds (VOCs) from the bakery products processing line/facility exceeds 25 tons per year, the major facility threshold for the Southeast Pennsylvania air basin, Darling Ingredients, Inc., operates and maintains a regenerative thermal oxidizer with a minimum VOC destruction efficiency of 98% to ensure that the VOC emissions from the bakery products processing line/facility will not exceed this threshold. Therefore, the status of the facility is Synthetic Minor.

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

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

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

**54-00056: Pine Grove Area School District** (103 School Street Pine Grove, PA 17963-1698). The Department intends to issue a State-Only Operating Permit for operation of sources at the Pine Grove Area High School located in Pine Grove Borough, **Schuylkill County**. The sources include an anthracite coal fired boiler. Control devices include a cyclone. The proposed permit contains all applicable requirements for emission limitations, work practice standards, testing, monitoring, recordkeeping, and reporting standards used to verify facility compliance with Federal and State air pollution regulations.

**40-00045: Ralmark Company** (15 Elmwood Avenue, Mountain Top, PA 18707). The Department intends to issue a State-Only Operating Permit for operation of sources at an aircraft parts manufacturing facility in Larksville Borough, **Luzerne County**. The sources include a pulley manufacturing process, and a spray paint booth. Control devices include a baghouse. The proposed permit contains all applicable requirements for emission limitations, work practice standards, testing, monitoring, recordkeeping, and reporting standards used to verify facility compliance with Federal and State air pollution regulations.

**39-00079: Bridesburg Foundry Co./Whitehall** (P.O. Box 269, Whitehall, PA 18052-0269). The Department intends to issue a renewal State-Only (Natural Minor) Permit for the copper rolling, drawing, extruding, and alloying facility in Whitehall Township, **Lehigh County**. The sources consist of tilt, push up, and lift swing furnaces, slag stations, cut off saws, grinders, blast cleaners, silos, and sand reclamation. The control devices consist of baghouses. The sources are considered minor emission sources of nitrogen oxide (NO<sub>x</sub>), sulfur oxides (SO<sub>x</sub>), carbon monoxide (CO), total suspended particulate (TSP), and volatile organic compounds (VOC) emissions. The operating permit contains applicable requirements for emission limitations, work practice standards, testing, monitoring, recordkeeping, and reporting standards used to verify facility compliance with Federal and State air pollution regulations.

**48-00086: Bethlehem Apparatus Company, Inc./Hellertown** (890 Front Street, Hellertown, PA 18055-1507). The Department intends to issue a renewal State-

Only (Natural Minor) Permit for the hazardous waste treatment and disposal facility in Hellertown Borough, **Northampton County**. The primary source is a rooftop ventilation system. The control devices are carbon filters. The sources are considered minor emission sources of nitrogen oxide (NO<sub>x</sub>), sulfur oxides (SO<sub>x</sub>), carbon monoxide (CO), total suspended particulate (TSP), and volatile organic compounds (VOC) emissions. The proposed operating permit contains applicable requirements for emission limitations, work practice standards, testing, monitoring, recordkeeping, and reporting standards used to verify facility compliance with Federal and State air pollution regulations.

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

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

**38-03001: Lebanon Chemical Corp.** (1600 East Cumberland Street, Lebanon, PA 17042) to issue a State Only Operating Permit for the fertilizer manufacturing facility located in South Lebanon Township, **Lebanon County**. The potential emissions from the facility are estimated at 12.40 tpy of NO<sub>x</sub>, 10.41 tpy of CO, 1.42 tpy of PM, 0.07 tpy of SO<sub>x</sub>, 1.08 tpy of VOC and 0.62 tpy of HAPs. The Operating Permit will include emission limits and work practice standards along with monitoring, recordkeeping and reporting requirements to ensure the facility complies with the applicable air quality regulations. Among other items, the conditions include provisions derived from 25 Pa. Code § 123.11 Combustion Units and 25 Pa. Code § 123.13 Processes.

**44-03014: Barr Funeral Home, Inc.** (120 Logan St., Lewistown, PA 17044) for the operation of a human crematory facility in Lewistown Borough, **Mifflin County**. This is for renewal of the existing State-Only Permit. Potential air emissions from the facility are estimated at 1.08 tpy PM, 1.63 tpy NO<sub>x</sub>, 1.36 tpy CO, 0.12 tpy VOC, and 0.49 tpy SO<sub>2</sub>. The Operating Permit will include emission limits and work practice standards along with monitoring, recordkeeping and reporting requirements to ensure the facility complies with the applicable air quality regulations.

**67-05020: Exelon Generation Co. LLC** (1848 Lay Road, Delta, PA 17314) for the operation of the Peach Bottom Nuclear Station in Peach Bottom Township, **York County**. This is for renewal of the existing State-Only Permit. The potential emissions of the facility, after restrictions, are calculated at 5.45 tpy VOC, 89.60 PM<sub>10</sub>, 73.00 tpy NO<sub>x</sub>, 12.29 tpy SO<sub>x</sub>, and 16.61 tpy CO. The Operating Permit will include emission limits and work practice standards along with monitoring, recordkeeping and reporting requirements to ensure the facility complies with the applicable air quality regulations.

**21-05036: Hempt Bros., Inc.** (205 Creek Road, Camp Hill, PA 17011) to issue a State Only Operating Permit renewal for hot mix asphalt plant located in Camp Hill Borough, **Cumberland County**. The batch asphalt combusts natural gas. The 2018 actual emissions were CO 15.19 tons, NO<sub>x</sub> 0.95 ton, and 1.02 ton of PM<sub>10</sub>. The potential emissions from the facility is based on asphalt production limit of 490,000 tpy: CO 98.7 tons, NO<sub>x</sub> 6.1 tons, VOC 5.7 tons, SO<sub>x</sub> 1.1 ton, and 6.9 tons of PM<sub>10</sub> and 1.9 ton of HAPs. The Operating Permit will include emission limits and work practice standards along with monitoring, recordkeeping and reporting requirements to



ensure the facility complies with the applicable air quality regulations. Among other items, the conditions include provisions for Sources derived from 25 Pa. Code §§ 123 and 127 for restrictions, monitoring, recordkeeping, and reporting.

**06-03126: Lehigh Cement Co.** (204 Windsor Avenue, Hamburg, PA 19526) to issue a State-Only Operating Permit for their specialty cement manufacturing facility in Windsor Township, **Berks County**. Potential emissions from the facility are estimated to be 21.9 tpy PM, 21.9 tpy PM<sub>10</sub> and 6.6 tpy PM<sub>2.5</sub>. The Operating Permit will include emission limits and work practice standards along with monitoring, recordkeeping and reporting requirements to ensure the facility complies with the applicable air quality regulations. Among other items, the conditions include provisions derived from 25 Pa. Code § 123.13.

**36-03002: High Concrete Structures, Inc.** (125 Denver Road, Denver, PA 17517-9314) to issue a State Only Operating Permit for their architectural precast concrete and structural precast systems facility in East Cocalico Township, **Lancaster County**. Potential emissions from the facility are estimated to be 9.7 tpy VOC, 7.1 tpy of a single HAP, 10.9 tpy of combined HAPs, and 2.1 tpy PM. The Operating Permit will include emission limits and work practice standards along with monitoring, recordkeeping and reporting requirements to ensure the facility complies with the applicable air quality regulations. Among other items, the conditions include provisions derived from 25 Pa. Code §§ 1123.13, 29.63, 129.77 and 40 CFR 63, Subpart ZZZZ—National Emissions Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines.

**36-03054: Esbenshades Greenhouses, Inc.** (546 E. 28th Division Highway, Lititz, PA 17543-9766) for a greenhouse operation in Elizabeth Township, **Lancaster County**. This is for renewal of the existing State-Only Permit. Actual CO, NO<sub>x</sub>, PM<sub>10</sub>, SO<sub>x</sub> and VOC emission estimates from the entire facility are 39.6, 33.8, 38.1, 4.3 and 2.9 tons per year (tpy), respectively. Among other items, the conditions include provisions derived from NSPS Subpart Dc, and MACT Subparts 4Z and 6J. The Operating Permit will include emission limits and work practice standards along with monitoring, recordkeeping and reporting requirements to ensure the facility complies with the applicable air quality regulations.

**36-05148: Country Value Woodworks, LLC** (2302 Beaver Valley Pike, New Providence, PA 17560) to issue a State Only Operating Permit for the wood furniture manufacturing plant located in Providence Township, **Lancaster County**. The actual emissions from the facility in 2018 are estimated at 0.044 ton of PM<sub>10</sub>, 2.484 tons of SO<sub>x</sub>, 0.515 ton of NO<sub>x</sub>, 0.183 ton of CO, 10.98 ton of VOCs and 2.99 tons of HAPs. The Operating Permit will include emission limits and work practice standards along with monitoring, recordkeeping and reporting requirements to ensure the facility complies with the applicable air quality regulations. Among other items, the conditions include provisions derived from 40 CFR 63 Subpart ZZZZ, 40 CFR 60 Subpart IIII and 25 Pa. Code § 129.52.

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

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

**33-00132: Matson Lumber Brookville Plant** (132 Main St., Brookville, PA 15825). The Department is

providing notice that they intend to renew a State Only Natural Minor Operating Permit for the sawmill operations located in Brookville Borough, **Jefferson County**. The facility's primary emission sources include two (2) natural gas-fired stand-by boilers, the 20.6 MMBtu/hr wood-fired boiler, miscellaneous woodworking with a silo, the wood-drying kilns, and parts washers. The potential emissions of the primary pollutants from the facility are as follows: 24.65 TPY (tons per year) NO<sub>x</sub>, 58.17 TPY CO, 4.46 TPY VOC, 18.14 TPY filterable PM<sub>10</sub>, 14.53 TPY PM<sub>2.5</sub>, and 2.28 TPY SO<sub>x</sub>; thus, the facility is a natural minor. The wood boiler is subject to 40 CFR 63 Subpart JJJJJJ, NESHAP for Industrial, Commercial, and Institutional Boilers Area Sources. The renewal permit will contain emission restrictions, recordkeeping, work practices, and additional requirements to ensure compliance with the Clean Air Act and the Air Pollution Control Act.

**42-00192: IA Construction Corporation, McKean Asphalt Plant** (7024 Highway 59, Lewis Run, PA 16738), the Department intends to issue the renewal of the State-Only Operating Permit of a hot mix asphalt (HMA) plant located in Lafayette Township, **McKean County**. Permitted air contamination sources are a HMA batch plant, fugitive emissions from transfer points, and a portable crushing/screening plant. The HMA plant is subject to requirements established through PA 42-192D. To maintain its CO emissions below the 100-TPY major source threshold, the facility has an annual HMA throughput restriction of 495,000 tons. In this renewal, permit conditions for the portable crushing/screening plant based on plan approval exemptions pursuant to 25 Pa. Code § 127.14(a)(8), items # 6 (for engines) and # 12 (for portable crushers) are revised. A propane storage tank no longer at the site is removed from the operating permit. Permit language on use of shingles in the process is revised based on the RFD approved on May 19, 2010. Implementation of 40 CFR 60 Subpart I for the HMA plant's stack emissions and fugitive emissions are corrected. With PA 42-192D having conditions on increasing permitted throughputs that involve stack testing, provisions on source test submittals are added to the operating permit.

**61-00204: Franklin Bronze Precision Components, LLC** (655 Grant Street, Franklin, PA 16323). The Department intends to renew a State Only Operating Permit for the facility located in the Sugarcreek Borough, **Venango County**. The primary sources at the facility include a 1 million Btu/hr natural gas fueled mold de-wax furnace; 2 natural gas fueled shell pre-heat furnaces, rated at 600,000 Btu/hr and 850,000 Btu/hr; 5 induction furnaces; a 750,000 Btu/hr natural gas fueled de-wax oven; saws and grinders; 9 natural gas fueled space heaters; 2 natural gas fueled emergency generators; a 650,000 Btu/hr natural gas fueled wastewater evaporator; and a parts washer. The facility is a Natural Minor. Potential emissions are 3.19 tpy NO<sub>x</sub>; 12.29 tpy PM; 1.74 tpy CO; and less than 1 tpy SO<sub>x</sub>, VOC, and HAPs. The facility is subject to 40 CFR Part 63 Subpart ZZZZZ, National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Iron & Steel Foundries. The emergency generators are subject to 40 CFR Part 63 Subpart ZZZZ, National Emission Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines. The renewal permit contains emission restrictions, recordkeeping, work practice, and additional requirements to ensure compliance with the Clean Air Act and the Air Pollution Control Act.

## PLAN APPROVALS

**Receipt of Plan Approval Applications and Intent to Issue Plan Approvals, and Intent to Issue Amended Operating Permits under the Air Pollution Control Act (35 P.S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter B and Subchapter F. These actions may include the administrative amendments of an associated operating permit.**

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

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

**35-00076A:** Notice is hereby given in accordance with 25 Pa. Code §§ 127.44(a) and 127.45(a), that the Department of Environmental Protection (DEP) has received and intends to issue a Plan Approval to **Jennings-Calvey Funeral and Cremation Services, Inc.** (111 Colburn Avenue, Clarks Summit, PA 18411) for their facility located in Clarks Summit Borough, **Lackawanna County**. This Plan Approval No. 35-00076A will be incorporated into a Synthetic Minor Permit through an administrative amendment at a later date.

Plan Approval No. 35-00076A is for construction and operation of a crematory. The company shall be subject to and comply with 25 Pa. Code § 123.31 for malodorous emissions and 25 Pa. Code § 123.41 for opacity. These limits will meet BAT requirements for this source. The Plan Approval and Operating permit will contain additional recordkeeping and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

Copies of the application, DEP's analysis and other documents used in the evaluation of the application are available for public review during normal business hours at Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18701-1915.

Any person(s) wishing to provide DEP with additional information, which they believe should be considered prior to the issuance of this permit, may submit the information to the address shown in the preceding paragraph. Each written comment must contain the name, address and telephone number of the person submitting the comments, identification of the proposed permit No. 35-00076A and a concise statement regarding the relevancy of the information or objections to the issuance of the permit. A public hearing may be held, if the Department of Environmental Protection, in its discretion, decides that such a hearing is warranted based on the comments received. All persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in the newspaper or the *Pennsylvania Bulletin* or by telephone, where DEP determines such notification is sufficient. Written comments or requests for a public hearing should be directed to Ray Kempa, Environmental Group Manager, Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18701-1915, Phone 570-826-2511 within 30 days after publication date.

COAL & NONCOAL MINING  
ACTIVITY APPLICATIONS

Applications under the Surface Mining Conservation and Reclamation Act (52 P.S. §§ 1396.1—1396.31); the Noncoal Surface Mining Conservation and Reclamation Act (52 P.S. §§ 3301—3326); the Clean Streams Law (35 P.S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P.S. §§ 30.51—30.66); the Bituminous Mine Subsidence and Land Conservation Act (52 P.S. §§ 1406.1—1406.21). Mining activity permits issued in response to such applications will also address the applicable permitting requirements of the following statutes: the Air Pollution Control Act (35 P.S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P.S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P.S. §§ 6018.101—6018.1003).

The following permit applications to conduct mining activities have been received by the Department of Environmental Protection. A copy of the application is available for inspection at the District Mining Office indicated above each application. Notices of requests for 401 Water Quality Certifications are included in individual application notices, as noted.

Written comments or objections, or requests for an informal conference, or a public hearing, as applicable, on a mining permit application may be submitted by any person or any officer or head of any Federal, State or local government agency or authority to the Department at the address of the District Mining Office indicated above each application within 30-days of this publication, or within 30-days after the last publication of the applicant's newspaper advertisement, as provided by 25 Pa. Code §§ 77.121—773.123 and 86.31—86.34 (relating to public notices of filing of permit applications, opportunity for comment, and informal conferences).

Written comments or objections related to a mining permit application should contain the name, address and telephone number of persons submitting comments or objections; application number; and a statement of sufficient detail to inform the Department on the basis of comment or objection and relevant facts upon which it is based.

Requests for an informal conference, or a public hearing, as applicable, on a mining permit application, as provided by 25 Pa. Code § 77.123 (relating to public hearing-informal conferences) or § 86.34 (relating to informal conferences), must contain the name, address and telephone number of the requestor; the application number; a brief summary of the issues to be raised by the requestor at the conference; and a statement whether the requestor desires to have the conference conducted in the locality of the proposed mining activities.

Where a National Pollutant Discharge Elimination System (NPDES) number is listed, the mining activity permit application was accompanied by an application for an individual NPDES permit. A separate notice will be provided after the draft NPDES permit is prepared.

*Coal Applications Received*

*Effluent Limits*—The following range of effluent limits will apply to NPDES permits issued in conjunction with the associated coal mining activity permit and, in some cases, noncoal mining permits:

Table 1

Parameter	30-Day Average	Daily Maximum	Instantaneous Maximum
Iron (total)	1.5 to 3.0 mg/l	3.0 to 6.0 mg/l	3.5 to 7.0 mg/l
Manganese (total)	1.0 to 2.0 mg/l	2.0 to 4.0 mg/l	2.5 to 5.0 mg/l
Suspended solids	10 to 35 mg/l	20 to 70 mg/l	25 to 90 mg/l
Aluminum (Total)	0.75 to 2.0 mg/l	1.5 to 4.0 mg/l	2.0 to 5.0 mg/l
pH <sup>1</sup>		greater than 6.0; less than 9.0	

Alkalinity greater than acidity<sup>1</sup>

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

A settleable solids instantaneous maximum limit of 0.5 ml/l applied to: surface runoff (resulting from a precipitation event of less than or equal to a 10-year 24-hour event) from active mining areas; active areas disturbed by coal refuse disposal activities; and mined areas backfilled and revegetated; and drainage (resulting from a precipitation event of less than or equal to a 1-year 24-hour event) from coal refuse disposal piles.

*California District Office: 25 Technology Drive, Coal Center, PA 15423, 724-769-1100, (Contact: Bonnie Herbert).*

**30831303 and NPDES Permit No. PA0013511. Cumberland Contura, LLC**, 158 Portal Road, P.O. Box 1020, Waynesburg, PA 15370, to revise the permit and related NPDES permit for the installation of twenty-four (24) GOB-Ventilation Boreholes for the Cumberland Mine in Center and Whiteley Townships, **Greene County**, affecting 15.11 proposed surface acres. No additional discharges. The application was considered administratively complete on January 13, 2020. Application received: December 11, 2019.

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

**61040102. Bedrock Mines, LP** (111 Freeport Road, Pittsburgh, PA 15215). Renewal of an existing bituminous surface mine in Irwin Township, **Venango County** affecting 58.0 acres. Receiving streams: Two unnamed tributaries to Scrubgrass Creek, classified for the following uses: CWF. There are no potable surface water supply intakes within 10 miles downstream. This renewal is issued for reclamation only. Application received: December 19, 2019.

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

**Permit No. 54850104R6. Bell Corporation** (P.O. Box 131, Tuscarora, PA 17982), renewal of an existing anthracite surface mine operation in Schuylkill Township, **Schuylkill County** affecting 102.5 acres. Receiving stream: Schuylkill River, classified for the following uses: cold water and migratory fishes. Application received: December 5, 2019.

**Permit No. 40940203R5. Newport Aggregate, Inc.** (76 Main Road, Glen Lyon, PA 18617), renewal of an existing anthracite surface mine, coal refuse reprocessing coal refuse disposal and preparation plant operation in Jenkins Township, **Luzerne County** affecting 174.1 acres. Receiving stream: Susquehanna River, classified for the following use: warm water fishes. Application received: December 6, 2019.

**Permit No. GP12-40940203. Newport Aggregate, Inc.** (76 Main Road, Glen Lyon, PA 18617), application to renew 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. 40940203 in Jenkins Township, **Luzerne County**. Application received: December 6, 2019.

**Permit No. 49870201C3. Susquehanna Coal Company** (P.O. Box 27, Nanticoke, PA 18634), boundary correction to add and delete acres on an existing anthracite coal refuse reprocessing operation in Mt. Carmel Township and Kulpmont Borough, **Northumberland County** affecting 184.7 acres. Receiving stream: North Branch Shamokin Creek, classified for the following uses: cold water and migratory fishes. Application received: December 6, 2019.

**Permit No. 49990201R4. Black Diamond Mining, Inc.** (P.O. Box 81, Mt. Carmel, PA 17851), renewal of an existing anthracite coal refuse reprocessing operation in Mt. Carmel Township, **Northumberland County** affecting 124.86 acres. Receiving stream: North Branch Shamokin Creek, classified for the following uses: cold water and migratory fishes. Application received: December 18, 2019.

**Permit No. 49990201C6. Black Diamond Mining, Inc.** (P.O. Box 81, Mt. Carmel, PA 17851), correction to change the post-mining land use from forestland to unmanaged natural habitat and to change the permitted acreage from 124.86 to 97.0 on an existing anthracite coal refuse reprocessing operation in Mt. Carmel Township, **Northumberland County**. Receiving stream: North Branch Shamokin Creek, classified for the following uses: cold water and migratory fishes. Application received: December 18, 2019.

#### *Noncoal Applications Received*

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

Table 2

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

\* The parameter is applicable at all times.



A settleable solids instantaneous maximum limit of 0.5 ml/l applied to surface runoff resulting from a precipitation event of less than or equal to a 10-year 24-hour event. If coal will be extracted incidental to the extraction of noncoal minerals, at a minimum, the technology-based effluent limitations identified under coal applications will apply to discharges of wastewater to streams.

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

**10980302 and NPDES Permit No. PA0280747. Neiswonger Construction, Inc.** (17592 Route 322, Strattanville, PA 16258), transfer of an existing large industrial minerals surface mine from IA Construction Corporation in Cherry and Slippery Rock Townships, **Butler County** affecting 119.9 acres. Receiving streams: Unnamed tributaries to McMurray Run, classified for the following uses: CWF. There are no potable surface water supply intakes within 10 miles downstream. Application received: December 16, 2019.

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

**59190301. DeCristo, Inc.**, 9070 Route 414, Canton, PA 17724, commencement, operation and restoration of a large noncoal located in Sullivan Township, **Tioga County** affecting 55.5 acres. Receiving streams: Gaffers Creek classified for the following uses: TSF, MF. There are no potable water supply intakes within 10 miles downstream. Application received: December 26, 2019.

**PAM220001. DeCristo, Inc.**, 9070 Route 414, Canton, PA 17724, coverage under General NPDES Permit For Stormwater Discharges Associated With Mining Activities (BMP GP-104) on Noncoal Permit No. 59190301 located in Sullivan Township, **Tioga County**. Receiving stream(s): Gaffers Creek classified for the following uses: TSF, MF. Application received: December 26, 2019.

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

**Permit No. 58060834. Linden Claude Gregory** (475 Maloney Hill Road, Nicholson, PA 18446), Stage I & II bond release of a quarry operation in Lenox Township, **Susquehanna County** affecting 2.0 acres on property owned by Jens C. Sorensen. Application received: December 18, 2019.

**Permit No. 40202801 and NPDES Permit No. PA0226084. Noxen Sand & Materials** (2162 Chase Road, Shavertown, PA 18708), commencement, operation and restoration of a sand and gravel quarry operation and NPDES Permit for discharges of treated mine drainage in Lake Township, **Luzerne County** affecting 5.0 acres. Receiving stream: Beaver Run, classified for the following use: high quality—cold water fishes. Application received: December 5, 2019.

*Coal NPDES Draft Permits*

*California District Office: 25 Technology Drive, Coal Center, PA 15423, 724-769-1100, (Contact: Bonnie Herbert).*

**NPDES No. PA0213667 (Mining permit No. 03871303) Rosebud Mining Company**, 301 Market Street, Kittanning, PA 16201, a renewal to the NPDES and mining activity permit for Darmac No. 2 Deep Mine in Plumcreek Township, **Armstrong County**, affecting 1.0 surface acre and 2,793.9 underground acres. Receiving stream(s): Dutch Run classified for the following use(s): CWF. Crooked Creek Watershed TMDL. The application was considered administratively complete on September 17, 2017. Application received: April 19, 2017.

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

*Outfall 006 discharges to: Unnamed Tributary of Two Lick Creek*

The proposed effluent limits for *Outfall 006* (Lat: 40° 41' 28" Long: 79° 18' 27") are:

Parameter		Minimum	Maximum	30-Day Average	Daily Maximum	Instant. Maximum
Flow	(mgd)	-	-	-	2.0	-
Iron	(mg/l)	-	-	2.3	4.6	5.8
Suspended Solids	(mg/l)	-	-	35	70	90
Manganese	(mg/l)	-	-	1.5	3.0	3.8
Aluminum	(mg/l)	-	-	-	-	Report
Sulfate	(mg/l)	-	-	-	-	Report
Total Dissolved Solids	(mg/l)	-	-	-	-	Report
Chloride	(mg/l)	-	-	-	-	Report
pH	(s.u.)	6.0	-	-	-	9.0
Alkalinity, Total as CaCO <sub>3</sub>	(mg/l)	-	-	-	-	Report
Acidity, Total as CaCO <sub>3</sub>	(mg/l)	-	-	-	-	Report
Alkalinity, Net	(mg/l)	0.0	-	-	-	-
Osmotic Pressure	(mOs/kg)	-	-	50	50	50
Specific Conductance	(umho)	-	-	-	-	Report

EPA waiver is not in effect.

*Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, 814-472-1900, (Contact: Holly Calvetti).*

**NPDES No. PA0269158 (Mining Permit No. 56120114), Heritage Coal & Natural Resources, LLC**, 550 Beagle Road, Rockwood, PA 15557, renewal of an NPDES permit for a bituminous surface mine in Elk Lick and Summit

Townships, **Somerset County**, affecting 353 acres. Receiving stream(s): unnamed tributaries to/and Casselman River, classified for the following use(s): WWF. This receiving stream is included in the Casselman River TMDL. Application received: December 11, 2019.

The following treated wastewater outfalls discharge to unnamed tributaries to/and Casselman River:

<i>Outfall Nos.</i>	<i>New Outfall (Y/N)</i>
001 (TF-1)	N
002 (TF-2)	N
003 (TF-3)	N
004 (TF-4)	N
005 (TF-5)	N

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

<i>Outfalls: 001 (TF-1) and 005 (TF-5)</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)	1.5	3.0	3.8
Manganese (mg/l)	1.0	2.0	2.5
Aluminum (mg/l)	0.75	0.75	0.75
Total Suspended Solids (mg/l)	35.0	70.0	90.0
pH (S.U.): Must be between 6.0 and 9.0 standard units at all times.			
Alkalinity must exceed acidity at all times.			

<i>Outfalls: 002 (TF-2) and 004 (TF-4)</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	1.5	1.8
Total Suspended Solids (mg/l)	35.0	70.0	90.0
pH (S.U.): Must be between 6.0 and 9.0 standard units at all times.			
Alkalinity must exceed acidity at all times.			

<i>Outfall: 003 (TF-3)</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)	1.5	3.0	3.7
Total Suspended Solids (mg/l)	35.0	70.0	90.0
pH (S.U.): Must be between 6.0 and 9.0 standard units at all times.			
Alkalinity must exceed acidity at all times.			

The following stormwater outfalls discharge to unnamed tributaries to/and Casselman River:

<i>Outfall Nos.</i>	<i>New Outfall (Y/N)</i>
006 (SP-1)	N
007 (SP-2)	N
008 (SP-3)	N
009 (SP-4)	N
010 (SP-5)	N
011 (SP-6)	N

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

<i>Outfalls: 006 (SP-1), 007 (SP-2), and 011 (SP-6)</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)	3.0	3.0	3.0
Total Suspended Solids (mg/l)	35.0	70.0	90.0
pH (S.U.): Must be between 6.0 and 9.0 standard units at all times.			
Alkalinity must exceed acidity at all times.			
<i>Outfalls: 008 (SP-3), 009 (SP-4), and 010 (SP-5)</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)	Monitor Only		
Total Suspended Solids (mg/l)	35.0	70.0	90.0

<i>(&lt;10-yr/24-hr Precipitation Event) Parameter</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
Iron (mg/l)	-	-	7.0
Settleable Solids (mL/L)	-	-	0.5

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

**NPDES No. PA0262544 (Mining Permit No. 05070101), J&J Svonavec Excavating, Inc.**, 110 Windermere Lane, Somerset, PA 15501, renewal of an NPDES permit for addition of an NPDES facility for passive treatment of a post-mining discharge in Broad Top Township, **Bedford County**, affecting 129.0 acres. Receiving stream(s): East Fork Brewster Hollow Run and unnamed tributary to/and Brewster Hollow Run, classified for the following use(s): WWF. This receiving stream is included in the Sixmile Run TMDL. Application received: January 7, 2020.

The following outfalls discharge to an unnamed tributary to/and Brewster Hollow Run:

<i>Outfall Nos.</i>	<i>New Outfall (Y/N)</i>
001 (Sediment Pond 1)	N
002 (Sediment Pond 2)	N
003 (Sediment Pond 3)	N
008 (R-13 Treatment Facility)	N

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

<i>Outfalls: 001, 002, and 003 (All Weather Conditions) Parameter</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
Iron (mg/l)	3.0	6.0	7.0
Manganese (mg/l)	2.0	4.0	5.0
Aluminum (mg/l)	2.1	4.2	5.2
Total Suspended Solids (mg/l)	35.0	70.0	90.0

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

<i>Outfalls: 008 (All Weather Conditions) Parameter</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
Iron (mg/l)	1.5	3.0	3.7
Manganese (mg/l)	2.0	4.0	5.0
Aluminum (mg/l)	4.94	4.94	4.94
Total Suspended Solids (mg/l)	35.0	70.0	90.0

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

The following outfall discharges to East Fork Brewster Hollow Run:

<i>Outfall Nos.</i>	<i>New Outfall (Y/N)</i>
007 (R-32 Passive Treatment System Outfall)	N

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

<i>Outfalls: 007 (All Weather Conditions) Parameter</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
Iron (mg/l)	1.5	3.0	3.7
Manganese (mg/l)	1.6	3.2	4.0
Aluminum (mg/l)	0.75	0.75	0.75
Total Suspended Solids (mg/l)	35.0	70.0	90.0

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

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

**NPDES No. PA0280739 (Permit No. 16190103), Ben Hal Mining, Inc.** (389 Irishtown Road, Grove City, PA 16127), new NPDES permit for a bituminous surface mine in Piney Township, **Clarion County**, affecting 61.0 acres. Receiving streams: Unnamed tributary to Licking Creek to Licking Creek to Clarion River, classified for the following uses: CWF. TMDL: Licking Creek. Application received: October 21, 2019.

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

The following outfalls discharge to Unnamed tributary No. 1 to Licking Creek:

<i>Outfall No.</i>	<i>New Outfall (Y/N)</i>
002	Y
003	Y



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

<i>Parameter</i>	<i>Minimum</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
pH <sup>1</sup> (S.U.)	6.0			9.0
Alkalinity greater than acidity <sup>1</sup>				
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
Osmotic Pressure (milliosmoles/kg)				50.0

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

The following outfall discharges to Unnamed tributary No. 1 to Licking Creek:

<i>Outfall No.</i>	<i>New Outfall (Y/N)</i>
001	Y

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

<i>Parameter</i>	<i>Minimum</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
pH <sup>1</sup> (S.U.)	6.0			9.0
Alkalinity greater than acidity <sup>1</sup>				
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
Osmotic Pressure (milliosmoles/kg)				50.0

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

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

**NPDES No. PA0257613 (Mining Permit No. 17110104), Strishock, LLC**, P.O. Box 1006, Dubois, PA 15801, modified NPDES permit for coal surface mining in Decatur and Boggs Townships, **Clearfield County** affecting 52.5 acres. Receiving stream(s): Unnamed Tributary "A" to Little Laurel Run classified for the following use(s): CWF and MF. The receiving stream is in the Little Laurel Run Watershed TMDL. Application received: September 5, 2019.

The following treated mine drainage outfall discharges to Little Laurel Run:

<i>Outfall No.</i>	<i>New Outfall (Y/N)</i>
001	Y

The proposed effluent limits for the previously listed outfall are based on pre-mining Subchapter F loading limits and are as follows:

<i>Parameter</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
Iron (lbs/day)	NA	NA	3.07
Manganese (lbs/day)	NA	NA	1.02
Aluminum (lbs/day)	NA	NA	0.68

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

Alkalinity must exceed acidity at all times.

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

**NPDES Permit No. PA0225258 on Surface Mining Permit No. 35090101. Maco Associates, Inc.** (400 Mill Street, Dunmore, PA 18512), renewal of an NPDES Permit for an anthracite surface mine and coal refuse reprocessing operation in Fell Township and the City of Carbondale, **Lackawanna County**, affecting 1,693.0 acres. Receiving stream: Lackawanna River, classified for the following use: HQ—cold water fishes. Application received: October 15, 2019.

Non-discharge BMP's will apply to this site.

*Noncoal NPDES Draft Permits*

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

**NPDES Permit No. PA0224171 on Surface Mining Permit No. 58010301. Pennsy Supply, Inc.** (2400 Thea Drive, Suite 3A, Harrisburg, PA 17110), renewal of an NPDES Permit for a sandstone quarry operation in Bridgewater and Dimock Townships, **Susquehanna County**, affecting 44.78 acres. Receiving stream: unnamed tributary to South Branch Wyalusing Creek, classified for the following uses: warm water and migratory fishes. Application received: May 8, 2018.

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

The following outfall discharges to Unnamed Tributary to South Branch Wyalusing Creek:

<i>Outfall No.</i>	<i>New Outfall Y/N</i>	<i>Type</i>
001	N	Stormwater

The proposed effluent limits apply to dry weather discharges for the previously listed outfall are as follows:

<i>Parameter</i>	<i>Minimum</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
pH <sup>1</sup> (S.U.)	6.0			9.0
Net Alkalinity (mg/L)	0.0			
Total Alkalinity (mg/L)				Report
Total Acidity (mg/L)				Report
Total Suspended Solids (mg/L)		35.0	70.0	90.0
Total Residual Chlorine (mg/l)		Monitor and Report		
Total Iron (mg/L)				7.0
Total Manganese (mg/L)				5.0

The proposed effluent limits which apply to discharges resulting from precipitation events less than or equal to the 10-year/24-hour precipitation event for the previously listed outfall are as follows:

<i>Parameter</i>	<i>Minimum</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
pH <sup>1</sup> (S.U.)	6.0			9.0
Net Alkalinity (mg/L)	0.0			
Total Alkalinity (mg/L)				Report
Total Acidity (mg/L)				Report
Total Settleable Solids (ml/L)				0.5
Total Residual Chlorine (mg/l)		Monitor and Report		
Total Iron (mg/L)				7.0

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

**NPDES Permit No. PA0225436 on Surface Mining Permit No. 52770301. Shiffer Bituminous Service Co., Inc.** (150 Dotters Corner Road, Kunkletown, PA 18058), renewal of an NPDES Permit for a shale quarry operation in Polk Township, **Monroe County**, affecting 29.038 acres. Receiving stream: Dotter’s Creek, classified for the following use: HQ—cold water fishes. Application received: October 21, 2019.

Non-discharge BMP’s will apply to this site.

### 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 AT&T Relay Service at (800) 654-5984.

#### WATER OBSTRUCTIONS AND ENCROACHMENTS

**Applications Received Under the Dam Safety and Encroachments Act (32 P.S. §§ 693.1—693.27) and Section 302 of the Flood Plain Management Act (32 P.S. § 679.302) and Requests for Certification Under Section 401 of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).**

*Southeast Region: Waterways and Wetlands Program, 2 East Main Street, Norristown, PA 19401, Telephone 484.250.5160.*

*Contact: Elaine Henderson, Clerk Typist 3, 484.250.5157.*

**Permit No. E46-1201, Commerce Pursuit Capital, L.P.**, 1300 Virginia Drive, Suite 215, Fort Washington, PA 19034-3249, Lansdale Borough, **Montgomery County**, ACOE Philadelphia District.

To construct and maintain a luxury apartment complex of approximately 205 residential units at vacant warehouse of size 4.05 acres, which will require to relocate about 416 feet of unnamed tributary to

Towamencin Creek (TSF, MF) associated with the new development. The project will also include parking facilities and stormwater management.

The site is located at 117 Broad Street (Lansdale, PA USGS Quadrangle Latitude: 40.238222; Longitude: -75.285408) in Lansdale Borough, Montgomery County.

*Northeast Region: Watershed Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, 570-826-2511.*

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

**E3902219-007. South Whitehall Township, 4444** Walbert Avenue, Allentown, PA 18104, in South Whitehall Township, **Lehigh County**, U.S. Army Corps of Engineers, Philadelphia District.

To construct and maintain the following water obstructions and encroachments associated with the Covered Bridge Park Recreation Park Project:

1) An at-grade parking lot in approximately 0.34 acre of the 100-year floodway of Jordan Creek (TSF, MF). The parking lot will tie into the existing paved driveway from Wehr Mill Road and connect to the existing parking lot.

2) Removal of existing concrete walkways, play areas, playground equipment and a tennis court in approximately 0.01 acre of the 100-year floodway and 0.29 acre of the 100-year floodplain of Jordan Creek (TSF, MF). The impact areas will be re-graded at or below existing grade.

3) Construction and installation of a new concrete walkway and at-grade concrete slab in approximately 0.08 acre of the 100-year floodway and 0.08 acre of the 100-year floodplain of Jordan Creek (TSF, MF).

While traveling north on PA-309, turn right onto Ridgeview Drive. Drive to the end of Ridgeview Drive and then turn right onto Huckleberry Road, and then a left onto Wehr Mill Road. The project is located approximately 1.0-mile up Wehr Mill Road on the right (Cementon & Allentown West, PA Quadrangle Latitude: 40° 37' 41.0" Longitude: -75° 34' 5.0") in South Whitehall Township, Lehigh County.

**E4002119-015: Pa Department of Transportation, Eng District 4-0**, 55 Keystone Industrial Park, Dunmore, PA 18512, Mifflin Township, **Columbia County** and Nescopeck Township and Nescopeck Borough, **Luzerne County**, Army Corps of Engineers, Baltimore District.

To authorize the water obstructions and encroachments associated with the Luzerne County portion of the SR 0339 Section 06A Widening Project consisting of road widening and the construction of three (3) outfall structures in a PEM wetland impacting 0.28 acre immediately adjacent to SR 0339.

This permit authorizes impacts associated with the Luzerne County portion of a proposed project located along SR 0339 from just West of the intersection between SR 0339/Smith Hollow Road and continues approximately 2 miles east to the SR 0339/SR 3015 intersection. (Mifflinville and Berwick, PA Quadrangle, Latitude/Longitude Western Limit of Work: 41.03651, -76.26480; Latitude/Longitude Eastern Limit of Work: 41.04758, -76.22018) in Mifflin Township, Columbia County and Nescopeck Township and Nescopeck Borough, Luzerne County.

**E4802220-001. Pennsylvania Department of Conservation and Natural Resources**, 400 Market Street, 8th Floor, Harrisburg, PA 17101, in Williams

Township, **Northampton County**, U.S. Army Corps of Engineers, Philadelphia District.

To remove an existing structure and to construct and maintain a stream enclosure of a UNT to the Delaware River (TSF, MF) consisting of a 72-inch diameter, 177-LF steel plate pipe culvert, concrete wingwalls, R-8 riprap aprons choked with natural streambed material, and having an invert depressed 6-inches below existing streambed elevation. This stream enclosure crosses below the channel associated with the Delaware Canal (WWF, MF) and terminates on the eastern side of the gravel towpath. The project is located approximately 0.16 mile south of the intersection of S.R. 611 and Mill Street (Easton & Reigelsville, PA Quadrangle Latitude: 40° 37' 47" Longitude: -75° 11' 30") in Williams Township, Northampton County.

**E5402220-001. John O'Keefe**, 1131 South Duke Street, Lancaster, PA 17602, in Port Clinton Borough, **Schuylkill County**, U.S. Army Corps of Engineers, Philadelphia District.

To relocate an existing overhead cable line that crosses aerially over the Little Schuylkill River (CWF, MF), adjacent to the norther side of the Broad Street Bridge. The Little Schuylkill River is classified as a Scenic River and a SLLA water. The upcoming replacement of the Broad Street Bridge is causing the existing cable line crossing to be relocated 90-feet north. The proposed cable line crossing will be attached to utility poles on either side of the river. The installation of the utility poles will be within the floodway of the Little Schuylkill River. The project is in Port Clinton Borough, Schuylkill County. Quadrangle Latitude: 40° 34' 49" Longitude: -76° 01' 34". (Auburn, PA Quadrangle, Latitude: 40° 34' 49"; Longitude: -76° 01' 34").

**E5802219-01. Kurt Booths**, 119 Cemetery Road, P.O. Box 339, Clifford, PA 18413, in Clifford Township, **Susquehanna County**, U.S. Army Corps of Engineers, Baltimore District.

To construct and maintain a 70 ft span pedestrian bridge, to provide access for pedestrians and UTV's to township lands across the creek. The bridge is designed to pass the 100-year storm event. The bridge is over East Branch Tunkhannock Creek (CWF, MF) in Clifford Township, Susquehanna County. Quadrangle Latitude: 41° 39' 30.0" Longitude: -75° 36' 10.0", (Clifford, PA Quadrangle, Latitude: 41° 39' 30"; Longitude: -75° 36' 10").

*Southcentral Region: Waterways & Wetlands Program, 909 Elmerton Avenue, Harrisburg, PA 17110.*

*Contact: Edward Muzic, Section Chief, 717.705.4802.*

**E0603219-009. Texas Eastern Transmission, L.P.**, 890 Winter Street, Suite 300, Waltham, MA 02451, in Washington Township, **Berks County**, U.S. ACOE Philadelphia District.

To repair an existing 30.0-inch diameter natural gas transmission line, permanently impacting 0.01-acre and temporarily impacting 0.06-acre of exceptional value palustrine emergent wetlands for the purpose of correcting anomalies that were detected during routine inspections. The project is located approximately 0.57 mile northwest of the intersection of Kulps Road and Hillcrest Road (Latitude: 40° 25' 23.87" N; Longitude: 76° 36' 25.34" W) in Washington Township, Berks County. Permanent wetland impacts are de minimus and replacement is not required.



**E1501219-011. Exelon Generation Company LLC**, 2569 Shures Landing Road, Darlington, MD 21034 in Lower Oxford Township, **Chester County**, U.S. ACOE Baltimore District.

To construct and maintain an American Eel trapping facility and bank stabilization permanently impacting 319 square feet of Octoraro Creek (WWF, MF) and 491 square feet of the floodway of Octoraro Creek all for the purpose of providing passage for American Eel. The project is located along Forge Road (Latitude: 39° 47' 37.3432" N; Longitude: 76° 2' 38.5901" W) in Lower Oxford Township, Chester County.

*Southwest Region: Dana Drake, Waterways and Wetlands Program, 400 Waterfront Drive, Pittsburgh, PA 15222.*

**E02052-1823, Meli Properties LLC**, 3150 Leechburg Road, Pittsburgh, PA 15239, Plum Borough, **Allegheny County**; Pittsburgh ACOE District.

The applicant proposes to:

1. Remove an existing 24-inch diameter by 87-foot long pipe in an unnamed tributary (UNT) to Plum Creek (WWF).
2. Construct, operate, and maintain a replacement 42-inch diameter by 87-foot long corrugated plastic pipe.
3. Operate and maintain a 105-foot long, relocated segment of the aforementioned UNT.
4. Operate and maintain a streambank stabilization consisting of 6 stacked concrete blocks along 6 feet of the same UNT.

In association with the construction of a gravel parking lot. The project site is located at 896 Center Road, Pittsburgh, PA 15239 (Braddock, PA USGS topographic quadrangle; N: 40°, 28', 33.96"; W: -79°, 45', 33.91"; Sub-basin 18A; USACE Pittsburgh District), in the Borough of Plum, Allegheny County.

**E02052-1825, Village at Marketplace, LLC**, 2000 Georgetown Drive, Suite 100, Sewickley, PA 15143, Moon Township, **Allegheny County**; Pittsburgh ACOE District.

The applicant proposes to:

1. Place and maintain fill within 331 LF of an unnamed tributary (UNT) to Montour Run (TSF) (Stream R001), with a drainage area of less than 100 acres.
2. Place and maintain fill within 1,164 LF of a UNT to Montour Run (TSF) (Stream R003C), with a drainage area of less than 100 acres.
3. Place and maintain fill within 650 LF of a UNT to Montour Run (TSF) (Stream R003C-1), with a drainage area of less than 100 acres.
4. Place and maintain fill within another 926 LF section of a UNT to Montour Run (TSF) (Stream R001), with a drainage area of less than 100 acres.
5. Place and maintain fill within 31 LF of an ephemeral stream (Stream R003C-1) with a drainage area of less than 100 acres.
6. Place and maintain fill within 121 LF of an ephemeral stream (Stream R003C-2) with a drainage area of less than 100 acres.

For the purpose of constructing a mixed residential subdivision. Mitigation will be provided with a combination of on-site and off-site (Pine Creek and UNT to Pine Creek) restoration, including floodplain reconnection, bank stabilization, in-stream structures, riparian buffer

plantings, and mitigation credits. The project site is located on Marketplace Boulevard. (Oakdale, PA USGS topographic quadrangle; N: 40°, 27', 46"; W: -80°, 11', 13"; Sub-basin 20G; USACE Pittsburgh District), in Moon Township, Allegheny County.

**E56052-393, Somerset County**, 300 North Center Avenue, Somerset, PA 15501, Garrett Borough, Summit Township, Brothers Valley Township, Pittsburgh ACOE District.

The applicant proposes to:

1. Place and maintain fill within 8 emergent wetlands (JPA-W1, JPA-W2, JPA-W3, JPA-W4, JPA-W5, JPA-W6, JPA-W7, JPA-W8) totaling 0.613 acre.
2. Construct, operate and maintain a new 47.34' long 24" culvert pipe carrying the bicycle/pedestrian trail over the Unnamed Tributary (UNT) to Buffalo Creek (CWF), with a drainage area less than 100 acres.
3. Construct, operate and maintain a new 44.07' long 24" culvert pipe carrying the bicycle/pedestrian trail over the same UNT to Buffalo Creek, with a drainage area less than 100 acres.
4. Construct, operate and maintain a new 45.3 long 24" culvert pipe carrying the bicycle/pedestrian trail over the same UNT to Buffalo Creek, with a drainage area less than 100 acres.
5. Construct, operate and maintain an existing 52.54' long 24" culvert pipe carrying the bicycle/pedestrian trail over the same UNT to Buffalo Creek, with a drainage area less than 100 acres.
6. Construct, operate and maintain a new 47.89' long 24" culvert pipe carrying the bicycle/pedestrian trail over the same UNT to Buffalo Creek, with a drainage area less than 100 acres.
7. Construct, operate and maintain a new 51.22' long 24" culvert pipe carrying the bicycle/pedestrian trail over the same UNT to Buffalo Creek, with a drainage area less than 100 acres.
8. Construct, operate and maintain an existing 50.67' long 24" culvert pipe carrying the bicycle/pedestrian trail over the same UNT to Buffalo Creek, with a drainage area less than 100 acres.

The total permanent stream impacts for this project are 339.03 LF.

For the purpose of constructing a safe and efficient bicycle/pedestrian corridor to connect the Great Allegheny Passage Trail to the Pentagon Memorial aka Flight 93 National Memorial. The total permanent stream impacts for this project are 339.03 LF. The permanent wetland impacts will be mitigated in-kind and off-site by purchasing 0.62 wetlands credit the Robinson Fork Phase I Mitigation Bank.

The project site is located along Fogletown Road (Meyersdale, PA USGS topographic quadrangle; N: 39°, 52', 18"; W: -79°, 3', 10"; Sub-basin 19F; USACE Pittsburgh District), in Garrett Borough, Summit, and Brothersvalley Township, Somerset County.

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

**E4129-132: Highland Field Services, LLC**, 51 Zents Blvd., Brookville, PA 15825. Gamble Pad O Temporary Above Ground Waterline (TAGWL) in Hepburn and Eldred Township, **Lycoming County**, ACOE Baltimore District.

To construct, operate and maintain approximately 3.7-miles (19,536 LF) of 16-inch diameter temporary above ground waterline (TAGWL) in Hepburn and Eldred Township—Lycoming County. The TAGWL will be placed on existing ground surface except where it crosses roadways and driveways where either a boring or an open trench crossing will be used. The waterline will be within existing natural gas pipeline ROW, existing access road ROW, along agricultural fields, and along Brucklacher Road (T-677).

The project will result in a total of 44 LF (331 SF) of temporary stream impacts, 387 SF (0.00889 ac.) of temporary wetland impacts and 2,993 SF (0.0687 ac.) of temporary floodway impacts all for the purpose of providing a temporary means of water conveyance between the existing freshwater impoundment at the eastern terminus to the Gamble Pad O Well Pad for use during drilling activities.

**Stream Impact Table:**

<i>Resource Name</i>	<i>Municipality Quadrangle</i>	<i>Activity</i>	<i>Chap. 93</i>	<i>Listed Trout</i>	<i>Total Impact Area Temp. (SF)</i>	<i>Impact Length Temp. (LF)</i>	<i>Total Impact Area Perm. (SF)</i>	<i>Impact Length Perm. (LF)</i>	<i>Lat. Long.</i>
UNT Mill Creek STR-190723-0900	Hepburn Twp. Cogan House	Crossing 1 Temp. Bridge 16-inch TAGWL	WWF	None	299	23			41.336132 77.012052
UNT Mill Creek STR-190723-1135	Hepburn Twp. Cogan House	Crossing 2 16-inch TAGWL Over 18" CMP	WWF	None	3	2			41.332745 77.001728
UNT Mill Creek STR-190723-1150	Hepburn Twp. Cogan House	Crossing 3 16-inch TAGWL Over 36" CMP	WWF	None	6	3			41.333354 77.001326
UNT Mill Creek STR-190723-1200	Hepburn Twp. Montoursville N.	Crossing 4 16-inch TAGWL Over 15" CMP	WWF	None	3	3			41.334548 76.998400
UNT Mill Creek STR-190723-1240	Eldred Twp. Montoursville N.	Crossing 5 16-inch TAGWL Over 12" CPP	WWF	None	3	3			41.336578 76.993829
UNT Mill Creek STR-190723-1230	Eldred Twp. Montoursville N.	Crossing 6 16-inch TAGWL Over 16" CPP	WWF	None	2	2			41.336630 76.993788
UNT Mill Creek STR-190723-1250	Eldred Twp. Montoursville N.	Crossing 7 16-inch TAGWL Over 84" Culvert	WWF	None	15	8			41.336833 76.993041
<i>TOTAL IMPACTS</i>					331	44			
<i>TOTAL STREAM IMPACTS</i>					331	44			
<i>TOTAL WAIVER 2 IMPACTS</i>									

**Wetland Impact Table:**

<i>Resource Name</i>	<i>Municipality Quadrangle</i>	<i>Activity</i>	<i>Cow. Class</i>	<i>Listed Trout</i>	<i>Total Impact Area Temp. (SF)</i>	<i>Impact Length Temp. (LF)</i>	<i>Total Impact Area Perm. (SF)</i>	<i>Impact Length Perm. (LF)</i>	<i>Lat. Long.</i>
Wetland 1 STR-190723-0915	Hepburn Twp. Cogan House	Crossing 1 Temp. Bridge 16-inch TAGWL	PEM; EV	None	387	21			41.336132 77.012052
<i>TOTAL IMPACTS</i>					387	21			
					<i>PEM</i>	387	21		
					<i>PSS</i>				
					<i>PFO</i>				

**Floodway Impact Table:**

<i>Resource Name</i>	<i>Municipality Quadrangle</i>	<i>Activity</i>	<i>Impact Area Temp. (SF)</i>	<i>Impact Length Temp. (LF)</i>	<i>Impact Area Perm. (SF)</i>	<i>Impact Length Perm. (LF)</i>	<i>Lat. Long.</i>
UNT Mill Creek STR-190723-0900	Hepburn Twp. Cogan House	Crossing 1 Temp. Bridge 16-inch TAGWL	1,852	96			41.336132 77.012052
UNT Mill Creek STR-190723-1135	Hepburn Twp. Cogan House	Crossing 2 16-inch TAGWL Over 18" CMP	210	105			41.332745 77.001728
UNT Mill Creek STR-190723-1150	Hepburn Twp. Cogan House	Crossing 3 16-inch TAGWL Over 36" CMP	244	122			41.333354 77.001326
UNT Mill Creek STR-190723-1200	Hepburn Twp. Montoursville N.	Crossing 4 16-inch TAGWL Over 15" CMP	216	108			41.334548 76.998400
UNT Mill Creek STR-190723-1240	Eldred Twp. Montoursville N.	Crossing 5 16-inch TAGWL Over 12" CPP	126	66			41.336578 76.993829
UNT Mill Creek STR-190723-1230	Eldred Twp. Montoursville N.	Crossing 6 16-inch TAGWL Over 16" CPP	137	66			41.336630 76.993788
UNT Mill Creek STR-190723-1250	Eldred Twp. Montoursville N.	Crossing 7 16-inch TAGWL Over 84" Culvert	208	104			41.336833 76.993041
<i>TOTAL IMPACTS</i>			2,993	667			

**ENVIRONMENTAL ASSESSMENTS**

Central Office: Bureau of Waterways Engineering and Wetlands, Rachel Carson State Office Building, Floor 2, 400 Market Street, Harrisburg, PA 17101, telephone number: 717-787-3411.

**D26-133EA, D26-134EA. Jack Hill**, DCNR, P.O. Box 8551, Harrisburg, PA 17105, Henry Clay Township, **Fayette County**, USACOE Pittsburgh District.

Project proposes to remove the Log and Rock Dams to restore approximately 80 feet of stream channel to a free-flowing condition. Accumulated sediment will also be removed from behind the dams. A downstream culvert will also be removed as will two non-jurisdictional dams. The stream will be restored to its historic channel and the impoundments will be converted to wetlands. The project is located across Long Run (HQ-CWF) (Ohiopyle, PA Quadrangle, Latitude: 39.8086; Longitude: -79.4828).

**ACTIONS****THE PENNSYLVANIA CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT****FINAL ACTIONS TAKEN FOR NPDES PERMITS AND WQM PERMITS**

The Department has taken the following actions on previously received applications for new, amended and renewed NPDES and WQM permits, applications for permit waivers and NOIs for coverage under General Permits. This notice of



final action is provided in accordance with 25 Pa. Code Chapters 91 and 92a and 40 CFR Part 122, implementing provisions of The Clean Streams Law (35 P.S. §§ 691.1—691.1001) and the Federal Clean Water Act (33 U.S.C.A. §§ 1251—1376).

<i>Location</i>	<i>Permit Authority</i>	<i>Application Type or Category</i>
Section I	NPDES	Renewals
Section II	NPDES	New or Amendment
Section III	WQM	Industrial, Sewage or Animal Wastes; Discharges to Groundwater
Section IV	NPDES	MS4 Individual Permit
Section V	NPDES	MS4 Permit Waiver
Section VI	NPDES	Individual Permit Stormwater Construction
Section VII	NPDES	NOI for Coverage under NPDES General Permits

Sections I—VI contain actions regarding industrial, animal or sewage wastes discharges, discharges to groundwater, and discharges associated with MS4, stormwater associated with construction activities and CAFOs. Section VII contains notices for parties who have submitted NOIs for Coverage under General NPDES Permits. The approval for coverage under these General NPDES Permits is subject to applicable effluent limitations, monitoring, reporting requirements and other conditions in each General Permit. The approval of coverage for land application of sewage sludge or residential septage under applicable general permit is subject to pollutant limitations, pathogen and vector attraction reduction requirements, operational standards, general requirements, management practices and other conditions in the respective permit. The permits and related documents, effluent limitations, permitting requirements and other information are on file and may be inspected and arrangements made for copying at the contact office noted before the action.

Persons aggrieved by an action may appeal that action to the Environmental Hearing Board (Board) under section 4 of the Environmental Hearing Board Act (35 P.S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to Administrative Agency Law). The appeal should be sent to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P.O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Board through the Pennsylvania AT&T Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30-days of publication of this notice in the *Pennsylvania Bulletin* unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create a right of appeal beyond that permitted by applicable statutes and decisional law.

For individuals who wish to challenge an action, the appeal must reach the Board within 30-days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should contact a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

### **I. NPDES Renewal Permit Actions.**

*Southeast Region: Clean Water Program Manager, 2 East Main Street, Norristown, PA 19401. Phone: 484.250.5970.*

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N?</i>
PA0051805 (Sewage)	Gravel 38 LLC 2620 Egypt Road Audubon, PA 19403-2302	Montgomery County Upper Hanover Township	Unnamed Tributary to Perkiomen Creek (TSF, MF) 3-E	Y
PA0042889 (Sewage)	Octorara School District STP 228 Highland Road Atglen, PA 19310-1603	Chester County West Fallowfield Township	Unnamed Tributary to Knight Run (TSF, MF) 7-K	Y

*Northeast Region: Clean Water Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N</i>
PA0032077 (Sewage)	Tuscarora State Park 687 Tuscarora Park Road Barnesville, PA 18214	Schuylkill County Rush Township	Locust Creek (CWF, MF) (3-A)	Yes

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N</i>
PAS803506 (Storm Water)	Daily Express Whse 1072 Harrisburg Pike Carlisle, PA 17013-1615	Cumberland County Middlesex Township	Letort Spring Run (HQ-CWF (existing use)) (7-B)	Yes

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N</i>
PA0233846 (CAFO)	Drew E Remley 1170 Salt Spring Road Roaring Branch, PA 17765-8824	Tioga County Liberty Township	Watershed(s) 10-A Unnamed Tributary to Salt Spring Run (EV (existing use))	No

*Northcentral Regional Office: Clean Water Program Manager, 208 W Third Street, Suite 101, Williamsport, PA 17701-6448. Phone: 570.327.3636.*

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N?</i>
PA0208728 (Sewage)	Mountaintop Area Municipal Authority P.O. Box 275 Snow Shoe, PA 16874-0275	Centre County Snow Shoe Township	Unnamed Tributary to North Fork Beech Creek (CWF) (9-C)	Yes
PA0010430 (Industrial)	Hanover Food 3008 Penns Valley Pike Centre Hall, PA 16828-8405	Centre County Potter Township	Sinking Creek (CWF, MF) (6-A)	Yes
PA0208736 (Sewage)	MAMA Moshannon WWTF P.O. Box 275 Snow Shoe, PA 16874-0275	Centre County Snow Shoe Township	Unnamed Tributary to Black Moshannon Creek (HQ-CWF) (8-D)	Yes
PA0233811 (Industrial)	Ulster Municipal Authority Water System 23639 Route 220 P.O. Box 157 Ulster, PA 18850-7982	Bradford County Ulster Township	Unnamed Tributary to Susquehanna River (WWF) (4-B)	Yes

*Southwest Region: Clean Water Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745. Phone: 412.442.4000.*

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N</i>
PA0254754 (Storm Water)	Neville Island Terminal DE, LLC 900 South Eisenhower Boulevard Middletown, PA 17057	Allegheny County Neville Township	Ohio River (WWF) (20-G)	Yes
PA0097497 (Industrial)	Sagamore Water Treatment Plant P.O. Box 127 Numine, PA 16244-0127	Armstrong County Cowanshannock Township	Unnamed Tributary to North Branch Plum Creek (CWF) (17-E)	Yes
PA0094706 (Sewage)	Tri County Soccer & Sports Center 1220 Freedom Crider Road Freedom, PA 15042	Beaver County New Sewickley Township	UNT to North Fork Big Sewickley Creek (20-G)	Yes
PA0204889 (Industrial)	Harmar Garage Port Authority Allegheny County 345 Sixth Avenue Floor 3 Pittsburgh, PA 15222-2527	Allegheny County Harmar Township	Deer Creek (WWF) (18-A)	Yes

## **II. New or Expanded Facility Permits, Renewal of Major Permits and EPA Nonwaived Permit Actions.**

*Southeast Region: Water Management Program Manager, 2 East Main Street, Norristown, PA 19401.*

**NPDES Permit No. PA0058858**, Sewage, **Upper Makefield Township**, 1076 Eagle Road, Newtown, PA 18940-2818.

This proposed facility is located in Upper Makefield Township, **Bucks County**.

Description of Action/Activity: Issuance of an NPDES Permit for an existing discharge of treated sewage.

**NPDES Permit No. PA0050521**, Sewage, **Green Lane-Marlborough Joint Authority**, P.O. Box 45, Green Lane, PA 18054-0045.

This proposed facility is located in Green Lane Borough, **Montgomery County**.

Description of Action/Activity: Issuance of an NPDES Permit for an existing discharge of treated sewage.

**NPDES Permit No. PA0013285**, Industrial, **Aqua Pennsylvania Inc.**, 762 W. Lancaster Avenue, Bryn Mawr, PA 19010-3402.

This proposed facility is located in Schuylkill Township, **Chester County**.

Description of Action/Activity: Issuance of an NPDES Permit for an existing discharge of treated industrial wastewater.  
*Northeast Region: Clean Water Program Manager, 2 Public Square, Wilkes-Barre, PA 18701-1915.*

**NPDES Permit No. PA0276260**, Sewage, SIC Code 4952, **Haines Nancy**, 377 Neville Road, Moscow, PA 18444.

This proposed facility is located in Salem Township, **Wayne County**.

Description of Proposed Action/Activity: Issuance of an NPDES Permit for a new discharge of treated sewage.

*Northwest Region: Clean Water Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.*

**NPDES Permit No. PA0272558**, Sewage, SIC Code 8800, **Michael Forster**, 11264 Whitewood Drive, Newbury, OH 44065.

This proposed facility is located in Sheffield Township, **Warren County**.

Description of Proposed Action/Activity: Issuance of an NPDES Permit for a new discharge of treated sewage.

**NPDES Permit No. PA0272515**, Sewage, SIC Code 8800, **Rodney Prezioso**, 129 Kinsman Road, Jamestown, PA 16134-9515.

This proposed facility is located in Greene Township, **Mercer County**.

Description of Proposed Action/Activity: Issuance of an NPDES Permit for a new discharge of treated sewage.

### **III. WQM Industrial Waste and Sewerage Actions under The Clean Streams Law.**

*Southeast Region: Clean Water Program Manager, 2 East Main Street, Norristown, PA 19401, 484.250.5900.*

**WQM Permit No. 4619408**, Sewage, **Norristown Municipal Waste Authority**, 235 East Airy Street, Norristown, PA 19401.

This proposed facility is located in Norristown Borough, **Montgomery County**.

Description of Action/Activity: Treatment plant upgrades consisting of energy and operations improvements to influent pump station, aeration system and dewatering system.

**WQM Permit No. 1510402**, Sewage, Renewal, **Stroud Water Research Center Inc.**, 970 Spencer Road, Avondale, PA 19311-9514.

This proposed facility is located in West Marlborough Township, **Chester County**.

Description of Action/Activity: Permit Renewal.

**WQM Permit No. 0905406**, Sewage, Transfer, **Bucks County Water & Sewer Authority**, 1275 Almshouse Road, Warrington, PA 18976-2090.

This proposed facility is located in Warrington Township, **Bucks County**.

Description of Action/Activity: Transfer ownership from Warrington Twp to BCWSA.

*Northcentral Regional Office: Regional Clean Water Program Manager, 208 W Third Street, Suite 101, Williamsport, PA 17701-6448. Phone: 570.327.3636.*

**WQM Permit No. 1988402 A-2**, Sewage, SIC Code 6519, **UMH Properties, Inc.**, 3499 US Highway 9, Suite 3C, Freehold, NJ 07728-3277.

This existing facility is located in South Centre Township, **Columbia County**.

Description of Proposed Action/Activity: Addition of a dechlorination process.

*Southwest Region: Clean Water Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745. Phone: 412.442.4000.*

**WQM Permit No. 1118400-A1**, Sewage, **Johnstown Redevelopment Authority**, 401 Washington Street, 4th Floor Public Safety Building, Johnstown, PA 15901.

This proposed facility is located in the City of Johnstown, **Cambria County**.

Description of Proposed Action/Activity: Proposed amendment to previous permit for the construction of replacement and rehabilitation of the existing Fairfield Avenue Interceptor Sewer between MH # FF-001A and FF-006 located in the Morrellville Area of the City of Johnstown. Treatment to be provided at the existing Johnstown—Dornick Point STP.

The Pennsylvania Infrastructure Investment Authority (PENNVEST) which administers Pennsylvania's State Revolving Fund has been identified as a possible funding source. The Department's review of the Water Quality Management (Part II) Permit has not identified any significant environmental impacts resulting from this proposal.

**WQM Permit No. 6369406 A-7**, Sewage, SIC Code 4952, **Peters Township Sanitary Authority**, 111 Bell Drive, McMurray, PA 15317-3415.

This existing facility is located in Peters Township, **Washington County**.

Description of Proposed Action/Activity: The Authority proposes to make changes to their existing Brush Run STP, which includes replacement of the existing chlorine disinfection system with a new UV disinfection system, installation of a chemical feed system for phosphorus removal, installation of a new effluent pump station, and installation of a new emergency generator.



*Northwest Region: Clean Water Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.*

**WQM Permit No. 6219413**, Sewage, **Michael Forster**, 11264 Whitewood Drive, Newbury, OH 44065.

This proposed facility is located in Sheffield Township, **Warren County**.

Description of Proposed Action/Activity: Single Residence Sewage Treatment Plant.

**WQM Permit No. 4303416 A-3**, Sewage, **Hermitage Municipal Authority Mercer County**, 800 North Hermitage Road, Hermitage, PA 16148.

This existing facility is located in Hermitage City, **Mercer County**.

Description of Proposed Action/Activity: Installation of 350 kWe combined heat and power unit and construction of a 93,000 cubic foot biogas holding tank.

**WQM Permit No. 4319411**, Sewage, **Rodney A Prezioso, Jr.**, 129 Kinsman Road, Jamestown, PA 16134-9515.

This proposed facility is located in Greene Township, **Mercer County**.

Description of Proposed Action/Activity: Single Residence Sewage Treatment Plant.

#### **IV. NPDES Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4) Individual Permits Issued.**

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Municipality, County</i>	<i>Receiving Water(s)/Use(s)</i>	<i>TMDL Plan Submitted (Y/N)</i>	<i>Pollutant Reduction Plan Submitted (Y/N)</i>
PAI133513 (MS4)	Hampden Township Cumberland County MS4 230 S Sporting Hill Road Mechanicsburg, PA 17050-3097	Cumberland County Hampden Township	Unnamed Tributary to Conodoguinet Creek (WWF, MF), Pine Run (WWF, MF), and Sears Run (WWF, MF) (7-B)	Yes	PAI133513 (MS4)

#### **V. NPDES Waiver Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4) Actions.**

The following waiver applications have been approved for a 5-year period. The Department is issuing waivers for the following MS4s instead of NPDES permit coverage.

*Southwest Region: Clean Water Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

<i>NPDES Waiver No.</i>	<i>Applicant Name &amp; Address</i>	<i>Municipality, County</i>	<i>Receiving Water(s)/Use(s)</i>
PAI136132	Sewickley Hills Borough 349 Magee Road Sewickley, PA 15143-9185	Sewickley Hills Borough Allegheny	Little Sewickley Creek and Kilbuck Run/ HQ-TSF and CWF
PAG136407	Bell Acres Borough 1153 Camp Meeting Road Sewickley, PA 15143-8325	Bell Acres Borough Allegheny	Big Sewickley Creek (TSF)

#### **VI. NPDES Discharges of Stormwater Associated with Construction Activities Individual Permit Actions.**

*Southeast Region: Clean Water Program Manager, 2 East Main Street, Norristown, PA 19401.*

*Contact: Aaron Redmond, Management Technician, 484.250.5821.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAD090035	USS Real Estate 1 Ben Fairless Drive Fairless Hills, PA 19030-5012	Bucks	Falls Township	Delaware River Estuary WWF-MF
PAD150128	U.S. Home Corporation D.B.A. Lennar 2465 Kuser Road 3rd Floor Hamilton, NJ 08690-3303	Chester	East Vincent Township	Unnamed Tributary to Stony Run HQ-TSF-MF Stoney Run HQ-TSF-MF

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAD150122	Tasty Baking Oxford, Inc. 700 Lincoln Street Oxford, PA 19363	Chester	Oxford Borough	Unnamed Tributary West Branch Big Elk Creek HQ-TSF
PAD150116	Southdown Homes, L.P. 120 Pennsylvania Avenue Malvern, PA 19355-2418	Chester	West Nantmeal Township	French Creek Watershed EV
PAD150155	Valley Investments Group VII 120 Pennsylvania Avenue Malvern, PA 19355	Chester	Charlestown Township	Valley Creek EV
PAD150052 A-1	The Vanguard Group 400 Devon Park Drive Wayne, PA 19087	Chester	East Whiteland Township	Little Valley Creek EV
PAD150050	Provco Good MCB Byberry L.P. 795 Lancaster Avenue Building No. 2 Suite 200 Villanova, PA 19085-1500	Philadelphia	City of Philadelphia	Walton Run

*Northeast Region: Watershed Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

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

*Lehigh County Conservation District, 4184 Dorney Park Road, Suite 105, Allentown, PA 18401, 610-391-9583.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAD390134	Phoebe Richland Health Care Center 1925 Turner St. Allentown, PA 18104	Lehigh	Emmaus Borough	UNT of the Leibert Creek (HQ-CWF, MF)

*Southcentral Region: Waterways & Wetlands Program, 909 Elmerton Avenue, Harrisburg, PA 17110.*

*Contact: Nathan Phillips, Section Chief, 717.705.4802.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAD500003 Issued	PPL Electric Utilities Corporation 2 North Ninth Street, GENN4 Allentown, PA 18101	Perry	Spring Centre Township Carroll Township	UNT Montour Creek (CWF, MF) UNT Perry Furnace Run (CWF, MF) Little Juniata Creek (CWF, MF) Montour Creek (CWF, MF) UNT Trout Run (CWF, MF)

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

*Clarion County Conservation District, 217 S 7th Avenue, Room 106A, Clarion, PA 16214, 814-297-7813.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAD160002	Washington Township Municipal Authority P.O. Box 124 Fryburg, PA 16326	Clarion County	Washington Township	UNT McCauley Run EV, McCauley Run EV, East Sandy Creek CWF, WT

## **VII. Approvals to Use NPDES and/or Other General Permits.**

The EPA Region III Administrator has waived the right to review or object to this permit action under the waiver provision 40 CFR 123.23(d).

**List of NPDES and/or Other General Permit Types.**

PAG-01	General Permit for Discharges for Stormwater Discharges Associated with Small Construction Activities.
PAG-02	General Permit for Discharges of Stormwater Associated with Construction Activities
PAG-03	General Permit for Discharges of Stormwater from Industrial Activities
PAG-04	General Permit for Discharges from Small Flow Treatment Facilities
PAG-05	General Permit for Discharges from Petroleum Product Contaminated Groundwater Remediation Systems
PAG-06	General Permit for Wet Weather Overflow Discharges from Combined Sewer Systems (CSO)
PAG-07	General Permit for Beneficial Use of Exceptional Quality Sewage Sludge by Land Application
PAG-08	General Permit for Beneficial Use of Non-Exceptional Quality Sewage Sludge by Land Application to Agricultural Land, Forest, a Public Contact Site or a Land Reclamation Site
PAG-08 (SSN)	Site Suitability Notice for Land Application Under Approved PAG-08 General Permit Coverage
PAG-09	General Permit for Beneficial Use of Residential Septage by Land Application to Agricultural Land, Forest, or a Land Reclamation Site
PAG-09 (SSN)	Site Suitability Notice for Land Application Under Approved PAG-09 General Permit Coverage
PAG-10	General Permit for Discharges from Hydrostatic Testing of Tanks and Pipelines
PAG-11	General Permit for Discharges from Aquatic Animal Production Facilities
PAG-12	Concentrated Animal Feeding Operations (CAFOs)
PAG-13	Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)
PAG-14	(To Be Announced)
PAG-15	General Permit for Discharges from the Application of Pesticides

*General Permit Type—PAG-02*

Contact: Aaron Redmond, Management Technician, 484.250.5821.

<i>Permit No.</i>	<i>Facility Location: Municipality &amp; County</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
PAC090296	Richland Township Bucks County	MRP Industrial 509 South Exeter Street Suite 216 Baltimore, MD 21202-4252	Tohickon Creek TSF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
PAC090337	Bedminster Township	Living Hope Community Church 22H West Route 313 Dublin, PA 18917	Morris Run TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
PAC090328	Newtown & Upper Makefield Townships	Living Hope Community Church 250 Gibraltar Road Horsham, PA 19044	Newtown Creek WWF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
PAC510114	City of Philadelphia Philadelphia County	Provco Pinegood Frankademy, LLC 795 East Lancaster Avenue Building 2 Suite 200 Villanova, PA 19085-1525	Pennypack Creek WWF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
PAC510140	City of Philadelphia Philadelphia County	GMH Capital Partners, LP 10 Campus Boulevard Newtown Square, PA 19073	Schuylkill River WWF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
PAC510151	City of Philadelphia Philadelphia County	FedEx Ground Package System, Inc. 1000 FedEx Drive Moon Township, PA 15108-9373	Black Lake Run WWF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900



<i>Permit No.</i>	<i>Facility Location: Municipality &amp; County</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
PAC510145	City of Philadelphia Philadelphia County	University of Pennsylvania 3101 Walnut Street Philadelphia, PA 19104	Schuylkill River WWF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
PAC510111	City of Philadelphia Philadelphia County	Callahan Ward Scotts Ln, LLC 2610 Hirst Terrace Havertown, PA 19083	Schuylkill River WWF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900

*Northeast Region: Watershed Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, 570-826-2511.*

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

<i>Permit No.</i>	<i>Facility Location: Municipality &amp; County</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
PAC400147 Completeness Denial	Dupont Boro Luzerne County	Letica Corp of Pa Joseph Bjorck 52585 Dequindre Rd Rochester, MI 48307	Lidy Creek (CWF, MF)	Luzerne Conservation District 325 Smiths Pond Road Shavertown, PA 18708 570-674-7991
PAC400115 Authorization/ Issuance	Hazleton City Luzerne County	Blue Creek Investments LLC 1275 Glenlivet Dr Ste 330 Allentown, PA 18016	Cranberry Creek (CWF, MF)	Luzerne Conservation District 325 Smiths Pond Road Shavertown, PA 18708 570-674-7991
PAC400103 Authorization/ Issuance	Hazle Twp Luzerne County	Bradley International John Ferry 200 Kiwanis Blvd Hazleton, PA 18201	Black Creek (CWF, MF)	Luzerne Conservation District 325 Smiths Pond Road Shavertown, PA 18708 570-674-7991

*Southcentral Region: Waterways & Wetlands Program, 909 Elmerton Avenue, Harrisburg, PA 17110.*

*Contact: Nathan Phillips, Section Chief, 717.705.4802.*

<i>Permit No.</i>	<i>Facility Location: Municipality &amp; County</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
PAC210170 Issued	Shippensburg Township Cumberland County	Wade L. Asper 401 Baltimore Road Shippensburg, PA 17257	Burd Run (CWF)	Cumberland County Conservation District 310 Allen Road Suite 301 Carlisle, PA 17013-9101 717.240.7812
PAC670020 Issued	Dover Township York County	Dover Township Sewer Authority 2480 West Canal Road Dover, PA 17315	UNT Fox Run (TSF)	York County Conservation District 118 Pleasant Acres Road York, PA 17402 717.840.7430

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

<i>Facility Location: Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Clymer Borough, Indiana County	PAC320035	Clymer Borough 315 6th Street Clymer, PA 15728	Two Lick Creek TSF	Indiana County Conservation District 350 North 4th Street Indiana, PA 15701 724-471-4751
Connoquenessing Township Butler County	PAC100009	# 1 Cochran Automotive Group 4520 William Penn Highway Monroeville, PA 15146	Little Connoquenessing Creek CWF, Connoquenessing Creek WWF	Butler County Conservation District 120 Hollywood Drive Suite 201 Butler, PA 16001 724-284-5270
Clinton Township, Middlesex Township & Penn Township, Butler County	PAC100168	West Penn Power Company 341 White Pond Drive Akron, OH 44320	UNTs to Davis Run CWF, UNTs to Glade Run WWF	Butler County Conservation District 120 Hollywood Drive Suite 201 Butler, PA 16001 724-284-5270

*Southwest Region: Dana Drake, Waterways and Wetlands Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222, Dana Drake, Waterways and Wetlands Program Manager, 412-442-4000.*

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Phone No.</i>
Rochester Borough	PAC040032-A1	Rochester Joint Sewer Authority 395 Adams Street First Floor Rochester, PA 15074-2128	Ohio River (WWF)	Beaver County Conservation District 156 Cowpath Road Aliquippa, PA 15001 (724) 378-1701
Potter Township	PAC040070	Potter Township 206 Mowry Road Monaca, PA 15061-2224	Raccoon Creek (WWF)	Beaver County Conservation District 156 Cowpath Road Aliquippa, PA 15001 (724) 378-1701
Monaca Borough	PAC040074	JGVD Limited Partnership 1501 Corporation Street Beaver, PA 15009	Ohio River (WWF)	Beaver County Conservation District 156 Cowpath Road Aliquippa, PA 15001 (724) 378-1701

**THE FOLLOWING HAVE BEEN DENIED:**

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Phone No.</i>
Harmony Township	PAC040060	Harmony Ridge Real Estate, LP 1280 Breitenstein Road Ambridge, PA 15601	UNT to Ohio River (WWF)	Beaver County Conservation District 156 Cowpath Road Aliquippa, PA 15001 (724) 378-1701
Hopewell Township	PAC040068	L. B. Water Properties, LLC 150 Imperial Industrial Park Oakdale, PA 15071	UNT to Boggs Run (WWF)	Beaver County Conservation District 156 Cowpath Road Aliquippa, PA 15001 (724) 378-1701
Potter Township	PAC040071	Rettop Development Corporation 246 Mowry Road Monaca, PA 15061-2224	Raccoon Creek (WWF); Ohio River (WWF)	Beaver County Conservation District 156 Cowpath Road Aliquippa, PA 15001 (724) 378-1701

*General Permit Type—PAG-07*

<i>Permit No.</i>	<i>Facility Location: Municipality &amp; County</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
PAG072202	Frailey Township Schuylkill County	Natural Soil Products P.O. Box 283 2286 East Center Street Tremont, PA 17981	N/A	Northeast Region 570.826.2511

**STATE CONSERVATION COMMISSION****NUTRIENT MANAGEMENT PLANS RELATED TO APPLICATIONS FOR NPDES PERMITS FOR CAFOs**

The State Conservation Commission has taken the following actions on previously received applications for nutrient management plans under 3 Pa.C.S. Chapter 5, for agricultural operations that have or anticipate submitting applications for new, amended or renewed NPDES permits or NOIs for coverage under a general permit for CAFOs under 25 Pa. Code Chapter 92a. This notice is provided in accordance with 25 Pa. Code Chapter 92a and 40 CFR Part 122, implementing The Clean Streams Law and the Federal Clean Water Act.

Persons aggrieved by an action may appeal under 3 Pa.C.S. § 517, section 4 of the Environmental Hearing Board Act and 2 Pa.C.S. §§ 501—508 and 701—704 to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P.O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania AT&T Relay Service at (800) 654-5984. Appeals must be filed with the Board within 30-days of publication of this notice in the *Pennsylvania Bulletin*. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create a right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge actions, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for pro bono representation. Call the Secretary of the Board at (717) 787-3483 for more information.

**NUTRIENT MANAGEMENT PLAN  
CAFO PUBLIC NOTICE SPREADSHEET—ACTIONS**

<i>Agricultural Operation Name and Address</i>	<i>County</i>	<i>Total Acres</i>	<i>AEU's</i>	<i>Animal Type</i>	<i>Special Protection Waters (HQ or EV or NA)</i>	<i>Approved or Disapproved</i>
Zimmerman Layer Farm 201 Bartho Drive Landisburg, PA 17040	Perry	147.1	404.25	Poultry Layers	EV	Approved
Yippee! Farms 880 Pinkerton Road Mt. Joy, PA 17552	Lancaster	616	1,390	Dairy	NA	Approved
Scott & Andrew Brinton 323 River Road Peach Bottom, PA 17563	Lancaster	431	660.18	Swine/ Poultry	HQ	Approved
Herman Zeager 159 Yoder Road Bainbridge, PA 17502	Lancaster	65.5	914.16	Swine	NA	Approved
Stephen L. Hershey 500 Florin Avenue Mt. Joy, PA 17552	Lancaster	155.2	1,323.23	Layers	NA	Approved
Philip Hoover 2862 Harvest Road Elizabethtown, PA 17022	Lancaster	51.2	367.64	Broilers	NA	Approved
Melvin Huber 457 Cold Spring Road Elizabethtown, PA 17022	Lancaster	53.3	395.69	Layers	NA	Approved
Glenn & Joel Martin 2077 Mountain Road Manheim, PA 17545	Lancaster	212.9	36.5	Ducks	HQ	Approved



<i>Agricultural Operation Name and Address</i>	<i>County</i>	<i>Total Acres</i>	<i>AEU's</i>	<i>Animal Type</i>	<i>Special Protection Waters (HQ or EV or NA)</i>	<i>Approved or Disapproved</i>
Randy Brubaker 1908 Valley Road Manheim, PA 17545	Lancaster	26.7	801.77	Broiler/ Swine	NA	Approved
Jodie Brubaker 1908 Vakket Riad Manheim, PA 17545	Lancaster	84.2	455.18	Broilers	NA	Approved
Esbensshade Inc Mark Kniesly 220 Eby Chiquies Road Mount Joy, PA 17545	Lancaster	407.7	8,870.5	Layers	NA	Approved
Bryan Byers 81 Four Pines Road Quarryville, PA 17566	Lancaster	275.7	178.46	Ducks	HQ	Approved
Fine Swine— Hilbred Swine Farm 415 Forest Road Denver, PA 17517	Lancaster	10.4	653.8	Swine	HQ	Approved
Lynn Royer 273 Greentree Road Elizabethtown, PA 17022	Lancaster	319.4	763.3	Dairy/ Poultry	NA	Approved
Dan Bollinger 302 E. Lexington Road Lititz, PA 17543	Lancaster	47.9	404.09	Pullets/ Swine	NA	Approved
Brian Eckman 357 Black Bottom Road Peach Bottom, PA 17563	Lancaster	126.4	741.83	Swine/ Poultry	HQ	Approved

**PUBLIC WATER SUPPLY PERMITS**

The Department has taken the following actions on applications received under the Pennsylvania Safe Drinking Water Act (35 P.S. §§ 721.1—721.17) for the construction, substantial modification or operation of a public water system.

Persons aggrieved by an action may appeal that action to the Environmental Hearing Board (Board) under section 4 of the Environmental Hearing Board Act and 2 Pa.C.S. §§ 501—508 and 701—704. The appeal should be sent to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P.O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Board through the Pennsylvania AT&T Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin* unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create a right of appeal beyond that permitted by applicable statutes and decisional law.

For individuals who wish to challenge an action, the appeal must reach the Board within 30-days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this document to a lawyer at once. Persons who cannot afford a lawyer may qualify for

free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

**SAFE DRINKING WATER**

**Actions taken under the Pennsylvania Safe Drinking Water Act (35 P.S. §§ 721.1—721.17).**

*Southeast Region: Safe Drinking Water Program Manager, 2 East Main Street, Norristown, PA 19401, Telephone 484.250.5980.*

*Contact: Kimberleigh Rivers, Clerk Typist 2, 484.250.5887.*

**Source Water Protection Plan Approval** issued to: **Horsham Water & Sewer Authority**, 617 Horsham Road, Horsham, PA 19044, **PWSID # 1460033**, Horsham Township, **Montgomery County**, on January 2, 2020.

**Permit No. 4619517**, Public Water Supply.

Applicant	<b>North Wales Water Authority</b> 200 West Walnut Street North Wales, PA 19454
Township	North Wales
County	<b>Montgomery</b>
Type of Facility	PWS
Consulting Engineer	Penn's Greene Suite-100 949 Easton Road Warrington, PA 18976-1880
Permit to Construct Issued	January 13, 2020

**Permit No. 4619527**, Public Water Supply.  
 Applicant **Aqua Pennsylvania, Inc.**  
 762 West Lancaster Avenue  
 Bryn Mawr, PA 19010  
 Borough Phoenixville  
 County **Montgomery**  
 Type of Facility PWS  
 Consulting Engineer Aqua Pennsylvania, Inc.  
 762 West Lancaster Avenue  
 Bryn Mawr, PA 19010  
 Permit to Construct Issued January 13, 2020

**Permit No. 1519533**, Public Water Supply.  
 Applicant **Aqua Pennsylvania, Inc.**  
 762 West Lancaster Avenue  
 Bryn Mawr, PA 19010  
 Borough Phoenixville  
 County **Montgomery**  
 Type of Facility PWS  
 Consulting Engineer Aqua Pennsylvania, Inc.  
 762 West Lancaster Avenue  
 Bryn Mawr, PA 19010  
 Permit to Construct Issued January 13, 2020

**Operations Permit # 1518520** issued to: **Aqua Pennsylvania, Inc.**, 762 W. Lancaster Avenue, Bryn Mawr, PA 19010, **PWSID No. 1460073**, Tredyffrin Township, **Chester County** on January 14, 2020 for the operation of repainting of the interior of the 2,000,000 Diamond Rock Tank facilities approved under construction permit # 1518520.

**Operations Permit # 4618515** issued to: **PA American Water Company**, 800 West Hershey Park Drive, Hershey, PA 17033, **PWSID # 1460046**, Norristown Municipality, **Montgomery County** on January 14, 2020, for the operation repaint interior of Curran Terrace Tank of facilities approved under construction permit # 4618515.

**Operations Permit # 1519512** issued to: **Aqua Pennsylvania, Inc.**, 762 West Lancaster Avenue, Bryn Mawr, PA 19010, **PWSID # 1150035**, West Whiteland Township, **Chester County** on January 14, 2020 for the operation of removal of on-site sodium hypochlorite generation system and installation of three (3) 165-gallon sodium hypochlorite storage tanks and one (1) sodium hypochlorite feed pump at the Shoen Road Well Station facilities approved under construction permit # 1519512.

*Northeast Region: Watershed Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, 570-826-2511.*

*Contact: Melissa Seidler, Clerk Typist 2, 570-830-3048.*

**Permit No. 4019514MA**, Public Water Supply.  
 Applicant **Aqua Pennsylvania, Inc.**  
 (Sand Springs System)  
 1 Aqua Way  
 White Haven, PA 18661  
 [Borough or Township] Butler Township

County **Luzerne**  
 Type of Facility PWS  
 Consulting Engineer Daniel Hopkins, PE  
 Entech Engineering, Inc.  
 201 Penn Street  
 P.O. Box 32  
 Reading, PA 19601  
 Permit to Construct Issued December 26, 2019

**Permit No. 3390073**, PWS.  
 Applicant **Lehigh County Authority**  
 (WLSA Well Reserve Designation  
 & Emergency Interconnection)  
 P.O. Box 3348  
 Allentown, PA 18106-3348  
 Township or Borough Lower Macungie Township &  
 Upper Macungie Township  
**Lehigh County**  
 Responsible Official Andrew D. Moore  
 Lehigh County Authority  
 1053 Spruce Street  
 P.O. Box 3348  
 Allentown, PA 18106-3348  
 Type of Facility Public Water Supply  
 Operation Permit Issued November 18, 2019

**Permit No. 3540041**, Public Water Supply.  
 Applicant **Borough of Schuylkill Haven**  
 (Tumbling Run Water Treatment  
 System Well No. 1 Reserve  
 Designation)  
 333 Center Avenue  
 Schuylkill Haven, PA 17972  
 Borough or Township Schuylkill Haven Borough  
**Schuylkill County**  
 Responsible Official Kevin P. Butz  
 Borough of Schuylkill Haven  
 333 Center Avenue  
 Schuylkill Haven, PA 17972  
 Type of Facility PWS  
 Permit Issued Date January 8, 2020

**Permit No. 2660019**, Public Water Supply.  
 Applicant **Laceyville Water Company**  
 (Laceyville Water Company  
 Lower Well No. 1 Reserve  
 Designation)  
 342 Church Street  
 Laceyville, PA 18623  
 [Township or Borough] Laceyville Borough  
**Wyoming County**  
 Responsible Official Charles J. Butler  
 Laceyville Water Company  
 342 Church Street  
 Laceyville, PA 18623  
 Type of Facility PWS  
 Permit Issued Date 01/07/2020

**Permit No. 1319503, Construction Permit, Public Water Supply.**

Applicant **Blue Heron Homeowner's Association c/o Preferred Management**  
P.O. Box 687  
Moscow, PA 18444

Municipality Kidder Township

County **Carbon**

Type of Facility Public Water Supply

Consulting Engineer Russell D. Scott, IV, P.E.  
RKR Hess  
112 North Courtland Street  
P.O. Box 268  
East Stroudsburg, PA 18301

Permit to Construct Issued December 20, 2019

Description of Action Installation of a treatment system for corrosion control utilizing an ortho-polyphosphate blend and chemical feed system to abate elevated levels of Lead.

**Permit No. 5219501, Construction Permit, Public Water Supply.**

Applicant **Aqua Pennsylvania, Inc.**  
1775 North Main Street  
Honesdale, PA 18431

Municipality Palmyra Township

County **Pike**

Type of Facility Public Water Supply

Consulting Engineer Daniel Hopkins, P.E.  
Entech Engineering, Inc.  
201 Penn Street  
Suite 3  
P.O. Box 32  
Reading, PA 19601

Permit to Construct Issued December 18, 2019

Description of Action Replacement of the existing Woodmont Water System well house with a new above ground well house.

**Permit No. 6619503, Public Water Supply.**

Applicant **Tunkhannock Hospital Company, LLC**  
(Tyler Memorial Hospital)  
5950 S.R. 6  
Tunkhannock, PA 18657

Municipality Tunkhannock Township

County **Wyoming**

Type of Facility Public Water Supply

Consulting Engineer Francis Mark Voyack, P.E.  
Quad Three Group, Inc.  
37 N. Washington Street  
Wilkes-Barre, PA 18701

Permit to Construct Issued January 8, 2020

**Permit No. 2520811, Operation Permit, Public Water Supply.**

Applicant **Lake Adventure Community Association**  
105 Office Way North  
Milford, PA 18337

Municipality Dingman Township

County **Pike**

Type of Facility Public Water Supply

Consulting Engineer Russell D. Scott IV, P.E.  
RKR Hess, A Division of UTRS, Inc.  
112 North Courtland Street  
East Stroudsburg, PA 18301

Permit to Operate Issued January 15, 2020

**Permit No. 4019509, Public Water Supply.**

Applicant **Lakewood Senior Living—Drums, LLC**  
(Fritzing Senior Living Community # 1)  
159 Old Turnpike Road  
Drums, PA 18222

Municipality Butler Township

County **Luzerne**

Type of Facility Public Water Supply

Consulting Engineer Francis Mark Voyack, P.E.  
Quad Three Group, Inc.  
37 N. Washington Street  
Wilkes-Barre, PA 18701

Permit to Construct Issued January 16, 2020

**Permit No. 3390018, Transfer of Operation Permit, Public Water Supply.**

Applicant **Laury MHC, LLC Riverview Estates MHP**  
(formerly Keystone Mobile Homes, Inc.)  
8800 N. Bronx Ave.  
2nd Floor  
Skokie, IL 60077

Municipality North Whitehall Township

County **Lehigh**

Type of Facility Public Water Supply

Consulting Engineer N/A

Permit to Operate Issued January 17, 2020

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

**Permit No. 2819510, Public Water Supply.**

Applicant **Chaparral Tavern**

Municipality Quincy Township

County **Franklin**

Responsible Official Edwin Stine, Owner  
6878 Anthony Highway  
Waynesboro, PA 17268



Type of Facility Installation of nitrate treatment, softening, and sodium hypochlorite.

Consulting Engineer Randolph S. Bailey, P.E.  
Wm. F. Hill & Assoc., Inc.  
207 Baltimore Street  
Gettysburg, PA 17325

Permit to Construct Issued 1/10/2020

**Permit No. 2819511 MA**, Public Water Supply.

Applicant **Krishna Ventures LLC**

Municipality Antrim Township

County **Franklin**

Responsible Official Paresh Kothari, Owner  
50 Pine Drive  
Greencastle, PA 17225

Type of Facility Modifications to the Harmsco HIF-16 filtration system.

Consulting Engineer Randolph S. Bailey, P.E.  
Wm. F. Hill & Assoc., Inc.  
207 Baltimore Street  
Gettysburg, PA 17325

Permit to Construct Issued 1/9/2020

**Permit No. 6719516**, Public Water Supply.

Applicant **Suez Water Pennsylvania, Inc.**

Municipality Newberry Township

County **York**

Responsible Official John D. Hollenbach  
General Manager  
4211 East Park Circle  
Harrisburg, PA 17111-0151

Type of Facility This permit is to upgrade the previously approved granular activated carbon (GAC) units to provide treatment for Perfluorooctanoic Acid (PFOA) and Perfluorooctanesulfonic acid (PFOS) at SUEZ Newberry's existing Conley & DuPont Pumphouses (EP 101 & 102) to permanent facilities.

Consulting Engineer Jamie R. Shambaugh, P.E.  
Gannett Fleming, Inc.  
P.O. Box 67100  
Harrisburg, PA 17106-7100

Permit to Construct Issued 1/10/2020

**Operation Permit No. 2119517 MA** issued to: **SUEZ Water Pennsylvania, Inc. (PWS ID No. 7210028)**, Mechanicsburg Borough, **Cumberland County** on December 13, 2019 for facilities approved under Construction Permit No. 2119517 MA.

**Rescission of Operation Permit No. 3605501 & 3609525 MA** issued to: **Stoltzfus Meats, Inc. (PWS ID**

**No. 7360053)**, Leacock Township, **Lancaster County** on January 10, 2020. Action is for the entire rescission of facilities approved under Operation Permit No. 3605501 & 3609525 MA.

**Operation Permit No. 3619523 MA** issued to: **Manheim Area Water and Sewer Authority (PWS ID No. 7360078)**, Manheim Borough, **Lancaster County** on December 13, 2019 for facilities approved under Construction Permit No. 3619523 MA.

**Operation Permit No. 3819502** issued to: **Myerstown Water Authority (PWS ID No. 7380025)**, Jackson Township, **Lebanon County** on December 12, 2019 for facilities submitted under Application No. 3819502.

*Northcentral Region: Safe Drinking Water Program Manager, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448.*

**Permit No. 1772502-T4-A1 & 1795507-T2-A1—Operation—Public Water Supply.**

Applicant **Aqua Pennsylvania, Inc.—Treasure Lake**

Township/Borough Sandy Township

County **Clearfield County**

Responsible Official Mr. Zach Martin  
Aqua Pennsylvania, Inc.  
644 North Water Avenue  
Sharon, PA 16146

Type of Facility Public Water Supply—Operation

Consulting Engineer N/A

Permit Issued January 16, 2020

Description of Action Designate Well No. N-4 with associated Entry Point No. 102, as a reserve source. Permit No. 1795507-T2-A1 designates Well No. N-32, with associated Entry Point No. 106, as a reserve source.

**Permit No. 4919503MA—Operation—Public Water Supply.**

Applicant **PA American Water Company—Milton—White Deer**

Township/Borough Milton Borough

County **Northumberland County**

Responsible Official Mr. David R. Kaufman, P.E.  
Pennsylvania-American Water Company  
852 Wesley Drive  
Mechanicsburg, PA 17055

Type of Facility Public Water Supply—Operation

Consulting Engineer Mr. Ewoud Hulstein, P.E.  
Pennsylvania-American Water Company  
852 Wesley Drive  
Mechanicsburg, PA 17055

Permit Issued January 15, 2020

Description of Action Authorizes operation of a bulk-water lading station at 105 Sodom Road, Milton, PA (Latitude 40.992484 and Longitude -76.854858) at the Pennsylvania-American Water Milton Operations Center in Milton Borough to provide water for potable/non-potable uses from which authorized customers may withdraw a maximum of 144,000 gallons per day.

**Permit No. 5919501MA—Operation—Public Water Supply.**

Applicant **Wellsboro Municipal Authority**

Township/Borough Delmar Borough

County **Tioga County**

Responsible Official Mr. James R. Bodine  
Wellsboro Municipal Authority  
14 Crafton Street  
Wellsboro, PA 16901

Type of Facility Public Water Supply—Operation

Consulting Engineer Mr. Scott Bray, P.E.  
373 W. Branch Road  
Wellsboro, PA 16901

Permit Issued January 21, 2020

Description of Action Authorizes operation of a bulk-water lading station (WIP) at the Wellsboro Industrial Park in Delmar Township (Latitude 41° 47' 40.4", Longitude -77° 18' 12") to provide water for potable/non-potable uses from which authorized customers may withdraw a maximum of 432,000 gallons per day.

**Permit No. 1718502MA—Operation—Public Water Supply.**

Applicant **Covington-Karthus-Girard Area Authority**

Township/Borough Covington Township

County **Clearfield County**

Responsible Official Mr. Stanley Hugney  
Vice-Chairman  
Covington-Karthus-Girard Area Authority  
777 Frenchville Road  
P.O. Box 104  
Frenchville, PA 16836

Type of Facility Public Water Supply—Operation

Consulting Engineer Mr. Zachary J. Teeter  
The EADS Group, Inc.  
227 Franklin Street  
Suite 300  
Johnstown, PA 15901

Permit Issued January 17, 2020

Description of Action Authorizes Covington-Karthus-Girard Area Authority to use a 2.5% solution of NSF Standard 60 certified sodium hypochlorite for disinfection.

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

**Permit No. 0419511MA, Minor Amendment.** Public Water Supply.

Applicant **Beaver Borough Municipal Authority**  
469 Third Street  
Beaver, PA 15009

Borough or Township Beaver Borough

County **Beaver**

Type of Facility Chlorination system at the water treatment plant

Consulting Engineer Martone Engineering & Surveying, LLC  
259 College Avenue  
Beaver, PA 15009

Permit Issued January 8, 2020

**Operations Permit** issued to: **Municipal Authority of Westmoreland County**, 124 Park & Pool Road, New Stanton, PA 15672, **PWSID No. 5020025**, White Oak Borough, **Allegheny County** on January 7, 2020 for the operation of facilities approved under permit # 0219506 for the chemical feed system at the White Oak water storage tank site.

**Operations Permit** issued to: **Municipal Authority of Westmoreland County**, 124 Park & Pool Road, New Stanton, PA 15672, **PWSID No. 5650032**, Conemaugh Township, **Indiana County** on January 6, 2020 for the operation of facilities approved under permit # 6519505 for the chemical feed system at the Saltsburg water storage tank site.

**Operations Permit** issued to: **Municipal Authority of Westmoreland County**, 124 Park & Pool Road, New Stanton, PA 15672, **PWSID No. 5650032**, North Huntingdon Township, **Westmoreland County** on January 8, 2020 for the operation of facilities approved under permit # 6519506 for the chemical feed system at the Mockingbird water storage tank site.

**Operations Permit** issued to: **Borough of Sewickley Water Authority**, 601 Thorn Street, Sewickley, PA 15143, **PWSID No. 5020050**, Sewickley Heights Borough, **Allegheny County** on January 8, 2020 for the operation of facilities approved under permit # 0218522MA for the rehabilitation of Wells No. 1 & 2.

**Operations Permit** issued to: **Pittsburgh Water & Sewer Authority**, 1200 Penn Avenue, Pittsburgh, PA 15222, **PWSID No. 5020038**, City of Pittsburgh, **Allegheny County** on January 3, 2020 for the operation of facilities approved under permit # 0219530 for the South Cell of the Herron Hill Reservoir.

**Operations Permit** issued to: **Municipal Authority of the City of New Kensington**, 920 Barnes Street, New Kensington, PA 15068, **PWSID No. 5650070**, City of Lower Burrell, **Westmoreland County** on January 8, 2020 for the operation of facilities approved under permit # 6519504 for a mixing system in the Braeburn water storage tank.

**Operations Permit** issued to: **Oakmont Water Authority**, 721 Allegheny Avenue, P.O. Box 73, Oakmont, PA 15139, **PWSID No. 5020036**, Penn Hills Township, **Allegheny County** on January 8, 2020 for the operation of facilities approved under permit # 0205501-EI1 for the emergency designation of the Althea interconnection with the Wilkinsburg Penn Joint Water Authority.

**Operations Permit** issued to: **West View Water Authority**, 210 Perry Highway, Pittsburgh, PA 15229, **PWSID No. 5020043**, Marshall Township, **Allegheny County** and Sewickley Township; Baden and Economy Boroughs, **Beaver County** on January 3, 2020 for the operation of facilities approved under permit # 0414504-A1 for the Beaver County Water Treatment Plant.

*Northwest Region: Safe Drinking Water Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.*

**Permit No. 3218513**, Public Water Supply.

Applicant	<b>Indiana County Municipal Services Authority</b>
Township or Borough	Washington Township
County	<b>Indiana</b>
Type of Facility	Public Water Supply
Consulting Engineer	Peter Buss Gibson Thomas Engineering 1004 Ligonier Street P.O. Box 853 Latrobe, PA 15650
Permit to Construct Issued	January 16, 2020

#### WATER ALLOCATIONS

**Actions taken on applications received under the Act of June 24, 1939 (P.L. 842, No. 365) (35 P.S. §§ 631—641) relating to the Acquisition of Rights to Divert Waters of the Commonwealth.**

*Northcentral Region: Water Supply Management Program Manager, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448.*

**WA 17-106B, Water Allocations. Houtzdale Borough**, 561 Kirk Street, Houtzdale, PA 16651, Houtzdale Borough, **Clearfield County**. This Modification Order is being issued to extend the deadline to develop stage-discharge relations, install, and begin monitoring and recording of stream flows at the Upper Mountain Branch Intake and the Lower Mountain Branch Intake. The Modification Order reflects the change from 18 months from permit issuance to January 1, 2021 in Conditions 3 & 4.

### 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 AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

*Southeast Region: Environmental Cleanup & Brownfields Program Manager, 2 East Main Street, Norristown, PA 19401.*

**The Milk Depot LLC**, 1327-1333 North Marston Street, City of Philadelphia, **Philadelphia County**. John C. Lyzdzinski, PG, RT Environmental Services, Inc., 215 West Church Road, King of Prussia, PA 19406-3207 on behalf of David Ross, The Milk Depot, LLC, 3001 West Girard Avenue, Unit 1F, Philadelphia, PA 19130 has submitted a Final Report concerning remediation of site soil contaminated with No. 2 fuel oil. The report is intended to document remediation of the site to meet the Statewide Health Standard.

**Kim Residence**, 2121 Springhouse Road, Marple Township, **Delaware County**. John Filoon, REPSG, Inc., 6901 Kingsessing Avenue, 2nd Floor, Philadelphia, PA 19142 on behalf of David Fentress, HEPACO, 6901 Kingsessing Avenue, Philadelphia, PA 19142 submitted a Final Report concerning remediation of site soil contaminated with No. 2 fuel oil. The report is intended to document remediation of the site to meet the Statewide Health Standard.

**Brooks Instruments**, 407 East Vine Street, Hatfield Township, **Montgomery County**. Lisa Kelly, WSP USA, Inc., 250 West 34th Street, One Penn Plaza, New York, NY 10119 on behalf of Stephen L. Clarke, Emerson Electric Company, 8000 West Florissant Avenue, St. Louis, MO 63136 submitted a Remedial Investigation Report concerning remediation of site soil and groundwater contaminated with chlorinated solvents. The report is intended to document remediation of the site to meet the Site-Specific Standard.



**225 Lincoln Highway**, 225 Lincoln Highway, Falls Township, **Bucks County**. J. Matthew Brainard, Brightfields Inc., 801 Industrial Street, Wilmington, DE 19801 on behalf of Bill Koelewyn, 225 Lincoln Properties, LP, 225 Highway, Suite 150, Fairless Hill, PA 19030 submitted a Risk Assessment Report concerning remediation of site soil and groundwater contaminated with VOCs. The report is intended to document remediation of the site to meet the Site-Specific Standard.

**1860 Montgomery Avenue**, 1806 Montgomery Avenue, Lower Merion Township, **Montgomery County**. Mark T. Smith, PG, Element Environmental Solutions, Inc., P.O. Box 921, 61 Willow Street, Adamstown, PA 19500 on behalf of Gay Musial, Lower Merion School District, 301 East Montgomery Avenue, Ardmore, PA 19003 submitted a Final Report concerning remediation of site soil contaminated with heating oil constituents. The report is intended to document remediation of the site to meet the Statewide Health Standard.

**Philadelphia Naval Business Center**, 300 Rouse Boulevard, City of Philadelphia, **Philadelphia County**. Michael C. Nines, PE, Leed AP, Manko, Gold, Katcher & Fox, 401 City Avenue, Suite 901, Bala Cynwyd, PA 19004 submitted a Baseline Environmental Report concerning remediation of site soil contaminated with lead. The report is intended to document remediation of the site to meet the Special Industrial Area.

**PECO Norristown MGP Site**, 358 East Washington Street, Borough of Norristown, **Montgomery County**. Michael S. Welsh, PE, Welsh Environmental Inc., 131 Clearview Drive, Downingtown, PA 19335 on behalf of Kimberly Huntley, T. Lowe Enterprise, GP, LLC, P.O. Box 645, Southeastern, PA 19399 submitted a Remedial Investigation Report concerning remediation of site soil and groundwater contaminated with polyaromatic hydrocarbons. The report is intended to document remediation of the site to meet the Site-Specific Standard.

**Langford Square**, 315 Langford Road, Marple Township, **Delaware County**. Paul White, PG, Brickhouse Environmental, 515 South Franklin Street, West Chester, PA 19382 on behalf of Vincent Antonini, G. Antonini Real Estate Inc., 3605 Winding Way, Newtown Square, PA 19073 submitted a Remedial Investigation Report/Cleanup Plan concerning remediation of site soil and groundwater contaminated with VOCs, SVOCs and metals. The report is intended to document remediation of the site to meet the Site-Specific Standard.

**311 South Broad Street**, 311 South Broad Street, City of Philadelphia, **Philadelphia County**. Jennifer Poole, PG, Pennoni, 1900 Market Street, Suite 300, Philadelphia, PA 19103 on behalf of Mark Forman, Broad and Spruce Associates, 311-313 South Broad Street, Philadelphia, PA 19103 submitted a Final Report concerning remediation of site soil contaminated with No. 2 fuel oil. The report is intended to document remediation of the site to meet the Statewide Health Standard.

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

**Mirabelli Well Pad**, 43 Rails Road, Washington Township, **Wyoming County**. Woodard & Curran, 300 Penn Center Boulevard, Suite 800, Pittsburgh, PA 15235 on behalf of BKV Operating LLC, 5385 State Route 6, Tunkhannock, PA 18657, submitted a Final Report concerning remediation of soil contaminated by a release of flowback/production fluid (brine). The report is

intended to document remediation of the site to meet a combination of Background and Statewide Health Standards.

**Ruland Property**, 436 West South Street, Slatington Borough, **Lehigh County**. JMT Industrial & Environmental Contracting Services, 710 Uhler Road, Easton, PA 18040, on behalf of Kim Ruland, 436 West South Street, Slatington, PA 18080, submitted a final report concerning remediation of soil contaminated by a release of heating oil from a leaking furnace check valve. The report is intended to document remediation of the site to meet Statewide Health Standards.

**Kozicky Property**, 462 Main Street, Bethlehem City, **Northampton County**. Boucher & James, 559 Main Street, Bethlehem, PA 18018, on behalf of Christmas City Hotel LLC, 462 Main Street, Bethlehem, PA 18018, submitted a final report concerning remediation of soil contaminated by a release of heating oil from an underground storage tank. The report is intended to document remediation of the site to meet Statewide Health Standards.

*Southcentral Region: Environmental Cleanup and Brownfields Program Manager, Benjamin Stone-Thonus, 717-705-4705, 909 Elmerton Avenue, Harrisburg, PA 17110.*

**Susquehanna Rental Properties, LLC, Dallastown Site**, 400 East Locust Street, Dallastown, PA 17313, Dallastown Borough and York Township, **York County**. POWER Engineers, Inc., 1410 East Market Street, York, PA 17403, on behalf of Susquehanna Rental Properties, LLC, 421 West Market Street, Marietta, PA 17547, submitted a Remedial Investigation Report, Cleanup Plan, and Final Report concerning remediation of site soil historically contaminated with lead. The combined Final Report is intended to document remediation of the site to meet the Site-Specific Standard.

**Former Exxon Mobil Oil Company-Mt. Union Terminal # 37-058**, 15534 Croghan Pike (SR 522), Mt. Union, PA 17260, Shirley Township, **Huntingdon County**. Kleinfelder, 1745 Dorsey Road, Ste J, Hanover, MD 21076, on behalf of ExxonMobil Environmental & Property Solutions Company, 38 Varick Street, Brooklyn, NY 11222, submitted a Report concerning remediation of site soil and groundwater contaminated with No. 2 fuel oil. The report is intended to document remediation of the site to meet the Residential Statewide Health Standard.

**Lucknow-Highspire Terminals**, 930 South Eisenhower Boulevard, Middletown, PA 17057, Lower Swatara Township, **Dauphin County**. Piedmont Geologic, P.C., 6003-145 Chapel Hill Road, Raleigh, NC 27607, on behalf of Lucknow-Highspire Terminals, 900 South Eisenhower Boulevard, Middletown, PA 17057, submitted a Final Report concerning remediation of site soil contaminated with unleaded gasoline. The report is intended to document remediation of the site to meet the Residential Statewide Health Standard.

*Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA 17701, Telephone number: 570-237-3636.*

*Contact: Lisa Hensel, Clerk Typist II, 570-327-3653.*

**Hughes 02-204 Well Site**, 231 Lower Arnot Road, Liberty Township, **Tioga County**. Resource Environmental Management, Inc., 50 Maple Street, Montrose, PA 18801, on behalf of Repsol Oil & Gas USA, LLC, 337 Daniel Zenker Drive, Horseheads, NY 14845, has submitted a Site Characterization and Final report

concerning site soil contaminated with produced water. The Report is intended to document remediation of the site to meet the Residential Statewide Health Standard.

*Northwest Region: Environmental Cleanup & Brownfields Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.*

**Correction, Sheetz Store No. 613**, 2 Bolivar Drive, Foster Township, **McKean County**. United Environmental Services, Inc., P.O. Box 701, Schuylkill Haven, PA 17972, on behalf of MBC Properties, LP, 950 East Main Street, Schuylkill Haven, PA 17972, submitted a Final Report concerning the remediation of site soil and site groundwater contaminated with Benzene, Toluene, Ethylbenzene, Cumene, Methyl Tertiary-Butyl Ether, Naphthalene, 1,2,4-Trimethylbenzene, 1,3,5-Trimethylbenzene, 1,2-Dibromoethane, 1,2-Dichloroethane, and Lead. The report is intended to document remediation of the site to meet the Site-Specific Standard.

**Barton Residence**, 36057 Maple Drive, Bloomfield Township, **Crawford County**. Mountain Research, LLC, 825 25th Street, Altoona, PA 16601, on behalf of Tom and Rosemary Barton, 124 Oak Lane, Mars, PA 16046, submitted a Final Report concerning the remediation of site soil contaminated with Benzene, Toluene, Ethylbenzene, Cumene, Methyl Tert Butyl Ether, Naphthalene, 1,2,4-Trimethylbenzene, and 1,3,5-Trimethylbenzene. The report is intended to document remediation of the site to meet the Statewide Health Standard.

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

### UNDER ACT 2, 1995 PREAMBLE 3

**The Department has taken action on the following plans and reports under the Land Recycling and Environmental Remediation Standards Act (35 P.S. §§ 6026.101—6026.907).**

Section 250.8 of 25 Pa. Code and administration of the Land Recycling and Environmental Remediation Standards Act (act) require the Department to publish in the *Pennsylvania Bulletin* a notice of its final actions on plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the remediation standards of the act. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis of selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected. Plans and reports required by the act for compliance with selection of remediation to a site-specific standard, in addition to a final report, include a remedial investigation report, risk assessment report and cleanup plan. A remedial investigation report includes conclusions from the site investigation; concentration of regulated substances in environmental media; benefits of reuse of the property; and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements. A work plan for conducting a baseline

remedial investigation is required by the act for compliance with selection of a special industrial area remediation. The baseline remedial investigation, based on the work plan, is compiled into the baseline environmental report to establish a reference point to show existing contamination, describe proposed remediation to be done and include a description of existing or potential public benefits of the use or reuse of the property. The Department may approve or disapprove plans and reports submitted. This notice provides the Department's decision and, if relevant, the basis for disapproval.

For further information concerning the plans and reports, contact the environmental cleanup program manager in the Department Regional Office under which the notice of the plan or report appears. If information concerning a final report is required in an alternative form, contact the community relations coordinator at the appropriate regional office. TDD users may telephone the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

*Southeast Region: Environmental Cleanup Program Manager, 2 East Main Street, Norristown, PA 19401.*

**Constitution Square, LLC**, 108 East Walnut Street, Perkaskie Borough, **Bucks County**. Sean M. Damon, PG, Langan Engineering and Environmental Services Inc., P.O. Box 1569, Doylestown, PA 18901 on behalf of James W. Moulton, Constitution Square, LLC, 402 Swedesford Road, North Wales, PA 19454 submitted a Remedial Investigation Report/Cleanup Plan/Risk Assessment Report concerning the remediation of site groundwater and soil contaminated with inorganics. The Report was approved by the Department on January 10, 2020.

**Emmanuel CSI Church**, 325 Brownsville Road, Bensalem Township, **Bucks County**. Matthew Abraham, West Chester Environmental LLC, 1248 Wrights Lane, West Chester, PA 19380 on behalf of Koshy Veghese, Emmanuel CSI Church, 3325 Brownsville Road, Feasterville-Trevoze, PA 19053 submitted a Final Report concerning the remediation of site soil contaminated with No. 2 fuel oil. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on January 10, 2020.

**880 Downingtown Pike**, 880 Downingtown Pike, East Bradford Township **Chester County**. Stephen Huxta, PG, Brickhouse Environmental, 515 South Franklin Street, West Chester, PA 19382 on behalf of Linda Christensen, Estate of William E. Aberts, 304 Deanhurst Avenue, Camp Hill, PA 17011 submitted a Final Report concerning the remediation of site soil and groundwater contaminated with No. 2 fuel oil. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on January 2, 2020.

**Sunoco Darby Creek Tank Farm**, Calcon Hook Road, Darby Borough, **Delaware County**. Michael V. Malone, PG, Stantec Consulting Services, Inc., 1060 Andrew Drive, Suite 140, West Chester, PA 19380-5602 on behalf of Fiona Livingston, Philadelphia Refinery Operations, a series of Evergreen Resources Group, LLC, 2 Righter Parkway, Suite 120, Wilmington, DE 19803 submitted a Risk Assessment Report/Final Report concerning the remediation of site groundwater contaminated with PAHs, inorganics, arsenic and crude oil. The Final Report demonstrated attainment of the site-specific standard and was approved by the Department on January 8, 2020.



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

**Penn Foster, Inc. (former ICS Intext)**, 925 Oak Street, Scranton City, **Lackawanna County**. Terraphase Engineering, 1100 East Hector Street, Suite 416, Conshohocken, PA 19428, on behalf of Penn Foster, Inc., 925 Oak Street, Scranton, PA 18515, submitted a Final Report concerning remediation of soil and groundwater contamination caused by a release of number 4 fuel oil from an underground storage tank. The report documented remediation of the site to meet a combination of Site-Specific and Statewide Health Standards and was approved by DEP on January 15, 2020.

*Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA 17701, Telephone number: 570-237-3636.*

*Contact: Lisa Hensel, Clerk Typist II, 570-327-3653.*

**Streamline Express, Inc. Project**, Liberty Township, **Montour County**. Northridge Group, Inc., P.O. Box 231, Northumberland, PA 17857, on behalf of Streamline Express, Inc., 6435 South Quincy Street, Willowbrook, IL 60527, has submitted a Final Report concerning site soil contaminated with diesel fuel, motor oil, antifreeze and transmission fluid. The report demonstrated attainment of the Statewide Health Standard and was approved by the Department on January 15, 2020.

**TI 46 Bliss Unconventional Well Pad**, Liberty Township, **Tioga County**. Moody and Associates, Inc., 11548 Cotton Road, Suite 101, Meadville, PA 16335, on behalf of SWN Production Company, LLC, 10000 Energy Drive, Spring, TX 77389-4954 has submitted a Site Characterization and Final Report concerning the remediation of site soils and groundwater contaminated with rig wash solution. The report demonstrated attainment of the Background and Statewide Health Standards and was approved by the Department on January 10, 2020.

*Northwest Region: Environmental Cleanup & Brownfields Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.*

**Valu Plaza**, 11501—1507, 1511, 1513, 1523 West 38th Street, City of Erie, **Erie County**. Environmental Remediation & Recovery, Inc., 4250 Route 6N, Edinboro, PA 16412, on behalf of Park Plaza Partnership, 2540 Village Common Drive, Erie, PA 16506, submitted a Remedial Investigation Report/Cleanup Plan/Risk Assessment Report concerning the remediation of site soil contaminated with Tetrachloroethene, Trichloroethene, cis-1, 2-Dichloroethene, Benzene, Toluene, Acetone, 2-Butanone and site groundwater contaminated with Tetrachloroethene, Trichloroethene, cis-1, 2-Dichloroethene, trans-1, 2-Dichloroethene, Vinyl Chloride, Methylene Chloride, 1, 2-Dichloroethane, Bromodichloromethane, Chloroform, Methylcyclohexane, and Acetone. The Plan/Report was disapproved by the Department on January 10, 2020.

**NWREC Mineral Oil Release (12330 Duncan Road)**, 12330 Duncan Road, Oil Creek Township, **Crawford County**. Environmental Remediation & Recovery, Inc., 4250 Route 6N, Edinboro, PA 16412, on behalf of Northwestern Rural Electric Company, 22534 Highway 86, Cambridge Springs, PA 16403, submitted a Final Report concerning the remediation of site soil contaminated with 1,2,4-Trimethylbenzene, 1,3,5-Trimethylbenzene, Polychlorinated biphenyls-1016, Polychlorinated biphenyls-1221, Polychlorinated biphenyls-1232, Polychlorinated biphenyls-1242, Polychlorinated

biphenyls-1248, Polychlorinated biphenyls-1254, and Polychlorinated biphenyls-1260. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on January 17, 2020.

#### HAZARDOUS WASTE TRANSPORTER LICENSE

**Actions on applications for Hazardous Waste Transporter License received under the Solid Waste Management Act of July 7, 1980 (P.L. 380, No. 97) (35 P.S. §§ 6018.101—6018.1003) and regulations to transport hazardous waste.**

*Central Office: Bureau of Land Recycling and Waste Management, Division of Hazardous Waste Management, P.O. Box 69170, Harrisburg, PA 17106-9170.*

*Renewal Applications Received*

**Frank's Vacuum Truck Service, Inc.**, 1717 New Rd., Niagara Falls, NY 14304. License No. PA-AH 0331. Effective Jan 15, 2020.

*Transporter Licenses Reissued*

**Frank's Vacuum Truck Service, Inc.**, 1717 New Rd., Niagara Falls, NY 14304. License No. PA-AH 0331. Effective Jan 15, 2020.

#### REGULATED MEDICAL AND CHEMOTHERAPEUTIC WASTE TRANSPORTER LICENSES

**Actions on applications for Regulated Medical and Chemotherapeutic Waste Transporter License received under the Solid Waste Management Act of July 7, 1980 (P.L. 380, No. 97) (35 P.S. §§ 6018.101—6018.1003) and Act 93 of June 28, 1988 (P.L. 525, No. 93) and regulations to transport regulated medical and chemotherapeutic waste.**

*Central Office: Bureau of Land Recycling and Waste Management, Division of Hazardous Waste Management, P.O. Box 69170, Harrisburg, PA 17106-9170.*

*Transporter License Voluntarily Terminated*

**Cole Care, Inc.**, 1001 East Second Street, Coudersport, PA 16915. License No. PA-HC 0178. Effective 1/10/2020.

#### RESIDUAL WASTE GENERAL PERMITS

**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 Residual Waste Regulations for a General Permit to Operate Residual Waste Processing Facilities and the Beneficial Use of Residual Waste other than Coal Ash.**

*Northwest Region: Regional Solid Waste Manager, 230 Chestnut Street, Meadville, PA 16335-3481.*

**General Permit Application No. WMGR025NWR03, Conservation Compost, Inc.**, 16732 State Rt. 198, Saegertown, PA 16433, **Crawford County**. On January 15, 2020 Conservation Compost, Inc. was issued coverage under General Permit WMGR025 for the beneficial use of the finished compost of various source separated waste for use, marketing or distribution as a soil conditioner, soil amendment, fertilizer, mulch or for erosion control.



The registration application for coverage under this general permit was received on August 8, 2019.

**OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE**

**Permit Issued Under the Solid Waste Management Act, 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.**

*Northwest Region: Regional Solid Waste Manager, 230 Chestnut Street, Meadville, PA 16335-3481.*

**Permit Application No. 301353. Covanta Environmental Solutions, LLC (Covanta), 101 River Park Drive, New Castle, PA 16101; New Castle; Lawrence County.** A permit renewal was issued to Covanta on January 14, 2020. Covanta is an existing residual waste processing facility primarily utilized for volume reduction by pressure filtration in conjunction with chemical separation. Wastewater from this facility discharges into the New Castle Sanitation Authority sewer system. The discharge is approximately 40—50 million gallons per year. Solids from the facility are then transported to a permitted landfill for disposal. The terms and conditions of the permit renewal remain the same as the previous permit. The renewal simply provides for another ten years of operations. The permit renewal application was received for this facility on June 13, 2019.

**AIR QUALITY**

**General Plan Approval and Operating Permit Usage Authorized under the Air Pollution Control Act (35 P.S. §§ 4001—4015) and 25 Pa. Code Chapter 127 to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.**

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

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

**GP4-36-03196: Ingham's Powder Coating (22 Industrial Way, Denver, PA 17517)** on January 8, 2020, for an existing burn-off oven, under GP4, at the facility located in Denver Borough, **Lancaster County**. The general authorization was renewed.

**Plan Approvals Issued under the Air Pollution Control Act (35 P.S. §§ 4001—4015) and regulations in 25 Pa. Code Chapter 127, Subchapter B relating to construction, modification and reactivation of air contamination sources and associated air cleaning devices.**

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

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

**36-05014J: Alumax Mill Products, Inc. (1480 Manheim Pike, Lancaster, PA 17604-3167),** on January 15, 2020, for the replacement of the burners in two melting furnaces at the secondary aluminum production facility in Manheim Township, **Lancaster County**.

Specifically, the project is for the replacement of the current burners in melting furnaces No. 7 & 8 (Source IDs 137 & 139) with new 40 MMBtu/hr natural gas fired regenerative burners. The actual melt rate of each furnace is expected to increase from 22,500 pounds per hour to 32,000 pounds per hour. Along with the increase in melt production, actual material throughputs of Source IDs C01C, C01D and 107 are also expected to increase, although no physical modification will take place to the emission units. The capacities of downstream operations (i.e. rolling operations) will not increase due to the project since the increased ingot production will replace ingot that has been historically purchased.

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

*Contact: David Balog, New Source Review Chief—Telephone: 814-332-6940.*

**10-037I: Sonneborn LLC (100 Sonneborn Lane, Petrolia, PA 16050),** on September 17, 2019 issued a Plan Approval for RACT II and Title V corrections purposes in Fairview Township, **Butler County**. This is a Title V facility.

**25-954A: National Fuel Gas Supply Corporation, Summit Station (520 Robison Road West, Erie, PA 16509),** on January 6, 2020 issued a Plan Approval for installation and initial operation of a replacement flare control device in Summit Township, **Erie County**. This is a State Only facility.

**Plan Approval Revisions Issued including Extensions, Minor Modifications and Transfers of Ownership under the Air Pollution Control Act (35 P.S. §§ 4001—4015) and 25 Pa. Code §§ 127.13, 127.13a and 127.32.**

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

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

**08-00017A: Northern Tier Solid Waste Authority (P.O. Box 10, Burlington, PA 18814-0010)** on January 3, 2020, to extend the authorization to operate up to 23 acres of lined waste disposal area known as the Western Expansion at the company's Bradford County Landfill located in West Burlington Township, **Bradford County**. The plan approval has been extended.

**55-00001E: Panda Hummel Station LLC (5001 Spring Valley Road, Suite 1150 West, Dallas, TX 75244)** on December 6, 2019, to extend the authorization an additional 180 days to June 4, 2020 in order to continue the compliance demonstration evaluation and permit operation pending issuance of an operating permit for the facility. This facility is located in Shamokin Dam Borough, **Snyder County**.

**55-00001G: Panda Hummel Station LLC (5001 Spring Valley Road, Suite 1150 West, Dallas, TX 75244)** on December 6, 2019, to extend the authorization an additional 180 days to June 4, 2020 in order to continue the compliance demonstration evaluation and permit operation pending issuance of an operating permit for the facility. This facility is located in Shamokin Dam Borough, **Snyder County**.

**18-00030C: First Quality Tissue, LLC (904 Woods Avenue, Lock Haven, PA 17745)** on January 13, 2020, to extend the authorization to construct a paper towel and tissue manufacturing operation at their facility located in

Castanea Township, **Clinton County** to July 12, 2020. The plan approval has been extended.

**18-00030D: First Quality Tissue, LLC** (904 Woods Avenue, Lock Haven, PA 17745) on January 13, 2020, to extend the authorization to construct a paper towel and tissue manufacturing operation at their facility located in Castanea Township, **Clinton County** to July 12, 2020. The plan approval has been extended.

**60-00019A: Playworld Systems, Inc.** (1000 Buffalo Road, Lewisburg, PA 17837) on January 13, 2020, to extend the plan approval expiration date to July 27, 2020 to allow continued operation of a fluidized bed cleaning system at their Lewisburg Plant located in Buffalo Township, **Union County**.

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

*Contact: Edward Orris, New Source Review Chief—Telephone: 412-442-4174.*

**30-00235A: APV Renaissance Partners Opco, LLC** (232 Chestnut Avenue, Bernardsville, NJ 07924-1704) on January 14, 2020, to extend the construction period for an additional 18 months, expiring on July 19, 2021, for the proposed Renaissance Energy Center natural gas-fired combined cycle power plant to be located in Monongahela Township, **Greene County**. The plan approval expiration remains July 19, 2021.

**04-00704B: Buckeye Pipeline Company LP** (469 Moon Clinton Road, Coraopolis, PA 15108-3833) plan approval extension issuance January 17, 2020, to complete construction and to obtain FERC approval to allow bi-directional flow from Pittsburgh to Atlanta prior to this facility going online for their Midland Breakout Station/Midland Terminal located in Midland and Industry Borough, **Beaver County**.

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

*Contact: David Balog, New Source Review Chief—Telephone: 814-332-6940.*

**10-028K: Armstrong Cement and Supply** (100 Clearfield Road, Cabot, PA 16023) on January 14, 2020, effective January 14, 2020, has issued a plan approval extension for the Department to complete its plan approval inspection after facility recommences operations and to allow Armstrong more time to submit a Title V administrative amendment application in Winfield Township, **Butler County**. This is a Title V facility. This will expire on May 14, 2020.

**Title V Operating Permits Issued 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—Telephone: 814-332-6940.*

**37-00243:** On December 6, 2019, in accordance with 25 Pa. Code §§ 129.96—129.100, the Pennsylvania Department of Environmental Protection issued a significant modification to the Title V operating permit for **International Metals Reclamation Company (INMETCO)**, in Ellwood City Borough, **Lawrence County**. The permit modification incorporates the provisions and requirements contain in the amended RACT II approval for the facility, which are intended to satisfy the requirements for the 1997, 2008 and 2015 National Ambient Air Quality

Standard (NAAQS) for ozone. The relevant RACT II requirements will be submitted to the U.S. Environmental Protection Agency (EPA) as a revision to Pennsylvania’s State Implementation Plan and will remain in effect until replaced pursuant to 40 CFR 51 and approval by the EPA. Requirements that are not part of the RACT II determination will be excluded from the SIP submittal; this includes the provisions of the Department’s presumptive RACT II requirements in accordance with 25 Pa. Code § 129.97, as they apply to existing sources at this facility. The following is a summary of the proposed amendments to the RACT II determination for this operation that will be submitted to the EPA as a SIP revision:

Source	RACT II Requirement
Source 102—RHF	NO <sub>x</sub> emissions shall not exceed 99.5 lbs/hr and 100 TPY as a 12-month rolling total. VOC emissions shall not exceed 21.58 lbs/hr and 94.5 TPY as a 12-month rolling total. Work practice requirement—To ensure proper operation and combustion, the burners for the RHF are to be cleaned on a rotating basis, with each burner being cleaned approximately every two weeks. The cleaning procedure entitled, “RHF-001, Burner Cleaning and Relighting,” dated May 27, 2013, is to be used.
Source 103—SEAF	NO <sub>x</sub> emissions shall not exceed 45 lbs/hr and 145.5 TPY as a 12-month rolling total. VOC emissions shall not exceed 16.56 lbs/hr and 72.6 TPY as a 12-month rolling total.

**42-00004:** On January 15, 2020, in accordance with 25 Pa. Code §§ 129.96—129.100, the Pennsylvania Department of Environmental Protection issued a significant modification to the Title V operating permit for **American Refining Group**, in Bradford Township, **McKean County**. The permit modification incorporates the provisions and requirements contain in the amended RACT II approval for the facility, which are intended to satisfy the requirements for the 1997, 2008 and 2015 National Ambient Air Quality Standard (NAAQS) for ozone. The relevant RACT II requirements will be submitted to the U.S. Environmental Protection Agency (EPA) as a revision to Pennsylvania’s State Implementation Plan and will remain in effect until replaced pursuant to 40 CFR 51 and approval by the EPA. Requirements that are not part of the RACT II determination will be excluded from the SIP submittal; this includes the provisions of the Department’s presumptive RACT II requirements in accordance with 25 Pa. Code § 129.97, as they apply to existing sources at this facility. The following is a summary of the proposed amendments to the RACT II determination for this operation that will be submitted to the EPA as a SIP revision:

Source	RACT II Requirement
Source 033—Boiler 3	NO <sub>x</sub> emissions shall not exceed 0.325 lb/MMBtu heat input. Perform an

Source	RACT II Requirement
	annual adjustment or tune-up including inspection adjustment, cleaning, or replacement of fuel burning equipment, including the burners and moving parts necessary for proper operation as specified by the manufacturer.
Source 034—Boiler 4	NO <sub>x</sub> emissions shall not exceed 0.325 lb/MMBtu heat input. Perform an annual adjustment or tune-up including inspection adjustment, cleaning, or replacement of fuel burning equipment, including the burners and moving parts necessary for proper operation as specified by the manufacturer.
Source 041—Crude Unit Heater	NO <sub>x</sub> emissions shall not exceed 12.25 lbs/hr
Source 043—Platformer Heater	NO <sub>x</sub> emissions shall not exceed 0.25 lb/MMBtu
Source 1001—Hydrotreater Unit	VOC testing once every five years. Maintain records of all preventative maintenance inspections of the source. Record throughput of diesel fuel processed by the hydrotreater on a daily basis. Maintain a record of the date and time of: (a) the hydrotreater is operating; (b) The LO-CAT is operating; (c) the hydrotreater is shutdown; (d) The LO-CAT is shutdown. Daily operational inspection of the source.

**Operating Permits for Non-Title V Facilities Issued under the Air Pollution Control Act (35 P.S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.**

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

*Contact: Janine Tulloch-Reid, Facilities Permitting Chief—Telephone: 484-250-5920.*

**09-00186: Kinder Morgan Bulk Terminals, Inc.** (1000 South Port Road, Fairless Hills, PA 19030) on January 16, 2020 for the renewal of a Synthetic Minor Operating Permit for a bulk materials handling facility in Falls Township, **Bucks County**.

**15-00146: Wallquest, Inc.** (465 Devon Park Drive, Wayne, PA 19087) on January 14, 2020 for the operation of four (4) rotogravure printing presses, one (1) custom string press, four (4) rotary proof presses, and a flat screen printing area in Tredyffrin Township, **Chester County**.

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

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

**40-00071: American Asphalt Paving Company** (500 Chase Road Shavertown, PA 18708-9689). The Department issued, on 1/16/20, a State-Only Operating Permit for operation of sources at the Chase Batch Asphalt Plant and Quarry located in Jackson Township, **Luzerne County**. The sources include # 2 oil, WDLF, and natural gas fired Batch Asphalt Plant, and a rock crushing plant. The operating permit contains all applicable requirements for emission limitations, work practice standards, testing, monitoring, recordkeeping, and reporting standards used to verify facility compliance with Federal and State air pollution regulations.

**39-00104: EPP Renewable Energy, LLC** (1605 North Cedar Crest Boulevard, Suite 509, Allentown, PA 18104). The Department issued, on 1/6/20, a State-Only Operating Permit for operation of sources at the waste water treatment plant located in the City of Allentown, **Lehigh County**. The sources include a digester gas fired caterpillar engine. The operating permit contains all applicable requirements for emission limitations, work practice standards, testing, monitoring, recordkeeping, and reporting standards used to verify facility compliance with Federal and State air pollution regulations.

**54-00089: Schuylkill Alliance Crematory, LLC** (1172 Morea Road, Mahanoy City, PA 17948). The Department issued, on 1/6/20, a State-Only Operating Permit for operation of sources at a crematory located in Mahanoy Township, **Schuylkill County**. The sources include a propane fired incinerator. The operating permit contains all applicable requirements for emission limitations, work practice standards, testing, monitoring, recordkeeping, and reporting standards used to verify facility compliance with Federal and State air pollution regulations.

**39-00055: B Braun Medical, Inc.** (901 Marcon Blvd, Allentown, PA 18109). The Department issued, on 1/21/2020, a State-Only (Synthetic Minor) Operating Permit for operation of sources at a surgical and medical instrument manufacturing facility in Hanover Township, **Lehigh County**. The facility was previously operating under a Title V operating permit with potential emissions below major source thresholds. The sources include two 21 MMBtu/hr natural gas-fired boilers, three cooling towers, sterilizers, an aeration room, an introcan process, emergency generators, and emergency fire pumps. Control devices include a catalytic oxidizer and wet scrubber. The operating permit contains all applicable requirements for emission limitations, work practice standards, testing, monitoring, recordkeeping, and reporting standards used to verify facility compliance with Federal and State air pollution regulations.

*Southcentral Region: Air Quality Program, 909 Elmer-ton Avenue, Harrisburg, PA 17110.*

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

**07-03018: Central PA Humane Society** (1837 East Pleasant Valley Blvd., Altoona, PA 16602-7348) on January 8, 2020, for the animal crematory unit at the facility located in Logan Township, **Blair County**. The State-only permit was renewed.



**67-05136: Wellspan York Hospital** (1001 South George Street, York, PA 17403-3676) on January 9, 2020, for the hospital facility located in York City, **York County**. The State-only permit was renewed.

**07-03008: Nason Medical Center LLC** (105 Nason Drive, Roaring Spring, PA 16673-1202) on January 7, 2020, for the hospital facility located in Roaring Spring Borough, **Blair County**. The State-only permit was renewed.

**06-05095: Unicast Company** (241 North Washington Street, Boyertown, PA 19512-1114) on January 15, 2020, for the iron foundry located in Boyertown Borough, **Berks County**. The State-only permit was renewed.

**28-03026: Gish Logging, Inc.** (P.O. Box 282, Fort Loudon, PA 17224-0282) on January 13, 2020, for the firewood processing facility located in Metal Township, **Franklin County**. The State-only permit was renewed.

**06-03012: Brenntag Northeast LLC** (81 West Huller Road, Reading, PA 19605-9728) on January 13, 2020, for the Snyder Road chemical distribution facility located in Ontelaunee Township, **Berks 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.*

**25-00972: Insul-Board** (2120 Colonial Avenue, P.O. Box 8103, Erie, PA 16505). On January 13, 2020, the Department renewed a State Only operating permit for the expanded polystyrene insulation & packing material molding facility located in Millcreek Township, **Erie County**. The sources at the facility include a 5.2 million Btu/hr natural gas fueled boiler, 4 natural gas fueled space heaters each rated less than 500,000 Btu/hr, pre-expanded pellet heating, pre-expanded pellet storage, molding of product, and storage of finished goods. The facility is a Synthetic Minor due to its potential to emit Pentane which is a VOC. The permit contains a federally enforceable VOC emission restriction of 35 tons per year. Actual emissions for the calendar year 2018 were 0.2 ton NO<sub>x</sub>; 0.1 ton CO; 15.5 tons VOC; and 180 tons CO<sub>2</sub>. The permit contains emission restrictions, recordkeeping, work practice, and additional requirements to ensure compliance with the Clean Air Act and the Air Pollution Control Act.

**25-00996: Advanced Finishing USA** (7401 Klier Drive, Fairview, PA 16415). On January 13, 2020, the Department renewed a State Only Operating Permit for the coating facility located in Fairview Township, **Erie County**. The primary sources at the facility include 2 paint booths; 10 natural gas fueled process ovens; and a 475,000 Btu/hr natural gas fueled burn off oven. The facility is a Natural Minor. Potential emissions are 12.20 tpy VOC; 73.42 tpy PM; 15.20 tpy NO<sub>x</sub>; 12.77 tpy CO; 1.72 tpy all HAPs combined; and less than 1 tpy SO<sub>x</sub>. The renewal permit contains emission restrictions, recordkeeping, work practice, and additional requirements to ensure compliance with the Clean Air Act and the Air Pollution Control Act.

**25-01006: Lake Erie Biofuels LLC** (1540 East Lake Road, Erie, PA 16511-1032). On January 13, 2020, the

Department issued an administrative amendment to more accurately characterize the short-term throughput for Source 101 and to reflect that the May 2013 RFD for an additional 10 mmgal/yr two-stage biodiesel reactor project did not occur to the State Only Operating Permit for the facility located in Erie City, **Erie County**.

**32-00438: Rairigh-Bence Funeral Home** (965 Philadelphia Street, Indiana, PA 15701). On January 14, 2020, the Department issued the Natural Minor Operating Permit to operate a human cremator in Indiana Borough, **Indiana County**. The facility's primary emission source is a cremator installed in December 2016. The conditions of the previous plan approval were incorporated into the permit. The cremator is fired with natural gas and is controlled by an afterburner rated at 2 MMBtu/hr. Particulate matter from the exhaust is restricted to 0.08 grain per dry standard cubic foot, corrected to 7% oxygen. The potential PM, CO, SO<sub>x</sub>, NO<sub>x</sub>, and VOC emissions are 1.02 TPY, 1.8 TPY, 0.35 TPY, 0.66 TPY, and 0.45 TPY, respectively based on an operational restriction of 3,744 hours in any consecutive 12-month period.

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

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

**06-05077: Can Corporation of America** (326 June Avenue, Blandon, PA 19510-9566) on January 16, 2020, for the can manufacturing facility located in Maiden Creek Township, **Berks County**. The State-only permit was administratively amended in order to incorporate the requirements of Plan Approval No. 06-05077E.

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**De Minimis Emissions Increases Authorized under 25 Pa. Code § 127.449.**

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

*Contact: David Balog, New Source Review Chief—Telephone: 814-332-6940.*

**62-00017: United Refining Company** (15 Bradley Street, Warren, PA 16365) for its facility located in Warren City, **Warren County**. The De minimis emission increase is for the proposed construction of temporary cooling water towers for the existing West Cooling Water Tower (Source 250). In addition, this source is exempt from plan approval as it complies with 25 Pa. Code § 127.14(a)(8). The Department hereby approves the De minimis emission increase. The following table is a list of the De minimis emission increases as required by 25 Pa. Code § 127.449(i). This list includes the De minimis emission increases since the Operating Permit issuance on February 13, 2019.

Date	Source	PM <sub>10</sub> (tons)	SO <sub>x</sub> (tons)	NO <sub>x</sub> (tons)	VOC (tons)	CO (tons)
1-21-20	Temporary Cooling Towers	0.004			0.6804	
Total Reported Increases		0.004			0.6804	
Allowable		0.6 ton/ source 3 tons/ facility	1.6 ton/ source 8 tons/ facility	1 ton/ source 5 tons/ facility	1 ton/ source 5 tons/ facility	4 tons/ source 20 tons/ facility

## ACTIONS ON COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

**Actions on applications under the Surface Mining Conservation and Reclamation Act (52 P.S. §§ 1396.1—1396.31); the Noncoal Surface Mining Conservation and Reclamation Act (52 P.S. §§ 3301—3326); the Clean Streams Law (35 P.S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P.S. §§ 30.51—30.66); the Bituminous Mine Subsidence and Land Conservation Act (52 P.S. §§ 1406.1—1406.21). The final action on each application also constitutes action on the NPDES permit application and, if noted, the request for a Section 401 Water Quality Certification. Mining activity permits issued in response to such applications will also address the application permitting requirements of the following statutes; the Air Quality Control Act (35 P.S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P.S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P.S. §§ 6018.101—6018.1003).**

### Coal Permits Issued

*California District Office: 25 Technology Drive, Coal Center, PA 15423, 724-769-1100, (Contact: Bonnie Herbert).*

**30743702. Murray American Energy, Inc.**, 46226 National Road, St. Clairsville, OH 43950, to transfer the permit from Consolidation Coal Company to Murray American Energy, Inc. for the Blacksville No. 1 Mine Refuse Area located in Wayne Township, **Greene County**. No additional discharges. The application was considered administratively complete on April 12, 2016. Application received: December 22, 2015. Permit issued: January 14, 2020.

*Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, 814-472-1900, (Contact: Holly Calvetti).*

**Permit 4072SM22 and NPDES No. PA0248894. Penn Coal Land, Inc.**, P.O. Box 68, Boswell, PA 15531, permit renewal for reclamation only of a bituminous surface mine in Somerset Township, **Somerset County**, affecting 121.9 acres. Receiving stream(s): unnamed tributary to Kimberly Run, classified for the following use(s): CWF. There are no potable water supply intakes within 10 miles downstream. Application received: April 8, 2019. Permit Issued: January 17, 2020.

### ACTIONS ON BLASTING ACTIVITY APPLICATIONS

**Actions on applications under the Explosives Acts of 1937 and 1957 and 25 Pa. Code § 211.124. Blasting activity performed as part of a coal or noncoal mining activity will be regulated by the mining permit for that coal or noncoal mining activity.**

### Blasting Permits Issued

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

**Permit No. 36204102. Keystone Blasting Service** (15 Hopeland Road, Lititz, PA 17543), construction blasting for The Farm on Quarry Road in Manheim Township, **Lancaster County** with an expiration date of December 31, 2020. Permit issued: January 14, 2020.

**Permit No. 38204101. Keystone Blasting Service** (15 Hopeland Road, Lititz, PA 17543), construction blasting for Stone Hill Park in Annville Township, **Lebanon County** with an expiration date of December 31, 2020. Permit issued: January 14, 2020.

**Permit No. 67194116. Maine Drilling & Blasting, Inc.** (P.O. Box 1140, Gardiner, ME 04345), construction blasting for Briarcliff Development in Fairview Township, **York County** with an expiration date of January 3, 2021. Permit issued: January 14, 2020.

## FEDERAL WATER POLLUTION CONTROL ACT SECTION 401

The Department has taken the following actions on previously received permit applications, requests for Environmental Assessment approval, and requests for Water Quality Certification under Section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341).

Except as otherwise noted, the Department has granted 401 Water Quality Certification certifying that the construction and operation described will comply with the applicable provisions of sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317), and that the construction will not violate applicable Federal and State Water Quality Standards.

Any person aggrieved by these actions may appeal, pursuant to Section 4 of the Environmental Hearing Board Act, 35 P.S. § 7514, and the Administrative Agency Law, 2 Pa.C.S. Chapter 5A, to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P.O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Board through the Pennsylvania AT&T Relay Service, (800) 654-5984. Appeals must be filed with the Environmental Hearing Board within 30-days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

If you want to challenge this action, your appeal must reach the Board within 30-days. You do not need a lawyer to file an appeal with the Board.

Important legal rights are at stake, however, so you should show this notice to a lawyer at one. 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 and Wetlands Program, 2 East Main Street, Norristown, PA 19401, Telephone 484.250.5160.*

*Contact: Elaine Henderson, Clerk Typist 3, 484.250.5157.*

**Permit No. E15-916, East Goshen Township**, 1580 Paoli Pike, West Chester, PA 19380, East Goshen Township, **Chester County**, ACOE Philadelphia District.

To perform the below-listed water obstruction and encroachment activities associated with the Paoli Pike Shared Use Path. The proposed project consists of the construction of approximately 730 linear feet of a 10-foot wide shared path adjacent to Paoli Pike and the extension of a 60" diameter culvert. The proposed path will consist of pervious asphalt pavement. The construction of the culvert extension and associated grading will result in 780 SF of permanent stream impact and 9,917 SF of permanent floodplain impact (unnamed tributary to East Branch Chester Creek, TSF, MF).

The site is approximately at Paoli Pike between Airport Road and Ellis Lane (West Chester Latitude: 39° 58' 57"; Longitude: 75° 33' 57") in East Goshen Township, Chester County.

**Permit No. E46-1181, Clemens Food Group**, 2700 Clemens Road, P.O. Box 902, Hatfield, PA 19440-0902, Hatfield Township, **Montgomery County**, ACOE Philadelphia District.

To construct and maintain a 308,000-square foot building and the parking area for 442 vehicles, which will require to relocate about 679 feet of intermittent stream channel to Skippack Creek (TSF, MF) associated with the new meat processing activities and the improvements to the existing facility. The site is located at about 1,000 feet southeast of Derstine and Clemens Roads (Telford, PA, USGS Quadrangle Latitude: 40.271643; Longitude: -75.324270) in Hatfield Township, Montgomery County.

*Southcentral Region: Waterways & Wetlands Program, 909 Elmerton Avenue, Harrisburg, PA 17110.*

*Contact: Edward Muzic, Section Chief, 717.705.4802.*

**E38-206, Lebanon County**, 400 S. 8th Street, Room 207, Lebanon, PA 17042-6794, Union Township, **Lebanon County**, ACOE Baltimore District.

To (1) construct and maintain a wetland crossing consisting of 1 24-inch HDPE pipe permanently impacting 0.02 acre of PFO wetlands, (2) construct and maintain a single span bridge having a normal span of 46.79-feet, a width of 17 feet and an underclearance of 8.5-feet permanently impacting 272 square feet of a UNT to

Swatara Creek and (3) construct and maintain a 14-foot wide trail permanently impacting 9,000 square feet of the floodway of Swatara Creek, all for the purpose of connecting county owned property to an existing pedestrian trail. The project is located along State Route 22 east of the intersection of State Route 72, (Latitude: 40.422308, Longitude: -76.491139) in Union Township Lebanon County. Permit issued January 14, 2020.

*Southwest Region: Dana Drake, Waterways and Wetlands Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**E26052-386, Murray American River Towing, Inc.**, 1200 Maronda Way, Suite 100, Monessen, PA 15062, Washington Township, **Fayette County**, Pittsburgh ACOE District.

Has been given consent to:

Construct, operate, and maintain three (3) mooring structures within the Monongahela River (WWF-N). Permanent impacts include 300 square feet.

Operate and maintain three 5'3" x 5'3" mooring cells, two 14.5' diameter mooring cells, a 16' 1.5" diameter mooring cell, and a 114' x 8' walkway/conveyor located within the Monongahela River.

No mitigation is required.

The project site is located along the right descending bank of the Monongahela River at River Mile 42 (Fayette City, PA USGS topographic quadrangle; N: 40°, 06', 50"; W: -79°, 50', 52"; Sub-basin 19C; USACE Pittsburgh District), in Washington Township, Fayette County.

**E63052-729, EQT Production Company**, 2400 Ansys Drive, Suite 200, Canonsburg, PA 15317, West Bethlehem Township, **Washington County**, Pittsburgh ACOE District.

Has been given consent to:

Construct, operate, and maintain stream bank protection for 219 linear feet, and channel fill within an Unnamed Tributary to Tenmile Creek (TSF) for 219 linear feet. The purpose of the project is to stabilize a section of Highland Ridge Road which is currently eroding from high velocity stream flows.

Permanent impacts will include 219 linear feet of channel lining and stream bank protection, as well as 9 linear feet to install a plunge pool.

The project site is located along Highland Ridge Road (Ellsworth, PA USGS topographic quadrangle; N: 40°, 01', 33"; W: -80°, 07', 24"; Sub-basin 19B; USACE Pittsburgh District), in West Bethlehem Township, Washington County.

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

**E1606219-001, Washington Township Municipal Authority**, P.O. Box 124, Fryburg, PA 16326. Washington Township Sewer Extension, in Washington Township, **Clarion County**, ACOE Pittsburgh District (Fryburg, PA Quadrangle N: 41°, 21', 55"; W: -79°, 26', 17").

To permanently impact the following resources for the construction, operation, and maintenance of two low-pressure sanitary sewer extensions in Washington Township, Clarion County [North Extension from 41.3573°, -79.4306° to 41.3669°, -79.4379° along Fryburg Road and Dempseytown Road and from 41.3539°, -79.4378° to 41.3555°, -79.4379° along SR 208; South Extension from 41.3317°, -79.4407° to 41.3248°, -79.4431° along SR 208]:



1. Sewer line crossing of UNT McCauley Run installed by Horizontal Directional Drill [41.365079°, -79.437939°];

2. Sewer line crossing of an EV wetland resulting in a de minimus impact [41.331583°, -79.440657°];

3. Sewer line crossings of 3 UNTs Sandy Creek installed by open trench, impacting a total of approximately 40 feet of channel [41.325894°, -79.4427°; 41.32595°, -79.44245°; 41.3278°, -79.442031°].

**E2406219-001, National Fuel Gas Supply Corporation (Applicant)**, 6363 Main Street, Williamsville, NY 14221. FM100 Brockway Modernization (Project), in Snyder Township, **Jefferson County** and Horton Township, **Elk County**, ACOE Pittsburgh District. The proposed project starts at the interconnection/tie-in at the existing National Fuel FM100 Line along Longwell Rd, approximately 1.5 mile north of SR 28 (Sabula, PA Quadrangle N: 41.265491°; W: 78.866349°) Snyder Township, Jefferson County, extending generally south and east crossing through a portion of Horton Township, Elk County, to where it terminates at the existing FM100 tie in (Carman, PA Quadrangle N: 41.221231°; W: 78.699183°) in Horton Township, Elk County.

To conduct the following activities associated with the construction of approximately 0.59 mile of 12-inch steel gas pipeline, in Horton Township Elk County (Horton, PA Quadrangle) from 41.2212°, -78.6992° to 41.2232°, -78.7101°):

1. Permanently impact 10 linear feet of a tributary to Rattlesnake Creek for the installation of 1 pipeline crossing;

2. Temporarily impact 130 linear feet for 3 equipment crossings of 2 tributaries to Rattlesnake Creek (2 crossings using existing culverts).

**E3306219-001, National Fuel Gas Supply Corporation (Applicant)**, 6363 Main Street, Williamsville, NY 14221. FM100 Brockway Modernization (Project), in Snyder Township, **Jefferson County** and Horton Township, **Elk County**, ACOE Pittsburgh District. The proposed project starts at the interconnection/tie-in at the existing National Fuel FM100 Line along Longwell Rd, approximately 1.5 mile north of SR 28 (Sabula, PA Quadrangle N: 41.265491°; W: 78.866349°) Snyder Township, Jefferson County, extending generally south and east crossing through a portion of Horton Township, Elk County, to where it terminates at the existing FM100 tie in (Carman, PA Quadrangle N: 41.221231°; W: 78.699183°) in Horton Township, Elk County.

To conduct the following activities associated with the construction of approximately 9.125 miles of 12-inch steel gas pipeline [from 41.2212°, -79.8664° to 41.2232°, -78.7101°] and 0.4 mile of 6-inch steel gas pipeline [from 41.2368°, -78.7818° to 41.2343°, -78.7827°] in Snyder Township, Jefferson County:

1. Permanently impact 0.053 acre of wetland (PFO to PEM conversion) for the installation of 17 pipeline crossings and permanent Right of Way;

2. Temporarily impact 2.7 acres of wetland for the installation of 17 pipeline crossings and 38 equipment crossings;

3. Permanently impact 238 linear feet of the following streams for the installation of 25 pipeline crossings [6 floodway only]: Rattlesnake Creek and tributaries, Mill Creek and tributaries, Beaver Meadow Run and tributaries, tributaries to Little Toby Creek, tributary to Curry Run;

4. Temporarily impact 2,249.6 linear feet of the following streams for the installation of 25 pipeline crossings [6 floodway only] and 38 equipment crossings [12 floodway only]: Rattlesnake Creek and tributaries, Mill Creek and tributaries, Beaver Meadow Run and tributaries, tributaries to Little Toby Creek, Curry Run and tributaries;

5. Permanently impact 80-square feet of a pond for the installation of 1 pipeline crossing;

6. Temporarily impact 5,948-square feet of 2 ponds of the installation of 1 pipeline crossing and 2 equipment crossings;

7. To mitigate for the permanent conversion of 0.053 acre of PFO wetland to PEM wetland for the creation of permanent ROW by purchasing credits from a mitigation bank.

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

**MB9915-003. Land Reclamation Group (LRG), LLC**, 632 Hunt Valley Road, New Kensington, PA 15068. Statewide Coverage, ACOE Baltimore, Philadelphia and Pittsburgh Districts.

LRG is approved to operate compensatory mitigation banking Statewide within the Commonwealth providing compensatory mitigation to meet third party aquatic resource compensation obligations as established through site specific permits issued pursuant to Chapter 105.

LRG is approved to construct, restore or enhance a specific aquatic resource improvement site known as the Tunnel Road Aquatic Resource Mitigation Bank. The site is located along Three Lick Run (CWF) in Allegheny Township, Somerset County (Latitude: 39° 58' 13", Longitude: -78° 47' 44"). The site is comprised of 150 acres which consists of 2 small ponds, 2.54 acres of PEM/PSS wetlands, 2,096 linear feet of Three Lick Run and unnamed tributary to Three Lick Run and upland areas adjacent to the aquatic resources. The project will generate aquatic resource compensatory mitigation credits within the PA State Water Plan Subbasin 11 upon successfully meeting performance measures and success criteria. 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 2,137 linear feet of stream and associated floodplains and approximately 6.06 acres of wetlands. Additional upland plantings are proposed to certain areas adjacent to the floodplain. The initial credit baseline is set at 2,137 watercourse credits and 5.16 palustrine wetland credits.

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

**E4129-084: Regency Marcellus Gas Gathering, LLC**, 101 West Third Street, Williamsport, PA 17701, McNett Township, **Lycoming County**, ACOE Baltimore District.

To construct, operate, and maintain:

1. an 8-inch diameter natural gas line and a temporary timber mat bridge impacting 2,087 square feet of a Palustrine Emergent Wetland (EV) (Gover, PA Quadrangle, Latitude: 41° 33' 09", Longitude: -76° 48' 18");

The project will result in 0.05 acre of new wetland impacts all for the purpose of installing natural gas

gathering line, and access roadway to a natural gas well site for Marcellus well development. This project is a major modification to the original permit, E4129-084 and associated with E0829-088 and E5729-072, originally posted to the *Pennsylvania Bulletin* on February 8, 2014.

#### EROSION AND SEDIMENT CONTROL

The following Erosion and Sediment Control permits have been issued.

Persons aggrieved by an action may appeal that action to the Environmental Hearing Board (Board) under section 4 of the Environmental Hearing Board Act and 2 Pa.C.S. §§ 501—508 and 701—704. The appeal should be sent to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P.O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Board through the Pennsylvania AT&T Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30-days of publication of this notice in the *Pennsylvania Bulletin* unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create a right of appeal beyond that permitted by applicable statutes and decisional law.

For individuals who wish to challenge an action, the appeal must reach the Board within 30-days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

*Southwest District: Oil & Gas Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222.*

ESCGP-3 # ESG30712518-002  
Applicant Name EQM Gathering OPCO LLC  
Contact Person Brint Goettel  
Address 2200 Energy Drive  
City, State, Zip Canonsburg, PA 15317  
County Washington  
Township(s) Fallowfield & West Pike Run Townships  
Receiving Stream(s) and Classification(s) UNTs to Maple Creek and UNTs to Pigeon Creek of Mon. River Watershed which has a Chapter 93 designated as Warm Water Fishes (WWF) and is Siltation Impaired

ESCGP-3 # ESG076319020-00  
Applicant Name CNX Gas Company  
Contact Person Sarah Weigand  
Address 1000 Consol Energy Drive  
City, State, Zip Canonsburg, PA 15317  
County Washington  
Township(s) East Finley & Morris Townships  
Receiving Stream(s) and Classification(s) UNT to Rocky Run (TSF), Boothe School Run (Siltation-Impaired WWF), UNTs to Enlow Fork (WWF), Enlow Fork (TSF), Wheeling Creek (WWF)

ESCGP-3 # ESG073019022-00  
Applicant Name EQM Gathering OPCO, LLC  
Contact Person Brinton Goettel  
Address 2200 Energy Drive

City, State, Zip Canonsburg, PA 15317  
County Greene  
Township(s) Morgan Township  
Receiving Stream(s) and Classification(s) UNTs to Browns Run (WWF), Browns Run (WWF)/South Fork Tenmile Creek (WWF)

ESCGP-3 # ESG076319030-00  
Applicant Name EQM Gathering OPCO, LLC  
Contact Person Brinton Goettel  
Address 2200 Energy Drive  
City, State, Zip Canonsburg, PA 15317  
County Washington  
Township(s) Somerset Township  
Receiving Stream(s) and Classification(s) Pigeon Creek (WWF), Monongahela River (WWF)

ESCGP-3 # ESG076519010-00  
Applicant Name Olympus Energy, LLC  
Contact Person Kyle A Shirey  
Address 501 Technology Drive, Suite 1200  
City, State, Zip Canonsburg, PA 15317  
County Westmoreland  
Township(s) Allegheny & Washington Townships  
Receiving Stream(s) and Classification(s) UNTs to Pine Run (WWF), Pine Run (WWF), UNTs to Beaver Run (TSF), Kiskiminetas River (WWF)

ESCGP-3 # ESG076319039-00  
Applicant Name EQM Gathering OPCO, LLC  
Contact Person Tyler Conlon  
Address 2200 Energy Drive  
City, State, Zip Canonsburg, PA 15317  
County Washington  
Township(s) Amwell & Morris Townships  
Receiving Stream(s) and Classification(s) UNTs to Tenmile Creek (TSF), Tenmile Creek (TSF), UNTs to Pleasant Valley Run (TSF), Pleasant Valley Run (TSF), UNTs to Bane Creek (TSF), Bane Creek (TSF), UNTs to Horne Run (TSF)

ESCGP-3 # ESX13-129-0009 Renewal  
Applicant Name CNX Gas Company, LLC  
Contact Person Sarah Weigand  
Address 1000 Consol Energy Drive  
City, State, Zip Canonsburg, PA 15317  
County Westmoreland County  
Township(s) Bell Township  
Receiving Stream(s) and Classification(s) UNTs to Kiskiminetas River (WWF; Siltation-Impaired); Kiskiminetas River (WWF; Siltation-Impaired)  
Secondary Receiving Water—Allegheny River (WWF)

ESCGP-3 # ESG073019016-00  
Applicant Name CNX Gas Co LLC  
Contact Person Sarah Weigand  
Address 1000 Consol Energy Drive  
City, State, Zip Canonsburg, PA 15317  
County Greene  
Township(s) Richhill Township  
Receiving Stream(s) and Classification(s) UNT to Crabapple Creek (WWF)  
Secondary Receiving Water—Dunkard Fork (WWF)

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

*Elk County Conservation District, 850 Washington Street, St. Marys, PA 15857, 814-776-5373.*

*Jefferson County Conservation District, 1514 Route 28, Brookville, PA 15825, 814-849-7463.*

<i>ESCP No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
ESG06000190001	National Fuel Gas Supply Corp 6363 Main Street Williamsville, NY 14221	Elk County Jefferson County	Horton Township, Snyder Township	Beaver Meadow Run EV, UNT Beaver Meadow Run EV, UNT Mill Creek CWF, Mill Creek CWF, UNT Curry Run CWF, Rattlesnake Creek CWF, UNT Rattlesnake Creek CWF, UNT Little Toby Creek CWF, Curry Run

*Northwest Region: Oil and Gas Management, 230 Chestnut Street, Meadville, PA 16335-3481, 814-332-6860. Contact Mary Slye, Clerical Supervisor, 814-332-6325.*

ESCGP-3 # ESG081019013-00 Rape Gas Well ESX  
Applicant Name PennEnergy Resources LLC  
Contact Person Richard M Watson  
Address 600 Cranberry Woods Drive, Suite 250  
City, State, Zip Cranberry Township, PA 16066  
County Butler  
Township(s) Forward Twp  
Receiving Stream(s) and Classification(s) Unnamed tributaries to tributary 35095 to Connoquenessing Creek  
WWF, Tributary 35095 to Connoquenessing Creek

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

ESCGP-3 # ESG295819042-00  
Applicant Name SWN Production Company, LLC  
Contact Person Afton Sterling  
Address 917 State Route 92 North  
City, State, Zip Tunkhannock, PA 18657  
County Susquehanna  
Township(s) New Milford  
Receiving Stream(s) and Classification(s) Wellmans Creek (HQ-CWF, MF)

ESCGP-3 # ESG295919019-00  
Applicant Name SWEPI LP  
Contact Person Jason Shoemaker  
Address 150 North Dairy Ashford, Blg E, 12th Floor  
City, State, Zip Houston, TX 77079  
County Tioga  
Township(s) Middlebury  
Receiving Stream(s) and Classification(s) Losey Creek (WWF, MF);  
Secondary: Crooked Creek (WWF, MF)

ESCGP-3 # ESG295819031-00  
Applicant Name Williams Field Services Co, LLC  
Contact Person Barry Mahar  
Address 30351 Route 6  
City, State, Zip Wysox, PA 18854  
County Susquehanna  
Township(s) Springville Twp  
Receiving Stream(s) and Classification(s) Thomas Creek # 1061 (CWF-MF), UNT 29409 to Thomas Creek # 85591 (CWF-MF);  
Secondary: Meshoppen Creek (CWF-MF), Meshoppen Creek (CWF-MF)

ESCGP-3 # ESG294119034-00  
Applicant Name ARD Operating, LLC  
Contact Person Stephen Barondeau  
Address 33 West Third Street, Suite 300  
City, State, Zip Williamsport, PA 17701  
County Lycoming

Township(s) Gamble  
Receiving Stream(s) and Classification(s) Mill Creek (EV) and Miller Run (EV);  
Secondary: Loyalsock Creek (EV) and West Branch Murray Run (EV)

## 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 non-residential exposure factors, a description of the remediation performed and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected.

For further information concerning plans or reports, please contact the Environmental Cleanup Program Manager in the DEP Regional Office under which the notice of receipt of plans or reports appears. If information concerning plans or reports is required in an alternative form, contact the Community Relations Coordinator at the appropriate Regional Office listed. TDD users may telephone the DEP through the Pennsylvania AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:



*Southeast Regional Office: Environmental Cleanup & Brownfields Program, 2 East Main Street, Norristown, PA 19401, 484-250-5960.*

*Contact: Richard Staron, Professional Geologist Manager.*

**Jack Nolans Exxon**, 46-19083, 567 W Main St., Trappe Borough, **Montgomery County**. Comstock Environmental Services LLC, P.O. Box 509, Lafayette Hill, PA 19444, on behalf of Jack Nolan Exxon, 567 W. Main St., Trappe, PA 19426 submitted a Remedial Action Plan concerning remediation of soil and groundwater contaminated with unleaded gasoline. The report is intended to document remediation of the site to meet nonresidential Statewide health standards.

**Phoenixville Shell**, 15-00306, 508 Bridge St., Phoenixville Borough, **Chester County**. Aquaterra Technologies, Inc., P.O. Box 744, West Chester, PA 19381, on behalf of 508 Bridge Street LP, 1055 Westlakes Dr., Suite 170, Berwyn, PA 19312 submitted a Remedial Action Plan concerning remediation of soil and groundwater contaminated with unleaded gasoline. The report is intended to document remediation of the site to meet nonresidential Statewide health standards.

**Sunoco 0363 5067**, 51-30650, 630 Walnut Ln., **City of Philadelphia**. Groundwater & Environmental Services, Inc., 440 Creamery Way, Suite 500, Exton, PA 19341, on behalf of Evergreen Resources Management Operations, 2 Righter Parkway, Suite 120, Wilmington, DE 19803 submitted a Remedial Action Completion Report concerning remediation of soil 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.

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

**Tamaqua Terminal**, 54-50104, 65 Tuscarora Park Road, Rush Township, **Schuylkill County**, Mulry and Cresswell Environmental, 1679 Horseshoe Pike, Glenmoore, PA 19343, on behalf of Evergreen Resources Management Operations, 2 Righter Parkway, Suite 120, Wilmington, DE 19803, submitted a Remedial Action Completion Report concerning remediation of soil and groundwater contaminated with petroleum. The report is intended to document remediation of the site to meet a combination of Site-Specific and Statewide Health Standards.

**C&C Service Center**, Storage Tank ID # 45-00849, 2942 Route 940 East, Coolbaugh Township, **Monroe County**, MEA, 1365 Ackermanville Road, Bangor, PA 18013, on behalf of Bozena Gawrych, P.O. Box 523, Mount Pocono, PA 18344, submitted a combined Site Characterization Report and Remedial Action Plan concerning remediation of soil and groundwater contaminated with gasoline. The report is intended to document the remedial actions for meeting a combination of Site-Specific and Statewide Health Standards.

**Davinko (former Jessy, Inc.)**, Storage Tank ID # 64-52513, 22 Main Street, Lehigh Township, **Wayne County**. Austin James Associates, P.O. Box U, Pocono Pines, PA 18350, on behalf of Andrew Calkins, 1348 Main Street, Gouldsboro, PA 18424, submitted a Remedial Action Plan concerning remediation of soil and groundwater contaminated with gasoline. The report is intended to document the remedial actions for meeting a combination of Site-Specific and Statewide Health Standards.

**Turkey Hill Minit Market 114**, Storage Tank ID # 48-41707, 4205 Lehigh Drive, Lehigh Township, **Northampton County**. Comstock Environmental Services, P.O. Box 509, Lafayette Hill, PA 19444, on behalf of Dillon Companies, Inc./Kroger (Turkey Hill), 257 Centerville Road, Lancaster, PA 17603 has submitted a revised Remedial Action Plan concerning remediation of soil and groundwater contaminated with gasoline. The report is intended to document the remedial actions for meeting Statewide Health Standards.

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

*Contact: Gregory Bowman, Environmental Group Manager.*

**Rutter's No. 53**, Storage Tank Facility ID # 67-09933, 2215 Old Trail Road, Eppers, PA 17319, Newberry Township, **York County**. United Environmental Services, Inc., P.O. Box 701, Schuylkill Haven, PA 17972 on behalf of CHR Corporation, 2295 Susquehanna Trail, York, PA 17404 submitted a Remedial Action Plan concerning remediation of soil and groundwater contaminated with petroleum constituents. The plan is intended to document remediation of the site to meet the Site-Specific Standard and the Statewide Health Standard.

**Dutch Kitchen Mobil**, Storage Tank Facility ID # 06-42036, 8373 Route 183, Bethel, PA 19507, Upper Tulpehocken Township, **Berks County**. EMS Environmental, Inc., 4550 Bath Pike, Bethlehem, PA 18017 on behalf of Mr. Pat Garrett, 8373 Route 183, Bethel, PA 19507 submitted a Remedial Action Plan concerning remediation of soil and groundwater contaminated with petroleum constituents. The plan is intended to document remediation of the site to meet the Site-Specific Standard and the Statewide Health Standard.

*Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA 17701, Telephone number: 570-237-3636.*

*Contact: Lisa Hensel, Clerk Typist II, 570-327-3653.*

**Kwik Fill Station # M-202**, Storage Tank Facility ID # 17-28130, 87 Rolling Stone Road, Kylertown, Cooper Township, **Clearfield County**. Groundwater & Environmental Services, Inc., 301 Commerce Park Drive, Cranberry Township, PA 16066, on behalf of United Refining Company of Pennsylvania, 814 Lexington Ave, P.O. Box 688, Warren, PA 16365 submitted a Remedial Action Plan concerning remediation of groundwater contaminated with Diesel fuel. The plan is intended to document the remedial actions for meeting the Residential Statewide Health Standard.

**Former Fisher's Amoco**, Storage Tank Facility ID # 14-08892, 219 Water Street, Bellefonte Borough, **Centre County**. Gary C. Calvert LLC, P.O. Box 504, Hollidaysburg, PA 16648, on behalf of JJ Powell, Inc., P.O. Box 30, Philipsburg, PA 16866, 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 the Non-Residential Site-Specific Standard.

*Southwest Region: Environmental Cleanup Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745,*

**Waste Management of PA, Inc.—North Huntingdon Hauling**, Primary Facility ID # 65-81945, 310 Leger Road, Irwin, PA 15426, North Huntingdon Township,

**Westmoreland County.** Letterle & Associates, Inc., 2859 Oxford Boulevard, Allison Park, PA 15101, on behalf of Waste Management of PA, Inc., 100 Rangos Lane, Washington, PA 15301, submitted a Remedial Action Completion Report concerning the remediation of soil and groundwater contaminated with petroleum products. The report is intended to document remediation of the site to meet the nonresidential Statewide Health Standard.

*Northwest Region: Environmental Cleanup Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.*

**7 Eleven 40249,** Storage Tank Facility ID # 03-24180, 222 Butler Road, Kittanning Borough, **Armstrong County.** Groundwater and Environmental Services, Inc., 301 Commerce Park Drive, Cranberry Township, PA 16066, on behalf of Evergreen Resources, 2 Righter Parkway, Suite 120, Wilmington, DE 19803 submitted a Remedial Action Completion Report concerning remediation of soil and groundwater contaminated with benzene, toluene, ethylbenzene, xylenes, MTBE, isopropylbenzene and naphthalene. The plan is intended to document the remedial actions for meeting the Statewide Health Standard.

**Kane Liquid Fuels,** Storage Tank Facility ID # 24-90458, 1 Tanner Street, Ridgway Borough, **Elk County.** Letterle & Associates, Inc., 2022 Axemann Road, Suite 201, Bellefonte, PA 16823, on behalf of Kane Liquid Fuels, P.O. Box 420, Kane, PA 16735 submitted a Remedial Action Plan concerning remediation of groundwater contaminated with benzene, ethylbenzene, isopropylbenzene, methyl tert-butyl ether, naphthalene, toluene, 1,2,4-trimethylbenzene, 1,3,5-trimethylbenzene, xylenes. The plan is intended to document the remedial actions for meeting the Statewide Health Standard.

**Coen Market 1228,** Storage Tank Facility ID # 10-32330, 1370 Pittsburgh Road, Middlesex Township, **Butler County.** Letterle & Associates, Inc., 191 Howard Street, Franklin, PA 16323, on behalf of Coen Markets, Inc., 1000 Philadelphia Street, Canonsburg, PA 15317-1700 submitted a Remedial Action Plan concerning remediation of soil and groundwater contaminated with benzene, toluene, ethylbenzene, naphthalene, cumene, 1,2,4-trimethylbenzene (TMB), 1,3,5-TMB and methyl tert-butyl ether. The plan is intended to document the remedial actions for meeting the Statewide Health Standard.

## CORRECTIVE ACTION UNDER ACT 32, 1989

### PREAMBLE 3

**The DEP has taken action on the following plans and reports under the Storage Tank and Spill Prevention Act (35 P.S. §§ 6021.101—6021.2104).**

Provisions of 25 Pa. Code Chapter 245 Subchapter D, Administration of the Storage Tank and Spill Prevention Program, require the Department of Environmental Protection (DEP) to publish in the *Pennsylvania Bulletin* a notice of its final actions on plans and reports.

A remedial action plan is submitted to summarize the site characterization, document the design and construction details for the remedial action, and describe how the remedial action will attain the selected remediation standard. The remedial action plan also provides results of studies performed and data collected to support the remedial action and a description of postremediation care requirements. A remedial action completion report is submitted to document cleanup of a release of a regulated

substance at a site to the selected remediation standard. A remedial action completion report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis of selecting the environmental media of concern, documentation supporting the selection of residential or non-residential exposure factors, a description of the remediation performed and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected.

The DEP may approve or disapprove plans and reports submitted. This notice provides the DEP's decision and, if relevant, the basis for disapproval.

For further information concerning the plans and reports, please contact the Environmental Cleanup Program Manager in the DEP Regional Office under which the notice of the plan or report appears. If information concerning a report is required in an alternative form, contact the Community Relations Coordinator at the appropriate Regional Office listed. TDD users may telephone the DEP through the Pennsylvania AT&T Relay Service at (800) 654-5984.

The DEP has received the following plans and reports:

*Southeast Regional Office: Environmental Cleanup & Brownfields Program, 2 East Main Street, Norristown, PA 19401, 484-250-5960.*

*Contact: Richard Staron, Professional Geologist Manager.*

**Former Fishers,** 46-22682, 919 E. Willow Grove Ave., Springfield Township, Montgomery Avenue, Comstock Environmental Services LLC, P.O. Box 509, Lafayette Hill, PA 19444, on behalf of Wyndmoor Properties LLC, 8218 Ardmore Avenue, Wyndmoor, PA 19038, submitted a Remedial Action Completion Report concerning remediation of soil and groundwater contaminated with petroleum products. The RACR demonstrated attainment of residential Statewide health and site-specific standards and was approved by the DEP on January 6, 2020.

**Arbill Ind,** 51-05199, 2207 W. Glenwood Ave., **City of Philadelphia.** Compliance Management International, Inc., 1350 Welsh Road, Suite 200, North Wales, PA 19454, on behalf of Airbill Industries, 10450 Drummond Road, Philadelphia, PA 19154 submitted a Site Characterization Report 310(b) concerning remediation of soil contaminated with Stoddard solvent. The SCR 310(b) demonstrated attainment of nonresidential Statewide Health Standards and was approved by the DEP on January 2, 2020.

**Lukoil 69243,** 46-41506, 200 S. Easton Rd., Cheltenham Township, **Montgomery County.** Envirotrac Ltd., 3070 Bristol Pike, Building 1, Suite 221, Bensalem, PA 19020, on behalf of Lukoil North America LLC, 302 Harper Drive, Suite 303, Moorestown, NJ 08057, submitted a Remedial Action Plan concerning remediation of soil and groundwater contaminated with unleaded gasoline. The Remedial Action Plan was acceptable to meet Statewide health and site-specific standards and was approved by the DEP on January 10, 2020.

**Friends Hosp,** 51-23029, 4641 Roosevelt Blvd., **City of Philadelphia.** Converse Consultants, 2738 West College Avenue, State College, PA 16801, on behalf of Friends Hospital, 4000 Vine Street, Middletown, PA 17507, submitted a Remedial Action Completion Report concerning remediation of soil and groundwater contaminated with # 6 fuel oil. The RACR demonstrated attainment of residential Statewide health and was approved by the DEP on January 9, 2020.



**Strick Corp**, 09-40128, 225 Lincoln Highway, Falls Township, **Bucks County**. BrightFields Inc., 801 Industrial Street, Wilmington, DE 19801, on behalf of 225 Lincoln Properties, LP, 225 Lincoln Highway, Fairless Hills, PA 19030, submitted a Remedial Action Completion Report concerning remediation of soil and groundwater contaminated with leaded and unleaded gasoline. The Remedial Action Completion Report demonstrated attainment of the non-residential, Statewide Health Standards and was approved by the Department on December 23, 2019.

**Exxon Rs 2 1668**, 46-06912, Bethlehem & Sumneytown Pikes, Lower Gwynedd Township, **Montgomery County**. Penn E&R, Inc., 2755 Bergey Road, Hatfield, PA 19440, on behalf of Lower Gwynedd Township, 1130 N. Bethlehem Pike, P.O. Box 625, Spring House, PA 19477 submitted a Remedial Action Completion Report concerning remediation of soil and groundwater contaminated with petroleum products. The Remedial Action Completion Report did not demonstrate attainment of residential Statewide health and site-specific standards and was disapproved by the Department on January 8, 2020.

**Uwchlan 37 Pottstown Pike**, 15-42560, 37 Pottstown Pike, Upper Uwchlan Township, **Chester County**. Synergy Environmental, Inc., 155 Rail Road Plaza, First Floor, Royersford, PA 19468, on behalf of Dunne Manning Inc., 645 Hamilton St., Suite 500, Allentown, PA 18101, submitted a Remedial Action Plan concerning remediation of soil and groundwater contaminated with petroleum products. The Remedial Action Plan was acceptable to meet site-specific standards and was approved by the DEP on January 13, 2020.

**Lukoil 69207**, 09-12148, 305 E. Street Rd., Lower Southampton Township, **Bucks County**. Envirotrac Ltd., 3070 Bristol Pike, Building 1, Suite 221, Bensalem, PA 19020, on behalf of Lukoil North America LLC, 302 Harper Drive, Suite 303, Moorestown, NJ 08057, submitted a Remedial Action Completion Report concerning remediation of soil and groundwater contaminated with unleaded gasoline. The RACR demonstrated attainment of residential Statewide health and site-specific standards in soil and groundwater and was approved by the DEP on January 14, 2020.

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

**Mets Mart**, Storage Tank ID # 45-00849, 103 Prospect Street, Tobyhanna Township, **Monroe County**. MEA, 1365 Ackermanville Road, Bangor, PA 18013, on behalf of Mets Mart, Inc., 103 Prospect Street, Tobyhanna, PA 18466, submitted a Remedial Action Plan concerning remediation of groundwater contaminated with gasoline. The report was acceptable to meet Statewide Health Standards and was approved by DEP on January 15, 2020.

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

*Contact: Robin L. Yerger, LPG.*

**Rutter's No. 53**, Storage Tank Facility ID # 67-09933, 2215 Old Trail Road, Eppers, PA 17319, Newberry Township, **York County**. United Environmental Services, Inc., P.O. Box 701, Schuylkill Haven, PA 17972 on behalf of CHR Corporation, 2295 Susquehanna Trail, York, PA 17404 submitted a Remedial Action Plan concerning remediation of soil and groundwater contaminated with petroleum constituents. The plan was acceptable to meet

the Site-Specific Standard and the Statewide Health Standard and was approved by the Department of Environmental Protection on January 13, 2020.

*Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA 17701, Telephone number: 570-237-3636.*

*Contact: Lisa Hensel, Clerk Typist II, 570-327-3653.*

**TravelCenters of America**, Storage Tank Facility ID # 18-05853, 5600 Nittany Valley Drive, Lamar, Porter Township, **Clinton County**. Hydro-Terra Group, 7420 Derry Street, Harrisburg, PA 17111, on behalf of TravelCenters of America, 24601 Center Ridge Road, West Lake, OH 44145, submitted a Remedial Action Completion Report concerning remediation of soil contaminated with diesel fuel. The report demonstrated attainment of the Statewide Health Standard and was approved by the Department on January 14, 2020.

*Southwest Region: Environmental Cleanup Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**CTR Independent # 9 Fairchance**, Storage Tank Primary Facility ID # 26-81154, 128 North Morgantown Street, Fairchance, PA 15436, Fairchance Borough, **Fayette County**. KU Resources, Inc., 22 South Linden Street, Duquesne, PA 15110, on behalf of One Center Independent Oil Real Estate, LP, 1035 Boyce Road, Suite 220, Pittsburgh, PA 15241, submitted a Site Characterization Report/Remedial Action Plan concerning remediation of soil and groundwater contaminated with petroleum products. The plan was acceptable to meet the Statewide Health Standard and was approved on December 31, 2019.

**Bill's Amoco**, Storage Tank Primary Facility ID # 11-81496, 680 Goucher Street, Johnstown, PA 15905, Upper Yoder Township, **Cambria County**. Mountain Research, LLC, 825 25th Street, Altoona, PA 16601, on behalf of William J. McVicker, 680 Goucher Street, Johnstown, PA 15905, submitted a Remedial Action Completion Report concerning remediation of soil and groundwater contaminated with petroleum products. The report was acceptable to meet the Statewide Health Standard and was approved on January 9, 2020.

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## SPECIAL NOTICES

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### Proposed State Water Quality Certification Required by Section 401 of the Clean Water Act for the Oakford Storage Complex: 2019 Well Abandonments

*Southwest Region: Oil and Gas Operations, 400 Waterfront Drive, Pittsburgh, PA 15222, Brian Bailey (570) 974-2604.*

**WQ-65-07-001, Dominion Energy Transmission, Inc.**, 5000 Dominion Boulevard, Glen Allen, VA 23060. Oakford Storage Complex: 2019 Well Abandonments, in **Westmoreland County**, Hempfield Township, Pittsburgh District ACOE. The proposed project will plug and abandon the following three FERC regulated storage wells: JW-447F (Lat: 40.289976, Long: -79.646506), JW-570F (Lat: 40.232407, -79.65998), and JW-573F (Lat: 40.229065, Long: -79.655676).

On October 24, 2019, the Applicant requested a State water quality certification, from the Pennsylvania Department of Environmental Protection (PADEP), as required by Section 401 of the Clean Water Act (33 U.S.C.A. § 1341), to ensure that the construction, operation and



maintenance of the Project will protect water quality in Pennsylvania through compliance with State water quality standards and associated State law requirements, which are consistent with the requirements of the Clean Water Act.

The Project, as proposed, includes the plugging and abandoning of three storage wells (JW-447F, JW-570F, and JW-573F) and their associated 2-inch pipelines (JP-413, JP-503, JP-498, and JP-500). The Project, as proposed, will require approximately 4.97 acres of earth disturbance, will utilize existing culverted stream crossing with no proposed improvements, and will temporarily impact (approximately 900 sq. ft.) the floodway of two waived UNTs to Sewickley Creek (WWF). The entire project site will be restored to original contours upon the completion of the plugging and abandonments.

PADEP is proposing to issue a State water quality certification to Applicant for the Project that will require compliance with the following State water quality permitting programs, criteria and conditions established pursuant to State law to ensure the Project does not violate applicable State water quality standards set forth in 25 Pa. Code Chapter 93:

1. *Erosion and Sediment Control Plan*—Applicant shall obtain and comply with PADEP's Chapter 102 Erosion and Sediment Control for Earth Disturbance Associated with Oil and Gas Exploration, Production, Processing or Treatment issued pursuant to Pennsylvania's Clean Streams Law and Storm Water Management Act (32 P.S. §§ 680.1—680.17), and all applicable implementing regulations (25 Pa. Code Chapter 102).

2. *Water Obstruction and Encroachment Permits*—Applicant shall obtain and comply with a PADEP Chapter 105 Water Obstruction and Encroachment Permits for the construction, operation and maintenance of all water obstructions and encroachments associated with the project pursuant to Pennsylvania's Clean Streams Law, Dam Safety and Encroachments Act (32 P.S. §§ 673.1—693.27), and Flood Plain Management Act (32 P.S. §§ 679.101—679.601.), and all applicable implementing regulations (25 Pa. Code Chapter 105).

3. *Water Quality Monitoring*—PADEP retains the right to specify additional studies or monitoring to ensure that the receiving water quality is not adversely impacted by any operational and construction process that may be employed by Applicant.

4. *Operation*—Applicant shall at all times properly operate and maintain all Project facilities and systems of treatment and control (and related appurtenances) which are installed to achieve compliance with the terms and conditions of this State Water Quality Certification and all required permits, authorizations and approvals. Proper operation and maintenance includes adequate laboratory controls, appropriate quality assurance procedures, and the operation of backup or auxiliary facilities or similar systems installed by Applicant.

5. *Inspection*—The Project, including all relevant records, are subject to inspection at reasonable hours and intervals by an authorized representative of PADEP to determine compliance with this State Water Quality Certification, including all required State water quality permits and State water quality standards. A copy of this certification shall be available for inspection by the PADEP during such inspections of the Project.

6. *Transfer of Projects*—If Applicant intends to transfer any legal or equitable interest in the Project which is affected by this State Water Quality Certification, Ap-

plicant shall serve a copy of this certification upon the prospective transferee of the legal and equitable interest at least thirty (30) days prior to the contemplated transfer and shall simultaneously inform the PADEP Regional Office of such intent. Notice to PADEP shall include a transfer agreement signed by the existing and new owner containing a specific date for transfer of certification responsibility, coverage, and liability between them.

7. *Correspondence*—All correspondence with and submittals to PADEP concerning this State Water Quality Certification shall be addressed to the Department of Environmental Protection, Southwest District Office, Samantha Sullivan, 400 Waterfront Drive, Pittsburgh, PA 15222.

8. *Reservation of Rights*—PADEP may suspend or revoke this State Water Quality Certification if it determines that Applicant has not complied with the terms and conditions of this certification. PADEP may require additional measures to achieve compliance with applicable law, subject to Applicant's applicable procedural and substantive rights.

9. *Other Laws*—Nothing in this State Water Quality Certification shall be construed to preclude the institution of any legal action or relieve Applicant from any responsibilities, liabilities, or penalties established pursuant to any applicable Federal or State law or regulation.

10. *Severability*—The provisions of this State Water Quality Certification are severable and should any provision of this certification be declared invalid or unenforceable, the remainder of the certification shall not be affected thereby.

Prior to issuance of the final State water quality certification, PADEP will consider all relevant and timely comments, suggestions or objections submitted to PADEP within 30 days of this notice. Comments should be directed to Samantha Lutz, Aquatic Biologist, at the above address or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD). Comments must be submitted in writing and contain the name, address and telephone number of the person commenting and a concise statement of comments, objections or suggestions on this proposal. No comments submitted by facsimile will be accepted.

[Pa.B. Doc. No. 20-156. Filed for public inspection January 31, 2020, 9:00 a.m.]

## DEPARTMENT OF ENVIRONMENTAL PROTECTION

### Availability of the Non-Regulatory Agenda

In accordance with the Department of Environmental Protection's (Department) Policy for Development and Publication of Technical Guidance, the Department provides notice of the availability of the Non-Regulatory Agenda (Agenda) twice a year in February and July.

The Agenda serves as a guide and resource to the regulated community, the public, Department staff and members of the Department's advisory committees regarding the focus of the Department's policy development for the coming year. The types of documents listed in the Agenda include policies and technical guidance

documents that provide directives, guidance or other relevant compliance-related information.

The Agenda is available on the Department's eLibrary web site at [www.depgreenport.state.pa.us/elibrary/GetFolder?FolderID=4198](http://www.depgreenport.state.pa.us/elibrary/GetFolder?FolderID=4198) (select "DEP Non-Regulatory Agenda").

Questions regarding the Agenda can be directed to Abbey Cadden, Department of Environmental Protection, Policy Office, 400 Market Street, Harrisburg, PA 17101, [ra-epthepolicyoffice@pa.gov](mailto:ra-epthepolicyoffice@pa.gov) or (717) 783-8727.

Questions regarding a specific document should be directed to the contact person listed on the Agenda for that document.

PATRICK McDONNELL,  
*Secretary*

[Pa.B. Doc. No. 20-157. Filed for public inspection January 31, 2020, 9:00 a.m.]

## DEPARTMENT OF ENVIRONMENTAL PROTECTION

### Marine and Rail Freight Movers Grant Program; Availability of Grants

The Department of Environmental Protection (Department) announces an opportunity to apply for \$10 million in grants offered through the Marine and Rail Freight Movers Grant Program (Grant Program), one of the new programs under the Driving PA Forward Initiative. This funding is available for eligible diesel emission reduction projects that will improve air quality and protect public health and the environment by reducing emissions from switcher locomotives, ferries and tugboats.

The Department is seeking applications for projects that will: (1) repower or replace diesel-powered, pre-Tier 4 freight switcher locomotives that operate 1,000 hours or more per year with any new United States Environmental Protection Agency (EPA) or CARB-certified diesel, alternative fuel or all-electric engine; or (2) repower or upgrade unregulated, Tier 1 or Tier 2, diesel-powered marine engines in ferries or tugboats with an EPA certified remanufactured system or an EPA verified engine upgrade. Other restrictions may apply. Public and private entities that own or operate eligible freight switcher locomotives, ferries or tugboats (towboats) throughout this Commonwealth should apply. These entities may include school districts, municipal authorities, political subdivisions, State agencies, nonprofit entities, corporations, limited liability companies or partnerships incorporated or registered in this Commonwealth, air quality or transportation organizations and metropolitan or rural planning organizations.

The Department will not reimburse grant recipients for project costs incurred prior to the grant performance period set forth in the applicable grant agreement. The Grant Program guidelines and application instructions are available on the Department's Driving PA Forward webpage at [www.depgis.state.pa.us/DrivingPAForward/](http://www.depgis.state.pa.us/DrivingPAForward/).

A webinar on the Grant Program will be held on Wednesday, March 25, 2020, from 10:30 a.m. to 12:30 p.m. See the Department's previously listed Driving PA Forward webpage for registration information.

Applications must be submitted through the Department of Community and Economic Development's Electronic Single Application web site, eGrants at [www.esa.dced.state.pa.us](http://www.esa.dced.state.pa.us). The Department will accept applications through 4 p.m. on Friday, June 5, 2020. Fax and e-mail submissions of applications will not be accepted. The Department will review and score applications after the application period closes on June 5, 2020.

Interested applicants with questions may contact the Bureau of Air Quality at [ra-epvwmittigation@pa.gov](mailto:ra-epvwmittigation@pa.gov) or (717) 787-9495.

PATRICK McDONNELL,  
*Secretary*

[Pa.B. Doc. No. 20-158. Filed for public inspection January 31, 2020, 9:00 a.m.]

## DEPARTMENT OF ENVIRONMENTAL PROTECTION

### Pennsylvania State Clean Diesel Grant Program; Availability of Grants

The Department of Environmental Protection (Department) announces an opportunity to apply for \$2,654,841 in grants offered through the Fiscal Year 2019 Pennsylvania State Clean Diesel Grant Program (Grant Program). Funding has been made available through the United States Environmental Protection Agency (EPA) and the Federal Diesel Emission Reduction Act (DERA). Most of this funding, approximately \$2.15 million, is from the settlement of a lawsuit with Volkswagen and its subsidiaries, relating to diesel vehicle emission violations, and is being used as the Commonwealth's voluntary match funding under the DERA program. Funding is available for eligible diesel emission reduction projects that will improve air quality and protect public health and the environment by reducing emissions from diesel-powered vehicles and engines.

The Department is seeking applications for projects that will replace or retrofit fleet diesel-powered highway and nonroad vehicles, engines and equipment. The majority of the vehicle or engine's annual operation time must occur within this Commonwealth. Public and private entities that operate diesel-powered fleets throughout this Commonwealth should apply. These entities may include school districts, municipal authorities, political subdivisions, State agencies, nonprofit entities, corporations, limited liability companies or partnerships incorporated or registered in this Commonwealth, air quality or transportation organizations and metropolitan or rural planning organizations. Projects must use technologies certified or verified by the EPA or the California Air Resources Board to lower diesel emissions, unless otherwise noted in the Grant Program guidelines. The technology may be a single technology or a combination of available technologies.

The Department will not reimburse grant recipients for project costs incurred prior to the grant performance period set forth in the applicable grant agreement. The Grant Program guidelines and application instructions are available on the Department's Driving PA Forward webpage at [www.depgis.state.pa.us/DrivingPAForward/](http://www.depgis.state.pa.us/DrivingPAForward/).

A webinar on the Grant Program will be held on Monday, February 10, 2020, from 10:30 a.m. to 12 p.m.

See the Department's previously listed Driving PA Forward webpage for registration information.

Applications must be submitted online through the Department of Community and Economic Development's Electronic Single Application web site, eGrants at [www.esa.dced.state.pa.us](http://www.esa.dced.state.pa.us). The Department will accept applications through 4 p.m. on Friday, March 6, 2020. Fax and e-mail submissions of applications will not be accepted.

Interested applicants with questions may contact the Bureau of Air Quality at [ra-epvwmitigation@pa.gov](mailto:ra-epvwmitigation@pa.gov) or (717) 787-9495.

PATRICK McDONNELL,  
*Secretary*

[Pa.B. Doc. No. 20-159. Filed for public inspection January 31, 2020, 9:00 a.m.]

## DEPARTMENT OF ENVIRONMENTAL PROTECTION

### Pennsylvania's FAST Act Corridor Infrastructure Grant Program; Availability of Grants

The Energy Programs Office of the Department of Environmental Protection (Department) announces an opportunity to apply for grants under Pennsylvania's FAST Act Corridor Infrastructure Program (Program). This Program is a special solicitation under the Alternative Fuels Incentive Grant Program which will provide up to a 50% reimbursement grant to install public refueling infrastructure along the highway corridors in this Commonwealth designated as alternative fuel corridors by the Fixing America's Surface Transportation Act (FAST Act) (Pub.L. No. 114-94) as "signage ready" or "signage pending" by the Federal Highway Administration. These corridors include specific sections of interstates I-76, I-276, I-376, I-476, I-79, I-90, I-95, I-80, I-70, I-78, I-81, I-83, I-84 and US-30.

Approximately \$1 million in grants will be available to municipal authorities, political subdivisions, nonprofit entities, corporations and limited liability companies or partnerships incorporated or registered in the Commonwealth to install public-use electric, hydrogen, propane and compressed natural gas refueling infrastructure. The infrastructure must support public vehicles seeking to undertake alternative fuel refueling including, electric vehicle charging or hydrogen, propane or compressed natural gas refueling. Individual project awards will be capped at \$500,000.

Eligible project infrastructure must be publicly accessible 24/7; incorporate roadway signage compliant with the FAST Act; offer an open and common payment platform; feature standardized nozzles and connectors; be co-located with convenient consumer amenities at safe locations; and provide travelers with measures of assurance that the fuel will be available during their planned stop. Project infrastructure must be designed to meet 5-year future projections of anticipated usage for the public at the proposed public stations. All projects must be sited within 5 roadway miles of the eligible corridor segment.

Program guidelines and application instructions are available on the Department's web site at [www.dep.pa.gov](http://www.dep.pa.gov) (select "Residents," then "Grants, Loans and Rebates," then "Alternative Fuels Incentive Grant").

The application period opened January 24, 2020. Applications must be submitted online through the Department of Community and Economic Development's Electronic Single Application web site, eGrants at [www.esa.dced.state.pa.us](http://www.esa.dced.state.pa.us). Applications must be received by 4 p.m. on Tuesday, March 24, 2020.

Interested applicants with questions may contact the Energy Programs Office at [jdziubek@pa.gov](mailto:jdziubek@pa.gov) or (717) 783-8411.

PATRICK McDONNELL,  
*Secretary*

[Pa.B. Doc. No. 20-160. Filed for public inspection January 31, 2020, 9:00 a.m.]

## DEPARTMENT OF HEALTH

### Long-Term Care Nursing Facilities; Requests for Exception

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 201.22(e), (h) and (j) (relating to prevention, control and surveillance of tuberculosis (TB)):

The Summit Rehabilitation and Nursing Care  
135 Lafayette Avenue  
Palmerton, PA 18071  
FAC ID # 24090201

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 205.21(a) (relating to special care room):

Presbyterian Center for Continuing Care  
39th and Market Streets  
Philadelphia, PA 19104  
FAC ID # 421102

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 205.24(a) (relating to dining room):

Presbyterian Center for Continuing Care  
39th and Market Streets  
Philadelphia, PA 19104  
FAC ID # 421102

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 205.27 (relating to lounge and recreation rooms):

Presbyterian Center for Continuing Care  
39th and Market Streets  
Philadelphia, PA 19104  
FAC ID # 421102

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 205.6(a) (relating to function of building):

Presbyterian Center for Continuing Care  
39th and Market Streets  
Philadelphia, PA 19104  
FAC ID # 421102

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](mailto:ra-paexcept@pa.gov).



Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division at the previously listed address.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of the request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone number, or for speech and/or hearing-impaired persons, call the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

RACHEL L. LEVINE, MD,  
*Secretary*

[Pa.B. Doc. No. 20-161. Filed for public inspection January 31, 2020, 9:00 a.m.]

## DEPARTMENT OF HUMAN SERVICES

### Medical Assistance Program Fee Schedule for Intensive Behavioral Health Services: Addition of Procedure Codes; Prior Authorization Require- ments

The Department of Human Services (Department) is adding new procedure codes for intensive behavioral health services (IBHS) to the Medical Assistance (MA) Program Fee Schedule effective January 17, 2020. The Department is also announcing prior authorization requirements for certain IBHS.

#### *Background*

On October 19, 2019, the Department promulgated 55 Pa. Code Chapters 1155 and 5240 (relating to intensive behavioral health services), which codified the minimum standards for licensing and MA payment conditions for agencies that deliver IBHS to children, youth and young adults under 21 years of age with mental, emotional and behavioral health needs. The regulations replaced the requirements for behavioral health rehabilitation services (BHRS) previously set forth in bulletins issued by the Department. IBHS includes individual services, applied behavior analysis (ABA) services, group services and evidence-based therapy delivered through individual services, ABA services or group services. The service array that was available through BHRS is available through IBHS.

#### *Procedure Codes*

The Department is adding new procedure codes to the MA Program Fee Schedule as well as adding modifiers to procedure codes currently on the MA Program Fee Schedule for IBHS. Following is an explanation of the procedure codes that are to be used for each IBHS, followed by a chart that includes the procedure codes, modifiers, provider type and specialties, MA fees, prior authorization requirements and MA units.

#### *Individual Services*

Individual services are delivered using behavior consultation, mobile therapy or behavioral health technician (BHT) services.

Procedure code H0032, which is currently on the MA Program Fee Schedule, will be used for behavior consultation services. This is the same procedure code currently being used for behavioral specialist consultant services through BHRS except that there no longer is a difference in rates for individuals who have a doctorate degree and individuals who have a master's degree. Instead there are different rates depending on whether or not the individual who is providing the behavior consultation services is licensed.

Procedure code H2019, which is currently on the MA Program Fee Schedule, will be used for mobile therapy services. This is the same procedure code currently being used for mobile therapy services through BHRS. There are different rates for individuals who are licensed and unlicensed that provide IBHS through mobile therapy services.

Procedure code H2021, which is currently on the MA Program Fee Schedule, will be used for BHT services. This is the same procedure code currently being used for therapeutic support staff (TSS) services through BHRS.

The Department is adding procedure code H2033 for multisystemic therapy and procedure code H2019 for functional family therapy to the MA Program Fee Schedule. These services had previously been approved through the program exception process.

#### *ABA Services*

ABA services are delivered using behavior analytic, behavior consultation—ABA, assistant behavior consultation—ABA or BHT-ABA services.

The procedure codes used for BHRS did not include separate procedure codes for ABA services. Instead ABA services were billed as behavioral specialist consultant services using H0032 or behavioral specialist consultant-autism spectrum disorder services using H0046 or TSS services using H2021. Because the IBHS regulations identified ABA services as a distinct service, the Department will be adding Healthcare Common Procedure Coding System procedure codes for ABA services to the MA Program Fee Schedule, as set forth in the following chart.

The Department will be adding to the MA Program Fee Schedule procedure codes 97151, 97155 and 97156 for behavior analytic services and behavior consultation—ABA services. In addition, the Department will be adding to the MA Program Fee Schedule procedure codes 97152 and 97153 for assistant behavior consultation—ABA services and BHT-ABA services.

#### *Group Services*

The Department will be adding to the MA Program Fee Schedule procedure code 97158 for group services using ABA provided by graduate level professionals and procedure code 97154 for group services using ABA provided by individuals who are qualified to provide BHT-ABA group services.

The Department will be using procedure code H2021 for all other group services. This includes group services that had previously been approved as summer therapeutic activities programs using procedure code H2012 UB or through program exceptions.

#### *Rates*

The Department took into consideration the different requirements for providers of IBHS and the providers of BHRS in establishing the rates. The IBHS regulations include different staff qualifications, training and supervision requirements for individuals who provide IBHS. The

regulations also require that an IBHS agency have an administrative director and a clinical director and include more documentation requirements.

*Prior Authorization*

The following services require prior authorization: BHT services, assistant behavior consultation—ABA services, BHT-ABA services and group services.

Set forth as follows are the procedure codes, modifiers, provider type and specialties, MA fees, prior authorization requirements and MA units for IBHS. The table also includes in parentheses the service that is to be billed using the procedure code.

The Department will be issuing a bulletin to MA providers with additional information.

<i>Codes</i>	<i>Pricing Modifier</i>	<i>Info Modifier</i>	<i>Description</i>	<i>Provider Type</i>	<i>Provider Specialty</i>	<i>MA Fee</i>	<i>Prior Auth.</i>	<i>MA Unit</i>
97151			Behavior identification assessment, administered by a physician or other qualified health care professional, each 15 minutes of the physician's or other qualified health care professional's time face-to-face with patient and/or guardian(s)/caregiver(s) administering assessment and discussing findings and recommendations, and non-face-to-face analyzing past data, scoring/interpreting the assessment and preparing the report/treatment plan (Behavior Consultation—ABA)	11	592	\$22.09	No	15 min.
97151	U7		Behavior identification assessment, administered by a physician or other qualified health care professional, each 15 minutes of the physician's or other qualified health care professional's time face-to-face with patient and/or guardian(s)/caregiver(s) administering assessment and discussing findings and recommendations, and non-face-to-face analyzing past data, scoring/interpreting the assessment and preparing the report/treatment plan (Behavior Analytic)	11	592	\$24.73	No	15 min.
97152			Behavior identification-supporting assessment, administered by one technician under the direction of a physician or other qualified health care professional, face-to-face with the patient, each 15 minutes (Behavioral Health Technician—ABA)	11	592	\$12.73	Yes	15 min.
97152	U8		Behavior identification-supporting assessment, administered by one technician under the direction of a physician or other qualified health care professional, face-to-face with the patient, each 15 minutes (Assistant Behavior Consultation—ABA)	11	592	\$15.76	Yes	15 min.
97153			Adaptive behavior treatment by protocol, administered by technician under the direction of a physician or other qualified health care professional, face-to-face with one patient, each 15 minutes (Behavioral Health Technician—ABA)	11	592	\$12.73	Yes	15 min.
97153	U8		Adaptive behavior treatment by protocol, administered by technician under the direction of a physician or other qualified health care professional, face-to-face with one patient, each 15 minutes (Assistant Behavior Consultation—ABA)	11	592	\$15.76	Yes	15 min.

<i>Codes</i>	<i>Pricing Modifier</i>	<i>Info Modifier</i>	<i>Description</i>	<i>Provider Type</i>	<i>Provider Specialty</i>	<i>MA Fee</i>	<i>Prior Auth.</i>	<i>MA Unit</i>
97154	U6		Group adaptive behavior treatment by protocol, administered by technician under the direction of a physician or other qualified health care professional, face-to-face with two or more patients, each 15 minutes (up to 3 group members)	11	592	\$16.63	Yes	15 min.
97154	U5		Group adaptive behavior treatment by protocol, administered by technician under the direction of a physician or other qualified health care professional, face-to-face with two or more patients, each 15 minutes (4 to 6 group members)	11	592	\$8.15	Yes	15 min.
97154			Group adaptive behavior treatment by protocol, administered by technician under the direction of a physician or other qualified health care professional, face-to-face with two or more patients, each 15 minutes (7 to 12 group members)	11	592	\$5.13	Yes	15 min.
97155			Adaptive behavior treatment with protocol modification, administered by physician or other qualified health care professional, which may include simultaneous directions of technician, face-to-face with one patient, each 15 minutes (Behavior Consultation—ABA)	11	592	\$22.09	No	15 min.
97155	U7		Adaptive behavior treatment with protocol modification, administered by physician or other qualified health care professional, which may include simultaneous directions of technician, face-to-face with one patient, each 15 minutes (Behavior Analytic)	11	592	\$24.73	No	15 min.
97156			Family adaptive behavior treatment guidance, administered by physician or other qualified health care professional (with or without the patient present), face-to-face with guardian(s)/caregiver(s), each 15 minutes (Behavior Consultation—ABA)	11	592	\$22.09	No	15 min.
97156	U7		Family adaptive behavior treatment guidance, administered by physician or other qualified health care professional (with or without the patient present), face-to-face with guardian(s)/caregiver(s), each 15 minutes (Behavior Analytic)	11	592	\$24.73	No	15 min.
97158	U6		Group adaptive behavior treatment with protocol modification, administered by physician or other qualified health care professional, face-to-face with multiple patients, each 15 minutes (up to 3 group members)	11	592	\$16.63	Yes	15 min.
97158	U5		Group adaptive behavior treatment with protocol modification, administered by physician or other qualified health care professional, face-to-face with multiple patients, each 15 minutes (4 to 6 group members)	11	592	\$8.15	Yes	15 min.
97158			Group adaptive behavior treatment with protocol modification, administered by physician or other qualified health care professional, face-to-face with multiple patients, each 15 minutes (7 to 12 group members)	11	592	\$5.13	Yes	15 min.



Codes	Pricing Modifier	Info Modifier	Description	Provider Type	Provider Specialty	MA Fee	Prior Auth.	MA Unit
H0032	UB		Mental health service plan development by nonphysician (Behavior Consultation—Unlicensed Practitioner)	11	590	\$14.87	No	15 min.
H0032	U9		Mental health service plan development by nonphysician (Behavior Consultation—Licensed Practitioner)	11	590	\$19.56	No	15 min.
H2014	UB		Skills Training and Development (Onsite Supervision)	11	590	\$2.50	No	15 min.
H2019			Therapeutic Behavioral Services (Mobile Therapy—Unlicensed Practitioner)	11	590	\$14.87	No	15 min.
H2019	U9		Therapeutic Behavioral Services (Mobile Therapy—Licensed Practitioner)	11	590	\$19.56	No	15 min.
H2019	U6	HA	Therapeutic Behavioral Services (Functional Family Therapy)	11	590	\$26.01	No	15 min.
H2021	U6	HQ	Community-Based Wraparound Services (Group Service—4 to 8 group members)	11	591	\$2.08	Yes	15 min.
H2021	U5	HQ	Community-Based Wraparound Services (Group Service—9 to 12 group members)	11	591	\$1.57	Yes	15 min.
H2021	HQ		Community-Based Wraparound Services (Group Service—13 to 20 group members)	11	591	\$1.06	Yes	15 min.
H2021			Community-Based Wraparound Services (Behavioral Health Technician)	11	590	\$9.16	Yes	15 min.
H2033			Multisystemic therapy for juveniles, per 15 minutes	11	590	\$28.44	No	15 min.

#### Fiscal Impact

The fiscal impact estimated for Fiscal Year (FY) 2019-2020 is \$11.1 million (\$5.3 million in State funds). The estimated fiscal impact for FY 2020-2021 is \$38.5 million (\$18.4 million in State funds). The estimated fiscal impact for FY 2021-2022 is \$45.8 million (\$21.9 million in State funds).

#### Public Comment

Interested persons are invited to submit written comments regarding the changes to the MA Program Fee Schedule to the Department of Human Services, Office of Mental Health and Substance Abuse Services, c/o Deputy Secretary's Office, Attention: Regulations Coordinator, 11th Floor, Commonwealth Towers, 303 Walnut Street, Harrisburg, PA 17120. Comments may also be e-mailed to RA-PWIBHS@pa.gov. Comments received will be reviewed and considered for any subsequent revisions to the MA Program Fee Schedule.

Persons with a disability who require an auxiliary aid or service may submit comments using the Pennsylvania AT&T Relay Service (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

TERESA D. MILLER,  
Secretary

#### Fiscal Note: 14-NOT-1383. (1) General Fund;

(7) MA—Capitation; (2) Implementing Year 2019-20 is \$4,916,000; (3) 1st Succeeding Year 2020-21 is \$17,204,000; 2nd Succeeding Year 2021-22 through 5th Succeeding Year 2024-25 are \$20,357,000; (4) 2018-19 Program—\$3,303,000,000; 2017-18 Program—\$3,106,000,000; 2016-17 Program—\$3,657,000,000;

(7) MA—Fee-for-Service; (2) Implementing Year 2019-20 is \$382,000; (3) 1st Succeeding Year 2020-21 is \$1,195,000; 2nd Succeeding Year 2021-22 through 5th

Succeeding Year 2024-25 are \$1,529,000; (4) 2018-19 Program—\$342,544,000; 2017-18 Program—\$477,690,000; 2016-17 Program—\$450,970,000;

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

[Pa.B. Doc. No. 20-162. Filed for public inspection January 31, 2020, 9:00 a.m.]

## DEPARTMENT OF LABOR AND INDUSTRY

### Unemployment Compensation; Table Specified for Determination of Rate and Amount of Benefits

The purpose of this notice is to announce the Table Specified for the Determination of Rate and Amount of Benefits (Table) and the maximum weekly unemployment compensation (UC) benefit rate for calendar year 2020.

The Table, contained in section 404(e)(1) of the Unemployment Compensation Law (law) (43 P.S. § 804(e)(1)), shall be extended or contracted annually to the point where the maximum weekly benefit rate for a calendar year equals 66 2/3% of the average weekly wage for the 36-month period ending on the previous June 30. 43 P.S. § 804(e)(2)(i). The Table was amended by the act of November 3, 2016 (P.L. 1100, No. 144) (Act 144), which imposed limitations on the maximum weekly benefit rate. For calendar year 2020, Act 144 limits the maximum weekly benefit rate to an amount that is no more than 2% of the maximum weekly benefit rate of the preceding year. 43 P.S. § 804(e)(2)(iii)(B). Because the maximum weekly benefit rate for calendar year 2019 was \$561, the

maximum allowable weekly benefit rate for calendar year 2020 is \$572. As a result, the Department of Labor and Industry is extending the Table as published in this notice.

The Table, as amended by Act 144, was published at 47 Pa.B. 362 (January 21, 2017) and codified in 34 Pa. Code Chapter 65, Appendix A (relating to table specified for the determination of rate and amount of benefits). Under sections 201(a) and 404(e)(2) of the law (43 P.S. §§ 761(a) and 804(e)(2)) and 34 Pa. Code § 65.111 (relating to benefit table), the Table for 2020 is being adopted by this notice and will be codified in 34 Pa. Code Chapter 65, Appendix A.

Under section 404(e)(2) of the law, this Table is effective for claimants whose benefit year begins on or after January 1, 2020.

Questions concerning this notice should be directed to William L. Trusky, Jr., Deputy Secretary for Unemployment Compensation Programs, 651 Boas Street, Room 1700, Harrisburg, PA 17121.

W. GERARD OLEKSIK,  
*Secretary*

**Appendix A**

**Table Specified for the Determination of Rate and Amount of Benefits**

<i>Part A Highest Quarterly Wage</i>	<i>Part B Rate of Compensation</i>	<i>Part C Qualifying Wages</i>
\$1,688—\$1,712	\$68	\$2,718
\$1,713—\$1,737	\$69	\$2,758
\$1,738—\$1,762	\$70	\$2,797
\$1,763—\$1,787	\$71	\$2,837
\$1,788—\$1,812	\$72	\$2,877
\$1,813—\$1,837	\$73	\$2,916
\$1,838—\$1,862	\$74	\$2,956
\$1,863—\$1,887	\$75	\$2,996
\$1,888—\$1,912	\$76	\$3,035
\$1,913—\$1,937	\$77	\$3,075
\$1,938—\$1,962	\$78	\$3,115
\$1,963—\$1,987	\$79	\$3,154
\$1,988—\$2,012	\$80	\$3,194
\$2,013—\$2,037	\$81	\$3,234
\$2,038—\$2,062	\$82	\$3,274
\$2,063—\$2,087	\$83	\$3,313
\$2,088—\$2,112	\$84	\$3,353
\$2,113—\$2,137	\$85	\$3,393
\$2,138—\$2,162	\$86	\$3,432
\$2,163—\$2,187	\$87	\$3,472
\$2,188—\$2,212	\$88	\$3,512
\$2,213—\$2,237	\$89	\$3,551
\$2,238—\$2,262	\$90	\$3,591
\$2,263—\$2,287	\$91	\$3,631
\$2,288—\$2,312	\$92	\$3,670
\$2,313—\$2,337	\$93	\$3,710
\$2,338—\$2,362	\$94	\$3,750
\$2,363—\$2,387	\$95	\$3,789
\$2,388—\$2,412	\$96	\$3,829
\$2,413—\$2,437	\$97	\$3,869
\$2,438—\$2,462	\$98	\$3,908
\$2,463—\$2,487	\$98	\$3,948
\$2,488—\$2,512	\$99	\$3,988
\$2,513—\$2,537	\$100	\$4,027
\$2,538—\$2,562	\$101	\$4,067
\$2,563—\$2,587	\$102	\$4,107
\$2,588—\$2,612	\$103	\$4,147
\$2,613—\$2,637		\$4,186
\$2,638—\$2,662		\$4,226
\$2,663—\$2,687		\$4,266
\$2,688—\$2,712		\$4,305
\$2,713—\$2,737		\$4,345
\$2,738—\$2,762		\$4,385
\$2,763—\$2,787		\$4,424
\$2,788—\$2,812		\$4,464
\$2,813—\$2,837		\$4,504
\$2,838—\$2,862		\$4,543
\$2,863—\$2,887		\$4,583
\$2,888—\$2,912		\$4,623
\$2,913—\$2,937		\$4,662
\$2,938—\$2,962		\$4,702
\$2,963—\$2,987		\$4,742
\$2,988—\$3,012		\$4,781
\$3,013—\$3,037		\$4,821
\$3,038—\$3,062		\$4,861
\$3,063—\$3,087		\$4,900
\$3,088—\$3,112		\$4,940
\$3,113—\$3,137		\$4,980
\$3,138—\$3,162		\$5,020
\$3,163—\$3,187		\$5,059
\$3,188—\$3,212		\$5,099
\$3,213—\$3,237		\$5,139
\$3,238—\$3,262		\$5,178
\$3,263—\$3,287		\$5,218
\$3,288—\$3,312		\$5,258
\$3,313—\$3,337		\$5,297
\$3,338—\$3,362		\$5,337
\$3,363—\$3,387		\$5,377
\$3,388—\$3,412		\$5,416
\$3,413—\$3,437		\$5,456
\$3,438—\$3,462		\$5,496
\$3,463—\$3,487		\$5,535
\$3,488—\$3,512		\$5,575
\$3,513—\$3,537		\$5,615
\$3,538—\$3,562		\$5,654
\$3,563—\$3,587		\$5,694
\$3,588—\$3,612		\$5,734
\$3,613—\$3,637		\$5,774
\$3,638—\$3,662		\$5,813
\$3,663—\$3,687		\$5,853
\$3,688—\$3,712		\$5,893
\$3,713—\$3,737		\$5,932
\$3,738—\$3,762		\$5,972
\$3,763—\$3,787		\$6,012
\$3,788—\$3,812		\$6,051
\$3,813—\$3,837		\$6,091
\$3,838—\$3,862		\$6,131
\$3,863—\$3,887		\$6,170
\$3,888—\$3,912		\$6,210
\$3,913—\$3,937		\$6,250
\$3,938—\$3,962		\$6,289
\$3,963—\$3,987		\$6,329
\$3,988—\$4,012		\$6,369
\$4,013—\$4,037		\$6,408
\$4,038—\$4,062		\$6,448
\$4,063—\$4,087		\$6,488
\$4,088—\$4,112		\$6,527
\$4,113—\$4,137		\$6,567
\$4,138—\$4,162		\$6,607
\$4,163—\$4,187		\$6,647
\$4,188—\$4,212		\$6,686
\$4,213—\$4,237		\$6,726

<i>Part A Highest Quarterly Wage</i>	<i>Part B Rate of Compensation</i>	<i>Part C Qualifying Wages</i>	<i>Part A Highest Quarterly Wage</i>	<i>Part B Rate of Compensation</i>	<i>Part C Qualifying Wages</i>
\$4,238—\$4,262	\$168	\$6,766	\$5,863—\$5,887	\$232	\$9,345
\$4,263—\$4,287	\$169	\$6,805	\$5,888—\$5,912	\$233	\$9,385
\$4,288—\$4,312	\$170	\$6,845	\$5,913—\$5,937	\$234	\$9,424
\$4,313—\$4,337	\$171	\$6,885	\$5,938—\$5,962	\$235	\$9,464
\$4,338—\$4,362	\$172	\$6,924	\$5,963—\$5,987	\$236	\$9,504
\$4,363—\$4,387	\$173	\$6,964	\$5,988—\$6,012	\$237	\$9,543
\$4,388—\$4,412	\$174	\$7,004	\$6,013—\$6,037	\$238	\$9,583
\$4,413—\$4,437	\$175	\$7,043	\$6,038—\$6,062	\$239	\$9,623
\$4,438—\$4,462	\$176	\$7,083	\$6,063—\$6,087	\$240	\$9,662
\$4,463—\$4,487	\$177	\$7,123	\$6,088—\$6,112	\$241	\$9,702
\$4,488—\$4,512	\$178	\$7,162	\$6,113—\$6,137	\$242	\$9,742
\$4,513—\$4,537	\$179	\$7,202	\$6,138—\$6,162	\$243	\$9,781
\$4,538—\$4,562	\$180	\$7,242	\$6,163—\$6,187	\$244	\$9,821
\$4,563—\$4,587	\$181	\$7,281	\$6,188—\$6,212	\$245	\$9,861
\$4,588—\$4,612	\$182	\$7,321	\$6,213—\$6,237	\$245	\$9,900
\$4,613—\$4,637	\$183	\$7,361	\$6,238—\$6,262	\$246	\$9,940
\$4,638—\$4,662	\$184	\$7,400	\$6,263—\$6,287	\$247	\$9,980
\$4,663—\$4,687	\$185	\$7,440	\$6,288—\$6,312	\$248	\$10,020
\$4,688—\$4,712	\$186	\$7,480	\$6,313—\$6,337	\$249	\$10,059
\$4,713—\$4,737	\$187	\$7,520	\$6,338—\$6,362	\$250	\$10,099
\$4,738—\$4,762	\$188	\$7,559	\$6,363—\$6,387	\$251	\$10,139
\$4,763—\$4,787	\$189	\$7,599	\$6,388—\$6,412	\$252	\$10,178
\$4,788—\$4,812	\$190	\$7,639	\$6,413—\$6,437	\$253	\$10,218
\$4,813—\$4,837	\$191	\$7,678	\$6,438—\$6,462	\$254	\$10,258
\$4,838—\$4,862	\$192	\$7,718	\$6,463—\$6,487	\$255	\$10,297
\$4,863—\$4,887	\$193	\$7,758	\$6,488—\$6,512	\$256	\$10,337
\$4,888—\$4,912	\$194	\$7,797	\$6,513—\$6,537	\$257	\$10,377
\$4,913—\$4,937	\$195	\$7,837	\$6,538—\$6,562	\$258	\$10,416
\$4,938—\$4,962	\$196	\$7,877	\$6,563—\$6,587	\$259	\$10,456
\$4,963—\$4,987	\$196	\$7,916	\$6,588—\$6,612	\$260	\$10,496
\$4,988—\$5,012	\$197	\$7,956	\$6,613—\$6,637	\$261	\$10,535
\$5,013—\$5,037	\$198	\$7,996	\$6,638—\$6,662	\$262	\$10,575
\$5,038—\$5,062	\$199	\$8,035	\$6,663—\$6,687	\$263	\$10,615
\$5,063—\$5,087	\$200	\$8,075	\$6,688—\$6,712	\$264	\$10,654
\$5,088—\$5,112	\$201	\$8,115	\$6,713—\$6,737	\$265	\$10,694
\$5,113—\$5,137	\$202	\$8,154	\$6,738—\$6,762	\$266	\$10,734
\$5,138—\$5,162	\$203	\$8,194	\$6,763—\$6,787	\$267	\$10,774
\$5,163—\$5,187	\$204	\$8,234	\$6,788—\$6,812	\$268	\$10,813
\$5,188—\$5,212	\$205	\$8,274	\$6,813—\$6,837	\$269	\$10,853
\$5,213—\$5,237	\$206	\$8,313	\$6,838—\$6,862	\$270	\$10,893
\$5,238—\$5,262	\$207	\$8,353	\$6,863—\$6,887	\$271	\$10,932
\$5,263—\$5,287	\$208	\$8,393	\$6,888—\$6,912	\$272	\$10,972
\$5,288—\$5,312	\$209	\$8,432	\$6,913—\$6,937	\$273	\$11,012
\$5,313—\$5,337	\$210	\$8,472	\$6,938—\$6,962	\$274	\$11,051
\$5,338—\$5,362	\$211	\$8,512	\$6,963—\$6,987	\$275	\$11,091
\$5,363—\$5,387	\$212	\$8,551	\$6,988—\$7,012	\$276	\$11,131
\$5,388—\$5,412	\$213	\$8,591	\$7,013—\$7,037	\$277	\$11,170
\$5,413—\$5,437	\$214	\$8,631	\$7,038—\$7,062	\$278	\$11,210
\$5,438—\$5,462	\$215	\$8,670	\$7,063—\$7,087	\$279	\$11,250
\$5,463—\$5,487	\$216	\$8,710	\$7,088—\$7,112	\$280	\$11,289
\$5,488—\$5,512	\$217	\$8,750	\$7,113—\$7,137	\$281	\$11,329
\$5,513—\$5,537	\$218	\$8,789	\$7,138—\$7,162	\$282	\$11,369
\$5,538—\$5,562	\$219	\$8,829	\$7,163—\$7,187	\$283	\$11,408
\$5,563—\$5,587	\$220	\$8,869	\$7,188—\$7,212	\$284	\$11,448
\$5,588—\$5,612	\$221	\$8,908	\$7,213—\$7,237	\$285	\$11,488
\$5,613—\$5,637	\$222	\$8,948	\$7,238—\$7,262	\$286	\$11,527
\$5,638—\$5,662	\$223	\$8,988	\$7,263—\$7,287	\$287	\$11,567
\$5,663—\$5,687	\$224	\$9,027	\$7,288—\$7,312	\$288	\$11,607
\$5,688—\$5,712	\$225	\$9,067	\$7,313—\$7,337	\$289	\$11,647
\$5,713—\$5,737	\$226	\$9,107	\$7,338—\$7,362	\$290	\$11,686
\$5,738—\$5,762	\$227	\$9,147	\$7,363—\$7,387	\$291	\$11,726
\$5,763—\$5,787	\$228	\$9,186	\$7,388—\$7,412	\$292	\$11,766
\$5,788—\$5,812	\$229	\$9,226	\$7,413—\$7,437	\$293	\$11,805
\$5,813—\$5,837	\$230	\$9,266	\$7,438—\$7,462	\$294	\$11,845
\$5,838—\$5,862	\$231	\$9,305	\$7,463—\$7,487	\$294	\$11,885



<i>Part A Highest Quarterly Wage</i>	<i>Part B Rate of Compensation</i>	<i>Part C Qualifying Wages</i>	<i>Part A Highest Quarterly Wage</i>	<i>Part B Rate of Compensation</i>	<i>Part C Qualifying Wages</i>
\$7,488—\$7,512	\$295	\$11,924	\$9,113—\$9,137	\$359	\$14,504
\$7,513—\$7,537	\$296	\$11,964	\$9,138—\$9,162	\$360	\$14,543
\$7,538—\$7,562	\$297	\$12,004	\$9,163—\$9,187	\$361	\$14,583
\$7,563—\$7,587	\$298	\$12,043	\$9,188—\$9,212	\$362	\$14,623
\$7,588—\$7,612	\$299	\$12,083	\$9,213—\$9,237	\$363	\$14,662
\$7,613—\$7,637	\$300	\$12,123	\$9,238—\$9,262	\$364	\$14,702
\$7,638—\$7,662	\$301	\$12,162	\$9,263—\$9,287	\$365	\$14,742
\$7,663—\$7,687	\$302	\$12,202	\$9,288—\$9,312	\$366	\$14,781
\$7,688—\$7,712	\$303	\$12,242	\$9,313—\$9,337	\$367	\$14,821
\$7,713—\$7,737	\$304	\$12,281	\$9,338—\$9,362	\$368	\$14,861
\$7,738—\$7,762	\$305	\$12,321	\$9,363—\$9,387	\$369	\$14,900
\$7,763—\$7,787	\$306	\$12,361	\$9,388—\$9,412	\$370	\$14,940
\$7,788—\$7,812	\$307	\$12,400	\$9,413—\$9,437	\$371	\$14,980
\$7,813—\$7,837	\$308	\$12,440	\$9,438—\$9,462	\$372	\$15,020
\$7,838—\$7,862	\$309	\$12,480	\$9,463—\$9,487	\$373	\$15,059
\$7,863—\$7,887	\$310	\$12,520	\$9,488—\$9,512	\$374	\$15,099
\$7,888—\$7,912	\$311	\$12,559	\$9,513—\$9,537	\$375	\$15,139
\$7,913—\$7,937	\$312	\$12,599	\$9,538—\$9,562	\$376	\$15,178
\$7,938—\$7,962	\$313	\$12,639	\$9,563—\$9,587	\$377	\$15,218
\$7,963—\$7,987	\$314	\$12,678	\$9,588—\$9,612	\$378	\$15,258
\$7,988—\$8,012	\$315	\$12,718	\$9,613—\$9,637	\$379	\$15,297
\$8,013—\$8,037	\$316	\$12,758	\$9,638—\$9,662	\$380	\$15,337
\$8,038—\$8,062	\$317	\$12,797	\$9,663—\$9,687	\$381	\$15,377
\$8,063—\$8,087	\$318	\$12,837	\$9,688—\$9,712	\$382	\$15,416
\$8,088—\$8,112	\$319	\$12,877	\$9,713—\$9,737	\$383	\$15,456
\$8,113—\$8,137	\$320	\$12,916	\$9,738—\$9,762	\$384	\$15,496
\$8,138—\$8,162	\$321	\$12,956	\$9,763—\$9,787	\$385	\$15,535
\$8,163—\$8,187	\$322	\$12,996	\$9,788—\$9,812	\$386	\$15,575
\$8,188—\$8,212	\$323	\$13,035	\$9,813—\$9,837	\$387	\$15,615
\$8,213—\$8,237	\$324	\$13,075	\$9,838—\$9,862	\$388	\$15,654
\$8,238—\$8,262	\$325	\$13,115	\$9,863—\$9,887	\$389	\$15,694
\$8,263—\$8,287	\$326	\$13,154	\$9,888—\$9,912	\$390	\$15,734
\$8,288—\$8,312	\$327	\$13,194	\$9,913—\$9,937	\$391	\$15,774
\$8,313—\$8,337	\$328	\$13,234	\$9,938—\$9,962	\$392	\$15,813
\$8,338—\$8,362	\$329	\$13,274	\$9,963—\$9,987	\$392	\$15,853
\$8,363—\$8,387	\$330	\$13,313	\$9,988—\$10,012	\$393	\$15,893
\$8,388—\$8,412	\$331	\$13,353	\$10,013—\$10,037	\$394	\$15,932
\$8,413—\$8,437	\$332	\$13,393	\$10,038—\$10,062	\$395	\$15,972
\$8,438—\$8,462	\$333	\$13,432	\$10,063—\$10,087	\$396	\$16,012
\$8,463—\$8,487	\$334	\$13,472	\$10,088—\$10,112	\$397	\$16,051
\$8,488—\$8,512	\$335	\$13,512	\$10,113—\$10,137	\$398	\$16,091
\$8,513—\$8,537	\$336	\$13,551	\$10,138—\$10,162	\$399	\$16,131
\$8,538—\$8,562	\$337	\$13,591	\$10,163—\$10,187	\$400	\$16,170
\$8,563—\$8,587	\$338	\$13,631	\$10,188—\$10,212	\$401	\$16,210
\$8,588—\$8,612	\$339	\$13,670	\$10,213—\$10,237	\$402	\$16,250
\$8,613—\$8,637	\$340	\$13,710	\$10,238—\$10,262	\$403	\$16,289
\$8,638—\$8,662	\$341	\$13,750	\$10,263—\$10,287	\$404	\$16,329
\$8,663—\$8,687	\$342	\$13,789	\$10,288—\$10,312	\$405	\$16,369
\$8,688—\$8,712	\$343	\$13,829	\$10,313—\$10,337	\$406	\$16,408
\$8,713—\$8,737	\$343	\$13,869	\$10,338—\$10,362	\$407	\$16,448
\$8,738—\$8,762	\$344	\$13,908	\$10,363—\$10,387	\$408	\$16,488
\$8,763—\$8,787	\$345	\$13,948	\$10,388—\$10,412	\$409	\$16,527
\$8,788—\$8,812	\$346	\$13,988	\$10,413—\$10,437	\$410	\$16,567
\$8,813—\$8,837	\$347	\$14,027	\$10,438—\$10,462	\$411	\$16,607
\$8,838—\$8,862	\$348	\$14,067	\$10,463—\$10,487	\$412	\$16,647
\$8,863—\$8,887	\$349	\$14,107	\$10,488—\$10,512	\$413	\$16,686
\$8,888—\$8,912	\$350	\$14,147	\$10,513—\$10,537	\$414	\$16,726
\$8,913—\$8,937	\$351	\$14,186	\$10,538—\$10,562	\$415	\$16,766
\$8,938—\$8,962	\$352	\$14,226	\$10,563—\$10,587	\$416	\$16,805
\$8,963—\$8,987	\$353	\$14,266	\$10,588—\$10,612	\$417	\$16,845
\$8,988—\$9,012	\$354	\$14,305	\$10,613—\$10,637	\$418	\$16,885
\$9,013—\$9,037	\$355	\$14,345	\$10,638—\$10,662	\$419	\$16,924
\$9,038—\$9,062	\$356	\$14,385	\$10,663—\$10,687	\$420	\$16,964
\$9,063—\$9,087	\$357	\$14,424	\$10,688—\$10,712	\$421	\$17,004
\$9,088—\$9,112	\$358	\$14,464	\$10,713—\$10,737	\$422	\$17,043

<i>Part A Highest Quarterly Wage</i>	<i>Part B Rate of Compensation</i>	<i>Part C Qualifying Wages</i>	<i>Part A Highest Quarterly Wage</i>	<i>Part B Rate of Compensation</i>	<i>Part C Qualifying Wages</i>
\$10,738—\$10,762	\$423	\$17,083	\$12,363—\$12,387	\$487	\$19,662
\$10,763—\$10,787	\$424	\$17,123	\$12,388—\$12,412	\$488	\$19,702
\$10,788—\$10,812	\$425	\$17,162	\$12,413—\$12,437	\$489	\$19,742
\$10,813—\$10,837	\$426	\$17,202	\$12,438—\$12,462	\$490	\$19,781
\$10,838—\$10,862	\$427	\$17,242	\$12,463—\$12,487	\$490	\$19,821
\$10,863—\$10,887	\$428	\$17,281	\$12,488—\$12,512	\$491	\$19,861
\$10,888—\$10,912	\$429	\$17,321	\$12,513—\$12,537	\$492	\$19,900
\$10,913—\$10,937	\$430	\$17,361	\$12,538—\$12,562	\$493	\$19,940
\$10,938—\$10,962	\$431	\$17,400	\$12,563—\$12,587	\$494	\$19,980
\$10,963—\$10,987	\$432	\$17,440	\$12,588—\$12,612	\$495	\$20,020
\$10,988—\$11,012	\$433	\$17,480	\$12,613—\$12,637	\$496	\$20,059
\$11,013—\$11,037	\$434	\$17,520	\$12,638—\$12,662	\$497	\$20,099
\$11,038—\$11,062	\$435	\$17,559	\$12,663—\$12,687	\$498	\$20,139
\$11,063—\$11,087	\$436	\$17,599	\$12,688—\$12,712	\$499	\$20,178
\$11,088—\$11,112	\$437	\$17,639	\$12,713—\$12,737	\$500	\$20,218
\$11,113—\$11,137	\$438	\$17,678	\$12,738—\$12,762	\$501	\$20,258
\$11,138—\$11,162	\$439	\$17,718	\$12,763—\$12,787	\$502	\$20,297
\$11,163—\$11,187	\$440	\$17,758	\$12,788—\$12,812	\$503	\$20,337
\$11,188—\$11,212	\$441	\$17,797	\$12,813—\$12,837	\$504	\$20,377
\$11,213—\$11,237	\$441	\$17,837	\$12,838—\$12,862	\$505	\$20,416
\$11,238—\$11,262	\$442	\$17,877	\$12,863—\$12,887	\$506	\$20,456
\$11,263—\$11,287	\$443	\$17,916	\$12,888—\$12,912	\$507	\$20,496
\$11,288—\$11,312	\$444	\$17,956	\$12,913—\$12,937	\$508	\$20,535
\$11,313—\$11,337	\$445	\$17,996	\$12,938—\$12,962	\$509	\$20,575
\$11,338—\$11,362	\$446	\$18,035	\$12,963—\$12,987	\$510	\$20,615
\$11,363—\$11,387	\$447	\$18,075	\$12,988—\$13,012	\$511	\$20,654
\$11,388—\$11,412	\$448	\$18,115	\$13,013—\$13,037	\$512	\$20,694
\$11,413—\$11,437	\$449	\$18,154	\$13,038—\$13,062	\$513	\$20,734
\$11,438—\$11,462	\$450	\$18,194	\$13,063—\$13,087	\$514	\$20,774
\$11,463—\$11,487	\$451	\$18,234	\$13,088—\$13,112	\$515	\$20,813
\$11,488—\$11,512	\$452	\$18,274	\$13,113—\$13,137	\$516	\$20,853
\$11,513—\$11,537	\$453	\$18,313	\$13,138—\$13,162	\$517	\$20,893
\$11,538—\$11,562	\$454	\$18,353	\$13,163—\$13,187	\$518	\$20,932
\$11,563—\$11,587	\$455	\$18,393	\$13,188—\$13,212	\$519	\$20,972
\$11,588—\$11,612	\$456	\$18,432	\$13,213—\$13,237	\$520	\$21,012
\$11,613—\$11,637	\$457	\$18,472	\$13,238—\$13,262	\$521	\$21,051
\$11,638—\$11,662	\$458	\$18,512	\$13,263—\$13,287	\$522	\$21,091
\$11,663—\$11,687	\$459	\$18,551	\$13,288—\$13,312	\$523	\$21,131
\$11,688—\$11,712	\$460	\$18,591	\$13,313—\$13,337	\$524	\$21,170
\$11,713—\$11,737	\$461	\$18,631	\$13,338—\$13,362	\$525	\$21,210
\$11,738—\$11,762	\$462	\$18,670	\$13,363—\$13,387	\$526	\$21,250
\$11,763—\$11,787	\$463	\$18,710	\$13,388—\$13,412	\$527	\$21,289
\$11,788—\$11,812	\$464	\$18,750	\$13,413—\$13,437	\$528	\$21,329
\$11,813—\$11,837	\$465	\$18,789	\$13,438—\$13,462	\$529	\$21,369
\$11,838—\$11,862	\$466	\$18,829	\$13,463—\$13,487	\$530	\$21,408
\$11,863—\$11,887	\$467	\$18,869	\$13,488—\$13,512	\$531	\$21,448
\$11,888—\$11,912	\$468	\$18,908	\$13,513—\$13,537	\$532	\$21,488
\$11,913—\$11,937	\$469	\$18,948	\$13,538—\$13,562	\$533	\$21,527
\$11,938—\$11,962	\$470	\$18,988	\$13,563—\$13,587	\$534	\$21,567
\$11,963—\$11,987	\$471	\$19,027	\$13,588—\$13,612	\$535	\$21,607
\$11,988—\$12,012	\$472	\$19,067	\$13,613—\$13,637	\$536	\$21,647
\$12,013—\$12,037	\$473	\$19,107	\$13,638—\$13,662	\$537	\$21,686
\$12,038—\$12,062	\$474	\$19,147	\$13,663—\$13,687	\$538	\$21,726
\$12,063—\$12,087	\$475	\$19,186	\$13,688—\$13,712	\$539	\$21,766
\$12,088—\$12,112	\$476	\$19,226	\$13,713—\$13,737	\$539	\$21,805
\$12,113—\$12,137	\$477	\$19,266	\$13,738—\$13,762	\$540	\$21,845
\$12,138—\$12,162	\$478	\$19,305	\$13,763—\$13,787	\$541	\$21,885
\$12,163—\$12,187	\$479	\$19,345	\$13,788—\$13,812	\$542	\$21,924
\$12,188—\$12,212	\$480	\$19,385	\$13,813—\$13,837	\$543	\$21,964
\$12,213—\$12,237	\$481	\$19,424	\$13,838—\$13,862	\$544	\$22,004
\$12,238—\$12,262	\$482	\$19,464	\$13,863—\$13,887	\$545	\$22,043
\$12,263—\$12,287	\$483	\$19,504	\$13,888—\$13,912	\$546	\$22,083
\$12,288—\$12,312	\$484	\$19,543	\$13,913—\$13,937	\$547	\$22,123
\$12,313—\$12,337	\$485	\$19,583	\$13,938—\$13,962	\$548	\$22,162
\$12,338—\$12,362	\$486	\$19,623	\$13,963—\$13,987	\$549	\$22,202

<i>Part A Highest Quarterly Wage</i>	<i>Part B Rate of Compensation</i>	<i>Part C Qualifying Wages</i>
\$13,988—\$14,012	\$550	\$22,242
\$14,013—\$14,037	\$551	\$22,281
\$14,038—\$14,062	\$552	\$22,321
\$14,063—\$14,087	\$553	\$22,361
\$14,088—\$14,112	\$554	\$22,400
\$14,113—\$14,137	\$555	\$22,440
\$14,138—\$14,162	\$556	\$22,480
\$14,163—\$14,187	\$557	\$22,520
\$14,188—\$14,212	\$558	\$22,559
\$14,213—\$14,237	\$559	\$22,599
\$14,238—\$14,262	\$560	\$22,639
\$14,263—\$14,287	\$561	\$22,678
\$14,288—\$14,312	\$562	\$22,718
\$14,313—\$14,337	\$563	\$22,758
\$14,338—\$14,362	\$564	\$22,797
\$14,363—\$14,387	\$565	\$22,837
\$14,388—\$14,412	\$566	\$22,877
\$14,413—\$14,437	\$567	\$22,916
\$14,438—\$14,462	\$568	\$22,956
\$14,463—\$14,487	\$569	\$22,996
\$14,488—\$14,512	\$570	\$23,035
\$14,513—\$14,537	\$571	\$23,075
\$14,538 or more	\$572	\$23,115

[Pa.B. Doc. No. 20-163. Filed for public inspection January 31, 2020, 9:00 a.m.]

## DEPARTMENT OF REVENUE

### Pennsylvania Rainbow Riches Fast Play Game 5078

Under the State Lottery Law (72 P.S. §§ 3761-101—3761-314) and 61 Pa. Code § 803.11 (relating to powers and duties of the Secretary of Revenue), the Secretary of Revenue hereby provides public notice of the rules for the following lottery game:

1. *Name:* The name of the lottery game is Pennsylvania Rainbow Riches (hereinafter “Rainbow Riches”). The game number is PA-5078.

#### 2. *Definitions:*

(a) *Authorized retailer or retailer:* A person who is properly licensed by the Lottery pursuant to 61 Pa. Code §§ 805.1—805.17.

(b) *Bar code:* The symbology on the ticket containing certain encrypted validation and accounting data used for identifying winning and losing tickets.

(c) *GAME:* A specific, pre-defined area of a game ticket located in the play area that contains play symbols and prize symbols that, when played according to the instructions, determine whether a player wins a prize. Each GAME is played separately, but winning combinations in more than one GAME can be combined to win larger prizes as described in section 7 (relating to prizes available to be won and determination of prize winners).

(d) *Game Ticket:* A bearer instrument produced through a Lottery Terminal that is the player’s record of a play for a Fast Play lottery game and sold by an authorized retailer containing the play and validation data as published in this game notice.

(e) *Lottery Central Computer System:* The computer gaming system on which all Fast Play plays are recorded.

(f) *Lottery Terminal:* A device authorized by the Lottery to function in an interactive mode with the Lottery Central Computer System for the purpose of issuing plays, executing Quick Pick selections, and entering, receiving, and processing lottery transactions, including making purchases, validating plays, transmitting reports, and performing inventory functions.

(g) *Play:* A chance to participate in a particular Fast Play lottery game.

(h) *Play Area:* The area on a ticket which contains one or more play symbols.

(i) *Play Symbol:* A number, letter, symbol, image or other character found in the play area which is used to determine whether a player wins a prize.

(j) *Prize:* A non-monetary item, money, or experience that can be won as specified in section 7 (relating to prizes available to be won and determination of prize winners) of this game notice.

(k) *WINNING NUMBERS:* The numbers, letters, symbols or other characters found in the play area that, when matched against the “YOUR NUMBERS” play symbols for each “GAME,” determine whether a player wins a prize.

(l) *Winning ticket:* A game ticket which has been validated and qualifies for a prize.

3. *Price:* The price of a Rainbow Riches ticket is \$5.

4. *Description of the Rainbow Riches Fast Play lottery game:*

(a) The Rainbow Riches lottery game is an instant win game printed from a Lottery Terminal. All prizes are predetermined, and the player does not have the ability to select their own play symbols. Rainbow Riches tickets may be purchased from an authorized retailer or at a Lottery self-service terminal that sells terminal-based Lottery game tickets. Tickets purchased from an authorized retailer shall be printed on-demand at the time of purchase and may not be preprinted by the retailer.

(b) Rainbow Riches is played by matching any of the play symbols in the “YOUR NUMBERS” area to the play symbol located in the “WINNING NUMBERS” area for each “GAME.” A player matching play symbols in this manner will win the prize shown under that “GAME.” A bet slip is not used to play this game. Each “GAME” is played separately.

(c) Players can win the prize identified in section 7 (relating to prizes available to be won and determination of prize winners).

(d) A Rainbow Riches game ticket cannot be canceled or voided once printed by the Lottery Terminal, even if printed in error.

(e) To purchase a ticket at an authorized retailer, a player must remit the purchase price to the retailer and verbally request a Rainbow Riches game ticket. The ticket shall be the only valid proof of the bet placed and the only valid receipt for claiming a prize.

(f) To purchase a ticket at a Pennsylvania Lottery self-service terminal, the player must insert into the self-service terminal a dollar amount equal to the total purchase price of a Rainbow Riches game ticket and select the Rainbow Riches option on the Lottery self-



service terminal. The ticket shall be the only valid proof of the bet placed and the only valid receipt for claiming a prize.

5. *Rainbow Riches ticket characteristics:*

(a) A Rainbow Riches ticket shall contain a play area, the cost of the play, the date of sale, and a bar code.

(b) *Play Symbols:* Each Rainbow Riches ticket play area will contain five "GAME" areas. Each "GAME" area will contain a "WINNING NUMBERS" area and a "YOUR NUMBERS" area. The play symbols located in the "WINNING NUMBERS" area and the "YOUR NUMBERS" area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVN), 12 (TWLV), 13 (THRTN), 14 (FORTN), 15 (FIFTN), 16 (SIXTN), 17 (SVNTN), 18 (EGHTN), 19 (NINTN), 20 (TWENT), 21 (TWYONE), 22 (TWYTWO), 23 (TWYTHR), 24 (TWYFOR), 25 (TWYFIV), 26 (TWYSIX), 27 (TWYSVN), 28 (TWYEGT), 29 (TWYNIN) and 30 (THIRT).

(c) *Prize Symbols:* The prize symbols and their captions located in the "YOUR NUMBERS" area are: \$5<sup>.00</sup> (FIV DOL) \$10<sup>.00</sup> (TEN DOL), \$15<sup>.00</sup> (FIFTEEN), \$20<sup>.00</sup> (TWENTY), \$40<sup>.00</sup> (FORTY), \$50<sup>.00</sup> (FIFTY), \$100 (ONE HUN), \$400 (FOR HUN), \$500 (FIV HUN), \$1,000 (ONE THO), \$5,000 (FIV THO) and \$17,000 (SVNTNTHO).

(d) *Prizes:* The prizes that can be won in this game are: \$5, \$10, \$15, \$20, \$40, \$50, \$100, \$400, \$500, \$1,000, \$5,000 and \$17,000. A player can win up to fifteen times on a ticket.

(e) *Approximate number of tickets available for the game:* Approximately 2,400,000 tickets will be available for sale for the Rainbow Riches lottery game.

6. *Second-Chance Drawing:* The Pennsylvania Lottery will conduct a Go for the Green Second-Chance Drawing for which non-winning Rainbow Riches lottery game tickets may be eligible as provided for in section 9.

7. *Prizes available to be won and determination of prize winners:*

(a) All Rainbow Riches prize payments will be made as one-time, lump-sum cash payments.

(b) Holders of tickets upon which any of the "YOUR NUMBERS" play symbols match the "WINNING NUMBERS" play symbol in the same "GAME," and a prize symbol of \$17,000 (SVNTNTHO) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol for that "GAME," on a single ticket, shall be entitled to a prize of \$17,000.

(c) Holders of tickets upon which any of the "YOUR NUMBERS" play symbols match the "WINNING NUMBERS" play symbol in the same "GAME," and a prize symbol of \$5,000 (FIV THO) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol for that "GAME," on a single ticket, shall be entitled to a prize of \$5,000.

(d) Holders of tickets upon which any of the "YOUR NUMBERS" play symbols match the "WINNING NUMBERS" play symbol in the same "GAME," and a prize symbol of \$1,000 (ONE THO) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol for that "GAME," on a single ticket, shall be entitled to a prize of \$1,000.

(e) Holders of tickets upon which any of the "YOUR NUMBERS" play symbols match the "WINNING

NUMBERS" play symbol in the same "GAME," and a prize symbol of \$500 (FIV HUN) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol for that "GAME," on a single ticket, shall be entitled to a prize of \$500.

(f) Holders of tickets upon which any of the "YOUR NUMBERS" play symbols match the "WINNING NUMBERS" play symbol in the same "GAME," and a prize symbol of \$400 (FOR HUN) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol for that "GAME," on a single ticket, shall be entitled to a prize of \$400.

(g) Holders of tickets upon which any of the "YOUR NUMBERS" play symbols match the "WINNING NUMBERS" play symbol in the same "GAME," and a prize symbol of \$100 (ONE HUN) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol for that "GAME," on a single ticket, shall be entitled to a prize of \$100.

(h) Holders of tickets upon which any of the "YOUR NUMBERS" play symbols match the "WINNING NUMBERS" play symbol in the same "GAME," and a prize symbol of \$50<sup>.00</sup> (FIFTY) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol for that "GAME," on a single ticket, shall be entitled to a prize of \$50.

(i) Holders of tickets upon which any of the "YOUR NUMBERS" play symbols match the "WINNING NUMBERS" play symbol in the same "GAME," and a prize symbol of \$40<sup>.00</sup> (FORTY) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol for that "GAME," on a single ticket, shall be entitled to a prize of \$40.

(j) Holders of tickets upon which any of the "YOUR NUMBERS" play symbols match the "WINNING NUMBERS" play symbol in the same "GAME," and a prize symbol of \$20<sup>.00</sup> (TWENTY) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol for that "GAME," on a single ticket, shall be entitled to a prize of \$20.

(k) Holders of tickets upon which any of the "YOUR NUMBERS" play symbols match the "WINNING NUMBERS" play symbol in the same "GAME," and a prize symbol of \$15<sup>.00</sup> (FIFTEEN) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol for that "GAME," on a single ticket, shall be entitled to a prize of \$15.

(l) Holders of tickets upon which any of the "YOUR NUMBERS" play symbols match the "WINNING NUMBERS" play symbol in the same "GAME," and a prize symbol of \$10<sup>.00</sup> (TEN DOL) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol for that "GAME," on a single ticket, shall be entitled to a prize of \$10.

(m) Holders of tickets upon which any of the "YOUR NUMBERS" play symbols match the "WINNING NUMBERS" play symbol in the same "GAME," and a prize symbol of \$5<sup>.00</sup> (FIV DOL) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol for that "GAME," on a single ticket, shall be entitled to a prize of \$5.

8. *Number and description of prizes and approximate chances of winning.* The following table sets forth the approximate number of winners, amounts of prizes, and approximate chances of winning:

<i>When Any Of YOUR NUMBERS Match The WINNING NUMBER For That GAME, Win Prize Shown Under The Matching Number. Win With:</i>	<i>Win:</i>	<i>Approximate Chances Of Winning Are 1 In:</i>	<i>Approximate No. Of Winners Per 2,400,000 Tickets:</i>
\$5	\$5	9.09	264,000
\$5 × 2	\$10	25	96,000
\$10	\$10	33.33	72,000
\$5 × 3	\$15	40	60,000
\$10 + \$5	\$15	100	24,000
\$15	\$15	100	24,000
\$5 × 4	\$20	250	9,600
\$10 × 2	\$20	250	9,600
(\$5 × 2) + \$10	\$20	200	12,000
\$15 + \$5	\$20	200	12,000
\$20	\$20	200	12,000
\$20 × 2	\$40	500	4,800
(\$10 × 3) + (\$5 × 2)	\$40	1,000	2,400
(\$15 × 2) + \$10	\$40	500	4,800
\$20 + \$15 + \$5	\$40	1,000	2,400
\$40	\$40	500	4,800
\$10 × 5	\$50	1,000	2,400
(\$10 × 3) + \$20	\$50	1,000	2,400
(\$15 × 2) + (\$5 × 4)	\$50	1,000	2,400
(\$15 × 3) + \$5	\$50	1,000	2,400
(\$20 × 2) + \$10	\$50	1,000	2,400
\$40 + \$10	\$50	1,000	2,400
\$50	\$50	500	4,800
\$50 × 2	\$100	6,000	400
(\$15 × 4) + (\$10 × 4)	\$100	6,000	400
(\$20 × 2) + (\$15 × 2) + (\$10 × 2) + (\$5 × 2)	\$100	6,000	400
(\$40 × 2) + \$20	\$100	6,000	400
\$50 + \$40 + \$10	\$100	6,000	400
\$100	\$100	6,000	400
\$100 × 4	\$400	24,000	100
(\$50 × 4) + (\$40 × 4) + (\$20 × 2)	\$400	12,000	200
(\$100 × 2) + (\$50 × 2) + (\$20 × 2) + (\$15 × 2) + (\$10 × 2) + (\$5 × 2)	\$400	15,000	160
\$400	\$400	24,000	100
\$100 × 5	\$500	60,000	40
(\$50 × 4) + (\$40 × 3) + (\$20 × 4) + \$100	\$500	24,000	100
(\$100 × 3) + (\$20 × 6) + (\$15 × 5) + \$5	\$500	20,000	120
\$400 + \$100	\$500	60,000	40
\$500	\$500	60,000	40
\$500 × 2	\$1,000	120,000	20
(\$100 × 4) + (\$50 × 2) + (\$20 × 3) + (\$10 × 4) + \$400	\$1,000	24,000	100
\$1,000	\$1,000	120,000	20

<i>When Any Of YOUR NUMBERS Match The WINNING NUMBER For That GAME, Win Prize Shown Under The Matching Number. Win With:</i>	<i>Win:</i>	<i>Approximate Chances Of Winning Are 1 In:</i>	<i>Approximate No. Of Winners Per 2,400,000 Tickets:</i>
\$1,000 × 5	\$5,000	240,000	10
\$5,000	\$5,000	240,000	10
\$17,000	\$17,000	240,000	10

Each GAME is played separately.

Prizes, including top prizes, are subject to availability at the time of purchase.

9. *Second-Chance Drawing:* The Pennsylvania Lottery's (hereafter, the "Lottery") Go for the Green Second-Chance Drawing for qualifying Fast Play lottery game tickets (hereafter, the "Drawing").

(a) *Qualifying Tickets:* Non-winning PA-5078 Rainbow Riches (\$5) and PA-5079 Shamrock Shuffle (\$1) Fast Play lottery game tickets ("Qualifying Tickets") are eligible for entry in the Drawing.

(b) *Participation and entry:*

(1) Entrants must be members of the Pennsylvania Lottery VIP Players Club to participate in the Drawing. To join the VIP Players Club, visit <http://www.palottery.state.pa.us/vipplayersclub/login.aspx>. Becoming a VIP Players Club member is free.

(2) To enter the Drawing, entrants must submit the identifying information from at least one Qualifying Ticket via the Drawing's promotional web site, available at <http://www.palottery.com>, or the Lottery's official mobile application during the entry period. The identifying information from a Qualifying Ticket may be submitted only once in the Drawing. No other method of submission will be accepted, and entries submitted using any other method, including entries mailed or hand-delivered to the Lottery, are not valid and will be disqualified.

(3) Each entry must be complete and the information supplied by the entrant must be accurate. Incomplete entries cannot be accepted.

(4) Only one claimant per entry is allowed.

(5) Entrants must be 18 years of age or older.

(6) Players may submit the identifying information from an unlimited number of Qualifying Tickets in the Drawing.

(7) Once an entry has been submitted it cannot be withdrawn or changed.

(c) *Drawing description:*

(1) The Lottery will conduct one Go for the Green Second-Chance Drawing for qualifying Fast Play Lottery game tickets. All time references are Eastern Prevailing Time.

(2) All entries received after 11:59:59 p.m. February 3, 2020, through 11:59:59 p.m. March 26, 2020, will be entered into the Drawing to be held between March 27, 2020 and April 7, 2020.

(3) The entry period for the Drawing will be posted to the Lottery's publicly accessible web site at <http://www.palottery.com>.

(4) The number of entries an entrant will receive for the Drawing is determined by the purchase price of the Qualifying Ticket entered. The respective purchase price and corresponding number of entries for the Qualifying Ticket is as follows: PA-5078 Rainbow Riches (\$5) = five entries and PA-5079 Shamrock Shuffle (\$1) = one entry.

(5) Players may review prizes won and their entries for the Drawing via the Drawing's promotional web site.

(d) *Prizes available to be won, determination of winners, and odds of winning:*

(1) The prize entitlements described below are subject to all restrictions and limitations described in section 9(e), or mentioned anywhere else in these rules.

(2) The Lottery will conduct one Drawing from among all the entries received during the entry period as described in section 9(c)(2).

(i) The first and the second entries selected in the Drawing will be winning entries and the entrants who submitted those winning entries shall each be entitled to a prize of \$17,000, less required income tax withholding.

(ii) The third through the seventh entries selected in the Drawing will be winning entries and the entrants who submitted those winning entries shall each be entitled to a prize of \$5,000.

(iii) The eighth through the twenty-second entries selected in the Drawing will be winning entries and the entrants who submitted those winning entries shall each be entitled to a prize of \$1,000.

(iv) The twenty-third through the seventy-second entries selected in the Drawing will be winning entries and the entrants who submitted the winning entries shall each be entitled to a prize of \$100 iLottery Bonus Money.

(3) All prizes will be paid as lump-sum cash payments or uploaded to a winning player's lottery account.

(4) Winners of iLottery Bonus Money are not required to claim a prize. Winners of iLottery Bonus Money will have the iLottery Bonus Money credited to their lottery account and will receive an email notifying them that they won a prize.

(5) The number of winning entries to be selected for the Drawing will be posted to the Lottery's publicly accessible web site available at <http://www.palottery.com>.

(6) The odds of winning in the Drawing depend upon the number of entries received for the Drawing.

(7) A computer-generated randomizer will be used to select the Drawing winners.

(e) *Drawing restrictions:*

(1) To be eligible to participate in the Drawing, entrants must have complied with the requirements of these rules.



(2) The Lottery is not responsible for late, lost or misdirected entries not entered into the Drawing. The Lottery is not responsible for entries that are not entered into the Drawing because of incompatible internet browsers, mobile Lottery application failure or other technical issues. If an entry is selected as a winner and rejected or otherwise disqualified during or following the Drawing, the Lottery will select another entry to replace the rejected or otherwise disqualified entry in accordance with these rules and Lottery procedure.

(3) If any discrepancy exists between these rules and any material describing the Drawing, these rules shall govern.

(4) Employees of the Lottery, MARC USA, Scientific Games International Inc., MDI Entertainment, LLC, and their subcontractors, or a spouse, child, brother, sister or parent residing as a member of the same household in the principle place of residence of any such person are not eligible to participate in the Drawing. Offer void where prohibited or restricted.

(5) The Pennsylvania Lottery reserves the right, in its sole discretion, to cancel or suspend the Drawing and change these rules if the Drawing cannot be conducted as planned due to errors in these rules or advertising, unauthorized intervention, tampering, fraud, technical errors, viruses, worms, bugs, or any other cause beyond the control of the Lottery that, in the Lottery's sole judgment, could corrupt or impair the administration, security, fairness, integrity, or proper conduct of the Drawing.

(6) All entries shall be subject to verification by the Lottery.

(7) The Pennsylvania Lottery reserves the right, in its sole discretion, to disqualify an entrant found to be tampering with the operation of the Drawing or to be acting in violation of these rules or applicable law.

(8) The Drawing is governed by the laws of the Commonwealth of Pennsylvania. Applicable laws and regulations apply.

(9) Prizes must be claimed within 1 year of the drawing date of the Drawing in which the prize was won. If no claim is made within 1 year of the drawing date of the Drawing in which the prize was won, the right of an entrant to claim the prize won, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided by statute.

(10) Final determination of winners will be made by the Secretary, whose judgment will be final and binding.

(11) A prize awarded in the Drawing to a person who dies before receiving the prize shall be paid according to 61 Pa. Code § 811.16 (relating to prizes payable after death of a prize winner).

(12) A winner is responsible for all taxes arising from or in connection with any prize won.

(13) A player may only win the prize for which the player is first selected in the Drawing. Subsequent entries, from the same individual, selected in the Drawing will be disqualified and a replacement entry will be selected.

(14) Winners of iLottery Bonus Money must abide by the iLottery Terms and Conditions, the iLottery Bonus Policy and these rules. iLottery Bonus Money will expire 90 days from the date on which the winner was notified, via email, of the prize win, as further detailed in section 9(d)(4). iLottery Bonus Money has a five times play

through requirement in order to convert the iLottery Bonus Money into cash. For example, for a player winning \$100 of iLottery Bonus Money, the player is required to place \$500 in wagers before the iLottery Bonus Money awarded is converted into cash which may be withdrawn from the player's Lottery account.

(15) Prizes are not transferrable.

(16) Other restrictions may apply.

10. *Ticket responsibility:*

(a) A Fast Play lottery game ticket is a bearer document deemed to be owned by the person holding the game ticket, except that if a name is contained on the back of the game ticket, the person named will, for all purposes, be considered the owner of the game ticket.

(b) The holder of a Fast Play lottery game ticket has the sole responsibility for checking the accuracy and condition of the data printed on the game ticket.

(c) The Commonwealth shall not be responsible for a lost or stolen Fast Play lottery game ticket, or for a Fast Play ticket redeemed by a player in error.

11. *Ticket validation and requirements:*

(a) *Valid Fast Play lottery game tickets.* To be a valid Fast Play lottery game ticket, the presented game ticket must meet the following requirements:

(1) The game ticket's bar code shall be present in its entirety.

(2) The game ticket must be intact.

(3) The game ticket may not be mutilated, altered, reconstituted or tampered with.

(4) The game ticket may not be counterfeit or a duplicate of a winning ticket.

(5) The game ticket must have been validly issued.

(6) The game ticket data shall have been recorded on the Lottery Central Computer System and the game ticket data shall match the computer record in every respect.

(7) The game ticket must not be defectively printed or printed or produced in error such that it cannot be processed or validated by the Lottery.

(8) The game ticket must pass other confidential security checks of the Lottery.

(b) *Invalid or defective game tickets:* A game ticket not passing the validation requirements in subsection (a) will be considered invalid and no payment will be made on account of any play recorded thereon. The determination of the Secretary in this regard is final.

12. *Procedures for claiming and payment of prizes:*

(a) A prize may be claimed through an authorized retailer or the Lottery, as provided in this section. A prize must be claimed within 1 year of the sale date of the Fast Play lottery game ticket.

(b) An authorized retailer is authorized to pay prizes of \$2,500 or less. The holder of a game ticket evidencing a winning play representing a prize of \$2,500 or less may be paid by a participating authorized retailer if a proper validation pay ticket was issued by the retailer's Lottery Terminal.

(c) The holder of a game ticket evidencing a winning play representing a prize in excess of \$2,500 may present the game ticket to an authorized retailer, Lottery District Office, or Lottery Headquarters.

(d) The holder of a game ticket evidencing a winning play shall present the ticket, in person, to an authorized retailer, Lottery Headquarters or a Lottery District Office. The retailer or the Lottery will issue payment if:

(1) The game ticket is scanned and the play is validated through the Lottery Terminal or the Lottery Central Computer System;

(2) A claim form is properly and fully completed;

(3) The identification of the claimant is confirmed; and

(4) The winning ticket has not expired, pursuant to this section or section 14 (relating to unclaimed prizes).

(e) The Commonwealth shall not be responsible for a winning play paid in error by an authorized retailer.

(f) In the event a prize described in these rules is not available, the Lottery may either provide a substitute prize, determined by the Secretary to have an equivalent value to the prize won, or make a cash payment to the winner, in an amount determined by the Secretary to have an equivalent value to the prize won.

13. *Funding for prizes:* Moneys will be drawn from the State Lottery Fund, to the extent necessary, to fund the payment of prizes under this section. If this lottery game is terminated for any cause, prize moneys remaining undistributed will remain in the State Lottery Fund and used for purposes otherwise provided for by law.

14. *Unclaimed prizes:* Unclaimed prize money on winning Fast Play lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto for 1 year from the sale date of the Fast Play lottery game ticket. If no claim is made within 1 year from the sale date of the Fast Play lottery game ticket, the right of a ticket holder to claim the prize represented by that ticket, if any, shall expire.

15. *Purchase and prize restrictions:* A Fast Play lottery game ticket may not be purchased by, and a prize may not be paid, to an officer or employee of the Lottery, Lottery professional services contractors or subcontractors, or to a spouse, child, brother, sister or parent residing in the same household of an officer, employee, contractor or subcontractor who is involved in the production, distribution or operation of systems for the validation or accounting of Fast Play games.

16. *Governing law:*

(a) By purchasing a ticket, the purchaser agrees to comply with and abide by the State Lottery Law (72 P.S. §§ 3761-101—3761-314), this notice, instructions, conditions and final decisions of the Secretary, and procedures established by the Secretary for the conduct of the Fast Play Rainbow Riches lottery game.

(b) Decisions made by the Secretary, including the declaration of prizes and the payment thereof, in interpretation of this notice are final and binding on players and persons making a claim in respect thereof.

17. *Retailer compensation:*

(a) Authorized retailers may be entitled to compensation as determined by the Lottery.

(b) No authorized retailer or employee of an authorized retailer shall request, demand, or accept gratuities or any compensation other than as provided in subsection (a) in exchange for the performance of duties authorized pursuant to the Lottery retailer's license without the Lottery's prior written authorization.

18. *Retailer Incentive Programs:* The Lottery may conduct a separate Retailer Incentive Program for retailers who sell Pennsylvania Fast Play Rainbow Riches lottery game tickets.

19. *Retailer bonus:* The Lottery may offer a retailer bonus in connection with the sale of Pennsylvania Fast Play lottery game tickets. If a retailer bonus is offered, a Lottery retailer shall be eligible for a bonus as described in this section. Lottery retailers who sell a winning ticket that entitles the ticket holder to a prize, either payable in a single installment or having a guaranteed minimum payout, of at least \$100,000 and not exceeding \$500,000 shall be paid a bonus of \$500. Lottery retailers who sell a winning ticket that entitles the ticket holder to a prize, either payable in a single installment or having a guaranteed minimum payout, of at least \$500,001 and not exceeding \$1,000,000 shall be paid a bonus of \$5,000. Lottery retailers who sell a winning ticket that entitles the ticket holder to a prize, either payable in a single installment or having a guaranteed minimum payout, of at least \$1,000,001 and not exceeding \$10,000,000 shall be paid a bonus of \$10,000. A Lottery retailer is entitled only to the largest bonus for which they qualify on a winning ticket. A bonus will be initiated for payment after the Fast Play game ticket is claimed and validated. A bonus will not be awarded to a Lottery retailer that sells a non-winning Pennsylvania Lottery Fast Play game ticket used to enter a Pennsylvania Lottery second-chance drawing or promotion that is subsequently selected to win a prize.

20. *Termination of the game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote Rainbow Riches or through normal communications methods.

21. *Applicability:* This notice applies only to the Rainbow Riches lottery game announced in this notice.

C. DANIEL HASSELL,  
*Secretary*

[Pa.B. Doc. No. 20-164. Filed for public inspection January 31, 2020, 9:00 a.m.]

## DEPARTMENT OF REVENUE

### Pennsylvania Shamrock Shuffle Fast Play Game 5079

Under the State Lottery Law (72 P.S. §§ 3761-101—3761-314) and 61 Pa. Code § 803.11 (relating to powers and duties of the Secretary of Revenue), the Secretary of Revenue hereby provides public notice of the rules for the following lottery game:

1. *Name:* The name of the lottery game is Pennsylvania Shamrock Shuffle (hereinafter "Shamrock Shuffle"). The game number is PA-5079.

2. *Definitions:*

(a) *Authorized retailer or retailer:* A person who is properly licensed by the Lottery pursuant to 61 Pa. Code §§ 805.1—805.17.

(b) *Bar code:* The symbology on the ticket containing certain encrypted validation and accounting data used for identifying winning and losing tickets.

(c) *Game Ticket*: A bearer instrument produced through a Lottery Terminal that is the player's record of a play for a Fast Play lottery game and sold by an authorized retailer containing the play and validation data as published in this game notice.

(d) *Lottery Central Computer System*: The computer gaming system on which all Fast Play plays are recorded.

(e) *Lottery Terminal*: A device authorized by the Lottery to function in an interactive mode with the Lottery Central Computer System for the purpose of issuing plays, executing Quick Pick selections, and entering, receiving, and processing lottery transactions, including making purchases, validating plays, transmitting reports, and performing inventory functions.

(f) *Play*: A chance to participate in a particular Fast Play lottery game.

(g) *Play Area*: The area on a ticket which contains one or more play symbols.

(h) *Play Symbol*: A number, letter, symbol, image or other character found in the play area which is used to determine whether a player wins a prize.

(i) *Prize*: A non-monetary item, money, or experience that can be won as specified in section 7 (relating to prizes available to be won and determination of prize winners) of this game notice.

(j) *WINNING NUMBERS*: The numbers, letters, symbols or other characters found in the play area that, when matched against the play symbols in the "YOUR NUMBERS" area, determine whether a player wins a prize.

(k) *Winning ticket*: A game ticket which has been validated and qualifies for a prize.

(l) *YOUR NUMBERS*: The numbers, letters, symbols or other characters found in the play area that, when matched against the play symbols in the "WINNING NUMBERS" area, determine whether a player wins a prize.

3. *Price*: The price of a Shamrock Shuffle ticket is \$1.

4. *Description of the Shamrock Shuffle Fast Play lottery game*:

(a) The Shamrock Shuffle lottery game is an instant win game printed from a Lottery Terminal. All prizes are predetermined, and the player does not have the ability to select their own play symbols. Shamrock Shuffle tickets may be purchased from an authorized retailer or at a Lottery self-service terminal that sells terminal-based Lottery game tickets. Tickets purchased from an authorized retailer shall be printed on-demand at the time of purchase and may not be preprinted by the retailer.

(b) Shamrock Shuffle is played by matching the play symbols in the "YOUR NUMBERS" area to the play symbols located in the "WINNING NUMBERS" area. A player matching play symbols in this manner will win the prize shown under the "YOUR NUMBERS" play symbol. A bet slip is not used to play this game.

(c) Players can win the prize identified in section 7 (relating to prizes available to be won and determination of prize winners).

(d) A Shamrock Shuffle game ticket cannot be canceled or voided once printed by the Lottery Terminal, even if printed in error.

(e) To purchase a ticket at an authorized retailer, a player must remit the purchase price to the retailer and verbally request a Shamrock Shuffle game ticket. The ticket shall be the only valid proof of the bet placed and the only valid receipt for claiming a prize.

(f) To purchase a ticket at a Pennsylvania Lottery self-service terminal, the player must insert into the self-service terminal a dollar amount equal to the total purchase price of a Shamrock Shuffle game ticket and select the Shamrock Shuffle option on the Lottery self-service terminal. The ticket shall be the only valid proof of the bet placed and the only valid receipt for claiming a prize.

#### 5. *Shamrock Shuffle ticket characteristics*:

(a) A Shamrock Shuffle ticket shall contain a play area, the cost of the play, the date of sale, and a bar code.

(b) *Play Symbols*: Each Shamrock Shuffle ticket play area will contain a "WINNING NUMBERS" area and a "YOUR NUMBERS" area. The play symbols located in the "WINNING NUMBERS" area and the "YOUR NUMBERS" area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVN), 12 (TWLV), 13 (THRTN), 14 (FORTN), 15 (FIFTN), 16 (SIXTN), 17 (SVNTN), 18 (EGHTN), 19 (NINTN), 20 (TWENT), 21 (TWYONE), 22 (TWYTWO), 23 (TWYTHR), 24 (TWYFOR), 25 (TWYFIV), 26 (TWYSIX), 27 (TWYSVN), 28 (TWYEGT), 29 (TWNIN) and 30 (THIRT).

(c) *Prize Symbols*: The prize symbols and their captions located in the play area are: FREE (TICKET), \$1<sup>.00</sup> (ONE DOL), \$2<sup>.00</sup> (TWO DOL), \$4<sup>.00</sup> (FOR DOL), \$5<sup>.00</sup> (FIV DOL), \$10<sup>.00</sup> (TEN DOL), \$20<sup>.00</sup> (TWENTY), \$25<sup>.00</sup> (TWY FIV), \$50<sup>.00</sup> (FIFTY), \$100 (ONE HUN), \$500 (FIV HUN) and \$1,700 (SVNTNHUN).

(d) *Prizes*: The prizes that can be won in this game are: Free \$1 Ticket, \$1, \$2, \$4, \$5, \$10, \$20, \$25, \$50, \$100, \$500 and \$1,700. A player can win up to eight times on a ticket.

(e) *Approximate number of tickets available for the game*: Approximately 2,400,000 tickets will be available for sale for the Shamrock Shuffle lottery game.

6. *Second-Chance Drawing*: The Pennsylvania Lottery will conduct a Go for the Green Second-Chance Drawing for which non-winning Shamrock Shuffle lottery game tickets may be eligible as provided for in section 9.

7. *Prizes available to be won and determination of prize winners*:

(a) All Shamrock Shuffle prize payments will be made as one-time, lump-sum cash payments.

(b) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$1,700 (SVNTNHUN) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$1,700.

(c) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$500 (FIV HUN) appears in the "Prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$500.

(d) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$100 (ONE HUN) appears in the "Prize" area under



the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$100.

(e) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol of \$50.<sup>00</sup> (FIFTY) appears in the “Prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$50.

(f) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol of \$25.<sup>00</sup> (TWY FIV) appears in the “Prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$25.

(g) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol of \$20.<sup>00</sup> (TWENTY) appears in the “Prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$20.

(h) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol of \$10.<sup>00</sup> (TEN DOL) appears in the “Prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$10.

(i) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol of \$5.<sup>00</sup> (FIV DOL) appears in the “Prize” area under the match-

ing “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$5.

(j) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol of \$4.<sup>00</sup> (FOR DOL) appears in the “Prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$4.

(k) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol of \$2.<sup>00</sup> (TWO DOL) appears in the “Prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$2.

(l) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol of \$1.<sup>00</sup> (ONE DOL) appears in the “Prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$1.

(m) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol of FREE (TICKET) appears in the “Prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of one Shamrock Shuffle game ticket.

8. *Number and description of prizes and approximate chances of winning.* The following table sets forth the approximate number of winners, amounts of prizes, and approximate chances of winning:

<i>When Any Of YOUR NUMBERS Match Any WINNING NUMBER, Win Prize Shown Under The Matching Number. Win With:</i>	<i>Win:</i>	<i>Approximate Chances Of Winning Are 1 In:</i>	<i>Approximate No. Of Winners Per 2,400,000 Tickets:</i>
FREE	FREE \$1 TICKET	10	240,000
\$1	\$1	76.92	31,200
\$1 × 2	\$2	25	96,000
\$2	\$2	28.57	84,000
\$1 × 4	\$4	200	12,000
\$2 × 2	\$4	200	12,000
(\$1 × 2) + \$2	\$4	250	9,600
\$4	\$4	250	9,600
(\$2 × 2) + \$1	\$5	142.86	16,800
\$4 + \$1	\$5	153.85	15,600
\$5	\$5	153.85	15,600
\$5 × 2	\$10	500	4,800
(\$2 × 4) + (\$1 × 2)	\$10	1,000	2,400
(\$2 × 3) + \$4	\$10	500	4,800
(\$4 × 2) + (\$1 × 2)	\$10	500	4,800
(\$4 × 2) + \$2	\$10	500	4,800
\$10	\$10	500	4,800
\$5 × 4	\$20	5,000	480
\$10 × 2	\$20	5,000	480
(\$4 × 4) + (\$1 × 4)	\$20	5,000	480
\$10 + \$5 + \$4 + \$1	\$20	5,000	480

<i>When Any Of YOUR NUMBERS Match Any WINNING NUMBER, Win Prize Shown Under The Matching Number. Win With:</i>	<i>Win:</i>	<i>Approximate Chances Of Winning Are 1 In:</i>	<i>Approximate No. Of Winners Per 2,400,000 Tickets:</i>
\$20	\$20	5,000	480
(\$4 × 3) + (\$2 × 4) + \$5	\$25	4,000	600
(\$5 × 3) + \$10	\$25	4,000	600
(\$10 × 2) + \$5	\$25	6,000	400
\$25	\$25	6,000	400
\$25 × 2	\$50	12,000	200
(\$10 × 4) + (\$4 × 2) + (\$1 × 2)	\$50	8,000	300
(\$10 × 3) + (\$5 × 3) + \$4 + \$1	\$50	8,000	300
(\$10 × 2) + (\$5 × 2) + \$20	\$50	12,000	200
(\$20 × 2) + (\$5 × 2)	\$50	12,000	200
\$50	\$50	12,000	200
\$50 × 2	\$100	24,000	100
(\$20 × 3) + (\$10 × 3) + (\$5 × 2)	\$100	24,000	100
(\$25 × 2) + \$50	\$100	24,000	100
\$100	\$100	24,000	100
(\$100 × 3) + (\$50 × 3) + (\$25 × 2)	\$500	240,000	10
\$500	\$500	240,000	10
\$1,700	\$1,700	240,000	10

Prizes, including top prizes, are subject to availability at the time of purchase.

9. *Second-Chance Drawing:* The Pennsylvania Lottery's (hereafter, the "Lottery") Go for the Green Second-Chance Drawing for qualifying Fast Play lottery game tickets (hereafter, the "Drawing").

(a) *Qualifying Tickets:* Non-winning PA-5078 Rainbow Riches (\$5) and PA-5079 Shamrock Shuffle (\$1) Fast Play lottery game tickets ("Qualifying Tickets") are eligible for entry in the Drawing.

(b) *Participation and entry:*

(1) Entrants must be members of the Pennsylvania Lottery VIP Players Club to participate in the Drawing. To join the VIP Players Club, visit <http://www.palottery.state.pa.us/vipplayersclub/login.aspx>. Becoming a VIP Players Club member is free.

(2) To enter the Drawing, entrants must submit the identifying information from at least one Qualifying Ticket via the Drawing's promotional web site, available at <http://www.palottery.com>, or the Lottery's official mobile application during the entry period. The identifying information from a Qualifying Ticket may be submitted only once in the Drawing. No other method of submission will be accepted, and entries submitted using any other method, including entries mailed or hand-delivered to the Lottery, are not valid and will be disqualified.

(3) Each entry must be complete and the information supplied by the entrant must be accurate. Incomplete entries cannot be accepted.

(4) Only one claimant per entry is allowed.

(5) Entrants must be 18 years of age or older.

(6) Players may submit the identifying information from an unlimited number of Qualifying Tickets in the Drawing.

(7) Once an entry has been submitted it cannot be withdrawn or changed.

(c) *Drawing description:*

(1) The Lottery will conduct one Go for the Green Second-Chance Drawing for qualifying Fast Play Lottery game tickets. All time references are Eastern Prevailing Time.

(2) All entries received after 11:59:59 p.m. February 3, 2020, through 11:59:59 p.m. March 26, 2020, will be entered into the Drawing to be held between March 27, 2020 and April 7, 2020.

(3) The entry period for the Drawing will be posted to the Lottery's publicly accessible web site at <http://www.palottery.com>.

(4) The number of entries an entrant will receive for the Drawing is determined by the purchase price of the Qualifying Ticket entered. The respective purchase price and corresponding number of entries for the Qualifying Ticket is as follows: PA-5078 Rainbow Riches (\$5) = five entries and PA-5079 Shamrock Shuffle (\$1) = one entry.

(5) Players may review prizes won and their entries for the Drawing via the Drawing's promotional web site.

(d) *Prizes available to be won, determination of winners, and odds of winning:*

(1) The prize entitlements described below are subject to all restrictions and limitations described in section 9(e), or mentioned anywhere else in these rules.

(2) The Lottery will conduct one Drawing from among all the entries received during the entry period as described in section 9(c)(2).

(i) The first and the second entries selected in the Drawing will be winning entries and the entrants who submitted those winning entries shall each be entitled to a prize of \$17,000, less required income tax withholding.

(ii) The third through the seventh entries selected in the Drawing will be winning entries and the entrants who submitted those winning entries shall each be entitled to a prize of \$5,000.

(iii) The eighth through the twenty-second entries selected in the Drawing will be winning entries and the entrants who submitted those winning entries shall each be entitled to a prize of \$1,000.

(iv) The twenty-third through the seventy-second entries selected in the Drawing will be winning entries and the entrants who submitted the winning entries shall each be entitled to a prize of \$100 iLottery Bonus Money.

(3) All prizes will be paid as lump-sum cash payments or uploaded to a winning player's lottery account.

(4) Winners of iLottery Bonus Money are not required to claim a prize. Winners of iLottery Bonus Money will have the iLottery Bonus Money credited to their Lottery account and will receive an email notifying them that they won a prize.

(5) The number of winning entries to be selected for the Drawing will be posted to the Lottery's publicly accessible web site.

(6) The odds of winning in the Drawing depend upon the number of entries received for the Drawing.

(7) A computer-generated randomizer will be used to select the Drawing winners.

(e) *Drawing restrictions:*

(1) To be eligible to participate in the Drawing, entrants must have complied with the requirements of these rules.

(2) The Lottery is not responsible for late, lost or misdirected entries not entered into the Drawing. The Lottery is not responsible for entries that are not entered into the Drawing because of incompatible internet browsers, mobile Lottery application failure or other technical issues. If an entry is selected as a winner and rejected or otherwise disqualified during or following the Drawing, the Lottery will select another entry to replace the rejected or otherwise disqualified entry in accordance with these rules and Lottery procedure.

(3) If any discrepancy exists between these rules and any material describing the Drawing, these rules shall govern.

(4) Employees of the Lottery, MARC USA, Scientific Games International Inc., MDI Entertainment, LLC, and their subcontractors, or a spouse, child, brother, sister or parent residing as a member of the same household in the principle place of residence of any such person are not eligible to participate in the Drawing. Offer void where prohibited or restricted.

(5) The Pennsylvania Lottery reserves the right, in its sole discretion, to cancel or suspend the Drawing and change these rules if the Drawing cannot be conducted as planned due to errors in these rules or advertising, unauthorized intervention, tampering, fraud, technical errors, viruses, worms, bugs, or any other cause beyond the control of the Lottery that, in the Lottery's sole judgment, could corrupt or impair the administration, security, fairness, integrity, or proper conduct of the Drawing.

(6) All entries shall be subject to verification by the Lottery.

(7) The Pennsylvania Lottery reserves the right, in its sole discretion, to disqualify an entrant found to be tampering with the operation of the Drawing or to be acting in violation of these rules or applicable law.

(8) The Drawing is governed by the laws of the Commonwealth of Pennsylvania. Applicable laws and regulations apply.

(9) Prizes must be claimed within 1 year of the drawing date of the Drawing in which the prize was won. If no claim is made within 1 year of the drawing date of the Drawing in which the prize was won, the right of an entrant to claim the prize won, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided by statute.

(10) Final determination of winners will be made by the Secretary, whose judgment will be final and binding.

(11) A prize awarded in the Drawing to a person who dies before receiving the prize shall be paid according to 61 Pa. Code § 811.16 (relating to prizes payable after death of a prize winner).

(12) A winner is responsible for all taxes arising from or in connection with any prize won.

(13) A player may only win the prize for which the player is first selected in the Drawing. Subsequent entries, from the same individual, selected in the Drawing will be disqualified and a replacement entry will be selected.

(14) Winners of iLottery Bonus Money must abide by the iLottery Terms and Conditions, the iLottery Bonus Policy and these rules. iLottery Bonus Money will expire 90 days from the date on which the winner was notified, via email, of the prize win, as further detailed in section 9(d)(4). iLottery Bonus Money has a five times play through requirement in order to convert the iLottery Bonus Money into cash. For example, for a player winning \$100 of iLottery Bonus Money, the player is required to place \$500 in wagers before the iLottery Bonus Money awarded is converted into cash which may be withdrawn from the player's Lottery account.

(15) Prizes are not transferrable.

(16) Other restrictions may apply.

10. *Ticket responsibility:*

(a) A Fast Play lottery game ticket is a bearer document deemed to be owned by the person holding the game ticket, except that if a name is contained on the back of the game ticket, the person named will, for all purposes, be considered the owner of the game ticket.

(b) The holder of a Fast Play lottery game ticket has the sole responsibility for checking the accuracy and condition of the data printed on the game ticket.

(c) The Commonwealth shall not be responsible for a lost or stolen Fast Play lottery game ticket, or for a Fast Play ticket redeemed by a player in error.

11. *Ticket validation and requirements:*

(a) *Valid Fast Play lottery game tickets.* To be a valid Fast Play lottery game ticket, the presented game ticket must meet the following requirements:



(1) The game ticket's bar code shall be present in its entirety.

(2) The game ticket must be intact.

(3) The game ticket may not be mutilated, altered, reconstituted or tampered with.

(4) The game ticket may not be counterfeit or a duplicate of a winning ticket.

(5) The game ticket must have been validly issued.

(6) The game ticket data shall have been recorded on the Lottery Central Computer System and the game ticket data shall match the computer record in every respect.

(7) The game ticket must not be defectively printed or printed or produced in error such that it cannot be processed or validated by the Lottery.

(8) The game ticket must pass other confidential security checks of the Lottery.

(b) *Invalid or defective game tickets:* A game ticket not passing the validation requirements in subsection (a) will be considered invalid and no payment will be made on account of any play recorded thereon. The determination of the Secretary in this regard is final.

#### 12. *Procedures for claiming and payment of prizes:*

(a) A prize may be claimed through an authorized retailer or the Lottery, as provided in this section. A prize must be claimed within 1 year of the sale date of the Fast Play lottery game ticket.

(b) An authorized retailer is authorized to pay prizes of \$2,500 or less. The holder of a game ticket evidencing a winning play representing a prize of \$2,500 or less may be paid by a participating authorized retailer if a proper validation pay ticket was issued by the retailer's Lottery Terminal.

(c) The holder of a game ticket evidencing a winning play representing a prize in excess of \$2,500 may present the game ticket to an authorized retailer, Lottery District Office, or Lottery Headquarters.

(d) The holder of a game ticket evidencing a winning play shall present the ticket, in person, to an authorized retailer, Lottery Headquarters or a Lottery District Office. The retailer or the Lottery will issue payment if:

(1) The game ticket is scanned and the play is validated through the Lottery Terminal or the Lottery Central Computer System;

(2) A claim form is properly and fully completed;

(3) The identification of the claimant is confirmed; and

(4) The winning ticket has not expired, pursuant to this section or section 14 (relating to unclaimed prizes).

(e) The Commonwealth shall not be responsible for a winning play paid in error by an authorized retailer.

(f) In the event a prize described in these rules is not available, the Lottery may either provide a substitute prize, determined by the Secretary to have an equivalent value to the prize won, or make a cash payment to the winner, in an amount determined by the Secretary to have an equivalent value to the prize won.

13. *Funding for prizes:* Moneys will be drawn from the State Lottery Fund, to the extent necessary, to fund the payment of prizes under this section. If this lottery game is terminated for any cause, prize moneys remaining undistributed will remain in the State Lottery Fund and used for purposes otherwise provided for by law.

14. *Unclaimed prizes:* Unclaimed prize money on winning Fast Play lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto for 1 year from the sale date of the Fast Play lottery game ticket. If no claim is made within 1 year from the sale date of the Fast Play lottery game ticket, the right of a ticket holder to claim the prize represented by that ticket, if any, shall expire.

15. *Purchase and prize restrictions:* A Fast Play lottery game ticket may not be purchased by, and a prize may not be paid, to an officer or employee of the Lottery, Lottery professional services contractors or subcontractors, or to a spouse, child, brother, sister or parent residing in the same household of an officer, employee, contractor or subcontractor who is involved in the production, distribution or operation of systems for the validation or accounting of Fast Play games.

#### 16. *Governing law:*

(a) By purchasing a ticket, the purchaser agrees to comply with and abide by the State Lottery Law (72 P.S. §§ 3761-101—3761-314), this notice, instructions, conditions and final decisions of the Secretary, and procedures established by the Secretary for the conduct of the Fast Play Shamrock Shuffle lottery game.

(b) Decisions made by the Secretary, including the declaration of prizes and the payment thereof, in interpretation of this notice are final and binding on players and persons making a claim in respect thereof.

#### 17. *Retailer compensation:*

(a) Authorized retailers may be entitled to compensation as determined by the Lottery.

(b) No authorized retailer or employee of an authorized retailer shall request, demand, or accept gratuities or any compensation other than as provided in subsection (a) in exchange for the performance of duties authorized pursuant to the Lottery retailer's license without the Lottery's prior written authorization.

18. *Retailer Incentive Programs:* The Lottery may conduct a separate Retailer Incentive Program for retailers who sell Pennsylvania Fast Play Shamrock Shuffle lottery game tickets.

19. *Retailer bonus:* The Lottery may offer a retailer bonus in connection with the sale of Pennsylvania Fast Play lottery game tickets. If a retailer bonus is offered, a Lottery retailer shall be eligible for a bonus as described in this section. Lottery retailers who sell a winning ticket that entitles the ticket holder to a prize, either payable in a single installment or having a guaranteed minimum payout, of at least \$100,000 and not exceeding \$500,000 shall be paid a bonus of \$500. Lottery retailers who sell a winning ticket that entitles the ticket holder to a prize, either payable in a single installment or having a guaranteed minimum payout, of at least \$500,001 and not

exceeding \$1,000,000 shall be paid a bonus of \$5,000. Lottery retailers who sell a winning ticket that entitles the ticket holder to a prize, either payable in a single installment or having a guaranteed minimum payout, of at least \$1,000,001 and not exceeding \$10,000,000 shall be paid a bonus of \$10,000. A Lottery retailer is entitled only to the largest bonus for which they qualify on a winning ticket. A bonus will be initiated for payment after the Fast Play game ticket is claimed and validated. A bonus will not be awarded to a Lottery retailer that sells a non-winning Pennsylvania Lottery Fast Play game ticket used to enter a Pennsylvania Lottery second-chance drawing or promotion that is subsequently selected to win a prize.

20. *Termination of the game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote Shamrock Shuffle or through normal communications methods.

21. *Applicability:* This notice applies only to the Shamrock Shuffle lottery game announced in this notice.

C. DANIEL HASSELL,  
Secretary

[Pa.B. Doc. No. 20-165. Filed for public inspection January 31, 2020, 9:00 a.m.]

## ENVIRONMENTAL QUALITY BOARD

### Meeting Cancellation

The February 18, 2020, meeting of the Environmental Quality Board (Board) is cancelled. The next regular meeting of the Board is scheduled for Tuesday, March 17, 2020, at 9 a.m. in Room 105, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA.

Questions concerning the Board's next scheduled meeting may be directed to Laura Edinger at ledinger@pa.gov or (717) 783-8727. The agenda and meeting materials for all Board meetings are available through the Public Participation tab on the Department of Environmental Protection's (Department) web site at www.dep.pa.gov (select "Public Participation," then "Environmental Quality Board").

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

PATRICK McDONNELL,  
Chairperson

[Pa.B. Doc. No. 20-166. Filed for public inspection January 31, 2020, 9:00 a.m.]

## 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 date noted. The Commission's public meetings are held at 333 Market Street, 14th Floor, Harrisburg, PA at 10 a.m. To obtain a copy of the regulation, interested parties should first contact the promulgating agency. If a copy cannot be obtained from the promulgating agency, the Commission will provide a copy or it can be viewed on the Commission's web site at www.irrc.state.pa.us.

<i>Final-Omit Reg. No.</i>	<i>Agency/Title</i>	<i>Received</i>	<i>Public Meeting</i>
16A-62	Bureau of Professional and Occupational Affairs Technical Corrections to Schedules of Civil Penalties	1/16/20	2/20/20

<i>Final-Form Reg. No.</i>	<i>Agency/Title</i>	<i>Received</i>	<i>Public Meeting</i>
16A-6922	State Board of Social Workers, Marriage/ Family Therapists and Professional Counselors Licensed Bachelor Social Worker; Fees	1/16/20	2/20/20

GEORGE D. BEDWICK,  
Chairperson

[Pa.B. Doc. No. 20-167. Filed for public inspection January 31, 2020, 9:00 a.m.]

## INSURANCE DEPARTMENT

### Application for Designation as a Certified Reinsurer

Hamilton Re, Ltd. has applied for designation as a certified reinsurer in this Commonwealth. The application was received on January 17, 2020, and was made under

section 319.1(a) of The Insurance Company Law of 1921 (40 P.S. § 442.1(a)) and 31 Pa. Code § 161.3a (relating to requirements for certified reinsurers).

Persons who wish to comment on the application are invited to submit a written statement to the Insurance Department (Department) within 30 days from the date of this issue of the *Pennsylvania Bulletin*. Each written statement must include name, address and telephone

number of the interested party; identification of the application to which the statement is addressed; and a concise statement with sufficient detail and relevant facts to inform the Department of the exact basis of the statement. Written statements should be directed to Kimberly A. Rankin, Director, Bureau of Company Licensing and Financial Analysis, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, fax (717) 787-8557, krankin@pa.gov. Comments received will be forwarded to the applicant for appropriate response.

JESSICA K. ALTMAN,  
Insurance Commissioner

[Pa.B. Doc. No. 20-168. Filed for public inspection January 31, 2020, 9:00 a.m.]

## INSURANCE DEPARTMENT

### Surplus Lines Agents and Interested Parties; Export List of Insurance Coverages

In June 2019, the Insurance Commissioner (Commissioner) determined that certain insurance coverages were generally unavailable in the authorized market and declared those coverages as exportable. A list of exportable coverages was published at 49 Pa.B. 3443 (June 29, 2019). Accordingly, for those insurance coverages that are included on the export list, a diligent search among insurers admitted to do business in this Commonwealth is not required before placement of the coverages in the surplus lines market.

The Commissioner declared that the export list would remain in effect until revised or superseded by a subsequent list.

At this time, the Commissioner is soliciting comments regarding the current export list. Any person may request in writing that a coverage be added or removed from the list.

Persons wishing to comment on the Commissioner's current export list are invited to submit a written statement within 30 days from the date of publication of this notice in the *Pennsylvania Bulletin*. Each written statement must include sufficient detail and relevant facts to inform the Insurance Department of the exact basis of the statement. Written statements should be directed to Cressinda Bybee, Office of Corporate and Financial Regulation, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, fax (717) 787-8557, cbybee@pa.gov. After consideration of all comments received, the Commissioner will publish a notice in the *Pennsylvania Bulletin* providing a 15-day opportunity to comment on any proposed changes before formal publication of the revised list.

JESSICA K. ALTMAN,  
Insurance Commissioner

[Pa.B. Doc. No. 20-169. Filed for public inspection January 31, 2020, 9:00 a.m.]

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

### Electric Generation Supplier License Cancellations of Companies with an Expired Financial Security, Insufficient Financial Security Amount or Language

Public Meeting held  
January 16, 2020

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

*Electric Generation Supplier License Cancellations of Companies with an Expired Financial Security, Insufficient Financial Security Amount or Language; M-2019-3006865*

### Tentative Order

*By the Commission:*

The Commission's regulations at 52 Pa. Code § 54.40(a) state that an Electric Generation Supplier (EGS) license will not be issued or remain in force until the licensee furnishes a bond or other security approved by the Commission. In addition, 52 Pa. Code § 54.40(d) states that the maintenance of an EGS license is contingent on the licensee providing proof to the Commission that a bond or other approved security in the amount directed by the Commission has been obtained.

Each EGS must file an original bond, letter of credit, continuation certificate, amendment, or other approved financial instrument with Rosemary Chiavetta, Secretary, Pennsylvania Public Utility Commission, 400 North Street, Harrisburg, PA 17120 prior to the EGS's current security expiration date. Each financial instrument must be an original document that displays a "wet" signature or digital signature, preferable in blue ink, and displays a "raised seal" or original notary stamp. The name of the principal on the original financial instrument must match exactly with the name that appears on the EGS's license issued by the Commission.

Failure to file before the financial security's expiration date may cause Commission staff to initiate a formal proceeding that may lead to the following: cancellation of each company's electric supplier license, removal of each company's information from the Commission's website and notification to all electric distribution companies, in which each company is licensed to do business, of the cancellation of the license.

As of January 7, 2020, each EGS listed in the Supplier Table below has not provided proof to the Commission that it has a bond or other approved security in the amount or language directed by the Commission, to replace a bond which is expired or which is non-compliant with Commission regulations.



*Supplier Table—List of Electric Generation Suppliers*

<i>Docket Number</i>	<i>Company Name</i>	<i>Financial Security Expiration Date</i>	<i>Commission Approved Amount or Language</i>
A-2016-2565716	AVIDXCHANGE, INC.	12/15/2019	Yes
A-2010-2192836	TOMORROW'S UTILITIES, INC.	12/17/2019	Yes

As part of its EGS license validation procedures, the Commission's Bureau of Technical Utility Services sent a 90-day Security Renewal Notice Letter to each entity in the Supplier Table above stating that original documentation of a bond, or other approved security in the amount or language directed by the Commission, must be filed within 30 days prior to each entity's security expiration date. None of the companies listed in the Supplier Table provided the required documentation.

Based on the above facts, we tentatively conclude that the EGSs listed in the Supplier Table are not in compliance with 52 Pa. Code § 54.40(a) and (d) and therefore it is appropriate to initiate the cancellation process for the EGS license of each company listed in the Supplier Table, without the necessity of a formal complaint, as being in the public interest; *Therefore,*

*It Is Ordered That:*

1. Cancellation of the Electric Generation Supplier License of each company listed in the Supplier Table is hereby tentatively approved as being in the public interest.

2. The Secretary serve a copy of this Tentative Order upon the Office of Consumer Advocate, the Office of Small Business Advocate, the Bureau of Investigation & Enforcement, all electric distribution companies, all of the Electric Generation Suppliers in the Supplier Table and publish a copy of this Tentative Order in the *Pennsylvania Bulletin* with a 30-day comment period.

3. The Secretary serve a copy of this Tentative Order upon the Pennsylvania Department of Revenue—Bureau of Compliance, Business License Clearance Division.

4. Absent the filing of adverse public comment or the filing of an approved security within 30 days after publication in the *Pennsylvania Bulletin*, the Bureau of Technical Utility Services shall prepare a Final Order for entry by the Secretary.

5. Upon entry of the Final Order described in Ordering Paragraph No. 4 above, each company listed in the Supplier Table will be stricken from all active utility lists maintained by the Commission's Bureau of Technical Utility Services and the Assessment Section of the Bureau of Administration, removed from the Commission's website, and notifications be sent to all electric distribution companies in which the Electric Generation Suppliers are licensed to do business.

6. Upon entry of the Final Order described in Ordering Paragraph No. 4, each electric distribution company in which the Electric Generation Suppliers are licensed to do business, shall return the customers of the Electric Generation Suppliers to default service.

ROSEMARY CHIAVETTA,  
*Secretary*

[Pa.B. Doc. No. 20-170. Filed for public inspection January 31, 2020, 9:00 a.m.]

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

### Petition of Velocity.Net Communications, Inc. for Designation as an Eligible Telecommunications Carrier

Public Meeting held  
January 16, 2020

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

*Petition of Velocity.Net Communications, Inc. for  
Designation as an Eligible Telecommunications Carrier;  
P-2018-3006180*

#### Order

*By the Commission:*

Before the Pennsylvania Public Utility Commission (Commission) for disposition is the petition<sup>1</sup> of Velocity.Net Communications, Inc. (VNCI) seeking approval to be designated as an Eligible Telecommunications Carrier (ETC) in the Commonwealth of Pennsylvania for the purpose of receiving federal high-cost support, pursuant to Section 214(e)(2) of the Communications Act of 1934, as amended. Obtaining a designation as a federal high-cost ETC from the Commission would qualify VNCI to become eligible to receive federal high-cost support funding from the federal Universal Service Fund (USF) in any area where it had a winning bid in the Federal Communications Commission's (FCC) Connect America Fund (CAF) Phase II Auction 903 (Auction 903). As such, it is required to certify that it is an ETC in all of the eligible census block groups (CBGs) for which VNCI seeks such federal high-cost support in order to provide voice and broadband service to identified locations. Accordingly, in its Petition, VNCI states that it is seeking high-cost designation as an ETC only in specific exchanges throughout the Commonwealth for which it was awarded funding in the CAF II Auction 903.<sup>2</sup>

Notice of VNCI's petition was published in the *Pennsylvania Bulletin* at 49 Pa.B. 580 on February 2, 2019. No comments were filed in response to VNCI's Petition.

<sup>1</sup> As discussed further throughout, by petition dated November 27, 2018 (Petition), VNCI requested ETC designation as a facilities-based "landline carrier" only in those CAF II census block groups for which CAF Phase II high cost support will be awarded by the FCC via Auction 903.

<sup>2</sup> The FCC made eligible for Auction 903 certain high-cost census blocks in states where the price cap carriers had declined an earlier offer of model-based support in CAF Phase I, Part 2 and in other unserved areas nationwide (excluding New York, Alaska, Puerto Rico, Virgin Islands) that were not served by an unsubsidized service provider. It was through this competitive bidding process that VNCI was a winning bidder in certain high-cost census blocks located in the Verizon North, LLC, service territory. It is in these federally-funded census blocks that VNCI is seeking federal high-cost ETC designation and will be offering voice and broadband services under federal law consistent with the FCC's public interest obligations.

VNCI also filed supplements to its original Petition that set forth other additional pertinent information.<sup>3</sup>

We have reviewed VNCI's Petition, as supplemented, to determine whether it meets the statutory criteria and applicable minimum standards necessary under state and federal law to obtain an ETC designation. VNCI's Petition is hereby approved under the applicable federal statutory criteria and other relevant federal and Pennsylvania law. Concomitantly, as a condition of receiving an ETC designation to receive high-cost support, VNCI must also participate in the federal Lifeline program and is required to offer Lifeline service to low-income eligible customers or households in accordance with applicable federal and Pennsylvania law.

We hereby conclude that it is in the public interest that VNCI be designated an ETC for purposes of receiving Auction 903 funding support in the high-cost eligible census blocks where it submitted a winning bid in order to deploy and maintain networks capable of providing voice and broadband service in those areas and also to provide Lifeline service to qualifying low-income customers or households in those same census blocks. Specifically, VNCI will be required to offer Lifeline services to eligible low-income customers or households, subject to the conditions stated by this Order and applicable reporting requirements and annual recertification requirements as they currently exist or may come to exist under federal and/or state law.

#### Background

##### A. FCC and State ETC Orders

In its 1997 Universal Service Order, the FCC established minimum requirements necessary for a telecommunications carrier to be designated an ETC, and thus, eligible to receive federal universal service high-cost support from the federal USF.<sup>4</sup> In 2005, pursuant to Section 214(e)(6) of the Communications Act of 1934, as amended (Act), 47 U.S.C. § 214(e)(6), and consistent with the recommendations of the Federal-State Joint Board on Universal Service (Joint Board), the FCC addressed these minimum requirements and adopted additional mandatory requirements for ETC designation proceedings.<sup>5</sup> Additionally, as recommended by the Joint Board, the FCC encouraged states that exercise jurisdiction over ETC designations pursuant to Section 214(e)(2) of the Act, to adopt these same requirements when deciding whether they should designate a common carrier as an ETC.<sup>6</sup> Accordingly, in order to provide consistent standards and to obtain the complete and necessary information necessary when reviewing future petitions for ETC designation and annual ETC recertifications, the Commission adopted the FCC's statutorily prescribed requirements for ETC designations and set forth additional Pennsylvania-specific standards as guidelines for all ETC applicants over which it exercises jurisdiction.<sup>7</sup> The Commission codified these guidelines at 52 Pa. Code § 69.2501 (ETC Guidelines).

In its 2011 USF/ICC Transformation Order, the FCC comprehensively reformed the federal USF mechanism to

accelerate broadband build-out to the 18 million Americans living across the nation in rural areas who were receiving voice service but lacked access to robust broadband infrastructure and service.<sup>8</sup> Specifically, the FCC concluded that it should adopt high-cost support for broadband-capable networks as an express universal service principle under Section 254(b) of the Act, 47 U.S.C. § 254(b).<sup>9</sup> Additionally, for the first time, the FCC set specific performance goals for the high-cost component of the federal USF to ensure the reforms are achieving their intended purposes.<sup>10</sup> Accordingly, the FCC revamped the purpose of the Universal Service High-Cost program of the federal USF to expand access to both voice and broadband services by supporting networks capable of providing those services and requiring certain support recipients to provide those services in geographic areas that were clearly unserved or underserved by unsubsidized service providers of broadband service.<sup>11</sup>

Concomitant with this repurposing of the six pre-existing programs in the federal USF High-Cost Fund that supported voice service, there was also a renaming and repurposing of the High-Cost program and support to the Connect America Fund or CAF.<sup>12</sup> The CAF was rolled-out in different phases.<sup>13</sup> Up through the CAF Phase II Auction 903, the FCC, through the CAF, provided funding to federal price cap incumbent local exchange carriers (ILECs) to support the cost of building new network infrastructure or performing network upgrades to continue to provide voice and, in addition, retail broadband access services in areas where it was lacking.

In 2018, as a part of CAF Phase II, Part II, the FCC conducted Auction 903 to allocate Phase II support to a certain number of locations in eligible CBGs across the United States, including areas in Pennsylvania where the federal price cap ILEC had declined to receive the model-based high-cost support it had been previously offered by the FCC.<sup>14</sup> Auction 903 ran from July 24, 2018 to August 21, 2018 and awarded up to \$198 million annually for 10 years to all service providers that had committed to provide voice and fixed broadband services to specific locations in unserved high-cost areas, including areas in Pennsylvania.<sup>15</sup> As a result of Auction 903, some homes and businesses would have voice as well as broadband Internet access service (BIAS) available with download speeds of at least 100 megabits per second (Mbps).<sup>16</sup> Others would have voice and gigabit service available.<sup>17</sup> And lastly, the remaining locations would have voice as well as at least 25 Mbps download service available.<sup>18</sup>

Concomitantly, in order to continue the mission of assisting qualifying low-income Americans to get and stay connected in today's technological climate, while at the same time relieving some of the burden on the entities

<sup>8</sup> In the Matter of Connect America Fund, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663 (2011), aff'd sub nom In re FCC 11-161, 753 F.3d 1015 (10th Cir. 2014) (USF/ICC Transformation Order). The FCC, *inter alia*, adopted rules that modernized and refocused the federal USF to make affordable broadband access available to all Americans and an inherent part of the universal service concept.

<sup>9</sup> See USF/ICC Transformation Order, 26 FCC Rcd at 17672, ¶ 17.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.* at 17673, ¶¶ 19–25.

<sup>12</sup> *Id.* at 17673, ¶ 20.

<sup>13</sup> *Id.* at 17673, ¶¶ 22–23.

<sup>14</sup> See Public Notice, Connect America Fund Phase II Auction Closes Winning Bidders Announced FCC Form 683 Due October 15, 2018, AU Docket No. 17-182 and WC Docket No. 10-90 (rel. August 28, 2018) (CAF Auction Results Notice).

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>3</sup> VNCI filed supplements on February 8, 2019 (February 8, 2019 Supplement), October 1, 2019 (October 1, 2019 Supplement), and December 10, 2019 (December 10, 2019 Supplement) in response to data requests and other inquiries from Commission staff.

<sup>4</sup> See Federal-State Joint Board on Universal Service, First Report and Order, 12 FCC Rcd 8776, 8847-76, ¶¶ 130–180 (1997) (Universal Service Order).

<sup>5</sup> See Federal-State Joint Board on Universal Service, Report and Order, 20 FCC Rcd 6371, 6372, 6380, ¶¶ 2, 20 (2005) (2005 ETC Designation Order).

<sup>6</sup> See 2005 ETC Designation Order, 20 FCC Rcd at 6372, 6380, ¶¶ 1, 20.

<sup>7</sup> Final Policy Statement on Commonwealth of Pennsylvania Guidelines for Designation and Annual Recertification as an Eligible Telecommunications Carrier (ETC) for Purposes of Federal Universal Service Support, Docket No. M-2010-2164741 (Order entered August 2, 2010) (ETC Guidelines Order).

providing this service, the FCC also had begun restructuring the federal USF Lifeline program.<sup>19</sup> In its 2012 Lifeline Reform Order, the FCC eliminated the previous system of tiered support and set an interim funding rate of \$9.25 per month and per eligible subscriber or household effective May 1, 2012.<sup>20</sup> The FCC has issued three later Lifeline reform orders establishing a number of additional enhancements to the federal Lifeline Program, further connecting low-income Americans to voice services and, now, broadband.<sup>21</sup>

### B. VNCI's Petition and Supplements

On August 28, 2018, the FCC announced that VNCI had been awarded federal high-cost support funding in certain designated census blocks in Pennsylvania via the FCC's Auction 903. By petition dated November 27, 2018, VNCI requested ETC designation in only the specific census blocks located in Erie County where it had submitted a successful bid via Auction 903 and had been awarded CAF Phase II support by the FCC. Accordingly, VNCI requested designation as an ETC throughout these census blocks only. The Commission subsequently engaged in detailed analysis of the Petition and supplemental information that was provided to ensure consistency with state and federal law.

VNCI holds certificates of public convenience from the Commission to operate as a Competitive Access Provider (CAP) in the Commonwealth of Pennsylvania and as a Competitive Local Exchange Carrier (CLEC) in the following ILEC service territories: Verizon North LLC (Verizon North) and Verizon Pennsylvania LLC.<sup>22</sup> VNCI is a facilities-based carrier, and it owns and operates a 375-mile-long fiber ring in northwestern Pennsylvania which it uses to provide voice and high-speed broadband Internet access services to residential, small business, and enterprise customers.<sup>23</sup>

As an ETC, VNCI proposes to use the CAF II funds to extend its existing fiber optic network to provide telecommunications and broadband Internet access services with simultaneous download and upload speeds of up to 1 gigabit per second (Gbps)<sup>24</sup> to the customers residing only in these awarded CAF-eligible census blocks: PA-049-0004001, PA-049-0011001, PA-049-0112021, PA-049-0115072, PA-049-0117022, and PA-049-0124001 (Designated Area).<sup>25</sup>

The census blocks comprising VNCI's proposed Designated Area are primarily located within Presque Isle

State Park, where there are few, if any, residences. However, a small portion of the Designated Area includes a residential area with less than 50 homes.<sup>26</sup> As such, it is possible that some qualifying low-income customers may reside in this portion of the Designated Area.<sup>27</sup> Therefore, VNCI represents that it will comply with the requirements to provide Lifeline service to customers located within VNCI's service area.<sup>28</sup> VNCI also represents that it is prepared to satisfy the requirements of 47 U.S.C. Section 214(e)(3) if no common carrier will provide the services that are supported by federal USF support mechanisms under Section 254(c) to an unserved community or any other portion thereof that requests such service.<sup>29</sup>

VNCI's Lifeline offering, if approved for ETC purposes, would be eligible for the federal \$7.25 rate of support.<sup>30</sup> Eligible Lifeline customers will have access to a variety of standard features at no additional charge, including caller I.D., voice mail, call waiting, forward to mobile, robo-call blocking, and unlimited nationwide calling.<sup>31</sup>

VNCI's standalone telephone (voice) customers, including Lifeline customers, will have the option to receive monthly bills electronically or by U.S. Mail, upon request.<sup>32</sup> VNCI will charge no fee for furnishing a paper bill. VNCI will not require a security deposit or charge any fees to Lifeline applicants to enroll or receive service, other than the charges for monthly telephone service.<sup>33</sup>

VNCI understands that Pennsylvania participates in the Lifeline National Eligibility Verifier (National Verifier) program.<sup>34</sup> As such all electronic and paper applications are to be certified by the National Verifier, and applicants must physically e-sign an application for Lifeline whether entered by the applicant or company staff.<sup>35</sup> VNCI also understands that the Pennsylvania Department of Human services has established an automated process with the National Verifier to assist with qualification and that all applications for Lifeline are approved by the National Verifier.<sup>36</sup>

VNCI asserts that it will comply with the eligibility determinations from the National Verifier regarding potential Lifeline customers.<sup>37</sup> Additionally, VNCI states it will de-enroll Lifeline customers who do not receive recertification from the National Verifier in accordance with 47 C.F.R. § 54.405(e)(4).<sup>38</sup>

### Discussion

Section 254(e) of the Act provides that "only an eligible telecommunications carrier designated under Section

<sup>19</sup> Lifeline and Link Up Reform and Modernization, et al., Report and Order and Further Notice of Proposed Rulemaking, 27 FCC Rcd 6656 (2012) (2012 Lifeline Reform Order or Lifeline FNPRM).

<sup>20</sup> At the current time, federal rules limit the \$9.25 Lifeline support to either voice or broadband service. The Lifeline subscriber's \$9.25 support is applicable to whatever service a Lifeline consumer may choose to purchase but subscribers cannot receive the \$9.25 support separately for each service. However, Lifeline also supports broadband-voice bundles so consumers choosing a bundled package containing voice and broadband service can apply the \$9.25 support to that bundle.

<sup>21</sup> Lifeline and Link Up Reform and Modernization et al., Second Further Notice of Proposed Rulemaking, Order on Reconsideration, Second Report and Order, and Memorandum Opinion and Order, 30 FCC Rcd 7818 (2015) (2015 Lifeline FNPRM); Lifeline and Link Up Reform and Modernization et al., Third Report and Order, Further Report and Order, and Order on Reconsideration, 31 FCC Rcd 3962, 4038, ¶ 211 (2016) (2016 Lifeline Modernization Order); Fourth Report and Order, Order on Reconsideration, Memorandum Opinion and Order, Notice of Proposed Rulemaking, and Notice of Inquiry, 32 Rcd 10475 (2017), vacated and remanded, *National Lifeline Association et al. v. FCC*, Docket Nos. 18–1026, Order issued February 1, 2019 (D.C. Cir. 2019) (2017 Lifeline NPRM and NOI) (collectively Lifeline Reform Orders).

<sup>22</sup> See Application of Velocity.net Communications, Inc. for approval to offer, render, furnish or supply telecommunications services as a Competitive Access Provider to the Public in the Commonwealth of Pennsylvania, Docket No. A-310409, (Order entered August 24, 2006); Amended Application of Velocity.Net, Inc. for approval to offer, render, furnish or supply telecommunication services as a Competitive Local Exchange Carrier to the public in the Commonwealth of Pennsylvania in the service territories of Verizon Pennsylvania Inc. and Verizon North LLC, Docket No. A-311409F0002 (Order entered August 31, 2012).

<sup>23</sup> Petition at 5.

<sup>24</sup> Petition at 3.

<sup>25</sup> Petition, Exhibit 2.

<sup>26</sup> February 8, 2019 Supplement at 1.

<sup>27</sup> Id.

<sup>28</sup> Id.

<sup>29</sup> Id.

<sup>30</sup> The FCC has ruled that Lifeline subsidy support amount for fixed voice-only service will gradually decrease in the following manner:

Date	Mobile-voice only	Fixed-voice only	Mobile Broadband	Fixed Broadband
December 1, 2019	\$7.25	\$7.25	\$9.25	\$9.25
December 1, 2020	\$5.25	\$5.25	\$9.25	\$9.25
December 1, 2021	0*	*0	\$9.25	\$9.25

See 2016 Lifeline Modernization Order, 31 FCC Rcd 3962, ¶ 64 (2016).

<sup>31</sup> December 10, 2019 Supplement at 2.

<sup>32</sup> October 1, 2019 Supplement at A-2.

<sup>33</sup> February 8, 2019 Supplement at 3.

<sup>34</sup> In 2016, the FCC established the National Verifier to make eligibility determinations to enroll eligible subscribers into the Lifeline Program. The National Verifier is further discussed, *infra*.

<sup>35</sup> October 1, 2019 Supplement at A-3.

<sup>36</sup> October 1, 2019 Supplement at B-1.

<sup>37</sup> December 10, 2019 Supplement at 4.

<sup>38</sup> Id.



214(e) shall be eligible to receive specific Federal universal service support.”<sup>39</sup> Section 214(e)(2) of the Act provides state commissions with the primary responsibility for performing ETC designations.<sup>40</sup> Thus, pursuant to Section 214(e)(2), each certificated telecommunications carrier seeking federal universal service high-cost support must file a petition with the state commission in order to be designated an ETC. In those instances where a state cannot or will not make the requisite ETC designation, the FCC makes the ETC designation.<sup>41</sup> Thus, the Commission reserves the right to review any ETC designation request on a case-by-case basis and grant or deny such designation after considering the circumstances particular to each application.

The Commission has adopted the federal requirements as a starting point for review of a request for ETC designation.<sup>42</sup> We also have Pennsylvania-specific guidelines discussed below that a federal high-cost ETC petitioner must satisfy before we can approve its request for ETC designation in Pennsylvania.<sup>43</sup> As set forth below, VNCI satisfies all federal requirements, including the FCC’s Universal Service Order, the 2005 ETC Designation Order, the USF/ICC Transformation Order, the Lifeline Reform Orders, and FCC regulations codifying the requirements of these Orders. VNCI also satisfies related Pennsylvania-specific requirements or guidelines.<sup>44</sup>

### I. Federal Requirements for Designation as a High-Cost ETC

Pursuant to 47 U.S.C. § 214(e)(1), an ETC petition must contain the following: (1) a certification that the petitioner offers or intends to offer all services designated for support by the FCC pursuant to Section 254(c); (2) a certification that the petitioner offers or intends to offer the services supported by the federal universal service mechanisms throughout the designated service area “either using its own facilities or a combination of its own facilities and resale of another carrier’s services” (including the services offered by another ETC); (3) a description of how the petitioner “advertise[s] the availability of [supported] services and the charges therefore using media of general distribution”; and (4) a detailed description of the geographic service area for which it requests an ETC designation from the Commission.<sup>45</sup>

As the FCC set forth in its 2005 ETC Designation Order,<sup>46</sup> a telecommunications carrier must also satisfy these additional mandatory requirements for it to be designated an ETC and thus eligible to receive federal universal service support: (1) a commitment and ability to provide services, including providing service to all customers within its proposed service area; (2) how it will remain functional in emergency situations; (3) that it will satisfy consumer protection and service quality standards; and (4) that it offers local usage comparable to that

offered by the ILEC.<sup>47</sup> These requirements were codified in the FCC’s rules and regulations.<sup>48</sup> The FCC subsequently added an additional requirement concerning the Anti-Drug Abuse Act of 1988.<sup>49</sup>

In addition to meeting these statutory requirements, state commissions must also perform a “public interest” review before approving an ETC designation. Section 214(e)(2) of the Act states that, “[u]pon request and consistent with the public interest, convenience, and necessity, the State commission may, in the case of an area served by a rural telephone company, and shall, in the case of all other areas, designate more than one common carrier as an eligible telecommunications carrier” for a designated area, so long as the requesting carrier meets the requirements of Section 214(e)(1).<sup>50</sup>

Thus, our review of VNCI’s petition will be done consistent with the federal requirements that must be met in order for an applicant to receive designation as an ETC, as codified, which we have adopted and implemented in the Commonwealth as the minimum standards applicable to ETC designation. Our review of VNCI’s petition also will be done to ensure consistency with independent Pennsylvania law as an ongoing obligation.

#### A. The FCC’s Rules Governing ETC Designations

##### 1. 47 C.F.R. § 54.101(a) and (b)

#### *Certification Regarding the Offering of All Services Designated for Support*

The FCC defines supported service as qualifying voice service and the offering of qualifying broadband services.<sup>51</sup> Accordingly, all ETCs must therefore offer voice telephony as a standalone service throughout their designated service area and must offer voice telephony services at rates that are reasonably comparable to urban rates.<sup>52</sup>

As a condition of receiving support, ETCs must therefore offer voice telephony as a standalone service throughout their designated service area and must offer voice telephony services at rates that are reasonably comparable to urban rates.<sup>53</sup> All ETCs must offer qualifying standalone voice service using their own facilities, at least in part.<sup>54</sup> The Commission has interpreted the term “facilities,” for purposes of Section 214(e) of the Act, to mean “any physical components of the telecommunica-

<sup>47</sup> In the 2005 ETC Designation Order, the FCC also established that an ETC may be required to provide equal access if all other ETCs in the service area relinquish their designations. In the USF/ICC Transformation Order, however, the FCC determined that the above ETC equal access requirement was obsolete and deleted it from 47 C.F.R. § 54.202. The FCC stated because this rule was obsolete, it found good cause to delete it without notice and comment. USF/ICC Transformation Order, FCC Red 17872, ¶ 647 and Appendix A.

<sup>48</sup> See 47 C.F.R. §§ 54.101, 54.202.

<sup>49</sup> 21 U.S.C. § 862; 47 C.F.R. § 1.2002(a)-(b).

<sup>50</sup> Verizon North is not a rural ILEC in Pennsylvania.

<sup>51</sup> 47 C.F.R. § 54.101 (including both eligible voice telephony and eligible broadband Internet access as services “supported by federal universal service support mechanisms,” and characterizing the provision of eligible broadband service as a high-cost public interest obligation); see also USF/ICC Transformation Order, 26 FCC Red at 17691-94, ¶¶ 74–89 (describing the “core functionalities of the supported services as voice telephony service,” and as a separate condition of receiving federal high-cost universal service support, all ETCs are required to offer BIAS in their supported area that meets certain basic performance requirements).

<sup>52</sup> See USF/ICC Transformation Order, 26 FCC Red at 17693, ¶¶ 80-81; see also C.F.R. § 54.101(b). The FCC has adopted a similar reasonable comparability rate certification requirement for broadband performance obligations. See Connect America Fund et al., Report and Order, 29 FCC Red 15644, 15686-87, ¶ 120 (2014) (December 2014 CAF Order).

<sup>53</sup> USF/ICC Transformation Order, 26 FCC Red at 17693, paras. 80-81; see also 47 C.F.R. § 54.101(b).

<sup>54</sup> 47 U.S.C. § 214(e)(1); 47 C.F.R. § 54.101. The FCC has exercised forbearance from the provision requiring that providers must provide supported service using at least a portion of their own facilities for certain wireless Lifeline-only providers. See Virgin Mobile USA, L.P. Petition for Forbearance from 47 U.S.C. § 214(e)(1)(A); Petitions for Limited Eligible Telecommunications Carrier Designation in New York, Pennsylvania, Virginia, North Carolina, and Tennessee, 24 FCC Red 3381 (2009) (Virgin Mobile Order).

<sup>39</sup> 47 U.S.C. § 254(e).

<sup>40</sup> 47 U.S.C. § 214(e)(2).

<sup>41</sup> 47 U.S.C. § 214(e)(6).

<sup>42</sup> See generally Universal Service Order and the 2005 ETC Designation Order.

<sup>43</sup> See ETC Guidelines Order at 4.

<sup>44</sup> The Commission’s ETC designation review process reflects the current requirements under federal and state law. But the Commission acknowledges that ETC designation requirements imposed under state and federal law may change in response to subsequent developments.

<sup>45</sup> See Universal Service Order, 12 FCC Red 8776, 8847-76, ¶¶ 130–180.

<sup>46</sup> See ETC Designation Order, 20 FCC Red at 6380, ¶ 20 (citing Federal-State Joint Board on Universal Service, Recommended Decision, 19 FCC Red 4259, ¶ 5 (Fed-State Jt. Bd. 2004)).

tions network that are used in the transmission or routing of the services designated for support under section 254(c)(1).<sup>55</sup> As explained by the FCC, “a carrier need not offer universal service wholly over its own facilities in order to be designated an eligible carrier because the statute allows an eligible carrier to offer the supported services through a combination of its own facilities and resale.”<sup>56</sup> Facilities are the ETC’s “own” if the ETC has exclusive right to use the facilities to provide the supported services<sup>57</sup> or when service is provided by any affiliate within the holding company structure.<sup>58</sup>

An ETC satisfies its obligation to “offer” qualifying services by being legally responsible for dealing with customer problems, providing quality of service guarantees, and meeting federal USF-related requirements.<sup>59</sup> Accordingly, a broadband provider may satisfy its voice obligation by offering voice service through an affiliate or by offering a managed voice solution (including Voice-over-Internet Protocol or VoIP) through a third-party vendor but cannot simply rely on the availability of over-the-top VoIP voice options.<sup>60</sup>

VNCI attests that it will be providing all of the services and functionalities supported by the federal universal service program as set forth in Section 54.101(a) of the FCC’s regulations throughout its Designated Area in the Commonwealth of Pennsylvania using at least a portion of its own facilities.<sup>61</sup>

*a. Voice Grade Access to the Public Switched Telephone Network (PSTN)*

VNCI meets the ETC requirement of being a common carrier. As previously stated, VNCI is certificated as a CAP and CLEC in Pennsylvania. Moreover, VNCI represents that it will extend its voice service in its Designated Area by extending its own fiber network to additional service locations in the Designated Area.<sup>62</sup> As such, VNCI is a common carrier under 47 U.S.C. § 214(e)(1) and 214(e)(6) for purposes of ETC designation.<sup>63</sup>

*b. Minutes of Use for Local Service*

As part of the voice grade access to the PSTN, an ETC must provide local calling services to its customers at no additional charge. Although the FCC did not set a minimum local usage requirement, in the Universal Service Order it determined that ETCs should provide some minimum amount of local usage as part of their

“basic service” package of supported services.<sup>64</sup> However, the FCC has determined that a carrier satisfies the local usage requirements by including a variety of local usage plans as part of a universal service offering. VNCI meets this requirement by providing an amount of local usage free of charge in its voice service offerings.<sup>65</sup> Additionally, VNCI’s proposed Lifeline offering, as described, also complies with the local usage requirements established by the FCC. This meets the local calling requirement of 47 C.F.R. § 54.101. In addition to voice services, VNCI will provide Lifeline customers with access to a variety of other features at no cost, including voice mail, caller I.D., call waiting services, and robo-call blocking.<sup>66</sup>

*c. Access to Emergency Services*

VNCI certifies that it will provide access to 911 emergency services for all of its customers throughout its entire service area.<sup>67</sup>

*d. Toll Limitation Services*

Under the language of Section 54.400 of the FCC’s regulations, the FCC has defined three terms addressing the service provided by an ETC by which a subscriber may prevent toll charges from accumulating beyond a set point. Specifically, Subsection 54.400(b) defines “toll blocking” as the service a subscriber may elect to not allow outgoing toll calls. Subsection (c) defines “toll control service” as the service a subscriber may elect to specify a set amount of toll usage allowed per month or per billing cycle. Subsection (d) defines “toll limitation service” as a generic term covering either toll blocking or toll control service for ETCs that are incapable of providing both or covering both where an ETC is capable of providing both.

Section 54.401(a)(2), toll limitation service, does not need to be offered for any Lifeline service that does not distinguish between toll and non-toll calls in the pricing of the service. If an ETC charges Lifeline subscribers a fee for toll calls that is in addition to the per month or per billing cycle price of the subscribers’ Lifeline service, the carrier must offer toll limitation service at no charge to its subscribers as part of its Lifeline service offering.

VNCI’s Lifeline service will include unlimited local and long distance calling. VNCI uses toll control to restrict calls to international or premium rate numbers unless the customer requests access in writing to have those controls lifted.<sup>68</sup> Therefore, the nature of VNCI’s service eliminates the concern that low-income customers will incur significant charges for long distance calls, risking disconnection of their service.

*e. Eligible Broadband Internet Access Services*

An ETC subject to a high-cost public interest obligation to offer BIAS must offer BIAS that provides the capability to transmit data to and receive data by wire or radio from all or substantially all Internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service, but excluding dial-up service, within the areas where it receives high-cost support.<sup>69</sup>

<sup>64</sup> See Universal Service Order, 12 FCC Rcd 8776, 8813, ¶ 67. Although the FCC’s rules define “local usage” as “an amount of minutes of use of wire center service, prescribed by it, provided free of charge to end users,” the FCC has not specified a number of minutes of use. See 47 C.F.R. 54.101(a)(1). See also Federal-State Joint Board on Universal Service, Recommended Decision, CC Docket No. 96-45, FCC 02J-1 (rel. Jul. 10, 2002).

<sup>65</sup> Petition at 5.

<sup>66</sup> December 10, 2019 Supplement at 2.

<sup>67</sup> See Petition at 2.

<sup>68</sup> February 8, 2019 Supplement at 1.

<sup>69</sup> 47 C.F.R. § 54.101(a)(2) and (c).

<sup>55</sup> Universal Service Order, 12 FCC Rcd at 8847, ¶ 128.

<sup>56</sup> Id. at 8870, ¶ 169.

<sup>57</sup> Id. at 8866, ¶ 160.

<sup>58</sup> December 2014 CAF Order, 29 FCC Rcd at 15668 n.43; see also 47 U.S.C. § 153(2) (defining an affiliate as “a person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, another person”).

<sup>59</sup> Cf. Connect America Fund, Report and Order, 28 FCC Rcd 7211, 7215, ¶ 9 (2013) (Phase II Challenge Process Order) (finding that it is not sufficient for a broadband provider to qualify as an “unsubsidized competitor” if a consumer must obtain standalone voice service from a third party, because that broadband provider would not be offering a voice service).

<sup>60</sup> See Connect America Fund et al., Order on Reconsideration, 33 FCC Rcd 1380, 1387-88, ¶ 20 (2018) (rejecting arguments contending that “because VoIP is provided over broadband networks and over-the-top voice options are available, broadband service providers need only offer broadband as a standalone service,” and requiring carriers to “offer VoIP over their broadband network on a standalone basis”); cf. Phase II Challenge Process Order, 28 FCC Rcd 7224, n.21 (explaining that a broadband provider would be considered to be providing voice service if it did so through an affiliated competitive local exchange company or “through a managed voice solution obtained from a third party vendor. . . so long as the broadband provider is the entity responsible for dealing with any customer problems, and it provides quality of service guarantees to end user customers”).

<sup>61</sup> See Petition at 2-3.

<sup>62</sup> Petition at 5.

<sup>63</sup> 47 U.S.C. § 214(e)(1), (e)(6).

VNCI satisfies this requirement because it furnishes broadband Internet access that provides the capability to transmit data to and receive data by wire from all or substantially all Internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service.<sup>70</sup> Through the CAF II support received from Auction 903, VNCI will extend its existing fiber optic network to provide broadband Internet access to the Designated Area.<sup>71</sup>

### 2. 47 C.F.R. § 54.201

#### *Definition of ETC*

Pursuant to Section 153(10) of the Act, “common carrier” is defined as “any person engaged as a common carrier for hire, in interstate or foreign communications by wire or radio[.]” 47 U.S.C. § 153(10). A carrier is eligible under Section 54.201 so long as it offers the services set forth in Section 54.101, either through its own facilities or a combination of its own facilities and the resale of another carrier’s services and advertises the availability of the federal universal support services using media of general distribution.<sup>72</sup> Common carriers that provide services consistent with the requirements of Section 214(e) may be designated ETCs.

As previously found, VNCI meets the ETC requirement of being a common carrier. As previously stated, VNCI is certificated as a CAP and CLEC in the service territories of Verizon PA and Verizon North in Pennsylvania. Moreover, VNCI will provide voice service in its Designated Area through its own facilities by extending its fiber network to additional service locations in its Designated Area.<sup>73</sup> As such, VNCI is a common carrier under 47 U.S.C. § 214(e)(1) and 214(e)(6) for purposes of ETC designation.<sup>74</sup>

VNCI will advertise the availability of Lifeline service on its website and will allow customers to complete an application for service online or initiate an application via telephone application.<sup>75,76</sup> VNCI’s Lifeline service page will show the Lifeline service options available, and VNCI will seek input and approval from the Bureau of Consumer Services (BCS) before placing this page into service.<sup>77</sup> VNCI staffs a local operations center that is open 24 hours a day, seven days a week, to field calls from existing and new subscribers. Operations center staff will be trained to assist with Lifeline applicants and subscribers. Applications for Lifeline services will be processed during normal business hours of 8:30 AM to 5:30 PM, Monday through Friday, by telephone with existing VNCI operations staff. Eventually, VNCI may allow for in-person applications by appointment. VNCI will also provide Lifeline information to those agencies or institutions located within its service area where customers can receive Lifeline service, including the city of Erie and Erie County.<sup>78</sup>

<sup>70</sup> 47 C.F.R. § 54.101(a)(2).

<sup>71</sup> Petition at 3, 6.

<sup>72</sup> The statutory and regulatory requirement to provide supported Lifeline service through a combination of a carrier’s own facilities and those of another carrier has in certain instances been obviated through forbearance by the FCC. See, e.g., Virgin Mobile Order. That forbearance is not at issue in this Petition.

<sup>73</sup> Petition at 5.

<sup>74</sup> 47 U.S.C. § 214(e)(1), (e)(6).

<sup>75</sup> February 8, 2019 Supplement at 2.

<sup>76</sup> VNCI’s petition was filed prior to Pennsylvania’s becoming a National Verifier state. ETCs accepting and processing applications through the National Verifier must obtain (and retain) verification of eligibility, identity, address, age as well as an e-signature. The National Verifier initiated an application programming interface (API) that ETCs can interface with their own website. <https://www.usac.org/lifeline/additional-requirements/record-keeping/>

<sup>77</sup> February 8, 2019 Supplement at 6.

<sup>78</sup> February 8, 2019 Supplement at 5.

### 3. 47 C.F.R. § 54.202

#### *Additional Requirements*

VNCI also meets the additional requirements for ETC designation as outlined at 52 Pa. Code § 69.2501 and set forth in Section 54.202, as discussed below.

#### a. 47 C.F.R. § 54.202(a)(1)

#### *Compliance with Service Requirements*

In order to satisfy these criteria, an ETC applicant must demonstrate its commitment and ability to provide supported services throughout the Designated Area: (1) by providing services to all customers making a reasonable request for service within the ETC’s Designated Area; and (2) by submitting a formal network improvement plan that demonstrates how universal service funds will be used to improve coverage, signal strength, or capacity that would not otherwise occur absent the receipt of high-cost support.

To satisfy the first prong and ensure that an ETC serves requesting customers in its Designated Area and demonstrates its capability and commitment to provide service throughout its designated service area to all customers who make a reasonable request for service, the FCC requires an ETC to make specific commitments to provide services to requesting customers in that part of the service area for which it is designated an ETC. If the ETC’s network already passes or covers the potential customer’s premises, the ETC should provide service immediately. In those instances where a request comes from a potential customer within proximity of the petitioner’s Designated Area but outside its existing network coverage, the petitioner should provide service within a reasonable period of time if service can be provided at reasonable cost.

VNCI certifies that it will comply with all applicable requirements related to receipt of high-cost support, consistent with 47 C.F.R. § 54.202(a)(1)(i). VNCI commits to providing voice and broadband service, including all of the supported services throughout its Designated Area to all customers making a reasonable request for services, as required by 47 C.F.R. § 54.202(a)(1)(i).<sup>79</sup> VNCI will also offer Lifeline services as required by the FCC’s rules at all locations where it has been awarded support in accordance with 47 C.F.R. 54.101(d).<sup>80</sup>

For supported locations in the eligible CBGs, VNCI certifies in its Petition that it will satisfy the FCC’s deployment obligations at 47 C.F.R. § 54.310(c) applicable to recipients of CAF Phase II support monies awarded through Auction 903. Specifically, VNCI’s Designated Area in Pennsylvania is throughout the six CAF II census blocks in Erie County listed in its Petition at Exhibit 2 and as identified above.<sup>81</sup>

The “five-year plan” requirement set forth in 47 C.F.R. § 54.202(a)(1)(ii) is inapplicable to VNCI. The FCC has eliminated the five-year improvement plan requirement for price cap carriers, rate-of-return carriers and petitioners seeking ETC designation to become eligible to receive Auction 903 support.<sup>82</sup> Therefore, since VNCI is a win-

<sup>79</sup> Petition at 6.

<sup>80</sup> Id.

<sup>81</sup> PA-049-0004001, PA-049-0011001, PA-049-0112021, PA-049-0115072, PA-049-0117022, and PA-049-0124001. See note 24, supra.

<sup>82</sup> See Connect America Fund et al., Report and Order, Order and Order on Reconsideration, and Further Notice of Proposed Rulemaking, 31 FCC Rcd 3087, 3166, 3168, ¶¶ 216, 220 (2016) (eliminating five-year plan and related progress reports for federal rate-of-return and price cap carriers) (2016 Rate-of-Return Reform Order); see also Notice, WCB Reminds Connect America Fund Phase II Auction Applicants of the Process for Obtaining a Federal Designation as an Eligible Telecommunications Carrier, WC Docket Nos. 09-197 and 10-90, Public Notice, 33 FCC Rcd 6696, 6699-6700 (WCB 2019) (Auction 903 ETC Public Notice).



ning bidder in Auction 903, it is not required to file a five-year improvement plan with this Commission.

b. 47 C.F.R. § 54.202(a)(2)

*Functionality in Emergency Situations*

An ETC applicant is required to demonstrate its ability to remain functional in emergency situations. In order to satisfy this criterion, an applicant must demonstrate it has a reasonable amount of back-up power to ensure functionality without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations.

VNCI certifies that it has the “ability to remain functional in emergency situations” in accordance with 47 C.F.R. § 54.202(a)(2).<sup>83</sup> VNCI has back-up power (either battery- or generator-supplied) sufficient to ensure functionality in the Designated Area without an external power source for a reasonable period of time, is able to re-route traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations.<sup>84</sup> VNCI also represents that its technicians and engineers are trained to deploy in response to service outages and emergency situations.<sup>85</sup>

c. 47 C.F.R. § 54.202(a)(3)

*Customer Service and Service Quality Standards*

For applicants seeking ETC designation for the purposes of becoming authorized to receive Auction 903 high-cost support, the FCC waived the requirement to submit proof of compliance with consumer protection and service quality standards—finding that the need for such requirements is obviated by specific service quality standards applicable to Auction 903 winning bid areas and specific reporting obligations relating to such standards.<sup>86</sup> Nonetheless, under independent Pennsylvania law, VNCI must still demonstrate that it will satisfy applicable state consumer protection and service quality standards.

VNCI certifies that it will satisfy applicable state consumer protection and service quality standards in accordance with 47 C.F.R. § 54.202(a)(3) and under independent Pennsylvania state law.<sup>87</sup> VNCI notes that it also provides its customers with other service quality and consumer protection benefits.<sup>88</sup> VNCI states that it is a local company serving the needs of individuals and businesses in the Erie region, that its managers and employees are located in the region and are attuned to market needs in that area, and that, as a result, VNCI has a record of excellence in customer satisfaction.<sup>89</sup> In addition, VNCI asserts that it maintains policies for consumer privacy protections.<sup>90</sup>

d. 47 C.F.R. §§ 54.202(a)(4), 54.202(a)(5), and 54.202(a)(6)

*Financial and Technical Ability and Terms and Conditions of Lifeline Plans*

Generally, a carrier seeking only low-income support under Subpart E, 47 C.F.R. §§ 54.400–54.422, must demonstrate that it possesses the financial and technical ability to provide Lifeline service. A carrier seeking only low-income support also must submit information describ-

ing the terms and conditions of any voice telephone service plans and the terms and conditions of any broadband Internet access service plans offered to Lifeline subscribers.

VNCI certifies that it is not seeking designation as an ETC for purposes of receiving support only under 47 C.F.R., Chapter I, Subchapter B, Part 54, Subpart E, which is Lifeline-only support.<sup>91</sup> Therefore, VNCI argues that 47 C.F.R. sections 54.202(a)(4), (a)(5), and (a)(6) are inapplicable to VNCI.

However, VNCI must participate in the federal Lifeline program as a condition of receiving an ETC designation to receive high-cost support, and VNCI is required to offer Lifeline service to qualifying low-income eligible customers or households in its Designated Area. Therefore, the Commission determines that VNCI must still demonstrate financial and technical ability to provide Lifeline service.

We find VNCI fit to provide Lifeline service in Pennsylvania. As part of our granting its application to operate as a CAP and CLEC in Pennsylvania, we have previously concluded that VNCI has demonstrated it is technically, managerially, and financially fit to offer the proposed services. Moreover, we are administratively aware that VNCI was one of the successful bidders in the FCC’s CAF II Auction 903 that is aiding with the construction of the planned network facilities in Pennsylvania, and that the FCC’s CAF II bidding process required the substantive demonstration of managerial, technical, and financial fitness elements for the participation of the successful bidders.<sup>92</sup>

We also find that VNCI has provided the requisite information about its Lifeline service plan offerings. Upon review, VNCI in its Petition commits to offering Lifeline services, consistent with the FCC’s rules and the Commission’s rules and guidelines. And, VNCI’s supplements include the requisite description of its voice and Internet access service offerings for Lifeline subscribers.<sup>93</sup> Accordingly, we find that VNCI meets the requirements of 47 C.F.R. § 54.202(a)(5) and 47 C.F.R. § 54.202(a)(6) as well.

e. 47 C.F.R. § 54.202(b)

*Public Interest Standard*

When making a public interest determination for an ETC designation, the FCC historically has considered the benefits of increased consumer choice and the unique advantages and disadvantages of the petitioner’s service offering.<sup>94</sup> In particular, granting an ETC designation may serve the public interest by providing a choice of service offerings in rural and high-cost areas. However, the value of increased competition, by itself, may not satisfy the public interest test.

In this case, we believe the public interest standard has been met through VNCI’s participation in the CAF II process. Such participation will allow VNCI to offer voice and broadband data services to areas in Pennsylvania

<sup>83</sup> Id.

<sup>84</sup> See, e.g., FCC Public Notice, Instructions for Short-Form Application to Participate in the Connect America Fund Phase II Auction Scheduled to Begin on July 24, 2018, AU Docket No. 17-182, (FCC Rel. March 8, 2018), DA 18-182; FCC Public Notice, Technical Guide on Proposed Bidding Procedures for the Connect America Fund Phase II Auction, AU Docket No. 17-182, WC Docket No. 10-90, (FCC Rel. August 4, 2018), DA 17-733.

<sup>85</sup> See October 1, 2019 and December 10, 2019 supplements.

<sup>86</sup> Federal-State Joint Board on Universal Service, Highland Cellular, Inc. Petition for Designation as an Eligible Telecommunications Carrier for the Commonwealth of Virginia, Memorandum Opinion and Order, 19 FCC Red. 6422, 6424, ¶ 4 (2004); Federal-State Joint Board on Universal Service, Virginia Cellular, LLC Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia, Memorandum Opinion and Order, 19 FCC Red 1563, 1565, ¶ 4 (2004).

<sup>87</sup> Petition at 7.

<sup>88</sup> Id.

<sup>89</sup> Id.

<sup>90</sup> See Auction 903 ETC Public Notice.

<sup>91</sup> Petition at 8.

<sup>92</sup> Id.

<sup>93</sup> Id.

<sup>94</sup> Id.

that currently do not have broadband service. VNCI was a winning bidder in Auction 903 in the following manner:

<i>Bidder</i>	<i>State</i>	<i>Total Assigned Support for 10-Year Period</i>	<i>Locations Assigned</i>
Velocity.Net Communications, Inc.	PA	\$230,016	39

ETC designations in areas where a winning bidder is authorized to receive Auction 903 support serve the public interest. That arises, in part, because approving an ETC designation for VNCI permits it to secure the release of the total 10-year support by the FCC from Auction 903 to deploy broadband-capable networks in rural underserved areas in Pennsylvania that might otherwise prove more expensive or longer to deploy.

Receipt of Auction 903 CAF Phase II federal funds is a considerable benefit to Pennsylvania, which is otherwise a net-contributor state to federal USF funding. It will facilitate the provision of additional access to voice and broadband service to Pennsylvania consumers in rural areas that are expensive and difficult to serve. Recipients of CAF Phase II support are required to offer broadband service at modern speeds, with latency suitable for real-time applications, including VoIP, usage capacity that is reasonably comparable to comparable offerings in urban areas, and at rates that are reasonably comparable to rates for comparable offerings in urban areas. VNCI certifies that it will abide by the FCC's rules for broadband service in accordance with 47 C.F.R. § 54.309.<sup>95</sup>

Certifying VNCI as an ETC is in the public interest, pursuant to 47 C.F.R. § 54.202(b), because it will permit VNCI to obtain over \$230,000 in federal high-cost support to provide voice and broadband service to areas that currently do not have modern broadband service.<sup>96</sup> By selecting VNCI as a recipient of CAF II funds, the FCC has recognized that the services that VNCI intends to offer will advance the goal of universal service and provide needed broadband service to a currently underserved areas. ETC designation will allow VNCI to fulfill the requirements of the CAF II and apply the high cost support in Pennsylvania for the purposes it was intended.<sup>97</sup>

Moreover, VNCI may possibly replace the current federal price cap ETC as the only carrier receiving federal USF high-cost support in these local exchanges.<sup>98</sup> In the December 2014 Connect America Order, the FCC determined that federal price cap carriers can remove their ETC status via the Section 214 process if (1) the census block is determined to be low cost; (2) the census block is served by an unsubsidized competitor offering voice and broadband at speeds of 10/1 Mbps or better to all eligible locations; or (3) the census block is served by a subsidized competitor (another ETC) receiving federal high-cost support to deploy modern networks capable of

providing voice and broadband to fixed locations.<sup>99</sup> While Section 214(e)(4) of the Act enables a price cap ETC to seek relinquishment of its ETC designation, it also requires states (or the FCC if it designated the ETC) to "ensure that all customers served by the relinquishing carrier will continue to be served."<sup>100</sup> Hence, if all other ETCs in VNCI's particular Designated Area are permitted to relinquish their ETC designations by the Commission, VNCI, as the competitive ETC, may be required to ensure that all customers served by the relinquishing carriers in their respective designated service areas will continue to be served.<sup>101</sup>

Since an ETC designation will assist VNCI to secure federal universal service high-cost support funding under CAF Phase II in various census blocks in specific local exchanges and also provide voice while promoting the deployment of advanced telecommunications and BIAS to all regions of the Commonwealth, the Commission determines that ETC designation for VNCI is in the public interest. It promotes both the FCC's and the Pennsylvania General Assembly's goals of preserving and advancing universal service and ensuring the availability of quality telecommunications services at just, reasonable, and affordable rates within rural and high-cost areas. See 66 Pa.C.S. § 3011(2).

*f. 47 C.F.R. § 54.202(c)*

*Tribal Lands*

ETC designation to serve any tribal lands is inapplicable in Pennsylvania, making Section 54.202(c) inapplicable to VNCI's Petition.

*g. 47 C.F.R. § 54.202(d) and (e)*

*Designation as Lifeline Broadband Provider*

A Lifeline Broadband Provider (LBP) is a service provider that will provide only Lifeline-supported broadband service, and not Lifeline-supported voice service. VNCI is not seeking designation as Lifeline Broadband Provider. Therefore, 47 C.F.R. § 54.202(d) and (e) are inapplicable to VNCI's Petition.<sup>102</sup>

*4. 47 C.F.R. § 54.203*

*ETCs for Unserved Areas*

Because VNCI's Petition does not involve service to an unserved area, Section 54.203 is not applicable.

*5. 47 C.F.R. § 54.205*

*Relinquishment of Universal Service*

If at some point in the future VNCI seeks to relinquish its ETC designation, VNCI will comply with the requirements of 47 C.F.R. § 54.205 as well as requirements of independent Pennsylvania law.

<sup>99</sup> See December 2014 Connect America Order, Report and Order, 29 FCC Red 15644, 15663-71, ¶¶ 50-70.

<sup>100</sup> 47 U.S.C. § 214(e)(4) (emphasis added).

<sup>101</sup> 2005 ETC Designation Order, 20 FCC Red at 6386, ¶ 36. The FCC stated that under Section 214(e)(4) of the Act, the state commission or, in the case of a common carrier not subject to state commission jurisdiction, the FCC "shall permit an eligible telecommunications carrier to relinquish its designation as such a carrier in any area served by more than one eligible telecommunications carrier." However, prior to allowing the carrier to cease providing universal service in the area, the remaining ETC or ETCs will be required to ensure that all customers served by the relinquishing carrier will continue to be served. Furthermore, under Section 251(h)(2) of the Act, the Commission may treat another carrier as the incumbent LEC if that carrier occupies a position in the market that is comparable to the position occupied by the incumbent LEC, if such carrier has substantially replaced an incumbent LEC, and if such treatment is consistent with the public interest, convenience and necessity. Moreover, applicable Pennsylvania law notwithstanding, ILECs seeking to relinquish their ETC designations will remain obligated, however, to maintain existing voice service unless and until they receive authority under 47 U.S.C. § 214(a) to discontinue that service. They also will remain subject to the obligation to offer Lifeline service to qualifying low-income consumers or households throughout their service territory.

<sup>102</sup> Petition at 9.

<sup>95</sup> Petition at 9.

<sup>96</sup> Petition at 9.

<sup>97</sup> *Id.*

<sup>98</sup> Notwithstanding Pennsylvania state law, a state commission must allow an ETC to relinquish its designation in any area served by more than one ETC pursuant to Section 214(e)(4) of the Act if conditions are met. See 47 U.S.C. § 214(e)(2). The relinquishing ETC must provide advance notice of such relinquishment to the state commission. Prior to allowing the relinquishing carrier to cease providing universal service, the state commission must require the remaining ETC or ETCs to ensure that all customers served by the relinquishing carrier will continue to be served. The state commission also must require sufficient notice to the remaining ETC or ETCs to permit the purchase or construction of adequate facilities, with such purchase occurring within a specific time period. See 47 U.S.C. § 214(e)(4).

## 6. 47 C.F.R. § 54.207

*Service Areas*

Generally, once an entity is designated an ETC<sup>103</sup> in a service area, it must offer the supported services throughout that entire service area. The term service area<sup>104</sup> generally means the overall geographic area for which the carrier shall receive support from federal universal service support mechanisms.<sup>105</sup> A service area is established by a state commission for the purpose of determining universal service obligations and support mechanisms.

VNCI was a winning bidder in specific eligible CBGs in Pennsylvania located in a discrete part of the service area of Verizon North, which is a non-rural ILEC. Consequently, in its Petition, VNCI is seeking ETC designation only in those CAF-eligible census blocks located in Verizon North's service area where it was awarded CAF Phase II support funding via Auction 903. In the ETC Designation Order, the FCC adopted one set of criteria for evaluating the public interest for ETC designations for both rural and non-rural areas.<sup>106</sup> The FCC noted in the ETC Designation Order, however, the same factors may be analyzed differently or may warrant a different outcome depending on the specifics of the proposed service area and whether it is rural or non-rural.<sup>107</sup> Since VNCI is seeking ETC designation below the study area level of a non-rural ILEC, redefinition of the study area level, or service area, is inapplicable. Moreover, the FCC rules regarding the redefinition process for Auction 903 recipients have been waived by the FCC.<sup>108</sup>

Based on our analysis of VNCI's Petition and the applicable law, we conclude that redefinition is not required and approve VNCI's request for an ETC designation below the study area level of Verizon North.<sup>109</sup>

### B. Certification of Eligibility for Benefits under the Anti-Drug Abuse Act

Petitioners must certify that neither the petitioner nor any party to the petition is subject to a denial of federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, as implemented in Section 1.2002 of the FCC's rules.<sup>110</sup> VNCI certifies that no party to its Petition is subject to denial of federal benefits, including FCC benefits, pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988.<sup>111</sup>

<sup>103</sup> 47 U.S.C. § 254(e) (stating that only an ETC is "eligible to receive specific Federal universal service support").

<sup>104</sup> The term "study area" is synonymous with an ETC's service area and is a term of art used by Universal Service Administrative Company (USAC) to describe the ETC's service area for funding purposes.

<sup>105</sup> 47 C.F.R. § 54.207(a).

<sup>106</sup> ETC Designation Order, 20 FCC Rcd at 6389-90, paras. 42-43.

<sup>107</sup> If an area is served by a rural ILEC, the Act defines the service area for the purpose of designating an ETC to be the rural ILEC's entire study (or service) area for federal universal service support purposes. Generally, when a competitive ETC seeks to serve an area already served by a rural ILEC, Section 214(e)(5) of the Act imposes an additional requirement that the competitive ETC's service area must conform to the rural ILEC's service area. Thus, it is only when an ETC applicant seeks designation below the study (service) area level of a rural ILEC that redefinition comes into play. If a state commission seeks to designate a competitive ETC in a rural ILEC's service area that differs from the rural ILEC's existing service area, that rural service area must first be redefined under the process set forth under the Act, and the Commission would be required to conduct a cream-skimming analysis to compare the population density of the wire centers in which the ETC applicant seeks designation against that of the wire centers in the study area in which the ETC applicant does not seek designation. See ETC Designation Order, 20 FCC Rcd at 6392-95, paras. 48-53.

<sup>108</sup> See Connect America Fund et al., Report and Order and Further Notice of Proposed Rulemaking, 31 FCC Rcd 5949, 6005-09, ¶¶ 157-168 (2016) (Phase II Auction Order).

<sup>109</sup> Cf. Petition of Tri-Co Connections, LLC for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Pennsylvania, Docket No. P-2018-3005127 (Order entered April 11, 2019) (Tri-Co Connections).

<sup>110</sup> See 47 C.F.R. § 1.2002.

<sup>111</sup> Petition at 12.

### C. VNCI Satisfies the FCC's Rules and Federal Requirements Governing High-Cost ETC Designations

Based upon our review of VNCI's Petition, as supplemented, we determine that VNCI satisfies all the applicable and relevant FCC rules and federal requirements necessary to obtain an ETC designation for the purpose of receiving Auction 903 high-cost support. We understand that VNCI specifically stated in its Petition that it is seeking ETC designation in Pennsylvania. This limited designation of VNCI as a federal high-cost ETC in the high-cost CAF-eligible census blocks in Pennsylvania is in the public interest.<sup>112</sup>

Consumers will benefit from the Commission's decision to designate VNCI an ETC in the census blocks specified in its Petition and this Order, which will allow VNCI to receive the CAF Phase II support to expand voice and broadband-capable networks with service quality that meets the FCC's and Pennsylvania's requirements. As an ETC receiving federal high-cost support, VNCI is obligated to ensure that the support it receives is being used only for the provision, maintenance, and upgrading of facilities and services in the areas where it is designated an ETC. Additionally, because VNCI will also be providing voice and BIAS to non-Lifeline customers, we require VNCI to comply with applicable Commission and FCC requirements governing the delivery of voice and BIAS to non-Lifeline consumers.

VNCI is being designated a federal high-cost ETC only in the CAF-eligible census blocks covered by VNCI's award in Auction 903 that are located in Verizon North's service territory. The Commission cautions VNCI that it may replace the current incumbent ETC in the future as the only carrier receiving federal high-cost support in the local exchanges where it has received an ETC designation. The Commission acknowledges that an incumbent ETC in VNCI's Designated Area may seek and be granted relinquishment by the Commission of its respective ETC designations under 47 U.S.C. § 214(e)(4). If such relinquishment occurs, VNCI, as the competitive ETC, will be required to ensure that all customers served by a relinquishing carrier in its Designated Area will continue to be served.

## II. Federal Requirements of Eligible Telecommunications Carriers for Universal Service Support for Low-Income Consumers

Upon receipt of a federal high-cost ETC designation, a winning CAF bidder is required to offer Lifeline services and is required to comply with the rules and requirements of the federal Lifeline program. These rules and requirements have now been amended by the FCC's Lifeline Reform Orders and are codified at 47 C.F.R. §§ 54.101, et seq. Thus, VNCI is required to offer Lifeline-supported services only in the high-cost eligible census blocks for which it will receive CAF Phase II high-cost support via Auction 903 support, i.e. its Designated Area.<sup>113</sup>

The major goal of the FCC's Lifeline Reform Orders was to implement procedures designed to preserve federal

<sup>112</sup> In its ETC Petition, VNCI's ETC designation request was limited only to those CAF-eligible census blocks for which it had been awarded Auction 903 funding support. We note that this specific request is unlike other Pennsylvania Auction 903 winning bidders that may have included in their ETC designation request certain areas that are adjacent to the CAF-eligible census blocks where they submitted a winning bid. In those instances, the petitioners are not eligible to receive CAF Phase II high-cost support funding via Auction 903 in those adjacent areas and, thus, can only receive a Lifeline-only designation in those areas. Cf. Tri-Co Connections.

<sup>113</sup> As previously noted, VNCI's request for ETC designation was limited to its Designated Area—the CBGs for which it was awarded Auction 903 support. Therefore, VNCI is not seeking a Lifeline-only ETC designation for any census blocks outside its Designated Area and is not authorized to offer Lifeline service beyond its Designated Area.



USF resources and prevent waste, fraud and abuse. To that end, the FCC codified rules governing the entire process of Lifeline reimbursement from the USF. These changes established defined terms governing the provision of low-income support and established parameters governing a carrier's duties and eligibility for USF low-income support. Specifically, revised Section 54.400 establishes relevant terms and definitions for provision of Lifeline; Section 54.401 defines Lifeline as a non-transferrable retail service; Section 54.403 establishes the Lifeline support amounts that ETCs may seek from the federal USF; and Section 54.404 requires the creation of the National Lifeline Accountability Database (NLAD),<sup>114</sup> which intends to provide a national database for ETCs to cross-check subscriber eligibility as a means to eliminate the federal USF support for duplicative or otherwise ineligible subscribers.

Further, the Lifeline Reform Orders instituted substantial changes that have impacted consumer qualification for Lifeline, including: Section 54.410 (Subscriber Eligibility Determination); Section 54.416 (Annual Certifications by ETCs); Section 54.417 (Record Keeping Requirements); and Section 54.422 (Annual Reporting for ETCs that Receive Low-income Support). These regulations govern the prerequisite duties of an ETC seeking low-income support from the federal USF.

All current and future ETCs must meet the minimum standards set forth in the FCC's Lifeline Reform Orders. All minimum federal requirements of the FCC's Lifeline Reform Order not expressly discussed herein, are nonetheless applicable to ETC designation requests in Pennsylvania. This includes any subsequent developments in those federal requirements.

#### A. *The FCC's Rules Governing Lifeline*

##### 1. *47 C.F.R. § 54.410*

#### *Subscriber Eligibility Determination and Annual Certifications*

The requirements for subscriber eligibility determination and annual certification requirements in Section 54.410 of the FCC's rules are the major requirements established to prevent waste, fraud, and abuse. These requirements pertain to consumer eligibility factors for Lifeline and the corresponding obligation for continued verification of that eligibility. Thus, every Lifeline consumer's eligibility is to be recertified annually.

In its 2016 Lifeline Order, the FCC established the National Verifier as the entity designated to make eligibility determinations and perform a variety of other functions necessary to enroll eligible subscribers into the Lifeline Program. As outlined in the 2016 Lifeline Order, "[t]he Commission's key objectives for the National Verifier are to protect against and reduce waste, fraud, and abuse; to lower costs to the Fund and Lifeline providers through administrative efficiencies; and to better serve eligible beneficiaries by facilitating choice and improving the enrollment experience."<sup>115</sup> The National Verifier is a centralized system that determines whether subscribers are eligible for Lifeline. The Universal Service

Administrative Company (USAC) manages the National Verifier and its customer service department, the Lifeline Support Center. Service providers can help Lifeline consumers obtain an eligibility decision from the National Verifier through the service provider portal, or consumers can apply on their own by mail or online. USAC will determine if the applicant is eligible for Lifeline.

The National Verifier was fully launched in Pennsylvania in March of 2019 and is now the only means used for eligibility determination. New and potential Lifeline consumers will receive their initial income- or program-based eligibility determination by signing into CheckLifeline.org from any computer or mobile device to create an account, receive an eligibility decision, and use the list of service providers in their area to contact one to enroll. VNCI must use the National Verifier to verify eligibility for its potential Lifeline customers given USAC's implementation of the National Verifier in Pennsylvania.<sup>116</sup>

Additionally, Section 54.410(f) of the federal rules provides for an annual recertification process by which each subscriber's eligibility for Lifeline service must be recertified. 47 C.F.R. § 54.410(f). In Pennsylvania, service providers must use the National Verifier. Lifeline subscribers will be recertified either automatically through the National Verifier's state/federal data sources or receive a recertification request from USAC.

The FCC modified Sections 54.410(b)(2)(ii), (c)(2)(ii), and (e) of its rules to clarify that where use of the National Verifier determines the consumer's initial eligibility determination or recertification, the National Verifier is not required to deliver copies of those source documents to the ETC. The FCC determined that this amendment to the rules was consistent with its goals that the National Verifier ease burdens on Lifeline service providers while improving privacy and security for consumers applying to participate in the program.

Further, this amendment brings Section 54.410 of the rules in line with the FCC's stated intent in the 2016 Lifeline Order that Lifeline providers would not be required to retain eligibility documentation for eligibility determinations made by the National Verifier as it presents unnecessary risk to the privacy and security of subscriber information. Thus, VNCI is not required to retain documentation of eligibility criteria determinations by the Lifeline National Verifier.<sup>117</sup>

VNCI must comply with the federal policy for de-enrolling an account from Lifeline support for non-use is consistent with the FCC rules. VNCI must certify that if it receives notification from the Universal Service Administrative Company (USAC), the administrator of universal service, that a subscriber is receiving Lifeline service from another ETC or if another member of the household is receiving Lifeline service, it will de-enroll that subscriber in accordance with Section 54.405(e)(2) of the FCC's rules. Additionally, if VNCI has a reasonable basis to believe that a Lifeline subscriber is no longer eligible to receive Lifeline service, it will notify that subscriber of impending termination of service utilizing a combination of communication methods including calling the subscriber. The subscriber will then have 30 days to demonstrate appropriate eligibility for Lifeline service via NLAD that it is eligible for Lifeline.

<sup>114</sup> NLAD is a national database that allows service providers to check on a real-time, nationwide basis whether a consumer is already receiving a Lifeline Program-supported service. Thus, the NLAD is used to prevent duplicative Lifeline enrollments. In 2016, the FCC established the Lifeline National Eligibility Verifier to make eligibility determinations to enroll eligible subscribers into the Lifeline Program. There are a variety of criteria by which an applicant can demonstrate Lifeline eligibility, including income eligibility or participation in various federal assistance programs. USAC, the federal USF administrator, manages both the National Verifier and NLAD. As to VNCI's de-enrollment processes, however, as stated *infra*, VNCI's ongoing Lifeline requirement remains subject to future developments for Lifeline service in general under state and federal law.

<sup>115</sup> 2016 Lifeline Order, 31 FCC Red at 4007, ¶ 128.

<sup>116</sup> For low-income consumers residing in group facilities or at an address shared by multiple households, the FCC's "One Per-Household rule" establishes that a "household" is defined as "any individual or group of individuals who are living at the same address as one economic unit." 47 C.F.R. § 54.400(h). Lifeline applicants may demonstrate at the time of enrollment that another Lifeline recipient resides at their address as part of a separate household.

<sup>117</sup> 47 C.F.R. § 54.410(c) and (d).

Additionally, VNCI must certify that it will de-enroll Lifeline customers for non-usage and failure to recertify in accordance with Sections 54.405(e)(3) and (4), respectively, of the FCC's rules. Furthermore, VNCI must certify that it will de-enroll subscribers who have not used their Lifeline service for a period of 30 days. Pursuant to procedures outlined in the FCC's rules, following 30 days of non-usage by a Lifeline subscriber, VNCI must send a notice to that subscriber stating that failure to use the service within the next 15 days will result in de-enrollment from Lifeline service. However, where a carrier bills on a monthly basis and collects or makes a good faith effort to collect any money owed within a reasonable amount of time, the Lifeline service provider will not be subject to the non-usage requirements.

VNCI agrees it will comply with the National Verifier's consumer eligibility determinations per the applicable FCC rules. This includes the FCC's Lifeline Reform Orders' amendment to the minimum eligibility criteria for consumers to receive Lifeline support, the revision to the eligibility determination process through the use of the National Verifier, de-enrollment process, and the modification of the annual recertification process as the National Verifier will also recertify subscribers each year.

2. 47 C.F.R. §§ 54.416, 54.417 and 54.422

*Annual Certifications, Recordkeeping and Reporting*

As previously noted, the FCC's rules contain certain annual certification, recordkeeping, and reporting requirements for ETCs participating in the Lifeline program. For one, a service provider must annually certify in FCC Form 555 that is submitted to USAC that it complies with all applicable federal Lifeline certification procedures. The ETC certifies that it has policies and procedures in place to ensure that its Lifeline subscribers are eligible to receive Lifeline services.<sup>118</sup> Consistent with our prior discussion related to Section 54.410(f), VNCI's Lifeline subscribers will be recertified either automatically through the National Verifier's state/federal data sources, or receive a recertification request from USAC. In any event, VNCI in its Petition represents that it will establish procedures to comply with these provisions.

*B. VNCI Satisfies All the Federal Requirements Regarding Lifeline*

As a CAF II winning bidder and high-cost ETC, VNCI is obligated to offer Lifeline-supported services only in its Designated Area. VNCI also is obligated to comply with the rules and requirements of the federal Lifeline program, including, inter alia, compliance with the FCC's updated rules for determining subscriber eligibility and annual recertification. Based upon our review of VNCI's Petition, as supplemented, we determine that VNCI satisfies all the applicable and relevant FCC rules and federal requirements regarding Lifeline.

**III. Pennsylvania-Specific Requirements for ETC Designation**

In addition to the minimum federal standards above, through our ETC Guidelines, VNCI must comply with Pennsylvania statutory law and Commission orders which govern Pennsylvania's Lifeline program.<sup>119</sup> See 52 Pa. Code § 69.2501(b).

<sup>118</sup> 47 C.F.R. § 54.416.

<sup>119</sup> Because the FCC's Lifeline Reform Order discontinued the Link-Up support from the federal USF, all references to Link-Up programs are now inapplicable.

*A. Section 3019(f) Requirements*

Section 3019(f) of the Pennsylvania Public Utility Code (Code), 66 Pa.C.S. § 3019(f), and the Commission's PA Lifeline Order set forth the minimum Pennsylvania requirements for ETCs seeking low-income support from the federal Lifeline Program. Section 3019(f) includes the following requirements for ETCs:

(1) All eligible telecommunications carriers certificated to provide local exchange telecommunications service shall provide Lifeline service to all eligible telecommunications customers who subscribe to such service.

(2) All eligible telecommunications customers who subscribe to Lifeline service shall be permitted to subscribe to any number of other eligible telecommunications carrier telecommunications services at the tariffed rates for such services.

(3) Whenever a prospective customer seeks to subscribe to local exchange telecommunications service from an eligible telecommunications carrier, the carrier shall explicitly advise the customer of the availability of Lifeline service and shall make reasonable efforts where appropriate to determine whether the customer qualifies for such service and, if so, whether the customer wishes to subscribe to the service.

(4) Eligible telecommunications carriers shall inform existing customers of the availability of Lifeline services twice annually by bill insert or message. The notice shall be conspicuous and shall provide appropriate eligibility, benefits and contact information for customers who wish to learn of the Lifeline service subscription requirements.

(5) Eligible telecommunications carriers shall provide the department of public welfare with Lifeline service descriptions and subscription forms, contact telephone numbers, and a listing of the geographic area or areas they serve, for use by the department of public welfare in providing the notifications required by this paragraph.

(6) No eligible telecommunications carrier shall be required to provide after the effective date of this section any new Lifeline service discount that is not fully subsidized by the federal universal service fund.<sup>120</sup>

VNCI certifies that it will comply with the requirements for ETC designation contained in Section 3019(f) of the Code and the Pennsylvania Lifeline Order.<sup>121</sup> VNCI will provide its Lifeline service to all eligible telecommunications customers who wish to subscribe to such service and who reside within its Designated Area. The company also will agree to permit eligible customers to subscribe to any number of its other telecommunications services at the standard rates for such services. VNCI will establish protocols so that whenever a prospective customer in its Designated Area seeks to subscribe to VNCI's service, VNCI will explicitly advise the customer of the availability of Lifeline service and shall meet federal requirements to determine whether the customer qualifies for such service and, if so, whether the customer wishes to subscribe to the service.

Furthermore, VNCI will inform existing customers of the availability of Lifeline service twice annually by text, or email message. To comply with Section 3019(f)(4), VNCI is to inform existing customers of the availability of Lifeline service twice annually by conspicuous bill insert or message that provides eligibility, benefit and contact information. Finally, VNCI will provide the Com-

<sup>120</sup> In Re: Lifeline and Link-Up Programs, Docket No. M-0051871, Order (May 23, 2005); 52 Pa. Code § 69.2501.

<sup>121</sup> Petition at 10.

monwealth's DHS its Lifeline service descriptions and subscription forms, contact telephone numbers and a listing of the geographic area or areas it serves for the DHS's use in providing notification under Section 3019(f)(5).

### *B. Other Pennsylvania Requirements and Relevant Reporting Requirements*

In addition to the Pennsylvania statutory requirements, the Commission has established Lifeline eligibility criteria, as well as procedures for certification and verification of a consumer's initial and continuing eligibility.<sup>122</sup> We note that many Pennsylvania-specific requirements set forth in our PA Lifeline Order such as the requirements for certification and verification of a customer's initial and continued eligibility for Lifeline services have been impacted by Lifeline developments at the federal level. For example, the creation of the NLAD at 47 C.F.R. § 54.404, has led to changes in the Pennsylvania-specific requirements for eligibility verification.

Additionally, ETCs are further ordered to report to the Commission annual changes in Pennsylvania Lifeline enrollment.<sup>123</sup> The Commission continues to reserve its right to impose separate state-specific requirements where necessary for the protection of the Commonwealth's consumers. As shown below, VNCI commits to complying with relevant requirements set forth in the Pennsylvania Lifeline Order, Tracking Report Order,<sup>124</sup> and Policy Statement<sup>125</sup> that are applicable to a facilities-based provider.

#### *1. Compliance with Eligibility Certification and Verification*

As a condition of its ETC designation, VNCI must query the NLAD to ascertain a potential Lifeline applicant's eligibility for service. Compliance with the Lifeline eligibility verification requirements are essential for prevention of waste, fraud and abuse. In particular, all ETCs designated by this Commission are required to take the necessary steps to ensure that Lifeline support paid by the federal USF to the carrier is remitted only for eligible low-income consumers or households.

As stated above, VNCI must use the National Verifier when helping consumers apply to the Lifeline Program. In addition, VNCI must include a public education component as part of its Lifeline outreach program to ensure that consumers are aware of and can participate in, the eligibility determination from the National Verifier.

By our PA Lifeline Order we also required eligibility be confirmed annually and required.<sup>126</sup>

That LECs offering Lifeline . . . services are directed to recertify their Lifeline . . . customers at least annually in accordance with FCC procedures established at 47 C.F.R. § 54.410 (relating to certification and verification of consumer qualifications for Lifeline).[.]”

<sup>122</sup> In Re: Lifeline and Link-up Programs, Docket No. M-00051871 (Order entered May 23, 2005) (PA Lifeline Order).

<sup>123</sup> Re: Section 3015(f) Review Regarding Lifeline Tracking Report, Accident Report, and Services Outage Report, 100 Pa. P.U.C. 553 (Dec. 30, 2005) (Tracking Report Order).

<sup>124</sup> Re: Section 3015(f) Review Regarding Lifeline Tracking Report, Accident Report, and Services Outage Report, 100 Pa. P.U.C. 553 (Dec. 30, 2005).

<sup>125</sup> Final Policy Statement on Commonwealth of Pennsylvania Guidelines for Designation and Annual Recertification as an Eligible Telecommunications Carrier (ETC) for Purposes of Federal Universal Service Support, Docket No. M-2010-2164741, Final Policy Statement Order (Aug. 2, 2010).

<sup>126</sup> Both Pennsylvania and the FCC eliminated the Lifeline's subscriber ability to self-certify annually.

Pennsylvania Lifeline Order at 27.

VNCI is directed, as a condition of receiving an ETC designation, to ensure all of its Lifeline subscribers are recertified. VNCI's Lifeline subscribers will be recertified either automatically through the National Verifier's state/federal data sources or receive a recertification request from USAC.

Prior to recertification, however, we note that the FCC had adopted a reverification process that must occur to determine the continued eligibility of existing Lifeline subscribers. Reverification is the one-time process by the National Verifier to confirm that all existing Lifeline subscribers meet the eligibility standards. Reverification will be performed in groups based on subscribers' enrollment dates. Reverification will reset a subscriber's anniversary date. Subscribers will then be recertified one year after the date that they are successfully reverified.<sup>127</sup> Thereafter, Lifeline subscribers will be recertified either automatically through the National Verifier's state/federal data sources or receive a recertification request from USAC. Because VNCI has no existing Lifeline subscribers, we note that reverification likely will not be required since all VNCI's Lifeline customers will be newly certificated.

#### *2. Compliance with the Tracking Report Order*

As a condition of ETC designation, ETCs are required under Pennsylvania law to report to the Commission annual changes in Lifeline enrollment, per our Tracking Report Order. VNCI certifies that it will comply with this requirement to the extent applicable. Consistent with requirements imposed on other ETCs, VNCI will provide the Commission's BCS a copy of its annual Lifeline verification results that it files with USAC each year, as well as the FCC Form 497 Lifeline customer reporting worksheet (or any successor form) filed quarterly with USAC.<sup>128</sup>

The Commission also has imposed the requirement on other Lifeline ETCs that they provide operator services, directory assistance and interexchange access (long distance) to Lifeline subscribers. VNCI's customers have the ability to reach directory assistance and operator services. Additionally, given that all of VNCI's Lifeline voice offerings would include long distance, all Lifeline customers are afforded such access.<sup>129</sup>

Further, in order to ensure the Pennsylvania Lifeline program advances the Commonwealth's universal service policy, VNCI shall be required to provide to BCS a copy of its annual Lifeline Eligible Telecommunications Carrier Certification Form, FCC Form 555, that it files with USAC.<sup>130</sup> The FCC Form 555 reports the results of the annual recertification process and includes data accuracy certifications.

#### *3. Chapter 64 Requirements for Standards and Billing Practices*

As a condition of designation, VNCI agrees to comply with the standards and billing practices set forth in Commission regulations at 52 Pa. Code §§ 64.1—64.213. Compliance with Chapter 64 will ensure that VNCI customers receive the same protections as other Pennsylvania telecommunications services customers.

<sup>127</sup> See generally PA Lifeline Order and 47 C.F.R. § 54.410.

<sup>128</sup> Petition at 12.

<sup>129</sup> Id.

<sup>130</sup> As previously stated in the discussion of Section 54.410 of the FCC regulations, ETCs designated in Pennsylvania must provide our BCS copies of the reports submitted to USAC for purposes of low-income USF support, these reports include, among others, those listed in our PA Lifeline and Tracking Report Orders.



#### 4. *Consumer Lifeline-Related Complaints Processed by the Bureau of Consumer Services*

As a final condition of designation, VNCI agrees to work with BCS to resolve informal complaints and to submit to Commission jurisdiction on formal complaints filed by VNCI Lifeline customers on Lifeline and other related issues.

Consistent with conditions imposed on other Lifeline ETCs, VNCI is amenable to cooperating with BCS in resolving any consumer-related complaints concerning any Lifeline service that VNCI offers in Pennsylvania.<sup>131</sup> VNCI will provide BCS with copies of all advertising, promotional and general Lifeline program-related customer notices and communications on an annual basis or upon request.<sup>132</sup> Specifically, BCS will address Lifeline-related issues which pertain to the consumers' rights under VNCI's Residential Service Agreement, including: (1) eligibility disputes; (2) program offering issues; and (3) limited equipment-related issues.

Additionally, VNCI agrees to engage in advertising that is directed at promoting the availability of Lifeline service in its Designated Area.

Adherence to these Pennsylvania-specific requirements applicable to ETCs designated by the Commission will assure uniformity among Lifeline services offered by different ETCs, will provide consumer protection for low-income consumers, and will enable BCS to monitor Lifeline Program effectiveness in Pennsylvania.

#### 5. *Change in Corporate Control and Renewed ETC Designation*

In the event of a change of or transfer in corporate control, as defined in Pennsylvania statutory law, case law, and Commission's regulations at 52 Pa. Code § 63.322, VNCI will have to petition this Commission for a renewal of its ETC status. Corporate changes of control may also be accompanied with changes in ETC status of a particular telecommunications entity with reference to the various and evolving support mechanisms of the federal USF. In this respect, this Commission is lawfully entitled to timely re-examine any such changes and ascertain whether a particular telecommunications entity should continue with an ETC designation. For this reason, we shall require VNCI to file for renewal of its ETC designation at the same time it files or is implicated in the filing of any application for a change or transfer of control under Pennsylvania law.

#### 6. *Provision of ETC Application, Annual Certification and Promotional Materials to the Bureau of Consumer Services*

All ETCs are required to supply the Commission's BCS with copies of subscriber Lifeline applications, annual certifications, promotional/advertising materials and Lifeline-related customer notices to review for current information, consistency with eligibility determination criteria and annual certification requirements, and plain language requirements. Accordingly, as a condition of receiving ETC designation, VNCI is directed to provide the Commission with copies of any and all reports submitted to USAC, and, upon request, provide BCS with copies of subscriber Lifeline applications, promotional/advertising materials, annual certifications reports, and Lifeline-related customer notices. Any failure of VNCI to

comply with these requirements will be a basis for revocation of its ETC designation or other enforcement action.

#### 7. *Reporting Requirements for State-Designated ETCs Receiving High-Cost Support*

In its 2016 Rate-of-Return Reform Order, the FCC eliminated many of the related reporting obligations for ETCs set forth in Form 481. However, the FCC amended the rules to require ETCs to provide additional detail regarding their broadband deployment during each year. Specifically, ETCs are now required to provide location and speed information of newly-served locations.<sup>133</sup> Additionally, those ETCs electing to receive CAF Phase II support were required to provide information for the geo-coded locations where they have newly-deployed voice and broadband services. Additionally, as a condition of receiving federal high-cost universal service support, ETCs must offer broadband service in their Designated Area that meets certain basic performance requirements and submit testing results as part of their annual compliance certification.<sup>134</sup> Carriers that do not comply with the FCC's speed and latency requirements will be subject to a reduction in support, commensurate with their level of noncompliance. In addition, providers will be subject to audit of all testing data.<sup>135</sup>

VNCI must comply with the following reporting requirements. VNCI must submit to USAC the geocoded locations to which they have newly deployed broadband. This data will provide an objective metric showing the extent to which ETCs receiving high-cost support are using funds to advance as well as preserve universal service in rural areas, demonstrating the extent to which they are upgrading existing networks to connect rural consumers to broadband. VNCI will also be required to report the number of locations at the minimum speeds required by the FCC's rules. The location and speed data will be used to determine compliance with the FCC's associated deployment obligations. The geocoded location information should reflect those locations that are broadband-enabled where VNCI is prepared to offer service within ten business days that meets the FCC's minimum requirements for high-cost recipients subject to broadband public interest obligations. Additionally, VNCI must meet the specific speed and latency performance obligations to these fixed locations and are also required to submit testing results as part of their annual compliance certification.

VNCI must provide annual reports and certifications regarding specific aspects of its compliance with public interest obligations to the FCC, USAC, and this Commission, as the relevant state commission. These annual reporting requirements will provide the factual basis underlying this Commission's annual Section 254(e) certification by October 1st of every year that support is being used for the intended purposes.

#### C. *VNCI Satisfies All Pennsylvania-Specific Requirements for Lifeline*

In addition to the minimum federal standards mentioned above, all ETCs are required to comply with Pennsylvania law and Commission orders that govern Pennsylvania's Lifeline programs. 52 Pa. Code § 69.2501(b). As already determined above, VNCI commits to: (1) abide by the applicable eligibility certification and verification requirements set forth in the Commis-

<sup>131</sup> In its February 8, 2019 Supplement, VNCI expressly provided BCS with direct contact information for VNCI staff to resolve Lifeline-related issues.

<sup>132</sup> Petition at 12.

<sup>133</sup> See Connect America Fund, Order, 33 FCC Rcd 6509 (2018).

<sup>134</sup> Id.

<sup>135</sup> Id.

sion's PA Lifeline Order; (2) abide by the applicable requirements set forth in the Commission's Tracking Report Order; (3) abide by the Commission's Chapter 64 regulations regarding standards and billing practices, 52 Pa. Code §§ 64.1—64.213; and (4) have consumer Lifeline-related complaints which are unresolved by VNCI's customer service, handled by BCS as appropriate and, if not, be resolved through formal or informal Commission processes.

#### *Conclusion*

In consideration of the VNCI Petition for ETC designation, as supplemented, we conclude VNCI satisfies all federal and Pennsylvania-specific requirements for ETC designation. As a federal high-cost ETC designee, VNCI must meet the minimum standards set forth in the FCC's Lifeline Reform Orders, reporting and performance metrics set forth in the USF/ICC Transformation Order, and all related regulations. Further, in Pennsylvania, VNCI must satisfy the Commission's requirements in the Public Utility Code, our ETC Guidelines, and all related orders. Designation of VNCI as a federal high-cost ETC to secure the federal high-cost support from Auction 903 in the Designated Area's discrete census blocks in its tariffed service area in Pennsylvania is in accord with Section 214 of the Act, the FCC's regulations and orders related to ETC designation, Section 3019 (f) of the Code, and the Commissions orders on ETC designation. 47 U.S.C. § 214; 47 C.F.R. §§ 54.201, et seq.; and 66 Pa.C.S. § 3019(f); *Therefore*,

#### *It Is Ordered:*

1. The Petition of Velocity.Net Communications, Inc. for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Pennsylvania is granted, subject to the terms and conditions set forth in this Order.

2. That the Commission grants Velocity.Net Communications, Inc. designation as a federal high-cost Eligible Telecommunications Carrier only in the Connect America Fund Phase II-eligible census block groups in the service territory of Verizon North LLC as set forth in the body of this Order.

3. That the rules of the Federal Communications Commission regarding the redefinition process as it relates to Velocity.Net Communications, Inc.'s designation as a federal high-cost Eligible Telecommunications Carrier below the service area level of Verizon North is inapplicable as set forth in this Order.

4. That Velocity.Net Communications, Inc. shall provide updated tariff pages, including Lifeline tariff page within thirty (30) days of the entry of this Order.

5. That Velocity.Net Communications, Inc. is required to offer Lifeline service to eligible low-income consumers only in those census blocks in its service area for which it will be receiving Connect America Fund Phase II Auction 903 high-cost support as described in this Order.

6. That, upon request, Velocity.Net Communications, Inc. shall provide the Commission's Bureau of Consumer Services with copies of subscriber Lifeline applications and annual certification and promotional materials to review for current information, consistency with eligibility determination criteria and annual certification requirements, and plain language requirements.

7. VNCI is hereby directed to work with BCS to resolve informal complaints and to submit to Commission jurisdiction on formal complaints filed by VNCI Lifeline customers on Lifeline and other related issues.

8. That the failure of Velocity.Net Communications, Inc. to comply with any provision of this Order may result in revocation of its ETC designation(s) for purposes of receiving federal Universal Service Fund high-cost and Lifeline support or be subject to further Commission process.

9. That Velocity.Net Communications, Inc. shall petition this Commission for any future change to the basic Lifeline service offerings provided through this ETC designation as described herein which represents a limitation or reduction of Lifeline services/equipment provided free of charge, and shall provide notice to this Commission of any addition, change or new offering which is in addition to the basic Lifeline offering.

10. That Velocity.Net Communications, Inc. shall petition this Commission for renewal of its Eligible Telecommunications Carrier status at the same time it files or is implicated in the filing of any application for a change or transfer of control as defined in Pennsylvania law.

11. That the Secretary shall serve a copy of this Order on Velocity.Net Communications, Inc., on the Office of Consumer Advocate, and on the Office of Small Business Advocate.

12. That a copy of this Order shall be published in the *Pennsylvania Bulletin*.

13. That this docket shall be marked closed.

ROSEMARY CHIAVETTA,  
*Secretary*

[Pa.B. Doc. No. 20-171. Filed for public inspection January 31, 2020, 9:00 a.m.]

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

### Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission. Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). A protest shall indicate whether it applies to the temporary authority application, the permanent authority application, or both. Protests may only be filed if there is evidence that the applicant lacks fitness. Protests based on endangering or impairing operations of an existing carrier will not be honored. Filings must be made with the Secretary, Pennsylvania Public Utility Commission, 400 North Street, Harrisburg, PA 17120, with a copy served on the applicant by February 17, 2020. Documents filed in support of the applications are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the business address of the respective applicant.

**Application of the following for approval to *begin operating as common carriers for transportation of persons as described under the application.***

**A-2019-3015150. Bujar Vranici, t/a Aww Limousine** (3860 Jacksonville Road, Bethlehem, Northampton County, PA 18017) persons in limousine service from points in the Counties of Berks, Bucks, Carbon, Chester,

Delaware, Lehigh, Luzerne, Monroe, Montgomery, Northampton, Philadelphia and Schuylkill, to points in Pennsylvania, and return; excluding areas under the jurisdiction of the Philadelphia Parking Authority. *Attorney:*

Garrett R. Benner, City Line Plaza, Suite 106, 2005 City Line Road, Bethlehem, PA 18017.

**Applications of the following for approval to begin operating as contract carriers for transportation of persons as described under each application.**

**A-2019-3014814. Monarca Express, LLC** (217 East Centre Street, Shenandoah, Schuylkill County, PA 17976) for ECN Staffing, Inc., between points in the Counties of Berks, Centre, Columbia, Luzerne, Montour, Northumberland, Schuylkill and Union.

**A-2019-3015029. Comfort Healthcare Solutions, LLC** (1246 Elson Road, Brookhaven, Delaware County, PA 19015) for LogistiCare Solutions, LLC, between points in the Counties of Berks, Bucks, Chester, Delaware, Lancaster, Montgomery and Philadelphia, to points in Pennsylvania, and return. *Attorney:* Bryce R. Beard, 100 North Tenth Street, Harrisburg, PA 17101.

**Application of the following for the approval of the right and privilege to discontinuelabandon operating as common carriers by motor vehicle and for cancellation of the certificate of public convenience as described under the application.**

**A-2020-3015878. Addis Airport Car Service, LLC** (3618 Mexico Street, Apartment 2, Pittsburgh, Allegheny County, PA 15212) for the discontinuance of service and cancellation of its certificate, to transport, as a common carrier, by motor vehicle, at A-6416971, persons in limousine service, from points in the City of Pittsburgh and Allegheny County, to points in Pennsylvania, and return; excluding service that is under the jurisdiction of the Philadelphia Parking Authority.

ROSEMARY CHIAVETTA,  
*Secretary*

[Pa.B. Doc. No. 20-172. Filed for public inspection January 31, 2020, 9:00 a.m.]

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

### Service of Notice of Motor Carrier Formal Complaints

Formal complaints have been issued by the Pennsylvania Public Utility Commission. Answers must be filed in accordance with 52 Pa. Code (relating to public utilities). Answers are due February 17, 2020, and must be made with the Secretary, Pennsylvania Public Utility Commission, 400 North Street, Harrisburg, PA 17120, with a copy to the First Deputy Chief Prosecutor, Pennsylvania Public Utility Commission.

### Pennsylvania Public Utility Commission; Bureau of Investigation and Enforcement v. Extreme Health Care Services, LLC; Docket No. C-2019-3014312

#### COMPLAINT

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth

of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings which are prosecutory in nature to the Bureau of Investigation and Enforcement and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Investigation and Enforcement Prosecutory Staff hereby represents as follows:

1. That Extreme Health Care Services, LLC, Respondent, maintains its principal place of business at 1916 North 2nd Street, Steelton, PA 17113.

2. That Respondent was issued a certificate of public convenience for paratransit authority by this Commission on November 26, 2013 and for limousine authority on September 11, 2013, at PUC no. 6415315.

3. That Respondent, on July 31, 2019, permitted a certain 2008 Ford bearing PA registration number BA81707 and having Vehicle Identification No. 1FMCU931X8KB13766 to be operated.

4. That PUC Motor Carrier Enforcement Officer Travis Griffith inspected the vehicle specified in paragraph 3 on the date specified 350 North Front Street, Steelton, Dauphin County, PA. The following violations were found:

- The wheel nut was missing from the front left wheel.
- The front right tire had two adjacent tire tread grooves with a less than 2/32 inch tread.

5. That Respondent, by permitting a vehicle to be operated with a wheel nut missing, violated 52 Pa. Code § 29.402(1). The penalty for this violation is \$100.

6. That Respondent, by permitting a vehicle to be operated with two adjacent tire treads less than 2/32 of an inch, violated 52 Pa. Code § 29.402(1). The penalty for this violation is \$100.

Wherefore, the Bureau of Investigation and Enforcement Prosecutory Staff hereby requests that the Commission fine Extreme Health Care Services, LLC the sum of two hundred dollars (\$200.00) for the illegal activity described in this Complaint and order such other remedy as the Commission may deem to be appropriate.

Respectfully submitted,  
David W. Loucks, Chief  
Motor Carrier Enforcement  
Bureau of Investigation and Enforcement  
P.O. Box 3265  
Harrisburg, PA 17105-3265

#### VERIFICATION

I, David W. Loucks, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect that the Bureau will be able to prove same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: 12/06/19

David W. Loucks, Chief  
Motor Carrier Enforcement  
Bureau of Investigation and Enforcement

#### NOTICE

A. You must file an Answer within twenty (20) days of the date of service of this Complaint. The date of service is the mailing date as indicated at the top of the



Secretarial Cover Letter for this Complaint and Notice, 52 Pa. Code § 1.56(a). An Answer is a written explanation of circumstances wished to be considered in determining the outcome. The Answer shall raise all factual and legal arguments that you wish to claim in your defense and must include the reference number of this Complaint. Your Answer must be verified and the original shall be mailed to:

Rosemary Chiavetta, Secretary  
 Pennsylvania Public Utility Commission  
 400 North Street, 2nd Floor  
 Harrisburg, PA 17120

Additionally, a copy should either be mailed to:

Michael L. Swindler, Deputy Chief Prosecutor  
 Bureau of Investigation and Enforcement  
 Pennsylvania Public Utility Commission  
 400 North Street, 3rd Floor  
 Harrisburg, PA 17120

Or, e-mailed to Mr. Swindler at: RA-PCCmplntResp@pa.gov

B. If you fail to answer this complaint within twenty (20) days, the Bureau of Investigation and Enforcement will request that the Commission issue a Secretarial Letter imposing a penalty. The penalty could include a fine, the suspension or revocation of your certificate of public convenience or other remedy.

C. You may elect not to contest this complaint by paying the fine proposed in this Complaint by certified check or money order. Payment must be made to the Commonwealth of Pennsylvania and should be forwarded to:

Rosemary Chiavetta, Secretary  
 Pennsylvania Public Utility Commission  
 400 North Street, 2nd Floor  
 Harrisburg, PA 17120

D. Your payment is an admission that you committed the alleged violation and an agreement to cease and desist from further violations. Upon receipt of your payment, the complaint proceeding shall be closed.

E. If you file an Answer, which admits or fails to deny the allegations of the Complaint, the Bureau of Investigation and Enforcement will request that the Commission issue a Secretarial Letter imposing a penalty.

F. If you file an Answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision. The judge is not bound by the optional fine set forth above.

G. Alternative formats of this material are available for persons with disabilities by contacting the Commission's ADA Coordinator at 717-787-8714.

**Pennsylvania Public Utility Commission; Bureau of Investigation and Enforcement v. Tochi Enterprise, Inc., t/a DSB Transport; Docket No. C-2019-3014940**

COMPLAINT

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings which are prosecutory in nature to the Bureau of Investigation and Enforcement and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and

Section 701 of the Public Utility Code, the Bureau of Investigation and Enforcement hereby represents as follows:

1. That all authority issued to Tochi Enterprise, Inc., t/a DSB Transport, (respondent) is under suspension effective December 03, 2019 for failure to maintain evidence of insurance on file with this Commission.
2. That respondent maintains a principal place of business at 5320 West Taft Road, Syracuse, NY 13212.
3. That respondent was issued a Certificate of Public Convenience by this Commission on August 29, 2018, at A-6419586.
4. That respondent has failed to maintain evidence of Liability insurance on file with this Commission. The Bureau of Investigation and Enforcement's proposed civil penalty for this violation is \$500.00 and cancellation of the Certificate of Public Convenience.
5. That respondent, by failing to maintain evidence of insurance on file with this Commission, violated 66 Pa.C.S. § 512, 52 Pa. Code § 32.2(c), and 52 Pa. Code § 32.11(a), § 32.12(a) or § 32.13(a).

Wherefore, unless respondent pays the penalty of \$500.00 or files an answer in compliance with the attached notice and/or causes its insurer to file evidence of insurance with this Commission within twenty (20) days of the date of service of this Complaint, the Bureau of Investigation and Enforcement will request that the Commission issue an Order which (1) cancels the Certificate of Public Convenience held by respondent at A-6419586 for failure to maintain evidence of current insurance on file with the Commission, (2) fines Respondent the sum of five hundred dollars (\$500.00) for the illegal activity described in this Complaint, (3) orders such other remedy as the Commission may deem to be appropriate, which may include the suspension of a vehicle registration and (4) imposes an additional fine on the respondent should cancellation occur.

Respectfully submitted,  
 David W. Loucks, Chief  
 Motor Carrier Enforcement  
 Bureau of Investigation and Enforcement  
 400 North Street  
 Harrisburg, PA 17120

VERIFICATION

I, David W. Loucks, Chief, Motor Carrier Enforcement, Bureau of Investigation and Enforcement, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect that the Bureau will be able to prove same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: 12/13/19

David W. Loucks, Chief  
 Motor Carrier Enforcement  
 Bureau of Investigation and Enforcement

NOTICE

A. You must file an Answer within 20 days of the date of service of this Complaint. The date of service is the mailing date as indicated at the top of the Secretarial Letter. See 52 Pa. Code § 1.56(a). The Answer must raise all factual and legal arguments that you wish to claim in

your defense, include the docket number of this Complaint, and be verified. You may file your Answer by mailing an original to:

Rosemary Chiavetta, Secretary  
 Pennsylvania Public Utility Commission  
 400 North Street  
 Harrisburg, PA 17120

Or, you may eFile your Answer using the Commission's website at [www.puc.pa.gov](http://www.puc.pa.gov). The link to eFiling is located under the Filing & Resources tab on the homepage. If your Answer is 250 pages or less, you are not required to file a paper copy. If your Answer exceeds 250 pages, you must file a paper copy with the Secretary's Bureau.

Additionally, a copy should either be mailed to:

Michael L. Swindler, Deputy Chief Prosecutor  
 Pennsylvania Public Utility Commission  
 Bureau of Investigation and Enforcement  
 400 North Street  
 Harrisburg, PA 17120

Or, emailed to Mr. Swindler at: [RA-PCCmplntResp@pa.gov](mailto:RA-PCCmplntResp@pa.gov)

B. If you fail to answer this Complaint within 20 days, the Bureau of Investigation and Enforcement will request that the Commission issue an Order imposing the penalty.

C. You may elect not to contest this Complaint by causing your insurer to file proper evidence of current insurance in accordance with the Commission's regulations and by paying the fine proposed in this Complaint by certified check or money order within twenty (20) days of the date of service of this Complaint. Accord certificates of insurance and faxed form Es and Hs are unacceptable as evidence of insurance.

The proof of insurance must be filed with the:

Compliance Office, Bureau of Technical Utility Services  
 Pennsylvania Public Utility Commission  
 400 North Street  
 Harrisburg, PA 17120

Payment of the fine must be made to the Commonwealth of Pennsylvania and should be forwarded to:

Rosemary Chiavetta, Secretary  
 Pennsylvania Public Utility Commission  
 400 North Street  
 Harrisburg, PA 17120

Your payment is an admission that you committed the alleged violation and an agreement to cease and desist from further violations. Upon receipt of the evidence of insurance from your insurer, and upon receipt of your payment, the Complaint proceeding shall be closed.

D. If you file an Answer which either admits or fails to deny the allegations of the Complaint, the Bureau of Investigation and Enforcement will request the Commission to issue an Order imposing the penalty set forth in this Complaint.

E. If you file an Answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision. The Judge is not bound by the penalty set forth in the Complaint, and may impose additional and/or alternative penalties as appropriate.

F. If you are a corporation, you must be represented by legal counsel. 52 Pa. Code § 1.21.

Alternative formats of this material are available for persons with disabilities by contacting the Commission's ADA Coordinator at 717-787-8714. Do not call this number if you have questions as to why you received this complaint. For those questions you may call 717-783-3847.

**Pennsylvania Public Utility Commission; Bureau of Investigation and Enforcement v. Assured Claimant Transport Service, Inc.; Docket No. C-2020-3015194**

COMPLAINT

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings which are prosecutory in nature to the Bureau of Investigation and Enforcement and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Investigation and Enforcement hereby represents as follows:

1. That all authority issued to Assured Claimant Transport Service, Inc., (respondent) is under suspension effective December 22, 2019 for failure to maintain evidence of insurance on file with this Commission.

2. That respondent maintains a principal place of business at 259 Acorn Court, Mechanicsburg, PA 17055.

3. That respondent was issued a Certificate of Public Convenience by this Commission on November 15, 2000, at A-00116691.

4. That respondent has failed to maintain evidence of Liability insurance on file with this Commission. The Bureau of Investigation and Enforcement's proposed civil penalty for this violation is \$500.00 and cancellation of the Certificate of Public Convenience.

5. That respondent, by failing to maintain evidence of insurance on file with this Commission, violated 66 Pa.C.S. § 512, 52 Pa. Code § 32.2(c), and 52 Pa. Code § 32.11(a), § 32.12(a) or § 32.13(a).

Wherefore, unless respondent pays the penalty of \$500.00 or files an answer in compliance with the attached notice and/or causes its insurer to file evidence of insurance with this Commission within twenty (20) days of the date of service of this Complaint, the Bureau of Investigation and Enforcement will request that the Commission issue an Order which (1) cancels the Certificate of Public Convenience held by respondent at A-00116691 for failure to maintain evidence of current insurance on file with the Commission, (2) fines Respondent the sum of five hundred dollars (\$500.00) for the illegal activity described in this Complaint, (3) orders such other remedy as the Commission may deem to be appropriate, which may include the suspension of a vehicle registration and (4) imposes an additional fine on the respondent should cancellation occur.

Respectfully submitted,  
 David W. Loucks, Chief  
 Motor Carrier Enforcement  
 Bureau of Investigation and Enforcement  
 400 North Street  
 Harrisburg, PA 17120

VERIFICATION

I, David W. Loucks, Chief, Motor Carrier Enforcement, Bureau of Investigation and Enforcement, hereby state

that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect that the Bureau will be able to prove same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: 01/02/20

David W. Loucks, Chief  
Motor Carrier Enforcement  
Bureau of Investigation and Enforcement

NOTICE

A. You must file an Answer within 20 days of the date of service of this Complaint. The date of service is the mailing date as indicated at the top of the Secretarial Letter. See 52 Pa. Code § 1.56(a). The Answer must raise all factual and legal arguments that you wish to claim in your defense, include the docket number of this Complaint, and be verified. You may file your Answer by mailing an original to:

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
400 North Street  
Harrisburg, PA 17120

Or, you may eFile your Answer using the Commission's website at [www.puc.pa.gov](http://www.puc.pa.gov). The link to eFiling is located under the Filing & Resources tab on the homepage. If your Answer is 250 pages or less, you are not required to file a paper copy. If your Answer exceeds 250 pages, you must file a paper copy with the Secretary's Bureau.

Additionally, a copy should either be mailed to:

Michael L. Swindler, Deputy Chief Prosecutor  
Pennsylvania Public Utility Commission  
Bureau of Investigation and Enforcement  
400 North Street  
Harrisburg, PA 17120

Or, emailed to Mr. Swindler at: [RA-PCCmplntResp@pa.gov](mailto:RA-PCCmplntResp@pa.gov)

B. If you fail to answer this Complaint within 20 days, the Bureau of Investigation and Enforcement will request that the Commission issue an Order imposing the penalty.

C. You may elect not to contest this Complaint by causing your insurer to file proper evidence of current insurance in accordance with the Commission's regulations and by paying the fine proposed in this Complaint by certified check or money order within twenty (20) days of the date of service of this Complaint. Accord certificates of insurance and faxed form Es and Hs are unacceptable as evidence of insurance.

The proof of insurance must be filed with the:

Compliance Office, Bureau of Technical Utility Services  
Pennsylvania Public Utility Commission  
400 North Street  
Harrisburg, PA 17120

Payment of the fine must be made to the Commonwealth of Pennsylvania and should be forwarded to:

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
400 North Street  
Harrisburg, PA 17120

Your payment is an admission that you committed the alleged violation and an agreement to cease and desist from further violations. Upon receipt of the evidence of insurance from your insurer, and upon receipt of your payment, the Complaint proceeding shall be closed.

D. If you file an Answer which either admits or fails to deny the allegations of the Complaint, the Bureau of Investigation and Enforcement will request the Commission to issue an Order imposing the penalty set forth in this Complaint.

E. If you file an Answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision. The Judge is not bound by the penalty set forth in the Complaint, and may impose additional and/or alternative penalties as appropriate.

F. If you are a corporation, you must be represented by legal counsel. 52 Pa. Code § 1.21.

Alternative formats of this material are available for persons with disabilities by contacting the Commission's ADA Coordinator at 717-787-8714. Do not call this number if you have questions as to why you received this complaint. For those questions you may call 717-783-3847.

ROSEMARY CHIAVETTA,  
*Secretary*

[Pa.B. Doc. No. 20-173. Filed for public inspection January 31, 2020, 9:00 a.m.]

## PHILADELPHIA PARKING AUTHORITY

### Service of Notice of Motor Carrier Applications in the City of Philadelphia

The following permanent authority application to render service as common carriers in the City of Philadelphia has 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 18, 2020. The nonrefundable protest filing fee is \$5,000 payable to the PPA by certified check or money order. The applications are available for inspection at the TLD between 9 a.m. and 4 p.m., Monday through Friday (contact TLD Director Christine Kirlin, Esq. at (215) 683-9653 to make an appointment) or may be inspected at the business addresses of the respective applicants or attorneys, or both.

**Doc. No. A-20-01-01. AZG Trans, LLC** (16 West Madison Avenue, Clifton Heights, PA 19018): An application for a medallion taxicab certificate of public convenience to transport, as a common carrier, persons in taxicab service between points within the City of Philadelphia and from points in the City of Philadelphia to points in Pennsylvania, and return. *Attorney for Applicant:* Danielle Friedman, Esq., 2301 Church Street, Philadelphia, PA 19124.

SCOTT PETRI,  
*Executive Director*

[Pa.B. Doc. No. 20-174. Filed for public inspection January 31, 2020, 9:00 a.m.]



**PHILADELPHIA REGIONAL PORT AUTHORITY**  
**Condensed Statement of Revenues, Expenses and Changes in Net Position**

**JUNE 30, 2019 and 2018**  
**AUDITED**

	<i>Year to Date</i> <i>JUNE 30, 2019</i>	<i>Year to Date</i> <i>JUNE 30, 2018</i>
Total Operating Revenues	\$ 16,026,651	\$ 16,644,908
Total Operating Expenses	\$ 41,131,852	\$ 34,915,628
Operating Gain (Loss)	\$ (25,105,201)	\$ (18,270,720)
Net Non-Operating Revenues (Expenses)	\$ (7,683,420)	\$ (5,975,148)
(Loss) Gain Before Capital Grants	\$ (32,788,621)	\$ (24,245,868)
Capital Grants and Appropriations	\$ 133,188,231	\$ 83,018,815
Change in Net Position	\$ 100,399,610	\$ 58,772,947
Net Position, Beginning of Year—Prev. Reported	\$ 527,590,977	\$ 478,727,595
GASB 75 Restatement— Cumulative OPEB Change	\$ -	\$ (9,909,565)
Net Position, Beginning of Year— Restated	\$ 527,590,977	\$ 468,818,030
Net Position, End of Year	\$ 627,990,587	\$ 527,590,977

**JEFF THEOBALD,**  
*Executive Director*

[Pa.B. Doc. No. 20-175. Filed for public inspection January 31, 2020, 9:00 a.m.]

## STATE BOARD OF NURSING

### **Bureau of Professional and Occupational Affairs v. Eric Jon Freed, LPN; Case No. 17-51-06597**

On August 13, 2018, Eric Jon Freed, LPN, license No. PN298216, last known of Little River, SC, had his license indefinitely suspended until he can demonstrate to the State Board of Nursing (Board) that he has an unrestricted license in South Carolina, based on having received disciplinary action by the proper licensing authority of another state.

Individuals may obtain a copy of the final order by writing to Megan E. Castor, Board Counsel, State Board of Nursing, P.O. Box 69523, Harrisburg, PA 17106-9523.

This order represents the final Board decision in this matter. It may be appealed to the Commonwealth Court of Pennsylvania by the filing of a petition for review with that court in accordance with the Pennsylvania Rules of Appellate Procedure. Individuals who take an appeal to the Commonwealth Court must serve the Board with a copy of their petition for review. The Board contact for

receiving service of appeals is the previously-named Board counsel.

ANN M. COUGHLIN, MBA, MSN, RN,  
*Chairperson*

[Pa.B. Doc. No. 20-176. Filed for public inspection January 31, 2020, 9:00 a.m.]

## THADDEUS STEVENS COLLEGE OF TECHNOLOGY

### Request for Bids

Thaddeus Stevens College of Technology is soliciting bids to provide and install electrical e-stops in the new electrical lab. Bid documents can be obtained from Carrie Harmon, Thaddeus Stevens College, 750 East King Street, Lancaster, PA 17602, (717) 299-7787, harmon@stevenscollege.edu.

DR. WILLIAM E. GRISCOM,  
*President*

[Pa.B. Doc. No. 20-177. Filed for public inspection January 31, 2020, 9:00 a.m.]