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# PENNSYLVANIA BULLETIN

Volume 47

Number 22

Saturday, June 3, 2017 • Harrisburg, PA

Pages 3067—3172

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Department of Education

Department of Environmental Protection

Department of Health

Department of Labor and Industry

Department of Transportation

Fish and Boat Commission

Independent Regulatory Review Commission

Insurance Department

Patient Safety Authority

Pennsylvania Public Utility Commission

Philadelphia Regional Port Authority

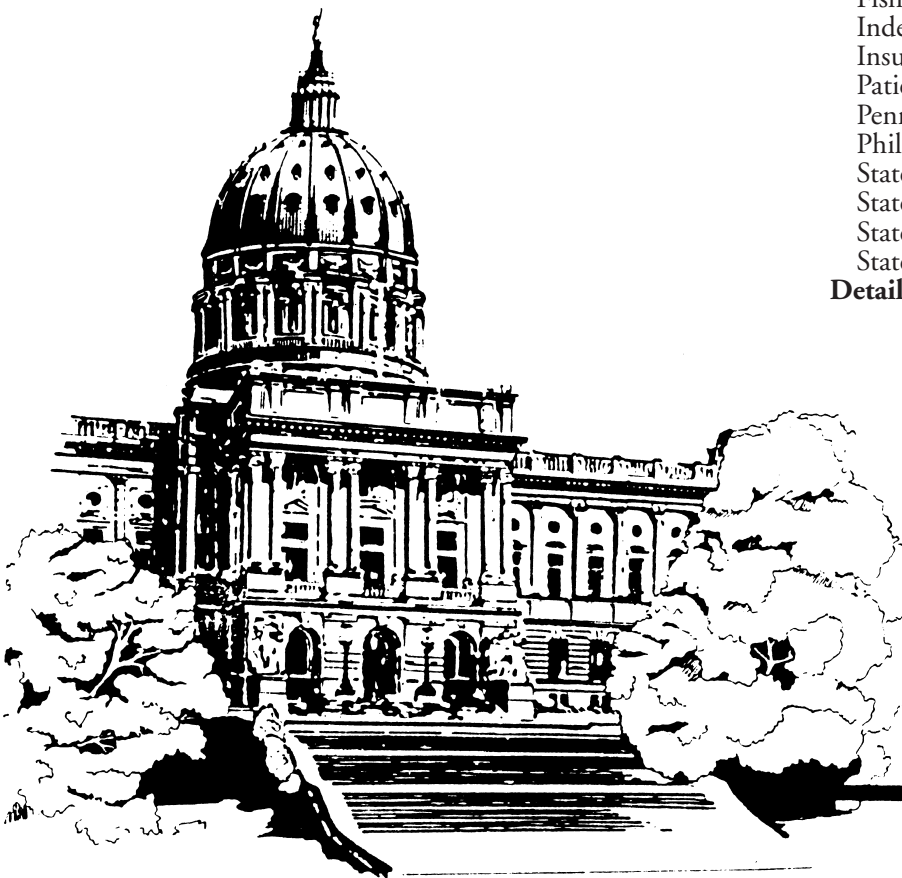
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State Conservation Commission

State Horse Racing Commission

State Tax Equalization Board

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

**No. 511, June 2017**

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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 every week and includes a table of contents. A cumulative subject matter index is published quarterly.

The *Pennsylvania Bulletin* serves several purposes. First, it is the temporary supplement to the *Pennsylvania Code*, which is the official codification of agency rules and regulations and other statutorily authorized documents. Changes in the codified text, whether by adoption, amendment, repeal or emergency action must be published in the *Pennsylvania Bulletin*. Further, agencies proposing changes to the codified text do so in the *Pennsylvania Bulletin*.

Second, the *Pennsylvania Bulletin* also publishes: Governor's Executive Orders; State Contract Notices; 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 repeal regulations must first publish in the *Pennsylvania Bulletin* a Notice of Proposed Rulemaking. There are limited instances when the agency may omit the proposal step; it still must publish the adopted version.

The Notice of 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. An adopted proposal must be published in the *Pennsylvania Bulletin* before it can take effect. If the agency

wishes to adopt changes to the Notice of 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 and other statutorily authorized documents. The *Pennsylvania Bulletin* is the temporary supplement to the *Pennsylvania Code*, printing changes as soon as they occur. 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. Title 1 *Pennsylvania Code* lists every agency and its corresponding *Code* title location.

### **How to Find Documents**

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).

The *Pennsylvania Bulletin* also publishes a quarterly List of Pennsylvania Code Sections Affected which lists the regulations in numerical order, followed by the citation to the *Pennsylvania Bulletin* in which the change occurred. The *Pennsylvania Bulletin* is available at [www.pabulletin.com](http://www.pabulletin.com).

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#### **Printing Format**

Material proposed to be added to an existing rule or regulation is printed in **bold face** and material proposed to be deleted from a rule or regulation is enclosed in brackets [ ] and printed in **bold face**. Asterisks indicate ellipsis of *Pennsylvania Code* text retained without change. Proposed new or additional regulations are printed in ordinary style face.

#### **Fiscal Notes**

Section 612 of The Administrative Code of 1929 (71 P. S. § 232) requires that the Office of Budget prepare a fiscal note for regulatory actions and administrative procedures of the administrative departments, boards, commissions or authorities receiving money from the State Treasury stating whether the proposed action or procedure causes a loss of revenue or an increase in the cost of programs for the Commonwealth or its political subdivisions; that the fiscal note be published in the *Pennsylvania Bulletin* at the same time as the proposed 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; (8) recommendation, if any, of the Secretary of the Budget and the reasons therefor.

The required information is published in the foregoing order immediately following the proposed change to which it relates; 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; in that order, 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 that order. In item (8) the recommendation, if any, made by the Secretary of Budget is published with the fiscal note. See 4 Pa. Code § 7.231 *et seq.* Where “no fiscal impact” is published, the statement means no additional cost or revenue loss to the Commonwealth or its local political subdivision is intended.

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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 2017.

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# THE COURTS

## Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

### PART V. PROFESSIONAL ETHICS AND CONDUCT [ 204 PA. CODE CHS. 87, 89 AND 93 ]

#### Amendments to Rules of Organization and Procedure of the Disciplinary Board of the Supreme Court of Pennsylvania; Order No. 81

By Order dated April 21, 2017, the Supreme Court of Pennsylvania amended Pa.R.D.E. 208(g), 215(i) and 219(l) related to taxing expenses and collecting costs. 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 Secretary of the Board 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 upon publication in the *Pennsylvania Bulletin*.

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

JULIA FRANKSTON-MORRIS, Esq.,  
*Secretary*

#### 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 87. INVESTIGATIONS AND INFORMAL PROCEEDINGS

##### Subchapter D. ABATEMENT OF INVESTIGATION

#### § 87.74. Discipline on consent.

\* \* \* \* \*

(g) *Costs.* Enforcement Rule 215(i) provides that [ **the panel of the Board in its discretion may direct that the necessary expenses incurred in the investigation and prosecution of the matter shall be paid by the respondent-attorney as a condition to the grant of the Petition; and that** ] all expenses taxed under this subdivision shall be paid by the attorney [ **before the imposition of discipline under subsection (d) or (e)** ] in accordance with Rule 208(g).

#### CHAPTER 89. FORMAL PROCEEDINGS

##### Subchapter D. ACTION BY BOARD AND SUPREME COURT

#### § 89.205. Informal admonition, private reprimand or public reprimand following formal hearing.

\* \* \* \* \*

(b) *Taxation of expenses.* Enforcement Rule 208(g)(2) provides that in the event a proceeding is concluded by informal admonition, private reprimand, or public reprimand, the Board in its discretion may direct that the necessary expenses incurred in the investigation and prosecution of the proceeding shall be paid by the respondent-attorney, and that all expenses so taxed shall be paid by the respondent-attorney [ **on or before the date fixed for the appearance of the respondent-attorney before Disciplinary Counsel for informal admonition or the Board for private or public reprimand** ] within 30 days after the date of the entry of the order taxing the expenses against the respondent-attorney. The expenses taxable under this subsection shall be those prescribed by § 93.111 (relating to determination of reimbursable expenses).

(c) *Notice to appear.*

\* \* \* \* \*

(4) The [ **Office of the Secretary** ] Finance Office shall notify the respondent-attorney of the expenses of the proceeding which have been taxed pursuant to subsection (b) by means of [ **Form DB-41 (Notice of Taxation of Expenses)** ] a **Notice of Taxation of Expenses**, which shall state that if the respondent-attorney fails to pay the taxed expenses [ **on or before the date fixed for the appearance of the respondent-attorney before the Board for private or public reprimand or before Disciplinary Counsel for informal admonition** ] within 30 days after the date of the entry of the order taxing such expenses, action will be taken by the Board pursuant to § 93.112 (relating to failure to pay taxed expenses) which will result in the entry of an order placing the respondent-attorney on administrative suspension.

\* \* \* \* \*

#### § 89.209. Expenses of formal proceedings.

Enforcement Rule 208(g)(1) provides that the Supreme Court in its discretion may direct that the necessary expenses incurred in the investigation and prosecution of a proceeding which results in the imposition of discipline shall be paid by the respondent-attorney [ **and that all** ]. All expenses so taxed pursuant to orders of suspension that are not stayed in their entirety or disbarment shall be paid by the respondent-attorney within 30 days after notice transmitted to the

**respondent-attorney of taxed expenses. In all other cases, expenses taxed under Rule 208(g)(1) shall be paid by the respondent-attorney within 30 days of entry of the order taxing the expenses against the respondent-attorney. Failure to pay such taxed expenses within 30 days after the date of the entry of the order will result in action taken by the Board pursuant to § 93.112 (relating to failure to pay taxed expenses) which will result in the entry of an order placing the respondent-attorney on administrative suspension.**

**CHAPTER 93. ORGANIZATION AND ADMINISTRATION**

**Subchapter G. FINANCIAL MATTERS**

**TAXATION OF COSTS**

**§ 93.111. Determination of reimbursable expenses.**

\* \* \* \* \*

(c) *Administrative fee.* Enforcement Rule [ 208(g)(3) ] 208(g)(4) provides that the expenses taxable under § 89.205(b) (relating to informal admonition, private reprimand, or public reprimand following formal hearing) or § 89.209 (relating to expenses of formal proceedings) may include an administrative fee except that an administrative fee shall not be included where the discipline imposed is an informal admonition; and that the administrative fee shall be \$250.

**§ 93.112. Failure to pay taxed expenses.**

(a) *Action by Board.* Enforcement Rule 219(g) and (l) provide that the Board shall:

(1) Transmit by certified mail, return receipt requested, to every attorney who fails to pay any **taxed expenses [ taxed pursuant to ]** under § 89.205(b) (relating to taxation of expenses), or § 89.209 (relating to expenses of formal proceedings), addressed to the last known address of the attorney, a notice stating:

\* \* \* \* \*

[Pa.B. Doc. No. 17-917. Filed for public inspection June 2, 2017, 9:00 a.m.]

**Title 231—RULES OF CIVIL PROCEDURE**

**PART I. GENERAL**

**[ 231 PA. CODE CHS. 1000 AND 2000 ]**

**Proposed Amendment of Pa.R.C.P. Nos. 1018 and 1033 and Proposed Adoption of Pa.R.C.P. No. 2005**

The Civil Procedural Rules Committee is planning to propose to the Supreme Court of Pennsylvania the amendment of Pa.R.C.P. Nos. 1018 and 1033, and the adoption of new Pa.R.C.P. No. 2005 governing the designation of an unknown defendant by a fictitious name for the reasons set forth in the accompanying explanatory report. Pursuant to Pa.R.J.A. No. 103(a)(1), the proposal is being published in the *Pennsylvania Bulletin* for comments, suggestions, or objections prior to submission to the Supreme Court.

Any reports, notes, or comments in the proposal have been inserted by the Committee for the convenience of

those using the rules. They will neither constitute a part of the rules nor will be officially adopted by the Supreme Court.

Additions to the text of the proposal are bolded; deletions to the text are bolded and bracketed.

The Committee invites all interested persons to submit comments, suggestions, or objections in writing to:

Karla M. Shultz, Counsel  
Civil Procedural Rules Committee  
Supreme Court of Pennsylvania  
Pennsylvania Judicial Center  
PO Box 62635  
Harrisburg, PA 17106-2635  
FAX: 717-231-9526  
civilrules@pacourts.us

All communications in reference to the proposal should be received by August 4, 2017. E-mail is the preferred method for submitting comments, suggestions, or objections; any e-mailed submission need not be reproduced and resubmitted via mail. The Committee will acknowledge receipt of all submissions.

*By the Civil Procedural Rules Committee*

WILLIAM SHAW STICKMAN, IV,  
*Chair*

**Annex A**

**TITLE 231. RULES OF CIVIL PROCEDURE**

**PART I. GENERAL**

**CHAPTER 1000. ACTIONS**

**Subchapter A. CIVIL ACTION**

**PLEADINGS**

**Rule 1018. Caption.**

Every pleading shall contain a caption setting forth the name of the court, the number of the action and the name of the pleading. The caption of a complaint shall set forth the form of the action and the names of all the parties, **including a fictitious name for an unknown defendant as provided in Rule 2005**, but in other pleadings it is sufficient to state the name of the first party on each side in the complaint with an appropriate indication of other parties.

\* \* \* \* \*

**Rule 1033. Amendment.**

\* \* \* \* \*

(b) An amendment correcting the name of a party against whom a claim has been asserted in the original pleading relates back to the date of the commencement of the action if, within ninety days after the period provided by law for commencing the action, the party received notice of the institution of the action such that it will not be prejudiced in maintaining a defense on the merits and the party knew or should have known that the action would have been brought against the party but for a mistake concerning the identity of the proper party.

(c) **An amendment seeking to substitute the actual name of a defendant for a fictitious name as provided in Rule 2005 relates back to the date of the commencement of the action if, within the time provided by Rule 401 for service, the defendant to be named by the amendment has received actual or constructive notice of the institution of the action such that it will not be prejudiced in maintaining a**

**defense on the merits and the defendant knew or should have known that the action would have been brought against it but for lack of knowledge of the defendant's actual name.**

#### CHAPTER 2000. ACTIONS BY REAL PARTIES IN INTEREST

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

##### **Rule 2005. Unknown Defendant. Fictitious Name.**

(a) The plaintiff or joining party may designate an unknown defendant by a fictitious name in a complaint filed to commence an action provided that:

(1) a defendant's actual name is unknown to the plaintiff or joining party after having conducted a reasonable search with due diligence;

(2) the fictitious name is averred to be fictitious;

(3) a factual description of the unknown defendant is averred with sufficient particularity for identification in all but the defendant's actual name; and

(4) the plaintiff or joining party avers that a reasonable search to determine the actual name has been conducted.

**Official Note:** This rule does not authorize use of a fictitious name in an action commenced by a writ of summons.

(b) Within twenty days after the actual name of the defendant has been identified, the plaintiff or joining party shall file a motion to amend the complaint pursuant to this rule and Rule 1033 by replacing the fictitious name with the defendant's actual name. An affidavit shall be attached to the motion describing the nature and extent of the investigation that was made to determine the identity of the defendant, and the date upon and the manner in which the defendant's actual name was identified.

**Official Note:** Rules 1033 and this rule govern the requirements for amending a complaint to replace a fictitious name with the actual name of a defendant.

(c) A defendant introduced to an action by its actual name in an amended complaint, after the filing of a motion pursuant to subdivision (b) and the court's ruling, may respond by preliminary objection challenging compliance with this rule, asserting prejudice or any other ground set forth in Rule 1028.

(d) The court shall grant a motion to amend filed pursuant to subdivision (b), unless the court finds that the party seeking the amendment failed to exercise due diligence in identifying the actual name of the defendant.

(e) No subpoena in aid of discovery relating to a defendant identified by a fictitious name may be issued or be served without leave of court upon motion stating with particularity from whom information is sought and how the discovery will aid in identification of the unknown defendant. In deciding the motion, the court shall weigh the importance of the discovery sought against unreasonable annoyance, embarrassment, oppression, burden, or expense to any person or party from whom the discovery is sought, and prejudice to any person or entity suspect of being the unknown defendant. Leave to serve a subpoena in aid of discovery does not preclude a challenge to the subpoena by the person or entity served.

(f) No final judgment may be entered against a defendant designated by a fictitious name.

#### Explanatory Comment

The Civil Procedural Rules Committee is proposing new Rule 2005 governing the naming of unknown, or John/Jane Doe, defendants in a complaint. Currently, the Rules of Civil Procedure are silent as to the use of Doe defendants in litigation; however, case law shows that the naming of Doe defendants has occurred. Proposed Rule 2005 is intended to fill this gap by standardizing the procedure in which to assert a cause of action against a Doe defendant.

The proposed rule would require a complaint using a John/Jane Doe or similar designation to describe the defendant and its liability producing conduct with sufficient specificity so as to permit identification in all but the unknown defendant's actual name. The rule imposes a duty on the plaintiff or joining party to exercise due diligence in identifying the actual name of the defendant both before and after the complaint is filed. While a sufficient description of an unknown defendant is typically fact specific to a particular case, it may include the physical characteristics of the unknown defendant, the position or title of the job performed by the unknown defendant, the alleged conduct of the unknown defendant, and how the unknown defendant is connected to the action.

Once served, the previously designated Doe defendant may challenge the filing party's due diligence by filing preliminary objections, asserting prejudice or any other ground set forth in Rule 1028. A defendant originally named by a fictitious name is not precluded from asserting nor is the grant of a motion to amend determinative of a defense based on a statute of limitations or repose.

It is important to note that designating a Doe defendant as a mere placeholder or as use as a class of defendants, e.g., John Doe Defendants 1—10, is not a valid use of Rule 2005. The rule is not intended to create a practice of naming Doe defendants as a catch-all category in the event a probable defendant is not named in a complaint. Rule 2005 requires the information in the complaint concerning the Doe defendant to sufficiently describe that defendant for all intents and purposes except by its actual name.

Rule 2005 is not intended to affect the substantive rights of any litigant. The ability to substitute the actual name of the Doe defendant after the expiration of the statute of limitations does not impermissibly extend it. Rule 2005 does not extend the time for filing an action as prescribed by the applicable statute of limitations.

The proposed rule is intended solely to provide a procedural mechanism to substitute the actual name of a Doe-designated defendant where the action has been filed within the limitations period and the defendant has been adequately described in the complaint to demonstrate that it was *that defendant* against whom the action was asserted.

*By the Civil Procedural  
Rules Committee*

WILLIAM SHAW STICKMAN, IV,  
*Chair*

[Pa.B. Doc. No. 17-918. Filed for public inspection June 2, 2017, 9:00 a.m.]

# Title 237—JUVENILE RULES

## PART I. RULES

[ 237 PA. CODE CHS. 2 AND 12 ]

### Order Amending Rules 240, 242 and 1242 of the Rules of Juvenile Court Procedure; No. 739 Supreme Court Rules Doc.

#### Order

*Per Curiam*

And Now, this 16th day of May, 2017, upon the recommendation of the Juvenile Court Procedural Rules Committee, the proposal having been published for public comment at 46 Pa.B. 3940 (July 23, 2016):

It is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rules 240, 242, and 1242 of the Pennsylvania Rules of Juvenile Court Procedure are amended in the following form.

This Order shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective on July 1, 2017.

#### Annex A

### TITLE 237. JUVENILE RULES

## PART I. RULES

### Subpart A. DELINQUENCY MATTERS

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

### PART D. PRE-ADJUDICATORY DETENTION

#### Rule 240. Detention of Juvenile.

\* \* \* \* \*

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

\* \* \* \* \*

#### Comment

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

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

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

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

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

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

**Official Note:** Rule 240 adopted April 1, 2005, effective October 1, 2005. Amended June 28, 2013, effective immediately. **Amended May 16, 2017, effective July 1, 2017.**

#### Committee Explanatory Reports:

Final Report explaining the provisions of Rule 240 published with the Court’s Order at 35 Pa.B. 2214 (April 16, 2005).

Final Report explaining the amendments to Rule 240 published with the Court’s Order at 43 Pa.B. 3938 (July 13, 2013).

**Final Report explaining the amendments to Rule 240 published with the Court’s Order at 47 Pa.B. 3078 (June 3, 2017).**

#### Rule 242. Detention Hearing.

\* \* \* \* \*

#### Comment

A detention hearing consists of two stages. The first stage of a detention hearing is a probable cause hearing. If probable cause is not found, the juvenile is to be released. If probable cause is found, then the court is to proceed to the second stage.

The second stage of a detention hearing is a detention determination hearing. The court should hear pertinent evidence concerning the detention status of the juvenile, review and consider all alternatives to secure detention, and determine if the detention of the juvenile is warranted.

An additional determination is required in paragraph (C)(3), although this is not a third stage of the detention hearing. It is important that the court address any special needs of the juvenile while the juvenile is in detention. The juvenile’s attorney, the juvenile probation officer, or detention staff is to present any educational, health care, and disability needs to the court, if known at the time of the hearing. Special needs may include needs for special education, remedial services, health care, and disability. If the court determines a juvenile is in need of an educational decision maker, the court is to appoint an educational decision maker pursuant to Rule 147.

When addressing the juvenile’s needs concerning health care and disability, the court’s order should address the right of: 1) a juvenile to receive timely and medically appropriate screenings and health care services, 55 Pa. Code § 3800.32 and 42 U.S.C. § 1396d(r); and 2) a juvenile with disabilities to receive necessary accommodations, 42 U.S.C. § 12132, 28 C.F.R. § 35.101 *et seq.*, Section 504 of the Rehabilitation Act of 1973, *as amended*, 29 U.S.C. § 794, and implementing regulations at 45 C.F.R. § 84.1 *et seq.*

Pursuant to the Juvenile Act, the court has authority to order a physical or mental examination of a juvenile and medical or surgical treatment of a minor, who is suffering from a serious physical condition or illness, which requires prompt treatment in the opinion of a physician. The court may order the treatment even if the guardians

have not been given notice of the pending hearing, are not available, or without good cause inform the court that they do not consent to the treatment. 42 Pa.C.S. § 6339(b).

The procedures of paragraph (D) deviate from the procedures of the Juvenile Act. *See* 42 Pa.C.S. § 6331. Under paragraph (D), a petition does not have to be filed within twenty-four hours of the juvenile's detention; rather, the petition should be filed within twenty-four hours of the conclusion of the detention hearing if the juvenile is detained. *See* Rule [ 800 ] 800(11). If the juvenile is not detained, a petition may be filed at any time prior to the adjudicatory hearing. However, the juvenile's attorney should have sufficient notice of the allegations prior to the adjudicatory hearing to prepare for the defense of the juvenile. *See* Rule 330 for petition requirements, Rule 331 for service of the petition, and Rule 363 for time of service.

The victim may be present at the hearing. *See* Rule 132 and 18 P.S. § 11.201 *et seq.* Any persons may be subpoenaed to appear for the hearing. *See* Rule 123 and 42 Pa.C.S. § 6333. However, nothing in these rules requires the attendance of the victim unless subpoenaed. If the victim is not present, the victim is to be notified of the final outcome of the proceeding. *See* Victim's Bill of Rights, 18 P.S. § 11.201 *et seq.*

*See* 42 Pa.C.S. §§ 6332, 6336, and 6338 for the statutory provisions concerning informal hearings and other basic rights.

**Official Note:** Rule 242 adopted April 1, 2005, effective October 1, 2005. Amended April 21, 2011, effective July 1, 2011. Amended April 29, 2011, effective July 1, 2011. Amended May 26, 2011, effective July 1, 2011. Amended July 18, 2012, effective October 1, 2012. Amended February 6, 2017, effective April 1, 2017. **Amended May 16, 2017, effective July 1, 2017.**

*Committee Explanatory Reports:*

\* \* \* \* \*

Final Report explaining the amendments to Rule 242 published with the Court's Order at 47 Pa.B. 941 (February 18, 2017).

**Final Report explaining the amendments to Rule 242 published with the Court's Order at 47 Pa.B. 3078 (June 3, 2017).**

**Subpart B. DEPENDENCY MATTERS**

**CHAPTER 12. COMMENCEMENT OF PROCEEDINGS, EMERGENCY CUSTODY, AND PRE-ADJUDICATORY PLACEMENT**

**PART C. SHELTER CARE**

**Rule 1242. Shelter Care Hearing.**

\* \* \* \* \*

D. *Prompt hearing.* The court shall conduct a hearing within seventy-two hours of taking the child into protective custody. **The parties shall not be permitted to waive the shelter care hearing.**

\* \* \* \* \*

**Comment**

\* \* \* \* \*

Under paragraph (D), the court is to ensure a timely hearing. **Nothing in paragraph (D) is intended to preclude the use of stipulations or agreements**

**among the parties, subject to court review and acceptance at the shelter care hearing.**

\* \* \* \* \*

Nothing in this rule prohibits informal conferences, narrowing of issues, if necessary, and the court making appropriate orders to expedite the case [ **through court** ]. The shelter care hearing may be used as a vehicle to discuss the matters needed and narrow the issues. The court is to [ **insure** ] **ensure** a timely adjudicatory hearing is held.

*See* 42 Pa.C.S. § 6339 for orders of physical and mental examinations and treatment.

*See* Rule 1330(A) for filing of a petition.

**Official Note:** Rule 1242 adopted August 21, 2006, effective February 1, 2007. Amended April 21, 2011, effective July 1, 2011. Amended April 29, 2011, effective July 1, 2011. Amended July 13, 2015, effective October 1, 2015. **Amended May 16, 2017, effective July 1, 2017.**

*Committee Explanatory Reports:*

\* \* \* \* \*

Final Report explaining the amendments to Rule 1242 published with the Court's Order at 45 Pa.B. 3987 (July 25, 2015).

**Final Report explaining the amendments to Rule 1242 published with the Court's Order at 47 Pa.B. 3078 (June 3, 2017).**

**FINAL REPORT<sup>1</sup>**

**Amendment of Pa.R.J.C.P. 240, 242, and 1242**

On May 16, 2017, the Court amended Rules of Juvenile Court Procedure 240 and 1242 to preclude waiver of either a detention hearing or a shelter care hearing. Rule 242 was amended for perfunctory matters.

Rules 240 and 1242 have been amended to preclude waiver of detention hearings and shelter care hearings given the important function served by these hearings. *See* Pa.R.J.C.P. 242(A) & (C); Pa.R.J.C.P. 1242(A), (C), & (E). There may be circumstances when some matters may be uncontested. However, any stipulations or agreements among the parties about these circumstances should be entered onto the record at the hearing, subject to acceptance by the court.

[Pa.B. Doc. No. 17-919. Filed for public inspection June 2, 2017, 9:00 a.m.]

**PART I. RULES**

**[ 237 PA. CODE CH. 13 ]**

**Order Amending Rules 1320 and 1321 of the Rules of Juvenile Court Procedure; No. 738 Supreme Court Rules Doc.**

**Amended Order**

*Per Curiam*

*And Now*, this 16th day of May, 2017, upon the recommendation of the Juvenile Court Procedural Rules Committee, the proposal having been published for public comment at 46 Pa.B. 3949 (July 23, 2016):

<sup>1</sup> The Committee's Final Report should not be confused with the official Committee Comments to the rules. Also note that the Supreme Court does not adopt the Committee's Comments or the contents of the Committee's explanatory Final Reports.

It is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rules 1320 and 1321 of the Pennsylvania Rules of Juvenile Court Procedure are amended in the following form.

This Order shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective on July 1, 2017.

#### Annex A

### TITLE 237. JUVENILE RULES

#### PART I. RULES

#### Subpart B. DEPENDENCY MATTERS

#### CHAPTER 13. PRE-ADJUDICATORY PROCEDURES

#### PART B. APPLICATION FOR PRIVATE PETITION

#### Rule 1320. Application to File a Private Petition.

A. *Application [ contents ] Contents.* Any person, other than the county agency, may present an application to file a private petition with the court. The application shall include the following information:

\* \* \* \* \*

8) the signature of the person and the date of the execution of the application for a petition.

**B. Notice to County Agency.** Upon receipt of an application, the court shall provide a copy of the application to the county agency. The county agency shall thereafter receive notice of the hearing.

#### Comment

[ Rule 1330 requires that the county agency file a petition. ] Any person, other than the county agency, [ is to ] shall first file an application to file a petition under this Rule. Rule 1800 suspends 42 Pa.C.S. § 6334[, which provides any person may file a petition ] to the extent it is inconsistent with this Rule.

See Rule 1321 for hearing on application [ and finding that a petition is to be filed by the county agent ].

**This rule is not intended to preclude the county agency from seeking to intervene and participate in the hearing on the application. See Rule 1133 (Motion to Intervene).**

**Official Note:** Rule 1320 adopted August 21, 2006, effective February 1, 2007. Amended May 12, 2008, effective immediately. **Amended May 16, 2017, effective July 1, 2017.**

#### Committee Explanatory Reports:

Final Report explaining the provisions of Rule 1320 published with the Court's Order at 36 Pa.B. 5599 (September 2, 2006).

Final Report explaining the amendments to Rule 1320 published with the Court's Order at 38 Pa.B. 2360 (May 24, 2008).

**Final Report explaining the amendments to Rule 1320 published with the Court's Order at 47 Pa.B. 3079 (June 3, 2017).**

#### Rule 1321. Hearing on Application for Private Petition.

A. *Hearing.* The court shall conduct a hearing within fourteen days of the presentation of the application for a petition to determine:

1) if there are sufficient facts alleged to support a petition of dependency; and

2) whether the person applying for the petition is a proper party to the proceedings.

#### B. Findings.

1) If the court finds sufficient facts to support a petition of dependency, **then the applicant may file a petition [ may be filed ]** pursuant to Rule 1330.

2) If the court finds the person making the application for a petition is a proper party to the proceedings, **then** the person shall be afforded all rights and privileges given to a party pursuant to law.

**C. Joinder.** Following grant of an application under this rule, the county agency shall be joined as a party in any further proceedings upon filing and service of a private petition pursuant to Rules 1330 and 1331.

#### Comment

Under paragraph (A), at a hearing, the court is to determine if: 1) there are sufficient facts alleged to support a petition of dependency; and 2) the applying person is a proper party to the proceedings. A petition of dependency may go forward whether or not the applying person is determined to be a party to the proceedings.

If a child is in custody, the hearing under paragraph (A) may be combined with the shelter care hearing pursuant to Rule 1242.

**Official Note:** Rule 1321 adopted August 21, 2006, effective February 1, 2007. **Amended May 16, 2017, effective July 1, 2017.**

#### Committee Explanatory Reports:

Final Report explaining the provisions of Rule 1321 published with the Court's Order at 36 Pa.B. 5571 (September 2, 2006).

**Final Report explaining the amendments to Rule 1321 published with the Court's Order at 47 Pa.B. 3079 (June 3, 2017).**

#### FINAL REPORT<sup>1</sup>

#### Amendment of Pa.R.J.C.P. 1320 and 1321

On May 16, 2017, the Supreme Court amended Rules of Juvenile Court Procedure 1320 and 1321 to clarify and revise the application procedures for the filing of a private dependency petition.

Pursuant to Rule 1320, any person other than a county agency may present an application to the court to file a private dependency petition with the court. If the court finds sufficient facts to support a petition, then a petition may be filed pursuant to Rule 1330.

A question arose about who files the petition after the court has approved an application: the county agency or the private party who filed the application? The rule was silent on this point. The Comment to Rule 1320 suggested that the county agency files the petition after the application has been approved while the title to the rule suggested that private petitions are permissible. Another matter considered was the manner in which the county agency is notified of the application and when the county agency should be joined as a party in the proceeding.

<sup>1</sup> The Committee's Final Report should not be confused with the official Committee Comments to the rules. Also note that the Supreme Court does not adopt the Committee's Comments or the contents of the Committee's explanatory Final Reports.

The Comment to Rule 1320 has been revised to clarify that a private party must first file an application before proceeding with a private petition. To ensure that the county agency has notice of the application, Rule 1320 has been amended to add paragraph (B) to require the court to provide the county agency with a copy of the application and notice of the Rule 1321 hearing on the application. The Comment to Rule 1320 was further revised to add language indicating that the county agency is not precluded from seeking to intervene after the filing of an application.

Rule 1321(B) has been amended to clarify that the applicant may proceed with the filing of a private petition if the court finds sufficient facts to support a petition for dependency. Notwithstanding the pursuit of an adjudication by a private party, the county agency will be joined as a party to the dependency proceeding pursuant to new paragraph (C) upon the filing and service of a private dependency petition.

[Pa.B. Doc. No. 17-920. Filed for public inspection June 2, 2017, 9:00 a.m.]

# Title 25—LOCAL COURT RULES

## DAUPHIN COUNTY

### Promulgation of Local Rules; No. 1793 S 1989

#### Order

And Now, this 15th day of May 2017, Dauphin County Local Rules 1920.43, 1920.51, 1920.51A, and 1920.74(a) are amended as follows:

#### Rule 1920.43. Pre-Hearing Divorce Matters, Special Relief, Advance Distribution, Discovery, Post-Divorce Issues (Other Than Exceptions To Master’s Report).

(a) [ Petitions for Special Relief and motions raising pre-trial and post-divorce issues other than Exceptions to Master’s Report in divorce cases may at the court’s discretion be assigned to the Divorce Master. ] The Court may assign Petitions for Special Relief and Motions raising pre-trial and post-divorce issues to the Divorce Master.

(b) Any Pre-Hearing or Post-Divorce Petition or Motion in a divorce matter shall comply with Dauphin County Local Rule 205.2(a)(3)(b) [ and shall include the following: ].

(1) [ A certification by the filing party that (s)he disclosed the full text of the Petition or Motion and

the Proposed Order to all parties by facsimile or electronic communication and that concurrence to both the Petition or Motion and Proposed Order has been given or denied by each party in accordance with Dauphin County Local Rule 208.2(d). ] The filing party shall certify that (s)he disclosed the full text of the Petition or Motion and Proposed Order to all parties by facsimile or electronic communication and whether each party concurs or opposes the Petition or Motion and Proposed Order in accordance with Dauphin County Local Rule 208.2(d).

(2) [ If concurrence to both the Petition or Motion and the Proposed Order is denied by any party or any party has not responded in a timely manner, the Petition or Motion shall be deemed to be contested and the moving party shall attach: ] If any party opposes the Petition or Motion and Proposed Order, or any party fails to respond in a timely manner, the Petition or Motion is contested and the moving party shall attach:

- (a) A Rule to Show Cause in accordance with Pa.R.C.P. 206.5;
- (b) A Proposed Order;
- (c) A Certificate of Service;
- (d) A Self-Represented Party Entry of Appearance if unrepresented by legal counsel.

(3) If all parties concur, the Petition or Motion [ shall be deemed to be ] is uncontested and the filing party shall attach the proposed agreed Order.

(c) If the Petition or Motion is [ deemed to be ] contested, [ a Rule to Show Cause shall be issued by ] a Family Court Judge shall issue a Rule to Show Cause.

[ (1) When a response to the Rule to Show Cause is filed, the Court may direct the Divorce Master to address the issues in dispute. In that event, the moving party shall file an original and a copy of a Motion for Appointment of Master with the Prothonotary together with the \$75.00 administrative fee in accordance with Dauphin County Rule 1920.51. ]

(d)(1) Either party shall file an original and one copy of the Request for Assignment form with the Prothonotary when a response to the Rule to Show Cause is filed or the time period for a response has expired. The Request for Assignment form shall be in the following form. This form is available at <http://www.dauphincounty.org/government/Court-Departments/Self-Help-Center/default.aspx>.

\_\_\_\_\_  
 Plaintiff  
 v.  
 \_\_\_\_\_  
 Defendant

IN THE COURT OF COMMON PLEAS  
 DAUPHIN COUNTY, PENNSYLVANIA  
 NO. \_\_\_\_\_ CV \_\_\_\_\_  
 CIVIL ACTION  
 IN DIVORCE



(ATTORNEY FOR MOVING PARTY) (SELF-REPRESENTED MOVING PARTY):

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_ FAX: \_\_\_\_\_ E-Mail: \_\_\_\_\_

(ATTORNEY FOR NON-MOVING PARTY) (SELF-REPRESENTED NON-MOVING PARTY):

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_ FAX: \_\_\_\_\_ E-Mail: \_\_\_\_\_

**REQUEST FOR ASSIGNMENT TO DIVORCE MASTER OR JUDGE**

Date Petition for Special Relief/Advance Distribution/Post-Divorce Relief was filed: \_\_\_\_\_

Date Rule to Show Cause was issued: \_\_\_\_\_

Date Response was filed: \_\_\_\_\_

The matter is ready for assignment to a Judge or Divorce Master.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

(2) The Court Administrator's Office shall assign the Petition and Response to a Family Law Judge for review. The Family Law Judge shall either schedule a hearing, enter an Interim Order and refer the matter to the Divorce Master, or refer the matter to the Divorce Master to address the issues in dispute.

(3) If the Family Law Judge refers the matter to the Divorce Master, the moving party shall file an original and one copy of a Motion for Appointment of Master with the Prothonotary together with the \$75.00 administrative fee in accordance with Dauphin County Local Rule 1920.51 plus any other filing fee required by the Prothonotary.

[ (2) ] (4) The Prothonotary shall promptly forward the Motion for Appointment of Master to the Court Administrator's Office. A Family Court Judge will appoint the Divorce Master to hear the [ Pre-Hearing ] pending matter.

[ (3) ] (5) The Divorce Master will schedule a [ Pre-Hearing ] Conference.

[ (4) If an agreement is reached at the Pre-Hearing Conference, the ] (6) The Divorce Master shall file a Memorandum memorializing the agreement reached at any Pre-Hearing Conference with the Prothonotary and shall forward the agreed Order to a Family Court Judge for review.

[ (5) If an agreement is not reached at the Pre-Hearing Conference, the ] (7) The Divorce Master shall schedule a hearing if an agreement is not reached at any Conference.

[ (6) Following the hearing, ] (8) The Divorce Master shall file [ with the Prothonotary ] a Report and Recommendation and Proposed Order [ regarding the Pre-Hearing matter ] with the Prothonotary within [ ten (10) days ] twenty (20) days in uncontested actions or thirty (30) days in contested actions from the date of the hearing[ . A copy of ] and mail a copy of the Report and Recommendation and Proposed Order [ shall be mailed ] to all counsel and/or self-represented parties.

(9) A party may file exceptions to the Report and Recommendation and Proposed Order in accordance with Pa.R.C.P. 1920.55-2(b).

[ (7) The ] (10) If no exceptions are filed, the Prothonotary shall promptly forward the Report and Recommendation and Proposed Order to the Court Administrator's Office for assignment to a Family Court Judge to issue an Order.

[ (8) Within ten (10) days from the date of the Court Order, for good cause shown, e.g. immediate irreparable harm or other extraordinary circumstances, a party may petition the Court to reconsider the Order.

(d) At any point after the Divorce Complaint has been filed, a party may request the appointment of the master to address discovery by filing an original and a copy of a Motion for Appointment of Master with the Prothonotary together with the \$75.00 administrative fee in accordance with Dauphin County Local Rule 1920.51. ]

(11) If exceptions are filed, the Prothonotary shall promptly forward the Exceptions to the Court Administrator's Office for assignment to a Family Court Judge for disposition.

(e) A party may file an original and one copy of a Motion For Appointment of Master with the Prothonotary together with the administrative fee of \$75.00 plus any other filing fee required by the Prothonotary to address discovery at any point after the filing of the Divorce Complaint.

**1920.51. Equitable Distribution, Divorce, Annulment, Alimony Pendente Lite, Alimony, Counsel Fees, Costs and Expenses.**

(1) The Divorce Master shall hear annulment, economic claims in Divorce including alimony pendente lite, alimony, equitable distribution, counsel fees, costs and expenses or any aspect thereof.

(2) Any party shall file [ An ] an original and a copy of the Motion for Appointment of Master [ shall be filed ] with the Prothonotary[ , together with the administrative fee ] if proceeding under Dauphin County Local Rule 1920.51. [ If a Motion for Appointment of Master is filed under Dauphin County Local Rule

**1920.43, an administrative fee of \$75.00. ]** If a [ **motion for Appointment of Master is filed under Dauphin County Local Rule 1920.51 and the ]** Master was previously appointed because of pretrial or discovery matters, the administrative fee of \$75.00 **plus any filing fee required by the Prothonotary** shall be paid to the Prothonotary. If a Master has not been previously appointed, an administrative fee of \$150.00 **plus any filing fee required by the Prothonotary** shall be paid to the Prothonotary. The Motion for Appointment of Master shall be in form prescribed by Dauphin County Local Rule 1920.74(a).

(3) The Motion shall include the following attachments:

(a) An updated Income and Expense Statement in the form required by Pa.R.C.P. 1910.27(c)(1).

(b) An updated Inventory and Appraisal in the form required by Pa.R.C.P. 1920.75.

(c) A proposed Order appointing the Master and scheduling a Preliminary Conference in the form prescribed by Dauphin County Local Rule 1920.74(b).

(d) A Certificate of Service.

(e) A Self-Represented Entry of Appearance if the filing party is unrepresented by legal counsel.

(4) The Prothonotary shall forward the Motion for Appointment of Master to the Court Administrator's Office. **[ The Court Administrator's Office ] A Family Court Judge shall appoint the Divorce Master and the Divorce Master** shall schedule a Preliminary Conference **[ with the Divorce Master ] with the parties and their legal counsel.**

(5) At the Preliminary Conference, the Divorce Master shall address all outstanding pre-trial matters with counsel and the parties.

(6) Following the Preliminary Conference, the Divorce Master shall schedule a **[ Pre-Hearing ]** Settlement Conference with **[ counsel and ]** the parties **and their legal counsel.**

(7) Following both the Preliminary Conference and the **[ Pre-Hearing ]** Settlement Conference, the Divorce Master shall prepare a Memorandum memorializing any agreements and schedule the matter for a hearing on all remaining contested issues.

(8) The Divorce Master shall file the Memorandum with the Prothonotary and mail a copy of the Memorandum **[ and Scheduling Order ]** to all legal counsel and **[ any ]** self-represented parties in accordance with Pa.R.C.P. 1920.51.

(9) The Court shall pay a stenographer's appearance fee **[ for ]** if a court reporter not employed by **Dauphin County transcribes** the hearing testimony; however the cost of any transcripts requested by the parties **[ or the Divorce Master ]** shall be borne by the parties.

(10) The Divorce Master shall file **[ with the Prothonotary ]** a Report and Recommendation and Proposed Order **with the Prothonotary** in accordance with the Pennsylvania Rules of Civil Procedure.

(11) A copy of the Report and Recommendation and Proposed Order shall be mailed to **[ all ]** counsel and self-represented parties with written notice of the right to file Exceptions.

(12) If the parties request a transcript, the Divorce Master may delay the filing of the Report and Recommendation and Proposed Order or file a Supplemental Report and Recommendation and Proposed Order in accordance with the Pennsylvania Rules of Civil Procedure.

**[ (13) Upon Motion, the Court may for good cause shown, extend the time for the Divorce Master to file the Report and Recommendation and Proposed Order. ]**

**[ (14) ] (13)** If no timely Exceptions are filed, the Prothonotary shall promptly forward the Report and Recommendation and Proposed Order to the Court Administrator's Office for assignment to a Family Court Judge. If a Family Court Judge has handled a contested family law case for that family, the matter will be assigned to that **[ judge ]** Judge.

**[ (15) ] (14)** An original and a copy of Exceptions to the Divorce Master's Report and Recommendation shall be filed with the Prothonotary's Office along with a Prior Court Involvement Statement in accordance with Dauphin County Local Rule 1931. This form is available at <http://www.dauphincounty.org/government/Court-Departments/Self-Help-Center/Pages/default.aspx>.

**[ (16) ] (15)** The Prothonotary shall forward the Exceptions to the Report and Recommendation to the Court Administrator's Office for **[ an ]** assignment to a Family Court Judge. If a Family Court Judge has handled a contested family law case for that family, the matter will be assigned to that Judge.

**[ (17) ] (16)** The Court shall promptly issue an Order scheduling a conference, the filing of briefs and/or oral argument.

1920.51A. Administrative **[ Filing ]** Fees for Divorce Matters.

**[ A Motion for Appointment of Master and a proposed order shall be in the form prescribed by Dauphin County Local Rule 1920.74(a) and (b) and shall be filed with the Prothonotary. Simultaneously with the filing of the Motion for Appointment of Master in accordance with Dauphin County Local Rule 1920.43, an administrative fee of \$75.00 shall be paid to the Prothonotary. If a Motion for Appointment of Master is filed under Dauphin County Local Rule 1920.51 and a Motion had previously been filed under Dauphin County Local Rule 1920.43, an additional administrative fee of \$75.00 shall be paid to the Prothonotary. If a Motion for Appointment of Master had not been previously filed, an administrative fee of \$150.00 shall be paid to the Prothonotary. If a Motion for Appointment of Master is filed for Post-Divorce issues, an administrative fee of \$150.00 shall be paid to the Prothonotary if this is the first time that a request for a divorce master has been made. If a Divorce Master had been previously appointed, the administrative fee is \$75.00. ]**

(1) **[ Upon the filing of the Complaint, the plaintiff shall pay to the Prothonotary, in addition to any other charges, an administrative fee in the amount of \$125.00. ]** DIVORCE COMPLAINT: The plaintiff shall pay a \$125.00 administrative fee plus any filing fees required by the Prothonotary at the time the divorce complaint is filed.

(2) MOTION FOR APPOINTMENT OF MASTER:

(a) The party filing the Motion for Appointment of Master shall pay a \$75.00 administrative fee plus any filing fees required by the Prothonotary if proceeding under Dauphin County Local Rule 1920.43.

(b) The filing party shall pay a \$150.00 administrative fee plus any filing fees required by the

Prothonotary if proceeding under Dauphin County Local Rule 1920.51 and a Master has not been previously appointed.

(c) The filing party shall pay a \$75.00 administrative fee plus any filing fees required by the Prothonotary if proceeding under Dauphin County Local Rule 1920.51 and a Master was previously appointed under Dauphin County Local Rule 1920.43.

1920.74(a). Form—Motion for Appointment of Master.

[ (CAPTION)

(ATTORNEY FOR MOVING PARTY) (SELF-REPRESENTED MOVING PARTY):

Name:

Address:

Phone:

FAX:

E-Mail:

(ATTORNEY FOR NON-MOVING PARTY) (SELF-REPRESENTED NON-MOVING PARTY):

Name:

Address:

Phone:

FAX:

E-Mail:

MOTION FOR APPOINTMENT OF MASTER

\_\_\_\_\_, PLAINTIFF/DEFENDANT, moves the court to appoint the master with respect to all claims raised of record and in support of the motion states:

1. The plaintiff's current mailing address is

\_\_\_\_\_  
\_\_\_\_\_

2. The defendant's current mailing address is

\_\_\_\_\_  
\_\_\_\_\_

3. The respondent (has) (has not) appeared in the action (personally) (by his/her attorney, Esquire).

4. The statutory ground(s) for divorce (is) (are):

5. Discovery (is) (is not) complete.

Submitted By:

Date: \_\_\_\_\_

\_\_\_\_\_ ]

Plaintiff

: IN THE COURT OF COMMON PLEAS  
: DAUPHIN COUNTY, PENNSYLVANIA

v.

: NO. \_\_\_\_\_ CV \_\_\_\_\_

Defendant

: CIVIL ACTION  
: IN DIVORCE

(ATTORNEY FOR MOVING PARTY) (SELF-REPRESENTED MOVING PARTY):

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_ FAX: \_\_\_\_\_ E-Mail: \_\_\_\_\_

(ATTORNEY FOR NON-MOVING PARTY) (SELF-REPRESENTED NON-MOVING PARTY):

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_ FAX: \_\_\_\_\_ E-Mail: \_\_\_\_\_

MOTION FOR APPOINTMENT OF MASTER

1. Check one of the following boxes:

I file this motion in accordance with Dauphin County Local Rule 1920.51. I request that all issues raised be decided by the Divorce Master. I paid the \$150.00 administrative fee plus any filing fees required by the Prothonotary. The Divorce Master was not previously appointed for pre-trial or discovery matters.

I file this motion in accordance with Dauphin County Local Rule 1920.51. I request that all remaining issues raised be decided by the Divorce Master. I paid the \$75.00 administrative fee plus any filing fees required by the Prothonotary. The Divorce Master was previously appointed for pre-trial or discovery matters.

I file this motion in accordance with Dauphin County Local Rule 1920.43 and request that discovery, special relief matters, or other pre-trial or post-divorce issues excluding Exceptions to Master's Report be decided by the Divorce Master. I paid the \$75.00 administrative fee plus any filing fees required by the Prothonotary.

2. \_\_\_\_\_, (circle one) PLAINTIFF/DEFENDANT, moves the Court to appoint a Divorce Master.

3. The plaintiff's current mailing address is

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

4. The defendant's current mailing address is

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

5. The respondent (circle one) (has) (has not) appeared in the action (circle one) (personally) (by his/her attorney) \_\_\_\_\_, Esquire

6. The statutory ground(s) for divorce (is) (are):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

7. Discovery (circle one) (is) (is not) complete.

8. I mailed a copy of this motion to all parties and/or their legal counsel at the addresses listed above on \_\_\_\_\_, 20\_\_\_\_.

Respectfully submitted:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

These amendments shall be effective thirty (30) days from date of publication.

By the Court

RICHARD A. LEWIS,  
President Judge

## LYCOMING COUNTY

## Amendments to the Rules of General Court Business; Doc. No. 17-00006

## Order

And Now, this 5th day of May 2017, it is hereby Ordered and Directed as follows:

1. Lycoming County Rules of General Court Business L4002, L4007 and L4008 are hereby promulgated.

2. The Prothonotary is directed to do the following:

a. File one (1) certified copy of this order with the Administrative Office of Pennsylvania Courts;

b. Forward two (2) certified copies of this order and a computer disk containing the text of the local rules to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*; and

c. Forward one (1) copy of this order to the chairperson of the Lycoming County Customs and Rules Committee.

3. The chairperson of the Lycoming County Custom and Rules Committee is directed to do the following:

a. Publish the revised rules on the Lycoming Law Association website at <http://www.lycolaw.org/rules/rules.html>; and

b. Compile the rule revisions within the complete set of local rules no later than 30 days following publication in the *Pennsylvania Bulletin*.

4. The new rules shall become effective 30 days after the publication of this order in the *Pennsylvania Bulletin*.

By the Court

NANCY L. BUTTS,  
President Judge

**L4002. Definitions.**

The Senior Court Reporter is a court reporter, selected for that position by the president judge. The senior court reporter is designated as the individual under Pa.R.J.A. Nos. 4001—4016 to assure compliance with the timely delivery of all transcripts and to perform such other tasks under said rules that are permitted to be performed by the designee of the president judge or the district court administrator, except for the receipt of transcript payments.

**L4007. Requests for Transcripts.**

(A) Requests for ordinary transcripts shall be filed with the Prothonotary/Clerk of Courts or Register and Recorder, as appropriate, by using the transcript request form required by Pa.R.J.A. No. 4007(A).

(B) *Procedure for a litigant obtaining a transcript.*

(1) Unless all of the costs have been waived under Lyc.Co.R.G.C.B. L4008(B), before filing a transcript request form, the litigant shall first submit the transcript request form to the senior court reporter via email (preferred), or fax (570-327-2288), or U.S. or courthouse mail (48 West Third Street, Williamsport, PA 17701).

(a) Within five (5) business days from the date the form is received, the senior court reporter will complete the applicable portions of section V (“For Court use only”) of the transcript request form and return the form to the

litigant thereby notifying the litigant of the estimated cost. Senior court reporter contact information is available at [www.lyco.org/Courts/Court-Reporters](http://www.lyco.org/Courts/Court-Reporters).

(b) The litigant ordering a transcript shall make a non-refundable deposit in the amount of 100% of the estimated cost of the transcript. The payment shall be made contemporaneously with the filing of the transcript request form, in the manner required by the office in which the form is filed.

(2) If a court order waiving all of the costs has been entered or a certification letter has been provided under Lyc.Co.R.G.C.B. L4008(B), the litigant need not submit the transcript request form to the senior court reporter. Instead, the litigant shall simply file the transcript request form with the appropriate filing office and attach the court order waiving the costs or the certification letter.

(3) Upon the filing of a transcript request form and the payment of any required deposit, the filing office shall notify the court reporter, who shall then prepare the transcript.

(4) If the actual costs are more than the deposit amount, the final balance shall be paid to the appropriate filing office within seven (7) calendar days from the date the requesting party is notified of the balance owed. If the actual costs are less than the deposit amount, the filing office shall issue a refund to the requesting party.

**L4008. Transcript Costs Payable by a Requesting Party Other Than the Commonwealth or a Subdivision Thereof/Waiver of Costs.**

(A) *Costs.* The costs for transcripts are established at the maximum rate allowed by Pa.R.J.A. No. 4008(A).

(B) *Petition to Waive All or a Portion of the Transcript Costs/Letter of Certification.*

(1) If a litigant seeks to waive all or a portion of the costs of a transcript, that request shall be in the form of a petition which shall be filed in the appropriate filing office. If the court waives all of the transcript costs, the litigant shall proceed in accordance with L4007(B)(2). If the court waives only a portion of the transcript costs or denies the petition, the litigant shall proceed in accordance with L4007(B)(1).

(2) Litigants who have been approved for representation by legal aid services are not required to prove economic hardship and shall be entitled to obtain ordinary transcripts at no cost. In lieu of a petition to waive the transcript costs, legal aid services may provide a letter of certification verifying that the client meets financial eligibility for legal aid services and that the matter is under appeal or that the transcript being requested is necessary to advance the litigation. If a certification letter is provided, the litigant shall proceed in accordance with L4007(B)(2).

(C) *Additional Costs.* A trial judge may impose a reasonable surcharge in cases such as mass tort, medical malpractice or other unusually complex litigation, where there is a need for court reporters to significantly expand their dictionary. Such surcharges are at the discretion of the trial judge.

[Pa.B. Doc. No. 17-922. Filed for public inspection June 2, 2017, 9:00 a.m.]

**TIOGA COUNTY**

**Judicial Administration Local Rule 4001 Et. Seq.;**  
**113 MS 17**

*And Now*, this 16th day of December, 2016, the Court hereby adopts the Uniform Rules Governing Reporting and Transcripts (Rule 4001 et seq.).

The President Judge and the District Court Administrator appoint the Chief Court Monitor as designee for purposes of the administration of this local rule.

This rule shall not interfere with or otherwise limit the income of the court monitors. Court monitors shall continue to be properly compensated for their professional services as related to the preparing of transcripts.

**I. PROCEDURES**

**A. Format:**

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

**B. Requests for Transcripts**

i. For an ordinary transcript, the party requesting the full or partial transcript of a trial or other proceeding shall file the original request with the appropriate filing office of the Court (Clerk of Courts/Prothonotary, or Orphans' Court).

**C. Service**

i. The requesting party shall service copies of the formal request to:

1. The Presiding Judge
2. The court monitor(s) assigned to the proceeding
3. The Chief Court Monitor
4. Opposing counsel or party, if party is unrepresented

**D. Filing:**

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

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

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

**E. Private Litigant Requests**

i. When a private litigant request a transcript, the litigant ordering the transcript shall make payment in the amount of 75% of the estimated total cost of the transcript.

**F. Payment of Costs**

i. Deposit checks are to be made payable to the Court of Common Pleas of Tioga County and shall be delivered to the Chief Court Monitor.

**G. Preparation of Transcripts**

i. Upon receipt of the 75% deposit, the court monitor(s) assigned to the proceeding shall be directed by the Chief Court Monitor to prepare the transcript.

**H. Notice of Completion**

i. The court monitor(s) shall notify the ordering party and the Chief Court Monitor of the completion of the

transcript and shall deliver a copy of the transcript to the Judge presiding over the matter.

**I. Payment for Balance:**

i. Checks for the final balance are to be made payable to the Court of Common Pleas of Tioga County and shall be delivered to the Chief Court Monitor.

**J. Requirement of Signature of Presiding Judge:**

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

**K. Request for Litigant (Economic Hardship)**

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

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

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

**II. RATES**

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

**A. Costs Payable:**

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

- i. For an ordinary transcript, \$2.50 per page
- ii. For an expedited transcript, \$3.50 per page
- iii. For a daily transcript, \$4.50 per page
- iv. For a same-day delivery, \$6.50 per page
- v. For a realtime feed—not available
- vi. For a complex litigation—not available
- vii. For rough drafts, \$1.00 per page

**B. Bound Paper Format**

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

**C. Economic Hardship**

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

ii. Transcript costs for ordinary transcripts in matters under appeal, or where the transcript is necessary to advance the litigation, shall be reduced by one-half for a

litigant whose income is less than 200% of the poverty line as defined by the HHS poverty guidelines for the current year.

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

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

v. A hearing shall be conducted to determine if economic hardship has been demonstrated.

vi. Litigants who have been approved for representation by Legal Aid Services are not required to prove economic hardship. Litigants represented by Legal Aid Services must provide the Court with a letter from their Legal Aid attorney stating that the matter is under appeal or that the transcript being requested is necessary to advance the current litigation

*D. Assignment and Allocation of Transcript Costs:*

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

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

*E. Copies of Transcripts:*

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

- i. \$0.75 per page bound, paper format; and,
- ii. \$0.50 per page for an electronic copy.

All copies of transcripts shall be requested from and provided by the court monitor(s). Filing offices must direct requests for copies of transcripts to the court monitor(s).

*By the Court*

GEORGE W. WHEELER,  
*President Judge*

[Pa.B. Doc. No. 17-923. Filed for public inspection June 2, 2017, 9:00 a.m.]

**TIOGA COUNTY**

**Judicial Administration Local Rule 4001 Et. Seq.;  
No. 113 MS 17**

**Order**

*And Now*, this 16th day of May, 2017, the Court hereby Amends and adopts the following Uniform Rules Governing Reporting and Transcripts (Rule 4001 et seq.) for use in the Court of Common Pleas of the 4th Judicial District, Tioga County, Pennsylvania.

*By the Court*

GEORGE W. WHEELER,  
*President Judge*

**L.R. No. 4001 et seq. Amended.**

The President Judge and the District Court Administrator appoint the Court Monitor as designee for purposes of the administration of this local rule.

This rule shall not interfere with or otherwise limit the income of the court monitors. Court monitors shall continue to be properly compensated for their professional services as related to the preparing of transcripts.

**I. PROCEDURES**

*A. Format:*

i. Requests for transcripts shall be set forth on a standardized form provided by the District Court Administrator. This form shall be available on the Tioga County website at: [www.tiogacountypa.us](http://www.tiogacountypa.us) or in the Court Administration Office.

*B. Requests for Transcripts*

i. For an ordinary transcript, the party requesting the full or partial transcript of a trial or other proceeding shall file the original request with the appropriate filing office of the Court (Clerk of Courts/Prothonotary, or Orphans' Court).

*C. Service*

i. The requesting party shall service copies of the formal request to:

1. The Presiding Judge
2. The court monitor(s) assigned to the proceeding
3. District Court Administrator
4. Opposing counsel or party, if party is unrepresented

*D. Filing:*

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

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

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

*E. Private Litigant Requests*

i. When a private litigant request a transcript, the litigant ordering the transcript shall make payment in the amount of 75% of the estimated total cost of the transcript.

*F. Payment of Costs*

i. Deposit checks are to be made payable to the Tioga County Treasurer and shall be delivered to the Court Monitor or Court Administrator.

*G. Preparation of Transcripts*

i. Upon receipt of the 75% deposit, the court monitor(s) assigned to the proceeding shall prepare the transcript.

*H. Notice of Completion*

i. The court monitor(s) shall notify the ordering party and of the completion of the transcript and shall deliver a copy of the transcript. Upon final payment of any balance due for said transcript, the Court Monitor shall obtain the signature of the Presiding Judge on the original transcript and file the original transcript in the appropriate filing office.

ii. When a transcript is requested for which the Court or County is responsible for the cost(s), the Court Monitor shall prepare the transcript without the necessity of a deposit.

iii. Checks for the final balance are to be made payable to the Tioga County Treasurer and shall be delivered to the Court Monitor or Court Administrator.

#### I. Request for Litigant (Economic Hardship)

i. When a litigant requests a transcript, but cannot pay for the transcript because of alleged economic hardship, the Court shall determine economic hardship based upon application of the litigant to waive or reduce the cost(s) pursuant to the PA Rules of Criminal Procedure 240. Such application shall be filed in the appropriate filing office with the request for the transcript.

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

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

iv. Litigants represented by legal aid services are not required to prove economic hardship. Legal aid services must verify on the Transcript Request Form that the matter is under appeal or that the transcript being requested is necessary to advance current litigation.

### II. RATES

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

#### A. Costs Payable:

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

- i. For an ordinary transcript, \$2.50 per page
- ii. For an expedited transcript, \$3.50 per page
- iii. For a daily transcript, \$4.50 per page
- iv. For a same-day delivery, \$6.50 per page
- v. For a real-time feed—not available
- vi. For a complex litigation—not available
- vii. For rough drafts, \$1.00 per page

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

- I. For an ordinary transcript, \$2.50 per page
- II. For an expedited transcript, \$3.50 per page
- III. For a daily transcript, \$4.50 per page
- IV. For a same-day delivery, \$6.50 per page
- V. For a real-time feed—not available
- VI. For a complex litigation—not available
- VII. For rough drafts, \$1.00 per page

#### B. Bound Paper Format

When a transcript is prepared in a bound paper format, the costs shall be in accordance with Section II(A) supra relating to electronic format plus a surcharge of \$0.25 per

page, which will be paid to the County. Bound paper format copies shall not be delivered in condensed form.

#### C. Economic Hardship

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

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

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

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

v. A hearing shall be conducted to determine if economic hardship has been demonstrated.

vi. Litigants who have been approved for representation by Legal Aid Services are not required to prove economic hardship. Litigants represented by Legal Aid Services must provide the Court with a letter from their Legal Aid attorney stating that the matter is under appeal or that the transcript being requested is necessary to advance the current litigation

#### D. Assignment and Allocation of Transcript Costs:

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

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

#### E. Copies of Transcripts:

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

- i. \$0.75 per page bound, paper format; and,
- ii. \$0.50 per page for an electronic copy.

All copies of transcripts shall be requested from and provided by the court monitor(s). Filing offices must direct requests for copies of transcripts to the court monitor(s).

[Pa.B. Doc. No. 17-924. Filed for public inspection June 2, 2017, 9:00 a.m.]



# DISCIPLINARY BOARD OF THE SUPREME COURT

## Notice of Disbarment

Notice is hereby given that Harris Craig Legome (# 63113), having been disbarred from the practice of law in the state of New Jersey, the Supreme Court of Pennsylvania issued an Order on May 19, 2017, disbarring Harris Craig Legome from the Bar of this Commonwealth, effective June 18, 2017. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside of the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

MARCEE D. SLOAN,  
*Prothonotary*  
*The Disciplinary Board of the*  
*Supreme Court of Pennsylvania*

[Pa.B. Doc. No. 17-925. Filed for public inspection June 2, 2017, 9:00 a.m.]

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# RULES AND REGULATIONS

## Title 22—EDUCATION

### STATE BOARD OF EDUCATION

#### [ 22 PA. CODE CH. 11 ]

#### Nonimmunized Children

The State Board of Education (Board) amends Chapter 11 (relating to student attendance) to read as set forth in Annex A. Notice of proposed rulemaking was published at 46 Pa.B. 1806 (April 9, 2016).

#### *Statutory Authority*

The Board acts under the authority of sections 2603-B and 2604-B of the Public School Code of 1949 (24 P.S. §§ 26-2603-B and 26-2604-B).

#### *Purpose*

Section 11.20 (relating to nonimmunized children) is amended for clarity and for consistency with a final-form rulemaking of the Department of Health (Department) amending 28 Pa. Code Chapter 23, Subchapter C (relating to immunization).

#### *Background*

Currently, a child in this Commonwealth may not be admitted or permitted to attend school unless the child has met the immunization requirements established by the Department, which also provide for medical or religious exemptions from immunizations. On October 20, 2016, the Independent Regulatory Review Commission (IRRC) approved the Department's final-form rulemaking that amended the immunization requirements in 28 Pa. Code Chapter 23, Subchapter C. Section 11.20(a) contains related provisions that address the attendance of nonimmunized children. In early 2016, the Board undertook an effort parallel to that of the Department to amend the Board's regulations for consistency with amendments by the Department to the immunization requirements in 28 Pa. Code Chapter 23, Subchapter C.

Following an informational briefing from the Department on January 13, 2016, and a public hearing convened by the Board on March 9, 2016, the Board's proposed rulemaking was published at 46 Pa.B. 1806, with a 30-day public comment period. In preparing this final-form rulemaking, the Board reviewed and considered the public comments received and the Department's final-form rulemaking amending 28 Pa. Code Chapter 23, Subchapter C published at 47 Pa.B. 1300 (March 4, 2017). This final-form rulemaking was adopted at the Board's public meeting on January 12, 2017.

#### *Public Comments on Proposed Rulemaking*

Public comments on the proposed rulemaking largely were duplicative of the public comments submitted on the companion proposed rulemaking of the Department published at 46 Pa.B. 1798 (April 9, 2016), and, in most instances, reflected comments submitted to the Board and the Department. Those comments substantively fell within the purview of the Department's rulemaking and expertise, and those comments were addressed and responded to by the Department in the preamble of the final-form rulemaking published at 47 Pa.B. 1300.

The Board notes that a small number of comments involved issues that potentially questioned the Board's authority to promulgate this final-form rulemaking. In

particular, one commentator stated that "[t]he Department of Education is to Educate. (Period)." The Board disagrees. Instead, the Board's authority, through its Council of Basic Education, includes the formulation of policy proposals "in all educational areas," relating to Basic Education, specifically including "admission, attendance, graduation and other separation requirements." This final-form rulemaking specifically implements admission and attendance requirements, and therefore is expressly within the Board's purview.

Further, some commentators questioned the administrative burden that they believed would arise from the addition of a 12th grade meningococcal conjugate vaccine. The Board reviewed the Department's response to the concerns, and agrees with the Department that the burden would be outweighed by the prevention of meningitis, which has a fatality rate of approximately 10%.

Some commentators raised questions about medical privacy. One commentator asked how the Department and the Department of Education will protect medical privacy and ensure that children do not suffer the loss of privacy with the requirement of electronic reporting. With respect to the commentators' concerns about immunization record confidentiality within school districts, requirements regarding confidentiality in an educational setting are addressed by another law. Specifically, section 444 of the Family Educational Rights and Privacy Act of 1974 (FERPA) (20 U.S.C.A. § 1232g) protects a student's privacy. Issues regarding whether a school district has complied with FERPA would be best addressed by the Family Policy Compliance Office within the United States Department of Education. Finally, with respect to comments regarding the transmission of immunization data, the regulations do not request or require that school districts share individually identifiable immunization information with the Board or with the Department of Education.

Some commentators argued that the regulation should require school districts to use "standardized language" in communications regarding vaccine requirements. The Board disagrees. Instead, local school districts are in the best position to determine how best to communicate the requirements in this final-form rulemaking to parents in their districts.

The Board notes comments submitted by the Pennsylvania State Education Association (PSEA). PSEA commented in support of most provisions of this final-form rulemaking. Notably, PSEA expressed concern that the effective date of the proposed rulemaking did not provide school districts with sufficient opportunity to prepare for its implementation. In response, the Department and the Board amended the effective dates of the final-form rulemakings and they are effective for the 2017-2018 school year.

An introductory cover letter to the public comments submitted by the Pennsylvania Association of School Administrators requested that the Board provide clarification on the responsibilities of public school entities, if any, related to whether school entities are required to convene an individualized education program (IEP) team to approve a change in placement for IEP students who are excluded for more than 10 days and whether school entities have an obligation to provide continuing education services to special education students who are excluded from school because they are not fully immunized.

To provide clarification to school entities on these issues, the Department of Education will issue guidance to the field on requirements regarding continuing education and the convening of IEP teams to approve a change in placement as they pertain to the exclusion of students who are not fully immunized.

The Board also received comments from IRRC that raised a procedural concern about the promulgation of the Board's proposed rulemaking simultaneous with the proposed rulemaking of the Department. IRRC expressed concern regarding clarity and implementation of this final-form rulemaking as the proposed rulemaking included a reference to "temporary waivers" that were proposed, but not yet finalized, in the Department's rulemaking amending 28 Pa. Code Chapter 23, Subchapter C. IRRC stated that the Board's final-form rulemaking should not be submitted for review until after the Department's final-form rulemaking was published in the *Pennsylvania Bulletin* and temporary waivers are established in regulation. The Board heeded the comments received from IRRC and transmitted this final-form rulemaking for review after IRRC's approval of the Department's final-form rulemaking.

#### *Provisions of this Final-Form Rulemaking*

This final-form rulemaking makes clarifying amendments to § 11.20(a). The amendments delete language that is duplicative to requirements established by the Department in 28 Pa. Code § 23.84 (relating to exemption from immunization) and maintain the requirement for students to comply with the immunization regulations established by the Department to be admitted or permitted to attend school. Further, the amendments allow a student who is unable to provide documentation of full immunization to attend a public, private, nonpublic, special education or vocational school under certain circumstances when the Secretary of Health issues a temporary waiver of the immunization requirements. The reference to a temporary waiver is added for consistency with new provisions in 28 Pa. Code Chapter 23, Subchapter C that allow the Secretary of Health to issue a temporary waiver to immunization requirements in the event of a Nationwide vaccine shortage or in the event of a disaster.

Former § 11.20(b) is deleted to eliminate duplication with requirements established by the Department in 28 Pa. Code Chapter 23, Subchapter C, which is cross-referenced in § 11.20(a). Former § 11.20(c) is renumbered as § 11.20(b) in this final-form rulemaking.

#### *Affected Parties*

This final-form rulemaking will affect public, private, parochial and nonpublic schools, including vocational schools, intermediate units, and special education and home education programs, cyber and charter schools, and their employees. This final-form rulemaking also will affect citizens of this Commonwealth with school-aged children and their children.

#### *Cost and Paperwork Estimates*

This final-form rulemaking makes amendments for clarity and for consistency with recently-approved amendments to 28 Pa. Code Chapter 23, Subchapter C. The Board's regulations in and of themselves do not establish new requirements that carry an additional cost or create new paperwork requirements for the regulated community.

#### *Effective Date*

This final-form rulemaking will be effective on August 1, 2017. This will allow parents, guardians and schools time to become familiar with the requirements, prepare for their implementation and obtain the required vaccinations prior to the start of the 2017-2018 school year.

#### *Sunset Date*

The Board will review the effectiveness of § 11.20 every 4 years in accordance with the Board's policy and practice respecting its regulations. Therefore, a sunset date is not necessary.

#### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on March 29, 2016, the Board submitted a copy of the notice of proposed rulemaking, published at 46 Pa.B. 1806, to IRRC and the Chairpersons of the House and Senate Committees on Education for review and comment. As a courtesy, at the same time the Board also delivered a copy of the notice of proposed rulemaking to the House Health and Human Services Committee and the Senate Public Health and Welfare Committee.

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

Under section 5.1(j.2) of the Regulatory Review Act (71 P.S. § 745.5a(j.2)), on April 19, 2017, this final-form rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on April 20, 2017, and approved this final-form rulemaking.

#### *Contact Person*

For information about this final-form rulemaking, contact Karen Molchanow, Executive Director, State Board of Education, 333 Market Street, Harrisburg, PA 17126-0333, (717) 787-3787.

#### *Findings*

The Board finds that:

(1) Public notice of the intention to adopt this final-form rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201 and 1202), and the regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2.

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

(3) This final-form rulemaking is necessary and appropriate for the administration of the Public School Code of 1949 (24 P.S. §§ 1-101—27-2702).

#### *Order*

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

(a) The regulations of the Board, 22 Pa. Code Chapter 11, are amended by amending § 11.20 to read as set forth in Annex A.

(b) The Chairperson of the Board will submit this order and Annex A to the Office of General Counsel and the Office of Attorney General for review and approval as to legality and form as required by law.

(c) The Chairperson of the Board shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(d) This order shall take effect August 1, 2017.

KAREN MOLCHANOW,  
*Executive Director*

*(Editor's Note: See 47 Pa.B. 2684 (May 6, 2017) for IRRC's approval order.)*

**Fiscal Note:** Fiscal Note 6-336 remains valid for the final adoption of the subject regulation.

**Annex A**

**TITLE 22. EDUCATION**

**PART I. STATE BOARD OF EDUCATION**

**Subpart A. MISCELLANEOUS PROVISIONS**

**CHAPTER 11. STUDENT ATTENDANCE**

**ADMISSION TO PUBLIC SCHOOLS**

**§ 11.20. Nonimmunized children.**

(a) A child may not be admitted to or permitted to attend a public, private, nonpublic, special education or vocational school unless the immunization, exemption, temporary waiver or provisional admission requirements of the Department of Health in 28 Pa. Code Chapter 23, Subchapter C (relating to immunization) have been met.

(b) A child who has been admitted to school or permitted attendance in violation of this section may not be counted toward receipt of Commonwealth reimbursement for the period of the admission or attendance.

[Pa.B. Doc. No. 17-926. Filed for public inspection June 2, 2017, 9:00 a.m.]

**DEPARTMENT OF EDUCATION**

**[ 22 PA. CODE CH. 741 ]**

**Postsecondary Distance Education Reciprocity**

The Department of Education (Department) adds Chapter 741 (relating to State authorization reciprocity) to set fees for institutions of higher education seeking to participate in the State Authorization Reciprocity Agreement (SARA) to support the Department's costs in implementing and administering SARA. The Department is publishing this final-omitted rulemaking under the authority granted by section 124(b) of the Public School Code of 1949 (School Code) (24 P.S. § 1-124(b)), as added by the act of June 1, 2016 (P.L. 252, No. 35).

*Description*

Chapter 741 sets fees for the administrative costs of implementing the mandate in section 124 of the School Code to join SARA.

*Reason*

At present, institutions of higher education in this Commonwealth that seek to offer distance education to students residing in other states apply for approval in those states and pay registration fees to each state. To address this issue, the four interstate education compacts have banded together to organize SARA as a way to provide for reciprocity among member states and their participating institutions. Section 124 of the School Code provides for Pennsylvania affiliation with one of the regional compacts and membership in SARA and estab-

lishes the Department as the agency responsible for implementation. Implementation requires the Commonwealth to pay an annual fee of \$50,000 to affiliate with a regional compact. In addition, the Department estimates a need for \$227,600 in additional staffing and administrative costs for implementation of the program with those institutions of higher education in this Commonwealth that are interested in joining SARA. The administrative responsibilities for SARA will exceed the Department's current staffing capacity.

Section 741.1 (relating to definitions) defines terms used in Chapter 741.

Section 741.11 (relating to State membership in a regional compact) sets forth that the Commonwealth has affiliated with the Southern Regional Education Board for the purposes of membership in SARA as authorized by section 124 of the School Code and to allow interested institutions in this Commonwealth to offer distance education in other SARA states without paying fees to each state. States can only join SARA through membership or affiliation with a regional compact and the Commonwealth was one of four states that was not a member of a regional compact.

Section 741.12 (relating to State membership in SARA) provides that the Department will be the portal agency for membership in SARA. Membership requires the identification of a single portal agency in each state. This section also provides for the Department's hiring of staff necessary to implement SARA and that the costs of staff and SARA membership will be covered by fees paid by postsecondary institutions rather than general fund resources. Postsecondary institutions are the prime beneficiary of membership in SARA and they will see a significant cost-savings through participation, notwithstanding the fees imposed under Chapter 741.

Section 741.13 (relating to institutional participation in SARA) requires institutions seeking to participate in SARA to submit an annual application to the Department on a form provided by the Department along with the required fees. Institutions whose submitted fee does not match distance education data in the Federal Integrated Postsecondary Education Data System database will be required to defend their calculation. This section further provides that applications will not be processed until the fees are received by the Department. Finally, this section establishes that the fees that are paid to the Department do not cover other institutional financial obligations related to SARA participation. Institutions are required to pay an annual fee of \$2,000 to \$6,000 directly to the National SARA organization for participation. It is not possible for the Department to pay this fee on behalf of institutions because an electronic payment system is employed for this payment.

Section 741.21 (relating to fee for postsecondary institutions in this Commonwealth to participate in SARA) provides that the fee paid to the Department is calculated based on tuition revenue from distance education in the most recently completed calendar year. Calendar year is used for consistency because different institutions follow different calendars for the academic year and the fiscal year. The fee is calculated based on tuition revenue rather than enrollment so that institutions with the highest tuition rates pay a fair share of the cost of supporting the Commonwealth's membership in SARA. Moreover, using tuition revenue in the calculation shares the cost equitably between public and private institutions in that the community colleges and State-system universities have the lowest tuition rates. In addition, some

small institutions are very active in distance education and will experience very significant savings from membership. Likewise, some large institutions offer very little by distance education and would experience a minimal benefit. By calculating the fee based on distance education revenue only, the costs of membership will be distributed equitably based on the benefit to the institution.

Section 741.22 (relating to fees nonrefundable) establishes that fees will not be refunded if the application is denied or if the institution withdraws the application. This is to protect against the provision of review services without compensation because the Department will incur all costs associated with processing the application within a few days of receipt. Likewise, this section provides that fees will not be refunded if the institution is suspended from participation or if the institution voluntarily withdraws from participation, since the Department's costs will likely have been incurred.

Section 741.23 (relating to institutional renewal to participate in SARA) clarifies that participation in SARA is valid for 1 calendar year, consistent with SARA requirements, and that the application process for the renewal follows the same process as the initial application, using a form provided by the National SARA organization with an addendum specific to Pennsylvania.

#### *Persons or Entities Affected*

This final-omitted rulemaking affects institutions of higher education in this Commonwealth that provide or seek to provide distance education to students in other states.

#### *Fiscal Impact*

There is no fiscal impact on the General Fund from the fees. There is a fiscal impact upon institutions of higher education in this Commonwealth that choose to participate in SARA. However, the fees represent a small fraction of the costs that these institutions currently bear to obtain state authorization to offer distance education in other states.

#### *Paperwork Requirements*

This final-omitted rulemaking will impose additional paperwork responsibilities on the Department and the regulated community because application materials will be developed by the Department and those materials will have to be completed and filed by interested institutions of higher education.

#### *Effective and Sunset Dates*

This final-omitted rulemaking will be effective upon publication in the *Pennsylvania Bulletin*. This final-omitted rulemaking will expire June 30, 2018, and will be replaced by regulations promulgated in accordance with the Regulatory Review Act (71 P.S. §§ 745.1—745.14).

#### *Regulatory Review*

Under section 5.1(c) of the Regulatory Review Act (71 P.S. § 745.5a(c)), on March 27, 2017, the Department submitted a copy of the final-omitted rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Committees on Education. On the same date, the regulations were submitted to the Office of Attorney General for review and approval under the Commonwealth Attorneys Act (71 P.S. §§ 732-101—732-506).

Under section 5.1(j.2) of the Regulatory Review Act, on May 17, 2017, the final-omitted rulemaking was deemed

approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on May 18, 2017, and approved the final-omitted rulemaking.

#### *Contact Person*

The Department contact person for this final-omitted rulemaking is Patricia Landis, Division Chief, Division of Higher and Career Education, 333 Market Street, Harrisburg, PA 17126-0333, (717) 783-8228.

#### *Findings*

The Department finds that:

(1) Public notice of the Department's intention to amend its regulations has been omitted under section 124(b) of the School Code, which allows the Department to promulgate a final-omitted rulemaking.

(2) The amendment of the Department's regulations in the manner provided in this order is necessary and appropriate for the administration of the School Code.

#### *Order*

The Department, acting under its authorizing statute, orders that:

(a) The regulations of the Department, 22 Pa. Code, are amended by adding §§ 741.1, 741.11—741.13 and 741.21—741.23 to read as set forth in Annex A.

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

(c) The Department shall submit this order and Annex A to IRRC and the House and Senate Committees as required by law.

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

(e) This order shall take effect upon publication and expire on June 30, 2018.

PEDRO A. RIVERA,  
*Secretary*

*(Editor's Note: See 47 Pa.B. 3157 (June 3, 2017) for IRRC's approval order.)*

**Fiscal Note:** 6-337. No fiscal impact; (8) recommends adoption.

### **Annex A**

#### **TITLE 22. EDUCATION**

#### **PART XXIII. RECIPROCITY FOR DISTANCE EDUCATION**

#### **Chap. 741. STATE AUTHORIZATION RECIPROCITY**

#### **CHAPTER 741. STATE AUTHORIZATION RECIPROCITY**

#### **DEFINITIONS**

741.1. Definitions.

#### **SARA MEMBERSHIP**

741.11. State membership in a regional compact.

741.12. State membership in SARA.

741.13. Institutional participation in SARA.

#### **FEEES**

741.21. Fee for postsecondary institutions in this Commonwealth to participate in SARA.

741.22. Fees nonrefundable.

741.23. Institutional renewal to participate in SARA.

**DEFINITIONS**

**§ 741.1. Definitions.**

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

*Calendar year*—January 1—December 31.

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

*Distance education*—

(i) Instruction offered by any means when the student and faculty member are in separate physical locations so that face-to-face communication is absent and communication is accomplished by one or more technological media. It includes real-time or delayed interaction using voice, video, data and/or text, including instruction provided online, by correspondence or by interactive video.

(ii) Instruction provided by synchronous video from an institution in this Commonwealth to additional campus sites of the same institution in this Commonwealth is not considered distance education.

(iii) Distance education is instructor-led and is not independent study.

*Portal agency*—The single entity designated to serve as the interstate point of contact for SARA questions, complaints and other communications.

*Postsecondary institution*—An institution legally authorized to award degrees at the associate level or above.

*Regional compact*—A nonprofit organization with member states dedicated to advancing education in a region. The four regional compacts are the Midwestern Higher Education Compact, the New England Board of Higher Education, the Southern Regional Education Board and the Western Interstate Commission for Higher Education.

*SARA—State Authorization Reciprocity Agreement*—A voluntary agreement adopted by the regional compacts to establish National standards for interstate delivery of postsecondary education through distance education.

*Tuition*—

(i) Moneys charged by the institution for instruction.

(ii) The term does not include moneys charged as fees, such as technology fees, student services fees or activities fees if those fees are noted on the invoice and in publications as fees that are separated from tuition.

**SARA MEMBERSHIP**

**§ 741.11. State membership in a regional compact.**

The Department, consistent with section 124(b) of the Public School Code of 1949 (24 P.S. § 1-124(b)), has affiliated with the Southern Regional Education Board for the sole purpose of being able to participate in SARA and facilitate interested postsecondary institutions in this Commonwealth offering distance education to students in other SARA member states.

**§ 741.12. State membership in SARA.**

(a) The Department will be the SARA portal agency for the Commonwealth and will employ staff as necessary to provide the services required to implement SARA.

(b) The Department's staffing and other costs related to SARA membership and responsibilities will be covered by fees paid by postsecondary institutions in accordance with §§ 741.21 and 741.22 (relating to fee for postsecondary

institutions in this Commonwealth to participate in SARA; and fees nonrefundable).

**§ 741.13. Institutional participation in SARA.**

(a) Postsecondary institutions will apply annually to the Department for authorization to participate in SARA in a manner and on forms as prescribed by the Department. If the fee submitted with the application does not correspond to the distance education enrollment data in the Federal Integrated Postsecondary Education Data System database for the most recent reporting year, the institution will be required to provide evidence to support the calculation of the fee amount.

(b) The required fees in §§ 741.21 and 741.22 (relating to fee for postsecondary institutions in this Commonwealth to participate in SARA; and fees nonrefundable) must accompany the application. The Department will not process an application until the fees are received.

(c) The fees established by this chapter cover the administrative costs of the Department and do not cover other fees due to other organizations.

**FEEES**

**§ 741.21. Fee for postsecondary institutions in this Commonwealth to participate in SARA.**

Postsecondary institutions in this Commonwealth shall pay a fee to the Department based on tuition revenue from distance education in the most recently completed calendar year for the initial application fee and for each annual renewal to the Department to participate in SARA.

<i>Distance Tuition Revenue</i>	<i>Fee</i>
\$0—9,999	\$1,000
\$10,000—999,999	\$2,000
\$1,000,000—4,999,999	\$5,000
\$5,000,000—9,999,999	\$10,000
\$10,000,000—19,999,999	\$20,000
\$20,000,000—29,999,999	\$30,000
\$30,000,000—39,999,999	\$40,000
\$40,000,000—49,999,999	\$50,000
\$50,000,000 and over	\$60,000

**§ 741.22. Fees nonrefundable.**

(a) The fee submitted with an application is not refundable if the registration or participation is denied or if the postsecondary institution withdraws its application.

(b) No portion of the fee will be refunded upon suspension or revocation of participation or optional termination of participation.

**§ 741.23. Institutional renewal to participate in SARA.**

(a) Approval for participation in SARA is valid for 1 calendar year.

(b) An application for renewal of participation is required annually in accordance with § 741.13 (relating to institutional participation in SARA).

[Pa.B. Doc. No. 17-927. Filed for public inspection June 2, 2017, 9:00 a.m.]

# Title 28—HEALTH AND SAFETY

## DEPARTMENT OF HEALTH [ 28 PA. CODE CH. 1181 ]

### Physicians and Practitioners; Temporary Regulations

The Department of Health (Department) is publishing temporary regulations in Chapter 1181 (relating to physicians and practitioners) to read as set forth in Annex A. The temporary regulations are published under the Medical Marijuana Act (act) (35 P.S. §§ 10231.101—10231.2110). Section 1107 of the act (35 P.S. § 10231.1107) specifically provides that, to facilitate the prompt implementation of the act, the Department may promulgate temporary regulations that are not subject to sections 201—205 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201—1205), known as the Commonwealth Documents Law, the Regulatory Review Act (71 P.S. §§ 745.1—745.14) and sections 204(b) and 301(10) of the Commonwealth Attorneys Act (71 P.S. §§ 732-204(b) and 732-301(10)).

To implement the Medical Marijuana Program, the Department will be periodically publishing temporary regulations regarding various sections of the act. The temporary regulations for physicians and practitioners will expire on June 3, 2019.

Chapter 1181 pertains to physicians employed by a dispensary and physicians who wish to become practitioners who will issue patient certifications to patients with serious medical conditions in accordance with the act. The next set of temporary regulations that the Department anticipates publishing relate to patients and caregivers.

Interested persons are invited to submit written comments, suggestions or objections regarding the temporary regulations to John J. Collins, Office of Medical Marijuana, Department of Health, Room 628, Health and Welfare Building, 625 Forster Street, Harrisburg, PA 17120, (717) 787-4366, RA-DHMedMarijuana@pa.gov. Persons with a disability who wish to submit comments, suggestions or objections regarding the temporary regulations may do so by using the previous contact information. Speech and/or hearing impaired persons may use V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT). Persons who require an alternative format of this document may contact John J. Collins so that necessary arrangements may be made.

KAREN M. MURPHY, PhD, RN,  
*Secretary*

*(Editor's Note: Title 28 of the Pennsylvania Code is amended by adding temporary regulations in §§ 1181.21—1181.32 to read as set forth in Annex A.)*

**Fiscal Note:** 10-204. No fiscal impact; (8) recommends adoption.

#### Annex A

### TITLE 28. HEALTH AND SAFETY PART IX. MEDICAL MARIJUANA CHAPTER 1181. PHYSICIANS AND PRACTITIONERS

Sec.

- 1181.21. Definitions.  
1181.22. Practitioners generally.  
1181.23. Medical professionals generally.

- 1181.24. Physician registration.  
1181.25. Practitioner registry.  
1181.26. Removal of a practitioner from the practitioner registry.  
1181.27. Issuing patient certifications.  
1181.28. Modifying a patient certification.  
1181.29. Revocation of a patient certification.  
1181.30. Prescription Drug Monitoring Program.  
1181.31. Practitioner prohibitions.  
1181.32. Training.

#### § 1181.21. Definitions.

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

*Continuing care*—Treating a patient, in the course of which the practitioner has completed a full assessment of the patient's medical history and current medical condition.

*Medical Board*—Either of the following:

- (i) The State Board of Medicine as defined in section 2 of the Medical Practice Act of 1985 (63 P.S. § 422.2).  
(ii) The State Board of Osteopathic Medicine as defined in section 2 of the Osteopathic Medical Practice Act (63 P.S. § 271.2).

*Medical marijuana cardholder*—A patient or caregiver who possesses a valid identification card.

*Medical professional*—A physician, pharmacist, physician assistant or certified registered nurse practitioner employed by a dispensary.

*Patient certification*—The form provided by the Department that is issued by a practitioner to certify that a patient has one or more serious medical conditions.

*Patient consultation*—A complete in-person examination of a patient and the patient's health care records at the time a patient certification is issued by a practitioner.

*Practitioner registry*—A list of practitioners established and maintained by the Department.

*Prescription Drug Monitoring Program*—The Achieving Better Care by Monitoring All Prescriptions Program (ABC-MAP) Act (35 P.S. §§ 872.1—872.40).

*Professional disciplinary action*—A disciplinary proceeding taken by the applicable Medical Board against a physician that results in a corrective action or measure.

#### § 1181.22. Practitioners generally.

(a) The qualifications that a physician shall meet to be registered with the Department and approved as a practitioner are continuing qualifications.

(b) A physician may not issue a patient certification without being registered by the Department as a practitioner in accordance with § 1181.24 (relating to physician registration).

(c) A practitioner shall notify a dispensary by telephone of a patient's adverse reaction to medical marijuana dispensed by that dispensary immediately upon becoming aware of the reaction.

#### § 1181.23. Medical professionals generally.

(a) The qualifications that a medical professional shall meet to be employed by a dispensary are continuing qualifications.

(b) A medical professional may not assume any duties at a dispensary until the training required under

§ 1181.32 (relating to training) and any other requirements for medical professionals under the act and this part are complete.

(c) A medical professional shall notify by telephone the practitioner listed on a patient certification of a patient's adverse reaction to medical marijuana dispensed by that dispensary immediately upon become aware of the reaction.

**§ 1181.24. Physician registration.**

(a) A physician may file an application for registration with the Department as a practitioner on a form prescribed by the Department if the physician:

(1) Has an active medical license in this Commonwealth in accordance with the Medical Practice Act of 1985 (63 P.S. §§ 422.1—422.51a) or the Osteopathic Medical Practice Act (63 P.S. §§ 271.1—271.18) applicable to the physician.

(2) Is qualified, as determined by the Department from information provided by the physician under subsection (b), to treat patients with one or more serious medical conditions.

(b) An application for registration must include, at a minimum, all of the following:

(1) The physician's full name, business address, professional e-mail address, telephone numbers and, if the physician owns or is affiliated with a medical practice, the name of the medical practice.

(2) The physician's credentials, education, specialty, training and experience, and supporting documentation when available.

(3) The physician's medical license number.

(4) A certification by the physician that states:

(i) That the physician's Pennsylvania license to practice medicine is active and in good standing.

(ii) If the physician has been subject to any type of professional disciplinary action that would prevent the physician from carrying out the responsibilities under the act and this part, together with, if applicable, an explanation of the professional disciplinary action.

(iii) That the physician does not hold a direct or economic interest in a medical marijuana organization.

(5) A statement that a false statement made by a physician in an application for registration is punishable under the applicable provisions of 18 Pa.C.S. Chapter 49 (relating to falsification and intimidation).

(c) The Department may list a physician on the practitioner registry only after the physician has successfully completed the training course required under § 1181.32 (relating to training) and any other requirements for registration under the act and this part.

**§ 1181.25. Practitioner registry.**

(a) The Department will maintain a practitioner registry on its publicly-accessible web site listing practitioners who are approved by the Department to issue patient certifications.

(b) The practitioner registry will include only the practitioner's name, business address and medical credentials.

(c) The inclusion of a physician in the practitioner registry will be subject to annual review by the Department to determine if the physician's license is inactive, expired, suspended, revoked, limited or otherwise re-

stricted by the applicable Medical Board, or if the physician has been subject to professional disciplinary action.

**§ 1181.26. Removal of a practitioner from the practitioner registry.**

(a) A practitioner will be removed from the practitioner registry if the practitioner's medical license is inactive, expired, suspended, revoked, limited or otherwise restricted by the applicable Medical Board, or if the physician has been subject to professional disciplinary action, including an immediate, temporary action.

(b) A practitioner may be removed from the practitioner registry if the practitioner has been the subject of professional disciplinary action.

(c) A physician who has been removed from the practitioner registry may reapply to the Department for inclusion in the practitioner registry in accordance with § 1181.24 (relating to physician registration) when the event that led to the physician's removal has been resolved and the physician's medical license is designated as active by the applicable Medical Board. The physician's application for registration under this subsection must include evidence of the resolution.

(d) A physician who has been removed from the practitioner registry may not do any of the following:

(1) Have electronic access to a patient certification.

(2) Issue or modify a patient certification.

(3) Provide a copy of an existing patient certification to any person, including a patient or a caregiver, except in accordance with applicable law.

**§ 1181.27. Issuing patient certifications.**

(a) A practitioner may issue a patient certification to a patient if all of the following conditions are met:

(1) The practitioner has determined, based upon a patient consultation and any other factor deemed relevant by the practitioner, the patient has a serious medical condition and has included that condition in the patient's health care record.

(2) The practitioner has determined the patient is likely to receive therapeutic or palliative medical benefit from the use of medical marijuana based upon the practitioner's professional opinion and review of all of the following:

(i) The patient's prior medical history as documented in the patient's health care records if the records are available for review.

(ii) The patient's controlled substance history if the records are available in the Prescription Drug Monitoring Program.

(b) A patient certification that is issued by a practitioner must include, at a minimum, all of the following:

(1) The patient's name, home address, telephone number, date of birth and e-mail address, if available.

(2) The practitioner's name, business address, telephone numbers, professional e-mail address, medical license number, area of specialty, if any, and signature.

(3) The date of the patient consultation for which the patient certification is being issued.

(4) The patient's specific serious medical condition.

(5) A statement by the practitioner that the patient has a serious medical condition, and the patient is under the practitioner's continuing care for the condition.



(6) A statement as to the length of time, not to exceed 1 year, for which the practitioner believes the use of medical marijuana by the patient would be therapeutic or palliative.

(7) A statement by the practitioner that includes one of the following:

(i) The recommendations, requirements or limitations as to the form or dosage of medical marijuana.

(ii) The recommendation that only a medical professional employed by the dispensary and working at the facility consult with the patient or the caregiver regarding the appropriate form and dosage of medical marijuana to be provided.

(8) A statement by the practitioner that the patient is terminally ill, if applicable.

(9) Any other information that the practitioner believes may be relevant to the patient's use of medical marijuana.

(10) A statement that the patient is homebound or an inpatient during the time for which the patient certification is issued due to the patient's medical and physical condition and is unable to visit a dispensary to obtain medical marijuana.

(11) A statement that the practitioner has explained the potential risks and benefits of the use of medical marijuana to the patient and has documented in the patient's health care record that the explanation has been provided to the patient and informed consent has been obtained.

(12) A statement that a false statement made by the practitioner in the patient certification is punishable under the applicable provisions of 18 Pa.C.S. Chapter 49 (relating to falsification and intimidation).

(c) Upon completion of a patient certification, a practitioner shall:

(1) Provide a copy of the patient certification to the patient or the patient's caregiver, if the patient is a minor, and to an adult patient's caregiver if authorized by the patient.

(2) Provide the patient certification with the original signature to the Department, which may be submitted electronically.

(3) File a copy of the patient certification in the patient's health care record.

#### § 1181.28. Modifying a patient certification.

(a) A practitioner may not modify the form of medical marijuana on a patient certification for 30 days from the date the receipt is entered into the electronic tracking system by the dispensary unless the practitioner notifies the Department of the intent to modify the patient certification.

(b) After modifying a patient certification, a practitioner shall:

(1) Provide a copy of the patient certification to the patient or the patient's caregiver, if the patient is a minor, and to an adult patient's caregiver if authorized by the patient.

(2) Provide the patient certification with the original signature to the Department, which may be submitted electronically.

(3) File a copy of the patient certification in the patient's health care record.

#### § 1181.29. Revocation of a patient certification.

(a) A practitioner shall immediately notify the Department in writing if the practitioner knows or has reason to know that any of the following events are true with respect to a patient for whom the practitioner issued a patient certification:

(1) The patient no longer has the serious medical condition for which the patient certification was issued.

(2) The use of medical marijuana by the patient would no longer be therapeutic or palliative.

(3) The patient has died.

(b) The Department will revoke a patient certification upon receiving notification of the occurrence of an event listed in subsection (a).

(c) Notwithstanding subsection (a), a practitioner may withdraw the issuance of a patient certification at any time by notifying, in writing, both the patient and the Department.

(d) The Department will immediately notify a medical marijuana cardholder upon the revocation of a patient certification and the information shall be entered into the electronic tracking system.

#### § 1181.30. Prescription Drug Monitoring Program.

(a) A practitioner shall review the Prescription Drug Monitoring Program prior to issuing or modifying a patient certification to determine the controlled substance history of the patient to determine whether the controlled substance history of the patient would impact the patient's use of medical marijuana.

(b) A practitioner may access the Prescription Drug Monitoring Program to do any of the following:

(1) Determine whether a patient may be under treatment with a controlled substance by another physician or other person.

(2) Allow the practitioner to review the patient's controlled substance history as deemed necessary by the practitioner.

(3) Provide to the patient, or caregiver if authorized by the patient, a copy of the patient's controlled substance history.

#### § 1181.31. Practitioner prohibitions.

(a) A practitioner may not accept, solicit or offer any form of remuneration from or to any individual, prospective patient, patient, prospective caregiver, caregiver or medical marijuana organization, including an employee, financial backer or principal, to certify a patient, other than accepting a fee for service with respect to a patient consultation of the prospective patient to determine if the prospective patient should be issued a patient certification to use medical marijuana.

(b) A practitioner may not hold a direct or economic interest in a medical marijuana organization.

(c) A practitioner may not advertise the practitioner's services as a practitioner who can certify a patient to receive medical marijuana.

(d) A practitioner may not issue a patient certification for the practitioner's own use or for the use of a family or household member.

(e) A practitioner may not be a designated caregiver for a patient that has been issued a patient certification by that practitioner.

(f) A practitioner may not receive or provide medical marijuana product samples.

**§ 1181.32. Training.**

(a) The following individuals shall complete a 4-hour training course within the times specified:

(1) A physician prior to being included in the practitioner registry under § 1181.24 (relating to physician registration).

(2) A medical professional prior to assuming any duties at a dispensary under § 1161.25 (relating to licensed medical professionals at facility).

(b) The requirements of the training course required under subsection (a) must include, at a minimum, all of the following:

(1) The provisions of the act and this part relevant to the responsibilities of a practitioner or medical professional.

(2) General information about medical marijuana under Federal and State law.

(3) The latest scientific research on the endocannabinoid system and medical marijuana, including the risks and benefits of medical marijuana.

(4) Recommendations for medical marijuana as it relates to the continuing care of a patient in the following areas:

(i) Pain management, including opioid use in conjunction with medical marijuana.

(ii) Risk management, including drug interactions, side effects and potential addiction from medical marijuana use.

(iii) Palliative care.

(iv) The misuse of opioids and medical marijuana.

(v) Recommendations for use of medical marijuana and obtaining informed consent from a patient.

(vi) Any other area determined by the Department.

(5) Use of the Prescription Drug Monitoring Program.

(6) Best practices for recommending the form of medical marijuana and dosage based on the patient's serious medical condition and the practitioner's or medical professional's medical specialty and training.

(c) Successful completion of the course required under subsection (a) shall be approved as continuing education credits as determined by:

(1) The State Board of Medicine and the State Board of Osteopathic Medicine.

(2) The State Board of Pharmacy.

(3) The State Board of Nursing.

(d) The individuals listed in subsection (a) shall submit documentation of the completion of the 4-hour training course to the Department.

(e) The Department will maintain on its publicly-accessible web site a list of approved training providers that offer the 4-hour training course.

[Pa.B. Doc. No. 17-928. Filed for public inspection June 2, 2017, 9:00 a.m.]

# Title 52—PUBLIC UTILITIES

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

[ 52 PA. CODE CHS. 1, 3, 23 AND 29 ]

[ L-2015-2507592 ]

### Reduce Barriers to Entry for Passenger Motor Carriers

The Pennsylvania Public Utility Commission (Commission), on October 27, 2016, adopted a final rulemaking order to reduce the barriers to entry for qualified passenger motor carrier applicants by eliminating the requirement that an applicant for passenger motor carrier authority establish that approval of the application will serve a useful public purpose, responsive to a public demand or need.

#### *Executive Summary*

The Pennsylvania Public Utility Commission is vested with jurisdiction over passenger common carrier service in Pennsylvania. The Commission recognizes several distinct types of passenger common carriers in its regulations, including scheduled route carriers, call or demand (taxi) carriers, group and party carriers, limousine carriers, airport transfer carriers, paratransit carriers, and experimental service carriers. 52 Pa. Code §§ 29.301—29.356. Each of these carriers has unique equipment and operating characteristics.

Historically, the Commission has required applicants for passenger carrier authority to establish that they are technically and financially fit, can operate safely and legally, and that there is a public demand or need for the services. 52 Pa. Code §§ 3.381 and 41.14. Upon consideration of the acknowledged benefits of increased competition among passenger motor carriers and advances in technology, the Commission believes that it is appropriate to reduce the current barriers to entry for qualified applicants by eliminating the requirement that an applicant for passenger motor carrier authority establish that approval of the application will serve a useful public purpose, responsive to a public demand or need. Rather than determining public need by means of a complex, costly and time consuming administrative process, public need or demand will be determined in the marketplace by competition among passenger carriers in regard to price, quality and reliability, as well as the experienced demand for their services by consumers who may freely choose among those competing carriers. Passenger carrier applicants will continue to be required to establish, in the application process at 52 Pa. Code § 3.381, that they have the technical and financial ability to provide the proposed service safely, reliably and legally, and that they are fully insured in accordance with the requirements of state law and Commission regulations.

As a corollary to the proposed elimination of public demand or need in the application process, the Commission envisions an industry that will grow even more competitive. Competition drives market pricing, obviating the need to engage in traditional ratemaking processes geared toward monopoly markets. The Commission proposes to permit all passenger carriers to change rates without filing the extensive supporting financial justification required by 52 Pa. Code § 23.64 by eliminating the

threshold interstate revenue amount for passenger carriers in § 23.68. Passenger carriers will continue to be required to submit filings notifying the Commission of tariff changes and to provide the basic operational and financial data enumerated at 52 Pa. Code § 23.68 to support those filings.

We note that in the recent Temporary Regulations the Commission issued governing the taxi and limousine industries, we allowed rates be changed on one days' notice to the Commission, or alternatively, permitted flexible rates allowing rates to change in real time in response to supply and demand. Temporary Regulations for the Taxi and Limousine Industries, Docket No. L-2016-2556432 (Order entered December 23, 2016). Neither rate scenario required supporting financial justification to be filed with the tariff. We will not deviate from those Temporary Regulations here as far as the taxi and limousine industries are concerned and will address the issue more fully in a future rulemaking necessitated by the Temporary Regulations. Additionally, we note that the Temporary Regulations further support our action here of encouraging competition and removing entry barriers.

Another consequence of eliminating the public need requirement for passenger carrier applicants is that the current territorial restrictions that accompany a carrier's certificate may no longer be necessary. Therefore, the Commission proposed that passenger carriers will be deemed to have statewide authority, unless otherwise requested. Following review of the comments on this issue, the Commission has determined that it will not advance this proposal at this time. Additionally, given the elimination of the public need requirement for passenger carrier applicants and the statewide authorization for all passenger carriers, the Commission proposed eliminating the regulatory provisions providing for Emergency Temporary Authority (ETA) and Temporary Authority (TA) for passenger carriers. 52 Pa. Code §§ 3.383—3.385. Following review of the comments on this issue, the Commission has determined that it will not advance this proposal at this time.

Public Meeting held  
October 27, 2016

*Commissioners Present:* Gladys M. Brown, Chairperson; Andrew G. Place, Vice Chairperson; John F. Coleman, Jr., joint statement follows; Robert F. Powelson, joint statement follows; David W. Sweet

*Final Rulemaking Amending 52 Pa. Code Chapters 1, 3, 5, 23 and 29 to Reduce Barriers to Entry for Passenger Motor Carriers and to Eliminate Unnecessary Regulations Governing Temporary and Emergency Temporary Authority; L-2015-2507592*

### Final Rulemaking Order

*By the Commission:*

On November 5, 2015, we issued a Proposed Rulemaking Order (PRO) seeking to amend various regulations governing passenger motor carriers. The proposal sought to modify our existing application process for passenger motor carriers by eliminating unnecessary barriers to entry for the various types of passenger carriers. Additionally, the proposal addressed other regulatory issues implicated by the change to the application criteria, including territorial restrictions, protest content, tariff filings and emergency authority considerations.

The PRO was published in the *Pennsylvania Bulletin* on February 27, 2016. 46 Pa.B. 1016. Comments to the PRO were filed by 13 public commentators as well as Representatives Daley, Godshall, Hanna, Harper and Murt. Additionally, the Independent Regulatory Review Commission (IRRC) filed comments, incorporating both public comments as well as the comments from the various legislators.

### Background

Pursuant to Section 1101 of the Public Utility Code (Code), 66 Pa.C.S. § 1101, a public utility must obtain a certificate of public convenience from the Commission in order to offer, render, furnish, or supply public utility service in Pennsylvania. Section 1103 of the Code, 66 Pa.C.S. § 1103, establishes the procedure to obtain a certificate of public convenience. That provision provides, inter alia, that “[A] certificate of public convenience shall be granted by order of the commission, only if the commission shall find or determine that the granting of such certificate is necessary or proper for the service, accommodation, convenience, or safety of the public.”

Pursuant to Section 102 of the Code, 66 Pa.C.S. § 102, common carriers by motor vehicle are public utilities. The Commission recognizes several distinct types of common carriers in its regulations. 52 Pa. Code Chapters 21, 29, and 31. A passenger carrier is defined as “a motor common or contract carrier that transports passengers.” 52 Pa.C.S. § 21.1. Our regulations recognize several types of passenger carriers, including scheduled route carriers, call or demand (taxi) carriers, group and party carriers, limousine carriers, airport transfer carriers, paratransit carriers, and experimental service carriers. 52 Pa. Code §§ 29.301—29.356.

Each of these carriers has unique equipment and operating characteristics:

Scheduled route carriers operate over a scheduled route and pick up and discharge persons at points along that route, as authorized by their certificate. These carriers are obligated to provide printed time schedules for their routes, and must provide notice of any changes in routes or time schedules. In addition, these carriers must operate vehicles with seating capacities of six passengers or greater, excluding the driver. 52 Pa. Code §§ 29.301—29.305.

Call or demand carriers, or taxis, transport persons on an exclusive or nonexclusive basis in vehicles with seating of eight passengers or less, excluding the driver. These carriers must transport passengers by the shortest practical route unless otherwise directed by the passenger, and must maintain log sheets for each trip. The call and demand vehicle must also be equipped with a meter that records the fare. The meter must be plainly visible to the passenger and, if requested, the carrier must provide a receipt to the passenger. 52 Pa. Code §§ 29.311—29.316.

Group and party carriers transport persons in charter service, tour or sightseeing service, or special excursions, and operate vehicles with seating capacities of 10 passengers or greater, excluding the driver. Unless these carriers obtain a special permit from the Commission, they may not provide service that duplicates a direct or connecting service rendered by a scheduled route carrier or a public transportation system. 52 Pa. Code §§ 29.321—29.324.

Limousine carriers transport persons on an advance reservation basis in exclusive service provided by luxury vehicles with seating capacities of 10 passengers or less, excluding the driver. These carriers must provide service on an advance reservation service and not by street hail, must charge a single person or organization for the service and not by passengers as individuals, and must maintain trip logs for each vehicle. In addition, limousine carrier rates must be based solely upon time, and must be contained in tariffs. 52 Pa. Code §§ 29.331—29.335.

Airport transfer carriers transport persons on a nonexclusive, individual charge basis from points authorized by the certificate to the airport specified by the certificate, and vice versa. Airport transfer service may be offered on a scheduled basis serving specified points according to a published time schedule or on a request basis with the origin or destination of the transportation to or from the airport arranged between the individual and the carrier, or on both bases. A material change in a time schedule shall be posted at terminals and in vehicles engaged in service affected by the change for a period of not less than seven days prior to the effective date of the change. 52 Pa. Code §§ 29.341—29.343.

Paratransit carriers transport persons on an advance reservation basis in nonexclusive service in vehicles with seating capacities of 15 passengers or less, excluding the driver. The paratransit vehicles used to transport handicapped persons must contain equipment necessary for the safety and comfort of handicapped passengers. The service must be provided on an advance reservation basis, and the rates charged must be contained in tariffs. 52 Pa. Code §§ 29.353—29.356.

Experimental carriers provide a new, innovative, or experimental type of service not encompassed within the other recognized categories of service. A certificate for experimental service is valid only until the service is abandoned, until two years have elapsed from the time the certificate was approved, or until the Commission enacts regulations covering the service, whichever occurs first. Carriers must abide by any regulations or requirements which the Commission prescribes. 52 Pa. Code § 29.352.

#### Summary of the PRO

Historically, the Commission has required applicants for passenger carrier authority to establish that they are technically and financially fit, can operate safely and legally, and that there is a public demand or need for the services. 52 Pa. Code §§ 3.381 and 41.14. Upon consideration of the acknowledged benefits of increased competition among passenger motor carriers and advances in technology, we proposed in the PRO reducing the current barriers to entry for qualified applicants by eliminating the requirement that an applicant for passenger motor carrier authority establish that approval of the application will serve a useful public purpose, responsive to a public demand or need.<sup>1</sup> We found that rather than

<sup>1</sup> In 2001, we adopted a final policy statement wherein we eliminated the requirement that applicants for limousine authority are required to establish that the proposed service is responsive to a public demand or need, and that the proposed service will not endanger or impair the operation of existing carriers. Evidentiary Criteria Used to Decide Motor Common Applications, Docket No. L-00980135 (Order entered March 22, 2001). Notwithstanding our adoption of this policy statement for these carriers, we recognized in the PRO that we still must address ancillary regulatory provisions that may be affected by our action. Additionally, we noted in our PRO that 49 U.S.C. § 14501(a) preempts state regulation of intrastate "charter bus service" as far as rates, routes, and service requirements. This preemption was implemented in 1998. The Commission previously determined that "charter bus transportation," per § 14501(a)(1)(C), is limited to group and party service provided in vehicles with seating capacities of 16 or more, including the driver. Regulation of Group and Party Carriers, Docket No. P-00981458 (Order entered January 11, 1999). *Regency Transportation Group, Ltd. v. Pa. Public Utility Commission*, 44 A.3d 107 (Pa. Cmwlth. 2012). In our January 11, 1999 Order we also determined that it was

determining public need by means of a complex, costly and time consuming administrative process, public need or demand will be determined in the marketplace by competition among passenger carriers in regard to price, quality and reliability, as well as the experienced demand for their services by consumers who may freely choose among those competing carriers.

We opined in the PRO that in a competitive market with reduced barriers to entry for qualified carriers, there is no reason to continue to protect, by an administrative process, passenger carriers whose services are no longer demanded by consumers who have chosen other carriers. Indeed, we noted that lowering outdated barriers to entry will further promote competition in this industry, which will, in turn, provide consumers with more choices and more competition among carriers as to price, quality and reliability.

Consistent with our policy statement and in light of the benefits of increased competition in the passenger carrier industry, we believed that it is appropriate to modify our regulations governing all passenger carrier applications by lowering the barriers to entry for qualified carriers who are technically and financially fit and who can provide service that is safe, reliable and fully insured.

We noted that our legal authority to eliminate the public need requirement has been considered and affirmed by the Pennsylvania Supreme Court. *Elite Industries, Inc. v. Pa. Public Utility Commission*, 832 A.2d 428 (Pa. 2003). In *Elite*, the Court posited:

Allowing the applicant to meet a less stringent evidentiary burden makes expansion of the market possible. This situation falls squarely within the PUC's area of expertise and is best left to the commission's discretion.

*Id.* at 432. The Court found that an agency may revise its policies and amend its regulations in interpreting its statutory mandates. Citing *Seaboard Tank Lines v. Pa. Public Utility Commission*, 502 A.2d 762 (Pa. Cmwlth. 1985), the Court reiterated that an agency's past interpretation of a statute, though approved by the judiciary, does not bind that agency to that particular interpretation. Moreover, the Court in *Elite* cited, with approval, the *Seaboard* description of the Commission's scope of authority, as follows:

The PUC's mandate with respect to the granting of certificates of public convenience is a broad one: "a certificate of public convenience shall be granted by order of the commission, only if the commission shall find or determine that the granting of such certificate is necessary or proper for the service, accommodation, convenience, or safety of the public." The legislature, however, provided no definition of specifically what the criteria were to be in determining the propriety of granting a certificate, leaving the formulation of such criteria to the PUC. . . .

*Id.* at 432. Accordingly, the *Elite* and *Seaboard* cases hold that the various and specific factors to be considered in determining whether to grant a certificate of public convenience to an applicant for motor carrier authority,

appropriate to extend the preemption to the ancillary tour and sightseeing and special excursion services. Therefore, per our January 11, 1999 Order, we bifurcated the group and party service category into 'group and party 11-15' and 'group and party greater than 15,' for regulatory purposes. Since that time, we have not required proof of public demand or need for processing of "group and party greater than 15" carrier applications, but maintained the public need requirement for "group and party 11-15" carrier applications. The PRO reflected these changes.

beyond those expressly stated in the statute, are matters left to the administrative expertise, sound discretion, and good judgment of the Commission.

We noted in the PRO that other jurisdictions, such as New Jersey, Ohio and Maryland, as well as the Federal Motor Safety Administration, do not require passenger carrier applicants to establish a public demand or need as a prerequisite to certification. We posited that at this juncture, it is appropriate and in the public interest to eliminate the need requirement from the passenger carrier application process, fostering further competition in this market.

As a corollary to the proposed elimination of public demand or need in the application process, we envisioned an industry that will grow even more competitive. Noting that since competition drives market pricing, the need to engage in traditional ratemaking processes geared toward monopoly markets will be obviated. Therefore, as barriers to entry are reduced and competition increases, we found that reducing and eliminating regulations that were adopted for a monopoly environment and are no longer necessary is appropriate.

Chapter 23 of our regulations, 52 Pa. Code Chapter 23, governs tariffs and ratemaking procedures for common carriers. Specifically, 52 Pa. Code § 23.68 provides that small passenger carriers with gross annual intrastate revenue of less than \$500,000 need not file the substantiating data required by 52 Pa. Code § 23.64, to support changes in rates. We proposed permitting all passenger carriers to change rates without filing the extensive supporting financial justification required by 52 Pa. Code § 23.64 by eliminating the threshold interstate revenue amount for passenger carriers in § 23.68. Passenger carriers would still be required to submit filings notifying the Commission of tariff changes and to provide the basic operational and financial data enumerated at 52 Pa. Code § 23.68, including the reasons for the proposed tariff change, the effect of the change on the carrier's revenues, the gross intrastate revenue for the most recent fiscal year, the projected operating revenue and expense, and the projected operating ratio. We noted that the Commission will continue to review such filings to ensure that rates are just and reasonable based on the required submittal.<sup>2</sup> See 66 Pa.C.S. § 1301.

In our PRO, we noted that another consequence of eliminating the public need requirement for passenger carrier applicants is that the current territorial restrictions that accompany a carrier's certificate are no longer necessary.<sup>3</sup> Currently, passenger carriers generally demonstrate that their business will serve a useful public purpose, responsive to a public demand or need, by presenting witnesses who testify that the service is needed in a particular geographic territory. As such, the PUC routinely limits carriers' authority to the geographic territories where the carrier was able to demonstrate a

need for the service. We noted that with the elimination of the need requirement, the corresponding limitation on carriers' certificates to specific service territories is no longer necessary. Therefore, we proposed that existing passenger carriers will be deemed to have statewide authority. Recognizing that a carrier may wish to limit its operating territory due to operational concerns, insurance costs, or other factors, we proposed allowing existing carriers to advise the Commission accordingly. We noted that new carriers will retain the ability to propose limitations on its operating territory at the time of application.

Finally, given the elimination of the public need requirement for passenger carrier applicants and the statewide authorization for all passenger carriers, we believed that the regulatory provisions providing for Emergency Temporary Authority (ETA) and Temporary Authority (TA) are no longer applicable to passenger carriers. 52 Pa. Code §§ 3.383—3.385. The regulations governing ETA and TA are designed to meet emergency situations when there is an immediate need for service that cannot be met by existing carriers. These provisions would not be relevant in a competitive market served by carriers that are not constrained by artificial territorial restrictions. To the extent an emergency would arise requiring service or a change in rates, we believe that our regulations governing Emergency Relief in general, would suffice. 52 Pa. Code §§ 3.1—3.12.<sup>4</sup>

We stressed in the PRO that passenger carrier applicants are still required to establish, in the application process at 52 Pa. Code § 3.381, that they have the technical and financial ability to provide the proposed service safely, reliably and legally, and that they are fully insured in accordance with the requirements of state law and our regulations.<sup>5</sup>

#### *Discussion*

The Commission has reviewed all of the comments filed in this proceeding. Based on those comments, the Commission has determined that it continue to proceed with the proposal in the PRO, with a few modifications. Specifically, the Commission will make the following changes to its proposal: (1) modify the application process for passenger motor carrier applicants to require more information at the beginning of the application process; (2) continue to require applicants to specify the territory in which they wish to operate, instead of defaulting to statewide authority; (3) keep the restrictive amendment regulation; and (4) retain the regulations providing for Temporary Authority and Emergency Temporary Authority. The Commission will address these changes, as well as other comments to the PRO below.

#### *Commission Authority*

Initially, IRRC raises a jurisdictional issue in its comments, questioning whether the Commission has the authority to change its regulations governing application criteria, or whether the proposed regulatory change is so substantial that any changes would properly fall within the legislature's purview. IRRC Comments at 2, 3. We recognize that our proposal eliminating the "public demand or need" standard is a significant change from our

<sup>2</sup> By Order entered October 16, 1997, the Commission allowed limousine and group and party carriers to engage in flexible ratemaking. Investigation of Flexible Ratemaking for the Bus and Limousine Industries, Docket No. I-00960063 (Order entered October 16, 1997). In that Order, the Commission allowed group and party and limousine carriers to establish initial rates and change existing rates with at least one (1) day notice to the Commission, with no supporting financial justification as provided at 52 Pa. Code §§ 23.62—23.64 for new tariffs or changes to existing tariffs. Finally, we waived the requirement that group and party and limousine carriers post a notice of changes in fares. 52 Pa. Code § 23.61. Since our 1997 Order establishing flexible ratemaking, we noted that we have not observed any reason to deviate from this practice. Market driven pricing, obviating the need to engage in traditional ratemaking processes geared toward monopoly markets, has been successful. We proposed modifying our regulations to reflect our 1997 order and current practice accordingly.

<sup>3</sup> We have followed this practice since 2001 in the limousine industry and have observed a functional marketplace without the strictures of unnecessary economic regulation. Likewise, large group and party carriers and property carriers have been operating with statewide authority since federal preemption in 1998 and 1994, respectively.

<sup>4</sup> We noted in the PRO that ETA and TA are also available to broker and contract carriers. Our experience indicates that these provisions have not been utilized by either group in recent history. We believed that these groups can likewise avail themselves of our regulations governing emergency relief should it be required.

<sup>5</sup> We proposed limiting protests to passenger carrier applications to these criteria. 52 Pa. Code § 3.381(c). Also, we noted that given the limited scope of any protests, the provisions providing for restrictive amendments to applications for motor carrier authority would be no longer applicable to applications for passenger authority. See 52 Pa. Code § 5.235.

existing regulations and policy statement. However, the authority to make that change is squarely vested in the Commission.

The Pennsylvania Supreme Court confirmed this authority in its decision in *Elite Industries*, *infra*. There the Court held that the elimination of the public need requirement in the Commission's application process for limousine carriers was a decision that fell "squarely within the PUC's area of expertise and is best left to the Commission's discretion." *Elite*, 432. The Court specifically recognized that the Legislature provided no specific criteria in determining the propriety of granting a certificate of public convenience, leaving the formulation of the criteria to the Commission. *Elite*, 432.

We disagree with IRRC to the extent that it believes we do not have the authority to modify our regulations governing application criteria for motor carriers and need to seek legislative relief. In fact, we recently completed an identical modification to our regulations by eliminating the public demand or need application criteria for applicants seeking authority to transport household goods. Final Rulemaking: Household Goods in Use and Property Carriers, Docket No. L-2013-2376902 (Order entered June 19, 2014). We also note that the rulemaking process itself incorporates legislative review of any proposed regulatory changes.

#### *Disproportionate Impacts of Competition*

IRRC and other commentators also question whether introducing competition into the taxi industry will adversely affect persons in rural areas who rely on taxi service as a primary means of transportation. IRRC Comments at 2. We share this concern, but are confident that eliminating artificial entry barriers will best serve the public. We are cognizant of the ongoing evolution of the transportation industry, and believe that encouraging competition and open markets will ultimately provide superior service.

We are witnessing such a competitive transformation with the advent of Transportation Network Company (TNC) service. TNC service has been available in Pennsylvania for over two (2) years now, and that service is growing, meeting a pent-up demand and even creating an additional demand for that transportation service. We have been at the forefront of this movement, establishing sufficient regulatory safeguards and requirements and ensuring compliance. TNC service competes with traditional transportation modalities head-on. That increased competition has not adversely affected the public, but rather has enhanced customer choice and service. While the incumbent industry will have to respond to the TNC service in order to remain viable, we believe, that in itself is not sufficient reason to reject the necessary changes to our current regulations in order to increase competition. We continue to believe that increased competition is in the public interest for the transportation industry.

Here we proposed eliminating a barrier to market entry that will help foster competition and to allow for easier market entry for new and qualified carriers. We are not abrogating all oversight, and applicants will still have to establish their technical and financial fitness and to document adequate insurance coverage in order to be qualified. Our experience over the last 50 years indicates that the "public need" application requirement has been increasingly utilized by existing carriers to quash competition to protect market share. Some commentators acknowledge this. We do not believe this is in the public interest. Through our statutory obligations in regulating

transportation services, we have noticed significant shortcomings in transportation services where the market has been restricted. We believe that all markets, urban and rural, will benefit from choice. We do not believe it is beneficial to exclude qualified new businesses from the market.

IRRC cites to some studies<sup>6</sup> submitted by commentators which questioned the benefits of deregulation of the taxi industry, those studies did not unequivocally reject deregulation, finding that the effects of taxi deregulation have ranged from benign to adverse, depending on the local conditions and markets. Further, those studies included markets that were totally deregulated, including entry and rates. That is not what we are proposing here; this proposal is not deregulation. On the contrary, the Commission will continue to require that applicants establish fitness to serve the requested market. Additionally, we will require vehicles and drivers to comply with all prescribed regulatory safeguards, including maintaining minimum insurance requirements. Finally, we note that these studies were done nearly 20 years ago, prior to the advent of new technologies, such as TNC service. The viability of those studies should be viewed from the current transportation framework.

Additionally, we note that there has been a significant push toward open markets in the transportation industry over the last two decades. Regulation of Motor Carriers of Property, Docket No. P-00940884 (Order entered December 20, 1994), Regulation of Group and Party Carriers, Docket No. P-00981458 (Order entered January 11, 1999), Final Rulemaking: Household Goods in Use and Property Carriers, *infra*, *Elite Industries*, *infra*.

#### *Monitoring the Success of the Rulemaking*

In response to IRRC's comment regarding monitoring the success of the proposal, we note that we have been at the forefront of regulatory changes in other industries, such as the telecommunications, electric and gas, and have successfully implemented and continue to implement those changes in Pennsylvania. IRRC Comments at 4. We will do the same here, monitoring the markets and utilizing our expertise to ensure the health of those markets and the provision of safe, reliable service.

#### *Economic Impact*

IRRC seeks quantification of the economic impact of the proposed change. IRRC Comments at 2. We are hesitant to project future economic impacts because these projections may not supply precise numbers. However, this is not sufficient reason to reject the changes in this rulemaking which we continue to believe will enhance competition in transportation services. For example, experienced trip date from the early advent of TNC service has demonstrated a clear customer demand for new services. The Commission has extensive experience in managing market entry in the motor carrier industry, is vested with the lawful discretion to determine appropriate market entry standards, and is utilizing its extensive experience in proposing this change.

#### *Impact on the Public Health, Safety and Welfare*

IRRC next questions how the Commission will protect the public health, safety and welfare by eliminating the public need application requirement. IRRC Comments at 2. The Commission will continue to examine an applicant's fitness, deciding whether the applicant has the technical expertise and financial wherewithal to provide service. This determination is made in every case. One

<sup>6</sup> The studies are dated from 1993 to 1998.

commentator, supporting our proposal, suggested that we require more information from an applicant in the initial application itself, rather than in the later stages of the application. Craig A. Doll Comments 1—4. This would enable existing carriers to make an informed decision regarding whether to protest the application on fitness grounds. We agree that this is a good idea and will modify the final regulation to require applicants to include verified statements with their initial application. 52 Pa. Code § 3.381(a)(3). This change will help the PUC be diligent in ensuring all applicants are fit to provide service.

#### *Necessity*

IRRC also questions the necessity of eliminating the “public need” application criteria. IRRC Comments at 2. Again, we will cite to our expertise and experience, noting that the public need requirement has been used to stifle competition to the detriment of the public and that, as explained by the Pennsylvania Supreme Court in *Elite*, the Commission has the discretion under Pennsylvania law to eliminate this element of the various standards to be examined in determining whether to grant a certificate of public convenience under Section 1103 of the Public Utility Code. 66 Pa.C.S. § 1103.

#### *Implementation Procedures*

IRRC comments on the implementation procedures to be utilized. IRRC Comments at 2. The procedures are not new or cumbersome. We have extensive experience in this regard for other industries where need is no longer an application criteria. We will follow our application procedure in place, as we currently do, with the exception of requiring proof of public need.

#### *Data in Support*

IRRC also seeks data to support the proposal to eliminate the public need application criteria. We have previously addressed this issue in the context of IRRC’s comment on the necessity and impact of the proposal. To reiterate, the PUC has significant experience and expertise in regulating the motor carrier industry and recognize that insulating that industry from competition is not in the public interest. Our experience in the economic deregulation of the property and group and party industries, as well as reducing entry barriers for the limousine and household goods carrier industries, supports this result. Regulation of Motor Carriers of Property, Docket No. P-00940884 (Order entered December 20, 1994), Regulation of Group and Party Carriers, Docket No. P-00981458 (Order entered January 11, 1999), Final Rulemaking: Household Goods in Use and Property Carriers, *infra*, *Elite Industries*, *infra*.

#### *Less Costly Alternatives*

IRRC also questions if there are less costly and intrusive alternatives to our proposal to eliminate proof of public need in the application stage. IRRC Comments at 2. We believe that, at this time, the elimination of proof of public need is the most appropriate way to foster a competitive marketplace that will be more responsive to the public’s needs. While this may adversely affect some existing carriers to the extent they will now have competition for their services, that in itself is not sufficient reason to abandon the rulemaking. Conversely, prospective small business carriers will be benefited by allowing them to compete for the public’s business and not be barred from starting a business.

#### *Negative Impact on Ambulance Services*

Both IRRC and members of the legislature commented on the potential negative effect competition will have on ambulance services, which also provide paratransit service to help subsidize their emergency operations. IRRC Comments at 3, 4. Paratransit service is a form of common carrier service regulated by this Commission. While we are cognizant that this subsidization of ambulance service may be occurring, this situation does not warrant continued market protection for all motor carriers. The provision of paratransit service should be available to a qualified applicant who wants to operate this type of common carrier service. We recognize that allowing competition in the paratransit industry may subject some ambulance companies to economic pressures that they will have to address on a going-forward basis.

#### *Pending TNC Legislation*

Additionally, we are cognizant that there is a legislative action (Senate Bill 984) pending regarding TNC service. IRRC Comments at 3. However, that action has no bearing on the implementation of our action here. SB 984 concerns TNC service and the attendant regulatory framework governing that service. It includes provisions establishing an application process for a TNC license, which process does not contain a need component. SB 984 does not pertain to other types of passenger service beyond TNC service. Regardless of the ultimate outcome of any pending legislation, we believe it is appropriate to eliminate the public need application criteria at this time. The need criterion is a vestigial item left over from the regulatory apparatus of prior generations. Current market conditions dictate that reducing entry barriers is in the public interest.

#### *Impact of Increased Competition on Operational Investments*

Commentators argue that competition will discourage operational investments by existing carriers, since they will no longer enjoy market protection. IRRC Comments at 3, 4. We understand that it may be the decision by some existing carriers to no longer invest in their operations if competition in the marketplace increases. However, many businesses across the Commonwealth and the United States operate in a non-protective market and nonetheless invest in their operations, even though they experience competition. In fact, competition often spurs investment in order for a business to ensure its continued viability and relevance. For example, many companies across the United States are currently engaged in investing in driverless technology, including some TNCs. Competition is a catalyst for their investment.

Significantly, there is another side to the commentators’ argument, which is that a monopolist does not necessarily have to invest and innovate, since there is a captive market, and a reduced level of investment will allow the company to maximize its profits. We live in a market based economy, which has proven itself superior to a centralized planning economy in terms of innovation, resource allocation, and responsiveness to public demand. We do not believe fostering competition in the passenger carrier industry will result in that industry’s demise. To the contrary, we believe competition will encourage innovation and will benefit the public while, at the same time, the Commission monitors the industry in accordance with its statutory mandates and current regulations.

*Amount of Regulation Necessary*

Commentators next posit that there should be no tariff regulation in an open market. IRRC Comments at 4. We agree with this observation theoretically, however, the reality is that passenger motor carriers in Pennsylvania do not operate in an open market at this point and, as explained herein, the proposal in the PRO is not the equivalent of deregulation. Passenger motor carrier service is and remains a public utility service which necessitates rate oversight, as well as the statutory obligation to provide safe, reasonable and adequate service. 66 Pa.C.S. §§ 1301 and 1501. That being said, the Commission has previously approved flexible tariff structures for the limousine and TNC industries. That same flexibility may be appropriate for other passenger carrier types and is in keeping with our charge under 66 Pa.C.S. Chapter 13. Should this issue arise in the future, it can be addressed under our current tariff regulations.

*Increase in Protests*

Commentators suggest that as a result of this rule-making, there will be more protests based on fitness, thus diminishing projected administrative cost savings in the application process. IRRC Comments at 4. While this may or may not be the case, this is insufficient justification to maintain barriers to market entry. We will discourage existing carriers from filing specious protests based on fitness and we will address all pleadings in accordance with our regulations and due process provisions.

*Geographic Territorial Restrictions*

IRRC next comments about the territorial component of the PRO. IRRC Comments at 4. In the PRO, we proposed eliminating geographic territorial restrictions for carriers unless a carrier would request to serve only a specified geographic area. IRRC questions whether this authorization would affect territories and service within the Philadelphia Parking Authority's (PPA) jurisdiction. To provide clarity on that issue, none of the regulatory changes proposed in the PRO will impact the jurisdiction of the PPA or the passenger motor carriers operating within the PPA's territory. A PUC certificated carrier cannot perform call or demand service within Philadelphia. As a matter of law, the PUC only has the powers given it by the legislature. The PPA has the statutory authority to regulate taxi and limousine service within Philadelphia, not the PUC. 53 Pa.C.S. §§ 5701—5745. Statewide authority would therefore be limited to that territory falling within the Commission's statutory jurisdiction, as is presently the case.

However, upon further consideration of the comments of IRRC and others, we will modify the PRO regarding service territories to the extent we would deem existing carriers to have state-wide authority. For reasons cited by the commentators, including the potential result of increasing protests as well as fitness issues attendant to unrestricted territorial service, we believe that at this juncture it is better to retain our existing territorial framework. Specifically, this means that the PUC will continue to require all new applicants to specify the geographic territory they wish to service. If a carrier wishes to expand its operations to other territories, or would like statewide authority, in light of the changes in this rulemaking, the carrier can file an application requesting such a change.

*Restrictive Amendments*

Furthermore, our discussion of the restrictive amendment process in the PRO, 52 Pa. Code § 5.235, drew comments questioning the role of the restrictive amendment process in encouraging settlements. We are persuaded by the comments to abandon our decision to delete the restrictive amendment process at this point. While our experience with that process is that it has been utilized exclusively as a form of market protectionism arising from the public need application criteria, there may be situations conceivable where it could be useful in resolving a contested application on fitness issues. While protests to applications will continue to be permitted, albeit limited to an applicant's fitness, fitness is not an issue to be settled away by agreement amongst the parties by a restrictive amendment. However, this is not to say that the parties cannot, via negotiation and settlement, bring the applicant's fitness into better focus for the Commission's consideration. Therefore, we will retain the restrictive amendment regulation.

*Regulatory Analysis Form*

IRRC next comments that the Commission should review the Regulatory Analysis Form and public comments thereon and make any revisions deemed appropriate. IRRC Comments at 5. The Commission will review the Regulatory Analysis form and make the necessary changes, as IRRC requests.

*Temporary Authority and Emergency Temporary Authority*

IRRC next comments on our proposed deletion of our regulations dealing with Temporary Authority (TA) and Emergency Temporary Authority (ETA). IRRC Comments at 5. IRRC notes that the Public Utility Code provides that TA should be considered by the Commission "under such regulations as it shall prescribe..." 66 Pa.C.S. §§ 1103(d), 2509.

In our PRO, we indicated that the need for TA or ETA would be greatly diminished or extinguished in light of the elimination of entry barriers. This has been our experience in the property, group and party, and limousine industries. We cited our regulations concerning issuance of emergency orders as sufficient to meet our statutory obligations in this regard. We believe those regulations would satisfy our statutory requirements. However, at this point we are persuaded that maintaining these regulations, albeit with modifications to reflect the elimination of public need application criteria, is appropriate since the current ETA/TA regulations provide significant guidance regarding application content.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on February 10, 2016, the Commission submitted a copy of the notice of proposed rulemaking, published at 46 Pa.B. 1016 (February 27, 2016), to IRRC and the Chairpersons of the House Consumer Affairs Committee and the Senate Consumer Protection and Professional Licensure Committee for review and comment.

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



Under section 5.1(j.2) of the Regulatory Review Act (71 P.S. § 745.5a(j.2)), on April 19, 2017, the final-form rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRRC met on April 20, 2017, and approved the final-form rulemaking.

*Related Regulatory Updates*

Finally, IRRRC comments on our tariff provisions at 52 Pa. Code §§ 23.1 and 23.69, suggesting they be amended to be consistent with changes made to § 23.68. IRRRC Comments at 5. We agree with IRRRC's suggestion, and will make the necessary changes to those provisions; *Therefore,*

*It Is Ordered That:*

1. The regulations of the Commission, 52 Pa. Code Chapters 1, 3, 23 and 29, are amended by deleting § 23.64 and amending §§ 1.43, 3.381—3.384, 23.1, 23.41, 23.61—23.63, 23.65, 23.68, 23.69, 29.13, 29.323 and 29.324 to read as set forth in Annex A.

(*Editor's Note:* The proposed rescission of §§ 3.383 and 3.384 included in the proposed rulemaking have been withdrawn by the Commission; these sections are amended in Annex A. The proposed rescission of §§ 3.385 and 5.235 included in the proposed rulemaking have been withdrawn by the Commission. The amendments to §§ 23.65 and 23.69 were not included in the proposed rulemaking.)

2. The Law Bureau shall submit this order and Annex A to the Office of Attorney General for review as to form and legality.

3. The Law Bureau shall submit this order and Annex A, to the Governor's Budget Office for review of fiscal impact.

4. The Law Bureau shall submit this order and Annex A for review and approval by the designated standing committees of both Houses of the General Assembly, and for review and approval by the Independent Regulatory Review Commission.

5. The Law Bureau shall certify this order and Annex A and deposit them with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

6. A copy of this order shall be served on commentators to the proposed rulemaking order.

7. This final-form rulemaking shall become effective upon final publication in the *Pennsylvania Bulletin*.

8. The contact person is John Herzog, Deputy Chief Counsel, Law Bureau, (717) 783-3714. Alternate formats of this document are available to persons with disabilities and may be obtained by contacting Alyson Zerbe, Regulatory Coordinator, (717) 772-4597.

ROSEMARY CHIAVETTA,  
*Secretary*

(*Editor's Note:* See 47 Pa.B. 2684 (May 6, 2017) for IRRRC's approval order.)

**Fiscal Note:** Fiscal Note 57-312 remains valid for the final adoption of the subject regulations.

**Joint Statement of Commissioner Robert F. Powelson and Commissioner John F. Coleman, Jr.**

Before the Pennsylvania Public Utility Commission (Commission) today for consideration and disposition is the Final Rulemaking Order (Rulemaking Order) amending several of the Commission's Regulations to reduce barriers to entry for passenger motor carriers. The Rulemaking Order specifically reduces current barriers to entry by eliminating the requirement that an applicant for passenger motor carrier authority establish that approval of the application will serve a useful public purpose, responsive to a public demand or need (i.e., the "need" requirement).<sup>7</sup>

The elimination of the need requirement for passenger carriers highlights the Commission's efforts to ensure regulatory flexibility in light of the changing transportation industry. Due to increased competition in the motor carrier industry, the need requirement had become outdated. Instead of serving a useful purpose, this requirement posed an obstacle to otherwise viable applications and served to protect monopoly interests to the detriment of healthy competition.

It is important to note that with the elimination of the need requirement, the Commission will continue to ensure that passenger carriers are technically and financially fit and can operate safely and legally. Passenger carriers must provide service that is safe, reliable, and fully insured. The elimination of the need requirement will simply provide consumers with more choices and more competition among passenger carriers as to price, quality, and reliability.

We want to recognize our legal and technical staff for their work in crafting today's Rulemaking Order. The elimination of the need requirement together with our Transportation 2.0 initiatives to undertake a comprehensive examination of all of our transportation regulations, will result in a current set of rules that will ensure the transportation industry in Pennsylvania not only operates safely and reliably, but continues to innovate.

JOHN F. COLEMAN, Jr.,  
*Commissioner*

ROBERT F. POWELSON,  
*Commissioner*

<sup>7</sup> The Commission similarly issued a Final Rulemaking Order on June 19, 2014 to eliminate the need requirement for household goods carriers. Final Rulemaking Amending 52 Pa. Code Chapters 3, 5, 23, 31, 32, and 41; Household Goods in Use Carriers and Property Carriers, Docket No. L-2013-2376902 (June 19, 2014). The Independent Regulatory Review Commission (IRRC) approved the rulemaking on April 16, 2015, stating that the regulation is consistent with the statutory authority of the PUC and the intention of the General Assembly. IRRRC Approval Order for Pennsylvania Public Utility Commission Household Goods in Use Carriers and Property Carriers, Regulation No. 57-298 (# 3041) (April 16, 2015).

Annex A  
**TITLE 52. PUBLIC UTILITIES**  
**PART I. PUBLIC UTILITY COMMISSION**  
**Subpart A. GENERAL PROVISIONS**  
**CHAPTER 1. RULES OF ADMINISTRATIVE PRACTICE AND PROCEDURE**  
**Subchapter E. FEES**

**§ 1.43. Schedule of fees payable to the Commission.**

(a) *Fees for services.* The fees for services rendered by the Commission are as follows:

<i>Description</i>	<i>Fee (in dollars)</i>
Initial filing of Form A for intangible transition property notice .....	\$550
Subsequent filing of notice changes in intangible transition property notice on Form B.....	\$350
	\$10 plus standard per page copying costs
Chapter 74 public information requests relating to perfection of security interests .....	\$0.75
Copies of papers, testimony, microfiche, records and computer printouts per sheet .....	\$1.50
Copies of microfiche per sheet .....	\$80
Copies of microfilm per roll .....	\$5
Certifying copy of a paper, testimony or record .....	\$350
Filing each securities certificate .....	\$25
Filing each abbreviated securities certificate .....	\$350
Filing each application for a certificate, permit or license, or amendment of a certificate, permit or license .	\$100
Filing an application for a certificate of public convenience for a motor common carrier of property or a group and party carrier of more than 15 passengers .....	\$100
Filing an application for emergency temporary authority as common carrier of passengers or household goods in use, contract carrier of passengers or household goods in use, or broker or for an extension thereof .....	\$100
Filing an application for temporary authority as common carrier of passengers or household goods in use, contract carrier of passengers or household goods in use, or broker .....	\$100
Filing an application for a certificate to discontinue intrastate common carrier passenger or household goods in use service .....	\$10

(b) *Supersession.* Subsection (a) supersedes 1 Pa. Code §§ 33.21(b) and 33.23 (relating to filing fees; and copy fees).

**CHAPTER 3. SPECIAL PROVISIONS**  
**Subchapter E. MOTOR TRANSPORTATION PROCEEDINGS**

**§ 3.381. Applications for transportation of property, household goods in use and persons.**

(a) *Applications.*

(1) *Forms.* The following forms may be obtained from the Office of the Secretary of the Commission:

(i) An application by a common carrier, including a forwarder, for a certificate of public convenience.

(ii) An application by a contract carrier for a permit.

(iii) An application by a broker for a license.

(iv) An application for amendment of a certificate, permit or license.

(v) An application by a common carrier of passengers or household goods in use to abandon or discontinue service in whole or in part.

(2) *Separate applications.* An applicant desiring to furnish service of more than one class shall file a separate application for each class of service.

(3) *Filing and verification.* An original application shall be filed by the applicant, or an authorized officer or representative, with the Secretary of the Pennsylvania Public Utility Commission, Post Office Box 3265, Harrisburg, Pennsylvania 17105-3265. The application shall be verified under § 1.36 (relating to verification). An application by a common carrier for a certificate of public convenience authorizing the transportation of passengers or household goods in use shall be accompanied by verified statements of the applicant, as set forth in subsection (c)(1)(iii)(A)(II). An application by a contract carrier for a permit authorizing the transportation of passengers or household goods in use may be accompanied by a verified statement of the applicant, as set forth in subsection (c)(1)(iii)(A)(II) and a copy of the bilateral contract or statement of the shipper that it will enter into a bilateral contract with the carrier.

(4) *Filing fee.* A filing fee, as prescribed under the fee schedule in § 1.43 (relating to schedule of fees payable to the Commission), shall accompany an application. The fee shall be paid by certified check or money order made payable to the “Commonwealth of Pennsylvania.”

(5) *Abandonment or discontinuance of service.* A motor common carrier of property, contract carrier or broker is not required to file an application to abandon or discontinue service. Abandonment or discontinuance of service, in whole or in part, by a motor common carrier of property, contract carrier or broker shall require the submission of a letter to the Commission containing a statement that the service is no longer being rendered or that the contract has expired.

(6) *Change in name of motor carrier.*

(i) *Requirements.*

(A) If a motor carrier changes its name, it shall submit a verified letter of notification to the Secretary containing the following information:

(I) The docket number of the motor carrier and the name of the motor carrier as presently shown in Commission records.

(II) A copy of the amended articles of incorporation or revised partnership agreement, if applicable, or other proper evidence of the name change.

(III) The names of the owners of the stock and distribution of shares, if applicable.

(IV) The names of the officers and directors of the corporation, if applicable.

(V) A statement that there has been no change in the ownership or control of the business.

(B) Upon submission of the information in clause (A) to the Commission, the Commission will endorse the existing certificate or permit of the motor carrier in the new name, with no change to the existing docket number.

(ii) *Additions to or change in name.* If a motor carrier makes an addition to or a change of a fictitious trade name, it shall notify the Secretary by letter, identifying the name and docket number of the motor carrier and submitting a copy of the fictitious name registration form filed with the Department of State, under 54 Pa.C.S. § 312 (relating to amendment). Upon notification, the Commission will endorse the existing certificate or permit of the motor carrier in the new fictitious name, with no change to the existing docket number.

(iii) *Change in insurance and tariff filings.* Within 30 days after the Commission’s endorsement of an existing certificate or permit of a motor carrier in the new name or new fictitious name, the motor carrier shall effect the name change on its insurance and tariff filings with the Commission.

(7) *Change in entity of motor carrier.*

(i) *Filing of application required.* A change in the entity of a motor carrier, which is accompanied by a change in the ownership or control of the business—for example, through a transfer, merger or addition/deletion of a partner—requires the filing of an application under paragraphs (3) and (4) and § 5.12 (relating to contents of applications). If the Commission approves the application, a new certificate or permit will be issued under a new docket number, upon receipt of insurance and tariff filings reflecting the change in the entity of the motor carrier.

(ii) *Filing of verified letter of notification required.*

(A) A change in the entity of a motor carrier, which is not accompanied by a change in the ownership or control of the business—for example, through incorporation of a sole proprietorship or partnership—requires the submission of a verified letter of notification to the Secretary containing the following information:

(I) The docket number of the motor carrier and the name of the motor carrier as presently shown in Commission records.

(II) A copy of the articles of incorporation or partnership agreement, if applicable.

(III) The names of the owners of the stock and distribution of shares, if applicable.

(IV) The names of the officers and directors of the corporation, if applicable.

(V) A statement that there has been no change in the ownership or control of the business.

(B) Upon submission of the information in clause (A) to the Commission, the Commission will endorse the existing certificate or permit of the motor carrier in the name of the new entity, with no change to the existing docket number. Within 30 days of the Commission’s endorsement, the motor carrier shall effect the change in the entity on its insurance and tariff filings with the Commission.

(8) *Change in the name of shipper of a motor carrier of passengers or household goods in use.*

(i) If a shipper named in the existing or proposed operating authority of a motor carrier of passengers or household goods in use changes its name, the motor carrier shall submit a verified letter of notification to the Secretary containing all of the following information:

(A) The docket number of the motor carrier, specifically identifying the portion of the operating authority involved.

(B) Identification of the name of the shipper as presently specified in the carrier’s pertinent operating authority.

(C) A copy of the shipper’s amended articles of incorporation or revised partnership agreement, if applicable, or other proper evidence of the shipper’s name change.

(D) A statement that there has been no change in the ownership or control of the business.

(ii) If a shipper named in the existing or proposed operating authority of a motor carrier of passengers or household goods in use simply makes an addition to or change of a fictitious trade name, the motor carrier shall notify the Secretary by letter, identifying the name and docket number of the motor carrier and submitting a copy of the shipper’s fictitious name registration form filed with the Department of State under 54 Pa.C.S. § 312.

(9) *Change in entity of named shipper of a motor carrier of passengers or household goods in use.*

(i) A change in the entity of a shipper named in the existing or proposed operating authority of a motor carrier of passengers or household goods in use, which is accompanied by a change in the ownership or control of the shipper’s business—for example, through a sale or merger—requires the filing of an application by the motor carrier in accordance with paragraphs (3) and (4) and § 5.12.

(ii) A change in the entity of a shipper named in the existing or proposed operating authority of a motor carrier of passengers or household goods in use, which is not accompanied by a change in the ownership or control of the shipper's business—for example, through the incorporation of a sole proprietorship or partnership—requires the submission by the motor carrier of a verified letter of notification to the Secretary containing all of the following information:

- (A) The docket number and name of the motor carrier.
- (B) Identification of the portion of the operating authority involved and the name of the shipper as presently specified in the carrier's pertinent operating authority.
- (C) A copy of the shipper's amended articles of incorporation or revised partnership agreement, if applicable, or other proper evidence of the shipper's name change.

(D) A statement that there has been no change in the ownership or control of the shipper's business.

(10) *Change in location of named shipper of a motor carrier of passengers or household goods in use.*

(i) A change in the location of an existing facility of a shipper named in the existing or proposed operating authority of a motor carrier of passengers or household goods in use requires the filing of an application under paragraphs (3) and (4) and § 5.12, except as provided in subparagraph (ii).

(ii) A change in the location of an existing facility of a shipper named in the existing or proposed operating authority of a motor contract carrier of passengers or household goods in use, which is not accompanied by a change in ownership or control of the business, requires the submission of a verified letter of notification to the Secretary containing the name and docket number of the motor carrier, and a statement that there is no change in ownership or control of the business.

(b) *Notice.* Applications will be docketed by the Secretary and, with the exception of motor common carrier property and group and party carrier of more than 15 passenger applications, thereafter forwarded for publication in the *Pennsylvania Bulletin*. No other notice to the public or to a carrier, forwarder or broker is required, except that an applicant filing an application for the discontinuance of the transportation of persons, on a scheduled basis, shall certify to the Commission that it has done the following:

- (1) Notified the local government having jurisdiction over affected areas.
- (2) Posted notice of the proposed discontinuance in a conspicuous place in vehicles engaged in service on affected routes.

(c) *Protests.*

(1) *Applications for passenger or household goods in use authority.*

(i) *Content and effect.*

(A) A person objecting to the approval of an application shall file with the Secretary and serve upon the applicant and the applicant's attorney, if any, a written protest which shall contain all of the following:

- (I) The applicant's name and the docket number of the application.
- (II) The name, business address and telephone number of the protestant.

(III) The name, business address and telephone number of the protestant's attorney or other representative.

(IV) A statement of the protestant's interest in the application.

(V) A list of all Commission docket numbers under which the protestant operates.

(VI) A protest is limited to challenging the fitness of the applicant, including whether the applicant possesses the technical and financial ability to provide the proposed service and whether the applicant lacks a propensity to operate safely and legally.

(B) Upon the filing of a timely protest, the protestant will be allowed to participate in the proceeding as a party intervenor.

(C) A protest shall be treated as a pleading and the applicant may, within 20 days after the closing date for the filing of protests, file motions to strike, to dismiss, or for amplification as provided in § 5.101 (relating to preliminary objections).

(ii) *Time of filing.* A protest shall be filed within the time specified in the notice appearing in the *Pennsylvania Bulletin*, which shall be no less than 15 days from the date of publication. Failure to file a protest in accordance with this subsection shall bar subsequent participation in the proceeding, except when permitted by the Commission for good cause shown.

(iii) *Failure to file protests.* If no protest is filed with the Commission on or before the date specified in the *Pennsylvania Bulletin* or if all protests have been withdrawn at or prior to the hearing, the Commission may take either of the following actions:

(A) Consider the application without holding an oral hearing if it deems the facts are sufficient as in the application or as determined from additional information as the Commission may require of the applicant. An application processed under this section, without oral hearing, will be determined on the basis of verified statements submitted by the applicant and other interested parties.

(I) Verified statements will be filed with the Secretary within 30 days of the Commission's request therefor. Failure to file additional information as requested by the Commission may result in dismissal of the application for lack of prosecution.

(II) The applicant's verified statement shall be in paragraph form and shall contain the following information, as applicable:

- (-a-) The legal name and domicile of the applicant.
- (-b-) The identity and qualifications of the person making the statement for applicant.
- (-c-) Whether or not the applicant is affiliated with any other carriers, with a description of the affiliation.
- (-d-) The authority sought.
- (-e-) The general scope of currently authorized operations—attach copies of pertinent operating rights.
- (-f-) Duplicating authority which will result from grant of authority.
- (-g-) Dual operations resulting from grant of authority.
- (-h-) Pertinent terminal facilities and communications network.

(-i-) Pertinent equipment—make, model, year, owned or leased, and lessor; safety program; service currently provided to supporting witnesses.

(-j-) The type of service offered.

(-k-) Financial data—current balance sheet and income statement for corporations and partnerships and assets and liabilities for individuals.

(-l-) A statement that the applicant has a minimum of 2 years of experience with a licensed household goods carrier or the equivalent. This requirement shall be applicable to all applications for household goods, whether protested or not.

(-m-) Other information deemed pertinent.

(III) There will be the following extensions of time to file verified statements. When extenuating circumstances exist, the Commission will grant up to 45 days to file verified statements. Requests for extensions of time may be granted by the Commission based upon a written request giving reasons for the extension.

(B) Schedule the unprotested application for oral hearing at a time, date and place to be set, thereafter notifying the applicant by letter of the scheduling.

(2) *Applications for motor common carrier of property and group and party service for more than 15 passenger authority.* No protests to applications for motor common carrier property and group and party carrier more than 15 passenger authority may be filed.

(d) *Hearings on protested applications and applications for motor carrier of property authority when safety issues are raised.*

(1) *Applications for passenger, excluding group and party service more than 15 passenger, or household goods in use authority.*

(i) *Scheduling hearings.*

(A) *Applications for passenger authority.* The applications to which timely protests were filed will not be acted on by the Commission for 20 days after the closing date for filing of protests to permit the applicant to make restrictive amendments leading to the withdrawal of protests. If all protests are withdrawn upon amendment, the Commission may dispose of the application in accordance with subsection (c). If the application is still subject to protest, then after the expiration of the 20-day waiting period, the Commission will set the application for hearing and will notify all parties thereof. Absent good cause shown, no further amendments to the application will be considered after expiration of the 20-day period or the commencement of hearings.

(B) *Applications for passenger and household goods in use authority.* Applications for passenger and household goods in use authority to which timely protests were filed will be set for hearing with notice to the parties.

(ii) *Requests for postponements.* If any scheduled hearing is postponed for any reason prior to the date thereof, notice of postponement and the date, time and place of the continued hearing will be given by the presiding officer of the Commission to all parties. Requests for hearing postponements shall be submitted in writing to the Secretary of the Commission and the presiding officer with copies to parties of record, no later than 5 days prior to hearing. Hearings will not be postponed absent good cause.

(iii) *Prehearing conferences.* The presiding officer may, in his discretion or at the written request of any party of

record, set any protested application for prehearing conference, to simplify the issues prior to hearing.

(2) *Applications for motor common carrier of property and group and party service for more than 15 passenger authority.*

(i) *Scheduling hearings.* If the Commission's prosecutory staff determines that conditional or unsatisfactory safety ratings from other jurisdictions or adverse decisions in safety related proceedings before other tribunals exist, prosecutory staff shall enter an appearance and refer the matter to the Office of Administrative Law Judge for hearing on the applicant's safety fitness. A determination by the Commission, after hearing, that the applicant possesses the necessary safety fitness will result in the application being processed as though the applicant possessed a satisfactory safety rating.

(ii) *Requests for postponement.* Requests for postponement shall be made and disposed of in accordance with paragraph (1)(ii).

(iii) *Prehearing conferences.* Prehearing conferences shall be conducted in accordance with paragraph (1)(iii).

(e) *Compliance: conditions for approval for passenger and household goods in use authority.* When the Commission approves operation by a motor common carrier of passengers or household goods in use, forwarder, broker, or motor contract carrier of passengers or household goods in use, the applicant will be notified of the approval by registered or certified mail. The applicant shall file with the Commission within 60 days of receipt of the notice, a certificate of insurance or other security required by this title, relating to insurance and security for the protection of the public. In addition, motor common carriers of passengers or household goods in use shall file tariffs of their applicable rates and charges, and contract carriers of passengers or household goods in use shall file schedules of actual charges. When all of these requirements have been met, the Commission will issue the certificate, permit or license as the case may be. Failure by an applicant to comply with this section within the 60-day period may result in the dismissal of the application and rescission of prior approval, unless the Commission has, upon written request demonstrating good cause, extended the time for compliance.

(1) An applicant for household goods in use authority that does not possess a current satisfactory safety rating issued by the United States Department of Transportation or by a state with safety regulations comparable to the Commonwealth shall complete a safety fitness review conducted by Commission staff. The safety fitness review must be scheduled and completed within 180 days of the date of approval of the application. If the applicant fails to attain a satisfactory safety evaluation within the 180-day period, the applicant will be given an additional 90 days to correct the deficiencies. Failure to achieve a satisfactory evaluation within the 90-day period will result in immediate suspension of the certificate of public convenience and in proceedings to revoke the certificate.

(2) Safety fitness reviews shall take place at the applicant's primary place of business in this Commonwealth. Out-of-State carriers without facilities in this Commonwealth shall have reviews conducted at the nearest Commission office. Out-of-State carriers shall provide Commission enforcement officers with sufficient records to enable meaningful examination of the applicant's safety related programs.

(3) In the course of a safety fitness review, Commission enforcement staff will examine an applicant's manage-

ment policies, records and equipment to ensure that the applicant understands and will comply with Chapter 37 (relating to safety code for transportation of property and passengers).

(f) *Compliance: conditions for approval for motor common carrier property and group and party more than 15 passenger authority.* If the Commission's prosecutory staff determines that a hearing is not required, as provided in subsection (d)(2), the Commission will act on applications as follows:

(1) A compliance letter will be issued directing that the applicant file a Form E Uniform Motor Carrier Bodily Injury and Property Liability Certificate of Insurance and a Form H Uniform Cargo Insurance Certificate, if applicable. Temporary evidence of insurance may be filed in the form of an insurance identification card for vehicles registered in this Commonwealth, a copy of the declaration page of the insurance policy, a copy of a valid binder of insurance or a copy of a valid application for insurance to the Pennsylvania Automobile Insurance Plan. The temporary evidence of insurance shall be replaced by the required certificates within 60 days. A carrier may begin operations upon filing acceptable evidence of insurance.

(2) Once acceptable Form E and Form H certificates of insurance have been filed, a certificate of public convenience will be issued authorizing the transportation of property, not including household goods in use or group and party more than 15 passenger authority, between points in this Commonwealth.

(3) Applicants which do not possess a current satisfactory safety rating issued by the United States Department of Transportation or a state with safety regulations comparable to the Commonwealth shall complete a safety fitness review conducted by Commission staff. The safety fitness review shall be scheduled and completed within 180 days of the date of the compliance letter. If the applicant fails to attain a satisfactory safety evaluation within the 180-day period, it will be given an additional 90 days to correct the deficiencies. Failure to achieve a satisfactory evaluation within the 90-day period will result in immediate suspension of the certificate of public convenience and in proceedings to revoke the certificate.

(4) Safety fitness reviews will take place at the applicant's primary place of business in this Commonwealth. Out-of-State carriers without facilities in this Commonwealth will have reviews conducted at the nearest Commission office. Out-of-State carriers shall provide Commission endorsement officers with sufficient records to enable meaningful examination of the applicant's safety related programs.

(5) In the course of a safety fitness review, Commission enforcement staff will examine an applicant's management policies, records and equipment to ensure that the applicant understands and will comply with Chapter 37.

(g) *New applications: conditions for reconsideration.* Applications filed within 6 months of the date of an order refusing or dismissing, on the merits, an application for the same rights filed by the same party shall set forth any new facts or changed conditions not previously presented to the Commission for consideration. The Commission may, in its administrative discretion, either accept or refuse the filing of the application.

**§ 3.382. Evidentiary guidelines for applications for passenger, excluding group and party more than 15 passenger, and household goods in use authority.**

An applicant for a motor carrier certificate or permit for the transportation of passengers or household goods in use, though not required to offer testimony as to the rates proposed to be charged, may do so if it is otherwise competent. The weight to be attributed to the evidence will depend upon the extent to which it is accompanied by cost evidence demonstrating that the prospective rates would be compensatory, that is, that the prospective rates would be adequate to enable the applicant to recover its costs and realize a reasonable return either on investment or under operating ratio standards. The demeanor and credibility of a witness offering the evidence will also be considered in evaluating the weight to be attributed to the evidence.

**§ 3.383. Applications for temporary authority and emergency temporary authority.**

(a) *Controlling legislation.* The provisions of 66 Pa.C.S. §§ 1103(d) and 2509 (relating to procedure to obtain certificates of public convenience; and temporary permits and licenses) are as follows:

“§ 1103(d) Temporary authority—Except during the threat or existence of a labor dispute, the commission under such regulations as it shall prescribe may, without hearing, in proper cases, consider and approve applications for certificates of public convenience, and in emergencies grant temporary certificates under this chapter, pending action on permanent certificates; but no applications shall be denied without right of hearing thereon being tendered to the applicant.”

“§ 2509 Temporary permits and licenses—The commission, under such regulations as it shall prescribe, may, without hearing, in proper cases, consider and approve applications for permits and licenses, and in emergencies grant temporary permits and licenses under this chapter, pending action on permanent permits or licenses; but no application shall be denied without right of hearing thereon being tendered to the applicant.”

(b) *Definitions and applicability.*

(1) The following words and terms, when used in relation to applications for temporary authority and emergency temporary authority, have the following meanings:

*Carrier*—Includes motor common carriers of passengers and motor contract carriers of passengers, brokers and forwarders.

*ETA—Emergency temporary authority*—Limited duration operating authority issued under 66 Pa.C.S. §§ 1103(d) and 2509 to authorize the transportation of passengers to meet an emergency situation and when time or circumstances do not reasonably permit the filing and processing of an application for TA.

*TA—Temporary authority*—Limited duration operating authority issued under 66 Pa.C.S. §§ 1103(d) and 2509 to authorize the transportation of passengers to meet an emergency situation.

(2) ETA and TA are not available to motor common carriers of property, household goods in use, and group and party carriers transporting more than 15 passengers.

(c) *Filing of applications.* An application shall be filed as follows:

(1) *How and where filed.* An original of each application for TA or ETA (Form C) is to be filed with the Secretary, Pennsylvania Public Utility Commission, Harrisburg, Pennsylvania 17105-3265. The envelope containing the application shall be clearly marked: "TA" APPLICATION or "ETA" APPLICATION.

(2) *Filing fees.* An application for TA, ETA and extensions of ETA shall be accompanied by a filing fee, as prescribed under the fee schedule in § 1.43 (relating to schedule of fees payable to the Commission).

(3) *Supporting statements.* An application shall be accompanied by supporting statements of the applicant. A statement shall contain a certification of its accuracy and shall be signed by the person submitting the statement. The applicant's statement, which shall be prepared by the applicant or an authorized representative of the applicant, shall contain all of the following information:

(i) A description of the equipment which will be used to render service, including a statement of whether it is specialized equipment.

(ii) A description of the applicant's terminal facilities and personnel.

(iii) A statement of whether the filing of the application resulted from a warning, road check or investigation by the Commission.

(iv) A telephone number at which the applicant or an authorized representative of the applicant may be contacted.

(v) A statement of the proposed rates, fares or charges and schedule provisions.

(vi) A statement of whether there are under suspension rates, fares or charges published for its account or whether an application for special permission to file its rates, fares or charges on less than 30 days' notice in connection with another ETA, TA or permanent authority application covering the same territory has been granted or denied.

(vii) Proof of ability to comply with the Commission's insurance requirements, or in the case of an authorized carrier, a statement indicating that it currently has evidence of insurance on file with the Commission.

(viii) Names and addresses of labor unions which represent, or which within the past 12 months have represented, or which have filed a petition to represent the employees of the applicant with the National Labor Relations Board or the Pennsylvania Labor Relations Board. If the application seeks the temporary approval of a transfer of rights under a certificate of public convenience, this information shall be supplied for the transferor and the transferee.

(4) *Procedures for filing ETA application.* Procedures for filing ETA applications are as follows:

(i) An ETA application may normally be filed only when a corresponding application for permanent authority has been filed and emergency conditions exist which do not permit sufficient time to afford the notice required by paragraph (5)(i). If the application demonstrates the existence of emergency conditions, the Bureau of Technical Utility Services will make a reasonable effort to identify and communicate with those carriers who may hold the authority to provide the emergency service being sought by the applicant and those unions described in paragraph (3)(viii). An ETA application will be granted for an initial period not to exceed 60 days.

(ii) The filing of ETA applications by telephone shall be acceptable in exigent circumstances. Confirmation shall be made by filing written application—Form C—with the supporting statements, within 5 working days from the filing by telephone.

(iii) If an emergency continues beyond the initial 60-day period, the ETA may be extended pending disposition of the TA application. Extensions of ETA may be obtained in the following ways:

(A) *Filing the ETA application simultaneously with the corresponding applications for TA and permanent authority.* The simultaneous filing of ETA, TA and permanent authority applications automatically extends the grant of ETA pending disposition of the TA application. No filing fee for ETA extension is required under these circumstances.

(B) *Filing corresponding TA and permanent authority applications within 15 days of the date of filing the ETA application.* The filing of corresponding TA and permanent authority applications within 15 days of the filing of the ETA application automatically extends the grant of ETA pending disposition of the TA application, if the applicant states the following on the ETA application: "Applicant certifies that, within 15 days of the date of filing this application, corresponding TA and permanent authority applications will be filed, and hereby requests that an automatic extension be granted of the ETA." No filing fee for ETA extension is required under these circumstances.

(C) *If the corresponding TA and permanent authority applications are neither filed simultaneously with nor within 15 days of the date of filing the ETA application.* A request for an extension of ETA which does not comply with clause (A) or (B) shall be accompanied by corresponding applications for TA and permanent authority and a filing fee, as prescribed under the fee schedule in § 1.43 in addition to the appropriate filing fees for TA and permanent authority applications, and shall be filed with the Bureau of Technical Utility Services, prior to the expiration date of the ETA.

(5) *Procedures for filing TA applications.* An application for TA shall be accompanied by a corresponding application for permanent authority. Unless otherwise specified in the TA application, it will be considered as proposing service pending disposition of the permanent authority application.

(i) *Notice to interested persons.*

(A) *Publication in Pennsylvania Bulletin.* Notice of the filing of a TA application and an application for permanent authority will be given by simultaneous publication in the *Pennsylvania Bulletin*.

(B) *Service on unions.* Service of temporary authority applications shall be made by certified mail upon the unions described in paragraph (3)(viii).

(ii) *Filing of protests.*

(A) A person who can and will provide all or part of the proposed service may file a protest to the TA application. Protests shall be consistent with § 3.381 (relating to applications for transportation of property, household goods in use and persons). The protest shall indicate whether it protests the application for TA or for permanent authority, or both.

(B) A union which represents the employees of a motor carrier or supporting shipper, which may be affected by the approval of an application for TA, may file a protest

to the application. The protest shall be limited to the issue of whether a threatened or existing labor dispute precludes Commission consideration and approval of the TA application.

(C) Protests shall be filed with the Secretary of the Public Utility Commission.

(iii) *Revocation of ETA upon approval of TA applications.* Approval of a TA application is effective upon compliance with the Commission order, which results in the automatic revocation of corresponding ETA.

**§ 3.384. Disposition of applications for ETA and TA.**

(a) *General.* Initial determination of ETA and TA applications will be made by the Bureau of Technical Utility Services with the approval of the Commission.

(b) *Standards.*

(1) *General.* Grants of TA or ETA shall be made upon the establishment of an emergency as defined in § 3.1 (relating to definitions) which requires new carrier service before an application for permanent authority can be filed and processed.

(2) *General bases for disapproval.* Applications for TA or ETA may be denied for the following reasons:

- (i) Failure to meet statutory standards and this title.
- (ii) Unfitness of the applicant.

(c) *Determination of fitness issues in motor carrier applications.* The following standards shall be used in the initial or appellate determination of fitness issues in applications by motor carriers for TA or ETA:

(1) Unless there is a particularly urgent transportation need, an application will normally be denied when the applicant has been found unfit or in substantial noncompliance with Chapter 37 (relating to safety code for transportation of property and passengers) or 67 Pa. Code Part I (relating to Department of Transportation). An application may, however, be approved if the carrier has re-established compliance or if the application contains sufficient evidence to establish that the carrier has taken significant steps to remedy its deficiencies and is now in substantial compliance.

(2) Alleged violations of statute or regulations or a pending fitness investigation when no formal proceeding has been instituted may not be used as grounds for denial unless the Commission has evidence that the carrier applicant has a history of willful or flagrant violation of the statute or regulations. If authority is denied for lack of fitness on this basis, the decision will state the basis for denial.

(3) The granting of ETA or TA will not give rise to a presumption regarding the applicant's fitness.

(4) A grant of authority may be later revoked by the Commission if it determines that the applicant is unfit under this subsection. The Commission may revoke a carrier's ETA or ETA extension. The denial of a TA application will have the effect of automatically revoking the corresponding ETA or ETA extension.

**Subpart B. CARRIERS OF PASSENGERS OR PROPERTY**

**CHAPTER 23. TARIFFS FOR COMMON CARRIERS GENERAL PROVISIONS**

**§ 23.1. Definitions and applicability.**

(a) *Definitions.* The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

*Common carrier or carrier*—A person or corporation holding out, offering or undertaking, directly or indirectly, service for compensation to the public for the transportation of passengers or household goods in use, or both, or any class of passengers or household goods in use, between points within this Commonwealth by, through, over, above or under land, water or air, including forwarders, but not motor common carriers of property, group and party carriers of more than 15 passengers, contract carriers, brokers or any bona fide cooperative association transporting property exclusively for the members of the association on a nonprofit basis.

*Contract carrier*—A person or corporation who or which provides or furnishes transportation of passengers or household goods in use, or both, or any class of passengers or household goods in use, between points within this Commonwealth by motor vehicle for compensation, whether or not the owner or operator of the motor vehicle, or who or which provides or furnishes, with or without drivers, any motor vehicle for the transportation, or for use in transportation, other than as a common carrier by motor vehicle, but not including any of the following:

(i) A lessor under a lease given on a bona fide sale of a motor vehicle where the lessor retains or assumes no responsibility for maintenance, supervision or control of the motor vehicle sold.

(ii) A bona fide agricultural, cooperative association transporting property exclusively for the members of the association on a nonprofit basis or any independent contractor hauling exclusively for the association.

(iii) An owner or operator of a farm transporting agricultural products from, or farm supplies to, the farm, or an independent contractor hauling agricultural products or farm supplies, exclusively, for one or more owners or operators of farms.

(iv) Transportation of school children in any motor vehicle owned by any school district, or operated under contract with any school district, for which transportation is lawfully paid by the school district from district funds.

(v) A person or corporation who or which uses, or furnishes for use, dump trucks for the transportation of ashes, rubbish, excavated or road construction materials.

(vi) Transportation of voting machines to and from polling places by any person or corporation for or on behalf of any political subdivision of this Commonwealth for use in any primary, general or special election.

*Operating ratio*—The operating ratio at present rates shall be calculated as a ratio of intrastate operating expenses to intrastate operating revenues, where the numerator includes operations and maintenance expense, annual depreciation, applicable taxes, and the denominator consists of the utility's intrastate operating revenues at present rates, including all surcharges.

*Rate*—An individual or joint fare, toll, charge, rental or other compensation of a public utility, other than a motor common carrier of property in its transportation of property, or contract carrier by motor vehicle, made, demanded or received for jurisdictional service, offered, rendered or furnished by the public utility, other than a motor carrier of property in its transportation of property, or contract carrier by motor vehicle, whether in currency, legal tender or evidence thereof, in kind, in services or in another medium or manner, and whether received directly or indirectly, and rules, regulations, practices, classifications or contracts affecting the compensation, charge, fare, toll or rental.



*Tariff*—Schedules of rates, rules, regulations, practices or contracts involving any rate, including contracts for interchange of service and, in the case of a common carrier, other than a common carrier of property in the transportation of property, schedules showing the method of distribution of the facilities of the common carrier.

(b) *Applicability.* This chapter applies to motor carriers except common carriers of property and group and party carriers of more than 15 passengers.

#### NOTICE OF TARIFF CHANGES

##### § 23.41. Notice requirements for filing changes in rates.

(a) To establish uniformity in the rules, regulations and practices of common carriers subject both to the jurisdiction of the Interstate Commerce Commission and the Commission, and so that common carriers subject to the exclusive jurisdiction of the Commission may not be unreasonably prejudiced or burdened, all common carriers, except as specified in subsection (c), are, unless otherwise directed, permitted to file changes in existing and duly established rates upon 30 days' notice to the Commission and the public. This subsection is not applicable to group and party carriers of 11 to 15 passengers and limousine carriers, which carriers are permitted to change rates on 1 day's notice to the Commission.

(b) Except by specific authority of the Commission, no change shall be made in any existing and duly established rate, except as specified in subsection (c), unless the rate has been in operation and effect for at least 30 days. This limitation does not, however, apply to tariffs on schedules containing rates for excursions limited to certain designated periods under authority of § 23.43 (relating to excursion fares). This subsection is not applicable to group and party carriers of 11 to 15 passengers and limousine carriers.

(c) Railroads and their agents operating in Pennsylvania intrastate transportation are permitted to file decreased rates on 10 days' notice and increased rates on 20 days' notice.

#### NOTICE OF CHANGES IN FARES

##### § 23.61. Posting of changes in passenger fares.

(a) Upon the filing and posting of new tariffs or supplements to tariffs making increases in passenger fares by carriers other than railroads and aircraft, notice thereof shall be given to the public by posting in offices, waiting rooms and stations a notice on a poster, which shall be not less than 15 by 20 inches in size, or 300 square inches, printed in bold type of not less than 1 inch in height, as follows:

NOTICE  
NEW RATES (FARES) TO BECOME EFFECTIVE  
here insert date  
MAKING INCREASES IN RATES (FARES) AFFECTING  
here designate  
the class of  
service affected  
HAVING BEEN FILED AND POSTED IN THE OFFICES  
OF THIS CARRIER AND WILL BE PRODUCED FOR  
EXAMINATION UPON REQUEST.

(b) The notice shall be posted in the offices so that it may be readily seen, and in two conspicuous places in each station and waiting room where tariffs are placed in the custody of a representative. Unless otherwise authorized by this subchapter or by the Commission, the notice shall be posted for a period of not less than 30 days

before the increases become effective, and is in addition to the notices prescribed in §§ 23.41—23.43 (relating to notice of tariff changes).

(c) Carriers, except railroads and aircraft, shall also post in every car or other means of conveyance employed by them for the transportation of passengers, over the line affected, a notice similar to that prescribed in subsection (a) for the period indicated, the notice to be of a size and type appropriate to the vehicle involved.

(d) Subsections (a)—(c) are not applicable to group and party carriers of 11 to 15 passengers and limousine carriers.

##### § 23.62. Notification to the Commission of proposed rate changes.

In order that the Commission may be concurrently advised of the net effect of a proposed change in rates upon the patrons and the revenues of common carriers of passengers other than railroad and aircraft, as well as the prima facie reasonableness of the proposed rate changes, the data called for in § 23.63 (relating to data required in filing proposed rate changes), as appropriate, shall accompany the filing of the proposed rates, and shall be submitted in triplicate, and under oath of a responsible officer. Tariffs or tariff supplements not accompanied by the data, but required to be so accompanied, will be returned to the sender as not acceptable for filing. This section is not applicable to group and party carriers of 11 to 15 passengers and limousine carriers.

##### § 23.63. Data required in filing proposed rate changes.

(a) If a common carrier of passengers, other than railroad and aircraft, files a tariff or tariff supplement which will increase or decrease fares to any of its patrons, it shall submit to the Commission, with the tariff or tariff supplement, statements showing all of the following:

- (1) The changes in rates proposed, stating the effective and proposed fares.
- (2) The specific reasons for each increase or decrease.
- (3) The estimated effect of each rate increase or decrease on the carrier's annual revenues.
- (4) The calculations by which the estimates in paragraph (3) were determined.

(b) Subsection (a) is not applicable to group and party carriers of 11 to 15 passengers and limousine carriers.

##### § 23.64. (Reserved).

##### § 23.65. Exemptions from filing.

The filing requirements of § 23.63 (relating to data required in filing proposed rate changes) do not apply to rate changes pertaining solely to temporary or excursion traffic.

##### § 23.68. Filing requirements for passenger carriers.

(a) Passenger carriers shall submit a statement with the tariff or tariff supplement stating the following:

- (1) The information required under § 23.63 (relating to data required in filing proposed rate changes).
- (2) The total gross annual intrastate revenue for the most recent fiscal year.
- (3) The dollar amount of increased annual revenue that the rate increase is expected to produce.
- (4) The total projected operating revenue after the revenue increase.

- (5) The total projected operating expenses.
- (6) The projected operating ratio.
- (b) Subsection (a) is not applicable to group and party carriers of 11 to 15 passengers and limousine carriers.

**§ 23.69. Stay-out provision.**

A passenger carrier will not be permitted to request another increase in rates or operating revenues under § 23.68 (relating to filing requirements for passenger carriers) from the Commission for 1 year following a prior Commission-approved rate increase under § 23.68. A passenger carrier with gross intrastate operating revenues of less than \$500,000, but with an operating ratio that is 93% or above, shall be excepted from this 1-year stay-out restriction.

**CHAPTER 29. MOTOR CARRIERS OF PASSENGERS**

**Subchapter B. COMMON CARRIERS  
PRELIMINARY PROVISIONS**

**§ 29.13. Scheme of classification.**

The following standard classification of types of service furnished by common carriers of passengers is adopted, and the following is hereby recognized as a standard class of common carrier service. The rights and conditions pertaining to a standard class of service are specified in Subchapter D (relating to supplemental regulations). A certificated service which does not completely correspond to a standard class may be governed, when practicable, by the regulations for the standard class to which it most nearly corresponds:

- (1) *Scheduled route service.* Common carrier service for passengers, rendered on either an exclusive or a nonexclusive basis, wherein the vehicles delivering the service operate according to schedules along designated routes.
- (2) *Call or demand service.* Local common carrier service for passengers, rendered on either an exclusive or a nonexclusive basis, when the service is characterized by the fact that passengers normally hire the vehicle and its driver either by telephone call or by hail, or both.

(3) *Group and party service.* Common carrier service for passengers, rendered on an exclusive basis as charter service for groups or rendered on a nonexclusive basis for tour or sightseeing service and special excursion service. There are 2 classes of group and party service, group and party carriers of 11 to 15 passengers, including the driver, and group and party carriers of more than 15 passengers, including the driver.

(4) *Limousine service.* Local, nonscheduled common carrier service for passengers rendered in luxury-type vehicles on an exclusive basis which is arranged for in advance.

(5) *Airport transfer service.* Common carrier service for passengers rendered on a nonexclusive basis which originates or terminates at an airport.

(6) *Other services: paratransit, experimental.* Common carrier service for passengers which differs from service as described in any one of the five classes in paragraphs (1)—(5) and is provided in a manner described in the certificate of public convenience of the carrier and is subject to restrictions and regulations are stated in the certificate of the carrier or in this chapter.

**Subchapter D. SUPPLEMENTAL REGULATIONS  
GROUP AND PARTY SERVICE**

**§ 29.323. Vehicle and equipment requirements.**

A group and party service may be operated only in vehicles with seating capacities of ten passengers or greater, excluding the driver. There are 2 classes of group and party service, group and party carriers of 11 to 15 passengers, including the driver, and group and party carriers of more than 15 passengers, including the driver.

**§ 29.324. Tariff requirements.**

The rates charged and collected shall be contained in the tariff filed, posted and published under the statute and this title. This section is not applicable to group and party carriers of more than 15 passengers, including the driver.

[Pa.B. Doc. No. 17-929. Filed for public inspection June 2, 2017, 9:00 a.m.]

# STATEMENTS OF POLICY

## Title 67—TRANSPORTATION

### DEPARTMENT OF TRANSPORTATION

[ 67 PA. CODE CH. 173a ]

#### Flashing or Revolving Lights on Emergency and Authorized Vehicles

The Department of Transportation (Department), under the authority in 75 Pa.C.S. §§ 6102 and 6103 (relating to powers and duties of department and local authorities; and promulgation of rules and regulations by department), adds Chapter 173a (relating to flashing or revolving lights on emergency and authorized vehicles—statement of policy) to read as set forth in Annex A.

##### *Purpose*

The purpose of Chapter 173a is to formalize the Department's interpretation of Chapter 173 (relating to flashing or revolving lights on emergency and authorized vehicles) following amendments to 75 Pa.C.S. § 4571(b.1)(3) and (f) (relating to visual and audible signals on emergency vehicles) under the act of July 8, 2016 (P.L. 477, No. 75) (Act 75).

The purpose of Chapter 173a is to interpret 75 Pa.C.S. (relating to Vehicle Code) and Chapter 173, which will provide guidance to fire departments, fire chiefs and assistant fire chiefs regarding the mounting of flashing or revolving lights in the passenger compartment of fire department vehicles or privately owned vehicles used in answering emergency calls when used by a fire chief, assistant chief and, when a fire company has three or more fire vehicles, a second or third assistant chief, as well as the law enforcement community. Section 4571(b.1)(3) and (f) of 75 Pa.C.S., as amended under Act 75, provides that the Department cannot prohibit the use of interior mounted flashing or revolving lights in the passenger compartment of fire department vehicles or privately owned vehicles used in answering emergency calls when used by a fire chief, assistant chief and, when a fire company has three or more fire vehicles, a second or third assistant chief. Chapter 173a clarifies that the amendments to 75 Pa.C.S. § 4571(b.1)(3) and (f) expand the use of the subject flashing or revolving lights beyond the mounting locations identified in § 173.3(e)(1) (relating to display requirements).

Section 4571(b.1)(3) of 75 Pa.C.S., as amended by Act 75, requires that the internally mounted flashing or revolving lights on the identified fire vehicles comply with the Department's regulations. Currently, under § 173.3(a)(2), flashing or revolving lights must be red. Moreover, under § 173.3(e)(2)(iv) and (v), flashing or revolving lights mounted inside the passenger compartment of police vehicles must be clearly visible through either the front windshield or rear window. Other applicable regulations such as § 173.3(b), providing for 360° visibility, also remain in effect.

Accordingly, the Department interprets 75 Pa.C.S. § 4571(b.1)(3), as amended by Act 75, to mean that flashing or revolving lights mounted inside the passenger compartment of fire department vehicles or privately owned vehicles used in answering emergency calls when used by a fire chief, assistant chief and, when a fire company has three or more fire vehicles, a second or third assistant chief are required to be clearly visible through

either the front or rear window, consistent with the existing regulatory requirements applicable to police vehicles. Other existing regulatory requirements for all authorized vehicles, including items such as light color (that is, the use of red flashing or revolving lights) and visibility, also apply. See § 173.3(a)(2) and (b).

##### *Significant Provisions*

Chapter 173a specifically clarifies that in addition to the locations detailed in § 173.3(e)(1), flashing or revolving lights may be permanently mounted in the vehicles of fire departments, fire chiefs and assistant fire chiefs vehicles either: 1) inside the passenger compartment, clearly visible through the front windshield; or 2) inside the passenger compartment, clearly visible through the rear window, similar to permitted uses in police vehicles in § 173.3(e)(2)(iv) and (v).

##### *Persons and Entities Affected*

This statement of policy applies to the owners and operators of fire department vehicles or privately owned vehicles used in answering emergency calls when used by a fire chief, assistant chief and, when a fire company has three or more fire vehicles, a second or third assistant chief, as well as the law enforcement community.

##### *Fiscal Impact*

This statement of policy will not have fiscal impact on the Commonwealth or local governments. As this statement of policy provides an interpretation of the Department's regulations in view of a statutory change allowing for the optional use of specified lighting in certain emergency vehicles, fiscal impacts to the regulated community may be positive for those utilizing the optional lighting addressed in this statement of policy instead of potentially more costly lighting options.

##### *Sunset Date*

A sunset date is not being established for this statement of policy. Its need and efficacy will be periodically monitored by the Department.

##### *Effective Date*

This statement of policy will be effective upon publication in the *Pennsylvania Bulletin*.

##### *Contact Person*

The contact person for technical questions related to this statement of policy is Kay Kishbaugh, Manager, Vehicle Inspection Division, Bureau of Motor Vehicles, 1101 South Front Street, 4th Floor, Harrisburg, PA 17104, (717) 787-2171.

##### *Order*

The Department, acting under the authority statutes, orders that:

(a) Title 67 of the *Pennsylvania Code* is amended by adding statements of policy in §§ 173a.1—173a.3 to read as set forth in Annex A.

(b) The Secretary of the Department shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(c) This order shall take effect upon publication in the *Pennsylvania Bulletin*.

LESLIE S. RICHARDS,  
*Secretary*

**Fiscal Note:** 18-478. No fiscal impact; (8) recommends adoption.

## Annex A

## TITLE 67. TRANSPORTATION

## PART I. DEPARTMENT OF TRANSPORTATION

## Subpart A. VEHICLE CODE PROVISIONS

## ARTICLE VII. VEHICLE CHARACTERISTICS

## CHAPTER 173a. FLASHING OR REVOLVING LIGHTS ON EMERGENCY AND AUTHORIZED VEHICLES—STATEMENT OF POLICY

Sec.

- 173a.1. Purpose.  
 173a.2. Definitions.  
 173a.3. Interpretation.

**§ 173a.1. Purpose.**

This chapter sets forth the Department's interpretation of Chapter 173 (relating to flashing or revolving lights on emergency and authorized vehicles).

**§ 173a.2. Definitions.**

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

*Flashing light*—The term as defined in § 173.2 (relating to definitions).

*Revolving light*—The term as defined in § 173.2.

**§ 173a.3. Interpretation.**

In addition to the locations in § 173.3(e)(1) (relating to display requirements), flashing or revolving lights may be permanently mounted in a workmanlike manner in fire department vehicles and privately owned vehicles used in answering an emergency call when used by a fire chief, assistant chief and, when a fire company has three or more fire vehicles, a second or third assistant chief, in either of the following locations:

(i) Inside the passenger compartment, clearly visible through the front windshield. (See original equipment manufacturer for mounting locations.)

(ii) Inside the passenger compartment, clearly visible through the rear window.

[Pa.B. Doc. No. 17-930. Filed for public inspection June 2, 2017, 9:00 a.m.]

# NOTICES

## DEPARTMENT OF BANKING AND SECURITIES

### Actions on Applications

The Department of Banking and Securities (Department), under the authority contained in the act of November 30, 1965 (P.L. 847, No. 356), known as the Banking Code of 1965; the act of May 15, 1933 (P.L. 565, No. 111), known as the Department of Banking Code; and the act of December 19, 1990 (P.L. 834, No. 198), known as the Credit Union Code, has taken the following action on applications received for the week ending May 23, 2017.

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, Corporate Applications Division, 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, contact the Corporate Applications Division at (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>
5-22-2017	Fleetwood Bank Fleetwood Berks County	216 East Philadelphia Avenue Boyertown Berks County	Filed

##### Branch Relocations

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
5-1-2017	Citizens Bank of PA Philadelphia Philadelphia County	<i>To:</i> 3901 Washington Road McMurray Washington County  <i>From:</i> 3907 Washington Road McMurray Washington County	Effective

##### Branch Discontinuances

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
5-18-2017	Orrstown Bank Shippensburg Cumberland County	1000 Bryn Mawr Road Carlisle Cumberland County	Closed

##### Articles of Amendment

<i>Date</i>	<i>Name and Location of Institution</i>	<i>Action</i>
5-19-2017	Select Asset Management & Trust Mechanicsburg Cumberland County	Filed

Amendment to Article Second of the institution's Articles of Incorporation provides for change in their principal place of business from 4718 Gettysburg Road, Mechanicsburg, Cumberland County, PA 17055 to 4732 Gettysburg Road, Mechanicsburg, Cumberland County, PA 17055.

### 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. 17-931. Filed for public inspection June 2, 2017, 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. Phone: 717-705-4707.*

<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>
PA0081388— SEW	Windy Brae Mobile Home Park 14871 Mount Olivet Road Stewartstown, PA 17363	Adams County North Hopewell Township	East Branch Codorus Creek/7-H	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>
PA0248037— SEW	Bethel Village Sewage Treatment Plant 8275 Lancaster Avenue Bethel, PA 19507-9710	Berks County Bethel Township	Swatara Creek/7-D	Y
PA0087188— IW	Bleyer Gift Packs, LLC 80 Voice Road Carle Place, NY 11514-1500	Huntingdon County/ Mount Union Borough	Juniata River/12-C	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>
PA0228231 (Sewage)	Lower Mahanoy Township Municipal Authority Sewer System STP 132 River Road Dalmatia, PA 17017-9501	Northumberland County Lower Mahanoy Township	Susquehanna River (6-B)	Yes
PA0043893 (Sewage)	Western Clinton County Municipal Authority Sewer System STP PO Box 363 Renovo, PA 17764-0363	Clinton County Renovo Borough	West Branch Susquehanna River (9-B)	No

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

<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>
PA0263877 (Industrial)	Jay Township Water Authority WTP 49 Kennedy Street Byrnedale, PA 15827-0069	Elk County Jay Township	Unnamed Tributary to Kersey Run (8-A)	Yes
PA0092185 (Sewage)	Brady Hills MHP 316 W 2nd Street Suite 1104 Los Angeles, CA 90012-3536	Butler County Brady Township	Big Run (20-C)	Yes

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

*Northeast Regional Office: Regional Clean Water Program Manager, 2 Public Square, Wilkes-Barre, PA 18701-1915, Telephone: 570.826.2511.*

**PA0070386**, Sewage, SIC Code 4952, **Shenandoah Municipal Sewer Authority Schuylkill County**, 15 W Washington Street, Shenandoah, PA 17976-1708. Facility Name: Shenandoah Municipal Sewer Authority. This existing facility is located in Shenandoah Borough, **Schuylkill County**.

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

The receiving stream(s), Shenandoah Creek, is located in State Water Plan watershed 6-B and is classified for Cold Water Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of 2 MGD.—Limits.

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>		<i>Minimum</i>	<i>Concentrations (mg/L)</i>		<i>Instant. Maximum</i>
	<i>Average Monthly</i>	<i>Weekly Average</i>		<i>Average Monthly</i>	<i>Weekly Average</i>	
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX Daily Max	6.0	XXX	9.0 IMax	XXX
Total Residual Chlorine (TRC)	XXX	XXX	XXX	1.0	XXX	2.0
Carbonaceous Biochemical Oxygen Demand (CBOD <sub>5</sub> )	417	667	XXX	25.0	40.0	50.0
Total Suspended Solids	500	750	XXX	30.0	45.0	60.0

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>		<i>Minimum</i>	<i>Concentrations (mg/L)</i>		<i>Instant. Maximum</i>
	<i>Average Monthly</i>	<i>Weekly Average</i>		<i>Average Monthly</i>	<i>Weekly Average</i>	
Fecal Coliform (CFU/100 ml)						
Oct 1 - Apr 30	XXX	XXX	XXX	2,000	XXX	10,000
May 1 - Sep 30	XXX	XXX	XXX	Geo Mean 200	XXX	1,000
Nitrate-Nitrite as N	XXX	XXX	XXX	Report	XXX	XXX
Nitrate-Nitrite as N (Total Load, lbs) (lbs)	Report Total Mo	XXX	XXX	XXX	XXX	XXX
Total Nitrogen	XXX	XXX	XXX	Report	XXX	XXX
Total Nitrogen (Total Load, lbs) (lbs)	Report Total Mo	XXX	XXX	XXX	XXX	XXX
Ammonia-Nitrogen—Interim Limits	XXX	XXX	XXX	Report	XXX	XXX
Ammonia-Nitrogen—Final limits	XXX	XXX	XXX	17.2	XXX	34.4
Total Kjeldahl Nitrogen	XXX	XXX	XXX	Report	XXX	XXX
Total Kjeldahl Nitrogen (Total Load, lbs) (lbs)	Report Total Mo	XXX	XXX	XXX	XXX	XXX
Total Phosphorus	XXX	XXX	XXX	Report	XXX	XXX
Total Phosphorus (Total Load, lbs) (lbs)	Report Total Mo	XXX	XXX	XXX	XXX	XXX
Aluminum, Total	XXX	XXX	XXX	Report Avg Qrtly	XXX	XXX
Copper, Total	XXX	XXX	XXX	Report Avg Qrtly	XXX	XXX
Iron, Dissolved	XXX	XXX	XXX	Report Avg Qrtly	XXX	XXX
Iron, Total	XXX	XXX	XXX	Report Avg Qrtly	XXX	XXX
Magnesium, Total	XXX	XXX	XXX	Report Avg Qrtly	XXX	XXX

The proposed effluent limits for Outfall 001 are based on a design flow of 2 MGD.—Limits.

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>		<i>Minimum</i>	<i>Concentrations (mg/L)</i>		<i>Instant. Maximum</i>
	<i>Average Monthly</i>	<i>Daily Maximum</i>		<i>Average Monthly</i>	<i>Maximum</i>	
Biochemical Oxygen Demand (BOD <sub>5</sub> )						
Raw Sewage Influent	Report	Report	XXX	Report	XXX	XXX
Total Suspended Solids						
Raw Sewage Influent	Report	Report	XXX	Report	XXX	XXX
Total Nitrogen (Total Load, lbs) (lbs)						
Effluent Net	Report Total Mo	XXX	XXX	XXX	XXX	XXX
Total Phosphorus (Total Load, lbs) (lbs)						
Effluent Net	Report Total Mo	XXX	XXX	XXX	XXX	XXX

The proposed effluent limits for Outfall 015 are based on a design flow of Stormwater (0 MGD).—Limits.

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>		<i>Minimum</i>	<i>Concentrations (mg/L)</i>		<i>Instant. Maximum</i>
	<i>Average Monthly</i>	<i>Average Weekly</i>		<i>Average Monthly</i>	<i>Daily Maximum</i>	
Total Suspended Solids	XXX	XXX	XXX	XXX	Report	XXX
Oil and Grease	XXX	XXX	XXX	XXX	Report	XXX

The proposed effluent limits for Outfall 016 are based on a design flow of Stormwater (0 MGD).—Limits.

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>		<i>Minimum</i>	<i>Concentrations (mg/L)</i>		<i>Instant. Maximum</i>
	<i>Average Monthly</i>	<i>Average Weekly</i>		<i>Average Monthly</i>	<i>Daily Maximum</i>	
Total Suspended Solids	XXX	XXX	XXX	XXX	Report	XXX
Oil and Grease	XXX	XXX	XXX	XXX	Report	XXX



The proposed effluent limits for Outfall 017 are based on a design flow of Stormwater (0 MGD).—Limits.

Parameters	Mass Units (lbs/day)			Concentrations (mg/L)		Instant. Maximum
	Average Monthly	Average Weekly	Minimum	Average Monthly	Daily Maximum	
Total Suspended Solids	XXX	XXX	XXX	XXX	Report	XXX
Oil and Grease	XXX	XXX	XXX	XXX	Report	XXX

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

Parameters	Mass Units (lbs/day)			Concentrations (mg/L)		Instant. Maximum
	Monthly	Annual	Monthly	Average Monthly	Maximum	
Total Nitrogen (Total Load, lbs)	XXX	Report Total Annual	XXX	XXX	XXX	XXX
Effluent Net	XXX	36,529 Total Annual	XXX	XXX	XXX	XXX
Ammonia-Nitrogen (Total Load, lbs)	XXX	Report Total Annual	XXX	XXX	XXX	XXX
Total Phosphorus (Total Load, lbs)	XXX	Report Total Annual	XXX	XXX	XXX	XXX
Effluent Net	XXX	4,871 Total Annual	XXX	XXX	XXX	XXX

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

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

- Update the Combined Sewer Outfall (CSO) Long Term Control Plan (LTCP)
- Yearly WET Testing
- Stormwater Conditions
- TMDL's Aluminum, Iron and Manganese Monitoring
- Development of a Pre-Treatment Program

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

The EPA Waiver is not in effect.

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*Southcentral Region: Clean Water Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110. Phone: 717-705-4707.*

**PA0081001**, Sewage, SIC Code 4952, **Saint Thomas Township Municipal Authority**, 175 Saint Thomas Edenville Road, St Thomas, PA 17252. Facility Name: St Thomas Township WWTP. This existing facility is located in Saint Thomas Township, **Franklin County**.

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

The receiving stream(s), Back Creek, is located in State Water Plan watershed 13-C and is classified for Warm Water Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.4 MGD.

Parameters	Mass Units (lbs/day)			Concentrations (mg/L)		Instant. Maximum
	Average Monthly	Weekly Average	Minimum	Average Monthly	Weekly Average	
Flow (MGD)	Report	Report Daily Max	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Dissolved Oxygen	XXX	XXX	5.0	XXX	XXX	XXX
Total Residual Chlorine (TRC)	XXX	XXX	XXX	5.0	XXX	1.6
CBOD <sub>5</sub>	83	133	XXX	25.0	40.0	50
BOD <sub>5</sub>						
Raw Sewage Influent	Report	Report Daily Max	XXX	Report	XXX	XXX

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>		<i>Minimum</i>	<i>Concentrations (mg/L)</i>		<i>Instant. Maximum</i>
	<i>Average Monthly</i>	<i>Weekly Average</i>		<i>Average Monthly</i>	<i>Weekly Average</i>	
Total Suspended Solids	100	150	XXX	30.0	45.0	60
Raw Sewage Influent	Report	Report Daily Max	XXX	Report	XXX	XXX
Fecal Coliform (CFU/100 ml)						
May 1 - Sep 30	XXX	XXX	XXX	200 Geo Mean	XXX	1,000
Oct 1 - Apr 30	XXX	XXX	XXX	2,000 Geo Mean	XXX	10,000
Ammonia-Nitrogen						
May 1 - Oct 31	20	XXX	XXX	6.0	XXX	12
Nov 1 - Apr 30	60	XXX	XXX	18.0	XXX	XXX

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

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

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

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

The EPA Waiver is not in effect.

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

**PA0232840**, Industrial, SIC Code 4911, **Renovo Energy Center LLC**, 12011 Sunset Hills Road, Suite 110, Reston, VA 20190-5919. Facility Name: Renovo Energy Center. This proposed facility is located in Renovo Borough, **Clinton County**.

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

The receiving stream(s), West Branch Susquehanna River, is located in State Water Plan watershed 9-B and is classified for Migratory Fishes and Warm Water Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.395 MGD.

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>		<i>Minimum</i>	<i>Concentrations (mg/L)</i>		<i>Instant. Maximum</i>
	<i>Average Monthly</i>	<i>Daily Maximum</i>		<i>Average Monthly</i>	<i>Daily Maximum</i>	
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Total Residual Chlorine (TRC)	XXX	XXX	XXX	0.2	XXX	0.5
Temperature (deg F) (°F)	XXX	XXX	XXX	XXX	110	XXX
Total Suspended Solids	105	360	XXX	30.0	100.0	125
Oil and Grease	XXX	XXX	XXX	15.0	20.0	30
Aluminum, Total	2.70	2.70	XXX	0.75	0.75	0.75
Copper, Total	0.09	0.19	XXX	0.03	0.06	0.07
Iron, Total	5.40	10.80	XXX	1.50	3.00	3.75
PCBs, Total (µg/L)	XXX	XXX	XXX	XXX	XXX	1.75

The proposed monitoring requirements for Outfall 002 are:

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

The proposed monitoring requirements for Outfall 003 are:

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

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 570-327-3693.

The EPA Waiver is not in effect.

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

**PA0264954**, Sewage, SIC Code 8800, **Mary Hopshire**, 210 Grass Flats Boulevard, Warren, PA 16365. Facility Name: Mary Hopshire SRSTP. This proposed facility is located in Conewango Township, **Warren County**.

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

The receiving stream, an Unnamed Tributary to the Allegheny River, is located in State Water Plan watershed 16-B and is classified for Warm Water Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

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

Parameters	Mass Units (lbs/day)		Minimum	Concentrations (mg/L)		Instant. Maximum
	Average Monthly	Average Weekly		Average Monthly	Maximum	
Flow (MGD)	Report	XXX	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	9.0	XXX
Biochemical Oxygen Demand (BOD <sub>5</sub> )	XXX	XXX	XXX	10.0	XXX	20.0
Total Suspended Solids	XXX	XXX	XXX	10.0	XXX	20.0
Fecal Coliform (CFU/100 ml)	XXX	XXX	XXX	200 Geo Mean	XXX	XXX

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 814-332-6340.

The EPA Waiver is in effect.

**PA0265098**, Sewage, SIC Codes 8800 and 4952, **Cory Migliaccio & Jill Fuller**, PO Box 11222, Erie, PA 16514. Facility Name: Cory Migliaccio & Jill Fuller SRSTP. This proposed facility is located in Greenfield Township, **Erie County**.

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

The receiving stream is an unnamed tributary to Sixmile Creek, located in State Water Plan watershed 15-A and classified for Cold Water Fishes and Migratory Fish, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

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

Parameters	Mass Units (lbs/day)		Minimum	Concentrations (mg/L)		Instant. Maximum
	Average Monthly	Average Weekly		Average Monthly	Maximum	
Flow (MGD)	Report	XXX	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	9.0	XXX

Parameters	Mass Units (lbs/day)		Minimum	Concentrations (mg/L)		Instant. Maximum
	Average Monthly	Average Weekly		Average Monthly	Maximum	
Biochemical Oxygen Demand (BOD <sub>5</sub> )	XXX	XXX	XXX	10.0	XXX	20.0
Total Suspended Solids	XXX	XXX	XXX	10.0	XXX	20.0
Fecal Coliform (CFU/100 ml)	XXX	XXX	XXX	200 Geo Mean	XXX	1,000

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 814-332-6340.

The EPA Waiver is in effect.

**PA0264881**, Sewage, SIC Code 4952, 8800, **Timothy Hajec**, 650 Whitney Run Road, Corry, PA 16407. Facility Name: Timothy Hajec SRSTP. This proposed facility is located in Spring Creek Township, **Warren County**.

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

The receiving stream is Whitney Run, located in State Water Plan watershed 16-B and classified for High Quality Waters—Cold Water Fish, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

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

Parameters	Mass Units (lbs/day)		Minimum	Concentrations (mg/L)		Instant. Maximum
	Average Monthly	Average Weekly		Average Monthly	Maximum	
Flow (MGD)	Report	XXX	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	9.0	XXX
Biochemical Oxygen Demand (BOD <sub>5</sub> )	XXX	XXX	XXX	10.0	XXX	20.0
Total Suspended Solids	XXX	XXX	XXX	10.0	XXX	20.0
Fecal Coliform (CFU/100 ml)	XXX	XXX	XXX	200 Geo Mean	XXX	1,000

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 814-332-6340.

The EPA Waiver is in effect.

**III. WQM Industrial Waste and Sewerage Applications under The Clean Streams Law**

*Southcentral Region: Clean Water Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110. Phone: 717-705-4707.*

**WQM Permit No. 2117403**, Sewerage, **Hampden Green, LLC**, 225 North Presidential Boulevard, Bala Cynwyd, PA 19004.

This proposed facility is located in Hampden and East Pennsboro Townships, **Cumberland County**.

Description of Proposed Action/Activity: Seeking permit approval for the construction of a sanitary sewer collection system connecting to the Hampden Township Sewer Authority.

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

**WQM Permit No. 2596413 A-1**, Sewage, **North East Borough Erie County**, 31 W Main Street, North East, PA 16428-1135.

This existing facility is located in North East Borough, **Erie County**.

Description of Proposed Action/Activity: Amendment to switch from gas to liquid chlorine at North East Borough STP.

**WQM Permit No. 2017401**, Sewage, **Stephen Young**, 19304 Cole Road, Conneautville, PA 16406.

This proposed facility is located in Conneaut Township, **Crawford County**.

Description of Proposed Action/Activity: Single Residence Sewage Treatment Plant.

**VI. NPDES Individual Permit Applications for Discharges of Stormwater Associated with Construction Activities**

*Southeast Region: Waterways & Wetlands Program Manager, 2 East Main Street, Norristown, PA 19401. Telephone 484-250-5160.*

NPDES Permit No.	Applicant Name & Address	County	Municipality	Receiving Water/Use
PAD150024	Charlestown Township P.O. Box 507 Devault, PA 19432	Chester	Charlestown Township	Unnamed Tributary to Pickering Creek and Pigeon Run HQ-TSF

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

*Luzerne Conservation District, 325 Smiths Pond Road, Shavertown, PA 18708.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAD400004	PPL Electric Utilities Corporation c/o Colleen Kester Two North 9th Street Allentown, PA 18101-1139	Luzerne	Conyngham Township Plains Township Bear Creek Township Wilkes-Barre Township Hanover Township Fairview Township Rice Township Slocum Township Laurel Run Borough Nuangola Borough	Huntsville Creek (CWF, MF) Browns Creek (CWF, MF) East Fork Harvey's Creek (CWF, MF) Harvey's Creek (CWF, MF)

*Monroe County Conservation District, 8050 Running Valley Rd., Stroudsburg, PA 18360-0917.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAD450025	Franconia Mennonite Camp Association—Spruce Lake Retreat 5389 Route 447 Canadensis, PA 18325-9795	Monroe	Barrett Township	Middle Branch Broadhead Creek (HQ-CWF, MF)

*Northampton County Conservation District, 14 Gracedale Avenue Greystone Bldg., Nazareth, PA 18064-9211.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAD480024	Township of Palmer 3 Weller Place Palmer, PA 18045-1975	Northampton	Palmer Township	Bushkill Creek (HQ-CWF, MF)

*Southcentral Region: Waterways & Wetlands Program, 909 Elmerton Avenue, Harrisburg, PA 17110-8200, Nathan Crawford, Section Chief, 717.705.4802.*

<i>Permit #</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAD210007	SP Carlisle Associates, LLC 4 Barlo Circle Dillsburg, PA 17019	Cumberland County	South Middleton Township	Letort Spring Run (HQ-CWF, MF)

## 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 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.

**APPLICATIONS**  
**NUTRIENT MANAGEMENT PLAN—PUBLIC NOTICE SPREADSHEET**

<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>
Lukens Farm Daniel Lukens 7075 Old Stage Road McClure, PA 17841	Mifflin	0	341.42	Swine	NA	Renewal
Goss Family Farms 123 Decatur Rd. McClure, PA 17841	Mifflin	316	1,197.74	Finisher Swine	NA	renewal
Jerrel Brubaker 269 Meeting House Lane Lewisburg, PA 17837	Union	850.8 Acres	69 673.25	Beef Swine and Poultry	N/A	Renewal

**LAND RECYCLING AND  
ENVIRONMENTAL REMEDIATION**

**UNDER ACT 2, 1995  
PREAMBLE 1**

**Acknowledgment of Notices of Intent to Remediate  
Submitted under the Land Recycling and Environ-  
mental Remediation Standards Act (35 P.S.  
§§ 6026.101—6026.907)**

Sections 302—305 of the Land Recycling and Environmental Remediation Standards Act (act) (35 P.S. §§ 6026.302—6026.305) require the Department to publish in the *Pennsylvania Bulletin* an acknowledgment noting receipt of Notices of Intent to Remediate. An acknowledgment of the receipt of a Notice of Intent 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. A person intending to use the background standard, Statewide health standard, the site-specific standard or intend to remediate a site as a special industrial area shall file a Notice of Intent to Remediate with the Department. A Notice of Intent 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 cleanup standards or 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 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(e)(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 Notice of Intent to Remediate is published in a newspaper of general circulation in the area of the site. For the following site, 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 date specified as follows. During this comment period, the municipality may request that the person identified 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 Notice of Intent to Remediate, contact the environmental cleanup program manager in the Department regional office listed before the notice. If information concerning this acknowledgment 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 Notices of Intent to Remediate:

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

**Kahler's Farm**, 106 Kahler's Farm Lane, Bushkill Township, **Northampton County**. MEA, Inc., 1365 Ackermanville Road, Bangor, PA 18013, on behalf of Roslyn Kahler, 65 East Lawn Road, Nazareth, PA 18064, submitted a Notice of Intent to Remediate. A release of gasoline and diesel fuel from two underground storage tanks impacted soil and groundwater at this site. The proposed future use of the property will be residential. The Notice of Intent to Remediate was published in *The Express-Times* on May 13, 2017.

*Southcentral Region: Environmental Cleanup and Brownfields Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110. Phone 717.705.4705.*

**Former Arrow International**, 1001 Hill Avenue, Wyomissing, PA 19610, Wyomissing Borough, **Berks County**. Environmental Maintenance Co., Inc., 1420 East Mermaid Lane, Glenside, PA 19038, on behalf of Water Polo V, LP, 1030 Reed Avenue, Suite 100, Wyomissing, PA 19610, submitted a Notice of Intent to Remediate site soil and groundwater contaminated with VOCs, chlorinated solvents and inorganics. The site will be remediated to the Site Specific and Residential Statewide Health Standards. Future use of the site is intended for residential

use. The Notice of Intent to Remediate was published in the *Reading Eagle* on April 19, 2017.

**SAC Oil**, 4588 Business Route 220, Bedford, PA 15522-7745, Bedford Township, **Bedford County**. DMS Environmental Services, LLC, 103 South Spring Street, Bellefonte, PA 16823, on behalf of SAC, Inc., 4588 Business Route 220, Bedford, PA 15522, submitted a Notice of Intent to Remediate site soil and groundwater contaminated with No. 2 fuel oil. The site will be remediated to the Site Specific and Non-Residential Statewide Health Standards. Future use of the site is to remain nonresidential and continued use as a bulk storage facility. The Notice of Intent to Remediate was published in the *Bedford Gazette* on April 25, 2017.

#### DETERMINATION OF APPLICABILITY FOR MUNICIPAL WASTE GENERAL PERMITS

**Application(s) for Determination of Applicability received under the Solid Waste Management Act (35 P.S. §§ 6018.101—6018.1003); the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P.S. §§ 4000.101—4000.1904); and Municipal Waste Regulations for a General Permit to Operate Municipal Waste Processing Facilities and the Beneficial Use of Municipal Waste.**

*Southcentral Region: Regional Solid Waste Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

**General Permit Application No. WMGM020SC001. Inashco North America Lancaster, LLC** has submitted an application for determination of applicability for the Frey Farm Landfill Metals Recovery Facility, 3049 River Road, Conestoga, PA 17516 in Manor Township, **Lancaster County**. This general permit is for the processing (shaking, scraping and screening) of ferrous/non-ferrous metal coated with ash residue and recycling/beneficial use of the scrap metal. The application for determination of applicability was determined to be complete on May 19, 2017.

Persons interested in obtaining more information about the general permit application may contact Mr. John Oren, P.E., Permits Section Chief, Southcentral Regional Office, Waste Management Program at 717-705-4706. TDD users may contact the Department through the Pennsylvania AT&T Relay Service, (800) 654-5984. Public comments must be submitted within 60 days of this notice and may recommend revisions to, and approval or denial of the application.

**General Permit Application No. WMGM044SC003. Mifflin County Solid Waste Authority**, 87 Landfill Road, Lewistown, PA 17044 in Derry Township, **Mifflin County**. This general permit is for the processing of unpainted and untreated wood waste; gypsum board; brick, block and concrete waste; various organic wastes; non-asbestos containing asphalt shingles; pallets; skids; saw dust; source segregated paper; cardboard and newspaper; plastic waste; scrap metal; unused structural sound building materials; and architectural elements. The processed waste materials are beneficial use as (a) mulch or wood chips for further processing off-site, (b) aggregate material in roadway construction, (c) soil conditioner or soil amendment, (d) alternative fuel, (e) animal bedding, or (f) distributed to wholesale outlets. The application for determination of applicability was determined to be complete on May 18, 2017.

Persons interested in obtaining more information about the general permit application may contact Mr. John Oren, P.E., Permits Section Chief, Southcentral Regional

Office, Waste Management Program at 717-705-4706. TDD users may contact the Department through the Pennsylvania AT&T Relay Service, (800) 654-5984. Public comments must be submitted within 60 days of this notice and may recommend revisions to, and approval or denial of the application.

## AIR QUALITY PLAN APPROVAL AND OPERATING PERMIT APPLICATIONS

The Department has developed an “integrated” plan approval, State Operating Permit and Title V Operating Permit program. This integrated approach is designed to make the permitting process more efficient for the Department, the regulated community and the general public. This approach allows the owner or operator of a facility to submit permitting documents relevant to its application for all sources related to a facility or a proposed project, affords an opportunity for public input, and provides for a decision on the issuance of the necessary permits.

The Department received applications for Plan Approvals or Operating Permits from the following facilities.

Copies of the application, the Department’s analysis, all pertinent documents used in the evaluation of the application and subsequently prepared proposed plan approvals/operating permits are available for public review during normal business hours at the appropriate Department Regional Office. Appointments for scheduling a review must be made by calling the appropriate Department Regional Office. The address and phone number of the Regional Office is listed before the application notices.

Persons wishing to file a written protest or provide comments or additional information, which they believe should be considered prior to the issuance of a permit, may submit the information to the Department’s Regional Office. A 30-day comment period from the date of this publication will exist for the submission of comments, protests and information. Each submission must contain the name, address and telephone number of the person submitting the comments, identification of the proposed Plan Approval/Operating Permit including the permit number and a concise statement regarding the relevancy of the information or objections to issuance of the permit.

A person wishing to request a hearing may do so during the 30-day comment period. A public hearing may be held, if the Department, in its discretion, decides that a hearing is warranted based on the information received. Persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in the newspaper, the *Pennsylvania Bulletin* or by telephone, when the Department determines this type of notification is sufficient. Requests for a public hearing and any relevant information should be directed to the appropriate Department Regional Office.

Permits issued to the owners or operators of sources subject to 25 Pa. Code Chapter 127, Subchapter D or E, or located within a Title V facility or subject to 25 Pa. Code § 129.51(a) or permits issued for sources with limitations on their potential to emit used to avoid otherwise applicable Federal requirements may be submitted to the United States Environmental Protection Agency for review and approval as a revision to the State Implementation Plan. Final Plan Approvals and Operating Permits will contain terms and conditions to ensure that the sources are constructed and operating in compliance with applicable requirements in the Air Pollution

Control Act (35 P.S. §§ 4001—4015), 25 Pa. Code Chapters 121—145, the Federal Clean Air Act (42 U.S.C.A. §§ 7401—7671q) and regulations adopted under the Federal Clean Air Act.

Persons with a disability who wish to comment and require an auxiliary aid, service or other accommodation to participate should contact the regional office listed before the application. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

**Intent to Issue Plan Approvals and Intent to Issue or Amend Operating Permits under the Air Pollution Control Act (35 P.S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter B. These actions may include the administrative amendments of an associated operating permit.**

*Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

*Contact: Norman Frederick, P.E., Environmental Engineering Manager—Telephone: 570-826-2409.*

**48-00005B: Hercules Cement Company dba Buccicem USA** (501 Hercules Drive, PO Box 69, Stockertown, PA 18083) submitted an application to the Department of Environmental Protection for a plan approval modification to their existing two kilns to burn alternative fuels at their facility located in Stockertown Borough, **Northampton County**. The facility currently operates under Title V Operating Permit No. 48-00005. This plan approval will be incorporated into the Title V Operating Permit through an administrative amendment at a later date. This application seeks to add additional alternative fuels, switchgrass and an engineered fuel called Green Fuel, to the approved fuels and seeks to replace the individual kiln limits with a single facility limit of 5.2 TPH for all alternative fuels. Since alternative fuels are already approved for these kilns, as well as an alternative fuel delivery system, there are no physical modifications required at the facility to accommodate these additional alternative fuels. The Department's review of the information submitted by Hercules Cement indicates that the proposed modifications will meet all applicable air quality requirements pertaining to air contamination sources and the emission of air contaminants, including the BAT requirements. The company shall comply with 123.31 for malodorous emissions. The company shall comply with 123.13 for particulate emissions. The company shall comply with 123.41 for visible emissions. The company is subject to 40 CFR Part 63 Subpart LLL requirements. All alternative fuels will have a combined limit of 5.2 TPH. CEMS will continue to be used to measure NO<sub>x</sub>, CO and O<sub>2</sub> emissions. The Plan approval and Operating Permit will include testing, monitoring, record keeping and reporting requirements designed to keep the sources operating within all applicable air quality requirements. For further details, contact Ray Kempa at (570) 826-2511 within 30 days after publication date.

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

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

**22-03052D: Hearth and Home Technologies** (352 Mountain House Road, Halifax, PA 17032) for the construction of two (2) paint booths with fabric filters at the

heating equipment manufacturing facility located in Jackson Township, **Dauphin County**. The expected increases in facility emissions as a result of the changes proposed are: potential emissions of 6.2 tpy of VOC and 6.2 tpy of HAPs. The facility is a State-only permit facility. DEP's review of the information submitted by the applicant indicates that the air contamination sources as constructed or modified will comply with all regulatory requirements pertaining to air contamination sources and the emission of air contaminants including the best available technology requirement (BAT) of 25 Pa. Code §§ 127.1 and 127.12, and 25 Pa. Code § 129.52d Surface coating processes and 40 CFR Part 63 Subpart XXXXXX—National Emission Standards for Hazardous Air Pollutants Area Source Standards for Nine Metal Fabrication and Finishing Source Categories. Based on these findings, the Department proposes to issue a plan approval for the proposed construction. If, after the project has been implemented, the Department determines that the sources are constructed and operated in compliance with the plan approval conditions and the specification of the application for plan approval, the requirements established in the plan approval will be incorporated into an Operating Permit pursuant to the administrative amendment provisions of 25 Pa. Code § 127.450.

*Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104.*

*Contact: Edward Wiener, Chief—Telephone: 215-685-9426.*

**AMS 16013:** Philadelphia Air Management Services to modify Condition 11 of Plan Approval No. 05214 dated 10/4/2005 (issued to **Sunoco Inc., Philadelphia Refinery**) to allow H<sub>2</sub>S monitoring of the fuel gas supplied to the 1332 H<sub>2</sub> Heater (CU0009) at the Girard Point Mix Drum (V-10001) in lieu of the original H<sub>2</sub>S CEM installed at 1332 H<sub>2</sub> Heater under Plan Approval No. 05214. The original H<sub>2</sub>S CEM installed at the 1332 H<sub>2</sub> Heater is currently referenced in the H<sub>2</sub>S CEMS Location Table in the facility's Title V Permit number V06-16, Group 2, Monitoring Requirements, Condition 1, item (iv). This Plan Approval allows the removal of the H<sub>2</sub>S CEM at the 1332 H<sub>2</sub> Heater Unit. The modification will also incorporate PES's RACT Plan Approval Requirements dated 2/19/2016 for the 1332 H<sub>2</sub> Heater. The plan approval will contain emission limits, work standard practices, testing, monitoring, recordkeeping, and reporting requirements to ensure operation within all applicable requirements.

Anyone affected by the proposed plan approval may submit written comments or a request for a public hearing by mail to Air Management Services, 321 University Avenue, 2nd Floor, Philadelphia, PA 19104, Attn: Debra Williams within thirty (30) days from today. Comments received by facsimile will not be accepted.

**OPERATING PERMITS**

**Intent to Issue Title V Operating Permits under the Air Pollution Control Act 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—Telephone: 484-250-5920.*

**TVOP 46-00221: Upper Moreland—Hatboro Joint Sewer Authority**, (2875 Terwood Road, Willow Grove, PA 19090) located in Upper Moreland Township, **Mont-**



**gomery County.** The facility operates a sewage sludge incinerator and is subject to 40 CFR Part 62 Subpart LLL. The facility is required to obtain a Title V operating permit per 40 CFR 60.5240. The permit contains all applicable requirements including monitoring, recordkeeping and reporting.

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**Intent to Issue Operating Permits under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter F.**

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*Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

*Contact: Raymond Kempa, New Source Review Chief—Telephone: 570-826-2507.*

**35-00003: General Dynamics/Scranton Army Ammunition Plant** (156 Cedar Avenue, Scranton, PA 18505-1138). The Department intends to issue a renewal State-Only Synthetic Minor Permit for this manufacturing of ammunition (except for small arms) facility located in Scranton, **Lackawanna County**. The main sources at this facility consists of boilers, forged furnaces, and paint booths. The control devices consist of filters. The sources are considered a minor emission source of nitrogen oxide (NO<sub>x</sub>), sulfur oxides (SO<sub>x</sub>), carbon monoxide (CO), total suspended particulate (TSP) and VOC's. The proposed permit contains applicable requirements for emission limitations, work practice standards, testing, monitoring, recordkeeping, and reporting standards used to verify facility compliance with Federal and State air pollution regulations.

**35-00029: Regional Hospital of Scranton/Scranton** (746 Jefferson Avenue, Scranton, PA 18510-1624). The Department intends to issue a renewal State-Only Synthetic Minor Permit for this general medical and surgical hospitals facility located in Scranton, **Lackawanna County**. The main sources at this facility consists of boilers and generators. The sources are considered a minor emission source of nitrogen oxide (NO<sub>x</sub>), sulfur oxides (SO<sub>x</sub>), carbon monoxide (CO), total suspended particulate (TSP) and VOC's. The proposed 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.

**45-00031: Horizon Milling LLC, Mt. Pocono Plant** (258 Harvest Lane, Pocono Summit, PA 18346). The Department intends to issue a renewal State-Only Synthetic Minor Permit for this manufacturing of flour and other grain mill products facility located in Tobyhanna Township, **Monroe County**. The main sources at this facility consists of wheat transfer, cleaning, purifiers, and loadouts. The control devices consist of grinders. The sources are considered a minor emission source of nitrogen oxide (NO<sub>x</sub>), sulfur oxides (SO<sub>x</sub>), carbon monoxide (CO), total suspended particulate (TSP) and VOC's. The proposed 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 Elmerton Avenue, Harrisburg, PA 17110.*

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

**67-05080: York Building Products Co., Inc.**, (5460 Lincoln Highway West, Thomasville, PA 17362) to issue a State Only Operating Permit for operation of their quarry and sand processing facility in Jackson Township, **York County**. The facility potential emissions are 90.63 tons of PM, 35.21 tons of PM<sub>10</sub>, and 21.00 tons of 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 40 CFR Part 60, Subpart OOO—Standards of Performance for Nonmetallic Mineral Processing Plant, and 40 CFR Part 63 Subpart ZZZZ—National Emission Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines.

**38-03062: Sunoco Pipeline LP** (525 Fritztown Road, Sinking Spring, PA 19608) to issue a State Only Operating Permit for the natural gas liquid (ethane, propane, butane or a mixture of these) pumping station located in West Cornwall Township, **Lebanon County**. The potential emissions from the facility are estimated to be less than 1 ton for each of the following pollutants: NO<sub>x</sub>, CO, SO<sub>x</sub>, PM, VOCs and HAPs and less than 108 tons of GHGs. 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.

**67-03156 APEX Urethane Millwork LLC** (105 Church Lane, Red Lion, PA 17356) for the architectural urethane millwork manufacturing facility located in Red Lion Borough, **York County**. The facility has the estimated air emissions of 0.288 tpy of PM, 5.84 tpy of VOC and 1.67 tpy of HAP. The State-only Operating Permit will include visible emission limits and work practice standards along with monitoring, recordkeeping and reporting requirements to ensure the facility complies with the applicable air quality regulations.

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

*Contact: David Balog, New Source Review Chief—Telephone: 814-332-6328.*

**25-00916: Ridg-U-Rak Storage Systems** (120 S Lake St, North East, PA 16428-1232), to renew a State Only Operating Permit for the facility located in North East borough, **Erie County**. The primary sources at the facility include natural gas-fueled space heaters, a 3-stage washer, two ovens, and two natural gas-fueled emergency generators. Potential emissions are as follows: 2.08 TPY NO<sub>x</sub>, 0.437 TPY CO, 0.012 TPY SO<sub>x</sub>, and 0.094 TPY PM<sub>10</sub>. The facility is a Natural Minor. The main plant emergency generator is subject to 40 CFR Part 63 Subpart ZZZZ, the National Emissions Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines, and the office building emergency generator is subject to 40 CFR Part 60 Subpart JJJJ, the Standards of Performance for Stationary Spark Ignition 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.

Department of Public Health, Air Management Services:  
321 University Avenue, Philadelphia, PA 19104.

Contact: Edward Wiener, Chief—Telephone: 215-685-9426.

**N15-009: Drexel University—Queen Lane Campus** (2900 Queen Lane, Philadelphia, PA 19129) for the operation of medical college in the City of Philadelphia, **Philadelphia County**. The facility's air emission sources include 5 boilers firing natural gas or No. 2 Fuel Oil, each 8.370 MMBTU/hr or less, and one 1,617 kW emergency generator firing diesel fuel, one 200 kW emergency generator firing diesel fuel, and one 110 hp fire pump firing diesel fuel.

The operating permit will be issued under 25 Pa. Code, Philadelphia Code Title 3 and Air Management Regulation XIII. Permit copies and other supporting information are available for public inspection at AMS, 321 University Avenue, Philadelphia, PA 19104. For further information, contact Edward Wiener at (215) 685-9426.

Persons wishing to file protest or comments on the above operating permit must submit the protest or comments within 30 days from the date of this notice. Any protests or comments filed with AMS must include a concise statement of the objections to the permit issuance and the relevant facts upon which the objections are based. Based upon the information received during the public comment period, AMS may modify the operating permit or schedule a public hearing. The hearing notice will be published in the *Pennsylvania Bulletin* and a local newspaper at least thirty days before the hearing.

The City of Philadelphia, Air Management Services (AMS) intends to issue a Minor State Only Operating Permit for the following facility:

**OP16-000010: University City Science Center** (3711 Market Street, Philadelphia, PA 19129) for the operation of a research, development, and testing services center in the City of Philadelphia, **Philadelphia County**. The facility's air emission sources include three emergency generators firing natural gas rated 125 kW or less, four emergency generators firing diesel fuel rated 1,000 kW or less and two 130 hp fire pumps firing diesel fuel.

The operating permit will be issued under 25 Pa. Code, Philadelphia Code Title 3 and Air Management Regulation XIII. Permit copies and other supporting information are available for public inspection at AMS, 321 University Avenue, Philadelphia, PA 19104. For further information, contact Edward Wiener at (215) 685-9426.

Persons wishing to file protest or comments on the above operating permit must submit the protest or comments within 30 days from the date of this notice. Any protests or comments filed with AMS must include a concise statement of the objections to the permit issuance and the relevant facts upon which the objections are based. Based upon the information received during the public comment period, AMS may modify the operating permit or schedule a public hearing. The hearing notice will be published in the *Pennsylvania Bulletin* and a local newspaper at least thirty days before the hearing.

## COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Applications under the Surface Mining Conservation and Reclamation Act (52 P.S. §§ 1396.1—1396.19a); 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 Con-

trol Act (52 P.S. §§ 30.51—30.66); and The Bituminous Mine Subsidence and Land Conservation Act (52 P.S. §§ 1406.1—1406.20a). 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. A copy of the application is available for inspection at the district mining office indicated before 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 and request for Section 401 water quality certification 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 before each application within 30 days of this publication, or within 30 days after the last publication of the applicant's newspaper advertisement as provided by 25 Pa. Code §§ 77.121—77.123 and 86.31—86.34.

Written comments or objections regarding 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.

A request for an informal conference or a public hearing, as applicable, on a mining permit application, as provided by 25 Pa. Code § 77.123 or § 86.34, 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.

When an 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

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

**10110107. Amerikohl Mining, Inc.** (202 Sunset Drive, Butler, PA 16001) Renewal of an existing bituminous surface mine in Fairview Township, **Butler County**, affecting 28.0 acres. Receiving streams: One unnamed tributary to South Branch Bear Creek, classified for the following uses: WWF. The first downstream potable water supply intake from the point of discharge is Millers Water Company. This renewal is for reclamation only. Application received: May 15, 2017.

*New Stanton District Office: 131 Broadview Road, New Stanton, PA 15672, 724-925-5500.*

**GP12-63090101. Amerikohl Mining, Inc.** (1384 State Route 711, Stahlstown, PA 15687). Application for authorization under General Permit BAQ-GPA/GP12 and is required to meet all applicable limitations, terms, and conditions of authorization GP12-63090101 to operate a portable coal crusher for an existing bituminous surface

mine, located in Nottingham Township, **Washington County**, affecting 399.3 acres. Receiving streams: unnamed tributaries to Mingo Creek and Sugar Run, classified for the following use: HQ-TSF. There is no potable water supply intake within 10 miles downstream from the point of discharge. Application received: May 16, 2017.

*Noncoal Applications Received*

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

Parameter	Table 2		
	30-day Average	Daily Maximum	Instantaneous Maximum
Suspended solids	10 to 35 mg/l	20 to 70 mg/l	25 to 90 mg/l
Alkalinity exceeding acidity* pH*		greater than 6.0; less than 9.0	

\* The parameter is applicable at all times.

A settleable solids instantaneous maximum limit of 0.5 ml/l applied to surface runoff resulting from a precipitation event of less than or equal to a 10-year 24-hour event. If coal will be extracted incidental to the extraction of noncoal minerals, at a minimum, the technology-based effluent limitations identified under coal applications will apply to discharges of wastewater to streams.

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200.*

**08110301 and NPDES PA0257532. Bishop Brothers Construction Company, Inc.** (P.O. Box 289, Ulster, PA 18850). Renewal for an existing NPDES on a large noncoal surface mining site located in Wyalusing Township, **Bradford County** affecting 16.9 acres. Receiving stream(s): Unnamed Tributary to Wyalusing Creek classified for the following use(s): WWF, MF. Application received: May 9, 2017.

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118.*

**Permit No. 06010301T and NPDES Permit No. PA0224146. New Enterprise Stone & Lime Co., Inc.**, (P.O. Box 77, New Enterprise, PA 16664), transfer of an existing quarry operation and NPDES Permit for discharge of treated mine drainage from Berks Products Corp. in Maxatawny Township, **Berks County** affecting 38.4 acres, receiving stream: Maiden Creek, classified for the following uses: warm water and migratory fishes. Application received: April 19, 2017.

**MINING ACTIVITY NPDES DRAFT PERMITS**

This notice provides information about applications for a new, amended or renewed NPDES permits associated with mining activity (coal or noncoal) permits. The applications concern industrial waste (mining) discharges to surface water and discharges of stormwater associated with mining activities. This notice is provided in accordance with 25 Pa. Code Chapters 91 and 92a and 40 CFR Part 122, implementing provisions of The Clean Streams Law (35 P.S. §§ 691.1—691.1001) and the Federal Clean Water Act (33 U.S.C.A. §§ 1251—1376).

The Department of Environmental Protection (Department) has prepared a draft NPDES permit and made a tentative determination to issue the NPDES permit in conjunction with the associated mining activity permit.

*Effluent Limits for Coal Mining Activities*

For coal mining activities, NPDES permits, when issued, will contain effluent limits that are the more stringent of technology-based (BAT) effluent limitations or Water Quality Based Effluent Limits (WQBEL).

The BAT limits for coal mining activities, as provided in 40 CFR Part 434 and 25 Pa. Code Chapters 87—90 are as follows:

Parameter	30-Day Average	Daily Maximum	Instantaneous Maximum
Iron (Total)	3.0 mg/l	6.0 mg/l	7.0 mg/l
Manganese (Total)	2.0 mg/l	4.0 mg/l	5.0 mg/l
Suspended solids	35 mg/l	70 mg/l	90 mg/l
pH*		greater than 6.0; less than 9.0	
Alkalinity greater than acidity*			

\* The parameter is applicable at all times.

A settleable solids instantaneous maximum limit of 0.5 ml/l applies to: surface runoff (resulting from a precipitation event of less than or equal to a 10-year 24-hour event) from active mining areas; active areas disturbed by coal refuse disposal activities; mined areas backfilled and revegetated; and all other discharges and drainage (resulting from a precipitation event of greater than 1-year 24-hour to less than or equal to a 10-year 24-hour event) from coal refuse disposal piles. Similarly, modified BAT limits apply to iron, manganese and suspended solids in surface runoff, discharges and drainage resulting from these precipitation events and those of greater magnitude in accordance with 25 Pa. Code §§ 87.102, 88.92, 88.187, 88.292, 89.52 and 90.102.

Exceptions to BAT effluent limits may be applicable in accordance with 25 Pa. Code §§ 87.102, 88.92, 88.187, 88.292, 89.52 and 90.102.

*Effluent Limits for Noncoal Mining Activities*

The limits for noncoal mining activities as provided in 25 Pa. Code Chapter 77 are pH 6 to 9 and other parameters the Department may require.

Discharges from noncoal mines located in some geologic settings (for example, in the coal fields) may require additional water quality based effluent limits. If additional effluent limits are needed for an NPDES permit associated with a noncoal mining permit, then the permit description specifies the parameters.

In addition to BAT or WQBEL limits, coal and noncoal NPDES permits establish effluent limitations in the form of implemented Best Management Practices (BMPs) identified in the associated Erosion and Sedimentation Plan, the Reclamation Plan and the NPDES permit application. These BMPs restrict the rates and quantities of associated pollutants from being discharged into surface waters in this Commonwealth.

More restrictive effluent limitations, restrictions on discharge volume or restrictions on the extent of mining that may occur are incorporated into an NPDES permit when necessary for compliance with water quality standards and antidegradation requirements (in accordance with 25 Pa. Code Chapters 91—96).

The procedures for determining the final effluent limits, using a mass-balance equation or model, are found in Technical Guidance Document 563-2112-115, Developing National Pollutant Discharge Elimination System (NPDES) Permits for Mining Activities. Other specific factors to be considered include public comments and Total Maximum Daily Load(s). Additional discharge limitations may apply in the event that unexpected discharges occur.

Discharge rates for surface mining activities are precipitation driven. Discharge rates for proposed discharges associated with underground mining are noted in the permit description.

Persons wishing to comment on an NPDES draft permit should submit a written statement to the Department at the address of the district mining office indicated before each draft permit within 30 days of this public notice. Comments received within the comment period will be considered in the final determinations regarding the NPDES permit applications. Comments must include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based.

The Department will also accept requests or petitions for a public hearing on NPDES permit applications, as provided in 25 Pa. Code § 92a.82(d). The request or petition for a public hearing shall be filed within 30 days of this public notice and contain the name, address, telephone number and the interest of the party filing the request, and state the reasons why a hearing is warranted. A public hearing may be held if the Department considers the public interest significant. If a hearing is scheduled, a notice of the hearing on the NPDES permit application will be published in the *Pennsylvania Bulletin* and a newspaper of general circulation within the relevant geographical area. When a public hearing is held, the Department will consider comments from the public hearing in the final determination on the NPDES permit application.

*Noncoal NPDES Draft Permits*

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200.*

**NPDES PA0256323 (Mining Permit No. 14060301), Glenn O. Hawbaker, Inc.**, 1952 Waddle Road, State College, PA 16803-1649, renewal of an NPDES permit for Noncoal Surface Mine in Rush Township, **Centre County**, affecting 159.0 acres. Receiving stream(s): Unnamed Tributary to Moshannon Creek and Moshannon Creek, classified for the following use(s): CWF, MF. Application received: February 1, 2017.

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

The outfall(s) listed below discharge to Unnamed Tributary to Moshannon Creek and Moshannon Creek:

<i>Outfall No.</i>	<i>New Outfall (Y/N)</i>
001	N
002	N
003	N
004	N
005	Y

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

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

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118.*

**NPDES Permit No. PA0225673 on Surface Mining Permit No. 58170802. Lorenzo Sumba Granda**, (1525 Fair Hill Road, New Milford, PA 18834), new NPDES Permit for a bluestone quarry operation in Franklin Township, **Susquehanna County**, affecting 6.7 acres. Receiving stream: unnamed tributary to Fall Brook—Silver Creek/Snake Creek Watershed, classified for the following uses: EV—cold water and migratory fishes. Application received: March 22, 2017.

Non-discharge BMP's shall be in effect.

## 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. Section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341) requires the Commonwealth to certify that the involved projects will not violate the 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 of the FWPCA, the issuance of a Dam Permit or Water Obstruction and Encroachment Permit or the approval of an Environmental Assessment shall submit comments, suggestions or objections within 30 days of the date of this notice as well as any questions to the office noted before an 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 8 a.m. and 4 p.m. on working days at the office noted before the application.

Persons with a disability who wish to attend the hearing and require an auxiliary aid, service or other accommodation to participate in the proceedings should contact the specified program. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

### 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(a) of the FWPCA.

#### WATER OBSTRUCTIONS AND ENCROACHMENTS

*Northeast Region: Waterways and Wetlands Program Manager, 2 Public Square, Wilkes-Barre, PA 18701-1915, Telephone 570-826-2511.*

**E45-606. Pennsylvania Game Commission**, 2001 Elmerton Avenue, Harrisburg, PA 17110, in Coolbaugh Township, **Monroe County**, U.S. Army Corps of Engineers, Philadelphia District.

To construct and maintain a 14-foot wide single-span, steel beam, wood deck bridge across Birch Swale (EV, MF) having a 20-foot span, 2-foot underclearance and concrete abutments. Fill will be placed within the floodway for the new roadway approaches. The project is located east of Brady Lake along an existing access road in State Game Land # 127 (Thornhurst, PA Quadrangle, Latitude: 41°11'3"; Longitude: -75°31'2").

*Southcentral Region: Waterways & Wetlands Program, 909 Elmerton Avenue, Harrisburg, PA 17110, Ed Muzic, Section Chief, 717.705.4802.*

**E06-716: Birdsboro Power, LLC**, PO Box 314, Birdsboro, PA 19508-2056 in Birdsboro Borough and

Robeson, Union, and Exeter Townships, **Berks County**, U.S. Army Corps of Engineers Philadelphia District (Birdsboro, PA Quadrangle, Latitude: 40°16'39", Longitude: -75°49'53").

The applicant proposes to construct and maintain:

1) repair and replacement of an existing 24-inch DTI outfall pipe including the installation of R5 riprap permanently impacting 16 linear feet of Hay Creek (CWF, MF) (Latitude: 40.269881, Longitude: -75.802386),

2) remove the existing terminal section of outfall pipe and abandon the remaining outfall pipe in place and install and maintain a 24-inch diameter RCP culvert outfall in the same location and repair existing outfall apron, permanently impacting 8 feet of the Schuylkill River (WWF, MF) (Latitude: 40.270561, -75.800347),

3) repair and maintain an existing 30-inch RCP outfall with concrete and riprap apron permanently impacting 6 linear feet of the Schuylkill River (WWF, MF) (Latitude: 40.270294, Longitude: -75.796441),

4) repair and rehabilitate the existing 36-inch diameter outfall culvert by re-connecting the pipe and restoring the embankment, installing a flap-gate and end-wall, and installing a R5 riprap apron permanently impacting 40 feet of the Schuylkill River (WWF, MF) (Latitude: 40.270118, Longitude: -75.793983),

5) construct and maintain an aerial electric transmission line attached to single poles over and across the Schuylkill River (WWF, MF) and its floodway (Latitude: 40.270326, Longitude: -75.805442),

6) construct and maintain an aerial electric transmission line attached to single poles over, across, and impacting 0.02 acre of a Palustrine Forested (PFO) wetland (Latitude: 40.274425, Longitude: -75.823518),

7) construct and maintain an aerial electric transmission line attached to single poles over and across an Unnamed Tributary to the Schuylkill River (WWF, MF) and the floodway associated with this stream and two other UNTs to the Schuylkill River (Latitude: 40.276083, Longitude: -75.827578),

8) construct and maintain an aerial electric transmission line attached to single poles over, across, and impacting 0.01 acre of a Palustrine Emergent (PEM) wetland (Latitude: 40.276083, Longitude: -75.827578),

9) constrict and maintain an aerial electric transmission line attached to single poles in, along, and over the floodway of the Schuylkill River (WWF, MF) while generally paralleling the river from approximately Latitude: 40.276649, Longitude: -75.836552 to Latitude: 40.278556, Longitude: -75.844718,

10) construct and maintain a temporary access road in and along the floodway of the Schuylkill River (WWF, MF) (Latitude: 40.276435, Longitude: -75.839302),

11) construct and maintain a temporary access road in and along the floodway of the Schuylkill River (WWF, MF) (Latitude: 40.276891, Longitude: -75.841665),

12) construct and maintain a temporary access road in and along the floodway of the Schuylkill River (WWF, MF) (Latitude: 40.277423, Longitude: -75.843792),

13) construct and maintain an aerial electric transmission line attached to single poles over and across the Schuylkill River (WWF, MF) and its floodway (Latitude: 40.277613, Longitude: -75.846558),

14) construct and maintain four (4) 8-inch PVC electrical conduits underneath an Unnamed Tributary to the

Schuylkill River (WWF, MF) and its floodway (Latitude: 40.277414, Longitude: -75.849418),

15) construct and maintain four (4) 8-inch PVC electrical conduits underneath an Unnamed Tributary to the Schuylkill River (WWF, MF) and its floodway (Latitude: 40.278305, Longitude: -75.851633),

16) construct and maintain a temporary access road in and along the floodway of an Unnamed Tributary to the Schuylkill River (WWF, MF) (Latitude: 40.278626, Longitude: -75.83876), and

17) construct and maintain a temporary access road in and across and impacting 0.01 acre of an exceptional value PEM wetland (Latitude: 40.277472, Longitude: -75.837971). The purpose of the project is to construct and maintain a natural gas-fired combined cycle power plant and a 3.86 mile 230 Kv electric transmission line.

In addition, the applicant has identified the following proposed activities which are part of the project as waived in accordance with 25 Pa. Code § 105.12(a)(2) or (3):

A) construct and maintain an aerial electric transmission line attached to single poles over and across Hay Creek (CWF, MF) and its floodway (Latitude: 40.269772, Longitude: -75.804228),

B) construct and maintain an aerial electric transmission line attached to single poles over and across an Unnamed Tributary to the Schuylkill River (WWF, MF) and the floodway associated with this stream and another UNT to the Schuylkill River (Latitude: 40.271655, Longitude: -75.807488),

C) construct and maintain an aerial electric transmission line attached to single poles over, across, and impacting 0.03 acre of an exceptional value Palustrine Emergent (PEM) wetland (Latitude: 40.271860, Longitude: -75.807542),

D) construct and maintain an aerial electric transmission line attached to single poles over and across an Unnamed Tributary to the Schuylkill River (WWF, MF) and its floodway (Latitude: 40.272551, Longitude: -75.815902),

E) construct and maintain an aerial electric transmission line attached to single poles over and across three (3) Unnamed Tributaries to the Schuylkill River (WWF, MF) and their floodways (from Latitude: 40.273678, Longitude: -75.820675 to Latitude: 40.273856, Longitude: -75.821191),

F) construct and maintain an aerial electric transmission line attached to single poles over and across two (2) Unnamed Tributaries to the Schuylkill River (WWF,

MF) and their floodways (from Latitude: 40.274633, Longitude: -75.823566 to Latitude: 40.274686, Longitude: -75.823731),

G) construct and maintain a permanent road crossing utilizing a culvert in and along an Unnamed Tributary to the Schuylkill River (WWF, MF) impacting 25 linear feet (Latitude: 40.274709, Longitude: -75.823562),

H) construct and maintain a permanent road crossing utilizing a culvert in and along an Unnamed Tributary to the Schuylkill River (WWF, MF) impacting 25 linear feet (Latitude: 40.274717, Longitude: -75.823882), and

I) construct and maintain an aerial electric transmission line attached to single poles over and across Heisters Creek (WWF, MF) and its floodway (Latitude: 40.277394, Longitude: -75.835416).

**E06-717: DTE Midstream Appalachia, LLC**, 333 Technology Drive, Canonsburg, PA 15317. Birdsboro Pipeline, in Birdsboro Borough and Union, Amity, Oley, and Rockland Townships, **Berks County**, ACOE Philadelphia District.

The project consists of the installation and maintenance of approximately 13.2 mile long, 12 inch pipeline and appurtenant structures. The proposed project impacts in Berks County include a total of 493 linear feet of temporary impacts to two (2) Unnamed Tributaries to the Schuylkill River (WWF, MF), sixteen (16) Unnamed Tributaries to Monocacy Creek (WWF, MF), two (2) crossings of Monocacy Creek (WWF, MF), three (3) Unnamed Tributaries to Manatawny Creek (CWF, MF), and an Unnamed Tributary to Little Manatawny Creek (CWF, MF); a total of 649 linear feet of permanent impacts to the Schuylkill River (WWF, MF), an Unnamed Tributary to the Schuylkill River (WWF, MF), twelve (12) Unnamed Tributaries to Monocacy Creek (WWF, MF), two (2) crossings of Monocacy Creek (WWF, MF), four (4) Unnamed Tributaries to Manatawny Creek (CWF, MF), Little Manatawny Creek (CWF, MF), and an Unnamed Tributary to Little Manatawny Creek (CWF, MF), and 0.20 acre of floodway impacts; 1.07 acre of temporary impacts to PEM wetlands and 1.22 acre of permanent impacts to PEM, PFO, and PSS wetlands. To compensate for the proposed permanent project impacts in Berks County, the applicant is proposing the enhancement of 3.72 acres of EV PEM wetland adjacent to Bieber Creek in Oley and Pike Townships, Berks County to mitigate for the conversion of PSS and PFO wetlands. The proposed project impacts in this permit application are associated with a proposed transmission pipeline project extending approximately 13.2 miles in Pennsylvania between Birdsboro Borough, Berks County, PA and Rockland Township, Berks County.

## 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—691.101) 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

<i>Location</i>	<i>Permit Authority</i>	<i>Application Type or Category</i>
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, PO 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

*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>
PA0032352 (Sewage)	Hepburn Lycoming Elementary School 1400 W 3rd Street Williamsport, PA 17701-7898	Lycoming County Hepburn Township	Lycoming Creek (10-A)	Yes
PA0009318 (Industrial Waste)	General Cable 409 Reighard Avenue Williamsport, PA 17701	Lycoming County Williamsport City	Fox Hollow Run (10-A)	Y

### II. New or Expanded Facility Permits, Renewal of Major Permits and EPA Nonwaived Permit Actions

*Northcentral Region: Clean Water Program Manager, 208 West Third Street, Williamsport, PA 17701.*

**NPDES Permit No. PA0233943 A-2**, CAFO, SIC Code 0241, **Hoffman Family Farm, LLC**, 243 Healy Road, Shinglehouse, PA 16748-8537.

This existing facility is located in Hebron Township, **Potter County**.

Description of Existing Action/Activity: Issuance of an NPDES Permit Amendment for an existing CAFO due to internal herd growth.

### III. WQM Industrial Waste and Sewerage Actions under The Clean Streams Law

*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. 4917402**, Sewage, SIC Code 4952, **Municipal Authority of Ralpho Township**, 206 S Market Street, Suite 1, Elysburg, PA 17824-9782.

This proposed facility is located in Shamokin Township, **Northumberland County**.

Description of Proposed Action/Activity: Consolidation of all collection system-related WQM permits.

**WQM Permit No. 1972204 A-1**, Industrial, SIC Code 2096, **Wise Foods, Inc.**, 228 Rasely Street, Berwick, PA 18603-4533.

This existing facility is located in Berwick Borough, **Columbia County**.

Description of Proposed Action/Activity: Installation and operation of a polymer feed system.

**WQM Permit No. 4909406 A-2**, Sewage, SIC Code 4952, **Shamokin & Coal Township Joint Sewer Authority Northumberland County**, 114 Bridge Street, Shamokin, PA 17872-7690.

This existing facility is located in Ralpho Township, **Northumberland County**.

Description of Proposed Action/Activity: Issuance of permit amendment authorizing the pumping of SBR WAS to the original treatment train primary clarifiers for cosettling.

**WQM Permit No. 4917401**, Sewage, SIC Code 4952, **Municipal Authority of Ralpho Township**, 206 S Market Street, Suite 1, Elysburg, PA 17824-9782.

This proposed facility is located in Shamokin Township, **Northumberland County**.

Description of Proposed Action/Activity: Consolidation of all WWTP-related WQM permits and approval for installation/operation of a sulfur dioxide dechlorination system.

**WQM Permit No. 4104401 A-2**, Sewage, SIC Code 8211, **Williamsport Area School District**, 1400 W 3rd Street, Williamsport, PA 17701-7898.

This existing facility is located in Hepburn Township, **Lycoming County**.

Description of Proposed Action/Activity: Permit issued authorizing use of erosion tablet disinfection to replace liquid chlorine solution.

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

**WQM Permit No. 4216407**, Sewage, **Keating Township McKean County**, PO Box 103, East Smethport, PA 16730.

This proposed facility is located in Keating Township, **McKean County**.

Description of Proposed Action/Activity: New WWTP to provide sewer service to Keating Township, McKean County.

**WQM Permit No. WQG01251610**, Sewage, **Crystal & Richard Pratt**, 12446 Sulphur Springs Road, North East, PA 16412.

This proposed facility is located in North East Township, **Erie County**.

Description of Proposed Action/Activity: Single Residence Sewage Treatment Plant.

**WQM Permit No. 4317401**, Sewage, **PA DOT Bureau Of Project Delivery**, PO Box 3060, Harrisburg, PA 17105-3060.

This proposed facility is located in Deer Creek Township, **Mercer County**.

Description of Proposed Action/Activity: Replace in-ground STP with new 8,700 gpd package treatment plant.

**WQM Permit No. 4317402**, Sewage, **PA DOT Bureau Of Project Delivery**, P.O. Box 3060, Harrisburg, PA 17105-3060.

This proposed facility is located in Deer Creek Township, **Mercer County**.

Description of Proposed Action/Activity: Replace in-ground STP with new 8,700 gpd package treatment plant.

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## **VI. NPDES Discharges of Stormwater Associated with Construction Activities Individual Permit Actions**

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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>
PAI010911008	Ms. Kathleen Weslock 3795 Lehnenberg Road Rieglesville, PA 18077	Bucks	Springfield Township	Cook Creek EV-MF
PAD150007	Tel Hai Services, Inc. 1200 Tel Hai Circle Honey Brook, PA 19344	Chester	Honey Brook Township	Two Log Run HQ-TSF
PAD150036	Villa Building Company, Inc. 3720 Skip View Lane Collegetown, PA 19426	Chester	South Coventry Township	Pigeon Creek HQ-TSF-MF
PAD230003	Falcone Brothers Builders, LLC 650 Painter Street Media, PA 19063	Delaware	Middletown Township	Ridley Creek HQ-TSF
PAD510012	Philadelphia Authority for Industrial Development 4747 South Broad Street Philadelphia, PA 19112	Philadelphia	City of Philadelphia	Delaware River WWF Schuylkill River WWF



<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAC510007	University of Pennsylvania Health System 3400 Civic Center Boulevard Philadelphia, PA 19104	Philadelphia	City of Philadelphia	Schuylkill River WWF-MF
<i>Northeast Region: Waterways and Wetlands Program Manager, 2 Public Square, Wilkes-Barre, PA 18701-1915.</i>				
PAD450020	Buck Hill Falls Company c/o Mr. Michael O'Shea PO Box 426 Buck Hill Falls, PA 18323	Monroe	Barrett Township	UNT to Brodhead Creek (HQ-CWF, MF) EV Wetlands
PAD450022	Thomas Shafer 1121 Townsend Circle East Stroudsburg, PA 18301	Monroe	Jackson Township	Reeders Run (HQ-CWF, MF)
PAI021316002	Vertical Bridge Development, LLC 750 Park of Commerce Drive Suite 200 Boca Raton, FL 33487	Carbon	Lower Towamensing Township	Aquashicola Creek (HQ-CWF, MF) Buckwa Creek (HQ-CWF, MF)
<i>Southcentral Region: Waterways &amp; Wetlands Program, 909 Elmerton Avenue, Harrisburg, PA 17110, Nathan Crawford, Section Chief, Telephone 717.705.4802.</i>				
<i>Permit #</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAD070001 Issued May 17, 2017	Dale W. Pheasant 731 Mill Lane Martinsburg, PA 16662	Blair County	Huston Township	Clover Creek (HQ-CWF, MF)
PAI033815002 Issued May 18, 2017	Doug Horning 40 Sportsman Lane Newmanstown, PA 17073	Lebanon County	Heidelberg Township	UNT Hammer Creek (CWF, MF) Wetlands (EV)

## 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-1	General Permit for Discharges from Stripper Oil Well Facilities
PAG-2	General Permit for Discharges of Stormwater Associated With Construction Activities
PAG-3	General Permit for Discharges of Stormwater From Industrial Activities
PAG-4	General Permit for Discharges from Small Flow Treatment Facilities
PAG-5	General Permit for Discharges from Petroleum Product Contaminated Groundwater Remediation Systems
PAG-6	General Permit for Wet Weather Overflow Discharges from Combined Sewer Systems (CSO)
PAG-7	General Permit for Beneficial Use of Exceptional Quality Sewage Sludge by Land Application
PAG-8	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-8 (SSN)	Site Suitability Notice for Land Application Under Approved PAG-8 General Permit Coverage
PAG-9	General Permit for Beneficial Use of Residential Septage by Land Application to Agricultural Land, Forest, or a Land Reclamation Site
PAG-9 (SSN)	Site Suitability Notice for Land Application Under Approved PAG-9 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*

*Waterways & Wetlands Program Manager, 2 East Main Street, Norristown, PA 19401. Telephone 484-250-5160.*

<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water / Use</i>	<i>Contact Office &amp; Phone No.</i>
Chadds Ford Township Delaware County	PAC230010	E3 Ventures, LLC 4 Greenstone Way Malvern, PA 19355-3500	Webb Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
City of Chester Delaware County	PAC230026	DELCORA 100 East 5th Street Chester, PA 19013	Delaware River WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Lower Chichester Township Delaware County	PAC230024	Vail Family Trust 1510 Gehman Road Harleysville, PA 19438	Naamans Creek WWF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Lower Makefield Township Bucks County	PAC090046	Matrix Bucks County CN 4000 Forsgate Drive Cranbury, NJ 08512	Mill Creek, Brock Creek and Delaware River South WWF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
East Rockhill Township Bucks County	PAC090053	Karl Foreman 1647 Las Virgenes Canyon Road Calabasas, CA 91302	Unnamed Tributary to Three Mile Run WWF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Bedminster Township Bucks County	PAC090055	T.S. Hess Holdings, LLC 1317 Route 113 Perkasie, PA 18944	Unnamed Tributary to Cabin Run CWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Richland Township Bucks County	PAC090059	Richland Township Water Authority 1328 California Road Suite D Quakertown, PA 18951	Unnamed Tributary to Tohickon Creek TSF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
City of Philadelphia Philadelphia County	PAC510020	Mr. Michael J. Cavanagh Mrs. Emily A. Cavanagh 603 West Hartwell Lane Philadelphia, PA 19118-4113	Wissahickon Creek MF-TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900

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

*Facility Location:  
Municipality & County*

<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water / Use</i>	<i>Contact Office &amp; Phone No.</i>
PAC350008	MJ Development, LLC 944 Underwood Road Olyphant, PA 18447	UNT to Eddy Creek (WWF, MF)	Lackawanna County Conservation District 570-392-3086

*Waterways & Wetlands Program, 909 Elmerton Avenue, Harrisburg, PA 17110-8200, Nathan Crawford, Section Chief, 717.705.4802.*

*Facility Location:  
Municipality & County*

<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water / Use</i>	<i>Contact Office &amp; Phone No.</i>
PAC010027	Timothy J. Edwards, Executive Director Susquehanna Area Regional Airport Authority One Terminal Drive Suite 300 Middletown, PA 17057	UNT Marsh Creek (CWF)	Adams County Conservation District 670 Old Harrisburg Road Suite 201 Gettysburg, PA 17325 717.334.0636

<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>
Birdsboro Borough Robeson and Exeter Townships Berks County Issued	PAC060046	James Ryan Birdsboro Power LLC PO Box 314 Birdsboro, PA 19508	Schuylkill River (WWF, MF) Heisters Creek (WWF, MF) Hay Creek (CWF, MF)	Berks County Conservation District 1238 County Welfare Road Suite 200 Leesport, PA 19533 610.372.4657
Hampden Township Cumberland County Issued	PAC210035	Braam Hattingh 5130 Trindle Road Mechanicsburg, PA 17055	UNT Cedar Run (CWF, MF)	Cumberland County Conservation District 310 Allen Road Suite 301 Carlisle, PA 17013 717.240.7812
Warwick Township Lancaster County Issued	PAC360059	Andrea Shirk One Ellen Avenue Lititz, PA 17543	Santo Domingo Creek (WWF, MF)	Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601 717.299.5361 x5
Providence Township Lancaster County Issued	PAC360092	Amos Esh, Jr. 503 Strasburg Road Paradise, PA 17562	Huber Run (CWF)	Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601 717.299.5361 x5

*Southwest Region: Waterways & Wetlands Program, 400 Waterfront Drive, Pittsburgh, PA 15222, Michael Forbeck, Acting 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>
Loretto Borough	PAC110014	Saint Francis University 117 Evergreen Drive Loretto, PA 15940	UNT to Clearfield Creek (CWF)	Cambria County Conservation District 401 Candlelight Drive Suite 229 Ebensburg, PA 15931 (814) 472-2120
Hastings Borough; Elder Township	PAC110015	Hastings Area Sewer Authority 207-1 Fifth Avenue Hastings, PA 16646	UNT to Brubaker Run (CWF); Brubaker Run (CWF)	Cambria County Conservation District 401 Candlelight Drive Suite 229 Ebensburg, PA 15931 (814) 472-2120
Peters Township	PAC630030	Columbia Gas of Pennsylvania 2021 West State Street New Castle, PA 16101	UNT to Chartiers Creek (WWF)	Washington County Conservation District 2800 North Main Street Suite 105 Washington, PA 15301 (724) 705-7098

*General Permit Type—PAG-03*

<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>
Clearfield Borough Clearfield County	PAG034844	Continental Carbonic Products Inc. 3985 E Harrison Avenue Decatur, IL 62526-5534	West Branch Susquehanna River—8-B	DEP Northcentral Regional Office Clean Water Program 208 W Third Street Suite 101 Williamsport, PA 17701-6448 570.327.3636

*General Permit Type—PAG-4**Facility Location:  
Municipality &  
County*North East  
Township  
Erie CountyPermit No.  
PAG041218*Applicant Name &  
Address*  
Crystal & Richard Pratt  
12446 Sulphur Springs  
Road  
North East, PA 16412*Receiving  
Water/Use*  
Unnamed Tributary  
to West Branch  
French Creek—16-A*Contact Office &  
Phone No.*  
DEP Northwest  
Regional Office  
Clean Water Program  
230 Chestnut Street  
Meadville, PA 16335-3481  
814.332.6942*General Permit Type—PAG-8 (SSN)**Facility Location:  
Municipality &  
County*Hopewell Township/  
Cumberland CountyPermit No.  
PAG082203  
PAG089903  
PAG082219  
PAG089904  
PAG083540  
PAG083596  
PAG083502  
PAG089905  
PAG083567  
PAG083506  
PAG089601  
PAG079916*Applicant Name &  
Address*  
Old Line Environmental,  
Inc.  
33 Stahl Point Road  
Building 6A  
Curtis Bay, MD 21226*Site Name &  
Location*  
Mark Watson Farm  
131 Enola Road  
Newburg, PA 17240*Contact Office &  
Phone No.*  
DEP—SCRO—  
Clean Water Program  
909 Elmerton Avenue  
Harrisburg, PA 17110-8200  
717-705-4707*General Permit Type—PAG-9**Facility Location &  
County/  
Municipality*Huntingdon  
County/  
Lincoln TownshipPermit No.  
PAG093554*Applicant Name &  
Address*  
Mr. Andrew Keith  
Coffee Run Septic Service  
2299 Entriiken Road  
Entriiken, PA 16678*Site Name &  
Location*  
Same As Applicant*Contact Office &  
Phone No.*  
DEP—SCRO—  
Clean Water  
909 Elmerton Avenue  
Harrisburg, PA 17110  
717-705-4707**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, PO 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**

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

**Operation Permit No. 2217504 MA** issued to: **SUEZ Water Pennsylvania Inc (PWS ID No. 7220015)**, Susquehanna Township, **Dauphin County** on 5/18/2017 for facilities approved under Construction Permit No. 2217504MA.

**Operation Permit No. 3617508 MA** issued to: **Columbia Water Company (PWS ID No. 7360123)**, Columbia Borough, **Lancaster County** on 5/16/2017 for facilities approved under Construction Permit No. 3617508MA.

*Northcentral Region: Safe Drinking Water Program Manager, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448.*

**Permit Nos. 4115501, 4410166MA2-T1, MA-GWR-T1, 4189516-T1—Transfer/Operation—Public Water Supply.**

Applicant	<b>Susquehanna Real Estate Services, LLC</b>
Township/Borough	Muncy Creek Township
County	<b>Lycoming</b>
Responsible Official	Marcy Benson c/o Weichert Realtors—Premier 400 Market St., Suite 3 Williamsport, PA 17701
Type of Facility	Public Water Supply
Consulting Engineer	N/A
Permit Issued	May 17, 2017
Description of Action	Transfer from Phil Hall Real Estate for operation of the Foxcroft Manor Mobile Home Park water system. The permitted water system consists of Well No. 1, a wellhead pellet chlorinator, a sediment filter, a sodium hypochlorite disinfection system, a blended phosphate iron and manganese sequestration system, 1,700 and 3,000 gallon storage tanks, duplicate booster pumps, three hydropneumatic tanks, treatment for 4-log inactivation of viruses, and the distribution system.

**Permit No. 0817501-MA—Operation—Public Water Supply.**

Applicant	<b>Aqua Pennsylvania, Inc.</b>
Township/Borough	Athens Township
County	<b>Bradford</b>
Responsible Official	Patrick Burke Director of Operations 204 E. Sunbury St. Shamokin, PA 17872
Type of Facility	Public Water Supply
Consulting Engineer	N/A
Permit Issued	May 18, 2017
Description of Action	Authorizes Aqua Pennsylvania Susquehanna Division to operate Tank 2 and Veda Booster Pump Station without the booster chlorination systems that have been removed and to operate Tank 2 without the cathodic protection that has been discontinued.

#### SEWAGE FACILITIES ACT PLAN APPROVAL

**Plan Approvals Granted Under the Pennsylvania Sewage Facilities Act (35 P.S. § 750.5)**

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

*Plan Location:*

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Oliver Township	615 South Third Street Newport, PA 17074	Perry

*Plan Description:* Approval is granted for an update to the Official Plan of Oliver Township, Perry County. The project is known as the Oliver Township Act 537 Plan, Phase II Township-wide Official Sewage Facilities Plan Update Revision (DEP Code No. A1-50920-ACT). The plan provides for the implementation of a township-wide on-lot sewage disposal system (OLDS) management program with a three-year septic tank inspection and pumping schedule. The plan also requires preliminary hydrogeologic studies in accordance with 25 Pa. Code § 71.62. The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority, as appropriate.

## 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—6026.907).**

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:

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

**Spring View Land Development**, 421 Centronia Road, South Whitehall and Upper Macungie Townships, **Lehigh County**. MidAtlantic Engineering Partners, LLC, Gateway 195 Center, 5 Commerce Way, Suite 200, Hamilton, NJ 08691, on behalf of KRE Spring View Apartments/Commercial, LP, 520 U.S. 22, PO Box 6872, Bridgewater, NJ 08807, submitted a Final Report concerning remediation of site soils contaminated with arsenic. The report is intended to document remediation of the site to meet the Background Standard.

**Bohlen Property**, 333 Franklin Street, Alburtis Borough, **Lehigh County**. Crawford Environmental Services, 20 Cardinal Drive, Birdsboro, PA 19508, on behalf of Pipeline Petroleum, PO Box 159, Shippers Road, Macungie, PA 18062, submitted a Final Report concerning remediation of site soils contaminated with Benzene, Ethylbenzene, Isopropylbenzene, Naphthalene, Toluene, Xylenes, 1,3,5-trimethylbenzene, 1,2,4-Trimethylbenzene, and MTBE. 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:

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

**Dintaman Estate**, 104 South Center Street, Frackville Borough, **Schuylkill County**. Environmental Products & Services of Vermont, Inc., 1539 Bobali Drive, Harrisburg, PA 17104, on behalf of Francis Goncalves, Executor, 104 South Center Street, Frackville, PA 17931, submitted Final Report concerning the remediation of site soils contaminated with benzene, ethylbenzene, isopropylbenzene (cumene), methyl tert-butyl ether (MTBE), naphthalene, toluene, 1,2,4-trimethylbenzene, 1,3,5-trimethylbenzene, 1,2-dibromoethane (EDB), 1,2-dichloroethane (EDC), lead, and xylenes (total). The Final Report demonstrated attainment of the Statewide Health Standard, and was approved by the Department on May 17, 2017.

## RESIDUAL WASTE GENERAL PERMITS

**Permit Issued under the Solid Waste Management Act (35 P.S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P.S. §§ 4000.101—4000.1904) and Residual Waste Regulations for a General Permit to Operate Residual Waste Processing Facilities and the Beneficial Use of Residual Waste other than Coal Ash.**

*Central Office: Division of Municipal and Residual Waste, Rachel Carson State Office Building, 14th Floor, 400 Market Street, Harrisburg, PA 17106-9170.*

**General Permit No. WMGR082D005. NJ Zinc Brownfield, LLC**, 1120 Mauch Chuck Road, Palmerton, PA 18071-1110, located in Palmerton Borough, **Carbon County**. This General Permit is for the processing and beneficial use of steel slag, iron slag, and refractory bricks that were co-disposed with slag ("slag") as a construction material. The authorized processing is limited to magnetic separation of metallics and mechanical sizing and separation. Uses of slag as a construction material under this permit are limited to the following: as an ingredient in bituminous concrete; as aggregate; as base course; as subbase; and as antiskid material. The general permit was issued by Central Office on April 28, 2017.

Persons interested in reviewing a general permit should be directed to Ali Tarquinoo Morris at 717-787-7381, Chief, Division of Municipal and Residual Waste, Bureau of Waste Management, P.O. Box 69170, Harrisburg, PA 17106-9170. TDD users may contact the Department through the Pennsylvania AT&T Relay Service, (800) 654-5984.

**DETERMINATION OF APPLICABILITY FOR  
RESIDUAL WASTE GENERAL PERMITS**

**Application(s) for Determination of Applicability  
Renewal received under the Solid Waste Manage-  
ment Act; the Municipal Waste Planning, Recy-  
cling and Waste Reduction Act; and Residual  
Waste Regulations for a General Permit to Oper-  
ate Residual Waste Processing Facilities and/or  
the Beneficial Use of Residual Waste other than  
Coal Ash.**

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

**General Permit No. WMGR028SW005A. Hanson  
Aggregates BMC, Inc.**, 2200 Springfield Pike, Con-  
nellsville, PA 15425. A permit renewal application for  
continued coverage under general permit WMGR028 for  
the beneficial use of baghouse fines and/or scrubber pond  
precipitates from the Adamsburg Asphalt Plant, 111  
Asphalt Lane, Adamsburg, PA 15611 located in Hempfield  
Township, **Westmoreland County**, was received on Feb-  
ruary 9, 2017 and deemed administratively complete by  
the Regional Office on May 16, 2017. (Previously assigned  
permit ID number was WMGR028D005A.)

Persons interested in reviewing the general permit or  
the application may contact the Department of Environ-  
mental Protection, Regional Files, 400 Waterfront Drive,  
Pittsburgh, PA 15222-4745, 412.442.4000. TDD users may  
contact the Department through the Pennsylvania AT&T  
Relay Service, (800) 654.5984. Comments concerning the  
application should be directed to the Waste Management  
Program Manager, DEP Southwest Regional Office, 400  
Waterfront Drive, Pittsburgh, PA 15222-4745. Public com-  
ments must be submitted within 60 days of this notice  
and may recommend revisions to, and approval or denial  
of the application.

**General Permit No. WMGR028SW005C. Hanson  
Aggregates BMC, Inc.**, 2200 Springfield Pike, Con-  
nellsville, PA 15425. A permit renewal application for con-  
tinued coverage under general permit WMGR028 for the  
beneficial use of baghouse fines and/or scrubber pond  
precipitates from the Dunningville Asphalt Plant, 339  
Somerset Drive, Eighty Four, PA 15330 located in Som-  
erset Township, **Washington County**, was received on  
February 9, 2017 and deemed administratively complete  
in the Regional Office on May 16, 2017. (Previously  
assigned permit ID number was WMGR028D005C.)

Persons interested in reviewing the general permit or  
the application may contact the Department of Environ-  
mental Protection, Regional Files, 400 Waterfront Drive,  
Pittsburgh, PA 15222-4745, 412.442.4000. TDD users may  
contact the Department through the Pennsylvania AT&T  
Relay Service, (800) 654.5984. Comments concerning the  
application should be directed to the Waste Management  
Program Manager, DEP Southwest Regional Office, 400  
Waterfront Drive, Pittsburgh, PA 15222-4745. Public com-  
ments must be submitted within 60 days of this notice  
and may recommend revisions to, and approval or denial  
of the application.

**General Permit No. WMGR028SW006. HRI, Inc.**,  
1750 West College Avenue, State College, PA 16801. A  
permit renewal application for continued coverage under  
general permit WMGR028 for the beneficial use of  
baghouse fines and/or scrubber pond precipitates from the

Johnstown HMA Plant, 270 Solomon Run Road, Johns-  
town, PA 15904 located in Richland Township, **Cambria  
County**, was received on February 9, 2017 and deemed  
administratively complete by the Regional Office on May  
12, 2017. (Previously assigned permit ID number was  
WMGR028D009G.)

Persons interested in reviewing the general permit or  
the application may contact the Department of Environ-  
mental Protection, Regional Files, 400 Waterfront Drive,  
Pittsburgh, PA 15222-4745, 412.442.4000. TDD users may  
contact the Department through the Pennsylvania AT&T  
Relay Service, (800) 654.5984. Comments concerning the  
application should be directed to the Waste Management  
Program Manager, DEP Southwest Regional Office, 400  
Waterfront Drive, Pittsburgh, PA 15222-4745. Public com-  
ments must be submitted within 60 days of this notice  
and may recommend revisions to, and approval or denial  
of the application.

**General Permit No. WMGR028SW005D. Hanson  
Aggregates BMC, Inc.**, 2200 Springfield Pike, Con-  
nellsville, PA 15425. A permit renewal application for con-  
tinued coverage under general permit WMGR028 for the  
beneficial use of baghouse fines and/or scrubber pond  
precipitates from the Sewickley Creek Asphalt Plant,  
1008 Big Sewickley Creek, Sewickley, PA 15143 located in  
Economy Borough, **Beaver County**, was received on  
February 9, 2017 and deemed administratively complete  
in the Regional Office on May 16, 2017. (Previously  
assigned permit ID number was WMGR028D005D.)

Persons interested in reviewing the general permit or  
the application may contact the Department of Environ-  
mental Protection, Regional Files, 400 Waterfront Drive,  
Pittsburgh, PA 15222-4745, 412.442.4000. TDD users may  
contact the Department through the Pennsylvania AT&T  
Relay Service, (800) 654.5984. Comments concerning the  
application should be directed to the Waste Management  
Program Manager, DEP Southwest Regional Office, 400  
Waterfront Drive, Pittsburgh, PA 15222-4745. Public com-  
ments must be submitted within 60 days of this notice  
and may recommend revisions to, and approval or denial  
of the application.

**General Permit No. WMGR028SW005B. Hanson  
Aggregates BMC, Inc.**, 2200 Springfield Pike, Con-  
nellsville, PA 15425. A permit renewal application for con-  
tinued coverage under general permit WMGR028 for the  
beneficial use of baghouse fines and/or scrubber pond  
precipitates from the Springfield Pike Asphalt Plant, 2200  
Springfield Pike, Connellsville, PA 15425 located in Con-  
nellsville Township, **Fayette County**, was received on  
February 9, 2017 and deemed administratively complete  
in the Regional Office on May 16, 2017. (Previously  
assigned permit ID number was WMGR028D005B.)

Persons interested in reviewing the general permit or  
the application may contact the Department of Environ-  
mental Protection, Regional Files, 400 Waterfront Drive,  
Pittsburgh, PA 15222-4745, 412.442.4000. TDD users may  
contact the Department through the Pennsylvania AT&T  
Relay Service, (800) 654.5984. Comments concerning the  
application should be directed to the Waste Management  
Program Manager, DEP Southwest Regional Office, 400  
Waterfront Drive, Pittsburgh, PA 15222-4745. Public com-  
ments must be submitted within 60 days of this notice  
and may recommend revisions to, and approval or denial  
of the application.

## 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.

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

*Contact: Alan Binder, P.E., Environmental Engineer Manager—Telephone: 412-442-4168.*

**GP5-63-01009A: MarkWest Liberty Midstream and Resources, LLC** (1515 Arapahoe Street Tower 1, Suite 1600, Denver, CO 80202) on May 16, 2017, for authorization to construct and/or operate a new natural gas compressor station known as the Down Homes Compressor Station in Robinson Township, **Washington County**. Sources include three (3) 2,370 bhp compressor engines controlled by oxidation catalysts, two (2) 3,550 bhp compressor engines controlled by oxidation catalysts, one (1) 4,000 bhp compressor engine controlled by oxidation catalyst, two (2) generator engines controlled by NSCR, one (1) 120 MMsfd dehydrator controlled by a flare, and storage tanks controlled by VRU.

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

*Contact: David Balog, New Source Review Chief—Telephone: 814-332-6328.*

**GP5-27-031C: Minard Run Oil Co. Guitonville Compressor Station** (16 S Ave., P.O. Box 18, Bradford, PA 16701) on May 11, 2017, for the authority to Construct and/or operate a natural gas fired compressor engine (Ajax DPC-2803LE), and associated storage tanks (BAQ-GPS/GP5) located at their facility in Jenks Township, **Forest County**.

### Plan Approvals Issued under the Air Pollution Control Act 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 Elmerton Avenue, Harrisburg, PA 17110.*

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

**67-03056A: SKF USA, Inc.** (890 Forty Foot Road, PO Box 352, Lansdale, PA 19446) on May 16, 2017, for the construction of two (2) vapor degreasers each controlled by a dedicated refrigerated freeboard chiller as well as the construction of naphtha cleaning operations at its spherical and cylindrical roller bearing manufacturing facility located in Penn Township, **York County**.

**28-05004F: Grove US, LLC** (1565 Buchanan Trail East, Shady Grove, PA 17256) on May 16, 2017, for the construction of two new coating booths, a drying oven and a new dry abrasive blasting booth at the Shady Grove facility located in Antrim Township, **Franklin County**.

*Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104.*

*Contact: Edward Wiener, Chief—Telephone: 215-685-9426.*

**AMS 15271: (Philadelphia Energy Solutions (PES),** 3144 Passyunk Ave., Philadelphia, PA 19145) issued April 25, 2017 for extension of Plan Approval No. 02184 dated December 29, 2003 and amended on May 12, 2004 for a construction of a low sulfur gasoline (LSG) desulfurization plant (Unit 870) to meet the requirements of the EPA's Tier 2 gasoline regulations. The following are changes or revisions from the original Plan Approval No. 02184.

- Modify Condition 22 of Plan Approval No. 02184 (now Condition 23 of Plan Approval No. 15271) to allow subsequent CO performance tests to be repeated every five years instead of every year. The protocol shall be submitted at least 30 days prior to testing.

- Include work standards practices standards of 40 CFR 63 Subpart DDDDD, Table 3 for the 870 H1 and H2 Heaters.

- Update the Plan Approval with the Tier 3 emissions (AMS Plan Approval No. 15253 dated 9/22/2016) for the 870 H1 and H2 Heaters.

- Incorporate the permit requirements for South Yard Flare. The South Yard Flare was reactivated and is covered under Plan Approval 13260 dated July 18, 2014.

There will be no change in emission limits from previously approved and issued Plan Approvals. The plan approval will contain emission limits, work standard practices, testing, monitoring, recordkeeping, and reporting requirements to ensure operation within all applicable requirements.

**AMS IP17-000101: Philadelphia Water Department—NE Water Pollution Control** (3899 Richmond St, Philadelphia, PA 19137) issued April 5, 2017 for the extension of Plan Approval No. 13233 dated April 7, 2014. Plan Approval No. 13233 was for the installation of a New Gravity Thickener Facility and Odor Control Facility. The New Gravity Thickener Facility consists of new covered gravity thickener tanks, covered thickened sludge wet wells, thickened sludge electric pumps, and sludge transfer electric pumps tying into the existing solids processing facilities.

**AMS IP17-000113: Naval Ship Systems Engineering Station, Naval Surface Warfare Center, Carderock Division (NAVSSSES, NSWCCD),** (901 Admiral Perry Way, Philadelphia, PA 19112-1403) issued April 12, 2017 to extend Plan Approval No. 15088 dated October 16, 2015. Plan Approval No. 15088 was for installation and operation of a 231 MMBtu/hr gas turbine generator firing natural gas or fuel oil. The facility will be subject to a PAL NO<sub>x</sub> limit of 252.3 tons per rolling 12 month period and a PAL SO<sub>x</sub> limit of 70.6 tons per rolling 12 month period. The plan approval will contain emission limits and operating, monitoring, recordkeeping, and reporting requirements to ensure operation within all applicable requirements.

**AMS IP17-000124: ARCA Advanced Processing, LLC** (4301 North Delaware Ave, Philadelphia, PA 19137) issued April 28, 2017 to extend Plan Approval No. IP16-000146 dated July 22, 2016. IP16-000146 was issued for a 6-month extension to AMS Plan Approval 14123 dated 11/26/2014. Plan Approval 14123 was for the installation of 3 shredders with electrical engines. The plan approval will contain emission limits and operating, monitoring, recordkeeping, and reporting requirements to ensure operation within all applicable requirements.

**AMS IP17-000025: Philadelphia Gas Works, Richmond Plant** (3100 East Venango Street, Philadelphia,



PA 19134) issued May 22, 2017 for the installation of a 91.5 MMBTU/hr natural gas-fired LNG Vaporizer heater to replace the 105.0 MMBTU/hr heater firing natural gas. The heater will be limited to 20 million cubic feet of natural gas burned, less than 1.0 ton of nitrogen oxide (NO<sub>x</sub>) emissions per rolling 12-month period, and operation of less than 5% of annual capacity. There will be potential Carbon Dioxide (CO) emissions of 1.50 ton/year (tpy), Particulate Matter (PM) emissions of 0.08 tpy, Volatile Organic Compound (VOC) emissions of 0.06 tpy, and Sulfur Dioxide (SO<sub>2</sub>) emissions of 0.006 tpy. The plan approval will contain operating, monitoring, testing, recordkeeping, and reporting requirements to ensure operation within all applicable requirements.

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**Plan Approval Revisions Issued including Extensions, Minor Modifications and Transfers of Ownership under the Air Pollution Control Act and 25 Pa. Code §§ 127.13, 127.13a and 127.32.**

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

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

**06-05069V: East Penn Manufacturing Co., Inc.** (P.O. Box 147, Lyon Station, PA 19536) on May 15, 2017, for modifying the Industrial Facility production lines at the lead-acid battery assembly plant located in Richmond Township, **Berks County**. Plan Approval 06-05069V is for installation and startup of pieces of equipment controlled by fabric filters and mist eliminators. The plan approval was extended.

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

*Contact: Muhammad Q. Zaman, Environmental Program Manager—Telephone: 570-327-3648.*

**08-00045A: Panda Liberty, LLC** (151 Liberty Lane, Towanda, PA 18848) on May 17, 2017, to extend the authorization for the construction of the natural gas-fired power plant at their Panda Liberty Power Project facility located in Asylum Township, **Bradford County** to November 14, 2017. The plan approval has been extended.

**08-00045B: Panda Liberty, LLC** (151 Liberty Lane, Towanda, PA 18848) on May 17, 2017, to extend the authorization for the construction of the natural gas-fired power plant at their Panda Liberty Power Project facility located in Asylum Township, **Bradford County** to November 14, 2017. The plan approval has been extended.

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

*Contact: Alan Binder, P.E., Environmental Engineer Manager—Telephone: 412-442-4168.*

**65-00629A: CBC Latrobe Acquisition, LLC** (100 33rd Street, Latrobe, PA 15650-1474) on May 18, 2017, to extend the temporary operation period for the wastewater pretreatment system to allow additional shake-down of the new sources at the Latrobe Brewery located in in Latrobe Borough, **Westmoreland County**. The new expiration date is November 28, 2017.

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**Title V Operating Permits Issued under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter G.**

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

*Contact: Janine Tulloch-Reid, Facilities Permitting Chief—Telephone: 484-250-5920.*

**23-00040: Laurel Pipe Line Company, L.P.** (3398 Garnet Mine Road, Boothwyn, PA 19061-0917) On May 3, 2017 renewal of the Title V Operating Permit. The facility is located in Bethel Township, **Delaware County**.

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**Operating Permits for Non-Title V Facilities Issued under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter F.**

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

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

**28-03056: Texas Eastern Transmission LP** (2601 Market Place, Suite 400, Harrisburg, PA 17110-9363) on May 17, 2017, for the Chambersburg natural gas compressor station located in Chambersburg Borough, **Franklin County**. The State-only permit was renewed.

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

*Contact: Muhammad Q. Zaman, Environmental Program Manager—Telephone: 570-327-3648.*

**41-00041: Lonza, Inc.** (3500 Trenton Ave., Williamsport, PA 17701-7924) on May 18, 2017, for operation of its Williamsport facility located in the City of Williamsport, **Lycoming County**.

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

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

**03-00197: Nature's Blend Wood Product, Inc./Ford City Plant** (717 First Avenue, Ford City, PA 16226) on May 17, 2017, the Department issued a State Only Operating Permit (Synthetic Minor) renewal for the manufacturing of wood furniture components located in Ford City Borough, **Armstrong County**.

*Philadelphia: Air Management Services, 321 University Avenue, Philadelphia, PA 19104-4543, Contact: Edward Wiener, Chief, Source Registration at 215-685-9476.*

The City of Philadelphia, Air Management Services (AMS) intends to modify a Minor State Only Operating Permit for the following facility:

**OP17-000007: Clean Earth of Philadelphia** (3201 South 61st Street, Philadelphia, PA 19153) for operation of for the operation of a soil and non-soil treatment facility in the City of Philadelphia, **Philadelphia County**. The facility's air emissions sources include one (1) thermal desorption unit, one (1) thermal oxidizer and

cyclone separator, one (1) baghouse, one (1) carbon adsorption unit, one (1) carbon adsorption unit with fabric filter, Pretreated Media Process Building operations, and particulate fugitive sources from plant roadways sweeping, outdoor storage pile, crushers and screeners and material transfer operations. The modification allows for simultaneous operation of two (2) of the four (4) screeners.

The operating permit will be reissued under the 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 or comments on the above operating permit must submit the protest or comments within 30 days from the date of this notice. Any protests or comments filed with AMS must include a concise statement of the objections to the permit issuance and the relevant facts upon which the objections are based. Based upon the information received during the public comment period, AMS may modify the operating permit or schedule a public hearing. The hearing notice will be published in the *Pennsylvania Bulletin* and a local newspaper at least thirty days before the hearing.

The City of Philadelphia, Air Management Services (AMS) reissued a Minor State Only Operating Permit for the following facility:

**S14-029: Nazareth Hospital** (2601 Holme Avenue, Philadelphia, PA 19134) on May 19, 2017 for the operation of a hospital in the City of Philadelphia, **Philadelphia County**. The facility's air emission sources include one (1) 400 horsepower (HP) boiler firing No. 4 oil or natural gas, one (1) 500 HP boiler firing No. 4 or natural gas, one (1) 450 kilowatt (kw) emergency generator firing No. 2 oil, one (1) 150 kw emergency generator firing No. 2 oil, and one (1) 125 kw emergency generator firing natural gas. This operating permit also amends the previous operating, testing and tuning requirements for each generator. Each emergency generator shall be operated only during emergencies, emergency testing, maintenance and engine tuning. Routine monthly testing for each generator is limited to 130 minutes of run time per month, 130 minutes of cool-down time per month, and four hours of tuning or load testing per year.

The City of Philadelphia, Air Management Services (AMS) intends to reissue a Minor State Only Operating Permit for the following facility:

**N12-020A: Belmont Center for Comprehensive Treatment.** (4200 Monument Avenue, Philadelphia, PA 19131) for the operation of a hospital in the City of Philadelphia, **Philadelphia County**. The facility's air emission sources include two 8.369 MMBtu/hr boilers firing natural gas, one 1.26 MMBtu/hr boiler firing natural gas, one 1.96 MMBtu/hr boiler firing No. 2 Fuel Oil, and one 155 kilowatt emergency generator firing No. 2 Fuel Oil. Testing for the generator is limited to 120 minutes per week for five weeks annually, and 60 minutes per week for the remaining 47 weeks annually.

The operating permit will be issued under the Pennsylvania Code Title 25, 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 or comments on the above operating permit must submit the protest or comments within 30 days from the date of this notice. Any protests or comments filed with AMS must include a concise statement of the objections to the permit issuance and the relevant facts upon which the objections are based. Based upon the information received during the public comment period, AMS may modify the operating permit or schedule a public hearing. The hearing notice will be published in the *Pennsylvania Bulletin* and a local newspaper at least thirty days before the hearing.

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**Operating Permit Revisions Issued including Administrative Amendments, Minor Modifications or Transfers of Ownership under the Air Pollution Control Act 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, Virendra Trivedi, New Source Review Chief, 717-705-4863, or William Weaver, Regional Air Quality Manager, 717-705-4702.*

**01-03022: Agricultural Commodities, Inc.** (1585 Granite Station Road, Gettysburg, PA 17325-8345) on May 12, 2017, for the animal feed manufacturing facility located in Straban Township, **Adams County**. The State-only permit was administratively amended in order to incorporate the requirements of Plan Approval No. 01-03022B.

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**De Minimis Emissions Increases Authorized under 25 Pa. Code § 127.449.**

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

*Contact: Alan Binder, P.E., Environmental Engineer Manager—Telephone: 412-442-4168.*

**04-061: Nalco Company** (125 Nalco Way, Ellwood City, PA 16117) Per 25 Pa. Code § 127.449(i), this notice is for the following de minimis emission increase at the Nalco Company North/South Plants located in Franklin Township, **Beaver County**: wet scrubber system in the Furnace Room. The list of de minimis increases for this facility includes only this project.

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

*Contact: Dave Balog, New Source Review Chief or Matt Williams, Facilities Permitting Chief—Telephone: 814-332-6340.*

**25-00971: Erie Plating Co.** (656 W. 12th St., Erie, PA 16501) for its facility located in the City of Erie, **Erie County**. The de minimis increases are a result of the addition of cadmium plating line and an associated control device. The Department has started a list of de minimis increases as prescribed in 25 Pa. Code § 127.449(i).

Since the February 10, 2017 State Only Operating Permit issuance date, Erie Plating has notified the Department of the following de minimis emission increases:

Date	Source	PM <sub>10</sub> (tons)	SO <sub>x</sub> (tons)	NO <sub>x</sub> (tons)	VOC (tons)	CO (tons)
3/27/2017	Cadmium Plating Line	0.21	0	0	0	0
Total Reported Increases		0.21	0	0	0	0
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

**Operating Permits Denied, Terminated, Suspended or Revoked under the Air Pollution Control Act and 25 Pa. Code §§ 127.431 and 127.461.**

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

*Contact: David Balog, New Source Review Chief—Telephone: 814-332-6328.*

**42-00216: Catalyst Energy, Incorporated Kane Stripping Plant** (424 South 27th Street, Suite 304, Pittsburgh, PA 15203) on May 16, 2017, the permit was revoked for the natural gas processing plant located in Wetmore Township, **McKean County**. This State Operating Permit was revoked because the facility has ceased production in mid-January 2016, the sources will not restarted and the Responsible Official requested the permit be revoked.

**ACTIONS ON COAL AND NONCOAL MINING ACTIVITY APPLICATIONS**

**Actions on applications under the Surface Mining Conservation and Reclamation Act (52 P.S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P.S. §§ 3301—3326); The Clean Streams Law; the Coal Refuse Disposal Control Act (52 P.S. §§ 30.51—30.66); and The Bituminous Mine Subsidence and Land Conservation Act (52 P.S. §§ 1406.1—1406.20a). 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 applications will also address the application permitting requirements of the following statutes: the Air Quality Pollution Act (35 P.S. §§ 4001—4014); the Dam Safety and Encroachments Act (32 P.S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P.S. §§ 6018.101—6018.1002).**

*Coal Permits Issued*

*California District Office: 25 Technology Drive, Coal Center, PA 15423, 724-769-1100.*

**NPDES No. PA0213527. Consol Pennsylvania Coal Company LLC**, (1000 Consol Energy Drive, Canonsburg, PA 15317). To renew the NPDES permit for the Enlow Fork Mine in Morris and Richhill Townships, **Greene County** and Buffalo, East Finley, Morris, South Franklin West Finley Townships, **Washington County**. No additional discharges. The application was considered administratively complete on November 2, 2015. Application received July 28, 2015. NPDES Permit issued May 12, 2017.

**30841317 and NPDES No. PA0213527. Consol Pennsylvania Coal Company LLC**, (1000 Consol Energy Drive, Canonsburg, PA 15317). To revise the permit for the Enlow Fork Mine in Richhill Township, **Greene**

**County**, Morris Township, **Washington County** and related NPDES Permit for construction of the 8 North 1 Portal site, a sewage treatment plant, six boreholes and add 1 NPDES Outfall. Surface Acres Proposed 83.1. Receiving Stream: Unnamed Tributary to Ten Mile Creek, classified for the following use: TSF. The application was considered administratively complete on July 26, 2016. Application received March 11, 2016. Permit issued May 12, 2017.

**30141302 and NPDES No. PA0235474. AMD Reclamation, Inc. and Dana Mining Company of PA, LLC**, (103 Corporate Drive, Suite 102, Morgantown, WV 26501). To operate the Steele Shaft Water Treatment Facility in Dunkard and Perry Townships, **Greene County** and related NPDES Permit to permit an existing mine drainage treatment facility and associated existing pipelines and boreholes. Surface Acres Proposed 59.8. Receiving Stream: Dunkard Creek, classified for the following use: WWF. The application was considered administratively complete on March 17, 2016. Application received June 18, 2015. Permit issued May 16, 2017.

**30031301 and NPDES No. PA0235610. Dana Mining Company of PA, LLC**, (103 Corporate Drive, Suite 102, Morgantown, WV 26501). To revise the permit for the 4-West Mine in Dunkard and Monongahela Townships, **Greene County** and related NPDES Permit for construction of a pipeline. Surface Acres Proposed 56.0. No additional discharges. The application was considered administratively complete on October 28, 2016. Application received September 8, 2016. Permit issued May 18, 2017.

**30031301 and NPDES No. PA0235610. Dana Mining Company of PA, LLC**, (103 Corporate Drive, Suite 102, Morgantown, WV 26501). To revise the NPDES Permit for the 4-West Mine in Dunkard, Monongahela, Perry and Whiteley Townships, **Greene County** to add Outfall 007. Receiving Stream: Monongahela River, classified for the following uses: WWF. The application was considered administratively complete on August 2, 2016. Application received June 8, 2016. Permit issued May 18, 2017.

*Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, 814-472-1900.*

**Permit No. 56120101. Wilson Creek Energy LLC**, 1576 Stoystown Road, P.O. Box 260, Friedens, PA 15541, permit renewal for reclamation only of a bituminous surface and auger mine in Jenner Township, **Somerset County**, affecting 56.5 acres. Receiving stream: Hoffman Run, classified for the following use: cold water fishes. The first downstream potable water supply intake from the point of discharge is Quemahoning Reservoir. Application received: March 20, 2017. Permit issued: May 11, 2017.

**Permit No. 56140106 and NPDES No. PA0279404, Mountaineer Mining Corp.**, 1010 Garrett Shortcut Road, Berlin, PA 15530, commencement, operation and restoration of a bituminous surface & auger mine to add blasting activities in Brothersvalley Township, **Somerset**

County, affecting 36.0 acres. Receiving streams: unnamed tributaries to Piney Run classified for the following use: cold water fishes. There are no potable water supply intakes within 10 miles downstream. Application received: January 23, 2017. Permit issued: May 17, 2017.

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

**24020102. P. and N. Coal Company, Inc.** (P.O. Box 332, Punxsutawney, PA 15767) Renewal of an existing bituminous surface and coal ash placement mine in Benezette Township, **Elk County**, affecting 118.9 acres. Receiving streams: Porcupine Run, unnamed tributary to Porcupine Run, unnamed tributary to Chase Hollow, unnamed tributary to Trout Run. This renewal is issued for reclamation only. Application received: March 27, 2017. Permit Issued: May 16, 2017.

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200.*

**4777SM7 and NPDES PA0257648. Warner Company** (c/o Waste Management, 4 Liberty Lane, West, Hampton, NH 03842). Permit renewal for continued treatment of acid mine drainage on a bituminous surface mine located in Snow Shoe Township, **Centre County** affecting 155.0 acres. Receiving stream(s): Unnamed Tributary to Beech Creek classified for the following use(s): CWF, MF. There are no potable water supply intakes within 10 miles downstream. Application received: August 23, 2016. Permit issued: May 15, 2017.

**17990103 and NPDES PA0238244. River Hill Coal Company, Inc.** (P.O. Box 141, Kylertown, PA 16847). Permit renewal for continued operation and restoration of a bituminous surface and auger mine located in Bigler Township, **Clearfield County** affecting 228.8 acres. Receiving stream(s): Unnamed Tributaries to Upper Morgan Run and Alexander Run classified for the following use(s): CWF, MF. There are no potable water supply intakes within 10 miles downstream. Application received: February 7, 2017. Permit issued: May 11, 2017.

*New Stanton District Office: 131 Broadview Road, New Stanton, PA 15672, 724-925-5500.*

**03070103 and NPDES Permit No. PA0251160. Rosebud Mining Company** (301 Market Street, Kittanning, PA 16201). Permit renewal issued for continued mining to an existing bituminous surface mine, located in Redbank Township, **Armstrong County**, affecting 127.9 acres. Receiving stream: unnamed tributary to Pine Run. Application received: May 23, 2014. Renewal permit issued: May 19, 2017.

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118.*

**Permit No. 40-305-008GP12R. Blaschak Coal Corp.**, (P.O. Box 12, Mahanoy City, PA 17948), renewal of general operating permit to operate a coal preparation plant on Glenn O. Hawbaker, Inc., Surface Mining Permit No. 40930102 in Hazle and Butler Townships, **Luzerne County**. Application received: August 15, 2013. Renewal issued: May 18, 2017.

**Permit No. 40930102R4. Glenn O. Hawbaker, Inc.**, (1952 Waddle Road, State College, PA 16803), renewal of an existing anthracite surface mine, coal refuse reprocessing and preparation plant operation in Hazle and Butler Townships, **Luzerne County** affecting 688.0 acres, receiving stream: Little Nescopeck Creek. Application received: September 4, 2013. Renewal issued: May 18, 2017.

**Permit No. PAM111008R. Glenn O. Hawbaker, Inc.**, (1952 Waddle Road, State College, PA 16803), renewal of General NPDES Stormwater Permit for stormwater discharges associated with mining activities on Surface Mining Permit No. 40900103 in Hazle and Butler Townships, **Luzerne County**, receiving stream: Little Nescopeck Creek. Application received: September 4, 2013. Renewal issued: May 18, 2017.

**Permit No. 40850203R6. Silverbrook Anthracite, Inc.**, (1 Market Street, Laflin, PA 18702), renewal of an existing anthracite coal refuse reprocessing, refuse disposal and preparation plant operation in Newport Township, **Luzerne County** affecting 49.0 acres, receiving stream: Newport Creek. Application received: June 8, 2015. Renewal issued: May 19, 2017.

**Permit No. PAM115013. Silverbrook Anthracite, Inc.**, (1 Market Street, Laflin, PA 18702), General NPDES Stormwater Permit for stormwater discharges associated with mining activities on Surface Mining Permit No. 40850203 in Newport Township, **Luzerne County**, receiving stream: Newport Creek. Application received: June 8, 2015. Permit issued: May 19, 2017.

**Permit No. 40-305-006GP12R2. Silverbrook Anthracite, Inc.**, (1 Market Street, Laflin, PA 18702), renewal of general operating permit to operate a coal preparation plant on Surface Mining Permit No. 40850203 in Newport Township, **Luzerne County**. Application received: July 16, 2015. Permit issued: May 19, 2017.

#### *Noncoal Permits Issued*

*Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, 814-472-1900.*

**Permit No. 50832301-GP104. Bobbi L. Armolt**, 6148 Spring Road, Shermansdale, PA 17090. General NPDES Permit for stormwater discharges associated with mining activities on noncoal permit No. 50832301 located in Carrol Township, **Perry County**. Receiving stream: Unnamed Tributary to Sherman Creek, classified for the following uses: Warm Water Fishes and Migratory Fishes. There are no potable water supplies located within 10 miles downstream. Notice of Intent for Coverage received: April 27, 2017. Coverage Approved May 16, 2017.

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

**25132801. Raymond D. Showman & Sons, Inc.** (12851 Sharp Road, Edinboro, PA 16412). Final bond release for a small industrial minerals surface mine in LeBoeuf Township, **Erie County**. Restoration of 7.0 acres completed. Receiving streams: French Creek. Application Received: March 21, 2017. Final bond release approved: May 15, 2017.

**PAM611011. John Allen Excavating, Inc.** (288 Dobson Road, Sugar Grove, PA 16350) General NPDES Permit for stormwater discharges associated with mining activities on Surface Mining Permit No. 62112801 in Sugar Grove Township, **Warren County**. Application received: April 28, 2017. Permit Issued: May 17, 2017.

**25122801. Groundwork Resources, LLC** (8870 Baron Road, McKean, PA 16426) Renewal of existing NPDES Permit No. PA0259182 in McKean Township, **Erie County**. Receiving streams: Unnamed tributary to Walnut Creek. Application received: February 6, 2017. Permit Issued: May 16, 2017.

**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*

*New Stanton District Office: 131 Broadview Road, New Stanton, PA 15672, 724-925-5500.*

**63174105. Wampum Hardware Co.** (636 Paden Road New Galilee, PA 16141). Blasting activity permit for the construction of a pipeline, located in West Finley and Richill Township, **Washington and Greene County** with an expiration date of December 31, 2017. Blasting permit issued: May 15, 2017.

**02174103. Kesco Inc.** (215 South Main Street, Zelienople, PA 16063). Blasting activity permit for the construction of the utilities for Overlook Sanitary, located in Ohio Township, **Allegheny County** with an expiration date of October 31, 2017. Blasting permit issued: May 11, 2017.

**02174104. Kesco Inc.** (215 South Main Street, Zelienople, PA 16063). Blasting activity permit for the construction of Overlook Estates, located in Ohio Township, **Allegheny County** with an expiration date of October 31, 2017. Blasting permit issued: May 17, 2017.

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118.*

**Permit No. 39174102. American Rock Mechanics, Inc.**, (7531 Chestnut Street, Zionsville, PA 18092), construction blasting for Signature Living Center in Lower Macungie Township, **Lehigh County** with an expiration date of May 17, 2018. Permit issued: May 19, 2017.

**Permit No. 46174106. Brubacher Excavating, Inc.**, (825 Reading Road, Bowmansville, PA 17507), construction blasting for Righters Ferry in Lower Merion Township, **Montgomery County** with an expiration date of May 10, 2018. Permit issued: May 19, 2017.

**Permit No. 46174107. Rock Work, Inc.**, (1257 DeKalb Pike, Blue Bell, PA 19422), construction blasting for Sankey Tract in Limerick Township, **Montgomery County** with an expiration date of May 30, 2018. Permit issued: May 19, 2017.

**Permit No. 54174104. Keystone Blasting Service**, (15 Hopeland Road, Lititz, PA 17543), construction blasting for Eugene Martin Chicken House in Pine Grove Township, **Schuylkill County** with an expiration date of July 30, 2017. Permit issued: May 19, 2017.

**Permit No. 64174104. Explosive Services, Inc.**, (7 Pine Street, Bethany, PA 18431), construction blasting for Steel Horse Holding Development in Palmyra Township, **Wayne County** with an expiration date of May 13, 2019. Permit issued: May 19, 2017.

**Permit No. 67174107. Abel Construction Co., Inc.**, (P.O. Box 476, Mountville, PA 17554), construction blasting for Delta Ridge in Peach Bottom Township, **York County** with an expiration date of June 19, 2017. Permit issued: May 19, 2017.

**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 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.

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, PO 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.

**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.**

*Permits, Environmental Assessments and 401 Water Quality Certifications Issued:*

**WATER OBSTRUCTIONS AND ENCROACHMENTS**

*Northeast Regional Office, Waterways and Wetlands Program, 2 Public Square, Wilkes-Barre, PA 18701-1915, Telephone 570-826-2511.*

**E39-550. County of Lehigh**, 260 South Cedarbrook Road, Allentown, PA 18104. South Whitehall Township, **Lehigh County**, Army Corps of Engineers Philadelphia District.

To construct and maintain a wooden pedestrian bridge and associated paved pathway across Cedar Creek, having a 65-foot span and an 8-foot underclearance. The project is located on the north side of SR 2009 (Haines Mill Road) approximately 250 feet east of its intersection

with Dorney Park Road and Mertz Lane (Allentown West, PA Quadrangle Latitude: 40.584745N; Longitude: -75.531669W) in South Whitehall Township, **Lehigh County**. Subbasin: 2C.

*Southwest Region: Waterways & Wetlands Program, 400 Waterfront Drive, Pittsburgh, PA 15222, Michael Forbeck, Acting Waterways and Wetlands Program Manager, 412-442-4000.*

**E30-252, Plenary Walsh Keystone Partners**, Park West Two, Third Floor, 2000 Cliff Mine Road, Pittsburgh, PA 15275, Gilmore Township, **Greene County**, Pittsburgh ACOE District.

Has been given consent to:

1. Remove an existing, 44.5 long by 14.25' wide, single span, steel I-beam bridge, with under clearance of 9.0'.
2. Construct and maintain a replacement, 54' long by 35.6' wide, single span, composite prestressed adjacent box beam bridge, with under clearance of 6.86'; and
3. Construct and maintain rock slope protection in the floodway on the downstream side of the new structure, R-6 rock riprap scour protection along both abutments, and associated improvements to the guiderails, approach roads and stormwater drainage.

This project will impact approximately 60' of watercourse for the purpose of replacing the existing, Jollytown Road/SR 3006, structurally deficient structure over PA Fork Dunkard Creek (WWF), which is located near the intersection of Jollytown Road/SR 3006 and Pine Bank Road (Wadestown, W. VA-PA USGS topographic quadrangle; Latitude: 39° 43' 23.3"; Longitude: -80° 20' 58.9"; Sub-basin: 19G; Pittsburgh Corps District), in Gilmore Township, Greene County.

**E63-688, Sunoco Pipeline LP**, 525 Fritztown Road, Sinking Spring, PA 19608, Chartiers Township, **Washington County**, Pittsburgh ACOE District.

Has been given consent to:

The applicant is proposing to place and maintain fill in 0.114 acre of PEM/PSS wetland which will be mitigated through the purchase of 0.12 acre wetland credits from the Robinson Fork Mitigation Bank (DEP File Number MB990563-0003). For the purpose of building Houston Tank Farm, a storage facility consisting of two gravel pads and a gravel access road. The facility will be used for the storage of propane and butane which will be stored in separate 50,000 BBL and 30,000 BBL pressurized spheres. The project is located approximately 1.5 mile northwest of Houston, PA (Canonsburg and Midway Quadrangle, Latitude: 40° 15' 58", Longitude: -80° 15' 42") in Chartiers Township, Washington County.

**E65-976, Plenary Walsh Keystone Partners**, Park West Two, Third Floor, 2000 Cliff Mine Road, Pittsburgh, PA 15275, Unity Township, **Westmoreland County**, Pittsburgh ACOE District.

Has been given consent to:

Replace and maintain an existing single span, steel I-beam bridge with a composite prestressed spread box beam bridge, with a span of 56' and an under clearance of 5' 3" over Ninemile Run (WWF) (aka Stream 1) and an Unnamed tributary to Ninemile Run (aka Stream 2) for the purpose of replacing a structurally deficient bridge. The project will result in 183 linear feet of temporary impact and 71 linear feet of permanent impact to Ninemile Run (aka Stream 1) and the aforementioned UNT to Ninemile Run (aka Stream 2). The project is located near the intersection of SR 0982 and Macey Road

(T-907) (Quadrangle: Latrobe; Latitude: 40° 15' 8.2"; Longitude: -79° 23' 25.5") Unity Township, Westmoreland County.

### DAM SAFETY

*Central Office: Bureau of Waterways Engineering and Wetlands, Rachel Carson State Office Building, Floor 2, 400 Market Street, P.O. Box 8460, Harrisburg, PA 17105-8460.*

**D59-079. Kecks Food Service, Inc.**, 2796 Route 328, Millerton, PA 16936. Permit issued to construct, operate, and maintain the Jackson Summit Dam across Hammond Creek (CWF, MF), impacting 200 linear feet of stream, for the purpose of abating the nuisance of periodic flooding mandated by the Court of Common Pleas of Tioga County, Pennsylvania Order (No. 933 2009). (Jackson Summit, P.A.-N.Y. Quadrangle Latitude: 41.9446° N; Longitude: 77.01395° W) in Jackson Township, **Tioga County**.

### EROSION AND SEDIMENT CONTROL

The following Erosion and Sediment Control permits have been issued.

Persons aggrieved by an action may appeal that action to the Environmental Hearing Board (Board) under section 4 of the Environmental Hearing Board Act and 2 Pa.C.S. §§ 501—508 and 701—704. The appeal should be sent to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, PO 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.

*Northwest Region: Oil and Gas Program Manager, 230 Chestnut St., Meadville, PA 16335.*

ESCGP-2 # ESG17-047-0001-E08-1 Pad  
Applicant Seneca Resources Corporation  
Contact Mr. Doug Kepler  
Address 5800 Corporate Drive, Suite 300  
City Pittsburgh State PA Zip Code 15237  
County Elk Township(s) Jones

Receiving Stream(s) and Classification(s) East Branch Clarion River and County Line Run/Upper Clarion River Watershed

ESCGP-2 # ESX11-031-0021 Radaker Pad B  
Applicant Northeast Natural Energy, LLC.  
Contact Ms. Hollie MedleyVir  
Address 707 Virginia Street, Suite 1200  
City Charleston State WV Zip Code 25301  
County Clarion Township(s) Toby

Receiving Stream(s) and Classification(s) UNT to East Fork Wildcat Run (CWF)/East Fork Wildcat Run (CWF)

ESCGP-2 # ESG17-019-0005—W23 to W22 Pipeline  
 Applicant Pine Run Midstream, LLC  
 Contact Mr. Gregg Stewart  
 Address 1000 Park Place One, Suite 100  
 City Pittsburgh State PA Zip Code 15275  
 County Butler Township(s) Winfield  
 Receiving Stream(s) and Classification(s) UNT to North  
 Branch Rough Run, UNTs to Rough Run, UNT to  
 Buffalo Creek, Buffalo Creek Watershed HQ-TSF

ESCGP-2 # ESX17-019-0007—Hofer to Ferree Pipeline  
 Applicant MarkWest Liberty Bluestone, LLC  
 Contact Richard Lowry  
 Address 4600 J. Barry Court, Suite 500  
 City Canonsburg State PA Zip Code 15317  
 County Butler Township(s) Middlesex and Penn  
 Receiving Stream(s) and Classification(s) Slippery Rock  
 Creek, UNTs to Glade Run WWF, Connoquenessing  
 Creek WWF

*Eastern Region: Oil & Gas Management Program Manager, 208 West Third Street, Williamsport, PA 17701.*

ESCGP-2 # ESX10-117-0204(02)  
 Applicant Name SWEPI LP  
 Contact Person Jason Shoemaker  
 Address 150 N Dairy Ashford E1296-E  
 City, State, Zip Houston, TX 77079  
 County Tioga  
 Township(s) Middlebury  
 Receiving Stream(s) and Classification(s) Crooked Ck  
 (WWF); Losey Ck (WWF)

ESCGP-2 # ESX29-115-16-0052  
 Applicant Name SWN Production Co LLC  
 Contact Person Justin Moore  
 Address 917 SR 92 N  
 City, State, Zip Tunkhannock, PA 18657  
 County Susquehanna  
 Township(s) Clifford & Lenox  
 Receiving Stream(s) and Classification(s) UNT to  
 Tunkhannock Ck (CWF-MF)

ESCGP-2 # ESX29-115-17-0002  
 Applicant Name SWN Production Co LLC  
 Contact Person Justin Moore  
 Address 917 SR 92 North  
 City, State, Zip Tunkhannock, PA 18657  
 County Susquehanna  
 Township(s) Lenox  
 Receiving Stream(s) and Classification(s) UNT to Tunkhan-  
 nock Ck (CWF-MF)

ESCGP-2 # ESG29-015-17-0023  
 Applicant Name Chief Oil & Gas LLC  
 Contact Person Jeffrey Deegan  
 Address 1720 Sycamore Rd  
 City, State, Zip Montoursville, PA 17754  
 County Bradford  
 Township(s) Leroy  
 Receiving Stream(s) and Classification(s) Schrader Ck  
 (EV, MF); Elk Ck (EV, MF)  
 Secondary—Towanda Ck and Loyalsock Ck

ESCGP-2 # ESX13-015-0037 (01)  
 Applicant Name Appalachia Midstream Services LLC  
 Contact Person Josh Brown  
 Address 400 IST Center, Suite 404  
 City, State, Zip Horseheads, NY 14845  
 County Bradford  
 Township(s) West Burlington  
 Receiving Stream(s) and Classification(s) UNTs to Sugar  
 Ck; Tom Jack Ck (TSF/MF)

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## SPECIAL NOTICES

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### Air Quality; Approval of a Reasonably Available Control Technology (RACT II) Plan

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

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

**Operating Permit 49-00004.** Approval of a Reasonably Available Control Technology (RACT II) plan for **Resilite Sports Products Inc.** located in Northumberland Borough, Northumberland County.

In accordance with 25 Pa. Code §§ 129.96—129.100, the Department of Environmental Protection has made a preliminary determination to approve a RACT II plan and an amendment to the State Implementation Plan (SIP) for the facility owned and operated Resilite in Northumberland Borough, Northumberland County.

The proposed SIP revision does not adopt any new regulations. It incorporates the provisions and requirements contained in the amended RACT II approval for the facility, which are intended to satisfy the requirements for the 1997 National Ambient Air Quality Standard (NAAQS) and the 2008 NAAQS for ozone.

The proposed amendments to the RACT II determination, if finally approved, will be incorporated into a revised operating permit (49-00004) for the facility. 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. Requirements that are not part of the RACT II determination will be excluded from the SIP submittal includes the provisions of the Department's presumptive Reasonably Available Control Technology (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:

<i>Source</i>	<i>RACT II Requirement</i>
Mat Finish and Cure Operations (106)	VOC content of solvent based coatings shall not exceed 3.39 pounds of VOC per gallon of coating. VOC content of water based coatings shall not exceed 1.00 pound of VOC per gallon of coating. VOC emissions from Source ID 106 shall not exceed 156.46 tons per 12 consecutive month period.
Mat Reconditioning Operations (201)	VOC content of solvent based coatings shall not exceed 3.39 pounds of VOC per gallon of coating. VOC content of water based coatings shall not exceed 1.00 pound of VOC per gallon of coating. VOC emissions from Source ID 201 shall not exceed 1.46 ton per 12 consecutive month period.

*Source*

Spray Equipment  
Cleanup (202)

*RACT II Requirement*

No equipment shall be cleaned with VOC containing solvents or cleaning materials other than spray guns and spray gun components. VOC emissions from Source ID 202 shall not exceed 5.99 tons per 12 consecutive month period.

Public hearing. A public hearing will be held if requested by July 5, 2017 to accept oral comments on the proposed operating permit revision and the proposed SIP revision. The hearing will be held, if requested, on July 12, 2017, at 10:00 AM at the DEP Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448. To request a hearing, to register to speak at a hearing, or to inquire if a hearing will be held, please contact Megan Lehman at 570-327-3659. The last day to pre-register to speak at a hearing, if one is held, will be July 5, 2017.

Please note that any updates made to any aspect of the hearing, including whether or not a hearing will be held, will be posted online at: <http://www.dep.pa.gov/About/Regional/North-central-Regional-Office/Pages/default.aspx>.

We ask that you contact Megan Lehman at 570-327-3659 or monitor our Web site to determine if a hearing will be held.

Persons wishing to present testimony at the hearing should contact Megan Lehman at 570-327-3659 at least one week in advance of the hearing to reserve a time to present testimony. Oral testimony will be limited to a maximum of 10 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, if it is held, may submit three (3) copies of a written statement and exhibits within 10 days thereafter to Muhammad Q. Zaman, Environmental Program Manager, Pennsylvania Department of Environmental Protection, Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448.

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 Muhammad Q. Zaman, Environmental Program Manager, Pennsylvania Department of Environmental Protection, Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448. A 30-day comment period from June 11, 2017 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.

All pertinent documents are available for public review between 8 a.m. and 4 p.m. at the DEP Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448. Appointments for scheduling a review may be made by calling the Department at 570-327-0550.

Persons with a disability who wish to comment and require an auxiliary aid, service or other accommodations to do so should contact Megan Lehman at 570-327-3659

or the Pennsylvania AT&T Relay Service at 1-800-654-5984 (TDD) to discuss how the Department may accommodate your needs.

[Pa.B. Doc. No. 17-932. Filed for public inspection June 2, 2017, 9:00 a.m.]

### Availability of Technical Guidance

Technical guidance documents are available on the Department of Environmental Protection's (Department) web site at <http://www.elibrary.dep.state.pa.us/dsweb/HomePage>. The "Technical Guidance Final Documents" heading is the link to a menu of the various Department bureaus where each bureau's final technical guidance documents are posted. The "Technical Guidance Draft Documents" heading is the link to the Department's draft technical guidance documents.

#### *Ordering Paper Copies of Department Technical Guidance*

The Department encourages the use of the Internet to view and download technical guidance documents. When this option is not available, persons can order a paper copy of any of the Department's draft or final technical guidance documents by contacting the Department at (717) 783-8727.

In addition, bound copies of some of the Department's documents are available as Department publications. Check with the appropriate bureau for more information about the availability of a particular document as a publication.

#### *Changes to Technical Guidance Documents*

Following is the current list of recent changes. Persons who have questions or comments about a particular document should call the contact person whose name and phone number is listed with each document.

*Final Technical Guidance Document:* New Guidance. DEP ID: 390-3301-001. Title: Cryptosporidia, E. coli, and Turbidity LT2ESWTR Laboratory Reporting Instructions for Public Water Systems Using Surface Water or Groundwater Under the Direct Influence of Surface Water (GUDI) Sources. Description: The Long-term 2 Enhanced Surface Water Treatment Rule (LT2ESWTR) describes source water quality monitoring and additional treatment requirements for higher risk water systems, to enhance public health protection against pathogenic microbial contaminants, especially Cryptosporidia. For the LT2ESWTR, public water systems (PWS) that use surface water or GUDI sources must monitor their sources to determine treatment requirements and report the results under the Safe Drinking Water Program. This manual establishes uniform instructions and protocol for completing the electronic forms and for implementing the public drinking water reporting for PWSs using surface water or GUDI sources. Laboratories and PWSs must now report data electronically, according to 25 Pa. Code § 109.810 (relating to reporting and notification requirements). The new technical guidance also provides instructions for submitting Cryptosporidia in source water results into the Drinking Water Electronic Lab Reporting application by means of a new CRYPTOSPORIDIUM OOCYSTS form for reporting. In addition, this new guidance introduces source water reporting of E. coli by enumeration. A notice



of availability of the draft technical guidance was published at 47 Pa.B. 730 (February 4, 2017) for a 30-day public comment period. No public comments were received. There were two internal changes: 1) the wording on page 16 was changed in the SDWA-1 Form Description/Explanation table as follows: "Location ID 2: Leave this column blank. If using a blended source sample, contact DEP."; and 2) the contact list was updated.

*Contact:* Questions regarding this technical guidance document should be directed to Pauline Risser at [parisser@pa.gov](mailto:parisser@pa.gov) or (717) 772-5970.

*Effective Date:* June 3, 2017.

PATRICK McDONNELL,  
*Secretary*

[Pa.B. Doc. No. 17-933. Filed for public inspection June 2, 2017, 9:00 a.m.]

### Bid Opportunity

**DEP HSCP-3-223-102.1, Hazardous Site Cleanup Project, Intercourse TCE Water Supply Distribution System, Leacock Township, Lancaster County.** This referenced bid opportunity was published at 47 Pa.B. 2673 (May 6, 2017) in error and will occur at a later date. Accordingly, the June 9, 2017, bid issue date, the June 28, 2017, mandatory prebid conference date and the July 20, 2017, bid opening date do not apply. Contact the Construction Contracts Section at (717) 787-7820 or [RA-ConstructionContr@pa.gov](mailto:RA-ConstructionContr@pa.gov) with any questions.

PATRICK McDONNELL,  
*Secretary*

[Pa.B. Doc. No. 17-934. Filed for public inspection June 2, 2017, 9:00 a.m.]

### Laboratory Accreditation Advisory Committee Meeting Cancellation

The June 7, 2017, meeting of the Laboratory Accreditation Advisory Committee has been cancelled. The next meeting is scheduled for Wednesday, September 13, 2017, at 9 a.m. in Room 206, Bureau of Laboratories Building, 2575 Interstate Drive, Harrisburg, PA 17105-1467.

Questions concerning the September 13, 2017, meeting should be directed to Aaren Alger, Laboratory Accreditation Program, at [aaalger@pa.gov](mailto:aaalger@pa.gov) or (717) 346-8212. The agenda and meeting materials will be available through the Public Participation tab on the Department of Environmental Protection's (Department) web site at <http://www.dep.pa.gov>.

Persons in need of accommodations as provided for in the Americans with Disabilities Act of 1990 should contact Aaren Alger at (717) 346-8212 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,  
*Secretary*

[Pa.B. Doc. No. 17-935. Filed for public inspection June 2, 2017, 9:00 a.m.]

### Public Comment Invited to Help Develop State Plan to Improve Local Water Health in Chesapeake Bay Watershed Counties

The Department of Environmental Protection (Department) is currently working with the United States Environmental Protection Agency (EPA), the Department of Agriculture, the Department of Conservation and Natural Resources, partners and stakeholders to develop the Commonwealth's Phase 3 Watershed Implementation Plan (WIP) for the Chesapeake Bay.

In 2010, the EPA established a Total Maximum Daily Load (TMDL) to address chlorophyll-A, dissolved oxygen and clarity impairments within the Chesapeake Bay. A TMDL is a regulatory term in the Federal Clean Water Act (33 U.S.C.A. §§ 1251—1388) describing a value of the maximum amount of a pollutant that a body of water can receive while still meeting water quality standards. Nitrogen, phosphorus and sediment are the main pollutants to the Chesapeake Bay that cause the previously listed issues. WIPs are the roadmaps for how the Chesapeake Bay states, in partnership with Federal and local governments, will achieve the Chesapeake Bay TMDL allocations.

The Commonwealth is mandated by the EPA to reduce nitrogen, phosphorus and sediment levels in waterways in the Chesapeake Bay watershed counties by 2025. The Commonwealth fell short of its Phase 1 goal, set in 2010, and Phase 2 goal, set in 2012. This year, the EPA is conducting a midpoint assessment of these levels, the results of which will define how the Commonwealth designs its Phase 3 WIP to achieve the desired reductions in pollutants.

Since the Commonwealth has not met the EPA's requirements to reduce water pollution under the requirements of Federal court orders and regulations, the Commonwealth is working to focus and increase resources and technical assistance, reinvigorate partnerships and create a culture of compliance in protecting the Commonwealth's water quality. The public is invited to share their views on how the Commonwealth can best achieve Federally-mandated water pollution reductions in counties in the Chesapeake Bay watershed during a 35-day public comment period.

Public input is specifically being sought to determine what initiatives are needed in agriculture, forestry, funding, local planning, stormwater and wastewater to improve the health of local streams, rivers and lakes. The public is encouraged to answer the following questions in their comments:

- What key elements need to be included for this effort to be a success? What priority issues must be addressed in the Phase 3 WIP for you to consider it a success?
- What measurable outcome does the Commonwealth need to achieve by 2025 that would make this effort successful?
- Is there a particular initiative, action, partnership or training that would aid this effort?
- Are there possibilities for continuing and enhancing current projects or initiatives?

More information on the Commonwealth's Phase 3 WIP planning process is available at [www.dep.pa.gov](http://www.dep.pa.gov) (search: Chesapeake Bay).

Interested persons are invited to submit written comments regarding the Commonwealth's Phase 3 WIP through Friday, July 7, 2017. Comments submitted by facsimile will not be accepted. Comments, including comments submitted by e-mail, must include the originator's name and address. Commentators are encouraged to submit comments using the Department's online eComment system at [www.ahs.dep.pa.gov/eComment](http://www.ahs.dep.pa.gov/eComment). Written comments should be submitted by e-mail to [ecomment@pa.gov](mailto:ecomment@pa.gov) or by mail to the Department of Environmental Protection, Policy Office, Rachel Carson State Office Building, P.O. Box 2063, Harrisburg, PA 17105-2063.

Persons in need of accommodations as provided for in the Americans with Disabilities Act of 1990 should contact Hayley Jeffords at (717) 772-3525 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TTD) to discuss how the Department may accommodate their needs.

PATRICK McDONNELL,  
*Secretary*

[Pa.B. Doc. No. 17-936. Filed for public inspection June 2, 2017, 9:00 a.m.]

### Small Water Systems Technical Assistance Center Board Meeting Cancellation

The June 8, 2017, meeting of the Small Water Systems Technical Assistance Center Board has been cancelled. The next meeting is scheduled for Thursday, July 13, 2017, at 9 a.m. in Room 105, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA.

Questions concerning the cancellation of the June 8, 2017, meeting or the July 13, 2017, meeting should be directed to Dawn Hissner, Bureau of Safe Drinking Water, at [dhissner@pa.gov](mailto:dhissner@pa.gov) or (717) 772-2189. The agenda and meeting materials will be available through the Public Participation tab on the Department of Environmental Protection's (Department) web site at <http://www.dep.pa.gov>.

Persons in need of accommodations as provided for in the Americans with Disabilities Act of 1990 should contact Dawn Hissner at (717) 772-2189 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,  
*Secretary*

[Pa.B. Doc. No. 17-937. Filed for public inspection June 2, 2017, 9:00 a.m.]

## DEPARTMENT OF HEALTH

### Ambulatory Surgical Facilities; Requests for Exceptions

The following ambulatory surgical facilities (ASF) have filed requests for exception under 28 Pa. Code § 51.33 (relating to requests for exceptions) with the Department of Health (Department), which has authority to license ASFs under the Health Care Facilities Act (35 P.S. §§ 448.101—448.904b). The following requests for exception relate to regulations governing ASF licensure in 28 Pa. Code Chapters 51 and 551—571 (relating to general information; and ambulatory surgical facilities).

<i>Facility Name</i>	<i>Regulation</i>
Lackawanna Physicians ASC, d/b/a North East Surgery Center	28 Pa. Code § 551.21(d) (relating to criteria for ambulatory surgery)
Lehigh Valley Vascular Institute, LLC	28 Pa. Code § 551.21(d)(3)
Surgery Center of Lebanon, LP	28 Pa. Code § 553.31 (relating to administrative responsibilities)

The previously listed requests are on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, [ra-paexcept@pa.gov](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 a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980, for speech and/or hearing impaired persons V/TT (717) 783-6154, or the Pennsylvania AT&T Relay Service (800) 654-5984 (TT).

KAREN M. MURPHY, PhD, RN,  
*Secretary*

[Pa.B. Doc. No. 17-938. Filed for public inspection June 2, 2017, 9:00 a.m.]

### Hospitals; Requests for Exceptions

The following hospital has filed requests for exceptions under 28 Pa. Code § 51.33 (relating to requests for exceptions) with the Department of Health (Department), which has authority to license hospitals under the Health Care Facilities Act (35 P.S. §§ 448.101—448.904b). The following request for exception relates to regulations governing hospital licensure in 28 Pa. Code Chapters 51 and 101—158 (relating to general information; and general and special hospitals).

*Facility Name*

Waynesboro Hospital

*Regulation*28 Pa. Code § 103.31 (relating to the chief executive officer)  
28 Pa. Code § 109.2 (relating to director of nursing services)

The previously listed requests are on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, ra-paexcept@pa.gov. Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division at the previously listed address. Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980, for speech and/or hearing impaired persons V/TT (717) 783-6154, or the Pennsylvania AT&T Relay Service (800) 654-5984 (TT).

KAREN M. MURPHY, PhD, RN,  
*Secretary*

[Pa.B. Doc. No. 17-939. Filed for public inspection June 2, 2017, 9:00 a.m.]

## DEPARTMENT OF LABOR AND INDUSTRY

### Current Prevailing Wage Act Debarments

The following contractors have been determined to have intentionally violated the Pennsylvania Prevailing Wage Act (act) (43 P.S. §§ 165-1—165-17). This notice is published for the information and convenience of public bodies subject to the act. Under section 11(e) of the act (43 P.S. § 165-11(e)), no contracts for public work shall be awarded to these contractors, or either one of them, or any firms, corporations or partnerships in which either one of these contractors has an interest, for 3 years after the date listed.

<i>Contractor</i>	<i>Address</i>	<i>Date of Debarment</i>
East Coast Wall Systems, LLC and Ronald Roman, a/k/a Ron Roman, individually FEIN No. N/A	101 Stacey Haines Road Lumberton, NJ 08048	5/9/2017
B&S Sheet Metal Mechanical, Inc., William Craig Jackson, Andrew Jackson, Marylyn Jackson and Christopher Jackson, individually FEIN No. 23-2213403	608 Nolan Avenue Morrisville, PA 19067	5/9/2017

KATHY M. MANDERINO,  
*Secretary*

[Pa.B. Doc. No. 17-940. Filed for public inspection June 2, 2017, 9:00 a.m.]

## FISH AND BOAT COMMISSION

### Proposed Special Regulation Designation

The Fish and Boat Commission (Commission) has approved guidelines with regard to encouraging public participation on possible changes to the designation of streams, stream sections or lakes for special regulation programs. Under 58 Pa. Code Chapter 65 (relating to special fishing regulations), the Commission designates or redesignates certain streams, stream sections and lakes as being subject to special fishing regulations. These designations and redesignations are effective after Commission approval when they are posted at the site and a notice is published in the *Pennsylvania Bulletin*. Under the Commission's guidelines, a notice concerning the proposed designation or redesignation of a stream, stream section or lake under special regulations ordinarily will be

published in the *Pennsylvania Bulletin* before the matter is reviewed by the Commissioners.

At the next Commission meeting on July 10 and 11, 2017, the Commission will consider taking the following action with respect to waters subject to special fishing regulations under 58 Pa. Code Chapter 65, effective January 1, 2018:

*58 Pa. Code § 65.15. Catch and release all-tackle*

The Commission will consider designating the following water as catch and release all-tackle:

<i>County</i>	<i>Water</i>
Cambria	West Branch Susquehanna River, from the outflow of the AMD treatment plant near Watkins approximately 26 miles downstream to the confluence with Cush Creek near Dowler Junction

At this time, the Commission is soliciting public input concerning the previous designation. Persons with com-

ments, objections or suggestions concerning the designation are invited to submit comments in writing to the Executive Director, Fish and Boat Commission, P.O. Box 67000, Harrisburg, PA 17106-7000, within 30 days after publication of this notice in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted.

Comments also may be submitted electronically by completing the form at [www.fishandboat.com/regcomments](http://www.fishandboat.com/regcomments). If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt. Electronic comments submitted in any other manner will not be accepted.

JOHN A. ARWAY,  
*Executive Director*

[Pa.B. Doc. No. 17-941. Filed for public inspection June 2, 2017, 9:00 a.m.]

## INDEPENDENT REGULATORY REVIEW COMMISSION

### Action Taken by the Commission

The Independent Regulatory Review Commission met publicly at 10 a.m., Thursday, May 18, 2017, and announced the following:

*Regulation Deemed Approved Pursuant to Section 5(g) of the Regulatory Review Act—Effective May 17, 2017*

State Board of Chiropractic # 16A-4324: Radiological Procedures Examination (amends 49 Pa. Code §§ 5.6, 5.63)

*Action Taken—Regulation Approved:*

Department of Education # 6-337: Postsecondary Distance Education Reciprocity (amends 22 Pa. Code § 741)

### Notice of Comments Issued

Section 5(g) of the Regulatory Review Act (71 P.S. § 745.5(g)) provides that the Independent Regulatory Review Commission (Commission) may issue comments within 30 days of the close of the public comment period. The Commission comments are based upon the criteria contained in section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b).

The Commission has issued comments on the following proposed regulation. The agency must consider these comments in preparing the final-form regulation. The final-form regulation must be submitted within 2 years of the close of the public comment period or it will be deemed withdrawn.

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Close of the Public Comment Period</i>	<i>IRRC Comments Issued</i>
57-315	Pennsylvania Public Utility Commission Standards and Billing Practices for Residential Public Utility Service 47 Pa.B. 965 (February 18, 2017)	4/18/17	5/18/17

### Approval Order

Public Meeting Held  
May 18, 2017

*Commissioners Voting:* George D. Bedwick, Chairperson; John F. Mizner, Esq., Vice Chairperson; W. Russell Faber; Murray Ufberg, Esq.; Dennis A. Watson, Esq.

*Department of Education  
Postsecondary Distance Education Reciprocity  
Regulation No. 6-337 (# 3168)*

On March 27, 2017, the Independent Regulatory Review Commission (Commission) received this regulation from the Department of Education (Department). This rulemaking amends 22 Pa. Code § 741. Notice of proposed rulemaking was omitted for this regulation; it will become effective upon publication in the *Pennsylvania Bulletin*.

This final-omitted regulation implements Act 35 of 2016 (24 P.S. § 1-124) which authorizes the Secretary of Education to enter into and administer membership in the State Authorization Reciprocity Agreement for distance education and to charge administrative fees to institutions of higher education that choose to participate in the agreement.

We have determined this regulation is consistent with the statutory authority of the Department (Act No. 35 of 2016 (24 P.S. § 1-124(b))) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

*By Order of the Commission:*

This regulation is approved.

GEORGE D. BEDWICK,  
*Chairperson*

[Pa.B. Doc. No. 17-942. Filed for public inspection June 2, 2017, 9:00 a.m.]

**Pennsylvania Public Utility Commission  
Regulation # 57-315 (IRRC # 3161)**

**Standards and Billing Practices for Residential  
Public Utility Service**

**May 18, 2017**

We submit for your consideration the following comments on the proposed rulemaking published in the February 18, 2017 *Pennsylvania Bulletin*. Our comments are based on criteria in Section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P.S. § 745.5a(a)) directs the Pennsylvania Public Utility Commission (PUC) to respond to all comments received from us or any other source.

**1. Implementation of statutory provisions—Consistency with statute; Protection of the public; Clarity.**

The Public Utility Code, as amended by Act 155 of 2014 (Act 155), states “this chapter shall not apply to victims under a protection from abuse order...or a court order issued by a court of competent jurisdiction in this Commonwealth which provides clear evidence of domestic violence against the applicant or customer.” 66 Pa.C.S. § 1417. Sections 56.1 and 56.251 state that Subchapters L—V apply to customers who have been granted protection from abuse orders (PFA) or a court order issued by a court of competent jurisdiction in this Commonwealth which provides clear evidence of domestic violence against the applicant or customer (court order). We fully recognize and support the protection of those under PFAs and similar court orders and our only concern relates to enforcement of the PUC’s regulation.

*Nonapplicability*

Several portions of the regulation relating to PFAs and court orders reflect Chapter 14 of the Public Utility Code, such as Sections 56.282(4), 56.286, 56.333(b)(3), 56.337(a)(3) and 56.353. We recognize that the nonapplicability provision of Chapter 14 is not new and was expanded upon by Act 155. Therefore, given the importance of the protection of those under PFAs and court orders, we ask the PUC to explain how it has implemented and will enforce provisions in its regulation that reflect Chapter 14 of the Public Utility Code relating to PFAs and court orders.

*“A court of competent jurisdiction in this Commonwealth which provides clear evidence of domestic violence against the applicant or customer”*

The PUC is adding this phrase from 66 Pa.C.S. § 1417 throughout the regulation and in its order the PUC sought comment on it. Several commentators asked for clarification of portions of the phrase, including “a court of competent jurisdiction,” “clear evidence” and “domestic violence.” Many commentators volunteered to participate in a work group to clarify the phrase. While these phrases may not be easy to define, we are concerned that the public safety may not be adequately protected if they are not made clear to the regulated community and public affected by them. Therefore, we recommend that the PUC clarify the meaning of these phrases in the final regulation.

**2. Sections 56.2 and 56.252. Definitions.—Consistency with statute; Legislative intent; Need; Clarity.**

*Applicant*

This definition differs significantly between Sections 56.2 and 56.252. In particular, the definitions use different time periods in Paragraph (ii) of 30 days versus 60 days. The PUC should explain why the definitions of this term need to differ between Sections 56.2 and 56.252.

*Definitions of “Nurse practitioner,” “Physician” and “Physician assistant”*

Act 155 added the definition of “Medical certificate” to the Public Utility Code (66 Pa.C.S. § 1403), and the PUC is adding this definition to the regulation. To meet the definition, the medical certificate must be signed by “a licensed physician, nurse practitioner or physician’s assistant.” The PUC’s existing regulation at 52 Pa. Code §§ 56.2 and 56.252 define the terms “Nurse practitioner” and “Physician.” This rulemaking would add a definition of “Physician assistant” to those sections.

By statute, the State Board of Nursing is assigned jurisdiction for nurse practitioners (e.g.—Certified Registered Nurse Practitioners) (63 P.S. § 218.1(a)) and State Boards of Medicine and Osteopathic Medicine are assigned jurisdiction over physicians and physician assistants (63 P.S. § 422.10, 422.13, 422.22, 422.36(b), 271.2 and 271.4). In addition, these Boards have promulgated regulations addressing these professions, qualifications, and standards of practice, including 49 Pa. Code Chapter 17, Subchapter A; Chapter 18, Subchapter D; Chapter 21; Subchapter C and Chapter 25, Subchapter C.

Upon review, we do not find the PUC’s definitions of “nurse practitioner,” “physician” and “physician assistant” to be completely consistent with the respective professional Boards’ definitions which can introduce uncertainty to the required qualifications. We further question the need for the PUC’s regulatory definitions to specify the qualifications for these professions. For these reasons, we suggest that the PUC consider using cross-references to the appropriate definitions in the professional Boards’ regulations instead. We recommend that the PUC review and amend the definitions of “nurse practitioner,” “physician” and “physician assistant” for consistency with statutes, legislative intent and existing definitions of the State Board of Nursing, the State Board of Medicine and the State Board of Osteopathic Medicine that are found both in statute and regulation.

Additionally, we note that Act 155 uses the term “nurse practitioner,” whereas The Professional Nursing Law includes several types of nurse licensures. Based on the context, there appears to be a presumption that the professional that can sign a medical certificate is a licensed Certified Registered Nurse Practitioner. However this should be made clear in the PUC’s regulation. In its regulatory definition of its statutory term “nurse practitioner,” the PUC should clarify which licensure(s) under the State Board of Nursing qualify under the Public Utility Code to sign medical certificates.

**3. Section 56.32. Security and cash deposits.—Consistency with statute; Clarity.**

*Subsection (a)*

This subsection uses the phrase “in accordance with Commission regulations.” This phrase should be replaced with a cross-reference to the specific PUC regulation that applies.

*Subsection (d)*

There are two concerns. First, as amended by Act 155, Section 1404(e) of the Public Utility Code reads “. . . if the applicant *or customer* fails to pay. . . .” (Emphasis added.) To be consistent with the statute, Subsection (d) should include the phrase “or customer.”

Second, this subsection ends with the phrase “. . . within the time period under Subsection (a).” Subsection (a) provides a 90-day period. Some commentators questioned what a utility should do if the applicant fails to pay a scheduled portion of the deposit during the 90-day period. The regulation should clarify whether failure to pay a portion of the deposit during the 90-day period would require the utility to continue to provide service or not.

*Subsection (e)*

As amended by Act 155, Section 1404(a.1) of the Public Utility Code reads “. . . may not require a customer *or applicant* that is determined to be eligible. . . .” (Emphasis added.) To be consistent with the statute, Subsection (e) should include the phrase “or applicant.”

**4. Section 56.38. Payment period for deposits by applicants.—Clarity.***Subsection (a)*

There are two concerns. First, a commentator questioned what a utility should do if the applicant fails to pay a portion of the deposit during the 90-day period. The regulation should clarify whether failure to pay a scheduled portion of the deposit during the 90-day period would require the utility to continue to provide service or not.

Second, this subsection is amended to reflect statutory language found at 66 Pa.C.S. § 1404(a). We recommend that the PUC clarify the phrase “. . . in accordance with Commission regulations” so that it is clear which regulations apply.

**5. Section 56.42. Payment period for deposits by customers.—Clarity.***Subsections (b), (c) and (d)*

Subsection (d) is proposed to be amended so that it is similar to existing Subsections (b) and (c). Related to our comment on Subsection 56.38(a), we recommend rewriting Subsections (b), (c) and (d). We have four clarity concerns. First, as amended, the first sentence of Subsection (d) is not clear regarding who makes the determination that the deposit may be required in three installments. Second, the last sentence of Subsection (d) is also not clear regarding what specific due date applies. Third, nothing in this subsection provides a customer with the option to pay the full amount, we question if that option can be exercised by a customer who fails to pay one of the three installment payments. Fourth, we note that the deadlines in the first sentence are stated as “billed upon determination by the public utility that the deposit is required,” whereas the deadline in the last sentence is “the due date.” We recommend that the PUC clarify Subsections (b), (c) and (d) in conjunction with its consideration of our comments on Subsection 56.38(a) so that the final regulation is clear regarding who determines the method by which the deposit is paid, the due date for all payment options and what actions are triggered when a customer does not make a valid payment on any of the three installments.

**6. Section 56.57. Interest rate.—Clarity.***Paragraphs (2) and (3)*

These paragraphs describe how interest rates are to be applied to customer deposits. We have two clarity concerns with these paragraphs relating to what interest rate is applied and when.

First, Paragraph (2) provides the interest rate shall remain in effect “until the date the deposit is refunded or credited, or December 31, whichever is later.” While we do not believe it is the PUC’s intent, December 31 by default would always be the later of the three dates. Similarly, if the interest rate on a deposit remains in effect until December 31, it is not clear at what date the accrual of interest on a deposit ends.

Second, Paragraph (3) states “the new interest rate for that year will apply to the deposit.” The language of the regulation is not clear as to whether this is a different interest rate than the “interest rate in effect when the deposit is required,” in Paragraph (2).

While we recognize Paragraphs (2) and (3) reflect 66 Pa.C.S. §§ 1404(c)(6)(ii) and (iii), we recommend that the PUC clarify in the final regulation what specific interest rate it intends to be applied in each circumstance.

**7. Section 56.93. Personal contact—Protection of the public safety.***Subsection (a)*

This subsection is amended to reflect 66 Pa.C.S. § 1406(b) relating to personal contact by allowing contact to be made “electronically with the customer’s consent.” We agree with commentators that it is not clear whether the electronic notice must meet the requirements of Subsections (b) and (c). We also agree with public comments questioning how this contact must be made if it is discovered an email address or phone number for a text message is no longer valid. One commentator suggested that if the electronic contact is not successful, the personal contact requirement should revert to contact in person or by phone. The PUC should clarify in the regulation how a valid personal contact can be accomplished if the electronic contact is not successful.

**8. Section 56.94. Procedures immediately prior to termination.—Clarity.***Paragraph (3)*

The opening sentence refers to attempted telephone contact as provided in Section 56.93. Since “contact by email, text message or other electronic messaging format” was added as Paragraph 56.93(a)(3), Paragraph (3) of this section should be amended to include all the contact methods in Subsection 56.93(a).

**9. Section 56.113. Medical certifications.—Consistency with statute; Protection of the public safety; Economic impact.**

We have two concerns. First, the statutory definition of the term “Medical certificate” begins with the phrase “A written document, in a form approved by the commission [PUC]. . . .” 66 Pa.C.S. § 1403. The requirement for this form to be approved by the PUC should be added to this section.

Second, 66 Pa.C.S. §§ 1403 and 1406(f) of the Public Utility Code establish clear circumstances where a public utility “shall not terminate service when a customer has submitted a medical certificate to the public utility.” These afflicted individuals are “seriously ill or diagnosed with a medical condition which requires the continuation

of service to treat the condition.” We note that medical certificates are not new and were in the Public Utility Code and PUC regulation prior to Act 155.

Several electric utilities commented with concerns that medical certificate fraud might increase and for that reason certificates should not be readily available on their websites. Their comments suggest adding more requirements to the medical certificate such as requiring the medical professional’s license number and requiring information on the medical professional’s letterhead.

The protection of those who are legitimately ill and submit a medical certificate is expressly stated in the Public Utility Code, and was reinforced by Act 155. Act 155 also established annual reporting to the PUC relating to the number of medical certificates and renewals. 66 Pa.C.S. § 1410.1(4). While fraud is frustrating, it is not clear from the comments to what degree this fraud has existed or might exist. We ask the PUC to explain its historic experience with medical certificates including how many medical certificates are on file each year in relation to the overall number of customers, how medical certificate fraud has affected uncollectible accounts, and what proportion of the utility’s overall revenue the impact of fraudulent medical certificates represent. We further ask the PUC to explain how the medical certificate provisions in the final regulation are reasonable and in the public interest relative to the PUC’s experience in this area.

**10. Section 56.302. Deposit hold period and refund.—Economic impact; Clarity.**

*Paragraph (4)*

Subsection 56.53(a) is amended to delete the maximum period of 24 months. Should the same amendment be made to Paragraph (4)?

**11. Section 56.333. Personal contact—Protection of the public safety.**

*Subsection (a)*

This subsection is amended to allow personal contact to be made “electronically with the customer’s consent.” We question how this contact must be made if it is discovered an email address or text message connection is no longer valid. If the electronic contact is not successful, should the personal contact requirement revert to contact in person or by phone? The PUC should clarify in the regulation how a valid personal contact can be accomplished if the electronic contact is not successful.

**12. Section 56.353. Medical certifications.—Protection of the public safety.**

We have two concerns. First, is the medical certificate form required to be approved by the PUC? If so, the regulation should include this requirement.

Second, Section 56.113 was amended to only permit medical certificates to be in writing. Should a similar amendment be made to this section? The PUC should explain why Sections 56.113 and this section differ.

**13. PUC request for comment on certain topics.**

The PUC’s order seeks comments from parties relating to:

- The protection from abuse (PFA) subchapters L—V and the language in the amended 66 Pa.C.S. § 1417, “or a court order issued by a court of competent jurisdiction in this Commonwealth, which provides clear evidence of domestic violence against the applicant or customer.”

- Material that should be included in the Commission’s privacy guidelines. Amended Chapter 14 referenced the Commission’s privacy guidelines at 66 Pa.C.S. § 1406(b)(1)(ii)(D) (relating to notice of termination of service) that emails, text messages or other electronic messaging must be consistent with the Commission’s privacy guidelines.

- A specific estimate of the costs and/or savings associated with compliance with these proposed changes, including any legal, accounting, or consulting procedures which may be required and explain how the dollar estimates were derived.

Our comments above summarize areas where our review of language in Annex A raised questions or concerns. However, in these areas where the PUC is seeking comment, there is no specific language to review. We are particularly interested in the economic and fiscal impact of this regulation because it relates to the criteria that we must consider in determining whether the final regulation is in the public interest. Therefore, we will review the PUC responses and final position on these topics, as well as any amendment to the language in Annex A the PUC makes in the final regulation.

GEORGE D. BEDWICK,  
*Chairperson*

[Pa.B. Doc. No. 17-943. Filed for public inspection June 2, 2017, 9:00 a.m.]

## INSURANCE DEPARTMENT

### Application for Designation as a Certified Reinsurer

Hiscox Insurance Company (Bermuda) Ltd. has applied for designation as a certified reinsurer in this Commonwealth. The application was received on May 5, 2017, 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](mailto:krankin@pa.gov). Comments received will be forwarded to the applicant for appropriate response.

TERESA D. MILLER,  
*Insurance Commissioner*

[Pa.B. Doc. No. 17-944. Filed for public inspection June 2, 2017, 9:00 a.m.]

# PATIENT SAFETY AUTHORITY

## Public Meeting

The Patient Safety Authority (Authority), established by section 303 of the Medical Care Availability and Reduction of Error (MCARE) Act (40 P.S. § 1303.303), announces a meeting of the Authority's Board to be held at the Conference Center, Central Penn College, 600 Valley Road, Summerdale, PA 17093 at 10 a.m. on Tuesday, June 13, 2017.

Individuals with questions regarding this meeting, which is open to the public, should contact the Authority at (717) 346-0469.

REGINA M. HOFFMAN, RN, BSN, MBA, CPPS,  
*Executive Director*

[Pa.B. Doc. No. 17-945. Filed for public inspection June 2, 2017, 9:00 a.m.]

# PENNSYLVANIA PUBLIC UTILITY COMMISSION

## Discount CLEC Services Corporation

Public Meeting held  
May 18, 2017

*Commissioners Present:* Gladys M. Brown, Chairperson;  
Andrew G. Place, Vice Chairperson; John F. Coleman,  
Jr.; Robert F. Powelson; David W. Sweet

*Discount CLEC Services Corporation; A-2014-2441182*

### Tentative Order

*By the Commission:*

Discount CLEC Services Corporation (Discount CLEC or Company), utility code 3116886, is a Competitive Local Exchange Carrier (CLEC) certificated by this Commission by Order entered July 1, 2015, at Docket No. A-2014-2441182.

On February 14, 2017, the administrator for the Pennsylvania Universal Service Fund (PA USF) emailed the Commission's Bureau of Technical Utility Services (TUS). Included in PA USF's email was a chain of communications wherein John Cory, who was the President of Discount CLEC, according to the Company's application filed August 13, 2014, stated that he was no longer employed by the Company, and that Discount CLEC would not be submitting its PA USF remittance for 2017 because the Company was in Chapter 11 bankruptcy had no funds to make any payments. Mr. Cory stated that Discount CLEC filed for Chapter 11 bankruptcy in Newark, New Jersey, on September 14, 2016.<sup>1</sup> In response to PA USF's email, Commission staff emailed Mr. Cory to ascertain whether Discount CLEC intended to file an Application for Abandonment, and included an abandonment package and contact information. Mr. Cory asked Commission staff to file the application on behalf of the Company instead since there were no employees remaining at Discount CLEC. When staff requested contact

information for the bankruptcy attorney handling Discount CLEC's bankruptcy proceeding, Mr. Cory responded that the attorney wanted no further involvement with the case. Mr. Cory stated that there was nothing further he could do to assist the Commission.

Neither the Commission nor its staff is positioned to file an application on behalf of a jurisdictional entity. Indeed, the request from Mr. Cory that the Commission do so was improper. Even more egregious, however, is the Company's cessation of service and filing for bankruptcy without providing notice to the Commission and complying with all applicable regulations. This action alone might warrant the Commission's revocation of Discount CLEC's certificate on grounds other than the Company's current financial condition. See 66 Pa.C.S. §§ 504, 505, 506, 1102, and 3301. Nonetheless, because information was provided to the Commission and verified by staff that Discount CLEC is no longer in the business of providing regulated utility service for which it was certificated, the Commission is positioned to take action on that entity's certificate. In this case, where the Company is no longer providing utility service to the public, and indeed by its actions has shown complete disregard for the Commission's regulations, there is no reason to maintain Discount CLEC's certificate of public convenience.

Currently, there are no informal or formal complaints pending against Discount CLEC before the Commission. However, we do not know what accommodations, if any, Discount CLEC made for its existing customers and, as stated, the Company is out of business. Based on these facts, we tentatively conclude that it is appropriate to revoke Discount CLEC's certificate of public convenience as being in the public interest. Furthermore, the Commission may take other appropriate action, including the imposition of penalties under 66 Pa.C.S. § 3301, if Discount CLEC seeks relief from this Tentative Order; *Therefore,*

*It Is Ordered That:*

1. Revocation of Discount CLEC Services Corporation's certificate of public convenience 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, and the Bureau of Investigation & Enforcement, and also cause a copy of this Tentative Order to be published in the *Pennsylvania Bulletin* with a 30-day comment period.
3. Absent the filing of adverse public comment 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 and shall advise the affected Bureaus within the Commission in writing that the certificate of public convenience held by Discount CLEC Services Corporation, utility code 3116886, is cancelled and the case may be closed.
4. Upon entry of the Final Order described in ordering Paragraph No. 3 above, Discount CLEC Services Corporation's name 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, and the docket shall be closed.

ROSEMARY CHIAVETTA,  
*Secretary*

[Pa.B. Doc. No. 17-946. Filed for public inspection June 2, 2017, 9:00 a.m.]

<sup>1</sup> The Company gave no notice to the Commission that it had filed for bankruptcy. Discount CLEC's bankruptcy proceeding history can be found at: <http://www.open-public-records.com/court/new-jersey-15330618.htm>.



**Electric Generation Supplier License Cancellations of Companies with an Expired Financial Security or Insufficient Financial Security Amount**

Public Meeting held  
May 18, 2017

*Commissioners Present:* Gladys M. Brown, Chairperson; Andrew G. Place, Vice Chairperson; John F. Coleman, Jr.; Robert F. Powelson; David W. Sweet

*Electric Generation Supplier License Cancellations of Companies with an Expired Financial Security or Insufficient Financial Security Amount; M-2017-2584781*

**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 May 9, 2017, 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 directed by the Commission, to replace its expired bond as noted in the table below.

*Supplier Table—List of Electric Generation Suppliers*

<i>Docket Number</i>	<i>Company Name</i>	<i>Expired Financial Security Date</i>	<i>Commission Approved Amount</i>
A-2014-2428714	ACCENTURE, LLP	4/12/17	Yes
A-2010-2179196	AFFINITY ENERGY MANAGEMENT, LLC	5/1/17	Yes
A-2015-2488420	ALFA ENERGY, LLC	5/8/17	Yes
A-2014-2455005	AMERICAN UTILITY MANAGEMENT, INC.	4/28/17	Yes
A-2016-2542085*	ATLANTIC ENERGY MD, LLC	4/14/17	Yes
A-2009-2149584	BIDURENERGY, INC.	4/20/17	Yes
A-2011-2243559	ENERGY ENABLEMENT, LLC	5/7/17	Yes
A-2010-2175277	HES ENERGY, LLC	5/1/17	Yes
A-2016-2524869*	MANSFIELD POWER & GAS, LLC	5/7/17	Yes

\*Taking title to electricity

As part of its EGS license validation procedures, the Commission's Bureau of Technical Utility Services sent a 60-day Security Renewal Notice Letter to each entity in the Supplier Table above stating that original documentation of a bond, or other approved security, 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 each 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 Licenses 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, Department of Revenue—Bureau of Corporation Taxes, all electric distribution companies, all of the Electric Generation Suppliers in the Supplier Table and also cause a copy of this Tentative Order to be published in the *Pennsylvania Bulletin* with a 30-day comment period.

3. 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.

4. Upon entry of the Final Order described in Ordering Paragraph No. 3 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 distribu-

tion companies in which the Electric Generation Suppliers are licensed to do business.

5. Upon entry of the Final Order described in Ordering Paragraph No. 3, 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. 17-947. Filed for public inspection June 2, 2017, 9:00 a.m.]

### 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. Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P.O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant by June 19, 2017. Documents filed in support of the applications are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the business address of the respective applicant.

#### Applications of the following for approval to *begin operating as common carriers for transportation of persons as described under each application.*

**A-2017-2603418 (Corrected). Epic Journeys, LLC, t/a Epic Journeys** (1122 Camelot Court, Johnstown, Cambria County, PA 15904) in airport transfer service, from points in Cambria County, to the John Murtha Johnstown-Cambria County Airport, to the Pittsburgh International Airport, to the Philadelphia International Airport and to the Arnold Palmer Regional Airport. *Attorney:* Timothy S. Burns, Esq., 104 South Center Street, Suite 315, Ebensburg, PA 15931.

**A-2017-2604708. Fortune Transportation Group, Inc.** (1818 Jericho Road, Warrington, Bucks County, PA 18976) persons in paratransit service, from points in Delaware County, and the City and County of Philadelphia, to points in Pennsylvania, and return. *Attorney:* David P. Temple, Esq., 1600 Market Street, Suite 1320, Philadelphia, PA 19103.

**A-2017-2605388. Kidz Transportation, LLC, t/a Kidz Transportation** (717 North Lumber Street, Allentown, Lehigh County, PA 18102) for the right to transport as a common carrier, by motor vehicle, persons in group and party service, in vehicles seating 11 to 15 passengers, including the driver, from points in Lehigh County, to points in Pennsylvania, and return; excluding service that is under the jurisdiction of the Philadelphia Parking Authority.

**A-2017-2605398. Rodriguez Transportation, LLC** (222 West Birch Street, Hazleton, Luzerne County, PA 18201) for the right to begin to transport, as a common carrier, by motor vehicle, persons in paratransit service from points within 3 statute air miles of the boundaries of the City of Hazleton, and the Township of Hazle, Luzerne County to points in Pennsylvania, and return.

#### Applications of the following for the approval of the right and privilege to *discontinue/abandon operating as common carriers by motor vehicle and for cancellation of the certificate of public convenience as described under each application.*

**A-2017-2603483. Marlons, LLC** (60 South Poplar Street, Hazleton, Luzerne County, PA 18201-6658) discontinuance of service and cancellation of its certificate—in call or demand service, in the Borough of Beaver Meadows, Carbon County, and within a 5-mile radius of the Beaver Meadows Borough limits.

**A-2017-2605416. Thomas Hoffman** (7 Meadowview Drive, New Bloomfield, Perry County, PA 17068) for the discontinuance of service and cancellation of its certificate, at A-6413100, as a common carrier, by motor vehicle, authorizing the transportation of persons in paratransit service, from points in Lancaster County to points in Pennsylvania, and return.

ROSEMARY CHIAVETTA,  
Secretary

[Pa.B. Doc. No. 17-948. Filed for public inspection June 2, 2017, 9:00 a.m.]

### 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 June 19, 2017, and must be made with the Secretary, Pennsylvania Public Utility Commission, P.O. Box 3265, Harrisburg, PA 17105-3265, with a copy to the First Deputy Chief Prosecutor, Pennsylvania Public Utility Commission.

#### Pennsylvania Public Utility Commission; Bureau of Investigation and Enforcement v. Chubby's Transportation Services, Inc.; Docket No. C-2017-2599181

##### 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 Chubby's Transportation Services, Inc., (respondent) is under suspension effective March 29, 2017 for failure to maintain evidence of insurance on file with this Commission.
2. That respondent maintains a principal place of business at 1918 South 65th Street, Philadelphia, PA 19142.
3. That respondent was issued a Certificate of Public Convenience by this Commission on August 15, 2016, at A-6419039.
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 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 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-6419039 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  
P.O. Box 3265  
Harrisburg, PA 17105-3265

#### 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: 4/27/2017

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  
P.O. Box 3265  
Harrisburg, PA 17105-3265

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  
P.O. Box 3265  
Harrisburg, PA 17105-3265

Or, emailed to Mr. Swindler at: 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  
P.O. Box 3265  
Harrisburg, PA 17105-3265

Payment of the fine must be made to the Commonwealth of Pennsylvania and should be forwarded to:

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

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. 17-949. Filed for public inspection June 2, 2017, 9:00 a.m.]

# PHILADELPHIA REGIONAL PORT AUTHORITY

## Request for Bids

The Philadelphia Regional Port Authority (PRPA) will accept sealed bids for Project No. 17-052.3, On Call Plumbing Investigation and Repairs for PRPA Facilities, until Thursday, June 29, 2017, at 2 p.m. The mandatory prebid meeting will be held on Thursday, June 15, 2017, at 10 a.m. Questions are due in writing on Wednesday, June 21, 2017, by 12 p.m. All time extensions and other information for this project can be obtained from [www.philaport.com/procurement](http://www.philaport.com/procurement).

JEFF THEOBALD,  
*Executive Director*

[Pa.B. Doc. No. 17-950. Filed for public inspection June 2, 2017, 9:00 a.m.]

# STATE CONSERVATION COMMISSION

## Approval of Updated Standard Animal Weights

The State Conservation Commission (Commission) is providing public notice of an update to its guidance on standard animal weights to determine if an agricultural operation is a concentrated animal operation (CAO). The nutrient management regulations of the Commission require CAOs to be identified through the number of animal equivalent units (AEU) on the agricultural operation. The operator must follow several steps included in the regulations to calculate the number of AEU's. The first step requires the operator to compute the animal weight by multiplying the average number of animals on the operation by the standard animal weight used by the livestock industry in this Commonwealth. See 25 Pa. Code § 83.262(a)(1)(i) (relating to identification of CAOs). The regulations allow the operator to use the standard weights contained in guidance published by the Commission to meet the requirements of 25 Pa. Code § 83.262(a)(1)(i), in addition to other acceptable documented animal weights.

### A. *Effective Date*

The updated standard animal weights were approved by the Commission on May 9, 2017.

The newly approved standard animal weights will become effective on October 1, 2019, for newly identified CAOs and concentrated animal feeding operations (CAFO).

The newly approved standard animal weights will become effective for existing CAOs, CAFOs and voluntary animal operations whenever those existing Nutrient Management Plans (NMP) are due to be amended during the triannual review.

### B. *Background*

The animal groupings and weights that are used in implementing the NMP program have been revised several times since they were first developed. The Nutrient Management Act (Act 6), which required NMPs became law in 1993. The initial animal weights and groupings were developed in 1997. In 2005, Act 6 was repealed and replaced with 3 Pa.C.S. §§ 501—522 (relating to nutrient management and odor management). Due to the passage of 3 Pa.C.S. §§ 501—522, revisions were made to the animal weights and groupings in 2005 and 2010.

Based on requests from the regulated community, the Commission reviewed the existing guidance and concluded that the information related to all animal species weights and animal groupings needed to be updated to accurately reflect current industry standards in this Commonwealth.

In September 2016, the Commission approved a 60-day public comment period on the draft standard animal weights.

The Commission received 84 comments from 25 commentators. The Commission considered the comments and made some additional edits to the guidance.

Copies of the standard animal groupings and weights and the comment and response document are available from Frank X. Schneider, Director, Nutrient and Odor Management Programs, Room 311, 2301 North Cameron Street, Harrisburg, PA 17110, (717) 705-3895.

The following standard animal groupings and weights are as follows:

<i>Type of Animal</i>	<i>Standard Weight (lbs.) during Production (range)</i>
<i>Dairy Holstein/Brown Swiss</i>	
Cow	1,450
Heifer: 1-2 years	1,000 (750—1,250)
Calf: 0-1 year	420 (90—750)
Bull	1,700
<i>Dairy Guernsey/Ayrshire</i>	
Cow	1,200
Heifer: 1-2 years	865 (630—1,100)
Calf: 0-1 year	350 (70—630)
Bull	1,600

<i>Type of Animal</i>	<i>Standard Weight (lbs.) during Production (range)</i>
<i>Dairy Jersey</i>	
Cow	1,000
Heifer: 1-2 years	675 (500—850)
Calf: 0-1 year	225 (50—500)
Bull	1,200
<i>Beef</i>	
Calf: 0—8 months	300 (100—500)
Backgrounding Cattle	500 (300—700)
Finishing: 8—24 months	950 (500—1,400)
Replacement Heifer: 8 months—1 year	500 (300—700)
Replacement Heifer: 1-2 years	875 (700—1,050)
Cow	1,400
Bull	1,500
<i>Veal</i>	
Calf: 0—20 weeks	280 (95—465)
<i>Swine</i>	
Nursery pig	35 (13—57)
Wean to finish	143 (13—273)
Grow finish	165 (57—273)
Gestating sow	450
Sow and litter	470
Boar	450
<i>Poultry Layer</i>	
White egg: 18—75 weeks	3.13 (2.82—3.44)
White egg: 18—90 weeks	3.14 (2.82—3.46)
Brown egg: 18—75 weeks	3.85 (3.35—4.34)
Brown egg: 18—90 weeks	3.85 (3.35—4.34)
Pullet, white egg: 0—16 weeks	1.38 (0.08—2.67)
Pullet, brown egg: 0—16 weeks	1.54 (0.08—3.0)
Breeder hen, white egg: 17—70 weeks	3.25 (2.7—3.8)
Breeder rooster, white egg: 17—70 weeks	4.37 (3.67—5.06)
Breeder hen, brown egg: 17—70 weeks	3.55 (2.9—4.2)
Breeder rooster, brown egg: 17—70 weeks	4.78 (4.5—5.06)
<i>Poultry Broiler</i>	
Large: 0—53 days	3.55 (0.09—7.0)
Medium: 0—35 days	2.55 (0.09—5.0)
Roaster male: 0—7 weeks	4.70 (0.09—9.3)
Roaster female: 0—9 weeks	4.95 (0.09—9.8)
Breeder pullet: 0—20 weeks	2.55 (0.09—5.0)
Breeder cockerel: 0—20 weeks	3.55 (0.09—7.0)
Breeder hen: 20—65 weeks	6.75 (5.0—8.5)
Breeder rooster: 20—65 weeks	8.75 (7.0—10.5)
<i>Poultry Turkey</i>	
Tom brooder: 0—6 weeks	3.36 (0.22—6.5)
Hen brooder: 0—6 weeks	2.74 (0.22—5.25)
Tom: 6—18 weeks	25.25 (6.5—44)
Hen regular: 6—12 weeks	11.13 (5.25—17)
Hen heavy: 6—16 weeks	14.63 (5.25—24)

<i>Type of Animal</i>	<i>Standard Weight (lbs.) during Production (range)</i>
<i>Poultry Duck</i>	
Starter: 0—17 days	1.36 (0.22—2.5)
Finisher: 17—38 days	4.88 (2.5—7.25)
Developer: 0—196 days	3.21 (0.22—6.2)
Layer	6.85 (6.2—7.5)
<i>Poultry Game Birds</i>	
Guinea, growing: 0—14 weeks	1.91 (0.06—3.75)
Guinea, mature	3.75
Pheasant, growing: 0—13 weeks	1.53 (0.05—3.0)
Pheasant, mature	3.0
Chukar, growing: 0—13 weeks	0.52 (0.04—1.0)
Chukar, mature	1.0
Quail, growing: 0—13 weeks	0.26 (0.02—0.5)
Quail, mature	0.5
<i>Larger Breed Sheep</i>	
Lamb: 0-1 year	95 (10—180)
Ewe	225
Ram	300
<i>Medium Breed Sheep</i>	
Lamb: 0-1 year	80 (10—150)
Ewe	175
Ram	225
<i>Smaller Breed Sheep</i>	
Lamb: 0-1 year	45 (10—80)
Ewe	100
Ram	125
<i>Meat Goats</i>	
Kid: 0-1 year	65 (5—125)
Doe	150
Buck	200
<i>Dairy Goats</i>	
Kid: 0-1 year	45 (5—85)
Doe	125
Buck	170
<i>Miniature Horses and Miniature Donkeys</i>	
Foal: 0—6 months	35 (25—45)
Weanling: 6—12 months	60 (45—75)
Yearling: 12—24 months	100 (75—125)
Two Year Old: 24—36 months	150 (125—175)
Mature	200
<i>Ponies and Donkeys</i>	
Foal: 0—6 months	65 (30—100)
Weanling: 6—12 months	150 (100—200)
Yearling: 12—24 months	300 (200—400)
Two Year Old: 24—36 months	400 (300—500)
Mature	600

<i>Type of Animal</i>	<i>Standard Weight (lbs.) during Production (range)</i>
<i>Light Horses and Mules</i>	
Foal: 0—6 months	190 (80—300)
Weanling: 6—12 months	450 (300—600)
Yearling: 12—24 months	700 (600—800)
Two Year Old: 24—36 months	900 (800—1,000)
Mature	1,100
<i>Draft Horses</i>	
Foal: 0—6 months	360 (120—600)
Weanling: 6—12 months	800 (600—1,000)
Yearling: 12—24 months	1,150 (1,000—1,300)
Two Year Old: 24—36 months	1,450 (1,300—1,600)
Mature	1,800
<i>Bison</i>	
Calf: 0-1 year	275 (50—500)
Yearling 1-2 years	650 (500—800)
Cow	1,000
Bull	1,600
<i>Deer</i>	
Fawn: 0—6 months	36 (7—65)
Yearling Doe: 6—18 months	95 (65—125)
Yearling Buck: 6—18 months	110 (65—155)
Mature Doe	145
Mature Buck	200
<i>Alpaca</i>	
Young	80 (15—145)
Mature Female	145
Mature Male	170
<i>Llama</i>	
Cria: 0-1 year	75 (25—125)
Yearling: 1-2 years	213 (125—300)
Mature	350

PATRICK McDONNELL,  
Chairperson

[Pa.B. Doc. No. 17-951. Filed for public inspection June 2, 2017, 9:00 a.m.]

## STATE HORSE RACING COMMISSION

### Refusal of Admission and/or Ejections from Race- tracks

The State Horse Racing Commission (Commission) hereby provides notice that on April 27, 2017 (Administrative Docket No. 2017-8), in accordance with the statutory authority in 3 Pa.C.S. § 9311(a) and (h) (relating to State Horse Racing Commission), it issued an Order adopting specific procedures governing the expedited conduct of administrative hearings by the Commissioners regarding the ejection and/or refusal of admission matters. The statutory language in 3 Pa.C.S. § 9326(a) (relating to admission to racetrack) shall continue to

govern the requirements of licensed racing entities when issuing ejections and/or refusing admission to licensed individuals from the racetrack facilities.

The complete text of the April 27, 2017, Order, including the specific hearing provisions and procedures adopted by that Order, is set forth as follows. Within the next several weeks the Commission will republish the procedures as temporary regulations as authorized by 3 Pa.C.S. § 9311(h). Until that occurs, the procedures set forth as follows will govern the standard for parties involved in ejections or refusal of admissions from race-tracks.

#### Order

And Now, this 27th day of April, 2017, in accordance with its general authority and jurisdiction over pari-mutuel racing activities and specifically, under the authority set forth in § 9311(h) of the Racing Act (3 Pa.C.S.

§ 9311(h)) to adopt temporary regulations, the Commission hereby approves and orders the following procedures governing the expedited conduct of administrative hearings by the Commissioners regarding ejections or denial of admission matters.

The statutory provisions set forth in § 9326(a) (3 Pa.C.S. § 9326(a)) shall continue to control the requirements of denials of admission and/or ejections of licensed individuals from racetrack enclosures. All notices of ejections or denials of admission must be in writing and must set forth the specific reasons for such a denial of admission or ejection. Failure by the licensed racing entity to provide formal written notice of the denial of admission or ejection to the licensed individual shall be grounds for a show cause order to be issued. The person ejected or denied admission to the racetrack enclosure may appeal the denial of admission or ejection to the Commission, in writing, within 48 hours of such action. No appeal shall be granted or heard regarding the purported denial of horse entries by a licensed racing entity.

All appeals must be submitted to the breed-specific Bureau Director, who shall immediately review the timeliness and appropriateness of such an appeal. A request for a stay shall be granted until such time as the Commission renders a decision in the matter. All ejection/denial of admission hearings, if granted, shall be scheduled for and conducted at the next public monthly meeting of the Commission. The parties shall be given written notice of the specific date and time of that meeting. Continuances of a scheduled hearing shall be requested of the Commission and must be submitted in writing. Hearings will not be continued except for compelling reasons, as determined by the Commission, in its sole discretion.

The Commissioners shall preside over the course and conduct of the hearing, shall receive evidence from the parties and rule on any evidentiary matters during the hearing. All hearings shall be stenographically recorded and upon the closing of evidence of record, the Commission shall immediately render an oral decision in the matter. The Commission's written Adjudication supporting its final Order and determination shall be issued shortly thereafter.

Either party may appeal the Commission's written determination to the Commonwealth Court within 30 days of the receipt of the written determination.

RUSSELL C. REDDING,  
*Chairperson*  
*State Horse Racing Commission*

#### **Attachment A**

#### **Refusal of Admissions/Ejection Expedited Hearing Procedures**

##### **Section 1. General purpose.**

The sections set forth below are intended to govern the expedited practice and procedures before the Commission solely regarding the ejection from and/or the refusal of admission to a licensed racetrack. Ejections and/or refusal of admission are governed by § 9326(a) of the act (3 Pa.C.S. § 9326(a)). The following sections are intended to supplement 2 Pa.C.S. (relating to administrative law and procedure) and 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure).

##### **Section 2. Definitions.**

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

*Adjudication*—the written order, decree, decision, determination or ruling by the Commission affecting the personal or property rights, privileges, immunities, duties, liabilities or obligations of the parties to the proceeding in which the adjudication is made.

*Commissioner or Presiding Officer*—a member of the Commission, or other person designated by the Commission to conduct the proceeding.

*Decision*—the determination from the bench by the Commission affirming or reversing the ejection/refusal of admission action immediately upon the closing of the evidentiary record of the proceeding.

*Ejection or Refusal of Admission*—the action taken by a licensed racing entity to refuse admission to the grounds of the racetrack enclosure or the physical removal of a licensee from the grounds of the racetrack enclosure as provided by 3 Pa.C.S. § 9326 of the act.

*Ejection Notice*—written notification by a licensed racing entity to an individual licensed by the commission of the ejection and/or refusal of admission of that individual from the racetrack enclosure and the enumerated reasons for such action.

*Ejectee*—an individual ejected from and/or refused admission to the racetrack enclosure pursuant to 3 Pa.C.S. § 9326 of the act.

*Licensed Racing Entity*—any person that has obtained a license to conduct live thoroughbred or harness horse race meetings respectively with pari-mutuel wagering from the commission.

*Party*—a person who is named in or admitted to the proceeding and who has a direct interest in the subject matter of the proceeding.

##### **Section 3. Written ejection notices.**

(a). A licensed racing entity may refuse admission to and/or eject from the racetrack enclosure operated by the licensed racing entity, any person licensed by the Commission and employed at an occupation at the racetrack, if the person's presence is deemed detrimental to the best interests of horse racing and after citing the reasons for the determination in writing.

(b). The written notice shall also advise the ejectee of that person's right to request a hearing before the commission no later than 48 hours following receipt of the written ejection notice.

(c). Failure by the licensed racing entity to provide formal written notice of the refusal of admission or ejection to the licensed individual shall be grounds for a show cause order to be issued by the Commission.

##### **Section 4. Request for a hearing.**

(a). The person ejected or refused admission to the racetrack enclosure may request a hearing before the Commission, if such request:

(1) is in writing;

(2) is received by the breed-specific Bureau Director in the Executive Office of the Commission (Office of the Clerk) within 48 hours of receipt of the written notice of ejection/refusal of admission; and

(3) sets forth a concise statement of all grounds upon which a hearing is requested.

(b). Each Bureau Director shall review the timeliness and appropriateness of such a request for a hearing. Any appeal deemed untimely shall be dismissed.



(c). *Stay of Enforcement.* A request for a stay, if any, shall be granted by the respective Bureau Director, and shall continue only until such time as the Commission renders a final decision in the matter.

(d). No appeal shall be granted or heard regarding the purported denial of horse entries by a licensed racing entity.

#### Section 5. Notice and location of hearing.

(a). All ejection/refusal of admission hearings, if granted, shall be scheduled for and conducted at the next duly scheduled public meeting of the Commission.

(b). The parties to the proceedings shall be provided written notice of the specific date and time of the Commission meeting at which the hearing will take place.

(c). Hearings will not be continued except for compelling reasons, as determined by the Commission, in its sole discretion. Any request for a continuance must be submitted in writing setting forth the compelling reasons to the Commission.

#### Section 6. Conduct of hearing.

(a). The commissioners shall preside over the course and conduct of the matter directly. The Commission may, however, in its discretion, designate a member of the Commission or other qualified person to serve as the presiding officer in the particular matter.

(b). Hearings may provide for:

- (1). Receipt of sworn testimony.
- (2). Receipt of all relevant oral or documentary evidence.
- (3). Opportunity for parties to be heard.
- (4). A complete evidentiary record.

(c). The commissioners and/or the presiding officer shall have the power and authority to do the following:

- (1). Regulate the course of the hearing, including processing, reconvening or adjournment thereof.
- (2). Administer oaths and affirmations.
- (3). Issue subpoenas.
- (4). Rule upon offers of proof and receive evidence.
- (5). Dispose of motions made during the hearing to dismiss the proceedings or other motions which involve the final determination of the proceedings.
- (6). Take any other action necessary and appropriate to the discharge of their duties as may be designated by the Commission.

(d). All ejection/refusal of admission hearings shall be stenographically recorded.

(e). Given the expedited nature of the proceeding and limited duration of a stay, if applicable, the parties shall not be afforded the opportunity to submit written briefs, except upon extraordinary circumstances presented and in the commissioners' sole discretion.

(f). A decision and order by the Commission shall be made and entered immediately upon the closing of the evidentiary record as introduced at the hearing.

(g). Within 15 days from the issuance of the commissioner's decision, a written adjudication supporting its decision and order shall be issued to the parties.

(h). This section supersedes 1 Pa. Code §§ 35.185—35.190 (relating to presiding officers) and 1 Pa. Code Chapter 35, Subchapter B (relating to hearings and conferences).

#### Section 7. Appeals to Commonwealth Court.

(a). A party may appeal the final order and adjudication of the Commission to the Commonwealth Court of Pennsylvania within 30 days of the receipt of the written determination.

(b). The filing of an appeal will not stay enforcement of the decision or final order of the Commission unless a stay is obtained from the court upon application in accordance with the Rule of Appellate Procedure.

THOMAS F. CHUCKAS, Jr.,  
*Director*

*Bureau of Thoroughbred Horse Racing*

BRETT REVINGTON,  
*Director*

*Bureau of Standardbred Horse Racing*

[Pa.B. Doc. No. 17-952. Filed for public inspection June 2, 2017, 9:00 a.m.]

## STATE TAX EQUALIZATION BOARD

### 2016 Common Level Ratio

The State Tax Equalization Board (Board) has established a Common Level Ratio (CLR) for each county in this Commonwealth for the calendar year 2016. The Board is governed by sections 1500—1521 of the Community and Economic Development Enhancement Act (act) (71 P.S. §§ 1709.1500—1709.1521).

The act requires the Board to use statistically acceptable techniques, to make the methodology for computing ratios public and to certify, prior to July 1, the ratio to the Chief Assessor of each county annually.

The statistically acceptable technique which the Board used for the 2016 CLR is to determine the arithmetic mean of the individual sales ratios for every valid sale received from the county for the calendar year 2016.

The methodology used is to include every valid sale from 1% to 500% to compute an average mean. Using this average mean as a base, the Board has defined high and low limits by multiplying and dividing this computed average mean by 4. After the high and low limits are defined, the extreme upper sales ratio limit is 200%. Using these computed limits, the Board has utilized the valid sales, rejecting those sales which exceed the limits. The resulting arithmetic mean ratio is the ratio which the Board is certifying as the CLR for each county for 2016.

The CLRs for 2016 are as follows.

### 2016 Common Level Ratios

<i>County</i>	<i>CLR</i>
*Adams	115.8
*Allegheny	87.4
Armstrong	47.4
Beaver	26.1
*Bedford	92.8

<i>County</i>	<i>CLR</i>	<i>County</i>	<i>CLR</i>
*Berks	72.3	*Lycoming	75.9
*^^Blair	10.6	*McKean	91.5
Bradford	32.5	*Mercer	28.2
*Bucks	10.9	Mifflin	46.5
*Butler	10.8	Monroe	23.0
*Cambria	24.2	*Montgomery	54.1
Cameron	55.2	*Montour	79.1
Carbon	48.4	Northampton	33.2
Centre	28.1	*Northumberland	26.9
*Chester	53.0	*Perry	95.5
*Clarion	45.9	*Philadelphia	99.0
Clearfield	15.9	Pike	23.1
*Clinton	85.8	*Potter	35.8
Columbia	25.6	Schuylkill	45.8
Crawford	36.9	*Snyder	17.6
*Cumberland	98.1	Somerset	41.0
*Dauphin	73.1	*Sullivan	69.7
*Delaware	61.1	Susquehanna	35.6
Elk	44.4	*Tioga	73.5
*Erie	93.8	*Union	73.9
*Fayette	71.6	*Venango	84.3
*^^^Forest	18.6	Warren	32.1
*Franklin	13.1	*^^Washington	10.0
*Fulton	39.3	*Wayne	91.7
*Greene	67.4	*Westmoreland	16.2
Huntingdon	25.8	Wyoming	17.8
*^Indiana	109.2	*York	86.8
*Jefferson	43.7	*Counties with a predetermined assessment ratio of 100%	
*Juniata	15.4	^Countywide reassessment for 2016	
*Lackawanna	15.0	^^Countywide reassessment for 2017	
*Lancaster	73.7	^^^Countywide ratio change for 2017	
*Lawrence	83.3		
*Lebanon	104.2		
*Lehigh	95.7		
*Luzerne	103.1		

PETER BARSZ,  
Chairperson

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