

# PENNSYLVANIA BULLETIN

Volume 49 Number 38  
Saturday, September 21, 2019 • Harrisburg, PA  
Pages 5401—5544

**Agencies in this issue**

The Governor  
The General Assembly  
The Courts  
Department of Banking and Securities  
Department of Community and Economic  
Development  
Department of Environmental Protection  
Department of Human Services  
Department of Revenue  
Department of Transportation  
Fish and Boat Commission  
Independent Regulatory Review Commission  
Insurance Department  
Legislative Reference Bureau  
Milk Marketing Board  
Pennsylvania Public Utility Commission  
Philadelphia Parking Authority  
State Conservation Commission  
Susquehanna River Basin Commission  
**Detailed list of contents appears inside.**



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

**No. 538, September 2019**

CUT ON DOTTED LINES AND ENCLOSE IN AN ENVELOPE

**CHANGE NOTICE/NEW SUBSCRIPTION**

If information on mailing label is incorrect, please email changes to [info@pabulletin.com](mailto:info@pabulletin.com) or mail to:

FRY COMMUNICATIONS, INC.  
Attn: *Pennsylvania Bulletin*  
800 W. Church Rd.  
Mechanicsburg, PA 17055-3198

CUSTOMER NUMBER (6 digit number above name on mailing label)

NAME OF INDIVIDUAL

OFFICE NAME—TITLE

ADDRESS (Number and Street)

(City) (State) (Zip Code)

TYPE OR PRINT LEGIBLY

**PENNSYLVANIA**



**BULLETIN**

(ISSN 0162-2137)

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

Postmaster send address changes to:

FRY COMMUNICATIONS, Inc.  
Attn: *Pennsylvania Bulletin*  
800 West Church Road  
Mechanicsburg, Pennsylvania 17055-3198  
(717) 766-0211 ext. 2340  
(800) 334-1429 ext. 2340 (toll free, out-of-State)  
(800) 524-3232 ext. 2340 (toll free, in State)

Orders for subscriptions and other circulation matters should be sent to:

Fry Communications, Inc.  
Attn: *Pennsylvania Bulletin*  
800 West Church Road  
Mechanicsburg, Pennsylvania 17055-3198

Copyright © 2019 Commonwealth of Pennsylvania

Editorial preparation, composition, printing and distribution of the *Pennsylvania Bulletin* is effected on behalf of the Commonwealth of Pennsylvania by FRY COMMUNICATIONS, Inc., 800 West Church Road, Mechanicsburg, Pennsylvania 17055-3198.

# CONTENTS

## THE GOVERNOR

**Proclamations**  
Amendment to proclamation of disaster emergency.. 5408

## THE GENERAL ASSEMBLY

**COMMISSION ON SENTENCING**  
Adopted sentence risk assessment instrument ..... 5410

## THE COURTS

**DISCIPLINARY BOARD OF THE SUPREME COURT**  
Notice of disbarment..... 5449

**JUDICIAL SYSTEM GENERAL PROVISIONS**  
Electronic Case Record Public Access Policy of the Unified Judicial System of Pennsylvania ..... 5422

**LOCAL COURT RULES**  
**Dauphin County**  
Promulgation of local rules; No. 1793 S 1989 ..... 5444

**Elk County**  
Adoption of booking center fee; No. 4 AD 2019..... 5448

## EXECUTIVE AND INDEPENDENT AGENCIES

**DEPARTMENT OF BANKING AND SECURITIES**  
**Notices**  
Actions on applications..... 5458  
Maximum lawful rate of interest for residential mortgages for the month of October 2019..... 5459

**DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT**  
**Notices**  
Amendments to the 2019 Annual Action Plan..... 5459

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**  
**Notices**  
Applications, actions and special notices..... 5460

**DEPARTMENT OF HUMAN SERVICES**  
**Notices**  
Disproportionate share and supplemental hospital payments ..... 5525

**DEPARTMENT OF REVENUE**  
**Notices**  
Pennsylvania Derby Cash Horse Racing Xpress Sports game terminal-based lottery game..... 5525

**DEPARTMENT OF TRANSPORTATION**  
**Notices**  
Multimodal Transportation Fund; invitation to submit applications ..... 5529

**FISH AND BOAT COMMISSION**  
**Rules and Regulations**  
Fishing; endangered species; reptiles and amphibians..... 5450

**INDEPENDENT REGULATORY REVIEW COMMISSION**  
**Notices**  
Notice of comments issued ..... 5530

**INSURANCE DEPARTMENT**  
**Notices**  
Application for voluntary surrender of Pennsylvania certificate of authority filed by Anthracite Mutual Fire Insurance Company ..... 5533  
Bankers Life and Casualty Company; rate increase filing for several individual LTC forms (SERFF # BNLB-132069050) ..... 5533

**LEGISLATIVE REFERENCE BUREAU**  
**Notices**  
Documents filed but not published..... 5533

**MILK MARKETING BOARD**  
**Proposed Rulemaking**  
Transactions between dealers and producers; payment..... 5455

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**  
**Notices**  
General rule transaction ..... 5534  
Service of notice of motor carrier applications..... 5534  
Service of notice of motor carrier formal complaints . 5535

**PHILADELPHIA PARKING AUTHORITY**  
**Notices**  
Service of notice of motor carrier applications in the City of Philadelphia..... 5543

**STATE CONSERVATION COMMISSION**  
**Notices**  
Action on odor management plans for concentrated animal operations and concentrated animal feeding operations and volunteers complying with the Commonwealth's Facility Odor Management Program..... 5543

**SUSQUEHANNA RIVER BASIN COMMISSION**  
**Proposed Rulemaking**  
Review and approval of projects ..... 5456

---

Available Online at <http://www.pabulletin.com>

---

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

## *Pennsylvania Bulletin*

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

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

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

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

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

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

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

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

## *Citation to the Pennsylvania Bulletin*

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

## *Pennsylvania Code*

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

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

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

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

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

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

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

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

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

**Subscription Information: (717) 766-0211**  
**General Information and Finding Aids: (717) 783-1530**

### Printing Format

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

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

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

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

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

*Court Rules in Titles 201—246 of the Pennsylvania Code*

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

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

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

### Fiscal Notes

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

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

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

### Reproduction, Dissemination or Publication of Information

Third parties may not take information from the *Pennsylvania Code* and *Pennsylvania Bulletin* and reproduce, disseminate or publish information except as provided by 1 Pa. Code § 3.44:

#### § 3.44. General permission to reproduce content of Code and Bulletin.

Information published under this part, which information includes, but is not limited to, cross references, tables of cases, notes of decisions, tables of contents, indexes, source notes, authority notes, numerical lists and codification guides, other than the actual text of rules or regulations may be reproduced only with the written consent of the [Legislative Reference] Bureau. The information which appears on the same leaf with the text of a rule or regulation, however, may be incidentally reproduced in connection with the reproduction of the rule or regulation, if the reproduction is for the private use of a subscriber and not for resale. There are no other restrictions on the reproduction of information published under this part, and the Commonwealth hereby consents to a reproduction.

## 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 2019.

### 4 Pa. Code (Administration)

<b>Adopted Rules</b>	
1 .....	438
5 .....	438, 5102
6 .....	593, 3467, 4933, 5105
7a .....	1993, 4937
601 .....	1297
602 .....	1297
603 .....	1297
604 .....	1297
605 .....	1297
606 .....	1297
607 .....	1297

### Statements of Policy

1 .....	3749
9 .....	381, 844, 927, 2349, 2719, 3900
58 .....	1792

### 7 Pa. Code (Agriculture)

<b>Adopted Rules</b>	
59a .....	3897

### Proposed Rules

143 .....	3606, 5455
150 .....	4991

### 22 Pa. Code (Education)

<b>Proposed Rules</b>	
235 .....	1905
711 .....	4817

### 25 Pa. Code (Environmental Protection)

<b>Adopted Rules</b>	
77 .....	2491

### Proposed Rules

91 .....	1518, 1665
92a .....	1518, 1665
93 .....	1367
121 .....	1146, 1777
123 .....	3482
127 .....	1146, 1777
806 .....	5456

### 28 Pa. Code (Health and Safety)

<b>Proposed Rules</b>	
27 .....	2605

### 31 Pa. Code (Insurance)

<b>Adopted Rules</b>	
146a .....	4109

### 34 Pa. Code (Labor and Industry)

<b>Adopted Rules</b>	
401 .....	3077, 3732
403 .....	3077
405 .....	3077

### Proposed Rules

91 .....	1657, 1791
93 .....	1657, 1791
95 .....	1657, 1791
111 .....	1661

### 37 Pa. Code (Law)

<b>Proposed Rules</b>	
311 .....	4993

### 40 Pa. Code (Liquor)

<b>Proposed Rules</b>	
5 .....	1029, 3733

### 49 Pa. Code (Professional and Vocational Standards)

<b>Adopted Rules</b>	
21 .....	3891
27 .....	3210

### Proposed Rules

21 .....	458
23 .....	922
33 .....	1396

### 52 Pa. Code (Public Utilities)

<b>Adopted Rules</b>	
29 .....	455
56 .....	2815

### Statements of Policy

69 .....	466, 929, 3083, 4819, 5003
----------	----------------------------

### 58 Pa. Code (Recreation)

<b>Adopted Rules</b>	
65 .....	3215
75 .....	1323, 5450
79 .....	5450
111 .....	4950
133 .....	1362
135 .....	1363
139 .....	2500
141 .....	2506, 2507, 4950, 4951, 4953
147 .....	1364, 4955
617a .....	4956
625a .....	4956
637a .....	4956
639a .....	4956
641a .....	4956
643a .....	4956
647a .....	4956
653a .....	4956
655a .....	4956
657a .....	4956
677a .....	4956
679a .....	4956
682a .....	2227
683a .....	2227
684a .....	4956
830 .....	1024

### Proposed Rules

65 .....	5213, 5214
111 .....	1152
119 .....	5215
139 .....	1390
141 .....	1386, 1388, 2611, 2612, 2614
147 .....	2616
686a .....	3609
687a .....	3609
688a .....	3609

**61 Pa. Code (Revenue)**  
**Proposed Rules**  
 876 ..... 2242

**67 Pa. Code (Transportation)**  
**Adopted Rules**  
 171a ..... 2001

**70 Pa. Code (Weights, Measures and Standards)**  
**Proposed Rules**  
 110 ..... 3313

**101 Pa. Code (General Assembly)**  
**Statements of Policy**  
 701 ..... 1154

**201 Pa. Code (Rules of Judicial Administration)**  
**Adopted Rules**  
 7 ..... 2911, 3469

**Proposed Rules**  
 1 ..... 4809  
 40 ..... 4002  
 51 ..... 1645

**204 Pa. Code (Judicial System General Provisions)**  
**Adopted Rules**  
 29 ..... 1997, 3469  
 71 ..... 705, 824  
 81 ..... 824, 2209, 4940  
 83 ..... 824, 915, 1020, 1772, 2209  
 89 ..... 443, 2217  
 93 ..... 443, 2215, 2216  
 213 ..... 4544, 5422  
 303 ..... 5110  
 305 ..... 5410  
 307 ..... 5206

**Proposed Rules**  
 81 ..... 4941  
 83 ..... 4542  
 213 ..... 3298  
 303 ..... 2103  
 305 ..... 3718  
 307 ..... 2103

**210 Pa. Code (Appellate Procedure)**  
**Adopted Rules**  
 1 ..... 1335  
 5 ..... 1510  
 9 ..... 3597, 3867  
 17 ..... 832  
 19 ..... 3597, 3867  
 65 ..... 2218

**Proposed Rules**  
 1 ..... 825  
 3 ..... 10  
 9 ..... 2712  
 19 ..... 825  
 21 ..... 825  
 35 ..... 602

**225 Pa. Code (Rules of Evidence)**  
**Proposed Rules**  
 Article I ..... 3873  
 Article IV ..... 2218  
 Article IX ..... 165, 1336, 3876

**231 Pa. Code (Rules of Civil Procedure)**  
**Adopted Rules**  
 200 ..... 169  
 1000 ..... 608, 3305  
 1900 ..... 1342  
 1910 ..... 170  
 1915 ..... 3058  
 1920 ..... 3059  
 2000 ..... 608  
 2250 ..... 608

**Proposed Rules**  
 5 ..... 444  
 100 ..... 4809  
 200 ..... 274, 3885  
 1915 ..... 2714, 3469, 3880  
 1930 ..... 2714  
 I ..... 4809

**234 Pa. Code (Rules of Criminal Procedure)**  
**Adopted Rules**  
 4 ..... 190, 1118

**Proposed Rules**  
 1 ..... 3306  
 2 ..... 1357, 1510  
 4 ..... 833, 1122, 3306  
 5 ..... 197, 833, 1357  
 10 ..... 197

**237 Pa. Code (Juvenile Rules)**  
**Adopted Rules**  
 1 ..... 208, 610, 1142, 1512  
 3 ..... 916  
 5 ..... 208, 610, 916  
 11 ..... 208, 610

**Proposed Rules**  
 1 ..... 1897  
 2 ..... 1898  
 5 ..... 2474  
 6 ..... 2474  
 13 ..... 3887

**246 Pa. Code (Minor Court Civil Rules)**  
**Adopted Rules**  
 400 ..... 4003

**Proposed Rules**  
 200 ..... 1900, 4809  
 300 ..... 1900  
 400 ..... 1900  
 500 ..... 1900  
 1200 ..... 1772

**249 Pa. Code (Philadelphia Rules)**  
 Unclassified ..... 1514, 1648, 1998, 2477

**252 Pa. Code (Allegheny County Rules)**  
 Unclassified ..... 2220, 2221, 4548

**255 Pa. Code (Local Court Rules)**  
 Unclassified 12, 13, 14, 214, 215, 216, 274, 380, 445, 446, 453, 616, 619, 706, 707, 838, 917, 918, 919, 920, 1020, 1021, 1022, 1360, 1515, 1517, 1653, 1774, 2221, 2226, 2342, 2346, 2347, 2348, 2488, 2489, 2603, 2604, 2716, 2717, 2718, 2912, 3311, 3475, 3476, 3480, 3603, 3729, 3730, 4006, 4105, 4107, 4943, 4948, 5210, 5211, 5276, 5444, 5448

# THE GOVERNOR

## GOVERNOR'S OFFICE

### Amendment to Proclamation of Disaster Emergency

September 5, 2019

*Whereas*, on January 10, 2018, I declared a disaster emergency due to the opioid crisis that is ravaging the country, including the Commonwealth of Pennsylvania and its citizens;

*Whereas*, my Proclamation of Disaster Emergency dated January 10, 2018, was renewed by Amendment to Proclamation of Disaster Emergency (1st Amendment) on April 4, 2018, for an additional ninety days. The April 4, 2018, 1st Amendment would have automatically expired by operation of law on July 3, 2018, unless further extended by my official renewal;

*Whereas*, I renewed the Proclamation of Disaster Emergency for an additional ninety days by official action on June 28, 2018. The June 28, 2018, Amendment to Proclamation of Disaster Emergency (2nd Amendment) was set to expire by operation of law on September 26, 2018, unless further extended by my official renewal;

*Whereas*, I renewed the Proclamation of Disaster Emergency for an additional ninety days by official action on September 24, 2018. The September 24, 2018, Amendment to Proclamation of Disaster Emergency (3rd Amendment) was set to expire by operation of law on December 23, 2018, unless further extended by my official renewal;

*Whereas*, I renewed the Proclamation of Disaster Emergency for an additional ninety days by official action on December 21, 2018. The December 21, 2018, Amendment to Proclamation of Disaster Emergency (4th Amendment) was set to expire by operation of law on March 21, 2019, unless further extended by my official renewal;

*Whereas*, I renewed the Proclamation of Disaster Emergency for an additional ninety days by official action on March 20, 2019. The March 20, 2019, Amendment to Proclamation of Disaster Emergency (5th Amendment) was set to expire by operation of law on June 18, 2019, unless further extended by my official renewal;

*Whereas*, I renewed the Proclamation of Disaster Emergency for an additional ninety days by official action on June 14, 2019. The June 14, 2019, Amendment to Proclamation of Disaster Emergency (6th Amendment) is set to expire by operation of law on September 12, 2019, unless further extended by my official renewal;

*Whereas*, the opioid crisis continues to be of such magnitude or severity that emergency action is necessary to protect the health, safety and welfare of affected citizens in Pennsylvania;

*Whereas*, the opioid crisis continues to be a public health emergency in Pennsylvania contributing to addiction, overdose emergencies and deaths;

*Whereas*, investigations by the Opioid Unified Coordination Group indicate that additional resources of the Commonwealth may be needed to mitigate and contend with the magnitude and severity of this continuing and expanding disaster emergency.

*Now Therefore*, pursuant to the provisions of section 7301(c) of the Emergency Management Services Code, 35 Pa.C.S. § 7301(c), I do hereby order and direct as follows:

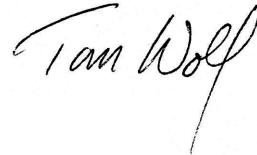
1. The Proclamation of Disaster Emergency of January 10, 2018, renewed by Amendments to Proclamation of Disaster Emergency dated April 4, 2018, June 28, 2018, September 24, 2018, December 21, 2018, March 20, 2019, and June 14, 2019, is renewed for an additional period of ninety days, and shall continue to apply to the Commonwealth of Pennsylvania.



2. All directives, authorized actions and provisions of the January 10, 2018, Proclamation of Disaster Emergency, and the April 4, 2018, June 28, 2018, September 24, 2018, December 21, 2018, March 20, 2019, and June 14, 2019, Amendments to Proclamation of Disaster Emergency shall remain in full force and effect until either rescinded by me or terminated by operation of law ninety days following the effective date of this Proclamation Amendment.

3. This Proclamation Amendment (7th Amendment) shall take effect immediately.

*Given* under my hand and the Seal of the Governor, at the City of Harrisburg, this fifth day of September two thousand nineteen, and of the Commonwealth the two hundred and forty-fourth.

A handwritten signature in black ink that reads "Tom Wolf". The signature is written in a cursive style with a long, sweeping tail on the letter "f".

Governor

[Pa.B. Doc. No. 19-1412. Filed for public inspection September 20, 2019, 9:00 a.m.]

# THE GENERAL ASSEMBLY

## Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

### COMMISSION ON SENTENCING

#### PART VIII. CRIMINAL SENTENCING

##### [ 204 PA. CODE CH. 305 ]

#### Adopted Sentence Risk Assessment Instrument

On June 13, 2019, the Pennsylvania Commission on Sentencing approved for purposes of public comment a proposed Sentence Risk Assessment Instrument, 204 Pa. Code §§ 305.1—305.9. The proposal was published in the *Pennsylvania Bulletin* on July 20, 2019 (49 Pa.B. 3718). Public hearings were held on August 20, 2019 (Philadelphia), August 21, 2019 (Harrisburg), and August 22, 2019 (Pittsburgh).

On September 5, 2019, the Commission on Sentencing adopted the Sentence Risk Assessment Instrument. Proposals adopted by the Commission will be submitted to the General Assembly for review by way of publication in the *Pennsylvania Bulletin*, and will become effective 90 days after publication unless rejected by concurrent resolution of the General Assembly.

The Sentence Risk Assessment Instrument, authorized by Act 2010-95, mandates the Commission to “. . .adopt a Sentence Risk Assessment Instrument for the sentencing court to use to help determine the appropriate sentence within the limits established by law. . . The risk assessment instrument may be used as an aide in evaluating the relative risk that an offender will reoffend and be a threat to public safety” (42 Pa.C.S. § 2154.7). In addition to considering the risk of re-offense and threat to public safety, Act 2010-95 also permits the risk assessment instrument to be used to determine whether a more thorough assessment is necessary, or as an aide in determining appropriate candidates for alternative sentencing (e.g., County Intermediate Punishment, State Intermediate Punishment, State Motivational Boot Camp, and Recidivism Risk Reduction Incentive).

The Sentence Risk Assessment Instrument has been under development by the Commission since 2010; five proposals were published, 19 public hearings were held, and an external review was conducted by Carnegie Mellon University. The Instrument is an empirically based worksheet which uses factors that are relevant in predicting recidivism; it provides an actuarial assessment of static criminal justice and demographic factors used to estimate risk of re-offense. The Instrument is automated and incorporated into the existing JNET-based Sentencing Guidelines Software Web application (SGS Web), with the risk assessment determined upon the preparation of the guideline sentence forms. In order to avoid the labeling of offenders, the guideline sentence form will include the notation “Additional Information Recommended” in any case where an offender is determined to be low risk or high risk. In such cases, the Commission recommends, as provided in the legislation, consideration by the court of whether a more thorough assessment or additional information is necessary to aid in determining appropriate candidates for alternative sentencing. This recommendation, similar to a sentencing guideline recommendation, is advisory.

The Sentence Risk Assessment Instrument, as adopted by the Commission, is summarized below and set forth in Annex A.

JUDGE SHEILA A. WOODS-SKIPPER,  
*Chair*

#### Commentary on Annex A

This Commentary provides information on the adopted Sentence Risk Assessment Instrument. The adopted Sentence Risk Assessment Instrument is set forth in Annex A.

#### *Legislative Mandate*

Act 2010-95 mandates the Commission to “. . .adopt a Sentence Risk Assessment Instrument for the sentencing court to use to help determine the appropriate sentence within the limits established by law. . . The risk assessment instrument may be used as an aide in evaluating the relative risk that an offender will reoffend and be a threat to public safety” (42 Pa.C.S. § 2154.7). In addition to considering the risk of re-offense and threat to public safety, Act 2010-95 also permits the risk assessment instrument to be used to determine whether a more thorough assessment is necessary, or as an aide in determining appropriate candidates for alternative sentencing (e.g., County Intermediate Punishment, State Intermediate Punishment, State Motivational Boot Camp, and Recidivism Risk Reduction Incentive).

#### *Development of a Sentence Risk Assessment Instrument*

The Commission undertook extensive research as part of the development of the Sentence Risk Assessment Instrument. The following reports, available on the Commission’s website, document the research completed as part of the initial construction of the Instrument:

Interim Report 1: Review of Factors used in Risk Assessment Instruments (2011)

Interim Report 2: Recidivism Study: Initial Recidivism Information (2011)

Interim Report 3: Factors that Predict Recidivism for Various Types of Offenders (2011)

Interim Report 4: Development of Risk Assessment Scale (2012)

Interim Report 5: Developing Categories of Risk (2012)

Interim Report 6: Impact of Risk Assessment Tool for Low Risk Offenders (2012)

Interim Report 7: Validation of Risk Scale (2013)

Interim Report 8: Communicating Risk at Sentencing (2014)

Special Report: The Impact of Juvenile Record on Recidivism Risk (2014)

The Commission approved a preliminary Sentence Risk Assessment Instrument on March 19, 2015, published the same in the *Pennsylvania Bulletin* on April 11, 2015 (45 Pa.B. 1751), and held three public hearings: May 13, 2015 (Philadelphia), May 15, 2015 (Pittsburgh), and June 3, 2015 (Harrisburg).

The following reports were published, addressing issues raised concerning the preliminary Instrument:

Phase II/Special Report: Impact of Removing Demographic Factors (2015)

Phase II/Interim Report 1: Development of a Risk Assessment Scale by Offense Gravity Score for All Offenders (2015)

Phase II/Interim Report 2: Validation of Risk Assessment Instrument by OGS for All Offenses (2016)

Based on the comments received regarding the preliminary Instrument, the Commission approved a more detailed version of the Sentence Risk Assessment Instrument, including risk scales and recidivism rates, on March 16, 2017, published the same in the *Pennsylvania Bulletin* on April 8, 2017 (47 Pa.B. 1999), and held five public hearings: May 17, 2017 (Hollidaysburg), May 18, 2017 (Greensburg), May 19, 2017 (Pittsburgh), May 23, 2017 (Philadelphia), and May 31, 2017 (Harrisburg).

The following reports were published, addressing issues raised and modifications under consideration:

Risk Assessment Update: Conviction as a Predictive Factor (2017)

Risk Assessment Update: Arrest as a Predictive Factor (2018)

Development and Validation of the Risk Assessment Scale (May 2018)

Racial Impact Analysis of Proposed Risk Assessment Scales (May 2018)

The Commission approved a revised Sentence Risk Assessment Instrument on March 8, 2018, published the same in the *Pennsylvania Bulletin* on April 28, 2018 (48 Pa.B. 2367), and held three public hearings: June 4, 2018 (Pittsburgh), June 6, 2018 (Philadelphia), and June 13, 2018 (Harrisburg).

The following reports were published, addressing issues raised and modifications under consideration:

Revisions to the Proposed Risk Assessment Instrument (November 2018)

Impact of Removing Gender as a Risk Factor (November 2018)

Racial Impact Analysis of the Proposed Risk Assessment Scales (November 2018)

On September 1, 2018, the Commission published in the *Pennsylvania Bulletin* (48 Pa.B. 5445) detailed responses to comments received during the public hearings and published a Request for Proposals (RFP) for alternate sentence risk assessment instruments.

The Commission approved another revision of the Sentence Risk Assessment Instrument on September 6, 2018, published the same in the *Pennsylvania Bulletin* on November 3, 2018 (48 Pa.B. 6961), and held five public hearings: December 6, 2018 (Harrisburg), December 10, 2018 (Stroudsburg), December 12, 2018 (Philadelphia), December 13, 2018 (Pittsburgh), and December 14, 2018 (Warren).

In May of 2019, the Commission received an external review of the Sentence Risk Assessment Instrument, completed as a Heinz College System Synthesis Project by graduate students of Carnegie Mellon University. The final report is posted on the Commission's website (*Validation and Assessment of Pennsylvania's Risk Assessment Instrument*, May 2019).

The Commission approved another revision of the Sentence Risk Assessment Instrument on June 13, 2019, published the same in the *Pennsylvania Bulletin* on July 20, 2019 (49 Pa.B. 3718), and held three public hearings:

August 20, 2019 (Philadelphia), August 21, 2019 (Harrisburg), and August 22, 2019 (Pittsburgh).

#### *Final Adoption*

On September 5, 2019, the Commission adopted the Sentence Risk Assessment Instrument set forth in Annex A. The Instrument is an empirically based worksheet which uses factors that are relevant in predicting recidivism; it provides an actuarial assessment of static criminal justice and demographic factors used to estimate risk of re-offense. The Instrument is automated and incorporated into the existing JNET-based Sentencing Guidelines Software Web application (SGS Web), with the risk assessment determined upon the preparation of the guideline sentence forms. In order to avoid the labeling of offenders, the guideline sentence form will include the notation "Additional Information Recommended" in any case where an offender is determined to be low risk or high risk. In such cases, the Commission recommends, as provided in the legislation, consideration by the court of whether a more thorough assessment or additional information is necessary to aid in determining appropriate candidates for alternative sentencing.

The Commission has spent nearly a decade conducting research and public hearings on a Sentencing Risk Assessment Instrument. From the start, including the preliminary work with four pilot counties (Philadelphia, Allegheny, Westmoreland, Blair), there has been no public support for the development and use of risk assessment at sentencing. The Commission has tried repeatedly throughout this process to engage with counties, professional organizations, academics, and the public in developing an instrument that balances many interests and satisfies the provisions contained in Act 2010-95, even to the point of publishing a Request for Proposals for alternative instruments, for which the Commission received no response. To the degree actionable suggestions were made throughout the process, the Commission and staff worked to modify the instrument and the procedures to incorporate changes, and then sought further public comment. The result has been five proposals, and the outcome has been continued public dissatisfaction, with many suggesting the Commission abandon the project and that the General Assembly repeal the mandate.

The criticisms the Commission has received of a Sentencing Risk Assessment Instrument fall into several broad categories: (1) all criminal justice data are tainted and limited and therefore no valid risk assessment can be developed; (2) the instruments developed by the Commission and/or used by counties should not be adopted because they are discriminatory or inaccurate or provide no meaningful value; (3) implementation of any instrument will increase dis-proportionality and/or incarceration; (4) implementation of any instrument will increase the workload and slow the processing of cases in courts of common pleas; and (5) the information recommended (RNR PSI, RNR Report, etc.) is already considered by the court or is not necessary or is discriminatory or inaccurate. For many commentators, even a perfect instrument would not be supported, either because the data are tainted or the implementation is problematic. By adopting this Instrument, the Commission has determined that there is value in identifying cases for which additional information may lead to increased use of sentencing alternatives, or more careful consideration of the duration and intensity of community supervision.

However, because of the concerns raised about improper utilization and negative impacts, the Commission includes the following requirements as part of the implementation strategy:

(1) Upon the effective date following adoption, a six-month education and training period would commence before the deployment of the instrument. During this period, Commission staff would provide education and training to judges and practitioners to address the use of the Sentence Risk Assessment Instrument, the purpose of the recommendation, and the type of information recommended; and

(2) Following the first year of utilization, Commission staff will collect and analyze data on the sentences imposed and publish information on sentencing patterns and racial impacts.

#### *Resource Utilization*

Pursuant to 42 Pa.C.S. § 2153(a)(15), prior to the adoption of a risk assessment instrument, the Commission is required to use a correctional population simulation model to determine resources required under the current risk assessment instrument, and resources that would be required to carry out any proposed changes to the risk assessment instrument. Since this is an initial adoption of a risk assessment instrument, the Commission has investigated current practices authorized by statute, Rule or guidelines, and the changes to these practices required or recommended by the proposed Sentence Risk Assessment Instrument. Resource utilization could occur at two points: the use of the Instrument to determine low risk and high risk cases for which the notation "Additional Information Recommended" is added to the sentencing guideline form; and the preparation of the additional information recommended that the court may use to determine appropriate candidates for alternative sentencing.

Regarding the use of the Instrument, the sentencing guidelines, 204 Pa. Code § 303.1(e), require that the Commission's JNET-based Sentencing Guidelines Software Web application (SGS Web) shall be used at the court's direction to prepare all guideline-required sentencing information. The Sentence Risk Assessment Instrument is a module built within SGS Web. Upon completion of the sentence guideline form using SGS Web, the offender's risk category will automatically be determined, and a notation "Additional Information Recommended" will be included on the guideline sentence form for low risk and high risk offenders. For counties preparing guideline sentence forms via SGS Web prior to sentencing as recommended by the Commission, no change in practices and no additional resources are required.

Regarding the preparation of additional information for consideration by the court, the Pennsylvania Rules of Criminal Procedure, Rule 702, provide that a court may order a pre-sentence investigation report in any case, and includes circumstances for which the court shall place on the record reasons for dispensing with the pre-sentence investigation report. The court is also authorized by Rule 702 to order a psychiatric or psychological examination of the defendant, including remanding the defendant to the Department of Corrections Diagnostic and Classification Center for a period not to exceed 60 days. While practices differ greatly from county to county, the *County Adult Probation and Parole Annual Statistical Report* documented the preparation of 23,248 pre-sentence reports in 2017, and over 15,000 additional investigations and reports (e.g., D&A, IP, Psychological, Specialty Courts).

Based on the Commission's proposal, "Additional Information Recommended" would apply to approximately 24% of non-DUI offenders, or just over 14,000 offenders in 2017. The impact will vary by county, based on the interest of courts in obtaining additional information and the resources currently available for this purpose. In some counties, no substantial changes in practices will be required, while others may benefit from re-targeting the cases and for which additional information is provided to the court, and still others may require substantial reworking if they wish to follow the recommendation.

Many sentencing alternatives are under-utilized, and concerns have been raised in recent years about the over-utilization of probation and community supervision, often for low risk/low needs offenders. Based on 2017 non-DUI sentences, the Commission's proposal would have recommended additional information be provided to the court for a total of 14,161 low risk and high risk offenders. Of these, 1,730 (12%) may have been considered for a sentencing alternative to state prison, or 4,486 (32%) diverted from county jail, or the duration or intensity of probation considered for 7,945 (56%). Providing additional information to the court prior to sentencing may promote the appropriate and individualized use of sentencing alternatives and community supervision.

#### *Effective Date*

The Sentence Risk Assessment Instrument shall become effective July 1, 2020, unless disapproved by the General Assembly, pursuant to 42 Pa.C.S. § 2155(b). Effective January 1, 2020, the Commission shall conduct a six-month training and orientation for judges and practitioners related to the use of the Sentence Risk Assessment Instrument, the purpose of the recommendation, and the type of information recommended.

### **Annex A**

## **TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS**

### **PART VIII. CRIMINAL SENTENCING**

#### **CHAPTER 305. SENTENCE RISK ASSESSMENT INSTRUMENT**

Sec.	
305.1.	Preliminary provisions.
305.2.	Sentence Risk Assessment Instrument methodology.
305.3.	Sentence Risk Assessment Instrument standards.
305.4.	Sentence Risk Assessment Instrument procedures.
305.5.	Sentence Risk Assessment Instrument recommendation—general.
305.6.	Offense Types. Classification of Prior Convictions and Current Convictions, including Inchoates.
305.7.	Recidivism Risk Scales.
305.8.	Recidivism Rates by Risk Score.
305.9.	Guideline Sentence Form.

#### **§ 305.1. Preliminary provisions.**

##### *(a) Authorization.*

(1) As authorized by 42 Pa.C.S. § 2154.7 (relating to adoption of risk assessment instrument), the Commission shall adopt a Sentence Risk Assessment Instrument for the sentencing court to use to help determine the appropriate sentence within the limits established by law for defendants who plead guilty or nolo contendere to, or who were found guilty of, felonies and misdemeanors.

(2) The Sentence Risk Assessment Instrument may be incorporated into the sentencing guidelines under 42 Pa.C.S. § 2154 (relating to adoption of sentencing guidelines).

(3) The Sentence Risk Assessment Instrument may be used to determine whether a more thorough assessment is necessary and to order a presentence investigation report.

(4) The Sentence Risk Assessment Instrument may be an aid to help determine appropriate candidates for alternative sentencing.

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

(1) “Actuarial risk assessment.” A statistical method of estimating the risk of recidivism; the probability of recidivating is related to the proportion of offenders in a risk category who recidivate.

(2) “Common Pleas Case Management System (CPCMS).” A web-based application operated by the Administrative Office of Pennsylvania Courts which serves as the source of data for determining number of prior convictions and associated offense type.

(3) “Conviction.” An offense for which a defendant pleads guilty or nolo contendere, is found guilty following a bench or jury trial, or is accepted for participation in an authorized diversion program, including Probation without Verdict (relating to 35 P.S. § 780-117) or Disposition in Lieu of Trial or Criminal Punishment (relating to 35 P.S. § 780-118).

(4) “DUI offender.” An offender for whom the most serious offense of the judicial proceeding is DUI. The Sentence Risk Assessment Instrument does not apply if DUI is the most serious offense of the judicial proceeding. The Sentence Risk Assessment Instrument does apply if DUI is an offense other than the most serious offense in the judicial proceeding.

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

(6) “Magisterial District Judge System (MDJS).” A web-based application operated by the Administrative Office of Pennsylvania Courts which serves as the source of data for determining the number of prior convictions and associated offense type following a final disposition by a minor court.

(7) “Minor courts.” A court of limited jurisdiction with authority to preside at preliminary arraignments and preliminary hearings, dismiss complaints, conduct trials and/or accept guilty pleas for misdemeanors, and hold cases for trial in the courts of common pleas. This includes Philadelphia Municipal Court and Magisterial District Judges.

(8) “Offense gravity score (OGS).” An assignment in the sentencing guidelines reflecting the seriousness of a conviction offense. The OGS assigned to the most serious offense in the judicial proceeding (and if more than one offense, then the offense with the highest OGS, longest statutory maximum, and then the offense entered first in SGS Web) is used to determine the risk factors and associated values to be included in the risk scales.

(9) “Offense tracking number (OTN).” A unique identifying number assigned to an entire set of charges related to a conviction. An OTN is generally assigned by the court at the time of arraignment.

(10) “Offense types.” The classification of prior convictions and current convictions, including inchoates, as provided follows:

- (i) Murder;
- (ii) Danger to person:
  - (A) felonies;
  - (B) misdemeanors;
- (iii) Sexual:
  - (A) felonies;
  - (B) misdemeanors;
- (iv) Burglary;
- (v) Property:
  - (A) felonies;
  - (B) misdemeanors;
- (vi) Public administration;
- (vii) Public order;
- (viii) Firearms;
- (ix) Other weapons;
- (x) Drug:
  - (A) felonies;
  - (B) misdemeanors;
- (xi) DUI;
- (xii) Other.

A detailed description of the offense types is located at § 305.6. Any unlisted offense, or any new or amended offense, will be assigned an offense type by the Commission based on the current equivalent offense type.

(11) “Pre-sentence investigation (PSI) report.” A report, authorized by the Rules of Criminal Procedure (Pa.R.Crim.P. Rules 702-703), that includes information regarding the circumstances of the offense and the character of the defendant sufficient to assist the judge in determining sentence.

(12) “Recidivism.” A re-offense for any crime, defined as a re-arrest for a felony or misdemeanor in Pennsylvania within three years of the imposition of a sentence to the community or within three years of release from confinement resulting in a conviction. Re-offense does not include out-of-state, federal or foreign charges or technical violations.

(13) “Risk assessment instrument.” An empirically based worksheet which uses factors that are relevant in predicting recidivism. A risk assessment instrument is often identified with a specific ‘generation’ of development:

(i) *1st generation.* “Professional judgment,” with assessments based on training and experience;

(ii) *2nd generation.* “Risk assessment,” an actuarial assessment of static criminal justice and demographic factors used to estimate risk of re-offense;

(iii) *3rd generation.* “Risk-needs assessment (RNA),” an actuarial assessment of static and dynamic factors and changing circumstances, such as relationships, employment, and substance abuse, used to estimate risk of re-offense and to assess criminogenic needs to be addressed through treatment and supervision;

(iv) *4th generation.* “Risk-needs-responsivity (RNR) assessment,” an actuarial assessment of static and dynamic factors used to match the level of service to the offender’s risk to re-offend; assess criminogenic needs and target

them in treatment; and structure the sentence to address the learning style, motivation, abilities and strengths of the offender.

(14) "Risk category." The relative risk of recidivism as compared to other offenders, based on the Sentence Risk Assessment Instrument:

(i) "Typical risk offender." An offender with a risk score of 5 points or greater but less than 12 points who shares characteristics with offenders at typical risk of recidivism. This middle category contains approximately 78% of offenders.

(ii) "Low risk offender." An offender with a risk score less than 5 points who shares characteristics with offenders at lower risk of recidivism. This low category contains approximately 18% of offenders.

(iii) "High risk offender." An offender with a risk score of 12 points or greater who shares characteristics with offenders at higher risk of recidivism. This high category contains approximately 4% of offenders.

(15) "Risk factors." The variables obtained from AOPC or Commission data and determined to be statistically significant in relation to the risk of recidivism. Risk factors selected by the Commission and included in the Sentence Risk Assessment Instrument include:

(i) "Age." Based on Commission data, the age of the offender calculated using date of birth as reported on guideline sentence form and the date the Sentence Risk Assessment Summary is generated.

(ii) "Gender." Based on Commission data, the sex of the offender reported on the guideline sentence form.

(iii) "Number of prior convictions." Based on prior conviction data provided by AOPC, the number of unique OTNs associated with Pennsylvania convictions occurring before the date the Sentence Risk Assessment Summary is generated.

(iv) "Prior conviction offense type." Based on prior conviction data provided by AOPC, all offense types identified for any felony or misdemeanor convictions.

(v) "Current conviction offense type." Based on Commission data, the offense type of the most serious offense of the judicial proceeding.

(vi) "Multiple current convictions." Based on Commission data, more than one current conviction offense in the current judicial proceeding.

(viii) "Prior juvenile adjudication." Based on Commission data, any juvenile adjudication included in the prior record score for the judicial proceeding is used in the risk scales. This may include prior juvenile adjudications that lapse for purposes of the calculation of the Prior Record Score.

(16) "Risk scale." Measures of the outcomes derived from statistical models used to determine the relative risk to recidivate based on identified factors.

(17) "Sentencing Guidelines Software Web Application (SGS Web)." A JNET-based application operated by the Commission which includes the modules for Sentencing Guidelines and for the Sentence Risk Assessment Instrument. SGS Web serves as the source of data for determining an offender's age, gender, current conviction offense type, multiple current convictions and prior juvenile adjudications, as well as determining the most serious offense of a judicial proceeding.

(18) "Sentence Risk Assessment Instrument." The actuarial tool, adopted by the Commission and deployed

through SGS Web, used to identify cases for which the guideline sentence form includes the notation "Additional Information Recommended." The Instrument uses factors that are relevant in predicting recidivism to estimate risk.

(c) *Findings and Purposes.*

(1) *Findings.*

(i) As defined in statute, 42 Pa.C.S. § 2154.7(e), the term "risk assessment instrument" means an empirically based worksheet which uses factors that are relevant in predicting recidivism.

(ii) The following concerns regarding proposed instruments were consistently raised during public hearings:

(A) Distrust of a risk assessment instrument for use at sentencing due to concerns about data quality, including the impact of differential treatment throughout the criminal justice system resulting in racial bias, and the construction and validity of any instrument;

(B) Concerns related to the impact of actuarial data on individualized sentencing, including the labeling of offenders based on risk category, the prospect of increased punishment for high risk offenders, and the impropriety of providing information on prognostic risk without including information on criminogenic needs and responsibility.

(iii) The Commission analyzed issues related to data quality, construction and validity, including the impact of race and gender, during the development of the instrument.

(A) Race is excluded from the instrument, as is county, which many commentators viewed as a proxy for race. The Commission undertook other steps to reduce racial impact, including using convictions rather than arrests. In the final analysis, the accuracy of the instrument is similar across race. To the degree there is a difference in accuracy, Black offenders are favored. This moderate bias in the form of under-estimation of risk for a minority group appears to be accepted in the risk assessment field; these findings are not inconsistent with other demographic impact assessments of risk instruments.

(B) Gender is included in the instrument as a risk factor. The ratio of males to females in the sample is 80%/20%. Removing gender has the greatest impact on females, reducing the accuracy of the instrument in predicting female recidivism and incorrectly resulting in fewer females classified as low risk and more females classified as high risk. Removing gender or retaining gender has no impact on the accuracy of predicting male recidivism, because males account for the overwhelming majority of offenders in the sample.

(iv) As part of the Evidence-Based Practices Strategic Plan, the County Chief Adult Probation and Parole Officers Association of Pennsylvania has been working with counties to adopt and validate risk and needs assessment tools and to provide training for use in guiding effective supervision and treatment strategies for community corrections.

(v) Research supports the finding that judges tend to over-estimate risk of offenders at sentencing, and that professional judgement informed by actuarial data is more accurate than either alone. Research on the use of information on prognostic risks and criminogenic needs to inform supervision strategies for drug offenders supports the use of intensive treatment and supervision, consistent with the alternative sentencing programs identified in the

statute, for high risk/high needs offenders, and consideration of reduced duration and intensity of supervision for low risk/low needs offenders.

(vi) Under Pennsylvania's Rules of Criminal Procedure, Rule 702, the sentencing judge may order a pre-sentence investigation (PSI) report at any time, but shall place on the record the reason for dispensing with a PSI in the following instances: when incarceration of one year or more is possible; when the defendant is less than 21 years of age; or when the defendant is a first-time offender. The Commission found that PSI Reports were ordered in less than one third of all cases, and at varying rates and of varying quality across counties, but rarely included information on criminogenic needs or responsibility. Other assessments and evaluations, including those for drug and alcohol dependency, mental illness, and for sexual offenders, were also ordered.

(2) *Purposes of sentence risk assessment instrument.*

(i) To identify individuals, determined to be low risk or high risk using the Commission's sentence risk assessment instrument, for whom additional information may assist the court in determining candidates for alternative sentencing, such as state intermediate punishment, state motivational boot camp, county intermediate punishment, recidivism risk reduction incentive; appropriateness for problem-solving courts; and the duration and intensity of community supervision or other programs or services.

(ii) To assist courts in determining whether a more thorough assessment is necessary and to order a PSI Report as provided in Pa.R.Crim.P. Rule 702(a) or a psychiatric or psychological evaluation as provided for in Pa.R.Crim.P. Rule 702(b), or to request any other assessment or information on criminogenic needs and responsibility to consider prior to sentencing; and in determining whether to dispense with a PSI Report.

(iii) Similar to the sentencing guidelines adopted by the Commission, a recommendation to obtain additional information based on the sentence risk assessment instrument is advisory.

(iv) The Commission supports the values of transparency and responsiveness in the development and use of empirically-based risk assessment instruments. Information on the development and validation of the sentence risk assessment instrument, including the risk factors, scales and recidivism rates, and all internal and external reports related to construction of the instrument and predictive validity, are published.

(v) The Commission expressly disavows the use of the sentence risk assessment instrument to increase punishment, and expressly disavows the use of county risk assessments tools at sentencing that are not designed for use at sentencing, are not transparent or employ static factors rejected by the Commission.

**§ 305.2. Sentence Risk Assessment Instrument methodology.**

(a) *Development and validation.*

(1) The Commission conducted a study using offenders sentenced during 2004—2006 (n=131,055) to allow for a three-year follow-up period for all offenders, while taking advantage of improvements in data quality and a more recent time period. Additional information on the development and validation of the Sentence Risk Assessment Instrument is available from the Commission.

(2) The Commission developed risk scales for all offenders, except those with DUI as the most serious offense of the judicial proceeding.

(3) In developing the risk scales, the following analyses were conducted:

(i) bivariate analyses to determine which factors were related to recidivism;

(ii) multivariate logistic regression to determine which factors best predicted recidivism while holding other factors constant;

(iii) rotation of all categories for factors that were multi-categorical to ensure that reported differences were real and not due to a particular comparison category;

(iv) Receiver Operating Characteristic (ROC) analysis, which plots the true positive rate (i.e., how many people were predicted to recidivate and did recidivate) against the false positive rate (i.e., how many people were predicted to recidivate but did not recidivate); and

(v) validation of the final scales with both samples.

(b) *Risk factors and scales—general.*

(1) Based upon the analyses conducted by the Commission, the following factors were found to be predictive of recidivism, and thus, used in the risk assessment scales:

(i) age;

(ii) gender;

(iii) number of prior convictions;

(iv) prior conviction offense type;

(v) current conviction offense type;

(vi) multiple current convictions;

(vii) prior juvenile adjudication.

(2) The risk scale for recidivism is located at § 305.7.

(c) *Recidivism rates—general.*

(1) The Sentence Risk Assessment Instrument provides the probability of recidivism based on the proportion of offenders in the development and validation samples who recidivate. Offenders identified as low risk or high risk were found to be significantly different in risk of recidivism than the typical offender.

(2) Recidivism rates by risk score for recidivism are located at § 305.8.

(d) *Review and Re-validation.*

(1) Following the first year of utilization, the Commission shall analyze the impact of the Instrument and the source of the information provided to the court, and shall publish information on sentencing patterns and racial impact.

(2) The Commission shall re-validate the Instrument every three years.

**§ 305.3. Sentence Risk Assessment Instrument standards.**

(a) Effective January 1, 2020, the Commission shall conduct a six-month training and orientation for judges and practitioners related to the use of the Sentence Risk Assessment Instrument, the purpose of the recommendation, and the type of information recommended.

(b) Effective July 1, 2020, the court shall use the SGS Web-based Sentence Risk Assessment Instrument to identify cases for which additional information is recommended to help determine the appropriate sentence for non-DUI offenders who plead guilty or nolo contendere to or who were found guilty of felonies or misdemeanors.

(c) The Sentence Risk Assessment Instrument does not apply to sentences imposed as a result of the following: accelerated rehabilitative disposition; disposition in lieu of trial; direct or indirect contempt of court; violations of protection from abuse orders; or revocation of probation, county intermediate punishment, state intermediate punishment or parole.

(d) In every case in which additional information is recommended and provided to the court, the additional information shall be considered by the court prior to sentencing. The court is encouraged to determine procedures for the preparation of additional information.

(e) In every case in which a court of record imposes a sentence for a felony or misdemeanor, and additional information is recommended, the court shall make as a part of the record, and shall record on the guideline sentence form, whether the court received and considered additional information prior to sentencing. The guideline sentence form shall be electronically transmitted to the Pennsylvania Commission on Sentencing in the manner described in § 303.1(e).

(f) Unless otherwise provided by the Commission, the JNET-based Sentencing Guidelines Software Web application (SGS Web) shall be used at the court's direction to prepare all guideline-required sentencing information prior to sentencing.

**§ 305.4. Sentence Risk Assessment Instrument procedures.**

(a) For each judicial proceeding, the procedure using the SGS Web-based Sentence Risk Assessment Instrument shall be as follows:

(1) Prepare all guideline sentence forms prior to sentencing using SGS Web as required by § 303.1(e):

(i) create a Judicial Proceeding;

(ii) complete the Prior Record Score module;

(iii) complete the Offense module, including all offenses for which the offender has been convicted and are pending before the court for sentencing at the same time;

(iv) upon completion of the Offense module, guideline sentence forms are available;

(v) for cases identified by the Sentence Risk Assessment Instrument, "Additional Information Recommended" is included on the guideline sentence form;

(vi) additional information, if prepared, shall be provided to the court for consideration prior to sentencing.

**§ 305.5. Sentence Risk Assessment Instrument recommendation—general.**

(a) The risk score for the offender and the associated risk category is calculated based on the most serious conviction offense in the judicial proceeding.

(b) Typical risk offenders. For offenders who are identified as typical risk, the Commission makes no additional recommendation.

(c) Low risk or high risk offenders. For offenders who are identified as low risk or high risk, the guideline sentence form will include a notation "Additional Information Recommended." No information on risk category will be provided. Courts are encouraged to adopt procedures to permit the preparation of additional information based on the guideline sentence form recommendation.

(d) The additional information recommended may assist the court in determining an appropriate and individualized sentence, including the suitability of various sentencing alternatives and programs as well as the duration and intensity of supervision.

(e) An example of sentence guideline form with the "Additional Information Recommended" notation is found at § 305.9.



§ 305.6. Offense Types. Classification of Prior Convictions and Current Convictions, including Inchoates.

Offense Type	Title	Chapter	Description		
Murder	18	Misc. 25	Criminal Homicide - Murder 1, Murder 2, Murder 3, and Voluntary Manslaughter		
		Misc. 26	Crimes Against an Unborn Child - Murder 1, Murder 2, Murder 3, and Voluntary Manslaughter		
		Misc. 27	Weapons of Mass Destruction; Use-Results in Death		
		Misc. 33	Arson - Endangering Persons; Murder 1, Murder 2 - 18 § 3301(a)(2)		
Danger to Person - felony and misdemeanor	18	Misc. 25	Criminal Homicide - Involuntary Manslaughter 18 § 2503		
		Misc. 26	Aggravated Assault of an Unborn Child - 18 § 2606		
		27	Assault		
		29	Kidnapping		
		30	Human Trafficking		
		32	Abortion		
		Misc. 33	Arson Endangering Person - 18 § 3301(a) and (a.1) Ecoterrorism - 18 § 3311(b)(3)		
		Misc. 35	Burglary-Home/Person - 18 § 3502(a)(1)		
		37	Robbery		
		43	Offenses Against the Family		
		Misc. 47	Threats - 18 § 4702 Retaliation - 18 § 4703		
		Misc. 49	Intimidation of Witness/Victim - 18 § 4952 Retaliation Against Witness/Victim - 18 § 4953, 18 § 4953.1		
		Misc. 63	Corruption of Minors - 18 § 6301		
		Misc. 75	Homicide by Vehicle - 75 § 3732 Aggravated Assault by Vehicle - 75 § 3732.1 Homicide by Vehicle while DUI - 75 § 3735 Aggravated Assault by Vehicle While DUI - 75 § 3735.1 Accident Involving Death/Personal Injury - 75 § 3742, 75 § 3742.1		
		Sexual - felony and misdemeanor	18	Misc. 29	Kidnapping of a Minor - 18 § 2901(a.1) Unlawful Restraint of a Minor/Non-parent - 18 § 2902(b) False Imprisonment of a Minor/Non-parent - 18 § 2903(b) Interference with Custody of Children - 18 § 2904 Luring a Child into a Vehicle/Structure - 18 § 2910
				Misc. 30	Human Trafficking - 18 § 3011(b)
31	Sexual Offenses				
Misc. 43	Incest of a Minor - 18 § 4302(b)				
Misc. 59	Promoting Prostitution of a Minor - 18 § 5902(b.1) Obscene and Other Sexual Materials - 18 § 5903(a)(3)(ii), (4)(ii), (5)(ii) or (6)				
Misc. 63	Corruption of Minors - 18 § 6301(a)(1)(ii) Sexual Abuse of Children - 18 § 6312 Unlawful Contact/Communication with Minor - 18 § 6318 Sexual Exploitation of Children - 18 § 6320				
Misc. 75	Invasion of Privacy - 18 § 7507.1				
Burglary	18			Misc. 35	Burglary and Other Criminal Intrusion
Property - felony and misdemeanor	18			Misc. 9	Manufacture/Etc. Master Key Motor Vehicles - 18 § 0909 Manufacture/Etc. Device for Theft of Telecommunications - 18 § 0910
				33	Arson, Criminal Mischief, and other Property Destruction
				35	Burglary and Other Criminal Intrusion
				39	Theft and Related Offenses
		41	Forgery and Fraudulent Practices		
		76	Computer Offenses		
		77	Vehicle Chop Shop and Illegally Obtained and Altered Property		
Public Admin.	18	Misc. 9	Corrupt Organizations - 18 § 0911		
		47	Bribery and Corrupt Influence		
		49	Falsification and Intimidation		
		51	Obstructing Governmental Operations		
		53	Abuse of Office		
		23	63 Child Protective Services		
		42	45 Juries and Jurors		
	97	Sentencing			

Offense Type	Title	Chapter	Description			
Public Order	18	21	Offenses Against the Flag			
		55	Riot, Disorderly Conduct, and Related Offenses			
		57	Wiretapping and Electronic Surveillance			
		59	Public Indecency			
		63	Minors			
		65	Nuisances			
		67	Proprietary and Official Rights			
		69	Public Utilities			
		71	Sports and Amusements			
		73	Trade and Commerce			
		75	Other Offenses			
Firearms - VUFA	18	61	Firearms and Other Dangerous Articles			
Other Weapons	18	Misc. 9	Possessing Instruments of Crime - 18 § 0907			
			Prohibited Offensive Weapons - 18 § 0908			
			Electric Incapacitation Device - 18 § 0908.1			
			Possession of Weapon on School Property - 18 § 0912			
			Possession of Weapon in Court Facility - 18 § 0913			
		Misc. 63	Sale/Lease of Weapons/Explosives (to Minors) - 18 § 6302			
			Sale of Starter Pistols (to Minors) - 18 § 6303			
			Sale/Use of Air Rifles (to Minors) - 18 § 6304			
			Drug - felony and misdemeanor	18	Misc. 51	Contraband of Controlled Substance - 18 § 5123
					Misc. 63	Solicitation of Minors to Traffic Drugs - 18 § 6319
Misc. 75	Operate Meth Lab/Cause Chemical Reaction - 18 § 7508, 18 § 7508.2					
	Furnishing Drug-Free Urine - 18 § 7509					
35		Criminal Use of Communication Facility - 18 § 7512				
		Controlled Substance, Drug, Device and Cosmetic Act - 35 § 780-113(a)(1) - (a)(39)				
		Liquefied Ammonia Gas - 35 § 780-113.1				
		Operating a Meth Lab - 35 § 780-113.4				
DUI*	30	Misc. 55	Boating Under the Influence - 30 § 5502			
		75	Misc. 37	Driving Under the Influence - 75 § 3731		
			38	Driving Under the Influence - 75 § 3802		
Other			Miscellaneous Titles and Chapters			

\*Only applicable for Prior Conviction Offense Type, Current Conviction Offense Type does not include DUI.

Exceptions are due to Personal Injury Crimes (18 P.S. § 11.103), Crimes of Violence (42 Pa.C.S. § 9714), and offenses requiring registration under (42 Pa.C.S. § 9799.14).

§ 305.7. Recidivism Risk Scales.

Risk Factors		Risk Score
Gender	Male	1
	Female	0
Age	<21	5
	21-25	4
	26-29	3
	30-39	2
	40-49	1
	>49	0
Current Conviction Offense Type	Murder	1
	Person-Felony	1
	Person-Misd.	1
	Sex-Felony	0
	Sex-Misd.	0
	Burglary	2
	Property-Felony	2
	Property-Misd.	2
	Drug-Felony	1
	Drug-Misd.	1
	Public Admin.	1
	Public Order	1
	Firearms	2
	Other Weapons	2
	Other	1
Number of Prior Convictions	None	0
	1	1
	2-3	2
	4-5	3
	>5	4
Prior Conviction Offense Type	Person/Sex	0
	Property	1
	Drug	1
	Public Order	1
	Public Admin.	1
	DUI	0
	Firearm/Weapon	-1
Multiple Current Convictions	Yes	1
	No	0
Prior Juvenile Adjudication	Yes	1
	No	0
Scale		0 to 18

§ 305.8. Recidivism Rates by Risk Score.

Risk Scale	Total	Number		Percent		Mean	St. Dev. (SD)
		No	Yes	No	Yes		
0-1	537	504	33	94%	6%	7.1	2.6
2	3,131	2,790	341	89%	11%	+1 SD	9.6
3	7,625	6,568	1,057	86%	14%	-1 SD	4.5
4	11,645	9,569	2,076	82%	18%		
5	14,133	11,021	3,112	78%	22%		
6	17,962	13,289	4,673	74%	26%		
7	20,577	14,003	6,574	68%	32%		
8	18,611	11,406	7,205	61%	39%		
9	13,929	7,825	6,104	56%	44%		
10	10,044	5,076	4,968	51%	49%		
11	6,554	3,209	3,345	49%	51%		
12	3,640	1,614	2,026	44%	56%		
13	1,719	716	1,003	42%	58%		
14	701	269	432	38%	62%		
15-18	256	83	173	32%	68%		
<b>Total</b>	<b>131,064</b>	<b>87,942</b>	<b>43,122</b>	<b>67%</b>	<b>33%</b>		

§ 305.9. Guideline Sentence Form.

PENNSYLVANIA COMMISSION ON SENTENCING

[7th Ed. (12/28/2012), 7th Amend 1 (9/27/2013),

Date printed: 5/2/2019

Date submitted:

SGS Web ID Number

W9999991

SGS Web Generated Form (PCS 12D 4/2016)

7th Amend 2 (9/26/2014), 7th Amend 3 (9/25/2015)]

PO Box 1200  
State College, PA 16804

Offender's Name (Last, First Middle) <b>Doe, John Christopher</b>		Date of Birth <b>10/20/1992</b>	Gender <b>Male</b>	Race <b>White</b>	Form <b>1 of 1</b>
County <b>PA County</b>	Police Photo ID Num.	Judge's Name <b>County Judge</b>	Person printing form <b>testuser</b>	Date of Sentence	
Offender Employed <b>Unknown</b>	Offender Wage Rate	JP Sentence Risk Assessment	Additional Information Recommended		

Prior Offenses	Juvenile Adjudication	Adult Convictions	
Murder & inchoates	0	0	
Vol. Manslaughter	0	0	
Rape	0	0	
Kidnapping	0	0	
I.D.S.I.	0	0	
Arson Endangering Persons (F1)	0	0	
Robbery (F1)	0	0	
Rob. Motor Veh	0	0	0
Agg. Assault (F1-Cause SBI)	0	0	
Burglary (house/person)	0	0	
Agg. Indecent Assault	0	0	
Incest	0	0	
Sexual Assault	0	0	
Ethnic Intimidation to Any F1	0	0	
Drug Delivery/Death & Inchoate	0	0	
Weapons of Mass Destruction	0	0	
Other 4 Point Offenses	0	0	
Subtotal	0	0	x4= 0

Inchoate to 4 point offenses	0	0	
Burglary (other F1)	0	0	
[Other] Felony 1 offenses	0	0	0
Subtotal	0	0	x3= 0
[Other] Felony 2 Offenses	0	0	x2= 0

Felony Drugs (>=50gr.)	0	0	x3= 0
[Other] Felony Drugs	0	0	x2= 0
[Other] Felony 3 Offenses	0	0	
M1 Offenses Involving Death	0	0	
M1 Offenses Involving Weapons	0	0	
M1 Offenses Involving Children	0	0	0
Subtotal	0	0	x1= 0

<b>DUI Offenses [Do not include 1st DUI in total]</b>			
Uncl. Misd.		0	
M-2		0	
M-1	0	0	
Subtotal	0	0	x1= 0
Other Misd.	0	0-1=0	4-6=2
		2-3=1	7+=3
			0 = 0

If A is 8 points or greater, and the OGS=9 or more: REVOG	
PRIOR	Otherwise, if A + B is 6 points or greater: RFEL
RECORD	Otherwise, PRS= A + B + C (maximum of 5): 0
SCORE	Juvenile adjudications do NOT lapse: 0
	* Juvenile adjudications lapse: 0

Negotiated Plea as to Sentence:	
Problem Solving Court:	
Total amount of supervision (all sanctions) for this offense	
<b>0 Month(s)</b>	
Is this offense Totally Concurrent to any other offense? <b>No</b>	
Reasons for Sentence:	

Offense Name/Description <b>Burglary-not a home/no person present</b>			
Title & Section <b>18 3502 A4</b>	Date of Offense <b>3/3/2019</b>	Age at Offense <b>25</b>	OTN <b>Z1234567</b>
Grade <b>F-2</b>	OGS <b>5</b>	PRS <b>0</b>	Docket# <b>CP-54-CR-000805-2018</b>
Count# <b>1</b>			
Guideline Ranges	Mitigated <b>~</b>	Standard <b>RS - 9</b>	Aggravated <b>12</b>
Level <b>2</b>			
Fines <b>\$1631 - \$1813</b>	Community Service <b>225 - 250 hours</b>	Statutory Limits: <b>60</b>	Maximum <b>120</b>
Mandatory Minimum:	Mandatory		
<b>Enhancements</b>			
<input checked="" type="checkbox"/> None	<input type="checkbox"/> Youth/Drug	<input type="checkbox"/> DWE-Possessed	
<input type="checkbox"/> Sexual Abuse-Images	<input type="checkbox"/> School/Drug	<input type="checkbox"/> DWE-Used	
<input type="checkbox"/> Sexual Abuse-Nature	<input type="checkbox"/> Criminal Gang	<input type="checkbox"/> Murder, victim<13	
<input type="checkbox"/> Human trafficking	<input type="checkbox"/> Arson		
<b>Other Information</b>			
Y N	Y N	Victim Age: _____	JP Sexual Offender Info
<input type="checkbox"/> D&A Eval./Prelim	<input type="checkbox"/> D&A Eval./Full		Y N Assessment:
<input type="checkbox"/> D&A Dependent	<input type="checkbox"/> PSI Completed		<input type="checkbox"/> Required
<input checked="" type="checkbox"/> Offense SIP Eligible	<input checked="" type="checkbox"/> Offense CIP Eligible		<input type="checkbox"/> Ordered
<input type="checkbox"/> Prosecutor Waived Inelig.	<input type="checkbox"/> Prosecutor Waived Inelig.		<input type="checkbox"/> Completed
<input type="checkbox"/> Judge Authorized Waiver	<input type="checkbox"/> Judge Authorized Waiver		<input type="checkbox"/> Hearing held
			<input type="checkbox"/> Sexually Viol. Predator
<b>RRRI Minimum Information (Entire JP)</b>			
Y N	Number of prior RRRI sentences: _____		
<input type="checkbox"/> Judge approved (w/ prior RRRI)			
<input type="checkbox"/> Offender ineligible (prior off.)			
<input type="checkbox"/> Offender ineligible (prior beh., mand.)			
<input type="checkbox"/> Prosecutor Waived Inelig.	JP Minimum Sentence	JP RRRI Sentence	
<input type="checkbox"/> Judge authorized DA Waiver			
<input type="checkbox"/> Judges State RRRI			
<b>Confinement</b>			
<input type="checkbox"/> State Facility	<input type="checkbox"/> County Facility		
Minimum: _____ (mos.)	<input type="checkbox"/> County Reentry Authorized		
Maximum: _____ (mos.)	<input type="checkbox"/> Boot Camp Authorized		
Credit for time served: _____	<input type="checkbox"/> Work Release Authorized		
<input type="checkbox"/> County Intermediate Punishment (CIP)	<input type="checkbox"/> State IP (SIP)		
RIP period: _____ (mos.)	Program (1st): _____		
RS period: _____ (mos.)	Program: _____		
Community Service hours: _____			
If DRUG DEPENDENT, is IP consistent with clinical recommendation?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
<b>Restorative Sanctions</b>			
<input type="checkbox"/> Probation Period _____ (mos.)	<input type="checkbox"/> Concurrent	<input type="checkbox"/> Consecutive	
<input type="checkbox"/> Conditions _____	to the incarceration for this offense		
<input type="checkbox"/> Fines: \$ _____			
<input type="checkbox"/> Restitution: \$ _____	<input type="checkbox"/> Concurrent	<input type="checkbox"/> Consecutive	
<input type="checkbox"/> JP Costs: \$ _____	to the CIP for this offense?		
<input type="checkbox"/> JP Fees: \$ _____			
<input type="checkbox"/> Guilty without further penalty [NFP]	Community Service hours: _____		
<b>Conformity</b>			
<input type="checkbox"/> Standard	Departure:	<input type="checkbox"/> Neg Guilty Plea	
<input type="checkbox"/> Aggravated	<input type="checkbox"/> Below	<input type="checkbox"/> Non-Neg Guilty Plea	
<input type="checkbox"/> Mitigated	<input type="checkbox"/> Above	<input type="checkbox"/> Jury Trial	
		<input type="checkbox"/> Other _____	
		<input type="checkbox"/> Bench Trial	

# THE COURTS

## Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

### PART VII. ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS

[ 204 PA. CODE CH. 213 ]

#### Electronic Case Record Public Access Policy of the Unified Judicial System of Pennsylvania

In accordance with the Judicial Code, 42 Pa.C.S. § 4301(b), the following amendment to the Electronic Case Record Public Access Policy of the Unified Judicial System of Pennsylvania has been approved by the Supreme Court. The amendment shall be effective immediately in the interest of justice. The changes to the policy are shown in bold and underline; deletions are shown in bold and brackets.

The entire policy, including this amendment and other related information, can be found on the Unified Judicial System's public records webpage located at <http://www.pacourts.us>.

Filed in the Administrative Office of Pennsylvania Courts on September 6, 2019.

THOMAS B. DARR,  
*Court Administrator of Pennsylvania*

#### Annex A

### TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

#### PART VII. ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS

#### CHAPTER 213. COURT RECORDS POLICIES

#### Subchapter C. ELECTRONIC CASE RECORD PUBLIC ACCESS POLICY OF THE UNIFIED JUDICIAL SYSTEM OF PENNSYLVANIA

##### § 213.71. Definitions.

(a) "CPCMS" means the Common Pleas Criminal Court Case Management System.

(b) "Custodian" is the person, or designee, responsible for the safekeeping of electronic case records held by any court or office and for processing public requests for access to electronic case records.

(c) "Electronic Case Record" means information or data created, collected, received, produced or maintained by a court or office in connection with a particular case that exists in the PACMS, CPCMS, or MDJS and that appears on web docket sheets or is provided in response to bulk distribution requests, regardless of format. This definition does not include images of documents filed with, received, produced or maintained by a court or office which are stored in PACMS, CPCMS or MDJS and any other automated system maintained by the Administrative Office of Pennsylvania Courts.

(d) "MDJS" means the Magisterial District Judge Automated System.

(e) "Office" is any entity that is using one of the following automated systems: Pennsylvania Appellate Court Case Management System (PACMS); Common

Pleas Criminal Court Case Management System (CPCMS); or Magisterial District Judge Automated System (MDJS).

(f) "PACMS" means the Pennsylvania Appellate Court Case Management System.

(g) "Party" means one by or against whom a civil or criminal action is brought.

(h) "Public" includes any person, business, non-profit entity, organization or association.

(1) "Public" does not include:

(i) Unified Judicial System officials or employees, including employees of the office of the clerk of courts, prothonotary, and any other office performing similar functions;

(ii) people or entities, private or governmental, who assist the Unified Judicial System or related offices in providing court services; and

(iii) any federal, state, or local governmental agency or an employee or official of such an agency when acting in his/her official capacity.

(i) "Public Access" means that the public may inspect and obtain electronic case records, except as provided by law or as set forth in this policy.

(j) "Request for Bulk Distribution of Electronic Case Records" means any request, regardless of the format the information is requested to be received in, for all or a subset of electronic case records.

(k) "UJS" means the Unified Judicial System of Pennsylvania.

(l) "Web Docket Sheets" are internet available representations of data that have been entered into a Unified Judicial System supported case management system for the purpose of recording filings, subsequent actions and events on a court case, and miscellaneous docketed items.

##### § 213.72. Statement of General Policy.

(a) This policy covers all electronic case records.

(b) The public may inspect and obtain electronic case records except as provided by law or as set forth in this policy.

(c) A court or office may not adopt for electronic case records a more restrictive access policy or provide greater access than that provided for in this policy.

##### § 213.73. Electronic Case Record Information Excluded from Public Access.

The following information in an electronic case record is not accessible by the public:

(1) social security numbers;

(2) operator license numbers;

(3) victim information including name, address and other contact information;

(4) informant information including name, address and other contact information;

(5) juror information including name, address and other contact information;

(6) a party's street address, except the city, state, and ZIP code may be released;

(7) witness information including name, address and other contact information;

(8) SID (state identification) numbers;

(9) financial institution account numbers, credit card numbers, PINS or passwords used to secure accounts;

(10) notes, drafts, and work products related to court administration or any office that is the primary custodian of an electronic case record;

(11) information sealed or protected pursuant to court order;

(12) information to which access is otherwise restricted by federal law, state law, or state court rule;

(13) information presenting a risk to personal security, personal privacy, or the fair, impartial and orderly administration of justice, as determined by the Court Administrator of Pennsylvania with the approval of the Chief Justice; and

(14) information regarding arrest warrants and supporting affidavits until execution.

**§ 213.74. Requests for Bulk Distribution of Electronic Case Records.**

(a) **[ A ] To the extent that adequate resources and technical capabilities exist, a** request for bulk distribution of electronic case records shall be permitted for data that is not excluded from public access as set forth in this policy.

(b) **[ A ] To the extent that adequate resources and technical capabilities exist, a** request for bulk distribution of electronic case records not publicly accessible under § 213.73 of this Policy may be fulfilled where: the information released does not identify specific individuals; the release of the information will not present a risk to personal security or privacy; and the information is being requested for a scholarly, journalistic, governmental-related, research or case preparation purpose.

(1) Requests of this type will be reviewed on a case-by-case basis.

(2) In addition to the request form, the requestor shall submit in writing:

(i) the purpose/reason for the request;

(ii) identification of the information sought;

(iii) explanation of the steps that the requestor will take to ensure that the information provided will be secure and protected;

(iv) certification that the information will not be used except for the stated purposes; and

(v) whether IRB approval has been received, if applicable.

**§ 213.75. Requests for Electronic Case Record Information from Another Court or Office.**

Any request for electronic case record information from another court should be referred to the proper record custodian in the court or office where the electronic case record information originated. Any request for electronic case record information concerning multiple magisterial district judge courts or judicial districts should be referred to the Administrative Office of the Pennsylvania Courts.

**§ 213.76. Responding to a Request for Access to Electronic Case Records.**

(a) Within 10 business days of receipt of a written request for electronic case record access, the respective court or office shall respond in one of the following manners:

(1) fulfill the request, or if there are applicable fees and costs that must be paid by the requestor, notify requestor that the information is available upon payment of the same;

(2) notify the requestor in writing that the requestor has not complied with the provisions of this policy;

(3) notify the requestor in writing that the information cannot be provided; or

(4) notify the requestor in writing that the request has been received and the expected date that the information will be available. If the information will not be available within 30 business days, the court or office shall notify the Administrative Office of Pennsylvania Courts and the requestor simultaneously.

(b) If the court or office cannot respond to the request as set forth in subsection (a) the court or office shall concurrently give written notice of the same to the requestor and Administrative Office of Pennsylvania Courts.

**§ 213.77. Fees.**

(a) Reasonable fees may be imposed for providing public access to electronic case records pursuant to this policy.

(b) A fee schedule shall be in writing and publicly posted.

(c) A fee schedule in any judicial district, including any changes thereto, shall not become effective and enforceable until:

(1) a copy of the proposed fee schedule is submitted by the president judge to the Administrative Office of Pennsylvania Courts; and

(2) the Administrative Office of Pennsylvania Courts has approved the proposed fee schedule.

**§ 213.78. Correcting Data Errors.**

(a) A party to a case, or the party's attorney, seeking to correct a data error in an electronic case record shall submit a written request for correction to the court in which the record was filed.

(b) A request to correct an alleged error contained in an electronic case record of the Supreme Court, Superior Court or Commonwealth Court shall be submitted to the prothonotary of the proper appellate court.

(c) A request to correct an alleged error contained in an electronic case record of the Court of Common Pleas, Philadelphia Municipal Court or a Magisterial District Court shall be submitted and processed as set forth below.

(1) The request shall be made on a form designed and published by the Administrative Office of Pennsylvania Courts.

(2) The request shall be submitted to the clerk of courts if the alleged error appears in an electronic case record of the Court of Common Pleas or Philadelphia Municipal Court. The requestor shall also provide copies

of the form to all parties to the case, the District Court Administrator and the Administrative Office of Pennsylvania Courts.

(3) The request shall be submitted to the Magisterial District Court if the alleged error appears in an electronic case record of the Magisterial District Court. The requestor shall also provide copies of the form to all parties to the case, the District Court Administrator and the Administrative Office of Pennsylvania Courts.

(4) The requestor shall set forth on the request form with specificity the information that is alleged to be in error and shall provide sufficient facts including supporting documentation that corroborates the requestor's contention that the information in question is in error.

(5) Within 10 business days of receipt of a request, the clerk of courts or Magisterial District Court shall respond in writing to the requestor, all parties to the case, and Administrative Office of Pennsylvania Courts, in one of the following manners:

(i) the request does not contain sufficient information and facts to adequately determine what information is alleged to be error; accordingly, the request form is being returned to the requestor; and no further action will be taken on this matter unless the requestor resubmits the request with additional information and facts.

(ii) the request does not concern an electronic case record that is covered by this policy; accordingly, the request form is being returned to the requestor; no further action will be taken on this matter.

(iii) it has been determined that an error does exist in the electronic case record and that the information in question has been corrected.

(iv) it has been determined that an error does not exist in the electronic case record.

(v) the request has been received and an additional period not exceeding 30 business days is necessary to complete the review of this matter.

(6) A requestor has the right to seek review of a final decision under subsection 5(i)—(iv) rendered by a clerk of courts or a Magisterial District Court within 10 business days of notification of that decision.

(i) The request for review shall be submitted to the District Court Administrator on a form that is designed and published by the Administrative Office of Pennsylvania Courts.

(ii) If the request for review concerns a Magisterial District Court's decision, it shall be reviewed by the judge assigned by the President Judge.

(iii) If the request for review concerns a clerk of courts' decision, it shall be reviewed by the judge who presided over the case from which the electronic case record alleged to be in error was derived.

#### § 213.79. Continuous Availability of Policy.

A copy of this policy shall be continuously available for public access in every court or office that is using the PACMS, CPCMS, and/or MDJS.

#### EXPLANATORY REPORT

#### Electronic Case Record Public Access Policy of the Unified Judicial System of Pennsylvania

##### Introduction

With the statewide implementation of the Common Pleas Criminal Court Case Management System

(CPCMS) in process, the Administrative Office of the Pennsylvania Courts (AOPC) faced the complicated task of developing a uniform public access policy to criminal case records for Pennsylvania's Unified Judicial System (UJS). Public access to case records is a subject well known to the AOPC. Specifically, the AOPC has been providing information to the public from the judiciary's Magisterial District Judge Automated System (MDJS) pursuant to a public access policy covering MDJS records since 1994.<sup>1</sup> For over a decade now, the AOPC has endeavored to provide accurate and timely MDJS information to requestors without fail.

Like many other state court systems as well as the federal courts, Pennsylvania is confronted with the complex issues associated with public access to case records. Should information found in court files be completely open to public inspection? Or do privacy and/or personal security concerns dictate that some of this information be protected from public view? How is the balance struck between the benefits associated with publicly accessible court data and the threat of harm to privacy and personal security? Should paper case records and electronic case records be treated identically for public access purposes? Does aggregation of data present any special concerns or issues? The above mentioned issues are a mere sampling of the many serious, and often competing, factors that were weighed in the development of this policy.

Through an ad hoc committee ("Committee") appointed by the Court Administrator of Pennsylvania, the AOPC crafted a public access policy covering case records. A summary of the administrative, legal, and public policy considerations that guided the design of the policy provisions follows herewith.

#### *Administrative Scope of the Public Access Policy Governing Case Records*

First and foremost, the Committee was charged with determining the scope of this public access policy. After extensive discussions, the Committee reached agreement that at present the public access policy should cover electronic case records as defined in the policy.<sup>2</sup>

Concerning paper case record information, the Committee first noted that if this policy was applicable to all paper case records then each document that is contained in the court's paper file would have to be carefully scrutinized and possibly redacted pursuant to the policy provisions before it could be released to the public. Depending on individual court resources, such a policy may cause delays in fulfilling public access requests to case records, result in the inadvertent release of non-public information, or impede the business of a filing office or court responsible for the task of review and redaction.<sup>3</sup>

<sup>1</sup> The *Public Access Policy of the Unified Judicial System of Pennsylvania: District Justice Records* as originally adopted in 1994, but was later revised in 1997.

<sup>2</sup> Electronic Case Records mean information or data created, collected, received, produced or maintained by a court or office in connection with a particular case that exists in the PACMS, CPCMS, or MDJS and that appears on the web docket sheets or is provided in response to bulk distribution requests, regardless of format.

<sup>3</sup> The Committee's research revealed that some jurisdictions have proposed or enacted rules/procedures to provide for the redaction of paper records without requiring court staff to redact the information. For example, a number of state court systems are proposing the use of sensitive data sheets to be filed by litigants (e.g., Washington and Arizona). These data sheets contain the personal identifiers (e.g., social security number, etc.) that are normally found throughout a complaint or petition. The data sheets appear to obviate the need for redaction on the part of the filing office or court and protect sensitive data. Another approach taken by the federal court system is the redaction, fully or partially, of sensitive data in the pleadings or complaint by litigants or their attorneys prior to filing (e.g., U.S. District Court for the Eastern District of Pennsylvania Local Rule of Civil Procedure Rule 5.1.3.). It is the opinion of the Committee that the UJS should move in the direction of creating sensitive data sheets (like Washington and Arizona), especially as electronic filing becomes more the norm.



The Committee is hopeful, however, that the information contained in paper case records concerning a single case will continue to enjoy an acceptable level of protection provided by “practical obscurity,” a concept that the U.S. Supreme Court spoke of in *United States Department of Justice v. Reporters Committee for Freedom of the Press*.<sup>4</sup> This notion of practical obscurity centers on the effort required to peruse the paper case file for detailed information at the courthouse in person, as opposed to obtaining it instantaneously by a click of the computer mouse.

At the heart of this issue is the question of whether access to paper records and electronic records should be the same. The Committee researched how other state court systems are addressing this issue. It appears that two distinct schools of thought have emerged. One school (represented by the New York<sup>5</sup> and Vermont<sup>6</sup> court systems) believes records should be treated the same and the goal is to protect certain information regardless of what form (paper or electronic) that information is in. The other school of thought (represented by the Massachusetts<sup>7</sup> and Minnesota<sup>8</sup> court systems) believes there is a difference between maintaining “public” records for viewing/copying at the courthouse and “publishing” records on the Internet.

The Committee further narrowed the scope of the public access policy concerning electronic case records by covering only those records that are created and maintained by one of the UJS’ automated case management systems, as opposed to any and all electronic case records created and maintained by courts within the UJS. The Committee is aware that some judicial districts currently have civil automated case management systems in place, but the scope and design of those systems is as different as the number of judicial districts employing them. Crafting a single policy that would take into account the wide differences among those systems led to the decision to limit the scope to the PACMS, CPCMS and MDJS.

#### *Legal Authority Pertinent to the Public Access Policy Governing Electronic Case Records*

Article V, Section 10(c) of the Pennsylvania Constitution vests the Supreme Court with the authority to, *inter alia*, prescribe rules governing practice, procedure and the conduct of all courts. Section 10(c) extends these powers to the administration of all courts and supervision of all officers of the Judicial Branch. Rule of Judicial Administration 505(11) charges the AOPC with the supervision of “all administrative matters relating to the offices of the prothonotaries and clerks of court and other system and related personnel engaged in clerical functions, including the institution of such uniform procedures, indexes and dockets as may be approved by the Supreme Court.” Rule of Judicial Administration 501(a) provides in part that “[t]he Court Administrator [of Pennsylvania] shall be responsible for the prompt and proper disposition of the business of all courts. . . .” Rule of Judicial Administration 504(b) sets forth that “the Court Administrator shall. . . exercise the powers necessary for the administration of the system and related personnel and the administration of the Judicial Branch and the unified judicial system.” In addition, Rule of Judicial Administration 506(a) provides that “[a]ll system and related personnel shall comply with all standing and special requests or

directives made by the [AOPC] for information and statistical data relative to the work of the system and of the offices related to and serving the system and relative to the expenditure of public monies for their maintenance and operation.”

Moreover, 42 Pa.C.S. § 4301(b) provides in part that “all system and related personnel engaged in clerical functions shall establish and maintain all dockets, indices and other records and make and file such entries and reports, at such times, in such manner and pursuant to such procedures and standards as may be prescribed by the Administrative Office of Pennsylvania Courts with the approval of the governing authority.” 42 Pa.C.S. § 102 provides that system and related personnel of our Unified Judicial System is defined as including but not limited to clerks of courts and prothonotaries. Under the auspices of the aforementioned legal authority, this policy was created.

As part of its preparations to devise provisions governing access to electronic case records, the Committee researched and reviewed the applicable body of law concerning the public’s right to access case records and countervailing interests in personal privacy and security.

#### *Common Law Right to Access*

A general common law right to inspect and copy public judicial records and documents exists. And while this common law right to access has been broadly construed, the right is not absolute. In determining whether this common law right to access is applicable to a specific document, a court must consider two questions.<sup>9</sup>

The threshold question is whether the document sought to be disclosed constitutes a public judicial document.<sup>10</sup> Not all documents connected with judicial proceedings are public judicial documents.<sup>11</sup> If a court determines that a document is a public judicial document, the document is presumed open to public inspection and copying. This presumption of openness may be overcome by circumstances warranting closure of the document. Therefore, the second question a court must address is whether such circumstances exist and outweigh the presumption of openness.<sup>12</sup>

Circumstances that courts have considered as outweighing the presumption of openness and warranting the closure of documents include: (a) the protection of trade secrets;<sup>13</sup> (b) the protection of the privacy and reputations of innocent parties;<sup>14</sup> (c) guarding against risks to national security interests;<sup>15</sup> (d) minimizing the danger of unfair trial by adverse publicity;<sup>16</sup> (e) the need of the prosecution to protect the safety of informants;<sup>17</sup> (f) the necessity of preserving the integrity of ongoing criminal investigations;<sup>18</sup> and (g) the availability of reasonable alternative means to protect the interests threatened by disclosure.<sup>19</sup>

These types of considerations have been found to outweigh the common law right to access with respect to

<sup>9</sup> See *Commonwealth v. Fenstermaker*, 530 A.2d 414, 418-20 (Pa. 1987).

<sup>10</sup> *Id.* at 418.

<sup>11</sup> *In re Cendant*, 260 F.3d 183, 192 (3d Cir. 2001) (stating that documents that have been considered public judicial documents have one or more of the following characteristics: (a) filed with the court, (b) somehow incorporated or integrated into the court’s adjudicatory proceedings, (c) interpreted or the terms of it were enforced by the court, or (d) required to be submitted to the court under seal).

<sup>12</sup> See *Fenstermaker*, 530 A.2d at 420.

<sup>13</sup> *In re Buchanan*, 823 A.2d 147, 151 (Pa. Super. Ct. 2003), citing *Katz v. Katz*, A.2d 1374, 1377-78 (Pa. Super. Ct. 1986).

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>4</sup> 489 U.S. 749, 780 (1989).

<sup>5</sup> *Report to the Chief Judge of the State of New York* by the Commission on Public Access to Court Records (February, 2004).

<sup>6</sup> VERMONT RULES FOR PUBLIC ACCESS TO COURT RECORDS § 1—8 (2004).

<sup>7</sup> *Policy Statement by the Justices of the Supreme Judicial Court Concerning Publications of Court Case Information on the Web* (May 2003).

<sup>8</sup> MN ST ACCESS TO REC RULE 1-11 (WEST 2006).

the following records: transcript of bench conferences held in camera;<sup>20</sup> working notes maintained by the prosecutor and defense counsel at trial;<sup>21</sup> a brief written by the district attorney and presented only to the court and the defense attorney but not filed with the court nor made part of the certified record of appeal;<sup>22</sup> and private documents collected during discovery as well as pretrial dispositions and interrogatories.<sup>23</sup>

On the other hand, examples of records wherein the common law right to access has prevailed include arrest warrant affidavits;<sup>24</sup> written bids submitted to the federal district court for the purpose of selecting lead counsel to represent plaintiffs in securities litigation class action;<sup>25</sup> search warrants and supporting affidavits;<sup>26</sup> transcripts of jury voir dire;<sup>27</sup> pleadings and settlement agreements.<sup>28</sup>

#### *Federal Constitutional Right to Access*

The United States Supreme Court has recognized a First Amendment right of access to most, but not all, court proceedings and documents.<sup>29</sup> To determine if a First Amendment right attaches to a particular proceeding or document, a two prong inquiry known as the "experience and logic test" must guide the decision to allow access or prohibit it. The "experience" prong involves consideration of whether the place and process have historically been open to the press and general public.<sup>30</sup> The "logic" prong involves consideration of "whether public access plays a significant positive role in the functioning of the particular process in question."<sup>31</sup>

With respect to the "logic" test, courts have looked to the following societal interests advanced by open court proceedings:

- (1) promotion of informed discussion of governmental affairs by providing the public with a more complete understanding of the judicial system;
- (2) promotion of the public perception of fairness which can be achieved only by permitting full public view of the proceedings;
- (3) providing significant therapeutic value to a community as an outlet for concern, hostility, and emotion;
- (4) serving as a check on corrupt practices by exposing the judicial process to public scrutiny;
- (5) enhancement of the performance of all involved; and
- (6) discouragement of perjury.<sup>32</sup>

If the court finds that a First Amendment right does attach to a proceeding or document, *there is not an*

*absolute right to access*. Rather, the court may close a proceeding or document if closure is justified by overriding principles. For instance, in criminal cases, closure can occur if it serves a compelling government interest and, absent limited restrictions upon the right to access to the proceeding or document, other interests would be substantially and demonstrably impaired.<sup>33</sup> For example, a court may be able to withhold the release of the transcript of the jury voir dire until after the verdict is announced if in the court's opinion it was necessary to protect the jury from outside influences during its deliberations.<sup>34</sup>

Examples of proceedings or documents in which the courts have found a First Amendment right to access include: the voir dire examination of potential jurors,<sup>35</sup> preliminary hearings,<sup>36</sup> and post trial examination of jurors for potential misconduct.<sup>37</sup>

Examples of proceedings or documents wherein the courts have not found a First Amendment right to access include: a motion for contempt against a United States Attorney for leaking secret grand jury information,<sup>38</sup> sentencing memorandum and briefs filed that contained grand jury information,<sup>39</sup> and pretrial discovery materials.<sup>40</sup>

The defendant's Sixth Amendment right to a public trial may also warrant closure of judicial documents and proceedings; however, this right is implicated when the defendant objects to a proceeding being closed to the public. Courts have held that a proceeding can be closed even if the defendant does object, for the presumption of openness may be overcome by an overriding interest based on findings that closure is essential to preserve higher values and is narrowly tailored to serve that interest.<sup>41</sup>

#### *Pennsylvania Constitutional Right to Access*

The Pennsylvania Supreme Court has established that courts shall be open by virtue of provisions in the Pennsylvania Constitution. Specifically, this constitutional mandate is found in Article I, § 9 which provides in part that "[i]n all criminal prosecutions the accused hath a right to. . . a speedy public trial by an impartial jury of the vicinage[.]" and Article I, § 11 which provides in part that "[a]ll courts shall be open. . ."<sup>42</sup> Specifically, in *Fenstermaker*, the Court held that

[t]he historical basis for public trials and the interests which are protected by provisions such as Pennsylvania's open trial mandate have been well researched and discussed in two recent opinions of the United States Supreme Court, *Gannett Co. v. DePasquale*, [citation omitted] and *Richmond Newspapers, Inc. v. Virginia*, [citation omitted] and can be briefly summarized as follows: generally, to assure the public that justice is done even-handedly and fairly; to discourage perjury and the misconduct of participants; to prevent decisions based on secret bias or partiality; to prevent individuals from feeling that the law should be taken into the hands of private citizens; to satisfy the natural desire to see justice

<sup>20</sup> *Id.* at 418.

<sup>21</sup> *Id.*

<sup>22</sup> *Commonwealth v. Crawford*, 789 A.2d 266, 271 (Pa. Super. Ct. 2001).

<sup>23</sup> *Stenger v. Lehigh Valley Hosp. Ctr.*, 554 A.2d 954, 960-61 (Pa. Super. Ct. 1989), citing *Seattle Times v. Rhinehart*, 467 U.S. 20, 33 (1984).

<sup>24</sup> *Fenstermaker*, 530 A.2d at 420.

<sup>25</sup> *In re Cendant*, 260 F.3d at 193.

<sup>26</sup> *PG Publ'g Co. v. Copenhefer*, 614 A.2d 1106, 1108 (Pa. 1992).

<sup>27</sup> *U.S. v. Antar*, 38 F.3d 1348, 1358 (3d Cir. 1994).

<sup>28</sup> *Stenger*, 554 A.2d at 960, citing *Fenstermaker*, 530 A.2d 414; *Bank of Am. Nat'l Trust v. Hotel Rittenhouse Associates*, 800 F.2d 339 (3d Cir. 1987); *In re Alexander Grant and Co. Litigation*, 820 F.2d 352 (11th Cir. 1987).

<sup>29</sup> *In re Newark Morning Ledger Co.*, 260 F.3d 217, 220-21 (3d Cir. 2001), citing *Richmond Newspapers v. Va.*, 448 U.S. 555, 578 (1980); *Nixon v. Warner Communications, Inc.*, 435 U.S. 589, 597 (1978); *Antar*, 38 F.3d at 1359-60; *Press-Enterprise v. Super. Ct. of Cal.*, 478 U.S. 1, 11-12 (1986) [hereinafter *Press-Enterprise II*]; *Leucadia, Inc. v. Applied Extrusion Techs., Inc.*, 998 F.2d 157, 161 (3d Cir. 1993); *U.S. v. Criden*, 675 F.2d 550, 554 (3d Cir. 1982); *U.S. v. Smith*, 787 F.2d 111, 114 (3d Cir. 1986); *Douglas Oil Co. of Cal. v. Petrol Stops*, 441 U.S. 211, 218 (1979). *But see U.S. v. McVeigh*, 119 F.3d 806 (10th Cir. 1997) (declining to decide whether there is a First Amendment right to judicial document, noting the lack of explicit Supreme Court holdings on the issue since *Press-Enterprise II*, 478 U.S. 1, 11-12 (1986)).

<sup>30</sup> *In re Newark Morning Ledger*, 260 F.3d at 221 n.6., citing *Press-Enterprise II*, 478 U.S. at 8-9.

<sup>31</sup> *Id.*, citing *Press-Enterprise II*, 478 U.S. at 8-9.

<sup>32</sup> *Id.*, citing *Smith*, 787 F.2d at 114 (summarizing *Criden*, 675 F.2d at 556).

<sup>33</sup> *In re Newark Morning Ledger*, 260 F.3d at 221, citing *U.S. v. Smith*, 123 F.3d 140, 147 (3d Cir. 1997) (quoting *Antar*, 38 F.3d at 1359).

<sup>34</sup> *Antar*, 38 F.3d at 1362.

<sup>35</sup> *Richmond Newspapers*, 448 U.S. 555 (1980).

<sup>36</sup> *Press-Enterprise II*, 478 U.S. 1 (1982).

<sup>37</sup> *U.S. v. DiSalvo*, 14 F.3d 833, 840 (3d Cir. 1994).

<sup>38</sup> *In re Newark Morning Ledger*, 260 F.3d 217.

<sup>39</sup> *Smith*, 123 F.3d at 143-44.

<sup>40</sup> *Stenger*, 554 A.2d at 960, citing *Seattle Times*, 467 U.S. at 33.

<sup>41</sup> E.g., *Waller v. Georgia*, 467 U.S. 39, 45 (1984), citing *Press-Enterprise Co. v. Super. Ct. of Cal.*, 464 U.S. 501, 510 (1984) [hereinafter *Press-Enterprise I*].

<sup>42</sup> *Fenstermaker*, 530 A.2d at 417 (citing PA. CONST. art. I, §§ 9, 11).

done; to provide for community catharsis; to promote public confidence in government and assurance that the system of judicial remedy does in fact work; to promote the stability of government by allowing access to its workings, thus assuring citizens that government and the courts are worthy of their continued loyalty and support; to promote an understanding of our system of government and courts.

These considerations, which were applied by the United States Supreme Court in its analysis of the First and Sixth Amendments [of the United States Constitution] in *Gannett* and *Richmond Newspapers* apply equally to our analysis of Pennsylvania's constitutional mandate that courts shall be open and that an accused shall have the right to a public trial.<sup>43</sup>

With regard to the right to a public trial, the Court has held that in determining whether a court's action has violated a defendant's right to a public trial, a court must keep in mind that such a right serves two general purposes: "(1) to prevent an accused from being subject to a star chamber proceeding;<sup>44</sup> and (2) to assure the public that standards of fairness are being observed."<sup>45</sup> Moreover, the right to a public trial is not absolute; rather, "it must be considered in relationship to other important interests. . . [such as] the orderly administration of justice, the protection of youthful spectators and the protection of a witness from embarrassment or emotional disturbance."<sup>46</sup> If a court determines that the public should be excluded from a proceeding, the exclusion order "must be fashioned to effectuate protection of the important interest without unduly infringing upon the accused's right to a public trial either through its scope or duration."<sup>47</sup>

With regard to the constitutional mandate that courts shall be open, "[p]ublic trials, so deeply ingrained in our jurisprudence, are mandated by Article I, Section 11 of the Constitution of this Commonwealth [and further that] *public trials include public records* [emphasis added]."<sup>48</sup> Courts in analyzing Section 11 issues have held that there is a presumption of openness which may be rebutted by a claim that the denial of public access serves an important government interest and there is no less restrictive way to serve that government interest. Under this analysis, "it must be established that the material is the kind of information that the courts will protect and that there is good cause for the order to issue."<sup>49</sup> For example, a violation of Section 11 was found when a court closed an inmate/defendant's preliminary hearing to the public under the pretense of "vague" security concerns.<sup>50</sup>

In at least one case, the Court set forth in a footnote that Article 1, § 7 is a basis for public access to court records.<sup>51</sup> Section 7 provides in part that "[t]he printing press shall be free to every person who may undertake to examine the proceedings of the Legislature or *any branch of government* and no law shall ever be made to restrain the right thereof."

<sup>43</sup> *Id.*, citing *Commonwealth v. Contankos*, 453 A.2d 578, 579-80 (Pa. 1982).

<sup>44</sup> During the reign of Henry VIII and his successors, the jurisdiction of the star chamber court was illegally extended to such a degree (by punishing disobedience to the king's arbitrary proclamations) that it was eventually abolished. Black's Law Dictionary (1990).

<sup>45</sup> *Commonwealth v. Harris*, 703 A.2d 441, 445 (Pa. 1997), citing *Commonwealth v. Berrigan*, 501 A.2d 226 (Pa. 1985).

<sup>46</sup> *Commonwealth v. Conde*, 822 A.2d 45, 49 (Pa. Super. Ct. 2003), citing *Commonwealth v. Knight*, 364 A.2d 902, 906-07 (Pa. 1976).

<sup>47</sup> *Id.*, citing *Knight*, 364 A.2d at 906-07.

<sup>48</sup> *Commonwealth v. French*, 611 A.2d 175, 180 n.12 (Pa. 1992).

<sup>49</sup> *R.W. v. Hampe*, 626 A.2d 1218, 1220 (Pa. Super. Ct. 1993), citing *Hutchinson v. Luddy*, 581 A.2d 578, 582 (Pa. Super. Ct. 1990) (citing *Publicker Industries, Inc. v. Cohen*, 733 F.2d 1059, 1070 (3d Cir. 1983)).

<sup>50</sup> *Commonwealth v. Murray*, 502 A.2d 624, 629 (Pa. Super. Ct. 1985) *appeal denied*, 523 A.2d 1131 (Pa. 1987).

<sup>51</sup> *French*, 611 A.2d at 180 n.12.

### *Legislation Addressing Public Access to Government Records*

The Freedom of Information Act (FOIA), codified in Title 5 § 552 of the United States Code, was enacted in 1966 and generally provides that any person has the right to request access to federal agency records or information. All agencies of the executive branch of the United States government are required to disclose records upon receiving a written request for them, except for those records (or portions of them) that are protected from disclosure by the nine exemptions and three exclusions of the FOIA. This right of access is enforceable in court. The FOIA does not, however, provide access to records held by state or local government agencies, or by private businesses or individuals.<sup>52</sup>

The Privacy Act of 1974<sup>53</sup> is a companion to the FOIA. The Privacy Act regulates federal government agency record-keeping and disclosure practices and allows most individuals to seek access to federal agency records about themselves. The Act requires that personal information in agency files be accurate, complete, relevant, and timely. The subject of a record may challenge the accuracy of information. The Act requires that agencies obtain information directly from the subject of the record and that information gathered for one purpose is not to be used for another purpose. Similar to the FOIA, the Act provides civil remedies for individuals whose rights may have been violated. Moreover, the Act restricts the collection, use and disclosure of personally identifiable information (e.g., social security numbers) by federal agencies.<sup>54</sup>

Pennsylvania's Right to Know Act<sup>55</sup> (RTKA) gives Pennsylvanians the right to inspect and copy certain executive branch records. The RTKA was originally enacted in 1957 but was substantially amended by Act 100 of 2002. Records that are available under the RTKA include "any account, voucher or contract dealing with the receipt or disbursement of funds by an agency or its acquisition, use or disposal of services or of supplies, materials, equipment or other property and any minute, order or decision by an agency fixing the personal or property rights, privileges, immunities, duties or obligations of any person or group of persons."<sup>56</sup> However, records that are not available under the RTKA include:

any report, communication or other paper, the publication of which would disclose the institution, progress or result of an investigation undertaken by an agency in the performance of its official duties, except those reports filed by agencies pertaining to safety and health in industrial plants; any record, document, material, exhibit, pleading, report, memorandum or other paper, access to or the publication of which is prohibited, restricted or forbidden by statute law or order or decree of court, or *which would operate to the prejudice or impairment of a person's reputation or personal security*, or which would result in the loss by the Commonwealth or any of its political subdivisions or commissions or State or municipal authorities of Federal funds, except the record of any conviction for any criminal act [emphasis added].<sup>57</sup>

<sup>52</sup> *United States Department of Justice Freedom of Information Act Reference Guide* (May 2006), available at <http://www.usdoj.gov/04foia/referenceguidemay99.htm>.

<sup>53</sup> 5 U.S.C. § 552a (2006).

<sup>54</sup> *United States House of Representatives A Citizen's Guide on Using the Freedom of Information Act and the Privacy Act of 1974 to Request Government Records* (First Report 2003).

<sup>55</sup> PA. STAT. ANN. tit. 65, §§ 66.1—66.9 (West 2006).

<sup>56</sup> PA. STAT. ANN. tit. 65, § 66.1 (West 2006).

<sup>57</sup> *Id.*

While these federal and state laws are not applicable to court records, the Committee consulted these statutory provisions in drafting the policy.

*Other Court Systems' Approaches Concerning Public Access to Electronic Case Records*

The Committee looked to the policies, whether adopted or proposed by rule or statute or otherwise, of other court systems (federal and state) for guidance and in doing so found a wide variety of practices and approaches to public access. Not surprisingly, the process of putting court records online has produced remarkably disparate results. Courts have made records available in many forms ranging from statewide access systems to individual jurisdictions providing access to their records. Some court systems provide access to both criminal and civil records, while others make distinctions between the treatment of those types of records or restrict users' access to records that may contain sensitive personal information. As noted previously, some states distinguish between electronic and paper records, while others do not.

In particular, the Committee reviewed the policies (whether proposed or fully adopted) of: the Judicial Conference Committee on Court Administration and Case Management (including the Report of the Federal Judicial Center entitled *Remote Public Access to Electronic Criminal Case Records: A Report on a Pilot Project in Eleven Federal Courts*), the U.S. District Court for the Eastern District of Pennsylvania and the Southern District of California, Alaska, Arizona, California, Colorado, Florida, Georgia, Indiana, Idaho, Kansas, Kentucky, Maryland, Massachusetts, Minnesota, Missouri, New York, North Carolina, Washington, Utah, and Vermont.

Additionally, the Committee closely reviewed the materials disseminated by the National Center for State Courts (NCSC) project titled "Developing a Model Written Policy Governing Access to Court Records." Perhaps as an indication of the difficulties inherent in drafting policy provisions to govern public access to court records in a single jurisdiction (let alone nationwide), the NCSC project shifted its focus from developing a model policy to guidelines for local policymaking.<sup>58</sup> The final report of this NCSC project was entitled "Developing CCJ/COSCA Guidelines for Public Access to Court Records: A National Project to Assist State Courts" (CCJ/COSCA Guidelines). As noted in the title, the CCJ/COSCA Guidelines were adopted by the Conference of Chief Justices and the Conference of State Court Administrators.

As it wrestled with and attempted to appropriately balance the thorny issues and significant challenges associated with the development and implementation of a statewide access policy, the Committee was grateful for the insight and thought-provoking discussions these policies engendered.

*Policy Perspectives Weighed in Devising the Public Access Policy Governing Electronic Case Records*

Increasingly in today's society, the courts are witness to the tension between the importance of fully accessible electronic case records and the protection of an individual's privacy and personal security. The two important, but at times seemingly incompatible, interests are perhaps better categorized as the interest in *transparency* (i.e., opening judicial branch processes to public scrutiny) and the competing interests of *personal privacy and personal security*.

<sup>58</sup> The Committee notes that, in its opinion, there was a shift in the treatment of paper and electronic records and the balance between open records versus privacy protections between the various draft versions of the CCJ/COSCA Guidelines submitted for review and comment.

Case records capture a great deal of sensitive, personal information about litigants and third parties (e.g., witness, jurors) who come in contact with the courts. The tension between transparency and personal privacy/security of case records has been heightened by the rapidly increasing use of the Internet as a source of data, enhanced automated court case management systems, and other technological realities of the Information Age.

Prior to the widespread use of computers and search engines, case record information was accessible by traveling to the local courthouse and perusing the paper files, presumably one at a time. Thus, most information contained in the court records enjoyed "practical obscurity." In the latter part of the twentieth century, the proliferation of computerized case records was realized. As a result, entire record systems are swept by private organizations within seconds and data from millions of records are compiled into enormous record databases, accessible by government agencies and the public.<sup>59</sup>

Cognizant of today's technological realities, the Committee explored the inherent tension between the transparency of case records and the interest in personal privacy and security to more clearly understand the values associated with each.

*The Values of Transparency*

The values of transparency can be described as serving four essential functions: 1) shedding light on judicial activities and proceedings; 2) uncovering information about public officials and candidates for public office; 3) facilitating certain social transactions; and 4) revealing information about individuals for a variety of purposes.<sup>60</sup>

With regard to access to electronic case records, the Committee focused primarily on the first function of transparency, which aids the public in understanding how the judicial system works and promotes public confidence in its operations. Open electronic case records "allows the citizenry to monitor the functioning of our courts, thereby insuring quality, honesty, and respect for our legal system."<sup>61</sup> Transparent electronic case records allow the public to assess the competency of the courts in resolving cases and controversies that affect society at large, such as product liability, medical malpractice or domestic violence litigation.<sup>62</sup> Information that alerts the public to danger or might help prove responsibility for injuries should be available, as should that which enables the public to evaluate the performance of courts and government officials, the electoral process and powerful private organizations.<sup>63</sup>

The key to assessing the complete release of electronic case record data appears to hinge upon whether there is a legitimate public interest at stake or whether release is sought for "mere curiosity."<sup>64</sup> While this measure has been applied to analysis of the propriety of sealing individual court records, it should apply by extension to the broader subject of public access to electronic case record information. Analysis of whether release of elec-

<sup>59</sup> Daniel J. Solove, *Access and Aggregation: Public Records, Privacy and the Constitution*, 86 Minn. L. Rev. 1137 (2002) (noting that more than 165 companies compile "digital biographies" on individuals that by a click of a mouse can be scoured for data on individual persons).

<sup>60</sup> *Id.* at 1173.

<sup>61</sup> *Id.* at 1174 (citing *In re Cont'l Ill. Sec. Litig.*, 732 F.2d 1302, 1308 (7th Cir. 1984)).

<sup>62</sup> *Id.* at 1174-75.

<sup>63</sup> Stephen Gillers, *Why Judges Should Make Court Documents Public*, N.Y. Times, November 30, 2002, p 17.

<sup>64</sup> George F. Carpinello, *Public Access to Court Records in New York: The Experience Under Uniform Rule 216.1 and the Rule's Future in a World of Electronic Filing*, 66 ALB. L. REV. 1089, 1094 (2003) (citing *Dawson v. White & Case*, 584 N.Y.S.2d 814, 815 (N.Y. App. Div. 1992), wherein financial information concerning defendant's partners and clients was sealed as disclosure would not benefit a relevant and legitimate public interest).

tronic case record information satisfies a legitimate public interest should center on whether the effect would be to serve one of the four essential functions of transparency. Any other basis for release might serve to undermine the public's trust and confidence in the judiciary.

The values inherent in the transparency of electronic case records are the root of the "presumption of openness" jurisprudence. The Committee gave that presumption due consideration throughout its undertaking.

*Privacy and Personal Security Concerns Regarding the Release of Electronic Case Records*

The Committee debated at length as to where the line is drawn between transparency and privacy/personal security. Unfortunately, no legal authority exists that provides a "bright line" rule. Moreover, given that our society continues to witness and adopt new technology at a fast pace, the Committee worked to identify the privacy and personal security concerns that the release of electronic case record information triggers.

According to a national survey conducted a decade ago, nearly 80% of those polled were concerned or very concerned about the threat to their privacy due to the increasing use of computerized records.<sup>65</sup> Concerns about advances in information technology have resulted in greater public support for legislative protection of confidential information.<sup>66</sup> The Committee noted that the last two legislative sessions of the Pennsylvania General Assembly have resulted in the introduction of more than forty bills that seek to restrict access to private and/or personal information.

Case records contain considerable amounts of sensitive personal information, such as social security numbers, financial information, home addresses, and the like. This information is collected not only with respect to the litigants but others involved in cases, such as witnesses and jurors. The threat to privacy is realized in the assembling of individual "dossiers" which can track the private details of one's life, including spending habits, credit history, and purchases.<sup>67</sup>

Personal security issues arise from the ease with which sensitive data can usually be obtained. The threat of harm can either be physical or financial. By accessing home address information, individuals may be the subject of stalking or harassment that threatens their physical person.<sup>68</sup> Financial harm is documented by the fastest growing consumer fraud crime in the United States—identity theft. "According to CBS News, approximately every 79 seconds an identity thief steals someone's identity, opens an account in the victim's name and goes on a buying spree."<sup>69</sup> The United States Federal Trade Commission reports that 10.1 million consumers have been victims of identity theft in 2003.<sup>70</sup> In addition, a recent study by the financial industry reveals that 9.3 million people were victims of the crime of identity theft in 2004.<sup>71</sup> The U.S. Department of Justice estimates that identity bandits may victimize up to 700,000 Americans per year.<sup>72</sup> In Eastern Pennsylvania, a regional identity

theft task force was established to aid federal, state and local authorities to curb the growing incidence of identity theft.<sup>73</sup>

Recent newspaper accounts have recorded that the personal information of hundreds of thousands of individuals has been accessed by unauthorized individuals—raising the realistic concern of the possibility of widespread identity theft. Commercial entities—specifically Choicepoint and LexisNexis—have collectively released the personal information of 445,000 people to unauthorized individuals.<sup>74</sup> The University of California-Berkeley reported the theft of a laptop computer that contained the dates of birth, addresses, and social security numbers of 98,369 individuals who applied to or attended the school.<sup>75</sup> Boston College alerted 120,000 alumni that computers containing their addresses and social security numbers were hacked by an unknown intruder.<sup>76</sup> A medical group in San Jose California reported the theft of computers that contained the information of 185,000 current and past patients.<sup>77</sup>

*Conclusion*

After a thorough evaluation of the legal authority and public policy issues attendant to public access of electronic case record information, the Committee devised a balancing test for evaluating the release of electronic case record information. And while a perfect balance cannot be struck between transparency and personal privacy/security, the Committee attempted to reach a reasonable accommodation protective of both interests.

In determining whether electronic case record information should be accessible by the public, the Committee evaluated first whether there was a legitimate public interest in release of the information. If such an interest was not found, the inquiry ended and the information was prohibited from release.

If such an interest was found, the Committee next assessed whether the release of this information would cause an unjustified invasion of personal privacy or presented a risk to personal security. If the answer to this inquiry was no, the information was released. If the answer was yes, the Committee weighed the unjustified invasion of personal privacy or risk to personal security against the public benefit in releasing the information.

*Section 1.00 Definitions*

A. "CPCMS" means the Common Pleas Criminal Court Case Management System.

B. "Custodian" is the person, or designee, responsible for the safekeeping of electronic case records held by any court or office and for processing public requests for access to case records.

C. "Electronic Case Record" means information or data created, collected, received, produced or maintained by a court or office in connection with a particular case that exists in the PACMS, CPCMS, or MDJS and that appears on web docket sheets or is provided in response to bulk distribution requests, regardless of format. This definition does not include images of documents filed with, received, produced or maintained by a court or office which are stored in PACMS, CPCMS or MDJS and any other automated system maintained by the Administrative Office of Pennsylvania Courts.

<sup>65</sup> Barbara A. Petersen and Charlie Roberts, *Access to Electronic Public Records*, 22 FLA. ST. U.L. REV. 443, n. 247 (1994).

<sup>66</sup> *Id.* at 486.

<sup>67</sup> Solove, *supra* note 59, at 1140.

<sup>68</sup> Robert C. Lind and Natalie B. Eckart, *The Constitutionality of Driver's Privacy Protection Act*, 17 Communication Lawyer 18 (1999). See also, Solove, *supra* note 59, at 1173.

<sup>69</sup> David Narkiewicz, *Identity Theft: A Rapidly Growing Technology Problem*, The Pennsylvania Lawyer, May-June 2004, at 58.

<sup>70</sup> Bob Sullivan, *Study: 9.3 Million ID Theft Victims Last Year*, MSNBC.com, January 26, 2005.

<sup>71</sup> *Id.*

<sup>72</sup> *ID Theft Is No. 1 Fraud Complaint*, CBSNEWS.com, January 22, 2003.

<sup>73</sup> Jim Smith, *Regional Task Force to Tackle ID-Theft Crimes*, phillynews.com, November 13, 2002.

<sup>74</sup> John Waggoner, *Id theft scam spreads across USA*, USATODAY.com, February 22, 2005; *LexisNexis Id theft much worse than thought*, MSNBC.com, April 12, 2005.

<sup>75</sup> *Thief steals UC-Berkeley laptop*, CNN.com, March 31, 2005.

<sup>76</sup> Hiawatha Bray, *BC warns its alumni of possible Id theft after computer is hacked*, Boston Globe, March 17, 2005.

<sup>77</sup> Jonathon Krim, *States Scramble to Protect Data*, Washington Post, April 9, 2005.

D. "MDJS" means the Magisterial District Judge Automated System.

E. "Office" is any entity that is using one of the following automated systems: Pennsylvania Appellate Court Case Management System (PACMS); Common Pleas Criminal Court Case Management System (CPCMS); or Magisterial District Judge Automated System (MDJS)."

F. "PACMS" means the Pennsylvania Appellate Court Case Management System.

G "Party" means one by or against whom a civil or criminal action is brought.

H. "Public" includes any person, business, non-profit entity, organization or association.

"Public" does not include:

1. Unified Judicial System officials or employees, including employees of the office of the clerk of courts, prothonotary, and any other office performing similar functions;

2. people or entities, private or governmental, who assist the Unified Judicial System or related offices in providing court services; and

3. any federal, state, or local governmental agency or an employee or official of such an agency when acting in his/her official capacity.

I. "Public Access" means that the public may inspect and obtain electronic case records, except as provided by law or as set forth in this policy.

J. "Request for Bulk Distribution of Electronic Case Records" means any request, regardless of the format the information is requested to be received in, for all or a subset of electronic case records.

K. "UJS" means the Unified Judicial System of Pennsylvania.

L. "Web Docket Sheets" are internet available representations of data that have been entered into a Unified Judicial System supported case management system for the purpose of recording filings, subsequent actions and events on a court case, and miscellaneous docketed items.

#### 2013 Commentary

The definition of "electronic case records" was amended to exclude images of documents filed with, received, produced or maintained by a court or office which are stored in PACMS, CPCMS or MDJS and any other automated system maintained by the Administrative Office of Pennsylvania Courts.

While the Judiciary is presently piloting, on a limited basis, e-filing in the statewide case management systems, design and development efforts have not advanced to allow for online publication or bulk dissemination of images of e-filed documents.

#### 2007 Commentary

In adopting the definitions to the above terms, the Committee considered Pennsylvania law, other states' laws and public access policies, and the CCJ/COSCA Guidelines. In most cases, the definitions that the Committee chose to adopt are found in one of the above-mentioned sources. The following list sets forth the source for each of the above definitions.

Subsection B, Custodian, is derived from Arizona's definition of custodian which is the "person responsible for the safekeeping of any records held by any court,

administrative office, clerk of court's office or that person's designee who also shall be responsible for processing public requests for access to records."<sup>78</sup> To ensure that this definition would encompass any court or office that is the primary custodian of electronic case records the Committee chose to replace the phrase "any court, administrative office, clerk of court's office" with "any court or office."

Subsection C, Electronic Case Record, the Committee opines it is necessary to set forth a term for those records that exist within one of the UJS' automated case management systems (PACMS, CPCMS, or MDJS). This definition is derived from Minnesota's definition of "case record."<sup>79</sup> Nonetheless, this definition includes responses to requests for bulk distribution of electronic case records as well as web docket sheets as defined in this policy. However, paper documents concerning a single case produced from the PACMS, CPCMS, or MDJS are not included in this definition except as otherwise provided for in this definition.

Subsection E, Office, is a Committee-created term. The Committee wanted to ensure that the Policy applies only to the office that is the primary custodian of an electronic case record, regardless of the title of the office. The Committee also wanted to avoid creating an obligation on the part of an office that possessed only a copy of a record to provide access to a requestor.

Subsection G, Party, is a Committee-created term. The Committee wanted to clarify who a party to an action is. This definition is a combination of the definition for party set forth in 42 Pa.C.S. § 102<sup>80</sup> and Seventh Edition of Black's Law Dictionary.<sup>81</sup>

Subsection H, Public, is a variation of a provision in the CCJ/COSCA Guidelines.<sup>82</sup> The most significant difference is that the CCJ/COSCA Guidelines provide for two additional classes of individuals and/or entities that are included in the definition of "public." The first class is "any governmental agency for which there is no existing policy defining the agency's access to court records."<sup>83</sup> In the Committee's judgment, all government requestors should be treated differently than non-government requestors. Thus, the Committee chose not to adopt this statement, as further explained below.

The second class is "entities that gather and disseminate information for whatever reason, regardless of whether it is done with the intent of making a profit, and without distinction as to nature or extent of access."<sup>84</sup> The Committee opines that any person or entity that falls within this category would also fall within our definition of the public. Therefore, this statement was thought to be redundant.

In the judgment of the Committee every member of the public should be treated equally when requesting access to electronic case records. The Policy creates three categories of individuals and entities that do not fall within the definition of the "public;" thus, the Policy's provisions are not applicable to them. Specifically, these three categories

<sup>78</sup> ARIZ. SUP. CT. R. 123(b)(6).

<sup>79</sup> *Recommendations of the Minnesota Supreme Court Advisory Committee on Rules of Public Access to Records of the Judicial Branch* (June 28, 2004), p. 2.

<sup>80</sup> "A person who commences or against whom relief is sought in a matter. The term includes counsel for such a person who is represented by counsel." See 42 Pa.C.S. § 102.

<sup>81</sup> "One by or against whom a lawsuit is brought." Black's Law Dictionary Seventh Edition 1144 (Bryan A. Garner, et al. eds. 1999).

<sup>82</sup> Steketee, Martha Wade and Carlson, Alan, *Developing CCJ/COSCA Guidelines for Public Access to Court Records: A National Project to Assist State Courts*, October 18, 2002, available at [www.courtaccess.org/modelpolicy](http://www.courtaccess.org/modelpolicy) [hereinafter *CCJ/COSCA Guidelines*], p. 10.

<sup>83</sup> *Id.*

<sup>84</sup> *Id.*

are (1) court employees, (2) those who assist the courts in providing court services (e.g., contractors), and (3) governmental agencies.

With regard to court employees and those who assist the courts in providing court services (e.g., contractors), the Committee asserts that they should also have as much access to electronic case records as needed to perform their assigned duties and tasks.

With regard to requests from governmental agencies, the Committee noted that AOPC's practice when responding to government requests for MDJS information has been to place few restrictions on fulfilling said requests. AOPC has provided to governmental agencies the following information: social security numbers, driver license numbers, dates of birth, and many other pieces of sensitive information that MDJS Policy prohibits access to by public (non-government) requestors. The Committee considers this to be consistent with the approach taken by other branches of Pennsylvania's government. Specifically, the RTKA provides that a requestor is defined as "a person who is a resident of the Commonwealth and requests a record pursuant to this act."<sup>85</sup> Thus, it appears that the intent of the RTKA is for it to be only applicable to public (non-governmental) requestors.

Although the Committee is aware that the RTKA does exclude non-residents of Pennsylvania,<sup>86</sup> it sees no reason to limit the definition of public to exclude non-residents of the Commonwealth (for example, an executor in New York asking for court records concerning a Pennsylvania resident in order to settle an estate).

The Committee also noted that the CCJ/COSCA Guidelines provide that the policy "applies to governmental agencies and their staff where there is no existing law specifying access to court records for that agency, for example a health department. . . . If there are applicable access rules, those rules apply."<sup>87</sup> Thus, the CCJ/COSCA Guidelines provide that unless there is specific legal authority governing the release of court records to a particular governmental agency, the governmental agency should be considered a member of the public for the purposes of access to information.

The Committee maintains that limitations upon the information provided to public requestors is a result of a balance struck between providing access to public information, and protecting the privacy and safety of the individuals whose information the courts and related offices possess. With regard to governmental entities, no such balance needs to be struck in that providing access to restricted information to another governmental agency does not presumably endanger individuals' safety or privacy. To ensure that the requests are for legitimate governmental reasons, all government requestors should be required to complete a government request form, a separate form from that used by public requestors. This government request form should require the requestor to state the reason for the request, in contrast to the public request form, which should not. The justification for requiring more information about governmental requests lies with the much greater access afforded to governmental entities. However, information pertaining to these requests and the court's response to the same should not be accessible to the public.

Nonetheless, while in the Committee's judgment government requestors should be provided with greater access to information, there are some pieces of informa-

tion that absolutely should not be released—for example, information sealed or protected pursuant to court order. Therefore, the Committee recommends that government requestors continue to be provided with greater access to information than public requestors, but such access should not be completely unrestricted.

Lastly, the Committee decided with regard to foreign government requestors that if a foreign government is permitted access pursuant to law, then access will be provided.

When the Committee was considering whether to include or exclude litigants and their attorneys in the definition of the "public," the Committee noted that the current MDJS practice is to treat litigants and their attorneys the same as non-litigants or non-attorneys. However, it is noted that the CCJ/COSCA Guidelines provides that the parties to a case and their attorneys do not fall within the definition of the term "public."<sup>88</sup> Therefore, in the CCJ/COSCA Guidelines, they will have nearly unrestricted access to the electronic case records, whereas the public's access will be restricted.

Subsection I, Public Access, is a Committee created term because the Committee was unable to find an existing definition that was deemed adequate.

Subsection J, Request for Bulk Distribution of Electronic Case Records, is derived from the CCJ/COSCA Guidelines.<sup>89</sup> This definition includes all requests regardless of the format the requestors want to receive the information in (i.e., paper, electronic, etc.). It appears that this is a term of art that is commonly used nationwide.<sup>90</sup>

Subsection M, Web Docket Sheets, is a term created by the Administrative Office of Pennsylvania Courts. Currently, web docket sheets for the appellate and criminal divisions of the courts of common pleas are located at <http://ujportal.pacourts.us/>.

#### *Section 2.00 Statement of General Policy*

A. This policy covers all electronic case records.

B. The public may inspect and obtain electronic case record except as provided by law or as set forth in this policy.

C. A court or office may not adopt for electronic case records a more restrictive access policy or provide greater access than that provided for in this policy.

#### *Commentary*

For the reasons stated in the Introduction, paragraph A sets forth that this policy covers electronic case records as defined in Section 1.00.

The language of subsection C is suggested in the CCJ/COSCA Guidelines, which provide "[i]f a state adopts a policy, in the interest of statewide uniformity the state should consider adding a subsection. . . to prevent local courts from adopting different policies. . . . This not only promotes consistency and predictability across courts, it also furthers equal access to courts and court records."<sup>91</sup> The Committee opines it is essential for the Unified Judicial System to have this provision in the policy to prevent various courts and offices from enacting individual policies governing electronic case records.

The Committee also notes that subsection C applies to fees in that the level of fees may be a means of restricting

<sup>88</sup> CCJ/COSCA Guidelines, p. 10.

<sup>89</sup> CCJ/COSCA Guidelines, p. 29.

<sup>90</sup> For example this term is used by Indiana (Ind. Admin. R.9(C)(9)), Minnesota (*Recommendations of the Minnesota Supreme Court Advisory Committee on Rules of Public Access to Records of the Judicial Branch* (June 28, 2004), p. 15; MN ST ACCESS TO REC. RULE 8(3) (WEST 2006).), and California (Cal. C.T. R. 2073(f)).

<sup>91</sup> CCJ/COSCA Guidelines, pp. 24-25.

<sup>85</sup> PA. STAT. ANN. tit. 65, § 66.1 (West 2006).

<sup>86</sup> *Id.*

<sup>87</sup> CCJ/COSCA Guidelines, p. 11.

access. Therefore, a court or office charged with fulfilling public access requests must comply with the fee schedule provisions contained in Section 5.00 of this policy.

*Section 3.00 Electronic Case Record Information Excluded From Public Access*

The following information in an electronic case record is not accessible by the public:

- A. social security numbers;
- B. operator license numbers;
- C. victim information including name, address and other contact information;
- D. informant information including name, address and other contact information;
- E. juror information including name, address and other contact information;
- F. a party's street address, except the city, state, and ZIP code may be released;
- G. witness information including name, address and other contact information;
- H. SID (state identification) numbers;
- I. financial institution account numbers, credit card numbers, PINS or passwords used to secure accounts;
- J. notes, drafts, and work products related to court administration or any office that is the primary custodian of an electronic case record;
- K. information sealed or protected pursuant to court order;
- L. information to which access is otherwise restricted by federal law, state law, or state court rule;
- M. information presenting a risk to personal security, personal privacy, or the fair, impartial and orderly administration of justice, as determined by the Court Administrator of Pennsylvania with the approval of the Chief Justice; and
- N. information regarding arrest warrants and supporting affidavits until execution.

The Committee's reasoning for not releasing each category of sensitive information is set forth below.

*2018 Commentary*

*Information Regarding Arrest Warrants and Supporting Affidavits Until Execution*

The federal courts<sup>92</sup> and several states, including California,<sup>93</sup> Florida,<sup>94</sup> Idaho,<sup>95</sup> Indiana,<sup>96</sup> and Maryland,<sup>97</sup> have a similar provision restricting public access to arrest warrants and supporting affidavits until execution.

While there may be a legitimate public interest in releasing this information, specifically for the community to know who is subject to arrest by law enforcement,

<sup>92</sup> The Judicial Conference of the United States approved the Judicial Conference Policy on Privacy and Public Access to Electronic Case Files (March 2008) that provides unexecuted summons or warrants of any kind (e.g. arrest warrants) shall not be included in the public case file, or be made available to the public at the courthouse or via remote electronic access.

<sup>93</sup> Cal. Rules of Court, Rule 2.507(c)(3). This Rule provides that "[t]he following information must be excluded from a court's electronic calendar, index, and register of actions: . . . [a]rrest warrant information."

<sup>94</sup> Fla. R. Jud. Admin. 2.420(c)(6). This Rule provides that "[c]opies of arrest . . . warrants and supporting affidavits retained by judges, clerks or other court personnel [shall be confidential] until execution of said warrants or until a determination is made by law enforcement authorities that execution cannot be made."

<sup>95</sup> IDAHO ADMIN. R. 32(g)(3) & (5). This Rule exempts from disclosure "[a]ffidavits or sworn testimony and records of proceedings in support of the issuance of . . . arrest warrant pending the return of the warrant" as well as "[u]nreturned arrest warrants, except bench warrants, or summonses in a criminal case, provided that the arrest warrants or summonses may be disclosed by law enforcement agencies at their discretion."

<sup>96</sup> IND. ADMIN. R. 9(G)(2)(j)(i) and (ii). Specifically, the Rule provides that case records excluded from public access include those arrest warrants ordered confidential by the judge, prior to the arrest of the defendant.

<sup>97</sup> MD R. CTS. J. and ATTYS Rule 16-907(g)(3)(A) and (B) This rule provides that access shall be denied to: "[t]he following case records. . . : A case record pertaining to an arrest warrant [that initiates a case as well as] . . . a case record pertaining to an arrest warrant issued pursuant to a grand jury indictment or conspiracy investigation. . . ."

advance warning to defendants about the impending service of an arrest warrant puts the safety of law enforcement personnel at risk, jeopardizes the judicial process, and likely increases the risk of flight by defendants. Therefore, this information shall not be released until the warrant is executed.

*2007 Commentary*

*Social Security Numbers*

At the outset, the Committee noted that the MDJS Policy provides that the AOPC will not release social security numbers.<sup>98</sup> In addition, the Committee could not locate any controlling legal authority that required the courts and/or offices to either release or redact social security numbers from an electronic case record before permitting access to the same.<sup>99</sup> While such controlling authority is non-existent, the Committee's review of the RTKA, federal law, federal and other states court's policies (either enacted or proposed) yielded much information on this subject.

First, case law interpreting the RTKA consistently maintains that social security numbers fall within the personal security exception of the RTKA and thus should not be released.<sup>100</sup>

Second, the Freedom of Information Act (FOIA)<sup>101</sup> and the Privacy Act<sup>102</sup> apply only to records of "each authority of the Government of the United States,"<sup>103</sup> and they do not apply to state case records.<sup>104</sup> However, even if these laws did apply to state case records, social security numbers are exempted from public disclosure under the FOIA personal privacy exemption,<sup>105</sup> while the Privacy Act does not appear to restrict the dissemination of social security numbers (only the collection of them).

In addition, Section 405 of the Social Security Act provides that "social security account numbers and related records that are obtained or maintained by authorized persons pursuant to any provision of law, enacted on or after October 1, 1990, shall be confidential, and no authorized person shall disclose any such social security account number."<sup>106</sup> Although, it is unclear as to whether this law is applicable to state courts, some courts such as Vermont<sup>107</sup> and Minnesota<sup>108</sup> appear to have used this statute as a basis for formulating a recommendation on the release of social security numbers.

With regard to the federal courts, the Judicial Conference Committee on Court Administration and Case Management ("Judicial Conference") in September 2001 recommended that the courts should only release the last

<sup>98</sup> See MDJS policy, Section II.B.2.a.

<sup>99</sup> Over the past several legislative terms, several bills have been introduced concerning the confidentiality of social security numbers. For example, please see Senate Bill 1407 (2001-2002), Senate Bill 703 (2003-2004) and Senate Bill 601 (2005 and 2006).

<sup>100</sup> See, e.g., *Tribune-Review Publ'g Co. v. Allegheny County Hous. Auth.*, 662 A.2d 677 (Pa. Commw. Ct. 1995), *appeal denied*, 686 A.2d 1315 (Pa. 1996); *Cypress Media, Inc. v. Hazleton Area Sch. Dist.*, 708 A.2d 866, (Pa. Commw. Ct. 1998), *appeal dismissed*, 724 A.2d 347 (Pa. 1999); and *Times Publ'g Co., Inc. v. Michel*, 633 A.2d 1233 (Pa. Commw. Ct. 1993), *petition for allowance of appeal denied*, 645 A.2d 1321 (Pa. 1994).

<sup>101</sup> 5 U.S.C. § 552 (2006).

<sup>102</sup> 5 U.S.C. § 552(a) (2006).

<sup>103</sup> 5 U.S.C. § 551 (2006), *see also*, 5 U.S.C. § 552(f) (2006).

<sup>104</sup> Please note that the *CCJ/COSCA Guidelines* provide that "[a]lthough there may be restrictions on federal agencies disclosing Social Security Numbers; they do not apply to state or local agencies such as courts." *See CCJ/COSCA Guidelines*, p. 46.

<sup>105</sup> *E.g.*, *Sheet Metal Worker Int'l Ass'n, Local Union No. 19 v. U.S. Dep't of Veterans Affairs*, 135 F.3d 891 (3d Cir. 1998).

<sup>106</sup> 42 U.S.C. § 405(c)(2)(C)(viii) (2006).

<sup>107</sup> *See Reporter's Notes following VERMONT RULES FOR PUBLIC ACCESS TO COURT RECORDS RULE 6(b)(29)* which provides that "[u]nder federal law social security numbers are confidential." The Reporter specifically cites to Section 405(c)(2)(C)(viii)(1) of the Social Security Act.

<sup>108</sup> *Recommendations of the Minnesota Supreme Court Advisory Committee on Rules of Public Access to Records of the Judicial Branch* (June 28, 2004), p. 37, n.76 (citing the Social Security Act's provision that provides "[f]ederal law imposes the confidentiality of SSN whenever submission of the SSN is 'required' by state or federal law enacted on or after October 1, 1990.")



four digits of any social security number in electronic civil case files available to the public.<sup>109</sup> The Judicial Conference also recommended that the public should not have electronic access to criminal case files. However, in March 2002, the Judicial Conference established a pilot program wherein eleven federal courts provide public access to criminal case files electronically. In this pilot program, the Judicial Conference set forth that the courts shall only release the last four digits of any social security number.<sup>110</sup>

The Committee's review of other states' policies, whether enacted or proposed, found that the redaction of all or part of social security numbers is common. For instance, the policies of the following states provide that only the last four digits of a social security number shall be released: New York,<sup>111</sup> Indiana,<sup>112</sup> and Maryland.<sup>113</sup> In addition, the policies of the following states provide that the entire social security number is protected and no part of it is released: Arizona,<sup>114</sup> California,<sup>115</sup> Florida,<sup>116</sup> Vermont,<sup>117</sup> Washington,<sup>118</sup> Minnesota,<sup>119</sup> Massachusetts,<sup>120</sup> Kansas,<sup>121</sup> and Kentucky.<sup>122</sup>

The CCJ/COSCA Guidelines suggest that the release of social security numbers should be considered on a case by case basis to determine if access should be allowed only at the court facility (whether in electronic or paper form)

<sup>109</sup> *Report of the Judicial Conference Committee on Court Administration and Case Management on Privacy and Public Access to Electronic Case Files*, p. 3. As a result of this report, the U.S. District Court for the Eastern District of Pennsylvania promulgated Local Rule 5.1.3 which provides that personal identifiers such as social security numbers should be modified or partially redacted in all documents filed with the court before public access is permitted. See also Local Rules of Practice for the Southern District of California Order 514-C which provides in part that parties shall refrain from including or shall partially redact social security numbers from pleadings filed with the court unless otherwise ordered by the court or the pleading is excluded from public access. If the social security number must be included, only the last four digits of that number should be used.

<sup>110</sup> *Remote Public Access to Electronic Case Records: A Report on a Pilot Project in Eleven Federal Courts*, prepared by the Court Administration and Case Management Committee of the Judicial Conference, p. 12.

<sup>111</sup> *Report to the Chief Judge of the State of New York* by the Commission on Public Access to Court Records (February, 2004), p. 8. The Report recommends that social security numbers should be shortened to their last four digits.

<sup>112</sup> IND. ADMIN. R. 9(F)(4)(d) provides that when a request for bulk or compiled information includes release of social security numbers, that only the last four digits of the social security number should be released. However, Rule 9(G)(1)(d) provides that "[t]he following information in case records is excluded from public access and is confidential: . . . Social Security Numbers."

<sup>113</sup> Maryland Rule of Procedure 16-1007 provides that ". . . a custodian shall deny inspection of a case record or a part of a case record that would reveal: . . . [a]ny part of the social security number . . . of an individual, other than the last four digits."

<sup>114</sup> ARIZ. R. 123 Public Access to the Judicial Records of the State of Arizona, Subsection (c)(3) provides in part that "documents containing social security [numbers] . . . when collected by the court for administrative purposes, are closed unless made public in a court proceeding or upon court order." See also *Report and Recommendation of the Ad Hoc Committee to Study Public Access to Electronic Records* dated March 2001 Sections (IV)(B), (IV)(D), (V)(1) and (VI)(6).

<sup>115</sup> CAL. CT. R. 2077(c)(1) provides that "the following information must be excluded from a court's electronic calendar, index, and register of actions: (1) social security numbers" before public access is permitted.

<sup>116</sup> Order of Supreme Court of Florida, No. AOSO04-4 (February 12, 2004). Specifically, the Order lists information that shall be accessible in electronic format to the public. Social security numbers are not listed in the Order.

<sup>117</sup> VERMONT RULES FOR PUBLIC ACCESS TO COURT RECORDS RULE 6(b)(29). This subsection provides that "the public shall not have access to the following judicial branch records: . . . records containing a social security number of any person, but only until the social security number has been redacted from the copy of the record provided to the public." See also VERMONT RULES GOVERNING DISSEMINATION OF ELECTRONIC CASE RECORDS RULE § 3(b).

<sup>118</sup> WASH. CT. GR. 31 (2006). Parties required to omit or redact social security numbers prior to filing documents with the court, except as provided in General Rule 22. Rule 22 provides that in family law and guardianship court records social security numbers are restricted personal identifiers, and as such not generally accessible to the public.

<sup>119</sup> MINN. ST. ACCESS TO REC RULE 8(2)(b)(1) (WEST 2006). Specifically, Rule 8(2)(b)(1) provides that remote access to social security numbers of parties, their family members, jurors, witnesses, or victims in electronic records will not be allowed.

<sup>120</sup> *Policy Statement by the Justices of the Supreme Court Judicial Court Concerning Publications of Court Case Information on the Web*, (May 2003), p. 3, subsection (A)(6) which provides in part that no information regarding an individual's social security number should appear on the Court Web site.

<sup>121</sup> Kansas Rules Relating to District Courts Rule 196(d)(3) "[d]ue to privacy concerns, some otherwise public information, as determined by the Supreme Court, may not be available through electronic access. A nonexhaustive list of information generally not available electronically includes Social Security numbers. . . ."

<sup>122</sup> *Kentucky Court of Justice Access to Electronic Court Records* (December 2003) provides in part that "we decided to remove the individual's . . . social security number . . . from public remote access."

under Section 4.50(a)<sup>123</sup> or to prohibit access altogether under Section 4.60.<sup>124</sup>

The Committee concluded when it balanced all the factors outlined above that there may be a legitimate public interest in releasing social security numbers in full or part. Specifically, the release of full or partial social security numbers generally permits the users of court information to link a specific party with specific case information. That is, a social security number is used for "matching" purposes. However, the Committee maintains that the other identifiers that are releasable under this policy, such as full date of birth and partial address, will ensure that accurate matches of parties and case information can be made. In addition, the Committee is convinced that the release of any part of a social security number would cause an unjustified invasion of personal privacy as well as present a risk to personal security. Thus, the Committee recommends that the MDJS policy of restricting the release of any part of a social security number should be continued.

#### *Operator License Numbers*

The Committee notes that the MDJS policy provides that the AOPC will not release operator license numbers.<sup>125</sup> The Committee found no controlling legal authority that would prohibit a court and/or office from redacting operator license numbers from an electronic case record prior to its release to the public. However, several statutes were of interest to the Committee in analyzing this issue.

First, the Driver's Privacy Protection Act<sup>126</sup> (DPPA) provides that a state department of motor vehicles, and any officer, employee, or contractor, thereof, shall not knowingly disclose or otherwise make available to any person or entity personal information about any individual obtained by the department in connection with a motor vehicle record.<sup>127</sup> The DPPA defines personal information as "information that identifies an individual, including an individual's photograph, social security number, driver identification number. . . ."<sup>128</sup> The AOPC has reviewed the DPPA previously and determined that it is inapplicable to the judiciary and its electronic case records.

Second, the Pennsylvania Vehicle Code provides that "it is unlawful for [a]ny police officer, or any officer, employee or agent of any Commonwealth agency or local authority which makes or receives records or reports required to be filed under [title 75] to sell, publish or disclose or offer to sell, publish or disclose records or reports which relate to the driving record of any person."<sup>129</sup> In addition, this statute provides "it is unlawful for [a]ny person to purchase, secure or procure or offer to purchase, secure or procure records or reports described [above]."<sup>130</sup> It appears that in order for this statute to be applicable to case records, the judiciary would have to be considered a "Commonwealth Agency." There is no definition in Title 75 for a "Commonwealth Agency." However, the Committee reviewed many other statutes that do define Commonwealth Agency and in its opinion the judiciary would not be considered a Commonwealth Agency under any of these definitions. Therefore, this statute is inapplicable to the courts and related offices. However, the spirit of this

<sup>123</sup> *CCJ/COSCA Guidelines*, p. 40.

<sup>124</sup> *CCJ/COSCA Guidelines*, p. 45.

<sup>125</sup> See MDJS policy, Section II.B.2.a.

<sup>126</sup> 18 U.S.C. §§ 2721—2725 (2006).

<sup>127</sup> 18 U.S.C. § 2721(a)(1) (2006).

<sup>128</sup> 18 U.S.C. § 2725(3) (2006).

<sup>129</sup> 75 PA. CONS. STAT. § 6114(a)(1) (2006).

<sup>130</sup> 75 PA. CONS. STAT. § 6114(a)(2) (2006).

statute, as well as the DPPA, clearly conveys that in Pennsylvania the government should not be releasing operator license numbers to the public.

Moreover, the Committee's research revealed that the states of California,<sup>131</sup> Florida,<sup>132</sup> Vermont,<sup>133</sup> and Washington<sup>134</sup> do not permit the release of operator license numbers.

Security issues may be raised if a person's operator license number is used in conjunction with other personal identifiers. Specifically, if one knows some basic personal information about another such as his/her name, date of birth, and operator license number, he/she could alter the other's driver and vehicle information maintained by PennDOT.

In addition to identity theft, personal safety is also an issue. Threats to personal safety were documented in numerous incidents that lead to the enactment of the DPPA. Specifically:

[i]n 1989 actress Rebecca Schaeffer was killed by an obsessed fan. The fan was able to locate Schaeffer's home after he hired a private investigator who obtained the actress's address by accessing her California motor vehicle record, which was open to public inspection. As a result, the State of California restricted the dissemination of such information to specified recipients. In addition to the Schaeffer murder, public access to personal information contained in motor vehicle records allowed antiabortion groups to contact abortion clinic patients and criminals to obtain addresses of owners of expensive automobiles.<sup>135</sup>

The Committee concluded when it balanced all the factors outlined above that there may be a legitimate public interest in releasing operator license numbers, specifically ensuring that the "right" party is matched with the "right" case information. However, the Committee maintains that the other identifiers that are releasable under this policy, such as full date of birth and partial address, will ensure that accurate matches of parties and case information can be made. In addition, the Committee is convinced that the release of operator license numbers would cause unjustified invasions of personal privacy as well as present risks to personal security. Thus, the Committee recommends that the MDJS policy provisions restricting the release of operator license numbers should be continued.

#### Victim Information

The Committee notes that the MDJS policy provides that "names of juvenile victims of abuse" shall not be released.<sup>136</sup> Additionally, it is noted that the CCJ/COSCA Guidelines state that "parts of the court record, or pieces of information (as opposed to the whole case file) for which there may be a sufficient interest to prohibit public access [include] name, address, telephone number, e-mail,

or places of employment of a victim, particularly in a sexual assault case, stalking or domestic violence case..."<sup>137</sup>

Additionally, the Committee notes that several states, such as California,<sup>138</sup> Florida,<sup>139</sup> Indiana,<sup>140</sup> Minnesota,<sup>141</sup> Massachusetts,<sup>142</sup> as well as the federal government<sup>143</sup> (concerning victims in protection from abuse cases) have enacted or proposed public access policies or court rules that would prohibit the release of victim information.

The Committee concluded that although there may be a legitimate public interest in releasing victim information, such as alerting the community as to whom crimes are being committed against and where crimes are being committed, it is outweighed by the interest of protecting the victim. The Committee, therefore, opines that the release of victim information including name, address and other contact information may result in intimidation or harassment of those individuals who are victims of a crime and would cause unjustified invasions of personal privacy as well as present risks to personal security. Thus, the Committee recommends that the MDJS policy provisions restricting the release of victim information should be continued.

#### Informant Information

The Committee asserts that information about an informant should not be released in that doing so could put the informant and/or law enforcement personnel who may be working with an informant at risk of harm, as well as possibly impede ongoing criminal investigations. Although the Committee could not find any court policies or rules that would specifically prohibit the release of informant information, the Committee notes that several states, such as Florida,<sup>144</sup> Minnesota,<sup>145</sup> and Massachusetts<sup>146</sup> have enacted or proposed public access policies or court rules that would prohibit the release of informant information, if the informant is a witness on the case. Additionally, the CCJ/COSCA Guidelines provide that parts of the court record, or pieces of information (as opposed to the whole case file) for which there may be a sufficient interest to prohibit public access "[include] name, address, or telephone number of informants in criminal cases."<sup>147</sup>

<sup>137</sup> See *CCJ/COSCA Guidelines*, p. 48.

<sup>138</sup> CAL. CT. R. 2077(c)(5) provides that "the following information must be excluded from a court's electronic calendar, index and register of actions: (5) victim information" before public access is permitted.

<sup>139</sup> Order of Supreme Court of Florida, No. AOSO04-4 (February 12, 2004). Specifically, the Order lists information that shall be accessible in electronic format to the public. Victim information is not listed in the Order.

<sup>140</sup> IND. ADMIN. R. 9(G)(1)(e). Specifically, the Rule provides that case records excluded from public access information that tends to explicitly identify victims, such as addresses, phone numbers, and dates of birth.

<sup>141</sup> MN ST ACCESS TO REC RULE 8(2)(b) (WEST 2006). Remote access in electronic records to a victim's social security number, street address, telephone number, financial account numbers or information that specifically identifies the individual or from which the identity of the individual could be ascertained is prohibited.

<sup>142</sup> *Policy Statement by the Justices of the Supreme Judicial Court Concerning Publications of Court Case Information on the Web* (May 2003), p. 2. The policy provides that the trial court web site should not list any information that is likely to identify victims.

<sup>143</sup> Title 18 U.S.C.A. § 2265(d)(3) provides that "[a] State . . . shall not make available publicly on the Internet any information regarding the registration or filing of a protection order, restraining order, or injunction in either the issuing or enforcing State . . . if such publication would be likely to publicly reveal the identity or location of the party protected under such order. A State . . . may share court-generated and law enforcement-generated information contained in secure, government registries for protection order enforcement purposes."

<sup>144</sup> Order of Supreme Court of Florida, No. AOSO04-4 (February 12, 2004). Specifically, the Order lists information that shall be accessible in electronic format to the public. Informant information is not listed in the Order.

<sup>145</sup> MN ST ACCESS TO REC RULE 8(2)(b) (WEST 2006). Remote access in electronic records to a witness' social security number, street address, telephone number, financial account numbers or information that specifically identifies the individual or from which the identity of the individual could be ascertained will not be allowed.

<sup>146</sup> *Policy Statement by the Justices of the Supreme Judicial Court Concerning Publications of Court Case Information on the Web*, (May 2003), p. 2. The policy provides that the trial court web site should not list any information that is likely to identify witnesses (except for expert witnesses).

<sup>147</sup> *CCJ/COSCA Guidelines*, p. 48.

<sup>131</sup> CAL. CT. R. 2077(c)(11) provides that "the following information must be excluded from a court's electronic calendar, index, and register of actions: (11) driver license numbers" before public access is permitted.

<sup>132</sup> Order of Supreme Court of Florida, No. AOSO04-4 (February 12, 2004). Specifically, the Order lists information that shall be accessible in electronic format to the public. Operator license numbers are not listed in the Order.

<sup>133</sup> VERMONT RULES GOVERNING DISSEMINATION OF ELECTRONIC CASE RECORDS RULE § 3(b).

<sup>134</sup> WASH. CT. GR. 31 (2006). Parties required to omit or redact driver's license numbers prior to filing documents with the court, except as provided in General Rule 22. Rule 22 provides that in family law and guardianship court records social security numbers are restricted personal identifiers, and as such not generally accessible to the public.

<sup>135</sup> Robert C. Lind, Natalie B. Eckart, *The Constitutionality of the Driver's Privacy Protection Act*, 17 *Communication Lawyer* 18 (1999).

<sup>136</sup> See MDJS policy, Section II.B.2.b. This prohibition is pursuant to 42 PA. CONS. STAT. § 5988(a) which provides that "[i]n a prosecution involving a child victim of sexual or physical abuse, unless the court otherwise orders, the name of the child victim shall not be disclosed by officers or employees of the court to the public, and any records revealing the name of the child victim will not be open to public inspection."

The Committee concluded when it balanced all the information outlined above that it was hard pressed to find a legitimate public interest in releasing informant information. The release of this information would be an unjustified invasion of personal privacy as well as present risks to personal security. Thus, the Committee recommends informant information should not be released.

### *Juror Information*

The Committee notes that the CCJ/COSCA Guidelines state that “parts of the court record, or pieces of information (as opposed to the whole case file) for which there may be a sufficient interest to prohibit public access [include] names, addresses, or telephone numbers of potential or sworn jurors in a criminal case. . . [and] juror questionnaire information.”<sup>148</sup> In addition, the Committee notes that Rule 630 of the Pennsylvania Rules of Criminal Procedure sets forth that “[t]he information provided on the juror qualification form shall be confidential” and further provides that “[t]he original and any copies of the juror qualification form shall not constitute a public record.”<sup>149</sup>

Rule 632 of the Pennsylvania Rules of Criminal Procedure provides that “[t]he information provided by the jurors on the questionnaires shall be confidential and limited to use for the purpose of jury selection only. . . .”<sup>150</sup> Rule 632 also sets forth that “the original and any copies of the juror information questionnaire shall not constitute a public record.”<sup>151</sup> Further, it states “[t]he original questionnaire of all impaneled jurors shall be retained in a sealed file and shall be destroyed upon completion of the juror’s service, unless otherwise ordered by the trial judge.”<sup>152</sup> The Rule also provides that “[t]he original and any copies of questionnaires of all prospective jurors not impaneled or not selected for any trial shall be destroyed upon completion of the jurors’ service.”<sup>153</sup>

In addition, in the case of *Commonwealth v. Karl Long*,<sup>154</sup> the Superior Court held that there is no constitutional or common law right of access to the names and addresses of jurors. Further, the Court noted that:

“a number of states have enacted legislation with the intent to protect jurors’ privacy. New York has adopted legislation to protect the privacy of jurors by keeping empanelled jurors’ names and addresses confidential. *N.Y. Judiciary Law C § 509(a)(2003)*; see also *Newsday, Inc. v. Sise*, 524 N.Y.S.2d 35, 38-89 (N.Y. 1987). Delaware has also enacted juror privacy legislation. *Del. Code Ann. Tit. 10 § 4513*; also *Gannett*, 571 A.2d 735 (holding that the media did not have the right to require announcement of juror’s names during the highly publicized trial, even though the parties have full access to such information and the proceedings are otherwise open to the public). Indiana legislation provides that the release of names and identifying information of potential jurors is within the discretion of the trial judge. *Ind. Code § 2-210(5)*.”<sup>155</sup>

<sup>148</sup> *Id.*

<sup>149</sup> P.A.R.C.R.I.M.P. 630(A)(2), (3).

<sup>150</sup> P.A.R.C.R.I.M.P. 632(B).

<sup>151</sup> P.A.R.C.R.I.M.P. 632(C).

<sup>152</sup> P.A.R.C.R.I.M.P. 632(F).

<sup>153</sup> P.A.R.C.R.I.M.P. 632(G).

<sup>154</sup> Please note that the Supreme Court has granted a petition for allowance of appeal in this matter. For more information, please see 884 A.2d 248-9 and 39-40 WAP 2005. See also *Jury Service Resource Center v. De Muniz*,—P.3d—, 2006 WL 1101064 (April 27, 2006) (Oregon Supreme Court held that the First Amendment did not require state and county officials to give full access to jury pool records).

<sup>155</sup> *Id.* at p. 7.

Moreover, the Committee notes that several states, such as Vermont,<sup>156</sup> Idaho,<sup>157</sup> Maryland,<sup>158</sup> Arizona,<sup>159</sup> Minnesota,<sup>160</sup> and Utah<sup>161</sup> have enacted or proposed public access policies or court rules that would prohibit the release of some or all juror information.

In February 2005, the American Bar Association’s House of Delegates approved a series of model jury principles.<sup>162</sup> Principle 7 addresses the need for juror privacy when consistent with the requirements of justice and the public interest. More specifically, principle 7 recommends that juror addresses and phone numbers be kept under seal.<sup>163</sup>

In Pennsylvania, section 4524 of the Judicial Code provides with respect to the jury selection commission that “[a] separate list of names and addresses of persons assigned to each jury array shall be prepared and made available for public inspection at the offices of the commission no later than 30 days prior to the first date on which the array is to serve.”

Therefore, the Committee concluded that existing Pennsylvania legal authority as cited above requires that juror information contained in electronic case records shall not be released to the public. Moreover, the Committee notes that such a result appears to be consistent with the approach taken by other states.

### *Party’s Address*

The Committee notes that the MDJS policy provides that AOPC will not release the addresses of parties.<sup>164</sup> The Committee notes that the CCJ/COSCA Guidelines state that “additional categories of information to which a state or individual court might also consider restricting general public access include: addresses of litigants in cases. . . .”<sup>165</sup>

In addition, several states and the federal courts<sup>166</sup> have enacted or proposed public access policies or court

<sup>156</sup> VERMONT RULES FOR PUBLIC ACCESS TO COURT RECORDS RULE 6(b)(30). This subsection provides that “the public shall not have access to the following judicial branch records. . . records with respect to jurors or prospective jurors as provided in Rules Governing Qualification, List, Selection and Summoning of All Jurors.”

<sup>157</sup> IDAHO RULES GOVERNING THE ADMINISTRATION AND SUPERVISING OF THE UNIFIED AND INTEGRATED IDAHO JUDICIAL SYSTEM, RULE 32(d)(5)&(6) records exempt from disclosure include “records of. . . the identity of jurors of grand juries” and “the names of jurors placed in a panel for a trial of an action and the contents of jury qualification forms and jury questionnaires for these jurors, unless ordered to be released by the presiding judge.”

<sup>158</sup> Maryland Rule of Procedure 16-1004(B)(2) provides that “. . . a custodian shall deny inspection of a court record used by the jury commissioner or clerk in connection with the jury selection process. Except as otherwise provided by court order, a custodian may not deny inspection of a jury list sent to the court pursuant to Maryland Rules 2-512 or 4-312 after the jury has been empanelled and sworn.”

<sup>159</sup> ARIZ. R. 123 Public Access to the Judicial Records of the State of Arizona, Subsection (e)(9) provides that “the home and work telephone numbers and addresses of jurors, and all other information obtained by special screening questionnaires or in voir dire proceedings that personally identifies jurors summoned for service, except the names of jurors on the master jury list, are confidential, unless disclosed in open court or otherwise opened by order of the court.”

<sup>160</sup> MINN ST ACCESS TO REC RULE 8(2)(b) (WEST 2006). Remote access in electronic records to a juror’s social security number, street address, telephone number, financial account numbers or information that specifically identifies the individual or from which the identity of the individual could be ascertained will not be allowed.

<sup>161</sup> UTAH J. ADMIN. R. 4-202.02(2)(k) provides that “public court records include but are not limited to: name of a person other than a party, but the name of a juror or prospective juror is private unless released by a judge.” Moreover, subsection 4(i) of the same Rule provides that “the following court records are private; the following personal identifying information about a person other than a party; address, email address, telephone number, date of birth, driver’s license number, social security number, account description and number, password, identification number, maiden name and mother’s maiden name.” Rule 4-202-03 provides who has access to private records which in general appears not to be the public.

<sup>162</sup> <http://abanet.org/juryprojectstandards/principles.pdf>.

<sup>163</sup> Stellwag, Ted. “The Verdict on Juries.” *The Pennsylvania Lawyer*, pp. 15, 20. May-June 2005 (quoting the chairperson of the American Jury Project to say “jurors should not have to give up their privacy. . . to do their public service.”).

<sup>164</sup> See MDJS policy, Section I.B.2.a.

<sup>165</sup> See CCJ/COSCA Guidelines, p. 49.

<sup>166</sup> *Remote Public Access to Electronic Case Records: A Report on a Pilot Project in Eleven Federal Courts*, prepared by the Court Administration and Case Management Committee of the Judicial Conference, p. 12. Although there is no restriction on the release of a party’s address in civil cases, the pilot program in the eleven federal courts to provide public access to criminal case files electronically requires the redaction of all home addresses including those of parties.

rules that would prohibit the release of a party address or permit the release of only a partial address. Those states include: Indiana,<sup>167</sup> Minnesota,<sup>168</sup> Massachusetts,<sup>169</sup> Kansas<sup>170</sup>, Kentucky<sup>171</sup> and Vermont.<sup>172</sup> In addition, some federal courts have begun releasing only a partial address as well.<sup>173</sup> Furthermore, the Committee notes that in *Sapp Roofing Co. v. Sheet Metal Workers' Int'l*<sup>174</sup> and *Barger v. Dep't of Labor and Indus.*,<sup>175</sup> Pennsylvania courts held that a home address falls under the personal security provision of the RTKA and thus should not be released pursuant to a request under the RTKA.

The Committee was faced with three choices: to release a full address, to release a partial address, or to restrict access to addresses. The Committee asserts that there is a legitimate public interest in releasing a party's address, specifically ensuring that the "right" party is matched with the "right" case information. However, the Committee is concerned that releasing the entire address would cause an unjustified invasion of personal privacy as well as present a risk to personal security.

Therefore, when coupled with other identifiers accessible under this Policy, the Committee opines that the release of a partial address (city, state, and zip code only) will facilitate a requestor's need to match the "right" party with the "right" case while at the same time not raise any significant issues of personal privacy or security. Thus, the Committee recommends the same.

#### Witness Information

The Committee notes that the MDJS Policy provides that AOPC will not release the following information about a witness: address, social security number, telephone number, fax number, pager number, driver's license number, SID number or other identifier that would present a risk to the witness' personal security or privacy.<sup>176</sup> In addition, the Committee notes that the CCJ/COSCA Guidelines state that "parts of the court record, or pieces of information (as opposed to the whole case file) for which there may be a sufficient interest to prohibit public access" include addresses of witnesses (other than law enforcement personnel) in criminal or domestic violence protective order cases.<sup>177</sup> The Committee also notes that several states have enacted or proposed public access policies or court rules that would prohibit the release of witness information. Those states include: California,<sup>178</sup>

<sup>167</sup> IND. ADMIN. R. 9(F)(4)(d) provides that a request for bulk distribution and compiled information of case records that includes a request for addresses will be complied with by only providing the zip code of the addresses. However, Rule 9(G)(1)(e) provides that "[t]he following information in case records is excluded from public access and is confidential. . . addresses. . . [of] witnesses or victims in criminal, domestic violence, stalking, sexual assault, juvenile, or civil protection order proceedings. . . ."

<sup>168</sup> MN ST ACCESS TO REC RULE 8(2)(b)(2) (WEST 2006). Remote access in electronic records to a party's street address will not be allowed.

<sup>169</sup> *Policy Statement by the Justices of the Supreme Judicial Court Concerning Publications of Court Case Information on the Web* (May 2003), p. 3. The policy provides that the trial court web site should not list an individual's address.

<sup>170</sup> Kansas Rules Relating to District Courts Rule 196(d)(3) "[d]ue to privacy concerns, some otherwise public information, as determined by the Supreme Court, may not be available through electronic access. A nonexhaustive list of information generally not available electronically includes street addresses. . . ."

<sup>171</sup> *Kentucky Court of Justice Access to Electronic Court Records* (December 2003) provides in part that "we decided to remove the individual's address. . . from public remote access."

<sup>172</sup> VERMONT RULES GOVERNING DISSEMINATION OF ELECTRONIC CASE RECORDS RULE § 3(b).

<sup>173</sup> See also Local Rules of Practice for the Southern District of California Order 514-C(1)(e) which provides that "in criminal cases, the home address of any individual (i.e. victim)" is required to be removed or redacted from all pleadings filed with the court. Eastern District of Pennsylvania Local Rule 5.1.2 (electronic case file privacy) which provides in a part that in criminal cases parties should refrain from including or partially redacting home addresses from all documents filed with the court. ("If a home address must be included, only the city and state should be listed").

<sup>174</sup> 713 A.2d 627, 630 (Pa. 1998).

<sup>175</sup> 720 A.2d 500, 502 (Pa. Commw. Ct. 1998).

<sup>176</sup> See MDJS policy, Section II.B.2.a.

<sup>177</sup> See CCJ/COSCA Guidelines, p. 48.

<sup>178</sup> CAL. CT. R. 2077(c)(6) provides that "the following information must be excluded from a court's electronic calendar, index and register of actions: (6) witness information" before public access is permitted.

Florida,<sup>179</sup> Indiana,<sup>180</sup> Minnesota,<sup>181</sup> and Massachusetts.<sup>182</sup>

The Committee concluded when it balanced all the information outlined above that there may be a legitimate public interest in releasing witness information, specifically that the public's ability to ascertain who testified at a public trial. However, the Committee is convinced that the release of witness information including name, address and other contact information may result in intimidation or harassment of the witnesses and thus would be an unjustified invasion of personal privacy as well as present a risk to personal security. Thus, the Committee recommends that the MDJS policy provisions restricting the release of victim information should be extended to witnesses.

#### SID Numbers

A SID number (or a state identification number) is a unique identifying number that is assigned by the Pennsylvania State Police (PSP) providing for specific identification of an individual through analysis of his/her fingerprints. The PSP does not release SID numbers to the public on the basis that SID numbers are criminal history record information, the release of which is controlled by the Criminal History Record Information Act (CHRIA).<sup>183</sup> Moreover, the MDJS policy provides in part that "[t]he following information will not be released: . . . state fingerprint identification number (SID)."<sup>184</sup>

The Committee found it very instructive that the PSP does not release SID numbers to the public on the basis that SID numbers are criminal history record information, the release of which is controlled by CHRIA. Therefore, the Committee is not convinced that there is a legitimate public interest in releasing SID numbers. Therefore, the Committee recommends that the MDJS Policy of not releasing SID numbers be continued.

#### Financial Institution Account Numbers, Credit Card Numbers, PINS or Passwords Used to Secure Accounts

The Committee maintains when an individual provides the court or office with a financial institution account number (e.g., banking account number) and/or a credit card number that they should not be released to the public because of the financial harm that can result. The CCJ/COSCA Guidelines provide in part that examples of "documents, parts of the court record, or pieces of information (as opposed to the whole case file) for which there may be a sufficient interest to prohibit public access [include] financial information that provide identifying account numbers on specific assets, liabilities, accounts, credit cards, or personal identification numbers (PINs) of individuals or business entities."<sup>185</sup> In addition, the Committee notes that the federal courts<sup>186</sup> and several states,

<sup>179</sup> Order of Supreme Court of Florida, No. AOS004-4 (February 12, 2004). Specifically, the Order lists information that shall be accessible in electronic format to the public. Witness information is not listed in the Order.

<sup>180</sup> IND. ADMIN. R. 9(G)(1)(e). Specifically, the Rule provides that case records excluded from public access information that tends to explicitly identify witnesses, such as addresses, phone numbers, and dates of birth.

<sup>181</sup> MN ST ACCESS TO REC RULE 8(2)(b) (WEST 2006). Remote access in electronic records to a witness' social security number, street address, telephone number, financial account numbers or information that specifically identifies the individual or from which the identity of the individual could be ascertained is prohibited.

<sup>182</sup> *Policy Statement by the Justices of the Supreme Judicial Court Concerning Publications of Court Case Information on the Web* (May 2003), p. 2. The policy provides that the trial court web site should not list any information that is likely to identify witnesses except for expert witnesses.

<sup>183</sup> 18 PA. CONS. STAT. § 9101 et. seq.

<sup>184</sup> See MDJS Policy, Section II.B.2.a.

<sup>185</sup> See CCJ/COSCA Guidelines, p. 48.

<sup>186</sup> *Remote Public Access to Electronic Case Records: A Report on a Pilot Program in Eleven Federal Courts*, prepared by the Court Administration and Case Management Committee of the Judicial Conference, p. 12 and the *Report of the Judicial Conference Committee on Court Administration and Case Management on Privacy and Public Access to Electronic Case Files*, p. 3. With regard to Judicial Conference's recommendation for public access to civil case files electronically and the pilot program in the eleven federal courts to provide public access to criminal case files electronically, both require that only the last four digits of the financial account number are releasable. See also Local Rules of Practice for the Southern District of California Order 514-C(1)(d) and Eastern District of Pennsylvania Local Rule of Civil Procedure 5.1.3.

such as Arizona,<sup>187</sup> California,<sup>188</sup> Colorado,<sup>189</sup> Florida,<sup>190</sup> Indiana,<sup>191</sup> Minnesota,<sup>192</sup> New York,<sup>193</sup> and Vermont<sup>194</sup> either prohibit the release of this information entirely or only permit the partial release of this information (i.e., the last four digits).

The Committee opines that there is no legitimate public interest in obtaining financial account, credit card information, PINS or passwords used to secure accounts. Using the balancing test, the analysis would be concluded. In addition, the Committee stresses that releasing this information will further the threat of identity theft. The Committee, therefore, recommends that financial account and credit card information shall not be released.

*Notes, Drafts, and Work Products Related to Court Administration or any Office that is the Primary Custodian of an Electronic Case Record*

The Committee notes that several states including: Arizona,<sup>195</sup> Idaho,<sup>196</sup> Indiana,<sup>197</sup> Minnesota,<sup>198</sup> Vermont,<sup>199</sup> and Utah<sup>200</sup> have a similar provision regarding notes, drafts, and work products related to court administration or any office that is the primary custodian of an electronic case record. In addition, the CCJ/COSCA Guidelines provide in part that examples of “documents, parts of the court record, or pieces of information (as opposed to the whole case file) for which there may be a sufficient interest to prohibit public access [include] judi-

<sup>187</sup> ARIZ. SUP. CT. R. 123(c)(3). The Rule provides that “documents containing. . . credit card, debit card, or financial account numbers or credit reports of an individual, when collected by the court for administrative purposes, are closed unless made public in a court proceeding or upon court order.” Arizona Rule 123 Public Access to the judicial records of the state, and *Report and Recommendation of the Ad Hoc Committee to Study Public Access to Electronic Records* dated March 2001 Sections (IV)(B), (IV)(D), (V)(1) and (VI)(6).

<sup>188</sup> CAL. CT. R. 2077(c)(2) which provides that “the following information must be excluded from a court’s electronic calendar, index, and register of actions: (2) any financial information” before public access is permitted.

<sup>189</sup> Colo. C.J.D. 05-01 Section 4.60(b) provides that “the following information in court records is not accessible in electronic format due to the inability to protect confidential information. It may be available at local courthouses. . . financial files—everything except for the financial summary screen.”

<sup>190</sup> Order of Supreme Court of Florida, No. AOSO04-4 (February 12, 2004). Specifically, the Order lists information that shall be accessible in electronic format to the public. Financial account numbers and credit card numbers are not listed in the Order.

<sup>191</sup> IND. ADMIN. R. 9(G)(1)(f). Specifically, the Rule provides that account numbers of specific assets, liabilities, accounts, credit cards, and personal identification numbers (PINS) shall not be released.

<sup>192</sup> MN ST ACCESS TO REC RULE 8(2)(b)(4) (WEST 2006). Remote access in electronic records to financial account numbers of parties or their family members, witnesses, jurors, or victims of criminal or delinquent acts is prohibited.

<sup>193</sup> *Report to the Chief Judge of the State of New York* by the Commission on Public Access to Court Records (February, 2004), p. 8. The Report provides that financial account numbers should be shortened to their last four digits.

<sup>194</sup> VERMONT RULES FOR PUBLIC ACCESS TO COURT RECORDS RULE 6(b)(10) & (11). These Rules provide that the public shall not have access to records containing financial information furnished to the court in connection with an application to proceed in forma pauperis (not including the affidavit submitted in support of the application) and records containing financial information furnished to the court in connection with an application for an attorney at public expense (not including the affidavit submitted in support of the application). See also VERMONT RULES GOVERNING DISSEMINATION OF ELECTRONIC CASE RECORDS RULE § 3(b).

<sup>195</sup> PUBLIC ACCESS TO THE JUDICIAL RECORDS OF THE STATE OF ARIZONA, Rule 123(d)(3) provides that “notes, memoranda or drafts thereof prepared by a judge or other court personnel at the direction of a judge and used in the process of preparing a final decision or order are closed.”

<sup>196</sup> IDAHO ADMIN. R. 32(d)(15). This Rule provides that judicial work product or drafts, including all notes, memoranda or drafts prepared by a judge or a court-employed attorney, law clerk, legal assistant or secretary and used in the process of preparing a final decision or order except the official minutes prepared pursuant to law are not accessible by the public.

<sup>197</sup> IND. ADMIN. R. 9(G)(1)(h). Specifically, the Rule provides that case records excluded from public access include all personal notes and email, and deliberative material, of judges, court staff and judicial agencies.

<sup>198</sup> MN ST ACCESS TO REC RULE 4(1)(c) (WEST 2006). Case records that are not accessible by the public include “all notes and memoranda or drafts thereof prepared by a judge or by a court employed attorney, law clerk, legal assistant or secretary and used in the process of preparing a final decision or order. . . .”

<sup>199</sup> VERMONT RULES FOR PUBLIC ACCESS TO COURT RECORDS RULE 6(b)(12). These Rules provide that “records representing judicial work product, including notes, memoranda, research results, or drafts prepared by a judge or prepared by other court personnel on behalf of a judge, and used in the process of preparing a decision or order” are not available for public access.

<sup>200</sup> UTAH J. ADMIN. R. 4-202.02(5)(H) provides that “the following court records are protected. . . memorandum prepared by staff for a member of any body charged by law with performing a judicial function and used in a decision making process.”

cial, court administration and clerk of court work product.”<sup>201</sup>

The CCJ/COSCA Guidelines define judicial work product as:

work product involved in the court decisional process, as opposed to the decision itself. This would include such things as notes and bench memos prepared by staff attorneys, draft opinions and orders, opinions being circulated between judges, etc. Any specification about this should include independent contractors working for a judge or the court, externs, students, and others assisting the judge who are not employees of the court or the clerk of court’s office.<sup>202</sup>

Court administration and clerk of court work product is defined by the CCJ/COSCA Guidelines as “information. . . generated during the process of developing policy relating to the court’s administration of justice and its operations.”<sup>203</sup> The Guidelines indicate that court administration information that other states have excluded from public access include: communication logs of court personnel, meeting minutes, and correspondence of court personnel.<sup>204</sup>

Although the Committee will not attempt to list every piece of information that will not be released pursuant to this provision, the Committee would note the following. This provision would prohibit the release of information pertaining to the internal operations of a court, such as data recorded in the case notes or judicial notes portions of the automated systems wherein the court and court staff can record various work product and confidential information and help desk records.

The Committee when it balanced all the factors outlined above concluded that there is no legitimate public interest in releasing this type of information. Therefore, the Committee asserts that the same should not be released.

*Information Sealed or Protected Pursuant to Court Order*

If there is a court order that seals a case record or information contained within that case record, the same shall not be released to the public. The Committee notes that New York<sup>205</sup> has proposed and Maryland<sup>206</sup> has adopted a similar prohibition.

*Information to which Access is Restricted by Federal Law, State Law or State Court Rule*

This policy cannot supplant federal law, state law, or state court rule. Thus, if information is not releasable to the public pursuant to such authorities, the information cannot be released. The Committee did not specifically set forth in the policy each federal law, state law, or state court rule that prohibits the release of information to the

<sup>201</sup> See *CCJ/COSCA Guidelines*, p. 48-49.

<sup>202</sup> See *CCJ/COSCA Guidelines*, p. 50.

<sup>203</sup> See *CCJ/COSCA Guidelines*, p. 50.

<sup>204</sup> See *CCJ/COSCA Guidelines*, p. 51. See also ARIZ. SUP. CT. R. 123(e) (restricting access to *inter alia* judicial case assignments, pre-decisional documents, and library records); CAL. CT. R. 2072(a) (excluding personal notes or preliminary memoranda of court personnel from definition of court record); FLA. J. ADMIN. R. 2.051(c) (keeping confidential *inter alia* materials prepared as part of the court’s judicial decision-making process utilized in disposing of case and controversies unless filed as a part of the court record); *Report to the Chief Judge of the State of New York* by the Commission on Public Access to Court Records (February 2004), p. 1, fnt. 2 which indicates that information captured by a case tracking system that is for internal use only is not deemed to be public case record data; proposed amendment to VERMONT RULES FOR PUBLIC ACCESS TO COURT RECORDS RULE 5(b)(14) (restricting access to *inter alia* “communications between judicial branch personnel with regard to internal operations of the court, such as scheduling of cases, and substantive or procedural issues.”).

<sup>205</sup> *Report to the Chief Judge of the State of New York* by the Commission on Public Access to Court Records (February, 2004), p. 22 which provides that “sealed records may not be viewed by the public.”

<sup>206</sup> Maryland Rule of Procedure 16-1006(J)(1) which provides that “the custodian shall deny inspection of. . . a case record that: a court has ordered sealed or not subject to inspection. . . .”

public in that it suspects that to do so would require an amendment to the policy every time a law or rule was changed.<sup>207</sup>

*Information Presenting a Risk to Personal Security, Personal Privacy, or the Fair, Impartial and Orderly Administration of Justice, as Determined by the Court Administrator of Pennsylvania with the Approval of the Chief Justice.*

The MDJS policy provides that “the following information will not be released: . . . other identifiers which would present a risk to personal security or privacy.”<sup>208</sup> Moreover, the RTKA provides that the definition of “public records” does not include “any record . . . which would operate to the prejudice or impairment of a person’s reputation or personal security. . . .”<sup>209</sup>

The Committee is mindful that it is difficult to anticipate every possible public access consideration, whether related to technology, administration, security or privacy, that might arise upon implementation of a policy. Moreover, resolution of issues that may have statewide impact need to be resolved in a timely and unified fashion.

For example, in the recent past, law enforcement and court personnel raised security concerns with the AOPC about the release of certain MDJS data that jeopardized the safety of police officers and the administration of justice. The aforementioned MDJS policy provision permitted the Court Administrator to review the specific concerns and quickly take action to remedy the situation. The result being a more narrowly tailored access to MDJS criminal case data for bulk requestors that balanced the interests of transparency, security and operations of the court system. In a system as vast as ours, it is critical that such measures can be taken in a coordinated and effective manner.

It is important to note that other state court systems’ policies and rules have similarly provided for the need to promptly address unanticipated privacy and security concerns. See *[Massachusetts] Policy Statement by the Justices of the Supreme Judicial Court Concerning Publications of Court Case Information on the Web* (May 2003), p. 3; Kan.Sup.Ct. Rule 196(d)(3).

The Committee is cognizant that providing a “catchall” provision such as this could lead to a perception of overreaching, and due consideration was given before offering this recommendation. Notwithstanding, it is believed that such a provision used in judicious fashion is absolutely necessary to the successful implementation of this policy, as has been the case with the MDJS.

#### *Section 3.10 Requests for Bulk Distribution of Electronic Case Records*

**A. [ A ] To the extent that adequate resources and technical capabilities exist, a request for bulk distribution of electronic case records shall be permitted for data that is not excluded from public access as set forth in this policy.**

**B. [ A ] To the extent that adequate resources and technical capabilities exist, a request for bulk distribution of electronic case records not publicly accessible under Section 3.00 of this Policy may be fulfilled where: the information released does not identify specific individuals; the release of the information will not present a risk to personal security or privacy; and the information**

is being requested for a scholarly, journalistic, governmental-related, research or case preparation purpose.

1. Requests of this type will be reviewed on a case-by-case basis.

2. In addition to the request form, the requestor shall submit in writing:

(a) the purpose/reason for the request;

(b) identification of the information sought;

(c) explanation of the steps that the requestor will take to ensure that the information provided will be secure and protected;

(d) certification that the information will not be used except for the stated purposes; and

(e) whether IRB approval has been received, if applicable.

#### **2019 Commentary**

**Since the inception of the Unified Judicial System’s case management systems, AOPC has consistently fulfilled requests for bulk distribution of electronic case records from those systems. This stands in contrast to some other state court policies that do not permit the release of bulk data or substantially curtail its release.**

**Requests for bulk data are usually for case information from the CPCMS and MDJS. Given the number of years these systems have been in place, the amount of data maintained is significant, as compared to what was available in 2007, and is growing exponentially.**

**AOPC has informally applied a look-back restriction—currently no more than ten calendar years prior to the date of the request—to requests for bulk information to maintain consistent data quality and to properly allocate the use of computer processing and staff time.**

**The section was amended to reaffirm AOPC’s commitment to releasing court case data in bulk from the Unified Judicial System’s statewide case management systems, but only to the extent that AOPC has the technical, fiscal and administrative capacity to do so.**

#### *2013 Commentary*

An Institutional Review Board (“IRB”) ascertains the acceptability of and monitors research involving human subjects. An IRB will typically set forth requirements for research projects, such as where the information is to be kept, who has access, how the information is codified, and what information is needed for matching purposes. If there is IRB approval documentation setting forth the information required under Subsection B(2), such documentation may be sufficient to satisfy the “writing” requirement of this subsection.

#### *2007 Commentary*

In the judgment of the Committee, the number of electronic case records that may be requested by the public should not be limited. AOPC’s practice has been to fulfill requests for bulk distribution of electronic MDJS case records regardless of the number of records involved. In addition, the Committee’s recommendation and analysis on this issue closely mirrors the CCJ/COSCA Guidelines, which permit the release of bulk distribution of

<sup>207</sup> See, e.g., 42 Pa.C.S. §§ 6307, 6352.1 and Pa.R.J.C.P. 160 (providing limitations on the release of juvenile case record information).

<sup>208</sup> See MDJS Policy, Section II.B.2.a.

<sup>209</sup> Pa. STAT. ANN. tit. 65, § 66.1 (West 2006).

court records.<sup>210</sup> In addition, the Committee notes that several states, including California,<sup>211</sup> Indiana,<sup>212</sup> and Minnesota<sup>213</sup> permit the release of bulk data. Some states such as Kansas<sup>214</sup> and Colorado<sup>215</sup> (in part) do not permit the release of bulk data. Moreover, the RTKA provides that “[a] policy or regulation may not include any of the following: a limitation on the number of public records which may be requested or made available for inspection or duplication.”<sup>216</sup> Therefore, the Committee recommends that requests for bulk distribution of electronic case records continue to be fulfilled.

With regard to these requests, the Committee believes that the Judicial Automation Department may in the future implement in the Court’s automated systems (PACMS, CPCMS, and MDJS) various “canned” reports which a user can produce for requestors in response to a request. However, until the development of these “canned” reports or in a situation where the request cannot be fulfilled with one of these “canned” reports, the requestor should be referred to the AOPC.

A request for bulk distribution of electronic case records is defined as a request for all, or a subset, of electronic case records. Bulk distribution of electronic case record information shall be permitted for data that are publicly accessible as specified in the policy (e.g., date of birth, a party’s address limited to city, state and ZIP code).

In addition, a request for bulk distribution of information/data not publicly accessible may be permitted where: the information released does not identify specific individuals; the release of the information will not present a risk to personal security or privacy; and the information is being requested for a scholarly, journalistic, governmental-related, research or case preparation purpose.

The court, office or record custodian will review requests for this type of information/data on a case-by-case basis. For example, a requestor may want to know the offense location of all rapes for a given year in Pennsylvania, but he does not want any personal information about the victims (such as name, social security number, etc) because he is conducting a study to see if most rapes occur in apartment buildings, single-family structures, or in public areas (such as malls or parking lots). This request could be fulfilled if the information released does not identify any of the victims; there is no risk to the personal security or privacy of the victims involved; and the information is being requested for a scholarly, journalistic, governmental related, research or case preparation purpose.

For requests of non-releasable information, the requestor shall in addition to the request form, submit in writing:

- the purpose/reason for the request;
- identification of the information sought;

<sup>210</sup> See CCJ/COSCA Guidelines, pp. 34, 35, and 39.

<sup>211</sup> See CAL. CT. R. 2073(f) which provides that “a court may provide bulk distribution of only its electronic calendar, register of actions and index. ‘Bulk distribution’ means distribution of all, or a significant subset, of the court’s electronic records.”

<sup>212</sup> IND. ADMIN. R. 9(F) permits the release of bulk or compiled data.

<sup>213</sup> MN ST ACCESS TO REC. RULE 8(3) (WEST 2006).

<sup>214</sup> Kansas Rules Relating to District Courts Rule 196(e) “Bulk and Compiled Information Distribution—Information in bulk or compiled format will not be available.”

<sup>215</sup> Colo. C.J.D. 05-01 provides in Section 4.30 that bulk data will not be released to individuals, government agencies or private entities. Bulk data being the entire database or that subset of the entire database that remains after the extraction of all data that is confidential under law. However, Section 4.40 provides that requests for compiled data for non-confidential data will be entertained. There are numerous criteria that will be used to determine if the request will be granted. Compiled data is defined as data that is derived from the selection, aggregation or reformulation of specific data elements within the database.”

<sup>216</sup> PA. STAT. ANN. tit. 65, § 66.8(c)(1) (West 2006).

—explanation of the steps that the requestor will take to ensure that the information provided will be secure and protected; and

—certification that the information will not be used except for the stated purposes.

This section addresses requests for large volumes of data available from the statewide automation case management systems (PACMS, CPCMS, and MDJS) including incremental data files used to update previously received bulk distributions.<sup>217</sup>

#### *Section 3.20 Requests for Electronic Case Record Information from Another Court or Office*

Any request for electronic case record information from another court should be referred to the proper record custodian in the court or office where the electronic case record information originated. Any request for electronic case record information concerning multiple magisterial district judge courts or judicial districts should be referred to the Administrative Office of the Pennsylvania Courts.

#### *Commentary*

The Committee asserts that for electronic case record information “filed” within a specific court or office the requestor should contact the court or office for information. However, requests for information about multiple magisterial district judge courts or judicial districts should be directed to and processed by the AOPC.

In light of the fact that the CPCMS provides the capability for a clerk of courts in one county to produce information about a case in another county, the Committee is concerned that this policy might be used by a requestor to attempt to compel court and office personnel to produce information about a case in another county. The Committee assumes that most personnel would be averse to producing information about a case from another county in that the courts and offices currently have “control” over the release of their own case records. Therefore, it is preferable that situations in which court or office X is releasing court or office Y’s case records be avoided. Therefore this section makes it clear that requests for electronic case record information should be made to the record custodian in the court or office where the electronic case record information originated.

Generally, requests for information regarding a specific court or office should continue to be handled at the local level, but should be consistent with the statewide public access policy, thus ensuring that a requestor will get the same kinds of information from any court or office statewide. If a requestor is unable to obtain the information, the AOPC should work with the record custodian or appropriate administrative authority (e.g., district court administrator) to facilitate the fulfillment of the request consistent with the policy, as currently is done for MDJS requests. As a last resort, the AOPC may handle these requests directly, if possible.

For requests regarding multiple magisterial district judge courts or judicial districts, the Committee recommends that such requests should be referred to the AOPC, which alone should respond to the same. The Committee opines that the AOPC will be in the best position to more efficiently handle these requests, considering the AOPC will be capable of identifying the precise technological queries needed to “run” the request.

<sup>217</sup> After receipt of the initial bulk data transfer, requestors receive additional data sets (increments) periodically that allow them to update their current file.

*Section 4.00 Responding to a Request for Access to Electronic Case Records*

A. Within 10 business days of receipt of a written request for electronic case record access, the respective court or office shall respond in one of the following manners:

1. fulfill the request, or if there are applicable fees and costs that must be paid by the requestor, notify requestor that the information is available upon payment of the same;

2. notify the requestor in writing that the requestor has not complied with the provisions of this policy;

3. notify the requestor in writing that the information cannot be provided; or

4. notify the requestor in writing that the request has been received and the expected date that the information will be available. If the information will not be available within 30 business days, the court or office shall notify the Administrative Office of Pennsylvania Courts and the requestor simultaneously.

B. If the court or office cannot respond to the request as set forth in subsection A, the court or office shall concurrently give written notice of the same to the requestor and Administrative Office of Pennsylvania Courts.

*Commentary*

Implementing the provisions of this policy should not unduly burden the courts and offices, nor should implementation impinge upon the judiciary's primary service—the delivery of justice. The question raised by this section is not whether there is to be access, but rather *how and when access should be afforded*.

In drafting this section, the Committee was faced with two competing interests. First, any requirements imposed upon courts and offices regarding how and when they should respond to these requests must not interfere with the courts' and offices' ability to conduct their day-to-day operations, often with limited resources. Second, all requests should be handled by courts and offices in a predictable, consistent, and timely manner statewide. It is the Committee's opinion that the provisions of this section strike the appropriate balance between these two competing interests.

As noted earlier in this Report, FOIA and RTKA are not applicable to the judiciary. However, the Committee when drafting this section of the policy paid particularly close attention as to how both Acts address this issue. In fact, the Committee incorporated elements of those Acts into this section of the policy.<sup>218</sup>

Under subsection A(4), the court or office shall specifically state in its written notification to the requestor the expected date that the information will be available. If the information will not be available within 30 business days, the court or office shall provide written notification to the requestor and the Administrative Office of Pennsylvania Courts at the same time. Possible reasons a court or office may need the additional period of time include:

—the request, particularly if for bulk distribution of electronic case records, involves such voluminous amounts of information that the court or office may not be able to fulfill the same within the initial 10 business day period without substantially impeding the orderly conduct of the court or office; or

—the court or office is not able to determine if this policy permits the release of the requested information

within the initial 10 business day period. Therefore, the court or office may require an additional period of time to conduct an administrative review of the request to make this determination.

If the court or office believes that the requestor has failed to comply with this policy, written notification to the requestor should set forth the specific areas of non-compliance. For example, a requestor may have failed to pay the appropriate fees associated with the request.

Any written notification to the requestor stating that the information requested cannot be provided shall set forth the reason(s) for this determination.

If the court or office is unable to respond to the request as set forth above, the AOPC should work with the record custodian or appropriate administrative authority (e.g., district court administrator) to facilitate the fulfillment of the request consistent with the policy, as currently is done for MDJS requests. As a last resort, the AOPC may handle these requests directly.

The phrase "in writing" includes but is not limited to electronic communications such as email and fax.

The Committee also discussed when a request is partially fulfilled (e.g., if the requestor asked for a defendant's name, address, and social security number, pursuant to Section 3.00 of this policy a court or office could not release the defendant's social security number or street address) whether the court or office should specifically set forth that it has the restricted information on record although it did not release the same. In the judgment of the Committee it is important that requestors are apprised that all requests for information are fulfilled pursuant to a statewide policy without necessarily pointing out each piece of information that is in the court's or office's possession but not released under the policy. Therefore, when responding to any request, a court or office should provide a general statement to the requestor that "your request for information is being fulfilled consistent with the provisions of the Unified Judicial System Public Access Policy."

The time frames set forth in this section will usually only concern requests for bulk distribution for electronic case records.

*Section 5.00 Fees*

A. Reasonable fees may be imposed for providing public access to electronic case records pursuant to this policy.

B. A fee schedule shall be in writing and publicly posted.

C. A fee schedule in any judicial district, including any changes thereto, shall not become effective and enforceable until:

1. a copy of the proposed fee schedule is submitted by the president judge to the Administrative Office of Pennsylvania Courts; and

2. the Administrative Office of Pennsylvania Courts has approved the proposed fee schedule.

*Commentary*

The Committee first considered whether to charge a fee for fulfilling public access requests. It was noted that public access requests are often for information that is not readily available and require staff and equipment time to fulfill the same. The Committee asserts that these costs incurred by courts and offices in fulfilling a request should be passed on to the requestor. Clearly, absent the request, the court or office would not incur these costs.

The Committee noted that the MDJS policy provides that "[c]osts shall be assessed based on the actual costs of the report medium, a pro-rata share of computer and staff

<sup>218</sup> 5 U.S.C. § 552(a)(6) (2006) and PA. STAT. ANN. tit. 65, §§ 66.3-3 (West 2006).



time, plus shipping and handling.”<sup>219</sup> The RTKA also provides that fees may be charged by agencies in fulfilling RTKA requests.<sup>220</sup> The Committee reviewed the RTKA fee schedules of the Governor’s Office, Lieutenant Governor’s Office, and the Executive Offices<sup>221</sup> and the Department of Environmental Protection.<sup>222</sup> Outside of Pennsylvania, the Committee also noted that several states charge a fee to a requestor when responding to a public access request (which will be discussed in greater detail below). Therefore, the Committee opines that the current practice of charging public access requestors a fee for fulfilling their requests should continue.

The Committee reviewed the costs charged by various state courts in responding to public access requests. In general, it appears that most court systems charge a fee that is intended to recoup from the requestor the costs incurred by the court in responding to the request. These court systems include Colorado,<sup>223</sup> New York,<sup>224</sup> Vermont,<sup>225</sup> Maryland,<sup>226</sup> Idaho,<sup>227</sup> California,<sup>228</sup> and Florida.<sup>229</sup> However, some court systems, such as Minnesota,<sup>230</sup> Arizona,<sup>231</sup> and Utah<sup>232</sup> appear to permit a cost/fee that is in excess of the costs incurred in responding to the request. The Committee also noted that the RTKA and FOIA differ on this issue as well. Specifically,

<sup>219</sup> See MDJS Policy, Section II.B.5.

<sup>220</sup> See PA. STAT. ANN. tit. 65, § 66.7 (West 2006).

<sup>221</sup> See *Commonwealth of Pennsylvania Governor’s Office, Lieutenant Governor’s Office, and Executive Offices—Right-To-Know Request Policy*.

<sup>222</sup> See *DEP and the Pennsylvania Right-To-Know Law Schedule of Charges for Public Access*.

<sup>223</sup> Colo. D.J.D. 05-01 Section 6.00—Fees for Access—“Clerks of Court and the State Court Administrator’s Office may charge a fee for access to court records pursuant to § 24-72-205(2) and (3) C.R.S. and Chief Justice Directive 96-01. The costs shall include: administrative personnel costs associated with providing the court records; direct personnel costs associated with programming or writing queries to supply data; the personnel costs associated with testing the data for validity and accuracy; maintenance costs associated with hardware and software that are necessary to provide data as expressed in Computer Processing Unit (CPU), network costs, and operating costs of any reproduction medium (i.e. photocopies, zip disks, CD, etc). To the extent that public access to electronic court records is provided exclusively through a vendor, the State Court Administrator’s Office will ensure that any fee imposed by the vendor for the cost of providing access is reasonable. The authorization to charge fees does not imply the service is currently available.”

<sup>224</sup> *Report to the Chief Judge of the State of New York* by the Commission on Public Access to Court Records (February, 2004), p. 7-8. The Report provides that “records over the Internet [should] be free of charges; if the [court] determines that a charge is advisable we recommend that the charge be nominal and that it in no event should exceed the actual cost to provide such record.”

<sup>225</sup> 1 VT. STAT. ANN. § 316(b)—(d) and (f) provides that if any cost is assessed it is based upon the actual cost of copying, mailing, transmitting, or providing the document.

<sup>226</sup> Maryland Rule of Procedure 16-1002(d) provides that “Reasonable fees means a fee that bears a reasonable relationship to the actual or estimated costs incurred or likely to be incurred in providing the requested access. Unless otherwise expressly permitted by these Rules, a custodian may not charge a fee for providing access to a court record that can be made available for inspection, in paper form or by electronic access, with the expenditure of less than two hours of effort by the custodian or other judicial employee. A custodian may charge a reasonable fee if two hours or more of effort is required to provide the requested access. The custodian may charge a reasonable fee for making or supervising the making of a copy or printout of a court record.”

<sup>227</sup> IDAHO ADMIN. R. 32(I). This Rule provides the clerk should charge \$1.00 a page for making a copy of any record filed in a case (per Idaho Stat. § 31-3201) and for any other record the clerk shall charge the actual cost of copying the record, including personnel costs.

<sup>228</sup> CAL. CT. R. 2076 provides that the court may impose fees for the cost of providing public access to its electronic records as provided by Government Code section 68150(h) (which sets forth that access shall be provided at cost).

<sup>229</sup> See FLA. J. ADMIN. R. 2.051(e)(3) and FLA. STAT. ANN. § 119.07 which appears to permit the charging for cost of duplication, labor and administrative overhead.

<sup>230</sup> MN ST ACCESS TO REC RULE 8(6) (WEST 2006). “When copies are requested, the custodian may charge the copy fee established by statute but, unless permitted by statute, the custodian shall not require a person to pay a fee to inspect a record. When a request involves any person’s receipt of copies of publicly accessible information that has commercial value and is an entire formula, pattern, compilation, program, device, method, technique, process, data base, or system developed with a significant expenditure of public funds by the judicial branch, the custodian may charge a reasonable fee for the information in addition to costs of making, certifying, and compiling the copies.”

<sup>231</sup> Arizona Rule 123 Public Access to the Judicial Records of the State of Arizona, Subsection (f)(3) provides different levels of fees for requestors for non-commercial purposes and commercial purposes. For non-commercial requestors “[i]f no fee is prescribed by statute, the custodian shall collect a per page fee based upon the reasonable cost of reproduction.” See Rule 123(f)(3)(A). For commercial requestors, “the custodian shall collect a fee for the cost of: (i) obtaining the original or copies of the records and all redaction costs; and (ii) the time, equipment and staff used in producing such reproduction.” See Rule 123(f)(3)(B)(i) and (ii).

<sup>232</sup> UTAH J. ADMIN. R. 4-202.08 establishes a uniform fee schedule for requests for records, information, and services.

the RTKA provides that fees must be reasonable and based on the prevailing fees for comparable services provided by local business entities, except for postage fees which must be the actual cost of postage.<sup>233</sup> However, FOIA provides that only the direct costs incurred by the agency can be charged to the requestor.<sup>234</sup>

If fees are based on the prevailing market rate, then fees will not only recoup the actual costs incurred by the particular court of office but also result in a profit. The objective of courts or offices in responding to public access requests is not to make a profit; rather it is to foster the values of open court records without unduly burdening court resources. Put simply, fees should not be financial barriers to accessing case record information. Fees assessed by courts or offices in satisfying public access requests must be reasonable, fair and affordable. To aid in defining the parameters of reasonable, fair and affordable fees, the Committee finds the definition for charges in the Vermont<sup>235</sup> and New York<sup>236</sup> policies instructive. Generally, the public access request fees should not exceed the actual costs associated with producing the requested information for copying, mailing or other methods of transmission, materials used and staff time.

In the judgment of the Committee, it would be beneficial to both the public and AOPC if all courts or offices were required to promulgate their fee schedules. Therefore, the Committee recommends that a court’s or office’s fee schedule be in writing and publicly posted (preferably so as to permit viewing both in person and remotely via the Internet). This method is similar to the procedures adopted for the promulgation of local rules.<sup>237</sup>

Subsection C provides that the Administrative Office of Pennsylvania Courts must approve all judicial district fee schedules—to include adoption of any new fees or fee increases—before the same are effective and enforceable.<sup>238</sup> The purpose of this provision is to further a unified approach to fees associated with case record access in the Pennsylvania Judiciary—with an eye toward avoiding inconsistent and unfair charges amongst the various jurisdictions. This type of approach is not novel, as it is quite similar to the procedure set forth in Rule of Judicial Administration 5000.7(f) pertaining to the approval of court transcripts.

#### *Section 6.00 Correcting Data Errors*

A. A party to a case, or the party’s attorney, seeking to correct a data error in an electronic case record shall submit a written request for correction to the court in which the record was filed.

B. A request to correct an alleged error contained in an electronic case record of the Supreme Court, Superior Court or Commonwealth Court shall be submitted to the prothonotary of the proper appellate court.

C. A request to correct an alleged error contained in an electronic case record of the Court of Common Pleas, Philadelphia Municipal Court or a Magisterial District Court shall be submitted and processed as set forth below.

<sup>233</sup> See PA. STAT. ANN. tit. 65, § 66.7 (West 2006).

<sup>234</sup> 5 U.S.C. § 552(a)(4)(a)(iv) (2006). In addition, the Committee noted that for certain types of requestors FOIA provides that the first two hours of search time or the first 100 pages of duplication can be provided by the agency without charging a fee. 5 U.S.C. § 552(a)(4)(a)(iv)(II) (2006).

<sup>235</sup> 1 VT. STAT. ANN. § 316(b)—(d) and (f) provides that if any cost is assessed it is based upon the actual cost of copying, mailing, transmitting, or providing the document.

<sup>236</sup> *Report to the Chief Judge of the State of New York* by the Commission on Public Access to Court Records (February, 2004), p. 7-8. The Report provides that “records over the Internet [should] be free of charges; if the [court] determines that a charge is advisable we recommend that the charge be nominal and that it in no event should exceed the actual cost to provide such record.”

<sup>237</sup> See PA.R.J.A.103(c), PA.R.CRIM.P. 105(c) and PA.R.C.P. No. 239(c).

<sup>238</sup> See Pa. Const. Art. V, § 10(c); Pa.R.J.A. 501(a), 504(b), 505(11), 506(a); 42 Pa.C.S. § 4301.

1. The request shall be made on a form designed and published by the Administrative Office of Pennsylvania Courts.

2. The request shall be submitted to the clerk of courts if the alleged error appears in an electronic case record of the Court of Common Pleas or Philadelphia Municipal Court. The requestor shall also provide copies of the form to all parties to the case, the District Court Administrator and the Administrative Office of Pennsylvania Courts.

3. The request shall be submitted to the Magisterial District Court if the alleged error appears in an electronic case record of the Magisterial District Court. The requestor shall also provide copies of the form to all parties to the case, the District Court Administrator and the Administrative Office of Pennsylvania Courts.

4. The requestor shall set forth on the request form with specificity the information that is alleged to be in error and shall provide sufficient facts including supporting documentation that corroborates the requestor's contention that the information in question is in error.

5. Within 10 business days of receipt of a request, the clerk of courts or Magisterial District Court shall respond in writing to the requestor, all parties to the case, and the Administrative Office of Pennsylvania Courts, in one of the following manners:

a. the request does not contain sufficient information and facts to adequately determine what information is alleged to be error; accordingly, the request form is being returned to the requestor; and no further action will be taken on this matter unless the requestor resubmits the request with additional information and facts.

b. the request does not concern an electronic case record that is covered by this policy; accordingly, the request form is being returned to the requestor; no further action will be taken on this matter.

c. it has been determined that an error does exist in the electronic case record and that the information in question has been corrected.

d. it has been determined that an error does not exist in the electronic case record.

e. the request has been received and an additional period not exceeding 30 business days is necessary to complete the review of this matter.

6. A requestor has the right to seek review of a final decision under subsection 5(a)–(d) rendered by a clerk of courts or a Magisterial District Court within 10 business days of notification of that decision.

a. The request for review shall be submitted to the District Court Administrator on a form that is designed and published by the Administrative Office of Pennsylvania Courts.

b. If the request for review concerns a Magisterial District Court's decision, it shall be reviewed by the judge assigned by the President Judge.

c. If the request for review concerns a clerk of courts' decision, it shall be reviewed by the judge who presided over the case from which the electronic case record alleged to be in error was derived.

#### Commentary

An important aspect of transparent electronic case records and personal privacy/security is the quality of the information in the court record. The information in UJS electronic case records should be complete and accurate, otherwise incorrect information about a party to a case or court proceeding could be disseminated. The Committee recognizes that electronic case records are as susceptible to errors and omissions as any other public record,

particularly when considered in view of the widespread Internet use and access, and agreed procedures for correcting these errors should be incorporated into this policy.

The power of the court to correct errors in its own records is inherent.<sup>239</sup> "Equity enjoys flexibility to correct court errors that would produce unfair results."<sup>240</sup> Therefore, the Committee opines that the authority for a court to correct errors in its own records is inherent and does not arise from the Criminal History Record Information Act (CHRIA).<sup>241</sup> Although, the Committee does not interpret CHRIA as being applicable to the correction of court records,<sup>242</sup> the Committee consulted the correction of error section of CHRIA in drafting this section of the policy,<sup>243</sup> specifically with regard to the safeguards that are found in CHRIA related to the time limitations for action and appeals. CHRIA permits a criminal justice agency 60 days to review a challenge to the accuracy of its record. The Committee believes the time for a decision concerning an alleged error in a court record should be limited in this section of the policy to a maximum of 40 business days. CHRIA also permits the challenger who believes the agency decision is in error to file an appeal. Similarly, in this policy, Subsection 6 permits a requestor who believes the decision is erroneous to seek administrative review as well.

Subsection 6 provides an individual who asserts that an electronic case record is in error an administrative process by which that allegation can be reviewed and resolved. This administrative review process is modeled after the review process set forth in CHRIA and is in addition to any other remedies provided by law. It is important to note the review provided for in Subsection 6 by the Court of Common Pleas is administrative in nature.

The Committee also took note of corrective procedures that other states, including Arizona,<sup>244</sup> Colorado,<sup>245</sup> Kansas,<sup>246</sup> Minnesota,<sup>247</sup> and Wisconsin<sup>248</sup> as well as the CCJ/COSCA Guidelines,<sup>249</sup> establish in their policies and/or court rules (enacted or proposed).

<sup>239</sup> E.g. *Jackson v. Hendrick*, 746 A.2d 574 (Pa. 2000).

<sup>240</sup> Id. at 577.

<sup>241</sup> 18 Pa.C.S. § 9101–9183.

<sup>242</sup> The Committee notes that it is unclear the extent, if any, to which CHRIA is applicable to court records. Specifically, 18 Pa.C.S. Section 9103 provides that CHRIA is applicable to "person within this Commonwealth and to any agency of the Commonwealth or its political subdivisions which collects, maintains, disseminates or receives criminal history record information." Clearly, the court is not an agency, political subdivision or a person of the Commonwealth. Moreover, Criminal History Record Information is defined in 18 Pa.C.S. Section 9102 as "does not include . . . information and records specified in section 9104 (relating to scope)." 18 Pa.C.S. Section 9104(a)(2) appears to reference "any documents, records, or indices prepared or maintained by or filed in any court of this Commonwealth, including but not limited to the minor judiciary." Moreover, Section 9104(b) provides that "court dockets. . . and information contained therein shall. . . for the purpose of this chapter, be considered public records." If one does contend that the correction procedures set forth in CHRIA are applicable to court records, it is important to note that the procedure provides that a person who wants to appeal a court's decision regarding an alleged error files that appeal with the Attorney General Office. Thus, the Attorney General Office, a part of the Executive Branch of Government, would be reviewing a decision issued by a Court of the Unified Judicial System. Such a procedure appears to raise some constitutional concerns.

<sup>243</sup> See 18 Pa.C.S. § 9152.

<sup>244</sup> *Report and Recommendation of the Ad Hoc Committee to Study Public Access to Electronic Records* dated March 2001 Sections (V)(8) and (VI)(8); ARIZ. SUP. CT. R. 123(g)(6) (this provision, and others related to public access, was adopted by Order of Arizona Supreme Court dated June 6, 2005 to be effective December 1, 2005; effective date postponed by Court's Order dated September 27, 2005 to permit effective and efficient implementation of the provisions).

<sup>245</sup> Colo. C.J.D. 05-01 Section 9.00 provides for a process to change inaccurate information in a court record.

<sup>246</sup> K.S.A. § 60-260 and Kansas Rules Relating to District Courts Rule 196(f).

<sup>247</sup> MN ST ACCESS TO REC RULE 7(5) (WEST 2006).

<sup>248</sup> Wisconsin Circuit Court Access (WCCA) Web site, "The information on a case is incorrect. Could you correct the information?" at: <http://wcca.wicourts.gov/faqnav.xsl?sessionId=8036D1470A038AB3CBB55B35613773C6.render4#Faq11> and "Who do I contact if I want clarification about information displayed on WCCA?" at: <http://wcca.wicourts.gov/faqnav.xsl?sessionId=8036D1470A038AB3CBB55B35613773C6.render4#Faq18>.

<sup>249</sup> See CCJ/COSCA Guidelines, p. 69.

In considering the procedures for correcting errors, it is important to emphasize that this section does not provide a party who is dissatisfied with a court's decision, ruling or judgment a new avenue to appeal the same by merely alleging that there is an error in the court's decision, ruling or judgment. Rather, this section permits a party to "fix" information that appears in an electronic case record which does not, for one reason or another, correctly set forth the facts contained in the official court record (paper case file).

It is anticipated that those reviewing these alleged errors shall compare the information set forth in the electronic case record against the official court record. If the information in the electronic case record and official court record is consistent, the request to correct the electronic case record should be denied. If the information is not consistent, the reviewer shall determine what, if any, corrections are needed to the electronic case record. Nonetheless, if the requestor believes that the official court record is in error, such an alleged error does not fall within the purview of this section. Rather, the current practices in place in the courts to resolve these errors should continue.

By way of example, the official court records of a case set forth that the defendant's name is "John Smith", however, the electronic case record provides that the defendant's name is "John Smyth". Obviously this was a clerical or data entry error. This type of error falls within the purview of this section. However, if for example, a party claims that he was convicted of the crime of simple assault, but the official court record sets forth that he was convicted of the crime of driving under the influence, this error does not fall within the purview of this section in that the requestor is alleging an error in the official court record.

This section does not preclude a court from accepting and responding to verbal or informal requests to correct a data error in an electronic case record. However, if a requestor wishes to enjoy the benefits of the relief and procedures set forth in this section, he/she must file a formal written request. This procedure is consistent with the RTKA which permits a governmental agency to accept and respond to verbal requests, but provides that "[i]n the event that the requestor wishes to pursue the relief and remedies provided for in this act, the requestor must initiate such relief with a written request."<sup>250</sup>

In Subsection A, a "party's attorney" means attorney of record.

In Subsection B, the Committee understands that the errors that may appear in appellate court records are different in nature and kind that those that appear at the lower courts. Specifically, most errors will concern the original records from the lower court that the appellate court is reviewing. Therefore, the Committee believes that appellate courts' current practices in resolving these errors should continue.

The term "clerk of courts" includes any office performing the duties of a clerk of courts, regardless of titles (i.e., Clerk of Quarter Sessions, Office of Judicial Support, Office of Judicial Records).

<sup>250</sup> 65 P.S. § 66.2(b).

### *Section 7.00 Continuous Availability of Policy*

A copy of this policy shall be continuously available for public access in every court or office that is using the PACMS, CPCMS, and/or MDJS.

#### *Commentary*

The Committee opines that it is essential that the public has access to the provisions of this policy on a continuing basis. In drafting this language, the Committee found that the statewide Rules of Criminal Procedure and Civil Procedure have similar provisions regarding the continuing availability of local rules in each judicial district.<sup>251</sup> The Committee used that language as a guide in drafting this provision. The Committee recommends that this policy be publicly posted (preferably so as to permit viewing both in person and remotely via the Internet).

#### *Additional Recommendations Concerning Paper Case Records*

As noted in the Introduction to the Report, the practical difficulties associated with covering paper case records concerning a single case counseled against inclusion in this policy. Even so, the Committee recommends that the UJS take steps in the future to avoid the personal privacy and security issues that may arise with respect to these records.

The Committee proposes the creation of a sensitive information data form. When filing a document with a court or office, litigants and their attorneys would be required to refrain from inserting any sensitive information (such as social security numbers, financial account numbers, etc) in the filed document. Rather, all sensitive information should be inserted on the sensitive information data form, which would not be accessible to the public. Thus, the use of this form should over time help prevent sensitive information from appearing in the paper records that are accessible to the public. The Committee notes that Washington<sup>252</sup> and Kansas<sup>253</sup> already uses a sensitive information data form, and Arizona<sup>254</sup> and Minnesota<sup>255</sup> are considering enacting rules/policies to provide for the same. The Committee recommends that this sensitive information data form be available at the courthouse and via the Internet.

[Pa.B. Doc. No. 19-1414. Filed for public inspection September 20, 2019, 9:00 a.m.]

<sup>251</sup> PA.R.CRIM.P. 105(c)(5) and PA.R.C.P. No. 239(c)(5) provide that the local rules shall be kept continuously available for public inspection and copying in the office of the prothonotary or clerk of courts. Upon request and payment of reasonable costs of reproduction and mailing, the prothonotary or clerk shall furnish to any person a copy of any local rule.

<sup>252</sup> WASH. CT. GR. 22(c)(2) (2006). Please note that this rule only applies to family law cases.

<sup>253</sup> Kansas Rules Relating to District Courts Rule 123 (Rule Requiring Use of Cover Sheets and Privacy Policy Regarding Use of Personal Identifiers in Pleading). The Rule provides that in divorce, child custody, child support or maintenance cases, a party must enter certain information only on the cover sheet which is not accessible to the public. Specifically, a party's or party's child's SSN and date of birth must be entered on the cover sheet only. Moreover, the Rule provides that unless required by law, attorneys and parties shall not include SSNs in pleadings filed with the court (if must be included use last four digits), dates of birth (if must be included use year of birth), and financial account numbers (if must be included use last four digits).

<sup>254</sup> See Supreme Court of Arizona's Order of September 27, 2005 vacating amendments to Rule 123 (that were set to become effective on December 1, 2005). The September Order creates a working group of court officials to resolve outstanding issues and issue a report to the Court on or before June 1, 2006.

<sup>255</sup> *Recommendations of Minnesota Supreme Court Advisory Committee on Rules of Public Access to Records of the Judicial Branch* (June 28, 2004), p. 74-75.

**Title 255—LOCAL COURT RULES**

**DAUPHIN COUNTY**

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

**Order**

And Now, this 10th day of September, 2019, Dauphin County Local Rule of Civil Procedure 14 is promulgated and Local Rules of Civil Procedure 205.2(a), 210, 1028(c), 1034(a) and 1035.2(a) are amended as follows:

**Rule 14. Land Use Appeals.**

(1) *Notice of Appeal—Content:* A land use appeal shall contain the following information:

(a) A caption in substantially the following form:

Name of Appellant	:	IN THE COURT OF COMMON PLEAS
	:	DAUPHIN COUNTY, PENNSYLVANIA
v.	:	
	:	No. _____
Name of municipality of name of body (i.e. zoning hearing board, governing body or planning commission) which rendered decision	:	CIVIL ACTION—LAND USE APPEAL

(b) When applicable, in separately numbered paragraphs and in the following order:

- (i) Name and address of the appellant.
- (ii) Name and address of the zoning hearing board, governing body or planning commission (“local agency”) which rendered the decision. If the local agency issued a written decision, appellant shall attach a copy of the written decision to the appeal notice.
- (iii) Name and address of the applicant to the local agency, if the applicant is not the appellant, and of all other persons or entities recognized as parties to the proceeding before the local agency.
- (iv) Name and address of the owners, both real and equitable, of any real estate which was the subject of the decision and a description sufficient to identify the real property.
- (v) The procedural history of the matter, including the following as applicable:
  - (a) Date of filing application or appeal with zoning officer or other official.
  - (b) Date of action of the zoning officer or other official.
  - (c) Date of appeal from action of zoning officer or other official to local agency or date of filing application with local agency.
  - (d) Dates of all hearings or meetings of the local agency.
  - (e) Date of written decision or, if applicable, date of deemed decision from which the appeal has been taken.
  - (f) Date written decision served.
  - (vi) The basis for the Court’s jurisdiction of an appeal from the local agency’s decision.
  - (vii) The basis for appellant’s standing to file the appeal.
  - (viii) All specific legal and factual grounds for the appeal.
  - (ix) Specific request for relief from the Court.

(2) *Service of the Land Use Appeal Notice.* Within seven (7) days of filing the land use appeal notice with the Prothonotary, appellant shall serve a copy of the land use

appeal notice upon the local agency, the applicant before the local agency (if appellant was not the applicant), the legal and equitable owner of the real property which is the subject of the appeal and all other persons or entities recognized as parties to the proceedings before the local agency. Service upon the local agency’s counsel and upon counsel for parties represented by counsel before the local agency shall be sufficient. Appellant shall file proof of service with the Prothonotary within three (3) days of making service.

(3) *Transcript of Proceedings before the Local Agency.* If a court reporter was present and if a transcript is not already in existence, appellant’s certification that appellant has ordered a transcript of the proceedings and has made satisfactory arrangements with the court reporter for payment. Upon receipt of the transcript, appellant shall provide the original transcript to the solicitor of the local agency to be filed with the record. If appellant does not include a certification that appellant has ordered the transcript, any other party may file a petition requesting the Court dismiss the appeal.

(4) *No Answer to Land Use Appeal Notice.* No answer need be filed to a land use appeal notice. The grounds for the appeal set forth therein shall be deemed to be denied and at issue.

(5) *Intervention*

(a) A notice of intervention under Section 1004-A of the Pennsylvania Municipalities Planning Code, 53 P.S. § 11004-A, shall contain:

- (i) The caption and number of the appeal.
- (ii) Name and address of intervenor.
- (iii) Nature of the interest of intervenor in the appeal.
- (iv) Legal and factual circumstances under which intervenor claims a right to intervene.
- (v) Summary of intervenor’s position and grounds therefor.

(b) Any person or entity who wishes to intervene in an appeal of a land use matter and who cannot intervene as a matter of right pursuant to Section 1004-A of the Pennsylvania Municipalities Planning Code, 53 P.S. Sec. 1104-A, shall file a petition to intervene pursuant to

Pa.R.C.P. 2326 et seq. In addition to the information required by Pa.R.C.P. 2328, the petition shall contain:

- (i) The caption and number of the appeal.
- (ii) Name and address of intervenor.
- (iii) Nature of the interest of intervenor in the appeal.
- (iv) Legal and factual circumstances under which intervenor claims a right to intervene.
- (v) Summary of intervenor's position and grounds therefor.

(6) *Certiorari to the Local Agency*

(a) The local agency shall submit its entire record within twenty (20) days after receipt of the writ of certiorari or receipt of the transcript(s), whichever is later, including but not limited to:

(i) All original papers filed in chronological order, commencing with the application or appeal filed with the local agency.

(ii) Minutes of meetings of the local agency at which the application was considered.

(iii) The transcript of all hearings. The local agency shall not submit its record to the Prothonotary until appellant has provided the transcript of all hearings if the transcript is not in existence and available to the local agency prior to appellant's filing the appeal. In the event that the appellant has not provided the local agency with a transcript within forty-five (45) days of the filing of the appeal, the local agency shall submit its record to the Prothonotary with a certification that a transcript has not been provided and the reason.

(iv) The complete ordinance under which the local agency rendered its decision, including maps.

(v) All exhibits received or offered into evidence before the local agency.

(vi) The findings of fact and conclusions of law of the local agency, if any, and its written decision.

(vii) Names and addresses of all persons the local agency recognized as parties to the proceedings.

(b) The chairperson, presiding officer, keeper of the records, or solicitor of the local agency shall certify the submission of the record.

(c) The Prothonotary shall give notice of the return of the local agency's record to appellant who shall, within seven (7) days after receipt of the notice, notify the local agency, the applicant before the local agency (if appellant was not the applicant), the legal and equitable owner of the land which was the subject of the application, any intervenors in the appeal, and all other persons recognized as parties to the local agency's proceedings. Service upon the local agency's counsel and upon counsel for parties represented by counsel before the local agency shall be sufficient. Appellant shall file proof of notice with the Prothonotary within three (3) days of making service.

(d) Contemporaneously with giving notice of the filing of the complete return of the record, the Prothonotary shall forward the appeal to Court Administration for assignment to a Judge of the Court of Common Pleas. Court Administration shall assign appeals to the judges on a rotating basis.

(7) *Disposition*

(a) Within thirty (30) days after the Prothonotary gives notice of the filing of the complete return of the record, any party who believes the appeal is not ready for

disposition may file an Administration Application for Status Conference pursuant to Local Rule 215.3. The application for a conference shall state why the party believes that the appeal is not ready for disposition and shall identify all actions that the party requests.

(b) At the status conference, the Court may, inter alia:

(i) Require or approve supplementation of the record.

(ii) Schedule a time for a de novo hearing before the Court.

(iii) Employ expert(s) to aid the Court to frame an appropriate order.

(iv) Refer the appeal to a master to receive additional evidence, with directions as to time deadlines and other matters the Court deems appropriate.

(v) If allowed by law, remand the appeal to the local agency with directions as to time deadlines and other matters, including mediation.

(c) After the conference, the Court shall issue an appropriate order addressing the filing of briefs.

(d) If no party has filed an Administrative Application for Status Conference, the standard briefing schedule shall be as follows:

(i) The appellant shall file a brief within sixty (60) days after service of notice of the filing of the local agency's complete record. The appellant shall limit the brief to the issues appellant raised in the land use appeal.

(ii) Each other party shall file a responsive brief within thirty (30) days after service of appellant's brief.

(iii) The appellant, and any party which supports appellant's position, may file a reply brief within fifteen (15) days after service of the responsive brief.

Any party may thereafter file an original and one copy of a Certificate of Readiness with the Prothonotary. The Certificate of Readiness must indicate whether or not oral argument is requested by any party.

(e) If appellant fails to file a brief within the time period established by Paragraph (7)(d) above or by the Court after a conference, and no other party files a brief in support of appellant's position, then any other party to the appeal may petition the Court for dismissal of the appeal. If appellee fails to file its brief within the time period established by Paragraph (7)(d) above or by the Court after a conference, then the Court may consider appellee to have abandoned its position and proceed to dispose of the appeal on the merits upon the filing of a Certificate of Readiness.

(8) *Appeal after Remand.* An appeal filed from a decision rendered by a local agency after a remand from this Court shall be filed and docketed to the original number. All other requirements of this rule shall apply to an appeal from a decision after remand.

(9) *Supersedeas.* An appeal from a decision of a local agency shall not act as a supersedeas without special order of court. An appellant may file a motion for a supersedeas pursuant to the procedure set forth in Local Rule 208.3.

**Rule 205.2(a). Physical Characteristics of Pleadings and Other Legal Papers.**

(1) All documents filed in the Office of Prothonotary shall be on 8 1/2 inch by 11 inch paper and shall comply with the following requirements:

(a) The document shall be prepared on white paper of good quality and the use of recycled paper is encouraged.

(b) The first sheet shall contain a 3-inch space from the top of the paper for all court stampings, filing notices, etc.

(c) The text must be double spaced, but quotations more than two lines long may be indented and single spaced. Except as provided in subsection b, margins must be at least one inch on all four sides.

(d) The lettering shall be clear, legible and no smaller than Arial 12 point.

(e) The lettering shall be on only one side of a page.

(f) All exhibit tabs shall appear at the bottom of the pleading.

(g) No backers shall be used on the original or any copies of pleadings or other legal papers filed with the Prothonotary. The original of pleadings or other legal papers should be stapled in the top left corner. If the document is over one-half inch thick, it should be secured with a binder clip. Backers may be used for copies provided to the court, opposing parties or clients.

(h) Exhibits or attachments smaller than 8 1/2 inches by 11 inches shall be attached to a regular size paper by using adhesive tape.

(i) Pages shall be consecutively numbered beginning with page 2 and said number shall appear on the bottom center of the pleading.

(j) The name of the attorney or party, the address at which service can be made, a telephone number and email address of the attorney or party shall appear on the top left hand corner of the first page of all papers filed in the Office of the Prothonotary.

(k) With the initiating filing and all subsequent filings, in cases where medical malpractice is or will be alleged, the notation "Civil Action—Medical Professional Liability Action" shall appear on all captions directly underneath the docket number.

(l) Any courtesy copies of filings that are provided to a judge and served on opposing parties must be firmly bound and any metal fasteners or staples must be securely covered with no sharp or protruding edges of any kind.

(m) Filings of record may be referenced in any subsequent filing but shall not be attached thereto.

(n) Attorneys and self-represented parties shall comply with the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts and Local Rules of Judicial Administration 101 and 102 found at [http://www.dauphincounty.org/government/courts/self\\_help\\_center/index.php](http://www.dauphincounty.org/government/courts/self_help_center/index.php).

(2) The Prothonotary shall endorse upon each paper filed, the date and time of its filing, and enter it upon the proper docket.

(3)(a) All civil motions, petitions, administrative applications and answers or responses thereto shall be accompanied by a proposed order (or alternative orders). **Except for Petitions in Forfeiture filed pursuant to 42 Pa.C.S.A. § 5805, Petitions shall also include a proposed Rule to Show Cause.**

(b) The proposed order(s) **and any Rule to Show Cause** shall contain a distribution legend which shall include the name(s) and mailing address(es), telephone number(s), facsimile number(s) and e-mail address(es), if any, of all attorneys and self-represented parties to be

served. **The distribution legend shall identify which party each person represents.**

**(c) Counsel and self-represented litigants are strongly encouraged to include stamped envelopes addressed to the attorneys and/or self-represented parties listed in the distribution legend along with all proposed orders and/or Rules to Show Cause.**

(4) The judge(s) chambers shall:

(a) file the original order with the Prothonotary;

(b) prepare copies of the order for mailing;

(c) have the Prothonotary's Office certify the copies for mailing;

(d) mail copies of the certified order to all parties listed in the distribution legend;

(e) note the date of mailing and the initials of the person who accomplished the mailing on the filed original order.

*Comment:* Paragraph (3) of this rule is intended to formalize a practice of long standing in Dauphin County as well as the majority of other counties. The proposed order should identify the relief sought, e.g. continuance, rule to show cause, request status or discovery conference, amend a complaint, etc.

An accurate distribution legend naming all attorneys and self-represented parties and their addresses, telephone numbers, facsimile numbers and e-mail addresses, if any, is essential since the court is now assuming the responsibility for service of its orders. Inclusion of facsimile numbers and e-mail addresses is not intended to authorize service by these methods.

Paragraph (4) of this rule is intended to formalize what is now a hybrid process which has left some doubt as to the responsibility for service of orders.

#### **Rule 210. Form and Content of Briefs.**

(1) Briefs shall contain the following:

(a) a full and accurate procedural history of the case;

(b) a full, accurate and unbiased statement of the facts;

(c) a concise statement of the pertinent legal and factual question(s) involved;

(d) a legal discussion, with accurate and verified citations to legal authority, including contra authority; and

(e) a concise statement indicating the requested relief and its specific application to the facts of the case.

(2) The Brief of each party, if more than fifteen pages in length, shall contain an Index and a Table of Citation of cases and statutes with reference to the page(s) at which they appear in the Brief. All citations must be verified and brought current to the date of filing.

**[ (3) No Reply Briefs shall be filed unless otherwise directed by the Assigned Judge. ]**

#### **Rule 1028(c). Preliminary Objections—Procedures for Disposition.**

(1) Preliminary Objections shall be filed with the Prothonotary and served on all other parties.

(2) Any response shall be filed within twenty days after service of the Preliminary Objections.

**(3) [ A brief in support shall be filed within forty days after service of the Preliminary Objections. ]**

**(a) If a response is filed, a brief in support of the Preliminary Objections shall be filed within twenty days after service of the response. If a brief in support is not filed within twenty days after service of the response, the Preliminary Objections shall be deemed withdrawn by the Prothonotary upon praecipe of the responding party.**

**(b) If no response is filed, a brief in support of the Preliminary Objections shall be filed within forty days after service of the Preliminary Objections. If no response is filed and a brief in support of the Preliminary Objections is not filed within forty days after service of the Preliminary Objections, the Preliminary Objections shall be deemed withdrawn by the Prothonotary upon praecipe of the responding party.**

(4) [ A ] **Any** brief in opposition shall be filed twenty days after service of [ the ] **any** brief in support of the Preliminary Objections **which may have been filed.**

**(5) A Reply Brief, although not required, may be filed within ten days of service of the brief in opposition.**

**(6) If the responding party filed a praecipe to have the Preliminary Objections deemed withdrawn pursuant to paragraph (3) above, the responding party shall serve Notice of the Praecipe by first class mail to the attorneys of record, or, if a party is unrepresented, to the party's last known address of record.**

**(7) If the Preliminary Objections are deemed withdrawn, the objecting party shall have the right to file an answer to the pleading to which the preliminary objection were filed within twenty days after service of the aforementioned praecipe as if the Preliminary Objections had never been filed.**

[ (5) ] (8) Oral argument may be requested as set forth in Local Rule 211.

[ (6) ] (9) The Preliminary Objections are ready for assignment to a judge when [ the ] **all** briefing requirements set forth **in subparagraphs (3), (4) and (5) above [ are ] have been** met or the time permitted for the filing of briefs has elapsed. At that point, either party may file an original and one copy of a Certificate of Readiness with the Prothonotary.

[ (7) ] (10) The Prothonotary shall forward the original Certificate of Readiness to the Court Administrator's Office and retain the copy in the file.

[ (8) ] (11) The Court Administrator's Office, under the direction and supervision of the Civil Calendar Judge, shall promptly assign the Preliminary Objections to a judge who has had prior significant involvement with the case or, if no judge has had prior significant involvement, to a judge on a rotating basis.

[ (9) ] (12) The Assigned Judge shall issue a scheduling order, which will include any additional briefing requirements and an argument date (if necessary). If the Assigned Judge determines that argument is advisable before a three-judge panel, the Assigned Judge and the Court Administrator's Office will make the necessary scheduling arrangements for such panel argument. Parties shall provide a copy of all subsequent pleadings, filings, briefs and memoranda related to the Preliminary

Objections to the Court Administrator's Office for distribution to the assigned judge. No cover letter is necessary.

[ (10) ] (13) If a party requests that discovery is necessary for the disposition of the Preliminary Objections, said request shall be contained in the Preliminary Objections or in the answer thereto. The Assigned Judge shall dispose of this request in the scheduling order.

[ (11) ] (14) The Certificate of Readiness form is available in the Prothonotary's Office, in the Court Administrator's Office and online at the Dauphin County website ([www.dauphincounty.org](http://www.dauphincounty.org)). Parties filing a Certificate of Readiness form must ensure that the most current form is utilized. Failure to utilize the most current form shall result in the rejection of the Certificate of Readiness.

*Comment:* If a party determines that discovery is necessary before the disposition of the Preliminary Objections, a party should file an Administrative Application for a Status Conference and request that a scheduling order be issued which includes discovery deadlines. Rule 1028(c) was amended to provide time frames for response(s) and briefs. A Certificate of Readiness may be filed after the response(s) and briefs have been filed or at the expiration of the time lines contained in this rule. The purpose of the amendment is to provide for the assignment of the matter to a judge when the matter is ready for disposition.

**Pursuant to Pa.R.C.P. 239.5(b), this rule shall not apply to family law actions governed by Rules 1901 through 1940.9.**

**Rule 1034(a). Motion for Judgment on the Pleadings—Procedures for Disposition.**

(1) The Motion for Judgment on the Pleadings **with brief in support** shall be filed with the Prothonotary and served on all other parties.

(2) A response **with brief in opposition** shall be filed within [ twenty ] **thirty** days after service of the Motion for Judgment on the Pleadings **and brief in support.**

(3) [ A brief in support shall be filed within twenty days after service of the response. ]

**A Reply Brief, although not required, may be filed within ten days of service of the Response with brief in opposition.**

[ (4) A brief in opposition shall be filed within twenty days after service of the brief in support of the Motion for Judgment on the Pleadings. ]

[ (5) ] (4) Oral argument may be requested as set forth in Local Rule 211.

[ (6) ] (5) The Motion for Judgment on the Pleadings is ready for assignment to a judge when [ the ] **all** briefing requirements set forth **in (1), (2), and (3) above [ are ] have been** met or the time permitted for the filing of briefs has elapsed. At that point, either party may file an original and one copy of a Certificate of Readiness with the Prothonotary.

[ (7) ] (6) The Prothonotary shall forward the original Certificate of Readiness to the Court Administrator's Office and retain the copy in the file.

[ (8) ] (7) The Court Administrator's Office shall promptly assign the Motion for Judgment on the Pleadings to a judge who has had prior significant involvement

with the case or, if no judge has had prior significant involvement, to a judge on a rotating basis.

[ (9) ] (8) The Assigned Judge shall issue a scheduling order, which will include any additional briefing requirements and an argument date (if necessary). If the Assigned Judge determines that argument is advisable before a three-judge panel, the Assigned Judge and the Court Administrator's Office will make the necessary scheduling arrangements for such panel argument. Parties shall provide a copy of all subsequent pleadings, filings, briefs and memoranda related to the Motion for Judgment on the Pleadings to the Court Administrator's Office for distribution to the assigned judge. No cover letter is necessary.

[ (10) ] (9) The Certificate of Readiness form is available in the Prothonotary's Office, in the Court Administrator's Office and online at the Dauphin County website ([www.dauphincounty.org](http://www.dauphincounty.org)). Parties filing a Certificate of Readiness form must ensure that the most current form is utilized. Failure to utilize the most current form shall result in the rejection of the Certificate of Readiness.

*Comment:* Rule 1034(a) was amended to [ **provide time frames for response(s) and briefs** ] **direct parties to file their briefs at the same time as their Motion for Judgment on the Pleadings or their Response.** A Certificate of Readiness may be filed after the response(s) and briefs have been filed or at the expiration of the time lines contained in this rule. [ **The purpose of the amendment is to provide for the assignment of the matter to a judge when the matter is ready for disposition.** ]

**Rule 1035.2(a). Motion for Summary Judgment—Procedures for Disposition.**

(1) A Motion for Summary Judgment **with brief in support** shall be filed with the Prothonotary and served on all other parties.

(2) A response **with brief in opposition** to the Motion for Summary Judgment shall be filed within thirty days after service of the Motion for Summary Judgment.

(3) [ **A brief in support shall be filed within twenty days after service of the response to the Motion for Summary Judgment.** ]

**A Reply Brief, although not required, may be filed within ten days of service of the Response with brief in opposition.**

[ (4) A brief in opposition shall be filed within twenty days after service of the brief in support of the Motion for Summary Judgment. ]

[ (5) ] (4) Oral argument may be requested as set forth in Local Rule 211.

[ (6) ] (5) The Motion for Summary Judgment is ready for assignment to a judge when [ **the** ] **all** briefing requirements set forth **in (1), (2), and (3)** above [ **are** ] **have been** met or the time permitted for the filing of briefs has elapsed. [ **When said requirements are met** ] **At that point**, either party may file an original and one copy of a Certificate of Readiness with the Prothonotary.

[ (7) ] (6) The Prothonotary shall forward the original Certificate of Readiness to the Court Administrator's Office and retain a copy in the file.

[ (8) ] (7) The Court Administrator's Office shall promptly assign the Motion for Summary Judgment to a judge who has had prior significant involvement with the case or, if no judge has had prior significant involvement, to a judge on a rotating basis.

[ (9) ] (8) The Assigned Judge shall issue a scheduling order, which will include any additional briefing requirements and an argument date (if necessary). If the Assigned Judge determines that argument is advisable before a three-judge panel, the Assigned Judge and the Court Administrator's Office will make the necessary scheduling arrangements for such panel argument. Parties shall provide a copy of all subsequent pleadings, filings, briefs and memoranda related to the Motion for Summary Judgment to the Court Administrator's Office for distribution to the assigned judge. No cover letter is required.

[ (10) ] (9) The Certificate of Readiness form is available in the Prothonotary's Office, in the Court Administrator's Office and online at the Dauphin County website ([www.dauphincounty.org](http://www.dauphincounty.org)). Parties filing a Certificate of Readiness form must ensure that the most current form is utilized. Failure to utilize the most current form shall result in the rejection of the Certificate of Readiness.

*Comment:* Rule 1035.2(a) was amended to [ **provide time frames for response(s) and briefs** ] **direct parties to file their briefs at the same time as their Motion for Summary Judgment or their Response.** A Certificate of Readiness may be filed after the response(s) and briefs have been filed or at the expiration of the time lines contained in this rule. [ **The purpose of the amendment is to provide for the assignment of the matter to a judge when the matter is ready for disposition.** ]

Local Rule of Civil Procedure 14 and the amendments to Local Rules of Civil Procedure 205.2(a), 210, 1028(c), 1034(a) and 1035.2(a) shall be published in the *Pennsylvania Bulletin* and are effective thirty (30) days from the date of publication.

*By the Court*

RICHARD A. LEWIS,  
*President Judge*

[Pa.B. Doc. No. 19-1415. Filed for public inspection September 20, 2019, 9:00 a.m.]

## Title 255—LOCAL COURT RULES

### ELK COUNTY

#### Adoption of Booking Center Fee; No. 4 AD 2019

##### Order of Court

*Now*, August 23, 2019, upon recommendation of the Elk County Criminal Justice Advisory Board, which has, pursuant to 42 Pa.C.S.A. 1725.6, developed and implemented a countywide booking center plan that has been submitted to and approved by the Pennsylvania Commission on Crime and Delinquency, *It Is Ordered* that pursuant to 42 Pa.C.S.A. 1725.6(a)(1), a booking center fee in the amount of \$75.00 shall be assessed in accordance with 42 Pa.C.S.A. 1725.5(a), in addition to any other fines, penalties, or costs imposed by law.

The booking center fee shall be paid by the defendant to the County of Elk through the Elk County Probation



Department and deposited into a special booking center fee account created and maintained by the County of Elk. Fees deposited into this account shall be used solely for the start up, operation, and/or maintenance of the Booking Center and shall be dispersed to the municipality supporting the booking center pursuant to procedures established by the County of Elk. No more than five percent (5%) of funds in the special booking center fee account may be appropriated by the County of Elk for administrative costs pursuant to 42 Pa.C.S.A. 1725.6(f).

This Order shall become effective on the first Monday following thirty (30) days after the same has been published in the *Pennsylvania Bulletin*.

*By the Court*

JOHN H. FORADORA,  
*Acting President Judge*

[Pa.B. Doc. No. 19-1416. Filed for public inspection September 20, 2019, 9:00 a.m.]

## DISCIPLINARY BOARD OF THE SUPREME COURT

### Notice of Disbarment

Notice is hereby given that Sal Greenman (# 68340), having been disbarred in New Jersey, the Supreme Court of Pennsylvania issued an Order on September 9, 2019, disbaring Sal Greenman from the Bar of this Commonwealth, effective October 9, 2019. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside of the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

MARCEE D. SLOAN,  
*Board Prothonotary*

[Pa.B. Doc. No. 19-1417. Filed for public inspection September 20, 2019, 9:00 a.m.]

# RULES AND REGULATIONS

## Title 58—RECREATION

### FISH AND BOAT COMMISSION

[ 58 PA. CODE CHS. 75 AND 79 ]

#### Fishing; Endangered Species; Reptiles and Amphibians

The Fish and Boat Commission (Commission) amends Chapters 75 and 79 (relating to endangered species; and reptiles and amphibians) to read as set forth in Annex A. The Commission is publishing this final-omitted rulemaking under the authority of 30 Pa.C.S. (relating to Fish and Boat Code) (code).

##### A. Effective Date

This final-omitted rulemaking will go into effect immediately upon publication of this order in the *Pennsylvania Bulletin*.

##### B. Contact Person

For further information on this final-omitted rulemaking, contact Wayne Melnick, Esq., P.O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7810. This final-omitted rulemaking is available on the Commission's web site at [www.fishandboat.com](http://www.fishandboat.com).

##### C. Statutory Authority

These amendments are published under the statutory authority of section 506 of The Administrative Code of 1929 (71 P.S. § 186). These amendments also are published in accordance with section 204 of the act of July 31, 1968 (P.L. 769, No. 240) known as the Commonwealth Documents Law (CDL) (45 P.S. § 1204), which provides that an agency may omit or modify the procedures specified in sections 201 and 202 of the CDL (45 P.S. §§ 1201 and 1202) if the administrative regulation or change relates to agency organization, management or personnel; agency procedure or practice; or Commonwealth property or if the agency for good cause finds (and incorporates the finding and a brief statement of the reasons therefor in the order adopting the administrative regulation or change therein) that the procedures specified in sections 201 and 202 of the CDL are under the circumstances impracticable, unnecessary or contrary to the public interest.

##### D. Purpose and Background

Under 58 Pa. Code § 51.5 (relating to correction of regulations), the Executive Director is authorized to take immediate corrective action on the Commission's behalf if the Executive Director or the Commission's staff discovers an error or omission in the text of a Commission regulation as published in the *Pennsylvania Code* or *Pennsylvania Bulletin*. Taxonomy and species nomenclature are a dynamic field where the classification of species, both common and scientific names, occurs on a regular basis. Based on the most recent compilation of information on the taxonomy of fish, reptiles and amphibians, and invertebrates, the Commission reviewed its regulations that refer to specific species. This review has revealed that there are inaccuracies in the text of several Commission regulations as related to the common and scientific names of fish, reptiles and amphibians, and invertebrates as more particularly described in the summary of changes. The purpose of this final-omitted rulemaking is to correct these inaccuracies and update the Commission's

regulations with the latest scientific consensus on the proper species nomenclature.

##### E. Summary of Changes

Taxonomy and species nomenclature are a dynamic field, and research geneticists are regularly revising the classification of species. Recognizing the importance of maintaining consistency in the use of both scientific and common names of reptiles and amphibians for regulatory, conservation and educational applications, two herpetological societies maintain regularly updated lists of common and scientific names of reptiles and amphibians.

The Society for the Study of Amphibians and Reptiles, a nonprofit organization established to advance research, conservation and education concerning amphibians and reptiles, publishes a list of the scientific and common names of North American amphibians and reptiles (Crother 2008).

The Herpetological Technical Committee of the Pennsylvania Biological Survey (PABS) recently undertook a comprehensive review of the Commonwealth's list of native species of reptiles and amphibians and has recommended numerous name changes to better reflect current taxonomic understanding and maintain consistency with the herpetological community. The PABS is a nonprofit scientific, educational and advisory organization that was formed to foster the perpetuation of the natural biological diversity of this Commonwealth. It has a number of technical committees that serve in an advisory role to Commission staff. Each technical committee of the PABS is made up of volunteer taxonomic experts recognized in their field.

(1) Section 75.1(b)(8) and (28) (relating to endangered species) has been revised as follows: The revised scientific name of the Northern redbelly dace is *Chrosomus eos*; and the revised scientific name of the Eastern sand darter is *Ammocrypta pellucida*.

Section 75.1(c)(3), (4), (7), (8) and (10) has been revised as follows: The revised common and scientific name of the Southern Leopard Frog is Coastal Plain Leopard Frog complex, *Lithobates sphenoccephalus/L. kauffeldi*; the revised common and scientific name of the Massasauga Rattlesnake is Eastern Massasauga, *Sistrurus catenatus*; the revised common and scientific name of the Rough Green Snake is Northern Rough Greensnake, *Opheodrys aestivus aestivus*; the revised common name of the Northern Cricket Frog is Eastern Cricket Frog; and the revised common name of the Eastern Mud Turtle is Southeastern Mud Turtle.

Section 75.1(d)(1), (5) and (9) has been revised as follows: The revised scientific name of the Northern riffleshell mussel is *Epioblasma rangiana*; the revised scientific name of the Rabbitsfoot mussel is *Theliderma cylindrica*; and the revised scientific name of the Pistolgrip mussel is *Tritogonia verrucosa*.

(2) Section 75.2(b)(2) (relating to threatened species) has been revised as follows: The revised scientific name of the Southern redbelly dace is *Chrosomus erythrogaster*.

Section 75.2(c)(2) has been revised to change as follows: The revised common name of the Eastern Redbelly Turtle is Northern Red-bellied Cooter.

(3) Section 75.3(c)(2) (relating to candidate species) has been revised as follows: The revised common name for Broadhead Skink is the Broad-headed Skink.

(4) Section 79.3(h) (relating to season and daily possession limits) has been revised as follows:

- The common and scientific names for the Mudpuppy have been revised to Common Mudpuppy, *Necturus maculosus maculosus*.
- The common and scientific names for the Bullfrog have been revised to American Bullfrog, *Lithobates catesbeianus*.
- The common and scientific names of the Northern Green Frog have been revised to Green Frog, *Lithobates clamitans*.
- The common name of the Eastern Box Turtle has been revised to Woodland Box Turtle.
- The common name of the Eastern Worm Snake has been revised to Eastern Wormsnake.
- The common name of the Eastern Hognose Snake has been revised to Eastern Hog-nosed Snake.
- The common name of the Queen Snake has been revised to Queensnake.
- The common name of the Shorthead Garter Snake has been revised to Short-headed Gartersnake.
- The common and scientific names of the Eastern Ribbon Snake have been revised to Eastern Ribbonsnake, *Thamnophis saurita*.
- The common name of the Eastern Smooth Earth Snake has been revised to Eastern Smooth Earthsnake.
- The common and scientific names of the Mountain Earth Snake have been revised to Mountain Earthsnake, *Virginia valeriae pulchra*.
- The common and scientific names of the Smooth Green Snake have been revised to Smooth Greensnake, *Ophedrys vernalis*.
- The common name of the Copperhead has been revised to Eastern Copperhead.

(5) Section 79.6(a) and (b) (relating to venomous snake permits) has been revised to substitute the new common name of "Eastern copperhead" for "copperhead."

The Commission has adopted the amendments to §§ 75.1, 75.2, 75.3, 79.3 and 79.6 to read as set forth in Annex A.

F. Paperwork

This final-omitted rulemaking will not increase paperwork and will create no new paperwork requirements.

G. Fiscal Impact

This final-omitted rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions. This final-omitted rulemaking will impose no new costs on the private sector or the general public.

H. Public Involvement

Under section 204 of the CDL, an agency may omit the procedures specified in sections 201 and 202 of the CDL if the agency finds that these procedures are impractical or unnecessary or if the administrative regulation or change relates to agency procedure or practice. The Commission, therefore, did not publish these amendments as a notice of proposed rulemaking or solicit public comment.

Findings

The Commission finds:

(1) Inaccuracies with respect to the most up-to-date scientifically recognized common and scientific names of species were discovered in the text of 58 Pa. Code §§ 75.1, 75.2, 75.3, 79.3 and 79.6 as published in the *Pennsylvania Code*.

(2) Under § 51.5, the Executive Director is authorized to take immediate corrective action on behalf of the Commission, including, if necessary, the issuance of an order to make the necessary correction, if the Executive Director or the Commission's staff discovers an error or omission in the text of a Commission regulation as published in the *Pennsylvania Code*.

(3) The nature of the amendments is minor and designed to update the common and scientific names of species contained within the Commission's regulations to reflect the latest taxonomy and species nomenclature.

(4) The changes adopted in this final-omitted rulemaking do not affect the substance of the Commission's regulations in any way, as no species is added or removed and no changes in any seasons, sizes and creel limits are made.

(5) Seeking public comment on the updating of the common and scientific names of these species is unnecessary and impractical.

(6) For the foregoing reasons, the Commission finds that the procedures of sections 201 and 202 of the CDL are impracticable and unnecessary for this final-omitted rulemaking.

Order

The Commission, acting under the authorizing statutes, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapters 75 and 79, are amended by amending §§ 75.1, 75.2, 75.3, 79.3 and 79.6 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

(b) The Executive Director will submit this order and Annex A to the Attorney General for approval as to legality as required by law.

(c) The Executive Director shall certify this order and Annex A and deposit the same with the Legislative Reference Bureau as required by law.

(d) This order shall take effect immediately upon publication in the *Pennsylvania Bulletin*.

TIMOTHY D. SCHAEFFER,  
*Executive Director*

**Fiscal Note:** 48A-290. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 58. RECREATION**

**PART II. FISH AND BOAT COMMISSION**

**Subpart B. FISHING**

**CHAPTER 75. ENDANGERED SPECIES**

**§ 75.1. Endangered species.**

\* \* \* \* \*

(b) *Fish.* The following species are endangered:

\* \* \* \* \*

(8) Northern redbelly dace, *Chrosomus eos*.  
\* \* \* \* \*

(28) Eastern sand darter, *Ammocrypta pellucida*.  
\* \* \* \* \*

(c) *Reptiles and Amphibians*. The following species are endangered:

\* \* \* \* \*

(3) Coastal Plain Leopard Frog complex, *Lithobates sphenoccephalus/L. kauffeldi*.

(4) Eastern Massasauga, *Sistrurus catenatus*.  
\* \* \* \* \*

(7) Northern Rough Greensnake, *Opheodrys aestivus aestivus*.

(8) Eastern Cricket Frog, *Acris crepitans*.  
\* \* \* \* \*

(10) Southeastern Mud Turtle, *Kinosternon subrubrum subrubrum*.

(d) *Invertebrates*. The following species are endangered:

(1) Northern riffleshell mussel, *Epioblasma rangiana*.  
\* \* \* \* \*

(5) Rabbitsfoot mussel, *Theliderma cylindrica*.  
\* \* \* \* \*

(9) Pistolgrip mussel, *Tritogonia verrucosa*.  
\* \* \* \* \*

§ 75.2. Threatened species.

\* \* \* \* \*

(b) *Fish*. The following species are threatened:

\* \* \* \* \*

(2) Southern redbelly dace, *Chrosomus erythrogaster*.  
\* \* \* \* \*

(c) *Amphibians and reptiles*. The following species are threatened:

\* \* \* \* \*

(2) Northern Red-bellied Cooter, *Pseudemys rubriventris*.  
\* \* \* \* \*

§ 75.3. Candidate species.

\* \* \* \* \*

(c) *Amphibians and reptiles*.

\* \* \* \* \*

(2) Broad-headed Skink, *Plestiodon laticeps*.

CHAPTER 79. REPTILES AND AMPHIBIANS

§ 79.3. Season and daily possession limits.

\* \* \* \* \*

(h) The following seasons, sizes, catch and possession limits apply to reptiles and amphibians except endangered and threatened species:

SPECIES	SEASON	DAILY LIMIT	POSSESSION LIMIT
American Bullfrog ( <i>Lithobates catesbeianus</i> )	July 1 to October 31	10 (combined species)	20 (combined species)
Green frog ( <i>Lithobates clamitans</i> )	July 1 to October 31	10 (combined species)	20 (combined species)
Common snapping turtle ( <i>Chelydra serpentina</i> )	July 1 to October 31	15	30
Blanding's turtle ( <i>Emydoidea blandingii</i> )	No open season	0	0
Spotted turtle ( <i>Clemmys guttata</i> )	No open season	0	0
Wood turtle ( <i>Glyptemys insculpta</i> )	No open season	0	0
Woodland box turtle ( <i>Terrapene carolina carolina</i> )	No open season	0	0
Broad-headed skink ( <i>Plestiodon laticeps</i> )	No open season	0	0
Northern coal skink ( <i>Plestiodon anthracinus anthracinus</i> )	No open season	0	0
Common Mudpuppy ( <i>Necturus maculosus maculosus</i> )	No open season	0	0

RULES AND REGULATIONS

5453

<i>SPECIES</i>	<i>SEASON</i>	<i>DAILY LIMIT</i>	<i>POSSESSION LIMIT</i>
Eastern hellbender ( <i>Cryptobranchus alleganiensis alleganiensis</i> )	No open season	0	0
Marbled salamander ( <i>Ambystoma opacum</i> )	No open season	0	0
Jefferson salamander ( <i>Ambystoma jeffersonianum</i> )	No open season	0	0
Four-toed salamander ( <i>Hemidactylium scutatum</i> )	No open season	0	0
Northern ravine salamander ( <i>Plethodon lectromorphus</i> )	No open season	0	0
Northern cricket frog ( <i>Acris crepitans crepitans</i> )	No open season	0	0
Mountain chorus frog ( <i>Pseudacris brachyphona</i> )	No open season	0	0
Upland chorus frog ( <i>Pseudacris feriarum</i> )	No open season	0	0
Western chorus frog ( <i>Pseudacris triseriata</i> )	No open season	0	0
Northern fence lizard ( <i>Sceloporus undulatus</i> )	No open season	0	0
Queensnake ( <i>Regina septemvittata</i> )	No open season	0	0
Short-headed Gartersnake ( <i>Thamnophis rachystoma</i> )	No open season	0	0
Eastern Ribbonsnake ( <i>Thamnophis saurita</i> )	No open season	0	0
Mountain Earthsnake ( <i>Virginia valeriae pulchra</i> )	No open season	0	0
Eastern Smooth Earthsnake ( <i>Virginia valeriae valeriae</i> )	No open season	0	0
Smooth Greensnake ( <i>Opheodrys vernalis</i> )	No open season	0	0
Eastern Hog-nosed Snake ( <i>Heterodon platirhinos</i> )	No open season	0	0
Eastern wormsnake ( <i>Carphophis amoenus amoenus</i> )	No open season	0	0
Amphibian eggs and tadpoles	No closed season	15 (combined species)	15 (combined species)
Timber rattlesnake ( <i>Crotalus horridus</i> )	Second Saturday in June to July 31*	1 annual limit** (must be at least 42 inches in length, measured lengthwise along the dorsal surface from the snout to the tail, excluding the rattle and must possess 21 or more subcaudal scales.)	
Eastern Copperhead ( <i>Aghistrodon contortrix</i> )	Second Saturday in June to July 31	1 annual limit**	
Native species not listed in this subsection	No closed season	1	1

\* It is unlawful for a person to hunt, take, catch or kill timber rattlesnakes west of Route 15 and south of Interstate 81 to the Maryland line where there is no open season.

\*\* It is unlawful for a person to take, catch or kill more than one timber rattlesnake or copperhead per calendar year except as provided in § 79.7(f) (relating to organized reptile and amphibian hunt permits). It is unlawful for a person to possess more than one timber rattlesnake or copperhead at any time except as provided in § 79.7(f).

**§ 79.6. Venomous snake permits.**

(a) *Application.* The Commission finds, under section 2904 of the code (relating to permits for protection and management of particular fish), that it is necessary for the proper protection and management of the timber rattlesnake (*Crotalus horridus*) and Eastern copperhead (*Agkistrodon contortrix*) that persons who hunt, take, catch or kill these species have a permit for the activity. Application for a permit must be made on a form prescribed by the Commission and accompanied by the appropriate fee. Permits may be obtained by applying to: Natural Diversity Section Chief, Division of Environmental Services, 450 Robinson Lane, Bellefonte, Pennsylvania 16823-9616. The fee for residents is \$30 per year; the fee for nonresidents is \$60 per year. The denial of a permit under this section is appealable in the manner provided by Chapter 51, Subchapter E (relating to permit procedures).

(b) *Required permit.* It is unlawful to hunt, take, catch, kill or possess a timber rattlesnake or Eastern copperhead, in whole or in parts, without first procuring the required permit from the Commission. The required permit shall be in the possession of the permittee at all times while hunting. Permittees shall comply with the terms and conditions of the permit and furnish the reports required thereby. It is unlawful to alter, borrow, lend or transfer a permit under this section.

\* \* \* \* \*

[Pa.B. Doc. No. 19-1418. Filed for public inspection September 20, 2019, 9:00 a.m.]

# PROPOSED RULEMAKING

## MILK MARKETING BOARD

[ 7 PA. CODE CH. 143 ]

### Transactions Between Dealers and Producers; Payment

The Milk Marketing Board (Board) proposes to amend Chapter 143 by adding § 143.15 (relating to cooperative communication of over-order premium) to read as set forth in Annex A.

#### *Effective Date*

This proposed rulemaking will be effective 90 days after publication of the final-form rulemaking in the *Pennsylvania Bulletin*.

#### *Statutory Authority*

Section 301 of the Milk Marketing Law (act) (31 P.S. § 700j-301) gives the Board the authority to “. . .supervise, investigate and regulate the entire milk industry of this Commonwealth, including the . . .purchase and sale of milk. . .in this Commonwealth, and including the establishment of reasonable trade practices. . .” Section 307 of the act (31 P.S. § 700j-307) gives the Board the authority to adopt and enforce regulations necessary or appropriate to carry out the provisions of the act. Section 608 of the act (31 P.S. § 700j-608) provides that “[m]ilk dealers buying or receiving milk from producers shall furnish to each producer. . .a written statement. . .” and that “[s]uch statement shall set forth such information as may be required by the board. . .” The definition of milk dealer in Section 103 of the act (31 P.S. § 700j-103) provides, in pertinent part, “[i]f a cooperative distributes. . .milk within this Commonwealth. . .to other milk dealers. . .it shall be deemed to be a milk dealer. . .as to that part of its business, and shall be governed by the provisions of this act applicable thereto.”

#### *Purpose and Explanation*

The Board mandates, by way of official general order, an over-order premium be paid to producers in this Commonwealth based on milk produced, processed and sold in this Commonwealth. The Board requires milk dealers to provide a line item on monthly statements to producers that shows the amount of over-order premium being paid. The act defines cooperatives as “producers,” so cooperatives are told how much over-order premium they are paid. However, there is no similar requirement that cooperatives provide a line item on monthly statements to their members that shows the amount of over-order premium the members are paid. This regulation would require cooperatives to provide a line item on monthly statements to their members disclosing the amount of over-order premium being paid.

In April and May 2019, the Board conducted a survey to determine dairy farmers’ knowledge and opinions about this Commonwealth’s milk pricing system including the over-order premium.

When asked if they receive an over-order premium, 69% of cooperative members stated, “No” or “I’m not sure.” Those individuals indicating, “I’m not sure,” were asked for a reason for that response; the majority of comments stated that they have no information on monthly checks from cooperatives to indicate any over-order premium is received. Respondents were also asked whether they believe the over-order premium is distributed fairly. Less than 5% of cooperative members agree

that it is. Conversely, the majority of cooperative members believe the Board should revise its system for determining and distributing the over-order premium.

A total of 214 comments from survey respondents focused mainly on the lack of transparency by cooperatives in not providing information about the amount of over-order premium included in their monthly payment. Because they lack information, many cooperative members are skeptical and even distrustful of the Commonwealth and Board, as well as the cooperatives, when discussing their income. They do not understand how the system is benefitting them in any way and believe they are not, in fact, receiving what they are entitled to receive.

Milk dealers have been required since 1997 to provide a line item on monthly statements to producers showing the amount of over-order premium being paid; the independent producers are thus able to quantify the direct benefit they receive from the Board’s mandated over-order premium. For payment purposes, cooperatives are defined as the “producer,” so cooperatives are provided information regarding how much over-order premium they are being paid, but cooperatives are not required to provide that information to their members.

As of December 2018, there were approximately 1,100 independent producers and 4,500 cooperative member producers in this Commonwealth. The independent producers are provided information on their monthly pay statements showing the direct benefit they receive from the over-order premium.

The majority of the 4,500 cooperative member producers do not have a line item currently on their statements detailing the amount of over-order premium they are being paid. Those producers who do not have the line item are the intended beneficiaries of this proposed rulemaking.

#### *Description of Proposed Amendments*

This proposed rulemaking will require cooperatives to provide a line item on monthly statements to their producer members that shows the amount of Board-mandated over-order premium being paid.

This proposed rulemaking prescribes a formula for the cooperatives to use to calculate the over-order premium being paid to their producer members. This will provide uniformity between and among cooperatives regarding the amount of over-order premium. The Board also currently prescribes a formula for milk dealers to determine the line item on their monthly statements to independent producers.

The cooperative formula is identical to the formula the Board currently uses to provide information to a cooperative regarding the over-order premium rate received by that cooperative. That cooperative then provides the information to its members. Since this formula is already in use and produces a result that has effectively transmitted the over-order premium rate information, the Board decided to adopt it for this proposed rulemaking. This formula calculates the average amount received by cooperative members, not specific individual amounts. Calculating a specific individual amount for each member would be prohibitively costly and administratively impractical.

#### *Public Hearing*

This proposed rulemaking was prompted by a petition from the Honorable John Lawrence, Representative. The

Board held a public hearing on May 1, 2019. Notice of the hearing was published at 49 Pa.B. 1737 (April 6, 2019). The Board also provided notice on March 20, 2019, by means of a Board Bulletin to parties who have requested notice of Board hearings.

The following parties testified or provided written comments, or both, as part of the hearing: the Honorable John Lawrence, Representative, Progressive Agriculture Association, Pennsylvania Farm Bureau, Dairy Farmers of America Northeast Area Council, Pennsylvania Association of Dairy Cooperatives, National Dairy Producers Organization and Nelson Troutman. The Board also received input outside of the hearing from Dairy Farmers of America Northeast Council.

#### *Fiscal Impact*

This proposed rulemaking would have little fiscal impact on this Commonwealth, its political subdivisions or the public.

#### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on September 10, 2019, the Board submitted a copy of this proposed rulemaking and a copy of the Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Committees on Agriculture and Rural Affairs. A copy of this material is available to the public upon request.

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

#### *Public Comment*

Interested persons are invited to submit written comments, suggestions or objections about this proposed rulemaking to Doug Eberly, Chief Counsel, Pennsylvania Milk Marketing Board, 2301 North Cameron Street, Harrisburg, PA 17110, or by e-mail to ra-pmmb@pa.gov within 30 days after publication in the *Pennsylvania Bulletin*. Individuals who require this information in a different format may call (717) 787-4194 or (800) 654-5984 which is the Pennsylvania AT&T Relay Service for TDD users.

ROBERT N. BARLEY,  
*Chairperson*

**Fiscal Note:** 47-20. No fiscal impact; (8) recommends adoption.

### **Annex A**

#### **TITLE 7. AGRICULTURE**

#### **PART VI. MILK MARKETING BOARD**

#### **CHAPTER 143. TRANSACTIONS BETWEEN**

#### **DEALERS AND PRODUCERS**

#### **PAYMENT**

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

#### **§ 143.15. Cooperative communication of over-order premium.**

(a) Cooperatives shall show by line item on their monthly statements to dairy farmers marketing milk

through the cooperative the specific amount of the Pennsylvania Milk Marketing Board over-order premium being paid.

(b) For the purpose of this section, "the specific amount of the Pennsylvania Milk Marketing Board over-order premium being paid" shall be calculated monthly by each cooperative by dividing the total over-order premium paid to the cooperative by the total cooperative member pounds marketed.

[Pa.B. Doc. No. 19-1419. Filed for public inspection September 20, 2019, 9:00 a.m.]

## **SUSQUEHANNA RIVER BASIN COMMISSION**

[ 25 PA. CODE CH. 806 ]

### **Review and Approval of Projects**

*Summary:* This document contains proposed rules that would amend the regulations of the Susquehanna River Basin Commission (Commission) dealing with the mitigation of consumptive uses. These rules are designed to enhance and improve the Commission's existing authorities to manage the water resources of the basin.

*Dates:* The Commission will hold an informational webinar explaining the proposed rulemaking on October 1, 2019. Instructions for registration for the webinars will be posted on the Commission's website.

Comments on the proposed rulemaking may be submitted to the Commission on or before November 12, 2019. The Commission has scheduled a public hearing on the proposed rulemaking to be held on October 31, 2019, in Harrisburg, PA. The location of the public hearing is listed in the addresses section of this document.

*Addresses:* Comments may be mailed to: Jason E. Oyler, Esq., General Counsel, Susquehanna River Basin Commission, 4423 N. Front Street, Harrisburg, PA 17110-1788, or by e-mail to regcomments@srbc.net. The public hearing location is at the Commission Headquarters at the above address.

Those wishing to testify are asked to notify the Commission in advance, if possible, at the regular address listed above or electronic address given below.

*For Further Information Contact:* Jason E. Oyler, Esq., General Counsel, telephone: (717) 238-0423, ext. 1312; fax: (717) 238-2436; e-mail: joyler@srbc.net. Also, for further information on the proposed rulemaking, visit the Commission's website at <http://www.srbc.net>.

#### *Supplementary Information:*

The Commission undertook a more comprehensive overhaul of its regulations that were proposed in September of 2016 and adopted as final in June of 2017. As a part of that final rulemaking, the Commission reserved the changes it had proposed pertaining to its regulation of the consumptive use of water. It had also proposed a draft Consumptive Use Mitigation Policy as a companion to that rulemaking, which was also reserved. The Commission has performed a more comprehensive analysis of the comments received on that rulemaking and policy, and changes to the consumptive use regulation are proposed herein as a follow up to that effort. In addition, as a companion to this proposed rulemaking, the Commission is also releasing a revised draft policy for Consumptive Use Mitigation to be open for public comment simultaneously with this proposed rulemaking.



*Standards for Consumptive Uses of Water—18 CFR § 806.22*

Section 806.22 (relating to standards for consumptive uses of water) will be revised. The proposed revisions in § 806.22(b)(1) and (2) lower the 90-day standard for consumptive use mitigation to 45 days and require that any alternative water source or storage will not likely impact nearby surface waters. The purpose of these changes is to reduce the barriers to project sponsors providing their own mitigation. Analysis of the past 100 plus years of river flow records show that the overwhelming majority of low flow events in the Basin are adequately covered by a continuous 45-day consumptive use mitigation standard. Further, the prior standard that alternative supplies or storage have no impact was too rigid for projects to find suitable alternative supplies.

Section 806.22(b) is also revised to clarify that discontinuance includes reduction of water consumption to less than 20,000 gallons per day (gpd). This was the Commission’s policy from 1992 until 2006 when the present rule was adopted. In practice, complete discontinuance was found to be impractical and unrealistic for many projects; however, some projects have demonstrated the ability to reduce usage to 20,000 gallons per day when necessary. This practice allows continued operations at a locally de minimis consumptive use level while reducing mitigation demand on either the project or the Commission. Accordingly, this change is designed to increase the feasibility of projects being able to select discontinuance as a mitigation option. Discontinuance of use is the most effective method of mitigation because it reduces and/or eliminates the water use during Commission designated low flows periods and does not depend on any further action by the Commission or project sponsor to be effectuated.

Section 806.22(e) is amended to allow a project sourced by reuse of stormwater, wastewater or other reused or recycled water to be eligible for an Approval by Rule for consumptive use.

*List of Subjects in 18 CFR Part 806*

Administrative practice and procedure, Water resources.

Accordingly, for the reasons set forth in the preamble, the Susquehanna River Basin Commission proposes to amend 18 CFR part 806 as follows:

**PART 806—REVIEW AND APPROVAL OF PROJECTS**

1. The authority citation for part 806 continues to read as follows:

*Authority:* Secs. 3.4, 3.5(5), 3.8, 3.10 and 15.2, Pub.L. 91-575, 84 Stat. 1509 et seq.

2. Amend § 806.22 by revising paragraphs (b)(1) and (e)(1) to read as follows:

**§ 806.22. Standards for consumptive use of water.**

\* \* \* \* \*

(b) *Mitigation.* All project sponsors whose consumptive use of water is subject to review and approval under § 806.4, § 806.5, § 806.6, or § 806.17 shall mitigate such consumptive use. Except to the extent that the project involves the diversion of the waters out of the basin, public water supplies shall be exempt from the requirements of this section regarding consumptive use; provided, however, that nothing in this section shall be construed to exempt individual consumptive users connected to any such public water supply from the requirements of this section. Mitigation may be provided by one or a combination of the following:

(1) During low flow periods as may be designated by the Commission for consumptive use mitigation.

(i) Reduce withdrawal from the approved source(s), in an amount equal to the project’s consumptive use, and withdraw water from alternative surface water storage or aquifers or other underground storage chambers or facilities approved by the Commission, from which water can be withdrawn for a period of 45 continuous days such that impacts to nearby surface waters will not likely be at a magnitude or in a timeframe that would exacerbate present low flow conditions.

(ii) Release water for flow augmentation, in an amount equal to the project’s consumptive use, from surface water storage or aquifers, or other underground storage chambers or facilities approved by the Commission, from which water can be withdrawn for a period of 45 continuous days such that impacts to nearby surface waters will not likely be at a magnitude or in a timeframe that would exacerbate present low flow conditions.

(iii) Discontinue the project’s consumptive use, which may include reduction of the project sponsor’s consumptive use to less than 20,000 gpd during periods of low flow. In any case of failure to provide the specified discontinuance, such project shall provide mitigation in accordance with paragraph (b)(3) of this section, for the calendar year in which such failure occurs, after which the Commission will reevaluate the continued acceptability of the discontinuance.

\* \* \* \* \*

(e) *Approval by rule for consumptive uses.*

(1) *General rule.* Except with respect to projects involving hydrocarbon development subject to the provisions of paragraph (f) of this section, any project that is solely supplied water for consumptive use by public water supply, stormwater, wastewater, or other reused or recycled water, or any combination thereof, may be approved by the Executive Director under this paragraph (e) in accordance with the following, unless the Executive Director determines that the project cannot be adequately regulated under this approval by rule.

\* \* \* \* \*

*Dated:* September 9, 2019.

ANDREW D. DEHOFF,  
*Executive Director*

**Fiscal Note:** 72-15. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 25. ENVIRONMENTAL PROTECTION**

**PART IV. SUSQUEHANNA RIVER BASIN COMMISSION**

**CHAPTER 806. REVIEW AND APPROVAL OF PROJECTS**

**§ 806.1. Incorporation by reference.**

The regulations and procedures for review of projects as set forth in 18 CFR Part 806 [ (2017) ] **2019** (relating to review and approval of projects) are incorporated by reference and made part of this title.

[Pa.B. Doc. No. 19-1420. Filed for public inspection September 20, 2019, 9:00 a.m.]

# NOTICES

## DEPARTMENT OF BANKING AND SECURITIES

### Actions on Applications

The Department of Banking and Securities (Department), under the authority in the Banking Code of 1965 (7 P.S. §§ 101—2204), the Department of Banking and Securities Code (71 P.S. §§ 733-1—733-1203) and 17 Pa.C.S. (relating to Credit Union Code), has taken the following actions on applications received for the week ending September 10, 2019.

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

### BANKING INSTITUTIONS

#### Branch Applications

##### De Novo Branches

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
09-03-2019	PS Bank Wyalusing Bradford County	241 Church Street Montrose Susquehanna County (Limited Service Facility)	Opened
09-04-2019	MCS Bank Lewistown Mifflin County	100 Commerce Drive Milroy Mifflin County	Approved
09-04-2019	CNB Bank Clearfield Clearfield County	1669 West Fifth Avenue Columbus Franklin County, OH	Filed
09-10-2019	Quaint Oak Bank Southampton Bucks County	117-21 Spring Garden Street Philadelphia Philadelphia County	Approved

##### Branch Relocations

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
09-06-2019	Huntingdon Valley Bank Huntingdon Valley Montgomery County	<i>To:</i> 2005 South Easton Road Suite 304 Doylestown Bucks County (Limited Service Facility)  <i>From:</i> 1388 West Street Road Warminster Bucks County (Limited Service Facility)	Approved

### CREDIT UNIONS

#### Branch Applications

##### Branch Relocations

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
09-04-2019	BHCU Ridley Park Delaware County	<i>To:</i> 1100 Baltimore Pike Glen Mills Delaware County  <i>From:</i> 1810 Wilmington Pike Glen Mills Delaware County	Approved

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*

## DEPARTMENT OF BANKING AND SECURITIES

### Maximum Lawful Rate of Interest for Residential Mortgages for the Month of October 2019

The Department of Banking and Securities (Department), under the authority contained in section 301 of the act of January 30, 1974 (P.L. 13, No. 6) (41 P.S. § 301), determines that the maximum lawful rate of interest for residential mortgages for the month of October 2019, is 4 1/2%.

The interest rate limitations under the Commonwealth's usury statute were pre-empted to a great extent by Federal law, the Depository Institutions Deregulation and Monetary Control Act of 1980 (Pub.L. No. 96-221). Further pre-emption was instituted with the signing of Pub.L. No. 96-399, which overrode State interest rate limitations on any individual who finances the sale or exchange of residential real property which the individual owns and which the individual occupies or has occupied as his principal residence.

Each month the Department is required by State law to compute and announce the ceiling rate on residential mortgages in this Commonwealth. This maximum rate is determined by adding 2.50 percentage points to the yield rate on long-term government bonds as published by the Federal Reserve Board or the United States Treasury, or both. The latest yield rate on long-term government securities is 1.89 to which was added 2.50 percentage points for a total of 4.39 that by law is rounded off to the nearest quarter at 4 1/2%.

ROBIN L. WIESSMANN,  
*Secretary*

[Pa.B. Doc. No. 19-1422. Filed for public inspection September 20, 2019, 9:00 a.m.]

## DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT

### Amendments to the 2019 Annual Action Plan

The Commonwealth's 2019 Annual Action Plan will be amended to revise the 2019 Housing Opportunities for Persons with AIDS (HOPWA) allocation and to revise the method of distribution for the Commonwealth's administration and competitive Community Development Block Grant (CDBG) Program. This action requires no public meeting or citizen comment as both actions are beneath the \$1 million threshold for a substantial amendment and does not change the scope of either program.

The proposed amendments for the 2019 Annual Action Plan are:

#### HOPWA—

Changing the 2019 allocation from \$3,546,141 to \$3,519,385, a reduction of \$26,756 in the amount of funds the Commonwealth administers for the Allentown Eligible Metropolitan Statistical Area.

#### CDBG Administration and Competitive—

The Department of Community and Economic Development (Department) will administer the Small Cities CDBG Program by allocating the funds through a formula established by the act of October 11, 1984 (Act 179) (P.L. 906, No. 179) and the 2019-2020 State Fiscal Code enacted on July 1, 2019. An amount of 3%, as defined by the 2019-2020 State Fiscal Code, shall be used by the Department for administrative and technical assistance costs. An additional amount of up to 12% may be used by the Department for discretionary (competitive) projects in eligible municipalities. For the 2019 CDBG Program \$3,766,348 will be made available for competitive projects meeting the requirements outlined further in the CDBG Method of Distribution. The 2019 CDBG award made by the United States Department of Housing and Urban Development (HUD) was reduced by \$1,007,900 to account for a voluntary CDBG grant reduction request made by the Commonwealth and approved by HUD to address a monitoring violation. This reduction is accounted for in the distribution of the discretionary funds so as not to reduce the entitlement formula allocations.

The balance of funds which remain after subtracting the administrative and discretionary reservation shall be allocated by the formulas prescribed in Act 179. The Department will apply the formulas of Act 179 to determine the exact allocations for each of the 28 entitlement cities, 122 entitlement boroughs and townships and the 50 nonurban counties. There are three eligible townships that have chosen not to take their allocation, as they have no identified eligible and fundable projects. Appendix A lists all Act 179 entitlement entities and their populations.

2019 Formula CDBG Allocation Breakdown \$39,785,393  
REVISED

85% Entitlements	= \$34,825,484	no change
12% Competitive	= \$4,164,202 - \$397,854	= \$3,766,348
3% State Admin	= \$795,707 + \$397,854	= \$1,193,561

#### Public Comment

As an amendment, the changes need only be announced in the *Pennsylvania Bulletin*. The Department is allowing for a 7-day comment period to take any comments the public may have. Persons who would like to provide written comment on the draft amendments may send those comments electronically to RA-DCEDcdbghomequestions@pa.gov or mail to the attention of Megan Snyder, Department of Community and Economic Development, Center for Community and Housing Development, 400 North Street, 4th Floor, Harrisburg, PA 17120. Comments must be received before 4 p.m. on September 30, 2019. The amendments will be submitted to HUD by October 4, 2019.

Persons with a disability or limited English proficiency who wish to comment should contact Megan L. Snyder, Department of Community and Economic Development, Commonwealth Keystone Building, 400 North Street, 4th Floor, Harrisburg, PA 17120-0225, (717) 720-7404 or TDD (717) 346-0308 to discuss how the Department can accommodate their needs.

DENNIS M. DAVIN,  
*Secretary*

[Pa.B. Doc. No. 19-1423. Filed for public inspection September 20, 2019, 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.

*Northeast Region: Clean Water Program Manager, 2 Public Square, Wilkes-Barre, PA 18701-1915. Phone: 570-826-2511.*

<i>NPDES (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>
PA0062324 (Sewage)	Pike County Environmental Enterprises LLC a.k.a. Pike County Environmental STP 1116 Delaware Drive Matamoras, PA 18336	Pike County Westfall Township	Delaware River (WWF, MF) (1-D)	Yes

## NOTICES

5461

<i>NPDES (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>
PA0062103 (Sewage)	Springbrook Township Sewer Authority WWTP Green Run Road Roaring Brook Twp., PA 18444	Lackawanna County Roaring Brook Township	Green Run (HQ-CWF/MF) (5-A)	Yes

*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>
PA0085677 (Industrial)	Harley Davidson Motorcycle Co. 1425 Eden Road York, PA 17402-1907	York County Springettsbury Township	Codorus Creek (WWF, MF) (7-H)	Yes

*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>
PA0208752 (Industrial)	Elk Creek Fisheries 515 Millheim Narrows Rebersburg, PA 16872-8907	Centre County Miles Township	Unnamed Tributary to Elk Creek (EV, MF)	Yes
PA0209244 (Industrial)	Brady Township Troutville Borough Water System P.O. Box 126 Luthersburg, PA 15848	Clearfield County Brady Township	Unnamed Tributary to Laborde Branch (CWF) (17-D)	Yes
PA0114693 (Sewage)	Clymer Township Municipal Authority P.O. Box 62 Sabinsville, PA 16943-0062	Tioga County Clymer Township	Mill Creek (TSF) (4-A)	Yes

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N?</i>
PA0096598 (Sewage)	Mather STP 144 Chartiers Road Jefferson, PA 15344-4115	Greene County Morgan Township	South Fork Tenmile Creek (WWF) (19-B)	Yes
PA0098957 (Sewage)	Outcrop Village STP 624 Pittsburgh Road Uniontown, PA 15401-2214	Fayette County Springhill Township	Unnamed Tributary to Georges Creek (WWF) (19-G)	Yes
PA0219479 (Sewage)	Salem Ridge Village 180 Pollack Run Road Belle Vernon, PA 15012-3102	Westmoreland County Rostraver Township	Unnamed Tributary to Pollock Run (WWF) (19-D)	Yes
PA0254827 (Sewage)	A Seam Deep Mine STP P.O. Box 260 Friedens, PA 15541-0260	Somerset County Brothersvalley Township	Wilson Creek (WWF) (19-F)	Yes

*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>
PA0220906 (Industrial)	Pithole Water Association P.O. Box 25 Cyclone, PA 16726-0025	McKean County Keating Township	Unnamed Tributary to Panther Run (16-C)	Yes

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

*Southeast Region: Clean Water Program Manager, 2 East Main Street, Norristown, PA 19401. Telephone 484-250-5970.*

**PA0013285, Industrial**, SIC Code 4941, **Aqua Pennsylvania, Inc.**, 762 W Lancaster Avenue, Bryn Mawr, PA 19010-3402. Facility Name: Pickering Creek Water Filtration Plant. This existing facility is located in Schuylkill Township, **Chester County**.

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

The receiving stream(s), Pickering Creek (HQ-TSF) and Pickering Creek (WWF, MF), is located in State Water Plan watershed 3-D and is classified for Migratory Fishes, Warm Water Fishes, and High-Quality Waters—Trout Stocking, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 002 are based on a design flow of 2.1 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>Daily Maximum</i>	
Total Dissolved Solids	XXX	XXX	XXX	XXX	Report	XXX
Ammonia-Nitrogen	XXX	XXX	XXX	XXX	Report	XXX

The proposed effluent limits for Outfall 002 are based on a design flow of 2.1 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>Daily Maximum</i>	
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0 Inst Min	XXX	XXX	9.0
Total Residual Chlorine (TRC)	XXX	XXX	XXX	0.5	XXX	1.0
Carbonaceous Biochemical Oxygen Demand (CBOD <sub>5</sub> )	435.0	700.0	XXX	25.0	40.0	50
Total Suspended Solids	Report	Report	XXX	30.0	60.0	75
Aluminum, Total	Report	Report	XXX	4.0	8.0	10
Iron, Total	Report	Report	XXX	2.0	4.0	5
Manganese, Total	Report	Report	XXX	1.0	2.0	2.5

The proposed effluent limits for Outfall 002 are based on a design flow of 2.1 MGD, Special Effluent Gross. 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>Daily Maximum</i>	
pH (S.U.)						
Special Effluent Gross	XXX	XXX	6.0 Inst Min	XXX	XXX	9.0
Total Residual Chlorine (TRC)						
Special Effluent Gross	XXX	XXX	XXX	0.5	XXX	1.0
Carbonaceous Biochemical Oxygen Demand (CBOD <sub>5</sub> )						
Special Effluent Gross	435	700	XXX	25.0	40.0	50
Total Suspended Solids						
Special Effluent Gross	Report	Report	XXX	30.0	60.0	75
Turbidity (NTU)	XXX	XXX	XXX	100	100	XXX
Aluminum, Total						
Special Effluent Gross	Report	Report	XXX	4.0	8.0	10
Iron, Total						
Special Effluent Gross	Report	Report	XXX	2.0	4.0	5
Manganese, Total						
Special Effluent Gross	Report	Report	XXX	XXX	2.0	XXX

The proposed effluent limits for Outfall 003 are based on a design flow of .001 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>Maximum</i>	
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
Total Residual Chlorine (TRC)	XXX	Daily Max XXX	XXX	1.0	XXX	1.0

The proposed effluent limits for Outfall 004 are based on a design flow of .001 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>Maximum</i>	
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
Total Residual Chlorine (TRC)	XXX	Daily Max XXX	XXX	1.0	XXX	1.0

The proposed effluent limits for Outfall 005 are based on a design flow of .001 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>Maximum</i>	
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
Total Residual Chlorine (TRC)	XXX	Daily Max XXX	XXX	1.0	XXX	1.0

The proposed effluent limits for Outfall 006 are based on a design flow of .001 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>Maximum</i>	
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
Total Residual Chlorine (TRC)	XXX	Daily Max XXX	XXX	1.0	XXX	1.0

The following narrative criteria are applicable for groundwater discharge outfalls 007, 008, and 009:

- a. This discharge shall consist solely of groundwater.
- b. There shall be no discharge of floating solids or visible foam in other than trace amount.

The following narrative criteria are applicable for traveling screen washwater discharge from outfall 010:

- a. The materials (solids and other debris) physically or mechanically removed during backwash operations shall not be returned to surface waters. The disposal of these materials shall prevent any discharge of removed substances to the surface waters.
- b. There shall be no discharge of floating solids or visible foam in other than trace amount.

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

- Discharge condition into Pickering Creek
- Submit updated PPC plan
- Sedimentation basin cleaning conditions

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 484-250-5910.

The EPA Waiver is in effect.

**PA0057339**, Sewage, SIC Code 8811, **Brian & Cheryl Davidson**, 209 Poplar Road, Honey Brook, PA 19344-1349. Facility Name: Davidson Properties. This existing facility is located in Honey Brook Township, **Chester County**.

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

The receiving stream(s), West Branch Brandywine Creek (HQ-TSF, MF), is located in State Water Plan watershed 3-H and is classified for High Quality Waters—Trout Stocking, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of .0005 MGD.—Limits.

Parameters	Mass Units (lbs/day)		Minimum	Concentrations (mg/L)		Instant. Maximum
	Average Monthly	Average Weekly		Average Monthly	Maximum	
Flow (GPD)	Report	XXX	XXX	XXX	XXX	XXX
pH (S.U.)	Daily Avg XXX	XXX	6 Inst Min	XXX	XXX	9
Dissolved Oxygen	XXX	XXX	6.0 Inst Min	XXX	XXX	XXX
Total Residual Chlorine (TRC)	XXX	XXX	XXX	XXX	1.0 Daily Max	XXX
Carbonaceous Biochemical Oxygen Demand (CBOD <sub>5</sub> )						
Nov 1 - Apr 30	XXX	XXX	XXX	20.0 Annl Avg	XXX	40
May 1 - Oct 31	XXX	XXX	XXX	10	XXX	20
Total Suspended Solids	XXX	XXX	XXX	10	XXX	20
Fecal Coliform (CFU/100 ml)	XXX	XXX	XXX	200	XXX	1,000
Total Nitrogen	XXX	XXX	XXX	Report	XXX	XXX
Ammonia-Nitrogen						
Nov 1 - Apr 30	XXX	XXX	XXX	4.5 Annl Avg	XXX	9
May 1 - Oct 31	XXX	XXX	XXX	1.5	XXX	3
Total Phosphorus	XXX	XXX	XXX	Report	XXX	XXX

Sludge use and disposal description and location(s): Hauled off-site.

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

- None

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 484-250-5910.

The EPA Waiver is in effect.

*Southcentral Region: Clean Water Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110. Phone: 717-705-4707.*

**PA0009288**, Industrial, SIC Code 8211, **Milton Hershey School**, 1201 Homestead Lane, Hershey, PA 17033-8818. Facility Name: Milton Hershey School. This existing facility is located in Derry Township, **Dauphin County**.

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

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

The proposed effluent limits for Outfall 001 are based on a design flow of 1 MGD.—Limits.

Parameters	Mass Units (lbs/day)		Minimum	Concentrations (mg/L)		Instant. Maximum
	Average Monthly	Average Weekly		Average Monthly	Maximum	
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	Daily Max XXX	6.0 Daily Min	XXX	9.0 Daily Max	XXX
Temperature (deg F) (°F)						
Dec 1 - Feb 28	XXX	XXX	XXX	XXX	45 Daily Max	XXX
Mar 1 - 31	XXX	XXX	XXX	XXX	59 Daily Max	XXX
Apr 1 - Oct 31	XXX	XXX	XXX	XXX	Report Daily Max	XXX
Nov 1 - 30	XXX	XXX	XXX	XXX	63 Daily Max	XXX

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

- The discharge shall not change the temperature of the receiving stream by more than 2°F during any one-hour period.

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

The EPA Waiver is in effect.



**PA0084697**, Sewage, SIC Code 4952, **Wiconisco Township Dauphin County**, P.O. Box 370, Wiconisco, PA 17097-0370. Facility Name: Wiconisco Village STP. This existing facility is located in Wiconisco Township, **Dauphin 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), Bear Creek (CWF, MF), is located in State Water Plan watershed 6-C and is classified for Cold Water Fishes and Migratory Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of .125 MGD.—Final Limits.

Parameters	Mass Units (lbs/day)			Concentrations (mg/L)		
	Average Monthly	Weekly Average	Daily Minimum	Average Monthly	Weekly Average	Instant. Maximum
Flow (MGD)	Report	Report Daily Max	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0 Daily Min	XXX	9.0 Daily Max	XXX
Dissolved Oxygen	XXX	XXX	5.0	XXX	XXX	XXX
Total Residual Chlorine (TRC)	XXX	XXX	XXX	0.5	XXX	1.63
Carbonaceous Biochemical Oxygen Demand (CBOD <sub>5</sub> )	26	42	XXX	25	40	50
Biochemical Oxygen Demand (BOD <sub>5</sub> )						
Raw Sewage Influent	Report	Report Daily Max	XXX	Report	XXX	XXX
Total Suspended Solids	47	68	XXX	45	65	90
Total Suspended Solids Raw Sewage Influent	Report	Report Daily Max	XXX	Report	XXX	XXX
Fecal Coliform (No./100 ml)						
Oct 1 - Apr 30	XXX	XXX	XXX	2,000 Geo Mean	XXX	10,000
May 1 - Sep 30	XXX	XXX	XXX	200 Geo Mean	XXX	1,000
Ammonia-Nitrogen	Report	XXX	XXX	Report	Report Daily Max	XXX
Nitrate-Nitrite as N	XXX	XXX	XXX	XXX	Report Daily Max	XXX
Total Nitrogen	XXX	XXX	XXX	XXX	Report Daily Max	XXX
Total Kjeldahl Nitrogen	XXX	XXX	XXX	XXX	Report Daily Max	XXX
Total Phosphorus	XXX	XXX	XXX	XXX	Report Daily Max	XXX
Aluminum, Total	Report Daily Min	XXX	XXX	Report Daily Max	XXX	XXX
Iron, Total	Report Daily Min	XXX	XXX	Report Daily Max	XXX	XXX
Manganese, Total	Report Daily Min	XXX	XXX	Report Daily Max	XXX	XXX

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

1. Stormwater Prohibition.
2. Approval Contingencies.
3. Management of collected screenings, slurries, sludges and other solids.
4. Restrictions on flow acceptance under certain conditions.
5. Chlorine minimization.

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

The EPA Waiver is in effect.

**PA0029335**, Sewage, SIC Code 7032, **PA Lions Beacon Lodge Camp**, 114 SR 103 South, Mount Union, PA 17066-9601. Facility Name: Beacon Lodge Camp. This existing facility is located in Wayne Township, **Mifflin County**.

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

The receiving stream(s) Sugar Valley Run (CWF), (MF) is located in State Water Plan watershed 12-A 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 .02 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>Maximum</i>	
Flow (MGD)	Report	Report Daily Max	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	9.0	XXX
Dissolved Oxygen	XXX	XXX	Daily Min 5.0	XXX	Daily Max XXX	XXX
Total Residual Chlorine (TRC)	XXX	XXX	XXX	0.28	XXX	0.91
Carbonaceous Biochemical Oxygen Demand (CBOD <sub>5</sub> )	XXX	XXX	XXX	25	XXX	50
Total Suspended Solids	XXX	XXX	XXX	30	XXX	60
Fecal Coliform (No./100 ml)	XXX	XXX	XXX	200	XXX	1,000
				Geo Mean		
Ammonia-Nitrogen						
Nov 1 - Apr 30	XXX	XXX	XXX	9.0	XXX	18
May 1 - Oct 31	XXX	XXX	XXX	3.0	XXX	6
Nitrate-Nitrite as N	XXX	XXX	XXX	XXX	Report Daily Max	XXX
Total Nitrogen	XXX	XXX	XXX	XXX	Report Daily Max	XXX
Total Kjeldahl Nitrogen	XXX	XXX	XXX	XXX	Report Daily Max	XXX
Total Phosphorus	XXX	XXX	XXX	XXX	Report Daily Max	XXX

Sludge use and disposal description and location(s):

Sludge is hauled Shade Gap wastewater treatment plant periodically for further treatment.

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

The EPA Waiver is in effect.

**PA0261815**, Sewage, SIC Code 6514, **Brocius Jeremy & Brocius Elizabeth**, 6418 Schoolhouse Road, Hershey, PA 17033-9210. Facility Name: Brocius Res. This existing facility is located in Conewago Township, **Dauphin County**.

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

The receiving stream(s), Hoffer Creek (TSF), is located in State Water Plan watershed 7-G and is classified for Trout Stocking, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of .0004 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>Annual Average</i>	<i>Maximum</i>	
Flow (MGD)	Report Annl Avg	XXX	XXX	XXX	XXX	XXX
Biochemical Oxygen Demand (BOD <sub>5</sub> )	XXX	XXX	XXX	10.0	XXX	20.0
Total Residual Chlorine (TRC)	XXX	XXX	XXX	Report Avg Mo	XXX	Report
pH (S.U.)	XXX	XXX	6	XXX	XXX	9
Total Suspended Solids	XXX	XXX	XXX	10.0	XXX	20.0
Fecal Coliform (No./100 ml)	XXX	XXX	XXX	200	XXX	XXX

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

The EPA Waiver is in effect.

**Application No. PA0281786**, Concentrated Animal Feeding Operation (CAFO), **Robert Boyles (Robert Boyles Swine Farm)**, 258 Mountain Road, Muncy Valley, PA 17758-9548.

Boyles Robert has submitted an application for an Individual NPDES permit for a new CAFO known as Robert Boyles Swine Farm, located in Franklin Township, **Lycoming County**.

The CAFO is situated near Unnamed Tributary to Beaver Run (CWF, MF) in Watershed 10-D, which is classified for Cold Water Fishes and Migratory Fishes. The CAFO is designed to maintain an animal population of approximately 586.27 animal equivalent units (AEUs) consisting of 4,200 finishing swine and 50 cattle. Manure is stored in pull plug shallow gutters that are then released and the manure will flow to the HDPE lagoon located southeast of the barns. A release or discharge to waters of the Commonwealth under normal operating conditions is not expected. Normal operating conditions are defined as conditions below a 100-year, 24-hour storm event.

The Department has conducted administrative and technical reviews of the application. Based on the preliminary review and application of lawful standards and regulations, the Department has made a tentative determination to issue an NPDES permit for the operation subject to the terms and conditions and monitoring and reporting requirements specified in the permit.

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 570-327-3693.

The Environmental Protection Agency (EPA) permit waiver provision under 40 CFR 123.24(e) does not apply to this NPDES permit.

**PAI133518**, MS4, **Washington Township Berks County**, 120 Barto Road, Barto, PA 19504-8746. The application is for a renewal of an individual NPDES permit for the discharge of stormwater from a regulated municipal separate storm sewer system (MS4) to waters of the Commonwealth in Washington Township, **Berks County**. The receiving stream(s), West Branch Perkiomen Creek (CWF, MF), Swamp Creek, and Middle Creek (TSF, MF), is located in State Water Plan watershed 3-E and is classified for Migratory Fishes, Cold Water Fishes, and Trout Stocking, aquatic life, water supply and recreation. The applicant is classified as a small MS4.

The applicant has submitted the following plan(s) with the application to reduce pollutant loads to impaired waters:

- A Pollutant Reduction Plan (PRP)

The Department has made a tentative determination to issue the NPDES permit. Written comments on the application and draft permit will be accepted for 30 days following publication of this notice. The period for comment may be extended at the discretion of DEP for one additional 15-day period. You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 717-705-4732.

The EPA waiver is in effect for small MS4s, and is not in effect for large MS4s.

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

**PA0232602**, Industrial, SIC Code 4911, **Panda Hummel Station LLC**, P.O. Box 518, 2386 N Old Trail, Shamokin Dam, PA 17876. Facility Name: Panda Hummel Station LLC. This existing facility is located in Shamokin Dam Borough, **Snyder County**.

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

The receiving stream(s), Susquehanna River (WWF, MF), is located in State Water Plan watershed 6-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 002 are based on a design flow of 1.553 MGD.

Parameters	Mass Units (lbs/day)		Minimum	Concentrations (mg/L)		Instant. Maximum
	Average Monthly	Daily Maximum		Average Monthly	Daily Maximum	
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
			Inst Min			
Free Available Chlorine	XXX	XXX	XXX	0.2	XXX	0.5
Temperature (deg F) (°F)	XXX	XXX	XXX	XXX	110	XXX
Total Suspended Solids (Interim)	Report	Report	XXX	Report	Report	XXX
(Final)	385	1,295	XXX	30.0	100.0	125
Aluminum, Total	28.88	44.42	XXX	2.23	3.43	5.57
Chromium, Total	2.59	2.59	XXX	0.20	0.20	0.5
Zinc, Total	12.95	12.95	XXX	1.00	1.00	2.5
PCBs, Total (ug/L)	XXX	XXX	XXX	XXX	XXX	Report
Priority Pollutants, Total	XXX	Report	XXX	XXX	XXX	Report
		IMAX				

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.

*Southwest Regional Office: Regional Clean Water Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, Telephone: 412.442.4000.*

**PA0253456**, Industrial, SIC Code 5169, **Woodland Equipment & Supply**, P.O. Box 241, Woodland, PA 16881-0241. Facility Name: Woodland Equipment & Supply, Cresson Salt Storage Facility. This proposed facility is located in Cresson Township, **Cambria County**.

Description of Proposed Activity: The application is for a new NPDES permit for a new discharge of storm water.

The receiving stream(s), Unnamed Tributary to Clearfield Creek (CWF) is located in State Water Plan watershed 8-C and is classified for Cold Water Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfalls 001, 002, 003 and 004 are based on a design flow of 0 MGD.—Limits.

Parameters	Mass Units (lbs/day)		Minimum	Concentrations (mg/L)		
	Average Monthly	Daily Maximum		Average Monthly	Daily Maximum	Instant. Maximum
Total Suspended Solids	XXX	XXX	XXX	XXX	Report	XXX
Total Dissolved Solids	XXX	XXX	XXX	XXX	Report	XXX
Oil and Grease	XXX	XXX	XXX	XXX	Report	XXX
Chloride	XXX	XXX	XXX	XXX	Report	XXX
Free Cyanide	XXX	XXX	XXX	XXX	Report	XXX

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

The EPA Waiver is in effect.

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

**PA0272493**, Sewage, SIC Code 8800, **Randy Corosu**, 11516 Five Points Road, Home, PA 15747. Facility Name: Randy Corosu SRSTP. This proposed facility is located in Washington Township, **Indiana County**.

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

The receiving stream(s), Unnamed Tributary to South Branch Plum Creek (HQ-CWF), is located in State Water Plan watershed 17-E and is classified for High Quality Waters—Cold Water Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

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

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

Sludge use and disposal description and location(s): Septage will be pumped and hauled off-site by a septage hauler for land application under a general permit authorized by DEP or disposal at an STP.

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.

**PA0272043**, Sewage, SIC Code 4952, **Summit Township Authority**, 502 Bonniebrook Road, Butler, PA 16001. Facility Name: Summit Township Authority STP. This proposed facility is located in Summit Township, **Butler County**.

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

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

The proposed effluent limits for Outfall 001 are based on a design flow of 0.13 MGD.—Limits.

Parameters	Mass Units (lbs/day)		Minimum	Concentrations (mg/L)		Instant. Maximum
	Average Monthly	Average Weekly		Average Monthly	Maximum	
Flow (MGD)	Report	Report Daily Max	XXX	XXX	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>Average Weekly</i>		<i>Average Monthly</i>	<i>Maximum</i>	
pH (S.U.)	XXX	XXX	6.0 Inst Min	XXX	XXX	9.0
Dissolved Oxygen	XXX	XXX	6.0 Inst Min	XXX	XXX	XXX
Carbonaceous Biochemical Oxygen Demand (CBOD <sub>5</sub> )	10.8	XXX	XXX	10.0	XXX	20
Biochemical Oxygen Demand (BOD <sub>5</sub> )						
Raw Sewage Influent	XXX	XXX	XXX	Report	XXX	XXX
Total Suspended Solids	10.8	XXX	XXX	10.0	XXX	20
Total Suspended Solids Raw Sewage Influent	XXX	XXX	XXX	Report	XXX	XXX
Fecal Coliform (No./100 ml)						
Oct 1 - Apr 30	XXX	XXX	XXX	2,000 Geo Mean	XXX	10,000
May 1 - Sep 30	XXX	XXX	XXX	200 Geo Mean	XXX	1,000
Ultraviolet light intensity ( $\mu\text{w}/\text{cm}^2$ )	XXX	XXX	XXX	Report	XXX	XXX
Total Nitrogen	Report	XXX	XXX	Daily Max 5.0	XXX	10
Ammonia-Nitrogen						
Nov 1 - Apr 30	12.3	XXX	XXX	11.4	XXX	22.8
May 1 - Oct 31	4.1	XXX	XXX	3.8	XXX	7.6
Total Phosphorus	Report	XXX	XXX	0.5	XXX	1

Sludge use and disposal description and location(s): Sludge is not used, any generated is disposed of at a landfill.

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

- Solids Management

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 814-332-6340.

The EPA Waiver is in effect.

**PA0272434**, Sewage, SIC Code 8800, **Bonita Skrzypczyk**, 8494 Buffalo Road, Harborcreek, PA 16421. Facility Name: Lemock SRSTP. This proposed facility is located at 10286 Sharp Road, Waterford, PA 16441 in Waterford Township, **Erie County**.

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

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

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

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

Sludge use and disposal description and location(s): Septage must be pumped and hauled off-site by a septage hauler for land application under a general permit authorized by DEP or disposal at an STP.

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.

**PA0272370**, Sewage, SIC Code 8800, **John Shoup**, 310 Fineview Drive, McMurray, PA 16317. Facility Name: John Shoup SRSTP. This proposed facility is located in Sandycreek Township, **Venango County**.

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

The receiving stream(s), Siefer Run (HQ-CWF (existing use)), is located in State Water Plan watershed 16-G and is classified for Warm Water Fishes, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

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

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

Sludge use and disposal description and location(s): Septage must be pumped and hauled off-site by a septage hauler for land application under a general permit authorized by DEP or disposal at an STP.

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.

---

*Southeast Region: Clean Water Program Manager, 2 East Main Street, Norristown, PA 19401, 484.250.5900.*

**WQM Permit No. 2305404**, Sewerage, Amendment, **Chadds Ford Township Sewer Authority**, 10 Ring Road, P.O. Box 816, Chadds Ford, PA 19317.

This proposed facility is located in Chadds Ford Township, **Delaware County**.

Description of Action/Activity: 0.21 mgd municipal wastewater treatment plant upgrades & expansion. New force main to be constructed to connect Ridings Pump Station to Estates at Chadds Ford PS.

**WQM Permit No. 4619406**, Sewerage, **Whitemarsh Township Authority**, 462 Germantown Pike, Suite 1, Lafayette Hill, PA 19444.

This proposed facility is located in Whitemarsh Township, **Montgomery County**.

Description of Action/Activity: Upgrades to the plant's existing sludge dewatering facility.

*Southcentral Region: Clean Water Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110. Phone: 717-705-4707.*

**WQM Permit No. 0519402**, Sewerage, **John J. Pepple**, 1954 French Creek Road, Everett, PA 15537.

This proposed facility is located in East Providence Township, **Bedford County**.

Description of Proposed Action/Activity: Seeking permit approval for the construction/operation of a small flow sewage treatment system to serve 2251 French Creek Road, Everett, PA 15537.

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

**WQM Permit No. 0294202 A-3**, Industrial, **West Penn Power Co.**, 800 Cabin Hill Drive, Greensburg, PA 15601-1650.

This existing facility is located in Frazer Township, **Allegheny County**.

Description of Proposed Action/Activity: Construction of a new wetland treatment system, consisting of an oxidation basin and a wetland cell, and a pipeline to relocate site Outfall 001 from its current location discharging to Riddle Run to a new headwall to be located near River Mile 17.8 on the Allegheny River.

**WQM Permit No. 1118400-A1**, Sewerage, **Johnstown Redevelopment Authority**, 401 Washington Street, 4th Floor, Public Safety Building, Johnstown, PA 15901.

This proposed facility is located in the City of Johnstown, **Cambria County**.

Description of Proposed Action/Activity: Proposed construction of replacement and rehabilitation of the existing Fairfield Avenue Interceptor Sewer located in the Morrellville Area of the City of Johnstown. Treatment to be provided at the existing Johnstown—Dornick Point STP.

The Pennsylvania Infrastructure Investment Authority (PENNVEST) which administers Pennsylvania's State Revolving Fund has been identified as a potential funding source.

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

**WQM Permit No. 1019405**, Sewage, **Ralph Engel**, 202 Estate Lane, Harmony, PA 16037-8708.

This proposed facility is located in Muddycreek Township, **Butler County**.

Description of Proposed Action/Activity: Single Residence Sewage Treatment Plant.

**WQM Permit No. 4303416 A-3**, Sewage, **Hermitage Municipal Authority**, 800 North Hermitage Road, Hermitage, PA 16148.

This existing facility is located in Hermitage City, **Mercer County**.

Description of Proposed Action/Activity: Installation of 350 kWe combined heat and power unit and construction of a 93,000 cubic foot biogas holding tank.

**WQM Permit No. 4319411**, Sewage, **Rodney A. Prezioso, Jr.**, 129 Kinsman Road, Jamestown, PA 16134-9515.

This proposed facility is located in Greene Township, **Mercer County**.

Description of Proposed Action/Activity: Single Residence Sewage Treatment Plant.

## **VI. NPDES Individual Permit Applications for Discharges of Stormwater Associated with Construction Activities.**

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

*Lehigh County Conservation District, 4184 Dorney Park Road, Suite 105, Allentown, PA 18401.*

### **NPDES**

<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAD390009	Dorney Park & Wildwater Kingdom 3830 Dorney Park Rd Allentown, PA 18104	Lehigh	S Whitehall Twp	Cedar Creek (HQ-CWF, MF)

*Luzerne Conservation District, 325 Smiths Pond Road, Shavertown, PA 18708.*

### **NPDES**

<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAD400026	Presidential Land Co Ltd Frank Pedriani 95 S Main Rd Mtn Top, PA 18707	Luzerne	Fairview Twp	Big Wapwallopen Creek (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.

**ACT 38**  
**NUTRIENT MANAGEMENT PLANS**  
**CAFO PUBLIC NOTICE SPREADSHEET—APPLICATIONS**

<i>Agricultural Operation Name and Address</i>	<i>County</i>	<i>Total Acres</i>	<i>AEU's</i>	<i>Animal Type</i>	<i>Special Protection Waters (HQ or EV or NA)</i>	<i>New or Renewal</i>
Barry Farms 221 Michters Road Newmanstown, PA 17073	Lebanon	566	927.86	Swine, Beef	N/A	Renewal
Hissong Farmstead, Inc. 6841 Buchanan Trail West Mercersburg, PA 17236	Franklin	1,426.3	2,522.40	Dairy	N/A	Renewal
Michael Hege 11437 Gehr Rd Waynesboro, PA 17268	Franklin	100.0	312.14	Poultry	N/A	Renewal
Andrew Reiff 8245 Buffalo Road Mifflinburg, PA 17844	Union	43	729.07	Swine	HQ	Renewal
Cory Gress 792 Lick Hollow Road Harrisonville, PA 17228	Fulton	438.2	782.08	Swine Finisher	None	Renewal
North Mountain Gobbler # 2 Melvin Bricker 2859 East Dutch Corner Rd McConnellsburg, PA	Fulton	160.4	380.95	Swine Sow/Gilt	None	Renewal
Franklin Family Farms—Acorn 14627 Lurgan Rd Orrstown, PA 17244	Franklin	0	1,299.57	Swine	N/A	Renewal
Edward Horst 251 Bunkerhill Road Womelsdorf, PA 19567	Berks	111.8	353.75	Swine Heifers	N/A	Renewal
Fine Swine-Hibred Swine Farm 415 Forest Road Denver, PA 17517	Lancaster	10.4	653.8	Swine	N/A	Renewal
Kenneth Martin 1397 Robert Fulton Highway Quarryville, PA 17566	Lancaster	270	1,749.63	Swine/ Dairy/ Poultry	HQ	Renewal
Spring Pond Farm 93 Deck Road Womelsdorf, PA 19567	Berks	112.9	407.11	Layers & Beef Cattle	N/A	Renewal

**PUBLIC WATER SUPPLY (PWS)  
PERMITS**

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

Persons wishing to comment on permit applications are invited to submit statements to the office listed before the application within 30 days of this public notice. Comments received within this 30-day comment period will be considered in the formulation of the final determinations regarding an application. A comment should include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based. A public hearing may be held after consideration of comments received during the 30-day public comment period.

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

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

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



## SAFE DRINKING WATER

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

*Southeast Region: Water Supply Management Program Manager, 2 East Main Street, Norristown, PA 19401.*

**Permit No. 4619508**, Public Water Supply.

Applicant **Aqua Pennsylvania, Inc.**  
762 W. Lancaster Avenue  
Bryn Mawr, PA 19010

Township Montgomery  
County **Montgomery**

Responsible Official Aqua Pennsylvania, Inc.  
762 W. Lancaster Avenue  
Bryn Mawr, PA 19010

Type of Facility PWS  
Consulting Engineer GHD, Inc.  
1240 North Mountain Road  
Harrisburg, PA 17112

Application Received June 19, 2019  
Date

Description of Action Installation of sodium hypochlorite and ammonium sulfate feed systems at the Summit Pump Station along with the installation of a mixer in the Summit Tank to improve water quality.

**Permit No. 4619517**, Public Water Supply.

Applicant **North Wales Water Authority**  
200 West Walnut Street  
North Wales, PA 19454

Township Montgomery  
County **Montgomery**

Responsible Official North Wales Water Authority  
200 West Walnut Street  
North Wales, PA 19454

Type of Facility PWS  
Consulting Engineer Carol Engineering Corporation  
949 Easton Road  
Warrington, PA 18976

Application Received August 19, 2019  
Date

Description of Action Construction of a 4.1 million gallon hydropillar tank.

*Northcentral Region: Safe Drinking Water Program Manager, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448.*

**Application No. 4119504—Construction—Public Water Supply.**

Applicant **Harvest Moon Plaza, Inc.**  
Township/Borough Woodward Township  
County **Lycoming County**

Responsible Official Mr. Barry Heller, Jr.  
640 Yerger Road  
Linden, PA 17744

Type of Facility Public Water Supply—  
Construction

Consulting Engineer Mr. Francis W. Catherine  
P. Joseph Lehman, Inc.,  
Consulting Engineer  
117 Olde Farm Office Road  
Suite 113  
Duncansville, PA 16635

Application Received 8/2/2019

Description of Action Authorizes treatment system to remove MTBE from water-supply well.

**Application No. 6019501—Construction—Public Water Supply.**

Applicant **Shady Grove Christian School**  
Township/Borough Buffalo Township  
County **Union County**

Responsible Official Mr. David Troy  
Facility Director  
124 Turkey Run Road  
Buffalo Township, PA 17844

Type of Facility Public Water Supply—  
Construction

Consulting Engineer Mr. Joseph J. Hunt, P.E.  
JHA Companies  
466 South Main Street  
Montrose, PA 18801

Application Received 9/4/2019

Description of Action Authorizes modification of existing facility to incorporate arsenic removal.

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

**Permit No. 6514509-A1**, Public Water Supply.

Applicant **Municipal Authority of Westmoreland County**  
124 Park & Pool Road  
New Stanton, PA 15672

Township or Borough Washington Township  
Responsible Official John Ashton  
Municipal Authority of  
Westmoreland County  
124 Park & Pool Road  
New Stanton, PA 15672

Type of Facility Beaver Run system  
Consulting Engineer Gibson-Thomas Engineering Co.,  
Inc.  
1004 Ligonier Street  
P.O. Box 853  
Latrobe, PA 15650

Application Received July 5, 2019  
Date

Description of Action Amendments to the proposed Pleasant View pump station.

**Application No. 5619505**, Public Water Supply.

Applicant **Hooversville Borough**  
50 Main Street  
P.O. Box 176  
Hooversville, PA 15936

Township or Borough Hooversville Borough  
 Responsible Official Kenneth Karashowsky,  
 Council President  
 Hooversville Borough  
 50 Main Street  
 P.O. Box 176  
 Hooversville, PA 15936

Type of Facility Water system  
 Consulting Engineer The EADS Group, Inc.  
 450 Aberdeen Drive  
 Somerset, PA 15501

Application Received August 1, 2019  
 Date

Description of Action Construction of a pump station  
 and an interconnection between  
 Hooversville Borough and the  
 Conemaugh Township Municipal  
 Authority.

**Permit No. 3218514-A1**, Public Water Supply.

Applicant **Indiana County Municipal  
 Services Authority**  
 602 Kolter Drive  
 Indiana, PA 15701

[Township or Borough] South Mahoning,  
 Washington and Rayne  
 Townships; and  
 Marion Center Borough

Type of Facility Plumville water system  
 Consulting Engineer Gibson-Thomas Engineering Co.,  
 Inc.  
 1004 Ligonier Street  
 P.O. Box 853  
 Latrobe, PA 15650

Application Received August 1, 2019  
 Date

Description of Action Installation of waterline, a  
 pressure reducing valve vault  
 and a water storage tank with a  
 mixing system.

**Permit No. 0219528**, Public Water Supply.

Applicant **AHN—Forbes Hospital**  
 2570 Haymaker Road  
 Monroeville, PA 15146

[Township or Borough] City of Monroeville  
 Responsible Official Cory Beals,  
 Facilities Management Manager  
 AHN—  
 Forbes Hospital  
 2570 Haymaker Road  
 Monroeville, PA 15146

Type of Facility Forbes Hospital  
 Consulting Engineer Lovorn Engineering Associates,  
 LLC  
 700 Blaw Avenue  
 Pittsburgh, PA 15238

Application Received July 19, 2019  
 Date

Description of Action Installation of a chlorine dioxide  
 system for secondary  
 disinfection.

**Permit No. 6519512**, Public Water Supply.  
 Applicant **Youngstown Borough  
 Municipal Authority**  
 4351 Latrobe Street  
 P.O. Box 82  
 Youngstown, PA 15969

[Township or Borough] Unity Township  
 Responsible Official Tami L. Roach, Office Manager  
 Youngstown Borough Municipal  
 Authority  
 4351 Latrobe Street  
 P.O. Box 82  
 Youngstown, PA 15969

Type of Facility Water system  
 Consulting Engineer Bankson Engineers, Inc.  
 267 Blue Run Road  
 Suite 200  
 Cheswick, PA 15024

Application Received August 8, 2019  
 Date

Description of Action Replacement of the Ridge Road  
 pump station.

**MINOR AMENDMENT**

**Applications Received Under the Pennsylvania Safe  
 Drinking Water Act.**

*Southwest Region: Water Supply Management Program  
 Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-  
 4745.*

**Application No. 3019508MA**, Minor Amendment.

Applicant **Southwestern Pennsylvania  
 Water Authority**  
 1442 Jefferson Road  
 Jefferson, PA 15344

Township or Borough Morris Township  
 Responsible Official Timothy Faddis, Manager  
 Southwestern Pennsylvania  
 Water Authority  
 1442 Jefferson Road  
 Jefferson, PA 15344

Type of Facility Water system  
 Consulting Engineer Bankson Engineers, Inc.  
 267 Blue Run Road  
 Suite 200  
 Cheswick, PA 15024

Application Received August 8, 2019  
 Date

Description of Action Construction of the Clemente  
 vault.

**Application No. 3013501WMP28**, Minor Amendment.

Applicant **Southwestern Pennsylvania  
 Water Authority**  
 1442 Jefferson Road  
 Jefferson, PA 15344

Township or Borough Morris Township  
 Responsible Official Timothy Faddis, Manager  
 Southwestern Pennsylvania  
 Water Authority  
 1442 Jefferson Road  
 Jefferson, PA 15344

Type of Facility Water system  
 Consulting Engineer Bankson Engineers, Inc.  
 267 Blue Run Road  
 Suite 200  
 Cheswick, PA 15024  
 Application Received August 8, 2019  
 Date  
 Description of Action Bulk-load out site at the  
 proposed Clemente vault.

**Application No. 3019509MA**, Minor Amendment.

Applicant **Southwestern Pennsylvania  
 Water Authority**  
 1442 Jefferson Road  
 Jefferson, PA 15344  
 Township or Borough Richhill Township  
 Responsible Official Timothy Faddis, Manager  
 Southwestern Pennsylvania  
 Water Authority  
 1442 Jefferson Road  
 Jefferson, PA 15344  
 Type of Facility Water system  
 Consulting Engineer Bankson Engineers, Inc.  
 267 Blue Run Road  
 Suite 200  
 Cheswick, PA 15024  
 Application Received August 27, 2019  
 Date  
 Description of Action Construction of the Consol  
 Crabapple vault.

**Application No. 3013501WMP29**, Minor Amendment.

Applicant **Southwestern Pennsylvania  
 Water Authority**  
 1442 Jefferson Road  
 Jefferson, PA 15344  
 Township or Borough Richhill Township  
 Responsible Official Timothy Faddis, Manager  
 Southwestern Pennsylvania  
 Water Authority  
 1442 Jefferson Road  
 Jefferson, PA 15344  
 Type of Facility Water system  
 Consulting Engineer Bankson Engineers, Inc.  
 267 Blue Run Road  
 Suite 200  
 Cheswick, PA 15024  
 Application Received August 27, 2019  
 Date  
 Description of Action Bulk-load out site at the  
 proposed Consol Crabapple  
 vault.

**Application No. 5636541-T2**, Minor Amendment.

Applicant **Stallion Oilfield Services,  
 Ltd.**  
 950 Corbindale Road  
 Suite 400  
 Houston, TX 77024

Township or Borough Carmichaels Borough and  
 Canton Township  
 Responsible Official Brian D. Baird, Senior VP  
 Stallion Oilfield Services, Ltd.  
 950 Corbindale Road  
 Suite 400  
 Houston, TX 77024

Type of Facility Water system  
 Consulting Engineer Penn E & R  
 111 Ryan Court  
 Pittsburgh, PA 15205

Application Received August 29, 2019  
 Date  
 Description of Action Transfer for the change in name  
 from Stallion Oilfield  
 Construction, LLC to Stallion  
 Oilfield Services, Ltd.

**Application No. 3096502-T1**, Minor Amendment.

Applicant **The Monongalia County  
 Coal Company**  
 46226 National Road  
 St. Clairsville, OH 43950  
 Township or Borough Wayne Township  
 Responsible Official Robert D. Moore, Vice-President  
 The Monongalia County  
 Coal Company  
 46226 National Road  
 St. Clairsville, OH 43950

Type of Facility Water system  
 Consulting Engineer N/A

Application Received August 30, 2019  
 Date  
 Description of Action Transfer of the Kuhntown Portal  
 Blacksville # 2 water system  
 from Consolidated Coal Company  
 to the Monongalia County Coal  
 Company.

**Application No. 0219525MA**, Minor Amendment.

Applicant **Borough of Sewickley  
 Water Authority**  
 601 Thorn Street  
 P.O. Box 190  
 Sewickley, PA 15143  
 Township or Borough Borough of Sewickley  
 Responsible Official Mark Brooks, General Manager  
 Borough of Sewickley  
 Water Authority  
 601 Thorn Street  
 P.O. Box 190  
 Sewickley, PA 15143

Type of Facility Water system  
 Consulting Engineer KLH Engineers, Inc.  
 5173 Campbells Run Road  
 Pittsburgh, PA 15205

Application Received August 19, 2019  
 Date  
 Description of Action Replacement of the liner and  
 cover at the Waterworks Park  
 Reservoir.

## WATER ALLOCATIONS

---

### Applications received under the Act of June 24, 1939 (P.L. 842, No. 365) (35 P.S. §§ 631—641) relating to the Acquisition of Rights to Divert Waters of the Commonwealth.

---

*Southwest Region: Water Supply Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**WA2-1023**, Water Allocations. **Springdale Township**, 100 Plate Drive, Harwick, PA 15049, **Allegheny County**. The applicant is requesting the right to purchase 5,500,000 gallons of water per day, peak month, from the Municipal Authority of the Township of Harmar.

**WA2-1023A**, Water Allocations. **Springdale Township**, 100 Plate Drive, Harwick, PA 15049, **Allegheny County**. The applicant is requesting the right to purchase 550,000 gallons of water per day from Springdale Borough.

**WA2-1023B**, Water Allocations. **Springdale Township**, 100 Plate Drive, Harwick, PA 15049, **Allegheny County**. The applicant is requesting the right to purchase 450,000 gallons of water per day, peak month, from the Fawn Frazer Joint Water Authority.

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

### UNDER ACT 2, 1995 PREAMBLE 1

---

### Acknowledgment of Notices of Intent to Remediate Submitted under the Land Recycling and Environmental Remediation Standards Act (35 P.S. §§ 6026.101—6026.907).

---

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(c)(2) of the act, there is a 30-day public and municipal comment period

for sites proposed for remediation using a site-specific standard, in whole or in part, and for sites remediated as a special industrial area. This period begins when a summary of the 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:

*Northwest Region: Environmental Cleanup & Brownfields Program Manager, 230 Chestnut Street, Meadville, PA 16335-348.*

**Electric Materials**, 50 South Washington Street, North East Borough, **Erie County**. Moody & Associates, Inc., 11548 Cotton Road, Meadville, PA 16335, on behalf of The Electric Materials Company, 50 South Washington Street, North East, PA 16428, submitted a Notice of Intent to Remediate. Electrical products are manufactured at the site. Site soil and site groundwater have been impacted with Tetrachloroethene, Trichloroethene, cis-1,2-Dichloroethene, trans-1,2-Dichloroethene, Vinyl Chloride, Chloroethane, 1,1-Dichloroethene, and Chloroform. The Site-Specific Standard has been selected for remediation of the site. Future use of the property will be non-residential. The Notice of Intent to Remediate was published in the *North East News Journal* on June 21, 2019.

**General Electric Company Appliance Building 99**, 2125 East 12th Street, Lawrence Park Township, **Erie County**. Arcadis U.S., Inc., 50 Fountain Plaza, Buffalo, NY 14202, on behalf of General Electric Company, 3726 North Wayne Avenue, Chicago, IL 60613, submitted a Notice of Intent to Remediate. The site has, historically, operated as a refrigerator fabrications, repair, and assembly facility. Site soil has been impacted with polychlorinated biphenyls, Resource Conservation and Recovery Act metals, volatile organic compounds, semi-volatile organic compounds, asbestos and site groundwater has been impacted with polychlorinated biphenyls, Resource Conservation and Recovery Act metals, volatile organic compounds, and semi-volatile organic compounds. The Statewide Health Standard has been selected for remediation of the site. Future use of the property will be industrial/commercial. The Notice of Intent to Remediate was published in *The Erie-Times News* on August 29, 2019.

**REGISTRATION FOR GENERAL PERMIT—  
MUNICIPAL WASTE**

**Application for Registration Renewal 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.**

*Southeast Region: Regional Solid Waste Manager, 2 East Main Street, Norristown, PA 19401.*

**General Permit Application No. WMGM037SE001. Waste Management of Pennsylvania, Inc.**, 5245 Bleigh Avenue, Philadelphia, PA 19136-4225. This registration renewal application is to continue to operate under General Permit Number WMGM037 for the processing and conversion of municipal waste into a fuel product at “WM SpecFUEL Facility” that is operating within the Forge Recycling and Resource Recovery Center, a municipal waste transfer and recycling facility located at 5245 Bleigh Avenue, Philadelphia, PA 19136, in the City of Philadelphia. The application for registration was considered administratively complete by the Southeast Regional Office on September 10, 2019.

Comments concerning the application should be directed to the Waste Management Program Manager, Department of Environmental Protection (DEP) Southeast Regional Office, 2 East Main Street, Norristown, PA 19401-4915. Persons interested in obtaining more information about the general permit application may contact the Southeast Regional Office by telephone at 484.250.5960. TDD users may contact the (DEP) 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.

**DETERMINATION OF APPLICABILITY FOR  
RESIDUAL WASTE GENERAL PERMITS**

**Application 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 Residual Waste Regulations for a General Permit to Operate Residual Waste Processing Facilities and/or the Beneficial Use of Residual Waste Other Than Coal Ash.**

*Southeast Region: Regional Solid Waste Manager, 2 East Main Street, Norristown, PA 19401.*

**General Permit Application No. WMGR096SE010. Philadelphia Regional Port Authority**, 3460 North Delaware Avenue, Philadelphia, PA 19134. This permit renewal application is for the determination of applicability (DOA) under General Permit No. WMGR096 to continue the beneficial use of regulated fill material, as defined in Department of Environmental Protection, (DEP) Document No. 258-2182-2773 (Management of Fill), to be used as construction material at 50-114 Kitty Hawk Avenue in the City and **County of Philadelphia**. The renewal application for determination of applicability was accepted as administratively complete by the Southeast Regional Office on August 29, 2019. The 60-day notice requirement is waived.

Comments concerning the application should be directed to the Waste Management Program Manager, Department of Environmental Protection (DEP) Southeast Regional Office, 2 East Main Street, Norristown, PA 19401-4915. Persons interested in obtaining more information about the general permit application may contact the Southeast Regional Office by telephone at 484.250.5960. TDD users may contact the (DEP) 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.

**Application(s) for Determination of Applicability administratively complete under the Solid Waste Management Act (35 P.S. §§ 6018.101—6018.1003); and Residual Waste Regulations for a General Permit to Operate Residual Waste Processing Facilities and/or the Beneficial Use of Residual Waste.**

*Southwest Region: Regional Solid Waste Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, Telephone 412-442-4000.*

**General Permit No. WMGR081D034. Commonwealth Computer Recycling, LLC**, 1628 Roseytown Road, Greensburg, PA 15601. A minor modification to increase the size of their facility operating under residual waste general permit WMGR081 for the processing and beneficial use of waste electronics in Hempfield Township, **Westmoreland County**, was deemed administratively complete in the Regional Office on July 15, 2019.

Persons interested in reviewing the general permit or the application may contact the Department of Environmental Protection, Regional Files, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, 412-442-4000. TDD users may contact the Department through the Pennsylvania AT&T Relay Service, (800) 654-5984.

**OPERATE WASTE PROCESSING OR  
DISPOSAL AREA OR SITE**

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

*Southeast Region: Regional Solid Waste Manager, 2 East Main Street, Norristown, PA 19401.*

**Permit Application No. 301254. Clean Earth of Southeast PA, LLC**, 7 Steel Road East, Morrisville, PA 19067-3613. This major permit modification application is for an increase in waste acceptance, an increase in traffic count, an increase in storage volume, and the addition of two new methods (biological and chemical) to treat contaminated soils at the Clean Earth of Southeast Pennsylvania (CESP) Facility, a residual waste processing facility located at 7 Steel Road, Morrisville, PA, Falls Township, **Bucks County**. The application was received by the Southeast Regional Office on August 23, 2019.

Comments concerning the application should be directed to the Waste Management Program Manager, Department of Environmental Protection (DEP) Southeast Regional Office, 2 East Main Street, Norristown, PA 19401-4915. Persons interested in obtaining more information about the general permit application may contact the Southeast Regional Office by telephone at 484.250.5960. TDD users may contact the (DEP) 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 Chap-

ters 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.

### PLAN APPROVALS

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

*Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

*Contact: Raymond Kempa, New Source Review Chief—Telephone: 570-826-2507.*

**39-00004F: Mack Trucks, Inc.** (700 Alburdis Road, Macungie, PA 18062) for their facility in Lower Macungie Township, **Lehigh County**.

In accordance with 25 Pa. Code §§ 127.44(a) and 127.45(a), the Department of Environmental Protection (DEP) has received a Plan Approval for Mack Trucks, Inc. (700 Alburdis Road, Macungie, PA 18062) for their facility in Lower Macungie Township, Lehigh County. This Plan Approval No. 39-00004F will be incorporated into a Title V Permit through an administrative amendment at a later date.

Plan Approval No. 39-00004F is for the revision of the permit limit for Volatile Organic Compounds (VOCs) emissions. The company has requested to add a VOC emission limits of 20.0 tons/year each to the following sources combined at the facility (ID 120, 121). No other operational changes, modification or new equipment installation is proposed by the company. The company has requested these voluntary VOC emission limits in order for the facility to meet RACT 2 applicability. The Plan Approval and Operating permit will contain additional recordkeeping and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

Copies of the application, DEP's analysis and other documents used in the evaluation of the application are available for public review during normal business hours at Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711.

Any person(s) wishing to provide DEP with additional information, which they believe should be considered prior to the issuance of this permit, may submit the information to the address shown in the preceding paragraph. Each written comment must contain the name, address and telephone number of the person submitting the comments, identification of the proposed permit No.: 39-00004F and a concise statement regarding the relevancy of the information or objections to the issuance of the permit.

A public hearing may be held, if the Department of Environmental Protection, in its discretion, decides that such a hearing is warranted based on the comments received. All persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in the newspaper or the *Pennsylvania*

*Bulletin* or by telephone, where DEP determines such notification is sufficient. Written comments or requests for a public hearing should be directed to Ray Kempa, Environmental Group Manager, New Source Review Section, Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711, Phone 570-826-2511 within 30 days after publication date.

**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: Raymond Kempa, New Source Review Chief—Telephone: 570-826-2507.*

**54-00041C: Silberline Manufacturing Co., Inc.** (130 Lincoln Drive, Tamaqua, PA 18252) for their facility in Rush Township, **Schuylkill County**.

In accordance with 25 Pa. Code §§ 127.44(a) and 127.45(a), the Pennsylvania Department of Environmental Protection intends to issue for plan approval to construct a new manufacturing process line with control devices and one (1) new boiler for their facility in Rush Township, Schuylkill County. This Plan Approval No. 54-00041C will be incorporated into a Title V Permit through an administrative amendment at a later date.

Plan Approval No. 54-00041C is for installation of a new encapsulation process for pigments including one (1) new Particulate Matter (PM) condenser. VOC emission increases from this source are not to exceed 9.08 Tons/year. The Plan Approval and Operating permit will contain additional recordkeeping and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

Copies of the application, DEP's analysis and other documents used in the evaluation of the application are available for public review during normal business hours at Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18701-1915.

Any person(s) wishing to provide DEP with additional information, which they believe should be considered prior to the issuance of this permit, may submit the information to the address shown in the preceding paragraph. Each written comment must contain the name,

address and telephone number of the person submitting the comments, identification of the proposed permit No.: 54-00041C and a concise statement regarding the relevancy of the information or objections to the issuance of the permit.

A public hearing may be held, if the Department of Environmental Protection, in its discretion, decides that such a hearing is warranted based on the comments received. All persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in the newspaper or the *Pennsylvania Bulletin* or by telephone, where DEP determines such notification is sufficient. Written comments or requests for a public hearing should be directed to Ray Kempa, Chief, New Source Review Section, Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18701-1915, Phone 570-826-2511 within 30 days after publication date.

Notice of Intent to Issue a Plan Approval for a Title V Facility and Notice of Proposed Revision to the State Implementation Plan for Oxides of Nitrogen, Volatile Organic Compounds, and Notice of Public Hearing.

Notice is hereby given in accordance with 25 Pa. Code §§ 127.44(b) and 127.424(b), that the Department of Environmental Protection (DEP) intends to issue a **Plan Approval # 39-00006F to American Craft Brewery LLC**, 7880 Penn Drive, Breinigsville, PA 18031-1508, for their plant located in Upper Macungie Township, **Lehigh County**. The facility currently operates pursuant to a Title V Operating Permit No. 39-00006. This plan approval will be incorporated into the Title V operating permit through an administrative amendment at a later date, and the action will be published as a notice in the *Pennsylvania Bulletin*.

Plan Approval No. 39-00006F is to install a new can line as Source ID 164, ancillary equipment to provide packaging flexibility, and to increase annual throughput of total produced and total packaged product. The increase in the permitted limit on annual product throughput will allow for greater brewing, fermentation, blending, and packaging flexibility at the facility. The company also proposes to install an additional new two-deck pasteurizer in conjunction with the new can line. Although the pasteurizer is not a direct source of emissions, the additional steam required to operate the pasteurizer will result in an incremental increase in emissions from the boilers.

The following table represents emissions increases due to proposed project.

<i>Pollutant</i>	<i>NO<sub>x</sub></i>	<i>VOCs</i>	<i>SO<sub>2</sub></i>	<i>PM</i>	<i>PM<sub>10</sub></i>	<i>PM<sub>2.5</sub></i>	<i>CO</i>
Project Emissions Increase (tpy)	4.67	30.06	0.06	0.5	0.80	0.75	2.98

The total net VOC emissions increase for this project does not trigger a significant VOC emission increase as a major modification, but it does trigger a de minimis emissions increase of VOCs. When considering this project's VOC emission increases along with other de minimis VOC increases and decreases over the past 10-year period, those emission increases in aggregation total 68.69 tpy, which exceeds the 40 tpy VOC significance threshold which requires offsetting with 79 tons of VOC emission reduction credits in accordance with 25 Pa. Code Subchapter E requirements.

A review of the information submitted by the company indicates that the proposed project will meet all applicable State and Federal air quality requirements. Based upon these findings, DEP plans to approve the application and issue a permit for the facility.

In order to assure compliance with the applicable standards, DEP will place conditions in the plan approval.

The Plan Approval and Operating Permit will contain additional recordkeeping and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

Copies of the application, DEP's analysis and other documents used in the evaluation of the application are available for public review during normal business hours at Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18701.

The proposal also includes Approval of a Reasonably Available Control Technology (RACT II) plan for the company.

In accordance with 25 Pa. Code §§ 129.96—129.100, the Pennsylvania 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 their beer, FMB and hard cider manufacturing and packaging facility located in Upper Macungie Township, Lehigh County.

The SIP revision does not adopt any new regulations. It incorporates the provisions and requirements contained in the amended RACT approval for the facility, which are determined to satisfy the requirements for the 1997, 2008 and 2015 National Ambient Air Quality Standards (NAAQS) for ozone.

The proposed amendments to the RACT II determination, if finally approved, will be incorporated into a revised operating permit (39-00006) 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.

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>New RACT Limit Proposed for VOC emissions</i>
Fermentation, Source Id 121	Maintain and operates the source in accordance with the manufacturer's specification and with good operating practices.
Off Spec Product Destruction, Source Id 127	Maintain and operates the source in accordance with the manufacturer's specification and with good operating practices.
Yeast Storage, Source Id 131	Maintain and operates the source in accordance with the manufacturer's specification and with good operating practices.
Packaging Bottle Filler, Source Id 143	Maintain and operates the source in accordance with the manufacturer's specification and with good operating practices.
Ph Adjustment Tank Source Id 160	Maintain and operates the source in accordance with the manufacturer's specification and with good operating practices.

**Public hearing.** A public hearing will be held if requested by October 4, 2019 to accept oral comments on the proposed plan approval, operating permit revision and the proposed SIP revision. The hearing will be held, if requested, on October 11, 2019, at 10:00 a.m. at the DEP Bethlehem District Office, 4530 Bath Pike, Bethlehem, PA 18017. To request a hearing, to register to speak at a hearing, or to inquire if a hearing will be held, contact Colleen Connolly, Regional Community Relations Coordinator at 570-826-2035. The last day to pre-register to speak at a hearing, if one is held, will be October 4, 2019.

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 Northeast Regional Office website. We ask that you contact Colleen Connolly, Regional Community Relations Coordinator at 570-826-2035 or monitor our web site to determine if a hearing will be held.

Persons wishing to present testimony at the hearing should contact Colleen Connolly at 570-826-2035 at least 1 week in advance of the hearing to reserve a time to present testimony. Oral testimony will be limited to a maximum of 5 minutes per individual and 2 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 3 copies of a written statement and exhibits within 10 days thereafter to Mark J Wejkszner, Environmental Program Manager, Pennsylvania Department of Environmental Protection, Northeast Regional Office, 2 Public Square, Wilkes-Barre, PA 18701.

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 Mark J Wejkszner, Envi-

ronmental Program Manager, Pennsylvania Department of Environmental Protection, Northeast Regional Office, 2 Public Square, Wilkes-Barre, PA 18701. A 30-day comment period from September 19, 2019 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 and/or 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 Plan Approval and/or RACT II Plan.

All pertinent application documents are available for public review between 8 a.m. and 4 p.m. at the PA DEP Northeast Regional Office, 2 Public Square, Wilkes-Barre, PA 18701-1915. Appointments for scheduling a review may be made by calling 570-826-2419.

Persons with a disability who wish to comment and require an auxiliary aid, service or other accommodations to do so should contact Colleen Connolly at 570-826-2035 or the Pennsylvania AT&T Relay Service at 1-800-654-5984 (TDD) to discuss how the Department may accommodate your needs.

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

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

**06-05077E: Can Corporation of America, Inc.** (326 June Avenue, Blandon, PA 19510) for revisions of the State Only Operating Permit for the can manufacturing plant located in Maiden creek Township, **Berks County**. This plan approval is for the following items: 1.) Remove Source 104 (360 Spray Line); Change SG01 VOC emission



limits from 7.25 lb/hr, 174 lb/day and 13.22 tpy to 2.57 lb/hr and 11.26 tpy; Change SG01 catalytic oxidizer VOC destruction efficiency from 92% to 80%. 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. Based on these findings, the Department proposes to issue a plan approval for the proposed revisions. 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.

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

*Contact: Ed Orris, P.E., New Source Review Chief—Telephone: 412-442-4168.*

**26-00610A: Iron Mountain US, LLC** (1 Pilarsky Way Aliquippa PA 15001). Notice is hereby given in accordance with 25 Pa. Code §§ 127.44 and 127.45 that the Department of Environmental Protection ("Department") intends to issue Air Quality Plan Approval: PA-26-00610A to Iron Mountain US, LLC ("IMUL") for installation and operation of new material handling and processing equipment for the mining of non-coal industrial materials (industrial slag) for metals recovery at 600 Leisenring Vanderbilt Road, Dunbar Township and Vanderbilt Borough, **Fayette County**.

The facility is limited to a material throughput of 3,200,000 tpy on a 12-month rolling basis and the estimated emissions from the facility are 43.0 tpy particulate matter (PM), 14.0 tpy PM<sub>10</sub>, 7.0 tpy SO<sub>x</sub>, 27.0 tpy NO<sub>x</sub>, 24 tpy CO, 6.5 tpy VOC, and 2.5 tpy of hazardous air pollutants (HAPs).

This authorization is subject to State regulations including 25 Pa. Code Chapters 123, 127 and 129. Plan approval conditions include throughput limitations on material throughput, operational restrictions for diesel-fired engines, monitoring requirements, work practice standards, associated recordkeeping, and reporting requirements. Once compliance with the Plan Approval is demonstrated, the applicant will be required to revise or submit a State Only Operating Permit ("SOOP") application in accordance with 25 Pa. Code Subchapter F.

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

A person may oppose the proposed Air Quality plan approval by filing a written protest with the Department or may submit written comments through Jesse S. Parihar via the U.S. Postal Service to the Pennsylvania Department of Environmental Protection, 400 Waterfront Drive, Pittsburgh, PA 15222; written comments may also be submitted via email to [jparihar@pa.gov](mailto:jparihar@pa.gov) or via fax to 412-442-4194. Each set of written comments or protest must contain the name, address, and telephone number of the person submitting the comments or protest, identifi-

cation of the proposed plan approval (26-00610A) and a concise statement of the objections to the plan approval issuance and the relevant facts upon which the objections are based.

All comments must be received prior to the close of business 30 days after the date of this publication. A protest to the proposed action shall be filed with the Department within 30 days of the date that notice of the proposed action was published under 25 Pa. Code § 127.44 (relating to public notice).

A public hearing may be held, if the Department, in its discretion, decides that such a hearing is warranted based on the information received. All persons who have properly filed a protest under 25 Pa. Code § 127.46 may appear and give testimony. The applicant, the protestant and other participants will be notified of the decision to hold a hearing by publication in the newspaper or by the *Pennsylvania Bulletin*, or by telephone, where the Department determines such notification by telephone is sufficient.

*Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104.*

*Contact: Edward Wiener, Chief—Telephone: 215-685-9426.*

**AMS Plan Approval No. IP19-000482: D'Angelo Bros., Inc.** (3700 South 26th Street, Philadelphia, PA 19145) for the installation of one 325 horsepower diesel-fired emergency generator powering a 100 ton-per-hour portable concrete crushing plant with water spray dust control system at their facility in the City of Philadelphia, **Philadelphia County**. Nitrogen Oxides (NO<sub>x</sub>) have a potential emissions of 4.03 ton per year. Carbon Monoxide (CO) has a potential emissions of 0.87 ton per year. Particulate Matter (PM) has a potential emissions of 0.05 ton per year. The plan approval will contain operating, monitoring, and recordkeeping requirements to ensure operation within all applicable requirements.

Copies of all documents and information concerning this permit are available for review in the offices of Air Management Services, 321 University Ave., Philadelphia, PA 19104-4543 during normal business hours. Persons wishing to review these documents should contact Debra Williams (215-685-7572) at the previously listed address.

Persons wishing to file protest, comments or to request a public hearing on the previously listed permit must submit the protest, comments, or request for a public hearing to 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.

**IP19-000528: Hilton City Avenue and Homewood Suites City Avenue** (4200 City Ave., Philadelphia, PA 19131) for the installation of boilers, hot water heaters, and air handling units at two contiguous hotels, in the City of Philadelphia, **Philadelphia County**. The facility's air emission sources include six (6) boilers firing natural gas each rated less than 1 MMBtu/hr, three (3) hot water heaters firing natural gas each rated less than 1 MMBtu/hr, and two (2) air handling units firing natural gas rated 0.60 MMBtu/hr and 0.80 MMBtu/hr. The potential emission from the installation are as follows: (1) 3.409 tons per year (tpy) of Nitrogen Oxides (NO<sub>x</sub>), (2)

2.863 tpy of Carbon Monoxide (CO), (3) 0.259 tpy of Particulate Matter (PM), and (4) 0.187 tpy of Volatile Organic Compound (VOC). The plan approval will contain operating, monitoring, recordkeeping, and reporting requirements to ensure operation within all applicable requirements.

The plan approval will be issued 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, comments, or request a public hearing on the previously listed plan approval must submit the protest, comments or request for a public hearing within 30 days from the date of this notice. Any protests or comments filed with AMS must include a concise statement of the objections to the permit issuance and the relevant facts upon which the objections are based. Based upon the information received during the public comment period, AMS may modify the plan approval or schedule a public hearing. The hearing notice will be published in the *Pennsylvania Bulletin* and a local newspaper at least thirty days before the hearing.

---

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

---

*Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

*Contact: Raymond Kempa, New Source Review Chief—Telephone: 570-826-2507.*

**35-00064: Innocor Foam Technologies—ACP, Inc.** (2222 Surrett Drive, High Point, NC 27263). The Department intends to issue a State-Only Operating Permit for operation of sources at a foam manufacturing operation in Archibald Borough, **Lackawanna County**. The sources include a slab stock foam pour line and adhesive usage process. The proposed permit contains all applicable requirements for emission limitations, work practice standards, testing, monitoring, recordkeeping, and reporting standards used to verify facility compliance with Federal and State air pollution regulations.

**40-00128: InterMetro Industries Corporation** (1101 North Washington Street, Wilkes-Barre, PA 18705-1817). The Department intends to issue a State-Only Operating Permit for operation of sources at a miscellaneous fabricated wire product manufacturing operation in Wilkes-Barre City, **Luzerne County**. The sources include a burn off oven, cleaning tanks, plating tanks, chromate coating tanks, electropolishing tanks, arc welding, a silicone sealant booth, and emergency generators. The proposed permit contains all applicable requirements for emission limitations, work practice standards, testing, monitoring, recordkeeping, and reporting standards used to verify facility compliance with Federal and State air pollution regulations.

**39-00093: A. Schulman Inc., A. Schulman, Inc. Plant** (6355 Farm Bureau Road, Allentown, PA 18106-5900). The Department intends to issue a renewal (Natural Minor) permit for the unlaminated plastics products profile shape manufacturing facility in Upper Macungie Township, **Lehigh County**. The sources consist of Air Mills, Cryogenic Systems, and Silos. The sources are

controlled by fabric collectors. The sources are considered minor emission sources of nitrogen oxide (NO<sub>x</sub>), sulfur oxides (SO<sub>x</sub>), carbon monoxide (CO), particulate matter (PM<sub>10</sub>), and volatile organic compounds (VOC) emissions. The operating permit contains applicable requirements for emission limitations, work practice standards, testing, monitoring, recordkeeping, and reporting standards used to verify facility compliance with Federal and State air pollution regulations.

**45-00024: Eureka Stone Quarry** (P.O. Box 249, Chalfont, PA 18914-0249). The Department intends to issue a renewal State-Only Synthetic Minor Permit for the Eureka Stone Quarry located in Hamilton Township, **Monroe County**. Operations at this quarry include a stone crushing plant and a batch asphalt plant. The sources are considered minor emission sources of nitrogen oxide (NO<sub>x</sub>), sulfur oxides (SO<sub>x</sub>), carbon monoxide (CO), total suspended particulate (TSP) and 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 Elmerston Avenue, Harrisburg, PA 17110.*

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

**67-05028: Tolna Power LLC** (1890 Granite Station Road, Gettysburg, PA 17325) to issue a State-Only Operating Permit for the electricity generation facility (Tolna Electric Generating Station) located in Hopewell Township, **York County**. This is for renewal of the existing operating permit. The actual emissions from the facility in 2018 were reported to be 6.02 tons NO<sub>x</sub> and less than 1 ton of each CO, PM, VOC, SO<sub>x</sub>, and HAPs. The Operating Permit will include emission limits and work practice standards along with testing, monitoring, recordkeeping and reporting requirements to ensure the facility complies with the applicable air quality regulations. Among other items, the conditions include provisions derived from 40 CFR Part 63, Subpart ZZZZ—National Emission Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines (Source IDs 201A and 202A).

**67-03162: Church & Dwight Co., Inc.** (5197 Commerce Drive, York, PA 17408) to issue a State Only Operating Permit for the facility located in Jackson Township, **York County**. This is for renewal of the existing operating permit. The actual emissions from the facility in 2018 are estimated at 21.76 tons of VOC, 13.84 tons of PM<sub>10</sub>, 10.27 tons of PM<sub>2.5</sub>, 3.38 tons of NO<sub>x</sub>, 2.64 tons of CO, and 0.05 ton of SO<sub>x</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 Dc—Standards of Performance for Small Industrial-Commercial-Institutional Steam Generating Units, and 40 CFR Part 60, Subpart IIII—Standards of Performance for Stationary Compression Ignition Internal Combustion Engines.

**36-03024: Astro Machine Works, Inc.** (470 Wenger Drive, Ephrata, PA 17522) to issue a State-Only Operating Permit for the operation of the custom machine manufacturing facility in Ephrata Borough, **Lancaster County**. This is for renewal of the existing operating permit. Actual emissions from the facility in 2017 were estimated at 1.75 ton of VOC. The Operating Permit will include emission limits and work practice standards along with monitoring, recordkeeping and reporting requirements to ensure the facility complies with the applicable air quality regulations. Among other items, the conditions include provisions derived from 25 Pa. Code §§ 123.13, 129.52d and 129.63.

**21-03128: Holy Spirit Hospital** (503 North 21st Street, Camp Hill, PA 17011), to issue a Natural Minor operating permit for the hospital facility located in East Pennsboro Township, **Cumberland County**. This permit will supersede the current Title V operating permit No. 21-05038. The primary emissions from the facility are NO<sub>x</sub> and CO from diesel emergency generator engines and natural gas fired package boilers with backup No. 2 oil fuel. The facility's actual 2018 emissions are NO<sub>x</sub> 5.78 tons, CO 4.27 tons, VOC 0.6 ton, PM<sub>10</sub> 0.38 ton and HAPs 0.38 ton. The operating permit will include emission limits and work practice standards along with monitoring, recordkeeping, and reporting requirements to ensure the facility complies with the applicable air quality regulations. Among other items, the conditions include provisions for Sources derived from 25 Pa. Code § 123 and § 127 for restrictions, monitoring, recordkeeping, and reporting. The emergency generators are subject to Federal 40 CFR, Part 60 NSPS Subpart IIII or Part 63 NESHAP Subpart ZZZZ.

**38-05023: Pennsy Supply, Inc.** (1 Clear Spring Road, Annville, PA 17003) for the Prescott Asphalt Plant in South Lebanon Township, **Lebanon County**. This is for renewal of the existing operating permit. Actual emissions from the facility in 2017 were estimated at 12.79 tons of CO, 1.42 ton of NO<sub>x</sub>, 2.80 tons of NO<sub>x</sub>, 2.28 tons of PM<sub>10</sub>, 0.34 ton of SO<sub>x</sub>, 3.16 tons of VOC, and 0.53 ton of combined HAPs. The Operating Permit will include emission limits and work practice standards along with monitoring and recordkeeping requirements to ensure the facility complies with the applicable air quality regulations. Among other items, the conditions include provisions derived from 40 CFR 60, Subpart I—Standards of Performance for Hot Mix Asphalt Facilities.

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

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

**65-00860: Hydro Carbide Inc.** (4439 State Route 982, Latrobe, PA 15650) In accordance with 25 Pa. Code §§ 127.424 and 127.425 the Department of Environmental Protection (DEP) gives notice that they intend to issue a Synthetic Minor State Only Operating Permit (SOOP) to Hydro Carbide Inc. to authorize the continued operation for the production of cemented tungsten carbide at their Latrobe Plant located in Unity Township, **Westmoreland County**.

The operation process at this facility include 10 attritors and 2 ball mills, heptane storage tank, and condensers. The company is proposing to take an enforceable limit of 20.7 tpy VOC emission from the facility. The proposed SOOP contains emission restriction, testing,

monitoring, recordkeeping, reporting and work practice standards derived from the applicable requirements of 25 Pa. Code Article III, Chapters 121—145.

A person may oppose the proposed State Only Operating Permit by filing a written protest with the Department through Noor Nahar via mail to Pennsylvania Department of Environmental Protection, 400 Waterfront Drive, Pittsburgh, PA 15222. Each protest or set of written comments must contain the name, address and telephone number of the person submitting the comments, identification of the proposed State Only Operating Permit (65-00860) and a concise statement of the objections to the Operating Permit issuance and the relevant facts upon which the objections are based.

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

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

Notice of Proposed Revision to the State Implementation Plan for Oxides of Nitrogen, Volatile Organic Compounds, Notice of Public Hearing, and Notice of Intent to Issue Revised Air Quality Operating Permit 65-00860.

Approval of a Reasonably Available Control Technology (RACT II) plan for **Hydro Carbide Inc.**, located in Unity Township, **Westmoreland County**.

In accordance with 25 Pa. Code §§ 129.96—129.100, the Pennsylvania 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 cemented tungsten carbide facility owned and operated by Hydro Carbide Inc. at 4439 State Route 982, Latrobe, PA 15650 in Unity Township, Westmoreland 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, 2008, and 2015 National Ambient Air Quality Standard (NAAQS) for ozone.

The proposed amendments to the RACT II determination, if finally approved, will be incorporated into the synthetic minor operating permit (65-00860) 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.

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>	<i>SOOP 65-00860 Cond. No</i>
101—3 100SC Attritors 102—5 30S attritors 104—3 Rota-Cone Vacuum dryers 105—3 Conaform Vacuum Dryers 106—2 Attritors 107—2 Rota-Cone Vacuum dryers	The facility will take an enforceable Volatile Organic Compound (VOC) facility-wide emissions cap of 20.7 tons in any consecutive 12-month period.	Section C, Condition # 008
	All air cleaning devices and air contamination sources at the facility shall be operated and maintained in accordance with manufacturer's specification and good air pollution and engineering practices.	Section C, Condition # 030

*Public hearing.* A public hearing will be held if requested by October 21, 2019, to accept oral comments on the proposed operating permit revision and the proposed SIP revision. The hearing will be held, if requested, on November 20, 2019, at 10 a.m. at the Pennsylvania Department of Environmental Protection, Southwest Regional Office, 400 Waterfront Drive, Pittsburgh, PA 15222. To request a hearing, to register to speak at a hearing, or to inquire if a hearing will be held, please contact Thomas Joseph at 412.442.4336. The last day to pre-register to speak at a hearing, if one is held, will be October 21, 2019.

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 <https://www.dep.pa.gov/About/Regional/SouthwestRegion/Community%20Information/Pages/default.aspx>.

The Department asks that you contact Thomas Joseph at 412.442.4336 or monitor our Web site to determine if a hearing will be held.

Persons wishing to present testimony at the hearing should contact Thomas Joseph at 412.442.4336 at least 1 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 2 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 3 copies of a written statement and exhibits within 10 days thereafter to Mark Gorog, Environmental Program Manager, Pennsylvania Department of Environmental Protection, Southwest Regional Office, 400 Waterfront Drive, Pittsburgh, PA 15222.

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 Mark Gorog, Environmental Program Manager, Pennsylvania Department of Environmental Protection, Southwest Regional Office, 400 Waterfront Drive, Pittsburgh, PA 15222. A 30-day comment period from September 21, 2019 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 Pennsylvania Department of Environmental Protection, Southwest Regional

Office, 400 Waterfront Drive, Pittsburgh, PA 15222. Appointments for scheduling a review may be made online at <https://www.dep.pa.gov/Citizens/PublicRecords/Pages/Informal-File-Review.aspx> or by calling the Department at 412.442.4000.

Persons with a disability who wish to comment and require an auxiliary aid, service or other accommodations to do so should contact Lauren Fraley at 412.442.4203 or the Pennsylvania AT&T Relay Service at 1.800.654.5984 (TDD) to discuss how the Department may accommodate your needs.

#### PLAN APPROVALS

**Receipt of Plan Approval Applications and Intent to Issue Plan Approvals, and Intent to Issue Amended Operating Permits under the Air Pollution Control Act (35 P.S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter B And Subchapter F. These actions may include the administrative amendments of an associated operating permit.**

*Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

*Contact: Raymond Kempa, New Source Review Chief—Telephone: 570-826-2507.*

**40-00139A: Gonnella Frozen Products, LLC** (301 Parkview Road, Hazle Township, PA 18202) for their facility in Hazle Township, **Luzerne County**.

In accordance with 25 Pa. Code §§ 127.44(a) and 127.45(a), the Department of Environmental Protection (DEP) has received and intends to issue a Plan Approval to Gonnella Frozen Products, LLC (301 Parkview Road, Hazle Township, PA 18202) for their facility in Hazle Township, Luzerne County. This Plan Approval No. 40-00139A will be incorporated into a Synthetic Minor Permit at a later date.

Plan Approval No. 4-00139A is for the installation of one (1) 1,881 CFM baghouse to control dust from three (3) flour silos and four (4) dough mixers. Particulate Matter (PM) emissions from the plant will remain under their 100 TPY threshold limit, 12-month rolling sum. The company shall be subject to and comply with 25 Pa. Code § 123.13 for PM emissions. These limits will meet BAT requirements for this source. The Plan Approval and Operating permit will contain additional recordkeeping and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

Copies of the application, DEP's analysis and other documents used in the evaluation of the application are

available for public review during normal business hours at Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711.

Any person(s) wishing to provide DEP with additional information, which they believe should be considered prior to the issuance of this permit, may submit the information to the address shown in the preceding paragraph. Each written comment must contain the name, address and telephone number of the person submitting the comments, identification of the proposed permit No.: 40-00139A and a concise statement regarding the relevancy of the information or objections to the issuance of the permit.

A public hearing may be held, if the Department of Environmental Protection, in its discretion, decides that such a hearing is warranted based on the comments received. All persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in the newspaper or the *Pennsylvania Bulletin* or by telephone, where DEP determines such notification is sufficient. Written comments or requests for a public hearing should be directed to Ray Kempa, Environmental Group Manager, New Source Review Section, Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711, Phone 570-826-2511 within 30 days after publication date.

## 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 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). 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 Returned*

*New Stanton District Office: P.O. Box 133, 131 Broadview Road, New Stanton, PA 15672, 724-925-5500.*

**26-17-02 and NPDES Permit No. PA0278355. Harry Lee** (413 West Church Avenue, Masontown, PA 15461). Government Financed Construction Contract was denied for reclamation of approximately 2.9 acres of abandoned mine lands and NPDES permit was returned. Located in Nicholson Township, **Fayette County**. Receiving streams: unnamed tributaries to Monongahela River. Application received: March 6, 2018. Application denied and returned: September 4, 2019.

### *Coal Applications Received*

*California District Office: 25 Technology Drive, Coal Center, PA 15423, 724-769-1100.*

**56121301 and NPDES No. PA0236152. AK Coal Resources, Inc.** (1134 Stoystown Road, Friedens, PA 15541). To revise the permit for the North Fork Mine in Jenner and Quemahoning Townships, **Somerset County** and related NPDES Permit. AK Coal Resources, Inc. is proposing to permit 1,203.5 acres of subsidence control plan area in the Upper Kittanning coal seam within the approved underground permit area for CMAP No. 56121301. Additionally, 2,749.6 subsidence control plan acres will transfer from CMAP No. 56131302 (Lower Kittanning Coal Seam) to CMAP No. 56121301. Surface Acres Proposed 1,203.5 Upper Kittanning, 90.3 Middle Kittanning, and 2,749.6 Lower Kittanning. No additional Discharges. The application was considered administratively complete on August 30, 2019. Application received: July 17, 2019.

**56111601 and NPDES No. PA0236098. LCT Energy, LP** (938 Mt. Airy Drive, Suite 200, Johnstown, PA 15904). To revise the permit for the Laurel Plant in Shade Township, **Somerset County** and related NPDES permit, to revise Erosion and Sedimentation plans, liner revisions, addition of treatment and sediment ponds as well as add a new NPDES point. Surface Acres Proposed 15.4. Receiving Stream: Unnamed Tributary to Little Dark Shade Creek, classified for the following use: CWF. Receiving Stream: Little Dark Shade Creek, classified for the following use: CWF. The application was considered administratively complete on September 4, 2019. Application received: July 1, 2019.

**17051601 and NPDES No. PA0235733. Junior Coal Contracting, Inc.** (2330 Six Mile Road, Phillipsburg, PA 16866). To revise the permit for the Leslie Tipple in Decatur Township, **Clearfield County** and related NPDES Permit to include Erosion and Sedimentation control structures and water sources to add authorization to wash coal. Surface Acres Proposed 10.1. No additional discharges. The application was considered administratively complete on September 6, 2019. Application received: July 31, 2019.

**30841316 and NPDES No. PA0213535. Consol Pennsylvania Coal Company LLC** (1000 Consol Energy Drive, Canonsburg, PA 15317). To revise the permit for the Bailey Mine & Prep Plant in Richhill Township, **Greene County** and related NPDES Permit for installation of one (1) airshaft for ventilation purposes and one (1) new NPDES discharge point. Surface Acre Proposed 0.6. Receiving Stream: Polen Run, classified for the following use(s): TSF. The application was considered administratively complete on September 6, 2019. Application received: July 10, 2019.

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

**24110101 and NPDES No. PA0259055. RES Coal, LLC** (P.O. Box 228, Armagh, PA 15920). Renewal of an existing bituminous surface mine and associated NPDES permit in Fox Township, **Elk County** affecting 68.0 acres. Receiving streams: Little Toby Creek, classified for the following uses: CWF. There are no potable surface water supply intakes within 10 miles downstream. Application received: August 29, 2019.

**33010107 and NPDES No. PA0242012. Waroquier Coal Company** (P.O. Box 128, Clearfield, PA 16830). Renewal of an existing bituminous surface mine and associated NPDES permit in Snyder Township, **Jefferson County** affecting 348.0 acres. Receiving streams: Unnamed tributaries to Rattlesnake Run and Rattlesnake Run, classified for the following uses: CWF. There are no

potable surface water supply intakes within 10 miles downstream. Application received: August 29, 2019.

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118.*

**Permit No. 54830209R7. Keystone Anthracite Co., Inc.** (259 N. Second Street, Girardville, PA 17935), renewal of an existing anthracite coal refuse reprocessing, coal refuse disposal and preparation plant operation in West Penn Township, **Schuylkill County** affecting 17.6 acres, receiving stream: Little Schuylkill River, classified for the following use: cold water fishes. Application received: August 7, 2019.

**Permit No. 54830209C. Keystone Anthracite Co., Inc.** (259 N. Second Street, Girardville, PA 17935), correction to update the post-mining land use from forestland to unmanaged natural habitat of an existing anthracite coal refuse reprocessing, coal refuse disposal and preparation plant operation in West Penn Township, **Schuylkill County** affecting 17.6 acres, receiving stream: Little Schuylkill River, classified for the following use: cold water fishes. Application received: August 7, 2019.

**Permit No. GP12-54830209R. Keystone Anthracite Co., Inc.** (259 N. Second Street, Girardville, PA 17935), renewal application to operate a coal preparation plant whose pollution control equipment is required to meet all applicable limitations, terms and conditions of General Permit, BAQ-GPA/GP-12 on Surface Mining Permit No. 54830209 in West Penn Township, **Schuylkill County**. Application received: August 7, 2019.

#### MINING ACTIVITY NPDES DRAFT PERMITS

This notice provides information about applications for a new, amended or renewed NPDES permits associated with mining activity (coal or noncoal) permits. The applications concern industrial waste (mining) discharges to surface water and discharges of stormwater associated with mining activities. This notice is provided in accordance with 25 Pa. Code Chapters 91 and 92a and 40 CFR Part 122, implementing provisions of The Clean Streams Law (35 P.S. §§ 691.1—691.1001) and the Federal Clean Water Act (33 U.S.C.A. §§ 1251—1376).

The Department of Environmental Protection (Department) has prepared a draft NPDES permit and made a tentative determination to issue the NPDES permit in conjunction with the associated mining activity permit.

##### *Effluent Limits for Coal Mining Activities*

For coal mining activities, NPDES permits, when issued, will contain effluent limits that are the more stringent of technology-based (BAT) effluent limitations or Water Quality Based Effluent Limits (WQBEL).

The BAT limits for coal mining activities, as provided in 40 CFR Part 434 and 25 Pa. Code Chapters 87—90 are as follows:

<i>Parameter</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Iron (Total)	3.0 mg/l	6.0 mg/l	7.0 mg/l
Manganese (Total)	2.0 mg/l	4.0 mg/l	5.0 mg/l
Suspended solids	35 mg/l	70 mg/l	90 mg/l
pH*		greater than 6.0; less than 9.0	

Alkalinity greater than acidity\*

\*The parameter is applicable at all times.

A settleable solids instantaneous maximum limit of 0.5 ml/l applies to: surface runoff (resulting from a precipitation event of less than or equal to a 10-year 24-hour event) from active mining areas; active areas disturbed by coal refuse disposal activities; mined areas backfilled and revegetated; and all other discharges and drainage (resulting from a precipitation event of greater than 1-year 24-hour to less than or equal to a 10-year 24-hour event) from coal refuse disposal piles. Similarly, modified BAT limits apply to iron, manganese and suspended solids in surface runoff, discharges and drainage resulting from these precipitation events and those of greater magnitude in accordance with 25 Pa. Code §§ 87.102, 88.92, 88.187, 88.292, 89.52 and 90.102.

Exceptions to BAT effluent limits may be applicable in accordance with 25 Pa. Code §§ 87.102, 88.92, 88.187, 88.292, 89.52 and 90.102.

##### *Effluent Limits for Noncoal Mining Activities*

The limits for noncoal mining activities as provided in 25 Pa. Code Chapter 77 are pH 6 to 9 and other parameters the Department may require.

Discharges from noncoal mines located in some geologic settings (for example, in the coal fields) may require additional water quality based effluent limits. If additional effluent limits are needed for an NPDES permit associated with a noncoal mining permit, then the permit description specifies the parameters.

In addition to BAT or WQBEL limits, coal and noncoal NPDES permits establish effluent limitations in the form of implemented Best Management Practices (BMPs) identified in the associated Erosion and Sedimentation Plan, the Reclamation Plan and the NPDES permit application. These BMPs restrict the rates and quantities of associated pollutants from being discharged into surface waters in this Commonwealth.

More restrictive effluent limitations, restrictions on discharge volume or restrictions on the extent of mining that may occur are incorporated into an NPDES permit when necessary for compliance with water quality standards and antidegradation requirements (in accordance with 25 Pa. Code Chapters 91—96).

The procedures for determining the final effluent limits, using a mass-balance equation or model, are found in Technical Guidance Document 563-2112-115, Developing National Pollutant Discharge Elimination System (NPDES) Permits for Mining Activities. Other specific factors to be considered include public comments and Total Maximum Daily Load(s). Additional discharge limitations may apply in the event that unexpected discharges occur.

Discharge rates for surface mining activities are precipitation driven. Discharge rates for proposed discharges associated with underground mining are noted in the permit description.

Persons wishing to comment on an NPDES draft permit should submit a written statement to the Department at the address of the district mining office indicated before each draft permit within 30 days of this public notice. Comments received within the comment period will be considered in the final determinations regarding the NPDES permit applications. Comments must include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based.

The Department will also accept requests or petitions for a public hearing on NPDES permit applications, as provided in 25 Pa. Code § 92a.82(d). The request or petition for a public hearing shall be filed within 30 days of this public notice and contain the name, address, telephone number and the interest of the party filing the request, and state the reasons why a hearing is warranted. A public hearing may be held if the Department considers the public interest significant. If a hearing is scheduled, a notice of the hearing on the NPDES permit application will be published in the *Pennsylvania Bulletin* and a newspaper of general circulation within the relevant geographical area. When a public hearing is held, the Department will consider comments from the public hearing in the final determination on the NPDES permit application.

#### *Coal NPDES Draft Permits*

*Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, 814-472-1900.*

**NPDES No. PA0262781 (Mining Permit No. 05090101), Robindale Energy Services, Inc.**, 224 Grange Hall Road, P.O. Box 228, Armagh, PA 15920, renewal of an NPDES permit for bituminous surface mine in Broad Top Township, **Bedford County**, affecting 159.0 acres. Receiving stream: Longs Run, classified for the following use: warm water fishes. This receiving stream is included in the Longs Run and Sandy Run Watershed TMDL. Application received: August 22, 2019.

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

The following treated wastewater outfalls discharge to Longs Run:

<i>Outfall Nos.</i>	<i>New Outfall (Y/N)</i>
001	N
008	N
009	N

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

<i>Outfalls: 001 and 008</i>	<i>30-Day</i>	<i>Daily</i>	<i>Instant.</i>
<i>Parameter</i>	<i>Average</i>	<i>Maximum</i>	<i>Maximum</i>
Iron (mg/l)	1.5	3.0	3.7
Manganese (mg/l)	1.0	2.0	2.5
Aluminum (mg/l)	0.75	.75	.75
Total Suspended Solids (mg/l)	35.0	70.0	90.0
pH (S.U.): Must be between 6.0 and 9.0 standard units at all times.			
Alkalinity must exceed acidity at all times.			

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

<i>Outfalls: 009</i>	<i>30-Day</i>	<i>Daily</i>	<i>Instant.</i>
<i>Parameter</i>	<i>Average</i>	<i>Maximum</i>	<i>Maximum</i>
Iron (lbs/d)	XX	XX	8.4
Manganese (lbs/d)	XX	XX	5.6
Aluminum (lbs/d)	XX	XX	1.9
Acidity (lbs/d)	XX	XX	37.2

The following stormwater outfall discharges to Longs Run:

<i>Outfall No.</i>	<i>New Outfall (Y/N)</i>		
007	N		
<i>Outfalls: 007 (Dry Weather)</i>	<i>30-Day</i>	<i>Daily</i>	<i>Instant.</i>
<i>Parameter</i>	<i>Average</i>	<i>Maximum</i>	<i>Maximum</i>
Iron (mg/l)	1.5	3.0	3.7
Manganese (mg/l)	1.0	2.0	2.5
Aluminum (mg/l)	0.75	1.5	1.9
Total Suspended Solids (mg/l)	35.0	70.0	90.0
pH (S.U.): Must be between 6.0 and 9.0 standard units at all times.			
Alkalinity must exceed acidity at all times.			
<i>Outfalls: 005 (≤10-yr/24-hr Precip. Event)</i>	<i>30-Day</i>	<i>Daily</i>	<i>Instant.</i>
<i>Parameter</i>	<i>Average</i>	<i>Maximum</i>	<i>Maximum</i>
Iron (mg/l)	N/A	N/A	7.0
Total Settleable Solids (ml/l)	N/A	N/A	0.5
pH (S.U.): Must be between 6.0 and 9.0 standard units at all times.			
Alkalinity must exceed acidity at all times.			

This proposed mine site also contains or is hydrologically connected to substandard discharges for which there is no responsible party. Pursuant to 25 Pa. Code Chapter 87.201, effluent limits for those discharges will be based upon the existing baseline pollution load.

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200.*

**NPDES No. PA0610623 (Mining Permit No. 17820129), Kasubick Brothers Coal Company**, 501 David Street, Houtzdale, PA 16651, renewal of an NPDES permit for bituminous surface coal mining in Woodward Township, **Clearfield County**, affecting 161.8 acres. Receiving stream(s): unnamed tributary to Upper Morgan Run, classified for the following use(s): CWF. North Branch Upper Morgan Run TMDL. Application received: April 24, 2019.

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

The following outfalls discharge to unnamed tributary to Upper Morgan Run:

<i>Outfall Nos.</i>	<i>New Outfall (Y/N)</i>
007 (TF7.1)	N
008 (SB7)	N

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

<i>Outfalls: 007, 008 (All Weather Conditions)</i>	<i>30-Day</i>	<i>Daily</i>	<i>Instant.</i>
<i>Parameter</i>	<i>Average</i>	<i>Maximum</i>	<i>Maximum</i>
Iron (mg/l)	3.0	6.0	7.0
Manganese (mg/l)	2.0	4.0	5.0
Aluminum (mg/l)	2.0	4.0	5.0
Total Suspended Solids (mg/l)	35.0	70.0	90.0
Sulfate (mg/L)		Monitor & Report	
Flow (gpm)		Monitor & Report	
Temperature (°C)		Monitor & Report	
Specific Conductivity (µmhos/cm)		Monitor & Report	
pH (S.U.): Must be between 6.0 and 9.0 standard units at all times.			
Alkalinity must exceed acidity at all times.			
<i>Outfalls: 008 (Dry Weather)</i>	<i>30-Day</i>	<i>Daily</i>	<i>Instant.</i>
<i>Parameter</i>	<i>Average</i>	<i>Maximum</i>	<i>Maximum</i>
Iron (mg/l)	3.0	6.0	7.0
Manganese (mg/l)	2.0	4.0	5.0
Total Suspended Solids (mg/l)	35.0	70.0	90.0
Aluminum (mg/l)		Monitor & Report	
Sulfate (mg/L)		Monitor & Report	
Flow (gpm)		Monitor & Report	
Temperature (°C)		Monitor & Report	
Specific Conductivity (µmhos/cm)		Monitor & Report	
pH (S.U.): Must be between 6.0 and 9.0 standard units at all times.			
Alkalinity must exceed acidity at all times.			
<i>Outfalls: 008 (≤10-yr/24-hr Precip. Event)</i>	<i>30-Day</i>	<i>Daily</i>	<i>Instant.</i>
<i>Parameter</i>	<i>Average</i>	<i>Maximum</i>	<i>Maximum</i>
Iron (mg/l)	N/A	N/A	7.0
Total Settleable Solids (ml/l)	N/A	N/A	0.5
Sulfate (mg/L)		Monitor & Report	



*Outfalls: 008 (≤10-yr/24-hr Precip. Event)*  
*Parameter*

*30-Day  
 Average*

*Daily  
 Maximum*

*Instant.  
 Maximum*

Flow (gpm) Monitor & Report  
 Temperature (°C) Monitor & Report  
 Specific Conductivity (µmhos/cm) Monitor & Report  
 pH (S.U.): Must be between 6.0 and 9.0 standard units at all times.  
 Alkalinity must exceed acidity at all times.

*Outfalls: 008 (>10-yr/24-hr Precip. Event)*

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

*Noncoal NPDES Draft Permits*

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118.*

**NPDES Permit No. PA0612171 on Surface Mining Permit No. 36820301. H & K Group, Inc.** (P.O. Box 196, Skippack, PA 19474), renewal of an NPDES Permit for a sandstone and siltstone quarry operation (Silver Hill Quarry) in Brecknock Township, **Lancaster County**, affecting 131.7 acres. Receiving stream: unnamed tributary to Black Creek, classified for the following uses: HQ—warm water and migratory fishes. Application received: May 8, 2017.

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

The following outfall discharges to unnamed tributary to Black Creek:

<i>Outfall No.</i>	<i>New Outfall Y/N</i>	<i>Type</i>
001	N	Mine Drainage Treatment

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

<i>Parameter</i>	<i>Minimum</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
pH <sup>1</sup> (S.U.)	6.0			9.0
Net Alkalinity (mg/L)	0.0			
Alkalinity, Total (as CaCO <sub>3</sub> ) (mg/L)				Report
Acidity, Total (as CaCO <sub>3</sub> ) (mg/L)				Report
Total Suspended Solids		35.0	70.0	90.0
Turbidity (NTU)		40.0	80.0	100.0
Oil and Grease (mg/L)				Report

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

**NPDES Permit No. PA0595349 on Surface Mining Permit No. 8274SM6. Pennsy Supply, Inc.** (2400 Thea Drive, Suite 3A, Harrisburg, PA 17110), renewal of an NPDES Permit for a limestone quarry operation in East Hempfield Township, **Lancaster County**, affecting 248.22 acres. Receiving stream: Little Conestoga Creek, classified for the following use: trout stocking fishes. Application received: March 15, 2019.

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

The following outfall discharges to Little Conestoga Creek:

<i>Outfall No.</i>	<i>New Outfall Y/N</i>	<i>Type</i>
001	No	Groundwater/ Pit Sump

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

<i>Parameter</i>	<i>Minimum</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
pH <sup>1</sup> (S.U.)	6.0			9.0
Total Suspended Solids		35.0	70.0	90.0
Discharge (MDG)	5.62	13.07		

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

**NPDES Permit No. PA0010235 on Surface Mining Permit No. 67870301. York Building Products Co., Inc.** (950 Smile Way, Suite A, York, PA 17404), renewal of an NPDES Permit for a limestone quarry operation in West Manchester Township and the City of York, **York County**, affecting 245.2 acres. Receiving stream: Willus Run, classified for the following use: warm water fishes. Application received: December 12, 2018.

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

The following outfalls discharge to Willus Run:

<i>Outfall No.</i>	<i>New Outfall Y/N</i>	<i>Type</i>
001	No	Stormwater (Sediment Trap)
002	No	Sump Discharge
003	No	Sump Discharge

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

<i>Parameter</i>	<i>Minimum</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Discharge (MGD) Outfall 002	2.16			4.6
Discharge (MGD) Outfall 003	1.44			4.6
Total Suspended Solids		35.0	70.0	90.0

## 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

*Southeast Region: Waterways and Wetlands Program, 2 East Main Street, Norristown, PA 19401, Telephone 484.250.5160.*

**E15-912: New Garden Township**, 299 Starr Road, Landenberg, PA 19350, New Garden Township, **Chester County**, ACOE Philadelphia District.

To restore and maintain approximately 1,850 Linear feet of the main stem of Bucktoe Creek and its tributary (TSF, MF) for the purpose of improving Aquatic habitat and water quality of the stream. The proposed work will include stream bank stabilizations, Cross Vanes, Toe Rocks, mud Sills, and flood plain restoration.

The site is located near the intersection of Sharp and Bucktoe Roads (Kennett Square, PA USGS map; Lat: 39.817828; Long: -75.731326) in New Garden Township, Chester County.

This project is Funded by Growing Greener Grant.

*Southcentral Region: Waterways & Wetlands Program, 909 Elmerton Avenue, Harrisburg, PA 17110, Ed Muzic, Section Chief, 717.705.4802.*

**E6703219-002: New Freedom Borough, Marge Goodfellow Park**, 49 East High Street, New Freedom, PA 17349 in New Freedom Borough, **York County**, U.S. Army Corps of Engineers Baltimore District.

*Description:* To construct and maintain improvements to the Marge Goodfellow Park. The improvements will partially occupy the floodway of Old Mill Creek (WWF). The improvements will consist of regrading portions of the park grounds for better access and use, improving drainage through grading, inlet and culvert adjustment/maintenance, installing a paved walking access loop from the rail trail parking lot, and upgrading the existing access road into the park for both access and stability. The project will provide 7,370 square feet of permanent impacts to the Old Mill Creek floodway. The project is located in downtown New Freedom between East High Street, South Front Street, South Constitution Avenue and East Main Street. No stream channels or wetlands will be impacted by this project.

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

**E3206219-002, Indiana County Municipal Services Authority**, 602 Kolter Drive, Indiana, PA 15701. Plumville Water Treatment Plant, in Plumville Borough, **Indiana County**, ACOE Pittsburgh District (Mars, PA Quadrangle N: 40°, 47', 41.2403"; W: 79°, 10', 34.4795").

Applicant proposes to construct and maintain a new 840 ft<sup>2</sup> slab-on-grade water treatment plant with access driveway, utilities and associated grading within the 100-year floodplain of North Branch Plum Creek. Project will include no greater than 0.55 acre of earth disturbance.

*Central Office: Bureau of Waterways Engineering and Wetlands, Water Management Program Manager, Rachel Carson State Office Building, 400 Market Street, P.O. Box 8460, Harrisburg, PA 17105-8460.*

**E4914-002, Township of Mount Carmel**, 300 Laurel Street, Atlas, PA 17851, Butternut Creek Flood Protection Project, Mount Carmel Township and Mount Carmel Borough, **Northumberland County**, USACOE Baltimore District.

This permit is requested to construct and maintain a concrete channel along Butternut Creek. The flood protection project is known as the Butternut Creek Flood Protection Project DGS 182-19 (DEP C49:03, Phase 2). The project area will be impacted during construction and a total of 0.32 acre below Ordinary High Water will be disturbed. Reference the USGS "MOUNT CARMEL" Quadrangle; -76° 25' 25" W, 40° 47' 35" N. The following activities are associated with the construction of this project:

- Construct approximately 1,550 LF of rectangular concrete open channel.
- Construct approximately 120 LF of trapezoidal grouted riprap channel.

Anticipated construction time is 17 months.

## ENVIRONMENTAL ASSESSMENTS

*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.*

**D40-238EA. Chet Mozloom**, Executive Director, The Lands at Hillside Farms, 65 Hillside Road, Shavertown, PA 18708, Kingston Township, **Luzerne County**, USACOE Baltimore District.

Project proposes to remove the Hillside Farms Dam to eliminate a threat to public safety and to restore approximately 100 feet of stream channel to a free-flowing condition. The proposed restoration project includes grading to establish a desirable slope in the stream reach. The project is located across Huntsville Creek (CWF, MF) (Kingston, PA Quadrangle, Latitude: 41.2972; Longitude: -75.9363).

---

## ACTIONS

---

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

#### FINAL ACTIONS TAKEN FOR NPDES PERMITS AND WQM PERMITS

The Department has taken the following actions on previously received applications for new, amended and renewed NPDES and WQM permits, applications for permit waivers and NOIs for coverage under General Permits. This notice of final action is provided in accordance with 25 Pa. Code Chapters 91 and 92a and 40 CFR Part 122, implementing provisions of The Clean Streams Law (35 P.S. §§ 691.1—691.1001) and the Federal Clean Water Act (33 U.S.C.A. §§ 1251—1376).

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

Sections I—VI contain actions regarding industrial, animal or sewage wastes discharges, discharges to groundwater, and discharges associated with MS4, stormwater associated with construction activities and CAFOs. Section VII contains notices for parties who have submitted NOIs for Coverage under General NPDES Permits. The approval for coverage under these General NPDES Permits is subject to applicable effluent limitations, monitoring, reporting requirements and other conditions in each General Permit. The approval of coverage for land application of sewage sludge or residential septage under applicable general permit is subject to pollutant limitations, pathogen and vector attraction reduction requirements, operational standards, general requirements, management practices and other conditions in the respective permit. The permits and related documents, effluent limitations, permitting requirements and other information are on file and may be inspected and arrangements made for copying at the contact office noted before the action.

Persons aggrieved by an action may appeal that action to the Environmental Hearing Board (Board) under section 4 of the Environmental Hearing Board Act (35 P.S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to Administrative Agency Law). The appeal should be sent to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P.O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Board through the Pennsylvania AT&T Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin* unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create a right of appeal beyond that permitted by applicable statutes and decisional law.

For individuals who wish to challenge an action, the appeal must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should contact a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

**I. NPDES Renewal Permit Actions.**

*Southeast Region: Clean Water Program Manager, 2 East Main Street, Norristown, PA 19401. Phone: 484.250.5970.*

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed)</i>	<i>EPA Waived Y/N?</i>
PA0244431 (Industrial)	Fomer Philadelphia Navy Yard Dry Dock 3 5195 S 19th Street Philadelphia, PA 19112-1710	Philadelphia County City of Philadelphia	Delaware River (WWF, MF) 3-J	Yes
PA0056804 (Industrial)	Forest Park WTP P.O. Box 317 Chalfont, PA 18914-0317	Bucks County Chalfont Borough	Pine Run (TSF, MF) 2-F	Yes
PA0024180 (Sewage)	Berks Montgomery Municipal Authority P.O. Box 370 Gilbertsville, PA 19525-9463	Montgomery County Douglass Township	Swamp Creek (TSF, MF) 3-E	No
PA0030112 (Sewage)	Methacton HS STP 4001-C Eagleview Road Eagleville, PA 19403	Montgomery County Worcester Township	Unnamed Tributary of Skippack Creek (TSF, MF) 3-E	Yes
PA0013323 (Industrial)	Boeing Helicopters Ridley Facility P.O. Box 16858, MS P29-14 Philadelphia, PA 19142-0858	Delaware County Ridley Township	Darby Creek, Crum Creek and Delaware River 3-G	No
PA0244031 A-1 (Industrial)	Chadds Ford Township Sewer Authority 10 Ring Road P.O. Box 816 Chadds Ford, PA 19317-0628	Delaware County Chadds Ford Township	Harvey Run 3-H	No

*Northeast Region: Clean Water Program Manager, 2 Public Square, Wilkes-Barre, PA 18701-1915. Phone: 570-826-2511.*

<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>
PA0063754 (Industrial)	Huntsville Water Treatment Plant 56 Reservoir Road Dallas Twp, PA 18612	Luzerne County Dallas Township	Huntsville Reservoir (CWF/MF) (5-B)	Yes
PAS802226 (Storm Water)	Wyman Gordon PA LLC 701 Crestwood Drive Mountain Top, PA 18707	Luzerne County Wright Township	Bow Creek (CWF) (5-B)	Yes
PA0061786 (Sewage)	The Manwalamink Water Co. P.O. Box 48 River Road Shawnee On Delaware, PA 18356-0048	Monroe County Smithfield Township	Brodhead Creek (CWF (existing use)) (1-E)	Yes
PA0061808 (Sewage)	Barbara Royle Residence 113 Salamander Hill Hunter Farm Road Henryville, PA 18332-7703	Monroe County Paradise Township	Unnamed Tributary to Swiftwater Creek (HQ-CWF, MF) (1-E)	Yes
PA0064041 (Industrial)	Lehigh Heavy Forge Corporation 275 Emery Street Bethlehem, PA 18015-1984	Northampton County Bethlehem City	Lehigh River (WWF) (2-C)	Yes
PA0063088 (Sewage)	Mohler SRSTP 2020 Raubsville Road Hellertown, PA 18055-9766	Northampton County Williams Township	Unnamed Tributary of East Branch Saucon Creek (CWF) (2-C)	Yes
PA0065463 (Stormwater)	Chep-Millwood Allentown Service Center 8018 Quarry Road Alburtis, PA 18011	Lehigh County Lower Macungie Township	Swabia Creek (HQ-CWF, MF) (2-C)	Yes

*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>
PA0233579 CAFO	James W Bagley 602 Ellis Road Forksville, PA 18616-8846	Fox Township Sullivan County	Porter Creek (EV (existing use))	N

NPDES No. (Type)	Facility Name & Address	County & Municipality	Stream Name (Watershed #)	EPA Waived Y/N?
PA0262021 CAFO	Joshua Akers Duck CAFO 590 Church Road Quarryville, PA 17566-9790	East Drumore Township Lancaster County	Unnamed Tributary to McFarlands Run (HQ-CWF, MF)	N

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

NPDES No. (Type)	Facility Name & Address	County & Municipality	Stream Name (Watershed No.)	EPA Waived Y/N?
PA0232386 (Sewage)	Skytop Mountain Golf Club SFTF P.O. Box 132 State College, PA 16804-0132	Centre County Huston Township	Bald Eagle Creek (TSF, MF) (9-C)	Yes
PA0114316 (Sewage)	John & Sandra Erdley Res 569 Turkey Run Road Mifflinburg, PA 17844	Union County Hartley Township	Penns Creek (HQ-CWF, MF) (6-A)	Yes

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

NPDES No. (Type)	Facility Name & Address	County & Municipality	Stream Name (Watershed No.)	EPA Waived Y/N?
PA0046671 (Sewage)	Linden Hall STP Five Gateway Center Pittsburgh, PA 15222	Fayette County Lower Tyrone Township	Youghiogeny River (WWF) (19-D)	Yes
PA0254177 (Sewage)	Madison Pittsburgh KOA STP 764 Waltz Mill Road Ruffs Dale, PA 15679-1249	Westmoreland County Sewickley Township	Unnamed Tributary to Sewickley Creek (WWF) (19-D)	Yes

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

NPDES No. (Type)	Facility Name & Address	County & Municipality	Stream Name (Watershed #)	EPA Waived Y/N?
PA0100943 (Sewage)	Strattanville Borough STP P.O. Box 139 Strattanville, PA 16258-0139	Clarion County Strattanville Borough	Unnamed Tributary to Brush Run (CWF) (17-B)	Yes
PA0033421 (Sewage)	Mercer Grove City KOA Campground 1337 Butler Pike Mercer, PA 16137-6211	Mercer County Findley Township	Unnamed Tributary to Pine Run (TSF) (20-A)	Yes

## II. New or Expanded Facility Permits, Renewal of Major Permits and EPA Nonwaived Permit Actions.

*Southeast Region: Water Management Program Manager, 2 East Main Street, Norristown, PA 19401.*

**NPDES Permit No. PA0012769**, Industrial, **Rohm & Haas Chemicals, LLC**, 2900 River Road, Croydon, PA 19021.

This proposed facility is located in Bristol Township, **Bucks County**.

Description of Action/Activity: Issuance of an NPDES Permit for an existing discharge of treated industrial wastewater.

*Northeast Regional Office: Regional Clean Water Program Manager, 2 Public Square, Wilkes-Barre, PA 18701-1915. Phone: 570.826.2511.*

**NPDES Permit No. PA0030139**, Sewage, SIC Code 9223, **PA Department Of Corr**, 1000 Folies Road, Dallas, PA 18612.

This existing facility is located in Jackson Township, **Luzerne County**.

Description of Existing Action/Activity: Issuance of an NPDES Permit for an existing discharge of treated sewage.

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

**NPDES Permit No. PA0253359**, Industrial, SIC Code 4941, **Cambria Somerset Authority**, 110 Franklin Street, Suite 200, Johnstown, PA 15901-1829.

This existing facility is located in Quemahoning Township, **Somerset County**.

Description of Existing Action/Activity: Issuance of an NPDES permit amendment for existing and proposed discharges of untreated excess reservoir supply water and discharges of treated industrial waste.

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

**NPDES Permit No. PA0272213**, Sewage, SIC Code 8800, **Rebecca Howell**, 2813 Pleasant Drive, Warren, PA 16365.

This proposed facility is located in Pleasant Township, **Warren County**.

Description of Proposed Action/Activity: Issuance of an NPDES Permit for a new discharge of treated sewage.

**WQM Permit No. 1080405 A-1**, Sewage, **Butler Area Sewer Authority**, 100 Litman Road, Butler, PA 16001-3256.

This existing facility is located in Butler Township, **Butler County**.

Description of Proposed Action/Activity: Replacement of the Rock Lick Pump Station.

**NPDES Permit No. PA0272281**, Sewage, SIC Code 4952, 8800, **Ashley & Timothy Blodgett**, 2914 Mercer Butler Pike, Slippery Rock, PA 16057.

This proposed facility is located in Liberty Township, **Mercer County**.

Description of Proposed Action/Activity: Issuance of an NPDES Permit for a new discharge of treated sewage.

### **III. WQM Industrial Waste and Sewerage Actions under The Clean Streams Law.**

*Southeast Region: Clean Water Program Manager, 2 East Main Street, Norristown, PA 19401, 484.250.5900.*

**WQM Permit No. WQG02151909**, Sewage, **East Whiteland Township**, 209 Conestoga Road, Frazer, PA 19335.

This proposed facility is located in East Whiteland Township, **Chester County**.

Description of Action/Activity: Construction and operation of a low pressure system.

**WQM Permit No. 1519405**, Sewage, **East Bradford Township**, 666 Copeland School Road, West Chester, PA 19380.

This proposed facility is located in East Bradford Township, **Chester County**.

Description of Action/Activity: Construction and operation of a sewage pump station.

**WQM Permit No. 1500430**, Sewage, Transfer, **Kevin Casey & Anna Chongpinitchai**, 201 Chandler Mill Road, Kennett Square, PA 19348-2611.

This proposed facility is located in Kennett Township, **Chester County**.

Description of Action/Activity: Transfer ownership.

**WQM Permit No. 1503420**, Sewage, Renewal, **Wallace Township Municipal Authority**, P.O. Box 96, Glenmoore, PA 19343-0096.

This proposed facility is located in Wallace Township, **Chester County**.

Description of Action/Activity: Permit renewal.

**WQM Permit No. 0919404**, Sewage, **Hilltown Township Water & Sewer Authority**, 316 Highland Park Road, Sellersville, PA 18960.

This proposed facility is located in Hilltown Township, **Bucks County**.

Description of Action/Activity: Construction and operation of a low pressure system.

**WQM Permit No. WQG02461911**, Sewage, **Applewood Partners Inc.**, 57 Main Street, Harleysville, PA 19438-2515.

This proposed facility is located in Lower Salford Township, **Montgomery County**.

Description of Action/Activity: Construction and operation of a force main to serve proposed 42 unit townhouse development with 1 single family detached home using low pressure force main system.

**WQM Permit No. 4698414**, Sewage, Renewal, **BSA Cradle of Liberty Council**, 1484 Valley Forge Road, Wayne, PA 19087-1346.

This proposed facility is located in Marlborough Township, **Montgomery County**.

Description of Action/Activity: Permit renewal.

**WQM Permit No. WQG02461911**, Sewage, **Lower Salford Township Authority**, 57 Main Street, Harleysville, PA 19438-2516.

This proposed facility is located in Lower Salford Township, **Montgomery County**.

Description of Action/Activity: Construction and operation of 3' force main that extends from the proposed 42 unit townhouse development with 1 single family detached home that connects to the manhole on Meadow Lane.

**WQM Permit No. 1519405**, Sewage, **East Bradford Township**, 666 Copeland School Road, West Chester, PA 19380.

This proposed facility is located in East Bradford Township, **Chester County**.

Description of Action/Activity: Construction and operation of a sewage pump station on-site.

*Southcentral Region: Clean Water Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110. Phone: 717-705-4707.*

**WQM Permit No. 4918201**, CAFO, **R & F Family Farms**, 473 Irish Valley Road, Paxinos, PA 17860-7018.

This proposed facility is located in Shamokin Township, **Northumberland County**.

Description of Proposed Action/Activity:

This Permit approves construction and operation of manure storage facilities consisting of:

- Underbarn manure storage facilities for swine Barns 1, 2, and 3.
- All associated leak detection systems and perimeter drains and any additional components related to the manure storages

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

**WQM Permit No. 6519401**, Sewage, **Westmoreland County Municipal Authority**, P.O. Box 730, Greensburg, PA 15601.

This proposed facility is located in Youngwood Borough, **Westmoreland County**.

Description of Proposed Action/Activity: Replace sanitary sewers along SR 119.

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

**WQM Permit No. 6219406**, Sewage, **Rebecca Howell**, 2813 Pleasant Drive, Warren, PA 16365.

This proposed facility is located in Pleasant Township, **Warren County**.

Description of Proposed Action/Activity: Single Residence Sewage Treatment Plant.

**WQM Permit No. 1080405 A-1**, Sewage, **Butler Area Sewer Authority**, 100 Litman Road, Butler, PA 16001-3256.

This existing facility is located in Butler Township, **Butler County**.

Description of Proposed Action/Activity: Replacement of the Rock Lick Pump Station.

**WQM Permit No. 3219402**, Sewage, **Randy Corosu**, 11516 Five Points Road, Home, PA 15747.

This proposed facility is located in Washington Township, **Indiana County**.

Description of Proposed Action/Activity: Single Residence Sewage Treatment Plant.

**WQM Permit No. 4319406**, Sewage, **Ashley & Timothy Blodgett**, 2914 Mercer Butler Pike, Slippery Rock, PA 16057.

This proposed facility is located in Liberty Township, **Mercer County**.

Description of Proposed Action/Activity: Single Residence Sewage Treatment Plant.

**IV. NPDES Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4) Individual Permits Issued.**

*Southeast Region: Clean Water Program Manager, 2 East Main Street, Norristown, PA 19401. Phone: 484-250-5970.*

<i>NPDES Permit No.</i>	<i>Permittee Name &amp; Address</i>	<i>Municipality, County</i>	<i>Receiving Water(s)/Use(s)</i>	<i>TMDL Plan Submitted (Y/N)</i>	<i>Pollutant Reduction Plan Submitted (Y/N)</i>
PAI130532	West Goshen Township 1025 Paoli Pike West Chester, PA 19380-4699	West Goshen Twp Chester County	John Smedley Run (HQ-CWF, MF), Plum Run (WWF, MF), Broad Run (HQ-CWF, MF), Chester Creek (Goose Creek), (TSF, MF), East Branch Brandywine Creek (WWF, MF), East Branch Chester Creek (TSF, MF), and Taylor Run (TSF, MF)/TSF, MR, WWF and HQ-CWF	Yes	Yes
PAI130531	West Pikeland Township 1645 Art School Road Chester Springs, PA 19425-1402	West Pikeland Township Chester County	Pine Creek (HQ-TSF, MF), Pickering Creek (HQ-TSF, MF), and Unnamed Tributary to Pickering Creek (HS-TSF, MF)/HS-TSF and MF	No	No

## NOTICES

<i>NPDES Permit No.</i>	<i>Permittee Name &amp; Address</i>	<i>Municipality, County</i>	<i>Receiving Water(s)/Use(s)</i>	<i>TMDL Plan Submitted (Y/N)</i>	<i>Pollutant Reduction Plan Submitted (Y/N)</i>
PAI130534	Upper Salford Township P.O. Box 100 Salfordville, PA 18958-0100	Upper Salford Township Montgomery County	Unnamed Tributary to Vaughn Run (TSF, MF), Vaughn Run (TSF, MF), Unnamed Tributary of Perkiomen Creek (TSF, MF), Unnamed Tributary to East Branch Perkiomen Creek (TSF, MF), Unnamed Tributary to Perkiomen Creek (TSF, MF), Unnamed Tributary to Unami Creek (HS-TSF, MF), and Unnamed Tributary of East Branch Perkiomen Creek (TSF, MF)/HQ-TSF, TSF, and MF	No	No
PAI130081	New Britain Townshp 207 Park Avenue Chalfont, PA 18914-2103	New Britain Township Bucks County	Cooks Run (WWF, MF), Mill Creek (TSF, MF), Pine Run (TSF, MF), Unnamed Tributary to West Branch Neshaminy Creek (WWF, MF), North Branch Neshaminy Creek (TSF, MF), North Branch Neshaminy Creek (TSF, MF), Reading Creek (WWF, MF), and Neshaminy Creek (TSF, MF)	Yes	Yes
PAI130087	New Hope Borough 123 New Street New Hope, PA 18938	New Hope Borough Bucks County	Delaware River (WWF, MF) and Aquetong Creek (HQ-CWF, MF)/ WWF, MF and HQ-CWF	No	No
PAI130022	Milford Township 2100 Krammes Road Quakertown, PA 18951-3871	Milford Township Bucks County	Molasses Creek (HQ-TSF, MF)/ HQ-TSF and MF	No	Yes
PAI130003	Phoenixville Borough 351 Bridge Street Floor 2 Phoenixville, PA 19460-3355	Phoenixville Borough Chester County	Schuylkill River (WWF, MF) and French Creek (TSF, MF)/ WWF, TSF and MF	No	No



**V. NPDES Waiver Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4) Actions.**

The following waiver applications have been approved for a 5-year period. The Department is issuing waivers for the following MS4s instead of NPDES permit coverage.

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

<i>NPDES Waiver No.</i>	<i>Applicant Name &amp; Address</i>	<i>Municipality, County</i>	<i>Receiving Water(s)/Use(s)</i>
PAG136220	Crafton Borough 100 Stotz Avenue Pittsburgh, PA 15205-2893	Crafton Borough Allegheny	Chartiers Creek (WWF)/ WWF

**VI. NPDES Discharges of Stormwater Associated with Construction Activities Individual Permit Actions.**

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

*Lehigh County Conservation District, 4184 Dorney Park Road, Suite 105, Allentown, PA 18401.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAD390056	HRP Management, LLC 2 Ridgedale Ave. Suite 370 Cedar Knolls, NJ 07927	Lehigh County	City of Bethlehem	Monocacy Creek (HQ-CWF, MF)
PAD390126	RCD Group, Inc. 3477 Corporate Parkway Center Valley, PA 18034 Grim's Orchard & Family Farms 9941 Schantz Rd. Breinigsville, PA 18031	Lehigh	Upper Macungie Township	UNT to Schaefer Run (HQ-CWF, MF)

*Northampton County Conservation District, 14 Gracedale Ave., Greystone Building, 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>
PAD480091	Easton Area School District c/o Mr. John Reinhart 1801 Bushkill Drive Easton, PA 18040	Northampton	City of Easton	Bushkill Creek (HQ-CWF, MF)
PAD480100	Premier Land Development, LP c/o Mr. Charles Tuskes 4511 Falmer Drive Bethlehem, PA 18020	Northampton	Lower Nazareth Township	Monocacy Creek (HQ-CWF, MF)

*Schuylkill Conservation District, 1206 AG Center Drive, Pottsville, PA 17901-9733.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAD540011	PPL Electric Utilities Corporation 2 North 9th Street GENN 4 Allentown, PA 18101	Schuylkill County	Norwegian Township New Castle Township Butler Township Bylthe Township City of Pottsville	Schuylkill River (CWF, MF) West Branch Schuylkill River (CWF, MF) Wheeler Creek (CWF, MF) Tar Run (HQ-CWF, MF) Mud Run (HQ-CWF, MF) Little Mahanoy Creek (CWF, MF)

*Southcentral Region: Waterways & Wetlands Program, 909 Elmerton Avenue, Harrisburg, PA 17110, Nathan Phillips, Section Chief, Telephone 717.705.4802.*

<i>Permit #</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAD670025 Issued	Red Lion Borough 11 East Broadway P.O. Box 190 Red Lion, PA 17356	York	Red Lion Borough	Mill Creek (CWF, MF) EV Wetlands
PAD210034 Issued	OSL Holdings LLC 3399 Trindle Road Camp Hill, PA 17011	Cumberland	South Middleton Township	Molly Grub Run (HQ-CWF, MF)

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

*Crawford County Conservation District, 21742 German Road, Meadville, PA 16335, 814-763-5269.*

<i>NPDES</i>				
<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAD200006	LORD Corporation 601 South Street Saegertown, PA 16433	Crawford	Saegertown Borough	Woodcock Creek CWF

### **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>
Warrington Township Chester County	PAC090269	Dennis Eble 926 Stump Road Chalfont, PA 18914	Unnamed Tributary to Neshaminy Creek TSF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900

NOTICES

5499

<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>
Upper Makefield Township Chester County	PAC090273	Zaveta Custom Homes, LLC 4030 Skyron Road Suite G Doylestown, PA 18902	Pidcock Creek WWF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Plumstead Township Chester County	PAC090263	Tague Family Limited Partnership VII 325 Media Station Media, PA 19063-4755	Unnamed Tributary to Cabin Run CWF-MF	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.*

*Carbon County Conservation District, 5664 Interchange Road, Lehighton, PA 18235.*

<i>NPDES</i>				<i>Receiving Water/Use</i>
<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	
PAC130011	Joseph J Bennett 28 Clifftop Rd Northampton, PA 18067	Carbon	Lehighton Boro	Mahoning Creek (CWF, MF)

*Lackawanna County Conservation District, 1038 Montdale Road, Scott Township, PA 18447.*

<i>NPDES</i>				<i>Receiving Water/Use</i>
<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	
PAC350071	National Book Company 800 Keystone Industrial Park Dunmore, PA 18512	Lackawanna	Throop Boro	Eddy Creek (WWF, MF)

*Luzerne Conservation District, 325 Smiths Pond Road, Shavertown, PA 18708.*

<i>NPDES</i>				<i>Receiving Water/Use</i>
<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	
PAC400127	Segal Assoc of New Jersey LP Justin Lucas 67 Mtn Blvd Ste 201 Warren, NJ 17059-5678	Luzerne	Wilkes-Barre Twp	Solomon Creek (CWF, MF)
PAC400125	Singh Realty LLC Sonny Singh 2227 Scranton Carbondale Hwy Scranton, PA 18508	Luzerne	Wilkes-Barre Twp	Susquehanna River (WWF, MF)
PAC400141	Mericle New Boston Rd LLC Robert Mericle 100 Baltimore Dr Wilkes-Barre, PA 18702	Luzerne	Jenkins Twp	Gardner Creek (CWF, MF) UNT to Susquehanna River (CWF, MF)

*Northampton County Conservation District, 14 Gracedale Ave., Greystone Building, Nazareth, PA 18064-9211.*

<i>NPDES</i>				<i>Receiving Water/Use</i>
<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	
PAC480059 A-1	JW Development Partners 3150 Coffeetown Rd Orefield, PA 18069	Northampton	Allen Twp	Dry Run (CWF, MF) Catasauqua Creek (CWF, MF)
PAC480015	Robert Kaplan Lehigh Valley Health Network Facilities & Construction Dept 2100 Mack Blvd Allentown, PA 18105-4000	Northampton	Lower Nazareth Twp Palmer Twp	Schoeneck Creek (WWF, MF)

*Waterways & Wetlands Program, 909 Elmerton Avenue, Harrisburg, PA 17110-8200, Nathan Phillips, Section Chief, 717.705.4802.*

*Facility Location:*

<i>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>
Springettsbury Township York County Issued	PAC670314	Mountainview Thoroughbred Racing Association LLC 825 Berkshire Boulevard Wyomissing, PA 19610	UNT Mill Creek (WWF)	York County Conservation District 118 Pleasant Acres Road York, PA 17402 717.840.7430
Springettsbury Township York County Issued	PAC670274	Kinsley Equities II, LP 6259 Reynolds Mill Road Seven Valleys, PA 17360	UNT Kreutz Creek (WWF, MF)	York County Conservation District 118 Pleasant Acres Road York, PA 17402 717.840.7430
Springettsbury Township York County Issued	PAC670127	Timothy F. Pasch 2645 Carnegie Road York, PA 17402  Co-Permittee: Woda Stone Ridge Limited Partnership 500 South Front Street 10th Floor Columbus, OH 43215	UNT Kreutz Creek (WWF)	York County Conservation District 118 Pleasant Acres Road York, PA 17402 717.840.7430
Newberry Township York County Issued	PAC670318	Exceptional Homes Inc. FDBA AAA Builders Inc. 629 Goose Neck Drive Lititz, PA 17543	UNT Susquehanna River (WWF)	York County Conservation District 118 Pleasant Acres Road York, PA 17402 717.840.7430

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

*Facility Location:*

<i>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>
St. Marys City Elk County	PAC240015	Straub Bros Realty P.O. Box 942 St. Marys, PA 15857	Elk Run CWF	Elk County Conservation District 850 Washington Street St. Marys, PA 15857 814-776-5373

*General Permit Type—PAG-4*

*Facility Location*

<i>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>
Kennett Township Chester County	PAG040059 A-1	Kevin Casey & Anna Chongpinitchai 201 Chandler Mill Road Kennett Square, PA 19348-2611	West Branch Red Clay Creek (TSF, MF) 3-I	DEP Southeast Regional Office Clean Water Program 2 E Main Street Norristown, PA 19401 484.250.5970

*General Permit Type—PAG-8**Facility Location:  
Municipality &  
County**Permit No.**Applicant Name & Address**Site Name &  
Location**Contact Office &  
Phone No.*Weisenberg Township  
Lehigh CountyPAG-08-0002  
PAG-08-2203  
PAG-08-3504  
PAG-08-9903  
PAG-08-3522  
PAG-08-2224  
PAG-08-3547  
PAG-08-0016  
PAG-08-3518  
PAG-08-3825  
PAG-08-0007  
PAG-08-3515  
PAG-08-2219  
PAG-08-3565  
PAG-07-3508  
PAG-08-3610  
PAG-08-9904  
PAG-08-3540  
PAG-08-0022  
PAG-08-3568  
PAG-08-3596  
PAG-08-3597  
PAG-08-3556  
PAG-08-3605  
WMGR-099  
PAG-08-3535  
PAG-08-9905  
PAG-08-3510  
PAG-08-0011  
PAG-08-2211  
PAG-08-3551  
PAG-08-3573  
PAG-08-3600  
PAG-08-3611  
PAG-08-3506  
PAG-07-0003  
PAG-08-0004  
PAG-08-0003  
PAG-08-0005  
PAG-08-3615  
PAG-08-3581  
PAG-08-2223  
PAG-08-3567  
PAG-08-9909  
PAG-08-0021  
PAG-08-9903  
PAG-08-0006  
PAG-08-0008  
PAG-07-0005  
PAG-08-0023  
PAG-08-0018  
PAG-08-9601  
PAG-08-3614  
PAG-08-3501Synagro  
1600 Dooley Road  
P.O. Box B  
Whiteford, MD 21160Wessner Farm  
4243 Run RoadNorth East Regional  
570-826-2511

*General Permit Type—PAG-13**Facility Location  
Municipality &  
County**Permit No.**Applicant Name & Address**Receiving  
Water/Use**Contact Office &  
Phone No.*Limerick Township  
Montgomery County

PAG130148

Limerick Township  
155 S. Limerick Road  
Limerick, PA 19468-1420Brooke Evans Creek  
(WWF, MF)  
Hartenstine Creek  
(WWF, MF), Possum  
Hollow Run (WWF,  
MF), Schuylkill  
River (WWF, MF)  
SwampCreek (TSF,  
MF), Mingo Creek  
(WWF, MF),  
Unnamed Tributary  
of Perkiomen Creek  
(TSF, MF) and  
Landis Creek (TSF,  
MF) 3-D and 3-EDEP Southeast  
Regional Office  
Clean Water Program  
2 E Main Street  
Norristown, PA 19401  
484.250.5970Swarthmore Borough  
Delaware County

PAG130001

Swarthmore Borough  
121 Park Avenue  
Swarthmore, PA 19081-1536Crum Creek (WWF,  
MF) and Little Crum  
Creek (WWF, MF)  
3-GDEP Southeast  
Regional Office  
Clean Water Program  
2 E Main Street  
Norristown, PA 19401  
484.250.5970Bangor Borough  
Northampton County

PAG132249

Bangor Borough  
197 Pennsylvania Avenue  
Bangor, PA 18013-1922Martins Creek  
(TSF, MF) and  
Tributary 64106 to  
Martins Creek  
(CWF, MF)—1-FDEP Northeast  
Regional Office  
Clean Water Program  
2 Public Square  
Wilkes-Barre, PA  
18701-1915  
570.826.2511Speers Borough  
Washington County

PAG136101

Speers Borough  
300 Phillips Street  
Charleroi, PA 15022-1029Monongahela River  
(WWF), Maple Creek  
(WWF), South  
Branch Maple Creek  
(WWF), and  
Unnamed Tributary  
to Monongahela  
River (WWF)—19-CDEP Southwest  
Regional Office  
Clean Water Program  
400 Waterfront Drive  
Pittsburgh, PA  
15222-4745  
412.442.4000**STATE CONSERVATION COMMISSION****NUTRIENT MANAGEMENT PLANS RELATED TO APPLICATIONS FOR NPDES  
PERMITS FOR CAFOs**

The State Conservation Commission has taken the following actions on previously received applications for nutrient management plans under 3 Pa.C.S. Chapter 5, for agricultural operations that have or anticipate submitting applications for new, amended or renewed NPDES permits or NOIs for coverage under a general permit for CAFOs under 25 Pa. Code Chapter 92a. This notice is provided in accordance with 25 Pa. Code Chapter 92a and 40 CFR Part 122, implementing The Clean Streams Law and the Federal Clean Water Act.

Persons aggrieved by an action may appeal under 3 Pa.C.S. § 517, section 4 of the Environmental Hearing Board Act and 2 Pa.C.S. §§ 501—508 and 701—704 to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P.O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania AT&T Relay Service at (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create a right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge actions, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for pro bono representation. Call the Secretary of the Board at (717) 787-3483 for more information.

**NUTRIENT MANAGEMENT PLAN  
PUBLIC NOTICE SPREADSHEET—ACTIONS**

<i>Agricultural Operation Name and Address</i>	<i>County</i>	<i>Total Acres</i>	<i>AEU's</i>	<i>Animal Type</i>	<i>Special Protection Waters (HQ or EV or NA)</i>	<i>Approved or Disapproved</i>
Matter Family Farms 188 Cocolamus Creek Road Millerstown, PA 17062	Perry	32.3	85.00	Duck	NA	Approved
Ken Meck 1503 Beaver Valley Pike Willow St., PA 17584	Lancaster	76	361.55	Pullets/ Beef	NA	Approved
Swanger Ranch Paul Swanger 150 Kissel Barrick Rd. Bainbridge, PA 17502	Lancaster	12	336.95	Swine	NA	Approved
Noah W. Kreider and Sons, LLP Manheim Farm 1461 Lancaster Road Manheim, PA 17545	Lancaster	1,900	16,004.3	Dairy/ Poultry	NA	Approved
Shay Brae Farms, Inc. Theodore L. Esbenshade Marietta, PA 17547	Lancaster	750	3,586.98	Layers	NA	Approved
Scott Wagner 385 King Pen Road Quarryville, PA 17566	Lancaster	44.4	405.83	Turkeys	HQ	Approved
Mt. Pleasant Farms 2071 Mt. Pleasant Road Fayetteville, PA 17222	Franklin	353.7	604.46	Ducks and Heifers	NA	Approved
Country View Family Farms, LLC Willow Hill Farm 12598 Creek Road Fannettsburg, PA 17221	Franklin	121	3,271.50	Swine	NA	Approved
Blevins Blue Mountain Finishing Farm 10315 Otterbein Church Rd Newburg, PA 17240	Franklin	95.9	620.58	Swine	NA	Approved
Country View Family Farms, LLC New Hope Farm 23177 Back Rd Concord, PA 17217	Franklin	29	3,001.95	Swine	NA	Approved
David S. Morrow Farm 237 Briar Road Loysville, PA 17047	Perry	419.9	1.57	Swine & Beef	Cisna Run	Approved

## PUBLIC WATER SUPPLY PERMITS

The Department has taken the following actions on applications received under the Pennsylvania Safe Drinking Water Act (35 P.S. §§ 721.1—721.17) for the construction, substantial modification or operation of a public water system.

Persons aggrieved by an action may appeal that action to the Environmental Hearing Board (Board) under section 4 of the Environmental Hearing Board Act and 2 Pa.C.S. §§ 501—508 and 701—704. The appeal should be sent to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P.O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Board through the Pennsylvania AT&T Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*

unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create a right of appeal beyond that permitted by applicable statutes and decisional law.

For individuals who wish to challenge an action, the appeal must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this document to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

## SAFE DRINKING WATER

**Actions taken under the Pennsylvania Safe Drinking Water Act (35 P.S. §§ 721.1—721.17).**

*Southeast Region: Water Supply Management Program Manager, 2 East Main Street, Norristown, PA 19401.*

**Operations Permit # 0919504** issued to **Plumstead Township**, P.O. Box 387, Plumsteadville, PA 18949, **PWS ID # 1090157**, Plumstead Township, **Bucks County** on September 5, 2019, for the operation of radionuclide removal via ion exchange at Summer Hill Well No. 7 approved under construction permit # 0919504.

**Operations Permit # 1519505** issued to **Herr Food, Inc.**, 20 Herr Drive, Nottingham, PA 19362, **PWS ID # 1150706**, West Nottingham Township, **Chester County** on August 22, 2019, for the operation of a 4-log inactivation of viruses at entry points 101 and 102.

**Operations Permit # 0917510** issued to **Temple of Judea of Bucks County**, 38 Roger Road, Furlong, PA 18925, **PWS ID # 1090362**, Doylestown Township, **Bucks County** on September 6, 2019, for the operation of the water system.

*Northeast Region: Safe Drinking Water Program Manager, 2 Public Square, Wilkes-Barre, PA 18701-1915.*

**Permit No. 2450034, Operations Permit**, Public Water Supply.

Applicant	<b>Brodhead Creek Regional Authority</b> 410 Mill Creek Rd. East Stroudsburg, PA 18301
[Borough or Township]	Stroud Township
County	<b>Monroe</b>
Type of Facility	PWS
Consulting Engineer	Mr. Chris A. Borger, P.E. Brodhead Creek Regional Authority 410 Mill Creek Rd. East Stroudsburg, PA 18301
Permit to Operate Issued	8/22/2019

**Permit No. 2451429, Operations Permit**, Public Water Supply.

Applicant	<b>FEM Route 715, LLC</b> 2 Changebridge Rd. Suite 201 Montville, NJ 07045
[Borough or Township]	Chestnuthill Township
County	<b>Monroe</b>
Type of Facility	PWS
Consulting Engineer	Lawrence J. Marchetti, PE Smith Miller Associates 38 North Main Street Pittston, PA 18643
Permit to Operate Issued	8/21/2019

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

**Permit No. 0719501**, Public Water Supply.

Applicant	<b>Borough of Tyrone</b>
Municipality	Tyrone Borough

County	<b>Blair</b>
Responsible Official	Ardean P. Latchford Borough Manager 1100 Logan Avenue Tyrone, PA 16686
Type of Facility	PWS application for the construction of a new chlorine booster station and the replacement of existing watermains.
Consulting Engineer	Kevin J. Nester, P.E. GHD, Inc. 321 Washington Street Huntingdon, PA 16652
Permit to Construct Issued	8/29/2019
<b>Permit No. 0119501 MA, Minor Amendment</b> , Public Water Supply.	
Applicant	<b>Gettysburg Municipal Authority</b>
Municipality	Cumberland Township
County	<b>Adams</b>
Responsible Official	Mark Guise, Manager 601 E. Middle Street Gettysburg, PA 17325-3307
Type of Facility	The replacement of the existing granular activated carbon (GAC) filter media at the Authority's Marsh Creek Water Treatment Plant.
Consulting Engineer	Paul E. Gross, P.E. Buchart Horn Inc 445 West Philadelphia Street York, PA 17405-7040
Permit to Construct Issued	8/26/2019
<b>Permit No. 5019504</b> , Public Water Supply.	
Applicant	<b>Duncannon Borough</b>
Municipality	Duncannon Borough
County	<b>Perry</b>
Responsible Official	Jeffrey Kirkhoff Vice President Borough Council 428 North High Street Duncannon, PA 17020
Type of Facility	Installation and operation of new Well No. 7, Well No. 5 pump replacement, and construction of a new booster station.
Consulting Engineer	Greg Rogalski, P.E. Pennoni 5072 Ritter Road Mechanicsburg, PA 17055
Permit to Construct Issued	9/4/2019
<b>Permit No. 6719508</b> , Public Water Supply.	
Applicant	<b>The York Water Company</b>
Municipality	Spring Garden Township
County	<b>York</b>



Responsible Official Mark S. Snyder  
Engineering Manager  
130 East Market Street  
P.O. Box 15089  
York, PA 17405-7089

Type of Facility Two (2) of the existing pumps at Brillhart Pumping Station will be replaced with three (3) new pumps each with a capacity of 2,800 gallons per minute at 307 feet TDH.

Consulting Engineer Mark S. Snyder, P.E.  
The York Water Company  
130 East Market Street  
P.O. Box 15089  
York, PA 17405-7089

Permit to Construct Issued 8/30/2019

**Permit No. 4419501 MA, Minor Amendment, Public Water Supply.**

Applicant **The Municipal Authority of the Borough of Lewistown**

Municipality Lewistown Borough

County **Mifflin**

Responsible Official Craig Bubb  
Superintendent  
70 Chestnut Street  
Lewistown, PA 17004-2216

Type of Facility Bulk water loading stations

Consulting Engineer Patrick J. Ward, P.E.  
Uni-Tec Consulting Engineers, Inc.  
2007 Cato Avenue  
State College, PA 16801

Permit to Construct Issued 9/6/2019

**Operation Permit No. 7360084** issued to: **Pennsylvania Department of Environmental Protection (PWS ID No. 7360084)**, Leacock Township, **Lancaster County** on 8/26/2019 for facilities at Village of Inter-course approved under Construction Permit No. 7360084.

**Operation Permit No. 0616513** issued to: **Western Berks Water Authority (PWS ID No. 3060066)**, Lower Heidelberg Township, **Berks County** on 8/29/2019 for facilities approved under Construction Permit No. 0616513.

**Operation Permit No. 2117513 MA** issued to: **Newville Borough Water & Sewer Authority (PWS ID No. 7210041)**, Newville Borough, **Cumberland County** on 8/29/2018 for facilities approved under Construction Permit No. 2117513 MA.

**Operation Permit No. 2219503 MA** issued to: **Pennsylvania American Water Company (PWS ID No. 7220017)**, South Hanover Township, **Dauphin County** on 8/29/2019 for facilities at Hershey Water System approved under Construction Permit No. 2219503 MA.

**Operation Permit No. 6719517 MA** issued to: **Borough of Hanover (PWS ID No. 7670076)**, Conewago Township, **Adams County** on 8/26/2019 for facilities at Hanover Municipal Water Works submitted under Application No. 6719517 MA.

**Operation Permit No. 3619511 MA** issued to: **Masonic Homes of the Grand Lodge of PA**, West Donegal Township, **Lancaster County** on 8/28/2019 for facilities submitted under Application No. 3619511 MA.

**Operation Permit No. 3619508 MA** issued to: **Solanco School District (PWS ID No. 7360520)**, East Drumore Township, **Lancaster County** on 8/30/2019 for facilities at Solanco High School approved under Construction Permit No. 3619508 MA.

*Northcentral Region: Safe Drinking Water Program Manager, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448.*

**Permit No. 4918504—Construction/Operation—Public Water Supply.**

Applicant **Weis Foods/Dutch Valley Food Company, Inc.**

Township/Borough City of Sunbury

County **Northumberland County**

Responsible Official Mr. Laurence Bates  
Weis Foods  
1000 S. Second Street  
P.O. Box 471  
Sunbury, PA 17801-0471

Type of Facility Public Water Supply—Construction/Operation

Consulting Engineer Mr. Gary Krebs, P.G.  
AEON Geoscience, Inc.  
2120 Bellemead Ave.  
Suite 14-2  
Havertown, PA 19083-2250

Permit Issued July 31, 2019

Description of Action Authorizes Dutch Valley Food Company, Inc. to operate Egg Harbor Spring as an additional source of supply.

**Permit No. 4918504—Permit-by-Rule—Public Water Supply.**

Applicant **Weis Foods/Dutch Valley Food Company, Inc.**

Township/Borough City of Sunbury

County **Northumberland County**

Responsible Official Mr. Laurence Bates  
Weis Foods  
1000 S. Second Street  
P.O. Box 471  
Sunbury, PA 17801-0471

Type of Facility Public Water Supply—Permit-by-Rule

Consulting Engineer Mr. Gary Kribbs, P.G.  
President  
Environmental & Geological Consulting  
2120 Bellemead Ave.  
Suite 14-2  
Havertown, PA 19083-2250

Permit Issued July 31, 2019

Description of Action Authorizes Dutch Valley Food Company, Inc. to operate under the special permit-by-rule (PBR) provisions in accordance with § 109.1005(c).

**Permit No. 5919501MA—Construction—Public Water Supply.**

Applicant **Wellsboro Municipal Authority**  
 Township/Borough Delmar Township  
 County **Tioga County**  
 Responsible Official Mr. James R Bodine  
 Wellsboro Municipal Authority  
 14 Crafton Street  
 Wellsboro, PA 16901  
 Type of Facility Public Water Supply—Construction  
 Consulting Engineer Mr. Scott Bray, P.E.  
 373 W. Branch Road  
 Wellsboro, PA 16901  
 Permit Issued August 5, 2019  
 Description of Action Authorizes installation of a bulk water loading station (WIP) at the Wellsboro Industrial Park in Delmar Township (Latitude 41° 47' 40.4", Longitude -77° 18' 12") to provide water for potable/non-potable uses from which authorized customers may withdraw a maximum of 432,000 gallons per day.

**Permit No. 1918503MA—Operation—Public Water Supply.**

Applicant **Aqua Pennsylvania, Inc.**  
 Township/Borough Mifflin Township  
 County **Columbia County**  
 Responsible Official Mr. John Klinger II  
 Engineer  
 Aqua Pennsylvania, Inc.  
 204 East Sunbury Street  
 Shamokin, PA 17872  
 Type of Facility Public Water Supply—Operation  
 Consulting Engineer Mr. Jonathan Morris  
 GHD, Inc.  
 326 E 2nd Street  
 Bloomsburg, PA 17815  
 Permit Issued August 5, 2019  
 Description of Action Authorizes Aqua Pennsylvania, Inc. Mifflin Township to operate the repaired and repainted 300,000-gallon Mifflinville water-storage tank.

**Country Terrace Estates (Public Water Supply), Columbia County:** On August 8, 2019, the Safe Drinking Water Program approved the Source Water Protection (SWP) plan for the Country Terrace Estates community water system. The personnel involved with the development of this SWP are to be commended for taking these proactive steps to protect these water sources for their community. Development of the SWP plan was funded by the Department of Environmental Protection (Mark R. Stephens, P.G., (570) 327-3422).

**Heritage Hillside Estates (Public Water Supply), Columbia County:** On September 5, 2019, the Safe Drinking Water Program approved the Source Water Protection (SWP) plan for the Heritage Hillside Estates community water system. The personnel involved with

the development of this SWP are to be commended for taking these proactive steps to protect these water sources for their community. Development of the SWP plan was funded by the Department of Environmental Protection (Mark R. Stephens, P.G., (570) 327-3422).

**Permit No. MA-GWR—Operation—Public Water Supply.**

Applicant **Mountaintop Regional Water Authority**  
 Township/Borough Burnside Township  
 County **Centre County**  
 Responsible Official Mr. John Rigg  
 Mountaintop Regional Water Authority  
 P.O. Box 294  
 Snow Shoe, PA 16874  
 Type of Facility Public Water Supply—Operation  
 Consulting Engineer Mr. Kenneth W. Beldin, Jr. P.E.  
 Gwin, Dobson, & Foremann, Inc.  
 3121 Fairway Drive  
 Altoona, PA 16602-4496  
 Permit Issued September 5, 2019  
 Description of Action Authorizes a 4-Log inactivation of viruses for Big Sterling Run Spring (Source ID 005; Entry Point ID 102) at Mountaintop Regional Water Authority, including Big Sterling Run Spring, Spring Stilling Well, 2 service pumps at 300-gpm combined, flow-paced chemical addition to sodium hypochlorite, soda ash, and a sequestering agent of vitrafos polyphosphate, and 4,987 LF of 6' pipeline.

*Southwest Region: Water Supply Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**Permit No. 0219523, Public Water Supply.**

Applicant **Springdale Borough**  
 325 School Street  
 Springdale, PA 15144  
 [Borough or Township] Springdale Borough  
 County **Allegheny**  
 Type of Facility Water treatment plant improvements  
 Consulting Engineer Bankson Engineers, Inc.  
 267 Blue Run Road  
 Suite 200  
 Cheswick, PA 15024  
 Permit to Construct August 7, 2019  
 Issued

**Permit No. 2619508, Public Water Supply.**

Applicant **Pennsylvania American Water Company**  
 800 West Hersheypark Drive  
 Hershey, PA 17033  
 [Borough or Township] Allison  
 County **Fayette**

Type of Facility Allison water storage tank  
 Consulting Engineer Pennsylvania American Water Company  
 800 West Hersheypark Drive  
 Hershey, PA 17033

Permit to Construct August 20, 2019  
 Issued

**Permit No. 6519505**, Public Water Supply.

Applicant **Municipal Authority of Westmoreland County**  
 124 Park & Pool Road  
 New Stanton, PA 15672

[Borough or Township] Conemaugh Township

County **Indiana**

Type of Facility Saltsburg water storage tank mixer

Consulting Engineer Gibson-Thomas Engineering Co., Inc.  
 1004 Ligonier Street  
 P.O. Box 853  
 Latrobe, PA 15650

Permit to Construct August 30, 2019  
 Issued

**Permit No. 2619505**, Public Water Supply.

Applicant **Municipal Authority of Westmoreland County**  
 124 Park & Pool Road  
 New Stanton, PA 15672

[Borough or Township] Forward and Hempfield Townships

County **Allegheny and Westmoreland**

Type of Facility Water storage tank chemical feed systems

Consulting Engineer Gibson-Thomas Engineering Co., Inc.  
 1004 Ligonier Street  
 P.O. Box 853  
 Latrobe, PA 15650

Permit to Construct September 6, 2019  
 Issued

**Permit No. 0219506**, Public Water Supply.

Applicant **Municipal Authority of Westmoreland County**  
 124 Park & Pool Road  
 New Stanton, PA 15672

[Borough or Township] White Oak Borough

County **Allegheny**

Type of Facility White Oak tank chemical feed system

Consulting Engineer Gibson-Thomas Engineering Co., Inc.  
 1004 Ligonier Street  
 P.O. Box 853  
 Latrobe, PA 15650

Permit to Construct September 9, 2019  
 Issued

**Permit No. 6519506**, Public Water Supply.

Applicant **Municipal Authority of Westmoreland County**  
 124 Park & Pool Road  
 New Stanton, PA 15672

[Borough or Township] North Huntingdon Township

County **Westmoreland**

Type of Facility Mockingbird water storage tank chemical feed system

Consulting Engineer Gibson-Thomas Engineering Co., Inc.  
 1004 Ligonier Street  
 P.O. Box 853  
 Latrobe, PA 15650

Permit to Construct September 9, 2019  
 Issued

**Permit No. 6513528-A1**, Public Water Supply.

Applicant **Municipal Authority of Westmoreland County**  
 124 Park & Pool Road  
 New Stanton, PA 15672

[Borough or Township] Plum Borough

County **Allegheny**

Type of Facility Hankey Farm tank injection point relocation

Consulting Engineer Gibson-Thomas Engineering Co., Inc.  
 1004 Ligonier Street  
 P.O. Box 853  
 Latrobe, PA 15650

Permit to Construct September 9, 2019  
 Issued

**Permit No. 2619501**, Public Water Supply.

Applicant **Municipal Authority of Westmoreland County**  
 124 Park & Pool Road  
 New Stanton, PA 15672

[Borough or Township] Allegheny and Unit Townships

County **Westmoreland**

Type of Facility Water storage tank chemical feed systems

Consulting Engineer Gibson-Thomas Engineering Co., Inc.  
 1004 Ligonier Street  
 P.O. Box 853  
 Latrobe, PA 15650

Permit to Construct September 10, 2019  
 Issued

**Operations Permit** issued to: **Creswell Heights Joint Water Authority**, 3961 Jordan Street, South Heights, PA 15081, (**PWSID # 5040063**) Aliquippa Township, **Beaver County** on August 13, 2019 for the operation of facilities approved under Construction Permit # 0418518MA.

**Operations Permit** issued to: **Municipal Authority of Westmoreland County**, 124 Park & Pool Road, New Stanton, PA 15672, (**PWSID # 5260036**) Hempfield Town-

ship, **Westmoreland County** on August 20, 2019 for the operation of facilities approved under Construction Permit # 2614509-A1.

**Operations Permit** issued to: **Municipal Authority of Westmoreland County**, 124 Park & Pool Road, New Stanton, PA 15672, (PWSID # 5650032) Bell Township, **Westmoreland County** on June 10, 2019 for the operation of facilities approved under Construction Permit # 6519508MA.

**Operations Permit** issued to: **West Penn Allegheny Health System, Inc.**, 320 East North Avenue, Pittsburgh, PA 15212, (PWSID # 5020956) City of Pittsburgh, **Allegheny County** on August 13, 2019 for the operation of facilities approved under Construction Permit # 0219520.

**Operations Permit** issued to: **Municipal Authority of the Township of Robinson**, 4200 Campbells Run Road, Pittsburgh, PA 15205, (PWSID # 5020045) Robinson Township, **Allegheny County** on August 23, 2019 for the operation of facilities approved under Construction Permit # 0219527.

**Operations Permit** issued to: **Pinehurst Estates, LLC**, 524 Meadow Avenue Loop, Banner Elk, NC 28604, (PWSID # 5040011) South Beaver Township, **Beaver County** on August 23, 2019 for the operation of facilities approved under Construction Permit # 0418507.

**Operations Permit** issued to: **Ambridge Water Authority**, 600 11th Street, P.O. Box 257, Ambridge, PA 15003 (PWSID # 5040008) Economy Borough, **Beaver County** on August 30, 2019 for the operation of facilities approved under Permit # 0405501MA-EI.

**Operations Permit** issued to: **Beaver Falls Municipal Authority**, 1425 Eighth Avenue, Beaver Falls, PA 15010 (PWSID # 5040012) West Mayfield Borough, **Beaver County** on August 27, 2019 for the operation of facilities approved under Permit # 0419503MA.

**Operations Permit** issued to: **Beaver Falls Municipal Authority**, 1425 Eighth Avenue, Beaver Falls, PA 15010 (PWSID # 5040012) Eastvale Borough, **Beaver County** on September 9, 2019 for the operation of facilities approved under Permit # 0418516MA.

**Operations Permit** issued to: **Beaver Falls Municipal Authority**, 1425 Eighth Avenue, Beaver Falls, PA 15010 (PWSID # 5040012) Eastvale Borough, **Beaver County** on August 27, 2019 for the operation of facilities approved under Permit # 0419513MA.

**Operations Permit** issued to: **Plum Borough Municipal Authority**, 4555 New Texas Road, Plum, PA 15239 (PWSID # 5020041) Plum Borough, **Allegheny County** on September 10, 2019 for the operation of facilities approved under Permit # 0218515.

**Operations Permit** issued to: **Borough of Springdale**, 325 School Street, Springdale, PA 15144 (PWSID # 5020053) Fawn and Frazer Townships, **Allegheny County** on September 9, 2019 for the operation of facilities approved under Permit # 0219519-EI.

**Operations Permit** issued to: **Municipal Authority of the Borough of Derry**, 620 Chestnut Street, Derry, PA 15627 (PWSID # 5650049) Derry Borough, **Westmoreland County** on September 9, 2019 for the operation of facilities approved under Permit # 6511501-EI.

**Permit No. 3019506MA, Minor Amendment.** Public Water Supply.

Applicant	<b>Southwestern Pennsylvania Water Authority</b> P.O. Box 187 1442 Jefferson Road Jefferson, PA 15344
[Borough or Township]	Washington Township
County	<b>Greene</b>
Type of Facility	Range Route 221 vault
Consulting Engineer	Bankson Engineers, Inc. 267 Blue Run Road Suite 200 Cheswick, PA 15024
Permit to Construct Issued	August 27, 2019

**Permit No. 3019503MA, Minor Amendment.** Public Water Supply.

Applicant	<b>Southwestern Pennsylvania Water Authority</b> P.O. Box 187 1442 Jefferson Road Jefferson, PA 15344
[Borough or Township]	Center Township
County	<b>Greene</b>
Type of Facility	CNX Center Township vault
Consulting Engineer	Bankson Engineers, Inc. 267 Blue Run Road Suite 200 Cheswick, PA 15024
Permit to Operate Issued	August 8, 2019

**Permit No. 0419512MA, Minor Amendment.** Public Water Supply.

Applicant	<b>Beaver Falls Municipal Authority</b> 1425 8th Avenue Beaver Falls, PA 15010
[Borough or Township]	Eastvale Borough
County	<b>Beaver</b>
Type of Facility	Eastvale WTP filter project
Consulting Engineer	Entech Engineering 400 Rouser Road Building # 2 Suite 200 Coraopolis, PA 15108
Permit to Construct Issued	August 23, 2019

**Municipal Authority of the Borough of Carmichaels (Public Water Supply), Greene County, Southwestern PA Water Authority (Public Water Supply) Greene County, and Tri-County Joint Municipal Authority (Public Water Supply) Washington County:** On August 22, 2019, the Safe Drinking Water Program approved the Regional Source Water Protection (SWP) Plan for **Upper Monongahela Regional Source Water Protection Partnership**. The personnel involved with the development of this SWP Plan are to be commended for taking these proactive steps to protect these water sources for their communities. Development

of the SWP Plan was completed with assistance from PA DEP's Source Water Protection Technical Assistance Program.

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

**Permit No. 1619501**, Public Water Supply.

Applicant	<b>St Petersburg Borough Municipal Water Authority</b>
Township or Borough	St. Petersburg Borough
County	<b>Clarion</b>
Type of Facility	Public Water Supply
Consulting Engineer	Marty English, P.E. The EADS Group 15392 Route 322 Clarion, PA 16314
Permit to Construct Issued	September 9, 2019

#### SEWAGE FACILITIES ACT PLAN APPROVAL

**Plan Approvals Granted Under the Pennsylvania Sewage Facilities Act, Act of January 24, 1966, P.L. 1535, as amended, 35 P.S. § 750.5.**

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

*Plan Location:*

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
East Providence Township	P.O. Box 155 Breezewood, PA 15533	Bedford

*Plan Description:* Approval of a revision to the official plan of East Providence Township, Bedford County. The project is known as John Pepple Property. The plan provides for the installation of a small flow treatment facility on a 7.0-acre lot with discharge on the owner's property into a tributary to French Run. The property is located on the north side of French Creek Road east of San Francisco Road. The Department's review of the plan revision has not identified any significant impacts resulting from this proposal. The DEP Code Number for this planning module is A3-05908-230-3s and the APS Id is 991830. Any permits must be obtained in the name of the property owner.

#### SEWAGE FACILITIES ACT PLAN DISAPPROVAL

**Plan Disapprovals Under the Pennsylvania Sewage Facilities Act, Act of January 24, 1966, P.L. 1535, as amended, 35 P.S. § 750.5.**

*Northcentral Region: Clean Water Program Manager, 208 West Third Street, Williamsport, PA 17701.*

*Plan Location:* Perry Township, Snyder County

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Perry Township	18 Hoffman Hill Road Mount Pleasant Mills, PA 17853	Snyder

*Plan Description:* The plan provides for the replacement of Perry Township's existing sewage treatment plant (which is nearing the end of its useful life) with a packaged Sequencing Batch Reactor sewage treatment plant that has a larger hydraulic treatment capacity than the existing plant. The plan was denied because the

technical deficiency identified in the Department's July 16, 2019 letter was never resolved. That technical deficiency related to the Department's consideration of Perry Township's ability to implement the plan as required by 25 Pa. Code § 71.32(d)(4). The Department determined that the installation of a larger sewage treatment plant was not justified as an implementable alternative.

## 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:

*Southcentral Region: Environmental Cleanup and Brownfields Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110. Phone 717.705.4705.*

**Elm Street Business Center**, 1217-1221 Elm Street, York, PA 17403, City of York, **York County**. Independence Environmental Consulting, LLC, 1750 Kaylor Road, Hummelstown, PA 17036, on behalf of MRWD, LLC & WAAP LP, P.O. Box 20249, York, PA 17402, submitted a Remedial Investigation Report, Cleanup Plan and Final Report concerning remediation of site soil and groundwater contaminated with volatile and semi-volatile organic

compounds, PCBs, and priority pollutant metals. The report is intended to document remediation of the site to meet the Site Specific-Standard.

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995  
PREAMBLE 3

**The Department has taken action on the following plans and reports under the Land Recycling and Environmental Remediation Standards Act (35 P.S. §§ 6026.101—6026.907).**

Section 250.8 of 25 Pa. Code and administration of the Land Recycling and Environmental Remediation Standards Act (act) require the Department to publish in the *Pennsylvania Bulletin* a notice of its final actions on plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the remediation standards of the act. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis of selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected. Plans and reports required by the act for compliance with selection of remediation to a site-specific standard, in addition to a final report, include a remedial investigation report, risk assessment report and cleanup plan. A remedial investigation report includes conclusions from the site investigation; concentration of regulated substances in environmental media; benefits of reuse of the property; and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements. A work plan for conducting a baseline remedial investigation is required by the act for compliance with selection of a special industrial area remediation. The baseline remedial investigation, based on the work plan, is compiled into the baseline environmental report to establish a reference point to show existing contamination, describe proposed remediation to be done and include a description of existing or potential public benefits of the use or reuse of the property. The Department may approve or disapprove plans and reports submitted. This notice provides the Department's decision and, if relevant, the basis for disapproval.

For further information concerning the plans and reports, contact the environmental cleanup program manager in the Department regional office under which the notice of the plan or report appears. If information concerning a final report is required in an alternative form, contact the community relations coordinator at the appropriate regional office. TDD users may telephone the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

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

**Carsia Property**, 810 East Eleventh Street, Hazleton City, **Luzerne County**. Barry Isett & Associates, 1170

Highway 315, Suite 3, Wilkes-Barre, PA 18702, on behalf of Michael Carsia, 810 East Eleventh Street, Hazleton, PA 18201, submitted a Final Report concerning remediation of soil contaminated by a release of heating oil from an underground storage tank. The report was intended to document remediation of the site to meet residential Statewide Health Standards but was disapproved by DEP on September 5, 2019.

**Compression Polymers Group**, 801 East Corey Street, Scranton City, **Lackawanna County**. Resource Environmental Management, 50 Maple Street, Montrose, PA 18801, Harrisburg, PA 17104, on behalf of CPG International Inc., 801 East Corey Street, Scranton, PA 18505, submitted a Final Report concerning remediation of site soil and groundwater contaminated by a release of hydraulic fluid at a commercial plastics manufacturing facility. The report documented remediation of the site to meet a combination of Residential and Nonresidential Statewide Health Standards and was approved by DEP on September 10, 2019.

*Southcentral Region: Environmental Cleanup and Brownfields Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110. Phone 717.705.4705.*

**1501 North George Street**, 1501 North George Street, York, PA 17404, Manchester Township, **York County**. Liberty Environmental, Inc., 505 Penn Street, Reading, PA 19601, on behalf of Molt, LLC, P.O. Box 20316, York, PA 17402, submitted a Remedial Investigation Report and Cleanup Plan concerning remediation of site soil and groundwater contaminated with leaded and unleaded gasoline. The Report was approved by the Department on September 4, 2019.

**Holtzman Oil Release/Reiff Property**, Off Woodstock Road at I-81 SB, Chambersburg, PA 17202. Greene Township, **Franklin County**. Patriot Environmental Management, LLC, P.O. Box 629, Douglassville, PA 19518, on behalf of Holtzman Oil Corporation, 5534 North Main Street, Mt. Jackson, VA 22842, and Elam Reiff, 275 Goodhart Road, Shippensburg, PA 17257 submitted a Remedial Investigation and Final Report for site soil and groundwater contaminated with unleaded gasoline. The Final Report demonstrated attainment of the Site Specific-Standard and was approved by the Department on September 4, 2019.

**Rail Trail Partners, LLC Marietta Site**, 421 West Market Street, Marietta, PA 17547, Marietta Borough, **Lancaster County**. POWER Engineers, Inc., 1410 East Market Street, York, PA 17403, on behalf of Rail Trail Partners, LLC, 421 West Market Street, Marietta, PA 17547, submitted a Remedial Investigation Report, Cleanup Plan, and Final Report concerning remediation of site soil and groundwater contaminated with inorganics, PCBs and # 2 fuel oil. The combined Report was administratively incomplete and was disapproved by the Department on September 4, 2019.

*Northwest Region: Environmental Cleanup & Brownfields Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.*

**Interstate Chemical Company**, 2797 Freedland Road, City of Hermitage, **Mercer County**. Wood Environment & Infrastructure Solutions, Inc., 4600 J Barry Court, Suite 210, Canonsburg, PA 15317, on behalf of Interstate Chemical Company, Inc., 2797 Freedland Road, Hermitage, PA 16148, submitted a Risk Assessment Report concerning the remediation of site soil contaminated with 1,1,1-trichloroethane, tetrachloroethene (PCE), 1,1,2,2-tetrachloroethane, trichloroethene (TCE), cis-1,2-

dichloroethene (DCE), toluene, ethylbenzene, total xylenes, methylene chloride, naphthalene, bis[2-ethylhexyl]phthalate; site surface water contaminated with arsenic, cis-1,2-DCE, TCE, 1,1,1-trichloroethane, 1,1-dichloroethane, 1,1-dichloroethene, 1,2-dichloroethane, 2-propanol, 4-methyl-2-pentanone (MIBK), acetone, methyl tert-butyl ether, toluene, PCE, vinyl chloride, methylene chloride, xylenes total, diethyl phthalate, fluoranthene, bis[2-ethylhexyl]phthalate; site groundwater contaminated with furfural, methanol, 2-propanol, n-butyl alcohol, 1,1,1-trichloroethane, cis-1,2-dichloroethene, 1,1-dichloroethane, ethylbenzene, 1,1-dichloroethene, methyl tert-butyl ether (MTBE), 1,2-dichloroethane, methylene chloride, 2-butanone (MEK), tetrachloroethene (PCE), 4-methyl-2-pentanone (MIBK), trans-1,2-dichloroethene, benzene, tetrahydrofuran, chlorobenzene, trichloroethene (TCE), chloroform, vinyl chloride, total xylenes, toluene, aniline, arsenic, ethylene glycol, formaldehyde, acetone, 2-hexanone, hexane, isobutyl alcohol, 2-methylnaphthalene, 4-chloroaniline, isophorone, 3&4 methylphenol, naphthalene, di-n-butylthallate, selenium, chromium (+6), mercury, and bis[2-ethylhexyl]phthalate. The Report was disapproved by the Department on September 6, 2019.

#### HAZARDOUS WASTE TRANSPORTER LICENSE

**Actions on applications for Hazardous Waste Transporter License received under the Solid Waste Management Act of July 7, 1980 (P.L. 380, No. 97) (35 P.S. §§ 6018.101—6018.1003) and regulations to transport hazardous waste.**

*Central Office: Bureau of Land Recycling and Waste Management, Division of Hazardous Waste Management, P.O. Box 69170, Harrisburg, PA 17106-9170.*

#### *New Applications Received*

**Sessler Environmental Services, LLC**, 30 Vantage Point Drive, Rochester, NY 14624. License No. PA-AH 0889. Effective Sep 09, 2019.

#### *New Transporter Licenses Issued*

**Sessler Environmental Services, LLC**, 30 Vantage Point Drive, Rochester, NY 14624. License No. PA-AH 0889. Effective Sep 09, 2019.

#### *Transporter Licenses Expired*

**Beelman Truck Co.**, 1 Racehorse Dr., East St. Louis, IL 62205. License No. PA-AH 0363. Effective Sep 03, 2019.

**Care Environmental Corp.**, 1620 Route 57, Hackettstown, NJ 07840. License No. PA-AH 0735. Effective Sep 03, 2019.

### AIR QUALITY

**General Plan Approval and Operating Permit Usage Authorized under the Air Pollution Control Act (35 P.S. §§ 4001—4015) and 25 Pa. Code Chapter 127 to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.**

*Southcentral Region: Air Quality Program, 909 Elmer-ton Avenue, Harrisburg, PA 17110.*

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

**GP11-67-03183A: Arco Design/Build, Inc.** (5950 Symphony Woods Road, Columbia, MD 21044) on Septem-

ber 5, 2019, for four (4) Cat C27 non-road engines, under GP11, at the facility located in East Manchester Township, **York County**.

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

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

**GP3-08-331C: FS Lopke Contracting, Inc.** (3430 State Route 434, Apalachin, NY 13732-1232) on September 4, 2019, to operate a portable crushing and sizing operation pursuant to the General Plan Approval and/or General Operating Permit for Portable Nonmetallic Mineral Processing Plants (BAQ-GPA/GP-3) at the Wysox quarry in Townada Township, **Bradford County**.

**GP9-08-331C: FS Lopke Contracting, Inc.** (3430 State Route 434, Apalachin, NY 13732-1232) on September 4, 2019, to operate diesel engines to power a portable mineral processing operation pursuant to the General Plan Approval and/or General Operating Permit for Diesel or # 2 fuel-fired Internal Combustion Engines (BAQ-GPA/GP-9) at the Wysox Quarry located in Towanda Township, **Bradford County**.

**Plan Approvals Issued under the Air Pollution Control Act (35 P.S. §§ 4001—4015) and regulations in 25 Pa. Code Chapter 127, Subchapter B relating to construction, modification and reactivation of air contamination sources and associated air cleaning devices.**

*Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

*Contact: Raymond Kempa, New Source Review Chief—Telephone: 570-826-2507.*

**48-00003F: Keystone Cement Company** (P.O. Box A, Route 329, Bath, PA 18014) issued on September 5, 2019 to install a natural gas line and upgrade the burner system at the facility located in East Allen Twp., **Northampton County**.

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

*Contact: Muhammad Q. Zaman, Environmental Program Manager—Telephone: 570-327-3648.*

**53-00020A: Olney Funeral Home & Cremation Service** (621 South Main Street, Ulysses, PA 16948), issued plan approval on September 5, 2019 for the construction and operation of a new Matthew International model IE-43-PPI 150 pounds per hour human cremation unit at their Olney Funeral Home facility located in Ulysses Borough, **Potter County**.

**Plan Approval Revisions Issued including Extensions, Minor Modifications and Transfers of Ownership under the Air Pollution Control Act (35 P.S. §§ 4001—4015) and 25 Pa. Code §§ 127.13, 127.13a and 127.32.**

*Southcentral Region: Air Quality Program, 909 Elmer-ton Avenue, Harrisburg, PA 17110.*

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

**36-05158D: Perdue AgriBusiness, LLC** (1897 River Road, Marietta, PA 17547) on August 30, 2019, for the modification of the vertical seed conditioner (VSC) fan

discharge and the ability to combust propane in Grain Dryer No. 2 (Source ID 104) at the soybean processing facility in Conoy Township, **Lancaster County**. The plan approval was extended, with a compliance schedule, and a revised stack testing schedule.

**36-05158E: Perdue AgriBusiness, LLC** (1897 River Road, Marietta, PA 17547) on August 30, 2019, for the modification to the 40 CFR Part 64, Continuous Assurance Monitoring (CAM) pressure differential ranges for various particulate matter control devices, and the modification of the mineral oil absorber temperature and flow rate requirements and the mineral oil condenser coolant temperature and flow rate requirements, at the soybean processing facility in Conoy Township, **Lancaster County**. The plan approval was extended, with a compliance schedule.

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

*Contact: Muhammad Q. Zaman, Environmental Program Manager—Telephone: 570-327-3648.*

**55-00001F: Panda Hummel Station LLC** (5001 Spring Valley Road, Suite 1150 West, Dallas, TX 75244) on August 20, 2019, to extend the authorization an additional 180 days, in order to continue the compliance evaluation and permit operation pending issuance of an operating permit for the sources. The extension authorization allows continued operation of the cooling tower located in Shamokin Dam Borough, **Snyder County**. The plan approval has been extended.

**55-00026A: Panda Hummel Station LLC** (5001 Spring Valley Road, Suite 1150 West, Dallas, TX 75244) on August 20, 2019, to extend the authorization an additional 180 days, in order to continue the compliance evaluation and permit operation pending issuance of an operating permit for the sources. The extension authorization allows continued operation of the sources located in Shamokin Dam Borough, **Snyder County**. The plan approval has been extended.

---

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

---

*Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

*Contact: Raymond Kempa, New Source Review Chief—Telephone: 570-826-2507.*

**48-00095: Ecopax, LLC** (3600 Glover Road, Easton, PA 18040-9203). On September 4, 2019 the Department issued an initial Title V Operating Permit for the Ecopax facility, located in Forks Township, **Northampton County**. The facility manufactures a wide range of polystyrene foam products, such as single use takeout containers and consumer tabletop ware. The control devices at this facility include a Regenerative Thermal Oxidizer and a Fabric Filter Baghouse. The potential facility-wide emissions of VOCs exceed the 50 tons per year, therefore it is subject to RACT II (25 Pa. Code §§ 129.96—129.100) presumptive requirements, and recordkeeping requirements. The permit contains applicable requirements for emission limitations, work practice standards, testing, monitoring, recordkeeping, and reporting standards used to verify facility compliance with Federal and State air pollution regulations.

---

**Operating Permits for Non-Title V Facilities Issued under the Air Pollution Control Act (35 P.S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.**

---

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

*Contact: Janine Tulloch-Reid, Facilities Permitting Chief—Telephone: 484-250-5920.*

**23-00072: Action Supply Co., Inc.** (1401 Calcon Hook Road, Sharon Hill, PA 19079) On September 9, 2019, for renewal of the State Only Operating Permit for its ready-mix concrete facility, located in Darby Township, **Delaware County**.

**23-00029: Upper Darby School District** (8201 N Lansdowne Ave, Upper Darby, PA 19082) On September 9, 2019, for three (3) dual fuel fired boilers, a natural gas fired chiller and four (4) emergency generators operating at Upper Darby High School located in Upper Darby Township, **Delaware County**.

*Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

*Contact: Raymond Kempa, New Source Review Chief—Telephone: 570-826-2507.*

**40-00038: Lion, Inc.** (700 North Pennsylvania Avenue, Wilkes-Barre, PA 18705). On September 10, 2019 the Department issued a renewal State-Only Natural Minor Permit for The Lion Brewery facility located in the City of Wilkes-Barre, **Luzerne County**. This facility brews and bottles malt beverages. Operations include malt grain handling, two boilers, spent grain handling and an emergency generator. The sources are considered minor emission sources of nitrogen oxide (NO<sub>x</sub>), sulfur oxides (SO<sub>x</sub>), carbon monoxide (CO), total suspended particulate (TSP) and VOC's. The permit contains applicable requirements for emission limitations, work practice standards, testing, monitoring, recordkeeping, and reporting standards used to verify facility compliance with Federal and State air pollution regulations.

**48-00110: Lehigh Valley Animal Crematory Services, Inc.** (415 Front Street, Hellertown, PA 18055). On September 3, 2019 the Department issued an initial State-Only Natural Minor Permit for their pet cremation facility located in the Borough of Hellertown, **Northampton County**. This facility operates two pet cremation units fired by natural gas. 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 permit contains applicable requirements for emission limitations, work practice standards, testing, monitoring, recordkeeping, and reporting standards used to verify facility compliance with Federal and State air pollution regulations.

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

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

**36-03195: Mount Joy Wire Corp.** (1000 East Main Street, Mount Joy, PA 17552-9332) on August 30, 2019, for the wire manufacturing facility located in Mount Joy Borough, **Lancaster County**. The State-only permit was renewed.



**67-05056: Ardent Mills LLC** (2800 Black Bridge Road, York, PA 17406-9703) on August 30, 2019, for the flour mill located in Manchester Township, **York County**. The State-only permit was renewed.

**21-05028: Fry Communications, Inc.** (101 Fry Drive, Mechanicsburg, PA 17050-2654) on September 5, 2019, for the Building 3 printing facility located in Mechanicsburg Borough, **Cumberland County**. The State-only permit was renewed.

**21-05013: Fry Communications, Inc.** (101 Fry Drive, Mechanicsburg, PA 17050-2654) on September 6, 2019, for Buildings 1 and 2 printing facilities located in Mechanicsburg Borough, **Cumberland 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.*

**17-00036: Stella-Jones Corporation** (392 Larkeytown Road, DuBois, PA 15801-3940) for their wood preserving facility located in Sandy Township, **Clearfield County** was issued on August 28, 2019, a State Only operating permit (renewal) for their wood preserving facility located in Sandy Township, **Clearfield County**. All applicable Federal and State regulatory requirements including testing, monitoring, recordkeeping, reporting, and work practice conditions to assure compliance with the applicable requirements have been included in the permit.

**41-00026: General Cable Industries Inc.** (409 Reighard Avenue, Williamsport, PA 17701) a State Only operating permit (renewal) for their facility located in the City of Williamsport, **Lycoming County** was issued on September 4, 2019. All applicable Federal and State regulatory requirements including testing, monitoring, recordkeeping, reporting, and work practice conditions to assure compliance with the applicable requirements have been included in the permit.

**08-00012: Cargill Meat Solutions Corporation** (P.O. Box 188, Wyalusing, PA 18853-0188) on September 6, 2019, for their facility located in Wyalusing Township, **Bradford County**. All applicable Federal and State regulatory requirements including testing, monitoring, recordkeeping, reporting, and work practice conditions to assure compliance with the applicable requirements have been included in the permit.

---

**Operating Permit Revisions Issued including Administrative Amendments, Minor Modifications or Transfers of Ownership under the Air Pollution Control Act (35 P.S. §§ 4001—4015) and 25 Pa. Code §§ 127.412, 127.450, 127.462 and 127.464.**

---

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

*Contact: Janine Tulloch-Reid, Facilities Permitting Chief—Telephone: 484-250-5920.*

**23-00091: Union Packaging LLC** (6250 Baltimore Ave., Yeadon, PA 19050-2700) On September 9, 2019, to identify a change in the name, address and phone number of the Responsible Official identified in the permit for its facility located in Yeadon Borough, **Delaware County**. The Administrative Amendment of the State-Only Operating Permit for this facility is issued under the Air Pollution Control Act (35 P.S. §§ 4001—4015) and 25 Pa. Code § 127.450.

**09-00062: Oldcastle Infrastructure, Inc.** (200 Keystone Drive, Telford, PA 18969) On September 9, 2019, for the change of name at the existing facility located in West Rockhill Township, **Bucks County**. The permit is for a non-Title V (State only) facility. The potential to emit facility-wide criteria pollutant emissions are greater than the major facility thresholds and capped below major facility thresholds; therefore, the facility is classified as a Synthetic Minor facility. Administrative Amendment of the Synthetic Minor Operating Permit issued under the Air Pollution Control Act (35 P.S. §§ 4001—4015) and 25 Pa. Code § 127.450. The amended permit will include monitoring, recordkeeping, and reporting requirements designed to keep the facility within all applicable air quality requirements.

**46-00198: Blommer Chocolate Co.** (1101 Blommer Drive East, Greenville, PA 18041). On September 9, 2019, the Operating Permit was amended for the Blommer Chocolate Company, a major (Title V) facility located in Upper Hanover Township, **Montgomery County**. The Administrative Amendment changes the Responsible Official.

*Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

*Contact: Raymond Kempa, New Source Review Chief—Telephone: 570-826-2507.*

**48-00006: Portland Power, LLC** (P.O. Box 238, Portland, PA 18351) The Department, on August 6, 2019, issued an administrative amendment of the Title V Permit to incorporate a change of: ownership, plant name, responsible official, and permit contact. The facility is located in Upper Mount Bethel Township, **Northampton County**.

**45-00003: Shawnee Power, LLC** (P.O. Box 238, Portland, PA 18351) The Department, on August 9, 2019, issued an administrative amendment of the Title V Permit to incorporate a change of: ownership, plant name, responsible official, and permit contact. The facility is located in Middle Smithfield Township, **Monroe County**.

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

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

**01-05042: Hunterstown Power LLC** (1890 Granite Station Road, Gettysburg, PA 17325-8348) on September 4, 2019, for the Hunterstown electric peaking station located in Straban Township, **Adams County**. The Title V permit was administratively amended in order to reflect a change of ownership.

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

*Contact: Muhammad Q. Zaman, Environmental Program Manager—Telephone: 570-327-3648.*

**55-00005: Wood Mode, LLC** (One Second St., Kreamer, PA 17833) issued a revised Title V operating permit on August 29, 2019, for a change of ownership of the Kreamer wood kitchen cabinet manufacturing facility. This facility is located in Middlecreek Township, **Snyder County**. This revised Title V operating permit contains all applicable regulatory requirements including monitoring, recordkeeping, and reporting conditions.

---

**De Minimis Emissions Increases Authorized under 25 Pa. Code § 127.449.**


---

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

*Contact: Ed Orris, P.E., New Source Review Chief—Telephone: 412-442-4168.*

**SOOP-04-00084: Anchor Hocking, LLC** (400 Ninth Street, Monaca, PA 15061). Per 25 Pa. Code § 127.449(i), this Notice is for the following de minimis emission increase at Anchor Hocking, LLC, located in Monaca Borough, **Beaver County**: This project is for the installation and operation of one (1) BAC closed circuit cooling tower (Model: FXV-0809B-36T-M) to replace an existing Imeco EFC/IDFC evaporative fluid cooling tower (Model: EFC-C 233-3) controlling Source 102 in the Synthetic Minor State-Only Operating Permit 04-00084. The emission increase resulting from this project will not exceed 0.54 TPY PM and 0.22 TPY PM<sub>10</sub> on a 12-month rolling basis. This project will not trigger the requirements of 25 Pa. Code Subchapter G at the facility. The list of de minimis increases for this facility includes only this project.

---

**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.*

**63091301 and NPDES No. PA0236004. Tunnel Ridge, LLC** (2596 Battle Run Road, Triadelphia, WV 26059). To revise the permit for the Tunnel Ridge Mine in Donegal and West Finley Townships, **Washington County** and related NPDES Permit for construction of an airshaft site with associated powerline and optional water line. Surface Acres Proposed 45.76. In conjunction with this approval, the Department is granting 401 Water Quality Certification certifying that the approved activities will comply with the applicable provisions of sections 301—303, 306 and 307 of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341) and will not violate applicable Federal and State water quality standards. No additional Discharges. The application was considered administratively complete on September 14, 2018. Application received: July 11, 2018. Permit issued: September 4, 2019.

**10743701 and NPDES No. PA0215635. ArcelorMittal Pristine Resources, LLC** (P.O. Box 36, 129 Bethle-

hem Road, Revloc, PA 15948). To renew the NPDES permit for the Fawn Mine No. 91 CRDA in Clinton Township, **Butler County**. No additional discharges. The application was considered administratively complete on December 31, 2015. Application received: June 29, 2015. Permit issued: September 5, 2019.

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200.*

**17110108. RES Coal LLC** (224 Grange Hall Road, P.O. Box 228, Armagh, PA 15920). Permit renewal for reclamation only of a bituminous surface coal mine located in Gulich Township, **Clearfield County** affecting 141.0 acres. Receiving stream(s): Unnamed Tributary to Muddy Run and Unnamed Tributary to Little Muddy Run classified for the following use(s): HQ-CWF, MF. There are no potable water supply intakes within 10 miles downstream. Application received: April 16, 2019. Permit issued: August 27, 2019.

**17-18-01 and NPDES Permit No. PA0269883. Swisher Contracting, Inc.** (P.O. Box 1223, Clearfield, PA 16830). Government Financed Construction Contract issued for reclamation of approximately 12.5 acres of abandoned mine lands located in Pike Township, **Clearfield County**. Receiving streams: Unnamed Tributaries to West Branch Susquehanna River classified for the following use(s): CWF. Application received: December 20, 2018. Contract issued: August 28, 2019.

*New Stanton District Office: P.O. Box 133, 131 Broadview Road, New Stanton, PA 15672, 724-925-5500.*

**03980108. Stitt Coal Company** (811 Garretts Run Road, Ford City, PA 16226). Permit renewal issued for reclamation only to an existing bituminous surface mine, located in Kittanning Township, **Armstrong County**, affecting 82.3 acres. Receiving streams: unnamed tributaries to Garretts Run and Garretts Run. Application received: January 10, 2019. Renewal permit issued: September 5, 2019.

**30030101 and NPDES Permit No. PA0250376. Patriot Mining Company, Inc.** (100 Tygart Drive, Grafton, WV 26354). Permit issued for commencement, operation and restoration of a bituminous surface mine, located in Greene Township, **Greene County**, affecting 117.4 acres. Receiving streams: unnamed tributary to Whiteley Creek. Application received: November 6, 2017. Permit issued: September 9, 2019.

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118.*

**Permit No. 54930102R4 and NPDES Permit No. PA0223492. Rausch Creek Anthracite Coal, LLC** (978 Gap Street, Valley View, PA 17983), renewal of an existing anthracite surface mine operation and NPDES permit for discharge of treated mine drainage in Porter Township, **Schuylkill County** affecting 559.3 acres, receiving stream: unnamed tributary to East Branch Rausch Creek. Application received: October 12, 2018. Renewal issued: August 30, 2019.

---

*Noncoal Permits Issued*

*New Stanton District Office: P.O. Box 133, 131 Broadview Road, New Stanton, PA 15672, 724-925-5500.*

**03010407 and NPDES Permit No. PA0250040. Stitt Coal Company, Inc.** (811 Garretts Run Road, Ford City, PA 16226). Revision permit issued for a boundary change to an existing noncoal surface mine, located in Kittanning Township, **Armstrong County**, affecting 301.3 acres. Receiving streams: unnamed tributaries to Garretts Run

and Garretts Run. Application received: January 25, 2019. Permit issued: September 5, 2019.

### 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: P.O. Box 133, 131 Broadview Road, New Stanton, PA 15672, 724-925-5500.*

**02194106. Wampum Hardware Company** (636 Paden Road, New Galilee, PA 16141). Blasting activity permit for the construction of the Beaver Republic Landfill, located in Findlay Township, **Allegheny County** with an expiration date of December 31, 2019. Blasting permit issued: August 29, 2019.

**63194107. Kesco, Inc.** (215 South Main Street, St. 3, Zelenople, PA 16063). Blasting activity permit for the construction of the Windsor Woods, located in Cecil Township, **Washington County** with an expiration date of January 1, 2020. Blasting permit issued: September 3, 2019.

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118.*

**Permit No. 13194102. Hayduk Enterprises, Inc.** (257 Riverside Drive, Factoryville, PA 18419), construction blasting for Twin Builders in Kidder Township, **Carbon County** with an expiration date of December 31, 2019. Permit issued: September 4, 2019.

**Permit No. 35194111. Explosive Services, Inc.,** (7 Pine Street, Bethany, PA 18431), construction blasting for Highland at Archbald in Archbald Borough, **Lackawanna County** with an expiration date of September 2, 2020. Permit issued: September 4, 2019.

**Permit No. 52194106. Holbert Explosives, Inc.,** (237 Mast Hope Plank Road, Suite A, Lackawaxen, PA 18435), construction blasting for Reinfurt Excavating in Lackawaxen Township, **Pike County** with an expiration date of September 1, 2020. Permit issued: September 4, 2019.

**Permit No. 58194105. Meshoppen Blasting, Inc.,** (P.O. Box 127, Meshoppen, PA 18630), construction blasting for DEP forfeited reclamation Ward Quarry in Springville Township, **Susquehanna County** with an expiration date of August 30, 2020. Permit issued: September 4, 2019.

**Permit No. 36194142. Keystone Blasting Service,** (15 Hopeland Road, Lititz, PA 17543), construction blasting for Hawk Valley Estates in Brecknock Township, **Lancaster County** with an expiration date of August 31, 2020. Permit issued: September 6, 2019.

**Permit No. 36194143. Keystone Blasting Service,** (15 Hopeland Road, Lititz, PA 17543), construction blasting for Marvin Fisher Foundation in East Lampeter Township, **Lancaster County** with an expiration date of September 30, 2019. Permit issued: September 6, 2019.

**Permit No. 38194111. Maine Drilling & Blasting, Inc.,** (P.O. Box 1140, Gardiner, ME 04345), construction blasting for Bennett Toyota in Cleona Borough and North

Lebanon Township with an expiration date of September 3, 2020. Permit issued: September 6, 2019.

### 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, P.O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Board through the Pennsylvania AT&T Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin* unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create a right of appeal beyond that permitted by applicable statutes and decisional law.

For individuals who wish to challenge an action, the appeal must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

**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**

*Southeast Region: Waterways and Wetlands Program, 2 East Main Street, Norristown, PA 19401, 484.250.5160.*

**E51-290: City of Philadelphia,** Department of Commerce, Division of Aviation, Terminal D-E, 3rd Floor, Philadelphia, PA 19153, City of Philadelphia, **Philadelphia County,** ACOE Philadelphia District.

To perform the below listed water obstruction and encroachment activities associated with the Philadelphia International Airport, Parcel G Development. The pro-

posed project will include regrading and paving a portion of the site for a parking lot. The project will include a parking lot at the eastern most corner, and the remainder of the lot will be impervious paved area. The proposed project will have no impact to the watercourse (Mingo Creek). The project is located in the floodplain. The site is approximately at 7924 Bartram Avenue (Philadelphia, PA-NJ, Latitude: 39° 53' 39"; Longitude: 75° 14' 0") in the City of Philadelphia, Philadelphia County.

**EA15-01119-023/WL1519-304. Brandywine Red Clay Alliance**, 1760 Unionville-Wawaset Road, West Chester, PA 19382, East Bradford Township, **Chester County**, ACOE Philadelphia District.

The Brandywine Red Clay Alliance submitted a Waiver 16 Restoration Plan and Environmental Assessment, for Plum Run 18-66 project, to perform the following water obstruction and encroachment restoration activities along approximately 4,700 linear feet of Plum Run (Perennial, WWF, MF):

1. Installation of in-stream stabilization structures including rock cross vanes, j-hooks, rock vanes, mud sills and root wads.
2. Streambank grading for the establishment of a floodplain bench.
3. Installation of native riparian plantings for stabilization and enhancement efforts outside of the channel.
4. Temporary impacts to the watercourse associated with the proposed streambank grading and installation of the structures, including temporary stream crossings.

The Plum Run 18-66 site is located near the intersection of Birmingham Road and Lenape Road in East Bradford Township, Chester County (West Chester, PA USGS Quadrangles, Latitude 39.930462° N; Longitude—75.612701° W). The EA and stream restoration plan were reviewed and found to be adequate.

**E15-907. French Creek TH, LP**, 126 East State Street, Media, PA 19063, Borough of Phoenixville, **Chester County**, ACOE Philadelphia District.

To construct and maintain the following activities in and along the new assumed 100-year floodway of the French Creek associated with the new proposed French Creek West Development Subdivision, the work will include the following:

1. The construction of a single span bridge of 95 feet long, 34 feet wide, 20 feet high, spanning French Creek, a.k.a. Paradise Bridge reconstruction.
2. The removal of the existing collapsed rail road bridge and associated bank stabilization.

3. The construction of eight (8) outfall structures considered as stormwater management discharge points that will discharge to French Creek.

The site is located on five tax parcels and extends over a 43-acre site which starts near the intersection of North Main Street and terminates near Mowere Road (Phoenixville, PA, USGS Map; Latitude: 40.0802; Longitude: -75.3125) in the Borough of Phoenixville, Chester County.

**E51-295. Philadelphia Water Department**, 1101 Market Street, Philadelphia, PA 19107, City of Philadelphia, **Philadelphia County**, ACOE Philadelphia District.

To remove an existing outfall and, in its place, construct and maintain a larger 48-inch by 76-inch concrete outfall resulting in 92 linear feet (2,881 square feet) of temporary stream impacts, 75 linear feet (6,630 square feet) of permanent stream impact, 91 linear feet (1,223 square feet) of temporary floodway impact and 44 linear feet (409 square feet) of permanent floodway impact within the Delaware River (WWF-MF). This activity also includes construction of temporary coffer dam and the permanent placement of riprap rock apron and concrete end wall. This project is located at the end of Levick Street at the Delaware River and is associated with the S.R. 0095, Section BS1 Project by PennDOT, District 6-0 in Philadelphia (USGS PA, Frankford Quadrangle—Latitude 40.015885, Longitude 75.052429 W).

*Southcentral Region: Waterways & Wetlands Program, 909 Elmerton Avenue, Harrisburg, PA 17110, Ed Muzic, Section Chief, 717.705.4802.*

**E22-643: Lower Paxton Township Authority**, 425 Prince Street, Harrisburg, PA 17109 in Lower Paxton Township, **Dauphin County**, U.S. Army Corps of Engineers Baltimore District.

To amend the previously issued water obstruction and encroachment permit, permit number E22-643 which authorized the following:

The abandonment of portions of an existing sanitary sewer line and the installation, operation, and maintenance of 12 utility line stream crossings and 14 utility line wetland crossings impacting 0.71 acre of palustrine emergent wetlands, 0.17 acre of palustrine scrub shrub wetlands, 0.73 acre of palustrine forested wetlands, and approximately 510 linear feet of an unnamed tributary to Beaver Creek (WWF, MF) (individually identified in the attached table) for the purpose of replacing or rehabilitating approximately 39,200 feet of sanitary sewer located near the intersection of Blue Ridge Avenue and Blue Bell Avenue (centered on Latitude: 40° 20' 12.91", Longitude: -76° 46' 15.0") in Lower Paxton Township, Dauphin County.

<i>Impact</i>	<i>Type</i>	<i>Material</i>	<i>Location</i>
1	Wetland 1	15-inch PVC Pipe	Lat: 40.331118 Long: -76.764826
2	Stream 1	Bank protection	Lat: 40.331065 Long: -76.765162
3	Stream 1	16-inch Ductile Iron Pipe	Lat: 40.331862 Long: -76.765801
4	Wetland 2	15-inch PVC Pipe	Lat: 40.331364 Long: -76.766737
5	Wetland 3	15-inch PVC Pipe	Lat: 40.331913 Long: -76.768529

## NOTICES

5517

<i>Impact</i>	<i>Type</i>	<i>Material</i>	<i>Location</i>
6	Stream 1	Bank protection	Lat: 40.331862 Long: -76.768565
7	Stream 1	16-inch Ductile Iron Pipe	Lat: 40.331949 Long: -76.768763
8	Wetland 4	15-inch PVC Pipe	Lat: 40.332818 Long: -76.769458
9	Stream 1	16-inch Ductile Iron Pipe	Lat: 40.332901 Long: -76.769475
10	Stream 2	16-inch Ductile Iron Pipe	Lat: 40.332996 Long: -76.769492
11	Stream 1	6-inch PVC Pipe	Lat: 40.332991 Long: -76.769790
12	Stream 1	Bank protection	Lat: 40.333341 Long: -76.770966
13	Stream 1	Ford crossing	Lat: 40.333588 Long: -76.771684
14	Wetland 5	15-inch PVC Pipe	Lat: 40.334315 Long: -76.772376
15	Stream 1	16-inch Ductile Iron Pipe	Lat: 40.334437 Long: -76.773355
16	Stream 3	Bank protection	Lat: 40.334279 Long: -76.773850
17	Wetland 6	15-inch PVC Pipe	Lat: 40.334816 Long: -76.773353
18	Wetland 7	15-inch PVC Pipe	Lat: 40.335269 Long: -76.773762
19	Wetland 8	15-inch PVC Pipe	Lat: 40.336264 Long: -76.775281
20	Stream 1	16-inch Ductile Iron Pipe	Lat: 40.336311 Long: -76.775733
21	Wetland 9	15-inch PVC Pipe	Lat: 40.336328 Long: -76.775889
22	Wetland 9	15-inch PVC Pipe	Lat: 40.336294 Long: -76.776282
23	Stream 1	Bank protection	Lat: 40.336587 Long: -76.776757
24	Wetland 9	15-inch PVC Pipe	Lat: 40.336500 Long: -76.777008
25	Wetland 10	Fill (manhole abandonment)	Lat: 40.336631 Long: -76.778961
26	Wetland 11	15-inch PVC Pipe	Lat: 40.336680 Long: -76.780188
27	Wetland 11	15-inch PVC Pipe	Lat: 40.336695 Long: -76.780436
28	Stream 1	16-inch Ductile Iron Pipe	Lat: 40.336822 Long: -76.781334
29	Wetland 12	15-inch PVC Pipe	Lat: 40.336954 Long: -76.781720
30	Stream 1	6-inch PVC Pipe	Lat: 40.336927 Long: -76.781882
31	Stream 1	6-inch PVC Pipe	Lat: 40.336926 Long: -76.782479
32	Stream 1	16-inch Ductile Iron Pipe	Lat: 40.337055 Long: -76.783052
33	Stream 1	10-inch PVC Pipe	Lat: 40.339209 Long: -76.787599

The permit is amended to include:

The installation and maintenance of 6 utility line stream crossings, one temporary access road stream crossing, and one temporary access road wetland crossing impacting 0.03 acre of palustrine forested wetland and 210 linear feet of an unnamed tributary to Beaver Creek (WWF, MF). The project is located near the intersection of Blue Ridge Avenue and Blue Bell Avenue (centered on Latitude: 40° 20' 12.91", Longitude: -76° 46' 15.0") in Lower Paxton Township, Dauphin County. The permit was issued on September 9, 2019.

*Southwest Region: Waterways & Wetlands Program, 400 Waterfront Drive, Pittsburgh, PA 15222, Dana Drake, Waterways and Wetlands Program Manager, 412-442-4000.*

**E63-672-A1, Burkett Place, LP**, 9349 Waterstone Boulevard, Cincinnati, OH 45249, North Strabane Township and South Strabane Township, **Washington County**, Pittsburgh ACOE District.

Has been given consent to:

**Amend Permit No. E63-672**, (which authorized MV Affordable Housing, LLC, now Burkett Place Limited Partnership, to construct, operate and maintain various water obstructions and encroachments associated with the affordable housing development), to: Maintain fill in 0.019 acre of PSS/PEM wetland (Wetland 001), which was placed during the construction of a 60" CMP culvert and site fill. To mitigate for this after-the-fact impact to a wetland, the applicant is proposing to make a contribution to the Pennsylvania Wetland Replacement Fund, for the purpose of constructing an affordable housing development, consisting of two (2) apartment buildings with associated parking lots, garages, a community clubhouse, greenspace and utilities. The project is located at the terminus of Burkett Lane (Washington East, PA USGS topographic quadrangle; Latitude: 40° 12' 40.31"; Longitude: -80° 11' 27.24"; Sub-basin: 20F; Pittsburgh Corps District), in North Strabane Township and South Strabane Township, Washington County.

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

**E10-515, Pikewood Land Partners LLC**. Laurel Pointe, in Cranberry Township, **Butler County**, ACOE Pittsburgh District (Mars, PA Quadrangle N: 40°, 40', 38.74"; W: -80°, 04', 33.22").

To impact a total of 982 linear feet of UNTs to Brush Run (WWF) having contributory drainage areas less than 100 acres and permanently impact a total of 0.29 acre of PEM wetlands for construction of a residential subdivision and associated roadways, utilities, stormwater management facilities, and other associated structures along Franklin Road approximately 0.3 mile south of S.R. 228 (Mars PA Quadrangle N: 40°, 40', 38.74"; W: -80°, 04', 33.22") in Cranberry Township, Butler County. Mitigation for project impacts is provided in the form of purchase of credits thru the First Pennsylvania Resource, LLC, Enlow Fork Mitigation Bank.

*District Oil and Gas Operations: Eastern Oil & Gas District, 208 West Third Street, Suite 101, Williamsport, PA 17701.*

**E0829-122: Rockdale Marcellus, LLC**, 4600 J. Barry Court, Suite 120, Canonsburg, PA 15317, Canton Township, **Bradford County**, ACOE Baltimore District.

To construct, operate and maintain:

1. a 12 inch diameter temporary waterline and a timber mat bridge impacting 10 linear feet of an unnamed tributary to Towanda Creek (CWF, MF) (Grover, PA Quadrangle, Latitude: 41° 37' 19", Longitude: -76° 52' 06");

2. a 12 inch diameter temporary waterline and a timber mat bridge impacting 29 linear feet of Towanda Creek (CWF, MF) and impacting 12,699 square feet of an adjacent Palustrine Emergent Wetland (EV) (Grover, PA Quadrangle, Latitude: 41° 37' 19", Longitude: -76° 52' 03");

3. a 12 inch diameter temporary waterline and a timber mat bridge impacting 29 linear feet of Towanda Creek (CWF, MF) (Grover, PA Quadrangle, Latitude: 41° 37' 19", Longitude: -76° 51' 59");

4. a 12 inch diameter temporary waterline and a timber mat bridge impacting 14 linear feet of an unnamed tributary to Towanda Creek (CWF, MF) (Grover, PA Quadrangle, Latitude: 41° 37' 05", Longitude: -76° 51' 29");

5. a 12 inch diameter temporary waterline and a timber mat bridge impacting 416 square feet of a Palustrine Scrub-Shrub Wetland (EV) (Grover, PA Quadrangle, Latitude: 41° 37' 08", Longitude: -76° 51' 23");

6. a 12 inch diameter temporary waterline and a timber mat bridge impacting 16 linear feet of an unnamed tributary to Towanda Creek (CWF, MF) and impacting 8,656 square feet of an adjacent Palustrine Scrub-Shrub Wetland (EV) (Grover, PA Quadrangle, Latitude: 41° 37' 12", Longitude: -76° 51' 16");

7. a 12 inch diameter temporary waterline and a timber mat bridge impacting 24 linear feet of an unnamed tributary to Towanda Creek (CWF, MF) (Grover, PA Quadrangle, Latitude: 41° 37' 17", Longitude: -76° 51' 11");

8. a 12 inch diameter temporary waterline and a timber mat bridge impacting 17 linear feet of an unnamed tributary to Towanda Creek (CWF, MF) (Grover, PA Quadrangle, Latitude: 41° 37' 15", Longitude: -76° 51' 07");

9. a 12 inch diameter temporary waterline impacting 142 square feet of an unnamed tributary to Towanda Creek floodway (CWF, MF) (Grover, PA Quadrangle, Latitude: 41° 37' 16", Longitude: -76° 51' 04");

10. a 12 inch diameter temporary waterline impacting 354 square feet of an unnamed tributary to Towanda Creek floodway (CWF, MF) (Grover, PA Quadrangle, Latitude: 41° 37' 18", Longitude: -76° 51' 01");

The project will result in 139 linear feet and 1,650 square feet of temporary stream impacts and 12,699 square feet (0.29 acre) of temporary PEM wetland impacts and 9,072 square feet (0.21 acre) of temporary PSS wetland impacts all for the purpose of establishing a temporary water supply for Marcellus well development in Canton Township, Bradford County. This project is associated with permit application number WL5929-18-003 and E0829-118.

**E5829-145: Brooklyn Township, Susquehanna County; Williams Field Services Company, LLC**, 310 State Route 29 North, Tunkhannock, PA 18657; ACOE Baltimore District.

To construct, operate, and maintain:

1) a 24-inch diameter steel natural gas gathering pipeline and temporary timber mat bridge crossing impacting 74 lineal feet of an unnamed tributary to Horton Creek (CWF, MF) and impacting 10,623 square feet of its floodway (Hop Bottom, PA Quadrangle; Latitude: 41° 43' 34", Longitude: -75° 48' 33"),

2) a 24-inch diameter steel natural gas gathering pipeline and temporary timber mat crossing impacting 690 square feet (0.02 acre) of a palustrine emergent wetland (PEM) (Hop Bottom, PA Quadrangle; Latitude: 41° 43' 34", Longitude: -75° 48' 33"),

3) a 24-inch diameter steel natural gas gathering pipeline and temporary timber mat crossing impacting 1,686 square feet (0.04 acre) of a palustrine emergent wetland (PEM) (Hop Bottom, PA Quadrangle; Latitude: 41° 43' 32", Longitude: -75° 48' 32"),

4) a 24-inch diameter steel natural gas gathering pipeline and temporary timber mat crossing impacting 10,945 square feet (0.25 acre) of a palustrine emergent wetland (PEM) (Hop Bottom, PA Quadrangle; Latitude: 41° 43' 24", Longitude: -75° 48' 23"),

5) a 24-inch diameter steel natural gas gathering pipeline and temporary timber mat bridge crossing impacting 62 lineal feet of an unnamed tributary to Horton Creek (CWF, MF) and impacting 6,169 square feet of its floodway (Hop Bottom, PA Quadrangle; Latitude: 41° 43' 34", Longitude: -75° 48' 33"),

6) a 24-inch diameter steel natural gas gathering pipeline and temporary timber mat crossing impacting 536 square feet (0.01 acre) of a palustrine emergent wetland (PEM) (Hop Bottom, PA Quadrangle; Latitude: 41° 43' 22", Longitude: -75° 48' 15").

The Corbin to MacNew Loop natural gas pipeline project consists of constructing approximately 8,251 lineal feet of 24-inch steel natural gas pipeline located in Brooklyn Township, Susquehanna County. The project will result in 136 lineal feet of stream impacts and 13,857 square feet (0.32 acre) of palustrine emergent (PEM) wetlands to provide safe reliable conveyance of Marcellus Shale natural gas to market.

#### ENVIRONMENTAL ASSESSMENTS

*Southcentral Region: Waterways & Wetlands Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110, Ed Muzic, Section Chief, 717.705.4802.*

**EA363219-003: Manheim Township**, 1840 Municipal Drive, Lancaster, PA 17601 in Manheim Township, Lancaster County, U.S. Army Corps of Baltimore District.

For the regrading and maintenance of 1,507 feet of an unnamed tributary to the Conestoga River (WWF, MF) including the construction of floodplain benches on both sides of the watercourse, impacting 0.04 acre of palustrine emergent wetlands, all for the purpose of reducing sediment and nutrient loading to the stream. The project is located immediately south of the intersection of Pleasure Road and Sunnybrook Drive (Latitude: 40.0558° N; Longitude: 76.2786° W) in Manheim Township, Lancaster County. No wetland loss is proposed, and replacement is not required. The permit was issued on September 9, 2019.

#### WATER QUALITY CERTIFICATIONS

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

**WQ3306219-001, National Fuel Gas Supply Corporation** (Applicant), 6363 Main Street, Williamsville, NY 14221. FM100 Brockway Modernization (Project), in Snyder Township **Jefferson County** and Horton Township, **Elk County**, ACOE Pittsburgh District. The proposed project starts at the interconnection/tie-in at the existing National Fuel FM100 Line along Longwell Rd, approximately 1.5 mile north of SR 28 (Sabula PA Quadrangle N: 41.265491°; W: 78.866349°) Snyder Township, Jefferson County, extending generally south and east crossing through a portion of Horton Township, Elk County, to where it terminates at the existing FM100 tie in (Carman, PA Quadrangle N: 41.221231°; W: 78.699183°) in Horton Township Elk County.

On April 2019, Applicant filed an application with the Federal Energy Regulatory Commission (FERC) under Section 7 of the Natural Gas Act (15 U.S.C.A. § 717f) seeking blanket authorization prior notice filing to construct and operate its Project (FERC Docket No. CP19-220-000). The FERC documents may be viewed on FERC's website at [www.ferc.gov](http://www.ferc.gov) (search eLibrary; Docket Search; CP19-220-000).

On April 3, 2019, Applicant requested a State water quality certification from the Pennsylvania Department of Environmental Protection (PADEP), as required by Section 401 of the Clean Water Act (33 U.S.C.A. § 1341), to ensure that the construction, operation and maintenance of the Project will protect water quality in Pennsylvania through compliance with State water quality standards and associated State law requirements, which are consistent with the requirements of the Clean Water Act.

The Project, as proposed is to modernize approximately 9.715 miles of existing steel pipeline replacing it with 12-inch coated steel pipeline from [N: 41.265491° W: 78.866349 to N: 41.221231°; W: 78.699183°] adjacent to the old pipeline with a small area of new ROW to maintain gas service to National Fuels customers. The project also included the construction of approximately 0.40 mile of 6-inch steel pipeline lateral to connect the newly installed pipeline to an existing station in Snyder Township, Jefferson County and the installation of a mainline block valve and above ground equipment. Pipeline work also includes numerous temporary access roads and staging areas to support construction and facility access. Numerous stream and wetland crossings will occur along the project route as described below.

The Project, as proposed, will require approximately 128.3 acres of earth disturbance in Jefferson and Elk, the crossing of 25 streams (including floodways of streams not crossed by the pipeline) resulting in 1,830 linear feet of temporary impact and 248 linear feet of permanent impacts to the following surface waters: Rattlesnake Creek (HQ-CWF) and tributaries; Mill Creek (CWF) and tributaries; Beaver Meadow Run (EV) and tributaries, tributaries to Crooked Creek (HQ-CWF), tributaries to Conneaut Creek (CWF), Curry Run; tributaries to Little Toby Creek (CWF); and two ponds; 2.42 acres of temporary wetland impact; 0.086 acre of permanent wetland impacts. All crossings will be installed by open trench.

PADEP published a notice of its proposed State water quality certification in the *Pennsylvania Bulletin* on July 27, 2019 (*Pennsylvania Bulletin*, Vol. 49, No. 30, Page 3947) and no public comments.

PADEP certifies to Applicant that the construction, operation and maintenance of the Project will not violate applicable State water quality standards set forth in 25 Pa. Code Chapter 93, provided Applicant complies with the permitting programs, criteria and conditions established pursuant to State law:

1. *Discharge Permit*—Applicant shall obtain and comply with a PADEP National Pollutant Discharge Elimination System (NPDES) permit for the discharge of water from the hydrostatic testing of the pipeline pursuant to Pennsylvania's Clean Streams Law (35 P.S. §§ 691.1—691.1001), and all applicable implementing regulations (25 Pa. Code Chapter 92a).

2. *Discharge Permit*—As appropriate, the applicant shall obtain and comply with a PADEP National Pollutant Discharge Elimination System (NPDES) Permit for the discharge of industrial wastewater and/or contaminated industrial stormwater from the compressor stations pursuant to Pennsylvania's Clean Streams Law (35 P.S. §§ 691.1—691.1001), and all applicable implementing regulations (25 Pa. Code Chapter 92a).

3. *Erosion and Sediment Control Permit*—Applicant shall obtain and comply with PADEP's Chapter 102 Erosion and Sediment Control Permit for Earth Disturbance issued pursuant to Pennsylvania's Clean Streams Law and Storm Water Management Act (32 P.S. §§ 680.1—680.17), and all applicable implementing regulations (25 Pa. Code Chapter 102).

4. *Water Obstruction and Encroachment Permits*—Applicant shall obtain and comply with PADEP Chapter 105 Water Obstruction and Encroachment Permits for the construction, operation and maintenance of all water obstructions and encroachments associated with the project and transfer any existing Chapter 105 permits associated with the conversion of existing gathering pipelines to transmission pipelines pursuant to Pennsylvania's Clean Streams Law, Dam Safety and Encroachments Act (32 P.S. §§ 673.1—693.27), and Flood Plain Management Act (32 P.S. §§ 679.101—679.601.), and all applicable implementing regulations (25 Pa. Code Chapter 105).

5. *Water Quality Monitoring*—PADEP retains the right to specify additional studies or monitoring to ensure that the receiving water quality is not adversely impacted by any operational and construction process that may be employed by Applicant.

6. *Operation*—Applicant shall at all times properly operate and maintain all Project facilities and systems of treatment and control (and related appurtenances) which are installed to achieve compliance with the terms and conditions of this State Water Quality Certification and all required permits, authorizations and approvals. Proper operation and maintenance includes adequate laboratory controls, appropriate quality assurance procedures, and the operation of backup or auxiliary facilities or similar systems installed by Applicant.

7. *Inspection*—The Project, including all relevant records, are subject to inspection at reasonable hours and intervals by an authorized representative of PADEP to determine compliance with this State Water Quality Certification, including all required State water quality permits and State water quality standards. A copy of this certification shall be available for inspection by the PADEP during such inspections of the Project.

8. *Transfer of Projects*—If Applicant intends to transfer any legal or equitable interest in the Project which is affected by this State Water Quality Certification, Applicant shall serve a copy of this certification upon the

prospective transferee of the legal and equitable interest at least thirty (30) days prior to the contemplated transfer and shall simultaneously inform the PADEP Regional Office of such intent. Notice to PADEP shall include a transfer agreement signed by the existing and new owner containing a specific date for transfer of certification responsibility, coverage, and liability between them.

9. *Correspondence*—All correspondence with and submittals to PADEP concerning this State Water Quality Certification shall be addressed to the Department of Environmental Protection, Northwest Regional Office, Waterways and Wetlands Program Manager, 230 Chestnut Street, Meadville, PA 16335.

10. *Reservation of Rights*—PADEP may suspend or revoke this State Water Quality Certification if it determines that Applicant has not complied with the terms and conditions of this certification. PADEP may require additional measures to achieve compliance with applicable law, subject to Applicant's applicable procedural and substantive rights.

11. *Other Laws*—Nothing in this State Water Quality Certification shall be construed to preclude the institution of any legal action or relieve Applicant from any responsibilities, liabilities, or penalties established pursuant to any applicable Federal or State law or regulation.

12. *Severability*—The provisions of this State Water Quality Certification are severable and should any provision of this certification be declared invalid or unenforceable, the remainder of the certification shall not be affected thereby.

#### EROSION AND SEDIMENT CONTROL

The following Erosion and Sediment Control permits have been issued.

Persons aggrieved by an action may appeal that action to the Environmental Hearing Board (Board) under section 4 of the Environmental Hearing Board Act and 2 Pa.C.S. §§ 501—508 and 701—704. The appeal should be sent to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P.O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Board through the Pennsylvania AT&T Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin* unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create a right of appeal beyond that permitted by applicable statutes and decisional law.

For individuals who wish to challenge an action, the appeal must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.



*Southwest District: Oil & Gas Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222.*

ESCGP-3 # ESX12-007-0018 Major Modification  
Applicant Name MarkWest Liberty Midstream & Resources LLC  
Contact Person Richard Lowery  
Address 4600 J Barry Ct, Suite 500  
City, State, Zip Canonsburg, PA 15371  
County Washington  
Township(s) Independence Township  
Receiving Stream(s) and Classification(s) Unnamed Tributaries to Raccoon Creek, Raccoon Creek, Ohio River (WWF)

*Northwest Region: Oil and Gas Program Manager, 230 Chestnut St., Meadville, PA 16335.*

ESCGP-3 # ESG081019006-00—L102 Well Pad  
Applicant PennEnergy Resources LLC  
Contact Scott Sweder  
Address 1000 Commerce Drive; Park Place One, Suite 400  
City Pittsburgh State PA Zip Code 15275  
County Butler Township Jackson  
Receiving Stream(s) and Classification(s) UNT to Likens Run; Likens Run

ESCGP-3 # ESG081019003-00—McElhinny Well Pad  
Applicant PennEnergy Resources, LLC  
Contact Mr. Richard Watson  
Address 1000 Commerce Drive, Park Place One, Suite 400  
City Pittsburgh State PA Zip Code 15275  
County Butler Township Forward  
Receiving Stream(s) and Classification(s) Unnamed Tributaries to Glade Run

ESCGP-3 # ESG080319008-00—R Ida Pipeline Project  
Applicant Snyder Bros Inc  
Contact Carl Rose  
Address P.O. Box 1022, One Glade Park East  
City Kittanning State PA Zip Code 16201  
County Armstrong Township South Buffalo Township  
Receiving Stream(s) and Classification(s) Hill Run, Watson Run, Trib 46170 to Nicholson Run, Trib 46174 of Nicholson Run, Nicholson Run, Trib 46172 to Nicholson Run

*Eastern Region: Oil & Gas Management Program Manager, 208 West Third Street, Williamsport, PA 17701.*

ESCGP-3 # ESG290819016-00  
Applicant Name Repsol Oil & Gas USA, LLC  
Contact Person Lance Ridall  
Address 337 Daniel Zenker Drive  
City, State, Zip Horseheads, NY 14845  
County Bradford  
Township(s) Springfield & Troy Twps.  
Receiving Stream(s) and Classification(s) UNT to Leonard Creek (TSF, MF), UNT to North Branch Sugar Creek (TSF, MF), North Branch Sugar Creek (TSF, MF)  
Secondary: Sugar Creek (TSF, MF)

ESCGP-3 # ESG294119020-00  
Applicant Name SWN Production Company, LLC  
Contact Person Afton Sterling  
Address 917 State Route 92 North  
City, State, Zip Tunkhannock, PA 18657  
County Lycoming  
Township(s) Cogan House Twp.  
Receiving Stream(s) and Classification(s) UNT to Flicks Run (EV) and Steam Valley Run (EV)  
Secondary Receiving Waters: Little Pine Creek (EV)

ESCGP-3 # ESG29-115-17-0043(02)  
Applicant Name Regency Marcellus Gas Gathering, LLC  
Contact Person Tom Glisson  
Address 6051 Wallace Road Ext., 3rd Flr.  
City, State, Zip Wexford, PA 15090  
County Susquehanna  
Township(s) Harford & Lenox Twps.  
Receiving Stream(s) and Classification(s) Unnamed tributary to Millard Creek (CWF, MF), Tower Branch (CWF, MF) and unnamed tributaries thereto, Partners Creek (CWF, MF) and unnamed tributaries thereto, and Sterling Brook (CWF, MF) and unnamed tributaries thereto

ESCGP-3 # ESG294119009-00  
Applicant Name ARD Operating, LLC  
Contact Person Stephen Barondeau  
Address 33 West Third Street, Suite 300  
City, State, Zip Williamsport, PA 17701  
County Lycoming  
Township(s) McIntyre Twp.  
Receiving Stream(s) and Classification(s) Frozen Run (HQ-CWF), UNTs Frozen Run (HQ-CWF), UNTs Grays Run (HQ-CWF), Splash Dam Run (HQ-CWF)  
Secondary Receiving Waters: Grays Run (HQ-CWF), Lycoming Creek (EV)

ESCGP-3 # ESG295919011-00  
Applicant Name Seneca Resources Company LLC  
Contact Person Doug Kepler  
Address 51 Zents Blvd  
City, State, Zip Brookville, PA 15825-2701  
County Tioga  
Township(s) Delmar Twp.  
Receiving Stream(s) and Classification(s) UNT to Baldwin Run (HQ-CWF, MF)  
Secondary Receiving Water: Baldwin Run (HQ-CWF, MF)

## **CORRECTIVE ACTION UNDER ACT 32, 1989**

### **PREAMBLE 2**

---

**The following plans and reports were submitted under the Storage Tank and Spill Prevention Act (35 P.S. §§ 6021.101—6021.2104).**

---

Provisions of 25 Pa. Code Chapter 245 Subchapter D, Administration of the Storage Tank and Spill Prevention Program, require the Department of Environmental Protection (DEP) to publish in the *Pennsylvania Bulletin* a notice of submission of plans and reports. A remedial action plan is submitted to summarize the site characterization, document the design and construction details for the remedial action, and describe how the remedial action will attain the selected remediation standard. The remedial action plan also provides results of studies performed and data collected to support the remedial action and a description of postremediation care requirements. A remedial action completion report is submitted to document cleanup of a release of a regulated substance at a site to the selected remediation standard. A remedial action completion report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis of selecting the environmental media of concern, documentation supporting the selection of residential or non-residential exposure factors, a description of the remediation performed and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected.

For further information concerning plans or reports, please contact the Environmental Cleanup Program Manager in the DEP Regional Office under which the notice of receipt of plans or reports appears. If information concerning plans or reports is required in an alternative form, contact the Community Relations Coordinator at the appropriate Regional Office listed. TDD users may telephone the DEP through the Pennsylvania AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

*Southeast Region: Environmental Cleanup & Brownfields Program Manager, 2 East Main Street, Norristown, PA 19401.*

**Amoco Car Wash**, 23-27098, 3100 Edgemont Ave., Parkside Borough, **Delaware County**. Reliance Environmental, Inc., 235 N. Duke St., Lancaster, PA 17602, on behalf of Jagger Investments, LLC, 275 Hess Boulevard, Lancaster, PA 17601, submitted a site characterization report concerning remediation of soil and groundwater contaminated with petroleum products. The report is intended to document remediation of the site to meet residential Statewide health and site-specific standards.

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

**Hickory Run Travel Plaza**, Storage Tank ID # 13-07456, 2550 State Route 534, East Side Borough, **Carbon County**, MEA, 1365 Ackermanville Road, Bangor, PA 18013, on behalf of Raceway Holdings LLC, 2227 Scranton-Carbondale Highway, Scranton, PA 18508, submitted a combined Site Characterization Report and Remedial Action Plan concerning remediation of soil contaminated with diesel. The report is intended to document the remedial actions for meeting Statewide Health Standards.

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

**Sheetz # 116**, Storage Tank Facility ID # 28-29531, 215 West Baltimore Street, Greencastle, PA 17225, Greencastle Borough, **Franklin County**, EnviroTrac, Ltd., 176 Thorn Hill Road, Warrendale, PA 15086 on behalf of Sheetz, Inc., 351 Sheetz Way, Claysburg, PA 16225, submitted a Remedial Action Completion Report concerning remediation of soil and groundwater contaminated with petroleum constituents. The report is intended to document remediation of the site to meet the Statewide Health Standard and the Site-Specific Standard.

**Four Point Sunoco**, Storage Tank Facility ID # 06-41104, 5262 Four Point Road, Rehrersburg, PA 19550, Tulpehocken Township, **Berks County**, United Environmental Services, Inc., P.O. Box 701, Schuylkill Haven, PA 17972 on behalf of Singh & Kaur, Inc., 351 Midway Road, Bethel, PA 19507, submitted a Remedial Action Plan concerning remediation of groundwater contaminated with petroleum constituents. The report is intended to document remediation of the site to meet the Statewide Health Standard.

## CORRECTIVE ACTION UNDER ACT 32, 1989

### PREAMBLE 3

---

**The DEP has taken action on the following plans and reports under the Storage Tank and Spill Prevention Act (35 P.S. §§ 6021.101–6021.2104).**

---

Provisions of 25 Pa. Code Chapter 245 Subchapter D, Administration of the Storage Tank and Spill Prevention Program, require the Department of Environmental Protection (DEP) to publish in the *Pennsylvania Bulletin* a notice of its final actions on plans and reports.

A remedial action plan is submitted to summarize the site characterization, document the design and construction details for the remedial action, and describe how the remedial action will attain the selected remediation standard. The remedial action plan also provides results of studies performed and data collected to support the remedial action and a description of postremediation care requirements. A remedial action completion report is submitted to document cleanup of a release of a regulated substance at a site to the selected remediation standard. A remedial action completion report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis of selecting the environmental media of concern, documentation supporting the selection of residential or non-residential exposure factors, a description of the remediation performed and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected.

The DEP may approve or disapprove plans and reports submitted. This notice provides the DEP's decision and, if relevant, the basis for disapproval.

For further information concerning the plans and reports, please contact the Environmental Cleanup Program Manager in the DEP Regional Office under which the notice of the plan or report appears. If information concerning a report is required in an alternative form, contact the Community Relations Coordinator at the appropriate Regional Office listed. TDD users may telephone the DEP through the Pennsylvania AT&T Relay Service at (800) 654-5984.

The DEP has received the following plans and reports:

*Southeast Region: Environmental Cleanup & Brownfields Program Manager, 2 East Main Street, Norristown, PA 19401.*

**Marcus Hook Ind Complex**, 23-14224, 100 Green Street, Marcus Hook Borough, **Delaware County**. Stantec, 1060 Andrew Drive, Suite 140, West Chester, PA 19380, on behalf of Sunoco Partners Marketing & Terminals L.P., Marcus Hook Industrial Complex, 100 Green Street, Marcus Hook, PA 19061, submitted a Remedial Action Completion Report concerning remediation of soil contaminated with sulfuric acid. The Remedial Action Completion Report demonstrated attainment of a site-specific standard and was approved by the DEP on August 29, 2019.

**Atomic Tire & Auto Svc**, 46-40637, Routes 202 & 63, Montgomery Township, **Montgomery County**. Penn E&R, Inc., 2755 Bergey Road, Hatfield, PA 19440, on behalf of Pro Real Venture, Dekalb Pike & Welsh Road, submitted a Remedial Action Completion Report concerning remediation of North Wales, PA 19454 concerning remediation of soil and groundwater contaminated with petroleum products. The report demonstrated attainment of residential Statewide health standards and was approved by the DEP on September 4, 2019.

**Chestnut Hill Mobil 51-43700**, 8019 Germantown Avenue, **City of Philadelphia**. Synergy Environmental Inc., 155 Railroad Plaza, 1st Floor, Royersford, PA 19468, on behalf of 5201 Oxford Ave., Phila. LLC, 645 Hamilton Ave, Allentown, PA 18101, P.O. Box 10655, Towson, MD 21285, submitted a Site Characterization Report Adden-

dum concerning remediation of soil and groundwater contaminated with petroleum products. The Site Characterization Report Addendum was acceptable to meet non-residential Statewide health standards and was approved by the DEP on September 4, 2019.

**Eagle Texaco**, 15-31315, 31 Pottstown Pike, Upper Uwchlan Township, **Chester County**. Liberty Environmental, Inc., 505 Penn Street, Suite 400, Reading, PA 19601, on behalf of Ramgin Holdings LP, 133 Barneston Rd., P.O. Box 486, Glenmoore, PA 19343, submitted a Remedial Action Completion Report concerning remediation of soil and groundwater contaminated with petroleum products. The Remedial Action Completion Report demonstrated attainment of site-specific standards and was approved by the DEP on September 5, 2019.

**Exxon Rs 2 1668, 46-06912**, Bethlehem & Sumneytown Pikes, Lower Gwynedd Township, **Montgomery County**. Penn E&R, Inc., 2755 Bergey Road, Hatfield, PA 19440, on behalf of Lower Gwynedd Township, 1130 N. Bethlehem Pike, P.O. Box 625, Spring House, PA 19477, submitted a Remedial Action Completion Report concerning remediation of soil and groundwater contaminated with petroleum products. The Remedial Action Completion Report did not demonstrate attainment of residential Statewide health standards and was disapproved by the DEP on September 4, 2019.

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

**Pump N Pantry 003**, Storage Tank ID # 58-13085, 493 Main Street, New Milford Borough, **Susquehanna County**. Resource Environmental Management, 50 Maple Street, Montrose, PA 18801, on behalf of Pump N Pantry Inc., 754 Grow Avenue, Montrose, PA submitted a Remedial Action Plan concerning remediation of soil and groundwater contaminated with gasoline and kerosene. The Remedial Action Plan was acceptable to meet Site-Specific Standards and was approved by DEP on September 3, 2019.

**Pilot Travel Center # 298**, Storage Tank ID # 40-51882, 1114 State Route 93, Sugarloaf Township, **Luzerne County**. Sovereign Consulting Inc., 359 Northgate Drive, Suite 400, Warrendale, PA 15086, on behalf of Pilot Travel Centers LLC, P.O. Box 10146, 5508 Lonas Drive, Knoxville, TN 37939, has submitted a revised Remedial Action Plan concerning remediation of soil and groundwater contaminated with gasoline. The Remedial Action Plan was acceptable to meet the Statewide Health Standards and was approved by DEP on September 6, 2019.

**Speedway # 6711**, Storage Tank ID # 39-23152, 1518 South Fourth Street, Allentown City, **Lehigh County**. EMS Environmental, 4550 Bath Pike, Bethlehem, PA 18017, on behalf of Speedway LLC, 500 Speedway Drive, Enon, OH 45323, submitted a Remedial Action Plan concerning remediation of soil and groundwater contaminated with petroleum. The plan is intended to document the remedial actions for meeting Site-Specific Standards.

**Benick's Service Station**, Storage Tank ID # 40-50096, 59 West Main Street, Newport Township, **Luzerne County**. MEA, 1365 Ackermanville Road, Bangor, PA 18013, on behalf of Walter Benick, submitted a Remedial Action Completion Report concerning remediation of soil and groundwater contaminated with gasoline. The report is intended to document remediation of the site to meet Statewide Health Standards.

**G&G Express Mart**, Storage Tank ID # 40-15488, 320 Wilkes-Barre Township Boulevard, Wilkes-Barre Township, **Luzerne County**. MEA Environmental Services, 1365 Ackermanville Road, Bangor, PA 18013, on behalf of GILBRO Realty, 1241 South Main Street, Scranton, PA 18504, submitted a Remedial Action Plan concerning remediation of soil and groundwater contaminated with gasoline. The Remedial Action Plan was acceptable to meet Statewide Health Standards and was approved by DEP on September 6, 2019.

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

**Rock's Service Center**, Storage Tank Facility ID # 28-22056, 11189 Buchanan Trail East, Waynesboro, PA 17268, Washington Township, **Franklin County**. Letterle & Associates, Inc., 2022 Axemann Road, Suite 201, Bellefonte, PA 16823 on behalf of Sharon Rock, 13749 Lower Edgemont Road, Waynesboro, PA 17268, submitted a Remedial Action Completion Report concerning remediation of soil and groundwater contaminated with petroleum constituents. The Remedial Action Completion Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on August 22, 2019.

**Rutter's Farm Store No. 7**, Storage Tank Primary Facility ID # 67-26952, 2251 North George Street, York, PA 17402, Manchester Township, **York County**. United Environmental Services, Inc., P.O. Box 701, Schuylkill Haven, PA 17972 on behalf of CHR Corporation, 2295 Susquehanna Trail, York, PA 17404 submitted a Remedial Action Plan concerning remediation of soil and groundwater contaminated with petroleum constituents. The report is intended to document remediation of the site to meet the Statewide Health Standard. The Remedial Action Plan was acceptable to meet the Statewide Health Standard and was approved by the Department on August 27, 2019.

**Sunoco Service Station**, Storage Tank Primary Facility ID # 36-60264, 1750 Oregon Pike, Lancaster, PA 17601-4204, Lancaster City, **Lancaster County**. Mulry and Cresswell Environmental, Inc., 1679 Horseshoe Pike, Glenmoore, PA 19343, on behalf of Evergreen Resources Group, LLC, 2 Righters Parkway, Suite 120, Wilmington, DE 19803 submitted a Remedial Action Completion Report Addendum concerning remediation of soil and groundwater contaminated with unleaded gasoline and kerosene short list constituents. The Remedial Action Completion Report Addendum did not demonstrate attainment of the Site-Specific Standard in soil or the Statewide Health Standard in groundwater and was disapproved by the Department on August 29, 2019.

**Schoellkopf Service Center**, Storage Tank Primary Facility ID # 06-05471, 2005 Penn Avenue, West Lawn, PA 19609, Spring Township, **Berks County**. Comstock Environmental Services, LLC, P.O. Box 509, Lafayette Hill, PA 19444, on behalf of MBC Rentals, LLC, 2005 Penn Avenue, West Lawn, PA 19609, submitted a Remedial Action Plan concerning remediation of soil and groundwater contaminated with petroleum constituents. The Remedial Action Plan was acceptable to meet the Statewide Health Standard and the Site-Specific Standard and was approved by the Department on September 6, 2019.

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

**Hermitage Self Serve Prima Store 5143** (Former Pennzoil 10 Minute Oil Change), Storage Tank Primary

Facility ID # 43-01191, 3229 State Street, Hermitage, **Mercer County**. Groundwater & Environmental Services, 301 Commerce Park Drive, Cranberry Township, PA 16066, on behalf of Shell Oil Products, 20945 S. Wilmington Avenue, Carson, CA 90810, submitted a Remedial Action Completion Report on June 10, 2019, concerning remediation of soil and groundwater contaminated with benzene, toluene, ethylbenzene, xylenes, cumene, naphthalene, methyl tertiary butyl ether. The Remedial Action Completion Report demonstrated attainment of the Site-Specific Standard and was approved by DEP on September 3, 2019.

**Ashland Branded Market 962 044**, Storage Tank Primary Facility ID # 10-08829, 264 Ekastown Road, Buffalo Township, **Butler County**. Antea Group, 10400 Blacklick Eastern Road, Suite 130, Pickerington, OH 43147, on behalf of Ashland, LLC, 500 Hercules Road, Wilmington, DE 19808 submitted a Remedial Action Plan concerning remediation of soil and groundwater contaminated with benzene, toluene, ethylbenzene, xylenes, methyl tert-butyl ether, cumene, and naphthalene. The Remedial Action Plan was not acceptable to meet the Statewide Health and Site-Specific Standards and was disapproved by DEP on September 3, 2019.

---

## SPECIAL NOTICES

---

### BENEFICIAL USE OF COAL ASH AS STRUCTURAL FILL

The following notice(s) is placed through the Department of Environmental Protection as required by 25 Pa. Code § 290.102.

**Proposal(s) to use coal ash as structural fill received under the Solid Waste Management Act (35 P.S. §§ 6018.101—6018.1003).**

*Northeast Region: Regional Solid Waste Manager, 2 Public Square, Wilkes-Barre, PA 18701-1915.*

**Natural Soil Products Compost Facility**, Frailey Township, **Schuylkill County**. Tully Environmental Inc. d/b/a Natural Soil Products (NSP) currently operates a compost facility under solid waste management permit 101628. NSP proposes to utilize coal ash from the Rausch Creek Generating Station for structural fill on 3.4 acres of their site. The coal ash will be used to bring the area up to grade and road access where a compost processing building will be constructed. The total quantity of ash to be placed is approximately 29,578 tons. Of the 3.4 acres, 2.539 acres will be paved with asphalt and have a compost processing building constructed over. The remaining 0.861 acre of side slopes will be covered with 12 inches of soil. The Department's Regional Office has determined the proposal is consistent with the requirements of 25 Pa. Code § 290.102.

Persons interested in obtaining more information about the proposal may contact Roger Bellas, Regional Waste Management Program Manager, Department of Environmental Protection, Northeast Regional Office, 2 Public Square, Wilkes-Barre, PA 18701-1915 at 570-826-2511. TDD users may contact the Department through the Pennsylvania AT&T Relay Service, (800) 654-5984.

### DRINKING WATER STATE REVOLVING FUND

**Special Notice Under the Federal Safe Drinking Water Act (SDWA); 42 U.S.C. 300f, et. seq.**

*Northeast Region: Safe Drinking Water Program Manager, 2 Public Square, Wilkes-Barre, PA 18701-1915.*

*Project Location:*

<i>Applicant</i>	<i>Applicant Address</i>	<i>County</i>
Twin Lakes Utilities, Inc. c/o Middlesex Water Company	485 C Route 1 South Suite 400 Iselin, NJ 08830	Milford & Shohola Township Pike County

*Project Description:* The Pennsylvania Infrastructure Investment Authority, which administers the Commonwealth's State Revolving Fund, is intended to be the funding source for this project. The project includes the replacement of the existing distribution system (4,000 LF of 4-inch HDPE main and 12,000 LF of 2-inch HDPE main); rehabilitation of the existing well and storage tank, if necessary; installation of a new 20,000 gallon storage tank; construction of a new well (PW # 3) and well station (with disinfection facilities) with 8,700 LF of new 3-inch and 4-inch HDPE transmission main from the well house to the new storage tank; installation of back-up generators; new meters and meter pit to be installed at each house connection (120); and system monitoring and security upgrades in Sagamore Estates, Milford and Shohola Townships, Pike County. The Department's review of the project and the information received in the Environmental Report for the project has not identified any significant, adverse environmental impact resulting from this proposal. The Department hereby approves the Environmental Assessment for the proposed project.

[Pa.B. Doc. No. 19-1424. Filed for public inspection September 20, 2019, 9:00 a.m.]

## DEPARTMENT OF HUMAN SERVICES

### Disproportionate Share and Supplemental Hospital Payments

The Department of Human Services (Department) is announcing its intent to allocate funds for Fiscal Year (FY) 2019-2020 inpatient disproportionate share hospital (DSH) payments to qualifying inpatient acute care general, psychiatric and rehabilitation hospitals and qualifying psychiatric and rehabilitation units of acute care general hospitals, outpatient supplemental payments to qualifying inpatient acute care general hospitals, direct medical education payments to qualifying inpatient acute care general hospitals and certain DSH and supplemental payments to new hospitals.

The Department also intends to clarify in the State Plan the payment methodology for new hospitals eligible for Medical Assistance (MA) Dependency supplemental payments, as follows, to make the language consistent with the provisions for hospitals for which the Department has a FY 2014-2015 MA-336 Hospital Cost Report as of July 2017.

The Department is not otherwise changing the State Plan provisions addressing the qualifying criteria or payment methodology for these payments. All payment limitations are applicable, including those limitations that the Commonwealth may not exceed its aggregate annual DSH allotment, and that no hospital may receive DSH payments in excess of its hospital-specific limit.

#### *New Hospital MA Dependency Payments*

For the MA Dependency Payment, the Department annualizes each new hospital's data for its initial fiscal year of enrollment to determine if the new hospital qualifies for this payment in accordance with the qualifying criteria for the payment as provided in the State Plan. For qualifying new hospitals enrolled as acute care general hospitals for which the Department does not have a FY 2014-15 MA-336 Hospital Cost Report as of July 2017, the Department will determine the payment amount for the first full fiscal year of enrollment by multiplying the number of Pennsylvania (PA) MA fee-for-services (FFS) acute care inpatient days that were provided by the new hospital during its initial FY of enrollment by either:

I. \$850 for qualifying hospitals with greater than 50,000 PA MA (FFS and managed care) acute care inpatient days during its initial FY of enrollment as provided by the new hospital.

II. \$370 for other qualifying new hospitals.

III. New hospitals for which the Department has a FY 2014-15 MA-336 Hospital Cost Report as of July 2017 will not qualify for the MA Dependency payment as a new hospital.

#### *Fiscal Impact*

The FY 2019-2020 impact, as a result of the funding allocation for these payments, is \$258.953 million (\$112.150 million in State general funds and \$146.803 million in Federal funds) upon approval by the Centers for Medicare & Medicaid Services.

#### *Public Comment*

Interested persons are invited to submit written comments regarding this notice to the Department of Human

Services, Office of Medical Assistance Programs, c/o Regulations Coordinator, Room 515, Health and Welfare Building, Harrisburg, PA 17120. The Department will review and consider comments received within 30 days in determining the final payment methodology for these payments.

Persons with a disability who require an auxiliary aid or service may submit comments using the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

TERESA D. MILLER,  
*Secretary*

**Fiscal Note:** 14-NOT-1366. (1) General Fund; (2) Implementing Year 2019-20 is \$112,150,000; (3) 1st Succeeding Year 2020-21 through 5th Succeeding Year 2024-25 are \$0; (4) 2018-19 Program—\$342,544,000; 2017-18 Program—\$477,690,000; 2016-17 Program—\$450,970,000; (7) MA—Fee-for-Service; (8) recommends adoption. Funds have been included in the budget to cover this increase.

[Pa.B. Doc. No. 19-1425. Filed for public inspection September 20, 2019, 9:00 a.m.]

## DEPARTMENT OF REVENUE

### Pennsylvania Derby Cash Horse Racing Xpress Sports Game Terminal-Based Lottery Game

Under the State Lottery Law (72 P.S. §§ 3761-101—3761-314) and 61 Pa. Code § 875.4 (relating to notice of terminal-based lottery game rules), the Secretary of Revenue hereby provides public notice of the rules for the following terminal-based lottery game:

1. *Name:* The name of the terminal-based Xpress Sports game is Pennsylvania Derby Cash Horse Racing (hereinafter "Derby Cash"). The game will commence at the discretion of the Secretary and will continue until the Secretary publicly announces a suspension or termination date.

2. *Effective date:* Effective for ticket sales occurring on or after September 24, 2019, the Derby Cash game will be operated in accordance with the terminal-based lottery game regulations at 61 Pa. Code §§ 875.1—875.17 and this game notice will continue until the Secretary publicly announces a suspension or termination date.

3. *Price:* The price of a Derby Cash ticket is based on the amount a player wagers for the selected play on the ticket. The minimum wager is \$1 per ticket. Players can wager up to \$20 per play, per drawing. A ticket may include more than one play.

(a) *Win, Place and Show:* To determine the cost of a ticket for a Win, Place or Show play type, the player shall multiply the wager amount times the number of consecutive races selected and the number of horses selected. For example, if the player wagers \$1 on the Win play type, selects two consecutive races and selects the number 1, 2 and 3 horses, then the total cost of the wager is \$6.

(b) *Quinella:* To determine the cost of a ticket for the Quinella play type, the player shall multiply the wager amount times the number of consecutive races selected. For example, if the player wagers \$1 and selects two consecutive races, the total cost of the wager is \$2.

(c) *Exacta, Trifecta and Superfecta:* To determine the cost of a ticket for an Exacta, Trifecta or Superfecta play

type, the player shall multiply the wager amount times the number of consecutive races selected. For example, if the player wagers \$1 on the Trifecta play type and selects two consecutive races, the total cost of the wager is \$2.

(d) *Exacta Box or Wheel, Trifecta Box or Wheel and Superfecta Box or Wheel*: To determine the cost of a ticket for an Exacta, Trifecta or Superfecta Box or Wheel play types, the player shall multiply the wager amount times the number of consecutive races and the number of all possible horse combinations for the play type selected.

(i) *Example 1*: If the player selects an Exacta Box play type, wagers \$1, selects two consecutive races and selects the 1 and 2 horses (with possible outcomes of 1-2 and 2-1), the total cost of the wager is \$4. If the player selects the same wager, but selects the 1, 2 and 3 horses (with six possible outcomes of 1-2, 2-1, 1-3, 3-1, 2-3 and 3-2) and the total cost of the wager is \$12.

(ii) *Example 2*: If the player selects a Trifecta Box play type, wagers \$0.50, selects two consecutive races and selects the 1, 2 and 3 horses (with six possible outcomes of 1-2-3, 1-3-2, 2-1-3, 2-3-1, 3-1-2 and 3-2-1) the total cost of the wager is \$6. If the player selects the same play type and wager amount, but selects four consecutive races and selects the 1, 2, 3 and 4 horses (for which there are 24 possible combinations) and the total cost of the wager is \$48.

(iii) *Example 3*: If the player selects a Superfecta Box play type, wagers \$0.10, selects two consecutive races and selects the 1, 2, 3 and 4 horses (for which there are 24 possible combinations) the total cost of the wager is \$4.80. If the player selects the same wager, but selects the 1, 2, 3, 4 and 5 horses (for which there are 120 possible combinations) the total cost of the wager is \$24.

#### 4. Description of the Derby Cash lottery game:

(a) Derby Cash is designed to give players the opportunity to win one prize for each played combination.

(b) For each Derby Cash play, the player must choose at least one outcome on which to wager.

(c) With the exception of a Superfecta Box, the minimum cost of a single play is \$1. The minimum cost of a Superfecta Box is \$2.40.

(d) Each Derby Cash drawing, also referred to as a "Race," is a simulation of a horse race featuring 12 horses and their jockeys where, depending on the selected wager, the horses finishing in 1st, 2nd, 3rd, or 4th place, or certain combinations thereof, may award the player a prize.

(1) The names of the horses in each race will be randomly selected from a selection of 456 horses. The horses in each race shall have an associated saddle cloth color and number, from 1 through 12, as follows:

(i) Horse 1 shall have a red saddle cloth with a white number 1.

(ii) Horse 2 shall have a white saddle cloth with a black number 2.

(iii) Horse 3 shall have a blue saddle cloth with a white number 3.

(iv) Horse 4 shall have a yellow saddle cloth with a black number 4.

(v) Horse 5 shall have a green saddle cloth with a white number 5.

(vi) Horse 6 shall have a black saddle cloth with a yellow number 6.

(vii) Horse 7 shall have an orange saddle cloth with a black number 7.

(viii) Horse 8 shall have a pink saddle cloth with a black number 8.

(ix) Horse 9 shall have a turquoise saddle cloth with a black number 9.

(x) Horse 10 shall have a purple saddle cloth with a white number 10.

(xi) Horse 11 shall have a gray saddle cloth with a red number 11.

(xii) Horse 12 shall have a lime saddle cloth with a black number 12.

(2) The jockeys in each race shall be randomly assigned to the horses in each race and shall be randomly assigned a jersey silk color. All selections are performed by the Lottery Central Computer prior to the establishment of each day's drawings.

(3) The horse names, jockeys and jockey silks selected for each drawing are chosen at random by the Lottery and the information for each day's drawings will be posted to the Lottery's publicly accessible web site prior to that day's drawings. A copy of the same will also be kept on file with the Lottery and will be available upon request.

(4) The numbers displayed on the saddle cloth of the horses that finish in 1st, 2nd, 3rd and 4th place in each individual race determine the prizes, identified in section 7 (relating to determination of prize winners and prizes available to be won) and the odds for each specific drawing, identified in section 8 (probability of winning).

(5) The player may select the Derby Cash Multiplier option when wagering. Players who select the Derby Cash Multiplier option and who win a Derby Cash drawing prize will have the prize multiplied by a randomly determined amount. The multiplier may be: 2X; 3X; 4X; 5X; or 10X.

(6) Each drawing is independent of all other drawings and any prior drawings are not determinative of the outcome of any subsequent drawing.

(e) Derby Cash game tickets may be purchased from an authorized retailer or at a Lottery self-service terminal.

(1) To purchase a ticket at an authorized retailer, a player may remit the purchase price and submit a completed Derby Cash bet slip to the authorized retailer. Alternatively, a player may make their horse number selections or request the Quick Pick option, choose the type of play, select the number of consecutive drawings for which the horse number selection should be entered, and select the play amount by verbally relaying the same to an authorized retailer.

(2) To purchase a ticket at a Pennsylvania Lottery self-service terminal, the player may insert into the self-service terminal a dollar amount equal to the total purchase price and a completed Derby Cash bet slip. Alternatively, a player may make their horse number selections or request the Quick Pick option, choose the type of play, select the number of consecutive drawings for which the horse number selection should be entered, and select the play amount by manually entering the information into the Lottery self-service terminal.

(f) The possible play types are as follows:

(1) *Win*: A player wagers that the selected horse or horses will finish in 1st place;

(2) *Place*: A player wagers that the selected horse or horses will finish in 1st or 2nd place;

(3) *Show*: A player wagers that the selected horse or horses will finish in 1st, 2nd, or 3rd place;

(4) *Quinella*: A player wagers that the selected horses will finish in 1st and 2nd place, in any order;

(5) *Exacta*: A player wagers that the selected horses will finish in 1st and 2nd place, in exact order;

(6) *Exacta Box*: A player wagers that a combination of the selected horses will finish in 1st and 2nd place, in any order;

(7) *Exacta Wheel*: A player wagers that a combination of two of the selected horses will finish in 1st and 2nd place;

(8) *Trifecta*: A player wagers that the selected horses will finish in 1st, 2nd and 3rd place, in exact order;

(9) *Trifecta Box*: A player wagers that a combination of the selected horses will finish in 1st, 2nd and 3rd place, in any order;

(10) *Trifecta Wheel*: A player wagers that a combination of three of the selected horses will finish in 1st, 2nd and 3rd place;

(11) *Superfecta*: A player wagers that the selected horses will finish in 1st, 2nd, 3rd and 4th place, in exact order;

(12) *Superfecta Box*: A player wagers that a combination of the selected horses will finish in 1st, 2nd, 3rd and 4th place, in any order;

(13) *Superfecta Wheel*: A player wagers that a combination of four of the selected horses will finish in 1st, 2nd, 3rd and 4th place.

(g) Players can win a prize identified in section 7 (relating to determination of prize winners and prizes available to be won).

(h) A player may purchase plays for up to 20 consecutive drawings in advance.

(i) A Derby Cash ticket may not be canceled or voided once printed by the Lottery terminal, even if printed in error.

#### 5. *Derby Cash bet slip and ticket characteristics:*

##### (a) *Derby Cash bet slip:*

(1) A Derby Cash bet slip is an optically readable card issued by the Pennsylvania Lottery that a player may use to make play selections. When using a Derby Cash bet slip, the player shall make selections in each of the following: the amount to play per race (Section 1 of the bet slip); the number of consecutive Derby Cash drawings on which to wager (Section 2 of the bet slip); one of the available play types (Section 3 of the bet slip); and the number of horses upon which to wager, based on the play type selected (Section 4 of the bet slip).

(i) The amount per play for each outcome consists of the following options: \$0.10, \$0.50, \$1, \$2, \$3, \$4, \$5, \$10, or \$20. The amount selected depends on the play type selected by the player. The \$0.10 wager amount is only available for Superfecta Box or Wheel play types. The \$0.50 wager amount is only available for the Exacta, Trifecta and Superfecta Box or Wheel play types.

(ii) The number of consecutive drawings that can be selected are 1, 2, 3, 4, 5, 10 and 20.

(iii) The following play types can be selected on the bet slip: Win, Place, Show, Quinella, Exacta, Trifecta,

Superfecta, Exacta Box, Trifecta Box and Superfecta Box. A player may also enable a Wheel bet by selecting additional horses in the horse selection boxes, as further described below in section 5(a)(2). The player may only select one play type on a bet slip. The play types are further described above in section 4(f).

(iv) The player may select multiple combinations of horses on which to wager by selecting the horse number in Rows A, B, C and D on the bet slip. Horses must be selected in Rows A, B, C and D based on the play type selected and as further described above in section 5(a)(2). The cost of each play increases as additional horse selections are made.

(2) Play types can be played as follows:

(i) *Win*: The player must select the Win play type in Section 3 of the bet slip and must select one or more horses in Row A on the bet slip.

(ii) *Place*: The player must select the Place play type in Section 3 of the bet slip and must select one or more horses in Row A on the bet slip.

(iii) *Show*: The player must select the Show play type in Section 3 of the bet slip and must select one or more horses in Row A on the bet slip.

(iv) *Quinella*: The player must select the Quinella play type in Section 3 of the bet slip and must select one horse in Rows A and B on the bet slip. An invalid bet will be created if the player does not select exactly two horses, with one horse in Row A and one horse in Row B.

(v) *Exacta*: The player must select the Exacta play type in Section 3 of the bet slip and must select one horse each in Rows A and B on the bet slip.

(vi) *Exacta Box*: The player must select the Exacta Box play type in Section 3 of the bet slip and must select two or more horses in Row A on the bet slip. An invalid bet will be created if the player does not select at least two horses in Row A.

(vii) *Exacta Wheel*: The player must select the Exacta play type in Section 3 of the bet slip and must select one or more horses in each of Rows A and B of the bet slip. If the player selects only one horse each in Rows A and B, the player will be credited with an Exacta play type and not the Exacta Wheel play type.

(viii) *Trifecta*: The player must select the Trifecta play type in Section 3 of the bet slip and must select one horse each in Rows A, B and C on the bet slip.

(ix) *Trifecta Box*: The player must select the Trifecta Box play type in Section 3 of the bet slip and must select three or more horses in Row A on the bet slip. An invalid bet will be created if the player does not select at least three horses in Row A.

(x) *Trifecta Wheel*: The player must select the Trifecta play type in Section 3 of the bet slip and must select one or more horses in each of Rows A, B and C of the bet slip. If the player selects only one horse each in Rows A, B and C, the player will be credited with a Trifecta play type and not the Trifecta Wheel play type.

(xi) *Superfecta*: The player must select the Superfecta play type in Section 3 of the bet slip and must select one horse each in Rows A, B, C and D on the bet slip.

(xii) *Superfecta Box*: The player must select the Superfecta Box play type in Section 3 of the bet slip and must select four or more horses in Row A of the bet slip. An invalid bet will be created if the player does not select at least four horses in Row A.

(xiii) *Superfecta Wheel*: The player must select the Superfecta play type in Section 3 of the bet slip and must select one or more horses in each of Rows A, B, C and D of the bet slip. If the player selects only one horse each in Rows A, B, C and D, the player will be credited with a Superfecta play type and not the Superfecta Wheel play type.

(3) Derby Cash bet slips shall be available at no cost to the player.

(4) Plays shall be selected in accordance with the instructions printed on the Derby Cash bet slip.

(5) A Derby Cash bet slip has no pecuniary or prize value and does not constitute evidence of the purchase of a ticket or the numbers selected and may not be used to claim a prize.

(6) A Derby Cash bet slip must be completed manually. The use of mechanical, electronic, computer generated or any other non-manual method of marking bet slips is prohibited.

(7) A player may choose to have their horse selection or selections made using the Quick Pick option by marking the box for Quick Pick on the bet slip for the play type selected. The Quick Pick option is not available for Wheel play types.

(8) Invalid wagers will not be honored on a bet slip. If a bet slip contains an invalid wager and a valid wager, only the valid wager will be honored and the player will only be responsible for paying the valid wager amount.

(b) *Derby Cash tickets*:

(1) A Derby Cash ticket shall contain the date the ticket was purchased, the play type selected, the horse number selections, the number of consecutive drawings and the corresponding drawing number (also referred to as a "Draw ID"), range selected, the number of options selected by Quick Pick, the cost of the play, the total cost of the ticket, the designation of the type of play and validation data.

(2) A Derby Cash ticket shall be the only valid proof of the play or plays purchased and is the only valid receipt for claiming a prize.

(3) A Derby Cash ticket shall only be valid for the Draw ID or range of Draw IDs printed on the ticket.

(4) A separate Derby Cash ticket shall be issued for each bet slip submitted and purchase price remitted.

6. *Time, place and manner of conducting drawings*:

(a) *Time of drawing*: Derby Cash drawings are high frequency drawings occurring multiple times per day. Derby Cash drawings will be held as determined and publicly announced by the Secretary.

(b) *Place and manner of conducting drawings*: Derby Cash drawings will be conducted by the Lottery Central Computer System. The Lottery Central Computer System will select, at random, one race outcome per drawing. The race outcome selected will determine the horses finishing in 1st, 2nd, 3rd and 4th place for each individual drawing. The validity of a drawing will be determined solely by the Lottery.

7. *Determination of prize winners and prizes available to be won*:

(a) *Determination of Prize Winners*:

(1) Holders of tickets upon which the player's selected horses match the race outcome selected by the Lottery, for

the play type selected by the player, shall be the winner of a prize, as described in section 7(b) (relating to prizes available to be won).

(2) The prizes for each drawing are based on a single prize table for each play type.

(3) The winning outcome for each drawing will be posted to the Lottery's publicly accessible web site and will be displayed visually at retail locations with monitors that display the drawings.

(b) *Prizes available to be won*:

(1) The prizes available to be won for Derby Cash will range from \$1.25 to \$800,000 per each \$1 played, and vary based on the specific player wager selections for each individual drawing.

(2) A prize table for each play type will be available for each drawing, will be posted on the Lottery's publicly accessible web site and will be displayed visually before and after each drawing at retail locations with monitors that display the drawings.

(3) The prize table for each play type is based on a \$1 play. To determine the prize for a winning ticket, the player must multiply the prize amount in the prize table by the player's bet.

(c) *Derby Cash liability cap*:

(1) The maximum liability for any Derby Cash drawing shall be \$24,000,000 for each play type including the application of any Derby Cash Multiplier. When any combination for any play type sold for a single drawing reaches a potential payout liability of \$24,000,000, upon application of the maximum possible Derby Cash Multiplier (for example, 10X), those play combinations shall be closed for that drawing.

(2) If this liability cap is reached in the payment of more than one prize, the prizes shall be paid on a pari-mutuel basis.

(3) To determine the amount of the pari-mutuel prizes, the \$24,000,000 shall be split into equal shares, for each \$1 played, and shall be rounded down to the nearest \$0.50.

(d) The number of prize categories and the allocation of prize money among the prize categories may be changed at the discretion of the Secretary and changes will be announced by public notice. Any such changes will apply prospectively to Derby Cash drawings as of the date specified in the public notice.

8. *Probability of winning*:

(a) The prize tables for all possible ways that a prize can be won for a single play, the corresponding prize won and the odds of winning a prize in a drawing can be found on the Lottery's publicly accessible web site at: <https://www.palottery.state.pa.us/Xpress/Derby-Cash/Prizes-Chances.aspx>.

9. *Derby Cash Multiplier option*:

(a) The Derby Cash Multiplier option shall be available in association with the Derby Cash game and will continue until the Secretary publicly announces a suspension or termination thereof. Players may purchase the Derby Cash Multiplier option for the chance to multiply prizes won as the result of a base Derby Cash drawing by two, three, four, five or 10 times. The Secretary may, on occasion, announce as a special promotion, multipliers greater than 10 or other changes to features of the Derby Cash Multiplier option.



(b) At the time of purchasing a Derby Cash ticket from a Lottery retailer, a player may choose the Derby Cash Multiplier option by marking the “YES” box for the Derby Cash Multiplier on the bet slip. The Derby Cash Multiplier option may be exercised, at the discretion of the player, by paying two times the amount played on the base Derby Cash play. For example, if the player purchases a \$2 base Derby Cash play, the Derby Cash Multiplier will cost \$4, for a total purchase price of \$6.

(c) Prior to each Derby Cash drawing, the Derby Cash Multiplier drawing will occur, which shall result in the selection of the Derby Cash Multiplier number.

(d) Derby Cash tickets that contain the Derby Cash Multiplier option and one or more plays eligible for prizes, as described in section 7 (relating to determination of prize winners and prizes available to be won), shall be entitled to a total prize calculated by multiplying the base Derby Cash prize won by the Derby Cash Multiplier value selected for the drawing in which the ticket was entered.

(e) The odds of a Derby Cash Multiplier number being selected in a Derby Cash Multiplier drawing are:

<i>Derby Cash Multiplier Value</i>	<i>Odds Of Occurring Per Play Are 1 In:</i>
2X	2
3X	5
4X	5.56
5X	11.11
10X	33.33

10. *Retailer Incentive and Marketing Promotion programs:*

(a) The Lottery may conduct a separate retailer incentive program for retailers who sell Derby Cash tickets. The conduct of the program will be governed by 61 Pa. Code § 811.41 (relating to promotional prizes).

(b) The Pennsylvania Lottery may conduct promotional drawings associated with the Derby Cash game. The Derby Cash tickets will be imprinted with a unique code to be used by players to enter the promotional drawings. The promotional drawings may be held independently of or in conjunction with the regular Derby Cash drawings. The Secretary will announce the existence of the promotional drawings. Winners of promotional drawings will be randomly selected from the group of qualified entries. A description of the available prize or prizes and the specific rules and other information necessary for the conduct of the promotional drawings will be posted to the Lottery’s publicly accessible web site. A copy of this description will also be kept on file with the Lottery and is available upon request.

(c) The Pennsylvania Lottery may conduct promotional payouts associated with the Derby Cash game. The Derby Cash tickets will be imprinted with a promotional message used to alert the player holding the ticket of the promotional opportunity. The Secretary will announce the existence of the promotional payouts. A description of the available promotional prize payouts and the specific rules and other information necessary for the conduct of the promotional payouts will be posted to the Lottery’s pub-

licly accessible web site. A copy of this description will also be kept on file with the Lottery and is available upon request.

(d) The Pennsylvania Lottery may conduct promotional activities to promote the sale of the Derby Cash game, including offering tickets at a discounted price. Details of any such offering will be disseminated through media used to advertise or promote Derby Cash or through normal communications methods.

11. *Unclaimed prize money:* For a period of 1 year from the date in which a prize is won, prize money from winning Derby Cash game tickets will be retained by the Secretary for payment to the persons entitled thereto. If no claim is made within 1 year of the date on which the prize is won, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

12. *Governing law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law (72 P.S. §§ 3761-101—3761-314), 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

C. DANIEL HASSELL,  
*Secretary*

[Pa.B. Doc. No. 19-1426. Filed for public inspection September 20, 2019, 9:00 a.m.]

**DEPARTMENT OF  
TRANSPORTATION**

**Multimodal Transportation Fund; Invitation to Submit Applications**

The Department of Transportation (Department) is providing notice to eligible applicants that it will begin accepting Multimodal Transportation Fund (MTF) applications for grants on September 9, 2019, under 74 Pa.C.S. § 2104 (relating to use of money in fund), which establishes a competitive grant program for the MTF. The deadline for application submittal is November 8, 2019.

Additional information, guidelines and frequently asked questions about the MTF Program can be obtained on the Department’s web site at [www.penndot.gov](http://www.penndot.gov) (select “Projects & Programs,” then “Multimodal Program”).

Applications should be submitted electronically through the Department’s SharePoint site at <https://spportal.dot.pa.gov/Planning/AppReg/MTF/Pages/default.aspx>.

Questions related to the MTF Program may be directed to David Bratina, PennDOT Office of Multimodal Transportation, 400 North Street, 8th Floor, Harrisburg, PA 17120, (717) 705-1230, RA-PDMultimodalFund@pa.gov.

LESLIE S. RICHARDS,  
*Secretary*

[Pa.B. Doc. No. 19-1427. Filed for public inspection September 20, 2019, 9:00 a.m.]

# INDEPENDENT REGULATORY REVIEW COMMISSION

## Notice of Comments Issued

Section 5(g) of the Regulatory Review Act (71 P.S. § 745.5(g)) provides that the Independent Regulatory Review Commission (Commission) may issue comments within 30 days of the close of the public comment period. The Commission comments are based upon the criteria contained in section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b).

The Commission has issued comments on the following proposed regulations. 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>
125-223	Pennsylvania Gaming Control Board Table Game Rules of Play; Over/Under, DJ Wild Stud Poker, Face Up Pai Gow Poker 49 Pa.B. 3609 (July 13, 2019)	8/12/19	9/11/19
47-18	Milk Marketing Board Transactions Between Dealers and Producers; Termination of Dealer-Producer Contract 49 Pa.B. 3606 (July 13, 2019)	8/12/19	9/11/19

### **Pennsylvania Gaming Control Board Regulation # 125-223 (IRRC # 3239)**

#### **Over/Under, DJ Wild Stud Poker, Face Up Pai Gow Poker**

**September 11, 2019**

We submit for your consideration the following comments on the proposed rulemaking published in the July 13, 2019 *Pennsylvania Bulletin*. Our comments are based on criteria in Section 5.2 of the Regulatory Review Act (RRA) (71 P.S. § 745.5b). Section 5.1(a) of the RRA (71 P.S. § 745.5a(a)) directs the Pennsylvania Gaming Control Board (Board) to respond to all comments received from us or any other source.

#### **1. Conforms to the intention of the General Assembly.**

Section 5.2 of the RRA (71 P.S. § 745.5b) directs this Commission to determine whether a regulation is in the public interest. When making this determination, the Commission considers criteria such as economic or fiscal impact and reasonableness. To make that determination, the Commission must analyze the text of the proposed regulation and the reasons for the new or amended language. The Commission also considers the information a promulgating agency is required to provide under Section 5 of the RRA in the Regulatory Analysis Form (RAF) (71 P.S. § 745.5(a)).

In the Preamble and RAF submitted with the final-form regulation, we ask the Board to provide more detailed information related to the proposed games as required under § 745.5(a) of the RRA. Specifically, we note that several of the Board's responses to the RAF include references to requirements that must be met prior to offering the games. Historically, the Board has offered games as temporary regulations issued under Statements of Policy. Are the proposed games currently in use by licensees? If so, when were the temporary regulations approved? We ask the Board to attach a copy of the order that the Board issued in adopting the temporary regulations with submission of the final regulation.

#### **2. Section 686a.2. Over/Under table; physical characteristics; inspections.—Clarity.**

Subparagraph (b)(4)(i) states that “all bets pay even money except for *Bonus Bets*.” (Emphasis added.) We ask the Board to replace “Bonus Bets” with the defined term “Bonus Wager” in the final regulation.

#### **3. Section 686a.5. Shuffle and cut of the cards.—Clarity.**

Subsection (g) states in part that if there is *no gaming activity* at an Over/Under table, the cards shall be spread out on the table “face down unless a *player* requests that the cards be spread face up on the table.” (Emphasis added.) Since this Subsection presupposes that there is no gaming activity at the table, that would mean that there are no players at the table to make a request. We ask the Board to delete this phrase.

This comment also applies to Sections 687a.5(f) (relating to shuffle and cut of the cards) and 688a.5(g) (relating to shuffle and cut of the cards; procedures for determining the starting position for dealing cards).

#### **4. Section 687a.8. Procedure for dealing the cards from a manual dealing shoe.—Clarity.**

Subsection (i) references 52 cards; however, Section 687a.3 (relating to cards; number of decks) states that the game shall be played with 53 cards. We ask the Board to correct this in the final regulation.

#### **5. Section 688a.1. Definitions.—Clarity; Reasonableness.**

The Board defines and references throughout the Section an Ace High Pai Gow; however, the term Pai Gow is not defined. We ask the Board to define “Pai Gow” in the final regulation.

Additionally, the Board defines “qualifying wager” as a wager “of at least \$5.” Did the Board consider permitting licensees to set the minimum wager? We ask the Board to amend the final regulation to permit licensees to set the minimum wager or to explain why it is reasonable for the Board to set the minimum.

## 6. Section 688a.13. Irregularities; invalid roll of dice.—Clarity.

Subsection (d) addresses what can happen in a situation where a dealer exposes any of the cards dealt to a player. In such a situation, the player may void the hand. Subsection (i) addresses a situation where the dealer exposes any cards. In this situation, all wagers shall be returned to the players and the cards reshuffled. Since Subsection (d) provides flexibility as to whether play continues but Subsection (i) requires the end of play, these two sections seem to be inconsistent. We ask the Board to clarify the final regulation related to this type of irregularity.

## 7. Miscellaneous clarity.

The Board did not respond to Question # 27 on the RAF related to regulatory flexibility for small businesses. We ask the Board to provide a response to Question # 27 on the RAF of the final regulation.

### Milk Marketing Board Regulation # 47-18 (IRRC # 3240)

#### Transactions Between Dealers and Producers; Termination of Dealer-Producer Contract

September 11, 2019

We submit for your consideration the following comments on the proposed rulemaking published in the July 13, 2019 *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)) (RRA) directs the Milk Marketing Board (Board) to respond to all comments received from us or any other source.

#### 1. Determining whether the regulation is in the public interest.

Section 5.2 of the RRA (71 P.S. § 745.5b) directs this Commission to determine whether a regulation is in the public interest. When making this determination, the Commission considers criteria such as economic or fiscal impact and reasonableness. The Commission must analyze the text of the proposed rulemaking and the reasons for the new or amended language. The Commission also considers the information a promulgating agency is required to provide under § 745.5(a) of the RRA in the Regulatory Analysis Form (RAF).

The explanation of the regulation in the Preamble and the information contained in the RAF are not sufficient to allow the Commission to determine if the regulation is in the public interest. We note the following examples:

- Section 143.31(a) increases the notice period that is required to terminate a dealer producer purchasing agreement and requires dealers to provide reasons for termination. It also addresses when payment is to be made to the producer whose contract has been terminated. However, the description in the Preamble only reports on the required notice period;

- The explanation of Section 143.31(c) includes a lengthy rationale for utilizing the O-score, but does not address the notification requirements or the definition of “necessary documentation;” and

- The Preamble explains why Section 143.31(k) is needed but does not describe the requirements of the subsection.

The Board should also address the following issues in the RAF:

- In RAF # 10, the Board provides an in-depth and cogent rationale for increasing the notice to producers to 90 days. However, Section 143.31(a) also increases the notice period of termination given to a dealer by a producer to 90 days, but the Board does not provide any rationale for the need for that increase. The Board should explain the need for this provision in the RAF and Preamble to the final regulation.

The Board also provides a detailed explanation and rationale for the exceptions to the 90-day notice period that dealers can claim under Sections 143.31(c), (d), (e) and (g). However, those provisions apply only to the notice dealers must give to producers. The Board does not provide any rationale for not providing any exceptions for the longer notice period producers are required to provide to dealers. The Board should either allow the producer to also petition for a shorter notice period or provide its rationale for not permitting any exceptions to the producer’s required notice period to the dealer.

The proposal carries over existing language that requires the dealer to specify in the notice to a producer the reasons for termination. However, the Board does not require a producer that wishes to terminate its agreement with a dealer to provide reasons for the termination. The Board should explain why it is unnecessary for producers to provide this type of information to dealers.

- In RAF # 25, the Board is asked to identify provisions of the proposal that have been developed to meet the particular needs of affected groups. The Board’s response includes summaries of Subsections (c), (d), (e), (f) and (g) as special provisions to mitigate adverse impacts on both dealers and farmers. There is ample discussion in the RAF regarding the impact of the notification provisions in Subsections (c), (d) and (e) for the various situations that milk dealers may encounter. However, there is not sufficient information for Subsection (f) which permits a milk dealer to report the value of a charitable donation to the Board as an authorized contribution. The Board should explain in greater detail how the charitable donation provision will be implemented and the benefits expected to milk dealers.

In the Preamble and RAF submitted with the final-form rulemaking, the Board should provide information required under Section 5 of the RRA (71 P.S. § 745.5(a)), including complete descriptions of amendments and responses to RAF questions that incorporate all aspects of the proposal.

#### 2. Possible conflict with or duplication of statutes or existing regulations.

The Pennsylvania Association of Milk Dealers (PAMD) asserts that the proposed timeline for notice of termination of a contract conflicts with the Milk Marketing Law (Act) definition of “reasonable advance notice.” PAMD believes Section 404 of the Act limits the Board to establishing a notice requirement for purposes of terminating an ongoing relationship without a notice provision in a contract to not less than 14 days nor more than 45 days. 31 P.S. § 700j-404. The Board should explain how its proposal to extend the current 28-day notice to a 90-day notice is consistent with the Act.

**3. Section 143.31. Written notice required. Clarity and lack of ambiguity; Reasonableness of requirements, implementation procedures and timetables; and Fiscal impacts of the regulation.**

*New Subsection (a)*

The Board proposes to increase the required notice period to terminate a dealer-producer purchasing agreement from 28 days to 90 days. This new subsection requires that at least a 90-day written notice must be given before termination. The period of notice begins when the producer or dealer receives the notice. Since the period of notice officially begins upon receipt of the written notice, the regulation should require the notice to be provided by registered mail or certified mail with return receipt. The Board should specify in the annex of the final-form regulation how that written notice will be sent and receipt verified. Likewise, the Board should clarify how it will notify the dealer and affected producers in the following sections: 143.31(c), 143.31(e)(5), 143.31(f) and 143.31(g)(8).

The regulation currently requires the dealer to pay the producer in full by the 20th day of the “following month.” The proposed language does not change that provision. With the current 28-day notice period, the “following month” is not subject to any interpretation. However, with the proposed extension to a 90-day notice period, it is unclear whether the “following month” is the month following actual termination or the month following the notice of termination. The Board should clarify that the “following month” is the month following the actual termination and not the month following the notice of termination.

This subsection requires that if a dealer petitions for a shorter notice period, the notice to the producer must inform the producer that the dealer is petitioning for the shorter notice period. Is it the intent of the Board for the dealer to petition the Board and notify the producer on the same day? The Board should clarify in the Preamble to the final rulemaking how this provision will be implemented. If it is the goal of the Board to have the dealer notify simultaneously the producer and the Board, it should be clearly stated in annex of the final regulation.

*New Subsections (c)*

This subsection allows a dealer to terminate a contract or purchasing agreement or ordinary continuance of a previous course of dealing with a producer by giving a 28-day notice if the dealer is in financial distress. Financial distress is determined using the Ohlson O-score. The Board is to compute and review the O-score within 10 business days of receiving the necessary documentation from a dealer.

How did the Board determine that 10 business days is an appropriate period of time to perform the activities required under this subsection and in Sections 143.31(e)(5), 143.31(f) and 143.31(g)(8)? Given the possibility that a dealer may have to purchase producer milk for up to 10–14 days longer than is currently required, the Board should explain the reasonableness of the time period for review and notification.

The Board does not explicitly provide that a dealer is required to petition the Board to utilize the exceptions in this subsection or Sections 143.31(d), (e) and (g). We suggest the Board revise the last sentence of Section 143.31(a) to read: “If a dealer petitions for a shorter notice period UNDER CLAUSES (c), (d), (e) and (g). . . .” These subsections should also be revised to state that the Board is notifying the dealer and affected producers of its

decision to either approve or disapprove a dealer’s petition to waive the longer notice period.

*New Subsection (e) and (f)*

Would a milk dealer applying for an exception to the longer notice period in Sections 143.31(c), (d), (e) and (g) be eligible to make a charitable donation as provided for in § 143.31(f)? If so, the Board should explain why an additional 10 business days for each of the exceptions is needed to review documents that should already have been submitted by the dealer as part of its petition to the Board for a 28-day notice. It should also explain the need for the Board to notify affected parties that a dealer is making a charitable donation under Subsection (f).

*New Subsection (g)*

This subsection allows a dealer to terminate a contractual arrangement with a producer if there is insufficient plant output due to a catastrophic event reasonably expected to last beyond 28 days by giving a 28-day notice. Subparagraph (g)(1) includes a shut down or slow down of plant operations as a catastrophic event.

First, why is a plant shut down or slow down considered to be “catastrophic”—in the same category as massive fire or tornado damage? Would it be more appropriate to include such an event as a separate exception to the notice requirement?

Second, under the federal Worker Adjustment and Retraining Notification (WARN) Act, there are instances where employers are required to provide a 60-day notice to employees in the event of a plant shut down or mass layoff of employees. 29 U.S. Code § 2102. If a producer falls within the criteria of the WARN Act, how can that producer comply with the 60-day notice requirement if the dealer is only providing it with a 28-day notice of termination? The Board should take this federal notice requirement into consideration when it prepares the final-form rulemaking package.

*New Subsection (h)*

This subsection provides that a 28-day notice period for Sections 141.31(c), (e)—(g) commences on the day the 28-day notice is approved by the Board. PAMD is concerned that this provision will effectively turn what is to be a 28-day notification period into possibly a 43-day notification period. It contends that the Board’s fiscal analysis that estimates a minimum dealer cost of \$14,000 for the two weeks or 10 business days is “a point in time calculation” that understates the gravity of the situation. To alleviate what it considers an additional burden on already struggling milk dealers, it suggests that the Board permit the 28-day notice period to begin when the notice is simultaneously given to the dairy farmer and the Board. Given the possible significant fiscal impact that an additional 10–14 days could have on these small businesses, the Board should explain its decision to have the 28-day notice begin upon the Board’s approval.

The Board explains in RAF # 19 that costs associated with purchasing milk are different for each dealer and are based on many factors such as utilization, location, monthly milk price and volume purchased. It further explains in the Fiscal impact section of the Preamble that “Given these uncertainties, a precise quantification of this impact is not possible, but a minimum could be as much as \$14,000.” The Board should explain its rationale for using the December 2018 simple average minimum value due to producers from dealers as the basis for its estimate.

We commend the Board for the outreach it has conducted and recognize its efforts to strike an appropriate balance between the needs of independent dairy farmers and milk dealers. We encourage the Board to continue its dialogue with the regulated community as it develops the final version of the regulation.

*New Subsection (k)*

This section requires the Board to maintain a current list of government agencies and nonprofit organizations which are available to assist producers who receive termination notices. The amendment states that “The termination notice shall not be considered received by the producer unless it includes this list.”

The Board should clarify how dealers will access the most-up-to-date list of these entities. Will it be available on the Board’s website or must dealers request it from the Board? Also, the Board should revise Section 143.31(a) (relating to written notice required) to refer to this list since it is information that must accompany the written notice.

**4. Miscellaneous Clarity.**

- Under Section 143.31(c), should there be a “+” symbol instead of an “=” before “0.285Y?”
- The Board is proposing to delete § 143.32 (relating to forfeit use of notice rights). As drafted, the section is bracketed. It should, instead, be marked as “(Reserved).” See Section 2.2 (relating to deletion and addition of sections) of the *Pennsylvania Code and Style Manual*.
- We notice that § 143.32 is referenced in § 143.33 which is not part of this rulemaking. For clarity, we suggest the Board, in the final-form regulation, remove the reference to the deleted section in § 143.33.
- The phrase “including, but not limited to” is used in § 143.31(g)(1). Section 6.16 of the *Pennsylvania Code & Bulletin Style Manual* recommends that the term “includes” or “including” be used instead of the phrase “including, not limited to.”

GEORGE D. BEDWICK,  
*Chairperson*

[Pa.B. Doc. No. 19-1428. Filed for public inspection September 20, 2019, 9:00 a.m.]

Cressinda Bybee, Company Licensing Division, 1345 Strawberry Square, Harrisburg, PA 17120, fax (717) 787-8557, cbybee@pa.gov.

JESSICA K. ALTMAN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 19-1429. Filed for public inspection September 20, 2019, 9:00 a.m.]

## INSURANCE DEPARTMENT

### Bankers Life and Casualty Company; Rate Increase Filing for Several Individual LTC Forms (SERFF # BNLB-132069050)

Bankers Life and Casualty Company is requesting approval to increase the premium 35% on 1,709 policyholders of Bankers Life LTC forms GR-N050, GR-N055, GR-N100, GR-N105, GR-N160, GR-N165, GR-N240, GR-N250, GR-N270 and GR-N280.

Unless formal administrative action is taken prior to December 5, 2019, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Insurance Department’s (Department) web site at [www.insurance.pa.gov](http://www.insurance.pa.gov) (hover the cursor over the “Consumers” tab, then select “Long Term Care Rate Filings”).

Copies of the filing are also available for public inspection, by appointment, during normal working hours at the Department’s Harrisburg office.

Interested parties are invited to submit written comments, suggestions or objections to James Laverty, Actuary, Insurance Department, Insurance Product Regulation, Room 1311, Strawberry Square, Harrisburg, PA 17120, [jlaverty@pa.gov](mailto:jlaverty@pa.gov) within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

JESSICA K. ALTMAN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 19-1430. Filed for public inspection September 20, 2019, 9:00 a.m.]

## INSURANCE DEPARTMENT

### Application for Voluntary Surrender of Pennsylvania Certificate of Authority Filed by Anthracite Mutual Fire Insurance Company

The Anthracite Mutual Fire Insurance Company, a domestic mutual property insurance company, has submitted an application for approval to surrender its Insurance Department Certificate of Authority.

Persons wishing to comment on the grounds of public or private interest concerning the surrender 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 the name, address and telephone number of the writer; identification of the application to which the comment is addressed; and a concise statement with sufficient detail to inform the Department of the exact basis of the comment and the relevant facts upon which it is based. Written statements should be directed to

## LEGISLATIVE

### REFERENCE BUREAU

#### Documents Filed But Not Published

The Legislative Reference Bureau (Bureau) accepted the following documents during the preceding calendar month for filing without publication under 1 Pa. Code § 3.13(b) (relating to contents of *Bulletin*). The Bureau will continue to publish on a monthly basis either a summary table identifying the documents accepted during the preceding calendar month under this subsection or a statement that no documents have been received. For questions concerning or copies of documents filed, but not published, call (717) 783-1530.

*Executive Board*

Resolution No. CB-19-002, Dated July 31, 2019. In accordance with the Governor’s Executive Order 2016-02, the Executive Board Resolution authorizes the side letter between the Commonwealth and AFSCME concerning the

hourly rate of \$12.50 effective July 1, 2019, for all Clerks, Clerk Typists and Custodial Pool Workers.

*Governor's Office*

Manual No. 110.1—2020-21 Budget Instructions, Amended August 15, 2019.

DUANE M. SEARLE,  
*Director*  
*Pennsylvania Code and Bulletin*

[Pa.B. Doc. No. 19-1431. Filed for public inspection September 20, 2019, 9:00 a.m.]

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

### General Rule Transaction

**A-2019-3012741, A-2019-3012743, A-2019-3012744, A-2019-3012746 and A-2019-3012748. Laurel Highland Long Distance Company, South Canaan Long Distance Company, Yukon-Waltz Communications, Inc., Lackawaxen Telecommunications Services, Inc. and Lackawaxen Long Distance Company.** Joint application of Laurel Highland Total Communications, Inc. as ultimate parent, and certain of its Pennsylvania Public Utility Commission (Commission) regulated subsidiaries for approval of a general rule transaction involving intracompany consolidations and a transfer of control of telecommunications public utilities. These utilities include: Laurel Highland Long Distance Company, South Canaan Long Distance Company, Yukon-Waltz Communications, Inc., Lackawaxen Telecommunications Services, Inc. and Lackawaxen Long Distance Company.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities) on or before October 7, 2019. Filings must be made with the Secretary of the Pennsylvania Public Utility Commission, 400 North Street, 2nd Floor, Harrisburg, PA 17120, with a copy served on the applicant. The documents filed in support of the application are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, on the Commission's web site at [www.puc.pa.gov](http://www.puc.pa.gov) and at the applicant's business address.

*Applicants:* Laurel Highland Long Distance Company; South Canaan Long Distance Company; Yukon-Waltz Communications, Inc.; Lackawaxen Telecommunications Services, Inc.; Lackawaxen Long Distance Company

*Through and By:* Charles E. Thomas, Jr., Esquire, Charles E. Thomas, III, Esquire, Thomas, Niesen & Thomas, LLC, 212 Locust Street, Suite 302, Harrisburg, PA 17101

ROSEMARY CHIAVETTA,  
*Secretary*

[Pa.B. Doc. No. 19-1432. Filed for public inspection September 20, 2019, 9:00 a.m.]

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

### Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority applications for the right to render service as a

common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission. Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). A protest shall indicate whether it applies to the temporary authority application, the permanent authority application, or both. Protests may only be filed if there is evidence that the applicant lacks fitness. Protests based on endangering or impairing operations of an existing carrier will not be honored. Filings must be made with the Secretary, Pennsylvania Public Utility Commission, 400 North Street, Harrisburg, PA 17120, with a copy served on the applicant by October 7, 2019. 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-2019-3007051. Rockville Rides, LLC** (300 Treaster Road, Belleville, PA 17004) for the right to begin to transport, as a common carrier, persons in group and party service, in vehicles seating 11 to 15 passengers, including the driver, from points in the County of Mifflin, to points in Pennsylvania, and return.

**A-2019-3012656. Golden Caring Transit Corp.** (3334 North Front Street, Philadelphia, Philadelphia County, PA 19140) for the right to begin to transport, as a common carrier, by motor vehicles, persons in paratransit service in wheelchair and stretcher vans, between points in the Counties of Berks and Bucks, and the City and County of Philadelphia.

**A-2019-3012712. Bility Transport, LLC** (201 Reese Street, Sharon Hill, Delaware County, PA 19079) for the right to begin to transport, as a common carrier, by motor vehicles, persons in paratransit service in wheelchair and stretcher vans, between points in the Counties of Bucks, Chester, Delaware, Lackawanna, Lancaster, Lehigh and Montgomery, and the City and County of Philadelphia.

**A-2019-3012758. 412 Limo, LLC** (206 Hankey Farms Drive, Oakdale, Allegheny County, PA 15071) in limousine service, from points in Allegheny County to points in Pennsylvania, and return; excluding areas under the jurisdiction of the Philadelphia Parking Authority.

**Applications of the following for approval of the *beginning of the exercise of the right and privilege of operating motor vehicles as common carriers for the transportation of household goods as described under each application.***

**A-2019-3012123. Indian Valley Trading Company** (586 Hill Road, Green Lane, Montgomery County, PA 18054) household goods in use, from points in the Counties of Bucks and Montgomery, to points in Pennsylvania.

**A-2019-3012153. Bellhops Moving, LLC** (1110 Market Street, Suite 502, Chattanooga, TN 37402) household goods in use, between points in Pennsylvania.

**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-2019-3012314. Marlin R. Dively** (152 Sunset Road, Friedens, Somerset County, PA 15541) discontinuance of service and cancellation of its certificate, to transport, as

a common carrier, by motor vehicle, at A-6411451, persons in paratransit service, limited to persons whose personal convictions prevent them from owning or operating motor vehicles, from points in Somerset County to points in Pennsylvania, and return.

**A-2019-3012555. First Class Coach, Inc.** (301 Heights Lane, # 42C, Feasterville, Bucks County, PA 19053) discontinuance of service and cancellation of its certificate, to arrange the transportation of passengers, between points in Pennsylvania.

**A-2019-3012652. Carter Transportation Group, Inc.** (7402 Green Meadow Drive, Imperial, Allegheny County, PA 15126) discontinuance of service and cancellation of its certificate, to transport as a common carrier, by motor vehicle, persons in limousine service, from points in Allegheny County, to points in Pennsylvania, and return.

**A-2019-3012798. A Rix Limousine Service, Inc.** (257 Linkville Road, Johnstown, Cambria County, PA 15906) discontinuance of service and cancellation of its certificate, to transport as a common carrier, by motor vehicle, persons in group and party service, in vehicles with a seating capacity of 11 to 15 passengers, including the driver, from points in the Counties of Armstrong, Bedford, Blair, Cambria, Clearfield, Indiana, Jefferson and Somerset, to points in Pennsylvania, and return; excluding service that is under the jurisdiction of the Philadelphia Parking Authority.

**A-2019-3012800. A Rix Limousine Service, Inc.** (257 Linkville Road, Johnstown, Cambria County, PA 15906) discontinuance of service and cancellation of its certificate, to transport as a common carrier, by motor vehicle, persons in limousine service, from points in Allegheny County, to points in Pennsylvania, and return.

ROSEMARY CHIAVETTA,  
Secretary

[Pa.B. Doc. No. 19-1433. Filed for public inspection September 20, 2019, 9:00 a.m.]

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

### Service of Notice of Motor Carrier Formal Complaints

Formal complaints have been issued by the Pennsylvania Public Utility Commission. Answers must be filed in accordance with 52 Pa. Code (relating to public utilities). Answers are due October 7, 2019, and must be made with the Secretary, Pennsylvania Public Utility Commission, 400 North Street, Harrisburg, PA 17120, with a copy to the First Deputy Chief Prosecutor, Pennsylvania Public Utility Commission.

### Pennsylvania Public Utility Commission; Bureau of Investigation and Enforcement v. 7 Crown, LLC; Docket No. C-2019-3011501

#### 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 7 Crown, LLC, (respondent) is under suspension effective July 02, 2019 for failure to maintain evidence of insurance on file with this Commission.

2. That respondent maintains a principal place of business at 136 West Lincoln Street, Easton, PA 18042.

3. That respondent was issued a Certificate of Public Convenience by this Commission on April 11, 2019, at A-8921765.

4. That respondent has failed to maintain evidence of Liability and Cargo insurance on file with this Commission. The Bureau of Investigation and Enforcement's proposed civil penalty for this violation is \$500.00 and cancellation of the Certificate of Public Convenience.

5. That respondent, by failing to maintain evidence of insurance on file with this Commission, violated 66 Pa.C.S. § 512, 52 Pa. Code § 32.2(c), and 52 Pa. Code § 32.11(a), § 32.12(a) or § 32.13(a).

Wherefore, unless respondent pays the penalty of \$500.00 or files an answer in compliance with the attached notice and/or causes its insurer to file evidence of insurance with this Commission within twenty (20) days of the date of service of this Complaint, the Bureau of Investigation and Enforcement will request that the Commission issue an Order which (1) cancels the Certificate of Public Convenience held by respondent at A-8921765 for failure to maintain evidence of current insurance on file with the Commission, (2) fines Respondent the sum of five hundred dollars (\$500.00) for the illegal activity described in this Complaint, (3) orders such other remedy as the Commission may deem to be appropriate, which may include the suspension of a vehicle registration and (4) imposes an additional fine on the respondent should cancellation occur.

Respectfully submitted,  
David W. Loucks, Chief  
Motor Carrier Enforcement  
Bureau of Investigation and Enforcement  
400 North Street  
Harrisburg, PA 17120

#### VERIFICATION

I, David W. Loucks, Chief, Motor Carrier Enforcement, Bureau of Investigation and Enforcement, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect that the Bureau will be able to prove same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: 7/23/2019

David W. Loucks, Chief  
Motor Carrier Enforcement  
Bureau of Investigation and Enforcement

#### NOTICE

A. You must file an Answer within 20 days of the date of service of this Complaint. The date of service is the mailing date as indicated at the top of the Secretarial Letter. See 52 Pa. Code § 1.56(a). The Answer must raise

all factual and legal arguments that you wish to claim in your defense, include the docket number of this Complaint, and be verified. You may file your Answer by mailing an original to:

Rosemary Chiavetta, Secretary  
 Pennsylvania Public Utility Commission  
 400 North Street  
 Harrisburg, PA 17120

Or, you may eFile your Answer using the Commission's website at [www.puc.pa.gov](http://www.puc.pa.gov). The link to eFiling is located under the Filing & Resources tab on the homepage. If your Answer is 250 pages or less, you are not required to file a paper copy. If your Answer exceeds 250 pages, you must file a paper copy with the Secretary's Bureau.

Additionally, a copy should either be mailed to:

Michael L. Swindler, Deputy Chief Prosecutor  
 Pennsylvania Public Utility Commission  
 Bureau of Investigation and Enforcement  
 400 North Street  
 Harrisburg, PA 17120

Or, emailed to Mr. Swindler at: [RA-PCCmplntResp@pa.gov](mailto:RA-PCCmplntResp@pa.gov)

B. If you fail to answer this Complaint within 20 days, the Bureau of Investigation and Enforcement will request that the Commission issue an Order imposing the penalty.

C. You may elect not to contest this Complaint by causing your insurer to file proper evidence of current insurance in accordance with the Commission's regulations and by paying the fine proposed in this Complaint by certified check or money order within twenty (20) days of the date of service of this Complaint. Accord certificates of insurance and faxed form Es and Hs are unacceptable as evidence of insurance.

The proof of insurance must be filed with the:

Compliance Office, Bureau of Technical Utility  
 Services  
 Pennsylvania Public Utility Commission  
 400 North Street  
 Harrisburg, PA 17120

Payment of the fine must be made to the Commonwealth of Pennsylvania and should be forwarded to:

Rosemary Chiavetta, Secretary  
 Pennsylvania Public Utility Commission  
 400 North Street  
 Harrisburg, PA 17120

Your payment is an admission that you committed the alleged violation and an agreement to cease and desist from further violations. Upon receipt of the evidence of insurance from your insurer, and upon receipt of your payment, the Complaint proceeding shall be closed.

D. If you file an Answer which either admits or fails to deny the allegations of the Complaint, the Bureau of Investigation and Enforcement will request the Commission to issue an Order imposing the penalty set forth in this Complaint.

E. If you file an Answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision. The Judge is not bound by the penalty set forth in the Complaint, and may impose additional and/or alternative penalties as appropriate.

F. If you are a corporation, you must be represented by legal counsel. 52 Pa. Code § 1.21.

Alternative formats of this material are available for persons with disabilities by contacting the Commission's ADA Coordinator at 717-787-8714. Do not call this number if you have questions as to why you received this complaint. For those questions you may call 717-783-3847.

**Pennsylvania Public Utility Commission; Bureau of Investigation and Enforcement v. HG Ventures, Inc., t/a Diamond Head Trucking, t/a Precision Truck & Auto Repair; Docket No. C-2019-3011569**

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 HG Ventures, Inc., t/a Diamond Head Trucking, t/a Precision Truck & Auto Repair, (respondent) is under suspension effective July 07, 2019 for failure to maintain evidence of insurance on file with this Commission.
2. That respondent maintains a principal place of business at 100 Phoenix Dr., Finleyville, PA 15332.
3. That respondent was issued a Certificate of Public Convenience by this Commission on December 1, 2011, at A-8913415.
4. That respondent has failed to maintain evidence of Liability insurance on file with this Commission. The Bureau of Investigation and Enforcement's proposed civil penalty for this violation is \$500.00 and cancellation of the Certificate of Public Convenience.
5. That respondent, by failing to maintain evidence of insurance on file with this Commission, violated 66 Pa.C.S. § 512, 52 Pa. Code § 32.2(c), and 52 Pa. Code § 32.11(a), § 32.12(a) or § 32.13(a).

Wherefore, unless respondent pays the penalty of \$500.00 or files an answer in compliance with the attached notice and/or causes its insurer to file evidence of insurance with this Commission within twenty (20) days of the date of service of this Complaint, the Bureau of Investigation and Enforcement will request that the Commission issue an Order which (1) cancels the Certificate of Public Convenience held by respondent at A-8913415 for failure to maintain evidence of current insurance on file with the Commission, (2) fines Respondent the sum of five hundred dollars (\$500.00) for the illegal activity described in this Complaint, (3) orders such other remedy as the Commission may deem to be appropriate, which may include the suspension of a vehicle registration and (4) imposes an additional fine on the respondent should cancellation occur.

Respectfully submitted,  
 David W. Loucks, Chief  
 Motor Carrier Enforcement  
 Bureau of Investigation and Enforcement  
 400 North Street  
 Harrisburg, PA 17120



VERIFICATION

I, David W. Loucks, Chief, Motor Carrier Enforcement, Bureau of Investigation and Enforcement, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect that the Bureau will be able to prove same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: 7/23/2019

David W. Loucks, Chief  
Motor Carrier Enforcement  
Bureau of Investigation and Enforcement

NOTICE

A. You must file an Answer within 20 days of the date of service of this Complaint. The date of service is the mailing date as indicated at the top of the Secretarial Letter. See 52 Pa. Code § 1.56(a). The Answer must raise all factual and legal arguments that you wish to claim in your defense, include the docket number of this Complaint, and be verified. You may file your Answer by mailing an original to:

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
400 North Street  
Harrisburg, PA 17120

Or, you may eFile your Answer using the Commission's website at [www.puc.pa.gov](http://www.puc.pa.gov). The link to eFiling is located under the Filing & Resources tab on the homepage. If your Answer is 250 pages or less, you are not required to file a paper copy. If your Answer exceeds 250 pages, you must file a paper copy with the Secretary's Bureau.

Additionally, a copy should either be mailed to:

Michael L. Swindler, Deputy Chief Prosecutor  
Pennsylvania Public Utility Commission  
Bureau of Investigation and Enforcement  
400 North Street  
Harrisburg, PA 17120

Or, emailed to Mr. Swindler at: RA-PCCmplntResp@pa.gov

B. If you fail to answer this Complaint within 20 days, the Bureau of Investigation and Enforcement will request that the Commission issue an Order imposing the penalty.

C. You may elect not to contest this Complaint by causing your insurer to file proper evidence of current insurance in accordance with the Commission's regulations and by paying the fine proposed in this Complaint by certified check or money order within twenty (20) days of the date of service of this Complaint. Accord certificates of insurance and faxed form Es and Hs are unacceptable as evidence of insurance.

The proof of insurance must be filed with the:

Compliance Office, Bureau of Technical Utility Services  
Pennsylvania Public Utility Commission  
400 North Street  
Harrisburg, PA 17120

Payment of the fine must be made to the Commonwealth of Pennsylvania and should be forwarded to:

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
400 North Street  
Harrisburg, PA 17120

Your payment is an admission that you committed the alleged violation and an agreement to cease and desist from further violations. Upon receipt of the evidence of insurance from your insurer, and upon receipt of your payment, the Complaint proceeding shall be closed.

D. If you file an Answer which either admits or fails to deny the allegations of the Complaint, the Bureau of Investigation and Enforcement will request the Commission to issue an Order imposing the penalty set forth in this Complaint.

E. If you file an Answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision. The Judge is not bound by the penalty set forth in the Complaint, and may impose additional and/or alternative penalties as appropriate.

F. If you are a corporation, you must be represented by legal counsel. 52 Pa. Code § 1.21.

Alternative formats of this material are available for persons with disabilities by contacting the Commission's ADA Coordinator at 717-787-8714. Do not call this number if you have questions as to why you received this complaint. For those questions you may call 717-783-3847.

—

**Pennsylvania Public Utility Commission; Bureau of Investigation and Enforcement v. Rogers M. Ongera, t/a Genesis Medical Transport, t/a Genesis Medical Transport; Docket No. C-2019-3011572**

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 Rogers M. Ongera, t/a Genesis Medical Transport, t/a Genesis Medical Transport, (respondent) is under suspension effective July 07, 2019 for failure to maintain evidence of insurance on file with this Commission.
2. That respondent maintains a principal place of business at 2132 South 12th Street, Suite LL06, Allentown, PA 18103.
3. That respondent was issued a Certificate of Public Convenience by this Commission on July 06, 2010, at A-6411546.
4. That respondent has failed to maintain evidence of Liability insurance on file with this Commission. The Bureau of Investigation and Enforcement's proposed civil penalty for this violation is \$500.00 and cancellation of the Certificate of Public Convenience.
5. That respondent, by failing to maintain evidence of insurance on file with this Commission, violated 66 Pa.C.S. § 512, 52 Pa. Code § 32.2(c), and 52 Pa. Code § 32.11(a), § 32.12(a) or § 32.13(a).

Wherefore, unless respondent pays the penalty of \$500.00 or files an answer in compliance with the attached notice and/or causes its insurer to file evidence of

insurance with this Commission within twenty (20) days of the date of service of this Complaint, the Bureau of Investigation and Enforcement will request that the Commission issue an Order which (1) cancels the Certificate of Public Convenience held by respondent at A-6411546 for failure to maintain evidence of current insurance on file with the Commission, (2) fines Respondent the sum of five hundred dollars (\$500.00) for the illegal activity described in this Complaint, (3) orders such other remedy as the Commission may deem to be appropriate, which may include the suspension of a vehicle registration and (4) imposes an additional fine on the respondent should cancellation occur.

Respectfully submitted,  
David W. Loucks, Chief  
Motor Carrier Enforcement  
Bureau of Investigation and Enforcement  
400 North Street  
Harrisburg, PA 17120

#### VERIFICATION

I, David W. Loucks, Chief, Motor Carrier Enforcement, Bureau of Investigation and Enforcement, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect that the Bureau will be able to prove same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: 7/23/2019

David W. Loucks, Chief  
Motor Carrier Enforcement  
Bureau of Investigation and Enforcement

#### NOTICE

A. You must file an Answer within 20 days of the date of service of this Complaint. The date of service is the mailing date as indicated at the top of the Secretarial Letter. See 52 Pa. Code § 1.56(a). The Answer must raise all factual and legal arguments that you wish to claim in your defense, include the docket number of this Complaint, and be verified. You may file your Answer by mailing an original to:

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
400 North Street  
Harrisburg, PA 17120

Or, you may eFile your Answer using the Commission's website at [www.puc.pa.gov](http://www.puc.pa.gov). The link to eFiling is located under the Filing & Resources tab on the homepage. If your Answer is 250 pages or less, you are not required to file a paper copy. If your Answer exceeds 250 pages, you must file a paper copy with the Secretary's Bureau.

Additionally, a copy should either be mailed to:

Michael L. Swindler, Deputy Chief Prosecutor  
Pennsylvania Public Utility Commission  
Bureau of Investigation and Enforcement  
400 North Street  
Harrisburg, PA 17120

Or, emailed to Mr. Swindler at: [RA-PCCmplntResp@pa.gov](mailto:RA-PCCmplntResp@pa.gov)

B. If you fail to answer this Complaint within 20 days, the Bureau of Investigation and Enforcement will request that the Commission issue an Order imposing the penalty.

C. You may elect not to contest this Complaint by causing your insurer to file proper evidence of current insurance in accordance with the Commission's regulations and by paying the fine proposed in this Complaint by certified check or money order within twenty (20) days of the date of service of this Complaint. Accord certificates of insurance and faxed form Es and Hs are unacceptable as evidence of insurance.

The proof of insurance must be filed with the:

Compliance Office, Bureau of Technical Utility Services  
Pennsylvania Public Utility Commission  
400 North Street  
Harrisburg, PA 17120

Payment of the fine must be made to the Commonwealth of Pennsylvania and should be forwarded to:

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
400 North Street  
Harrisburg, PA 17120

Your payment is an admission that you committed the alleged violation and an agreement to cease and desist from further violations. Upon receipt of the evidence of insurance from your insurer, and upon receipt of your payment, the Complaint proceeding shall be closed.

D. If you file an Answer which either admits or fails to deny the allegations of the Complaint, the Bureau of Investigation and Enforcement will request the Commission to issue an Order imposing the penalty set forth in this Complaint.

E. If you file an Answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision. The Judge is not bound by the penalty set forth in the Complaint, and may impose additional and/or alternative penalties as appropriate.

F. If you are a corporation, you must be represented by legal counsel. 52 Pa. Code § 1.21.

Alternative formats of this material are available for persons with disabilities by contacting the Commission's ADA Coordinator at 717-787-8714. Do not call this number if you have questions as to why you received this complaint. For those questions you may call 717-783-3847.

### **Pennsylvania Public Utility Commission; Bureau of Investigation and Enforcement v. Phlat Rate Moving; Docket No. C-2019-3010610**

#### COMPLAINT

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings which are prosecutory in nature to the Bureau of Investigation and Enforcement and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Investigation and Enforcement Prosecutory Staff hereby represents as follows:

1. That Phlat Rate Moving, Respondent, maintains a principal place of business at 1309 North Water Avenue, Hermitage, PA 16148.

2. That PUC Motor Carrier Enforcement Officer David Gill contracted with Phlat Rate Moving to move on July 5, 2019 from 8264 Lamor Road, Mercer, Mercer County, PA to Meadville, Crawford County, PA. The Respondent quoted a price of \$299 for the first hour and \$100 for each additional hour. Respondent does not have authority with the Commission to transport household goods for compensation from one point to another in the Commonwealth of Pennsylvania.

3. That on July 5, 2019, owners Dustin Gould and Adjubah Sackor arrived at 8624 Lamor Road, Mercer, Mercer County in order to perform the move as scheduled earlier.

4. That Respondent, by holding out to provide transportation of household goods between points in Pennsylvania while not having operating authority with this Commission, violated 66 Pa.C.S. § 1101. The penalty for this violation is \$1,000.00

Wherefore, the Bureau of Investigation and Enforcement Prosecutory Staff hereby requests that the Commission fine Phlat Rate Moving the sum of one thousand dollars (\$1,000.00) for the illegal activity described in this Complaint.

Respectfully submitted,  
David W. Loucks, Chief  
Motor Carrier Enforcement  
Bureau of Investigation and Enforcement  
P.O. Box 3265  
Harrisburg, PA 17105-3265

#### VERIFICATION

I, David W. Loucks, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect that the Bureau will be able to prove same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: 7/31/2019

David W. Loucks, Chief  
Motor Carrier Enforcement  
Bureau of Investigation and Enforcement

#### NOTICE

A. You must file an Answer within twenty (20) days of the date of service of this Complaint. The date of service is the mailing date as indicated at the top of the Secretarial Cover Letter for this Complaint and Notice, 52 Pa. Code § 1.56(a). An Answer is a written explanation of circumstances wished to be considered in determining the outcome. The Answer shall raise all factual and legal arguments that you wish to claim in your defense and must include the reference number of this Complaint. Your Answer must be verified and the original shall be mailed to:

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

Or may be sent by overnight delivery to:

400 North Street, 2nd Floor  
Harrisburg, PA 17120

Additionally, please serve a copy on:

Michael L. Swindler, Prosecutor  
Bureau of Investigation and Enforcement  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

Or, e-mailed to Mr. Swindler at: RA-PCCmplntResp@pa.gov

B. If you fail to answer this complaint within twenty (20) days, the Bureau of Investigation and Enforcement will request that the Commission issue a Secretarial Letter imposing a penalty. The penalty could include a fine, the suspension or revocation of your certificate of public convenience or other remedy.

C. You may elect not to contest this complaint by paying the fine proposed in this Complaint by certified check or money order. Payment must be made to the Commonwealth of Pennsylvania and should be forwarded to:

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
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 your payment, the complaint proceeding shall be closed.

D. If you file an Answer, which admits or fails to deny the allegations of the Complaint, the Bureau of Investigation and Enforcement will request that the Commission issue a Secretarial Letter imposing a penalty.

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 optional fine set forth above.

F. Alternative formats of this material are available for persons with disabilities by contacting the Commission's ADA Coordinator at 717-787-8714.

### **Pennsylvania Public Utility Commission; Bureau of Investigation and Enforcement v. Blue Trucking, Inc.; Docket No. C-2019-3011896**

#### 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 Blue Trucking, Inc., (respondent) is under suspension effective July 22, 2019 for failure to maintain evidence of insurance on file with this Commission.

2. That respondent maintains a principal place of business at 4251 Pine Ridge Dr., Bushkill, PA 18324.

3. That respondent was issued a Certificate of Public Convenience by this Commission on May 22, 2018, at A-8920945.

4. That respondent has failed to maintain evidence of Liability and Cargo insurance on file with this Commission. The Bureau of Investigation and Enforcement's proposed civil penalty for this violation is \$500.00 and cancellation of the Certificate of Public Convenience.

5. That respondent, by failing to maintain evidence of insurance on file with this Commission, violated 66 Pa.C.S. § 512, 52 Pa. Code § 32.2(c), and 52 Pa. Code § 32.11(a), § 32.12(a) or § 32.13(a).

Wherefore, unless respondent pays the penalty of \$500.00 or files an answer in compliance with the attached notice and/or causes its insurer to file evidence of insurance with this Commission within twenty (20) days of the date of service of this Complaint, the Bureau of Investigation and Enforcement will request that the Commission issue an Order which (1) cancels the Certificate of Public Convenience held by respondent at A-8920945 for failure to maintain evidence of current insurance on file with the Commission, (2) fines Respondent the sum of five hundred dollars (\$500.00) for the illegal activity described in this Complaint, (3) orders such other remedy as the Commission may deem to be appropriate, which may include the suspension of a vehicle registration and (4) imposes an additional fine on the respondent should cancellation occur.

Respectfully submitted,  
David W. Loucks, Chief  
Motor Carrier Enforcement  
Bureau of Investigation and Enforcement  
400 North Street  
Harrisburg, PA 17120

#### VERIFICATION

I, David W. Loucks, Chief, Motor Carrier Enforcement, Bureau of Investigation and Enforcement, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect that the Bureau will be able to prove same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: 8/1/2019

David W. Loucks, Chief  
Motor Carrier Enforcement  
Bureau of Investigation and Enforcement

#### NOTICE

A. You must file an Answer within 20 days of the date of service of this Complaint. The date of service is the mailing date as indicated at the top of the Secretarial Letter. See 52 Pa. Code § 1.56(a). The Answer must raise all factual and legal arguments that you wish to claim in your defense, include the docket number of this Complaint, and be verified. You may file your Answer by mailing an original to:

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
400 North Street  
Harrisburg, PA 17120

Or, you may eFile your Answer using the Commission's website at [www.puc.pa.gov](http://www.puc.pa.gov). The link to eFiling is located under the Filing & Resources tab on the homepage. If your Answer is 250 pages or less, you are not required to file a paper copy. If your Answer exceeds 250 pages, you must file a paper copy with the Secretary's Bureau.

Additionally, a copy should either be mailed to:

Michael L. Swindler, Deputy Chief Prosecutor  
Pennsylvania Public Utility Commission  
Bureau of Investigation and Enforcement  
400 North Street  
Harrisburg, PA 17120

Or, emailed to Mr. Swindler at: [RA-PCCmplntResp@pa.gov](mailto:RA-PCCmplntResp@pa.gov)

B. If you fail to answer this Complaint within 20 days, the Bureau of Investigation and Enforcement will request that the Commission issue an Order imposing the penalty.

C. You may elect not to contest this Complaint by causing your insurer to file proper evidence of current insurance in accordance with the Commission's regulations and by paying the fine proposed in this Complaint by certified check or money order within twenty (20) days of the date of service of this Complaint. Accord certificates of insurance and faxed form Es and Hs are unacceptable as evidence of insurance.

The proof of insurance must be filed with the:

Compliance Office, Bureau of Technical Utility  
Services  
Pennsylvania Public Utility Commission  
400 North Street  
Harrisburg, PA 17120

Payment of the fine must be made to the Commonwealth of Pennsylvania and should be forwarded to:

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
400 North Street  
Harrisburg, PA 17120

Your payment is an admission that you committed the alleged violation and an agreement to cease and desist from further violations. Upon receipt of the evidence of insurance from your insurer, and upon receipt of your payment, the Complaint proceeding shall be closed.

D. If you file an Answer which either admits or fails to deny the allegations of the Complaint, the Bureau of Investigation and Enforcement will request the Commission to issue an Order imposing the penalty set forth in this Complaint.

E. If you file an Answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision. The Judge is not bound by the penalty set forth in the Complaint, and may impose additional and/or alternative penalties as appropriate.

F. If you are a corporation, you must be represented by legal counsel. 52 Pa. Code § 1.21.

Alternative formats of this material are available for persons with disabilities by contacting the Commission's ADA Coordinator at 717-787-8714. Do not call this number if you have questions as to why you received this complaint. For those questions you may call 717-783-3847.

**Pennsylvania Public Utility Commission; Bureau of Investigation and Enforcement v. Syncreon Technology (USA), LLC; Docket No. C-2019-3012164**

#### 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 Syncreon Technology (USA), LLC, (respondent) is under suspension effective July 01, 2019 for failure to maintain evidence of insurance on file with this Commission.

2. That respondent maintains a principal place of business at 1200 Greenbriar Drive, Addison, IL 60101.

3. That respondent was issued a Certificate of Public Convenience by this Commission on September 16, 2009, at A-8911334.

4. That respondent has failed to maintain evidence of Liability insurance on file with this Commission. The Bureau of Investigation and Enforcement's proposed civil penalty for this violation is \$500.00 and cancellation of the Certificate of Public Convenience.

5. That respondent, by failing to maintain evidence of insurance on file with this Commission, violated 66 Pa.C.S. § 512, 52 Pa. Code § 32.2(c), and 52 Pa. Code § 32.11(a), § 32.12(a) or § 32.13(a).

Wherefore, unless respondent pays the penalty of \$500.00 or files an answer in compliance with the attached notice and/or causes its insurer to file evidence of insurance with this Commission within twenty (20) days of the date of service of this Complaint, the Bureau of Investigation and Enforcement will request that the Commission issue an Order which (1) cancels the Certificate of Public Convenience held by respondent at A-8911334 for failure to maintain evidence of current insurance on file with the Commission, (2) fines Respondent the sum of five hundred dollars (\$500.00) for the illegal activity described in this Complaint, (3) orders such other remedy as the Commission may deem to be appropriate, which may include the suspension of a vehicle registration and (4) imposes an additional fine on the respondent should cancellation occur.

Respectfully submitted,  
David W. Loucks, Chief  
Motor Carrier Enforcement  
Bureau of Investigation and Enforcement  
400 North Street  
Harrisburg, PA 17120

#### VERIFICATION

I, David W. Loucks, Chief, Motor Carrier Enforcement, Bureau of Investigation and Enforcement, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect that the Bureau will be able to prove same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: 8/13/2019

David W. Loucks, Chief  
Motor Carrier Enforcement  
Bureau of Investigation and Enforcement

#### NOTICE

A. You must file an Answer within 20 days of the date of service of this Complaint. The date of service is the

mailing date as indicated at the top of the Secretarial Letter. See 52 Pa. Code § 1.56(a). The Answer must raise all factual and legal arguments that you wish to claim in your defense, include the docket number of this Complaint, and be verified. You may file your Answer by mailing an original to:

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
400 North Street  
Harrisburg, PA 17120

Or, you may eFile your Answer using the Commission's website at [www.puc.pa.gov](http://www.puc.pa.gov). The link to eFiling is located under the Filing & Resources tab on the homepage. If your Answer is 250 pages or less, you are not required to file a paper copy. If your Answer exceeds 250 pages, you must file a paper copy with the Secretary's Bureau.

Additionally, a copy should either be mailed to:

Michael L. Swindler, Deputy Chief Prosecutor  
Pennsylvania Public Utility Commission  
Bureau of Investigation and Enforcement  
400 North Street  
Harrisburg, PA 17120

Or, emailed to Mr. Swindler at: [RA-PCCmplntResp@pa.gov](mailto:RA-PCCmplntResp@pa.gov)

B. If you fail to answer this Complaint within 20 days, the Bureau of Investigation and Enforcement will request that the Commission issue an Order imposing the penalty.

C. You may elect not to contest this Complaint by causing your insurer to file proper evidence of current insurance in accordance with the Commission's regulations and by paying the fine proposed in this Complaint by certified check or money order within twenty (20) days of the date of service of this Complaint. Accord certificates of insurance and faxed form Es and Hs are unacceptable as evidence of insurance.

The proof of insurance must be filed with the:

Compliance Office, Bureau of Technical Utility Services  
Pennsylvania Public Utility Commission  
400 North Street  
Harrisburg, PA 17120

Payment of the fine must be made to the Commonwealth of Pennsylvania and should be forwarded to:

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
400 North Street  
Harrisburg, PA 17120

Your payment is an admission that you committed the alleged violation and an agreement to cease and desist from further violations. Upon receipt of the evidence of insurance from your insurer, and upon receipt of your payment, the Complaint proceeding shall be closed.

D. If you file an Answer which either admits or fails to deny the allegations of the Complaint, the Bureau of Investigation and Enforcement will request the Commission to issue an Order imposing the penalty set forth in this Complaint.

E. If you file an Answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision. The Judge is not bound by the penalty set forth in the Complaint, and may impose additional and/or alternative penalties as appropriate.

F. If you are a corporation, you must be represented by legal counsel. 52 Pa. Code § 1.21.

Alternative formats of this material are available for persons with disabilities by contacting the Commission's ADA Coordinator at 717-787-8714. Do not call this number if you have questions as to why you received this complaint. For those questions you may call 717-783-3847.

**Pennsylvania Public Utility Commission; Bureau of Investigation and Enforcement v. Ollar, Isadore, t/a Ollar, Izzy; Docket No. C-2019-3012207**

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 Ollar, Isadore, t/a Ollar, Izzy, (respondent) is under suspension effective August 04, 2019 for failure to maintain evidence of insurance on file with this Commission.
2. That respondent maintains a principal place of business at P.O. Box 125, Oley, PA 19547.
3. That respondent was issued a Certificate of Public Convenience by this Commission on April 05, 2000, at A-00116635.
4. That respondent has failed to maintain evidence of Liability and Cargo insurance on file with this Commission. The Bureau of Investigation and Enforcement's proposed civil penalty for this violation is \$500.00 and cancellation of the Certificate of Public Convenience.
5. That respondent, by failing to maintain evidence of insurance on file with this Commission, violated 66 Pa.C.S. § 512, 52 Pa. Code § 32.2(c), and 52 Pa. Code § 32.11(a), § 32.12(a) or § 32.13(a).

Wherefore, unless respondent pays the penalty of \$500.00 or files an answer in compliance with the attached notice and/or causes its insurer to file evidence of insurance with this Commission within twenty (20) days of the date of service of this Complaint, the Bureau of Investigation and Enforcement will request that the Commission issue an Order which (1) cancels the Certificate of Public Convenience held by respondent at A-00116635 for failure to maintain evidence of current insurance on file with the Commission, (2) fines Respondent the sum of five hundred dollars (\$500.00) for the illegal activity described in this Complaint, (3) orders such other remedy as the Commission may deem to be appropriate, which may include the suspension of a vehicle registration and (4) imposes an additional fine on the respondent should cancellation occur.

Respectfully submitted,  
David W. Loucks, Chief  
Motor Carrier Enforcement  
Bureau of Investigation and Enforcement  
400 North Street  
Harrisburg, PA 17120

VERIFICATION

I, David W. Loucks, Chief, Motor Carrier Enforcement, Bureau of Investigation and Enforcement, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect that the Bureau will be able to prove same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: 8/15/2019

David W. Loucks, Chief  
Motor Carrier Enforcement  
Bureau of Investigation and Enforcement

NOTICE

A. You must file an Answer within 20 days of the date of service of this Complaint. The date of service is the mailing date as indicated at the top of the Secretarial Letter. See 52 Pa. Code § 1.56(a). The Answer must raise all factual and legal arguments that you wish to claim in your defense, include the docket number of this Complaint, and be verified. You may file your Answer by mailing an original to:

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
400 North Street  
Harrisburg, PA 17120

Or, you may eFile your Answer using the Commission's website at [www.puc.pa.gov](http://www.puc.pa.gov). The link to eFiling is located under the Filing & Resources tab on the homepage. If your Answer is 250 pages or less, you are not required to file a paper copy. If your Answer exceeds 250 pages, you must file a paper copy with the Secretary's Bureau.

Additionally, a copy should either be mailed to:

Michael L. Swindler, Deputy Chief Prosecutor  
Pennsylvania Public Utility Commission  
Bureau of Investigation and Enforcement  
400 North Street  
Harrisburg, PA 17120

Or, emailed to Mr. Swindler at: [RA-PCCmplntResp@pa.gov](mailto:RA-PCCmplntResp@pa.gov)

B. If you fail to answer this Complaint within 20 days, the Bureau of Investigation and Enforcement will request that the Commission issue an Order imposing the penalty.

C. You may elect not to contest this Complaint by causing your insurer to file proper evidence of current insurance in accordance with the Commission's regulations and by paying the fine proposed in this Complaint by certified check or money order within twenty (20) days of the date of service of this Complaint. Accord certificates of insurance and faxed form Es and Hs are unacceptable as evidence of insurance.

The proof of insurance must be filed with the:

Compliance Office, Bureau of Technical Utility Services  
Pennsylvania Public Utility Commission  
400 North Street  
Harrisburg, PA 17120

Payment of the fine must be made to the Commonwealth of Pennsylvania and should be forwarded to:

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
400 North Street  
Harrisburg, PA 17120

Your payment is an admission that you committed the alleged violation and an agreement to cease and desist from further violations. Upon receipt of the evidence of insurance from your insurer, and upon receipt of your payment, the Complaint proceeding shall be closed.

D. If you file an Answer which either admits or fails to deny the allegations of the Complaint, the Bureau of Investigation and Enforcement will request the Commission to issue an Order imposing the penalty set forth in this Complaint.

E. If you file an Answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision. The Judge is not bound by the penalty set forth in the Complaint, and may impose additional and/or alternative penalties as appropriate.

F. If you are a corporation, you must be represented by legal counsel. 52 Pa. Code § 1.21.

Alternative formats of this material are available for persons with disabilities by contacting the Commission's ADA Coordinator at 717-787-8714. Do not call this number if you have questions as to why you received this complaint. For those questions you may call 717-783-3847.

ROSEMARY CHIAVETTA,  
*Secretary*

[Pa.B. Doc. No. 19-1434. Filed for public inspection September 20, 2019, 9:00 a.m.]

## PHILADELPHIA PARKING AUTHORITY

### Service of Notice of Motor Carrier Applications in the City of Philadelphia

The following permanent authority applications to render service as a common carrier in the City of Philadelphia have been filed with the Philadelphia Parking Authority's (PPA) Taxicab and Limousine Division (TLD). Formal protests must be filed in accordance with 52 Pa. Code Part II (relating to Philadelphia Parking Authority) with the TLD's Office of the Clerk, 2415 South Swanson Street, Philadelphia, PA 19148, no later than October 7, 2019. The nonrefundable protest filing fee is \$5,000 payable to the PPA by certified check or money order. The applications are available for inspection at the TLD between 9 a.m. and 4 p.m., Monday through Friday (contact TLD Director Christine Kirlin, Esq. at (215)

683-9653 to make an appointment) or may be inspected at the business addresses of the respective applicants or attorneys, or both.

**Doc. No. A-19-09-01. M. Ghaffer 4S, LLC** (9762 Cowden Street, Philadelphia, PA 19115): An application for a medallion taxicab certificate of public convenience (CPC) to transport, as a common carrier, persons in taxicab service between points within the City of Philadelphia and from points in the City of Philadelphia to points in Pennsylvania, and return.

**Doc. No. A-19-09-02. Malek MEA, Inc.** (61 North 46th Street, Philadelphia, PA 19139): An application for a medallion taxicab CPC to transport, as a common carrier, persons in taxicab service between points within the City of Philadelphia and from points in the City of Philadelphia to points in Pennsylvania, and return.

**Doc. No. A-19-09-03. DLM Cab Co.** (2521 South 67th Street, Philadelphia, PA 19142): An application for a medallion taxicab CPC to transport, as a common carrier, persons in taxicab service between points within the City of Philadelphia and from points in the City of Philadelphia to points in Pennsylvania, and return.

**Doc. No. A-19-09-04. N. Sandhu Taxi, Inc.** (1645 Waverly Road, Gladwyne, PA 19035): An application for a medallion taxicab CPC to transport, as a common carrier, persons in taxicab service between points within the City of Philadelphia and from points in the City of Philadelphia to points in Pennsylvania, and return. *Attorney for Applicant:* Danielle Friedman, Esq., 2301 Church Street, Philadelphia, PA 19124.

**Doc. No. A-19-09-05. Perdomo Trans, Inc.** (1645 Waverly Road, Gladwyne, PA 19035): An application for a medallion taxicab CPC to transport, as a common carrier, persons in taxicab service between points within the City of Philadelphia and from points in the City of Philadelphia to points in Pennsylvania, and return. *Attorney for Applicant:* Danielle Friedman, Esq., 2301 Church Street, Philadelphia, PA 19124.

**Doc. No. A-19-09-06. G.A.L. Taxi, Inc.** (1645 Waverly Road, Gladwyne, PA 19035): An application for a medallion taxicab CPC to transport, as a common carrier, persons in taxicab service between points within the City of Philadelphia and from points in the City of Philadelphia to points in Pennsylvania, and return. *Attorney for Applicant:* Danielle Friedman, Esq., 2301 Church Street, Philadelphia, PA 19124.

SCOTT PETRI,  
*Executive Director*

[Pa.B. Doc. No. 19-1435. Filed for public inspection September 20, 2019, 9:00 a.m.]

## STATE CONSERVATION COMMISSION

### Action on Odor Management Plans for Concentrated Animal Operations and Concentrated Animal Feeding Operations and Volunteers Complying with the Commonwealth's Facility Odor Management Program

The State Conservation Commission has taken the following actions on previously received applications for Odor Management Plans under 3 Pa.C.S. §§ 501—522 (relating to nutrient management and odor management).

Persons aggrieved by any action may appeal under 3 Pa.C.S. § 517 (relating to appealable actions), 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) to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P.O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania AT&T Relay Service at (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also

available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, so individuals interested in challenging this action should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for pro bono representation. Call the Secretary of the Board at (717) 787-3483 for more information.

**Odor Management Plan—Public Notice Spreadsheet—Actions**

<i>Ag Operation Name, Address</i>	<i>County/Township</i>	<i>Animal Equivalent Units</i>	<i>Animal Type</i>	<i>New, Amended or Existing</i>	<i>Action Taken</i>
Forrestdale Farm, LLC— Swine Barn Aaron M. Ott 459 Forrestdale Road Harrisonville, PA 17228	Fulton County/ Licking Creek Township	242.56	Swine	New	Approved
Daniel Hege Farm Daniel Hege 3715 Clayhill Road Waynesboro, PA 17268	Franklin County/ Quincy Township	0	Layers	New	Approved
Michael Long, Sr.— Blue Rock Farms 2116 Yordys Bridge Road Annville, PA 17003	Lebanon County/ East Hanover Township	378.15	Layers	Amended	Approved
Paul H. Wenger— Chicken Barn Paul H. Wenger 975 Mud Level Road Shippensburg, PA 17257	Cumberland County/ Southampton Township	80.63	Layers	New	Approved

RUSSELL C. REDDING,  
*Chairperson*

[Pa.B. Doc. No. 19-1436. Filed for public inspection September 20, 2019, 9:00 a.m.]