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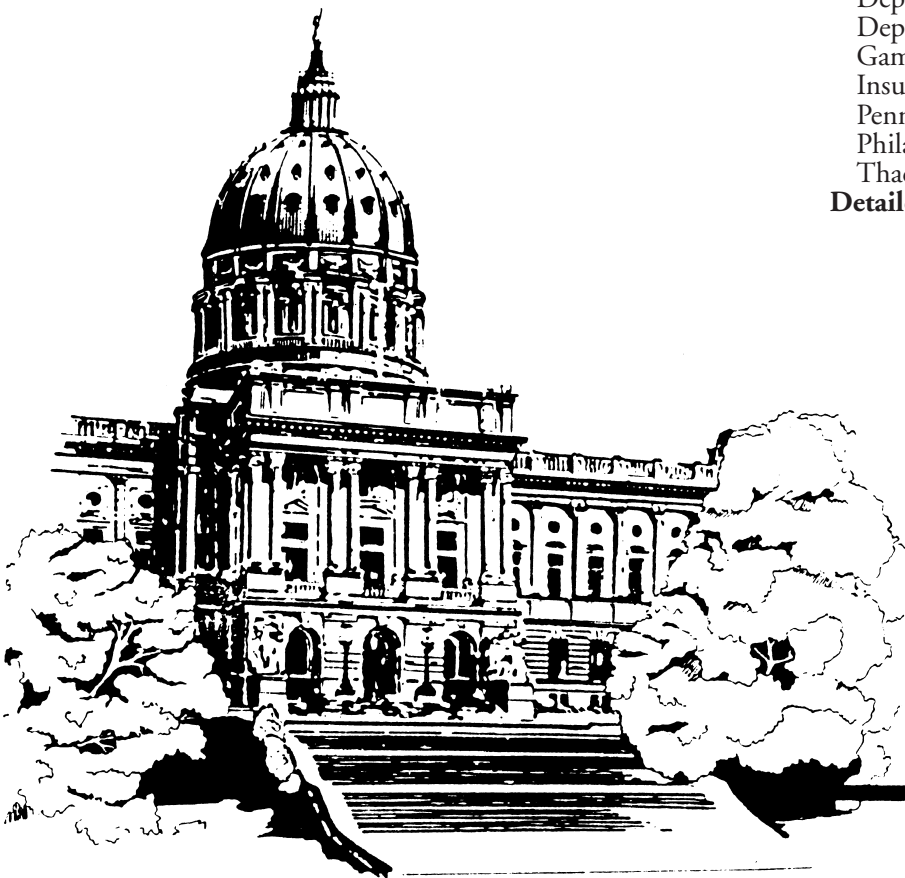
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PENNSYLVANIA BULLETIN

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Agencies in this issue

The Courts
Department of Agriculture
Department of Banking and Securities
Department of Conservation and Natural
Resources
Department of Environmental Protection
Department of Health
Department of Human Services
Department of Revenue
Game Commission
Insurance Department
Pennsylvania Public Utility Commission
Philadelphia Parking Authority
Thaddeus Stevens College of Technology
Detailed list of contents appears inside.



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

No. 513, August 2017

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CONTENTS

THE COURTS

ALLEGHENY COUNTY RULES

Allegheny County

Criminal division; rule of the court of common pleas; No. AD 000-217 of 2017—CR rules doc. . . . 4685

APPELLATE PROCEDURE

Proposed adoption of new Pa.Rs.Crim.P. 850—862, amendment of Pa.Rs.Crim.P. 113, 119 and 909 and revision of the comments to Pa.Rs.Crim.P. 120, 800 and 904; proposed adoption of Pa.R.A.P. 3311—3316 and 3319, rescission of Pa.R.A.P. 1704, 1941, 3315 and 3316, amendment of Pa.Rs.A.P. 702, 901, 909, 1501, 1702, 1761, 2189, 2521 and 2572 and revision of the official notes to Pa.Rs.A.P. 2151, 2152, 2154, 2155 and 2187 4633

Proposed adoption of Pa.R.A.P. 127 and proposed amendment of Pa.R.A.P. 123, 531, 552, 752, 910, 911, 1115, 1116, 1123, 1312, 1314, 1513, 1516, 1573, 1703, 1732, 1770, 1781, 1931, 1952, 2544, 2545 and 2751. 4622

MINOR COURT CIVIL RULES

Proposed amendment of Pa.R.C.P.M.D.J. No. 206 . . . 4682

RULES OF CIVIL PROCEDURE

Proposed adoption of Pa. O.C. Rule 1.99 and proposed amendment of Pa. O.C. Rules 2.1, 2.4, 2.7-2.8, 2.10, 3.3—3.6, 3.9—3.11 and 3.14. 4671

Proposed adoption of Pa.R.C.P. No. 205.6 and proposed amendment of Pa.R.C.P. Nos. 229.2 and 240 4662

Proposed amendments to Pa.R.C.P. Nos. 1901.3, 1901.6, 1905, 1910.4, 1910.7, 1910.11, 1910.27, 1915.3, 1915.4-4, 1915.7, 1915.15, 1915.17, 1915.18, 1920.13, 1920.15, 1920.31, 1920.33, 1920.75, 1930.1, 1930.6, 1953 and 1959 4664

RULES OF CRIMINAL PROCEDURE

Order amending Rule 205 and revising the comment to Rule 209 of the Rules of Criminal Procedure; No. 492 criminal procedural rules doc. 4680

Proposed adoption of new Pa.Rs.Crim.P. 850—862, amendment of Pa.Rs.Crim.P. 113, 119 and 909 and revision of the comments to Pa.Rs.Crim.P. 120, 800 and 904; proposed adoption of Pa.R.A.P. 3311—3316 and 3319, rescission of Pa.R.A.P. 1704, 1941, 3315 and 3316, amendment of Pa.Rs.A.P. 702, 901, 909, 1501, 1702, 1761, 2189, 2521 and 2572 and revision of the official notes to Pa.Rs.A.P. 2151, 2152, 2154, 2155 and 2187 4633

Proposed new Pa.R.Crim.P. 113.1, proposed amendment of Pa.Rs.Crim.P. 206, 504, 560 and 575 and proposed revision of the comment to Pa.Rs.Crim.P. 513 and 578. 4674

RULES OF EVIDENCE

Proposed amendment of comment to Pa.R.E. 901 and 902. 4658

SUPREME COURT

Financial institutions approved as depositories for fiduciary accounts; No. 152 disciplinary rules doc.. 4686

EXECUTIVE AND INDEPENDENT AGENCIES

DEPARTMENT OF AGRICULTURE

Notices

Addendum to the order of quarantine; spotted lanternfly 4714

DEPARTMENT OF BANKING AND SECURITIES

Notices

Actions on applications. 4714

DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

Notices

Proposed exchange of property. 4715

Wild Resource Conservation Program; hearing on grant funding. 4716

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Notices

Applications, actions and special notices. 4716

Coastal zone grants; 2018 grant opportunity. 4770

Planning grant awards under section 901 of the Municipal Waste Planning, Recycling and Waste Reduction Act, Act 101 of 1988. 4770

Proposed State Implementation Plan revision; attainment demonstration for the Indiana nonattainment area for the 2010 sulfur dioxide National Ambient Air Quality Standard; public hearing 4771

Rescission of technical guidance 4771

DEPARTMENT OF HEALTH

Notices

Ambulatory surgical facilities; requests for exceptions 4772

Hospitals; requests for exceptions 4772

DEPARTMENT OF HUMAN SERVICES

Proposed Rulemaking

Outpatient psychiatric services and psychiatric outpatient clinics 4689

DEPARTMENT OF REVENUE

Notices

Pennsylvania \$1 Million Pennsylvania Payout instant lottery game 1295 4773

Pennsylvania Crazy Wild Ca\$h instant lottery game 1298 4776

Pennsylvania Fruit Loot instant lottery game 1297 . 4779

Pennsylvania Gus instant lottery game 1296 4781

Pennsylvania Hot Ticket instant lottery game 1299 . 4785

GAME COMMISSION

Proposed Rulemaking

Hunting and trapping; general 4710

Hunting and trapping; general; small game; big game. 4711

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

INSURANCE DEPARTMENT

Notices

Ability Insurance Company; rate increase filing for several LTC forms (TRIP-131126865)..... 4787
Review procedure hearings; cancellation or refusal of insurance 4788
Review procedure hearings under the Unfair Insurance Practices Act 4788

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Notices

Service of notice of motor carrier applications..... 4788

PHILADELPHIA PARKING AUTHORITY

Notices

Notice of cancellation of sales of wheelchair accessible taxicab medallions 4789
Taxicab and limousine division fee schedule for the 2018 fiscal year beginning July 1, 2017 4790

THADDEUS STEVENS COLLEGE OF TECHNOLOGY

Notices

Request for resumes 4790

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

Pennsylvania Bulletin

The *Pennsylvania Bulletin* is the official gazette of the Commonwealth of Pennsylvania. It is published every week and includes a table of contents. A cumulative subject matter index is published quarterly.

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

Second, the *Pennsylvania Bulletin* also publishes: Governor's Executive Orders; State Contract Notices; Summaries of Enacted Statutes; Statewide and Local Court Rules; Attorney General Opinions; Motor Carrier Applications before the Pennsylvania Public Utility Commission; Applications and Actions before the Department of Environmental Protection; Orders of the Independent Regulatory Review Commission; and other documents authorized by law.

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

Adoption, Amendment or Repeal of Regulations

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

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

The agency then allows sufficient time for public comment before taking final action. An adopted proposal must be published in the *Pennsylvania Bulletin* before it can take effect. If the agency

wishes to adopt changes to the Notice of Proposed Rulemaking to enlarge the scope, it must repropose.

Citation to the *Pennsylvania Bulletin*

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

Pennsylvania Code

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

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

Under the *Pennsylvania Code* codification system, each regulation is assigned a unique number by title and section. Titles roughly parallel the organization of Commonwealth government. Title 1 *Pennsylvania Code* lists every agency and its corresponding *Code* title location.

How to Find Documents

Search for your area of interest in the *Pennsylvania Code*. The *Pennsylvania Code* is available at www.pacode.com.

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.

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

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Printing Format

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

Fiscal Notes

Section 612 of The Administrative Code of 1929 (71 P. S. § 232) requires that the Office of Budget prepare a fiscal note for regulatory actions and administrative procedures of the administrative departments, boards, commissions or authorities receiving money from the State Treasury stating whether the proposed action or procedure causes a loss of revenue or an increase in the cost of programs for the Commonwealth or its political subdivisions; that the fiscal note be published in the *Pennsylvania Bulletin* at the same time as the proposed change is advertised. A fiscal note provides the following information: (1) the designation of the fund out of which the appropriation providing for expenditures under the action or procedure shall be made; (2) the probable cost for the fiscal year the program is implemented; (3) projected cost estimate of the program for each of the 5 succeeding fiscal years; (4) fiscal history of the program for which expenditures are to be made; (5) probable loss of revenue for the fiscal year of its implementation; (6) projected loss of revenue from the program for each of the 5 succeeding fiscal years; (7) line item, if any, of the General Appropriation Act or other appropriation act out of which expenditures or losses of Commonwealth funds shall occur as a result of the action or procedures; (8) recommendation, if any, of the Secretary of the Budget and the reasons therefor.

The required information is published in the foregoing order immediately following the proposed change to which it relates; the omission of an item indicates that the agency text of the fiscal note states that there is no information available with respect thereto. In items (3) and (6) information is set forth for the first through fifth fiscal years; in that order, following the year the program is implemented, which is stated. In item (4) information is set forth for the current and two immediately preceding years, in that order. In item (8) the recommendation, if any, made by the Secretary of Budget is published with the fiscal note. See 4 Pa. Code § 7.231 *et seq.* Where “no fiscal impact” is published, the statement means no additional cost or revenue loss to the Commonwealth or its local political subdivision is intended.

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List of Pa. Code Chapters Affected

The following numerical guide is a list of the chapters of each title of the *Pennsylvania Code* affected by documents published in the *Pennsylvania Bulletin* during 2017.

4 Pa. Code (Administration)

Proposed Rules

91	2332
95	2332
97	2332
98	2332
99	2332
103	2332
105	2332
110	2332

Statements of Policy

9	832, 1163, 1515, 1855, 2105, 3220, 3372, 3975
---	---

19 Pa. Code (Corporations and Business Associations)

Statements of Policy

71	1165
----	------

22 Pa. Code (Education)

Adopted Rules

11	3091
741	3093

25 Pa. Code (Environmental Protection)

Adopted Rules

252	4085
806	4107
901	313

Proposed Rules

121	1157, 3356
126	1157
129	3356
208	1636
215	2722
216	2722
217	2722
218	2722
219	2722
220	2722
221	2722
223	2722
225	2722
227	2722
228	2722
230	2722
240	2722
806	4140

28 Pa. Code (Health and Safety)

Adopted Rules

23	1300
1141	199
1151	199
1161	217
1181	3096

34 Pa. Code (Labor and Industry)

Statements of Policy

123	440
-----	-----

40 Pa. Code (Liquor)

Proposed Rules

9	2977
11	2977

49 Pa. Code (Professional and Vocational Standards)

Adopted Rules

5	3494
43b	3814
45	3814

Proposed Rules

27	1509
----	------

52 Pa. Code (Public Utilities)

Adopted Rules

1	3099
3	3099
23	3099
29	429, 3099
57	4118
1001	2558
1002	2558
1003	2558
1005	2558
1011	2558
1013	2558
1017	2558
1019	2558
1021	2558
1027	2558
1029	2558
1030	2558
1051	2558
1053	2558
1055	2558
1057	2558
1059	2558
1063	2558

Proposed Rules

56	965, 4135
59	19

55 Pa. Code (Human Services)

Proposed Rules

1153	4689
5200	4689

58 Pa. Code (Recreation)

Adopted Rules

65	1465, 1466
131	1467, 2710
133	1467
135	2599, 2600, 2715
137	2601
139	2603, 2609, 2717
141	2610, 2710, 2718
147	2611, 2612, 2720

Proposed Rules

65	1469
105	3974
131	1769
135	1475, 1477, 1479, 2774
137	1493
139	1480, 1486
141	1472, 1473, 1769, 2774, 4710, 4711
143	2774
147	1490, 1492, 2776, 2777

423a 3827
 429a 3827
 437a 3827
 439a 3827
 440a 3827
 461a 3827
 465a 3827
 601a 3827
 609a 3827
 617a 3182
 621a 3827
 625a 3182
 635a 3827
 637a 3182
 639a 3182
 641a 3182
 643a 3182
 647a 3182
 649a 3827
 653a 3182
 655a 3182
 657a 3182
 659a 3827
 669a 3827
 670a 3827
 674a 3827
 675a 3827
 677a 3182
 678a 3827
 679a 3182
 680a 3827
 682a 1495
 683a 1495
 684a 3182

67 Pa. Code (Transportation)

Proposed Rules
 175 1748

Statements of Policy

173a 3116

70 Pa. Code (Weights, Measures and Standards)

Proposed Rules
 110 2974

201 Pa. Code (Rules of Judicial Administration)

Adopted Rules
 1 937

204 Pa. Code (Judicial System General Provisions)

Adopted Rules
 83 1276, 2539
 87 3075, 4519
 89 3075
 93 2539, 3075
 213 291

Proposed Rules

71 2423
 81 1122, 2181
 82 3487
 83 3488, 3490
 303 1999
 305 1999

207 Pa. Code (Judicial Conduct)

Adopted Rules
 33 2181

210 Pa. Code (Appellate Procedure)

Adopted Rules
 25 1277
 69 2101

Proposed Rules

1 7, 4622
 5 4622
 7 4622, 4633
 9 4622, 4633
 11 4622
 13 4622
 15 4622, 4633
 17 4622, 4633
 19 4622, 4633
 21 4622, 4633
 25 4622, 4633
 27 4622
 33 4633

225 Pa. Code (Rules of Evidence)

Adopted Rules
 Article VI 1623
 Article VIII 1623
 Article IX 3491

Proposed Rules

Article IX 4658

231 Pa. Code (Rules of Civil Procedure)

Adopted Rules
 200 178
 400 178
 1000 178, 937, 3805
 1650 3805
 1910 1123, 3744

Proposed Rules

200 4662
 1000 3076
 1900 4664
 1910 2540, 4664
 1915 2181, 3333, 4664
 1920 2540, 4664
 1930 4664
 1950 4664
 2000 3076
 Part II 4671

234 Pa. Code (Rules of Criminal Procedure)

Adopted Rules
 2 4680
 5 2871

Proposed Rules

1 179, 1731, 4520, 4674, 4633
 2 182, 3958, 4674
 4 1850, 3959
 5 182, 185, 306, 1731, 4674
 6 4520
 8 4633
 9 4633
 10 186

237 Pa. Code (Juvenile Rules)

Adopted Rules
 1 941, 2313
 2 941, 2313, 3078
 4 820
 5 2313, 2969
 6 2969

8 2313
 11 2313
 12 2313, 3078
 13 2313, 3079
 15 2313
 16 2313
 18 2313

Proposed Rules

1 938, 3336, 3342
 4 942
 5 942, 3336
 6 942
 11 3336, 3342, 3962
 12 3962
 13 3962
 14 3342, 3962
 15 3342, 3962
 16 947, 3342, 3962, 3970

246 Pa. Code (Minor Court Civil Rules)

Proposed Rules

200 4682
 300 4082
 500 2324
 1000 2324

249 Pa. Code (Philadelphia Rules)

Unclassified 420, 1628, 1732, 2330, 3492, 3806

252 Pa. Code (Allegheny Rules)

Unclassified 3809, 4685

255 Pa. Code (Local Court Rules)

Unclassified .. 8, 9, 12, 14, 15, 17, 18, 188, 190, 191, 192, 193, 194, 195, 308, 309, 310, 311, 420, 422, 423, 426, 428, 666, 667, 669, 825, 828, 829, 830, 949, 950, 951, 952, 958, 959, 963, 1278, 1279, 1628, 1630, 1736, 1738, 1741, 1742, 1852, 2101, 2102, 2103, 2187, 2188, 2330, 2424, 2431, 2544, 2874, 2880, 2973, 3081, 3086, 3087, 3088, 3180, 3181, 3348, 3349, 3350, 3352, 3354, 3810, 3972, 4083, 4522, 4523, 4524

THE COURTS

Title 210—APPELLATE PROCEDURE

PART I. RULES OF APPELLATE PROCEDURE

[210 PA. CODE CHS. 1, 5, 7, 9, 11, 13, 15, 17, 19, 21, 25 AND 27]

Proposed Adoption of Pa.R.A.P. 127 and Proposed Amendment of Pa.R.A.P. 123, 531, 552, 752, 910, 911, 1115, 1116, 1123, 1312, 1314, 1513, 1516, 1573, 1703, 1732, 1770, 1781, 1931, 1952, 2544, 2545 and 2751

The Appellate Court Procedural Rules Committee is planning to propose to the Supreme Court of Pennsylvania the adoption of Pa.R.A.P. 127 governing the certification and filing of confidential information and confidential documents, and corollary amendments throughout the Pennsylvania Rules of Appellate Procedure.

Any reports, notes, or comments in the proposal have been inserted by the Committee for the convenience of those using the rules. They will neither constitute a part of the rules nor will be officially adopted by the Supreme Court.

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

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

Appellate Court Procedural Rules Committee
 Pennsylvania Judicial Center
 601 Commonwealth Ave., Suite 6200
 P.O. Box 62635
 Harrisburg, Pennsylvania 17106-2635
 FAX: (717) 231-9551
 appellaterules@pacourts.us

All communications in reference to the proposal should be received by September 12, 2017. E-mail is the preferred method for submitting comments, suggestions, or objections; any e-mailed submission need not be reproduced and resubmitted via mail. The Committee will acknowledge receipt of all submissions.

*By the Appellate Court
 Procedural Rules Committee*

HONORABLE PATRICIA A. McCULLOUGH,
Chair

Annex A

TITLE 210. APPELLATE PROCEDURE

PART I. RULES OF APPELLATE PROCEDURE

ARTICLE I. PRELIMINARY PROVISIONS

CHAPTER 1. GENERAL PROVISIONS

DOCUMENTS GENERALLY

Rule 123. Application for Relief.

(a) *Contents of applications for relief.*—Unless another form is elsewhere prescribed by these rules, an application for an order or other relief shall be made by filing a written application for such order or relief with proof of service on all other parties. The application shall contain or be accompanied by any matter required by a specific provision of these rules governing such an application,

shall state with particularity the grounds on which it is based, and shall set forth the order or relief sought. If an application is supported by briefs, verified statements, or other papers, they shall be served and filed with the application. An application may be made in the alternative and [**pray for**] **seek** such alternative relief or action by the court as may be appropriate. All grounds for relief demanded shall be stated in the application and failure to state a ground shall constitute a waiver thereof. Except as otherwise prescribed by these rules, a request for more than one type of relief may be combined in the same application.

* * * * *

(e) *Power of single judge to entertain applications.*—In addition to the authority expressly conferred by these rules or by law or rule of court, a single judge of an appellate court may entertain and may grant or deny any request for relief which under these rules may properly be sought by application, except that an appellate court may provide by order or rule of court that any application or class of applications must be acted upon by the court. The action of a single judge may be reviewed by the court except for actions of a single judge under [**Rule**] **Pa.R.A.P. 3102(c)(2)** (relating to quorum in Commonwealth Court in any election matter).

(f) *Certificate of compliance with Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts.*—**An application or answer filed under this Rule shall contain the certificate of compliance required by Pa.R.A.P. 127.**

Official Note: The 1997 amendment precludes review by the Commonwealth Court of actions of a single judge in election matters.

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

Rule 127. Confidential Information and Confidential Documents. Certification.

(a) Unless constrained by applicable authority, any attorney or any unrepresented party who files a document pursuant to these rules shall comply with the requirements of Sections 7.0 and 8.0 of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* (Policy). Unless otherwise authorized by rule of court, any attorney or unrepresented party shall file a certificate of compliance with the Policy with every document filed with the court.

(b) Unless an appellate court orders otherwise, case records or documents that are sealed by a court, government unit, or other tribunal shall remain sealed on appeal.

Official Note: Paragraph (a)—“Applicable authority” includes but is not limited to statute, procedural rule, or court order. *The Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* (Policy) can be found at <http://www.pacourts.us/public-record-policies>. Sections 7.0(D) and 8.0(D) of the Policy provide that the certification shall be in substantially the following form:

I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial*

System of Pennsylvania: Case Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents.

Appropriate forms can be found at <http://www.pacourts.us/public-record-policies>. Pursuant to Section 7.0(C) of the Policy and Pa.R.J.A. No. 103(c), a court may adopt a rule or order that permits in lieu of certification, the filing of a document in two versions, that is, a "Redacted Version" and an "Unredacted Version."

Paragraph (b)—Once a document is sealed, it shall remain sealed on appeal unless the appellate court orders, either *sua sponte* or on application, that the case record or document be opened.

CHAPTER 5. PERSONS WHO MAY TAKE OR PARTICIPATE IN APPEALS

AMICUS CURIAE

Rule 531. Participation by Amicus Curiae.

* * * * *

(b) *Briefs*

* * * * *

(2) *Content.*—An *amicus curiae* brief must contain a statement of the interest of *amicus curiae*. The statement of interest shall disclose the identity of any person or entity other than the *amicus curiae*, its members, or counsel who (i) paid in whole or in part for the preparation of the *amicus curiae* brief or (ii) authored in whole or in part the *amicus curiae* brief. It does not need to contain a Statement of the Case and does not need to address jurisdiction or the order or other determinations in question. **An *amicus curiae* brief shall contain the certificate of compliance required by Pa.R.A.P. 127.**

* * * * *

FORMA PAUPERIS

Rule 552. Application to Lower Court for Leave to Appeal In Forma Pauperis.

(a) *General rule.*—A party who is not eligible to file a verified statement under [**Rule**] Pa.R.A.P. 551 (continuation of in forma pauperis status for purposes of appeal) may apply to the lower court for leave to proceed on appeal *in forma pauperis*. The application may be filed before or after the taking of the appeal, but if filed before the taking of the appeal, the application shall not extend the time for the taking of the appeal.

(b) *Accompanying verified statement.*—Except as prescribed in [**Subdivision**] paragraph (d) of this rule, the application shall be accompanied by a verified statement substantially conforming to the requirements of [**Rule**] Pa.R.A.P. 561 (form of IFP verified statement) showing in detail the inability of the party to pay the fees and costs provided for in Chapter 27 (fees and costs in appellate courts and on appeal).

(c) *No filing fee required.*—The clerk of the lower court shall file an application under this rule without the payment of any filing fee.

(d) *Automatic approval in certain cases.*—If the applicant is represented by counsel who certifies on the application or by separate document that the applicant is indigent and that such counsel is providing free legal service to the applicant, the clerk of the lower court shall forthwith enter an order granting the application. The clerk may accept and act on an application under this [**subdivision**] paragraph without an accompanying verified statement by the party.

(e) *Consideration and action by the court.*—Except as prescribed in [**Subdivision**] paragraph (d) of this rule, the application and verified statement shall be submitted to the court, which shall enter its order thereon within 20 days from the date of the filing of the application. If the application is denied, in whole or in part, the court shall briefly state its reasons.

(f) *Certificate of compliance with Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts.*—**An application filed under this Rule shall contain the certificate of compliance required by Pa.R.A.P. 127.**

Official Note: Extends the substance of former Supreme Court Rule 61(b) (part) and 61(c) (part) to the Superior and Commonwealth Courts and provides for action by the clerk in lieu of the court. It is anticipated that an application under this rule ordinarily would be acted upon prior to the docketing of the appeal in the appellate court and the transmission of the record.

Relief from requirements for posting a supersedeas bond in civil matters must be sought under [**Rule**] Pa.R.A.P. 1732 (application for stay or injunction pending appeal) and relief from bail requirements in criminal matters must be sought as prescribed by [**Rule**] Pa.R.A.P. 1762 (release in criminal matters), but under [**Rule**] Pa.R.A.P. 123 (applications for relief) the applications under [**Rule**] Pa.R.A.P. 552 (or 553) and other rules may be combined into a single document.

CHAPTER 7. COURTS TO WHICH APPEALS SHALL BE TAKEN

TRANSFERS OF CASES

Rule 752. Transfers Between Superior and Commonwealth Courts.

* * * * *

(b) *Content of application; answer.*—The application shall contain a statement of the facts necessary to an understanding of the same or related questions of fact, law, or discretion; a statement of the questions themselves; and a statement of the reasons why joint consideration of the appeals would be desirable. The application shall be served on all other parties to all appeals or other matters involved, and shall include or have annexed thereto a copy of each order from which any appeals involved were taken and any findings of fact, conclusions of law, and opinions relating thereto. Any other party to any appeal or other matter involved may file an answer in opposition in accordance with [**Rule**] Pa.R.A.P. 123(b). **An application or answer filed under this Rule shall contain the certificate of compliance required by Pa.R.A.P. 127.** The application and answer shall be submitted without oral argument unless otherwise ordered.

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ARTICLE II. APPELLATE PROCEDURE

CHAPTER 9. APPEALS FROM LOWER COURTS

Rule 910. Jurisdictional Statement. Content. Form.

(a) *General rule.*—The jurisdictional statement required by [**Rule**] Pa.R.A.P. 909 shall contain the following in the order set forth:

* * * * *

(b) *Matters of form.*—The jurisdictional statement need not be set forth in numbered paragraphs in the manner of

a pleading. It shall be as short as possible and shall not exceed 1000 words, excluding the appendix.

(c) *Certificate of compliance.*

(1) **Word count.**—A jurisdictional statement that does not exceed five pages when produced on a word processor or typewriter shall be deemed to meet the requirements of [**subdivision**] **paragraph** (b) of this rule. In all other cases, the attorney or the unrepresented filing party shall include a certification that the statement complies with the word count limits. The certificate may be based on the word count of the word processing system used to prepare the statement.

(2) **Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts.**—A jurisdictional statement shall contain the certificate of compliance required by Pa.R.A.P. 127.

(d) *Nonconforming statements.*—The Prothonotary of the Supreme Court shall not accept for filing any statement that does not comply with this rule. [**He shall return it**] **The Prothonotary shall return the statement** to the appellant, and inform all parties in which respect the statement does not comply with the rule. The prompt filing and service of a new and correct statement within seven days after return by the Prothonotary shall constitute a timely filing of the jurisdictional statement.

Rule 911. Answer to Jurisdictional Statement. Content. Form.

(a) *General rule.*—An answer to a jurisdictional statement shall set forth any procedural, substantive, or other argument or ground why the order appealed from is not reviewable as of right and why the Supreme Court should not grant an appeal by allowance. The answer need not be set forth in numbered paragraphs in the manner of a pleading and shall not exceed 1000 words.

(b) *Certificate of compliance.*

(1) **Word count.**—An answer to a jurisdictional statement that does not exceed five pages when produced on a word processor or typewriter shall be deemed to meet the requirements of [**subdivision**] **paragraph** (a) of this rule. In all other cases, the attorney or the unrepresented filing party shall include a certification that the statement complies with the word count limits. The certificate may be based on the word count of the word processing system used to prepare the statement.

(2) **Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts.**—An answer to a jurisdictional statement shall contain the certificate of compliance required by Pa.R.A.P. 127.

Official Note: The Supreme Court has, in a number of cases, determined that a party has no right of appeal, but has treated the notice of appeal as a petition for allowance of appeal and granted review. See *Gossman v. Lower Chanceford Tp. Bd. of Supervisors*, [**503 Pa. 392**,] 469 A.2d 996 (Pa. 1983); *Xpress Truck Lines, Inc. v. Pennsylvania Liquor Control Board*, [**503 Pa. 399**,] 469 A.2d 1000 (Pa. 1983); *O'Brien v. State Employment Retirement Board*, [**503 Pa. 414**,] 469 A.2d 1008 (Pa. 1983). See also Pa.R.A.P. 1102. Accordingly, a party opposing a jurisdictional statement shall set forth why the order appealed from is not reviewable on direct appeal and why the Court should not grant an appeal by allowance.

CHAPTER 11. APPEALS FROM COMMONWEALTH COURT AND SUPERIOR COURT

PETITION FOR ALLOWANCE OF APPEAL

Rule 1115. Content of the Petition for Allowance of Appeal.

(a) *General rule.*—The petition for allowance of appeal need not be set forth in numbered paragraphs in the manner of a pleading, and shall contain the following (which shall, insofar as practicable, be set forth in the order stated):

[**1.**] (1) A reference to the official and unofficial reports of the opinions delivered in the courts below, if any, and if reported. Any such opinions shall be appended as provided in item 6 of paragraph (a) of this rule.

[**2.**] (2) The text of the order in question, or the portions thereof sought to be reviewed, and the date of its entry in the appellate court below. If the order is voluminous, it may, if more convenient, be appended to the petition.

[**3.**] (3) The questions presented for review, expressed in the terms and circumstances of the case but without unnecessary detail. The statement of questions presented will be deemed to include every subsidiary question fairly comprised therein. Only the questions set forth in the petition, or fairly comprised therein, will ordinarily be considered by the court in the event an appeal is allowed.

[**4.**] (4) A concise statement of the case containing the facts material to a consideration of the questions presented.

[**5.**] (5) A concise statement of the reasons relied upon for allowance of an appeal. See Pa.R.A.P. 1114.

[**6.**] (6) There shall be appended to the petition a copy of any opinions delivered relating to the order sought to be reviewed, as well as all opinions of government units or lower courts in the case, and, if reference thereto is necessary to ascertain the grounds of the order, opinions in companion cases. If an application for reargument was filed in the Superior Court or Commonwealth Court, there also shall be appended to the petition a copy of any order granting or denying the application for reargument. If whatever is required by this paragraph to be appended to the petition is voluminous, it may, if more convenient, be separately presented.

[**7.**] (7) There shall be appended to the petition the verbatim texts of the pertinent provisions of constitutional provisions, statutes, ordinances, regulations, or other similar enactments which the case involves, and the citation to the volume and page where they are published, including the official edition, if any.

(8) **The certificate of compliance required by Pa.R.A.P. 127.**

(b) *Caption and parties.*—All parties to the proceeding in the appellate court below shall be deemed parties in the Supreme Court, unless the petitioner shall notify the Prothonotary of the Supreme Court of the belief of the petitioner that one or more of the parties below have no interest in the outcome of the petition. A copy of such notice shall be served on all parties to the matter in the lower court, and a party noted as no longer interested may remain a party in the Supreme Court by filing a notice that he has an interest in the petition with the Prothonotary of the Supreme Court. All parties in the Supreme Court other than petitioner shall be named as

respondents, but respondents who support the position of the petitioner shall meet the time schedule for filing papers which is provided in this chapter for the petitioner, except that any response by such respondents to the petition shall be filed as promptly as possible after receipt of the petition.

* * * * *

Rule 1116. Answer to the Petition for Allowance of Appeal.

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(d) *Supplementary matter.*—The cover of the answer, pages containing the table of contents, table of citations, proof of service, signature block and anything appended to the answer shall not count against the word count limitations of this rule.

(e) *Certificate of compliance with Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts.*—An answer to a petition for allowance of appeal shall contain the certificate of compliance required by Pa.R.A.P. 127.

Official Note: This rule and Pa.R.A.P. 1115 contemplate that the petition and answer will address themselves to the heart of the issue, such as whether the Supreme Court ought to exercise its discretion to allow an appeal, without the need to comply with the formalistic pattern of numbered averments in the petition and correspondingly numbered admissions and denials in the response. While such a formalistic format is appropriate when factual issues are being framed in a trial court (as in the petition for review under Chapter 15) such a format interferes with the clear narrative exposition necessary to outline succinctly the case for the Supreme Court in the allocatur context.

Rule 1123. Denial of Appeal; Reconsideration.

(a) *Denial.* If the petition for allowance of appeal is denied the Prothonotary of the Supreme Court shall immediately give written notice in person or by first class mail of the entry of the order denying the appeal to each party who has appeared in the Supreme Court. After the expiration of the time allowed by [**Subdivision**] **paragraph** (b) of this rule for the filing of an application for reconsideration of denial of a petition for allowance of appeal, if no application for reconsideration is filed, the Prothonotary of the Supreme Court shall notify the prothonotary of the appellate court below of the denial of the petition.

(b) *Reconsideration.* Applications for reconsideration of denial of allowance of appeal are not favored and will be considered only in the most extraordinary circumstances. An application for reconsideration of denial of a petition for allowance of appeal shall be filed with the Prothonotary of the Supreme Court within fourteen days after entry of the order denying the petition for allowance of appeal. In a children's fast track appeal, the application for reconsideration of denial of a petition for allowance of appeal shall be filed with the Prothonotary of the Supreme Court within 7 days after entry of the order denying the petition for allowance of appeal. Any application filed under this [**subdivision must**] **paragraph must comport with the following:**

(1) Briefly and distinctly state grounds which are confined to intervening circumstances of substantial or controlling effect.

(2) Be supported by a certificate of counsel to the effect that it is presented in good faith and not for delay. Counsel must also certify that the application is restricted to the grounds specified [**in Paragraph (1) of this subdivision**] **under subparagraph (b)(1).**

(3) **Contain the certificate of compliance required by Pa.R.A.P. 127.**

No answer to an application for reconsideration will be received unless requested by the Supreme Court. Second or subsequent applications for reconsideration, and applications for reconsideration which are out of time under this rule, will not be received.

(c) *Manner of filing.* If the application for reconsideration is transmitted to the prothonotary of the appellate court by means of first class, express, or priority United States Postal Service mail, the application shall be deemed received by the prothonotary for the purposes of [**Rule**] Pa.R.A.P. 121(a) (filing) on the date deposited in the United States mail as shown on a United States Postal Service Form 3817 Certificate of Mailing, or other similar United States Postal Service form from which the date of deposit can be verified. The certificate of mailing or other similar Postal Service form from which the date of deposit can be verified shall be cancelled by the Postal Service, shall show the docket number of the matter in the court in which reconsideration is sought and shall be enclosed with the application or separately mailed to the prothonotary. Upon actual receipt of the application, the prothonotary shall immediately stamp it with the date of actual receipt. That date, or the date of earlier deposit in the United States mail as prescribed in this [**subdivision**] **paragraph**, shall constitute the date when application was sought, which date shall be shown on the docket.

CHAPTER 13. INTERLOCUTORY APPEALS BY PERMISSION

Rule 1312. Content of the Petition for Permission to Appeal.

(a) *General rule.*—The petition for permission to appeal need not be set forth in numbered paragraphs in the manner of a pleading, and shall contain the following (which shall, insofar as practicable, be set forth in the order stated):

* * * * *

(7) There shall be appended to the petition the verbatim texts of the pertinent provisions of constitutional provisions, statutes, ordinances, regulations, or other similar enactments which the case involves, and the citation to the volume and page where they are published, including the official edition, if any.

(8) **The certificate of compliance required by Pa.R.A.P. 127.**

(b) *Caption and parties.*—All parties to the proceeding in the lower court or other government unit other than petitioner shall be named as respondents, but respondents who support the position of the petitioner shall meet the time schedule for filing papers which is prescribed in this chapter for the petitioner, except that any response by such respondents to the petition shall be filed as promptly as possible after receipt of the petition.

(c) *No supporting brief.*—All contentions in support of a petition for permission to appeal shall be set forth in the body of the petition as prescribed [**by Paragraph (a)(5) of this rule**] **under subparagraph (a)(5).** Neither the

briefs below nor any separate brief in support of a petition for permission to appeal will be received, and the prothonotary of the appellate court will refuse to file any petition for permission to appeal to which is annexed or appended any brief below or supporting brief.

(d) *Essential requisites of petition.*—The failure of a petitioner to present with accuracy, brevity, and clearness whatever is essential to a ready and adequate understanding of the points requiring consideration will be a sufficient reason for denying the petition.

(e) *Multiple petitioners.*—Where permitted by [**Rule**] **Pa.R.A.P.** 512 (joint appeals) a single petition for permission to appeal may be filed.

Official Note: Based on former Commonwealth Court Rule 114. [**Subdivision**] **subparagraph** (a)(2) of this rule makes clear that the order of the tribunal below must contain a statement that the order involves a controlling question of law as to which there is a difference of opinion.

Interlocutory appeals as of right may be taken by filing a notice of appeal under Chapter 9 (appeals from lower courts), rather than by petition under this rule. See [**Rule**] **Pa.R.A.P.** 311 (interlocutory appeals as of right).

Rule 1314. Answer to the Petition for Permission to Appeal.

Within 14 days after service of a petition for permission to appeal an adverse party may file an answer. The answer shall be deemed filed on the date of mailing if first class, express, or priority United States Postal Service mail is utilized. The answer need not be set forth in numbered paragraphs in the manner of a pleading, shall set forth any procedural, substantive or other argument or ground why the interlocutory order involved should not be reviewed by the appellate court and shall comply with [**Rule**] **Pa.R.A.P.** 1312(a)(7) (content of petition for permission to appeal). **An answer to a petition for permission to appeal shall contain the certificate of compliance required by Pa.R.A.P. 127.** No separate motion to dismiss a petition for permission to appeal will be received. A party entitled to file an answer under this rule who does not intend to do so shall, within the time fixed by these rules for filing an answer, file a letter stating that an answer to the petition for permission to appeal will not be filed. The failure to file an answer will not be construed as concurrence in the request for permission to appeal.

CHAPTER 15. JUDICIAL REVIEW OF GOVERNMENTAL DETERMINATIONS

PETITION FOR REVIEW

Rule 1513. Petition for Review.

(a) *Caption and parties on appeal.*—In an appellate jurisdiction petition for review, the aggrieved party or person shall be named as the petitioner and, unless the government unit is disinterested, the government unit and no one else shall be named as the respondent. If the government unit is disinterested, all real parties in interest, and not the government unit, shall be named as respondents.

(b) *Caption and parties in original jurisdiction actions.*—The government unit and any other indispensable party shall be named as respondents. Where a public act or duty is required to be performed by a government unit, it is sufficient to name the government unit, and not its individual members, as respondent.

(c) *Form.*—Any petition for review shall be divided into consecutively numbered paragraphs. Each paragraph shall contain, as nearly as possible, a single allegation of fact or other statement. When petitioner seeks review of an order refusing to certify an interlocutory order for immediate appeal, numbered paragraphs need not be used.

(d) *Content of appellate jurisdiction petition for review.*—An appellate jurisdiction petition for review shall contain **the following:**

[**1.**] (1) a statement of the basis for the jurisdiction of the court;

[**2.**] (2) the name of the party or person seeking review;

[**3.**] (3) the name of the government unit that made the order or other determination sought to be reviewed;

[**4.**] (4) reference to the order or other determination sought to be reviewed, including the date the order or other determination was entered;

[**5.**] (5) a general statement of the objections to the order or other determination, but the omission of an issue from the statement shall not be the basis for a finding of waiver if the court is able to address the issue based on the certified record;

[**6.**] (6) a short statement of the relief sought; [**and**]

[**7.**] (7) a copy of the order or other determination to be reviewed, which shall be attached to the petition for review as an exhibit[.]; **and**

(8) the certificate of compliance required by Pa.R.A.P. 127.

No notice to plead or verification is necessary.

Where there were other parties to the proceedings conducted by the government unit, and such parties are not named in the caption of the petition for review, the petition for review shall also contain a notice to participate, which shall provide substantially as follows:

If you intend to participate in this proceeding in the (Supreme, Superior or Commonwealth, as appropriate) Court, you must serve and file a notice of intervention under Pa.R.A.P. 1531 of the Pennsylvania Rules of Appellate Procedure within 30 days.

(e) *Content of original jurisdiction petition for review.*—A petition for review addressed to an appellate court's original jurisdiction shall contain **the following:**

[**1.**] (1) a statement of the basis for the jurisdiction of the court;

[**2.**] (2) the name of the person or party seeking relief;

[**3.**] (3) the name of the government unit whose action or inaction is in issue and any other indispensable party;

[**4.**] (4) a general statement of the material facts upon which the cause of action is based;

[**5.**] (5) a short statement of the relief sought; [**and**]

[**6.**] (6) a notice to plead and verification either by oath or affirmation or by verified statement[.]; **and**

(7) the certificate of compliance required by Pa.R.A.P. 127.

(f) *Alternative objections.*—Objections to a determination of a government unit and the related relief sought may be stated in the alternative, and relief of several different types may be requested.

Official Note: The 2004 amendments to this rule clarify what must be included in a petition for review addressed to an appellate court’s appellate jurisdiction and what must be included in a petition for review addressed to an appellate court’s original jurisdiction. Where it is not readily apparent whether a “determination” (defined in Pa.R.A.P. 102 as “[a]ction or inaction by a government unit”) is reviewable in the court’s appellate or original jurisdiction, compliance with the requirements of paragraphs (d) and (e) is appropriate.

Paragraphs (a) and (b) reflect the provisions of Pa.R.A.P. 501, Pa.R.A.P. 503, Section 702 of the Administrative Agency Law, 2 Pa.C.S. § 702 (Appeals), and Pa.R.C.P. [No.] 1094 (regarding parties defendant in mandamus actions).

* * * * *

Rule 1516. Other Pleadings Allowed.

(a) *Appellate jurisdiction petitions for review.*—No answer or other pleading to an appellate jurisdiction petition for review is authorized, unless the petition for review is filed pursuant to the Notes to [Rules] Pa.R.A.P. 341 or 1311 (seeking review of a trial court or other government unit’s refusal to certify an interlocutory order for immediate appeal), [Rule] Pa.R.A.P. 1573 (review of orders finding an assertion of double jeopardy frivolous), [Rule] Pa.R.A.P. 1762 (regarding release in criminal matters), [Rule] Pa.R.A.P. 1770 (regarding placement in juvenile delinquency matters), [Rule] Pa.R.A.P. 3321 (regarding appeals from decisions of the Legislative Reapportionment Commission) or [Rule] Pa.R.A.P. 3331 (regarding review of special prosecutions and investigations). Where an answer is authorized, the time for filing an answer shall be as stated in [Rule 123(b)] Pa.R.A.P. 123(b), and the answer shall contain the certificate of compliance required by Pa.R.A.P. 127.

(b) *Original jurisdiction petitions for review.*—Where an action is commenced by filing a petition for review addressed to the appellate court’s original jurisdiction, the pleadings are limited to the petition for review, an answer thereto, a reply if the answer contains new matter or a counterclaim, a counter-reply if the reply to a counterclaim contains new matter, a preliminary objection, and an answer thereto. **A pleading shall contain the certificate of compliance required by Pa.R.A.P. 127.** Every pleading filed after an original jurisdiction petition for review shall be filed within 30 days after service of the preceding pleading, but no pleading need be filed unless the preceding pleading is endorsed with a notice to plead.

Official Note: The 2004, 2012, and 2013 amendments made clear that, with limited exceptions, no answer or other pleading to a petition for review addressed to an appellate court’s appellate jurisdiction is proper. With regard to original jurisdiction proceedings, practice is patterned after Rules of Civil Procedure 1017(a) (Pleadings Allowed) and 1026 (Time for Filing, Notice to Plead). The ten additional days in which to file a subsequent pleading are in recognition of the time required for agency coordination where the Commonwealth is a party. See [Rule] Pa.R.A.P. 1762(b)(2) regarding bail applica-

tions. See [Rule] Pa.R.A.P. 1770 regarding placement in juvenile delinquency matters.

REVIEW OF DETERMINATIONS OF THE BOARD OF FINANCE AND REVENUE

Rule 1571. Determinations of the Board of Finance and Revenue.

* * * * *

(c) *Form.*—The petition for review shall contain a statement of the basis for the jurisdiction of the court; the name of the party seeking review; a statement that the Board of Finance and Revenue made the determination sought to be reviewed; reference to the order or other determination sought to be reviewed; and a general statement of the objections to the order or other determination. The petition for review need not be verified and shall not contain or have endorsed upon it notice to plead. A petition for review of a taxpayer or similar party shall name the “Commonwealth of Pennsylvania” as respondent and a petition for review filed by the Commonwealth of Pennsylvania shall name all real parties in interest before the Board as respondents. **The petition for review shall contain the certificate of compliance required by Pa.R.A.P. 127.**

(d) *Service.*—In the case of a petition for review by a taxpayer or similar party, a copy of the petition shall be served on the Board of Finance and Revenue and on the Attorney General by the petitioner in accordance with [Rule] Pa.R.A.P. 1514(c). All other parties before the Board shall be served as prescribed by [Rule] Pa.R.A.P. 121(b) (service of all papers required).

* * * * *

(h) *Scope of review.*—[Rule] Pa.R.A.P. 1551(a) (appellate jurisdiction petitions for review) shall be applicable to review of a determination of the Board of Finance and Revenue except that:

(1) A question will be heard and considered by the court if it was raised at any stage of the proceedings below and thereafter preserved.

(2) To the extent provided by the applicable law, the questions raised by the petition for review shall be determined on the record made before the court. See [Subdivision] paragraph (f) of this rule.

(i) *Exceptions.*—Any party may file exceptions to an initial determination by the court under this rule within 30 days after the entry of the order to which exception is taken. Such timely exceptions shall have the effect, for the purposes of [Rule] Pa.R.A.P. 1701(b)(3) (authority of lower court or agency after appeal) of an order expressly granting reconsideration of the determination previously entered by the court. Issues not raised on exceptions are waived and cannot be raised on appeal.

Official Note: [Subdivision] Paragraph (b) represents an exercise of the power conferred by 42 Pa.C.S. § 5105(a) (right to appellate review) to define final orders by general rule. The following statutes expressly require the Board of Finance and Revenue to act within six months in certain cases:

* * * * *

The basis of jurisdiction of the court under this rule will ordinarily be 42 Pa.C.S. § 763 (direct appeals from government agencies). [Subdivision] Paragraph (c) is not intended to change the practice in connection with the review of orders of the Board of Finance and Revenue

insofar as the amount of detail in the pleadings is concerned. What is required is that the petitioner raise every legal issue in the petition for review which the petitioner wishes the court to consider. The legal issues raised need only be specific enough to apprise the respondent of the legal issues being contested (e.g. "valuation," "manufacturing," "sale for resale," etc.). *See generally House of Pasta, Inc. v. Commonwealth*, [37 Pa. Cmwlth. Ct. 317,] 390 A.2d 341 (Pa. Cmwlth. 1978).

[**Subdivision**] **Paragraph** (e) is based on Section 1104(e) of The Fiscal Code, which was suspended absolutely by these rules, and subsequently repealed.

[**Subdivision**] **Paragraph** (f) is based on 2 Pa.C.S. § 501(b)(1) (scope of subchapter) and 2 Pa.C.S. § 701(b)(1) (scope of subchapter), which exclude tax matters from the on-the-record review requirements of 2 Pa.C.S. § 704 (disposition of appeal).

[**Subdivision**] **Paragraph** (h) is based on Section 1104(d) of The Fiscal Code, which was suspended absolutely by these rules and subsequently repealed, and is intended as a continuation of the prior law, except, of course, that the separate specification of objections has been abolished by these rules.

[**Subdivision**] **Paragraph** (i) is intended to make clear that the failure to file exceptions will result in waiver by a petitioner of any issues previously presented to the Commonwealth Court.

See also [**Rule**] Pa.R.A.P. 1782 (security on review in tax matters).

REVIEW OF DETERMINATIONS BY A COURT OF COMMON PLEAS THAT A CLAIM OF DOUBLE JEOPARDY IS FRIVOLOUS

Rule 1573. Review of Orders in Which the Court Finds an Assertion of Double Jeopardy Frivolous.

* * * * *

(b) *Contents.*—The contents of the petition for review are not governed by Pa.R.A.P. 1513. Instead, the petition for review need not be set forth in numbered paragraphs in the manner of a pleading, and shall contain the following (which shall, insofar as practicable, be set forth in the order stated):

[(i)] (1) A statement of the basis for the jurisdiction of the appellate court.

[(ii)] (2) The text of the order in question, and the date of its entry in the trial court. If the order is voluminous, it may, if more convenient, be appended to the petition.

[(iii)] (3) A concise statement of the case containing the facts necessary to an understanding of the frivolousness issue(s) presented.

[(iv)] (4) The question(s) presented, expressed in the terms and circumstances of the case but without unnecessary detail.

[(v)] (5) A concise statement of the reasons why the trial court erred in its determination of frivolousness.

[(vi)] (6) There shall be appended to the petition a copy of any opinions relating to the order sought to be reviewed, including findings of fact and conclusions of law in support of the frivolousness determination, as well as a copy of any transcripts or other record documents necessary to the appellate court's review.

[(vii)] (7) There shall be appended to the petition the verbatim texts of the pertinent provisions of constitutional provisions, statutes, ordinances, regulations or other similar enactments which the case involves.

[(viii)] (8) There shall be appended to the petition any briefs filed in the trial court in support of the motion to dismiss.

(9) The certificate of compliance required by Pa.R.A.P. 127.

(c) *Caption and parties.*—The parties in the trial court shall be named as parties in the appellate court. If there are multiple defendants but the order for which review is sought adjudicates the motion of only a single defendant, only that defendant may file a petition for review.

* * * * *

(g) *Answer to petition for review.*—If the Commonwealth does not intend to file an answer under this rule, it shall, within the time fixed by these rules for filing an answer, file a letter stating that it does not intend to file an answer to the petition for review. The failure to file an answer will not be construed as concurrence in the petition for review. The appellate court may, however, direct the Commonwealth to file an answer. **An answer to a petition for review shall contain the certificate of compliance required by Pa.R.A.P. 127.**

* * * * *

Official Note: The trial court's determination and the procedure for determining a motion to dismiss on double jeopardy grounds is set forth in Pa.R.Crim.P. 587. If a trial court denies such a motion without expressly finding that the motion is frivolous, the order is immediately appealable by means of a notice of appeal under Pa.R.A.P. 313. If, however, the trial court finds the motion to be frivolous, appellate review can be secured only if the appellate court grants a petition for review. *See Commonwealth v. Orié*, 22 A.3d 1021 (Pa. 2011); *Commonwealth v. Brady*, [510 Pa. 336,] 508 A.2d 286 (Pa. 1986). If the Superior Court does not grant the petition for review, the defendant may file a petition for allowance of appeal with the Supreme Court.

* * * * *

**CHAPTER 17. EFFECT OF APPEALS; SUPERSEDEAS AND STAYS
IN GENERAL**

Rule 1703. Contents of Application for Stay.

In addition to the requirements set forth in [**Rule**] Pa.R.A.P. 123 (Application for Relief), an application for stay pursuant to this chapter shall set forth the procedural posture of the case, including the result of any application for relief in any court below or federal court, the specific rule under which a stay or supersedeas is sought, grounds for relief, and, if expedited relief is sought, the nature of the emergency. The application shall also identify and set forth the procedural posture of all related proceedings. **The application shall contain the certificate of compliance required by Pa.R.A.P. 127.**

STAY OR INJUNCTION IN CIVIL MATTERS

Rule 1732. Application for Stay or Injunction Pending Appeal.

(a) *Application to lower court.*—Application for a stay of an order of a lower court pending appeal, or for approval of or modification of the terms of any supersedeas, or for an order suspending, modifying, re-

storing, or granting an injunction during the pendency of an appeal, or for relief in the nature of peremptory mandamus, must ordinarily be made in the first instance to the lower court, except where a prior order under this chapter has been entered in the matter by the appellate court or a judge thereof.

(b) *Contents of application for stay.*—An application for stay of an order of a lower court pending appeal, or for approval of or modification of the terms of any supersedeas, or for an order suspending, modifying, restoring, or granting an injunction during the pendency of an appeal, or for relief in the nature of peremptory mandamus, may be made to the appellate court or to a judge thereof, but the application shall show that application to the lower court for the relief sought is not practicable, or that the lower court has denied an application, or has failed to afford the relief which the applicant requested, with the reasons given by the lower court for its action. The application shall also show the reasons for the relief requested and the facts relied upon, and if the facts are subject to dispute the application shall be supported by sworn or verified statements or copies thereof. With the application shall be filed such parts of the record as are relevant. Where practicable, the application should be accompanied by the briefs, if any, used in the lower court. **The application shall contain the certificate of compliance required by Pa.R.A.P. 127.**

(c) *Number of copies.*—Seven copies of applications under this rule in the Supreme Court or the Superior Court, and three copies of applications under this rule in the Commonwealth Court, shall be filed with the original.

Official Note: The subject matter of this rule was covered by former Supreme Court Rule 62, former Superior Court Rule 53, and former Commonwealth Court Rule 112. The flat seven day period for answer of former Supreme Court Rule 62 (which presumably was principally directed at allocatur practice) has been omitted in favor of the more flexible provisions of [**Rule**] Pa.R.A.P. 123(b).

REVIEW OF DISPOSITIONAL ORDER FOR OUT OF HOME PLACEMENT IN JUVENILE DELINQUENCY MATTERS

Rule 1770. Review of Out of Home Placement in Juvenile Delinquency Matters.

(a) *General rule.*—If a court under the Juvenile Act, 42 Pa.C.S. § 6301 *et seq.*, enters an order after an adjudication of delinquency of a juvenile pursuant to Rules of Juvenile Court Procedure 409(A)(2) and 515, which places the juvenile in an out of home overnight placement in any agency or institution that shall provide care, treatment, supervision, or rehabilitation of the juvenile (“Out of Home Placement”), the juvenile may seek review of that order pursuant to a petition for review under Chapter 15 (judicial review of governmental determinations). The petition shall be filed within ten days of the said order.

(b) *Content.*—A petition for review under subdivision (a) shall contain **the following**:

[**(i)**] (1) a specific description of any determinations made by the juvenile court;

[**(ii)**] (2) the matters complained of;

[**(iii)**] (3) a concise statement of the reasons why the juvenile court abused its discretion in ordering the Out of Home Placement;

[**(iv)**] (4) the proposed terms and conditions of an alternative disposition for the juvenile; and

[**(v)**] (5) a request that the official court reporter for the juvenile court transcribe the notes of testimony as required by [**subdivision**] **paragraph** (g) of this Rule.

Any order(s) and opinion(s) relating to the Out of Home Placement and the transcript of the juvenile court’s findings shall be attached as appendices. The petition shall be supported by a certificate of counsel to the effect that it is presented in good faith and not for delay. **The petition shall contain the certificate of compliance required by Pa.R.A.P. 127.**

(c) *Objection to specific agency or institution, or underlying adjudication of delinquency, is not permitted.*

(1) A petition for review under [**subdivision**] **paragraph** (a) shall not challenge the specific agency or specific institution that is the site of the Out of Home Placement and instead shall be limited to the Out of Home Placement itself.

(2) A petition for review under [**subdivision**] **paragraph** (a) shall not challenge the underlying adjudication of delinquency.

(d) *Answer.*—Any answer shall be filed within ten days of service of the petition, and no other pleading is authorized. **Any answer shall contain the certificate of compliance required by Pa.R.A.P. 127.** [**Rule**] Pa.R.A.P. 1517 (applicable rules of pleading) and [**Rule**] Pa.R.A.P. 1531 (intervention) through 1551 (scope of review) shall not be applicable to a petition for review filed under [**subdivision**] **paragraph** (a).

(e) *Service.*—A copy of the petition for review and any answer thereto shall be served on the judge of the juvenile court and the official court reporter for the juvenile court. All parties in the juvenile court shall be served in accordance with [**Rule**] Pa.R.A.P. 121(b) (service of all papers required). The Attorney General of Pennsylvania need not be served in accordance with [**Rule**] Pa.R.A.P. 1514(c) (service), unless the Attorney General is a party in the juvenile court.

(f) *Opinion of juvenile court.*—Upon receipt of a copy of a petition for review under [**subdivision**] **paragraph** (a), if the judge who made the disposition of the Out of Home Placement did not state the reasons for such placement on the record at the time of disposition pursuant to Rule of Juvenile Court Procedure 512 (D), the judge shall file of record a brief statement of the reasons for the determination or where in the record such reasons may be found, within five days of service of the petition for review.

(g) *Transcription of Notes of Testimony.*—Upon receipt of a copy of a petition for review under [**subdivision**] **paragraph** (a), the court reporter shall transcribe the notes of testimony and deliver the transcript to the juvenile court within five business days. If the transcript is not prepared and delivered in a timely fashion, the juvenile court shall order the court reporter to transcribe the notes and deliver the notes to the juvenile court, and may impose sanctions for violation of such an order. If the juvenile is proceeding *in forma pauperis*, the juvenile shall not be charged for the cost of the transcript. Chapter 19 of the Rules of Appellate Procedure shall not otherwise apply to petitions for review filed under this Rule.

(h) *Non-waiver of objection to placement.*—A failure to seek review under this rule of the Out of Home Placement shall not constitute a waiver of the juvenile’s right

to seek review of the placement in a notice of appeal filed by the juvenile from a disposition after an adjudication of delinquency.

Official Note: This Rule provides a mechanism for the expedited review of an order of Out of Home Placement entered pursuant to Rule of Juvenile Court Procedure 515. Rule of Juvenile Court Procedure 512(D) requires the judge who made the disposition of an Out of Home Placement to place the reasons for an Out of Home Placement on the record at the time of the disposition, and [subdivision] paragraph (f) of this Rule is only applicable in the exceptional circumstance where the judge who made the disposition of an Out of Home Placement fails to comply with Rule of Juvenile Court Procedure 512(D). The Juvenile Act, 42 Pa.C.S. § 6352, sets forth the considerations for a dispositional order following an adjudication of delinquency and the alternatives for disposition. The standard for review of a dispositional order is an abuse of discretion. See *In the Interest of A.D.*, 771 A.2d 45 (Pa. Super. 2001) (*en banc*).

STAY PENDING ACTION ON PETITION FOR REVIEW

Rule 1781. Stay Pending Action on Petition for Review.

* * * * *

(b) *Contents of application for stay or supersedeas.*—An application for stay or supersedeas of an order or other determination of a government unit, or for an order granting an injunction pending review, or for relief in the nature of peremptory mandamus, may be made to the appellate court or to a judge thereof, but the application shall show that application to the government unit for the relief sought is not practicable, or that application has been made to the government unit and denied, with the reasons given by it for the denial, or that the action of the government unit did not afford the relief which the applicant had requested. The application shall also show the reasons for the relief requested and the facts relied upon, and if the facts are subject to dispute the application shall be supported by sworn or verified statements or copies thereof. With the application shall be filed such parts, if any, of the record as are relevant to the relief sought. **The application shall contain the certificate of compliance required by Pa.R.A.P. 127.**

(c) *Notice and action by court.*—Upon such notice to the government unit as is required by [Rule] Pa.R.A.P. 123 (applications for relief) the appellate court, or a judge thereof, may grant an order of stay or supersedeas, including the grant of an injunction pending review or relief in the nature of peremptory mandamus, upon such terms and conditions, including the filing of security, as the court or the judge thereof may prescribe. Where a statute requires that security be filed as a condition to obtaining a supersedeas, the court shall require adequate security.

CHAPTER 19. PREPARATION AND TRANSMISSION OF RECORD AND RELATED MATTERS

RECORD ON APPEAL FROM LOWER COURT

Rule 1931. Transmission of the Record.

(a) *Time for transmission.*

(1) *General rule.*—Except as otherwise prescribed by this rule, the record on appeal, including the transcript and exhibits necessary for the determination of the appeal, shall be transmitted to the appellate court within

60 days after the filing of the notice of appeal. If an appeal has been allowed or if permission to appeal has been granted, the record shall be transmitted as provided by [Rule] Pa.R.A.P. 1122 (allowance of appeal and transmission of record) or by [Rule] Pa.R.A.P. 1322 (permission to appeal and transmission of record), as the case may be. The appellate court may shorten or extend the time prescribed by this subdivision for a class or classes of cases.

(2) *Children's fast track appeals.*—In a children's fast track appeal, the record on appeal, including the transcript and exhibits necessary for the determination of the appeal, shall be transmitted to the appellate court within 30 days after the filing of the notice of appeal. If an appeal has been allowed or if permission to appeal has been granted, the record shall be transmitted as provided by [Rule] Pa.R.A.P. 1122 (allowance of appeal and transmission of record) or by [Rule] Pa.R.A.P. 1322 (permission to appeal and transmission of record), as the case may be.

(b) *Duty of lower court.*—After a notice of appeal has been filed the judge who entered the order appealed from shall comply with [Rule] Pa.R.A.P. 1925 (opinion in support of order), shall cause the official court reporter to comply with [Rule] Pa.R.A.P. 1922 (transcription of notes of testimony) or shall otherwise settle a statement of the evidence or proceedings as prescribed by this chapter, and shall take any other action necessary to enable the clerk to assemble and transmit the record as prescribed by this rule.

(c) *Duty of clerk to transmit the record.*—When the record is complete for purposes of the appeal, the clerk of the lower court shall transmit it to the prothonotary of the appellate court. The clerk of the lower court shall number the documents comprising the record and shall transmit with the record a list of the documents correspondingly numbered and identified with sufficient specificity to allow the parties on appeal to identify each document and to determine whether the record on appeal is complete. **If any case records or documents were sealed in the lower court, the list of documents comprising the record shall specifically identify such records or documents as having been sealed in the lower court.** Documents of unusual bulk or weight and physical exhibits other than documents shall not be transmitted by the clerk unless he or she is directed to do so by a party or by the prothonotary of the appellate court. A party must make advance arrangements with the clerk for the transportation and receipt of exhibits of unusual bulk or weight. Transmission of the record is effected when the clerk of the lower court mails or otherwise forwards the record to the prothonotary of the appellate court. The clerk of the lower court shall indicate, by endorsement on the face of the record or otherwise, the date upon which the record is transmitted to the appellate court.

(d) *Service of the list of record documents.*—The clerk of the lower court shall, at the time of the transmittal of the record to the appellate court, mail a copy of the list of record documents to all counsel of record, or if unrepresented by counsel, to the parties at the address they have provided to the clerk. The clerk shall note on the docket the giving of such notice.

(e) *Multiple appeals.*—Where more than one appeal is taken from the same order, it shall be sufficient to transmit a single record, without duplication.

(f) *Inconsistency between list of record documents and documents actually transmitted.*—If the clerk of the lower court fails to transmit to the appellate court all of the documents identified in the list of record documents, such failure shall be deemed a breakdown in processes of the court. Any omission shall be corrected promptly pursuant to [Rule] Pa.R.A.P. 1926 (correction or modification of the record) and shall not be the basis for any penalty against a party.

Official Note: [Rule] Pa.R.A.P. 1926 (correction or modification of the record) provides the means to resolve any disagreement between the parties as to what should be included in the record on appeal.

RECORD ON PETITION FOR REVIEW OF ORDERS OF GOVERNMENT UNITS OTHER THAN COURTS

Rule 1952. Filing of Record in Response to Petition for Review.

* * * * *

(b) *Certificate of record.*—The government unit shall certify the contents of the record and a list of all documents, transcripts of testimony, exhibits and other material comprising the record. The government unit shall (1) arrange the documents to be certified in chronological order, (2) number them, and (3) affix to the right or bottom edge of the first page of each document a tab showing the number of that document. These shall be bound and shall contain a table of contents identifying each document in the record. **If any case records or documents were sealed in the government unit, the list of documents comprising the record shall specifically identify such records or documents as having been sealed in the government unit.** The certificate shall be made by the head, chairman, deputy, or secretary of the government unit. The government unit may file the entire record or such parts thereof as the parties may designate by stipulation filed with the government unit. The original papers in the government unit or certified copies thereof may be filed. Instead of filing the record or designated parts thereof, the government unit may file a certified list of all documents, transcripts of testimony, exhibits, and other material comprising the record, or a certified list of such parts thereof as the parties may designate, adequately describing each, and the filing of the certified list shall constitute filing of the record. **If any case records or documents were sealed in the government unit, the certified list of documents comprising the record shall specifically identify such records or documents as having been sealed in the government unit.** The parties may stipulate that neither the record nor a certified list be filed with the court. The stipulation shall be filed with the prothonotary of the court, and the date of its filing shall be deemed the date on which the record is filed. If a certified list is filed, or if the parties designate only parts of the record for filing or stipulate that neither the record nor a certified list be filed, the government unit shall retain the record or parts thereof. Upon request of the court or the request of a party, the record or any part thereof thus retained shall be transmitted to the court notwithstanding any prior stipulation. All parts of the record retained by the government unit shall be a part of the record on review for all purposes.

(c) *Notice to counsel of contents of certified record.*—At the time of transmission of the record to the appellate court, the government unit shall send a copy of the list of the contents of the certified record to all counsel of record, or, if a party is unrepresented by counsel, to that party at the address provided to the government unit.

Official Note: The addition of [subdivision] paragraph (c) in 2012 requires government units other than courts to notify counsel of the contents of the certified record. This is an extension of the requirement in [Rule] Pa.R.A.P. 1931 (transmission of the record) that trial courts give such notice.

CHAPTER 21. BRIEFS AND REPRODUCED RECORD

CONTENT OF BRIEFS

Rule 2111. Brief of the Appellant.

(a) *General rule.*—The brief of the appellant, except as otherwise prescribed by these rules, shall consist of the following matters, separately and distinctly entitled and in the following order:

* * * * *

(10) The opinions and pleadings specified in [Subdivisions] paragraphs (b) and (c) of this rule.

(11) In the Superior Court, a copy of the statement of errors complained of on appeal, filed with the trial court pursuant to [Rule] Pa.R.A.P. 1925(b), or an averment that no order requiring a statement of errors complained of on appeal pursuant to Pa.R.A.P. 1925(b) was entered.

(12) **The certificates of compliance required by Pa.R.A.P. 127 and 2135(d).**

(b) *Opinions below.*—There shall be appended to the brief a copy of any opinions delivered by any court or other government unit below relating to the order or other determination under review, if pertinent to the questions involved. If an opinion has been reported, that fact and the appropriate citation shall also be set forth.

(c) *Pleadings.*—When pursuant to [Rule] Pa.R.A.P. 2151(c) (original hearing cases) the parties are not required to reproduce the record, and the questions presented involve an issue raised by the pleadings, a copy of the relevant pleadings in the case shall be appended to the brief.

(d) *Brief of the Appellant.*—In the Superior Court, there shall be appended to the brief of the appellant a copy of the statement of errors complained of on appeal, filed with the trial court pursuant to Pa.R.A.P. 1925(b). If the trial court has not entered an order directing the filing of such a statement, the brief shall contain an averment that no order to file a statement of errors complained of on appeal pursuant to Pa.R.A.P. 1925(b) was entered by the trial court.

Official Note: The 1999 amendment requires a statement of the scope and standard of review. “Scope of review’ refers to ‘the confines within which an appellate court must conduct its examination.’ (Citation omitted.) In other words, it refers to the matters (or ‘what’) the appellate court is permitted to examine. In contrast, ‘standard of review’ refers to the manner in which (or ‘how’) that examination is conducted.” *Morrison v. Commonwealth, Dept. of Public Welfare*, [538 Pa. 122, 131,] 646 A.2d 565, 570 (Pa. 1994). This amendment incorporates the prior practice of the Superior Court pursuant to Pa.R.A.P. 3518 which required such statements. Accordingly, [Rule] Pa.R.A.P. 3518 has been rescinded as its requirement is now subsumed under paragraph (a)(2) of this Rule.

* * * * *

Rule 2112. Brief of the Appellee.

The brief of the appellee, except as otherwise prescribed by these rules, need contain only a summary of argument and the complete argument for appellee, and may also include counter-statements of any of the matters required in the appellant's brief as stated in Pa.R.A.P. 2111(a). Unless the appellee does so, or the brief of the appellee otherwise challenges the matters set forth in the appellant's brief, it will be assumed the appellee is satisfied with them, or with such parts of them as remain unchallenged. **The brief of the appellee shall contain the certificates of compliance required by Pa.R.A.P. 127 and 2135(d).**

* * * * *

Rule 2113. Reply Brief.

(a) *General rule.*—In accordance with [**Rule**] **Pa.R.A.P. 2185(a)** (time for serving and filing briefs), the appellant may file a brief in reply to matters raised by appellee's brief or in any amicus curiae brief and not previously addressed in appellant's brief. If the appellee has cross appealed, the appellee may file a similarly limited reply brief. **A reply brief shall contain the certificates of compliance required by Pa.R.A.P. 127 and 2135(d).**

(b) *Response to draft or plan.*—A reply brief may be filed as prescribed in [**Rule**] **Pa.R.A.P. 2134** (drafts or plans).

(c) *Other briefs.*—No further briefs may be filed except with leave of court.

Official Note: An appellant now has a general right to file a reply brief. The scope of the reply brief is limited, however, in that such brief may only address matters raised by appellee and not previously addressed in appellant's brief. No subsequent brief may be filed unless authorized by the court.

The length of a reply brief is set by [**Rule**] **Pa.R.A.P. 2135** (length of briefs). The due date for a reply brief is found in [**Rule**] **Pa.R.A.P. 2185(a)** (service and filing of briefs).

Where there are cross appeals, the deemed or designated appellee may file a similarly limited reply brief addressing issues in the cross appeal. *See also* [**Rule**] **Pa.R.A.P. 2136** (briefs in cases involving cross appeals).

The 2011 amendment to [**subdivision**] **paragraph** (a) authorized an appellant to address in a reply brief matters raised in amicus curiae briefs. Before the 2011 amendment, the rule permitted the appellant to address in its reply brief only matters raised in the appellee's brief. The 2011 amendment did not change the requirement that the reply brief must not address matters previously addressed in the appellant's principal brief.

CONTENT OF REPRODUCED RECORD

Rule 2152. Content and Effect of Reproduced Record.

(a) *General rule.*—The reproduced record shall contain the following:

(1) The relevant docket entries and any relevant related matter (*see* [**Rule**] **Pa.R.A.P. 2153** (docket entries and related matter)).

(2) Any relevant portions of the pleadings, charge or findings (*see* [**Rule**] **Pa.R.A.P. 2175(b)** (order and opin-

ions) which provides for a cross reference note only to orders and opinions reproduced as part of the brief of appellant).

(3) Any other parts of the record to which the parties wish to direct the particular attention of the appellate court.

(4) The certificate of compliance required by Pa.R.A.P. 127.

(b) *Immaterial formal matters.*—Immaterial formal matters (captions, subscriptions, acknowledgments, etc.) shall be omitted.

(c) *Effect of reproduction of record.*—The fact that parts of the record are not included in the reproduced record shall not prevent the parties or the appellate court from relying on such parts.

Official Note: The general rule has long been that evidence which has no relation to or connection with the questions involved must not be reproduced. *See* former Supreme Court Rule 44, former Superior Court Rule 36 and former Commonwealth Court Rule 88. *See also, e.g., Shapiro v. Malarkey*, 278 Pa. 78, 84, 122 Atl. 341, 342, 29 A.L.R. 1358 (1923); *Sims v. Pennsylvania R.R. Co.*, 279 Pa. 111, 117, 123 Atl. 676, 679 (1924).

See [**Rule**] **Pa.R.A.P. 2189** for procedure in cases involving the death penalty.

Rule 2156. Supplemental Reproduced Record.

When, because of exceptional circumstances, the parties are not able to cooperate on the preparation of the reproduced record as a single document, the appellee may, in lieu of proceeding as otherwise provided in this chapter, prepare, serve, and file a [**Supplemental Reproduced Record**] **supplemental reproduced record** setting forth the portions of the record designated by the appellee. **A supplemental reproduced record shall contain the certificate of compliance required by Pa.R.A.P. 127.**

Official Note: Former Supreme Court Rules 36, 38, and 57, former Superior Court Rules 28, 30, and 47 and former Commonwealth Court Rules 32A, 82, and 84 all inferentially recognized that a supplemental record might be prepared by the appellee, but the former rules were silent on the occasion for such a filing. The preparation of a single reproduced record has obvious advantages, especially where one party designates one portion of the testimony, and the other party designates immediately following testimony on the same subject. However, because of emergent circumstances or otherwise, agreement on the mechanics of a joint printing effort may collapse, without affording sufficient time for the filing and determination of an application for enforcement of the usual procedures. In that case an appellee may directly present the relevant portions of the record to the appellate court.

* * * * *

CHAPTER 25. POST-SUBMISSION PROCEEDINGS

APPLICATION FOR REARGUMENT

Rule 2544. Contents of Application for Reargument.

(a) *General rule.*—The application for reargument need not be set forth in numbered paragraphs in the manner of a pleading, and shall contain the following (which shall, insofar as practicable, be set forth in the order stated):

* * * * *

(3) A concise statement of the reasons relied upon for allowance of reargument. *See* [**Rule**] **Pa.R.A.P.** 2543 (considerations governing allowance of reargument).

* * * * *

(d) *Certificate of compliance.* [—]

(1) **Word count.**—An application for reargument that does not exceed 8 pages when produced on a word processor or typewriter shall be deemed to meet the limitation in [**subdivision**] **paragraph** (c) of this rule. In all other cases, the attorney or unrepresented filing party shall include a certification that the application for reargument complies with the word count limits. The certificate may be based on the word count of the word processing system used to prepare the application for reargument.

(2) **Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts.**—An application for reargument shall contain the certificate of compliance required by **Pa.R.A.P. 127**.

(e) *Essential requisites of application.*—The failure of an applicant to present with accuracy, brevity, and clearness whatever is essential to a ready and adequate understanding of the points requiring reconsideration will be a sufficient reason for denying the application.

(f) *Multiple applicants.*—Where permitted by [**Rule**] **Pa.R.A.P.** 512 (joint appeals) a single application for reargument may be filed.

Rule 2545. Answer to Application for Reargument.

(a) *General rule.*—Except as otherwise prescribed by this rule, within 14 days after service of an application for reargument, an adverse party may file an answer. The answer shall be deemed filed on the date of mailing if first class, express, or priority United States Postal Service mail is utilized. The answer need not be set forth in numbered paragraphs in the manner of a pleading. The answer shall set forth any procedural, substantive or other argument or ground why the court should not grant reargument. **The answer shall contain the certificate of compliance required by Pa.R.A.P. 127.** No separate motion to dismiss an application for reargument will be received. A party entitled to file an answer under this rule who does not intend to do so shall, within the time fixed by these rules for filing an answer, file a letter stating that an answer to the application for reargument will not be filed. The failure to file an answer will not be construed as concurrence in the request for reargument.

(b) *Children's fast track appeals.*—In a children's fast track appeal, within 7 days after service of an application for reargument, an adverse party may file an answer. The answer shall be deemed filed on the date of mailing if first class, express, or priority United States Postal Service mail is utilized. The answer need not be set forth in numbered paragraphs in the manner of a pleading. The answer shall set forth any procedural, substantive or other argument or ground why the court should not grant reargument. **The answer shall contain the certificate of compliance required by Pa.R.A.P. 127.** No separate motion to dismiss an application for reargument will be received. A party entitled to file an answer under this rule who does not intend to do so shall, within the time fixed by these rules for filing an answer, file a letter stating that an answer to the application for reargument will not be filed. The failure to file an answer will not be construed as concurrence in the request for reargument.

CHAPTER 27. FEES AND COSTS IN APPELLATE COURTS AND ON APPEAL

COSTS

Rule 2751. Applications for Further Costs and Damages.

An application for further costs and damages must be made before the record is remanded, unless the appellate court, for cause shown, shall otherwise direct. Such an application must set forth specifically the reasons why it should be granted, and shall be accompanied by the opinion of the court and the briefs used therein. **An application for further costs and damages shall contain the certificate of compliance required by Pa.R.A.P. 127.**

* * * * *

Explanatory Comment

On January 6, 2017, the Supreme Court of Pennsylvania adopted the *Public Access Policy: Case Records of the Appellate and Trial Courts* (Policy), which will become effective January 6, 2018. In anticipation of the implementation of the Policy, the Appellate Court Procedural Rules Committee is proposing new Pa.R.A.P. 127, which provides that absent any applicable authority that constrains public access, all appellate court filings must comply with the Policy. Of particular importance are the requirements of Sections 7.0 and 8.0 governing confidential information and confidential documents. In addition, the rule provides that all practitioners and unrepresented parties must certify that a filing is compliant with the Policy. Reference to the requirements of Pa.R.A.P. 127 have been inserted through the Rules pertaining to filings.

The Committee is also proposing amendment of Pa.R.A.P. 1931 and 1952 to provide for the identification of sealed case records or documents in the lower court or government unit. These amendments, in conjunction with Pa.R.A.P. 127(b), will provide that documents previously sealed will remain sealed on appeal unless an appellate court orders otherwise.

[Pa.B. Doc. No. 17-1328. Filed for public inspection August 11, 2017, 9:00 a.m.]

PART I. RULES OF APPELLATE PROCEDURE

[210 PA. CODE CHS. 7, 9, 15, 17, 19,
21, 25 AND 33]

Title 234—RULES OF CRIMINAL PROCEDURE

[234 PA. CODE CHS. 1, 8 AND 9]

Proposed Adoption of New Pa.Rs.Crim.P. 850—862, Amendment of Pa.Rs.Crim.P. 113, 119 and 909 and Revision of the Comments to Pa.Rs.Crim.P. 120, 800 and 904; Proposed Adoption of Pa.R.A.P. 3311—3316 and 3319, Rescission of Pa.R.A.P. 1704, 1941, 3315 and 3316, Amendment of Pa.Rs.A.P. 702, 901, 909, 1501, 1702, 1761, 2189, 2521 and 2572 and Revision of the Official Notes to Pa.Rs.A.P. 2151, 2152, 2154, 2155 and 2187

The Supreme Court of Pennsylvania is considering the adoption of new Pa.Rs.Crim.P. 850—862, amendment of

Pa.Rs.Crim.P. 113, 119, 909, and revision of the Comments to Pa.Rs.Crim.P. 120, 800, and 904, and the adoption of Pa.R.A.P. 3311—3316, and 3319, the rescission of Pa.R.A.P. 1704, 1941, 3315, 3316, the amendment of Pa.R.A.P. 702, 901, 909, 1501, 1702, 1761, 2189, 2521, 2572, 3313, and the revision of the *Official Notes* to Pa.R.A.P. 2151, 2152, 2154, 2155, and 2187 for the reasons set forth in the accompanying explanatory report. This would result in the replacement of Pa.R.A.P. 3315 and 3316 with entirely new rules, and it would have the effect of consolidating all of the rules for capital appeals into the chapter dedicated to Supreme Court procedure. These amendments do not reflect proposed revisions to the Rules of Appellate Procedure that have been published for consideration to address other matters that the Appellate Court Procedural Rules Committee is currently considering. Pursuant to Pa.R.J.A. No. 103(a)(1), the proposal is being published in the *Pennsylvania Bulletin* for comments, suggestions, or objections prior to adoption by the Supreme Court.

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

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

Daniel Durst, Chief Rules Counsel
Supreme Court of Pennsylvania
Criminal Procedural Rules Committee
601 Commonwealth Avenue, Suite 6200
Harrisburg, PA 17106-2635
fax: (717) 231-9521
e-mail: rulescommittees@pacourts.us

All communications in reference to the proposal should be received by no later than Thursday, October 12, 2017. E-mail is the preferred method for submitting comments, suggestions, or objections; any e-mailed submission need not be reproduced and resubmitted via mail.

Annex A

**TITLE 234. RULES OF CRIMINAL PROCEDURE
CHAPTER 1. SCOPE OF RULES, CONSTRUCTION
AND DEFINITIONS, LOCAL RULES**

PART A. Business of the Courts

Rule 113. Criminal Case File and Docket Entries.

* * * * *

(C) The docket entries shall include at a minimum the following information:

- (1) the defendant's name;
- (2) the names and addresses of all attorneys who have appeared or entered an appearance, the date of the entry of appearance, **[and]** the date of any withdrawal of appearance, **and a notation when an attorney is appointed or enters an appearance pursuant to Rule 854;**

* * * * *

Rule 119. Use of Two-Way Simultaneous Audio-Visual Communication in Criminal Proceedings.

(A) The court or issuing authority may use two-way simultaneous audio-visual communication at any criminal proceeding except:

* * * * *

- (6) parole, probation, and intermediate punishment revocation hearings; **[and]**

(7) proceedings pursuant to Part C of Chapter 8 (Procedures for Determining and Challenging the Defendant's Competency to be Executed) when the defendant's presence is mandated by rule; and

[(7)] (8) any proceeding in which the defendant has a constitutional or statutory right to be physically present.

* * * * *

Comment

This rule was adopted in 2003 to make it clear that unless the case comes within one of the exceptions in paragraph (A), the court or issuing authority may use two-way simultaneous audio-visual communication in any criminal proceeding. Two-way simultaneous audio-visual communication is a type of advanced communication technology as defined in Rule 103.

[Nothing] Except in cases in which the defendant's presence is mandated pursuant to Part C of Chapter 8, nothing in this rule is intended to limit any right of a defendant to waive his or her presence at a criminal proceeding in the same manner as the defendant may waive other rights. *See, e.g.,* Rule 602 Comment.

In proceedings under Part C of Chapter 8, the defendant is required to appear in person for examinations and hearings conducted under Rules 861 and 862. The defendant is not required to appear for pre-hearing conferences.

Negotiated guilty pleas when the defendant has agreed to the sentence, probation revocation hearings, and hearings held pursuant to Rule 908(C) and the Post Conviction Relief Act, 42 Pa.C.S. §§ 9541 *et seq.*, are examples of hearings in which the defendant's consent to proceed using two-way simultaneous audio-visual communication would be required. Hearings on post-sentence motions, bail hearings, bench warrant hearings, extradition hearings, and *Gagnon* I hearings are examples of proceedings that may be conducted using two-way simultaneous audio-visual communication without the defendant's consent. It is expected the court or issuing authority would conduct a colloquy for the defendant's consent when the defendant's constitutional right to be physically present is implicated.

* * * * *

The paragraph **[(A)(5)] (A)(6)** reference to revocation hearings addresses *Gagnon* II-type probation (*Gagnon v. Scarpelli*, 411 U.S. 778 (1973)) and parole (*Morrissey v. Brewer*, 408 U.S. 471 (1972)) revocation hearings, and is not intended to prohibit the use of two-way simultaneous audio-visual communication in hearings to determine probable cause (*Gagnon* I).

* * * * *

PART B. Counsel

Rule 120. Attorneys—Appearances and Withdrawals.

* * * * *

Comment

* * * * *

Under paragraph (B)(2), counsel must file a motion to withdraw in all cases, and counsel's obligation to represent the defendant, whether as retained or appointed counsel, remains until leave to withdraw is granted by the court. *See, e.g., Commonwealth v. Librizzi*, 810 A.2d 692 (Pa. Super. [Ct.] 2002). The court must make a

determination of the status of a case before permitting counsel to withdraw. Although there are many factors considered by the court in determining whether there is good cause to permit the withdrawal of counsel, when granting leave, the court should determine whether new counsel will be stepping in or the defendant is proceeding without counsel, and that the change in attorneys will not delay the proceedings or prejudice the defendant, particularly concerning time limits. In addition, case law suggests other factors the court should consider, such as whether (1) the defendant has failed to meet his or her financial obligations to pay for the attorney’s services and (2) there is a written contractual agreement between counsel and the defendant terminating representation at a specified stage in the proceedings such as sentencing. *See, e.g., Commonwealth v. Roman* [**. Appeal of Zaiser**], 549 A.2d 1320 (Pa. Super. [**Ct.**] 1988).

If a post-sentence motion is filed, trial counsel would normally be expected to stay in the case until disposition of the motion under the post-sentence procedures adopted in 1993. *See* Rules 704 and 720. Traditionally, trial counsel stayed in a case through post-verdict motions and sentencing.

For the filing and service procedures, see Rules 575-576.

For waiver of counsel, see Rule 121.

For the procedures for appointment of counsel, see Rule 122.

See Rule 854(B) that requires an attorney who has been retained to represent a defendant in proceedings under Part C of Chapter 8 to file a written entry of appearance.

See Rule 904(A) that requires an attorney who has been retained to represent a defendant during post-conviction collateral proceedings to file a written entry of appearance.

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CHAPTER 8. SPECIAL RULES FOR CASES IN WHICH DEATH SENTENCE IS AUTHORIZED

PART A. Guilt and Penalty Determination Procedures

Rule 800. Applicability of Part A.

* * * * *

Comment

The 1990 amendment to this rule made it clear that Part A of Chapter 8 applies to both the guilt determination and sentencing phases of cases in which the death penalty is authorized. The chapter was amended in 2013 by the addition of Part B providing special procedures for seeking to preclude imposition of a sentence of death by reason of the defendant’s mental retardation. **The chapter was amended in (DATE) by the addition of Part C providing procedures for determining and challenging the defendant’s competency to be executed.**

* * * * *

(Editor’s Note: Part C is proposed to be added and printed in regular type to enhance readability.)

PART C. PROCEDURES FOR DETERMINING AND CHALLENGING THE DEFENDANT’S COMPETENCY TO BE EXECUTED

Explanatory Comment to Part C—(DATE)

The rules in Part C provide the procedures for resolving issues of competency to be executed.

After a death sentence is affirmed, the Supreme Court transmits a copy of the record to the Governor. 42 Pa.C.S. § 9711(i). Within 90 days of receipt, unless a pardon or commutation has issued, the Governor issues a warrant of execution directed to the Secretary of Corrections, fixing a date of execution within 60 days. 61 Pa.C.S. § 4302(a)(1), (b). If a reprieve or judicial stay causes the warrant period to lapse, the Governor reissues a warrant within 30 days after termination of the reprieve or stay, again fixing a date for execution within 60 days. *Id.* § 4302(a)(2). Execution warrants typically issue after a defendant is denied relief on direct appeal, on a collateral attack arising under the Post Conviction Relief Act (“PCRA”), 42 Pa.C.S. §§ 9541–9546, on federal habeas corpus review, and after the expiration of any ensuing stay or reprieve.

Pursuant to the Eighth Amendment to the United States Constitution, the Commonwealth cannot execute a defendant who does not meet minimal competency standards. *See Ford v. Wainwright*, 477 U.S. 399, 409-10 (1986). A defendant is incompetent to be executed if he or she suffers from a mental illness preventing a factual awareness and a rational understanding of the punishment to be imposed and the reasons for its imposition. *See Panetti v. Quarterman*, 551 U.S. 930, 958-59 (2007); *Commonwealth v. Banks*, 29 A.3d 1129, 1144 (Pa. 2011) (“*Banks II*”). If the defendant makes a substantial threshold showing of incompetency, due process requires a judicial procedure to resolve the issue. *See Panetti*, 551 U.S. at 934-35, 949-50. *Panetti* did not set forth “precise limits” of the process required; at a minimum, due process requires a fair hearing, an opportunity to be heard in a procedure that may be far less formal than a trial, and an opportunity to present argument and submit evidence, including expert mental health evidence. *See id.* at 949–51 (discussing *Ford*, 477 U.S. at 424, 426-27 (Powell, J., concurring and concurring in judgment)).

There is no point in entertaining *Ford* execution competency claims whenever an execution warrant issues; absent a valid waiver of further review, for example, a warrant issued after direct appeal will be stayed to allow for PCRA review. Moreover, a defendant’s mental condition can improve or deteriorate over time. Thus, it is better to defer *Ford* claims until there is a reasonable likelihood that execution is imminent; in the ordinary case, this means deferral at least until state and federal avenues of collateral review as of right have been exhausted or waived. *See Panetti*, 551 U.S. at 946 (noting the “empty formality in requiring prisoners to file unripe *Ford* claims”).

In 2007, the Supreme Court, presented with a ripe *Ford* claim, noted the absence of existing procedures for the timely consideration of the claim. *Commonwealth v. Banks*, 943 A.2d 230, 234-35 n.7 (Pa. 2007) (*Banks I*). The Court directed its criminal and appellate procedural rules committees to consider a protocol. The rules in Part C establish those procedures applicable in the lower court, and a related revision of the Rules of Appellate Procedure establishes the procedures on appeal. *See* Pa.R.A.P. 3315 (Review of Orders Determining Competency to be Executed).

The committees’ proposal deemed a *Ford* claim ripe whenever an execution warrant issued: counsel would be appointed if the defendant was unrepresented and counsel’s motion challenging competency would initiate the *Ford* claim. The committees also believed it was unrealistic to attempt to resolve a *Ford* claim within the 60-day term of an execution warrant. The proposal further

envisioned that, if the defendant made a substantial threshold showing of incompetency, requiring a hearing, a 210-day stay of execution would follow.

The Court had reservations with the lengthy stay of execution, which could be secured by untested expert opinions and supporting documents, as well as the absence of a mechanism to resolve a meritless *Ford* claim before an execution warrant expired. The Court was also concerned with the prospect of serial challenges and stays, and the resulting effect upon executive administration of the scheme of capital punishment designed by the General Assembly.

Accordingly, in May 2014, the Court transmitted to the Governor and legislative leaders a status report on these potential procedural developments. The Court outlined its concerns and advised that, before implementing procedures affecting administration of capital punishment, it was inviting the input of the executive and legislative branches. The Court received no response.

The Court then revised the committees' proposals to allow for (1) a more timely identification of ripe *Ford* claims, and (2) the prospect of resolving cases posing no colorable *Ford* issue before expiration of an execution warrant. The rules in Part C recognize that if there is a reasonable likelihood that execution is imminent, there is no reason to await the execution warrant before beginning the process of identifying a colorable *Ford* claim. The Commonwealth knows or should know the status of the case, including when each stage of review becomes final and a reprieve or stay expires, and may project when a warrant will issue and the likelihood execution will proceed. The Department of Corrections likewise can track the case and can monitor the defendant's mental condition in anticipation of an execution warrant.

The rules thus establish a procedure tied to the expectation that the prosecutor will monitor the case and the Department will monitor the defendant. To secure the accelerated consideration necessary to timely resolve the preliminary issue of entitlement to a hearing, the rules require the prosecutor to determine, in advance of the issuance of a warrant, when there is a reasonable likelihood both that a warrant will issue and execution will occur. In such cases, the prosecutor must then seek a competency certification from the Secretary of Corrections. If the Secretary certifies that the defendant is competent, the rules establish an accelerated procedure to timely resolve any challenge to the certification. If the Secretary does not certify that the defendant is competent, a stay will issue and the rules provide the procedures for an expeditious determination of any ensuing challenge, but do not contemplate a final decision before the warrant expires.

In further recognition of the time constraints when execution is imminent, the rules require that *Ford* claims be litigated in the judicial district where the defendant is confined. Centralization also facilitates the defendant's presence if a hearing is required, and should create greater expertise in those judicial districts passing upon *Ford* claims.

The new criminal and appellate rules addressing competency require coordination and cooperation among counsel, the lower court, the lower court clerk, the Department of Corrections, and the Prothonotary of the Supreme Court to facilitate the timely litigation of *Ford* claims, including expedited review.

PART C(1). Preliminary provisions

Rule 850. Scope.

The rules in Part C provide the procedures for determining a defendant's competency to be executed.

Rule 851. Definitions.

The following words and phrases, as used in Part C, shall have the following meanings:

- (1) "Competency" means competency to be executed.
- (2) "Department" means the Department of Corrections.
- (3) "Judge" includes the judge of the court of common pleas in the county in which the defendant was convicted and sentenced, or the judge in the judicial district in which a competency challenge is being litigated.
- (4) "Mental Health Expert" includes a psychiatrist, a licensed psychologist, a physician, or any other expert in the field of mental health who will be of substantial value in the determination of the defendant's competency to be executed.
- (5) "Prosecutor" means the Attorney General or the county district attorney responsible for the prosecution of the defendant.
- (6) "Prothonotary" means the Prothonotary of the Supreme Court of Pennsylvania.
- (7) "Secretary" means the Secretary of Corrections.

Rule 852. General Provisions.

(A) *Place of Filing*

Unless otherwise directed by the judge, all motions, certifications, responses, answers and other filings shall be filed with the clerk of courts in the judicial district in which the defendant is presently confined.

(B) *Service; Time of Essence*

(1) Copies of motions, responses, answers and other pleadings shall be promptly served on the opposing party's counsel, the Department, the Governor, and the Prothonotary. Because competency certification motions under Rule 855 precede the appointment of counsel, the prosecutor shall promptly serve a copy of any Rule 855 motion upon the defendant, the defendant's most recent attorney of record, the Department, the Governor, and the Prothonotary, and shall promptly serve any attorney subsequently retained or appointed to represent the defendant once the identity of counsel is known.

(2) The Secretary shall provide copies of any competency certification and supporting mental health expert report to the attorney for the Commonwealth, the defendant's attorney, the Governor, and the Prothonotary.

(3) All motions, certifications, responses, answers and other pleadings shall include a certificate of service.

(4) The judge, the clerk, the parties' counsel, and the Department shall maintain lines of communication to ensure the prompt filing and contemporaneous service of all motions, certifications, responses, answers and other pleadings.

(C) *Verification*

If an initial motion filed under Rules 857, 858, 859 or 862 sets forth facts not already of record, the motion shall be verified by the sworn affidavit of some person having knowledge of the facts or by the unsworn written state-

ment of such a person that the facts are verified subject to the penalties for unsworn falsification to authorities. See 18 Pa.C.S. § 4904.

(D) *Second or Subsequent Competency Determination*

If a prior competency determination has been made under Part C, any motion seeking a contrary determination shall allege with specificity a material change of circumstances sufficient to support the assertion that the defendant's mental condition has substantially deteriorated or improved.

(E) *Effect of Stay Issued by Another Court*

If a warrant of execution is stayed by the order of a judge presiding over a collateral proceeding in state or federal court, that order shall stay proceedings under Part C, and the obligations of the defendant's attorney will be terminated once the warrant of execution expires.

(F) *Clerk of Courts; Docketing, Notice, and Transmittal*

(1) The clerk of courts immediately shall time stamp, docket and transmit to the assigned judge all motions, certifications, responses, answers, other pleadings, and entries of appearance. If the judge is unavailable, the clerk shall transmit the material to the president judge, or the president judge's designee, who promptly shall assign and transmit the material to another judge.

(2) The clerk of courts must comply with the notice and docketing requirements of Rule 114 with regard to any order entered.

(3) The clerk of courts immediately shall serve a copy of any order entered by the judge upon the attorney for the Commonwealth, the defendant's attorney, the Department, the Governor, and the Prothonotary. A copy of any order appointing counsel under Rule 854(A) shall also be served upon the defendant and the defendant's most recent counsel of record.

Comment

Given the time constraints when execution is imminent, the time periods in Part C generally are measured from the point of filing, rather than service. Rule 852(B)(4) is intended to ensure that service of motions, certifications, pleadings, and orders will be contemporaneous with filings. It is imperative that the judge, the clerk, the parties, and the Department take measures, including electronic transmission, to ensure prompt filing and contemporaneous service.

Service upon the Prothonotary assists in discharging the Prothonotary's duty to monitor capital cases. See Rule 853.

"Collateral proceeding" as used in paragraph (E) includes proceedings under the PCRA and federal habeas corpus review.

Rule 853. Supreme Court Prothonotary.

(A) The Prothonotary shall monitor all Pennsylvania capital cases pending on collateral review in state and federal court, and provide the Supreme Court with status reports as necessary or directed.

(B) Whenever the Commonwealth files a competency certification motion under Rule 855, or a warrant of execution is issued in the absence of a certification motion, the Prothonotary shall establish communications with the parties and relevant state and federal courts to facilitate the Supreme Court's timely resolution of issues relating to the execution process.

Comment

This rule formalizes the role of the Prothonotary in monitoring capital cases and is in aid of the Supreme Court's jurisdiction over capital appeals, including applications to review competency determinations. See Pa.R.A.P. 3315. The Prothonotary's monitoring role also protects the right to a timely review of a competency determination.

Rule 854. Counsel; In Forma Pauperis.

(A) *Appointment of Counsel*

Within five days of the Commonwealth's filing of a competency certification motion under Rule 855, or within five days of the issuance of a warrant of execution if no such motion has been filed, the judge shall appoint an attorney to represent the defendant for purposes of proceedings under Part C, unless an attorney has already entered an appearance to represent the defendant. The appointment order shall indicate the attorney's name, address, and phone number, and shall include as an attachment any filings in the matter. In instances where a warrant has been issued but no certification motion has been filed, the prosecutor shall apprise the clerk of courts of the issuance of the warrant.

(B) *Retained Counsel*

When an attorney is retained, the attorney shall promptly file a written entry of appearance with the clerk of courts, and shall serve a copy on the defendant, the attorney for the Commonwealth, the Department, and the Prothonotary. The entry of appearance shall include the attorney's address, phone number, attorney identification number, and a statement that the attorney meets the criteria set forth in Rule 801 (Qualifications for Defense Counsel in Capital Cases).

(C) *Qualifications*

No attorney may be appointed or enter an appearance without meeting the criteria set forth in Rule 801.

(D) *Duration of Obligation*

The attorney's representation under Part C shall continue until:

- (1) a stay of execution or reprieve is granted for reasons other than to determine competency and causes the execution warrant to expire;
- (2) the judge permits the attorney to withdraw; or
- (3) the defendant is deceased.

(E) *Withdrawal of Counsel*

(1) Counsel seeking to withdraw must file a written withdrawal motion. A copy shall also be promptly served upon the defendant.

(2) The judge shall not grant permission to withdraw until the judge appoints new counsel or new counsel enters an appearance.

(F) *In Forma Pauperis*

If the defendant proves an inability to pay the costs of the competency proceedings, the judge shall permit the defendant to proceed *in forma pauperis*.

Comment

This rule ensures that the defendant is represented by counsel for purposes of Part C. In cases initiated by a certification motion under Rule 855, representation before a warrant of execution issues provides counsel with additional time to assess a potential claim under *Ford v. Wainwright*, 477 U.S. 399 (1986). In other cases, ensuring

representation when an execution warrant issues is a failsafe if execution proves to be imminent. Counsel can assess the availability of collateral review from the underlying conviction and the likelihood of a stay being granted on grounds other than incompetency. If the defendant files a *Ford* motion in a case where execution appears imminent and the Commonwealth has not sought a competency certification, a stay of execution shall issue. See Rule 858(A)(3).

Because the issue is competency, the rule does not permit waiver of counsel. See *Indiana v. Edwards*, 554 U.S. 164, 177-78 (2008).

To the extent this rule differs from the procedures in Rules 120, 122, and 123, this rule take precedence.

Before appointing counsel, the judge must consider whether the attorney is able to handle the case within the time limitations of Part C.

The filing of an order appointing counsel enters counsel's appearance. Counsel does not have to file a separate entry of appearance.

Counsel's appointment or entry of appearance does not affect the appointment or entry of appearance of the same attorney for other purposes or for the appointment or entry of appearance of different attorneys for different purposes. However, counsel's obligations under this rule are separate and distinct.

The docket entry by the clerk of courts must include a notation that the appointment or entry of appearance is only for purposes of proceedings under Part C.

PART C(2). Competency certification by Secretary of Corrections

Rule 855. Commonwealth's Motion for Certification.

(A) Motion; Timing; Party Respondent

(1) If the prosecutor determines that there is a reasonable likelihood that execution is imminent, the prosecutor shall file a motion requesting that the Secretary be ordered to produce a verified certification whether the defendant is presently competent to be executed.

(2) If the basis for the prosecutor's determination that execution is imminent is an order or event giving rise to the requirement to issue an execution warrant under 61 Pa.C.S. § 4302, the motion shall be filed no later than five days after that order or event.

(3) The defendant shall be named the party respondent, but is not required to file an answer, nor must the judge await an answer before disposing of the motion.

(B) Contents

The motion shall set forth the following information:

- (1) the name of the defendant;
- (2) the caption, county of conviction, number, and court term of the case or cases at issue;
- (3) the date on which the defendant was sentenced;
- (4) the place where the defendant is presently confined;
- (5) the review status of the case, including whether any direct or collateral challenges to the underlying conviction are pending, and, if so, in what courts, and whether any applications for a stay of execution have been filed, and, if so, in what court and the status of the application;

(6) the basis for the prosecutor's determination that there is a reasonable likelihood that execution is imminent;

(7) the outcome of any previous proceeding in which competency was determined; and

(8) the name of the defendant's most recent attorney of record.

(C) Disposition

Within five days of the filing of the motion, the judge shall issue an order directing the Secretary to produce, within 10 days of the order, a verified certification of whether the defendant is presently competent to be executed.

Comment

This rule does not require an answer from the defendant or appointment of counsel in advance of an order directing a competency certification. Certification merely requires the Secretary to timely state the executive branch's position on competency. Other provisions in Part C establish a procedure for the defendant to raise a timely claim under *Ford v. Wainwright*, 477 U.S. 399 (1986), when the Secretary issues a competency certification, and Rule 854 assures counsel will be available for the investigation and litigation of a colorable *Ford* claim.

This rule does not require the prosecutor to await an order or event triggering the requirement for reissuance of an execution warrant before seeking a competency certification. There may be instances where, for example, a court entertaining a serial PCRA petition identifies in advance a time frame for decision. The main concern is that the competency determination be made reasonably close in time to any date for execution ultimately specified.

If the prosecutor's motion is untimely under paragraph (A)(2), there is no requirement that the matter be accelerated so that any *Ford* issue may be finally resolved before the warrant of execution expires.

Rule 856. Certification by the Secretary of Corrections.

(A) Certification; Timing

Within 10 days of the issuance of an order under Rule 855(C), the Secretary shall provide a certification, under oath or affirmation, accompanied by a written mental health expert's report and opinion supporting the certification. The certification shall consist of a representation that:

- (1) the defendant is competent to be executed; or
- (2) the defendant is incompetent to be executed; or
- (3) there are substantial grounds to believe the defendant's competency cannot be determined without further examination and a hearing.

(B) Effect of Certification; Action by Judge

(1) If the Secretary certifies that the defendant is competent, no immediate action is required of the judge. Any motion by counsel for the defendant challenging the certification shall proceed under Rule 857.

(2) If the Secretary certifies that the defendant is incompetent, the judge shall promptly issue an order staying the execution.

(a) Any motion by the Commonwealth challenging the certification shall proceed under Rule 859.

(b) If the Commonwealth does not challenge the certification, the judge shall issue an order directing the Department to:

- (i) monitor the defendant's mental health;
- (ii) provide appropriate mental health treatment; and
- (iii) provide periodic certifications respecting the defendant's continuing competency status in accordance with Rule 862.

(c) The judge may issue any supplemental orders necessary or appropriate to the disposition.

(3) If the Secretary certifies that there are substantial grounds to believe the defendant's competency cannot be determined without further examination and a hearing, the judge shall promptly issue an order staying the execution and providing for a competency examination of the defendant.

(4) If the Secretary fails to provide a certification within the requisite time frame, the judge shall issue an order staying the execution and providing for a competency examination of the defendant.

Comment

See Rule 860 for the contents of an order directing a competency examination.

Paragraph (B)(2)(b)(ii) does not address any question about the defendant's right to object to or refuse treatment. Any such question is a substantive matter for the court. See Rule 862 for further monitoring and review procedures if a certification of incompetency is not challenged by the Commonwealth.

Under paragraph (B)(3), the Secretary's certification that further examination and a hearing are necessary is sufficient to satisfy the *Ford v. Wainwright*, 477 U.S. 399 (1986) threshold burden and require a hearing under Rules 860 and 861. Under paragraph (B)(4), the Secretary's failure to provide a certification likewise is sufficient to satisfy that threshold burden.

An order entered under paragraph (B)(2), (B)(3), or (B)(4) is not a final order subject to immediate review.

PART C(3). Defendant's challenge to certification of competency

Rule 857. Motion; Response; Disposition.

(A) Motion; Timing; Request for Stay of Execution

(1) Any motion challenging the Secretary's certification of competency shall be filed within seven days of the date of certification. The motion shall request an order staying the execution and scheduling a competency examination and a hearing. Prior notice of the intent to challenge the certification of competency shall be provided to the clerk of courts with service upon all parties no later than two days before the filing. Notice may be given by electronic or facsimile transmission.

(2) The motion shall be signed by the defendant's attorney. The signature of the attorney shall constitute a certification that the attorney has read the motion, to the best of the attorney's knowledge, information, and belief there are good grounds to support the motion, and the motion is not interposed for delay.

(B) Contents

The motion shall set forth substantially the following information:

(1) whether any challenges to the underlying conviction are pending; if so, in what court and the status of the challenge;

(2) whether any other applications for a stay of execution have been filed; if so, in what court and the status of the application;

(3) a statement of the facts alleged in support of the assertion that the defendant is presently incompetent;

(4) any affidavits, records, and other evidence supporting the assertion of incompetency or a statement why such information is not available; and

(5) the name and address of one mental health expert who has examined, or will examine, the defendant to determine competency.

(C) Commonwealth's Response

Within seven days of the filing of the motion, the Commonwealth shall file a response indicating whether it opposes the motion, the request for a stay, and the request for a competency examination and hearing. If the Commonwealth opposes the motion, the response shall also include the name and address of one mental health expert who has examined, or will examine, the defendant to determine competency.

(D) Defendant's Answer

Within three days of the filing of the Commonwealth's response, the defendant's attorney may file an answer.

(E) Disposition

Within seven days of the filing of the defendant's answer or the expiration of the time for the answer, the judge shall issue an order determining whether the defendant has made a substantial threshold showing of incompetency to be executed. The order shall state the reasons supporting the determination.

(1) If the judge finds that the defendant has not made a substantial threshold showing of incompetency, the order shall deny the motion and the request for a stay of execution without a hearing.

(a) The order denying the motion shall be a final order for purposes of appeal. The order shall advise the defendant of the right to seek expedited review in the Pennsylvania Supreme Court and of the time within which such review must be sought. See Pa.R.A.P. 3315(b)(1) (application for review of an order determining competency where execution warrant is not stayed must be filed within 10 days of entry of the order).

(b) Upon entry of the order, the clerk of courts immediately shall transmit the record of the proceeding to the Prothonotary.

(2) If the judge finds that the defendant has made a substantial threshold showing of incompetency, the order shall stay the execution and provide for a competency examination of the defendant pursuant to Rule 860, and the case shall proceed under Rules 860 and 861.

Comment

The time limitations in this rule must be strictly followed, given the exigencies. The limitations recognize that the certification process affords additional time for the parties to prepare. Moreover, the question is narrow: has the defendant made a substantial threshold showing of incompetency.

The rule requires the Commonwealth to affirmatively take a position. The term "response" is used because the rule requires more information than ordinarily appears in an "answer." In all other respects, "response" is the same as "answer" for purposes of determining the contents

requirements, *see* Rule 575(B), format requirements, *see* Rule 575(C), and procedures for filing and service, *see* Rule 576.

See Rule 860 for the contents of an order directing a competency examination. *See* Rule 861 for the procedures governing a competency hearing.

See Pa.R.A.P. 3315 for the expedited procedures governing an application for review of an order entered under paragraph (E)(1), denying the motion and request for a stay of execution.

An order entered under paragraph (E)(2) is not a final order subject to immediate review.

PART C(4). Defendant's challenge to competency in the absence of certification

Rule 858. Motion; Response; Disposition.

(A) *Motion; Timing; Stay of Execution*

(1) If a warrant of execution is issued, but no competency certification motion under Rule 855 has been filed, any motion challenging the defendant's competency shall be filed within 30 days of the issuance of the warrant. The motion shall request an order staying the execution and scheduling a competency examination and a hearing.

(2) The motion shall be signed by the defendant's attorney. The signature of the attorney shall constitute a certification that the attorney has read the motion and, to the best of the attorney's knowledge, information, and belief there are good grounds to support the motion.

(3) The Commonwealth's failure to seek a competency certification shall be deemed sufficient to require a stay of execution, which shall remain in place until the decision of the motion becomes final, including proceedings on appeal.

(B) *Contents*

The motion shall set forth the following information:

- (1) the name of the defendant;
- (2) the caption, county of conviction, number, and court term of the case or cases at issue;
- (3) the date on which the defendant was sentenced;
- (4) the place where the defendant is presently confined;
- (5) the date the warrant of execution was issued and the scheduled date for execution;
- (6) the review status of the case, including whether any challenges to the underlying conviction are pending; if so, in what court and the status of the challenge;
- (7) whether any other applications for a stay of execution have been filed; if so, in what court and the status of the application;
- (8) a statement of the facts alleged in support of the assertion that the defendant is presently incompetent;
- (9) any affidavits, records, and other evidence supporting the assertion of incompetency or a statement why such information is not available;
- (10) the name and address of one mental health expert who has examined, or will examine, the defendant to determine competency; and
- (11) information concerning the outcome of any previous proceeding in which competency was determined.

(C) *Commonwealth's Response*

Within 20 days of the filing of the motion, the Commonwealth shall file a response indicating whether it opposes

the motion and the request for a competency examination and a hearing. If the Commonwealth opposes the motion, the response shall also include the name and address of one mental health expert who has examined, or will examine, the defendant to determine competency.

(D) *Defendant's Answer*

Within 10 days of the Commonwealth's response, the defendant may file an answer.

(E) *Disposition*

Within 20 days of the filing of the defendant's answer or the expiration of the time for the answer, the judge shall issue an order determining whether the defendant has made a substantial threshold showing of incompetency to be executed. The order shall state the reasons supporting the determination.

(1) If the judge finds that the defendant has not made a substantial threshold showing of incompetency, the order shall deny the motion without a hearing.

(a) The order denying the motion shall be a final order for purposes of appeal. The order shall advise the defendant of the right to seek expedited review in the Pennsylvania Supreme Court and of the time within which such review must be sought. *See* Pa.R.A.P. 3315(b)(2) (application for review of an order determining competency where no execution warrant is pending, or warrant is stayed, must be filed within 21 days of the entry of the order).

(b) Upon entry of the order, the clerk of courts immediately shall transmit the record of the proceeding to the Prothonotary.

(2) If the judge finds that the defendant has made a substantial threshold showing of incompetency, the order shall provide for a competency examination of the defendant pursuant to Rule 860, and the case shall proceed under Rules 860 and 861.

Comment

This rule addresses the circumstance where an execution warrant is issued and execution appears imminent, but the Commonwealth did not invoke the accelerated competency certification procedure contemplated under Rule 855. Upon the filing of a motion challenging the defendant's competency, a stay must issue, and the competency question, including the threshold question of entitlement to a hearing, should be resolved expeditiously, with the case proceeding as otherwise provided in Part C.

See Pa.R.A.P. 3315 for the procedures governing an application for review of an order entered under paragraph (E)(1), denying the motion.

An order entered under paragraph (E)(2) is not a final order subject to immediate review.

PART C(5). Commonwealth's challenge to certification of incompetency

Rule 859. Motion; Response; Disposition.

(A) *Motion; Timing*

(1) Any motion challenging the Secretary's certification of incompetency shall be filed by the Commonwealth within 30 days of the certification. The motion shall request an order scheduling a competency examination and a hearing.

(B) *Contents*

The motion shall set forth substantially the following information:

(1) a statement of the facts alleged in support of the assertion that the defendant is presently competent;

(2) any affidavits, records, and other evidence supporting the assertion of competency or a statement why such information is not available; and

(3) the name and address of one mental health expert who has examined, or will examine, the defendant to determine competency.

(C) *Defendant's Response*

Within 20 days of the filing of the motion, the attorney for the defendant shall file a response. If the defendant opposes the motion, the response shall include the name and address of one mental health expert who has examined, or will examine, the defendant to determine competency.

(D) *Commonwealth's Answer*

Within 10 days of the filing of the defendant's response, the Commonwealth may file an answer.

(E) *Disposition*

Within 20 days of the filing of the Commonwealth's answer or the expiration of the time for the answer, the judge shall issue an order determining whether the Commonwealth has shown reasonable grounds to question the certification of incompetency. The order shall state the reasons supporting the determination.

(1) If the judge finds that the Commonwealth has not demonstrated reasonable grounds to question the certification of incompetency, the order shall deny the motion without a hearing and continue the stay of execution.

(a) The order denying the motion shall be a final order for purposes of appeal, and is subject to expedited review in the Supreme Court. *See* Pa.R.A.P. 3315(b)(2) (application for review of an order determining competency where no execution warrant is pending, or warrant is stayed, must be filed within 21 days of the entry of the order).

(b) If the Commonwealth does not seek further review, the judge shall enter an order directing the Department to:

- (i) monitor the defendant's mental health;
- (ii) provide appropriate mental health treatment; and
- (iii) provide periodic certifications respecting the defendant's continuing competency status in accordance with Rule 862.

(2) If the judge finds that the Commonwealth has demonstrated reasonable grounds to question the certification of incompetency, the order shall provide for a competency examination of the defendant pursuant to Rule 860, and the case shall proceed under Rules 860 and 861.

Comment

Under Rule 856(B)(2), the Secretary's certification of incompetency requires the trial court to issue a stay of execution. The rules do not require resolving a Commonwealth challenge to the certification before the execution warrant expires. The claim still should be resolved expeditiously, however, proceeding as otherwise provided in Part C.

See Pa.R.A.P. 3315 for the procedures governing an application for review of an order entered under paragraph (E)(1), denying the motion and continuing the stay of execution.

Paragraph (E)(1)(b)(ii) does not address any question about the defendant's right to object to or refuse treatment. Any such question is a substantive matter for the court. *See* Rule 862 for further monitoring and review procedures.

An order entered under paragraph (E)(2) is not a final order subject to immediate review.

PART C(6). Competency hearings

Rule 860. Preliminary Matters.

(A) *Order Directing Competency Examinations of the Defendant*

(1) Whenever the judge orders a competency examination, the order shall:

(a) direct the defendant to submit to examinations by the mental health experts specified by the defendant and the Commonwealth;

(b) inform the defendant of the purpose of the examinations and that the results of the examinations may be used at a competency hearing;

(c) inform the defendant of the potential consequences of failing to cooperate with the examinations;

(d) specify who may be present at the examinations; and

(e) specify the time within which the examinations must be conducted and the mental health experts must submit their written reports.

(2) The judge may also order the defendant to submit to a competency examination by one or more mental health experts designated by the judge.

(B) *Evidentiary Material; Reciprocal Disclosure*

(1) Upon request of the defendant or the Commonwealth, the judge shall order the Department and other entities identified as having possession of evidentiary material relevant to the defendant's present competency status to promptly provide the parties with copies of the material.

(2) The parties shall promptly exchange copies of relevant evidentiary material in their possession, including written expert reports. Issues concerning disclosure, including claims of privilege, shall be presented to and resolved by the judge.

(3) Evidentiary material secured under this rule shall not be of public record and shall not be disclosed beyond the parties and their experts without leave of the judge.

(C) *Mental Health Expert Reports*

(1) The examinations shall be completed, and the mental health experts' written reports shall be submitted to the court and provided to the parties, within 60 days of the order directing the examinations. In cases proceeding under Rule 862 (monitoring and review after incompetency finding), the judge may grant an extension of no more than 30 days for submission of the expert reports.

(2) The expert reports shall address the nature of the defendant's mental disorder, if any; the disorder's relationship to competency; the expert's opinion of the defendant's competency expressed within a reasonable degree of medical, psychiatric, or psychological certainty; and the grounds supporting that opinion.

(3) The expert reports shall not be of public record, and shall not be disclosed beyond the parties and the parties' experts without leave of the judge.

(D) Status Report

Within 30 days of the order directing examinations, the parties shall report to the judge the status of the examinations and expert reports, and any other pertinent matters. In cases proceeding under Rule 862 (monitoring and review after incompetency finding), status reports are not required, but may be ordered by the judge.

(E) Pre-hearing Conference; Scheduling Hearing

Within 60 days of the order directing examinations, the judge shall hold a pre-hearing conference to review the status of the case and determine if a hearing is necessary. Any hearing shall commence no later than 60 days after completion of the examinations unless, upon good cause shown, the judge orders a continuance, which shall not exceed 30 days. In cases proceeding under Rule 862 (monitoring and review after incompetency finding), a pre-hearing conference is not required, but may be ordered by the judge. Competency hearings conducted under Rule 862 shall be concluded as soon as reasonably practicable.

Comment

Before ordering additional examinations, the judge must consider, among other factors, the need for additional experts and the costs.

As used in paragraph (B), "evidentiary material" is information directly relevant to the question of competency to be executed. Paragraph (B) is intended to ensure the prompt collection of materials relevant to competency at an early stage of the proceedings.

If the defendant fails to cooperate in an examination, before imposing a sanction, the judge shall consider whether: (1) the failure was intentional; (2) the failure resulted from mental illness; and (3) ordering the defendant to resubmit to the examination would result in cooperation. Sanctions for failure to cooperate include, but are not limited to, the judge declining to consider expert mental health evidence proffered by the defendant.

The pre-hearing conference serves the same purpose as a pretrial conference in criminal cases. *See* Rule 570. The judge and counsel should consider: (1) simplification or stipulation of factual issues; (2) adopting measures to avoid cumulative testimony; (3) qualification of exhibits as evidence; and (4) such other matters as may aid in the timely determination of competency.

The judge may schedule an earlier date for the hearing when appropriate. A hearing may be unnecessary where, for example, the experts and the parties are in agreement on the competency question.

In cases proceeding under Rule 862, the question of whether there has been a material change in circumstances is narrow, but the time constraints are not the same as when an execution warrant is pending. Thus, the rule offers greater flexibility. Matters arising under Rule 862 should still be decided expeditiously.

Rule 861. Hearing; Disposition.*(A) Hearing*

(1) The hearing shall be limited to the issue of the defendant's present competency to be executed.

(2) The defendant shall appear in person with counsel.

(3) The parties may introduce evidence, including expert reports and testimony, cross-examine witnesses, and present argument or, by stipulation, may submit the matter for the judge's determination on the basis of

expert reports and other evidence. The judge may call and question witnesses as provided by law.

(B) Disposition

Within 30 days of the conclusion of the hearing, the judge shall issue an order determining whether the defendant is competent. The order shall include specific findings of fact concerning the relevant factors for determining competency. In cases proceeding under Rule 862 (monitoring and review after incompetency finding), the judge's order shall be issued as soon as reasonably practicable.

(1) If the judge finds that the defendant is competent, the order shall vacate any existing order staying execution. The order shall advise the defendant of the right to seek expedited review in the Pennsylvania Supreme Court and of the time within which such review must be sought. *See* Pa.R.A.P. 3315(b)(2) (application for review of an order determining competency where no execution warrant is pending, or warrant is stayed, must be filed within 21 days of the entry of the order).

(2) If the judge finds that the defendant is incompetent, the order shall stay the execution until such time as the defendant is determined to be competent.

(a) The order shall direct the Department to:

(i) monitor the defendant's mental health;

(ii) provide appropriate mental health treatment; and

(iii) provide periodic certifications respecting the defendant's continuing competency status in accordance with Rule 862.

(b) The judge may issue any supplemental orders necessary or appropriate to the disposition.

(3) The order determining competency issued under paragraph (B)(1) or (2) shall be a final order subject to expedited review in the Supreme Court. *See* Pa.R.A.P. 3315(b)(2) (application for review of an order determining competency where no execution warrant is pending, or warrant is stayed, must be filed within 21 days of the entry of the order).

Comment

This rule provides the due process hearing required by *Panetti v. Quarterman*, 551 U.S. 930, 934-35, 949-50 (2007), once a substantial threshold showing of incompetency has been made. The rule also addresses subsequent competency hearings held pursuant to Rule 862.

Paragraph (A)(2) requires the defendant's presence. Advanced communication technology may not be utilized. *See* Rule 119. However, the judge may exclude a disruptive defendant. *See, e.g., Illinois v. Allen*, 397 U.S. 337, 342-43 (1970). *See also Commonwealth v. Basemore*, 582 A.2d 861, 867-68 (Pa. 1990).

The defendant ordinarily has the burden of going forward and proving incompetency by a preponderance of evidence. *See Commonwealth v. Banks*, 29 A.3d 1129, 1135 (Pa. 2011). Under the certification procedure in Part C, however, there may be instances where the Commonwealth is the moving party. *See* Rule 859 (Commonwealth motion challenging certification of incompetency); Rule 862 (Commonwealth motion alleging a change in circumstances following a finding of incompetency). Assignment of the burden depends upon the identity of the moving party and the prior decisional status of the competency question.

Evidence to be considered by the judge, including mental health expert reports, must be introduced by the parties at the hearing and made part of the record.

Paragraph (B)(2)(a)(ii) does not address any question about the defendant's right to object to or refuse treatment. Any such question is a substantive matter for the court. See Rule 862 for further monitoring and review procedures.

In requiring the vacatur of an existing stay of execution if the defendant is found competent under paragraph (B)(1), the rule recognizes that any warrant of execution will have expired by the time a hearing has been conducted and a final order is entered.

See Pa.R.A.P. 3315 for the procedures governing an application for review of an order determining competency under paragraph (B)(1) or (B)(2).

PART C(7). Monitoring and review of incompetency
Rule 862. Monitoring; Review; Hearing; Disposition.

(A) Monitoring; Periodic Certifications

(1) The Department shall monitor the defendant's competency whenever so ordered by the judge.

(2) Unless otherwise ordered by the judge, the Secretary shall provide the judge with a competency certification every six months. The certification shall be under oath or affirmation and accompanied by a written mental health expert's report in support of the certification.

(B) Certification of Continued Incompetency; Commonwealth Challenge

(1) If the Secretary certifies that the defendant remains incompetent, the judge shall take no further action unless the Commonwealth challenges the certification.

(2) Any motion challenging a certification of continued incompetency shall be filed by the Commonwealth within 21 days of the certification.

(a) The motion shall state with specificity the facts alleged to support the assertion that the Secretary's certification is erroneous. The motion shall include a supporting mental health expert's affidavit and any other relevant evidence.

(b) Counsel for the defendant shall file a response to the motion within 21 days.

(c) Within 10 days of the filing of the defendant's response, the Commonwealth may file an answer.

(d) Within 30 days of the filing of the Commonwealth's answer or the expiration of the time for the answer, the judge shall order a competency examination and a hearing only if the Commonwealth establishes substantial grounds to question the certification of continued incompetency, and the matter shall proceed under Rules 860 and 861.

(C) Certification of Competency; Defendant's Challenge

(1) If the Secretary certifies that the defendant has become competent, any motion challenging the certification shall be filed by the defendant's counsel within 21 days of the certification.

(a) The motion shall state with specificity the facts alleged to support the assertion that the Secretary's certification is erroneous. The motion shall include a supporting mental health expert's affidavit and any other relevant evidence.

(b) Counsel for the Commonwealth shall respond to the motion within 21 days.

(c) Within 10 days of the filing of the Commonwealth's response, the defendant may file an answer.

(d) Within 30 days of the filing of the defendant's answer or the expiration of the time for the answer, the judge shall order a competency examination and a hearing only if the defendant establishes substantial grounds to question the certification of competency, and the matter shall proceed under Rules 860 and 861.

(2) If the defendant fails to file a timely challenge to the certification of competency, the judge shall vacate any existing order staying execution.

(D) Commonwealth Challenge in the Absence of Certification

At any time following a determination that the defendant is incompetent, the Commonwealth may move for a further competency examination by alleging a material change in the defendant's mental health status. The motion shall state with specificity the facts alleged in support of the assertion that the defendant is presently competent, and shall include a supporting mental health expert's affidavit and any other relevant evidence. Counsel for the defendant shall respond as directed by the judge. Within 10 days of the filing of the defendant's response, the Commonwealth may file an answer. Within 30 days of the filing of the Commonwealth's answer or the expiration of the time for the answer, the judge shall order a competency examination only if the Commonwealth establishes substantial grounds to conclude that, due to a material change in circumstances, the defendant is presently competent.

(E) Examination; Hearing; Determination

Unless otherwise ordered by the judge, examinations and hearings ordered under this Rule shall proceed under Rules 860 and 861.

Comment

In instances where the determination of incompetency followed upon a full-blown hearing under Rule 861, paragraph (E) authorizes the judge to resolve a further competency challenge in a less formal manner than that contemplated under Rules 860 and 861.

If an application for review of a prior competency determination pursuant to Pa.R.A.P. 3315 has been filed and remains pending, the judge shall not take any action under this rule until the application has been decided.

CHAPTER 9. POST-CONVICTION COLLATERAL PROCEEDINGS

Rule 904. Entry of Appearance and Appointment of Counsel; In Forma Pauperis.

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Comment

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Pursuant to paragraphs (F)(2) and (H)(2)(b), appointed counsel retains his or her assignment until final judgment, which includes all avenues of appeal through the Supreme Court of Pennsylvania. In making the decision whether to file a petition for allowance of appeal, counsel must (1) consult with his or her client, and (2) review the standards set forth in Pa.R.A.P. 1114 (Considerations Governing Allowance of Appeal) and the note following that rule. If the decision is made to file a petition, counsel must carry through with that decision. See *Commonwealth v. Liebel*, [573 Pa. 375,] 825 A.2d 630 (Pa. 2003). Concerning counsel's obligations as appointed counsel, see

Jones v. Barnes, 463 U.S. 745 (1983). See also *Commonwealth v. Padden*, 783 A.2d 299 (Pa. Super. [Ct.] 2001).

Paragraph (H) was added in 2000 to provide for the appointment of counsel for the first petition for post-conviction collateral relief in a death penalty case at the conclusion of direct review.

Paragraph (H)(1)(a) recognizes that a defendant may proceed *pro se* if the judge finds the defendant competent, and that the defendant's election is knowing, intelligent, and voluntary. In *Indiana v. Edwards*, 554 U.S. 164, 178 (2008), the Supreme Court recognized that, when a defendant is not mentally competent to conduct his or her own defense, the U.S. Constitution permits the judge to require the defendant to be represented by counsel.

See Rule 854(B) that requires an attorney who has been retained to represent a defendant in proceedings under Part C of Chapter 8 to file a written entry of appearance.

An attorney may not represent a defendant in a capital case unless the attorney meets the educational and experiential requirements set forth in Rule 801 (Qualifications for Defense Counsel in Capital Cases).

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Rule 909. Procedures for Petitions in Death Penalty Cases: Stays of Execution of Sentence; Hearing; Disposition.

(A) *Stays of Execution*

(1) In a case in which the defendant has received a sentence of death, any request for a stay of execution of sentence should be made in the petition for post-conviction collateral relief.

(2) **The judge shall grant a stay of execution if the petition is a timely first petition under the PCRA. In cases involving a second or subsequent PCRA petition, the judge shall grant a stay of execution only if the petition meets the requirements of the PCRA and there has been a strong showing of a likelihood of success on the merits.**

[(2)] (3) In all cases in which a stay of execution has been properly granted, the stay shall remain in effect through the conclusion of all PCRA proceedings, including review in the Supreme Court of Pennsylvania, or the expiration of time for seeking such review.

* * * * *

Comment

Paragraph (A)(1) was added in 1999 to provide the avenue by which a defendant in a death penalty case may request a stay of execution. Failure to include a request for a stay in the petition for post-conviction collateral relief may not be construed as a waiver, and the defendant may file a separate request for the stay. In cases involving second or subsequent petitions when an application for a stay is filed separately from the PCRA petition, *Commonwealth v. Morris*, [565 Pa. 1, 33-34,] 771 A.2d 721, 740-741 (Pa. 2001) ("*Morris I*") provides that the separate stay application "must set forth: a statement of jurisdiction; if necessary, a statement that a petition is currently pending before the court; and a statement showing the likelihood of prevailing on the merits."

Paragraph (A)(2) was added in (DATE) to make clear that the defendant may pursue a timely first PCRA petition as of right, and therefore is entitled to a stay of execution during the pendency of the

petition. Accord Pa.R.A.P. 3314 & Note. Stay requests associated with second or subsequent PCRA petitions are subject to 42 Pa.C.S. § 9545(c) (the petition must be pending, must meet all requirements of the PCRA, and the petitioner must make a strong showing of a likelihood of success on the merits). See Commonwealth v. Morris, 822 A.2d 684, 693 (Pa. 2003) ("*Morris II*"). The PCRA court lacks jurisdiction to grant a stay ancillary to an untimely petition. See Commonwealth v. Morris, 771 A.2d 721, 734-35 & n.14, 742 (Pa. 2001) ("*Morris I*"); 42 Pa.C.S. § 9545(c).

Paragraph [(A)(2)] (A)(3) provides, if a stay of execution is properly granted, that the stay will remain in effect throughout the PCRA proceedings in the trial court and during the appeal to the Pennsylvania Supreme Court. Nothing in this rule is intended to preclude a party from seeking review of an order granting or denying a stay of execution in an appropriate case. See Pa.R.A.P. [1702(d) (Stay of Execution) and Pa.R.A.P. 3316 (Review of Stay of Execution Orders in Capital Cases)] 3314 (Stays of Execution).

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**TITLE 210. APPELLATE PROCEDURE
PART I. RULES OF APPELLATE PROCEDURE
ARTICLE I. PRELIMINARY PROVISIONS
CHAPTER 7. COURTS TO WHICH APPEALS
SHALL BE TAKEN
IN GENERAL**

Rule 702. Final Orders.

* * * * *

(b) *Matters tried with capital offenses.*—If an appeal is taken to the Supreme Court [under Rule 1941 (review of death sentences)] from a sentence of death under Pa.R.A.P. 3311(a), any other appeals relating to sentences for lesser offenses imposed on [a] the defendant as a result of the same criminal episode or transaction and tried with the capital offense shall be taken to the Supreme Court.

(c) *Supervision of special prosecutions or investigations.*—All petitions for review under [Rule] Pa.R.A.P. 3331 (review of special prosecutions or investigations) shall be filed in the Supreme Court.

Official Note: Because of frequent legislative modifications it is not desirable to attempt at this time to restate appellate court jurisdiction in these rules. However, the Administrative Office of Pennsylvania Courts publishes from time to time at 204 Pa. Code § 201.2 an unofficial chart of the Unified Judicial System showing the appellate jurisdiction of the several courts of this Commonwealth, and it is expected that the several publishers of these rules will include a copy of the current version of such chart in their respective publications.

[Subdivisions] Paragraphs (b) and (c) are based upon 42 Pa.C.S. § 722(1) (direct appeals from courts of common pleas). Under [Rule] Pa.R.A.P. 751 (transfer of erroneously filed cases) an appeal from a lesser offense improvidently taken to the Superior Court or the Commonwealth Court will be transferred to the Supreme Court for consideration and decision with the capital offense.

The Supreme Court conducts a limited direct review of death sentences even if no appeal is taken. See Pa.R.A.P. 3312. Under paragraph (b), if an appeal is taken from a sentence of death, review of sentences imposed for lesser offenses is also available. See *Commonwealth v. Parrish*, 77 A.3d 557, 561 (Pa. 2013) (if the defendant fails to file an appeal from a death sentence, claims unassociated with automatic review are not preserved).

Under [**Rule 701 (interlocutory orders)**] Pa.R.A.P. 701 the jurisdiction described in [**Subdivision**] paragraph (c) extends also to interlocutory orders. See [**Rule 102 (definitions)**] Pa.R.A.P. 102 where the term “appeal” includes proceedings on petition for review. Ordinarily [**Rule**] Pa.R.A.P. 701 will have no application to matters within the scope of [**Subdivision**] paragraph (b), since that [**subdivision**] paragraph is contingent upon entry of a final order in the form of a sentence of death; the mere possibility of such a sentence is not intended to give the Supreme Court direct appellate jurisdiction over interlocutory orders in homicide and related cases since generally a death sentence is not imposed.

ARTICLE II. APPELLATE PROCEDURE

CHAPTER 9. APPEALS FROM LOWER COURTS

Rule 901. Scope of Chapter.

This chapter applies to all appeals from a trial court to an appellate court except:

(1) An appeal by allowance taken under 42 Pa.C.S. § 724 (allowance of appeals from Superior and Commonwealth Courts). See [**Rule**] Pa.R.A.P. 1112 (appeals by allowance).

(2) An appeal by permission taken under 42 Pa.C.S. § 702(b) (interlocutory appeals by permission). See [**Rule**] Pa.R.A.P. 1311 (interlocutory appeals by permission).

(3) An appeal which may be taken by petition for review pursuant to [**Rule**] Pa.R.A.P. 1762(b)(2), which governs applications relating to bail when no appeal is pending.

(4) An appeal which may be taken by petition for review pursuant to [**Rule**] Pa.R.A.P. 1770, which governs out of home placement in juvenile delinquency matters.

(5) Automatic review of sentences pursuant to 42 Pa.C.S. § 9711(h) (review of death sentence). See [**Rule 1941 (review of death sentences)**] Pa.R.A.P. 3312.

(6) An appeal which may be taken by petition for review pursuant to [**Rule**] Pa.R.A.P. 3331 (review of special prosecutions or investigations).

(7) An appeal which may be taken only by a petition for review pursuant to [**Rule**] Pa.R.A.P. 1573, which governs review when a trial court has denied a motion to dismiss on the basis of double jeopardy as frivolous.

Official Note: Paragraph 5 addresses cases involving automatic review of a death sentence and does not affect direct appeals and post-conviction appeals in death penalty cases, which are generally subject to this chapter. See Pa.R.A.P. 3311 and 3313.

Rule 909. Appeals to the Supreme Court. Jurisdictional Statement. Sanctions.

(a) *General rule*.—Upon filing a notice of appeal to the Supreme Court, the appellant shall file with the prothonotary or clerk of the trial court an original and [**8**] eight copies of a jurisdictional statement. The statement shall be in the form prescribed by [**Rule**] Pa.R.A.P. 910(a) and (b). No statement need be filed in cases [**arising under Pa.R.A.P. 1941 (Review of Death Sentences)**] involving review of a sentence of death under Pa.R.A.P. 3311 (direct review) or 3312 (automatic review).

(b) *Answer*.—Within 14 days after service of a jurisdictional statement, an adverse party may file with the Prothonotary of the Supreme Court an original and eight copies of an answer thereto in the form prescribed by [**Rule**] Pa.R.A.P. 911. The answer shall be deemed filed on the date of mailing if first class, express, or priority United States Postal Service mail is utilized. No separate motion to dismiss a jurisdictional statement will be received. A party entitled to file an answer who does not intend to do so shall, within the time fixed by these rules for filing an answer, file a letter stating that an answer to the jurisdictional statement will not be filed. The failure to file an answer will not be construed as concurrence in the jurisdictional statement.

(c) *Action by the Supreme Court*.—After consideration of the jurisdictional statement and the brief in opposition thereto, if any, the Court will enter an appropriate order which may include summary dismissal for lack of subject matter jurisdiction. If the Supreme Court in its order notes probable jurisdiction or postpones consideration of jurisdiction to the hearing on the merits, the Prothonotary of the Supreme Court forthwith shall notify the court below and the attorneys of record of the noting or postponement, and the case will then stand for briefing and oral argument. In such case, the parties shall address the question of jurisdiction at the outset of their briefs and oral arguments.

(d) *Sanctions*.—If the court finds that the parties have not complied with [**Rules**] Pa.R.A.P. 909 through 911, it may impose appropriate sanctions including but not limited to dismissal of the action, imposition of costs or disciplinary sanction upon the attorneys.

CHAPTER 15. JUDICIAL REVIEW OF GOVERNMENTAL DETERMINATIONS

IN GENERAL

Rule 1501. Scope of Chapter.

(a) *General rule*.—Except as otherwise prescribed by [**Subdivisions**] paragraphs (b) and (c) of this rule, this chapter applies to:

(1) Appeals from an administrative agency (within the meaning of Section 9 of Article V of the Constitution of Pennsylvania) to an appellate court.

(2) Appeals to an appellate court pursuant to 2 Pa.C.S. § 702 [**(appeals)**], 42 Pa.C.S. § 5105 [**(right to appellate review)**], or any other statute providing for judicial review of a determination of a government unit.

(3) Original jurisdiction actions heretofore cognizable in an appellate court by actions in the nature of equity, replevin, mandamus or quo warranto or for declaratory judgment, or upon writs of *certiorari* or prohibition.

(4) Matters designated by general rule, [**e.g.**] for **example**, review of orders refusing to certify interlocutory orders for immediate appeal, release prior to sentence, appeals under Section 17(d) of Article II of the Constitution of Pennsylvania, and review of special prosecutions or investigations.

(b) *Appeals governed by other provisions of rules.*—This chapter does not apply to any appeal within the scope of:

- (1) Chapter 9 [**(appeals from lower courts)**].
- (2) Chapter 11 [**(appeals from Commonwealth Court and Superior Court)**].
- (3) Chapter 13 [**(interlocutory appeals by permission)**], except that the provisions of this chapter and ancillary provisions of these rules applicable to practice and procedure on petition for review, so far as they may be applied, shall be applicable: (a) where required by the [**Note to Rule 341 and the Note to Rule**] **note to Pa.R.A.P. 341 and the note to Pa.R.A.P. 1311**; and (b) after permission to appeal has been granted from a determination which, if final, would be subject to judicial review pursuant to this chapter.

(4) [**Rule 1941 (review of death sentences).**] **Pa.R.A.P. 3312 (automatic review of death sentence).**

(c) *Unuspended statutory procedures.*—This chapter does not apply to any appeal pursuant to the following statutory provisions, which are not suspended by these rules:

- (1) Section 137 of Title 15 of the *Pennsylvania Consolidated Statutes* (Court to pass upon rejection of documents by Department of State).
- (2) The Pennsylvania Election Code.
- (d) *Jurisdiction of courts unaffected.*—This chapter does not enlarge or otherwise modify the jurisdiction and powers of the Commonwealth Court or any other court.

Official Note: This chapter applies to review of any “determination” of a “government unit” as defined in [**Rule**] **Pa.R.A.P. 102**, assuming, of course, that the subject matter of the case is within the jurisdiction of a court subject to these rules (see [**Subdivision**] **paragraph** (d) of this rule). A “determination” means “action or inaction by a government unit which action or inaction is subject to judicial review by a court under Section 9 of Article V of the Constitution of Pennsylvania or otherwise. The term includes an order entered by a government unit.” The term “government unit” is all inclusive and means “the Governor and the departments, boards, commissions, officers, authorities and other agencies of the Commonwealth, including the General Assembly and its officers and agencies and any court or other officer or agency of the unified judicial system, and any political subdivision or municipal or other local authority or any officer or agency of any such political subdivision or local authority. The term includes a board of arbitrators whose determination is subject to review under 42 Pa.C.S. § 763(b) (awards of arbitrators).” The term “administrative agency” is not defined in these rules, although the term is used in these rules as a result of its appearance in Section 9 of Article V of the Constitution of Pennsylvania.

[**Subdivision**] **Subparagraph** (a)(4) was added in 2004 to recognize the references in various appellate rules and accompanying notes to petition for review practice.

For example, the [**Notes to Rules**] **notes to Pa.R.A.P. 341** and **1311** direct counsel to file a petition for review of a trial court or government agency order refusing to certify an interlocutory order for immediate appeal. Similarly, [**Rule**] **Pa.R.A.P. 1762** directs the filing of a petition for review when a party seeks release on bail before judgment of sentence is rendered, see [**Rule**] **Pa.R.A.P. 1762(b)**, and [**Rule**] **Pa.R.A.P. 1770** directs the filing of a petition for review when a juvenile seeks review of placement in a juvenile delinquency matter. A petition for review is also the proper method by which to seek judicial review pursuant to [**Rule**] **Pa.R.A.P. 3321** (regarding legislative reapportionment commission) and [**Rule**] **Pa.R.A.P. 3331** (regarding special prosecutions or investigations). The 2004 and 2012 amendments clarify the use of petitions for review in these special situations.

[**Subdivision**] **Paragraph** (b) of this rule is necessary because otherwise conventional appeals from a court (which is included in the scope of the term “government unit”) to an appellate court would fall within the scope of this chapter under the provisions of [**Paragraph**] **subparagraph** (a)(2) of this rule.

[**Subdivision**] **Paragraph** (c) expressly recognizes that some statutory procedures are not replaced by petition for review practice. Thus, matters brought pursuant to Section 137 of the Associations Code governing judicial review of documents rejected by the Department of State or pursuant to the Election Code are controlled by the applicable statutory provisions and not by the rules in Chapter 15. See 15 Pa.C.S. § 137; Act of June 3, 1937, P.L. 1333, as amended, 25 P.S. §§ 2600—3591.

In light of [**Subdivision**] **paragraph** (d), where the court in which a petition for review is filed lacks subject matter jurisdiction ([**e.g.**] for **example**, a petition for review of a local government question filed in the Commonwealth Court), [**Rules**] **Pa.R.A.P. 741** (waiver of objections to jurisdiction), **751** (transfer of erroneously filed cases), and **1504** (improvident petitions for review) will be applicable. See also 42 Pa.C.S. § 5103.

The 2004 amendments are made to petition for review practice to address the evolution of judicial responses to governmental actions. As indicated in the [**Note to Rule**] **note to Pa.R.A.P. 1502**, when the Rules of Appellate Procedure were initially adopted, there was a “long history in the Commonwealth . . . of relatively complete exercise of the judicial review function under the traditional labels of equity, mandamus, *certiorari*, and prohibition.” While such original jurisdiction forms of action are still available, their proper usage is now the exception rather than the rule because appellate proceedings have become the norm. Thus, the need to rely on [**Rule**] **Pa.R.A.P. 1503** to convert an appellate proceeding to an original jurisdiction action and *vice versa* arises less often. Moreover, the emphasis on a petition for review as a generic pleading that permits the court to simultaneously consider all aspects of the controversy is diminished. The primary concern became making the practice for appellate proceedings more apparent to the occasional appellate practitioner. Accordingly, the rules have been amended to more clearly separate procedures for appellate proceedings from those applicable to original jurisdiction proceedings.

* * * * *

**CHAPTER 17. EFFECT OF APPEALS;
SUPERSEDEAS AND STAYS**

IN GENERAL

Rule 1702. Stay Ancillary to Appeal.

(a) *General rule.*—Applications for relief under this chapter will not be entertained by an appellate court or a judge thereof until after a notice of appeal has been filed in the [**lower**] trial court and docketed in the appellate court or a petition for review has been filed.

(b) *Proceedings on petition for allowance of or permission to appeal.*—Applications for relief under this chapter may be made without the prior filing of a petition for allowance of appeal or petition for permission to appeal, but the failure to effect timely filing of such a petition, or the denial of such a petition, shall automatically vacate any ancillary order entered under this chapter. In such a case, the clerk of the court in which the ancillary order was entered shall, on *praecipe* of any party to the matter, enter a formal order under this rule vacating such ancillary order.

(c) *Supreme Court review of appellate court supersedeas and stay determinations.*—No appeal, petition for allowance of appeal, or petition for review need be filed in the Supreme Court in connection with a reapplication under [**Rule 3315**] Pa.R.A.P. 3319 (review of stay orders of appellate courts).

Official Note: [Based on former Superior Court Rule 53 and Commonwealth Court Rule 112A, which required the taking of an appeal prior to an application for supersedeas or other interlocutory order. Subdivision (b) is new and is] Paragraph (b) was added in recognition of the fact that the drafting of a petition for allowance of appeal or a petition for permission to appeal in the form required by these rules may not be possible prior to the time when an application for *supersedeas* may have to be made in the appellate court in order to avoid substantial harm.

Rule 1704. [Application in a Capital Case for a Stay of Execution or for Review of an Order Granting or Denying a Stay of Execution.] Rescinded by Order of (DATE).

[Prior notice of the intent to file an application in a capital case for a stay or review of an order granting or denying a stay of execution shall be provided to the Prothonotary of the Pennsylvania Supreme Court, if prior notice is practicable.

The application for stay or review shall set forth the following:

1. The date the warrant issued; the date and nature of the order that prompted the issuance of the warrant; and the date the execution is scheduled, if a date has been set;

2. Whether any direct or collateral challenges to the underlying conviction are pending, and, if so, in what court(s) or tribunal(s);

3. Whether any other applications for a stay of the pending execution have been filed, and, if so, in what court(s) or tribunal(s), when, and the status of the application(s);

4. The grounds for relief and the showing made to the trial court of entitlement to a stay under 42 Pa.C.S. § 9545(c), if applicable;

5. A statement certifying that emergency action is required and setting forth a description of the emergency.

All dockets, pleadings, and orders that are referred to in 1—5 above must be attached to the application. If any of the information provided in the application changes while the motion is pending, the party seeking the stay or review must file with the Pennsylvania Supreme Court written notice of the change within 24 hours.

No notice of appeal or petition for review needs to be filed in order to file an application under this rule.]

Official Note: The Supreme Court rescinded this rule on (DATE), as part of its consolidation of the rules relating to capital appeals. Pa.R.A.P. 3314 now provides the procedures governing applications for a stay of execution or for review of an order granting or denying a stay of execution.

STAY IN CRIMINAL MATTERS

Rule 1761. Capital Cases.

[The pendency of proceedings under Rule 1941 (review of sentence of death) shall stay execution of sentence of death.

Official Note: Based on 42 Pa.C.S. § 9711(h) (review of death sentence).]

Stays of execution in death penalty cases are governed by Pa.R.A.P. 3314.

**CHAPTER 19. PREPARATION AND
TRANSMISSION OF RECORD AND RELATED
MATTERS**

[REVIEW OF DEATH SENTENCES]

Rule 1941. [Review of Sufficiency of the Evidence and the Propriety of the Penalty in Death Penalty Appeals.] Rescinded by Order of (DATE).

[(a) Procedure in trial court. Upon the entry of a sentence subject to 42 Pa.C.S. § 9711(h) (review of death sentence) the court shall direct the official court reporter and the clerk to proceed under this chapter as if a notice of appeal had been filed 20 days after the date of entry of the sentence of death, and the clerk shall immediately give written notice of the entry of the sentence to the Administrative Office and to the Supreme Court Prothonotary's Office. The clerk shall insert at the head of the list of documents required by Pa.R.A.P. 1931(c) a statement to the effect that the papers are transmitted under this rule from a sentence of death.

(b) Filing and docketing in the Supreme Court. Upon receipt by the Prothonotary of the Supreme Court of the record of a matter subject to this rule, the Prothonotary shall immediately:

(1) Enter the matter upon the docket as an appeal, with the defendant indicated as the appellant and the Commonwealth indicated as the appellee.

(2) File the record in the Supreme Court.

(3) Give written notice of the docket number assignment in person or by first class mail to the clerk of the trial court.

(4) Give notice to all parties and the Administrative Office of the docket number assignment and

the date on which the record was filed in the Supreme Court, and give notice to all parties of the date, if any, specially fixed by the Prothonotary pursuant to Pa.R.A.P. 2185(b) for the filing of the brief of the appellant.

(c) Further proceedings. Except as required by Pa.R.A.P. 2189 or by statute, a matter subject to this rule shall proceed after docketing in the same manner as other appeals in the Supreme Court.

Official Note: Formerly the Act of February 15, 1870 (P.L. 15, No. 6) required the appellate court to review the sufficiency of the evidence in certain homicide cases regardless of the failure of the appellant to challenge the matter. See, e.g., *Commonwealth v. Santiago*, 382 A.2d 1200 (Pa. 1978). Pa.R.A.P. 302 now provides otherwise with respect to homicide cases generally. However, under paragraph (c) of this rule the procedure for automatic review of capital cases provided by 42 Pa.C.S. § 9711(h) (review of death sentence) will permit an independent review of the sufficiency of the evidence in such cases. In capital cases, the Supreme Court has jurisdiction to hear a direct appeal and will automatically review (1) the sufficiency of the evidence “to sustain a conviction for first-degree murder in every case in which the death penalty has been imposed;” (2) the sufficiency of the evidence to support the finding of at least one aggravating circumstance set forth in 42 Pa.C.S. § 9711(d); and (3) the imposition of the sentence of death to ensure that it was not the product of passion, prejudice, or any other arbitrary factor. *Commonwealth v. Mitchell*, 902 A.2d 430, 444, 468 (Pa. 2006); 42 Pa.C.S. § 722; 42 Pa.C.S. § 9711(h)(1), (3). Any other issues from the proceedings that resulted in the sentence of death may be reviewed only if they have been preserved and if the defendant files a timely notice of appeal.

Likewise, although Pa.R.A.P. 702(b) vests jurisdiction in the Supreme Court over appeals from sentences imposed on a defendant for lesser offenses as a result of the same criminal episode or transaction where the offense is tried with the capital offense, the appeal from the lesser offenses is not automatic. Thus the right to appeal the judgment of sentence on a lesser offense will be lost unless all requisite steps are taken, including preservation of issues (such as by filing post-trial motions) and filing a timely notice of appeal.

See Pa.R.A.P. 2189 for provisions specific to the production of a reproduced record in cases involving the death penalty.

Explanatory Comment—1979

The clerk is required to “flag” capital cases by appropriate notation on the face of the record certification. The rule is revised to reflect the fact that the requirement of Rule 302 that an issue be raised below in order to be available on appeal may not be applicable in cases of automatic statutory review of death sentences.]

Official Note: The Supreme Court rescinded this rule on (DATE) as part of its consolidation of the rules relating to capital appeals. The revised content of former Pa.R.A.P. 1941 is now found in Pa.R.A.P. 3311 and 3312.

CHAPTER 21. BRIEFS AND REPRODUCED RECORD

CONTENT OF REPRODUCED RECORD

Rule 2151. Consideration of Matters on the Original Record without the Necessity of Reproduction.

(a) *General rule.*—An appellate court may by rule of court applicable to all cases, or to classes of cases, or by order in specific cases under [**Subdivision**] paragraph (d) of this rule, dispense with the requirement of a reproduced record and permit appeals and other matters to be heard on the original record, with such copies of the record, or relevant parts thereof, as the court may require.

(b) *In forma pauperis.*—If leave to proceed *in forma pauperis* has been granted to a party, such party shall not be required to reproduce the record.

(c) *Original hearing cases.*—When, under the applicable law, the questions presented may be determined in whole or in part upon the record made before the appellate court, a party shall not be required to reproduce the record.

(d) *On application to the court.*—Any appellant may within 14 days after taking an appeal file an application to be excused from reproducing the record for the reason that the cost thereof is out of proportion to the amount involved, or for any other sufficient reason. Ordinarily leave to omit reproduction of the record will not be granted in any case where the amount collaterally involved in the appeal is not out of proportion to the reproduction costs.

Official Note: [Based on former Supreme Court Rules 35D, 35E and 61(f), former Superior Court Rules 51 (last sentence) and 52, and former Commonwealth Court Rules 81, 110B and 111A. Subdivision (a) is new and is included in recognition of the developing trend toward sole reliance on the original record.

See Rule 2189 for procedure in cases involving the death penalty.]

Paragraph (a) is included in recognition of the developing trend toward sole reliance on the original record.

See Pa.R.A.P. 3311(d) and 3313(b) for provisions specific to the production of a reproduced record in cases involving the death penalty.

Rule 2152. Content and Effect of Reproduced Record.

(a) *General rule.*—The reproduced record shall contain:

(1) The relevant docket entries and any relevant related matter (see Rule 2153 (docket entries and related matter)).

(2) Any relevant portions of the pleadings, charge, or findings see Rule 2175(b) (order and opinions), which provides for a [**cross reference**] **cross-reference** note only to orders and opinions reproduced as part of the brief of appellant).

(3) Any other parts of the record to which the parties wish to direct the particular attention of the appellate court.

(b) *Immaterial formal matters.*—Immaterial formal matters (captions, subscriptions, acknowledgments, etc.) shall be omitted.

(c) *Effect of reproduction of record.*—The fact that parts of the record are not included in the reproduced record shall not prevent the parties or the appellate court from relying on such parts

Official Note: The general rule has long been that evidence which has no relation to or connection with the questions involved must not be reproduced. [See former Supreme Court Rule 44, former Superior Court Rule 36 and former Commonwealth Court Rule 88. See also, e.g., *Shapiro v. Malarkey*, 278 Pa. 78, 84, 122 Atl. 341, 342, 29 A.L.R. 1358 (1923); *Sims v. Pennsylvania R.R. Co.*, 279 Pa. 111, 117, 123 Atl. 676, 679 (1924).] See *Shapiro v. Malarkey*, 122 A. 341, 342 (Pa. 1923); *Sims v. Pennsylvania R.R. Co.*, 123 A. 676, 679 (Pa. 1924).

[See Rule 2189 for procedure in cases involving the death penalty.]

See Pa.R.A.P. 3311(d) and 3313(b) for provisions specific to the production of a reproduced record in cases involving the death penalty.

Rule 2154. Designation of Contents of Reproduced Record.

(a) *General rule.*—Except when the appellant has elected to proceed under [Subdivision] paragraph (b) of this rule, or as otherwise provided in [Subdivision] paragraph (c) of this rule, the appellant shall, not later than 30 days before the date fixed by or pursuant to [Rule 2185 (service and filing of briefs)] Pa.R.A.P. 2185 for the filing of his or her brief, serve and file a designation of the parts of the record which he or she intends to reproduce and a brief statement of issues which he or she intends to present for review. If the appellee deems it necessary to direct the particular attention of the court to parts of the record not designated by the appellant, the appellee shall, within ten days after receipt of the designations of the appellant, serve and file a designation of those parts. The appellant shall include in the reproduced record the parts thus designated. In designating parts of the record for reproduction, the parties shall have regard for the fact that the entire record is always available to the court for reference and examination and shall not engage in unnecessary designation.

(b) *Large records.*—If the appellant shall so elect, or if the appellate court has prescribed by rule of court for classes of matters or by order in specific matters, preparation of the reproduced record may be deferred until after the briefs have been served. Where the appellant desires thus to defer preparation of the reproduced record, the appellant shall, not later than the date on which his or her designations would otherwise be due under [Subdivision] paragraph (a), serve and file notice that he or she intends to proceed under this [subdivision] paragraph. The provisions of [Subdivision] paragraph (a) shall then apply, except that the designations referred to therein shall be made by each party at the time his or her brief is served, and a statement of the issues presented shall be unnecessary.

(c) *Children's fast track appeals.*

(1) In a children's fast track appeal, the appellant shall not later than 23 days before the date fixed by or pursuant to [Rule 2185 (service and filing of briefs)] Pa.R.A.P. 2185 for the filing of his or her brief, serve and file a designation of the parts of the record which he or

she intends to reproduce and a brief statement of issues which he or she intends to present for review. If the appellee deems it necessary to direct the particular attention of the court to parts of the record not designated by the appellant, the appellee shall, within 7 days after receipt of the designations of the appellant, serve and file a designation of those parts. The appellant shall include in the reproduced record the parts thus designated. In designating parts of the record for reproduction, the parties shall have regard for the fact that the entire record is always available to the court for reference and examination and shall not engage in unnecessary designation.

(2) In a children's fast track appeal, the provisions of [Subdivision] paragraph (b) shall not apply.

Official Note: [Based in part upon former Supreme Court Rule 44, former Superior Court Rule 36 and former Commonwealth Court Rule 88. The prior statutory practice required the lower court or the appellate court to resolve disputes concerning the contents of the reproduced record prior to reproduction. The statutory practice was generally recognized as wholly unsatisfactory and has been abandoned in favor of deferral of the issue to the taxation of costs phase. The uncertainty of the ultimate result on the merits provides each party with a significant incentive to be reasonable, thus creating a self-policing procedure.

Of course, parties] Parties proceeding under either procedure may by agreement omit the formal designations and accelerate the preparation of a reproduced record containing the material which the parties have agreed should be reproduced.

[See Rule 2189 for procedure in cases involving the death penalty.]

See Pa.R.A.P. 3311(d) and 3313(b) for provisions specific to the production of a reproduced record in cases involving the death penalty.

* * * * *

Rule 2155. Allocation of Cost of Reproduced Record.

(a) *General rule.*—Unless the parties otherwise agree, the cost of reproducing the record shall initially be paid by the appellant, but if the appellant considers that parts of the record designated by the appellee for inclusion are unnecessary for a determination of the issues presented, the appellant may so advise the appellee and the appellee shall advance the cost of including such parts. If the appellee fails to advance such costs within ten days after written demand therefor, the appellant may proceed without reproduction of the parts of the record designated by appellee which the appellant considered to be unnecessary.

(b) *Allocation by court.*—The cost of reproducing the record shall be taxed as costs in the case pursuant to Chapter 27 [(fees and costs in appellate courts and on appeal)], but if either party shall cause material to be included in the reproduced record unnecessarily, the appellate court may on application filed within ten days after the last brief is filed, in its order disposing of the appeal, impose the cost of reproducing such parts on the designating party.

Official Note: This rule reflects the fact that the appellate judge to whom a case is assigned for prepara-

tion of an opinion will ordinarily be in the best position to determine whether an excessive amount of the record has been included in the reproduced record by a party.

[See Rule 2189 for procedure in cases involving the death penalty.]

See Pa.R.A.P. 3311(d) and 3313(b) for provisions specific to the production of a reproduced record in cases involving the death penalty.

FILING AND SERVICE

Rule 2187. Number of Copies to be Served and Filed.

* * * * *

(b) *Advance text of briefs.*—If the record is being reproduced pursuant to [Rule] Pa.R.A.P. 2154(b) (large records), two copies of each brief without definitive reproduced record pagination shall be served on each party separately represented. Proof of service showing compliance with this rule (but not including the advance text of the brief) shall be filed with the prothonotary of the appellate court.

* * * * *

Official Note: [See Rule 2189 for procedure in cases involving the death penalty.] See Pa.R.A.P. 3311(d) and 3313(b) for provisions specific to the production of a reproduced record in cases involving the death penalty.

Rule 2189. [Reproduced Record in Cases Involving the Death Penalty.] Rescinded by Order of (DATE).

[(a) *Number of Copies.*—Any provisions of these rules to the contrary notwithstanding, in all cases involving the death penalty, eight copies of the entire record shall be reproduced and filed with the prothonotary of the Supreme Court, unless the Supreme Court shall by order in a particular case direct filing of a lesser number.

(b) *Costs of Reproduction.*—Appellant, or, in cases where appellant has been permitted to proceed in *forma pauperis*, the county where the prosecution was commenced, shall bear the cost of reproduction.

(c) *Prior Rules Superseded.*—To the extent that this rule conflicts with provisions of Rule 2151(a), (b) (relating to necessity of reproduction of records); Rule 2152 (relating to content of reproduced records); Rule 2154(a) (relating to designation of contents of reproduced records); Rule 2155 (allocating costs of reproduction of records); and Rule 2187(a), (prescribing numbers of copies of reproduced record to be filed), the same are superseded.

Official Note: The death penalty statute, 42 Pa.C.S. § 9711, provides that the Supreme Court Prothonotary must send a copy of the lower court record to the Governor after the Supreme Court affirms a sentence of death. The statute does not state who is responsible for preparing the copy. This amendment provides for preparation of the Governor's copy of the record before the record is sent to the Supreme Court.]

Official Note: The Supreme Court rescinded Pa.R.A.P. 2189 on (DATE) as part of its consolidation of the rules relating to capital appeals. The

revised content of former Pa.R.A.P. 2189 is now found in Pa.R.A.P. 3311(d) and 3313(b).

CHAPTER 25. POST-SUBMISSION PROCEEDINGS IN GENERAL

Rule 2521. Entry of Judgment or Other Orders.

(a) *General Rule.*—Subject to the provisions of [Rule] Pa.R.A.P. 108 (date of entry of orders), the notation of a judgment or other order of an appellate court [in] on the docket constitutes entry of the judgment or other order. The prothonotary of the appellate court shall prepare, sign, and enter the judgment following receipt of the opinion of the court unless the opinion is accompanied by an order signed by the court, or unless the opinion directs settlement of the form of the judgment, in which event the prothonotary shall prepare, sign, and enter the judgment following settlement by the court. If a judgment is rendered without an opinion or an order signed by the court, the prothonotary shall prepare, sign and enter the judgment following instruction from the court. The prothonotary shall, on the date a judgment or other order is entered, send by first class mail to all parties a copy of the opinion, if any, or of the judgment or other order if no opinion was written, and notice of the date of entry of the judgment or other order.

[(b) *Notice in Death Penalty Cases.* Pursuant to Pa.R.Crim.P. 900(B), in all death penalty cases upon the Supreme Court's affirmance of the judgment of a death sentence, the prothonotary shall include in the mailing required by subdivision (a) of this Rule the following information concerning the Post Conviction Relief Act and the procedures under Chapter 9 of the Rules of Criminal Procedure. For the purposes of this notice, the term "parties" in subdivision (a) shall include the defendant, the defendant's counsel, and the attorney for the Commonwealth.

(1) A petition for post-conviction collateral relief must be filed within one year of the date the judgment becomes final, except as otherwise provided by statute.

(2) As provided in 42 Pa.C.S. § 9545(b)(3), a judgment becomes final at the conclusion of direct review, which includes discretionary review in the Supreme Court of the United States and the Supreme Court of Pennsylvania, or at the expiration of time for seeking the review.

(3)(A) If the defendant fails to file a petition within the one-year limit, the action may be barred. See 42 Pa.C.S. § 9545(b).

(B) Any issues that could have been raised in the post-conviction proceeding, but were not, may be waived. See 42 Pa.C.S. § 9544(b).

(4) Pursuant to Rule 904 (Appointment of Counsel; In Forma Pauperis), the trial judge will appoint new counsel for the purpose of post-conviction collateral review, unless:

(A) the defendant has elected to proceed pro se or waive post-conviction collateral proceedings, and the judge finds, after a colloquy on the record, that the defendant is competent and the defendant's election is knowing, intelligent and voluntary;

(B) the defendant requests continued representation by original trial counsel or direct appeal coun-

sel, and the judge finds, after a colloquy on the record, that the petitioner’s election constitutes a knowing, intelligent and voluntary waiver of a claim that counsel was ineffective; or

(C) the judge finds, after a colloquy on the record, that the defendant has engaged counsel who has entered, or will promptly enter, an appearance for the collateral review proceedings.

Official Note: See Pa.R.Crim.P. 900(B), which also includes the identical requirement in death penalty cases that notice of the information concerning the statutory time limitations for filing petitions for post-conviction collateral relief and the right to counsel enumerated in subdivision (b) of this rule be sent by the prothonotary with the order or opinion sent pursuant to subdivision (a) of this rule. Because of the importance of this notice requirement to judges, attorneys and defendants, the requirement that the Supreme Court Prothonotary mail the aforesaid notice has been included in both the Rules of Criminal Procedure and the Rules of Appellate Procedure.]

Official Note: The Supreme Court rescinded former paragraph (b) on (DATE) as part of its consolidation of the rules relating to capital appeals. The revised content of former Pa.R.A.P. 2521 (b) is now found in Pa.R.A.P. 3311(e).

REMAND OF RECORD

Rule 2572. Time for Remand of Record.

(a) *General rule.*—Except as provided in paragraphs (b) or (c), the record shall be remanded after the entry of the judgment or other final order of the appellate court possessed of the record.

(1) *Supreme Court orders.* [**The time for the remand of the record pursuant to subdivision (a) following orders of the Supreme Court shall be**] In Supreme Court appeals, the record shall be remanded at the expiration of 14 days after the entry of the judgment or other final order.

[(1) 7 days after expiration of the time for appeal or petition for writ of certiorari to the United States Supreme Court in cases in which the death penalty has been imposed, and

(2) 14 days in all other cases.

Official Note: The amendment provides for remand seven days after expiration of the time for appeal or petition for writ of certiorari to the United States Supreme Court in cases in which the death penalty has been imposed. This keeps the movement of the record to a minimum and decreases any risks associated with the physical movement of the record.]

(b) *Effect of pending post-decision applications on remand.*—Remand is stayed until disposition of: (1) an application for reargument; (2) any other application affecting the order; or (3) a petition for allowance of appeal from the order. The court possessed of the record shall remand 30 days after either the entry of a final order or the disposition of all post-decision applications, whichever is later.

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**ARTICLE III. MISCELLANEOUS PROVISIONS
CHAPTER 33. BUSINESS OF THE SUPREME COURT**

SPECIAL RULES APPLICABLE IN DEATH PENALTY CASES

(*Editor’s Note:* Rules 3311—3314 are proposed to be added and printed in regular type to enhance readability.)

Rule 3311. Review of Death Sentence; Reproduced Record; PCRA Notice; Remand of Record; Copy of Record to Governor.

(a) *Direct Review.*—Except as otherwise provided in this rule, an appeal from a sentence of death shall proceed in the same manner as other appeals in the Supreme Court.

(1) Lesser offenses tried with capital offenses: appeals from sentences imposed on the defendant for lesser offenses tried with the offense(s) resulting in a sentence of death shall be briefed along with the related capital appeal. See Pa.R.A.P. 702(b).

(b) *Automatic Review of Sufficiency of the Evidence and Propriety of the Penalty.* If the defendant fails to file a timely appeal from a sentence of death, limited automatic review shall proceed in the Supreme Court pursuant to Pa.R.A.P. 3312.

(c) *Jurisdictional statement.*—A jurisdictional statement is not required in appeals involving direct or automatic review of a death sentence.

(d) *Reproduced Records in Cases Involving Direct or Automatic Review of a Death Sentence.*

(1) Number of Copies: Four copies of the entire record shall be reproduced and filed with the Supreme Court Prothonotary, unless the Court shall by order direct the filing of a different number.

(2) Cost of Reproduction: The appellant, or, in cases where the appellant has been permitted to proceed *in forma pauperis*, the county where the prosecution was commenced, shall bear the cost of reproduction.

(3) Other Rules Superseded: To the extent paragraph (d) conflicts with provisions of Pa.R.A.P. 2151, 2152, 2154(a), 2155, and 2187(a), paragraph (d) controls.

(e) *PCRA Notice if Death Sentence is Affirmed.* When the Supreme Court affirms a sentence of death, the Prothonotary shall include in the mailing required by Pa.R.A.P. 2521(a) the following information concerning post-conviction rights:

1. The appellant has the right to seek further review by way of a petition for relief under the Post Conviction Relief Act (“PCRA”), 42 Pa.C.S. §§ 9541—9546.

2. A PCRA petition must be filed within one year of the date the judgment becomes final, except as otherwise provided in the statute. See 42 Pa.C.S. § 9545(b).

3. A judgment becomes final at the conclusion of direct review, including discretionary review in the Supreme Court of the United States, or at the expiration of the time for seeking that review, if review is not sought. See 42 Pa.C.S. § 9545(b)(3).

4. If the appellant fails to file the PCRA petition within the one-year time limit, the action may be barred. See 42 Pa.C.S. § 9545(b).

5. Issues that could have been raised prior to the PCRA proceeding, but were not, may be deemed waived. See 42 Pa.C.S. § 9544(b).

6. Pursuant to Pa.R.Crim.P. 904(H), the trial judge will appoint new counsel for the purpose of PCRA review, unless:

(i) the appellant elects to proceed without counsel or to waive PCRA review, and the judge finds, after a colloquy on the record, that the appellant is competent and the appellant's election is knowing, intelligent, and voluntary;

(ii) the appellant requests continued representation by trial counsel or direct appeal counsel, and the judge finds, after a colloquy on the record, that the appellant's election constitutes a knowing, intelligent, and voluntary waiver of claims sounding in that attorney's ineffectiveness; or

(iii) the judge finds, after a colloquy on the record, that the appellant has engaged counsel who has entered, or will promptly enter, an appearance for the PCRA proceedings.

For purposes of this notice, the term "parties" in Pa.R.A.P. 2521(a) includes the appellant, the appellant's counsel, and the attorney for the Commonwealth.

(f) *Remand of Record.* Following entry of the judgment on direct or automatic review, the Supreme Court Prothonotary shall remand the record to the court of common pleas at the expiration of seven days from the later of the date of:

1. the expiration of the time for filing a petition for a writ of *certiorari* to the Supreme Court of the United States;

2. the denial of a petition for a writ of *certiorari*; or

3. remand from the Supreme Court of the United States, if that Court grants the petition for a writ of *certiorari*.

(g) *Copy of Record to Governor if Death Sentence is Affirmed.* When the Supreme Court affirms a judgment of sentence of death the Supreme Court Prothonotary shall transmit to the Governor a complete copy of the record, and provide notice of that transmission to the Secretary of Corrections, within 30 days after the date the record is ready for remand. See 42 Pa.C.S. § 9711(i).

Official Note: Pa.R.A.P. 3311 includes provisions found in former Pa.R.A.P. 1941, 2189, 2521(b), and 2572(b).

Death sentences are subject to automatic review by the Supreme Court. See 42 Pa.C.S. §§ 722(4); 9711(h); Pa.R.A.P. 3312. Automatic review is generally limited to: (1) the sufficiency of the evidence to sustain the first-degree murder conviction; (2) the sufficiency of the evidence to support at least one of the aggravating circumstances set forth in 42 Pa.C.S. § 9711(d) and found by the fact finder; and (3) review to determine if the death sentence was the product of passion, prejudice, or any other arbitrary factor. See, e.g., *Commonwealth v. Mitchell*, 902 A.2d 430, 444, 468 (Pa. 2006); 42 Pa.C.S. § 9711(h)(3). These issues are examined, on direct or automatic appeal, whether the appellant raises them or not.

It is imperative that the defendant and counsel recognize that other issues are generally reviewable only if preserved and if a timely notice of appeal is filed. See Pa.R.A.P. 302(a) (issues not raised in the lower court are waived); *Commonwealth v. Freeman*, 827 A.2d 385, 402-03 (Pa. 2003) (reflecting curtailment of the relaxed waiver doctrine in capital direct appeals); *Commonwealth v. Parrish*, 77 A.3d 557, 561 (Pa. 2013) (claims unassociated

with automatic review are not preserved if the defendant fails to file an appeal from a death sentence).

Although Pa.R.A.P. 702(b) vests jurisdiction in the Supreme Court over appeals from sentences imposed for lesser offenses tried together with capital offenses, the appeal is not automatic. To secure review, the defendant must take all requisite steps, including the preservation of issues below and filing a timely notice of appeal encompassing the lesser offenses.

The Supreme Court Prothonotary must transmit a copy of the record to the Governor after a sentence of death is affirmed, but the death penalty statute does not assign responsibility for preparing the copy. See 42 Pa.C.S. § 9711(i). Paragraph (d) reduces the number of copies of the record ordinarily required and addresses responsibility for reproduction.

Paragraph (e) is intended to ensure that the appellant's PCRA rights are not inadvertently defaulted.

Rule 3312. Automatic Review of Death Sentence.

(a) *Procedure in trial court.*—Upon the entry of a judgment of sentence of death, the trial court shall direct the official court reporter and the clerk to proceed as if a timely notice of appeal will be filed by the defendant. The clerk shall promptly give written notice of the entry of the death sentence to the Administrative Office and to the Supreme Court Prothonotary. If a timely appeal is not filed from the death sentence, the clerk shall insert at the head of the list of documents required by Pa.R.A.P. 1931(c) a statement that the papers are transmitted under this rule for automatic review of a death sentence.

(b) *Filing and docketing in the Supreme Court.*—Upon receipt of the record in a case where a death sentence has been entered but no appeal has been filed, the Supreme Court Prothonotary shall:

1. Enter the matter upon the docket as an appeal, with the defendant indicated as the appellant and the Commonwealth indicated as the appellee.

2. File the record in the Supreme Court.

3. Provide written notice of the docket number assignment to the clerk of the trial court.

4. Provide notice to the parties and the Administrative Office of the docket number assignment and the date on which the record was filed in the Supreme Court, and provide notice to the parties of the date, if any, fixed by the Prothonotary for the filing of the brief of the appellant.

5. Except as required by Pa.R.A.P. 3311(d) (reproduced record), (f) (remand of record), and (g) (copy of record to Governor), a matter subject to automatic review under this rule shall proceed after docketing in the same manner as other appeals in the Supreme Court.

Official Note: The rule incorporates and revises provisions in former Pa.R.A.P. 1941, 2189, and 2521(b) and implements the automatic review of death sentences required by statute. See 42 Pa.C.S. §§ 722(4), 9711(h).

A notice of appeal triggers (1) the duty of the court reporter to transcribe the notes of testimony, (2) the duty of the clerk of the trial court to prepare and transmit the record, and (3) various duties of the appellate court prothonotary. The rule governs cases where no appeal is filed and automatic review is implicated.

Rule 3313. PCRA Appeals; Reproduced Record; Remand of Record; Copy of Record to Governor.

(a) *General Rule.*—Except as otherwise provided in this rule, an appeal from a final order disposing of a PCRA

petition in a death penalty case shall proceed in the same manner as other appeals in the Supreme Court.

(b) *Reproduced Record.*

1. Number of Copies: Four copies of the entire record shall be reproduced and filed with the Supreme Court Prothonotary, unless the Court shall by order direct the filing of a different number.

2. Cost of Reproduction: The appellant shall bear the cost of reproduction unless the defendant is the appellant and has been permitted to proceed in *forma pauperis*, in which case the county where the prosecution was commenced shall bear the cost of reproduction.

3. Other Rules Superseded: To the extent paragraph (b) conflicts with provisions of Pa.R.A.P. 2151, 2152, 2154(a), 2155, and 2187(a), this paragraph (b) controls.

(c) *Remand of Record.*—Following entry of the judgment, the Supreme Court Prothonotary shall remand the record to the court of common pleas at the expiration of seven days from the later of the date of:

1. the expiration of the time for filing a petition for a writ of *certiorari* to the Supreme Court of the United States;

2. the denial of a petition for a writ of *certiorari*; or

3. remand from the Supreme Court of the United States, if that Court grants the petition for a writ of *certiorari*.

(d) *Copy of Record to Governor.*—Whenever a PCRA appeal results in the denial of relief to the defendant, the Supreme Court Prothonotary shall transmit to the Governor a complete copy of the record, and provide notice of that transmission to the Secretary of Corrections, within 30 days after the date the record is ready for remand. See 42 Pa.C.S. § 9711(i).

Official Note: Under 42 Pa.C.S. § 9546(d), as amended in 1988, the Supreme Court has exclusive jurisdiction over appeals from final orders in death penalty cases litigated under the PCRA. Later amendments to Section 9546(d) were suspended by the Supreme Court's order dated August 11, 1997, thus reviving the 1988 provision. See *Commonwealth v. Morris*, 771 A.2d 721, 743 n.1 (Pa. 2001) (Castille, J., concurring) (explaining effect of suspension).

Rule 3314. Stays of Execution.

(a) *Automatic Stays.*

(1) Direct Review: Execution of a sentence of death shall be stayed by the pendency of an appeal from that sentence, or by the pendency of automatic review under Pa.R.A.P. 3312.

(2) PCRA Review: Execution of a sentence of death shall be stayed by the pendency of an appeal from the disposition of a timely first petition for PCRA relief.

(b) *Other Cases; Application for Stay or Review.* Except in matters arising under Pa.R.A.P. 3315, an application for a stay of execution or for review of an order granting or denying a stay of execution shall be reviewable by the Supreme Court in the manner prescribed by this paragraph (b).

(1) Advance Notice to Court: Prior notice of the intention to seek a stay of execution or review of an order granting or denying a stay shall be promptly provided to the Supreme Court Prothonotary.

(2) Form of Pleading: No notice of appeal or petition for review needs to be filed in order to file the application for stay or review.

(3) Content: The application shall set forth the following:

(i) The name of the defendant.

(ii) The place where the defendant is presently confined.

(iii) The date the warrant of execution issued; the date and nature of the order that prompted the warrant; and the date execution is scheduled.

(iv) Whether any challenge to the underlying conviction is pending, and if so, in what court.

(v) Whether any other application for stay of the execution has been filed; if so, in what court; and the status of that application.

(vi) A statement briefly setting forth the procedural history.

(vii) The text of the trial court order ruling upon the stay, if any, and an account of the trial court's reasoning in granting or denying the stay.

(viii) A statement setting forth the facts alleged in support of the application.

(ix) The grounds for relief and the showing made to the trial court of entitlement to a stay under 42 Pa.C.S. § 9545(c), if applicable.

(x) A statement certifying that emergency action is required and setting forth a description of the emergency.

All relevant materials shall be attached to the application. If any of the information provided in the application changes while the application is pending, the applicant must file written notice of the change with the Supreme Court within 24 hours.

(4) Answer: The respondent shall file an answer, or a no-answer letter, according to a timeframe established by the Supreme Court Prothonotary, bearing in mind the imminence of execution.

(5) Filing and Copies: The original application and seven copies, along with a certificate of service, shall be filed with the Supreme Court Prothonotary in person or by first class, express, or priority United States Postal Service mail. If execution appears imminent, the application shall be filed in coordination with the Prothonotary in a manner, electronic or otherwise, ensuring receipt by the Court on the date of transmission. Any answer shall be filed in similar number and fashion.

(6) Service: A copy of the application shall be served in person or by first class, express, or priority United States Postal Service mail upon the respondent, the Governor, and the Secretary of Corrections. A copy of the answer or no-answer letter shall be served upon the petitioner, the Governor, and the Secretary of Corrections in a similar fashion. If execution appears imminent, the application and answer shall also be served in a manner, electronic or otherwise, ensuring receipt on the date of transmission.

(7) Entry and Notice of Judgment: The Supreme Court Prothonotary shall prepare and enter the judgment of the Supreme Court immediately following receipt of the decision. The Prothonotary shall immediately inform the parties of the decision and shall send by first class mail to the parties, the Governor, and the Secretary of Corrections a copy of the opinion, if any, or of the judgment or other order if no opinion was written, and notice of the

date of the entry of the judgment. If execution appears imminent, the Prothonotary shall provide the above notice in a manner, electronic or otherwise, ensuring receipt on the date of transmission.

(8) Remand of record: Following entry of the judgment, the Supreme Court Prothonotary shall remand the record, if any, to the court of common pleas at the expiration of seven days from the later of the date of:

(i) the expiration of the time for filing a petition for a writ of *certiorari* to the Supreme Court of the United States;

(ii) the denial of a petition for a writ of *certiorari*; or

(iii) remand from the Supreme Court of the United States, if that Court grants the petition for a writ of *certiorari*.

Official Note: The rule revises provisions found in former Pa.R.A.P. 1704 and 3316.

Subparagraph (a)(1) recognizes that an execution warrant cannot be issued unless review of a death sentence results in affirmance. See 42 Pa.C.S. § 9711(i) (record to Governor where death sentence is upheld); 61 Pa.C.S. § 4302 (issuance of warrant of execution). The effect of the statutory scheme is that the death sentence is stayed pending completion of direct review.

Subparagraph (a)(2) recognizes that the defendant has a right to pursue a timely first petition for PCRA relief and a right to appeal if denied relief. A stay of execution allows for the vindication of those rights when timely asserted.

Paragraph (b) addresses stays in other contexts, and derives from former Pa.R.A.P. 3316. Stay issues often arise ancillary to a second or subsequent PCRA petition; those issues are subject to 42 Pa.C.S. § 9545(c) (the petition must be pending and meet all requirements of the PCRA, and the petitioner must make a strong showing of a likelihood of success on the merits). See *Commonwealth v. Morris*, 822 A.2d 684, 693 (Pa. 2003) (“*Morris II*”). The PCRA trial court lacks jurisdiction to grant a stay ancillary to an untimely petition. See *Commonwealth v. Morris*, 771 A.2d 721, 734-35 & n.14, 742 (Pa. 2001) (“*Morris I*”); 42 Pa.C.S. § 9545(c).

Pa.R.Crim.P. 909(A)(3) provides that a stay of execution properly granted by the PCRA court remains in effect through the conclusion of the proceedings, including appeal. The Commonwealth may seek immediate review under Pa.R.A.P. 3314 to challenge whether a stay was properly granted in the serial petition context, while the defendant may seek immediate review of the denial of a stay request forwarded ancillary to a serial petition. In permitting immediate review, the rule recognizes the exigencies and that the stay issue may require resolution in advance of an appeal from the decision on the PCRA petition, or even in advance of the decision itself. In addition, there may be instances where the PCRA court denies the underlying petition, but grants a stay; the Commonwealth is potentially aggrieved only by the stay.

The *Morris* cases left open a question of whether scenarios outside the context of the PCRA might exist in which courts would maintain authority to grant a stay of execution, and whether the standard in Section 9545(c) of the PCRA should apply. See *Morris II*, 822 A.2d at 693-94. The Supreme Court has not issued a “wholesale resolution of this residual question,” *Commonwealth v. Michael*, 56 A.3d 899, 903 (Pa. 2012) (*per curiam*), but it has addressed discrete circumstances. See *id.*, 56 A.3d at 903-04 (denying deemed applications for relief seeking

review of denial of stay of execution requested in connection with clemency process; lower courts lacked authority to issue a stay under Section 9545(c)); *Commonwealth v. Banks*, 943 A.2d 230, 234-35 n.7 (Pa. 2007) (*per curiam*) (noting the absence of a rules-based process for determining a motion to stay execution based upon a claim of incompetency to be executed).

In the wake of *Banks*, the Supreme Court has adopted specific rules addressing stay of execution issues arising in conjunction with execution competency claims. See Pa.R.Crim.P. 850—862; Pa.R.A.P. 3315.

The rule does not expand or diminish any inherent powers of the Supreme Court to grant a stay of execution. See *Morris II*, 822 A.2d at 691.

Subparagraph (b)(2) recognizes that stay of execution issues require streamlined treatment falling outside the appeal or petition for review process.

[SUPERSEDEAS AND STAYS]

Rule 3315. [Review of Stay Orders of Appellate Courts.] (Renumbered).

[Where the Superior Court or the Commonwealth Court in the exercise of its appellate jurisdiction has entered an order under Chapter 17 (effect of appeals; supersedeas and stays), such order may be further reviewed by any justice of the Supreme Court in the manner prescribed by Chapter 17 with respect to appellate review of supersedeas and stay determinations of lower courts.

Official Note: After a party has applied for a stay, etc., in the trial court, and a further application has been acted on by the Superior Court or the Commonwealth Court, or by a judge thereof, a further application may be made under this rule to the Supreme Court or to a justice thereof. Under the prior practice a petition for allowance of appeal was required in the Supreme Court under Rule 1702(b) in order to maintain the validity of the Supreme Court action on the stay, etc. Rule 1702(c) (Supreme Court review of appellate court supersedeas and stay determinations) now provides that no appeal or petition need be filed to support jurisdiction under this rule. However, this rule does not invite routine reapplications in the Supreme Court, but only clarifies the procedure when the Court exercises its inherent supervisory powers in cases of egregious error below. See 42 Pa.C.S. § 726 (extraordinary jurisdiction).

Explanatory Comment—1979

The stay and supersedeas procedure in the Supreme Court is clarified in King’s Bench matters and in cases where the Superior Court or the Commonwealth Court (in its appellate capacity) has acted on a stay or supersedeas application.]

Former Pa.R.A.P. 3315 (Review of Stay Orders of Appellate Courts) has been renumbered Pa.R.A.P. 3319 to accommodate the consolidation of the special rules relating to capital cases.

(Editor’s Note: Rule 3315 is proposed to be added and printed in regular type to enhance readability.)

Rule 3315. Review of Orders Determining Competency to be Executed.

(a) *General Rule.*—A trial court’s determination of competency to be executed, issued under Part C of Chapter 8

of the Rules of Criminal Procedure, is subject to review by application filed in the Supreme Court in the manner prescribed by this rule.

(1) **Advance Notice to Court:** Prior notice of the intention to file the application for review shall be provided to the Supreme Court Prothonotary no later than two days before a filing under subparagraph (b)(1) (execution warrant pending) and no later than five days before a filing under subparagraph (b)(2) (no execution warrant pending).

(b) *Timing; Answer.*

(1) **Execution Warrant Active (Expedited Review):** An application for review of an order entered under Pa.R.Crim.P. 857(E)(1), denying a challenge to a certification of competency to be executed and denying a stay of execution, shall be filed in the Supreme Court within 10 days of the entry of the order.

(i) The Commonwealth shall file an answer within seven days of the filing of the application, unless the Supreme Court Prothonotary directs that the answer be filed sooner.

(2) **No Active Execution Warrant:** An application for review of an order entered under Pa.R.Crim.P. 858(E)(1), 859(E)(1), or 861(B), resolving the issue of competency to be executed where no execution warrant is pending or a pending warrant has been stayed, shall be filed within 21 days of the entry of the order.

(i) The respondent shall file an answer within 14 days of the filing of the application.

(c) *Form of Pleading.*—No notice of appeal or separate petition for review needs to be filed in order to file an application under this rule.

(d) *Content.*—The application shall set forth the following:

1. The name of the defendant.
2. The place where the defendant is presently confined.
3. If a warrant of execution is pending, the date the warrant issued and the date execution is scheduled.
4. Whether any challenge to the underlying conviction is pending, and if so, in what court.
5. If a warrant of execution is pending, whether any other application for a stay of the execution has been filed; if so, in what court; and the status of that application.
6. A statement briefly setting forth the procedural history.
7. The text of the order below, and an account of the lower court's reasoning in support of the order.
8. A statement setting forth the facts alleged in support of the application, including citations to the record.
9. A concise legal argument on the question of competency to be executed.

All relevant materials shall be attached to the application. If any of the information provided in the application changes while the application is pending, the applicant must file written notice of the change with the Supreme Court within 24 hours.

(e) *Filing; Copies.*—The original application and seven copies, along with a certificate of service, shall be filed with the Supreme Court Prothonotary in person or by first class, express, or priority United States Postal Service mail. The answer to the petition shall be filed in

similar number and fashion. If an execution warrant is pending, the application and answer shall also be filed in coordination with the Supreme Court Prothonotary in a manner, electronic or otherwise, ensuring receipt by the Court on the date of transmission.

(f) *Service.*—A copy of the application for review shall be served in person or by first class, express, or priority United States Postal Service mail upon the respondent, the Governor, and the Secretary of Corrections. The answer to the petition shall be served upon the petitioner, the Governor, and the Secretary of Corrections in similar fashion. If an execution warrant is pending, the application and answer shall also be served in a manner, electronic or otherwise, ensuring receipt on the date of transmission.

(g) *Entry and Notice of Judgment.*—The Supreme Court Prothonotary shall prepare and enter the judgment of the Court immediately following receipt of the decision. The Prothonotary shall immediately inform the parties of the decision and shall send by first class mail to the parties, the Governor, and the Secretary of Corrections a copy of the opinion, or order if no opinion was issued, and notice of the date of the entry of the judgment. In addition, if an execution warrant is pending, the Prothonotary shall provide the parties, the Governor, and the Secretary of Corrections with a copy of the opinion or order of judgment in a manner, electronic or otherwise, ensuring receipt on the date of transmission.

(h) *Remand of record.*—The Supreme Court Prothonotary shall remand the record to the court of common pleas at the expiration of seven days from the later of the date of:

1. the expiration of the time for filing a petition for a writ of *certiorari* to the Supreme Court of the United States;
2. the denial of a petition for a writ of *certiorari*; or
3. remand from the Supreme Court of the United States, if that Court grants the petition for a writ of *certiorari*.

The Prothonotary shall contemporaneously provide a copy of the final order and notice of the remand and transmittal to the parties, the Governor and the Secretary of Corrections.

Official Note: The rule was adopted in conjunction with the rules of criminal procedure addressing execution competency. See Pa.R.Crim.P. 850—862.

Subparagraph (b)(1) governs review where the defendant is found competent below and execution appears imminent. Expedition on appeal is required.

Subparagraph (b)(2) governs review of other competency orders, where a stay of execution is in place or an execution warrant has expired. Some expedition is still required to ensure that the competency determination is not stale and the stay of execution is not excessive.

When competency is litigated in the trial court, the judge, the trial court clerk, the parties' counsel, and the Department of Corrections are to "maintain lines of communication to ensure the prompt filing and contemporaneous service of all motions, certifications, responses, answers and other pleadings." See Pa.R.Crim.P. 852(B)(4). The Supreme Court Prothonotary is also required to monitor capital cases and, when competency proceedings are initiated, to "establish communications with the parties and relevant state and federal courts to facilitate the Supreme Court's timely resolution of issues relating to

the execution process.” See Pa.R.Crim.P. 853(C). Pa.R.A.P. 3315 likewise recognizes the exigencies and requires prompt filing and service and, in cases where execution is imminent, requires measures to ensure contemporaneous service.

Paragraph (c) recognizes that execution competency issues require streamlined treatment outside the normal appeal or petition for review process.

Rule 3316. [Review of Stay of Execution Orders in Capital Cases.] (Rescinded).

[When a trial court has entered an order granting or denying a stay of execution in a capital case, such order may be reviewed by the Supreme Court in the manner prescribed in Pa.R.A.P. 1704.

Explanatory Comment—2005

The promulgation of new Rule 3316 addresses a gap in the Rules of Appellate Procedure such that there was no immediate vehicle for review of stays of execution orders granted or denied ancillary to Post Conviction Relief Act (“PCRA”) petitions in capital cases. See *Commonwealth v. Morris*, 565 Pa. 1, 771 A.2d 721 (2001) (“*Morris I*”). The new rule permits an immediate appeal from an order granting or denying a stay pending a determination of the underlying PCRA petition. The new Rule also permits immediate review of a grant of a stay of execution without the filing of an appeal in situations in which the trial court grants a stay of execution but denies the PCRA petition.

There may be cases in which the PCRA court denies a stay of execution at the same time that it denies a timely PCRA petition. In such cases, the petitioner may take an immediate appeal from the denial of the stay of execution, even before the petitioner files an appeal from the denial of the PCRA petition. The PCRA court lacks jurisdiction to grant a stay of execution in connection with an untimely PCRA petition. See *Morris I*. However, the improper grant of a stay in connection with an untimely PCRA petition is also immediately reviewable under this Rule. See Pa.R.Crim.P. 909(A)(2).

Pa.R.Crim.P. 909(A)(2) only applies to properly granted stays of execution. Once a stay is properly granted, it is not reviewable until the conclusion of the PCRA proceedings, including appellate review. However, the Commonwealth may seek review under Rule 3316 to determine whether the PCRA court properly granted the stay.

The standard of review for stay applications under 42 Pa.C.S. § 9545(c) is a heightened standard, since there is a greater potential that second and subsequent PCRA applications have been filed merely for purposes of delaying the execution of sentence. See *Morris I* and *Commonwealth v. Morris*, 573 Pa. 157, 822 A.2d 684 (2003) (“*Morris II*”). Stays of execution in capital cases, however, are routinely granted in timely-filed, first PCRA petitions.

Nothing in this Rule or subdivision (d) of Rule 1702 is intended to abrogate the requirement in *Morris II* that any grant of a stay by the trial court while a PCRA petition is pending must comply with the PCRA, 42 Pa.C.S. § 9545(c)(1), nor do these rules expand or diminish any inherent powers of the Supreme Court to grant a stay of execution. See *Morris II*.]

(Former Pa.R.A.P. 3316 (Review of Execution Orders in Capital Cases) was rescinded by Order of (DATE). The subject matter of former Pa.R.A.P. 3316 is now part of Pa.R.A.P. 3314.)

Rule 3316. Miscellaneous.

(a) *Other Cases*.—Death penalty cases involving other issues, such as appeals from collateral orders or other interlocutory appeals, shall proceed in the same manner as other matters in the Supreme Court.

SUPERSEDEAS AND STAYS

Rule 3319. Review of Stay Orders of Appellate Courts.

Where the Superior Court or the Commonwealth Court in the exercise of its appellate jurisdiction has entered an order under Chapter 17 (effect of appeals; *supersedeas*, and stays), such order may be further reviewed by any justice of the Supreme Court in the manner prescribed by Chapter 17 with respect to appellate review of *supersedeas* and stay determinations of lower courts.

Official Note: After a party has applied for a stay, etc., in the trial court, and a further application has been acted on by the Superior Court or the Commonwealth Court, or by a judge thereof, a further application may be made under this rule to the Supreme Court or to a justice thereof. Under the prior practice, a petition for allowance of appeal was required in the Supreme Court under Pa.R.A.P. 1702(b) in order to maintain the validity of the Supreme Court action on the stay, etc. Pa.R.A.P. 1702(c) now provides that no appeal or petition need be filed to support jurisdiction under this rule. However, this rule does not invite routine reapplications in the Supreme Court, but only clarifies the procedure when the Court exercises its inherent supervisory powers in cases of egregious error below. See 42 Pa.C.S. § 726 (extraordinary jurisdiction).

The rule was formerly Pa.R.A.P. 3315, but has been renumbered to accommodate the consolidation of the rules relating to capital cases. See Pa.R.A.P. 3311—3316.

Proposed Adoption of new Pa.Rs.Crim.P. 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, Amendment of Pa.Rs.Crim.P. 113, 119, 909 and Revision of the Comments to Pa.Rs.Crim.P. 120, 800, and 904

Proposed Adoption of Pa.Rs.A.P. 3311, 3312, 3314, 3315, 3316, 3319, Rescission of Pa.R.A.P. 1704, 1941, 3315, 3316, Amendment of Pa.R.A.P. 702, 901, 909, 1501, 1702, 1761, 2189, 2521, 2572, 3313 and Revision of the Official Notes to Pa.R.A.P. 2151, 2152, 2154, 2155, and 2187

Determination of Competency to be Executed

The Supreme Court of Pennsylvania is considering the adoption of new Pa.Rs.Crim.P. 850—862 that would establish the procedures for determining a defendant’s competency to be executed. The Court is also considering the adoption of new Pa.R.A.P. 3311—3316, and 3319 and the rescission of Pa.R.A.P. 1704, 1941, 3315, 3316, that would establish the procedures for seeking review of a competency determination made under the proposed new Criminal Rules as well as a consolidation of the procedures for the review of capital matters generally. The

Court also is considering correlative changes to Pa.Rs.Crim.P. 113, 119, 120, 800, 904 and 909 and to Rules of Appellate Court Procedure 702, 901, 909, 1501, 1702, 1761, 2151, 2152, 2154, 2155, 2187, 2189, 2521, and 2572.

I. Background

Ford v. Wainwright, 477 U.S. 399 (1986) held that, pursuant to the Eighth Amendment to the United States Constitution, a defendant is incompetent to be executed when he or she suffers from a mental illness preventing a factual awareness and a rational understanding of the punishment to be imposed and the reasons for its imposition. In *Panetti v. Quarterman*, 551 U.S. 930 (2007), the United States Supreme Court held that, if the defendant makes a substantial threshold showing of incompetency, due process requires a judicial procedure to resolve the issue. *Panetti* did not set forth “precise limits” of the process required, but left to the states the procedures for challenging competency to be executed. See also *Commonwealth v. Banks*, 29 A.3d 1129, 1144 (Pa. 2011).

Pennsylvania does not have specific procedures in either statute or rule for the determination of competency to be executed. The current proposal originated in this Court’s opinion in *Commonwealth v. Banks*, 943 A.2d 230 (2007). One of the issues raised in *Banks* regarded the procedures for an examination by a Commonwealth expert of the defendant’s mental condition. As the Court observed in a footnote:

There is not currently in place a specific procedure for the timely handling of *Ford v. Wainwright* claims—either under the PCRA or other legislation, or under this Court’s rules. We had hoped that this case might be the proper vehicle for developing such a procedure, but the warrant for appellee’s execution has expired and the parties do not address the propriety of the procedure employed here. Therefore, we will refer the matter to the Appellate Court Procedural Rules Committee and the Criminal Procedural Rules Committee to recommend a framework for the filing and disposition of motions for stay of execution based on a defendant’s purported incompetence to be executed.

As directed by the Court, the Committees jointly developed a proposal that was published for comment on May 8, 2010.¹

II. Criminal Rules

The 2010 proposal deemed a *Ford* claim ripe whenever an execution warrant issued: counsel would be appointed if the defendant was unrepresented and counsel’s motion challenging competency would initiate the *Ford* claim. The proposal envisioned that, if the defendant made a substantial threshold showing of incompetency, requiring a hearing, a 210-day stay of execution would follow.

Following submission of the proposal, the Court has concluded that there is no point in entertaining *Ford* execution competency claims whenever an execution warrant issues; absent a valid waiver of further review, for example, a warrant issued after direct appeal will be stayed to allow for PCRA review. Moreover, a defendant’s mental condition can improve or deteriorate over time. The Court believes it is better to defer *Ford* claims until there is a reasonable likelihood that execution is imminent.

¹ See 40 Pa.B. 2397 (May 8, 2010). The Reports also were posted on the Court’s web page and published in the *Pennsylvania Reporter*, the *Legal Intelligencer*, and the *Pittsburgh Legal Journal*.

The Court also has reservations with the lengthy stay of execution, which could be secured by untested expert opinions and supporting documents, as well as the absence of a mechanism to resolve a meritless *Ford* claim before an execution warrant expires.

The Court therefore has revised the proposal to allow for (1) a more timely identification of ripe *Ford* claims, and (2) the prospect of resolving cases posing no colorable *Ford* issue before expiration of an execution warrant. A new Part C to Chapter 8 of the Rules of Criminal Procedure, containing proposed new Rules 850–862, would be added to provide these procedures. The revised proposal envisions a competency certification by the Secretary of Corrections (“the Secretary”), triggered by the Commonwealth filing a certification motion.

The rules in Part C would recognize that if there is a reasonable likelihood that execution is imminent, the Commonwealth need not wait until the issuance of the execution warrant before beginning the process of identifying a colorable *Ford* claim. To avail itself of an accelerated determination of the preliminary issue of entitlement to a hearing, the Commonwealth would be required under new Rule 855 to track and identify cases posing a reasonable likelihood that execution is imminent (e.g., due to exhaustion or waiver of direct and collateral avenues of challenge), and act in advance of an execution warrant. To facilitate the Department of Corrections’ role, the rules require serving the Secretary with copies of all motions, pleadings, and orders. See proposed Rule 852(8). Proposed Rule 856 recognizes that the Secretary has access to qualified staff to monitor mental health issues and is positioned to produce an expert-supported certification in short order.

If the Secretary certifies that the prisoner is competent, the proposed rules make a trial court and appellate court level fast-track available to the prisoner, governed initially by Rule 857. If the prisoner makes the required substantial threshold showing of incompetency, a stay of execution issues and a hearing governed by Rules 860 and 861 will be held. The certification protocol should ensure that colorable competency issues are timely identified in all capital cases (and attendant stays of execution and hearings afforded), while meritless claims are identified and determined without unnecessary delay.

III. Appellate Rules

Complementary to the procedures applicable in the trial court, a related revision of the Rules of Appellate Procedure would establish the procedures on appeal. The 2010 proposal had recommended that the Petition for Review (“PFR”) process govern execution competency appeals. Following submissions, the Court has determined it would be better to devise a procedure using an application as the initiating document. It would thus operate outside the current PFR process, as well as the Notice of Appeal process. This process is set forth in proposed new Pa.R.A.P. 3315.

In considering the appropriate placement of this rule, the Court noted that, over the years, the rules relating to capital matters have become scattered across the various chapters of appellate procedure and were in need of clarification and updating. Rather than address the competency review procedures in isolation, the Court is proposing to update, align, and consolidate all appellate rules governing capital review, and it would enact a new, self-contained rule governing execution competency review.

The placement of the new rules is in Chapter 33 (Business of the Supreme Court). The new rules related

to capital review, proposed Rules 3311—3316,² would be placed after Rule 3309 (Applications for Extraordinary Relief) and would appear under a heading, “SPECIAL RULES APPLICABLE IN DEATH PENALTY CASES.”

In addition, the new rules would address the interplay between automatic review of a death sentence and the more robust review available upon a direct appeal. Pa.R.A.P. 3311 would explain the two avenues of review, and it would provide that special procedures attending automatic review under Pa.R.A.P. 3312 are triggered only if no appeal is taken, and consolidate all other procedural rules relevant to both direct and automatic review. Pa.R.A.P. 3313 would explicitly address, for the first time, capital PCRA appeals, collecting those of the existing special rules that apply to such appeals. Pa.R.A.P. 3314 would consolidate and update the various rules and commentary addressing stays of execution, most importantly to state that execution is stayed not only during automatic review, as Pa.R.A.P. 1761 now states, but also during a direct appeal and an appeal involving a timely, first PCRA petition. The Court intends this approach to narrow contested issues to stays ancillary to serial PCRA petitions or extra-PCRA matters. The approach also aligns better with 42 Pa.C.S. § 9545(c)(2), the statutory stay of execution standard specifically governing serial petition cases.

IV. Additional Questions

While considerable study and analysis has already gone into the development of these proposed procedures, at least one Justice is interested in the experienced opinions of the bench and bar with regard to the practicalities of the proposal. Particularly, at least one Justice is interested in responses to the questions listed below.

(1) Are the timelines set forth in the proposals workable in actual practice in their current form?

(2) What should be the consequences of failure to adhere strictly to the timelines? For example, what should happen when the Secretary fails to certify within ten days that the defendant is competent or files a competency report late? What should be consequences if the defendant fails to file a Rule 857 motion within seven days—would he or she be procedurally barred from challenging the Secretary’s competency determination?

(3) What mechanism, if any, should the rules provide for the appointment of an expert, including funding, to evaluate the defendant for his or her own purposes?

(4) Should the rules mandate specific requirements that counsel must take immediately upon being appointed to ensure a timely evaluation and preparation of the case. If so, what should those steps be and in what priority?

(5) Should the rules provide for discovery after the Secretary certifies that the defendant is competent or incompetent? If so, what would be appropriate the time frames for such discovery?

(6) Should the rules provide a definition of what constitutes a substantial threshold showing of incompetency or delineate factors or considerations are relevant to that determination? If so, what should they be?

[Pa.B. Doc. No. 17-1329. Filed for public inspection August 11, 2017, 9:00 a.m.]

² Current Pa.R.A.P. 3315 (Review of Stay Orders of Appellate Courts) would be renumbered as Pa.R.A.P. 3319.

Title 225—RULES OF EVIDENCE

[225 PA. CODE ART. IX]

Proposed Amendment of Comment to Pa.R.E. 901 and 902

Proposed amendment of Pa.R.E. 901 and 902 governing authentication is being published for the reasons set forth in the accompanying explanatory report. Pursuant to Pa.R.J.A. No. 103(a)(1), the proposal is being published in the *Pennsylvania Bulletin* for comments, suggestions, or objections prior to submission to the Supreme Court.

Any reports, notes, or comments in the proposal have been inserted by the Committee for the convenience of those using the rules. They neither will constitute a part of the rules nor will be officially adopted by the Supreme Court.

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

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

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Committee on Rules of Evidence
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All communications in reference to the proposal should be received by September 18, 2017. E-mail is the preferred method for submitting comments, suggestions, or objections; any e-mailed submission need not be reproduced and resubmitted via mail. The Committee will acknowledge receipt of all submissions.

By the Committee on
Rules of Evidence

MAUREEN MURPHY McBRIDE, Esq.,
Chair

Annex A

TITLE 225. RULES OF EVIDENCE ARTICLE IX. AUTHENTICATION AND IDENTIFICATION

Rule 901. Authenticating or Identifying Evidence.

(a) *In General.* [To] Unless stipulated, to satisfy the requirement of authenticating or identifying an item of evidence, the proponent must produce evidence sufficient to support a finding that the item is what the proponent claims it is.

(b) *Examples.* The following are examples only—not a complete list—of evidence that satisfies the requirement:

(1) *Testimony of a Witness with Knowledge.* Testimony that an item is what it is claimed to be.

(2) *Nonexpert Opinion about Handwriting.* A nonexpert’s opinion that handwriting is genuine, based on a familiarity with it that was not acquired for the current litigation.

(3) *Comparison by an Expert Witness or the Trier of Fact.* A comparison with an authenticated specimen by an expert witness or the trier of fact.

(4) *Distinctive Characteristics and the Like.* The appearance, contents, substance, internal patterns, or other distinctive characteristics of the item, taken together with all the circumstances.

(5) *Opinion About a Voice.* An opinion identifying a person's voice—whether heard firsthand or through mechanical or electronic transmission or recording—based on hearing the voice at any time under circumstances that connect it with the alleged speaker.

(6) *Evidence About a Telephone Conversation.* For a telephone conversation, evidence that a call was made to the number assigned at the time to:

(A) a particular person, if circumstances, including self-identification, show that the person answering was the one called; or

(B) a particular business, if the call was made to a business and the call related to business reasonably transacted over the telephone.

(7) *Evidence About Public Records.* Evidence that:

(A) a document was recorded or filed in a public office as authorized by law; or

(B) a purported public record or statement is from the office where items of this kind are kept.

(8) *Evidence About Ancient Documents or Data Compilations.* For a document or data compilation, evidence that it:

(A) is in a condition that creates no suspicion about its authenticity;

(B) was in a place where, if authentic, it would likely be; and

(C) is at least 30 years old when offered.

(9) *Evidence About a Process or System.* Evidence describing a process or system and showing that it produces an accurate result.

(10) *Methods Provided by a Statute or a Rule.* Any method of authentication or identification allowed by a statute or a rule prescribed by the Supreme Court.

Comment

Pa.R.E. 901(a) is identical to F.R.E. 901(a) and consistent with Pennsylvania law. The authentication or identification requirement may be expressed as follows: When a party offers evidence contending either expressly or impliedly that the evidence is connected with a person, place, thing, or event, the party must provide evidence sufficient to support a finding of the contended connection. *See Commonwealth v. Hudson*, [489 Pa. 620,] 414 A.2d 1381 (Pa. 1980); *Commonwealth v. Pollock*, [414 Pa. Super. 66,] 606 A.2d 500 (Pa. Super. 1992). **The proponent may be relieved of this burden when all parties have stipulated the authenticity or identification of the evidence. See, e.g., Pa.R.C.P. No. 212.3(a)(3) (Pretrial Conference); Pa.R.C.P. No. 4014 (Request for Admission); Pa.R.Crim.P. 570(A)(2) & (3) (Pretrial Conference).**

In some cases, real evidence may not be relevant unless its condition at the time of trial is similar to its condition at the time of the incident in question. In such cases, the party offering the evidence must also introduce evidence sufficient to support a finding that the condition is similar. Pennsylvania law treats this requirement as an aspect of authentication. *See Commonwealth v. Hudson*, [489 Pa. 620,] 414 A.2d 1381 (Pa. 1980).

Demonstrative evidence such as photographs, motion pictures, diagrams and models must be authenticated by evidence sufficient to support a finding that the demonstrative evidence fairly and accurately represents that which it purports to depict. *See Nyce v. Muffley*, [384 Pa. 107,] 119 A.2d 530 (Pa. 1956).

Pa.R.E. 901(b) is identical to F.R.E. 901(b).

Pa.R.E. 901(b)(1) is identical to F.R.E. 901(b)(1). It is consistent with Pennsylvania law in that the testimony of a witness with personal knowledge may be sufficient to authenticate or identify the evidence. *See Commonwealth v. Hudson*, [489 Pa. 620,] 414 A.2d 1381 (Pa. 1980).

Pa.R.E. 901(b)(2) is identical to F.R.E. 901(b)(2). It is consistent with 42 Pa.C.S. § 6111, which also deals with the admissibility of handwriting.

Pa.R.E. 901(b)(3) is identical to F.R.E. 901(b)(3). It is consistent with Pennsylvania law. When there is a question as to the authenticity of an exhibit, the trier of fact will have to resolve the issue. This may be done by comparing the exhibit to authenticated specimens. *See Commonwealth v. Gipe*, [169 Pa. Super. 623,] 84 A.2d 366 (Pa. Super. 1951) (comparison of typewritten document with authenticated specimen). Under this rule, the court must decide whether the specimen used for comparison to the exhibit is authentic. If the court determines that there is sufficient evidence to support a finding that the specimen is authentic, the trier of fact is then permitted to compare the exhibit to the authenticated specimen. Under Pennsylvania law, lay or expert testimony is admissible to assist the jury in resolving the question. *See, e.g.*, 42 Pa.C.S. § 6111.

Pa.R.E. 901(b)(4) is identical to F.R.E. 901(b)(4). Pennsylvania law has permitted evidence to be authenticated by circumstantial evidence similar to that discussed in this illustration. The evidence may take a variety of forms including: evidence establishing chain of custody, *see Commonwealth v. Melendez*, [326 Pa. Super. 531,] 474 A.2d 617 (Pa. Super. 1984); evidence that a letter is in reply to an earlier communication, *see Roe v. Dwelling House Ins. Co. of Boston*, [149 Pa. 94,] 23 A. 718 (Pa. 1892); testimony that an item of evidence was found in a place connected to a party, *see Commonwealth v. Bassi*, [284 Pa. 81,] 130 A. 311 (Pa. 1925); a phone call authenticated by evidence of party's conduct after the call, *see Commonwealth v. Gold*, [123 Pa. Super. 128,] 186 A. 208 (Pa. Super. 1936); and the identity of a speaker established by the content and circumstances of a conversation, *see Bonavitacola v. Cluver*, [422 Pa. Super. 556,] 619 A.2d 1363 (Pa. Super. 1993).

Pa.R.E. 901(b)(5) is identical to F.R.E. 901(b)(5). Pennsylvania law has permitted the identification of a voice to be made by a person familiar with the alleged speaker's voice. *See Commonwealth v. Carpenter*, [472 Pa. 510,] 372 A.2d 806 (Pa. 1977).

Pa.R.E. 901(b)(6) is identical to F.R.E. 901(b)(6). This paragraph appears to be consistent with Pennsylvania law. *See Smithers v. Light*, [305 Pa. 141,] 157 A. 489 (Pa. 1931); *Wahl v. State Workmen's Ins. Fund*, [139 Pa. Super. 53,] 11 A.2d 496 (Pa. Super. 1940).

Pa.R.E. 901(b)(7) is identical to F.R.E. 901(b)(7). This paragraph illustrates that public records and reports may be authenticated in the same manner as other writings. In addition, public records and reports may be self-authenticating as provided in Pa.R.E. 902. Public records

and reports may also be authenticated as otherwise provided by statute. See Pa.R.E. 901(b)(10) and its Comment.

Pa.R.E. 901(b)(8) differs from F.R.E. 901(b)(8), in that the Pennsylvania Rule requires thirty years, while the Federal Rule requires twenty years. This change makes the rule consistent with Pennsylvania law. See *Commonwealth ex rel. Ferguson v. Ball*, [277 Pa. 301,] 121 A. 191 (Pa. 1923).

Pa.R.E. 901(b)(9) is identical to F.R.E. 901(b)(9). There is very little authority in Pennsylvania discussing authentication of evidence as provided in this illustration. The paragraph is consistent with the authority that exists. For example, in *Commonwealth v. Visconto*, [301 Pa. Super. 543,] 448 A.2d 41 (Pa. Super. 1982), a computer print-out was held to be admissible. In *Appeal of Chartiers Valley School District*, [67 Pa. Cmwlth. 121,] 447 A.2d 317 (Pa. Cmwlth. 1982), computer studies were not admitted as business records, in part, because it was not established that the mode of preparing the evidence was reliable. The court used a similar approach in *Commonwealth v. Westwood*, [324 Pa. 289,] 188 A. 304 (Pa. 1936) (test for gun powder residue) and in other cases to admit various kinds of scientific evidence. See *Commonwealth v. Middleton*, [379 Pa. Super. 502,] 550 A.2d 561 (Pa. Super. 1988) (electrophoretic analysis of dried blood); *Commonwealth v. Rodgers*, [413 Pa. Super. 498,] 605 A.2d 1228 (Pa. Super. 1992) (results of DNA/RFLP testing).

Pa.R.E. 901(b)(10) differs from F.R.E. 901(b)(10) to eliminate the reference to Federal law and to make the paragraph conform to Pennsylvania law.

There are a number of statutes that provide for authentication or identification of various types of evidence. See, e.g., 42 Pa.C.S. § 6103 (official records within the Commonwealth); 42 Pa.C.S. § 5328 (domestic records outside the Commonwealth and foreign records); 35 P.S. § 450.810 (vital statistics); 42 Pa.C.S. § 6106 (documents filed in a public office); 42 Pa.C.S. § 6110 (certain registers of marriages, births and burials records); 75 Pa.C.S. § 1547(c) (chemical tests for alcohol and controlled substances); 75 Pa.C.S. § 3368 (speed timing devices); 75 Pa.C.S. § 1106(c) (certificates of title); 42 Pa.C.S. § 6151 (certified copies of medical records); 23 Pa.C.S. § 5104 (blood tests to determine paternity); 23 Pa.C.S. § 4343 (genetic tests to determine paternity).

Official Note: Adopted May 8, 1998, effective October 1, 1998; rescinded and replaced January 17, 2013, effective March 18, 2013; adopted , 2017, effective , 2017.

Committee Explanatory Reports:

Final Report explaining the January 17, 2013 rescission and replacement published with the Court's Order at 43 Pa.B. 651 (February 2, 2013).

Final Report explaining the , 2017 amendment published with the Court's Order at 47 Pa.B. (, 2017).

Rule 902. Evidence That Is Self-Authenticating.

The following items of evidence are self-authenticating; they require no extrinsic evidence of authenticity in order to be admitted:

(1) *Domestic Public Documents That Are Sealed and Signed.* A document that bears:

(A) a seal purporting to be that of the United States; any state, district, commonwealth, territory, or insular possession of the United States; the former Panama Canal Zone; the Trust Territory of the Pacific Islands; a political subdivision of any of these entities; or a department, agency, or officer of any entity named above; and

(B) a signature purporting to be an execution or attestation.

(2) *Domestic Public Documents That Are Not Sealed But Are Signed and Certified.* A document that bears no seal if:

(A) it bears the signature of an officer or employee of an entity named in Rule 902(1)(A); and

(B) another public officer who has a seal and official duties within that same entity certifies under seal—or its equivalent—that the signer has the official capacity and that the signature is genuine.

(3) *Foreign Public Documents.* A document that purports to be signed or attested by a person who is authorized by a foreign country's law to do so. The document must be accompanied by a final certification that certifies the genuineness of the signature and official position of the signer or attester—or of any foreign official whose certificate of genuineness relates to the signature or attestation or is in a chain of certificates of genuineness relating to the signature or attestation. The certification may be made by a secretary of a United States embassy or legation; by a consul general, vice consul, or consular agent of the United States; or by a diplomatic or consular official of the foreign country assigned or accredited to the United States. If all parties have been given a reasonable opportunity to investigate the document's authenticity and accuracy, the court may for good cause, either:

(A) order that it be treated as presumptively authentic without final certification; or

(B) allow it to be evidenced by an attested summary with or without final certification.

(4) *Certified Copies of Public Records.* A copy of an official record—or a copy of a document that was recorded or filed in a public office as authorized by law—if the copy is certified as correct by:

(A) the custodian or another person authorized to make the certification; or

(B) a certificate that complies with Rule 902(1), (2), or (3), a statute or a rule prescribed by the Supreme Court.

A certificate required by paragraph (4)(B) may include a handwritten signature, a copy of a handwritten signature, a computer generated signature, or a signature created, transmitted, received, or stored by electronic means, by the signer or by someone with the signer's authorization. A seal may, but need not, be raised.

(5) *Official Publications.* A book, pamphlet, or other publication purporting to be issued by a public authority.

(6) *Newspapers and Periodicals.* [**Printed material**] **Material** purporting to be a newspaper or periodical.

(7) *Trade Inscriptions and the Like.* An inscription, sign, tag, or label purporting to have been affixed in the course of business and indicating origin, ownership, or control.

(8) *Acknowledged Documents.* A document accompanied by a certificate of acknowledgment that is lawfully ex-

ecuted by a notary public or another officer who is authorized to take acknowledgments.

(9) *Commercial Paper and Related Documents.* Commercial paper, a signature on it, and related documents, to the extent allowed by general commercial law.

(10) *Presumptions Authorized by Statute.* A signature, document, or anything else that a statute declares to be presumptively or prima facie genuine or authentic.

(11) *Certified Domestic Records of a Regularly Conducted Activity.* The original or a copy of a domestic record that meets the requirements of Rule 803(6)(A)—(C), as shown by a certification of the custodian or another qualified person that complies with Pa.R.C.P. No. 76. Before the trial or hearing, the proponent must give an adverse party reasonable written notice of the intent to offer the record—and must make the record and certification available for inspection—so that the party has a fair opportunity to challenge them.

(12) *Certified Foreign Records of a Regularly Conducted Activity.* In a civil case, the original or a copy of a foreign record that meets the requirements of Rule 902(11), modified as follows: the certification rather than complying with a statute or Supreme Court rule, must be signed in a manner that, if falsely made, would subject the maker to a criminal penalty in the country where the certification is signed. The proponent must also meet the notice requirements of Rule 902(11).

(13) *Certificate of Non-Existence of a Public Record.* A certificate that a document was not recorded or filed in a public office as authorized by law if certified by the custodian or another person authorized to make the certificate.

Comment

This rule permits some evidence to be authenticated without extrinsic evidence of authentication or identification. In other words, the requirement that a proponent must present authentication or identification evidence as a condition precedent to admissibility, as provided by Pa.R.E. 901(a), is inapplicable to the evidence discussed in Pa.R.E. 902. The rationale for the rule is that, for the types of evidence covered by Pa.R.E. 902, the risk of forgery or deception is so small, and the likelihood of discovery of forgery or deception is so great, that the cost of presenting extrinsic evidence and the waste of court time is not justified. Of course, this rule does not preclude the opposing party from contesting the authenticity of the evidence. In that situation, authenticity is to be resolved by the finder of fact.

Pa.R.E. 902(1), (2), (3), and (4) deal with self-authentication of various kinds of public documents and records. They are identical to F.R.E. 902(1), (2), (3), and (4), except that Pa.R.E. 901(4) eliminates the reference to Federal law. These paragraphs are consistent with Pennsylvania statutory law. *See, e.g.* 42 Pa.C.S. § 6103 (official records within the Commonwealth); 42 Pa.C.S. § 5328 (domestic records outside the Commonwealth and foreign records); 35 P.S. § 450.810 (vital statistics); 42 Pa.C.S. § 6106 (documents filed in a public office).

Pa.R.E. 902(4) differs from F.R.E. 902(4) insofar as the rule does not require the certificate to include a pen-and-ink signature or raised seal for the self-authentication of public documents.

Pa.R.E. 902(5), (6), and (7) are identical to F.R.E. 902(5), (6), and (7). There are no corresponding statutory provisions in Pennsylvania; however, 45 Pa.C.S. § 506

(judicial notice of the contents of the *Pennsylvania Code* and the *Pennsylvania Bulletin*) is similar to Pa.R.E. 902(5).

Pa.R.E. 902(8) is identical to F.R.E. 902(8). It is consistent with Pennsylvania law. *See Sheaffer v. Baeringer*, [346 Pa. 32,] 29 A.2d 697 (Pa. 1943); *Williamson v. Barrett*, [147 Pa. Super. 460,] 24 A.2d 546 (Pa. Super. 1942); 21 P.S. §§ 291.1—291.13 (Uniform Acknowledgement Act); 57 P.S. §§ 147—169 (Notary Public Law). An acknowledged document is a type of official record and the treatment of acknowledged documents is consistent with Pa.R.E. 902(1), (2), (3), and (4). Pa.R.E. 902(9) is identical to F.R.E. 902(9). Pennsylvania law treats various kinds of commercial paper and documents as self-authenticating. *See, e.g.*, 13 Pa.C.S. § 3505 (evidence of dishonor of negotiable instruments).

Pa.R.E. 902(10) differs from F.R.E. 902(10) to eliminate the reference to Federal law and to make the paragraph conform to Pennsylvania law. In some Pennsylvania statutes, the self-authenticating nature of a document is expressed by language creating a “presumption” of authenticity. *See, e.g.*, 13 Pa.C.S. § 3505.

Pa.R.E. 902(11) and (12) permit the authentication of domestic and foreign records of regularly conducted activity by verification or certification. Pa.R.E. 902(11) is similar to F.R.E. 902(11). The language of Pa.R.E. 902(11) differs from F.R.E. 902(11) in that it refers to Pa.R.C.P. No. 76 rather than to Federal law. Pa.R.E. 902(12) differs from F.R.E. 902(12) in that it requires compliance with a Pennsylvania statute rather than a Federal statute.

Pa.R.E. 902(13) has no counterpart in the Federal Rules. This rule provides for the self-authentication of a certificate of the non-existence of a public record, as provided in Pa.R.E. 803(10)(A).

Official Note: Adopted May 8, 1998, effective October 1, 1998; amended November 2, 2001, effective January 1, 2002; amended February 23, 2004, effective May 1, 2004; rescinded and replaced January 17, 2013, effective March 18, 2013; amended November 9, 2016, effective January 1, 2017; **amended** , **2017, effective** , **2017.**

Committee Explanatory Reports:

Final Report explaining the November 2, 2001 amendments adding paragraphs (11) and (12) published with Court’s Order at 31 Pa.B. 6384 (November 24, 2001).

Final Report explaining the February 23, 2004 amendment of paragraph (12) published with Court’s Order at 34 Pa.B. 1429 (March 13, 2004).

Final Report explaining the January 17, 2013 rescission and replacement published with the Court’s Order at 43 Pa.B. 651 (February 2, 2013).

Final Report explaining the November 7, 2016 addition of paragraph (13) published with the Court’s Order at 46 Pa.B. 7436 (November 26, 2016).

Final Report explaining the , **2017 amendment of the Comment published with the Court’s Order at 47 Pa.B.** (, **2017).**

REPORT

Proposed Amendment of Pa.R.E. 901 & 902

The Committee on Rules of Evidence is considering amendment of Pennsylvania Rule of Evidence 901 and 902 to facilitate the authentication of evidence. In the most general of descriptions, authentication is the requirement of proving what the evidence is purported to

be. The purpose of this requirement is to reduce the risk of forgery or deception; yet, commentators have questioned whether this safeguard is justified by the time, expense, and inconvenience of authentication. *See* 2 McCormick on Evid. § 221 (7th ed.).

While authentication may serve a salutary purpose in evidence of questionable origin or dubious portrayal, the mechanical application of the requirements in every instance, especially when authentication is not reasonably contested, does not serve the purpose of the Rules in eliminating unjustifiable expense or delay. *See* Pa.R.E. 102. To that end, the Committee wishes to signal to readers that authentication of evidence can be stipulated by the parties and, therefore, relieve the proponent of introducing authentication evidence. Accordingly, Rule 901(a) is proposed to be amended to include the phrase, “unless stipulated,” and corresponding Comment language.

With a public comment serving as a catalyst, the Committee undertook review of Rule 902(4) to consider whether copies of public records can be certified and transmitted electronically. This question tested whether a certificate pursuant to Rule 902(4)(B) must be contain a pen-and-ink (a.k.a. “wet”) signature and whether a seal, if required, must be raised.

Informed by Pa.R.Crim.P. 103 (defining “signature”), the Committee concluded that a signature on a certification need not be pen-and-ink to serve its function. Additionally, technology has progressed to where wet signatures are no longer required as evidence for commerce and transactions. *See, e.g.*, Electronic Transactions Act, Act of December 16, 1999, P.L. 971, 73 P.S. § 2260.309 (“In a proceeding, evidence of a record or signature may not be excluded solely because it is in electronic form.”).

Concerning the necessity of a raised seal, its absence is not a foreign concept. Under the Protection From Abuse Act, a “certified copy” is defined as “a paper copy of the original order of the issuing court endorsed by the appropriate clerk of that court or an electronic copy of the original order of the issuing court endorsed with a digital signature of the judge or appropriate clerk of that court.” 23 Pa.C.S. § 6102. The definition goes further to state: “A raised seal on the copy of the order of the issuing court shall not be required.” *Id.* Further, Section 322 of the Judicial Code, insofar as it pertains to court seals, states: “A facsimile or preprinted seal may be used for all purposes in lieu of the original seal.”

Accordingly, the Committee proposed to amend Rule 902(4) to add:

A certificate required by paragraph (4)(B) may include a handwritten signature, a copy of a handwritten signature, a computer generated signature, or a signature created, transmitted, received, or stored by electronic means, by the signer or by someone with the signer’s authorization. A seal may, but need not, be raised.

This amendment is intended to facilitate the use of electronic forms of certification for copies of public records; it is not intended to prohibit the use of a pen-and-ink signatures and raised seals. Further, this amendment is not intended to address whether a duplicate of a certificate may be admitted to the same extent as the original. *Cf.* Pa.R.E. 1003.

Upon reviewing Rule 902(6), the Committee proposes to remove “printed” as a condition of material purporting to be a newspaper or periodical. The Committee believes

that such a term has become antiquated in an era when electronic media has largely replaced print media. The fact that a newspaper or periodical is printed (or not) does not appear to serve as a hallmark of authentication.

All comments, concerns, and suggestions concerning this proposal are welcome.

The Committee also received a request to expand the self-authentication of official publications pursuant to Rule 902(5) to include items published on a public authority’s website. The Committee was not inclined to undertake the requested rulemaking believing that “issued,” as used in Rule 902(5), was sufficiently broad to include “a book, pamphlet, or other publication” authored or adopted by a public authority and placed on its website. The Committee welcomes comments on whether Rule 902(5) requires further clarification.

[Pa.B. Doc. No. 17-1330. Filed for public inspection August 11, 2017, 9:00 a.m.]

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CH. 200]

Proposed Adoption of Pa.R.C.P. No. 205.6 and Proposed Amendment of Pa.R.C.P. Nos. 229.2 and 240

The Civil Procedural Rules Committee is planning to propose to the Supreme Court of Pennsylvania the adoption of Pa.R.C.P. No. 205.6 governing the certification and filing of confidential information and confidential documents, and amendments of Pa.R.C.P. Nos. 229.2 governing the petition to transfer structured settlement payment rights and 240 governing the petition to proceed *in forma pauperis* for the reasons set forth in the accompanying explanatory report. Pursuant to Pa.R.J.A. No. 103(a)(1), the proposal is being published in the *Pennsylvania Bulletin* for comments, suggestions, or objections prior to submission to the Supreme Court.

Any reports, notes, or comments in the proposal have been inserted by the Committee for the convenience of those using the rules. They will neither constitute a part of the rules nor will be officially adopted by the Supreme Court.

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

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

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

All communications in reference to the proposal should be received by September 12, 2017. E-mail is the preferred method for submitting comments, suggestions, or objections; any e-mailed submission need not be repro-

duced and resubmitted via mail. The Committee will acknowledge receipt of all submissions.

By the Civil Procedural Rules Committee

DAVID L. KWASS, Chair

Annex A
TITLE 231. RULES OF CIVIL PROCEDURE
PART I. GENERAL
CHAPTER 200. BUSINESS OF COURTS

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

Rule 205.6. Confidential Information and Confidential Documents. Certification.

Unless public access is otherwise constrained by applicable authority, any attorney, or any party if unrepresented, who files a document pursuant to these rules with the prothonotary's office shall comply with the requirements of Sections 7.0 and 8.0 of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts (Policy) including a certification of compliance with the Policy and, as necessary, a Confidential Information Form, unless otherwise specified by rule of court, or a Confidential Document Form in accordance with the Policy.

Official Note: Applicable authority includes but is not limited to statute, procedural rule or court order. The Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts (Policy) can be found on the website of the Supreme Court of Pennsylvania at http://www.pacourts.us/public-record-policies. Sections 7.0(D) and 8.0(D) of the Policy provide that the certification shall be in substantially the following form:

I certify that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents.

The Confidential Information Form and the Confidential Document Form can be found at http://www.pacourts.us/public-record-policies. In lieu of the Confidential Information Form, Section 7.0(C) of the Policy provides for a court to adopt a rule or order pursuant to Pa.R.J.A. No. 103(c) permitting the filing of a document in two versions, a "Redacted Version" and an "Unredacted Version."

Rule 229.2. Petition to Transfer Structured Settlement Payment Rights.

* * * * *

(f) The Payee's Affidavit in Support of Petition shall be substantially in the following form:

(Caption)
Payee's Affidavit in Support of
Petition to Transfer Structured Settlement Rights
* * * * *

3. Minor children and other dependents:

[Names] Initials of minor children, names of other dependents, ages, and places of residence:

_____.

* * * * *

Official Note: The form of order does not preclude a court from adding additional language to the order as deemed appropriate in the individual circumstances of a case.

The filings required by this rule are subject to the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts. See Rule 205.6.

Rule 240. In Forma Pauperis.

(a) This rule shall apply to all civil actions and proceedings except actions pursuant to the Protection From Abuse Act and the Victims of Sexual Violence and Intimidation Act.

Official Note: The term "all civil actions and proceedings" includes all domestic relations actions except those brought pursuant to the Protection From Abuse Act, [which are governed by] 23 Pa.C.S. § 6106 and the Victims of Sexual Violence and Intimidation Act, 42 Pa.C.S. §§ 62A01-62A20.

* * * * *

(h) The affidavit in support of a petition for leave to proceed in forma pauperis shall be substantially in the following form:

(Caption)

* * * * *

3. I represent that the information below relating to my ability to pay the fees and costs is true and correct:

* * * * *

(g) Persons dependent upon you for support

(Wife) (Husband) Name: _____

Children, if any:

[Name] Initials: _____

* * * * *

(j)(1) If, simultaneous with the commencement of an action or proceeding or the taking of an appeal, a party has filed a petition for leave to proceed in forma pauperis, the court prior to acting upon the petition may dismiss the action, proceeding or appeal if the allegation of poverty is untrue or if it is satisfied that the action, proceeding or appeal is frivolous.

Official Note: A frivolous action or proceeding has been defined as one that "lacks an arguable basis either in law or in fact." Neitzke v. Williams, 490 U.S. 319, 109 S.Ct. 1827, 104 L.Ed.2d 338 (1989).

(2) If the petitioner commences the action by writ of summons, the court shall not act on the petition for leave to proceed in forma pauperis until the complaint is filed. If the complaint has not been filed within ninety days of the filing of the petition, the court may dismiss the action pursuant to subdivision (j)(1).

Official Note: The filings required by this rule are subject to the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts. See Rule 205.6.

Explanatory Comment

On January 6, 2017, the Supreme Court of Pennsylvania adopted the Public Access Policy: Case Records of the Appellate and Trial Courts (Policy), which will become effective January 6, 2018. In anticipation of the implementation of the Policy, the Civil Procedural Rules Committee is proposing new Rule 205.6 which provides that

absent any applicable authority that constrains public access, all civil filings must comply with the Policy. Of particular importance are the requirements of Sections 7.0 and 8.0 governing confidential information and confidential documents. In addition, the rule provides that all practitioners and unrepresented parties must certify that a filing is compliant with the Policy.

The Committee is also proposing amendments to Rule 229.2 governing the petition to transfer structured settlement payment rights and Rule 240 governing the petition to proceed *in forma pauperis*. Section 7.0(A)(5) of the Policy prohibits the disclosure of the names of minor children in a filing unless the minor is charged as a defendant in a criminal matter. Both Rule 229.2 and Rule 240 require the filing of an affidavit in support of the petition. The form affidavit currently requires the disclosure of the full names of any minor children of the petitioner. See Rule 229.2(f) and 240(h). The proposed amendment would require a petitioner to provide the initials only of any minor children. In addition, a note cross-referencing new Rule 205.6 has been added to both rules. Stylistic amendments to Rule 240 are also proposed.

*By the Civil Procedural
Rules Committee*

DAVID L. KWASS,
Chair

[Pa.B. Doc. No. 17-1331. Filed for public inspection August 11, 2017, 9:00 a.m.]

PART I. GENERAL

[231 PA. CODE CHS. 1900, 1910, 1915,
1920, 1930 AND 1950]

**Proposed Amendments to Pa.R.C.P. Nos. 1901.3,
1901.6, 1905, 1910.4, 1910.7, 1910.11, 1910.27,
1915.3, 1915.4-4, 1915.7, 1915.15, 1915.17,
1915.18, 1920.13, 1920.15, 1920.31, 1920.33,
1920.75, 1930.1, 1930.6, 1953 and 1959**

The Domestic Relations Procedural Rules Committee is planning to propose to the Supreme Court of Pennsylvania numerous amendments to the Pennsylvania Rules of Civil Procedure included with this Notice and for the reasons set forth in the accompanying Publication Report. Pursuant to Pa.R.J.A. No 103(a)(1), the proposal is being published in the *Pennsylvania Bulletin* for comments, suggestions, or objections prior to submission to the Supreme Court.

Any reports, notes, or comments in the proposal have been inserted by the Committee for the convenience of those using the rules. They neither will constitute a part of the rules nor will be officially adopted by the Supreme Court.

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

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

Bruce J. Ferguson, Counsel
Domestic Relations Procedural Rules Committee
Supreme Court of Pennsylvania
Pennsylvania Judicial Center
PO Box 62635
Harrisburg, PA 17106-2635
Fax: 717-231-9531
domesticrules@pacourts.us

All communications in reference to the proposal should be received by September 12, 2017. E-mail is the preferred method for submitting comments, suggestions, or objections; any e-mailed submission need not be reproduced and resubmitted via mail. The Committee will acknowledge receipt of all submissions.

*By the Domestic Relations
Procedural Rules Committee*

DAVID J. SLESNICK, Esq.,
Chair

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 1900. ACTIONS PURSUANT TO THE PROTECTION FROM ABUSE ACT

Rule 1901.3. Commencement of Action.

* * * * *

(d) The master for emergency relief shall follow the procedures set forth in the Pennsylvania Rules of Civil Procedure Governing Actions and [**proceedings before magisterial district judges**] **Proceedings before Magisterial District Judges** for emergency relief under the Protection From Abuse Act.

[Explanatory Comment—2006

New subdivision (c) reflects the 2005 amendments to the Protection From Abuse Act which prohibits charging fees or costs against the plaintiff. 23 Pa.C.S.A. § 6106(b). The 2005 amendments to 23 Pa.C.S.A. § 6110(e) of the Protection From Abuse Act authorize the use of masters for emergency relief which is reflected in new subdivision (d).]

Official Note: This rule may require attorneys or unrepresented parties to file Confidential Documents and documents containing Confidential Information that are subject to the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts*. The policy requires that a person filing Confidential Documents or documents containing Confidential Information attach a Confidential Document Form or a Confidential Information Form to the document before filing or, alternatively, file a redacted version of the document. See Pa.R.C.P. No. 1930.1(b).

Rule 1901.6. [**No responsive pleading required**] **Responsive Pleading not Required.**

[**No pleading need be filed in response**] **The defendant is not required to file an answer or other responsive pleading** to the petition or the certified order, and all averments not admitted shall be deemed denied.

Official Note: For procedures as to the time and manner of hearings and issuance of orders, see 23 [**Pa.C.S.A.**] **Pa.C.S.** § 6107. For provisions as to the scope of relief available, see 23 [**Pa.C.S.A.**] **Pa.C.S.** § 6108. For provisions as to contempt for violation of an order, see 23 [**Pa.C.S.A.**] **Pa.C.S.** § 6114.

This rule may require attorneys or unrepresented parties to file Confidential Documents and documents containing Confidential Information that are subject to the *Public Access Policy of the Unified*

Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts. The policy requires that a person filing Confidential Documents or documents containing Confidential Information attach a Confidential Document Form or a Confidential Information Form to the document before filing or, alternatively, file a redacted version of the document. See Pa.R.C.P. No. 1930.1(b).

Rule 1905. Forms for Use in PFA Actions. Notice and Hearing. Petition. Temporary Protection Order. Final Protection Order.

* * * * *

(b) The petition in an action filed pursuant to the Act shall be substantially in the following form, but the first page (paragraphs 1 through 4), following the Notice of Hearing and Order, [**must**] shall be exactly as set forth in this rule:

* * * * *

Notice: This attachment will be withheld from public inspection in accordance with 23 Pa.C.S.A. § 6108(a)(7)(v).

Official Note: This rule may require attorneys or unrepresented parties to file Confidential Documents and documents containing Confidential Information that are subject to the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts*. The policy requires that a person filing Confidential Documents or documents containing Confidential Information attach a Confidential Document Form or a Confidential Information Form to the document before filing or, alternatively, file a redacted version of the document. See Pa.R.C.P. No. 1930.1(b).

(c) The Temporary Order of Court, or any continued, amended, or modified Temporary Order of Court, entered pursuant to the Act shall be substantially in the following form, but the first page [**must**] shall be exactly as set forth in this rule:

* * * * *

CHAPTER 1910. ACTIONS FOR SUPPORT

Rule 1910.4. Commencement of Action. Fee.

(a) An action shall be commenced by filing a complaint with the domestic relations section of the court of common pleas.

Official Note: For the form of the complaint, see [**Rule**] Pa.R.C.P. No. 1910.27(a).

This rule may require attorneys or unrepresented parties to file Confidential Documents and documents containing Confidential Information that are subject to the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts*. The policy requires that a person filing Confidential Documents or documents containing Confidential Information attach a Confidential Document Form or a Confidential Information Form to the document before filing or, alternatively, file a redacted version of the document. See Pa.R.C.P. No. 1930.1(b).

Section 961 of the Judicial Code, 42 Pa.C.S. § 961, provides that each court of common pleas shall have a domestic relations section.

* * * * *

Rule 1910.7. [**No**] Pleading by Defendant **not** Required. Question of Jurisdiction or Venue or Statute of Limitations in Paternity.

(a) [**No**] An answer or other responsive pleading by the defendant shall **not** be required, but if the defendant elects to file a pleading, the domestic relations office conference required by the order of court shall not be delayed.

Official Note: This rule may require attorneys or unrepresented parties to file Confidential Documents and documents containing Confidential Information that are subject to the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts*. The policy requires that a person filing Confidential Documents or documents containing Confidential Information attach a Confidential Document Form or a Confidential Information Form to the document before filing or, alternatively, file a redacted version of the document. See Pa.R.C.P. No. 1930.1(b).

(b) If defendant raises a question of jurisdiction or venue or in paternity cases the defense of the statute of limitations, the court shall promptly dispose of the question and may, in an appropriate case, stay the domestic relations office conference.

Rule 1910.11. Office Conference. Subsequent Proceedings. Order.

* * * * *

(c) At the conference, the parties shall furnish to the officer true copies of their most recent federal income tax returns, their pay stubs for the preceding six months, verification of child care expenses, and proof of medical coverage [**which**] that they may have or have available to them. In addition, [**they**] the parties shall provide copies of their Income **Statements** and Expense **Statements** in the forms required by [**Rule 1910.27(c), completed as set forth below**] Pa.R.C.P. No. 1910.27(c) and completed as set forth in (1) and (2) of this subdivision.

Official Note: This rule may require attorneys or unrepresented parties to file Confidential Documents and documents containing Confidential Information that are subject to the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts*. The policy requires that a person filing Confidential Documents or documents containing Confidential Information attach a Confidential Document Form or a Confidential Information Form to the document before filing or, alternatively, file a redacted version of the document. See Pa.R.C.P. No. 1930.1(b).

(1) For cases which can be determined according to the guideline formula, the Income Statement must be completed and the Expense Statement at Rule 1910.27(c)(2)(A) should be completed if a party is claiming unusual needs and unusual fixed expenses that may warrant a deviation from the guideline amount of support pursuant to Rule 1910.16-5 or seeks apportionment of expenses pursuant to Rule 1910.16-6. In a support case that can be decided according to the guidelines, even if the support claim is raised in a divorce complaint, no expense form is needed unless a party claims unusual needs or unusual fixed expenses or seeks apportionment

of expenses pursuant to Rule 1910.16-6. However, in the divorce action, the Expense Statement at Rule 1910.27(c)(2)(B) may be required.

* * * * *

Rule 1910.27. Form of Complaint. Order. Income Statements and Expense Statements. Health Insurance Coverage Information Form. Form of Support Order. Form Petition for Modification. Petition for Recovery of Support Overpayment.

(a) The complaint in an action for support shall be substantially in the following form:

* * * * *

NOTICE

Guidelines for child and spousal support, and for alimony pendente lite have been prepared by the Court of Common Pleas and are available for inspection in the office of Domestic Relations Section,

(Address)

Official Note: This rule may require attorneys or unrepresented parties to file Confidential Documents and documents containing Confidential Information that are subject to the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts*. The policy requires that a person filing Confidential Documents or documents containing Confidential Information attach a Confidential Document Form or a Confidential Information Form to the document before filing or, alternatively, file a redacted version of the document. See Pa.R.C.P. No. 1930.1(b).

(b) The order to be attached at the front of the complaint [set forth] in subdivision (a) shall be [in] substantially in the following form:

* * * * *

(c) The Income Statements and Expense Statements to be attached to the order in subdivision (b) shall be [in] substantially in the following form:

(1) *Income [Statement] Statements*. This form must be filled out in all cases.

Official Note: This rule may require attorneys or unrepresented parties to file Confidential Documents and documents containing Confidential Information that are subject to the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts*. The policy requires that a person filing Confidential Documents or documents containing Confidential Information attach a Confidential Document Form or a Confidential Information Form to the document before filing or, alternatively, file a redacted version of the document. See Pa.R.C.P. No. 1930.1(b).

_____ v. _____ No. _____
* * * * *

(2) *Expense Statements*. An Expense Statement is not required in cases [which] that can be determined pursuant to the guidelines unless a party avers unusual needs and expenses that may warrant a deviation from the guideline amount of support pursuant to [Rule] Pa.R.C.P. No. 1910.16-5 or seeks an apportionment of

expenses pursuant to [Rule] Pa.R.C.P. No. 1910.16-6. [(] See [Rule] Pa.R.C.P. No. 1910.11(c)(1)[]]. Child support is calculated under the guidelines based upon the **monthly** net incomes of the parties, with additional amounts ordered as necessary to provide for child care expenses, health insurance premiums, unreimbursed medical expenses, mortgage payments, and other needs, contingent upon the obligor's ability to pay. The Expense Statement in subparagraph (A) [below] shall be utilized if a party is claiming that he or she has unusual needs and unusual fixed expenses that may warrant deviation or adjustment in a case determined under the guidelines. In child support, spousal support, and alimony *pendente lite* cases calculated pursuant to [Rule] Pa.R.C.P. No. 1910.16-3.1 and in divorce cases involving claims for alimony [or], counsel fees, or costs and expenses pursuant to [Rule] Pa.R.C.P. No. 1920.31(a), the parties must complete the Expense Statement in subparagraph (B) [below].

Official Note: This rule may require attorneys or unrepresented parties to file Confidential Documents and documents containing Confidential Information that are subject to the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts*. The policy requires that a person filing Confidential Documents or documents containing Confidential Information attach a Confidential Document Form or a Confidential Information Form to the document before filing or, alternatively, file a redacted version of the document. See Pa.R.C.P. No. 1930.1(b).

(A) *Guidelines Expense Statement*. If the combined monthly net income of the parties is \$30,000 or less, it is not necessary to complete this form unless a party is claiming unusual needs and expenses that may warrant a deviation from the guideline amount of support pursuant to Rule 1910.16-5 or seeks an apportionment of expenses pursuant to Rule 1910.16-6. At the conference, each party must provide receipts or other verification of expenses claimed on this statement. The Guidelines Expense Statement shall be substantially in the following form.

* * * * *

CHAPTER 1915. ACTIONS FOR CUSTODY OF MINOR CHILDREN

Rule 1915.3. Commencement of Action. Complaint. Order.

(a) Except as provided by subdivision (c), an action shall be commenced by filing a verified complaint substantially in the form provided by [Rule] Pa.R.C.P. No. 1915.15(a).

Official Note: This rule may require attorneys or unrepresented parties to file Confidential Documents and documents containing Confidential Information that are subject to the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts*. The policy requires that a person filing Confidential Documents or documents containing Confidential Information attach a Confidential Document Form or a Confidential Information Form to the document before filing or, alternatively, file a redacted version of the document. See Pa.R.C.P. No. 1930.1(b).

(b) An order shall be attached to the complaint directing the defendant to appear at a time and place specified. The order shall be substantially in the form provided by Rule 1915.15(b).

* * * * *

Rule 1915.4-4. Pre-Trial Procedures.

* * * * *

(b) Not later than five days prior to the pre-trial conference, each party shall file a pre-trial statement with the prothonotary's office and serve a copy upon the court and the other party or counsel of record. The pre-trial statement shall include the following matters, together with any additional information required by special order of the court:

* * * * *

In addition to the above items included in the pre-trial statement, any reports of experts and other proposed exhibits shall be included as part of the pre-trial statement served upon the other party or opposing counsel, but not included with the pre-trial statement served upon the court.

Official Note: This rule may require attorneys or unrepresented parties to file Confidential Documents and documents containing Confidential Information that are subject to the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts*. The policy requires that a person filing Confidential Documents or documents containing Confidential Information attach a Confidential Document Form or a Confidential Information Form to the document before filing or, alternatively, file a redacted version of the document. See Pa.R.C.P. No. 1930.1(b).

(c) If a party fails to file a pre-trial statement or otherwise comply with the requirements of subdivision (b), the court may make an appropriate order under Pa.R.C.P. No. 4019(c)(2) and (4) governing sanctions.

* * * * *

Rule 1915.7. Consent Order.

If an agreement for custody is reached and the parties desire a consent order to be entered, they shall note their agreement upon the record or shall submit to the court a proposed order bearing the written consent of the parties or their counsel.

Official Note: This rule may require attorneys or unrepresented parties to file Confidential Documents and documents containing Confidential Information that are subject to the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts*. The policy requires that a person filing Confidential Documents or documents containing Confidential Information attach a Confidential Document Form or a Confidential Information Form to the document before filing or, alternatively, file a redacted version of the document. See Pa.R.C.P. No. 1930.1(b).

Rule 1915.15. Form of Complaint. Caption. Order. Petition to Modify a Custody Order.

(a) The complaint in an action for custody shall be [in] substantially in the following form:

* * * * *

Official Note: The form of complaint is appropriate [where] if there is one plaintiff and one defendant and [where] if the custody of one child is sought, or [where] if the custody of several children is sought and the information required by paragraphs 3 to 7 is identical for all of the children. [Where] If there are multiple parties, the complaint should be appropriately adapted to accommodate them. [Where] If the custody of several children is sought and the information required is not identical for all of the children, the complaint should contain a separate paragraph for each child.

This rule may require attorneys or unrepresented parties to file Confidential Documents and documents containing Confidential Information that are subject to the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts. The policy requires that a person filing Confidential Documents or documents containing Confidential Information attach a Confidential Document Form or a Confidential Information Form to the document before filing or, alternatively, file a redacted version of the document. See Pa.R.C.P. No. 1930.1(b).

(b) A petition to modify a custody order shall be [in] substantially in the following form:

* * * * *

I verify that the statements made in this petition are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date	Petitioner
------	------------

Official Note: This rule may require attorneys or unrepresented parties to file Confidential Documents and documents containing Confidential Information that are subject to the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts*. The policy requires that a person filing Confidential Documents or documents containing Confidential Information attach a Confidential Document Form or a Confidential Information Form to the document before filing or, alternatively, file a redacted version of the document. See Pa.R.C.P. No. 1930.1(b).

(c) The order to be attached at the front of the complaint or petition for modification shall be [in] substantially in the following form:

* * * * *

Rule 1915.17. Relocation. Notice and Counter-Affidavit.

* * * * *

(i) The notice of proposed relocation shall be substantially in the following form:

* * * * *

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER. IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMA-

TION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

Official Note: This rule may require attorneys or unrepresented parties to file Confidential Documents and documents containing Confidential Information that are subject to the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts*. The policy requires that a person filing Confidential Documents or documents containing Confidential Information attach a Confidential Document Form or a Confidential Information Form to the document before filing or, alternatively, file a redacted version of the document. See Pa.R.C.P. No. 1930.1(b).

(j) The counter-affidavit that must be served with the relocation notice shall be substantially in the following form as set forth [at] in 23 Pa.C.S. § 5337(d):

* * * * *

I verify that the statements made in this counter-affidavit are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

(Date)

(Signature)

Official Note: This rule may require attorneys or unrepresented parties to file Confidential Documents and documents containing Confidential Information that are subject to the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts*. The policy requires that a person filing Confidential Documents or documents containing Confidential Information attach a Confidential Document Form or a Confidential Information Form to the document before filing or, alternatively, file a redacted version of the document. See Pa.R.C.P. No. 1930.1(b).

Rule 1915.18. Form of Order Directing Expert Examination and Report.

The order of court directing expert evaluation in a custody matter pursuant to [Rule] Pa.R.C.P. No. 1915.8 shall be [in] substantially in the following form:

* * * * *

CHAPTER 1920. ACTIONS OF DIVORCE OR FOR ANNULMENT OF MARRIAGE

Rule 1920.13. Pleading More Than One Cause of Action. Alternative Pleading.

* * * * *

(b) [The plaintiff may] Except as otherwise provided in these rules, the plaintiff may:

(1) join as separate counts in the complaint [in separate counts any other claims which may under the Divorce Code] the ancillary claims that may be joined with an action of divorce or for annulment [or, if

they have not been so joined, the plaintiff may as of course] under the Divorce Code;

(2) amend the complaint to include [such other claims or may] the ancillary claims;

(3) file to the same term and number a separate supplemental complaint or complaints limited to [such other] the ancillary claims; or

[(2)] (4) file to the same term and number a subsequent petition raising [such other] the ancillary claims.

Official Note: This rule may require attorneys or unrepresented parties to file Confidential Documents and documents containing Confidential Information that are subject to the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts*. The policy requires that a person filing Confidential Documents or documents containing Confidential Information attach a Confidential Document Form or a Confidential Information Form to the document before filing or, alternatively, file a redacted version of the document. See Pa.R.C.P. No. 1930.1(b).

(c) The court may order alimony pendente lite, reasonable counsel fees, costs and expenses pending final disposition of any claim.

Rule 1920.15. Counterclaim. Subsequent Petition.

(a) The defendant may [set forth] state in an answer under the heading "Counterclaim" a cause of action of divorce or for annulment [and, whether the defendant does so or not, may set forth any other matter which under the Divorce Code may be joined with an action of divorce].

(b) [The defendant may] Except as otherwise provided in these rules, the defendant may:

(1) join as separate counts in the counterclaim the ancillary claims that may be joined with an action of divorce or for annulment under the Divorce Code; or

(2) file [to] at the same term and number a subsequent petition raising [any claims which under the Divorce Code may be joined with an action of divorce or for annulment. The averments shall be deemed denied unless admitted by an answer] the ancillary claims.

(c) The averments in the counterclaim shall be deemed denied unless admitted by an answer.

Official Note: See [Rule] Pa.R.C.P. No. 1920.31, which requires the joinder of certain related claims under penalty of waiver. A claim for alimony must be raised before the entry of a final decree of divorce or annulment.

This rule may require attorneys or unrepresented parties to file Confidential Documents and documents containing Confidential Information that are subject to the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts*. The policy requires that a person filing Confidential Documents or documents containing Confidential Information attach a Confidential Document Form or a Confidential Information Form to the document before filing

or, alternatively, file a redacted version of the document. See Pa.R.C.P. No. 1930.1(b).

Rule 1920.31. Joinder of Related Claims. Child and Spousal Support. Alimony. Alimony Pendente Lite. Counsel Fees. Expenses.

(a)(1) [When either] If a party has raised a claim for alimony [or], counsel fees, or costs and expenses, [each party] the parties shall file a true copy of the most recent federal income tax return, pay stubs for the preceding six months, a completed Income Statement in the form required [at Rule] by Pa.R.C.P. No. 1910.27(c)(1), and a completed Expense Statement in the form required by [Rule] Pa.R.C.P. No. 1910.27(c)(2)(B). A party may not file a motion for the appointment of a master or a request for court action regarding alimony, alimony pendente lite [or], counsel fees, [cost] or costs and expenses until at least 30 days following the filing of that party's tax returns, Income Statement, and Expense Statement. The other party shall file the tax returns, Income Statement, and Expense Statement within 20 days of service of the moving party's documents. If a claim for child support, spousal support, or alimony pendente lite is raised in a divorce complaint, [no expense form is] an Expense Statement is not needed in a support action that can be decided pursuant to the support guidelines unless a party claims unusual needs or unusual fixed expenses [or], seeks deviation pursuant to [Rule] Pa.R.C.P. No. 1910.16-5, or apportionment of expenses pursuant to [Rule] Pa.R.C.P. No. 1910.16-6.

Official Note: This rule may require attorneys or unrepresented parties to file Confidential Documents and documents containing Confidential Information that are subject to the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts. The policy requires that a person filing Confidential Documents or documents containing Confidential Information attach a Confidential Document Form or a Confidential Information Form to the document before filing or, alternatively, file a redacted version of the document. See Pa.R.C.P. No. 1930.1(b).

(2) If a party fails to file the documents as required by subdivision (a)(1), the court on motion may make an appropriate order under Rule 4019 governing sanctions.

* * * * *

Rule 1920.33. Joinder of Related Claims. Equitable Division. Enforcement.

(a) If a pleading or petition raises a claim for equitable division of marital property under Section 3502 of the Divorce Code, the parties shall file and serve on the other

party an inventory, which shall include the information in subdivisions (1) through (3) and shall be substantially in the form set forth in Pa.R.C.P. No. 1920.75. Within 20 days of service of the moving party's inventory, the non-moving party shall file an inventory. A party may not file a motion for the appointment of a master or a request for court action regarding equitable division until at least 30 days following the filing of that party's inventory.

Official Note: This rule may require attorneys or unrepresented parties to file Confidential Documents and documents containing Confidential Information that are subject to the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts. The policy requires that a person filing Confidential Documents or documents containing Confidential Information attach a Confidential Document Form or a Confidential Information Form to the document before filing or, alternatively, file a redacted version of the document. See Pa.R.C.P. No. 1930.1(b).

The inventory shall set forth as of the date of separation:

* * * * *

(b) Within the time required by order of court or written directive of the master or, if none, at least 60 days before the scheduled hearing on the claim for equitable division, the parties shall file and serve upon the other party a pre-trial statement. The pre-trial statement shall include the following matters, together with any additional information required by special order of the court:

* * * * *

(10) a proposed resolution of the economic issues raised in the pleadings.

Official Note: This rule may require attorneys or unrepresented parties to file Confidential Documents and documents containing Confidential Information that are subject to the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts. The policy requires that a person filing Confidential Documents or documents containing Confidential Information attach a Confidential Document Form or a Confidential Information Form to the document before filing or, alternatively, file a redacted version of the document. See Pa.R.C.P. No. 1930.1(b).

(c) If a party fails to file either an inventory, as required by subdivision (a), or a pre-trial statement, as required by subdivision (b), the court may make an appropriate order under Pa.R.C.P. No. 4019(c) governing sanctions.

* * * * *

Rule 1920.75. Form of Inventory.

The inventory required by [Rule] Pa.R.C.P. No. 1920.33(a) shall be substantially in the following form:

* * * * *

LIABILITIES

Item Number	Description of Property	Names of All Creditors	Names of All Debtors	Estimated Value at Date of Separation
-------------	-------------------------	------------------------	----------------------	---------------------------------------

Official Note: This rule may require attorneys or unrepresented parties to file Confidential Documents and documents containing Confidential Information that are subject to the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts*. The policy requires that a person filing Confidential Documents or documents containing Confidential Information attach a Confidential Document Form or a Confidential Information Form to the document before filing or, alternatively, file a redacted version of the document. See Pa.R.C.P. No. 1930.1(b).

CHAPTER 1930. RULES RELATING TO DOMESTIC RELATIONS MATTERS GENERALLY

Rule 1930.1. [**Form of Pleadings.**] Form of Caption. **Confidential Information and Confidential Documents. Certification.**

(a) The form of the caption in all domestic relations matters shall be substantially as follows:

In the Court of Common Pleas of _____ County, Pennsylvania

A. Litigant,)	
	Plaintiff)	
vs.)	No. [of 19] (Docket number)
B. Litigant,)	
	Defendant)	

(Title of Pleading)

Official Note: As domestic relations matters are no longer quasi-criminal, the phrase “Commonwealth ex rel.” shall not be used in the caption of any domestic relations matter.

(b) Attorneys and unrepresented parties who file documents with the prothonotary’s office or domestic relations office pursuant to these rules, including Protection from Abuse, Support, Custody, Divorce, or Protection of Victims of Sexual Violence and Intimidation, shall comply with Sections 7.0 and 8.0 of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* (Policy). The Policy has specific requirements for both Confidential Documents and other documents containing Confidential Information, which includes, but are not limited to, the following:

- Social Security Numbers;
- Financial Account Numbers
- Driver License Numbers;
- State Identification (SID) Numbers;
- Minors’ names and dates of birth
- Abuse victim’s address and other contact information
- Financial Source Documents;
- Minors’ educational records;
- Medical/Psychological records;
- Children and Youth Services’ records;
- Marital Property Inventory and Pre-Trial Statement as provided in Pa.R.C.P. No. 1920.33;
- Income and Expense Statement as provided in Pa.R.C.P. No. 1910.27(c); and
- Agreements between the parties as used in 23 Pa.C.S. § 3105.

Additionally, the Policy requires the person filing a document to certify in writing:

I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

Official Note: The *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* (Policy) can be found on the website of the Supreme Court of Pennsylvania at <http://www.pacourts.us/assets/opinions/supreme/out/477jad-attach1.pdf?cb=1&cb=1499874026638>.

Rule 1930.6. Paternity Actions. **Scope. Venue. Commencement of Action.**

(a) [**Scope.**] This rule shall govern the procedure by which a putative father may initiate a civil action to establish paternity and seek genetic testing. Such an action shall not be permitted if an order already has been entered as to the paternity, custody, or support of the

child, or if a support or custody action to which the putative father is a party is pending.

(b) [**Venue.**] An action may be brought only in the county in which the defendant or the child(ren) reside.

(c) [**Commencement of Action.**] An action shall be [**initiated**] commenced by filing a verified complaint to establish paternity and for genetic testing substantially in the form set forth in subdivision (1) [**below**]. The complaint shall have as its first page the Notice of Hearing and Order set forth in subdivision (2) [**below**].

Official Note: This rule may require attorneys or unrepresented parties to file Confidential Documents and documents containing Confidential Information that are subject to the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts*. The policy requires that a person filing Confidential Documents or documents containing Confidential Information attach a Confidential Document Form or a Confidential Information Form to the document before filing or, alternatively, file a redacted version of the document. See Pa.R.C.P. No. 1930.1(b).

(1) The complaint filed in a civil action to establish paternity shall be substantially in the following form:

CHAPTER 1950. ACTIONS PURSUANT TO THE PROTECTION OF VICTIMS OF SEXUAL VIOLENCE OR INTIMIDATION ACT

Rule 1953. Commencement of Action.

* * * * *

(c) Any fees associated with this action shall not be charged to the plaintiff.

Official Note: This rule may require attorneys or unrepresented parties to file Confidential Documents and documents containing Confidential Information that are subject to the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts*. The policy requires that a person filing Confidential Documents or documents containing Confidential Information attach a Confidential Document Form or a Confidential Information Form to the document before filing or, alternatively, file a redacted version of the document. See Pa.R.C.P. No. 1930.1(b).

Rule 1959. Forms for Use in Protection of Victims of Sexual Violence or Intimidation Actions. Notice and Hearing. Petition. Temporary Protection Order. Final Protection Order.

* * * * *

(b) The petition in an action filed pursuant to the Act shall be identical in content to the following form:

* * * * *

VERIFICATION

I verify that the statements made in this petition are true and correct to the best of my knowledge. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

Signature

Date

Official Note: This rule may require attorneys or unrepresented parties to file Confidential Documents and documents containing Confidential Information that are subject to the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts*. The policy requires that a person filing Confidential Documents or documents containing Confidential Information attach a Confidential Document Form or a Confidential Information Form to the document before filing or, alternatively, file a redacted version of the document. See Pa.R.C.P. No. 1930.1(b).

(c) The Temporary Order of Court, or any continued, amended or modified Temporary Order of Court, entered pursuant to the Act shall be identical in content to the following form:

* * * * *

PUBLICATION REPORT

Recommendation 166

On January 6, 2017, the Supreme Court of Pennsylvania adopted the Public Access Policy: Case Records of the Appellate and Trial Courts (Policy), which will become effective January 6, 2018. Of particular importance are

the requirements of Sections 7.0 and 8.0 governing confidential information and confidential documents. In anticipation of the implementation of the Policy, the Domestic Relations Procedural Rules Committee (Committee) is proposing a new subdivision to Pa.R.C.P. No. 1930.1, which provides that all domestic relations filings must comply with the Policy. Also, the rule notes that all practitioners and unrepresented parties must certify that a filing is compliant with the Policy. In addition to the amendment in Pa.R.C.P. No. 1930.1(b), the Committee is proposing the addition of an official note referencing the amendment to Pa.R.C.P. No. 1930.1(b) in numerous other rules related to the filing of confidential information and documents.

The Policy will have a significant impact on the family law practice as many of the items outlined in Section 7.0 and Section 8.0 of the Policy identify information and documents routinely included in the family law practice. Compounding the impact of the Policy is the significant number of *pro se* litigants in family law cases, who must understand and comply with the Policy.

Notwithstanding that the domestic relations procedural rules are a subset of the Rules of Civil Procedure, the Committee determined a separate standalone rule was necessary for the domestic rules as many *pro se* parties to domestic relations litigation rarely consult the general rules of civil procedure. The Committee concluded that the general rules relating to domestic relations, Chapter 1930, should include the standalone rule; however, as with the general civil rules, the Committee decided that many *pro se* litigants involved in specific litigation (e.g. support only or custody only) might not consult the Chapter 1930 series of rules on a routine basis. As such, in addition to the standalone rule in the Chapter 1930 series, the Committee included a note referencing the standalone rule in those domestic relations rules that may require an attorney or a party to file a confidential document or a document with confidential information.

The Committee invites comments, concerns, and suggestions regarding this rulemaking proposal.

[Pa.B. Doc. No. 17-1332. Filed for public inspection August 11, 2017, 9:00 a.m.]

PART II. ORPHANS' COURT RULES

[231 PA. CODE PART II]

Proposed Adoption of Pa. O.C. Rule 1.99 and Proposed Amendment of Pa. O.C. Rules 2.1, 2.4, 2.7-2.8, 2.10, 3.3—3.6, 3.9—3.11 and 3.14

The Orphans' Court Procedural Rules Committee is planning to propose to the Supreme Court of Pennsylvania the adoption of Pa. O.C. Rule 1.99, governing the certification and filing of confidential information and documents, and amendment of Pa. O.C. Rules 2.1, 2.4, 2.7-2.8, 2.10, 3.3—3.6, 3.9—3.11, and 3.14, to add a cross-reference to the new rule, for the reasons set forth in the accompanying explanatory report. Pursuant to Pa.R.J.A. No. 103(a)(1), the proposal is being published in the *Pennsylvania Bulletin* for comments, suggestions, or objections prior to submission to the Supreme Court.

Any reports, notes, or comments in the proposal have been inserted by the Committee for the convenience of those using the rules. They neither will constitute a part of the rules nor be officially adopted by the Supreme

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

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

Orphans' Court Procedural Rules Committee
 Supreme Court of Pennsylvania
 Pennsylvania Judicial Center
 PO Box 62635
 Harrisburg, PA 17106-2635
 FAX: 717-231-9526
 orphanscourtproceduralrules@pacourts.us

All communications in reference to the proposal should be received by September 12, 2017. E-mail is the preferred method for submitting comments, suggestions, or objections; any e-mailed submission need not be reproduced and resubmitted via mail. The Committee will acknowledge receipt of all submissions.

*By the Orphans' Court
 Procedural Rules Committee*

JOHN F. MECK, Esq.,
Chair

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART II. ORPHANS' COURT RULES

CHAPTER I. PRELIMINARY RULES

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

Rule 1.99. Confidential Information and Confidential Documents. Certification.

Unless public access is otherwise constrained by applicable authority, any attorney, or any party if unrepresented, who files a document pursuant to these rules with the clerk shall comply with the requirements of Sections 7.0 and 8.0 of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* (Policy) including a certification of compliance with the Policy and, as necessary, a Confidential Information Form, unless otherwise specified by rule of court, or a Confidential Document Form, in accordance with the Policy.

Note: Applicable authority includes, but is not limited to, statute, procedural rule, or court order. The *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* (Policy) can be found on the website of the Supreme Court of Pennsylvania at _____. Sections 7.0(D) and 8.0(D) of the Policy provide that the certification shall be in substantially the following form:

I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

The Confidential Information Form and the Confidential Document Form can be found at _____. In lieu of the Confidential Information Form, Section 7.0(C) of the Policy provides for a court to adopt a rule or order pursuant to Pa.R.J.A. No. 103(c) permitting the filing of a document in two versions, a "Redacted Version" and an "Unredacted Version."

CHAPTER II. ACCOUNTS, OBJECTIONS AND DISTRIBUTIONS

Rule 2.1. Form of Account.

* * * * *

Note: Rule 2.1 is substantively similar to former Rule 6.1 and Rule 12.15, except that certain subparagraphs have been reordered and Rule 12.15 and its Official Note have become subparagraph (d).

The filings required by this rule are subject to the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts*. See Rule 1.99.

Explanatory Comment: Piggy-backed Accounts and limited Accounts are permitted pursuant to 20 Pa.C.S. §§ 762, 3501.2, and 7799.1.

Rule 2.4. Petition for Adjudication/Statement of Proposed Distribution; Virtual Representation.

* * * * *

Note: Although substantially modified, Rule 2.4 is derived from former Rule 6.9. One modification is to require averments for virtual representation under 20 Pa.C.S. § 751(6) generally and representation in "trust matters" pursuant to 20 Pa.C.S. § 7721 *et seq.* Another substantial modification is the addition of subparagraph (e) that requires counsel to sign the petition for adjudication/statement of distribution attesting that the submitted petition for adjudication/statement of distribution accurately replicates the Model Form and subjects counsel to rules and sanctions as provided in Pa.R.C.P. Nos. 1023.1 through 1023.4. (See Rule 3.12.)

The filings required by this rule are subject to the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts*. See Rule 1.99.

Explanatory Comment: The Supreme Court has adopted form petitions for adjudication/statements of proposed distribution of a decedent's estate, trust, guardian of an incapacitated person's estate, guardian of a minor's estate, and the estate of a principal stated by an agent under a power of attorney. These form petitions for adjudication/statements of proposed distribution are the exclusive forms for adjudicating an Account, and consequently, the local court and clerk must accept these statewide forms and may not accept or allow any other forms previously permitted under local rules. The exclusive statewide form petitions for adjudication/statements of proposed distribution appear in the Appendix and are available electronically at www.pacourts.us/forms under the For-the-Public category.

Cover sheets or checklists may be required by local rule as permitted by Rule 1.8(c).

Rule 2.7. Objections to Accounts or Petitions for Adjudication/Statements of Proposed Distribution.

* * * * *

Note: Although substantially modified, Rule 2.7 is derived from former Rule 6.10.

The filings required by this rule are subject to the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts*. See Rule 1.99.

Explanatory Comment: If the notice received by the objector has a service list appended to it setting forth the

name and address of each interested party who received the notice under Rule 2.5, the objector must mail his or her objections to every name and address appearing on the service list.

Rule 2.8. Pleadings Allowed After Objections are Filed.

* * * * *

Note: Rule 2.8 has no counterpart in former Orphans' Court Rules.

The filings required by this rule are subject to the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts. See Rule 1.99.

Explanatory Comment: Preliminary objections to objections are limited in the grounds that may be raised. Insufficient specificity, failure to conform to law, and the inclusion of scandalous or impertinent matter, *inter alia*, are not properly raised as preliminary objections to objections. (*Cf.* Rule 3.9 and Pa.R.C.P. No. 1028).

Rule 2.10. Foreign Heirs and Unknown Distributees.

* * * * *

Note: With only minor modifications, Rule 2.10 is substantively similar to former Rules 13.2 and 13.3. Former Rule 13.1 has been deleted.

The filings required by this rule are subject to the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts. See Rule 1.99.

Explanatory Comment: The filing of an Account provides the procedure for raising questions related to the administration or distribution of an estate or trust, including a guardianship or minor's estate as well as a decedent's estate. Application to the Orphans' Court Division may also be commenced by a petition that is verified or attested by an affidavit. *See* 20 Pa.C.S. §§ 761, 762.

CHAPTER III. PETITION PRACTICE AND PLEADING

Part A. Petition Practice

Rule 3.3. Contents of All Pleadings; General and Specific Averments.

* * * * *

Note: Rule 3.3 has no counterpart in former Orphans' Court Rules, but is derived from Pa.R.C.P. No. 206.1(c) and Pa.R.C.P. No. 1019.

The filings required by this rule are subject to the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts. See Rule 1.99.

Rule 3.4. Form of Petition; Exhibits; Consents; Signing and Verification.

* * * * *

Note: Rule 3.4 is based upon former Rule 3.3 and Rule 3.4, but has been modified to require averments for virtual representation under 20 Pa.C.S. § 751(6) generally and representation in "trust matters" pursuant to 20 Pa.C.S. § 7721 *et seq.* Another modification is the addition of subparagraph (d) that requires petitioner's counsel to sign the petition, or all of the petitioners to sign the petition, if unrepresented, thereby subjecting these signatories to rules and sanctions as provided in Pa.R.C.P. Nos. 1023.1 through 1023.4. (*See* Rule 3.12.)

The filings required by this rule are subject to the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts. See Rule 1.99.

Rule 3.5. Mode of Proceeding on Petition.

* * * * *

Note: Subparagraphs (a) and (b) of Rule 3.5 are derived from former Rule 3.5. The final sentence of subparagraph (a)(2) is identical to former Rule 3.7(h)(1); it merely has been relocated to this section. Subparagraphs (c) and (d) of this Rule have no counterpart in former Orphans' Court Rules.

The filings required by this rule are subject to the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts. See Rule 1.99.

Explanatory Comment: Personal jurisdiction is conferred by statute in certain circumstances. *See e.g.,* 20 Pa.C.S. § 7712. A sheriff does not need to serve the citation issued by the clerk; instead, any adult person may serve the citation and file the proof of service in accordance with subparagraph (a)(7) of this Rule 3.5. *See* 20 Pa.C.S. § 765. If a citation is not being issued with the petition, then the petition must be endorsed with a notice to plead. *See* Rule 3.5(b) and Pa.R.C.P. No. 1026. The court, by local rule or by order in a particular matter, may establish a procedure for rules to show cause as provided in Pa.R.C.P. No. 206.4 *et seq.*

Part B. Responsive Pleadings

Rule 3.6. Pleadings Allowed After Petition.

* * * * *

Note: Rule 3.6 has no counterpart in former Orphans' Court Rules, but is based, in part, on Pa.R.C.P. No. 1017.

The filings required by this rule are subject to the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts. See Rule 1.99.

Explanatory Comment: Any interested party may file a new petition bringing a new issue or dispute before the court or seeking alternative relief in the same trust or estate. Motions are permitted in Orphans' Court Division, and this Rule 3.6 does not prohibit or limit motions practice.

Rule 3.9. Preliminary Objections.

* * * * *

Note: Rule 3.9 has no counterpart in former Orphans' Court Rules, but is derived from Pa.R.C.P. No. 1028.

The filings required by this rule are subject to the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts. See Rule 1.99.

Explanatory Comment: Preliminary objections raising an issue under subparagraphs (b)(2), (b)(3), (b)(4), and in some instances (b)(1), may be determined from the facts of record so that further evidence is not required. In such situations, the court may summarily decide preliminary objections prior to the filing of an answer.

* * * * *

Rule 3.10. Denials; Effect of Failure to Deny.

* * * * *

Note: Rule 3.10 has no counterpart in former Orphans' Court Rules, but is derived from Pa.R.C.P. No. 1029.

The filings required by this rule are subject to the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts*. See Rule 1.99.

Explanatory Comment: Reliance on subparagraph (c) does not excuse a failure to admit or deny a factual allegation when it is clear that the respondent must know whether a particular allegation is true or false. Cf. *Cercone v. Cercone*, 386 A.2d 1, 4 (Pa. Super. 1978).

Rule 3.11. Answer with New Matter.

* * * * *

Note: Rule 3.11 has no counterpart in former Orphans' Court Rules, but is derived from Pa.R.C.P. No. 1030.

The filings required by this rule are subject to the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts*. See Rule 1.99.

Part C. Pleadings in General

Rule 3.14. Amendment.

* * * * *

Note: Rule 3.14 has no counterpart in former Orphans' Court Rules, but is derived from Pa.R.C.P. No. 1033.

The filings required by this rule are subject to the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts*. See Rule 1.99.

Explanatory Comment: Rule 3.9(d)(1) provides for amending a pleading after the filing of preliminary objections.

REPORT

Proposed Adoption of Pa. O.C. Rule 1.99, and Proposed Amendment of Pa. O.C. Rules 2.1, 2.4, 2.7-2.8, 2.10, 3.3-3.6, 3.9-3.11, and 3.14

Certification and Filing of Confidential Information and Documents

The Orphans' Court Procedural Rules Committee ("Committee") is planning to propose to the Supreme Court of Pennsylvania the adoption of Pa. O.C. Rule 1.99, governing the certification and filing of confidential information and documents, as well as amendment of Pa. O.C. Rules 2.1, 2.4, 2.7-2.8, 2.10, 3.3-3.6, 3.9-3.11, and 3.14, to add a cross-reference to Rule 1.99.

On January 6, 2017, the Supreme Court of Pennsylvania adopted the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* ("Policy"), which will become effective January 6, 2018. In anticipation of the implementation of the Policy, the Orphans' Court Procedural Rules Committee is proposing new Rule 1.99, which provides that absent any applicable authority that constrains public access, all filings must comply with the Policy. Of particular importance are the requirements of Sections 7.0 and 8.0 governing confidential information and confidential documents. In addition, the rule provides that all practitioners and unrepresented parties must certify that a filing is compliant with the Policy.

The Committee is also proposing amendments of Rules 2.1, 2.4, 2.7-2.8, 2.10, 3.3-3.6, 3.9-3.11, and 3.14 to add a cross-reference to new Rule 1.99. The cross-reference to Rule 1.99 is being added to these rules to advise practitioners and unrepresented parties that filings made pursuant to these rules are subject to the Policy.

Certain Orphans' Court procedural rules are not subject to the Policy. Rules pertaining to filings made to and hearings before the Register of Wills were not affected because the Register of Wills does not meet the Policy definition of a "court" or "custodian." Rules pertaining to guardianships were not amended because Section 9.0(B) of the Policy concerning incapacity proceedings states that such records are not publicly accessible, except for the docket and any final decree adjudicating a person as incapacitated. Rules pertaining to adoption proceedings were not amended because Pa. O.C. Rule 15.7 already provides for the confidential filing of such proceedings. Rules pertaining to proceedings pursuant to Section 3206 of the Abortion Control Act were not amended because Pa. O.C. Rule 16.2(b) already operates to seal records in proceedings under the Abortion Control Act.

[Pa.B. Doc. No. 17-1333. Filed for public inspection August 11, 2017, 9:00 a.m.]

Title 234—RULES OF CRIMINAL PROCEDURE

[234 PA. CODE CHS. 1, 2 AND 5]

Proposed New Pa.R.Crim.P. 113.1, Proposed Amendment of Pa.Rs.Crim.P. 206, 504, 560 and 575 and Proposed Revision of the Comment to Pa.Rs.Crim.P. 513 and 578

The Criminal Procedural Rules Committee is considering proposing to the Supreme Court of Pennsylvania adoption of New Rule 113.1, the amendment of Rules 206, 504, 560 and 575, and the revision of the Comments to Rules 513 and 578 for the reasons set forth in the accompanying explanatory report. Pursuant to Pa.R.J.A. No. 103(a)(1), the proposal is being published in the *Pennsylvania Bulletin* for comments, suggestions, or objections prior to submission to the Supreme Court.

Any reports, notes, or comments in the proposal have been inserted by the Committee for the convenience of those using the rules. They neither will constitute a part of the rules nor will be officially adopted by the Supreme Court.

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

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

Jeffrey M. Wasileski, Counsel
Supreme Court of Pennsylvania
Criminal Procedural Rules Committee
601 Commonwealth Avenue, Suite 6200
Harrisburg, PA 17106-2635
fax: (717) 231-9521
e-mail: criminalrules@pacourts.us

All communications in reference to the proposal should be received by no later than Tuesday, September 12, 2017. E-mail is the preferred method for submitting comments, suggestions, or objections; any e-mailed submission need not be reproduced and resubmitted via mail. The Committee will acknowledge receipt of all submissions.

By the Criminal Procedural Rules Committee

CHARLES A. EHRlich,
Chair

Annex A

TITLE 234. RULES OF CRIMINAL PROCEDURE
CHAPTER 1. SCOPE OF RULES, CONSTRUCTION
AND DEFINITIONS, LOCAL RULES

PART A. Business of the Courts

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

Rule 113.1. Confidential Information and Confidential Documents. Certification.

Unless public access is otherwise constrained by applicable authority, any attorney, or any party if unrepresented, or any affiant who files a document pursuant to these rules with the issuing authority or clerk of courts' office shall comply with the requirements of Sections 7.0 and 8.0 of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* (Policy). In accordance with the Policy, the filing shall include a certification of compliance with the Policy and, as necessary, a Confidential Information Form, unless otherwise specified by rule of court, or a Confidential Document Form."

Comment

"Applicable authority," as used in this rule, includes but is not limited to statute, procedural rule, or court order. The *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* (Policy) can be found on the website of the Supreme Court of Pennsylvania at _____. The Policy is applicable to all filings by the parties or an affiant in any criminal court case.

Sections 7.0(D) and 8.0(D) of the Policy provide that the certification shall be in substantially the following form:

I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

Filings may require further precautions, such as placing certain types of information in a "Confidential Information Form." The Confidential Information Form and the Confidential Document Form can be found at _____. In lieu of the Confidential Information Form, Section 7.0(C) of the Policy provides for a court to adopt a rule or order pursuant to Pa.R.J.A. No. 103(c) permitting the filing of a document in two versions, a "Redacted Version" and an "Unredacted Version."

In addition to the restrictions above, a filing party should be cognizant of the potential impact that inclusion of personal information may have on an individual's privacy rights and security. Therefore, inclusion of such information should be done only when necessary or required to effectuate the purpose of the filing. Consideration of the use of sealing or protective orders also should be given if inclusion of such information is necessary.

While the Public Access Policy is not applicable to orders or other documents filed by a court, judges should give consideration to the privacy interests addressed by the Policy when drafting an order that might include information considered confidential under the Policy.

Official Note: New Rule 113.1 adopted _____, 2017, effective _____, 2017.

Committee Explanatory Reports:

Report explaining the provisions of the new rule published for comment at 47 Pa.B. 4679 (August 12, 2017).

CHAPTER 2. INVESTIGATIONS

PART A. Search Warrant

Rule 206. Contents of Application for Search Warrant.

Each application for a search warrant shall be supported by written affidavit(s) signed and sworn to or affirmed before an issuing authority, which affidavit(s) shall:

* * * * *

(7) if a "nighttime" search is requested (*i.e.*, 10 p.m. to 6 a.m.), state additional reasonable cause for seeking permission to search in nighttime; [and]

(8) when the attorney for the Commonwealth is requesting that the affidavit(s) be sealed pursuant to Rule 211, state the facts and circumstances which are alleged to establish good cause for the sealing of the affidavit(s) [.]; and

(9) a certification that the application complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* regarding confidential information and documents.

Comment

For the contents of the search warrant, see Rule 205.

While this rule continues to require written affidavits, the form of affidavit was deleted in 1984 because it is no longer necessary to control the specific form of written affidavit by rule.

The 2005 amendments to paragraph (6) recognize anticipatory search warrants. To satisfy the requirements of paragraph (6) when the warrant being requested is for a prospective event, the application for the search warrant also must include a statement explaining how the affiant knows that the items to be seized on a later occasion will be at the place specified. *See Commonwealth v. Coleman*, [574 Pa. 261,] 830 A.2d 554 (Pa. 2003), and *Commonwealth v. Glass*, [562 Pa. 187,] 754 A.2d 655 (Pa. 2000).

When the attorney for the Commonwealth is requesting that the search warrant affidavit(s) be sealed, the affidavit(s) in support of the search warrant must set forth the facts and circumstances the attorney for the Commonwealth alleges establish that there is good cause to seal the affidavit(s). *See also* Rule 211(B)(2). Pursuant to Rule 211(B)(1), when the attorney for the Commonwealth requests that the search warrant affidavit be sealed, the application for the search warrant must be made to a judge of the court of common pleas or to an appellate court justice or judge, who would be the issuing authority for purposes of this rule. For the procedures for sealing search warrant affidavit(s), see Rule 211.

See Rule 113.1 regarding the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts and the requirements regarding filings and documents that contain confidential information.

Official Note: Previous Rule 2006 adopted October 17, 1973, effective 60 days hence; rescinded November 9, 1984, effective January 2, 1985. Present Rule 2006 adopted November 9, 1984, effective January 2, 1985;

amended September 3, 1993, effective January 1, 1994; renumbered Rule 206 and amended March 1, 2000, effective April 1, 2001; amended October 19, 2005, effective February 1, 2006; **amended** , **2017, effective** , **2017.**

Committee Explanatory Reports:

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Final Report explaining the October 19, 2005 amendments to paragraph (6) and the Comment published with the Court's Order at 35 Pa.B. 6087 (November 5, 2005).

Report explaining the proposed amendment regarding the Court's public access policy published for comment at 47 Pa.B. 4679 (August 12, 2017).

CHAPTER 5. PRETRIAL PROCEDURES IN COURT CASES

PART B(1). Complaint Procedures

Rule 504. Contents of Complaint.

Every complaint shall contain:

* * * * *

(11) a verification by the affiant that the facts set forth in the complaint are true and correct to the affiant's personal knowledge, or information and belief, and that any false statements therein are made subject to the penalties of the Crimes Code, 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities; [and]

(12) a certification that the complaint complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* regarding confidential information and documents; and

[(12)] (13) the signature of the affiant and the date of the execution of the complaint.

Comment

This rule sets forth the required contents of all complaints whether the affiant is a law enforcement officer, a police officer, or a private citizen. When the affiant is a private citizen, the complaint must be submitted to an attorney for the Commonwealth for approval. See Rule 506. When the district attorney elects to proceed under Rule 507 (Approval of Police Complaints and Arrest Warrant Affidavits by Attorney for the Commonwealth—Local Option), the police officer must likewise submit the complaint for approval by an attorney for the Commonwealth.

Ordinarily, whenever a misdemeanor, felony, or murder is charged, any summary offense in such a case, if known at the time, should be charged in the same complaint, and the case should proceed as a court case under Chapter 5 Part B. See *Commonwealth v. Cauffman*, [541 Pa. 299,] 662 A.2d 1050 (Pa. 1995) and *Commonwealth v. Campana*, [455 Pa. 622,] 304 A.2d 432 (Pa. 1973), vacated and remanded, 414 U.S. 808 (1973), on remand, [454 Pa. 233,] 314 A.2d 854 (Pa. 1974) (compulsory joinder rule). In judicial districts in which there is a traffic court established pursuant to 42 Pa.C.S. §§ 1301—1342, when a summary motor vehicle offense within the jurisdiction of the traffic court arises in the same criminal episode as another summary offense or a misdemeanor, felony, or murder offense, see 42 Pa.C.S. § 1302 and *Commonwealth v. Masterson*, [275 Pa. Super. 166], 418 A.2d 664 (Pa. Super. 1980).

Paragraph (8) requires the affiant who prepares the complaint to indicate on the complaint whether criminal laboratory services are requested in the case. This information is necessary to alert the magisterial district judge, the district attorney, and the court that the defendant in the case may be liable for a criminal laboratory user fee. See 42 Pa.C.S. § 1725.3 that requires a defendant to be sentenced to pay a criminal laboratory user fee in certain specified cases when laboratory services are required to prosecute the case.

The requirement that the affiant who prepares the complaint indicate whether the defendant has been fingerprinted as required by the Criminal History Record Information Act, 18 Pa.C.S. § 9112, is included so that the issuing authority knows whether it is necessary to issue a fingerprint order with the summons as required by Rule 510.

See Rule 113.1 regarding the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts and the requirements regarding filings and documents that contain confidential information.

Official Note: Original Rule 104 adopted June 30, 1964, effective January 1, 1965; suspended January 31, 1970, effective May 1, 1970. New Rule 104 adopted January 31, 1970, effective May 1, 1970; renumbered Rule 132 September 18, 1973, effective January 1, 1974; amended October 22, 1981, effective January 1, 1982; amended November 9, 1984, effective January 2, 1985; amended July 25, 1994, effective January 1, 1995; renumbered Rule 104 and Comment revised August 9, 1994, effective January 1, 1995; renumbered Rule 504 and Comment revised March 1, 2000, effective April 1, 2001; Comment revised March 9, 2006, effective September 1, 2006; amended July 10, 2008, effective February 1, 2009; **amended** , **2017, effective** , **2017.**

Committee Explanatory Reports:

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Final Report explaining the July 10, 2008 amendments adding new paragraph (9) requiring a notation concerning fingerprinting published with the Court's Order at 38 Pa.B. 3975 (July 26, 2008).

Report explaining the proposed amendment regarding the Court's public access policy published for comment at 47 Pa.B. 4679 (August 12, 2017).

PART B(3). Arrest Procedures in Court Cases

(a) Arrest Warrants

Rule 513. Requirements for Issuance; Dissemination of Arrest Warrant Information.

* * * * *

Comment

* * * * *

This rule does not preclude oral testimony before the issuing authority, but it requires that such testimony be reduced to an affidavit prior to issuance of a warrant. All affidavits in support of an application for an arrest warrant must be sworn to before the issuing authority prior to the issuance of the warrant. The language "sworn to before the issuing authority" contemplates, when advanced communication technology is used, that the affiant would not be in the physical presence of the issuing authority. See paragraph (B)(3).

All affidavits and applications filed pursuant to this rule are public records. However, in addition to

restrictions placed by law and rule on the disclosure of confidential information, the filings required by this rule are subject to the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* and may require further precautions, such as placing certain types of information in a “Confidential Information Form” or providing both a redacted and unredacted version of the filing. See Rule 113.1.

This rule carries over to the arrest warrant the requirement that the evidence presented to the issuing authority be reduced to writing and sworn to, and that only the writing is subsequently admissible to establish that there was probable cause. In these respects, the procedure is similar to that applicable to search warrants. See Rule 203.

For a discussion of the requirement of probable cause for the issuance of an arrest warrant, see *Commonwealth v. Flowers*, [24 Pa. Super. 198,] 369 A.2d 362 (Pa. Super. 1976).

The affidavit requirements of this rule are not intended to apply when an arrest warrant is to be issued for noncompliance with a citation, with a summons, or with a court order.

* * * * *

Official Note: Rule 119 adopted April 26, 1979, effective as to arrest warrants issued on or after July 1, 1979; Comment revised August 9, 1994, effective January 1, 1995; renumbered Rule 513 and amended March 1, 2000, effective April 1, 2001; amended May 10, 2002, effective September 1, 2002; amended December 23, 2013, effective March 1, 2014; **Comment revised** , 2017, **effective** , 2017.

Committee Explanatory Reports:

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Final Report explaining the December 23, 2013 amendments providing procedures for delay in dissemination and sealing of arrest warrant information published with the Court’s Order at 44 Pa.B. 243 (January 11, 2014).

Report explaining the proposed Comment revision regarding the Court’s public access policy published for comment at 47 Pa.B. 4679 (August 12, 2017).

PART F. Procedures Following a Case Held for Court

Rule 560. Information: Filing, Contents, Function.

* * * * *

(B) The information shall be signed by the attorney for the Commonwealth and shall be valid and sufficient in law if it contains:

* * * * *

(5) a plain and concise statement of the essential elements of the offense substantially the same as or cognate to the offense alleged in the complaint; [and]

(6) a concluding statement that “all of which is against the Act of Assembly and the peace and dignity of the Commonwealth[.]”; and

(7) a certification that the information complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* regarding confidential information and documents.

(C) The information shall contain the official or customary citation of the statute and section thereof, or other provision of law that the defendant is alleged therein to have violated; but the omission of or error in such citation shall not affect the validity or sufficiency of the information.

(D) In all court cases tried on an information, the issues at trial shall be defined by such information.

Comment

* * * * *

In any case in which there are summary offenses joined with the misdemeanor, felony, or murder charges that are held for court, the attorney for the Commonwealth must include the summary offenses in the information. See *Commonwealth v. Hoffman*, 406 Pa. Super. 583, 594 A.2d 772 (1991).

See Rule 113.1 regarding the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts and the requirements regarding filings and documents that contain confidential information.

When there is an omission or error of the type referred to in paragraph (C), the information should be amended pursuant to Rule 564.

See Rule 543(D) for the procedures when a defendant fails to appear for the preliminary hearing. When the preliminary hearing is held in the defendant’s absence and the case is held for court, the attorney for the Commonwealth should proceed as provided in this rule.

See Chapter 5 Part E for the procedures governing indicting grand juries. As explained in the Comment to Rule 556.11, when the grand jury indicts the defendant, this is the functional equivalent to holding the defendant for court following a preliminary hearing.

Official Note: Rule 225 adopted February 15, 1974, effective immediately; Comment revised January 28, 1983, effective July 1, 1983; amended August 14, 1995, effective January 1, 1996; renumbered Rule 560 and amended March 1, 2000, effective April 1, 2001; Comment revised April 23, 2004, effective immediately; Comment revised August 24, 2004, effective August 1, 2005; Comment revised March 9, 2006, effective September 1, 2006; amended June 21, 2012, effective in 180 days; **amended** , 2017, **effective** , 2017.

Committee Explanatory Reports:

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Final Report explaining the June 21, 2012 amendments to paragraph (A) concerning indicting grand juries published with the Court’s Order at 42 Pa.B. 4153 (July 7, 2012).

Report explaining the proposed amendment regarding the Court’s public access policy published for comment at 47 Pa.B. 4679 (August 12, 2017).

PART G(1). Motion Procedures

Rule 575. Motions and Answers.

(A) MOTIONS

(1) All motions shall be in writing, except as permitted by the court or when made in open court during a trial or hearing.

(2) A written motion shall comply with the following requirements:

(a) The motion shall be signed by the person or attorney making the motion. The signature of an attorney shall constitute a certification that the attorney has read the motion, that to the best of the attorney's knowledge, information, and belief there is good ground to support the motion, and that it is not interposed for delay. **The motion also shall contain a certification that the motion complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts regarding confidential information and documents.**

* * * * *

(B) ANSWERS

(1) Except as provided in Rule 906 (Answer to Petition for Post-Conviction Collateral Relief), an answer to a motion is not required unless the judge orders an answer in a specific case as provided in Rule 577. Failure to answer shall not constitute an admission of the facts alleged in the motion.

(2) A party may file a written answer, or, if a hearing or argument is scheduled, may respond orally at that time, even though an answer is not required.

(3) A written answer shall comply with the following requirements:

(a) The answer shall be signed by the person or attorney making the answer. The signature of an attorney shall constitute a certification that the attorney has read the answer, that to the best of the attorney's knowledge, information, and belief there is good ground to support the answer, and that it is not interposed for delay. **The answer also shall contain a certification that the answer complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts regarding confidential information and documents.**

* * * * *

Comment

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Paragraph (B)(1) changes prior practice by providing that the failure to answer a motion in a criminal case never constitutes an admission. Although this prohibition applies in all cases, even those in which an answer has been ordered in a specific case or is required by the rules, the judge would have discretion to impose other appropriate sanctions if a party fails to file an answer ordered by the judge or required by the rules.

See Rule 113.1 regarding the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts and the requirements regarding filings and documents that contain confidential information.

Paragraph (C), added in 2006, sets forth the format requirements for all motions, answers, and briefs filed in criminal cases. These new format requirements are substantially the same as the format requirements in Pennsylvania Rule of Appellate Procedure 124(a) and Pennsylvania Rule of Civil Procedure 204.1.

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Official Note: Former Rule 9020 adopted October 21, 1983, effective January 1, 1984; renumbered Rule 574 and amended March 1, 2000, effective April 1, 2001; rescinded March 3, 2004, effective July 1, 2004. Former

Rule 9021 adopted October 21, 1983, effective January 1, 1984; renumbered Rule 575 and amended March 1, 2000, effective April 1, 2001; Rules 574 and 575 combined as Rule 575 and amended March 3, 2004, effective July 1, 2004; amended July 7, 2006, effective February 1, 2007; **amended** , **2017, effective** , **2017.**

Committee Explanatory Reports:

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Final Report explaining the July 7, 2006 addition of the format requirements in paragraph (C) published with the Court's Order at 36 Pa.B. 3809 (July 22, 2006).

Report explaining the proposed amendment regarding the Court's public access policy published for comment at 47 Pa.B. 4679 (August 12, 2017).

Rule 578. Omnibus Pretrial Motion for Relief.

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Comment

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The omnibus pretrial motion rule is not intended to limit other types of motions, oral or written, made pretrial or during trial, including those traditionally called motions *in limine*, which may affect the admissibility of evidence or the resolution of other matters. The earliest feasible submissions and rulings on such motions are encouraged.

All motions filed pursuant to this rule are public records. However, in addition to restrictions placed by law and rule on the disclosure of confidential information, the motions are subject to the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts and may require further precautions, such as placing certain types of information in a "Confidential Information Form" or providing both a redacted and unredacted version of the filing. See Rule 113.1.

See Rule 113.1 regarding the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts and the requirements regarding filings and documents that contain confidential information.

See Rule 556.4 for challenges to the array of an indicting grand jury and for motions to dismiss an information filed after a grand jury indicts a defendant.

Official Note: Formerly Rule 304, adopted June 30, 1964, effective January 1, 1965; amended and renumbered Rule 306 June 29, 1977 and November 22, 1977, effective as to cases in which the indictment or information is filed on or after January 1, 1978; amended October 21, 1983, effective January 1, 1984; Comment revised October 25, 1990, effective January 1, 1991; Comment revised August 12, 1993, effective September 1, 1993; renumbered Rule 578 and Comment revised March 1, 2000, effective April 1, 2001; Comment revised June 21, 2012, effective in 180 days; Comment revised July 31, 2012, effective November 1, 2012; **Comment revised** , **2017, effective** , **2017.**

Committee Explanatory Reports:

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Final Report explaining the July 31, 2012 Comment revision adding motions for transfer published with the Court's Order at 42 Pa.B. 5340 (August 18, 2012).

Report explaining the proposed Comment revision regarding the Court's public access policy published for comment at 47 Pa.B. 4679 (August 12, 2017).

REPORT

Proposed New Rule 113.1; Proposed Amendments to Pa.Rs.Crim.P.206, 504, 560 and 575; Proposed Revision of the Comment to Pa.Rs.Crim.P. 513 and 578

Public Access Policy

The Supreme Court of Pennsylvania recently adopted the new *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* (hereafter "the new Policy"). The Court previously had adopted other policies governing public access to case records. These are: (1) the *Electronic Case Record Public Access Policy of the Unified Judicial System of Pennsylvania* (hereafter "the Electronic Records Policy") that provides for access to the statewide case management systems' web docket sheets and requests for bulk data; and (2) the *Public Access Policy of the Unified Judicial System of Pennsylvania: Official Case Records of the Magisterial District Courts* (hereafter "the MDJ Records Policy") that provides for access to case records of the magisterial district courts maintained in a paper format. The new Policy, in essence, governs the paper case records of the common pleas and appellate courts and provides the final portion of the Court's policy on public access to case records.

In January 2017, the Court sent a directive to all of the Procedural Rules Committees to consider correlative rule changes to implement the new Policy. In particular, the Court requested that the Committees examine rules that may require filings contain confidential information in light of the new Policy's restrictions on access to this information. The rule changes proposed here is the product of the Criminal Procedural Rules Committee's examination resulting from the Court's directive. These proposed rules are being published in conjunction with proposals from the other Rules Committees

The new Policy provides that case records generally are publicly accessible but contains provisions that restrict certain types of information from being included in filings. This restricted information includes personal and financial information such as Social Security numbers, financial account numbers, driver license numbers, SID numbers, minors' personal information, victims' address and contact information, etc. This restricted information is prohibited by the new Policy from being included in filings unless it is contained in a "Confidential Information Form" or provided in both a redacted and unredacted version of the filing. Under the new Policy, the burden of ensuring that the confidential information or documents are filed in the proper manner rests with the filer and the court or record custodian will not review or redact the filings. The new Policy recognizes that public access may also be restricted by a sealing or protective order or "by federal law, state law, or state court rule. . . ."

Given the importance of the new Policy and the need for those working in the criminal justice system to comply with its provisions, the Committee concluded that it would be beneficial to have a specific rule referencing the policy. This rule would be numbered "Rule 113.1," so that it would fall after Rule 113 (Criminal Case File and Docket Entries) since both rules deal with provisions applicable to all case records. The proposed new rule

would alert filing parties to the requirements of the new Policy, in particular the provisions regarding the inclusion of confidential information.

New Rule 113.1 would apply to filings in court cases with issuing authorities as well as the clerk of courts. The Committee understands that the new Policy is intended to apply only to records in the courts of common pleas and appellate courts since the MDJ Records Policy already applies to case records in magisterial district courts. There are some differences between these policies. In particular, the new Policy is more detailed and explicit in the types of information that are prohibited from being included in case filings. It's the Committee's understanding that the MDJ Records Policy will be updated at some point in the future to comport with the provision in the new Policy. However, the Committee is concerned that most initial filings in criminal cases, such as criminal complaints and affidavits of probable cause, are filed in the magisterial district courts by non-lawyer police officers. The Committee believes that the provisions of the new Policy, where they differ from the existing provisions of the MDJ Records Policy, should be made applicable to filings in the magisterial district courts. The Committee is soliciting input on this point.

Due to the fact that the new Policy reflects a strong commitment to public access to most filings, the Committee also believes that filers should be more attuned to this accessibility and should limit the inclusion of personal information where possible. Therefore, the Comment to proposed Rule 113.1 would contain an admonition that personal information should be included in a filing only where necessary and consideration given to the use of confidential information forms or sealing orders.

The Committee also noted that the restrictions on inclusion of confidential information contained in the Policy did not apply to filing by the courts but only to those made by the parties. The Committee believes that courts should comply voluntarily with similar restrictions on the inclusion of confidential information in court documents and so have included aspirational language in the Comment to proposed Rule 113.1 that a court should be careful about including such information in its filings.

Another area of concern to the Committee was the requirement that a certification of compliance with the Policy be included in most filings. The Committee believes that filers should be alerted to this requirement and its import. The Committee therefore is proposing to add to the rules that contain "contents" provisions for documents filed by the parties a cross-reference to the new Policy and the certification requirement in particular. These cross-references would be placed in the following rules:

- 206. Contents of Application for Search Warrant.
- 504. Contents of Complaint.
- 560. Information: Filing, Contents, Function.
- 575. Motions and Answers.

These rules contain the most clearly defined contents provisions as well as are some of the most significant filing rules.

Arrest warrant information is a bit more problematic. Unlike search warrants which have Rule 206 describing the necessary contents, Rule 513 (Requirements for Issuance; Dissemination of Arrest Warrant Information), the main rule for the issuance of arrest warrants, does not provide detailed contents for an arrest warrant application. The Committee concluded that an alert to the requirements of the new Policy should be added to this rule and is therefore proposing a detailed cross-reference

in the Comment. A similar cross-reference also would be added to Rule 578 (Omnibus Pretrial Motion for Relief). While not a content rule, it does represent a significant number of the filing in criminal cases. The Committee concluded that a more detailed cross-reference to the policy be included here.

[Pa.B. Doc. No. 17-1334. Filed for public inspection August 11, 2017, 9:00 a.m.]

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[234 PA. CODE CH. 2]

Order Amending Rule 205 and Revising the Comment to Rule 209 of the Rules of Criminal Procedure; No. 492 Criminal Procedural Rules Doc.

Order

Per Curiam

And Now, this 31st day of July, 2017, upon the recommendation of the Criminal Procedural Rules Committee; the proposal having been published before adoption at 46 Pa.B. 4951 (August 13, 2016), and a Final Report to be published with this *Order*:

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that the amendment to Pennsylvania Rule of Criminal Procedure 205 and the revision to the Comment to Pennsylvania Rule of Criminal Procedure 209 are adopted, in the following form.

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

Annex A

TITLE 234. RULES OF CRIMINAL PROCEDURE

CHAPTER 2. INVESTIGATIONS

PART A. Search Warrant

Rule 205. Contents of Search Warrant.

(A) Each search warrant shall be signed by the issuing authority and shall:

* * * * *

(8) when applicable, certify on the face of the warrant that for good cause shown the affidavit(s) is sealed pursuant to Rule 211 and state the length of time the affidavit(s) will be sealed.

(B) A warrant under paragraph (A) may authorize the seizure of electronic storage media or of electronically stored information. Unless otherwise specified, the warrant authorizes a later review of the media or information consistent with the warrant. The time for executing the warrant in (A)(4)(a) refers to the seizure of the media or information, and not to any later off-site copying or review.

Comment

Paragraphs [(2) and (3)] (A)(2) and (A)(3) are intended to proscribe general or exploratory searches by requiring that searches be directed only towards the specific items, persons, or places set forth in the warrant. Such warrants should, however, be read in a common sense fashion and should not be invalidated by hypertechnical interpretations. This may mean, for in-

stance, that when an exact description of a particular item is not possible, a generic description may suffice. *See Commonwealth v. Matthews*, [446 Pa. 65, 69—74,] 285 A.2d 510, 513-14 (Pa. 1971).

Paragraph [(4)] (A)(4) is included pursuant to the Court's supervisory powers over judicial procedure to supplement *Commonwealth v. McCants*, [450 Pa. 245,] 299 A.2d 283 (Pa. 1973), holding that an unreasonable delay between the issuance and service of a search warrant jeopardizes its validity. Paragraph [(4)] (A)(4) sets an outer limit on reasonableness. A warrant could, in a particular case, grow stale in less than two days. If the issuing authority believes that only a particular period which is less than two days is reasonable, he or she must specify such period in the warrant.

Paragraph [(4)(b)] (A)(4)(b) provides for anticipatory search warrants. These types of warrants are defined in *Commonwealth v. Glass*, [562 Pa. 187,] 754 A.2d 655 (Pa. 2000), as "a warrant based upon an affidavit showing probable cause that at some future time (but not presently) certain evidence of crime will be located at a specified place."

Paragraph [(5)] (A)(5) supplements the requirement of Rule [203(C)] 203(E) that special reasonable cause must be shown to justify a nighttime search. A warrant allowing a nighttime search may also be served in the daytime.

Paragraph [(6)] (A)(6) anticipates that the warrant will list the correct judicial officer to whom the warrant should be returned. There may be some instances in which the judicial officer who issues the warrant may not be the one to whom the warrant will be returned. For example, it is a common practice in many judicial districts to have an "on-call" magisterial district judge. This "on-call" judge would have the authority to issue search warrants anywhere in the judicial district but may not be assigned to the area in which the search warrant would be executed. There may be cases when the warrant is incorrectly returned to the judge who originally issued the warrant. In such cases, the issuing judge should forward the returned search warrant to the correct judicial officer. Thereafter, that judicial officer should administer the search warrant and supporting documents as provided for in these rules, including the Rule 210 requirement to file the search warrant and supporting documents with the clerk of courts.

Paragraph [(8)] (A)(8) implements the notice requirement in Rule 211(C). When the affidavit(s) is sealed pursuant to Rule 211, the justice or judge issuing the warrant must certify on the face of the warrant that there is good cause shown for sealing the affidavit(s) and must also state how long the affidavit will be sealed.

For purposes of this rule, the term "electronically stored information" includes writings, drawings, graphs, charts, photographs, sound recordings, images, and other data or data compilations stored in any medium from which information can be obtained. This definition is intended to cover all current types of computer-based information and to encompass future changes and developments.

For purposes of this rule, the term "seizure" includes the copying of material or information that is subject to the search warrant. This includes the copying of electronically stored information for later analysis.

For the procedures for motions for return of property, see Rule 588.

Official Note: Rule 2005 adopted October 17, 1973, effective 60 days hence; amended November 9, 1984, effective January 2, 1985; amended September 3, 1993, effective January 1, 1994; renumbered Rule 205 and amended March 1, 2000, effective April 1, 2001; amended October 19, 2005, effective February 1, 2006; Comment revised October 22, 2013, effective January 1, 2014; **amended July 31, 2017, effective October 1, 2017.**

Committee Explanatory Reports:

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Final Report explaining the October 22, 2013 revisions to the Comment regarding the return of the search warrant published at 43 Pa.B. 6652 (November 9, 2013).

Final Report explaining the July 31, 2017 amendment regarding search warrants for electronically stored information published with the Court's Order at 47 Pa.B. 4681 (August 12, 2017).

Rule 209. Return with Inventory.

* * * * *

Comment

The inventory is required to ensure that all items seized are accounted for in the return to the issuing authority. It thus differs from the receipt required by Rule 208, which is for the personal records of those from whose possession or from whose premises property was taken. In some cases, however, the list in the receipt may be sufficiently detailed so as to also be sufficient for use in the inventory. The inventory need not be sworn to before the issuing authority; however, the officer is subject to statutory penalties for unsworn falsification.

The rule was amended in 2013 specifically to require that the executed warrant be returned to the issuing authority. This amendment reflects a procedure with a long-standing practice but one that had not been codified in the rules.

See Rule [205(6)] 205(A)(6) regarding the circumstances under which the issuing authority to whom the warrant is returned may differ from the one that issued the warrant.

As provided in Rule [205(4)] 205(A)(4), search warrants generally authorize execution within a period not to exceed two days. Paragraph (B) requires that an unexecuted warrant be returned to the issuing authority upon expiration of this period.

Unexecuted search warrants are not public records, see Rule 212(B), and therefore are not to be included in the criminal case file nor are they to be docketed.

For the obligation of the Commonwealth to disclose exculpatory evidence, see Rule 573 and its Comment.

Official Note: Rule 2009 adopted October 17, 1973, effective 60 days hence; amended April 26, 1979, effective July 1, 1979; amended September 3, 1993, effective January 1, 1994; renumbered Rule 209 and amended March 1, 2000, effective April 1, 2001; amended October 22, 2013, effective January 1, 2014; **Comment revised July 31, 2017, effective October 1, 2017.**

Committee Explanatory Reports:

* * * * *

Final Report explaining the October 22, 2013 amendments related to the return of the search warrant published with the Court's Order at 43 Pa.B. 6652 (November 9, 2013).

Final Report explaining the July 31, 2017 Comment revisions correcting a cross-reference to Rule 205 published with the Court's Order at 47 Pa.B. 4681 (August 12, 2017).

FINAL REPORT¹

Amendments to Pa.R.Crim.P. 205; Revisions to the Comment to Pa.R.Crim.P. 209

Search Warrants for Electronic Materials

On July 31, 2017, effective October 1, 2017, upon the recommendation of the Criminal Procedural Rules Committee, the Court amended Rule 205 (Contents of Search Warrant) to clarify that electronic storage data may be seized or copied for later analysis. The Court also revised the Comment to Rule 209 to correct a cross-reference to Rule 205.

The intention of the amendment is to eliminate any confusion that, when a search warrant is for the seizure of electronically stored information and that information must be extracted, reviewed or analyzed, these additional processes do not need to be performed within the period set for execution of the search warrant. This change is based on language that is contained currently in Federal Rule of Criminal Procedure 41(B). The Committee examined the history of Federal Rule 41 and the specific provision related to electronically stored data which reads:

(B) *Warrant Seeking Electronically Stored Information.* A warrant under Rule 41(e)(2)(A) may authorize the seizure of electronic storage media or the seizure or copying of electronically stored information. Unless otherwise specified, the warrant authorizes a later review of the media or information consistent with the warrant. The time for executing the warrant in Rule 41(e)(2)(A) and (f)(1)(A) refers to the seizure or on-site copying of the media or information, and not to any later off-site copying or review.

Federal Rule 41 (“the federal rule”) was amended in 2009 to add this provision regarding warrants for electronically stored information. Searches of electronic storage media are problematic because computers and external electronic storage devices contain an almost incomprehensible amount and variety of data. The use of computers in all stages of life and business has become ubiquitous. This is only further complicated by the storage of electronic data on networks and, with increasing frequency, “cloud” servers. Additionally, the information is stored as lines of code, often of little practical use without some type of program to convert into a usable form. As a result, it is often impossible to conduct a search on-site for evidence within the computer or server and necessitating analysis by specialists. The federal rule was amended to recognize the need for a two-step process: officers either may seize or may copy the entire storage medium and conduct a review of the storage medium later to determine what electronically stored information falls within the scope of the warrant.

The Committee recognized that Pennsylvania search warrant procedures differ from federal procedures. However, the Committee concluded that the same concerns

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

that prompted the change to the federal rule are applicable to search warrant practice in Pennsylvania and that a similar solution would be beneficial in Pennsylvania. For that reason, the language being added to Rule 205 is similar to that in the federal rule.

The term “electronically stored information” is derived from Rule 34(a) of the Federal Rules of Civil Procedure, which states that it includes “writings, drawings, graphs, charts, photographs, sound recordings, images, and other data or data compilations stored in any medium from which information can be obtained.” The Committee concluded that this description is an apt one and is intended to cover all current types of computer-based information and to encompass future changes and developments.

The federal rule contains references to the “copying of electronically stored information” in addition to its “seizure.” The Committee believes that the term “seizure” used in a search warrant context encompasses the copying of the information and that to retain this terminology would unduly emphasize this single aspect. Therefore, the term “copying” is not used but a statement has been added to the Comment to ensure that it is understood that this is included in the “seizure” of the information.

As in the federal rule, the Committee rejected adding a specific time period within which any subsequent off-site copying or review of the media or electronically stored information would take place. Given the vast divergence in the media being searched, there will be wide differences in the amount of time required for forensic analysis and review of information. The Committee concluded that if a time limit were set for these processes it would be highly arbitrary and result in frequent petitions for additional time.

One of the concerns raised during the development of the federal rule change was the ability of an aggrieved party to pursue the return of property associated with electronic media. In the note to the 2009 change to the federal rule, it was observed that Federal Rule 41(g), which provides for a motion for return of property, applies to electronic storage media. Pennsylvania Rule 588 provides a similar motion for return. However, the only cross-reference in Chapter 2 that refers to Rule 588 is in the Comment to Rule 211 (Sealing of Search Warrant Affidavits). Therefore, a cross-reference to Rule 588 has been added to the Rule 205 Comment to emphasize the availability of this remedy.

Finally, two technical corrections have been made to cross-references to Rule 205 that are contained in the Comment to Rule 209.

[Pa.B. Doc. No. 17-1335. Filed for public inspection August 11, 2017, 9:00 a.m.]

Title 246—MINOR COURT CIVIL RULES

PART I. GENERAL

[246 PA. CODE CH. 200]

Proposed Amendment of Pa.R.C.P.M.D.J. No. 206

The Minor Court Rules Committee is planning to propose to the Supreme Court of Pennsylvania the amendment of Pa.R.C.P.M.D.J. No. 206, governing the

petition to proceed *in forma pauperis*, for the reasons set forth in the accompanying explanatory report. Pursuant to Pa.R.J.A. No. 103(a)(1), the proposal is being published in the *Pennsylvania Bulletin* for comments, suggestions, or objections prior to submission to the Supreme Court.

Any reports, notes, or comments in the proposal have been inserted by the Committee for the convenience of those using the rules. They neither will constitute a part of the rules nor be officially adopted by the Supreme Court.

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

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

Pamela S. Walker, Counsel
Minor Court Rules Committee
Supreme Court of Pennsylvania
Pennsylvania Judicial Center
PO Box 62635
Harrisburg, PA 17106-2635
FAX: 717-231-9526
minorrules@pacourts.us

All communications in reference to the proposal should be received by September 12, 2017. E-mail is the preferred method for submitting comments, suggestions, or objections; any e-mailed submission need not be reproduced and resubmitted via mail. The Committee will acknowledge receipt of all submissions.

By the Minor Court Rules Committee

ANTHONY W. SAVEIKIS,
Chair

Annex A

TITLE 246. MINOR COURT CIVIL RULES

PART I. GENERAL

CHAPTER 200. RULES OF CONSTRUCTION; GENERAL PROVISIONS

Rule 206. Costs; Proceedings *In Forma Pauperis*.

A. Except as otherwise provided by law, the costs for filing and service of the complaint shall be paid at the time of filing.

B. Except as otherwise provided by [subdivision] paragraph C of this rule, the prevailing party in magisterial district [judge] court proceedings shall be entitled to recover taxable costs from the unsuccessful party. Such costs shall consist of all filing, personal service, witness, and execution costs authorized by Act of Assembly or general rule and paid by the prevailing party.

C. Taxable costs on appeal or *certiorari* shall be paid by the unsuccessful party, and a plaintiff who appeals shall be considered an unsuccessful party if he or she does not obtain on appeal a judgment more favorable than that obtained in the magisterial district [judge] court proceeding. A defendant who prevails on *certiorari* proceedings brought by the defendant or who obtains a favorable judgment upon appeal by either party shall not be liable for costs incurred by the plaintiff in the preceding magisterial district [judge] court proceeding and may recover taxable costs in that proceeding from the plaintiff. A plaintiff who is unsuccessful in the magisterial district [judge] court proceeding may recover taxable costs in that proceeding from the defendant if the plaintiff is successful on appeal, and in that event the defendant

may not recover costs in the magisterial district [**judge**] court proceeding from the plaintiff.

D. This rule shall apply to all civil actions and proceedings except actions pursuant to the Protection [**from**] From Abuse Act or 42 Pa.C.S. §§ 62A01—62A20.

Official Note: “Execution” costs include those for executing an order for possession. The items constituting taxable costs in appeal or *certiorari* proceedings will be governed by law or general rule applicable in the court of common pleas.

Under [**subdivision**] paragraph B, “personal service . . . costs” refers only to personal service since mail costs are to be borne by the plaintiff in all cases in accordance with Section 1725.1 of the Judicial Code, 42 Pa.C.S. § 1725.1.

This rule does not provide for the assessment of filing costs against an unsuccessful plaintiff who has been permitted to proceed *in forma pauperis* and who remains indigent. See *Brady v. Ford*, [**451 Pa. Super. 363**,] 679 A.2d 837 (Pa. Super. 1996).

For special provisions governing actions pursuant to the Protection From Abuse Act, see Sections 6106(b) and (c) of the Domestic Relations Code, 23 Pa.C.S. §§ 6106(b) and (c). For special provisions governing actions seeking relief for victims of sexual violence or intimidation, see 42 Pa.C.S. §§ 62A01—62A20.

E. Proceedings [in Forma Pauperis] in forma pauperis

[**(i)**] (1) A party who is without financial resources to pay the costs of litigation shall be entitled to proceed *in forma pauperis*.

[**(ii)**] (2) Except as provided by subparagraph [**(iii)**] (3), the party shall file a petition and affidavit in the form prescribed by subparagraph [**(vi)**] (6). The petition may not be filed prior to the commencement of the action, which action shall be accepted in the first instance, without the payment of filing costs.

Except as prescribed by subparagraph [**(iii)**] (3), the [**Magisterial District Judge**] magisterial district judge shall act promptly upon the petition and shall enter a determination within five days from the date of the filing of the petition. If the petition is denied, in whole or in part, the [**Magisterial District Judge**] magisterial district judge shall briefly state the reasons therefor. The unsuccessful petitioner may proceed no further so long as such costs remain unpaid.

[**(iii)**] (3) If the party is represented by an attorney, the [**Magisterial District Judge**] magisterial district judge shall allow the party to proceed *in forma pauperis* upon the filing of a *praecipe* [**which**] that contains a certification by the attorney that the attorney is providing free legal service to the party and believes the party is unable to pay the costs.

[**(iv)**] (4) A party permitted to proceed *in forma pauperis* shall not be required to pay any costs imposed or authorized by Act of Assembly or general rule which are payable to any court or any public officer or employee.

The magisterial district judge shall inform a party permitted to proceed *in forma pauperis* of the option to serve the complaint by mail in the manner permitted by these rules.

A party permitted to proceed *in forma pauperis* has a continuing obligation to inform the court of improvement in the party’s financial circumstances which will enable the party to pay costs.

[**(v)**] (5) If there is a monetary recovery by judgment or settlement in favor of the party permitted to proceed *in forma pauperis*, the exonerated costs shall be taxed as costs and paid to the [**Magisterial District Judge**] magisterial district judge by the party paying the monetary recovery. In no event shall the exonerated costs be paid to the indigent party.

[**(vi)**] (6) The petition for leave to proceed *in forma pauperis* and affidavit shall be substantially in the following form:

(Caption)
Petition

I hereby request that I be permitted to proceed *in forma pauperis* (without payment of the filing and service costs). In support of this I state the following:

1. I am the plaintiff in the above matter and because of my financial condition am unable to pay the costs for filing and service of this action.
2. I am unable to obtain funds from anyone, including my family and associates, to pay the costs of litigation.
3. I represent that the information below relating to my ability to pay the costs is true and correct:

(a) Name: _____
Address: _____

(b) Employment
[**My present employer is:** _____]
If you are presently employed, state
Employer: _____
Address: _____
Salary or wages per month: _____
Type of work: _____
[**or I am presently unemployed.**]
If you are presently unemployed, state
The date of my last employment was: _____
Salary or wages per month: _____
Type of work: _____

(c) Other income that I have received within the past twelve months
 Business or profession: _____
 Other self-employment: _____
 Interest: _____
 Dividends: _____
 Pension and annuities: _____
 Social security benefits: _____
 Support payments: _____
 Disability payments: _____
 Unemployment compensation and supplemental benefits: _____
[Workman's] Workers' compensation: _____
 Public assistance: _____
 Other: _____

(d) Other contributions to household support
[(Wife) (Husband)] Spouse Name: _____
 My **[(Wife) (Husband)] Spouse** is employed: _____
 Employer: _____
 Salary or wages per month: _____
 Type of work: _____
 Contributions from children: _____
 Contributions from parents: _____
 Other contributions: _____

(e) Property owned
 Cash: _____
 Checking account: _____
[Saving] Savings account: _____
 Certificates of deposit: _____
 Real estate (including home): _____
 Motor vehicle: Make _____, Year _____
 Cost _____, Amount owed \$ _____
 Stocks; bonds: _____
 Other: _____

(f) Debts and obligations
 Mortgage: _____
 Rent: _____
 Loans: _____
 Other: _____

(g) Persons dependent upon me for support
[(Wife) (Husband)] Spouse Name: _____
Ages of Minor Children, if any: _____
[Name: _____ Age
Name: _____ Age
Name: _____ Age]
 Other persons:
 Name: _____
 Relationship: _____

4. I understand that I have a continuing obligation to inform the Court of improvement in my financial circumstances which would permit me to pay the costs incurred herein.

5. I verify that the statements made in this petition are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. [**Sec.**] § 4904, relating to unsworn falsification to authorities.

Date: _____

Petitioner _____

Action by the Magisterial District Judge: _____

Date: _____ Magisterial District Judge: _____

Official Note: This Rule substantially follows Pa.R.C.P. No. 240. Under subparagraph [**E(iv)**] **E(4)**, "any costs" includes all filing, service, witness, and execution costs.

REPORT

Proposed Amendment of Pa.R.C.P.M.D.J. No. 206**Petition to Proceed *In Forma Pauperis***I. *Introduction*

The Minor Court Rules Committee (“Committee”) is planning to propose the amendment of Pa.R.C.P.M.D.J. No. 206 to the Supreme Court of Pennsylvania. The rule addresses, among other things, the petition to proceed *in forma pauperis*. The Committee is proposing to eliminate the requirement that the petitioner provide the names of children for whom he or she provides support, and instead provide just the ages of such children.

II. *Discussion*

On January 6, 2017, the Supreme Court of Pennsylvania adopted the *Public Access Policy: Case Records of the Appellate and Trial Courts* (“Policy”), which will become effective January 6, 2018. Although the Policy does not apply to the records filed with and maintained by the magisterial district courts, the Committee recognized the important policy considerations set forth therein, particularly as the Policy relates to the confidentiality of minors’ names and dates of birth. *See* Policy, Section 7.0A(5).

The Committee noted that Pa.R.C.P.M.D.J. No. 206E, which prescribes the content of the *in forma pauperis* petition, requires the disclosure of the names and ages of children dependent upon the petitioner for support. The Committee discussed this requirement in light of the new Policy, and was unable to find a compelling reason for requiring the disclosure of children’s names on the petition. The Committee agreed to recommend the elimination of that requirement, and, instead, only require the listing of dependent children’s ages in the petition.

III. *Proposed Changes*

The Committee plans to propose the amendment of Rule 206 by deleting the requirement that the petitioner disclose the names of dependent children on the *in forma pauperis* petition. The Committee will also propose minor stylistic changes throughout Rule 206.

[Pa.B. Doc. No. 17-1336. Filed for public inspection August 11, 2017, 9:00 a.m.]

Title 252—ALLEGHENY COUNTY RULES

ALLEGHENY COUNTY

Criminal Division; Rule of the Court of Common Pleas; No. AD 000-217 of 2017—CR Rules Doc.

Order of Court

And Now, to-wit, this 29th day of June, 2017, *It Is Hereby Ordered, Adjudged and Decreed* that the following Rule of the Court of Common Pleas of Allegheny County, Pennsylvania, Criminal Division, adopted by the Board of Judges, shall be effective thirty (30) days after publication in the *Pennsylvania Bulletin*:

RULE OF CRIMINAL PROCEDURE 507.5—Approval of Police Complaints and Arrest Warrant Affidavits by Attorney for the Commonwealth in Wiretapping Cases

RULE OF CRIMINAL PROCEDURE 507.6—Approval of Pittsburgh Bureau of Police Complaints and Arrest Warrant Affidavits by Attorney for the Commonwealth for Designated Felony Crimes

By the Court

JEFFREY A. MANNING,
President Judge

LOCAL RULES OF CRIMINAL PROCEDURE

Rule 507.5. Approval of Police Complaints and Arrest Warrant Affidavits by Attorney for the Commonwealth in Wiretapping Cases.

The District Attorney of Allegheny County, Stephen A. Zappala, Jr., having filed a certification pursuant to Pa.R.Crim.P. 507, criminal complaints and arrest warrant affidavits by police officers, as defined in the Rules of Criminal Procedure, charging Interception, Disclosure or Use Of Wire, Electronic or Oral Communications (18 Pa.C.S. § 5703), or Possession, Sale, Distribution, Manufacture or Advertisement of Electronic, Mechanical or Other Devices and Telecommunication Identification Interception Devices (18 Pa.C.S. § 5705) shall not hereafter be accepted by any judicial officer unless the criminal complaint and arrest warrant affidavit have the approval of an attorney for the Commonwealth prior to filing.

Rule 507.6. Approval of Pittsburgh Bureau of Police Complaints and Arrest Warrant Affidavits by Attorney for the Commonwealth for Designated Felony Crimes.

The District Attorney of Allegheny County, Stephen A. Zappala, Jr., having filed a certification pursuant to Pa.R.Crim.P. 507, criminal complaints and arrest warrant affidavits by Pittsburgh Bureau of Police officers, as defined in the Rules of Criminal Procedure, charging the below designated felony crimes shall not hereafter be accepted by any judicial officer unless the criminal complaint and arrest warrant affidavit have the approval of an attorney for the Commonwealth prior to filing.

Designated Felony Crimes

- a) Aggravated Assault of unborn child—18 Pa.C.S. § 2606(a)
- b) Aggravated Assault—18 Pa.C.S. § 2702(a)(1) through (9)
- c) Aggravated assault of law enforcement officer 18 Pa.C.S. § 2702.1(a)
- d) Stalking—18 Pa.C.S. § 2709.1(a)(1) and (c)(2)
- e) Stalking—18 Pa.C.S. § 2709.1(a)(2) and (c)(2)
- f) Threat to use weapons of mass destruction—18 Pa.C.S. § 2715(a)(3) and (b)(2) and (b)(4)
- g) Threat to use weapons of mass destruction—18 Pa.C.S. § 2715(a)(4) and (b)(2) and (b)(4)
- h) Weapons of mass destruction—18 Pa.C.S. § 2716(a)
- i) Weapons of mass destruction—18 Pa.C.S. § 2716(b)
- j) Terrorism—18 Pa.C.S. § 2717(a)
- k) Kidnapping—18 Pa.C.S. § 2901(a)
- l) Unlawful restraint of minor—18 Pa.C.S. § 2902(b) and (c)
- m) False imprisonment of a minor—18 Pa.C.S. § 2903(b) and (c)
- n) Trafficking in individuals—18 Pa.C.S. § 3011(a) and (b)

- o) Involuntary Servitude—18 Pa.C.S. § 3012(a)
- p) Patronizing a victim of sexual servitude—18 Pa.C.S. § 3013(a)
- q) Unlawful conduct regarding documents—18 Pa.C.S. § 3014
- r) Causing or risking catastrophe—18 Pa.C.S. § 3302(a) and (b)
- s) Burglary—18 Pa.C.S. § 3502(a)
- t) Criminal trespass—18 Pa.C.S. § 3503(a)
- u) Forgery—18 Pa.C.S. § 4101(a)
- v) Intimidation of witness—18 Pa.C.S. § 4952(a) and (b)(1) through (4)
- w) Retaliation against witness/victim—18 Pa.C.S. § 4953(a) and 4952(1) through (5)
- x) Retaliation against prosecutor/judicial official—18 Pa.C.S. § 4953.1(a) and (b)(1) through (5)
- y) Intimidation, retaliation or obstruction in child abuse cases—18 Pa.C.S. § 4958(a)(b), (b.1) and (c)(1)
- z) Disarming law enforcement officer—18 Pa.C.S. § 5104.1(a)
 - aa) Recruiting criminal gang member—18 Pa.C.S. § 5131(a) and (b)(1)(iii) and (2)
 - bb) Riot—18 Pa.C.S. § 5501
 - cc) Animal Fighting—18 Pa.C.S. § 5511(h.1)(1) through (7)
 - dd) Facsimile weapons of mass destruction—18 Pa.C.S. § 5516(a)
 - ee) Operation of methamphetamine laboratory—18 Pa.C.S. § 7508.2
 - ff) Criminal use of communication facility—18 Pa.C.S. § 7512(a)
 - gg) Aggravated assault by watercraft while operating under influence—30 Pa.C.S. § 5502.3(a)
 - hh) Manufacture, delivery, or possession with intent to manufacture or deliver a controlled substance—35 P.S. § 780-113(a)(30)
 - ii) Unlawful manufacture of methamphetamine—35 P.S. § 780-113(a)(38)
 - jj) Operating a methamphetamine laboratory—35 P.S. § 780-113.4(a)(1)(2)(3) and (b)(1)
 - kk) Aggravated assault by vehicle—75 Pa.C.S. § 3732.1(a)
 - ll) Aggravated assault by vehicle while driving under the influence—75 Pa.C.S. § 3735.1(a)
 - mm) Accidents involving death or personal injury—75 Pa.C.S. § 3742(a) and (b)(2) and (3)(i)
 - nn) Accidents involving death or personal injury while not properly licensed—75 Pa.C.S. § 3742.1(a) and (b)(2)

[Pa.B. Doc. No. 17-1337. Filed for public inspection August 11, 2017, 9:00 a.m.]

SUPREME COURT

Financial Institutions Approved as Depositories for Fiduciary Accounts; No. 152 Disciplinary Rules Doc.

Order

Per Curiam

And Now, this 28th day of July, 2017, it is hereby Ordered that the financial institutions named on the following list are approved as depositories for fiduciary accounts in accordance with Pa.R.D.E. 221.

FINANCIAL INSTITUTIONS APPROVED AS DEPOSITORIES OF TRUST ACCOUNTS OF ATTORNEYS

Bank Code A.

595	Abacus Federal Savings Bank
2	ACNB BANK
613	Allegent Community Federal Credit Union
302	Allegheny Valley Bank of Pittsburgh
375	Altoona First Savings Bank
376	Ambler Savings Bank
532	AMERICAN BANK (PA)
615	Americhoice Federal Credit Union
116	AMERISERV FINANCIAL
648	Andover Bank (The)
377	Apollo Trust Company

Bank Code B.

558	Bancorp Bank (The)
485	Bank of America, NA
415	Bank of Landisburg (The)
642	BB & T Company
519	Beaver Valley Federal Credit Union
501	BELCO Community Credit Union
397	Beneficial Bank
652	Berkshire Bank
5	BNY MELLON, NA
392	BRENTWOOD BANK
495	Brown Brothers Harriman Trust Co., NA
161	Bryn Mawr Trust Company (The)
156	Bucks County Bank

Bank Code C.

654	CACL Federal Credit Union
618	Capital Bank, NA
622	Carrollton Bank
16	CBT Bank
136	CENTRIC BANK
394	CFS BANK
623	Chemung Canal Trust Company
649	CHROME FEDERAL CREDIT UNION
599	Citibank, NA
238	Citizens & Northern Bank
561	Citizens Bank (PA)
206	Citizens Savings Bank
602	City National Bank of New Jersey
576	Clarion County Community Bank
591	Clearview Federal Credit Union
23	CNB Bank
354	Coatesville Savings Bank
223	Commercial Bank & Trust of PA
21	Community Bank (PA)
371	Community Bank, NA (NY)
533	Community First Bank
132	Community State Bank of Orbisonia
647	CONGRESSIONAL BANK

Bank Code C.

380 County Savings Bank
 617 Covenant Bank
 536 Customers Bank

Bank Code D.

339 Dime Bank (The)
 239 DNB First, NA
 27 Dollar Bank, FSB

Bank Code E.

500 Elderton State Bank
 567 Embassy Bank for the Lehigh Valley
 541 Enterprise Bank
 28 Ephrata National Bank
 601 Esquire Bank, NA
 340 ESSA Bank & Trust

Bank Code F.

629 1st Colonial Community Bank
 158 1st Summit Bank
 31 F & M Trust Company—Chambersburg
 205 Farmers National Bank of Emlenton (The)
 34 Fidelity Deposit & Discount Bank (The)
**343 FIDELITY SAVINGS & LOAN
 ASSOCIATION OF BUCKS COUNTY**
 583 Fifth Third Bank
 643 First Bank
 650 First-Citizens Bank & Trust Company
 174 First Citizens Community Bank
 191 First Columbia Bank & Trust Company
 539 First Commonwealth Bank
 46 First Community Bank of Mercersburg
 504 First Federal S & L Association of Greene
 County
 525 First Heritage Federal Credit Union
 42 First Keystone Community Bank
 51 First National Bank & Trust Company of
 Newtown (The)
 417 First National Bank of Lilly (The)
 419 First National Bank of Mifflintown (The)
 48 First National Bank of Pennsylvania
 426 First Northern Bank & Trust Company
604 FIRST PRIORITY BANK
592 FIRST RESOURCE BANK
 408 First United National Bank
 151 Firstrust Savings Bank
 416 Fleetwood Bank
493 FNB BANK, NA
 175 FNCB Bank
 291 Fox Chase Bank
 241 Franklin Mint Federal Credit Union
 639 Freedom Credit Union
58 FULTON BANK, NA

Bank Code G.

499 Gratz Bank (The)
 498 Greenville Savings Bank

Bank Code H.

402 Halifax Branch, of Riverview Bank
 244 Hamlin Bank & Trust Company
 362 Harleysville Savings Bank
 363 Hatboro Federal Savings
 463 Haverford Trust Company (The)
 655 Home Savings Bank
 606 Hometown Bank of Pennsylvania
 68 Honesdale National Bank (The)
 350 HSBC Bank USA, NA

Bank Code H.

364 HUNTINGDON VALLEY BANK
 605 Huntington National Bank (The)
 608 Hyperion Bank

Bank Code I.

365 Indiana First Savings Bank
 557 Investment Savings Bank
 526 Iron Workers Savings Bank

Bank Code J.

70 Jersey Shore State Bank
 127 Jim Thorpe Neighborhood Bank
 488 Jonestown Bank & Trust Company
72 JUNIATA VALLEY BANK (THE)

Bank Code K.

651 KeyBank NA
 414 Kish Bank

Bank Code L.

74 LAFAYETTE AMBASSADOR BANK
 554 Landmark Community Bank
 418 Liverpool Community Bank
 78 Luzerne Bank

Bank Code M.

361 M & T Bank
 386 Malvern Federal Savings Bank
 412 Manor Bank
 510 Marion Center Bank
 387 Marquette Savings Bank
 81 Mars National Bank (The)
 43 Marysville Branch, of Riverview Bank
 367 Mauch Chunk Trust Company
 619 MB Financial Bank, NA
 511 MCS (Mifflin County Savings) Bank
 641 Members 1st Federal Credit Union
 555 Mercer County State Bank
 192 Merchants Bank of Bangor
 610 Meridian Bank
 420 Meyersdale Branch, of Riverview Bank
 294 Mid Penn Bank
276 MIFFLINBURG BANK & TRUST COMPANY
 457 Milton Savings Bank
 614 Monument Bank
**596 MOREBANK, A DIVISION OF BANK OF
 PRINCETON (THE)**
484 MUNCY BANK & TRUST COMPANY (THE)

Bank Code N.

433 National Bank of Malvern
 168 NBT Bank, NA
 347 Neffs National Bank (The)
434 NEW TRIPOLI BANK
 15 NexTier Bank, NA
 636 Noah Bank
 638 Norristown Bell Credit Union
 439 Northumberland National Bank (The)
 93 Northwest Bank

Bank Code O.

653 OceanFirst Bank
 489 OMEGA Federal Credit Union
 94 Orrstown Bank

Bank Code P.

598 PARKE BANK
 584 Parkview Community Federal Credit Union
 40 Penn Community Bank

Bank Code P.

540 PennCrest Bank
 447 Peoples Security Bank & Trust Company
 99 PeoplesBank, a Codorus Valley Company
 556 Philadelphia Federal Credit Union
 448 Phoenixville Federal Bank & Trust
 79 PNC Bank, NA
 449 Port Richmond Savings
 451 Progressive-Home Federal Savings & Loan
 Association
 637 Provident Bank
 456 Prudential Savings Bank
 491 PS Bank

Bank Code Q.

107 QNB Bank
 560 Quaint Oak Bank

Bank Code R.

452 Reliance Savings Bank
 220 Republic Bank d/b/a Republic Bank
 628 Riverview Bank
 208 Royal Bank America

Bank Code S.

153 S & T Bank
 316 Santander Bank, NA
 464 Scottdale Bank & Trust Co. (The)
 460 Second Federal S & L Association of
 Philadelphia
 646 Service 1st Federal Credit Union
 458 Sharon Savings Bank
 633 Slovak Savings Bank
 462 Slovenian Savings & Loan Association of
 Franklin-Conemaugh
 486 Somerset Trust Company
518 STANDARD BANK, PASB
 542 Stonebridge Bank
 517 Sun National Bank
 440 SunTrust Bank
236 SWINEFORD NATIONAL BANK

Bank Code T.

143 TD Bank, NA
 182 Tompkins VIST Bank
 609 Tristate Capital Bank
 640 TruMark Financial Credit Union
 467 Turbotville National Bank (The)

Bank Code U.

483 UNB BANK
 481 Union Building and Loan Savings Bank

Bank Code U.

133 Union Community Bank
 634 United Bank, Inc.
 472 United Bank of Philadelphia
 475 United Savings Bank
 600 Unity Bank
 232 Univest Bank & Trust Co.

Bank Code V.

611 Victory Bank (The)

Bank Code W.

119 WASHINGTON FINANCIAL BANK
 121 Wayne Bank
 631 Wells Fargo Bank, NA
 553 WesBanco Bank, Inc.
122 WEST MILTON STATE BANK
 494 West View Savings Bank
 473 Westmoreland Federal S & L Association
 476 William Penn Bank
 272 Woodlands Bank
573 WOORI AMERICA BANK
 630 WSFS (Wilmington Savings Fund Society), FSB

*Bank Code X.**Bank Code Y.*

577 York Traditions Bank

*Bank Code Z.***Platinum Leader Banks**

The **HIGHLIGHTED ELIGIBLE INSTITUTIONS** are Platinum Leader Banks—Institutions that go above and beyond eligibility requirements to foster the IOLTA Program. These Institutions pay a net yield at the higher of 1% or 75 percent of the Federal Funds Target Rate on all PA IOLTA accounts. They are committed to ensuring the success of the IOLTA Program and increased funding for legal aid.

IOLTA Exemption

Exemptions are not automatic. If you believe you qualify, you must apply by sending a written request to the IOLTA Board's executive director: 601 Commonwealth Avenue, Suite 2400, P.O. Box 62445, Harrisburg, PA 17106-2445. If you have questions concerning IOLTA or exemptions from IOLTA, please visit their website at www.paiolta.org or call the IOLTA Board at (717) 238-2001 or (888) PAIOLTA.

[Pa.B. Doc. No. 17-1338. Filed for public inspection August 11, 2017, 9:00 a.m.]

PROPOSED RULEMAKING

DEPARTMENT OF HUMAN SERVICES

[55 PA. CODE CHS. 1153 AND 5200]

Outpatient Psychiatric Services and Psychiatric Outpatient Clinics

The Department of Human Services (Department), under the authority of sections 201(2) and 1021 of the Human Services Code (62 P.S. §§ 201(2) and 1021), sections 105 and 112 of the Mental Health Procedures Act (50 P.S. §§ 7105 and 7112) and section 201(2) of the Mental Health and Intellectual Disability Act of 1966 (50 P.S. § 4201(2)), proposes to amend Chapters 1153 and 5200 (relating to outpatient behavioral health services; and psychiatric outpatient clinics) to read as set forth in Annex A.

Purpose of this Proposed Rulemaking

The purpose of this proposed rulemaking is to update Chapters 1153 and 5200 to be consistent with the Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA) (Pub.L. No. 110-343), to reflect changes in benefit packages resulting from the implementation of Medicaid expansion under the Patient Protection and Affordable Care Act (Pub.L. No. 111-148) and the consolidation of adult benefit packages, as well as codify the requirements for the delivery of Mobile Mental Health Treatment (MMHT) outlined in Medical Assistance Bulletin 08-06-18, Mobile Mental Health Treatment, issued November 30, 2006. This proposed rulemaking will allow licensed professionals to work within their scope of practice in psychiatric outpatient clinics, increase access to medically necessary treatment services for eligible individuals, including the provision of mobile treatment, and reduce the paperwork requirements for licensed providers. This proposed rulemaking supports the principles of recovery, resiliency and self-determination by updating language to reflect a person-first philosophy throughout the regulations, allowing consistent access to community-based services and focusing on appropriate evidence-based individual clinical interventions.

Background

The 2014 National Survey on Drug Use and Health (NSDUH) report was issued by the Substance Abuse and Mental Health Services Administration (SAMHSA), United States Department of Health and Human Services (DHHS), on September 4, 2014. The NSDUH report provided estimates of the prevalence of adult mental illness in the United States. The analysis was based upon the data collected from an annual survey of the civilian noninstitutionalized population of the United States 12 years of age or older. The NSDUH report presents estimates of mental health issues separately for adolescents 12 to 17 years of age based upon a variation in questions. The data collected is limited to major depressive episodes (MDE) for adolescents not an overall indication of mental health issues as is collected for adults. The results indicate that 1 in 10 adolescents reported an MDE, representing an estimated 2.6 million adolescents in the United States having an MDE during the reporting year. Nationally, an estimated 43.8 million adults 18 years of age or older experienced any mental illness in the past year, corresponding to a rate of 18.5% of the adult population. "Any mental illness" is defined in the

NSDUH report as "the presence of any mental, behavioral, or emotional disorder in the past year that met the Diagnostic and Statistical Manual of Mental Disorders (DSM) criteria." "Serious mental illness" (SMI) is defined in the NSDUH report as a mental disorder causing substantial functional impairment (such as substantial interference with or limitation in one or more major life activities) and individuals with SMI have the most urgent need for treatment. There were an estimated 10 million adults 18 years of age or older with SMI in the past year, which represents 4.2% of all adults in the United States. Nationally, 62.9% of adults with SMI received treatment in the past 12 months while only 41% of adults with any mental illness received mental health treatment in the past year.

Mental illness is a major public health concern in the United States. It is a primary cause of disability and carries a high financial cost. Depression accounts for 4.3% of the global burden of disease and is among the largest single cause of disability worldwide, particularly for women. World Health Organization (WHO), Mental Health Action Plan, 2013–2020. According to the Centers for Disease Control and Prevention (CDC) and WHO, mental illness accounts for more disability in developed countries than any other group of illnesses, including cancer and heart disease. Mood disorders, including major depression, dysthymic disorder and bipolar disorder, are the third most common cause of hospitalization in the United States for adults 18 to 44 years of age. Agency for Healthcare Research and Quality, DHHS, 2009. The economic burden of mental illness in the United States was approximately \$300 billion in 2002. CDC (2011), Mental Illness Surveillance Among U.S. Adults. Additionally, SMI costs the United States approximately \$193.2 billion in lost earnings per year. Insel, T.R. (2008), "Assessing the Economic Costs of Serious Mental Illness," *The American Journal of Psychiatry*, 165(6), 663–665. Mental illness is also associated with increased occurrence of chronic diseases such as cardiovascular disease, diabetes, obesity, asthma, epilepsy and cancer. CDC (2011), Mental Illness Surveillance Among U.S. Adults. It is associated with lower use of medical care, reduced adherence to treatment for chronic diseases and higher risk of adverse health effects. Many mental illnesses can be managed successfully and increasing access to mental health services could substantially reduce the associated morbidity. Treatment of mental illness can improve both outcomes.

Access to community psychiatric services is not only a cost-effective alternative to institutionalization, it can also produce improved outcomes for individuals with mental illness, including the population identified with SMI. The most common types of treatment accessed are outpatient services and prescription medication according to the 2008 SAMHSA survey data. SAMHSA Administrator Pamela S. Hyde stated:

Although mental illness remains a serious public health issue, increasingly we know that people who experience it can be successfully treated and can live full and productive lives. Like other medical conditions, such as cardiovascular disease or diabetes, the key to recovery is identifying the problem and taking active measures to treat it as soon as possible.

SAMHSA Data Survey, 2008.

Community-based psychiatric outpatient clinics are a key component of the public mental health system, and

should be accessible to all individuals to provide an array of cost-effective clinical services and supports. In recognition of the importance of mental well-being, the overall goal of the WHO Mental Health Action Plan 2013–2020 is to promote mental health, prevent mental disorders, provide access to care and enhance recovery, and reduce mortality, morbidity and disability for persons with mental disorders by providing comprehensive, integrated and responsive mental health services in community-based settings. WHO recommends the development of comprehensive community-based mental health services. Community-based mental health service delivery should encompass a recovery-based approach that supports individuals with mental illness to achieve their own goals. The core services should include listening and responding to an individual's needs, working with the individual as an equal partner, offering choices of treatment and therapies, and the use of peer support staff to support recovery, all of which can be provided by licensed outpatient psychiatric clinics in the community. Another key element of the WHO plan is to be responsive to the needs of vulnerable and marginalized individuals to ensure community-based services are widely available.

Additionally, SAMHSA's strategic plan for 2015–2018 includes the goal of increasing access to effective treatment and support for recovery. To recover, individuals need access to affordable, accessible and high-quality behavioral health care. The expansion of access to MMHT for individuals with a broader array of diagnoses and for individuals under 21 years of age will broaden access to treatment services by allowing more individuals that would not be able to attend treatment at a traditional outpatient psychiatric clinic to receive services in alternative community settings. This will assist in engaging vulnerable individuals and reducing stigma.

The MHPAEA requires that health insurance coverage for mental health and substance use services have benefit limitations that are no more restrictive than the medical benefits offered by the plan. This proposed rulemaking will provide the same level of benefits to all eligible individuals by removing limits on the services or scope of covered services consistent with the approved State plan and the MHPAEA.

Requirements

The following is a summary of the specific provisions in this proposed rulemaking.

Chapter 1153. Outpatient behavioral health services

The Department proposes to amend the heading of this chapter to reflect broadening of its application with the inclusion of MMHT services provided by psychiatric outpatient clinics.

§ 1153.2. Definitions

The proposed definition of "adult" identifies individuals who are 21 years of age or older receiving services under this chapter.

The definitions of "adult partial hospitalization program," "children and youth partial hospitalization program," "psychiatric outpatient clinic provider" and "psychiatric outpatient partial hospitalization program" are proposed to be amended to recognize the current name of the Office of Mental Health and Substance Abuse Services. Additionally, the definition of "psychiatric outpatient clinic provider" is proposed to be amended to "psychiatric outpatient clinic" for consistency with use throughout this chapter.

In response to requests by stakeholders, the Department proposes to amend references to "patient" to "individual" in the definitions of "collateral family psychotherapy," "inpatient," "intake," "outpatient," "psychotherapy" and "treatment institution" to distinguish the difference between an individual receiving services and an illness. For consistency in this chapter, references to "patient" or "person" are proposed to be replaced with "individual."

The definition of "facility" is proposed to be added to clarify the use of the term throughout this chapter as inclusive of establishments primarily focused on the diagnosis, treatment, care and rehabilitation of individuals with mental illness or emotional disturbance. The definition is congruent with the term used in Chapter 5200.

The definition of "family psychotherapy" is proposed to be amended by replacing "mental disorder" with "mental illness or emotional disturbance" to be congruent with the current Federal language. The Federal definition of "mental illness or emotional disturbance" is proposed to be added.

The definition of "group psychotherapy" is proposed to be amended by increasing the allowable maximum group size from 10 to 12 individuals. The most prominent published text on group psychotherapy is *Theory and Practice of Group Psychotherapy* by Irvin D. Yalom (1995), which states:

[t]he ideal size of an interactional therapy group is approximately 8 to as high as 12. Since it is likely that one or possibly two patients will drop out of the group in the course of treatment, it is advisable to have a slightly larger group than the preferred size.

The proposed increase will conform to industry standards and clinical best practice. Further, this proposed amendment will allow more individuals to be served in psychiatric outpatient clinics and reduce wait times to access outpatient treatment.

The definition of "home visit" is proposed to be deleted due to the addition of MMHT services to this chapter. Services provided by psychiatric outpatient clinics outside the clinic setting are provided as MMHT rehabilitation services.

The definition of "LPHA—licensed practitioner of the healing arts" is proposed to be added to define who may order MMHT. MMHT is in the Commonwealth's Medical Assistance State Plan as a rehabilitation service and under 42 CFR 440.130(d) (relating to diagnostic, screening, preventive, and rehabilitative services) rehabilitation services shall be "recommended by a physician or other licensed practitioner of the healing arts, within the scope of his practice under State law." This proposed definition allows a broad array of licensed professionals to order this service within their scope of practice under State law.

The definition of "mental disorder" is proposed to be deleted due to outdated terminology and replaced with "mental illness or emotional disturbance." Mental illness or emotional disturbance is a mental or emotional disorder that meets the diagnostic criteria in the current version of the *Diagnostic and Statistical Manual (DSM)* or the *International Classification of Diseases (ICD)* with reference to an individual's level of functioning in various life domains. References to "mental disorder" through this chapter are proposed to be replaced with "mental illness or emotional disturbance" including in the definitions of "family psychotherapy," "group psychotherapy," "individual

psychotherapy,” “psychiatric outpatient clinic services” and “psychiatric outpatient partial hospitalization provider.”

The definitions of “mental health professional” and “mental health worker” are proposed to be amended to specify the required credentials.

The definition of “MMHT—Mobile Mental Health Treatment” is proposed to be added. MMHT services can be provided in the individual’s residence or approved community site and include assessment, individual, group, family therapy and medication visits. They are intended to reduce the disabling effects of mental or physical illness for individuals who have encountered barriers to or have been unsuccessful in receiving services at a psychiatric outpatient clinic. The purpose of this service is to provide therapeutic treatment to reduce the need for more intensive levels of service, including crisis intervention or inpatient hospitalization by offering services in the community or home setting. These rehabilitation services may only be provided by a licensed outpatient clinic with an approved service description for MMHT.

The definitions of “psychiatric clinic medication visit” and “psychiatric clinic clozapine monitoring and evaluation visit” are proposed to be amended to replace the outdated term “recipient” with “individual” and include certified registered nurse practitioners (CRNP) and physician assistants (PA) in the list of professionals who may provide the visit.

The definition of “psychiatric evaluation” is proposed to be amended to include the provision of real-time, two-way interactive audio-video transmission in licensed psychiatric outpatient clinics. This proposed amendment will increase access to this service, especially in rural areas of this Commonwealth.

The definition of “psychiatric outpatient clinic services” is proposed to be amended to delete the outdated language of “a mentally disordered outpatient” and replace it with “an individual with mental illness or emotional disturbance.” This proposed amendment delineates the difference between an illness and the individual with the illness by using person first language.

The definition of “psychiatric partial hospitalization” is proposed to be amended to delete the limits on the service consistent with the MHPAEA.

The definition of “psychiatric outpatient partial hospitalization provider” is proposed to be amended to delete outdated language of “mental disorders” and replace it with “mental illness or emotional disturbance” and update program office names to reflect current titles.

§ 1153.11. *Types of services covered*

§ 1153.12. *Outpatient services*

This proposed rulemaking adds MMHT as a type of covered service that can be provided under this chapter. These services were added to the MA Program Fee Schedule in 2006. MMHT services can only be provided by a licensed outpatient clinic with an approved service description for MMHT.

§ 1153.14. *Noncovered services*

The time frame for the psychiatrist’s review of assessments and treatment plans is proposed to be amended to up to 30 calendar days following intake. The proposed amendment from the current 15 calendar day limit allows the individual receiving services and the mental health professional to develop a treatment plan based upon a comprehensive intake and assessment process. Addition-

ally, the proposed amendments include the codification of MMHT services, which allows licensed outpatient clinics to provide services in a home or community location to improve access.

§ 1153.21. *Scope of benefits for children under 21 years of age*

Proposed amendments to this section reflect the changes under Medicaid expansion and the consolidation of the current benefit packages to revise the scope of benefits section to provide the same level of benefits to all eligible children under 21 years of age.

§ 1153.22. *Scope of benefits for adults 21 years of age or older*

Proposed amendments to this section reflect the changes under Medicaid expansion and the consolidation of the current benefit packages to provide the same level of benefits to all eligible adults. Specifically, the amount, duration and scope variations between categories of eligibility are proposed to be amended to comply with Federal regulations and the MHPAEA.

§ 1153.23. *Scope of benefits for State Blind Pension recipients*

This section is proposed to be rescinded because with Medicaid expansion and the consolidation of the current benefit packages the State Blind Pension recipient category is no longer a benefit category.

§ 1153.24. *Scope of benefits for General Assistance recipients*

The scope of benefits sections are proposed to be amended to codify the benefits under the Medicaid expansion and provide the same level of benefits to all eligible adults. The General Assistance category is no longer included in this chapter.

§ 1153.41. *Participation requirements*

The proposed amendments to this section recognize the scope of practice of advanced practice professionals in this Commonwealth. The proposed amendments will allow CRNPs and PAs, within their scope of practice and applicable law, to prescribe medication in psychiatric outpatient clinics. A requirement for psychiatric outpatient clinics to have service description for MMHT approved by the Department to be an MMHT provider is proposed to be added and outdated language is proposed to be updated throughout this section.

§ 1153.42. *Ongoing responsibilities of providers*

The proposed amendments update outdated language, clarify licensure and MA enrollment requirements, and add MMHT services.

§ 1153.51. *General payment policy*

The Department proposes to add MMHT services under the payment policy for outpatient psychiatric services. MMHT services were added to the MA Program Fee Schedule in November 2006 for adults 21 years of age or older. These services were also recently amended in the MA State Plan and the MA Program Fee Schedule for children under 21 years of age.

§ 1153.52. *Payment conditions for various services*

This section is proposed to be amended to allow a psychiatric clinic medication visit to be provided by an advanced practice professional licensed by the Commonwealth, recognizing the scope of practice for CRNPs and PAs. Additionally, the Department proposes to allow a

psychiatric evaluation to be performed by real-time, two-way interactive audio-video transmission.

The Department also proposes to require initial treatment plans to be developed within 30 days of intake, with updates of the treatment plans being required at least every 180 days, or more frequently based upon clinical need. Stakeholders representing the provider community and individuals receiving services stated this time frame is reasonable for the development of a comprehensive treatment plan based upon clinical assessment, history and input from the individual receiving services. Individuals are seen during various time frames on an outpatient basis which impacts when treatment plans should be updated. This proposed amendment is similar to outpatient clinic regulations regarding treatment planning in Maryland, South Carolina, Minnesota and Oregon.

The time frame for the psychiatrist to review, approve and sign the treatment plans is proposed to be amended. The psychiatrist will be responsible for reviewing and approving the initial treatment plan, in conjunction with the mental health professional and the individual receiving services, within 30 days of intake. The psychiatrist shall review and approve the updated treatment plans within 1 year of the previous psychiatric review and approval.

The psychiatric clinic clozapine monitoring and evaluation provisions are proposed to be amended for congruence with the program changes regarding prescribing and monitoring clozapine treatment. Clozapine is associated with severe neutropenia and is monitored by blood testing throughout the course of treatment. Absolute neutrophil count (ANC) testing is proposed to be added as part of the treatment protocols.

This proposed rulemaking establishes the conditions and limitations for the provision of MMHT services in the home or community. MMHT expands the ability of outpatient psychiatric clinics to provide services to individuals of any age in approved alternative settings based upon specific clinical criteria and a written order from a licensed practitioner of the healing arts. MMHT will provide access to psychiatric services, psychotherapy and medication visits for individuals who are unable to attend treatment in a traditional outpatient psychiatric clinic setting due to documented mental or physical illness. Subsection (e) is proposed to be deleted because it is no longer necessary with the addition of MMHT to this chapter. Outdated conditions and limitations are proposed to be amended.

§ 1153.53. *Limitations on payment*

Many of the limitations on services are proposed to be deleted.

§ 1153.53a. *Requests for waiver of hourly limits*

This section is proposed to be rescinded, as the proposed amendments to the limitations on services eliminate the need for this section.

Chapter 5200. Psychiatric outpatient clinics

§ 5200.1. *Legal base*

The short title of the “Mental Health and Mental Retardation Act of 1966” is proposed to be amended to reflect the legislative change to the “Mental Health and Intellectual Disability Act of 1966.”

§ 5200.2. *Scope*

The outdated language of “the mentally ill or the emotionally disturbed” is proposed to be amended to

“individuals with mental illness or emotional disturbance.” This proposed amendment delineates the difference between an illness and the individual who has a specific treatable illness by supporting person first language. The New Freedom Commission on Mental Health, Final Report, July 2003, recognized that the stigma surrounding mental illness can be reduced by reinforcing the hope of recovery for every individual with mental illness and providing person-centered treatment options that are readily accessible in every community. In SAMHSA’s “Leading Change: A Plan for SAMHSA’s Roles and Action” published in 2011, it was reported that one in five Americans believe that individuals with mental illness are dangerous. Based upon the ongoing public perception regarding mental illness, SAMHSA included a strategic initiative targeted at public awareness and support. The goal of the initiative is to increase public understanding about mental and substance use disorders, the reality that people recover and how to access treatment and recovery supports for behavioral health conditions.

“Public entities” is proposed to be added to recognize facilities that are operated by a Federal, State or local governmental entity and licensed as psychiatric outpatient clinics. Facilities are identified as public or private facilities by the Department.

§ 5200.3. *Definitions*

The definition of “advanced practice professional” is proposed to be added in recognition of CRNPs with a mental health certification or PAs with either a mental health certification or at least 1 year of experience working in a behavioral health setting working under the supervision of a physician. This proposed definition will allow these licensed professionals to provide services within their scope of practice in psychiatric outpatient clinics, thereby expanding clinical resources.

In recognition of the codification of MMHT in this chapter, a variety of definitions are proposed to be added. The proposed definition of “assessment” provides a description of the face-to-face interview to evaluate clinical needs of the individual. The definition of “LPHA—licensed practitioner of the healing arts” is proposed to be added. MMHT is in the Commonwealth’s Medical Assistance State Plan as a rehabilitation service and under 42 CFR 440.130(d), rehabilitation services shall be “recommended by a physician or other licensed practitioner of the healing arts, within the scope of his practice under State law.” The proposed definition of “LPHA—licensed practitioner of the healing arts” allows a broad array of licensed professionals to order this service within their scope of practice under State law. MMHT includes an array of treatment services to reduce the disabling effects of a mental or physical illness for individuals who have encountered barriers to or have been unsuccessful in receiving services in a traditional outpatient setting due to a physical or psychological condition. The ability to provide clinical treatment to individuals in an alternative setting such as a home or community-based environment increases access to outpatient treatment services potentially decreasing the utilization of higher levels of care.

The definition of “facility” is proposed to be amended to delete the outdated terminology “mentally disabled persons,” which does not distinguish the individual from the illness, and replace it with “individuals with mental illness or emotional disturbance.” This language is proposed to be amended in the definition of “psychiatric outpatient clinic” for congruence in the chapter. “Psychiat-

ric outpatient clinic” is proposed to be amended throughout the chapter for consistency with the heading of the chapter.

The definition of “FTE—full-time equivalent” is proposed to be amended by deleting “of staff time” as recommended by the stakeholder workgroup. A person employed for 37 1/2 hours by a psychiatric outpatient clinic is considered a full-time employee.

The definition of “mental illness or emotional disturbance” is proposed to be added for consistency with Federal language and to support a person first approach for identifying an illness rather than the use of the outdated term “mentally disturbed person.” Mental illness or emotional disturbance is a mental or emotional disorder that meets the diagnostic criteria in the current version of the DSM or the ICD with reference to an individual’s level of functioning in various life domains. References to “mental disorder” through this chapter are proposed to be amended as “mental illness or emotional disturbance.”

The definition of “psychiatrist” is proposed to be amended to recognize that a residency in psychiatry is “at least 3 years.”

The definition of “quality assurance program” is proposed to be amended to replace the outdated terminology “patients” with “individuals receiving services” for consistency with other proposed amendments.

The definition of “telepsychiatry” is proposed to be added to allow for the utilization of technology to provide clinical services. Telepsychiatry will improve access to mental health care in underserved, rural and remote areas of this Commonwealth, as well as offer specialized clinical services that may only be available in urban regions. According to research reviewed by the American Telemedicine Association, the majority of telemental health services are provided in the outpatient setting. It has been demonstrated that individuals receiving services can be reliably assessed, diagnosed and treated with pharmacology in outpatient clinics through telepsychiatry. Evidence-Based Practice for Telemental Health, July 2009.

This proposed rulemaking also distinguishes between “mental health professional” and “mental health worker” by clarifying qualifications and incorporating language that recognize the scope of practice of licensed behavioral health professionals. The definitions of “psychiatric nurse” and “psychiatric social worker” are no longer necessary as a result of this change and are proposed to be deleted.

All service durations are proposed to be deleted from the definitions since the required unit of service for each service is specified in the procedure code, technically known as the Current Procedural Terminology (CPT) code, for the service and therefore does not need to be included in the definition of the service, which could become outdated as CPT codes are revised.

§ 5200.4. Provider eligibility

Proposed amendments clarify that this chapter is not intended to regulate individual or group private practices that provide mental health services.

§ 5200.5. Application and review process

Proposed amendments delete outdated language regarding programs operating under a pre-existing approval to meet the requirements of the chapter and include the current annual inspection information.

§ 5200.6. Objective

Proposed amendments to this section support the ongoing transition to a recovery-oriented system of care by including language that recognizes individuals can, and do, recover from mental illness and emotional distress. The New Freedom Commission on Mental Health reports that “too many individuals are unaware that mental illnesses can be treated and recovery is possible.” “Achieving the Promise: Transforming Mental Health Care in America,” July 2003. SAMHSA included a strategic initiative in the 2015–2018 plan to promote home and community-based services that avoid unnecessary institutionalization and out-of-home placements. The strategic plan emphasizes that recovery provides the common and motivating goal for individuals and families—that people can and do overcome behavioral health problems to live full and productive lives in the community of their choice. Recovery often includes ongoing community-based treatment and support.

§ 5200.7. Program standards

Based upon stakeholder input, the requirement that for-profit facilities seeking licensure or approval shall have Joint Commission on Accreditation of Hospitals accreditation is proposed to be deleted. This requirement is cost-prohibitive for small psychiatric outpatient clinics, resulting in the Department issuing numerous waivers of this standard.

§ 5200.11. Organization and structure

Proposed amendments include the addition of a clinical supervisor and a director as part of the psychiatric clinic structure and staffing pattern. The director may provide clinical supervision based upon qualifications and structure of the clinic. The director is responsible for the overall daily management of the clinic while the clinical supervisor is responsible for the clinical oversight of service delivery.

§ 5200.12. Linkages with mental health service system

This proposed rulemaking clarifies the requirement for written documentation describing the accessibility and availability of services provided by other parts of the mental health service system. Emergency services, an integral resource, are specified in this proposed rulemaking to ensure access to services to support individuals in crisis in the community. Ready access to emergency assistance is important not only because it holds the promise of reducing the intensity and duration of the individual’s distress, but also as the crisis escalates, options for effective interventions decrease. SAMHSA (2009), “Practice Guidelines: Core Elements in Responding to Mental Health Crises.”

Additionally, “Mental Health/Mental Retardation (MH/MR)” is proposed to be updated to “Mental Health/Intellectual Disability (MH/ID)” to be congruent with previous statutory changes.

§ 5200.21. Qualifications and duties of the director/clinical supervisor

This section is proposed to be amended to require a clinical supervisor and a director, who may be the same person, to be employed by the psychiatric outpatient clinic to provide oversight and supervision for all clinical services provided at the clinic. This proposed amendment will ensure that clinical staff have access to daily supervision to support treatment services.

§ 5200.22. Staffing pattern

The current requirement is a clinic have four full-time equivalent mental health professionals. Proposed amend-

ments require 50% of the psychiatric clinic treatment staff be mental health professionals. This proposed amendment will allow new clinics to provide clinical services while they build capacity and hire qualified staff. It will also ensure that larger clinics employ adequate professional staff to provide clinical services.

Additionally, the 16-hour psychiatric time requirement is proposed to be amended to 2 hours of psychiatric time per week for each full-time equivalent treatment staff. The psychiatrist shall provide 50% of this psychiatric time per week in-person, while the other 50% of the psychiatric time can be provided either by advanced practice professionals licensed to prescribe medication who specialize in behavioral health or using telepsychiatry with prior written approval of the Department, or a combination of both, to meet the time requirement. This proposed amendment allows for the use of current technology and other licensed professionals. The proposed amendments are also congruent with other states' regulations. In review of other states' outpatient clinic regulations, New York, New Jersey, Wisconsin, South Carolina and Oregon allow other licensed professionals within their scope of practice to provide services in the clinics. Maryland mandates the amount of time a psychiatrist shall be at the clinic, while the majority of regulations require adequate time to provide services based upon clinic size and other licensed professionals employed at the clinic. This proposed amendment will recognize the scope of practice of other licensed professionals in this Commonwealth and allow clinics to maximize the utilization of psychiatric time to provide clinical oversight and direct care to individuals with complex needs receiving services at the clinic.

Language regarding licensure for psychiatric residents is proposed to be amended. "Unrestricted license" is proposed to be added to reflect that a third year resident is granted an unrestricted license to practice medicine while first and second year residents receive a "member in training" license.

§ 5200.23. *Psychiatric supervision*

The outdated language of "patient population" is proposed to be amended to "clinic population" as suggested by the stakeholder community.

§ 5200.24. *Criminal history and child abuse certification*

This proposed section addresses requirements under 23 Pa.C.S. §§ 6301—6386 (relating to Child Protective Services Law) for background checks for any staff or volunteers having direct contact with an individual receiving outpatient psychiatric services in the clinic or community setting.

§ 5200.31. *Treatment planning*

Proposed amendments to this section increase the time frame for the development of the initial treatment plan from 15 days to 30 days. This proposed amendment will allow the individual receiving services and the mental health professional more time to identify key goals and objectives for the treatment plan based upon clinical need. The initial treatment plan shall be signed by the mental health professional, the psychiatrist and the individual receiving services.

The frequency of treatment plan updates is proposed to be amended from every 120 days or 15 visits to every 180 days to allow additional time to address the identified goals and objectives of the initial plan. The updated treatment plan shall be reviewed and signed by the mental health professional and the individual receiving treatment.

This proposed rulemaking requires the psychiatrist to review and approve the treatment plan within 1 year of the previous review and approval. This proposed amendment will reduce paperwork burden for the psychiatrist by changing review and sign off to yearly rather than every 120 days. This proposed amendment maintains compliance with definitions in section 1905(a)(9) of the Social Security Act (42 U.S.C.A. § 1396d(a)(9)) and 42 CFR 440.90 (relating to clinic services) that services furnished at the clinic be provided by or are under the direction of a physician. To meet this requirement, a physician shall see the individual, prescribe the type of care provided and periodically review the need for continued care.

Additionally, this proposed rulemaking specifies that the individual receiving services shall be actively involved in the creation of the treatment plan and updates which shall include both strengths and needs. In 2010, SAMHSA convened the leaders in the behavioral health field to develop a unified definition of recovery. Based upon this work, "recovery" is defined as "a process of change through which individuals improve their health and wellness, live a self-directed life, and strive to reach their full potential." DHHS (2012), "SAMHSA's Working Definition of Recovery." One of the major dimensions to support a life in recovery is overcoming or managing one's disease or symptoms by making informed choices to support emotional and physical well-being. Self-determination and self-direction are critical as individuals exercise choice of services and supports that will assist in their recovery. Person-driven services are one of the ten guiding principles of recovery developed by SAMHSA. DHHS (2012), "SAMHSA's Working Definition of Recovery." Further, active involvement in treatment planning and goal setting is a key element in designing a unique pathway to recovery.

A requirement that treatment be provided according to the individual's treatment plan is proposed to be added to ensure that the services are being provided to help individuals meet their goals and according to their needs. This proposed addition is consistent with the Department's requirements for other behavioral health services.

§ 5200.32. *Treatment policies and procedures*

"Patients" is proposed to be amended to "individuals" for consistency with this proposed rulemaking.

§ 5200.41. *Records*

This section is proposed to be amended to update terminology and include the requirements for securing written and electronic records in accordance with all applicable Federal and State privacy and confidentiality laws and regulations.

§ 5200.42. *Medications*

Proposed amendments to this section recognize advanced practice professionals licensed to prescribe medication in this Commonwealth. Proposed amendments clarify "written" to include prescriptions that are handwritten or recorded and transmitted by electronic means and the requirements for transmitting electronic prescriptions. Proposed amendments will require documentation of any medications prescribed in the individual medical record.

§ 5200.43. *Fee schedule*

The requirement that fee schedules be submitted to the Department for informational purposes is proposed to be deleted to reduce paperwork requirements for providers. The outdated terminology of referring to an individual receiving services as a patient is proposed to be amended to be consistent with other sections of this chapter.

§ 5200.44. *Quality assurance program*

“Patients” is proposed to be amended to “individuals” for consistency and a requirement to include MMHT services as part of the quality assurance plan is proposed to be added.

§ 5200.45. *Physical facility*

“Patient” is proposed to be amended to “individual.” Proposed amendments include physical site requirements that recognize the importance of an engaging and culturally-competent environment in the clinic for individuals receiving services. As part of the ten guiding principles of recovery developed by SAMHSA, culture in all its diverse representations are keys in determining a person’s unique pathway to recovery. DHHS (2012), “SAMHSA’s Working Definition of Recovery.”

§ 5200.46. *Notice of nondiscrimination*

“Client” is proposed to be amended to “individual” for consistency with other sections of this proposed rulemaking. Additionally, the nondiscrimination language is proposed to be updated to reflect current terminology addressing nondiscrimination.

§ 5200.48. *Waiver of standards*

This section is proposed to be amended to allow greater flexibility for the duration and renewal of waivers to be granted when the development of specialty psychiatric clinic services would be severely limited by the standards. The waivers would continue to be subject to approval by the Department.

§ 5200.51. *Provider service description*

This proposed section requires that licensed outpatient clinics develop a service description for MMHT services that will be provided, including the age range of the population to be served. Prior to the delivery of MMHT, the service description shall be approved by the Department.

§ 5200.52. *Treatment planning*

This proposed section includes specific elements in the MMHT treatment plan in addition to the requirements in § 5200.31 (relating to treatment planning). The additional elements provide information on the services to be provided, duration of the service, location of the service provision and the professional responsible for the delivery of the services.

§ 5200.53. *Discharge*

This proposed section identifies discharge planning requirements for MMHT services.

Affected Individuals and Organizations

This proposed rulemaking will affect individuals receiving psychiatric outpatient clinic services by increasing access to needed services, including the ability to receive outpatient services at alternative locations, allowing the use of telepsychiatry, requiring the involvement of individuals receiving services in planning their treatment and expanding the categories of professionals who may provide services by adding advanced practice professionals licensed to prescribe medications in this Commonwealth.

Licensed psychiatric outpatient clinics that are enrolled in the Medical Assistance Program will be affected by this proposed rulemaking. This proposed rulemaking will reduce paperwork requirements, increase the utilization of licensed professionals within their scope of practice and increase access to services in rural areas by allowing use of telepsychiatry. This proposed rulemaking will help

maintain the 279 community-based psychiatric outpatient clinic programs and their 783 satellite sites that served approximately 325,851 individuals in Fiscal Year 2013-2014.

Accomplishments and Benefits

This proposed rulemaking will benefit individuals seeking outpatient psychiatric services by increasing access through the use of telepsychiatry, requiring involvement of each individual in the planning of individualized treatment services, expanding the utilization of MMHT, supporting recovery and increasing the role of advance practice professionals licensed to prescribe medication in the clinics.

The NSDUH report published by SAMHSA in 2014 states that mental illness is a major public health concern in the United States as a primary cause of disability. The Agency for Healthcare Research and Quality cites a cost of \$57.5 billion in 2006 for mental health care in the United States, equivalent to the cost of cancer care. Much of the economic burden of mental illness is not the cost of care, but the loss of income due to unemployment, expenses for social supports and a range of indirect costs due to a disability that begins early in life. SMI costs the United States \$193.2 billion in lost earnings per year. Kessler, R.C. (2008). “The individual-level and societal-level effects of mental disorders on earnings in the United States: Results from the National Comorbidity Survey Replication,” *American Journal of Psychiatry*, 165(6), 703—711.

Mental health is essential to a person’s well-being, healthy family and interpersonal relationships, and the ability to live a full and productive life according to the research done by Healthy People 2020. Research has shown that many mental illnesses can be treated successfully and increasing access to community mental health services could substantially reduce the associated morbidity. CDC (2011), “Mental Illness Surveillance among Adults in the U.S.” Increasing access to community-based services with early detection, treatment and recovery supports may have significant positive cost implications for the Commonwealth. There is strong consensus in many countries that outpatient clinics offer an efficient way to assess and treat mental illness by providing sites that are accessible to the local population. Thornicroft, G. and Tansella, M. (2003), “What are the arguments for community-based mental health care?,” WHO, Health Evidence Network Report. WHO’s Mental Health Action Plan 2013—2020 incorporates the overall goal of promoting mental well-being and preventing mental disorders by providing accessible care, enhancing recovery through a comprehensive integrated community-based mental health system.

The consequences of not having community mental health services, including access to psychiatric outpatient services, include increased hospitalization, physical health costs and suicide. Suicide is the tenth leading cause of death in the United States and the second leading cause of death for youth 15 to 24 years of age. Ensuring access to psychiatric outpatient clinic services is a cost-effective resource that can promote mental well-being, support recovery and reduce the utilization of inpatient care.

The psychiatric outpatient clinics will benefit from a decrease in paperwork requirements, thereby increasing psychiatric and other clinical time available to provide direct services, and also the increased ability to provide services in accordance with current industry standards.

Fiscal Impact

No costs to the Commonwealth, local government, service providers or individuals seeking psychiatric outpatient services are anticipated as a result of this proposed rulemaking.

Paperwork Requirements

No additional reporting, paperwork or recordkeeping is required to comply with this proposed rulemaking. Further, requirements regarding documentation of treatment planning are proposed to be reduced, which will result in a decrease in current paperwork requirements for psychiatric outpatient clinic providers.

Effective Date

This proposed rulemaking will be effective upon final-form publication in the *Pennsylvania Bulletin*.

Public Comment

Interested persons are invited to submit written comments, suggestions or objections regarding this proposed rulemaking to the Department of Human Services, Office of Mental Health and Substance Abuse Programs, Attention: Michelle Rosenberger, Bureau of Policy, Planning and Program Development, Commonwealth Towers, 11th Floor, 303 Walnut Street, P.O. Box 2675, Harrisburg, PA 17105-2675, RA-PWOPCRegs@pa.gov within 30 calendar days after the date of the publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Reference Regulation No. 14-538 when submitting comments. Persons with a disability who require an auxiliary aid or service may submit comments by using the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on July 28, 2017, the Department submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Committee on Human Services and the Senate Committee on Public Health and Welfare. 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 the 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 Department, the General Assembly and the Governor.

THEODORE DALLAS,
Secretary

Fiscal Note: 14-538. No fiscal impact; (8) recommends adoption.

Annex A**TITLE 55. HUMAN SERVICES****PART III. MEDICAL ASSISTANCE MANUAL****CHAPTER 1153. OUTPATIENT [PSYCHIATRIC]
BEHAVIORAL HEALTH SERVICES****GENERAL PROVISIONS****§ 1153.1. Policy.**

The MA Program provides payment for specific medically necessary psychiatric outpatient clinic **services**,

MMHT services and psychiatric outpatient partial hospitalization services rendered to eligible [**recipients**] **individuals** by psychiatric outpatient clinics and psychiatric outpatient partial hospitalization facilities enrolled as providers under the program. Payment for [**outpatient psychiatric**] **behavioral health** services is subject to the provisions of this chapter, Chapter 1101 (relating to general provisions) and the limitations established in Chapter 1150 (relating to [**the**] MA Program payment policies) and the MA Program [**fee schedule**] **Fee Schedule**.

§ 1153.2. Definitions.

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

Adult—An individual 21 years of age or older.

Adult partial hospitalization program—A program licensed by the Department, Office of Mental Health **and Substance Abuse Services**, to provide partial hospitalization services to individuals 15 years of age or older.

Children and youth partial hospitalization program—A program licensed by the Department, Office of Mental Health **and Substance Abuse Services**, to provide partial hospitalization services to individuals 14 years of age or younger.

Clinical staff—A psychiatrist or a mental health professional or mental health worker under the direct supervision of a psychiatrist.

Collateral family psychotherapy—Psychotherapy provided to the family members of [**a clinic patient in the absence of that patient**] **an individual receiving psychiatric outpatient clinic services in the absence of the individual**.

Department—The Department of Human Services.

Facility—A mental health establishment, hospital, clinic, institution, center, or other organizational unit or part thereof, the primary function of which is the diagnosis, treatment, care and rehabilitation of individuals with mental illness or emotional disturbance.

Family—A person living alone or the following persons: spouses; parents and their unemancipated minor children and other unemancipated minor children who are related by blood or marriage; or other adults or emancipated minor children living in the household who are dependent upon the head of the household.

Family psychotherapy—Psychotherapy provided to two or more members of a family. At least one family member shall have a diagnosed mental [**disorder**] **illness or emotional disturbance**. Sessions shall be [**at least 1/2 hour in duration and shall be**] conducted by a clinical staff person.

Group psychotherapy—Psychotherapy provided to no less than [**two**] **2** and no more than [**ten**] **12** persons with diagnosed mental [**disorders for a period of at least 1 hour**] **illness or emotional disturbance**. These sessions shall be conducted by a clinical staff person.

[*Home visit*—A visit made to an eligible recipient's place of residence, other than a treatment institution or nursing home, for the purpose of

observing the patient in the home setting or providing a compensable outpatient psychiatric service.]

Individual psychotherapy—Psychotherapy provided to one person with a diagnosed mental [disorder for a minimum of 1/2 hour] illness or emotional disturbance. These sessions shall be conducted by a clinical staff person.

Inpatient—[A patient] An individual who has been admitted to a treatment institution or an acute care hospital or psychiatric hospital on the recommendation of a physician and is receiving room, board and professional services in the facility on a continuous 24-hour-a-day basis.

Intake—[The first contact with a patient for initiation or renewal of services.] The first contact with an individual for initiation of or readmission to outpatient behavioral health services covered by this chapter.

[*Mental disorder*—Conditions characterized as mental disorders by the International Classification of Diseases—ICD-9-CM—including mental retardation with associated psychiatric conditions (ICD-9-CM codes 317 to 319) and excluding drug/alcohol conditions (ICD-9-CM codes 291—292.9).]

LPHA—Licensed practitioner of the healing arts—A person who is licensed by the Commonwealth to practice the healing arts. The term is limited to a physician, physician's assistant, certified registered nurse practitioner or psychologist.

MMHT—Mobile Mental Health Treatment—One or more of the following services provided in an individual's residence or approved community site:

- (i) Assessment.
- (ii) Individual, group or family therapy.
- (iii) Medication visits.

Mental health professional—[A person trained in a generally recognized clinical discipline including but not limited to psychiatry, social work, psychology or nursing, rehabilitation or activity therapies who has a graduate degree and clinical experience.] A person who meets one of the following:

- (i) Has a graduate degree from a college or university that is accredited by an agency recognized by the United States Department of Education or the Council for Higher Education Accreditation (CHEA) in a generally recognized clinical discipline which includes mental health clinical experience.
- (ii) Has an equivalent degree from a foreign college or university that has been evaluated by the Association of International Credential Evaluators, Inc. (AICE) or the National Association of Credential Evaluation Services (NACES). The Department will accept a general equivalency report from the listed evaluator agencies to verify a foreign degree or its equivalency.
- (iii) Is licensed in a generally recognized clinical discipline which includes mental health clinical experience.

Mental health worker—[A person who does not have a graduate degree in a clinical discipline but who by training and experience has achieved recognition as a mental health worker, or a person

with a graduate degree in a clinical discipline.] A person acting under the direction of a mental health professional to provide services who meets one of the following:

- (i) Has a bachelor's degree from a college or university that is accredited by an agency recognized by the United States Department of Education or the CHEA in a recognized clinical discipline including social work, psychology, nursing, rehabilitation or activity therapies.

- (ii) Has a graduate degree in a clinical discipline with 12 graduate-level credits in mental health or counseling from a program that is accredited by an agency recognized by the United States Department of Education or the CHEA.

- (iii) Has an equivalent degree from a foreign college or university that has been evaluated by the AICE or the NACES. The Department will accept a general equivalency report from the listed evaluator agencies to verify a foreign degree or its equivalency.

Mental illness or emotional disturbance—A mental illness or emotional disturbance that meets the diagnostic criteria within the current version of the *Diagnostic and Statistical Manual* or the International Classification of Diseases. A mental illness or emotional disturbance is characterized by clinically significant disturbances in an individual's cognition, emotional regulation or behavior that reflects a dysfunction in the psychological, biological or developmental processes underlying mental functioning.

Outpatient—[A person] An individual who is not a resident of a treatment institution and who is receiving covered medical and [psychiatric services at an approved or licensed outpatient psychiatric] behavioral health services from a licensed psychiatric outpatient clinic or partial hospitalization facility which is not providing [him] the individual with room and board and professional services on a continuous 24-hour-a-day basis.

Psychiatric clinic clozapine monitoring and evaluation visit—A [minimum 15-minute] visit for the monitoring and evaluation of [a patient's] an individual's physical and mental condition during the course of treatment with clozapine. The term includes only a visit provided to an eligible [recipient] individual receiving clozapine therapy, and only by a psychiatrist, physician, certified registered nurse practitioner, registered nurse [RN] or physician assistant.

Psychiatric clinic medication visit—A [minimum 15-minute] visit only for administration of a drug and evaluation of [a patient's physical and] an individual's physical or mental condition during the course of prescribed medication. This visit is provided to an eligible [recipient] individual only by a psychiatrist, physician, certified registered nurse practitioner, physician's assistant, registered nurse or licensed practical nurse [who is a graduate of a school approved by the State Board of Nursing or who has successfully completed a course in the administration of medication approved by the State Board of Nursing].

Psychiatric evaluation—An initial mental status examination and evaluation of [a patient provided only by

a psychiatrist in a face-to-face interview with the patient] an individual provided only by a psychiatrist in a face-to-face interview or using real-time, two-way interactive audio-video transmission with prior written approval from the Department with the individual. It [shall] must include a comprehensive history and evaluation of pertinent diagnostic information necessary to arrive at a diagnosis and treatment plan, recommendations for treatment, or further diagnostic studies or consultation. The history [shall] must include individual, social, family, occupational, drug, medical, and previous psychiatric diagnostic and treatment information.

Psychiatric outpatient clinic [provider]—A facility [approved by the Department, Office of Medical Assistance, and fully approved/licensed] fully licensed by the Department, Office of Mental Health and Substance Abuse Services, to provide specific medical, psychiatric and psychological services for the diagnosis and treatment of mental [disorders] illness or emotional disturbance. [Treatment is provided to eligible Medical Assistance outpatient recipients who are not residents of a treatment institution or receiving similar treatment elsewhere.]

Psychiatric outpatient clinic services—Outpatient medical, psychiatric and psychological services listed in the MA Program Fee Schedule furnished to [a mentally disordered outpatient while the person] an individual with mental illness or emotional disturbance while the individual is not a resident of a treatment institution, provided by or under the supervision of a psychiatrist [in a facility organized and operated to provide medical care to outpatients].

Psychiatric outpatient partial hospitalization provider—A facility [approved by the Department of Human Services, Office of Medical Assistance,] enrolled in the MA Program to provide partial hospitalization services and fully [approved/licensed] licensed by the Department, Office of Mental Health and Substance Abuse Services, to provide psychiatric, medical, psychological and psychosocial services as partial hospitalization for the diagnosis and treatment of mental [disorders] illness and emotional disturbance. [Treatment is provided to eligible MA outpatient recipients who are not residents of a treatment institution or receiving similar treatment elsewhere.]

Psychiatric partial hospitalization—An active outpatient psychiatric day or evening treatment session including medical, psychiatric, psychological[,] and psychosocial treatment listed in the MA Program Fee Schedule. This service shall be provided to [mentally disordered outpatients in a supervised, protective setting for a minimum of 3 hours and a maximum of 6 hours in a 24-hour period] an individual with mental illness or emotional disturbance in a supervised, protective setting. The session shall be provided by a psychiatrist or by psychiatric partial hospitalization personnel under the supervision of a psychiatrist.

Psychologist in preparation for licensure—A person who has completed the educational requirements for licensure and is accruing the required postdegree experience for licensing.

Psychotherapy—The treatment, by psychological means, of the problems of an emotional nature in which a trained person deliberately establishes a professional relationship with [the patient with the object of removing, modifying or retarding] an individual with the objective of removing, modifying or relieving existing symptoms, of mediating disturbed patterns of behavior, and of promoting positive personality growth and development.

Supervision by a psychiatrist—The psychiatrist [personally] provides or orders, guides and oversees compensable medical, psychiatric and psychological services provided to [recipients] individuals by psychiatric outpatient clinic or partial hospitalization personnel as specified in § 1153.52(a) (relating to payment conditions for various services).

Treatment institution—A facility approved or licensed by the Department or its agents that provides [full- or part-time psychiatric treatment services for resident patients with mental disorders—mental retardation residential facilities] full-time psychiatric treatment services for resident individuals with mental illness or emotional disturbance—residential facilities for individuals with intellectual disabilities or community residential rehabilitation services are not considered to be mental health institutions.

COVERED AND NONCOVERED SERVICES

§ 1153.11. Types of services covered.

Medical Assistance Program coverage for [outpatient] psychiatric outpatient clinics [and], partial hospitalization facilities and MMHT services is limited to professional medical and psychiatric services for the diagnosis and treatment of mental [disorders, including mental retardation] illness and emotional disturbance, including intellectual disabilities, as specified in the MA Program Fee Schedule.

§ 1153.12. Outpatient services.

The [outpatient] psychiatric outpatient clinic services specified in the MA Program Fee Schedule and the outpatient psychiatric partial hospitalization services specified in the MA Program Fee Schedule are covered only when provided by [approved outpatient psychiatric] licensed psychiatric outpatient clinics or psychiatric partial hospitalization facilities when ordered by a psychiatrist. MMHT services specified in the MA Program Fee Schedule are covered only when provided by a licensed psychiatric outpatient clinic that has an approved service description for MMHT. Payment is subject to the conditions and limitations established in this chapter and Chapter 1101 (relating to general provisions).

§ 1153.14. Noncovered services.

Payment will not be made for the following types of services regardless of where or to whom they are provided:

- (1) A covered [clinic] psychiatric outpatient clinic, MMHT or partial hospitalization service conducted over the telephone.
- (2) Cancelled appointments.
- (3) Covered services that have not been rendered.

(4) [**A**] An MA covered service, including psychiatric [**clinic**] outpatient clinic, MMHT and partial hospitalization services, provided to inmates of State or county correctional institutions or committed residents of public institutions.

(5) Psychiatric outpatient clinic, MMHT or partial hospitalization services to residents of treatment institutions, such as [**, persons**] individuals who are also being provided with room or board, or both, and services, on a 24-hour-a-day basis by the same facility or distinct part of a facility or program.

(6) Services delivered at locations other than [**approved psychiatric outpatient clinics or partial hospitalization facilities with the exception of home visits under the conditions specified in § 1153.52(d) (relating to payment conditions for various services)**] licensed psychiatric outpatient clinics with the exception of MMHT under the conditions specified in § 1153.52(d) (relating to payment conditions for various services) or partial hospitalization facilities.

(7) Vocational rehabilitation, occupational or recreational therapy, referral, information or education services, case management, central intake or records, training, administration, program evaluation, research or social services provided in psychiatric outpatient clinics.

(8) Case management, central intake or records, training, administration, social rehabilitation, program evaluation or research provided in psychiatric outpatient partial hospitalization facilities.

(9) Psychiatric outpatient clinic services, MMHT and psychiatric partial hospitalization provided on the same day to the same [**patient**] individual.

(10) Covered psychiatric outpatient clinic services, MMHT and psychiatric partial hospitalization services, with the exception of family psychotherapy, provided to persons without a mental [**disorder or mental retardation**] illness or emotional disturbance or an intellectual disability diagnosis rendered by a psychiatrist in accordance with the current version of the *Diagnostic and Statistical Manual or the International Classification of Diseases—[ICD-9-CM, Chapter V, “Mental Disorders.”] Chapter V, “Mental, Behavioral, and Neurodevelopmental Disorders.”*

(11) [**Psychiatric outpatient clinic and psychiatric partial hospitalization services provided to patients with drug/alcohol abuse or dependence problems, such as alcohol dependence and nondependent abuse of drugs, alcohol psychoses, and drug psychoses, unless the patient has a primary diagnosis of a nondrug/alcohol abuse/dependence related mental disorder.**] Psychiatric outpatient clinic, MMHT and psychiatric partial hospitalization services provided to individuals with substance-related and addictive disorders, unless the individual has a primary diagnosis of a mental illness or emotional disturbance.

(12) Drugs [**and**], biologicals and supplies furnished to [**psychiatric clinic or psychiatric partial hospitalization patients during a visit to the**] an individual receiving services at a psychiatric outpatient clinic or a partial hospitalization facility during a visit to the psychiatric outpatient clinic or

facility. These are included in the **psychiatric outpatient** clinic medication visit fee or partial hospitalization session payment. Separate billings from any source for items and services provided [**in the**] by the **psychiatric outpatient** clinic are noncompensable.

(13) Services not specifically included in the MA Program Fee Schedule are noncompensable.

(14) [**Home visits**] MMHT services not provided in accordance with the conditions specified in § 1153.52(d).

(15) Services provided beyond the [**15th**] 30th calendar day following intake, without the psychiatrist's review and approval of the initial assessment and treatment plan.

(16) The hours that the [**client**] individual participates in an education program delivered in the same setting as a children and youth partial hospitalization program unless, in addition to the teacher, a clinical staff person works with the child in the classroom. The Department will reimburse for only that time during which the [**client**] individual is in direct contact with a clinical staff person.

(17) Group psychotherapy provided in the [**patient's**] individual's home.

(18) Psychiatric [**clinic**] outpatient clinic, MMHT and partial hospitalization services provided to nursing home residents on the grounds of the nursing home or under the corporate umbrella of the nursing home.

(19) Electroconvulsive therapy and electroencephalogram provided through MMHT.

(20) MMHT provided on the same day as other home and community-based behavioral health services to the same individual.

(21) MMHT services provided as a substitute for transportation to the psychiatric outpatient clinic.

SCOPE OF BENEFITS

§ 1153.21. Scope of benefits for [**the categorically needy**] children under 21 years of age.

[**Categorically needy recipients**] Children under 21 years of age are eligible for the full range of covered psychiatric outpatient clinic, MMHT and psychiatric partial hospitalization services in the MA Program Fee Schedule.

§ 1153.22. Scope of benefits for [**the medically needy**] adults 21 years of age or older.

[**Medically needy recipients**] Adults 21 years of age or older are eligible for the full range of covered psychiatric outpatient clinic, MMHT and psychiatric partial hospitalization services in the MA Program Fee Schedule.

§ 1153.23. [**Scope of benefits for State Blind Pension recipients**] (Reserved).

[**State Blind Pension recipients are eligible for the full range of covered psychiatric outpatient clinic and psychiatric partial hospitalization services in the MA Program fee schedule.**]

§ 1153.24. [**Scope of benefits for General Assistance recipients**] (Reserved).

[**General Assistance recipients, age 21 to 65, whose MA benefits are funded solely by State funds,**

are eligible for medically necessary basic health care benefits as defined in Chapter 1101 (relating to general provisions). See § 1101.31(e) (relating to scope).]

PROVIDER PARTICIPATION

§ 1153.41. Participation requirements.

In addition to the participation requirements established in Chapter 1101 (relating to general provisions), [outpatient] psychiatric **outpatient** clinics and outpatient partial hospitalization facilities shall meet the following participation requirements:

(1) Have current full [licensure/approval] **licensure** as a psychiatric outpatient clinic or partial hospitalization outpatient facility by the Department's Office of Mental Health and Substance Abuse Services. To remain eligible for MA reimbursement, a **psychiatric outpatient** clinic or partial hospitalization facility shall be fully [licensed/approved] **licensed** at all times as a psychiatric outpatient clinic or partial hospitalization outpatient facility.

(2) Have medical personnel currently licensed, certified or registered in accordance with laws of the Commonwealth.

(3) Have a written [patient] referral plan for **individuals receiving services** that provides for inpatient hospital care and follow-up treatment.

(4) Post a current written fee schedule for billing third party and private payors.

(5) Appoint an administrator or director responsible for the internal operation of the **psychiatric outpatient** clinic or partial hospitalization facility. Appoint a psychiatrist or psychiatrists responsible for the supervision and direction of services rendered to eligible [recipients] **individuals**.

(6) Notify immediately the Department, Office of Medical Assistance[, Bureau of Provider Relations, in writing] **Programs, Bureau of Fee-for-Services, in the manner prescribed by the Department, of [a]** facility or clinic name, address[,] and service changes prior to the effective date of change. Failure to do so may result in payment interruption or termination of the provider agreement.

(7) Enter into a written provider agreement with the Department.

(8) Have each branch location or satellite of [an approved] a **licensed psychiatric outpatient** clinic or partial hospitalization facility also licensed [or approved] by the Office of Mental Health and Substance Abuse Services as a psychiatric outpatient clinic site or psychiatric partial hospitalization facility, whichever is applicable, and [approved] **enrolled** by the Office of Medical Assistance **Programs** before reimbursement can be made for services rendered at the branch or satellite. [Approval] **Licensure and enrollment** of the parent organization does not constitute [approval] **licensure and enrollment** for any branches or satellites of the same organization.

(9) [Be approved by the Department's Office of Medical Assistance.] **Be enrolled as a provider in the Medical Assistance Program.**

(10) Have medications prescribed by a licensed [physician] **practitioner within his scope of practice.**

(11) **Psychiatric outpatient clinics providing MMHT shall have a service description approved by the Department under the conditions specified in § 5200.51 (relating to provider service description).**

§ 1153.42. Ongoing responsibilities of providers.

(a) *Responsibilities of providers.* Ongoing responsibilities of providers are established in Chapter 1101 (relating to general provisions). [Outpatient psychiatric] **Psychiatric outpatient** clinics and outpatient psychiatric partial hospitalization facilities shall also adhere to the additional requirements established in this section.

(b) *Recordkeeping requirements.* In addition to the requirements listed in § 1101.51(e) (relating to ongoing responsibilities of providers), the following items [shall] **must** be included in medical records of [MA patients receiving outpatient psychiatric clinic] **individuals receiving psychiatric outpatient clinic, MMHT and outpatient psychiatric partial hospitalization services:**

(1) The treatment plan [shall] **must** include:

(i) The treatment plan goals.

(ii) Services to be provided to the [patient] **individual** in the clinic or partial hospitalization facility or through referral.

(iii) Persons to directly provide each service.

(2) As part of the progress notes, the frequency and duration of each service provided shall be included.

PAYMENT FOR OUTPATIENT [PSYCHIATRIC CLINIC AND OUTPATIENT PSYCHIATRIC PARTIAL HOSPITALIZATION] BEHAVIORAL HEALTH SERVICES

§ 1153.51. General payment policy.

Payment is made for medically necessary professional medical and psychiatric services provided by or under the supervision and direction of a psychiatrist [in participating outpatient psychiatric] **by participating psychiatric outpatient** clinics and outpatient psychiatric partial hospitalization facilities, subject to the conditions and limitations established in this chapter and Chapters 1101 and 1150 (relating to general provisions; and MA Program payment policies) and the MA Program Fee Schedule. Payment will not be made for a compensable psychiatric [clinic] **outpatient clinic, MMHT or psychiatric partial hospitalization service** if payment is available from another public agency or another insurance or health program.

§ 1153.52. Payment conditions for various services.

(a) The following conditions shall be met by [outpatient] **psychiatric outpatient** clinics and partial hospitalization programs, as applicable, to be eligible for payment:

(1) A psychiatrist shall be present in the psychiatric outpatient clinic and psychiatric outpatient partial hospitalization facility, as required by the Office of Mental Health [approval/licensing] **and Substance Abuse Services licensing** regulations, to perform or supervise the performance of all covered services provided to [MA patients] **individuals receiving MA benefits.**

(2) Psychiatric evaluations shall be performed only by a psychiatrist in a face-to-face interview **[with the patient]** or using a real-time, two-way interactive audio-video transmission with prior written approval from the Department with the individual. Additional interviews with other staff may be included as part of the examination but shall be included in the psychiatric evaluation fee. Separate billings for these additional interviews are not compensable.

(3) Psychotherapy—individual, family, collateral family or group—shall be provided only by a clinical staff person.

(4) Psychiatric partial hospitalization services shall be provided only by a clinical staff person.

(5) Diagnostic psychological and intellectual evaluations shall be administered and interpreted only by a licensed psychologist or by a psychologist in preparation for licensure under the direct supervision of a licensed psychologist.

(6) The psychiatric **outpatient** clinic medication visit shall be provided only by a psychiatrist, physician, **certified registered nurse practitioner, physician's assistant**, registered nurse or licensed practical nurse **[who is a graduate of a school approved by the State Board of Nursing or who has successfully completed a course in the administration of medication approved by the State Board of Nursing]**.

(7) Within **[15] 30** consecutive calendar days following intake for individuals who continue to participate in the treatment process, a mental health professional or mental health worker under the supervision of a mental health professional, shall **[examine and initially assess each patient in the clinic; determine the patient's diagnosis and prepare an initial treatment plan]** interview and initially assess each individual in the psychiatric outpatient clinic; determine the individual's diagnosis and prepare an initial treatment plan in collaboration with the individual; and date and sign the examination, diagnosis and treatment plan in the **[patient's]** medical record. The treatment plan shall be developed, maintained and periodically reviewed in accordance with the following criteria:

(i) The psychiatrist shall verify each **[patient's]** individual's diagnosis and approve the initial treatment plan prior to the provision of any treatment beyond the **[15th] 30th** day following intake. This review and approval shall be dated and signed in the **[patient's]** medical record.

(ii) **[The psychiatrist and mental health professional, or mental health worker under the supervision of a mental health professional, shall review and update each patient's treatment plan at least every 120 days or 15 clinic visits, whichever is first, or, as may otherwise be required by law throughout the duration of treatment. Each review and update shall be dated, documented and signed in the patient's record by the psychiatrist and mental health professional.]** The mental health professional or mental health worker under the supervision of a mental health professional and in collaboration with the individual receiving services shall review and update the treatment plan at least every 180 days or as may otherwise be required by law throughout the duration of treatment. Each update

shall be dated, documented and signed in the medical record by the mental health professional and the individual receiving services.

(iii) The treatment plan and updates shall be based upon the evaluation and diagnosis. Treatment shall be provided in accordance with the **identified goals in the treatment plan and updates**. Psychiatrists' reviews and **[reevaluations] re-evaluations** of diagnoses, treatment plans and updates shall be done **within 1 year of the previous psychiatric review** with the mental health professional or mental health worker under the supervision of a mental health professional, **[in the clinic and, whenever possible, with the patient]** by the **psychiatric outpatient clinic and with the individual receiving services. The review shall be dated and signed in the medical record.**

(8) The psychiatric clinic clozapine monitoring and evaluation visit shall be used only for a person receiving clozapine therapy.

(b) *Psychiatric outpatient partial hospitalization.* Payment will only be made for psychiatric outpatient partial hospitalization provided to eligible **[patients with mental disorders in approved]** individuals with mental illness or emotional disturbance in licensed psychiatric outpatient partial hospitalization facilities under the following conditions:

(1) **[Patients]** Individuals receiving partial hospitalization services shall meet the following criteria:

(i) Have a mental disorder diagnosis that has been verified by a psychiatrist.

(ii) Have a psychiatric condition requiring more intensive treatment than that provided by an outpatient clinic.

(iii) Have a psychiatric condition requiring provision of a supervised, protective setting for a prescribed time period to prevent institutionalization or ease the transition from inpatient care to more independent living.

(2) The following components shall be available in **[an approved]** a licensed psychiatric partial hospitalization facility and provided to **[the patient]** an individual, if necessary, in accordance with the **[patient's]** individualized treatment plan:

(i) Individual, group and family psychotherapy.

(ii) Health education—basic physical and mental health information; nutrition information and assistance in purchasing and preparing food, personal hygiene instruction; basic health care information, child care information and family planning information and referral; information on prescribed medications.

(iii) Instruction in basic care of the home or residence for daily living.

(iv) Instruction in basic personal financial management for daily living.

(v) Medication administration and evaluation provided only by a psychiatrist, physician, registered nurse or licensed practical nurse.

(vi) Guided social interaction supervised by psychiatric partial hospitalization personnel.

(vii) Crisis management provided by psychiatric partial hospitalization personnel.

(viii) Referral.

(c) *Psychiatric outpatient clinic.* Payment will only be made for psychiatric outpatient clinic services [**provided to eligible patients with mental disorders in approved**] or MMHT services provided to eligible individuals with mental illness or emotional disturbance by licensed psychiatric outpatient clinics under the following conditions:

(1) [**Psychiatric clinic medication**] Medication visits shall be a minimum duration of 15 minutes. They shall be provided only for the purpose of administering medication, and for evaluating the physical and mental condition of [**the patient**] an individual during the course of prescribed medication.

(2) [**Patients receiving psychiatric clinic services shall have a mental disorder diagnosis verified by a psychiatrist.**] Individuals receiving psychiatric outpatient clinic services or MMHT shall have a mental illness or emotional disturbance diagnosis verified by a psychiatrist.

(3) Family psychotherapy is compensable only if one or more family members has a mental disorder diagnosis.

(4) [**Psychiatric clinic clozapine**] Clozapine monitoring and evaluation visits shall be a minimum duration of 15 minutes. They shall be provided only for [**a person receiving clozaril and for monitoring and evaluating the patient's white blood cell count**] an individual receiving clozapine and for monitoring and evaluating the individual's absolute neutrophil count to determine whether clozapine therapy should be continued or modified.

[(d) *Psychiatric clinic services provided in the home.* Psychiatric clinic services delivered in the patient's home are subject to the conditions and limitations established in the chapter. Home visits, as defined in § 1153.2 (relating to definitions), are compensable as outpatient psychiatric services listed in the MA Program Fee Schedule only if the physician's documentation in the patient's records and progress notes fully substantiates that one of the following conditions exists:

(1) The client's disability requires specialized transportation which is not generally available.

(2) The client has a behavior disorder which disrupts the clinic environment.

(3) The client has a diagnosis of agoraphobia.

(e) *Observation of the client in the home environment.* Observation of the client in the home environment is considered to be an individual psychotherapy service and is compensable only when:

(1) The client is currently in therapy.

(2) Observation of the client in his home setting is a necessary component of the clients' psychotherapeutic regimen.]

(d) *MMHT.* MMHT services are subject to the conditions and limitations established in this chapter. MMHT services provided in the home or other approved community sites are compensable only if documentation in the medical record substantiates all of the following:

(1) The services are provided to an eligible individual with mental illness or emotional disturbance.

(2) The services are ordered by an LPHA.

(3) The services if provided in a psychiatric outpatient clinic would be medically necessary.

(4) The evaluation documents the disabling effects of a mental or physical illness that impedes or precludes the individual's ability to participate in services at the psychiatric outpatient clinic.

(5) Treatment plan updates document the continued clinical need for MMHT services.

§ 1153.53. Limitations on payment.

[(a) Payment is subject to the following limitations:

(1) For recipients 21 years of age or older, 180 three-hour sessions, 540 total hours, of psychiatric partial hospitalization in a fiscal year per recipient, except for State Blind Pension recipients, for whom payment is limited to 240 3-hour sessions, 720 total hours, of psychiatric partial hospitalization in a consecutive 365-day period per recipient.

(2) At least 3 hours but no more than 6 hours of psychiatric partial hospitalization per 24-hour period.

(3) Two outpatient psychiatric evaluations in psychiatric clinics per patient per year.

(4) For recipients 21 years of age or older, a total of 5 hours or 10 one-half hour sessions of psychotherapy per recipient per 30-consecutive day period, except for State Blind Pension recipients, for whom payment is limited to a total of 7 hours or 14 one-half hour sessions of psychotherapy per recipient per 30-consecutive day period. This period begins on the first day that an eligible recipient receives an outpatient psychiatric clinic service listed in the MA Program Fee Schedule. Psychotherapy includes the total of individual, group, family, collateral family psychotherapy services and home visits provided per eligible recipient per 30-consecutive day period.

(5) Three psychiatric clinic medication visits per patient per 30-consecutive days in psychiatric outpatient clinics.

(6) One outpatient comprehensive diagnostic psychological evaluation or no more than \$80 worth of individual psychological or intellectual evaluations in psychiatric clinics per patient per 365 consecutive days.

(7) The partial hospitalization fees listed in the MA Program Fee Schedule include payment for all services rendered to the patient during a psychiatric partial hospitalization session. Separate billings for individual services are not compensable.

(8) Partial hospitalization facilities licensed for adult programs will be reimbursed at the adult rate, regardless of the age of the client receiving treatment.

(9) Partial hospitalization facilities licensed as children and youth programs will be reimbursed at the child rate only when the client receiving treatment is 14 years of age or younger.

(10) Family psychotherapy and collateral family psychotherapy are compensable for only one person per session, regardless of the number of family

members who participate in the session or the number of participants who are eligible for psychotherapy.

(11) Psychiatric clinic clozapine monitoring and evaluation visits are limited to five visits per patient per calendar month.

(12) Any combination of psychiatric clinic medication visits and psychiatric clinic clozapine monitoring and evaluation visits is limited to five per patient per calendar month.

(b) The Department is authorized to grant an exception to the limits specified in subsection (a)(1) and (4) as described in § 1101.31(f) (relating to scope).]

Payment is subject to the following limitations:

(1) At least 3 hours of psychiatric partial hospitalization per 24-hour period.

(2) The partial hospitalization fees listed in the MA Program Fee Schedule include payment for all services rendered to the individual during a psychiatric partial hospitalization session. Separate billings for individual services are not compensable.

(3) Partial hospitalization facilities licensed for adult programs will be reimbursed at the adult rate, regardless of the age of the individual receiving treatment.

(4) Partial hospitalization facilities licensed as children and youth programs will be reimbursed at the child rate only when the individual receiving treatment is 14 years of age or younger.

(5) Family psychotherapy and collateral family psychotherapy are compensable for only one person per session, regardless of the number of family members who participate in the session or the number of participants who are eligible for psychotherapy.

(6) MMHT group therapy shall be provided only in an approved community-based site as specified in the treatment plan to individuals receiving MMHT from the psychiatric outpatient clinic.

§ 1153.53a. [Requests for waiver of hourly limits] (Reserved).

[(a) Clients who are 20 years of age or younger and who are diagnosed as having one of the medical conditions listed in this section, or conditions of equal severity, may request a waiver from the general limitation on the number of hours of covered services. The medical conditions are:

- (1) Infantile autism.
- (2) Atypical childhood psychosis.
- (3) Borderline psychosis of childhood.
- (4) Schizophrenia.
- (5) Schizophrenic syndrome of childhood.
- (6) Impulse control disorder.
- (7) Early deprivation syndrome.
- (8) Unsocialized aggressive reaction.
- (9) Hyperkinetic conduct disorder.
- (10) Over anxious disorder.
- (11) Anorexia nervosa.

(12) Neurotic depression—with suicidal ideation.

(b) The request for a waiver shall be accompanied by supporting medical documentation and a second physician's certification as to the medical necessity of psychotherapy beyond the general limitation.

(c) The request for a waiver is reviewed by the Office of Mental Health, Bureau of Community Programs, and acted upon within 30 days of receipt. Failure to act within 30 days constitutes approval of the waiver.

(d) Waivers are granted for periods of up to 6 months. Requests for additional waivers shall be submitted 30 days prior to the expiration of an existing waiver and are reviewed under the same conditions as specified above.

(e) Requests for waivers must be submitted to: Department of Human Services, Office of Medical Assistance, Room 515 Health and Welfare Building, Harrisburg, Pennsylvania 17120.

(f) A denial of a waiver request may be appealed under the same terms and conditions as any denial of services. See Chapter 275 (relating to appeal and fair hearing and administrative disqualification hearings). Notice of a decision of waiver request will be mailed to the MA recipient and to the provider of services.]

PART VII. MENTAL HEALTH MANUAL

Subpart D. NONRESIDENTIAL AGENCIES/FACILITIES/SERVICES

CHAPTER 5200. PSYCHIATRIC OUTPATIENT CLINICS

GENERAL PROVISIONS

§ 5200.1. Legal base.

The legal authority for this chapter is sections 105 and 112 of the Mental Health Procedures Act (50 P.S. §§ 7105 and 7112)[;], section 201(2) of the Mental Health and [Mental Retardation] Intellectual Disability Act of 1966 (50 P.S. § 4201(2))[;] and section 1021 of the [Public Welfare] Human Services Code (62 P.S. § 1021).

§ 5200.2. Scope.

(a) This chapter provides standards for the licensing of freestanding [outpatient] psychiatric outpatient clinics under section 1021 of the [Public Welfare] Human Services Code (62 P.S. § 1021), and approval of psychiatric outpatient clinics which are a part of a health care facility as defined in section 802.1 of the Health Care Facilities Act (35 P.S. § 448.802a), and under sections 105 and 112 of the Mental Health Procedures Act (50 P.S. §§ 7105 and 7112).

(b) This chapter applies to private, nonprofit [corporations] or for-profit corporations and public entities which provide medical examination, diagnosis, care [and treatment to the mentally ill or the emotionally disturbed], treatment and support to individuals with mental illness or emotional disturbance on an outpatient basis and which participate in the public mental health program. This chapter does not apply to group or individual practice arrangements of private practitioners.

§ 5200.3. Definitions.

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

Advanced practice professional—A person who holds a current Pennsylvania license as one of the following:

(i) Certified registered nurse practitioner with a mental health certification.

(ii) Physician assistant with a mental health certification or at least 1 year of experience working in a behavioral health setting under the supervision of a psychiatrist.

Assessment—A face-to-face interview that includes an evaluation of the psychiatric, medical, psychological, social, vocational and educational factors important to the individual.

Child psychiatrist—A physician who has completed a residency in psychiatry and who has a specialty in child psychiatry and is licensed to practice in this Commonwealth.

Department—The Department of Human Services.

FTE—Full-time equivalent—Thirty-seven and one half hours per week.

Facility—A mental health establishment, hospital, clinic, institution, center or other organizational unit or part thereof, the primary function of which is the diagnosis, treatment, care and rehabilitation of [mentally disabled persons] individuals with mental illness or emotional disturbance.

[**Full-time equivalent (FTE)**—Thirty-seven and one half hours per week of staff time.]

LPHA—Licensed practitioner of the healing arts—A person who is licensed by the Commonwealth to practice the healing arts. The term is limited to a physician, physician's assistant, certified registered nurse practitioner or psychologist.

MMHT—Mobile Mental Health Treatment—One or more of the following services provided in an individual's residence or approved community site:

- (i) Assessment.
- (ii) Individual, group or family therapy.
- (iii) Medication visits.

Mental health professional—[A person trained in a generally recognized clinical discipline including, but not limited to, psychiatry, social work, psychology or nursing or rehabilitation or activity therapies who has a graduate degree and mental health clinical experience.] A person who meets one of the following:

(i) Has a graduate degree from a college or university that is accredited by an agency recognized by the United States Department of Education or the Council for Higher Education Accreditation (CHEA) in a generally recognized clinical discipline which includes mental health clinical experience.

(ii) Has an equivalent degree from a foreign college or university that has been evaluated by the Association of International Credential Evaluators, Inc. (AICE) or the National Association of Credential Evaluation Services (NACES). The Department

will accept a general equivalency report from the listed evaluator agencies to verify a foreign degree or its equivalency.

(iii) Is licensed in a generally recognized clinical discipline which includes mental health clinical experience.

Mental health worker—[A person without a graduate degree who by training and experience has achieved recognition as a mental health worker.] A person acting under the direction of a mental health professional to provide services who meets one of the following:

(i) Has a bachelor's degree from a college or university that is accredited by an agency recognized by the United States Department of Education or the CHEA in a recognized clinical discipline including social work, psychology, nursing, rehabilitation or activity therapies.

(ii) Has a graduate degree in a clinical discipline with 12 graduate-level credits in mental health or counseling from a program that is accredited by an agency recognized by the United States Department of Education or the CHEA.

(iii) Has an equivalent degree from a foreign college or university that has been evaluated by the AICE or the NACES. The Department will accept a general equivalency report from the listed evaluator agencies to verify a foreign degree or its equivalency.

Mental illness or emotional disturbance—A mental illness or emotional disturbance that meets the diagnostic criteria within the current version of the *Diagnostic and Statistical Manual* or the International Classification of Diseases. A mental illness or emotional disturbance is characterized by clinically significant disturbances in an individual's cognition, emotional regulation or behavior that reflects a dysfunction in the psychological, biological or developmental processes underlying mental functioning.

Psychiatric outpatient clinic [(outpatient)]—A non-residential treatment setting in which psychiatric, psychological, social, educational and other related services are provided under medical supervision. It is designed for the evaluation and treatment of [patients with mental or emotional disorders] individuals with mental illness or emotional disturbance. [Outpatient] Psychiatric outpatient services are provided on a planned and regularly scheduled basis.

[**Psychiatric nurse**—A person who by years of study, training and experience has achieved professional recognition and standing in the field of psychiatric nursing and who is licensed by the State Board of Nursing to engage in the practice of professional nursing.

Psychiatric social worker—A person with a graduate degree in social work who by years of study, training and experience in mental health has achieved professional recognition and standing in the field of psychiatric social work.]

Psychiatrist—A physician who has completed [a 3 year] at least 3 years of a residency in psychiatry and is licensed to practice in this Commonwealth.

Psychologist—A person licensed to practice psychology in this Commonwealth.

Quality assurance program—A formal process to assure quality care and maximize program benefits to [patients] individuals receiving services.

Telepsychiatry—

(i) Services provided by a psychiatrist licensed by the Commonwealth using real-time, two-way interactive audio-video transmission.

(ii) Telepsychiatry services do not include telephone conversation, e-mail message or facsimile transmission between a psychiatrist and an individual receiving services, or a consultation between two health care practitioners, although these activities may support telepsychiatry services.

§ 5200.4. Provider eligibility.

[Psychiatric clinic (outpatient) services for the mentally and emotionally disturbed shall be provided only by a facility which complies with this chapter and is certified by the Department to provide such a program. Nothing in this chapter is intended to regulate the practice of psychiatry or psychology in a solo or group practice.] Psychiatric outpatient clinic services for individuals with mental illness or emotional disturbance shall be provided only by a facility which complies with this chapter and is licensed by the Department. Nothing in this chapter is intended to regulate the provision of mental health services in individual or group private practice.

§ 5200.5. Application and review process.

(a) A facility intending to provide psychiatric outpatient clinic services shall file an application for a certificate of compliance with the Department in accordance with Chapter 20 (relating to licensure or approval of facilities and agencies). Facilities shall meet both the requirements of Chapter 20 and this chapter to obtain a certificate. Submission of an application does not constitute a certificate to operate pending Departmental approval. [Facilities shall be inspected a minimum of once per year, but are subject to visit by the Department's designee at other times at the Department's discretion. The Department may request the facility to provide information concerning program and fiscal operation at the Department's discretion.]

(b) [Programs currently operating under preexisting approval shall have 3 months after the effective date of this chapter to meet the requirements of this chapter.] Facilities will be inspected a minimum of once per year, and are subject to visits by the Department's designee at other times at the Department's discretion. The facility shall provide information concerning program and fiscal operation at the Department's request.

§ 5200.6. Objective.

[The objective of the psychiatric clinic treatment services is to increase the level of patient functioning and well being so that patients will require less intensive services. The service may be provided to persons with chronic or acute mental disorders who require active treatment.] The objective of the psychiatric outpatient clinic treatment services is

to facilitate an individual's recovery to improve functioning, enhance resiliency and well-being, promote independence and maintain optimal functioning in the community consistent with the individual's preferences. The service may be provided to individuals with short-term or long-term treatment needs.

§ 5200.7. Program standards.

This chapter shall be met by a facility seeking licensure or approval. [For-profit facilities shall also have Joint Commission on Accreditation of Hospitals (JCAH) accreditation in order to be licensed or approved under this chapter.]

ORGANIZATION

§ 5200.11. Organization and structure.

[The psychiatric clinic shall be a separate, identifiable organizational unit with its own director, or supervisor, and staffing pattern. When the clinic is a portion of a larger organizational structure, the director or supervisor of the clinic shall be identified and his responsibilities clearly defined. The organizational structure of the unit shall be described in an organizational chart. A written description of programs provided by the unit shall be available to the Department. The Department will be notified of a major change in the organizational structure or services.]

(a) The psychiatric outpatient clinic must be a separate, identifiable organizational unit with its own director, clinical supervisor and staffing pattern. When the psychiatric outpatient clinic is a portion of a larger organizational structure, the director and clinical supervisor of the psychiatric outpatient clinic shall be identified and their responsibilities clearly defined.

(b) The organizational structure of the unit must be described in an organizational chart.

(c) A written description of programs provided by the unit shall be available to the Department.

(d) The psychiatric outpatient clinic shall notify the Department of a major change in the organizational structure or services.

§ 5200.12. Linkages with mental health service system.

(a) A psychiatric outpatient clinic requires a close relationship with an acute psychiatric inpatient service and a provider of emergency examination and treatment. A written statement describing the accessibility and availability of the services to [patients] individuals is required and shall be maintained on file at the [clinic] psychiatric outpatient clinic and updated as needed.

(b) [A psychiatric clinic shall maintain linkages with other appropriate treatment and rehabilitative services including emergency services, partial hospitalization programs, vocational and social rehabilitation programs, and community residential programs and State psychiatric hospitals. A written statement documenting the linkages shall be maintained on file at the clinic.] A psychiatric outpatient clinic shall maintain linkages with other treatment and rehabilitative services for a full continuum of care, including crisis services, partial

hospitalization programs, peer support, psychiatric rehabilitation programs, intensive community services, community residential programs and community psychiatric hospitals. A written statement describing the accessibility and availability of the services to individuals is required and shall be maintained on file at the psychiatric outpatient clinic and updated as needed to accurately state the services currently available.

(c) When the **psychiatric outpatient** clinic serves children, linkages with the appropriate educational and social services agencies shall also be maintained. [A written statement documenting the linkages shall be maintained on file at the clinic.] A written statement describing the accessibility and availability of the services to children is required and shall be maintained on file at the psychiatric outpatient clinic and updated as needed to accurately state the services currently available.

(d) A psychiatric **outpatient** clinic shall participate in the overall system of care as defined in the County [**Mental Health/Mental Retardation (MH/MR)**] **Mental Health/Intellectual Disability (MH/ID)** plan. A **psychiatric outpatient** clinic shall have an agreement regarding continuity of care and information exchange with the County [**MH/MR**] **MH/ID** authority. A copy of an agreement [**shall**] **must** be included in the application package. Psychiatric **outpatient** clinics shall document the need for their services in their application for a certificate of compliance.

(e) New psychiatric **outpatient** clinics or new sites of existing **psychiatric outpatient** clinics established after the effective date of this chapter shall document the need in the proposed service area for the expansion of outpatient services. County [**MH/MR**] **MH/ID** authorities shall review this documentation and make a recommendation to the Department. The Department may deny approval of the expansion where inadequate justification is provided.

STAFFING AND PERSONNEL

§ 5200.21. Qualifications and duties of the [**director/clinic**] **director/clinical** supervisor.

[(a) Each mental health outpatient facility shall have a **director/clinic** supervisor. This person shall be a qualified mental health professional with at least 2 years of supervisory experience or a professional administrator with a graduate degree in administration and 2 years of experience. If the **director/clinic** supervisor is not a qualified mental health professional, a physician shall be appointed as clinical director in addition to the director.

(b) The **director's/supervisor's** duties shall include:

(1) Direction, administration and supervision of the clinic.

(2) Development or implementation of the policies and procedures for the operation of the clinic.

(3) Regular meetings of staff to discuss plans, policy, procedures and staff training.

(4) Liaison with other portions of the service system.

(5) Administrative supervision of personnel.

(6) Employment, supervision, and discharge of staff according to established personnel policies.

(7) Supervision of staff training and development.]

(a) Each psychiatric outpatient clinic shall have a director and clinical supervisor, who may be the same individual. A clinical supervisor shall be a qualified mental health professional with at least 2 years of supervisory experience.

(b) The director shall be responsible for the overall operation of the psychiatric outpatient clinic, including daily management, ensuring that clinical supervision is available during all operational hours, developing a quality improvement plan for the psychiatric outpatient clinic and monitoring adherence with this chapter.

(c) The clinical supervisor's responsibilities shall include all of the following:

(1) Supervision of clinical staff.

(2) Development or implementation of the policies and procedures for the operation of the psychiatric outpatient clinic.

(3) Regular meetings of clinical staff to discuss clinical cases, treatment plans, policy and procedures.

(4) Liaison with other portions of the service system.

(5) Employment, supervision and discharge of clinical staff according to established personnel policies.

(6) Supervision and documentation of clinical staff training and development.

§ 5200.22. Staffing pattern.

[(a) There shall be qualified staff and supporting personnel in sufficient numbers to provide the services included in the facility's program. At least 50% of the treatment staff shall be mental health professionals. Other treatment staff may be mental health workers as required by the patient load.

(b) Staff shall include at least four full-time equivalent (FTE) mental health professionals.

(c) A psychiatric clinic is required to have at least 16 hours of psychiatric time per week to ensure minimally adequate care and supervision for all patients. Psychiatric hours shall be expanded when treatment staff exceeds eight FTE. The ratio is two hours/week for each FTE treatment staff member.]

(a) There shall be qualified staff and supporting personnel in sufficient numbers to provide the services included in the psychiatric outpatient clinic's program. At least 50% of the treatment staff shall be mental health professionals.

(b) An outpatient psychiatric clinic is required to have 2 hours of psychiatric time per week for each FTE treatment staff member. The psychiatrist shall provide 50% of the required psychiatric time. The remaining time may be provided by advanced practice professionals specializing in behavioral health to ensure minimally adequate care or with prior written approval from the Department by the use of telepsychiatry.

[(d)] (c) At a minimum all clinical staff shall be supervised by the psychiatrist having the responsibility for diagnosis and treatment of the [patient] **individual receiving services** as defined in § 5200.31 (relating to treatment planning).

[(e)] (d) There shall be sufficient clerical staff to keep correspondence, records[,] and files current and in good order.

[(f)] (e) The **psychiatric outpatient** clinic shall recruit and hire staff that is appropriate for the population to be served.

[(g)] (f) If the psychiatric **outpatient** clinic serves children, specialized personnel are required, as appropriate, to deliver services to children.

[(h)] (g) Each **psychiatric outpatient** clinic shall have a written comprehensive personnel policy.

[(i)] (h) There shall be a [planned] **written plan** for regular, ongoing [program for] staff development and training.

[(j)] (i) Graduate and undergraduate students in accredited training programs in various mental health disciplines may participate in the treatment of [patients] **individuals receiving services** when under the direct supervision of a mental health professional, but are not to be included for the purpose of defining staffing [pattern] **patterns**.

[(k)] (j) Psychiatric residents [licensed] **with an unrestricted license** to practice medicine in this Commonwealth who are under the direct supervision of a psychiatrist are defined as mental health professionals for the purpose of defining staffing patterns.

[(l)] (k) Volunteers may be used in various support and activity functions of the clinic, but are not considered for the purposes of defining staffing patterns.

§ 5200.23. Psychiatric supervision.

At a minimum, the psychiatric supervision of a psychiatric **outpatient** clinic shall be by a psychiatrist who must monitor all treatment plans on a regular basis as defined by § 5200.31 (relating to treatment planning). Psychiatric supervision shall be expanded as necessary for the [patient] **clinic** population and services provided.

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

§ 5200.24. Criminal history and child abuse certification.

(a) A psychiatric outpatient clinic shall complete a criminal history background check for staff, including volunteers that will have direct contact with an individual.

(b) A psychiatric outpatient clinic that serves children shall complete criminal history and child abuse certifications, and mandated reporter training in accordance with 23 Pa.C.S. §§ 6301—6386 (relating to Child Protective Services Law) and Chapter 3490 (relating to protective services).

(c) A psychiatric outpatient clinic shall develop and implement written policies and procedures regarding personnel decisions based on the criminal history and child abuse certification, including volunteers.

TREATMENT STANDARDS

§ 5200.31. Treatment planning.

(a) A qualified mental health professional or treatment planning team shall prepare an individual comprehensive treatment plan [for every patient] **with every individual who participates beyond the intake process** which shall be reviewed and approved by a psychiatrist. For [patients] **individuals** undergoing involuntary treatment, the treatment team shall be headed by a [physician or] **psychiatrist or licensed clinical psychologist**. [The treatment plan shall include the following:] **The treatment plan must meet all of the following requirements:**

(1) Be based on the results of the diagnostic evaluation described in paragraph (7).

(2) [Be developed within 15 days of intake, and for voluntary patients, be reviewed and updated every 120 days or 15 patient visits—whichever is first—by the mental health professional and the psychiatrist. For involuntary patients review shall be done every 30 days. Written documentation of this review in the case record is required.] **Be developed within 30 days of intake when the individual continues participation in the treatment process. For individuals who voluntarily participate in the treatment process, the treatment plan shall be reviewed and signed by the mental health professional, psychiatrist and individual receiving services. Treatment plans shall be updated every 180 days by the mental health professional and the individual receiving services. The psychiatrist shall review and approve the treatment plan within 1 year of the previous psychiatric review as evidenced by the psychiatrist's signature. For an individual under an involuntary outpatient commitment, the review shall be done every 30 days by the psychiatrist. Written documentation of progress for the review period in the medical record is required.**

(3) Specify the goals and objectives of the plan, prescribe an integrated program of therapeutic activities and experience, specify the modalities to be utilized and a time of expected duration and the person or persons responsible for carrying out the plan.

(4) Be directed at specific outcomes and connect these outcomes with the modalities and activities proposed.

(5) [Be formulated with the involvement of the patient.] **Be developed with the active involvement of the individual receiving services and must include strengths and needs. The treatment plan may also address individual preferences, resilience and functioning.**

(6) For children and adolescents, when required by law or regulations, be developed and implemented with the consent of parents or guardians and include their participation in treatment as required.

(7) Specify an individualized [active diagnostic and treatment program for each patient which shall include where] **treatment program for each individual which must include** clinically appropriate services such as diagnostic and evaluation services, individual, group and family psychotherapy, behavior therapy, crisis intervention services, medication and similar services. For each [patient the] **individual receiving services, the psychiatric outpatient** clinic shall pro-

vide diagnostic evaluation which shall include an assessment of the psychiatric, medical, psychological, social, vocational[,] and educational factors important to the [patient] individual.

(b) The treatment plan and updates must be based upon the evaluation and diagnosis. Treatment shall be provided in accordance with the identified goals in the treatment plan and updates.

§ 5200.32. Treatment policies and procedures.

Each [facility] psychiatric outpatient clinic shall have on file a written plan specifying the clinical policy and procedures of the facility. This plan [shall] must provide for the following:

- (1) Intake policy and procedures.
- (2) Admission and discharge policies.
- (3) The services to be provided and the scope of these services.
- (4) Policies providing for continuity of care for [patients] individuals discharged from the program.

MISCELLANEOUS PROVISIONS

§ 5200.41. Records.

(a) Under section 602 of the Mental Health and [Mental Retardation] Intellectual Disability Act of 1966 (50 P.S. § 4602), and in accordance with recognized and acceptable principles of [patient record keeping] medical recordkeeping, the facility shall maintain a record for each [person admitted to a psychiatric clinic] individual receiving services from a psychiatric outpatient clinic. The record [shall] must include the following:

- (1) [Patient identifying] Identifying information.
- (2) Referral source.
- (3) Presenting problems.
- (4) Appropriately signed consent forms.
- (5) Medical, social[,] and developmental history.
- (6) Diagnosis and evaluation.
- (7) Treatment plan and updates.
- (8) Treatment progress notes for each contact.
- (9) Medication orders.
- (10) Discharge summary.
- (11) Referrals to other agencies, when indicated.
- (12) A written order for any MMHT provided.

(b) Records shall also be maintained as follows:

- (1) Legible and permanent.
- (2) [Reviewed periodically as to quality by the facility or clinical director as appropriate.] Reviewed biannually as to quality by the director or clinical supervisor as appropriate.

(3) Maintained in a uniform manner so that information can be provided in a prompt, efficient, accurate manner and so that data is accessible for administrative and professional purposes.

(4) Signed and dated by the staff member writing in the record.

[(c) The records must comply with §§ 5100.31—5100.39 (relating to confidentiality of mental health records).]

(d) All case records shall be kept in locked and protected locations to which only authorized personnel shall be permitted access.]

(c) All protected medical and mental health records, written and electronic, shall be secured in accordance with all applicable Federal and State privacy and confidentiality statutes and regulations.

§ 5200.42. [Drugs and medications] Medications.

(a) If medication is prescribed or dispensed by the [facility] psychiatric outpatient clinic, the requirements of all applicable Federal and State drug statutes and regulations shall be met. In addition, all of the following apply:

(1) Prescriptions shall be written only by a licensed practitioner within his scope of practice.

(2) The term “written” includes prescriptions that are handwritten or recorded and transmitted by electronic means.

(3) Written prescriptions transmitted by electronic means must be electronically encrypted or transmitted by other technological means designed to protect and prevent access, alteration, manipulation or use by an unauthorized person.

(4) A record of any medication prescribed must be documented in the individual medical record.

(b) Written policies and procedures providing for the safe dispensing and administration of [drugs] medication by the medical and nursing staff shall be in writing and on file. [Such policy shall include the following:] The policy must include all of the following:

[(1) Prescriptions shall be written only by the physician.]

(2) Drugs shall be dispensed only on the order of a physician.

(3) All drugs shall be kept in a secure place.

(4) Each dose of medication administered by the facility shall be properly recorded in the patient’s medical record.]

(1) Medications shall be dispensed only on order of a licensed practitioner within his scope of practice.

(2) All medications shall be kept in a secure place.

(3) Each dose of medication administered by the psychiatric outpatient clinic shall be properly recorded in the individual’s medical record.

§ 5200.43. Fee schedule.

Each outpatient psychiatric clinic shall maintain a schedule of uniform basic charges for services which are available to all [patients] individuals receiving services. [Fee schedules shall be submitted to the Department for information purposes.]

§ 5200.44. Quality assurance program.

All psychiatric outpatient clinics shall have a utilization review and clinical audit process designed to ensure

that the most appropriate treatment is delivered to the [patient] individual receiving services and that treatment is indicated. [Patients shall be discharged when the identified benefit, as reflected in the initial evaluation, goals, objectives, and treatment plan, has been received.] Psychiatric outpatient clinics that provide MMHT shall include MMHT services in the quality assurance plan.

§ 5200.45. Physical facility.

(a) Adequate space, equipment and supplies shall be provided in order that the outpatient services can be provided effectively and efficiently. Functional surroundings shall be readily accessible to the [patient] individual and community served.

(b) All space and equipment shall be well maintained and [shall] must meet applicable Federal, State[,] and local requirements for safety, fire, accessibility and health.

(c) A waiting room which is [neat, cheerful, and comfortably furnished] clean, comfortable and sensitive to the culture of the population served shall be provided.

(d) There shall be office space for the clinical staff suitably equipped with chairs, desks, tables[,] and other necessary equipment.

(e) There shall be an adequate number of suitably equipped conference rooms to provide for staff conferences and therapy.

(f) There shall be adequate provisions for [the privacy of the patient in interview rooms] privacy within the psychiatric outpatient clinic.

(g) A psychiatric outpatient clinic is defined by its staff and organizational structure rather than by a specific building or facility. It may operate at more than one site if the respective sites meet all physical facility standards and the sites operate as a portion of the psychiatric outpatient clinic. The staffing pattern at each site shall be based on the ratio of total [clinic patients seen at that site to the total patients seen in the psychiatric clinic as a whole] individuals served at that site to the total individuals served in the psychiatric outpatient clinic as a whole. The Department will issue a single certificate of compliance to the parent organization which will list all operational sites.

§ 5200.46. Notice of nondiscrimination.

[Programs shall not discriminate against staff or clients on the basis of age, race, sex, religion, ethnic origin, economic status, or sexual preference, and must observe all applicable State and Federal statutes and regulations.] Programs may not discriminate against staff or individuals receiving services on the basis of race, color, creed, disability, religious affiliation, ancestry, gender, gender identity or expression, sexual orientation, national origin or age, and shall observe all applicable State and Federal statutes and regulations.

§ 5200.48. Waiver of standards.

In instances where the development of specialty psychiatric outpatient clinic services is severely limited by these standards, such as[,] rural clinics[,] or specialty clinics, a waiver may be granted [for staffing stan-

dards for a period of 6 months and may be renewed up to 3 times]. [Such waivers] Waivers may be applied only in areas where the need for [such] these services and the attempts to meet the standards are adequately documented. [Such waivers] Waivers are to be considered only in exceptional circumstances and are subject to approval by the [office of Mental Health] Department.

MOBILE MENTAL HEALTH TREATMENT

(Editor's Note: Sections 5200.51—5200.53 are proposed to be added and printed in regular type to enhance readability.)

§ 5200.51. Provider service description.

(a) Prior to the delivery of MMHT services, a psychiatric outpatient clinic shall submit to the Department for approval an MMHT service description that includes the information required under subsection (b). A psychiatric outpatient clinic shall submit a revised service description to the Department if there are changes to the information required under subsection (b).

(b) A service description must include all of the following:

(1) The population to be served, including all of the following:

(i) Expected number of individuals to be served.

(ii) The age ranges of the individuals to be served.

(iii) The presenting problems and other characteristics supporting the need for MMHT.

(iv) The location of the provision of the services, whether in the home or community or both.

(v) The goals, objectives and expected outcomes of the MMHT services.

(2) Staffing pattern, including all of the following:

(i) Number of mental health professionals, licensed clinical psychologists and psychiatrists providing MMHT.

(ii) The qualifications of a staff person providing an MMHT service.

(iii) The specific clinical services to be provided by each staff.

(3) The policies and procedures for all of the following:

(i) The supervision of MMHT services.

(ii) Staff support in the provision of MMHT.

(iii) Coordination of care with physical health services.

(c) A psychiatric outpatient clinic shall provide MMHT only as set forth in its approved service description.

§ 5200.52. Treatment planning.

(a) Treatment planning shall be completed in accordance with § 5200.31 (relating to treatment planning) and shall include all of the following:

(1) Services to be provided.

(2) Treatment goals.

(3) Duration of service.

(4) Supports and interventions necessary to alleviate barriers to receiving services at a psychiatric outpatient clinic.

(5) Identification of the professional providing each service.

(6) Location of service provision.

(b) An MMHT provider shall complete an assessment as required under § 5200.31(a)(7) prior to developing the treatment plan. In addition, all of the following apply:

(1) The assessment shall include documentation of the disabling effects of a mental or physical illness that impedes or precludes the individual's ability to participate in services at the psychiatric outpatient clinic.

(2) The assessment shall be completed by a psychiatrist, mental health professional or an advanced practice professional trained and qualified to provide services at a psychiatric outpatient clinic under the supervision of a psychiatrist.

(c) Treatment plans shall be updated every 180 days at a minimum.

§ 5200.53. Discharge.

(a) Discharge planning shall be discussed with the individual receiving MMHT services.

(b) Upon discharge, the psychiatric outpatient clinic providing MMHT shall complete a discharge summary that must include all of the following:

- (1) MMHT services provided.
- (2) Outcomes of MMHT service.
- (3) Reason for discharge.
- (4) Referral or recommendation for other services.

[Pa.B. Doc. No. 17-1339. Filed for public inspection August 11, 2017, 9:00 a.m.]

GAME COMMISSION

[58 PA. CODE CH. 141]

Hunting and Trapping; General

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its June 26, 2017, meeting, proposed to amend § 141.18 (relating to permitted devices) to authorize the use of electronic decoys used to hunt waterfowl, electronically heated scent or lure dispensers, and electronic devices that generate and distribute ozone gas for scent control purposes.

This proposed rulemaking will not have an adverse impact on the wildlife resources of this Commonwealth.

The authority for this proposed rulemaking is 34 Pa.C.S. (relating to Game and Wildlife Code) (code).

This proposed rulemaking was made public at the June 26, 2017, meeting of the Commission. Comments can be sent until September 22, 2017, to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

1. Purpose and Authority

Each year the Commission is asked to review the prospective use of certain devices for hunting or trapping purposes that are otherwise prohibited by statute or

regulation. As part of the review process, the Commission generally reviews to what degree use of a given device might negatively impact principles of resource conservation, equal opportunity, fair chase or public safety. The Commission was recently requested to formally review the use of electronic decoys used to hunt waterfowl, electronically heated scent or lure dispensers, and electronic devices that generate and distribute ozone gas for scent control purposes. The Commission reviewed these devices and determined that their use will have no or negligible negative impacts to the previously mentioned principles. As a result, the Commission is proposing to amend § 141.18 to authorize the use of electronic decoys used to hunt waterfowl, electronically heated scent or lure dispensers, and electronic devices that generate and distribute ozone gas for scent control purposes.

Section 2102(a) of the code (relating to regulations) provides that "[t]he commission shall promulgate such regulations as it deems necessary and appropriate concerning game or wildlife and hunting or furtaking in this Commonwealth, including regulations relating to the protection, preservation and management of game or wildlife and game or wildlife habitat, permitting or prohibiting hunting or furtaking, the ways, manner, methods and means of hunting or furtaking, and the health and safety of persons who hunt or take wildlife or may be in the vicinity of persons who hunt or take game or wildlife in this Commonwealth." Section 2102(b)(1) of the code authorizes the Commission to "promulgate regulations relating to seasons and bag limits for hunting or furtaking, the possession of certain species or parts thereof, the number and types of devices and equipment allowed, the identification of devices and the use and possession of devices." The amendments to § 141.18 are proposed under these authorities.

2. Regulatory Requirements

This proposed rulemaking will amend § 141.18 to authorize the use of electronic decoys used to hunt waterfowl, electronically heated scent or lure dispensers, and electronic devices that generate and distribute ozone gas for scent control purposes.

3. Persons Affected

Persons wishing to hunt or take wildlife with electronic decoys, electronically heated scent or lure dispensers, and electronic devices that generate and distribute ozone gas for scent control purposes in this Commonwealth will be affected by this proposed rulemaking.

4. Cost and Paperwork Requirements

The proposed rulemaking should not result in an increase in cost and paperwork.

5. Effective Date

This proposed rulemaking will be effective upon final-form publication in the *Pennsylvania Bulletin* and will remain in effect until changed by the Commission.

6. Contact Person

For further information regarding this proposed rulemaking, contact Randy S. Shoup, Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

BRYAN J. BURHANS,
Executive Director

Fiscal Note: 48-421. No fiscal impact; (8) recommends adoption.

Annex A
TITLE 58. RECREATION
PART III. GAME COMMISSION
CHAPTER 141. HUNTING AND TRAPPING
Subchapter A. GENERAL

§ 141.18. Permitted devices.

[The] Notwithstanding the prohibitions in § 141.6 (relating to illegal devices), the following devices may be used to hunt or take wildlife:

(1) [Any manually operated firearm that uses an electronic impulse to detonate the primer or main powder charge of the ammunition unless those firearms are a specifically prohibited device.] Firearms that use an electronic impulse to initiate discharge of ammunition. This provision is not intended to authorize use of these devices when these firearms are otherwise prohibited devices for the applicable hunting or trapping season.

(2) Electronic sound amplification devices that are incorporated into hearing protection devices and completely contained in or on the hunter's ear.

(3) Electronic devices used for locating dogs while training or hunting, including devices such as e-collars, radio-telemetry dog tracking systems and beeper collars.

(4) Electronic illuminating devices that are affixed at the aft end of a bolt or arrow and used solely for the purpose of locating or tracking bolt or arrow flight after being launched from a crossbow or bow.

(5) Electronic crow decoys used solely for [**harvesting**] hunting crows.

(6) Electronic rangefinders, including hand-held devices and those contained within a scope or archery sight. This authorization may not be construed to permit a device that emits a light beam, infrared beam, ultraviolet light beam, radio beam, thermal beam, ultrasonic beam, particle beam or other beam that is visible outside of the device or on the target.

(7) **Electronically heated scent or lure dispensers. This provision is not intended to authorize use of scents and lures when use is otherwise prohibited by section 2308 of the act (relating to unlawful devices and methods) or § 137.34 or § 137.35 (relating to Chronic Wasting Disease and emergency authority of Director; and Chronic Wasting Disease restrictions).**

(8) **Electronic devices that generate and distribute ozone gas for scent control purposes.**

(9) **Electronic waterfowl decoys used solely for hunting waterfowl.**

[Pa.B. Doc. No. 17-1340. Filed for public inspection August 11, 2017, 9:00 a.m.]

[58 PA. CODE CH. 141]

Hunting and Trapping; General; Small Game; Big Game

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission) proposed at its June 26, 2017, meeting to amend §§ 141.1,

141.22, 141.43 and 141.67 to extend the use of air guns and semiautomatic rifles for small game and furbearers to special regulation areas, delete the limiting term "centerfire" from the manually operated or semiautomatic rifle authorization that was erroneously added in a previous amendment, and relocate and extend the use of air guns and semiautomatic rimfire rifles .22 caliber or less for dispatching legally trapped furbearers caught in a trap during the regular or special firearms deer seasons.

This proposed rulemaking will not have an adverse impact on the wildlife resources of this Commonwealth.

The authority for this proposed rulemaking is 34 Pa.C.S. (relating to Game and Wildlife Code) (code).

This proposed rulemaking was made public at the June 26, 2017, meeting of the Commission. Comments can be sent until September 22, 2017, to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

1. Purpose and Authority

In relevant part, the act of November 21, 2016 (P.L. 1317, No. 168) (Act 168) made two significant changes to section 2308 of the code (relating to unlawful devices and methods). Act 168 eliminated the Commonwealth's historic prohibitions against the use of air guns and semiautomatic rifles for hunting. It is important to note that Act 168 did not authorize the use of semiautomatic handguns or eliminate the two-shell in the shotgun magazine restriction for small game, furbearers, and the like. On March 28, 2017, in an effort to implement Act 168 and expand hunting opportunities in this Commonwealth, the Commission amended §§ 131.2, 141.22, 141.43—141.45, 141.47 and 141.67 to authorize the use of air guns and semiautomatic rifles for small game and furbearers. These amendments became effective on May 13, 2017. See 47 Pa.B. 2710 (May 13, 2017).

The Commission is proposing housekeeping amendments to address concerns not addressed in the original proposed rulemaking. First, the Commission proposes to amend § 141.1 (relating to special regulations areas) to extend the use of air guns and semiautomatic rifles for small game and furbearers to special regulation areas. While this extension nearly matches the original State-wide proposal, it is important to note the existing limitation to rimfire ammunition in this section will be carried forward in the special regulations areas in this proposed amendment. The Commission is also proposing to amend § 141.22 (relating to small game seasons) to delete the limiting term "centerfire" from the manually operated or semiautomatic rifle authorization that was erroneously added at 47 Pa.B. 2710. This correction will return the text to its intended structure. Lastly, the Commission is proposing to amend §§ 141.43 and 141.67 (relating to deer seasons; and furbearer seasons) to relocate and extend the use of air guns and semiautomatic rimfire rifles .22 caliber or less for dispatching legally trapped furbearers caught in a trap during the regular or special firearms deer seasons.

Section 2102(d) of the code (relating to regulations) authorizes the Commission to "promulgate regulations stipulating the size and type of traps, the type of firearms and ammunition and other devices which may be used, the manner in which and the location where the devices may be used, the species the devices may be used for and the season when the devices may be used." The amendments to §§ 141.1, 141.22, 141.43 and 141.67 are proposed under this authority.

2. *Regulatory Requirements*

This proposed rulemaking will amend §§ 141.1, 141.22, 141.43 and 141.67 to extend the use of air guns and semiautomatic rifles for small game and furbearers to special regulation areas, delete the limiting term "centerfire" from the manually operated or semiautomatic rifle authorization that was erroneously added at 47 Pa.B. 2710, and relocate and extend the use of air guns and semiautomatic rimfire rifles .22 caliber or less for dispatching legally trapped furbearers caught in a trap during the regular or special firearms deer seasons.

3. *Persons Affected*

Persons wishing to hunt or take small game or furbearers with air guns or semiautomatic firearms in this Commonwealth will be affected by this proposed rulemaking.

4. *Cost and Paperwork Requirements*

This proposed rulemaking should not result in an increase in cost and paperwork.

5. *Effective Date*

This proposed rulemaking will be effective upon final-form publication in the *Pennsylvania Bulletin* and will remain in effect until changed by the Commission.

6. *Contact Person*

For further information regarding this proposed rulemaking, contact Randy S. Shoup, Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

BRYAN J. BURHANS,
Executive Director

Fiscal Note: 48-420. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 141. HUNTING AND TRAPPING

Subchapter A. GENERAL

§ 141.1. Special regulations areas.

* * * * *

(d) *Permitted acts.* It is lawful to:

(1) Except in Philadelphia County, Ridley Creek State Park, Delaware County and Tyler State Park, Bucks County, hunt and kill deer and bear through the use of a muzzleloading long gun or a shotgun, at least .410 gauge (rifled barrels permitted), including semiautomatics which, upon discharge, propel a single projectile.

(2) Take deer with a shotgun 20 gauge or larger—including semiautomatic—using buckshot in the Southeast area only.

(3) Take small game, furbearing animals, crows or wildlife with [**a manually operated rimfire rifle or handgun .22 caliber or less.**] the following devices:

(i) **A manually operated or semiautomatic rimfire rifle or manually operated rimfire handgun .22 caliber or less.**

(ii) **A manually operated or semiautomatic air rifle or manually operated air handgun between .177 and .22 caliber, inclusive, that propels single-projectile pellet or bullet ammunition. BB ammunition is not authorized.**

(4) Kill an animal legally caught in a trap with [**a manually operated rimfire rifle or handgun .22 caliber or less while trapping.**] the following devices:

(i) **A manually operated or semiautomatic rimfire rifle or manually operated rimfire handgun .22 caliber or less.**

(ii) **A manually operated or semiautomatic air rifle or manually operated air handgun between .177 and .22 caliber, inclusive, that propels single-projectile pellet or bullet ammunition. BB ammunition is not authorized.**

(5) Harvest more than one deer at a time when multiple harvests of deer per day are authorized without first lawfully tagging previous harvests, provided all deer harvested are lawfully tagged immediately thereafter.

(6) Hunt or take deer during any deer season through the use of or by taking advantage of bait on private property currently operating under a valid deer control permit where approval for limited baiting activities has previously been obtained under § 147.552 (relating to application). This limited authorization is valid only to the extent that persons comply with the standards and conditions in § 147.556 (relating to lawful devices and methods).

(7) Hunt or take deer in the southeast special regulations area during regular open hunting seasons for white-tailed deer through the use of or by taking advantage of bait on private, township or municipal property only under a deer attractant permit issued under Chapter 147, Subchapter R (relating to deer control).

Subchapter B. SMALL GAME

§ 141.22. Small game seasons.

(a) *Permitted devices.* It is lawful to hunt small game, except woodchucks, during any small game season with the following devices:

* * * * *

(7) [**An air gun. The firearm must be**] **A manually operated or semiautomatic air rifle or manually operated air handgun** between .177 and .22 caliber, inclusive, that propels single-projectile pellet or bullet ammunition. BB ammunition is not authorized.

* * * * *

(c) *Woodchuck (Groundhog) season.*

(1) *Permitted devices.* It is lawful to hunt woodchucks during woodchuck season with the following devices:

(i) **A manually operated or semiautomatic [centerfire] rifle or manually operated handgun that propels single-projectile ammunition.**

* * * * *

(vii) [**An air gun. The firearm must be**] **A manually operated or semiautomatic air rifle or manually operated air handgun .22 caliber or larger that propels single-projectile pellet or bullet ammunition. BB ammunition is not authorized.**

* * * * *

Subchapter C. BIG GAME

§ 141.43. Deer seasons.

* * * * *

(e) *Cooperating while hunting during any deer season.* Holders of any of the appropriate licenses or stamps may cooperate while hunting antlered or antlerless deer if pertinent provisions of the act and this section are met.

[(f) .22 caliber or less rimfire required for furbearers. When using a firearm only a rimfire rifle or handgun .22 caliber or less may be used to dispatch legally trapped furbearers during the regular or special firearms deer seasons.]

Subchapter D. FURBEARERS

§ 141.67. Furbearer seasons.

(a) *Permitted devices.* It is lawful to hunt or take furbearers during any furtaking season with the following devices:

* * * * *

(6) **[An air gun. The firearm must be]** A manually operated or semiautomatic air rifle or manually operated air handgun .22 caliber or larger that propels single-projectile pellet or bullet ammunition. BB ammunition is not authorized.

(b) *Prohibitions.* While hunting furbearers during any furbearer hunting or trapping season, it is unlawful to:

(1) Use or possess multiple-projectile shotgun ammunition larger than # 4 buckshot, except as authorized under section 2525 of the act (relating to possession of firearm for protection of self or others).

(2) Use or possess a device or ammunition not provided for in the act or in this section, except as authorized under section 2525 of the act.

(3) Use any firearm, other than authorized in this paragraph, to dispatch legally trapped furbearers during the overlap with the regular or special firearms deer seasons:

(i) A manually operated or semiautomatic rimfire rifle or manually operated rimfire handgun .22 caliber or less.

(ii) A manually operated or semiautomatic air rifle or manually operated air handgun between .177 and .22 caliber, inclusive, that propels single-projectile pellet or bullet ammunition. BB ammunition is not authorized.

[Pa.B. Doc. No. 17-1341. Filed for public inspection August 11, 2017, 9:00 a.m.]

NOTICES

DEPARTMENT OF AGRICULTURE

Addendum to the Order of Quarantine; Spotted Lanternfly

Recitals

A. Spotted lanternfly, *Lycorma delicatula*, is a new pest to the United States and has been detected in the Commonwealth. This is a dangerous insect to forests, ornamental trees, orchards and grapes and not widely prevalent or distributed within or throughout the Commonwealth or the United States. Spotted lanternfly has been detected in the Commonwealth and has the potential to spread to uninfested areas by natural means or through the movement of infested articles.

B. The Plant Pest Act (Act) (3 P.S. §§ 258.1—258.27) empowers The Department of Agriculture (Department) to take various measures to detect, contain and eradicate plant pests. A plant pest is defined as an organism, including other plants, causing or capable of causing injury or damage to plants or plant products (3 P.S. § 258.2). These powers include the authority, set forth at section 258.21 of the Act (3 P.S. § 258.21), to establish quarantines to prevent the spread of plant pests within this Commonwealth.

C. Under the authority of section 258.20 of the Act (3 P.S. § 258.20) the Department may declare a pest to be a public nuisance when the Department determines a plant pest to be dangerous or destructive to the agriculture, horticulture or forests of this Commonwealth. For the reasons set forth in Paragraph A above, the Department declares Spotted lanternfly, *Lycorma delicatula*, to be a public nuisance.

D. Consistent with the Order of Quarantine published at 44 Pa.B. 6947 issued Saturday, November 1, 2014, where the Department detects or confirms any of the plant pests established in this Order of Quarantine—Spotted lanternfly, *Lycorma delicatula*—the place or area in which any of these plant pests are detected or confirmed shall be subject to the provisions of that Order of Quarantine published at 44 Pa.B. 6947 issued Saturday, November 1, 2014.

E. The place or area in which the plant pest is detected or confirmed shall be added to the Order of Quarantine, published at 44 Pa.B. 6947 issued Saturday, November 1, 2014, through an addendum delineating the specific

location and geographic parameters of the area or place. Such Addendum shall be published in the *Pennsylvania Bulletin* and enforcement of the Addendum to the Order of Quarantine, published at 44 Pa.B. 6947 issued Saturday, November 1, 2014, with regard to that place or area shall become effective immediately.

Order

Under authority of section 21 of the act (3 P.S. § 258.21), and with the Recitals previously listed incorporated into and made a part hereof this Addendum to the Order of Quarantine published at 44 Pa.B. 6947 issued Saturday, November 1, 2014 by reference, the Department orders the following:

1. Establishment of Quarantine.

A quarantine is hereby established with respect to Reading City, and Cumru, and Lower Alsace Townships and Mt Penn Borough, Berks County; Hilltown and Bedminster Townships and Dublin and Silverdale Boroughs, Bucks County; Lowhill, Heidelberg, Weisenberg Townships and Coplay Borough, Lehigh County; Bethlehem Township, Northampton County; and Franconia, Salford, and Skippack Townships, Green Lane, Souderton, and Collegeville Boroughs, Montgomery County. This is in addition to, and does not replace, any townships and areas already subject to the Spotted Lanternfly Quarantine Order published at 44 Pa.B. 6947 issued Saturday, November 1, 2014, and any previous Addendums to that Quarantine Order.

2. All Provisions Apply.

All of the provisions established in the Spotted Lanternfly Quarantine Order published at 44 Pa.B. 6947 issued Saturday, November 1, 2014, are hereby incorporated herein and made a part hereof this Addendum as if fully set forth herein and shall hereby be made applicable to Reading City, and Cumru, and Lower Alsace Townships and Mt. Penn Borough, Berks County; Hilltown and Bedminster Townships and Dublin and Silverdale Boroughs, Bucks County; Lowhill, Heidelberg, Weisenberg Townships and Coplay Borough, Lehigh County; Bethlehem Township, Northampton County; and Franconia, Salford, and Skippack Townships, Green Lane, Souderton, and Collegeville Boroughs, Montgomery County

RUSSELL C. REDDING,
Secretary

[Pa.B. Doc. No. 17-1342. Filed for public inspection August 11, 2017, 9:00 a.m.]

DEPARTMENT OF BANKING AND SECURITIES

Actions on Applications

The Department of Banking and Securities (Department), under the authority contained in the act of November 30, 1965 (P.L. 847, No. 356), known as the Banking Code of 1965; the act of May 15, 1933 (P.L. 565, No. 111), known as the Department of Banking Code; and the act of December 19, 1990 (P.L. 834, No. 198), known as the Credit Union Code, has taken the following action on applications received for the week ending August 1, 2017.

Under section 503.E of the Department of Banking and Securities Code (71 P.S. § 733-503.E), any person wishing to comment on the following applications, with the exception of branch applications, may file comments in writing with the Department of Banking and Securities, Corporate Applications Division, 17 North Second Street, Suite 1300, Harrisburg, PA 17101-2290. Comments must be received no later than 30 days from the date notice regarding receipt of the application is published in the *Pennsylvania Bulletin*. The nonconfidential portions of the applications are on file at the Department and are available for public inspection, by appointment only, during regular business hours. To schedule an

appointment, contact the Corporate Applications Division at (717) 783-2253. Photocopies of the nonconfidential portions of the applications may be requested consistent with the Department's Right-to-Know Law Records Request policy.

BANKING INSTITUTIONS**Conversions**

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Action</i>
7-27-2017	<p><i>From:</i> The First National Bank of Lilly Lilly Cambria County</p> <p><i>To:</i> First Bank of Lilly Lilly Cambria County</p> <p>Application for approval to convert from a National bank to a Pennsylvania State-chartered savings bank.</p>	Filed
7-27-2017	<p><i>From:</i> Malvern Federal Savings Bank Paoli Chester County</p> <p><i>To:</i> Malvern Bank Paoli Chester County</p> <p>Application for approval to convert from a Federal stock savings bank to a Pennsylvania State-chartered stock savings bank.</p>	Filed

Branch Applications**De Novo Branches**

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
7-27-2017	Asian Bank Philadelphia Philadelphia County	6509 Castor Avenue Philadelphia Philadelphia County	Approved
8-1-2017	Penn Community Bank Perkasie Bucks County	1651 The Fairway Jenkintown Montgomery County	Filed
8-1-2017	Univest Bank and Trust Co. Souderton Montgomery County	574 Main Street Bethlehem Northampton County	Filed
8-1-2017	Univest Bank and Trust Co. Souderton Montgomery County	1 Heritage Drive Gordonville Lancaster County	Filed

CREDIT UNIONS

No activity.

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

ROBIN L. WIESSMANN,
Secretary

[Pa.B. Doc. No. 17-1343. Filed for public inspection August 11, 2017, 9:00 a.m.]

DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

Proposed Exchange of Property

The Department of Conservation and Natural Resources (Department), acting through the Bureau of Forestry (Bureau), and Mary Blondy are proposing to negotiate an exchange of property interests in Lycoming and Sullivan Counties.

In July 1964, the Bureau completed a land exchange with Lawrence L. Baumunk et ux. in Lycoming and Sullivan Counties. However, the subsurface rights were reserved by both parties. Mary Blondy currently owns the surface land exchanged and the reserved subsurface rights. The proposal is to convey 45.6625 acres of subsurface rights underlying Mary Blondy's lands in Fox Township, Sullivan County to her, and for the Commonwealth to receive 55.08125 acres of subsurface rights beneath existing State forest lands in McNett Township, Lycoming County. The subsurface rights to be gained by the Commonwealth are coincident with the Susquehanna-New York railroad grade. The Commonwealth will realize a net gain of 9.41875 acres of subsurface rights. The exchange

will improve the Commonwealth's subsurface ownership position within the region and improve our ability to manage the surface and subsurface estates of State forest land in a manner consistent with the State Forest Resource Management Plan.

As is the policy of the Department, the public is hereby notified of this exchange. A 30-day period for public inquiry or comment, or both, will be in effect beginning August 12, 2017, and ending September 10, 2017. Oral or written comments or questions concerning this proposed exchange may be addressed to Ryan Szuch, Planning Section, Bureau of Forestry, P.O. Box 8552, Harrisburg, PA 17105-8552, (717) 787-2980, rszuch@pa.gov. Oral and written comments will become part of the official document used in the final decision process. Written documents are also available regarding the proposed land exchange by request.

If, in the duration of the 30-day comment period, a significant amount of public concern develops, the Secretary of the Department may schedule a public informational meeting.

CINDY ADAMS DUNN,
Secretary

[Pa.B. Doc. No. 17-1344. Filed for public inspection August 11, 2017, 9:00 a.m.]

Wild Resource Conservation Program Hearing on Grant Funding

A hearing will be held on Monday, September 11, 2017, to comment on the applications submitted to the Wild Resource Conservation Program for grant funding in Fiscal Years 2017-2018. The hearing will be held at 10 a.m. in the Rachel Carson State Office Building, 10th Floor Conference Room, 400 Market Street, Harrisburg, PA.

Questions concerning this hearing can be directed to Jennifer Girton, (717) 787-3212, jgirton@pa.gov or Ellen Shultzabarger, (717) 705-2817, eshultzaba@pa.gov. Individuals who plan to make comments should contact Jennifer Girton or Ellen Shultzabarger.

Persons in need of accommodations as provided for in the Americans with Disabilities Act of 1990 should contact Ellen Shultzabarger directly or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department of Conservation and Natural Resources may accommodate their needs.

CINDY ADAMS DUNN,
Secretary

[Pa.B. Doc. No. 17-1345. Filed for public inspection August 11, 2017, 9:00 a.m.]

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Applications, Actions and Special Notices

APPLICATIONS

THE CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT

APPLICATIONS FOR NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS AND WATER QUALITY MANAGEMENT (WQM) PERMITS

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

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

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

For applications for new NPDES permits and renewal applications with major changes in Section II, as well as applications for MS4 Individual Permits and Individual Stormwater Construction Permits in Sections IV and VI, the Department, based upon preliminary reviews, has made tentative determinations of proposed effluent limitations and other terms and conditions for the permit applications. In accordance with 25 Pa. Code § 92a.32(d), the proposed

discharge of stormwater associated with construction activities will be managed in accordance with the requirements of 25 Pa. Code Chapter 102. These determinations are published as proposed actions for comments prior to taking final actions.

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

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

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

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

I. NPDES Renewal Applications

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N?</i>
PA0097713 (Sewage)	Gilmary Center STP 601 Flaugherty Run Road Coraopolis, PA 15108-3848	Allegheny County Findlay Township	Unnamed Tributary to Flaugherty Run (20-G)	Yes
PA0090557 (Sewage)	Beaver Valley Nursing & Rehab Center STP 257 Georgetown Road Beaver Falls, PA 15010-9740	Beaver County South Beaver Township	Unnamed Tributary of North Fork Little Beaver Creek (20-B)	Yes
PA0219045 (Sewage)	Apollo Ridge School District STP PO Box 219 Spring Church, PA 15686-0219	Armstrong County Kiskiminetas Township	Unnamed Tributary to Wolford Run (18-B)	Yes
PA0031470 (Sewage)	Penns Manor Area School District 6003 Route 553 Highway Clymer, PA 15728-8318	Indiana County Cherry Hill Township	Rose Run (18-D)	Yes
PA0094536 (Sewage)	Forest Hills Middle School STP 549 Locust Street Sidman, PA 15955	Cambria County Croyle Township	Unnamed Tributary of South Fork Little Conemaugh River (18-E)	Yes
PA0046019 (Industrial)	Flying J Travel Plaza No. 620 5508 Lonas Drive Knoxville, TN 37909-3221	Westmoreland County South Huntingdon Township	Unnamed tributary to Youghiogheny River (19-D)	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 & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N?</i>
PA0004219 (Industrial)	Langeloth Metallurgical Co. LLC 10 Langeloth Plant Dr. PO Box 608 Langeloth, PA 15054	Washington County Smith Township	Unnamed Tributary of Burgett's Fork (20-D)	Yes
PA0097713 (Sewage)	Gilmary Center STP 601 Flaugherty Run Road Coraopolis, PA 15108-3848	Allegheny County Findlay Township	Unnamed Tributary to Flaugherty Run (20-G)	Yes
PA0090557 (Sewage)	Beaver Valley Nursing & Rehab Center STP 257 Georgetown Road Beaver Falls, PA 15010-9740	Beaver County South Beaver Township	Unnamed Tributary of North Fork Little Beaver Creek (20-B)	Yes

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N?</i>
PA0219045 (Sewage)	Apollo Ridge School District STP PO Box 219 Spring Church, PA 15686-0219	Armstrong County Kiskiminetas Township	Unnamed Tributary to Wolford Run (18-B)	Yes
PA0031470 (Sewage)	Penns Manor Area School District 6003 Route 553 Highway Clymer, PA 15728-8318	Indiana County Cherry Hill Township	Rose Run (18-D)	Yes
PA0094536 (Sewage)	Forest Hills Middle School STP 549 Locust Street Sidman, PA 15955	Cambria County Croyle Township	Unnamed Tributary of South Fork Little Conemaugh River (18-E)	Yes
PA0046019 (Industrial)	Flying J Travel Plaza No. 620 5508 Lonas Drive Knoxville, TN 37909-3221	Westmoreland County South Huntingdon Township	Unnamed tributary to Youghioghney River (19-D)	Yes

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N?</i>
PA0046337 (Sewage)	Colonial Village Subdivision 9231 Edinboro Road PO Box 88 McKean, PA 16426	Erie County McKean Township	Unnamed Tributary to the Walnut Creek (15-A)	Yes
PA0221961 (Sewage)	Timberlee Valley STP 800 S Washington Street Evans City, PA 16033-9208	Butler County Connoquenessing Township	Crab Run (20-C)	Yes
PA0091189 (Sewage)	Slippery Rock Campground 1150 West Park Road Slippery Rock, PA 16057	Butler County Worth Township	Slippery Rock Creek (20-C)	Yes

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

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

PA0041378, Industrial, SIC Code 3316, **Prime Metals & Alloys Inc.**, 101 Innovation Drive, Homer City, PA 15748-7433. Facility Name: Prime Metals & Alloys Inc. This existing facility is located in Center Township, **Indiana County**.

Description of Existing Activity: The application is for a renewal of an NPDES permit for an existing discharge of treated sewage and new discharges of non-contact cooling water and storm water.

The receiving stream(s), unnamed tributary to Two Lick Creek and Two Lick Creek, are located in State Water Plan watershed 18-D and are classified for Cold Water Fishes and Trout Stocking, aquatic life, water supply and recreation. The discharges are not expected to affect public water supplies.

The proposed effluent limits for Internal Monitoring Point 101 are based on a design flow of 0.005 MGD.

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>			<i>Concentrations (mg/L)</i>		<i>Instant. Maximum</i>
	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Minimum</i>	<i>Average Monthly</i>	<i>Maximum</i>	
Flow (MGD)	0.005	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	9.0	XXX
Dissolved Oxygen	XXX	XXX	4.0	XXX	XXX	XXX
Total Residual Chlorine (TRC)	XXX	XXX	XXX	0.5	XXX	1.6
Carbonaceous Biochemical Oxygen Demand (CBOD ₅)	XXX	XXX	XXX	25.0	XXX	50.0
Total Suspended Solids	XXX	XXX	XXX	30.0	XXX	60.0
Fecal Coliform (No./100 ml)						
May 1 - Sep 30	XXX	XXX	XXX	200 Geo Mean	XXX	1,000
Oct 1 - Apr 30	XXX	XXX	XXX	2,000 Geo Mean	XXX	10,000
Total Nitrogen	XXX	XXX	XXX	XXX	XXX	Report
Total Phosphorus	XXX	XXX	XXX	XXX	XXX	Report

The proposed effluent limits for Internal Monitoring Point 201 are for storm water discharges.

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>			<i>Concentrations (mg/L)</i>		<i>Instant. Maximum</i>
	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Minimum</i>	<i>Average Monthly</i>	<i>Daily Maximum</i>	
Flow (MGD)	XXX	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	XXX	XXX	Report Max	XXX
Carbonaceous Biochemical Oxygen Demand (CBOD ₅)	XXX	XXX	XXX	XXX	Report	XXX
Total Suspended Solids	XXX	XXX	XXX	XXX	Report	XXX
Oil and Grease	XXX	XXX	XXX	XXX	Report	XXX
Aluminum, Total	XXX	XXX	XXX	XXX	Report	XXX
Copper, Total	XXX	XXX	XXX	XXX	Report	XXX
Iron, Total	XXX	XXX	XXX	XXX	Report	XXX
Lead, Total	XXX	XXX	XXX	XXX	Report	XXX
Manganese, Total	XXX	XXX	XXX	XXX	Report	XXX
Zinc, Total	XXX	XXX	XXX	XXX	Report	XXX

The proposed effluent limits for Internal Monitoring Point 301 are based on a design flow of 0.013 MGD.

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>			<i>Concentrations (mg/L)</i>		<i>Instant. Maximum</i>
	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Minimum</i>	<i>Average Monthly</i>	<i>Daily Maximum</i>	
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	9.0 Max	XXX
Free Available Chlorine	XXX	XXX	XXX	0.2	0.5	XXX
Total Suspended Solids	XXX	XXX	XXX	30.0	100.0	XXX
Oil and Grease	XXX	XXX	XXX	15.0	20.0	XXX

The proposed effluent limits for Outfall 001 are based on a design flow of 0.018 MGD.

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>			<i>Concentrations (mg/L)</i>		<i>Instant. Maximum</i>
	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Minimum</i>	<i>Average Monthly</i>	<i>Daily Maximum</i>	
Flow (MGD)	Report	Report Daily Max	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	9.0 Max	XXX
Temperature (°F)	XXX	XXX	XXX	XXX	110	XXX
Aluminum, Total (Interim)	XXX	XXX	XXX	Report	Report	XXX
(Final)	XXX	XXX	XXX	0.75	0.75	XXX
Iron, Total (Interim)	XXX	XXX	XXX	Report	Report	XXX
(Final)	XXX	XXX	XXX	1.5	3.0	XXX
Manganese, Total (Interim)	XXX	XXX	XXX	Report	Report	XXX
(Final)	XXX	XXX	XXX	1.0	2.0	XXX

The proposed effluent limits for Internal Monitoring Points 102, 202, and 302 are for storm water discharges.

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>			<i>Concentrations (mg/L)</i>		<i>Instant. Maximum</i>
	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Minimum</i>	<i>Average Monthly</i>	<i>Daily Maximum</i>	
Flow (MGD)	XXX	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	XXX	XXX	Report Max	XXX
Total Suspended Solids	XXX	XXX	XXX	XXX	Report	XXX
Aluminum, Total	XXX	XXX	XXX	XXX	Report	XXX
Copper, Total	XXX	XXX	XXX	XXX	Report	XXX
Iron, Total	XXX	XXX	XXX	XXX	Report	XXX
Lead, Total	XXX	XXX	XXX	XXX	Report	XXX
Manganese, Total	XXX	XXX	XXX	XXX	Report	XXX
Zinc, Total	XXX	XXX	XXX	XXX	Report	XXX

The proposed effluent limits for Internal Monitoring Point 402 are based on a design flow of less than 0.00144 MGD.

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>			<i>Concentrations (mg/L)</i>		<i>Instant. Maximum</i>
	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Minimum</i>	<i>Average Monthly</i>	<i>Maximum</i>	
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	9.0	XXX
Oil and Grease	XXX	XXX	XXX	15.0	XXX	30.0

The proposed effluent limits for Outfall 002 are for storm water discharges and miscellaneous wastewaters.

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>			<i>Concentrations (mg/L)</i>		<i>Instant. Maximum</i>
	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Minimum</i>	<i>Average Monthly</i>	<i>Daily Maximum</i>	
Flow (MGD)	XXX	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	XXX	XXX	Report Max	XXX
Total Suspended Solids	XXX	XXX	XXX	XXX	Report	XXX
Aluminum, Total						
(Interim)	XXX	XXX	XXX	XXX	Report	XXX
(Final)	XXX	XXX	XXX	XXX	0.75	XXX
Iron, Total						
(Interim)	XXX	XXX	XXX	XXX	Report	XXX
(Final)	XXX	XXX	XXX	XXX	3.0	XXX
Manganese, Total						
(Interim)	XXX	XXX	XXX	XXX	Report	XXX
(Final)	XXX	XXX	XXX	XXX	2.0	XXX
Oil and Grease	XXX	XXX	XXX	XXX	Report	XXX
Copper, Total	XXX	XXX	XXX	XXX	Report	XXX
Lead, Total	XXX	XXX	XXX	XXX	Report	XXX
Zinc, Total	XXX	XXX	XXX	XXX	Report	XXX

The proposed effluent limits for Outfall 003 are based on a design flow of 0.031 MGD.

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>			<i>Concentrations (mg/L)</i>		<i>Instant. Maximum</i>
	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Minimum</i>	<i>Average Monthly</i>	<i>Daily Maximum</i>	
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	9.0	XXX
Total Suspended Solids	XXX	XXX	XXX	30.0	100.0	XXX
Oil and Grease	XXX	XXX	XXX	15.0	20.0	XXX
Aluminum, Total	XXX	XXX	XXX	0.75	0.75	XXX
Iron, Total	XXX	XXX	XXX	1.5	3.0	XXX
Manganese, Total	XXX	XXX	XXX	1.0	2.0	XXX
Total Residual Chlorine (TRC)						
(Interim)	XXX	XXX	XXX	Report	Report	XXX
(Final)	XXX	XXX	XXX	0.342	0.800	XXX
Free Available Chlorine	XXX	XXX	XXX	0.2	0.5	XXX
Temperature (°F)						
(Interim)	XXX	XXX	XXX	XXX	110	XXX
(Final)						
Jan 1 - 31	XXX	XXX	XXX	XXX	49.2	XXX
Feb 1 - 28	XXX	XXX	XXX	XXX	45.2	XXX
Mar 1 - 31	XXX	XXX	XXX	XXX	46.5	XXX
Apr 1 - 15	XXX	XXX	XXX	XXX	54.2	XXX
Apr 16 - 30	XXX	XXX	XXX	XXX	60.3	XXX
May 1 - 15	XXX	XXX	XXX	XXX	61.8	XXX
May 16 - 31	XXX	XXX	XXX	XXX	66.5	XXX
Jun 1 - 15	XXX	XXX	XXX	XXX	68.0	XXX
Jun 16 - 30	XXX	XXX	XXX	XXX	69.4	XXX
Jul 1 - 31	XXX	XXX	XXX	XXX	71.5	XXX
Aug 1 - 15	XXX	XXX	XXX	XXX	71.0	XXX
Aug 16 - 31	XXX	XXX	XXX	XXX	71.7	XXX
Sep 1 - 15	XXX	XXX	XXX	XXX	69.8	XXX
Sep 16 - 30	XXX	XXX	XXX	XXX	63.6	XXX
Oct 1 - 15	XXX	XXX	XXX	XXX	59.1	XXX
Oct 16 - 31	XXX	XXX	XXX	XXX	53.0	XXX
Nov 1 - 15	XXX	XXX	XXX	XXX	47.5	XXX
Nov 16 - 30	XXX	XXX	XXX	XXX	45.1	XXX
Dec 1 - 31	XXX	XXX	XXX	XXX	41.9	XXX

The proposed effluent limits for Outfalls 010 and 011 are for storm water discharges.

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>			<i>Concentrations (mg/L)</i>		
	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Minimum</i>	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
Flow (MGD)	XXX	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	XXX	XXX	Report Max	XXX
Total Suspended Solids	XXX	XXX	XXX	XXX	Report	XXX
Aluminum, Total						
(Interim)	XXX	XXX	XXX	XXX	Report	XXX
(Final)	XXX	XXX	XXX	XXX	0.75	XXX
Iron, Total						
(Interim)	XXX	XXX	XXX	XXX	Report	XXX
(Final)	XXX	XXX	XXX	XXX	3.0	XXX
Manganese, Total						
(Interim)	XXX	XXX	XXX	XXX	Report	XXX
(Final)	XXX	XXX	XXX	XXX	2.0	XXX
Oil and Grease	XXX	XXX	XXX	XXX	Report	XXX
Copper, Total	XXX	XXX	XXX	XXX	Report	XXX
Lead, Total	XXX	XXX	XXX	XXX	Report	XXX
Zinc, Total	XXX	XXX	XXX	XXX	Report	XXX

The proposed effluent limits for Outfalls 012, 013, and 014 are for groundwater and storm water discharges.

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>			<i>Concentrations (mg/L)</i>		
	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Minimum</i>	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
Flow (MGD)	XXX	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	XXX	XXX	Report Max	XXX
Total Suspended Solids	XXX	XXX	XXX	XXX	Report	XXX
Aluminum, Total						
(Interim)	XXX	XXX	XXX	XXX	Report	XXX
(Final)	XXX	XXX	XXX	XXX	0.75	XXX
Iron, Total						
(Interim)	XXX	XXX	XXX	XXX	Report	XXX
(Final)	XXX	XXX	XXX	XXX	3.0	XXX
Manganese, Total						
(Interim)	XXX	XXX	XXX	XXX	Report	XXX
(Final)	XXX	XXX	XXX	XXX	2.0	XXX
Carbonaceous Biochemical Oxygen Demand (CBOD ₅)	XXX	XXX	XXX	XXX	Report	XXX
Copper, Total	XXX	XXX	XXX	XXX	Report	XXX
Lead, Total	XXX	XXX	XXX	XXX	Report	XXX
Zinc, Total	XXX	XXX	XXX	XXX	Report	XXX

In addition, the permit contains the following major special conditions: a schedule of compliance for TMDL effluent limits, schedules of compliance for water quality-based temperature limits and TRC limits at Outfall 003, chemical additive requirements, and requirements applicable to storm water outfalls.

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 not effect.

Northeast Regional Office: Regional Clean Water Program Manager, 2 Public Square, Wilkes-Barre, PA 18701-1915, Telephone: 570.826.2511.

PAS232210, Storm Water, SIC Code 3085, **Consolidated Container Co. LP**, 3101 Tower Creek Parkway Se, Atlanta, GA 30339. Facility Name: Consolidated Container Co. Allentown. This existing facility is located in Upper Macungie Township, **Lehigh County**.

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

The receiving stream(s), Iron Run, is located in State Water Plan watershed 2-C and is classified for High Quality—Cold Water and Migratory Fish, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of 0 MGD.—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>	
pH (S.U.)	XXX	XXX	XXX	XXX	Report Daily Max	XXX
Total Suspended Solids	XXX	XXX	XXX	XXX	XXX	100.0
Zinc, Total	XXX	XXX	XXX	XXX	Report Daily Max	XXX

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 570-826-5472.

The EPA Waiver is in effect.

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

PA0008591, Industrial, SIC Code 2631, **NGC Industries, LLC**, PO Box 210, West Milton, PA 17886-0210. Facility Name: NGC Industries, LLC. This existing facility is located in White Deer Township, **Union 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), West Branch Susquehanna River and Unnamed Tributary to West Branch Susquehanna River, are located in State Water Plan watershed 10-C and is classified for Warm Water Fishes, Migratory Fishes, aquatic life, water supply and recreation. The discharges are not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.231 MGD.

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>		<i>Minimum</i>	<i>Concentrations (mg/L)</i>		<i>Instant. Maximum</i>
	<i>Average Monthly</i>	<i>Daily Maximum</i>		<i>Average Monthly</i>	<i>Daily Maximum</i>	
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9.0
Biochemical Oxygen Demand (BOD ₅)	190	285	XXX	100.0	150.0	200
Total Suspended Solids	190	285	XXX	100.0	150.0	200
Total Dissolved Solids	XXX	Report	XXX	XXX	Report	XXX
Sulfate, Total	XXX	Report	XXX	XXX	Report	XXX
Chloride	XXX	Report	XXX	XXX	Report	XXX
Bromide	XXX	Report	XXX	XXX	Report	XXX

The proposed monitoring requirements for Outfall 002 are:

<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.)	XXX	XXX	XXX	XXX	Report	XXX
Chemical Oxygen Demand (COD)	XXX	XXX	XXX	XXX	Report	XXX
Total Suspended Solids	XXX	XXX	XXX	XXX	Report	XXX

The proposed monitoring requirements and, where appropriate, effluent limits for implementation of the Chesapeake Bay Tributary Strategy are as follows for Outfall 001.

<i>Parameters</i>	<i>Mass Units (lbs)</i>		<i>Monthly</i>	<i>Concentrations (mg/L)</i>		<i>Instant. Maximum</i>
	<i>Monthly</i>	<i>Annual</i>		<i>Monthly Average</i>	<i>Maximum</i>	
Ammonia—N	Report	Report	XXX	Report	XXX	XXX
Kjeldahl—N	Report	XXX	XXX	Report	XXX	XXX
Nitrate-Nitrite as N	Report	XXX	XXX	Report	XXX	XXX
Total Nitrogen	Report	Report	XXX	Report	XXX	XXX
Total Phosphorus	Report	Report	XXX	Report	XXX	XXX
Net Total Nitrogen	Report	2.758	XXX	XXX	XXX	XXX
Net Total Phosphorus	Report	132	XXX	XXX	XXX	XXX

* This permit contains conditions which authorize the permittee to apply nutrient reduction credits to meet the Net Total Nitrogen and the Net Total Phosphorus effluent mass limits, under the Department's Chapter 96 regulations. The condition includes the requirement to report the application of these credits in Supplemental Discharge Monitoring Reports (DMRs) submitted to the Department.

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. Phone: 412.442.4000.

PA0041378, Industrial, SIC Code 3316, **Prime Metals & Alloys Inc.**, 101 Innovation Drive, Homer City, PA 15748-7433. Facility Name: Prime Metals & Alloys Inc. This existing facility is located in Center Township, **Indiana County**.

Description of Existing Activity: The application is for a renewal of an NPDES permit for an existing discharge of treated sewage and new discharges of non-contact cooling water and storm water.

The receiving stream(s), unnamed tributary to Two Lick Creek and Two Lick Creek, are located in State Water Plan watershed 18-D and are classified for Cold Water Fishes and Trout Stocking, aquatic life, water supply and recreation. The discharges are not expected to affect public water supplies.

The proposed effluent limits for Internal Monitoring Point 101 are based on a design flow of 0.005 MGD.

Parameters	Mass Units (lbs/day)			Concentrations (mg/L)		Instant. Maximum
	Average Monthly	Daily Maximum	Minimum	Average Monthly	Daily Maximum	
Flow (MGD)	0.005	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	9.0	XXX
Dissolved Oxygen	XXX	XXX	4.0	XXX	XXX	XXX
Total Residual Chlorine (TRC)	XXX	XXX	XXX	0.5	XXX	1.6
Carbonaceous Biochemical Oxygen Demand (CBOD ₅)	XXX	XXX	XXX	25.0	XXX	50.0
Total Suspended Solids	XXX	XXX	XXX	30.0	XXX	60.0
Fecal Coliform (No./100 ml)						
May 1 - Sep 30	XXX	XXX	XXX	200 Geo Mean	XXX	1,000
Oct 1 - Apr 30	XXX	XXX	XXX	2,000 Geo Mean	XXX	10,000
Total Nitrogen	XXX	XXX	XXX	XXX	XXX	Report
Total Phosphorus	XXX	XXX	XXX	XXX	XXX	Report

The proposed effluent limits for Internal Monitoring Point 201 are for storm water discharges.

Parameters	Mass Units (lbs/day)			Concentrations (mg/L)		Instant. Maximum
	Average Monthly	Daily Maximum	Minimum	Average Monthly	Daily Maximum	
Flow (MGD)	XXX	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	XXX	XXX	Report Max	XXX
Carbonaceous Biochemical Oxygen Demand (CBOD ₅)	XXX	XXX	XXX	XXX	Report	XXX
Total Suspended Solids	XXX	XXX	XXX	XXX	Report	XXX
Oil and Grease	XXX	XXX	XXX	XXX	Report	XXX
Aluminum, Total	XXX	XXX	XXX	XXX	Report	XXX
Copper, Total	XXX	XXX	XXX	XXX	Report	XXX
Iron, Total	XXX	XXX	XXX	XXX	Report	XXX
Lead, Total	XXX	XXX	XXX	XXX	Report	XXX
Manganese, Total	XXX	XXX	XXX	XXX	Report	XXX
Zinc, Total	XXX	XXX	XXX	XXX	Report	XXX

The proposed effluent limits for Internal Monitoring Point 301 are based on a design flow of 0.013 MGD.

Parameters	Mass Units (lbs/day)			Concentrations (mg/L)		Instant. Maximum
	Average Monthly	Daily Maximum	Minimum	Average Monthly	Daily Maximum	
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	9.0 Max	XXX
Free Available Chlorine	XXX	XXX	XXX	0.2	0.5	XXX
Total Suspended Solids	XXX	XXX	XXX	30.0	100.0	XXX
Oil and Grease	XXX	XXX	XXX	15.0	20.0	XXX

The proposed effluent limits for Outfall 001 are based on a design flow of 0.018 MGD.

Parameters	Mass Units (lbs/day)			Concentrations (mg/L)		Instant. Maximum
	Average Monthly	Daily Maximum	Minimum	Average Monthly	Daily Maximum	
Flow (MGD)	Report	Report Daily Max	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	9.0 Max	XXX

NOTICES

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>			<i>Concentrations (mg/L)</i>		<i>Instant. Maximum</i>
	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Minimum</i>	<i>Average Monthly</i>	<i>Daily Maximum</i>	
Temperature (°F)	XXX	XXX	XXX	XXX	110	XXX
Aluminum, Total						
(Interim)	XXX	XXX	XXX	Report	Report	XXX
(Final)	XXX	XXX	XXX	0.75	0.75	XXX
Iron, Total						
(Interim)	XXX	XXX	XXX	Report	Report	XXX
(Final)	XXX	XXX	XXX	1.5	3.0	XXX
Manganese, Total						
(Interim)	XXX	XXX	XXX	Report	Report	XXX
(Final)	XXX	XXX	XXX	1.0	2.0	XXX

The proposed effluent limits for Internal Monitoring Points 102, 202, and 302 are for storm water discharges.

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>			<i>Concentrations (mg/L)</i>		<i>Instant. Maximum</i>
	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Minimum</i>	<i>Average Monthly</i>	<i>Daily Maximum</i>	
Flow (MGD)	XXX	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	XXX	XXX	Report	XXX
Total Suspended Solids	XXX	XXX	XXX	XXX	Report	XXX
Aluminum, Total	XXX	XXX	XXX	XXX	Report	XXX
Copper, Total	XXX	XXX	XXX	XXX	Report	XXX
Iron, Total	XXX	XXX	XXX	XXX	Report	XXX
Lead, Total	XXX	XXX	XXX	XXX	Report	XXX
Manganese, Total	XXX	XXX	XXX	XXX	Report	XXX
Zinc, Total	XXX	XXX	XXX	XXX	Report	XXX

The proposed effluent limits for Internal Monitoring Point 402 are based on a design flow of less than 0.00144 MGD.

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>			<i>Concentrations (mg/L)</i>		<i>Instant. Maximum</i>
	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Minimum</i>	<i>Average Monthly</i>	<i>Maximum</i>	
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	9.0	XXX
Oil and Grease	XXX	XXX	XXX	15.0	XXX	30.0

The proposed effluent limits for Outfall 002 are for storm water discharges and miscellaneous wastewaters.

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>			<i>Concentrations (mg/L)</i>		<i>Instant. Maximum</i>
	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Minimum</i>	<i>Average Monthly</i>	<i>Daily Maximum</i>	
Flow (MGD)	XXX	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	XXX	XXX	Report	XXX
Total Suspended Solids	XXX	XXX	XXX	XXX	Report	XXX
Aluminum, Total						
(Interim)	XXX	XXX	XXX	XXX	Report	XXX
(Final)	XXX	XXX	XXX	XXX	0.75	XXX
Iron, Total						
(Interim)	XXX	XXX	XXX	XXX	Report	XXX
(Final)	XXX	XXX	XXX	XXX	3.0	XXX
Manganese, Total						
(Interim)	XXX	XXX	XXX	XXX	Report	XXX
(Final)	XXX	XXX	XXX	XXX	2.0	XXX
Oil and Grease	XXX	XXX	XXX	XXX	Report	XXX
Copper, Total	XXX	XXX	XXX	XXX	Report	XXX
Lead, Total	XXX	XXX	XXX	XXX	Report	XXX
Zinc, Total	XXX	XXX	XXX	XXX	Report	XXX

The proposed effluent limits for Outfall 003 are based on a design flow of 0.031 MGD.

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>			<i>Concentrations (mg/L)</i>		<i>Instant. Maximum</i>
	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Minimum</i>	<i>Average Monthly</i>	<i>Daily Maximum</i>	
Flow (MGD)	Report	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	9.0	XXX
Total Suspended Solids	XXX	XXX	XXX	30.0	100.0	XXX
Oil and Grease	XXX	XXX	XXX	15.0	20.0	XXX

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>			<i>Concentrations (mg/L)</i>		<i>Instant. Maximum</i>
	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Minimum</i>	<i>Average Monthly</i>	<i>Daily Maximum</i>	
Aluminum, Total	XXX	XXX	XXX	0.75	0.75	XXX
Iron, Total	XXX	XXX	XXX	1.5	3.0	XXX
Manganese, Total	XXX	XXX	XXX	1.0	2.0	XXX
Total Residual Chlorine (TRC)						
(Interim)	XXX	XXX	XXX	Report	Report	XXX
(Final)	XXX	XXX	XXX	0.342	0.800	XXX
Free Available Chlorine	XXX	XXX	XXX	0.2	0.5	XXX
Temperature (°F)						
(Interim)	XXX	XXX	XXX	XXX	110	XXX
(Final)						
Jan 1 - 31	XXX	XXX	XXX	XXX	49.2	XXX
Feb 1 - 28	XXX	XXX	XXX	XXX	45.2	XXX
Mar 1 - 31	XXX	XXX	XXX	XXX	46.5	XXX
Apr 1 - 15	XXX	XXX	XXX	XXX	54.2	XXX
Apr 16 - 30	XXX	XXX	XXX	XXX	60.3	XXX
May 1 - 15	XXX	XXX	XXX	XXX	61.8	XXX
May 16 - 31	XXX	XXX	XXX	XXX	66.5	XXX
Jun 1 - 15	XXX	XXX	XXX	XXX	68.0	XXX
Jun 16 - 30	XXX	XXX	XXX	XXX	69.4	XXX
Jul 1 - 31	XXX	XXX	XXX	XXX	71.5	XXX
Aug 1 - 15	XXX	XXX	XXX	XXX	71.0	XXX
Aug 16 - 31	XXX	XXX	XXX	XXX	71.7	XXX
Sep 1 - 15	XXX	XXX	XXX	XXX	69.8	XXX
Sep 16 - 30	XXX	XXX	XXX	XXX	63.6	XXX
Oct 1 - 15	XXX	XXX	XXX	XXX	59.1	XXX
Oct 16 - 31	XXX	XXX	XXX	XXX	53.0	XXX
Nov 1 - 15	XXX	XXX	XXX	XXX	47.5	XXX
Nov 16 - 30	XXX	XXX	XXX	XXX	45.1	XXX
Dec 1 - 31	XXX	XXX	XXX	XXX	41.9	XXX

The proposed effluent limits for Outfalls 010 and 011 are for storm water discharges.

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>			<i>Concentrations (mg/L)</i>		<i>Instant. Maximum</i>
	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Minimum</i>	<i>Average Monthly</i>	<i>Daily Maximum</i>	
Flow (MGD)	XXX	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	XXX	XXX	Report Max	XXX
Total Suspended Solids	XXX	XXX	XXX	XXX	Report	XXX
Aluminum, Total						
(Interim)	XXX	XXX	XXX	XXX	Report	XXX
(Final)	XXX	XXX	XXX	XXX	0.75	XXX
Iron, Total						
(Interim)	XXX	XXX	XXX	XXX	Report	XXX
(Final)	XXX	XXX	XXX	XXX	3.0	XXX
Manganese, Total						
(Interim)	XXX	XXX	XXX	XXX	Report	XXX
(Final)	XXX	XXX	XXX	XXX	2.0	XXX
Oil and Grease	XXX	XXX	XXX	XXX	Report	XXX
Copper, Total	XXX	XXX	XXX	XXX	Report	XXX
Lead, Total	XXX	XXX	XXX	XXX	Report	XXX
Zinc, Total	XXX	XXX	XXX	XXX	Report	XXX

The proposed effluent limits for Outfalls 012, 013, and 014 are for groundwater and storm water discharges.

<i>Parameters</i>	<i>Mass Units (lbs/day)</i>			<i>Concentrations (mg/L)</i>		<i>Instant. Maximum</i>
	<i>Average Monthly</i>	<i>Daily Maximum</i>	<i>Minimum</i>	<i>Average Monthly</i>	<i>Daily Maximum</i>	
Flow (MGD)	XXX	Report	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	XXX	XXX	Report Max	XXX
Total Suspended Solids	XXX	XXX	XXX	XXX	Report	XXX
Aluminum, Total						
(Interim)	XXX	XXX	XXX	XXX	Report	XXX
(Final)	XXX	XXX	XXX	XXX	0.75	XXX

Parameters	Mass Units (lbs/day)			Concentrations (mg/L)		Instant. Maximum
	Average Monthly	Daily Maximum	Minimum	Average Monthly	Daily Maximum	
Iron, Total (Interim)	XXX	XXX	XXX	XXX	Report	XXX
(Final)	XXX	XXX	XXX	XXX	3.0	XXX
Manganese, Total (Interim)	XXX	XXX	XXX	XXX	Report	XXX
(Final)	XXX	XXX	XXX	XXX	2.0	XXX
Carbonaceous Biochemical Oxygen Demand (CBOD ₅)	XXX	XXX	XXX	XXX	Report	XXX
Copper, Total	XXX	XXX	XXX	XXX	Report	XXX
Lead, Total	XXX	XXX	XXX	XXX	Report	XXX
Zinc, Total	XXX	XXX	XXX	XXX	Report	XXX

In addition, the permit contains the following major special conditions: a schedule of compliance for TMDL effluent limits, schedules of compliance for water quality-based temperature limits and TRC limits at Outfall 003, chemical additive requirements, and requirements applicable to storm water outfalls.

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 not effect.

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

PA0265152, Sewage, SIC Code 5399, **New Castle Dpp LLC**, 9010 Overlook Boulevard, Brentwood, TN 37027-5242. Facility Name: Dollar Gen Store Slippery Rock Township. This proposed facility is located in Slippery Rock Township, **Lawrence County**.

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

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

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

Parameters	Mass Units (lbs/day)			Concentrations (mg/L)		Instant. Maximum
	Average Monthly	Average Weekly	Minimum	Average Monthly	Maximum	
Flow (MGD)	Report	XXX	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	9.0	XXX
Biochemical Oxygen Demand (BOD ₅)	XXX	XXX	XXX	10.0	XXX	20
Total Suspended Solids	XXX	XXX	XXX	10.0	XXX	20
Fecal Coliform (No./100 ml)	XXX	XXX	XXX	200 Geo Mean	XXX	1,000

You may make an appointment to review the DEP files on this case by calling the File Review Coordinator at 814-332-6340.

The EPA Waiver is in effect.

PA0093378, Sewage, SIC Code 3264, 4952, **Assoc Ceramics & Tech Inc.**, 400 N Pike Road, Sarver, PA 16055-8634. Facility Name: Assoc Ceramics & Tech. This existing facility is located in Winfield Township, **Butler County**.

Description of Existing Activity: The amendment application is for NPDES permit for an existing discharge of treated Sewage.

The receiving stream(s), Unnamed Tributary to Sarver Run, is located in State Water Plan watershed 18-F and is classified for High Quality Waters—Trout Stocking, aquatic life, water supply and recreation. The discharge is not expected to affect public water supplies.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.004 MGD.—Final Limits.

Parameters	Mass Units (lbs/day)			Concentrations (mg/L)		Instant. Maximum
	Average Monthly	Average Weekly	Minimum	Average Monthly	Maximum	
Flow (MGD)	Report	XXX	XXX	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	6.0	XXX	XXX	9
Dissolved Oxygen	XXX	XXX	6.0	XXX	XXX	XXX
Carbonaceous Biochemical Oxygen Demand (CBOD ₅)	XXX	XXX	XXX	25.0	XXX	50.0
Total Suspended Solids	XXX	XXX	XXX	30.0	XXX	60.0

Parameters	Mass Units (lbs/day)		Minimum	Concentrations (mg/L)		Instant. Maximum
	Average Monthly	Average Weekly		Average Monthly	Maximum	
Fecal Coliform (CFU/100 ml)						
Oct 1 - Apr 30	XXX	XXX	XXX	2,000 Geo Mean	XXX	10,000
May 1 - Sep 30	XXX	XXX	XXX	200 Geo Mean	XXX	1,000
Ammonia-Nitrogen						
Nov 1 - Apr 30	XXX	XXX	XXX	6.3	XXX	12.5
May 1 - Oct 31	XXX	XXX	XXX	2.1	XXX	4.2
Total Nitrogen	XXX	XXX	XXX	Report	XXX	XXX
Total Phosphorus	XXX	XXX	XXX	Avg Qrtly Report	XXX	XXX
				Avg Qrtly		

The proposed effluent limits for Outfall 001 are based on a design flow of 0.004 MGD.—Interim Limits.

Parameters	Mass Units (lbs/day)		Minimum	Concentrations (mg/L)		Instant. Maximum
	Average Monthly	Average Weekly		Average Monthly	Maximum	
Total Residual Chlorine (TRC)	XXX	XXX	XXX	1.4	XXX	3.3

The proposed effluent limits for Outfall 001 are based on a design flow of 0.004 MGD.—Final Limits.

Parameters	Mass Units (lbs/day)		Minimum	Concentrations (mg/L)		Instant. Maximum
	Average Monthly	Average Weekly		Average Monthly	Maximum	
Total Residual Chlorine (TRC)	XXX	XXX	XXX	0.05	XXX	0.15

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

- Solids Management
- TRC Optimization
- TRC Compliance Schedule

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. 4617404, Sewage, **Telford Borough Authority**, 122 Penn Avenue, Telford, PA 18969.

This proposed facility is located in Telford Borough, **Montgomery County**.

Description of Action/Activity: Replace aging belt press with new centrifuge.

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

WQM Permit No. 2517407, Sewage, **William E Roberts Jr**, 6300 Franklin Road, Fairview, PA 16415.

This proposed facility is located in Fairview Township, **Erie County**.

Description of Proposed Action/Activity: Single Residence Sewage Treatment Plant.

WQM Permit No. 4217403, Sewage, **Velma Chizewick**, 20 North Branch Road, Eldred, PA 16731-3902.

This proposed facility is located in Eldred Township, **McKean County**.

Description of Proposed Action/Activity: Single Residence Sewage Treatment Plant.

VI. NPDES Individual Permit Applications for Discharges of Stormwater Associated with Construction Activities

Southeast Region: Waterways & Wetlands Program Manager, 2 East Main Street, Norristown, PA 19401. Telephone 484-250-5160.

NPDES Permit No.	Applicant Name & Address	County	Municipality	Receiving Water/Use
PAD090009	MLH 2150 Roebing, LLC 308 Lancaster Avenue Suite 300 Wynnewood, PA 19096-2145	Bucks	Falls Township	Unnamed Tributary to Delaware River WWF-MF

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAD150028	T. Richard Moser Land Developers LP 1171 Lancaster Avenue Suite 201 Berwyn, PA 19312	Chester	Upper Uwchlan and Wallace Townships	Marsh Creek Lake/East Branch Brandywine Creek HQ-TSF
PAD510015	Dwell at Second Street, LLC 1735 Market Street Suite 4010 Philadelphia, PA 19103	Philadelphia	City of Philadelphia	Delaware River WWF-MF

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

Lehigh County Conservation District, Lehigh Ag Center, Suite 102, 4184 Dorney Park Rd., Allentown, PA 18104.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAD390034	Tim Schadler Seipsville Village, LLC 1793 Folk Road Fogelsville, PA 18051	Lehigh	Weisenberg Township	Hassen Creek (HQ-CWF, MF) EV Wetlands

Luzerne Conservation District, 325 Smiths Pond Road, Shavertown, PA 18708.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAD400007	Landview Properties, LLC James Comes 277 Locust St. Suite A Dover, NH 03820	Luzerne	Dallas Township	Toby Creek (CWF) Bowmans Creek (HQ-CWF)
PAD400004	PPL Electric Utilities Corp. Colleen Kester Two North Ninth Street Allentown, PA 18101	Luzerne	Conyngham, Bear Creek, Plains, Wilkes-Barre, Hanover, Fairview, Rice and Slocum Townships Laurel Run and Nuangola Boroughs	Little Wapwallopen Creek (CWF, MF) Mill Creek (CWF, MF) Pond Creek (CWF, MF) Nanticoke Creek (CWF, MF) Sugar Notch Run (CWF, MF) Big Wapwallopen Creek (CWF, MF) Pine Creek (CWF, MF) Deep Hollow (CWF, MF) Laurel Run (CWF, MF) Gardner Creek (CWF, MF) Susquehanna River (WWF, MF) Solomon Creek (HQ-CWF, MF)

Monroe County Conservation District, 8050 Running Valley Rd., Stroudsburg, PA 18360-0917.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAD450036	Mount Airy # 1, L.L.C. 312 Woodland Road Mt. Pocono, PA 18344-9703	Monroe	Paradise Township	Forest Hills Run (HQ-CWF, MF)

Southcentral Region: Waterways & Wetlands Program, 909 Elmerton Avenue, Harrisburg, PA 17110-8200, Nathan Crawford, Section Chief, 717.705.4802.

Permit #	Applicant Name & Address	County	Municipality	Receiving Water/Use
PAD310004	Springbrook Farms, LLC 13233 Greenwood Road Huntingdon, PA 16652	Huntingdon County	Jackson Township	UNT Standing Stone Creek (HQ-CWF, MF)

Southwest Region: Waterways & Wetlands Program, 400 Waterfront Drive, Pittsburgh, PA 15222, Michael Forbeck, Acting Waterways and Wetlands Program Manager, 412-442-4000.

Permit No.	Applicant & Address	County	Municipality	Stream Name
PAD110002	Mid-Atlantic Interstate Transmission, LLC 800 Cabin Hill Drive Greensburg, PA 15601	Cambria County	Gallitzin Township	UNT to Clearfield Creek (CWF); UNT to Bradley Run (CWF); Bradley Run (CWF); UNT to Clearfield Creek (WWF); Clearfield Creek (WWF);
PAD260001	Jeremy Critchfield 1078 Nemaquin Drive Chalkhill, PA 15421	Fayette Township	Wharton Township	UNT to Braddock Run (HQ-CWF)

VII. List of NOIs for NPDES and/or Other General Permit Types

PAG-12 CAFOs

CAFO Notices of Intent Received

Southcentral Region: Clean Water Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110. Telephone: 717-705-4707.

NPDES Permit No. PAG123859, CAFO, **Deppen Colton W**, 847 Imes Road, Mccoysville, PA 17058.

This proposed facility is located in Spruce Hill Township, **Juniata County**.

Description of size and scope of proposed operation/activity: Swine (Grow—Finish): 672.66 AEUs.

The receiving stream, Unnamed Tributary to Tuscarora Creek, is in watershed and classified for: Cold Water Fishes and Migratory Fishes.

The proposed effluent limits for the operation/activity include: Except for the chronic or catastrophic rainfall events defined as over the 25-year/24-hour rain storms, the CAFO general permit is a non-discharge NPDES permit. Where applicable, compliance with 40 CFR Federal effluent limitation guidelines is required. The general permit requires no other numeric effluent limitations and compliance with the Pennsylvania Nutrient Management Act and the Clean Stream Law constitutes compliance with the State narrative water quality standards.

NPDES Permit No. PAG123860, CAFO, **Zugstead Farm Inc.**, 558 Freed Road, Mifflintown, PA 17059-7772.

This proposed facility is located in Delaware Township, **Juniata County**.

Description of size and scope of proposed operation/activity: Dairy (Cows, Heifers, Calves): 1,267.1 AEUs.

The receiving stream, Unnamed Tributary to Doe Run, is in watershed and classified for: Migratory Fishes and Trout Stocking.

The proposed effluent limits for the operation/activity include: Except for the chronic or catastrophic rainfall events defined as over the 25-year/24-hour rain storms, the CAFO general permit is a non-discharge NPDES permit. Where applicable, compliance with 40 CFR Federal effluent limitation guidelines is required. The general permit requires no other numeric effluent limitations and compliance with the Pennsylvania Nutrient Management Act and the Clean Stream Law constitutes compliance with the State narrative water quality standards.

NPDES Permit No. PA0247685, CAFO, **Rohrer Dairy Farm LLC**, 124 Charleston Road, Washington, PA 17582.

This existing facility is located in Manor Township, **Lancaster County**.

Description of size and scope of existing operation/activity: Dairy (Cows, Heifers, Calves): 2,412.80 AEUs.

The receiving stream, Unnamed Tributary to Stamans Run, is in watershed 7-G and classified for: Migratory Fishes and Warm Water Fishes.

The proposed effluent limits for the operation/activity include: Except for the chronic or catastrophic rainfall events defined as over the 25-year/24-hour rain storms, the CAFO general permit is a non-discharge NPDES permit. Where applicable, compliance with 40 CFR Federal effluent limitation guidelines is required. The general permit requires no other numeric effluent limitations and compliance with the Pennsylvania Nutrient Management Act and the Clean Stream Law constitutes compliance with the State narrative water quality standards.

Northcentral Region: Clean Water Program Manager, 208 West Third Street, Williamsport, PA 17701.

NPDES Permit No. PAG124861, 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 size and scope of proposed operation/activity: Application for a general NPDES permit for a new finishing swine operation with one existing barn and two proposed barns with concrete under-barn manure storage. The facility will be comprised of approximately 11,790 swine (Grow—Finish). There will be a total of 1,752.35 AEUs.

The receiving stream, Little Shamokin Creek, is in watershed 6-B and classified for: Cold Water Fishes and Migratory Fishes.

The proposed effluent limits for the operation/activity include: Except for the chronic or catastrophic rainfall events defined as over the 100-year/24-hour rain storms, the CAFO general permit is a non-discharge NPDES permit. Where applicable, compliance with 40 CFR Federal effluent limitation guidelines is required. The general permit requires no other numeric effluent limitations and compliance with the Pennsylvania Nutrient Management Act and the Clean Stream Law constitutes compliance with the State narrative water quality standards.

MS4 PAG-13 Notices of Intent Received

Northwest Regional Office: Clean Water Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481. Phone: 814.332.6942.

NPDES Permit No.	Applicant Name & Address	Municipality, County	Waiver Application Submitted (Y/N)	Pollutant Reduction Plan Submitted (Y/N)
PAG138334	Saxonburg Borough Butler County 420 West Main Street Saxonburg, PA 16056-9517	Saxonburg Borough, Butler County	Y	N

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.

CAFO NMP

PUBLIC NOTICE SPREADSHEET—APPLICATIONS (Submission)

Agricultural Operation (Name and Address)	County	Total Acres	Animal Equivalent Units (AEUs)	Animal Type	Special Protection Waters (HQ or EV or NA)	New or Renewal
Hillcrest Saylor Dairy Farms, LLC	Somerset	1,961.2	1,443.96	Dairy	HQ	Renewal
John Pfleeger 460 Gold Road Muncy, PA 17756	Northumberland	434.3	682.47	Finishing Swine and Beef Steers	N/A	Renewal

<i>Agricultural Operation (Name and Address)</i>	<i>County</i>	<i>Total Acres</i>	<i>Animal Equivalent Units (AEUs)</i>	<i>Animal Type</i>	<i>Special Protection Waters (HQ or EV or NA)</i>	<i>New or Renewal</i>
Garret & Darren Moyer 1200 Red Bank Road Middleburg, PA 17842	Snyder	107.9	780.8	Swine Dairy	NA	Renewal
Murmac Farms 2336 Zion Road Bellefonte, PA 16823	Centre	1,191.5	2,723.50	Dairy	NA	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

Southeast Region: Water Supply Management Program Manager, 2 East Main Street, Norristown, PA 19401.

Permit No. 1517516, Public Water Supply.

Applicant	Imperial Manufactured Housing Community, LLC P.O. Box 5010 Smyrna, DE 19977
Township	Chalfont

County	Chester
Responsible Official	Brian McKinley Managing Member P.O. Box 5010 Smyrna, DE 19977
Type of Facility	PWS
Consulting Engineer	Ms. Michaelena M. Hayes, P.E. Mill Brook Engineering, LLC P.O. Box 966 Dover, DE 19903
Application Received Date	July 18, 2017
Description of Action	Application for upgrades to the existing water treatment facility, storage, and distribution system. <i>Southwest Region: Safe Drinking Water Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.</i>
	Permit No. 2617517 , Public Water Supply.
Applicant	Municipal Authority of Washington Township 1390 Fayette Avenue Belle Vernon, PA 15012
[Township or Borough]	Fayette City Borough
Responsible Official	Ken Klanchar, Chairman Municipal Authority of Washington Township 1390 Fayette Avenue Belle Vernon, PA 15012
Type of Facility	Water system
Consulting Engineer	Bankson Engineers, Inc. 267 Blue Run Road Suite 200 Cheswick, PA 15024
Application Received Date	July 25, 2017
Description of Action	Construction of a membrane microfiltration system, chemical feed systems and chlorine contact tank.

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. 0417505GWR, Minor Amendment.

Applicant **Lakeview Personal Care Home**
498 Lisbon Road
Darlington, PA 16115

[Township or Borough] South Beaver Township

Responsible Official Eric Trehar, Administrator
Lakeview Personal Care Home
498 Lisbon Road
Darlington, PA 16115

Type of Facility Water system

Consulting Engineer

Application Received Date July 27, 2017

Description of Action Demonstration of 4-log treatment of viruses for groundwater sources.

Description of Action Transfer of the Sharpsburg water system to Hampton Shaler 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.

Application No. 5617504MA, Minor Amendment.

Applicant **Somerset County General Authority**
300 North Center Avenue
Suite 500
Somerset, PA 15501

[Township or Borough] Somerset Township

Responsible Official Lladel Lichty, Chairperson
Somerset County General Authority
300 North Center Avenue
Suite 500
Somerset, PA 15501

Type of Facility Water system

Consulting Engineer Somerset Planning & Engineering Services, LLC
222 West Main Street
Suite 100
Somerset, PA 15501

Application Received Date July 31, 2017

Description of Action Installation of the Rayanne Lane meter vault to provide a connection between the Authority and Somerset Township Municipal Authority.

Application No. 0285507-T1, Minor Amendment.

Applicant **Hampton Shaler Water Authority**
PO Box 66
3101 McCully Road
Allison Park, PA 15101

[Township or Borough] Sharpsburg Borough

Responsible Official Samuel Scarfone, Executive Director
Hampton Shaler Water Authority
PO Box 66
3101 McCully Road
Allison Park, PA 15101

Type of Facility Water system

Consulting Engineer

Application Received Date July 27, 2017

The Department has received the following Notices of Intent to Remediate:

Southcentral Region: Environmental Cleanup and Brownfields Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110. Phone 717.705.4705.

RecOil, Incorporated, 280 North East Street, York, PA 17403, York City, **York County**. EnviroTrac, Limited, 176 Thorn Hill Road, Warrendale, PA 15086, on behalf of Environmental Compliance Management, 345 King Street, Myerstown, PA 17067, and RecOil, Inc., 280 North East Street, York, PA 17403 submitted a Notice of Intent to Remediate site soil and groundwater contaminated with used motor oil. The site will be remediated to the Residential Statewide Health Standard. Future use of the site remains commercial. The Notice of Intent to Remediate was published in *The York Dispatch/York Sunday News and York Daily Record* on July 14, 2017.

Doug Simms Property, 535 Bart's Church Road, Hanover, PA 17331, Union Township, **Adams County**. Reliance Environmental, Inc., 235 North Duke Street, Lancaster, PA 17602, on behalf of Mr. and Mrs. Doug Simms, 535 Bart's Church Road, Hanover, PA 17331, submitted a Notice of Intent to Remediate site soil and groundwater contaminated with # 2 fuel oil. The site will be remediated to the Residential Statewide Health and Site-Specific Standards. Future use of the site is to continue to be used as residential. The Notice of Intent to Remediate was published in *The Evening Sun* on July 13, 2017.

RESIDUAL WASTE GENERAL PERMITS

Application(s) 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 the Beneficial Use of Residual Waste other than Coal Ash.

Southwest Region: Regional Solid Waste Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745. Telephone 412-442-4000.

General Permit Application No. WMGR134. Homer City Generation, LP, 1750 Power Plant Road, Homer City, PA 15748. A request to modify the authorization granted under General Permit WMGR134 for the beneficial use of FGD-Gypsum material at the Homer City Coal Refuse Disposal Site located in Center Township, **Indiana County**. The application was received by the Department on July 13, 2017 and was deemed administratively complete by the Regional Office on July 31, 2017.

OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

Application Received Under the Solid Waste Management Act, the Municipal Waste Planning, Recycling and Waste Reduction Act 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. 400558. Covanta Plymouth Renewable Energy, LLC, 1155 Conshohocken Road, Conshohocken, PA 19428-1028. This major permit modification application is requesting the approval to add additional residual waste codes and/or waste categories to

the waste materials that may be received and processed at the Covanta Plymouth Renewable Energy, LLC facility, a municipal waste resource recovery facility located at 1155 Conshohocken Road, in Plymouth Township, **Montgomery County**. The application was received by the Southeast Regional Office on July 19, 2017.

Comments concerning the application should be directed to the Pennsylvania Department of Environmental Protection (DEP) Waste Management Program Manager, 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 Chapters 121—145, the Federal Clean Air Act (42 U.S.C.A. §§ 7401—7671q) and regulations adopted under the Federal Clean Air Act.

Persons with a disability who wish to comment and require an auxiliary aid, service or other accommodation to participate should contact the regional office listed before the application. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

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: Norman Frederick, P.E., Environmental Engineer Manager—Telephone: 570-826-2409.

39-0006E: American Craft Brewery LLC (7880 Penn Drive, Breinigsville, PA 18031) to increase the production capacity and to provide additional brewing, blending and packaging flexibility at their facility located in Upper Macungie Twp., **Lehigh County**.

Intent to Issue Plan Approvals and Intent to Issue or Amend Operating Permits under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter B. These actions may include the administrative amendments of an associated operating permit.

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

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

67-03179A: Gichner Systems Group, Inc (490 E. Locust Street, Dallastown, PA 17313) for a surface coating operation at Plant 3, 631 S. Richmond Avenue, located in York Township, **York County**. Plan Approval No. 67-03179A will authorize the installation of a paint booth. The potential emissions from this plan approval are 21.49 tpy of VOCs. DEP's review of the information submitted by the applicant indicates that the air contamination sources as constructed or modified will comply with all regulatory requirements pertaining to air contamination sources and the emission of air contaminants including the best available technology requirements (BAT) of 25 Pa. Code §§ 127.1 and 127.12. Based on these findings, the Department proposes to issue a plan approval for the

proposed construction. If, after the project has been implemented, the Department determines that the sources are constructed and operated in compliance with the plan approval conditions and the specification of the application for plan approval, the requirements established in the plan approval may be incorporated into an operating permit pursuant to provisions of 25 Pa. Code Chapter 127.

OPERATING PERMITS

Intent to Issue Title V Operating Permits under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter G.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401.

Contact: Janine Tulloch-Reid, Facilities Permitting Chief—Telephone: 484-250-5920.

46-00221: Upper Moreland—Hatboro Joint Sewer Authority, (2875 Terwood Road, Willow Grove, PA 19090) On August 1, 2017 for the issuance of the initial Title V Operating Permit for the operation of a sewage sludge incinerator, subject to 40 CFR Part 62 Subpart LLL, located in Upper Moreland Township, **Montgomery 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.

39-00069: Victaulic Company, Alburts Facility (4901 Kesslerville Road, Easton, PA 18040-6714) The Department intends to issue a renewal Title V Operating Permit for the gray and ductile iron foundries facility located in Alburts Borough, **Lehigh County**. As a major source, the facility is subject to the Title V permitting requirements of the Clean Air Act Amendments as adopted by the Commonwealth under 25 Pa. Code Chapter 127, Subchapter G.

The main sources at this facility consist of charge handling and chip feeding, furnaces, casting, inoculation, and surface coating. The sources are controlled by baghouses and bin vents. These sources have the potential to emit major quantities of regulated pollutants above Title V emission thresholds. The proposed Title V Operating Permit shall include emission restrictions, work practice standards and testing, monitoring, recordkeeping, and reporting requirements to ensure compliance with all applicable Federal and State air quality regulations.

48-00009: Victaulic Company, Forks Facility (4901 Kesslerville Road, Easton, PA 18040-6714) The Department intends to issue a renewal Title V Operating Permit for the gray and ductile iron foundries facility located in Forks Township, **Northampton County**. As a major source, the facility is subject to the Title V permitting requirements of the Clean Air Act Amendments as adopted by the Commonwealth under 25 Pa. Code Chapter 127, Subchapter G.

The main sources at this facility consist of hot-box and cold-box core machines, charge handling and chip feeding, furnaces, casting, inoculation, and surface coating. The sources are controlled by dust collectors and filters. These sources have the potential to emit major quantities of regulated pollutants above Title V emission thresholds. The proposed Title V Operating Permit shall include emission restrictions, work practice standards and testing, monitoring, recordkeeping, and reporting require-

ments to ensure compliance with all applicable Federal and State air quality regulations.

48-00018: Huntsman P&A Americas, LLC/Easton Plant (1525 Wood Ave., Easton, PA 18042-3186) The Department intends to issue a renewal Title V Operating Permit for manufacturing of Inorganic Pigments facility located in Easton City, **Northampton County**. As a major source, the facility is subject to the Title V permitting requirements of the Clean Air Act Amendments as adopted by the Commonwealth under 25 Pa. Code Chapter 127, Subchapter G.

The main sources at this facility consist of boilers, kilns, and acid plants. The sources are controlled by baghouses and scrubbers. These sources have the potential to emit major quantities of regulated pollutants above Title V emission thresholds. The proposed Title V Operating Permit shall include emission restrictions, work practice standards and testing, monitoring, recordkeeping, and reporting requirements to ensure compliance with all applicable Federal and State air quality regulations.

Intent to Issue Operating Permits under the Air Pollution Control Act 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.

40-00083: Multi-Plastics Extrusions, Inc. (600 Dietrich Avenue, Hazleton, PA 18201-7754) intends to issue a State-Only (Natural Minor) Operating Permit for operation of their plastics material and resin manufacturing operation located in the City of Hazleton, **Luzerne County**. The sources at the facility include polystyrene and polyethylene terephthalate extrusion lines, emergency generators, and styrene and ethylbenzene storage tanks. The sources are controlled by cyclones and a thermal oxidizer. The proposed permit contains applicable requirements for emission limitations, work practice standards, testing, monitoring, recordkeeping, and reporting standards used to verify facility compliance with Federal and State air pollution regulations.

45-00026: Hanson Aggregates Pennsylvania LLC—Stroudsburg HMA Plant (7660 Imperial Way, Allentown, PA 18195-1040) The Department intends to issue a State-Only (Synthetic Minor) Operating Permit renewal for operation of an asphalt paving mixture and block manufacturing operation in Hamilton Township, **Monroe County**. The sources include a hot mix asphalt plant, one hot oil heaters, and a reclaimed asphalt paving facility. The emissions are controlled by a knockout box and baghouse. The proposed operating permit includes emission limits, work practice standards, testing, monitoring, recordkeeping and reporting requirements designed to keep the facility operating within applicable air quality requirements.

58-00013: Roundtop Energy, LLC (North Shore Place 1, 358 North Shore Drive, Suite 201, Pittsburgh, PA 15212) The Department intends to issue a State-Only (Natural Minor) Operating Permit for operation of an electric power generation facility in Auburn Township, **Susquehanna County**. The sources at the facility include a gas pre-heater, five natural gas-fired engines, and lubricating oil, waste oil, urea, and coolant storage tanks. The engines are controlled by oxidation catalysts and selective catalytic reduction. The proposed operating permit includes emission limits, work practice standards,

testing, monitoring, recordkeeping and reporting requirements designed to keep the facility operating within applicable air quality requirements.

64-00018: Lake Region Crematorium, LLC (143 Gravity Road, Lake Ariel, PA 18436) The Department intends to issue a State-Only (Natural Minor) Operating Permit for operation of a funeral services and crematories operation in Lake Township, **Wayne County**. The facility operates one incinerator. The proposed operating permit includes emission limits, work practice standards, testing, monitoring, recordkeeping and reporting requirements designed to keep the facility operating within applicable air quality requirements.

40-00120: Cargill Cocoa & Chocolate, Inc., Hazleton Plant (400 Stoney Creek Road, Hazle Township, PA 18202). The Department intends to issue a renewal State-Only Synthetic Minor Permit for the manufacturing of Chocolate and Cocoa Products facility located in Hazle, **Luzerne County**. The main sources at this facility consists of a boiler and breaking, winnowing, and shell loadout processes. The control devices consist of baghouses and a Regenerative Thermal Oxidizer (RTO). The sources are considered a minor emission source of nitrogen oxide (NO_x), sulfur oxides (SO_x), carbon monoxide (CO), total suspended particulate (TSP) and VOC's. The proposed 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.

Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104.

Contact: Edward Wiener, Chief—Telephone: 215-685-9426.

The City of Philadelphia, Air Management Services (AMS) intends to issue a Minor State Only Operating Permit for the following facility:

OP16-000009: Bottling Group, LLC (11701 Roosevelt Boulevard, Philadelphia, PA 19154) for the operation of a bottling facility in the City of Philadelphia, **Philadelphia County**. The facility's air emission sources include three (3) natural gas-fired 4 MMBtu/hr boilers, a 0.41 MMBtu/hr natural gas-fired boiler, a 0.68 MMBtu/hr natural gas-fired boiler, three (3) ink printers totaling 778 gallons per year, twelve (12) syrup mixing tanks, bottling line cleaning solvents, lubricants, and two (2) parts washers.

The operating permit will be issued under 25 Pa. Code, Philadelphia Code Title 3 and Air Management Regulation XIII. Permit copies and other supporting information are available for public inspection at AMS, 321 University Avenue, Philadelphia, PA 19104. For further information, contact Edward Wiener at (215) 685-9426.

Persons wishing to file protest or comments on the above operating permit must submit the protest or comments within 30 days from the date of this notice. Any protests or comments filed with AMS must include a concise statement of the objections to the permit issuance and the relevant facts upon which the objections are based. Based upon the information received during the public comment period, AMS may modify the operating permit or schedule a public hearing. The hearing notice will be published in the *Pennsylvania Bulletin* and a local newspaper at least thirty days before the hearing.

N17-001: PECO Electric Shop—Oregon (2610 Columbus Boulevard, Philadelphia, PA 19148) for the opera-

tion of a maintenance facility in the City of Philadelphia, **Philadelphia County**. The facility's air emission sources include eighteen (18) natural gas fired combustion units each rated at less than 5.0 MMBtu/hr, one diesel fired 765 hp emergency generator, one paint shop spray booth with dry panel filters, one transformer shop paint spray booth with dry panel filters, and a gasoline storage tank and distribution with Stage I and Stage II Vapor Recovery Systems.

The operating permit will be issued under 25 Pa. Code, Philadelphia Code Title 3 and Air Management Regulation XIII. Permit copies and other supporting information are available for public inspection at AMS, 321 University Avenue, Philadelphia, PA 19104. For further information, contact Edward Wiener at (215) 685-9426.

Persons wishing to file protest or comments on the above operating permit must submit the protest or comments within 30 days from the date of this notice. Any protests or comments filed with AMS must include a concise statement of the objections to the permit issuance and the relevant facts upon which the objections are based. Based upon the information received during the public comment period, AMS may modify the operating permit or schedule a public hearing. The hearing notice will be published in the *Pennsylvania Bulletin* and a local newspaper at least thirty days before the hearing.

COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Applications under the Surface Mining Conservation and Reclamation Act (52 P.S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P.S. §§ 3301—3326); The Clean Streams Law (35 P.S. §§ 691.1—691.1001); the Coal Refuse Disposal 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 Received

California District Office: 25 Technology Drive, Coal Center, PA 15423, 724-769-1100.

30841317 and NPDES No. PA0213527. Consol Pennsylvania Coal Company LLC, (1000 Consol Energy Drive, Canonsburg, PA 15317). To revise the permit for the Enlow Fork Mine in Richhill and Washington Townships, **Greene County** and related NPDES Permit for installation of a bleeder shaft. Surface Acres Proposed 14.8. No additional discharges. The application was considered administratively complete on July 28, 2017. Application received April 7, 2017.

New Stanton District Office: 131 Broadview Road, New Stanton, PA 15672, 724-925-5500.

65860105 and NPDES Permit No. PA0588601. M. B. Energy, Inc. (175 McKnight Road, Blairsville, PA 15717). Renewal application for continued treatment to an existing bituminous surface mine, located in Donegal Township, **Westmoreland County**, affecting 372 acres. Receiving streams: Unnamed tributary to Fourmile Run, classified for the following use: TSW. There is no potable water supply intake within 10 miles downstream from the point of discharge. Renewal application received: July 6, 2017.

63120102 and NPDES Permit No. PA0252239. Amerikohl Mining, Inc. (1384 State Route 711, Stahlstown, PA 15687). Revision application for land use change from forestland to unmanaged natural habitat to an existing bituminous surface mine, located in Fal-lowfield and Somerset Townships, **Washington County**, affecting 45.9 acres. Receiving streams: Unnamed tributaries to Pigeon Creek, classified for the following use: WWF. There is no potable water supply intake within 10 miles downstream from the point of discharge. Application received: July 20, 2017.

Noncoal Applications Received

Effluent Limits—The following effluent limits will apply to NPDES permits issued in conjunction with a noncoal mining permit:

<i>Parameter</i>	<i>30-day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Suspended solids	10 to 35 mg/l	20 to 70 mg/l	25 to 90 mg/l
Alkalinity exceeding acidity* pH*		greater than 6.0; less than 9.0	

* The parameter is applicable at all times.

A settleable solids instantaneous maximum limit of 0.5 ml/l applied to surface runoff resulting from a precipitation event of less than or equal to a 10-year 24-hour event. If coal will be extracted incidental to the extraction of noncoal minerals, at a minimum, the technology-based effluent limitations identified under coal applications will apply to discharges of wastewater to streams.

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200.

08100306 and NPDES PA0257451. Marcus Cole DBA Cole's Construction (P.O. Box 158, Nichols, NY 13812). Renewal for an existing NPDES on a large noncoal surface mine site located in Windham Township, **Bradford County** affecting 20.0 acres. Receiving stream(s): Unnamed Tributary to Wysox Creek and Unnamed Tributary to Trout Brook classified for the following use(s): CWF, MF. Application received: July 7, 2017.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118.

Permit No. 5276SM5C12 and NPDES No. PA0595217. Eureka Stone Quarry, Inc., (800 Lower State Road, P.O. Box 249, Chalfont, PA 18914), renewal of NPDES Permit for discharge of treated mine drainage from a quarry operation in Dingman Township, **Pike County** affecting 202.3 acres, receiving stream: unnamed tributary to Sawkill Creek, classified for the following uses: exceptional value waters and migratory fishes. Application received: July 18, 2017.

Permit No. 67070301C2 and NPDES No. PA0224600. Glen-Gery Corp., (1166 Spring Street, Wyomissing, PA 19610), renewal of NPDES Permit for discharge of treated mine drainage from a quarry operation in Dover Township, **York County** affecting 70.6 acres, receiving stream: Fox Run, classified for the following uses: trout stocking fishes and migratory fishes. Application received: July 20, 2017.

MINING ACTIVITY NPDES DRAFT PERMITS

This notice provides information about applications for a new, amended or renewed NPDES permits associated with mining activity (coal or noncoal) permits. The applications concern industrial waste (mining) discharges to surface water and discharges of stormwater associated with mining activities. This notice is provided in accordance with 25 Pa. Code Chapters 91 and 92a and 40 CFR Part 122, implementing provisions of The Clean Streams Law (35 P.S. §§ 691.1—691.1001) and the Federal Clean Water Act (33 U.S.C.A. §§ 1251—1376).

The Department of Environmental Protection (Department) has prepared a draft NPDES permit and made a tentative determination to issue the NPDES permit in conjunction with the associated mining activity permit.

Effluent Limits for Coal Mining Activities

For coal mining activities, NPDES permits, when issued, will contain effluent limits that are the more stringent of technology-based (BAT) effluent limitations or Water Quality Based Effluent Limits (WQBEL).

The BAT limits for coal mining activities, as provided in 40 CFR Part 434 and 25 Pa. Code Chapters 87—90 are as follows:

<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. PA0263231 (Mining Permit No. 05110101), Robindale Energy Services, Inc., 224 Grange Hall Road, Armagh, PA 15920, renewal of an NPDES permit for bituminous surface mine in Broad Top Township, **Bedford County**, affecting 216 acres. Receiving streams: Shreves Run and Longs Run, classified for the following use: warm water fishes. These receiving streams are included in the Six Mile Run and Longs Run TMDL. Application received: May 1, 2017.

Unless otherwise noted for a specific outfall, the proposed effluent limits for all outfalls in this permit are the BAT limits described above for coal mining activities.

The treated wastewater outfall(s) listed below discharge to Shreves Run:

<i>Outfall Nos.</i>	<i>New Outfall (Y/N)</i>
001	N
002	N
003	N

The treated wastewater outfall(s) listed below discharge to Longs Run:

<i>Outfall Nos.</i>	<i>New Outfall (Y/N)</i>
004	N
005	N

The proposed effluent limits for the above listed outfall(s) are as follows:

Outfalls: 001, 002, 003, 004, and 005 (All

Weather Conditions)

<i>Parameter</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
Iron (mg/l)	1.5	3.0	3.7
Manganese (mg/l)	1.0	2.0	2.5
Aluminum (mg/l)	0.75	0.75	0.75
Total Suspended Solids (mg/l)	35.0	70.0	90.0

pH (S.U.): Must be between 6.0 and 9.0 standard units at all times.
Alkalinity must exceed acidity at all times.

The stormwater outfall(s) listed below discharge to Shreves Run:

<i>Outfall Nos.</i>	<i>New Outfall (Y/N)</i>
006	N
007	N
008	N

The stormwater outfall(s) listed below discharge to Longs Run:

<i>Outfall Nos.</i>	<i>New Outfall (Y/N)</i>
010	N
011	N

Outfalls: 006, 007, 008, 010, and 011 (Dry

<i>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	0.75	0.75
Total Suspended Solids (mg/l)	35.0	70.0	90.0

pH (S.U.): Must be between 6.0 and 9.0 standard units at all times.
Alkalinity must exceed acidity at all times.

Outfalls: 006, 007, 008, 010, and 011 (≥10-yr/24-hr Precip.

<i>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.

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200.

NPDES No. PA0243116. (Mining permit no. 17010109), Forcey Coal, Inc., 475 Banian Road, Madera, PA 16661, renewal of an NPDES permit for surface mining with only passive treatment remaining in Bigler Township, **Clearfield County**, affecting 5.5 acres. Receiving stream(s): Clearfield Creek classified for the following use(s): WWF. Clearfield Creek Total Maximum Daily Load. Application received: May 30, 2017. The outfall(s) listed below discharge to: Clearfield Creek.

<i>Outfall No.</i>	<i>New Outfall (Y/N)</i>
010	N

The proposed effluent limits for the above listed outfall(s) are as follows: Effluent limits for KB-11T as shown in Section C—PRE-EXISTING POLLUTIONAL DISCHARGES.

Table C1: Critical Values of Pollutional Loading

<i>Monitoring Point or Hydrologic Unit</i>	<i>Net Acidity lbs/day</i>	<i>Iron lbs/day</i>	<i>Manganese lbs/day</i>
KB-11	0	78.8	*(5.0mg/l)

Table C2: 95% Confidence Levels about the Median

<i>Monitoring Point or Hydrologic Unit</i>		<i>Net Acidity lbs/day</i>	<i>Iron lbs/day</i>	<i>Manganese lbs/day</i>
KB-11	High:	0	52.14	*
	Low:	0	33.7	*

* Under 25 Pa. Code § 87.207(b), the permittee has elected to comply with the effluent limits established in 25 Pa. Code § 87.102 instead of a loading limit. The effluent limits in 25 Pa. Code § 87.102 shall apply at all times for this particular parameter.

Table C3: Pre-Existing Discharge Effluent Limits

<i>Monitoring Point or Hydrologic Unit KB-11</i>				
<i>Parameter</i>	<i>Monthly Average lbs/day</i>	<i>Instan. Max lbs/day</i>	<i>Sampling Frequency</i>	<i>Reporting Frequency</i>
Net Acidity	0	0		
Iron	38.39	67.67	Monthly	Quarterly
Manganese	* (2.0 mg/l)	* (5.0 mg/l)	Monthly	Quarterly

Loading (lbs/day) = Flow (GPM) × Concentration (mg/l) × 0.01202

New Stanton District Office: 131 Broadview Road, New Stanton, PA 15672, 724-925-5500.

NPDES No. PA0251453 (Mining permit No. 26080104), Steve Patterson Excavating, 170 Yasenosky Road, Smithfield, PA 15478, Renewal NPDES permit for a coal surface mine in Dunbar Township, **Fayette County**, affecting 88.2 acres. Receiving stream(s): Unnamed Tributary to Dunbar Creek classified for the following use(s): WWF. Application received: October 29, 2015.

The treated wastewater outfall(s) listed below discharge to an unnamed tributary to Dunbar Creek:

<i>Outfall Nos.</i>	<i>New Outfall (Y/N)</i>	<i>Type</i>
SP-01	N	SW
TF-A	N	MDT
TF-B	N	MDT

The proposed effluent limits for the above listed outfall(s) are as follows:

<i>Outfalls: Parameter</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instant. Maximum</i>
Iron (mg/l)	3.0	6.0	7.0
Manganese (mg/l)	2.0	4.0	5.0
Aluminum (mg/l)	1.7	3.4	4.2
Total Suspended Solids (mg/l)	35	70	90

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. PA0225703 on Surface Mining Permit No. 58172806. WM Quarries, LLC, c/o WM Capital Partners XXXIX, LLC, (885 3rd Avenue, Suite 2403, New York, NY 10022), new NPDES Permit for a bluestone quarry operation in New Milford Township, **Susquehanna County**, affecting 9.8 acres. Receiving stream: Salt Lick Creek Watershed, classified for the following use: HQ—cold water and warm water fishes. Application received: May 15, 2017.

Non-discharge BMP's shall be in effect.

NPDES Permit No. PA0225711 on Surface Mining Permit No. 58172507. WM Quarries, LLC, c/o WM Capital Partners XXXIX, LLC, (885 3rd Avenue, Suite 2403, New York, NY 10022), new NPDES Permit for a bluestone quarry operation in New Milford Township, **Susquehanna County**, affecting 8.9 acres. Receiving stream: Salt Lick Creek Watershed, classified for the following use: HQ—cold water and warm water fishes. Application received: May 15, 2017.

Non-discharge BMP's shall be in effect.

NPDES Permit No. PA0612049 on Surface Mining Permit No. 5475SM4. Glasgow, Inc., (P.O. Box 1089, Glenside, PA 19038), renewal of an NPDES Permit for an argillite quarry operation in Montgomery Township, **Montgomery County**, affecting 23.7 acres. Receiving stream: unnamed tributary to Little Neshaminy Creek, classified for the following uses: warm water and migratory fishes. Application received: March 27, 2017.

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

The outfall listed below discharge to unnamed tributary to Neshaminy Creek.

<i>Outfall No.</i>	<i>New Outfall Y/N</i>	<i>Type</i>
001	No	Pit Sump/Stormwater

The proposed effluent limits for the above 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 ¹ (S.U.)	6.0			9.0
Total Suspended Solids Discharge (MGD)		10.01	20.03	25.73
			0.195	0.35

¹ The parameter is applicable at all times.

FEDERAL WATER POLLUTION CONTROL ACT, SECTION 401

The following permit applications, requests for Environmental Assessment approval and requests for 401 Water Quality Certification have been received by the Department. Section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341) requires the Commonwealth to certify that the involved projects will not violate the sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) as well as relevant State requirements. Persons objecting to approval of a request for certification under section 401 of the FWPCA, the issuance of a Dam Permit or Water Obstruction and Encroachment Permit or the approval of an Environmental Assessment shall submit comments, suggestions or objections within 30 days of the date of this notice as well as any questions to the office noted

before an application. Comments should contain the name, address and telephone number of the person commenting, identification of the certification request to which the comments or objections are addressed and a concise statement of comments, objections or suggestions including the relevant facts upon which they are based.

The Department may conduct a fact-finding hearing or an informal conference in response to comments if deemed necessary. Each individual will be notified, in writing, of the time and place of a scheduled hearing or conference concerning the certification request to which the comment, objection or suggestion relates. Maps, drawings and other data pertinent to the certification request are available for inspection between 8 a.m. and 4 p.m. on working days at the office noted before the application.

Persons with a disability who wish to attend the hearing and require an auxiliary aid, service or other

accommodation to participate in the proceedings should contact the specified program. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

Applications Received under the Dam Safety and Encroachments Act (32 P.S. §§ 693.1—693.27) and section 302 of the Flood Plain Management Act (32 P.S. § 679.302) and Requests for Certification under section 401(a) of the FWPCA.

WATER OBSTRUCTIONS AND ENCROACHMENTS

Northeast Region: Waterways and Wetlands Program Manager, 2 Public Square, Wilkes-Barre, PA 18701-1915, Telephone 570-826-2511.

E45-609. Walter Brown, 206 S. Valley Forge Road, Landsdale, PA 19446, in Tobyhanna Township, **Monroe County**, U.S. Army Corps of Engineers, Philadelphia District.

To construct and maintain a 124 square-foot dock in Arrowhead Lake (EV) and a 10-foot long by 4-foot wide elevated wooden boardwalk across a de minimus area of wetlands (EV) equal to 0.01 acre for the purpose of accessing the dock. The project is located on the north side of lot 3292 within the Arrowhead Lake community approximately 350 feet North of the intersection of Lake Shore Drive and Chippewa Drive in Tobyhanna Township, Monroe County (Thornhurst, PA Quadrangle, Latitude: 41°9'5"; Longitude: -75°33'31").

Southcentral Region: Waterways & Wetlands Program, 909 Elmerton Avenue, Harrisburg, PA 17110, Ed Muzic, Section Chief, 717.705.4802.

E07-466: John Mueller, Mueller's Auto Recycling & Sales, Inc., 1155 Mill Run Road, Altoona, PA 16602 in Logan Township, **Blair County**, U.S. Army Corps of Engineers Baltimore District.

To place and maintain permanent fill in 0.02 acre of Palustrine Emergent/Palustrine Scrub Shrub (PEM/PSS) wetland for the purpose of the expansion of the Phase II portion of the auto recycling area within the 8.577-acre parcel. The project is located along the east side of Mill Run Road (S.R. 4005) (Latitude: 40°30'52", Longitude: -78°26'24").

Southwest Region: Waterways & Wetlands Program, 400 Waterfront Drive, Pittsburgh, PA 15222, Michael Forbeck, Acting Waterways and Wetlands Program Manager, 412-442-4000.

E02-1696-A1, Redevelopment Authority of Allegheny County, One Chatham Center, Suite 900, 112 Washington Place, Pittsburgh, PA 15219; Coraopolis Borough, Moon Township and Robinson Township; **Allegheny County**; Pittsburgh ACOE District.

The applicant proposes to:

Grade approximately 7,500 lineal feet or approximately 70,000 square feet of area within the floodway and the FEMA defined floodplain along Montour Run (TSF), and to construct and maintain (1) stormwater outfall structures along Montour Run, for the purpose of creating an extension of the Montour Run Trail, in a 78 acre brownfield site along a former rail right-of-way. The project is located along Route 51, approximately 3/4 mile west of the interchange with Interstate 79 (USGS Quadrangle: Ambridge, PA; Latitude: 40° 30' 27.94"; Longitude: -80° 8' 48.62"), in Moon and Robinson Townships and Coraopolis Borough, Allegheny County.

E63-705, Pennsylvania Turnpike Commission, P.O. Box 67676, Harrisburg PA 17057, Cecil Township, **Washington County**, Pittsburgh ACOE District.

The applicant proposes to:

1. Construct and maintain a 6' x 6' culvert extending 299 LF in length in a UNT to Chartiers Creek (aka UNT 1) (WWF).

2. Construct and maintain a 24" RCP culvert extension extending 157 LF in length in a UNT to Chartiers Creek (aka UNT 1) (WWF).

3. Construct and maintain a 60" CMP culvert extension extending 350 LF in length in a UNT to Chartiers Creek (aka UNT 3) (WWF).

4. Construct and maintain a 42" CMP culvert extension extending 34 LF in length in a UNT to McPherson Creek (aka C2-1 UNT O) (WWF).

5. Construct and maintain a 48" CMP culvert extending 366 LF in length in a UNT to Chartiers Creek (aka UNT 9) (WWF).

6. Construct and maintain an 84" RCP culvert extending 1,058 LF in length in a UNT to McPherson Creek (aka UNT 2) (WWF).

7. Construct and maintain a 36" RCP culvert 741 LF in length in a UNT to McPherson Creek (aka UNT 3) (WWF).

8. Place and maintain fill in 142 LF of a UNT to Chartiers Creek (aka C2-1 UNT R) (WWF).

9. Place and maintain fill in 29 LF of a UNT to Chartiers Creek (aka C2-1 UNT 2) (WWF).

10. Place and maintain fill in 1,639 LF of a UNT to Chartiers Creek (aka UNT 2) (WWF).

11. Place and maintain fill in 153 LF of a UNT to Chartiers Creek (aka UNT 8) (WWF).

12. Place and maintain fill in 231 LF of a UNT to Chartiers Creek (aka C2-1 UNT M) (WWF).

13. Relocate 67 LF of a UNT to Chartiers Creek (aka C2-1 UNT U) (WWF).

14. Fill and maintain fill in 313 LF of a UNT to McPherson Creek (aka C2-1 UNT N) (WWF).

15. Fill and maintain fill in 112 LF of a UNT to Chartiers Creek (aka C2-1 UNT S) (WWF).

16. Fill and maintain fill in 36 LF of a UNT to Chartiers Creek (aka C2-1 UNT O) (WWF).

17. Relocate 149 LF of a UNT to Chartiers Creek (aka C2-1 UNT O) (WWF).

18. Fill and maintain fill in 98 LF of a UNT to McPherson Creek (aka C2-1 UNT AB) (WWF).

19. Place and maintain fill in 1.598 acre of PEM wetland in the Chartiers Creek and McPherson Creek Watersheds (WWF).

20. Install and maintain road associated stormwater facilities and outfalls in the Chartiers Creek and McPherson Creek Watersheds (WWF).

21. Place and maintain fill in 19.045 acres of floodplain in the Chartiers Creek and McPherson Creek Watersheds (WWF).

In association with the construction of a new section (55C2-1) of the Pennsylvania Turnpike, as a component of the overall construction of a new 13.3-mile section (aka The Southern Beltway Project) of the Pennsylvania Turn-

pike, between U.S. Route 22, and Interstate 79 (a.k.a. The Southern Beltway Project). The structures and activities requiring authorizing for Section 55C2-1 in Cecil Township, Washington County (Canonsburg, PA Quadrangle; starting at Latitude: 40°19' 43.62" Longitude: -80° 09' 25.06"; and ending at Latitude: 40° 18' 15.11", Longitude: -80° 08' 56.74") will permanently impact a total of approximately 6,758 linear feet (LF) of various watercourses, resulting in a permanent loss of 4,093 LF of regulated watercourses and 1.598 acre of wetland, and temporarily impact a total of approximately 3,615 LF of various watercourse and 0.01 acre of wetland.

To compensate for the watercourse impacts associated with Section 55C2-1 of the Southern Beltway Project, the stream mitigation plan includes on-site relocation, and restoration of various tributaries in the Buck Run watershed, in Donegal Township, Washington County (West Middletown, PA Quadrangle; Latitude: 40° 8' 53" Longitude: -80° 26' 19"). Although final plans for future projects are not available, the applicant estimates that the total impacts resulting from all of the subprojects associated with the Southern Beltway Project will permanently affect a cumulative total of approximately 7,885-acres wetlands. As compensation for these wetland impacts, the applicant will construct approximately 8.3-acres of wetlands, at a site approximately 0.5 mile west of the intersection of S.R. 18, and Joffre Bulger Road, in Smith Township, Washington County (Clinton, PA Quadrangle; Latitude: 40° 23' 16" Longitude: -80° 22' 24").

Northwest Region: Watershed Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

E62-437, Columbia Gas of Pennsylvania, Inc., 2021 West State Street, New Castle, PA 16101. D-4005 Pipeline Installation, in Sheffield Township, **Warren County**, ACOE Pittsburgh District (Sheffield, Ludlow, Lynch, Russell City, PA Quadrangle N: 41°, 38', 26"; W: 79°, 00', 19").

Applicant proposes to install approximately 8,160 LF of 6-inch plastic natural gas distribution pipeline along SR 948 in Sheffield Township, Warren County and Howe Township, Forest County. The pipeline will be installed in the road shoulder for the majority of the project. The Warren county portion of the project (E62-437) includes 9 stream crossings, 3 additional floodway crossings, and 1 wetland crossing. Eight of the stream crossings and 2 of the floodway crossings are streams with less than 100 acres contributory drainage (eligible for waiver of permit requirements under 105.12(a)(2)). The streams are all tributaries to South Branch Tionesta Creek (HQ-CWF) and are proposed to be crossed by open trench under existing culverts. The wetland is proposed to be crossed by directional bore (106 LF).

The Forest County portion of the project includes 2 floodway crossings, for which the applicant has submitted a General Permit 5 registration.

E10-504, Love's Travel Stops and Country Stores, 10601 North Pennsylvania Avenue, Oklahoma City, OK 73120. Love's Travel Stop-Slippery Rock PA, in Worth Township, **Butler County**, ACOE Pittsburgh District (Harlansburg and Slippery Rock, PA Quadrangle N: 41°, 02', 15"; W: 80°, 07', 41").

Applicant proposes to construct a convenience store with fueling stations, underground fuel storage tanks, restaurant, tire shop, truck scale, sewage treatment facilities, and parking for passenger vehicles and tractor-trailers along with all associated roadways, utilities, and stormwater management facilities. Project will permanently impact 0.4 acre of wetland, 199 LF UNT Slippery Rock Creek, and includes an outfall to Slippery Rock Creek installed above the ordinary high water mark. Mitigation for these impacts is proposed in the form of the creation of a minimum of 0.4 acre of new wetland on-site and riparian plantings along the remaining section of UNT Slippery Rock Creek.

ACTIONS

THE PENNSYLVANIA CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT

FINAL ACTIONS TAKEN FOR NPDES PERMITS AND WQM PERMITS

The Department has taken the following actions on previously received applications for new, amended and renewed NPDES and WQM permits, applications for permit waivers and NOIs for coverage under General Permits. This notice of final action is provided in accordance with 25 Pa. Code Chapters 91 and 92a and 40 CFR Part 122, implementing provisions of The Clean Streams Law (35 P.S. §§ 691.1—691.101) and the Federal Clean Water Act (33 U.S.C.A. §§ 1251—1376).

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

Sections I—VI contain actions regarding industrial, animal or sewage wastes discharges, discharges to groundwater, and discharges associated with MS4, stormwater associated with construction activities and CAFOs. Section VII contains notices for parties who have submitted NOIs for Coverage under General NPDES Permits. The approval for coverage under these General NPDES Permits is subject to applicable effluent limitations, monitoring, reporting requirements and other conditions in each General Permit. The approval of coverage for land application of sewage sludge or residential septage under applicable general permit is subject to pollutant limitations, pathogen and vector attraction reduction requirements, operational standards, general requirements, management practices and other conditions in the respective permit. The permits and related documents, effluent limitations, permitting requirements and other information are on file and may be inspected and arrangements made for copying at the contact office noted before the action.

Persons aggrieved by an action may appeal that action to the Environmental Hearing Board (Board) under section 4 of the Environmental Hearing Board Act (35 P.S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to Administrative Agency Law). The appeal should be sent to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, PO Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Board through the Pennsylvania AT&T Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin* unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create a right of appeal beyond that permitted by applicable statutes and decisional law.

For individuals who wish to challenge an action, the appeal must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should contact a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

I. NPDES Renewal Permit Actions

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N?</i>
PA0096130 (Sewage)	Nemacolin Inc. STP PO Box 484 Nemacolin, PA 15351-0484	Greene County Cumberland Township	Monongahela River (19-B)	Yes
PA0218154 (Sewage)	Monicas Lockhouse 6 Landing LLC STP 5374 William Flynn Highway Gibsonia, PA 15044-9650	Beaver County Industry Borough	Ohio River (20-B)	Yes
PA0094269 (Sewage)	Sheridan SR STP 151 Adams Road Gallitzin, PA 16641	Cambria County Gallitzin Township	Clearfield Creek (8-C)	Yes

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 & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N?</i>
PA0054151 (Sewage)	Mr. Joseph Kennedy 7 College View Malvern, PA 19355	Chester County East Whiteland Twp	Unnamed Tributary to Ridley Creek 3-G	Y
PA0053201 (Sewage)	Mr. Matthew Smith 1318 Route 309 Sellersville, PA 18960	Bucks County West Rockhill Twp	Three Mill Run 2-D	Y
PA0051268 (Sewage)	DCNR-Bureau of State Parks 1112 River Road Washington Crossing, PA 18977	Bucks County Upper Makefield Twp	Three Mill Run 2-D	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N?</i>
PA0113123 (Sewage)	Patrick J Witkowski PO Box 322 Laporte, PA 18626-0322	Sullivan County Laporte Township	Unnamed Tributary to Mill Creek (10-B)	Yes
PA0229016 (Sewage)	Waldman SFTF 767 N Shaffer Hill Road Cogan Station, PA 17728-7611	Lycoming County Lycoming Township	Unnamed Tributary to Hoagland Run (10-A)	Yes
PA0228311 (Sewage)	Brady Township NW WWTP 159 James Road Montgomery, PA 17752	Lycoming County Brady Township	Unnamed Tributary to Black Hole Creek (10-C)	Yes

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N?</i>
PA0096130 (Sewage)	Nemacolin Inc. STP PO Box 484 Nemacolin, PA 15351-0484	Greene County Cumberland Township	Monongahela River (19-B)	Yes
PA0218154 (Sewage)	Monicas Lockhouse 6 Landing LLC STP 5374 William Flynn Highway Gibsonia, PA 15044-9650	Beaver County Industry Borough	Ohio River (20-B)	Yes
PA0094269 (Sewage)	Sheridan SR STP 151 Adams Road Gallitzin, PA 16641	Cambria County Gallitzin Township	Clearfield Creek (8-C)	Yes

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N?</i>
PA0222861 (Storm Water)	Georgia Pacific Mt Jewett Mdf 149 Temple Drive Kane, PA 16735-5343	McKean County Sergeant Township	Unnamed Tributary of Sevenmile Run and Unnamed Tributary to Sevenmile Run (17-A)	Yes

Central Office: Bureau of Clean Water, Rachael Carson State Office Building, 400 Market Street, Harrisburg, PA 17105-8774, Telephone: 717.787.8184.

PA0270750, Pesticides, SIC Code 0782, **PA DCNR Bureau of State Parks**, PO Box 8551, Harrisburg, PA 17105-8551.

Description of Proposed Activity: Renewal of an NPDES Permit coverage for discharges associated with the application of pesticides to control weeds and algae in high recreational areas of all the lakes associated with Pennsylvania State Parks Statewide. Bureau of State Parks only treats high-use recreation areas and dense non-native and invasive species vegetation areas as necessary to ensuring the availability of all State parks lake for recreational use.

II. New or Expanded Facility Permits, Renewal of Major Permits and EPA Nonwaived Permit Actions

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

NPDES Permit No. PA0002054, Industrial, SIC Code 4911, **Seward Generation, LLC**, 11 Lloyd Ave, Latrobe, PA 15650. Facility Name: Seward Generating Station; located at: 595 Plant Road, New Florence, PA 15944-8927.

This existing facility is located in East Wheatfield Township, **Indiana County**.

Description of Existing Action/Activity: Re-issuance of an NPDES Permit for an existing discharge of treated sanitary sewage, treated industrial wastewater, treated groundwater from abandoned mine seeps, and uncontaminated stormwater runoff.

Southeast Region: Water Management Program Manager, 2 East Main Street, Norristown, PA 19401.

NPDES Permit No. PA0244911, Storm Water, **AC Miller Concrete Products, Inc.**, 31 E. Bridge Street, Spring City, PA 19475.

This proposed facility is located in Spring City Borough, **Chester County**.

Description of Action/Activity: Issuance of an NPDES Permit for a new discharge of treated Storm Water.

NPDES Permit No. PA0053449, Sewage, **Birmingham Township**, 1040 West Street Road, West Chester, PA 19382-8012.

This proposed facility is located in Birmingham Township, **Chester County**.

Description of Action/Activity: Application for renewal of an NPDES permit for 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. PA0002054, Industrial, SIC Code 4911, **Seward Generation, LLC**, 11 Lloyd Ave, Latrobe, PA 15650. Facility Name: Seward Generating Station; located at: 595 Plant Road, New Florence, PA 15944-8927.

This existing facility is located in East Wheatfield Township, **Indiana County**.

Description of Existing Action/Activity: Re-issuance of an NPDES Permit for an existing discharge of treated sanitary sewage, treated industrial wastewater, treated groundwater from abandoned mine seeps, and uncontaminated stormwater runoff.

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

NPDES Permit No. PA0264792, Sewage, SIC Code 4952, 8800, **David J Martin**, 8711 Dougan Road, North East, PA 16428-5621.

This proposed facility is located in Greene Township, **Erie County**.

Description of Proposed Action/Activity: Issuance of an NPDES Permit for a new discharge of treated Sewage.

NPDES Permit No. PA0000701, Sewage, SIC Code 3678, 4952, 6512, **Enp Enterprises LLC**, PO Box 249, Pleasantville, PA 16341-0249.

This existing facility is located in Oilcreek Township, **Venango County**.

Description of Existing Action/Activity: Issuance of an NPDES Permit Amendment for an existing 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 1583402, Sewage, Renewal, **Department of Facilities and Parks**, 313 West Market Street, Suite 5402, West Chester, PA 19380-0991.

This proposed facility is located in Pocopson Township, **Chester County**.

Description of Action/Activity: Permit renewal for continued operation of the Pocopson Home and Prison pump station and wastewater treatment plant.

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

WQM Permit No. 2585409 A-2, Sewage, SIC Code 4952, **Lake City Municipal Authority**, 2350 Main Street, Lake City, PA 16423-1509.

This existing facility is located in Lake City Borough, **Erie County**.

Description of Proposed Action/Activity: Amendment to upgrade and expand treatment plant and transfer ownership.

WQM Permit No. 2516411, Sewage, **David J Martin**, 8711 Dougan Road, North East, PA 16428.

This proposed facility is located in Greene Township, **Erie County**.

Description of Proposed Action/Activity: Single Residence Sewage Treatment Plant.

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.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAD480016	Lafayette College c/o Ms. Meghan Madeira 9 North Campus Lane Easton, PA 18042	Northampton	City of Easton	Bushkill Creek (HQ-CWF, MF)
PAD480007	VerTek Construction Management c/o Mr. Ron Check 7171 Airport Road Suite 200 Bath, PA 18041	Northampton	East Allen Township	Monocacy Creek (HQ-CWF, MF) Catasauqua Creek (CWF, MF)
PAD400003	Aqua Pennsylvania, Inc. 1 Aqua Way White Haven, PA 18661	Luzerne	Butler Township	Oley Creek (CWF) Nescopeck Creek (HQ-CWF)

Southcentral Region: Waterways & Wetlands Program, 909 Elmerton Avenue, Harrisburg, PA 17110, Nathan Crawford, Section Chief, Telephone 717.705.4802.

<i>Permit #</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAD060004	Diakon Lutheran Social Ministries 798 Hausman Road Suite 300 Allentown, PA 18104	Berks County	Longswamp Township	Toad Creek (HQ-CWF, MF) UNT Toad Creek (HQ-CWF, MF)
PAI-0321-16-008	Carlisle Investment Properties, Inc. 5 South Hanover Street Carlisle, PA 17013	Cumberland County	South Middleton Township	Letort Spring Run (HQ-CWF, MF)

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 & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Marple Township Delaware County	PAC230027	Fortjoy Development 2, LP 1604 Walnut Street 4th Floor Philadelphia, PA 19103	Crum Creek CWF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 484-250-5900
Upper Providence Township Delaware County	PAC230030	Provco Pinegood Providence Road LLC 795 East Lancaster Avenue Suite 200 Villanova, PA 19085	Ridley Creek TSF Crum Creek WWF	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.

<i>Facility Location: Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Greenfield Township Lackawanna County	PAC350015	Carbondale DG, LLC 361 Summit Blvd Suite 110 Birmingham, AL 35243	UNT to Fall Brook (CWF, MF)	Lackawanna County Conservation District 570-392-3086
Dunmore Borough Lackawanna County	PAC350016	GGBDS Realty Company, Inc. 1300 East Dunham Drive Dunmore, PA 18512	Little Roaring Brook (CWF, MF)	Lackawanna County Conservation District 570-392-3086
Dupont Borough Luzerne County	PAC400019	UGI Utilities, Inc. Allison Dennison One UGI Center Building A Wilkes-Barre, PA 18771	Mill Creek (CWF, MF) Lidy Creek (CWF)	Luzerne Conservation District 570-674-7991

NOTICES

4747

<i>Facility Location: Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Jenkins Township Luzerne County	PAC400015	IDC Property, L.P. c/o Endurance Real Estate Group, LLC One Bala Avenue Suite 502 Bala Cynwyd, PA 19004	Lampblack Creek (CWF, MF)	Luzerne Conservation District 570-674-7991
Huntington Township Luzerne County	PAC400016	Jesse Halteman 995 Greble Road Lebanon, PA 17046	UNT to Pine Creek (CWF) UNT to Huntington Creek (CWF)	Luzerne Conservation District 570-674-7991
Palmer Township Northampton County	PAC480022	Sandra Greiner Co-Op Enterprises, LLC 3320 Fox Hill Road Easton, PA 18045	Schoeneck Creek (WWF, MF)	Northampton County Conservation District 610-746-1971
New Milford/ Harford Townships Susquehanna County	PAC580005	RHL Companies 800 Williams Road Montrose, PA 18801	UNT to Nine Partners Creek (CWF)	Susquehanna County Conservation District 570-278-4600

Waterways & Wetlands Program, 909 Elmerton Avenue, Harrisburg, PA 17110-8200, Nathan Crawford, Section Chief, 717.705.4802.

<i>Facility Location: Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Amity Township Berks County Issued	PAC060057	William Rountree 1123 Douglassville, LLC PO Box 1908 Media, PA 19063	Schuylkill River (WWF, MF)	Berks County Conservation District 1238 County Welfare Road Suite 200 Leesport, PA 19533 610.372.4657
Bern Township Leesport Borough Berks County Issued	PAC060052	John Smith Forino Co. LP 555 Mountain Home Road Sinking Spring, PA 19608	UNT Seifert Run (WWF)	Berks County Conservation District 1238 County Welfare Road Suite 200 Leesport, PA 19533 610.372.4657
South Middleton Township Cumberland County Issued	PAC210036	Linwood B. Philips Jr. & Robert M. Frey 5 South Hanover Street Carlisle, PA 17013	Alexander Spring Creek (CWF)	Cumberland County Conservation District 310 Allen Road Suite 301 Carlisle, PA 17013 717.240.7812
Lemoyne Borough Cumberland County Issued	PAC210038	Bivgar Realty, LLC 1100 Hummel Avenue Lemoyne, PA 17043	Susquehanna River (WWF)	Cumberland County Conservation District 310 Allen Road Suite 301 Carlisle, PA 17013 717.240.7812
North Middleton Township Carlisle Borough Cumberland County Issued	PAC210040	Carlisle Area School District 623 West Penn Street Carlisle, PA 17013	Conodoguinet Creek (WWF)	Cumberland County Conservation District 310 Allen Road Suite 301 Carlisle, PA 17013 717.240.7812
Halifax Township Dauphin County Issued	PAC220041	Lake Tobias Wildlife Park 760 Tobias Lane Halifax, PA 17032	New England Run (TSF)	Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018 717.921.8100

*Facility Location:
Municipality &
County*

<i>Facility Location: Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Lower Swatara Township Dauphin County Issued	PAC220029	1401 Airport Drive # 200 Middletown, PA 17057	UNT Laurel Run (WWF)	Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018 717.921.8100
Springettsbury Township York County Issued	PAG02006716051	Quattro York, LLC Brett Dahlman 1100 Jorie Blvd Suite 140 Oak Brook, IL 60523	UNT Mill Creek (WWF, MF)	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Penn Township York County Issued	PAC670056	Matthew S. Rice 825 Hanover Road New Oxford, PA 17350	UNT to Lake Marburg (WWF)	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Penn Township York County Issued	PAC670062	Penn Township William Mahone 20 Wayne Avenue Hanover, PA 17331	Oil Creek (WWF, MF) Gitts Run (WWF, MF)	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Lower Chanceford Township York County Issued	PAC670067	Drew Bowman 699 Frosty Hill Road Airville, PA 17302	Orson Run UNT Orson Run (TSF)	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
East Manchester Township York County Issued	PAC670074	Tiger Waste Disposal Services Inc Jeremy Knaub P O Box 2444 York, PA 17405	Hartman Run (WWF)	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Codorus Township and North Codorus Township York County Issued	PAC670064	Elam K. Miller 867 Goshen Mill Road Peach Bottom, PA 17563	UNT to SB Codorus Creek (WWF, MF)	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430

Southwest Region: Waterways & Wetlands Program, 400 Waterfront Drive, Pittsburgh, PA 15222, Michael Forbeck, Acting Waterways and Wetlands Program Manager, 412-442-4000.

*Facility Location and
Municipality*

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Phone No.</i>
Franklin Township	PAC040019	Zelienople Airport Authority 1857 Route 588 Zelienople, PA 16063	UNT to Connequenessing Creek (WWF)	Beaver County Conservation District 156 Cowpath Road Aliquippa, PA 15001 (724) 378-1701
Chest Township	PAC110018	Rock Run Recreation Area, Inc. 1228 Saint Lawrence Road Patton, PA 16668	Chest Creek (CWF); Rock Run (CWF)	Cambria County Conservation District 401 Candlelight Drive Suite 229 Ebensburg, PA 15931 (814) 472-2120

NOTICES

4749

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Phone No.</i>
Somerset Borough Somerset Township	PAC560005	Pennsylvania Turnpike Commission P.O. Box 67676 Harrisburg, PA 17106	East Branch of Coxes Creek (WWF)	Somerset Conservation District 6024 Glades Pike Suite 103 Somerset, PA 15501 (814) 445-4652
Peters Township	PAC630040	Valleybrook Country Club Phase 2 425 Hidden Valley Road Canonsburg, PA 15317	Chartiers Creek (WWF)	Washington County Conservation District 2800 North Main Street Suite 105 Washington, PA 15301 (724) 705-7098
Peters Township	PAC630043	Arthur Schwotzer 145 Rockingham Lane McMurray, PA 15317	UNT to Peters Creek (TSF)	Washington County Conservation District 2800 North Main Street Suite 105 Washington, PA 15301 (724) 705-7098
City of St. Marys Elk County	PAC240003	The City of St. Marys Tim Pearson 11 LaFayette St. St. Marys, PA 15857	Elk Creek CWF Iron Run CWF Hellfire Run CWF	Elk County Conservation District 850 Washington Street St. Marys, PA 15857 814-776-5373
Coal Run Butler County	PAC100052	NTW LLC National Tire & Battery 4300 TBC Way Palm Beach Gardens, FL 33410	Coal Run WWF	Butler County Conservation District 12 McCune Drive Butler, PA 16001 724-284-5270
City of Erie Erie County	PAC250029	Erie Veterans Medical Center 135 West 38th Street Erie, PA 16504	Unnamed tributary to Lake Erie; WWF; MF; Mill Creek WWF; MF	Erie County Conservation District 1927 Wager Road Erie, PA 16509 814-825-6403
Know & Paint Townships Clarion County	PAC160007	National Fuel Gas 1100 State Street Erie, PA 16501	Clarion River WWF	Clarion County Conservation District 217 S. 7th Avenue Room 106A Clarion, PA 16214 814-297-7813

General Permit Type—PAG-3

<i>Facility Location: Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Plymouth Township Montgomery County	PAR200003	Chamalloy Company, LLC 1301Conshohocken Road Conshohocke, PA 19428	Schuylkill River 3-F	DEP Southeast Regional Office Clean Water Program 2 E. Main Street Norristown, PA 19401 484.250.5970
Moon Township Allegheny County	PAR806167	Pittsburgh International Airport Air Reserve Station 2475 Defense Avenue Coraopolis, PA 15108-4402	Meeks Run and McClarens Run—20-G	DEP Southwest Regional Office Clean Water Program 400 Waterfront Drive Pittsburgh, PA 15222-4745 412.442.4000

<i>Facility Location: Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Findlay Township Allegheny County	PAG036190	Golden Triangle Construction 8555 Old Steubenville Pike Imperial, PA 15126	McClarens Run—20-G	DEP Southwest Regional Office Clean Water Program 400 Waterfront Drive Pittsburgh, PA 15222-4745 412.442.4000
Moon Township Allegheny County	PAR806167	Pittsburgh International Airport Air Reserve Station 2475 Defense Avenue Coraopolis, PA 15108-4402	Meeks Run and McClarens Run—20-G	DEP Southwest Regional Office Clean Water Program 400 Waterfront Drive Pittsburgh, PA 15222-4745 412.442.4000
Findlay Township Allegheny County	PAG036190	Golden Triangle Construction 8555 Old Steubenville Pike Imperial, PA 15126	McClarens Run—20-G	DEP Southwest Regional Office Clean Water Program 400 Waterfront Drive Pittsburgh, PA 15222-4745 412.442.4000

General Permit Type—PAG-8 NOI

<i>Facility Location: Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Site Name & Location</i>	<i>Contact Office & Phone No.</i>
City of Allentown Lehigh County	PAG082203	Lehigh County Authority 1053 Spruce Road Allentown, PA 18106	Allentown Wastewater Treatment Plant 112 Union Street Allentown, PA 18106	PA DEP NERO 2 Public Square Wilkes-Barre, PA 18701-1915 (570) 826-2511

General Permit Type—PAG-8 (SSN)

<i>Facility Location: Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Site Name & Location</i>	<i>Contact Office & Phone No.</i>
Tyler Barrick Farm 321 Pleasant Hall Road Carlisle, PA 17013	PAG080002 PAG080003 PAG080004 PAG080005 PAG080006	Synagro 1605 Dooley Road PO Box B Whiteford, MD 21160	Tyler Barrick Farm 321 Pleasant Hall Road Carlisle, PA 17013	DEP—SCRO—Clean Water Program 909 Elmerton Avenue Harrisburg, PA 17110-8200 717-705-4707
North Middleton Township/ Cumberland County	PAG080008 PAG080011 PAG080016 PAG080018 PAG080021 PAG080022 PAG080023 PAG082203 PAG082211 PAG082219 PAG082223 PAG083501 PAG083506 PAG083510 PAG083515 PAG083518 PAG083522 PAG083535 PAG083540 PAG083547 PAG083551 PAG083556			

*Facility Location:
Municipality &
County*

Permit No.
PAG083565
PAG083567
PAG083568
PAG083573
PAG083596
PAG083597
PAG083600
PAG083605
PAG083610
PAG083611
PAG083825
PAG089903
PAG089904
PAG089905
PAG089909
PAG089910
PAG070003
PAG070005
PAG073508
PABIG9903
WMGR0099

Applicant Name & Address

*Site Name &
Location*

*Contact Office &
Phone No.*

General Permit Type—PAG-10

*Facility Location:
Municipality &
County*

Permit No.
PAG100046

*Applicant Name &
Address*
Interstate Energy Co.
214 Shoemaker Road
Pottstown, PA 19464

*Receiving
Water/Use*
Morgan Creek
2-D

*Contact Office &
Phone No.*
DEP Southeast
Regional Office
Clean Water Program
2 E. Main Street
Norristown, PA 19401
484.250.5970

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>
John Nolt 10190 Mountain Rd. Port Royal, PA 17082	Juniata	9.8	389.04	Turkeys	None	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, PO Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Board through the Pennsylvania AT&T Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin* unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create a right of appeal beyond that permitted by applicable statutes and decisional law.

For individuals who wish to challenge an action, the appeal must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this document to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

SAFE DRINKING WATER

Actions taken under the Pennsylvania Safe Drinking Water Act

Southeast Region: Water Supply Management Program Manager, 2 East Main Street, Norristown, PA 19401.

Permit No. 0917514, Public Water Supply.

Applicant	Oldcastle Precast 200 Keystone Drive Telford, PA 18969
Township	Hilltown
County	Bucks
Type of Facility	PWS
Consulting Engineer	J.S. Madaras Consulting, LLC 250 Indian Lane Boyertown, PA 19512
Permit to Construct Issued	July 31, 2017

Permit No. 4617509, Public Water Supply.

Applicant	Aqua Pennsylvania, Inc.
Townships	Lower Moreland/ City of Philadelphia
County	Montgomery
Type of Facility	PWS
Consulting Engineer	Gannett Fleming, Inc. 650 Park Avenue King of Prussia, PA 19406
Permit to Construct Issued	July 25, 2017

Permit No. 0917516, Public Water Supply.

Applicant	Aqua Pennsylvania, Inc. 762 West Lancaster Avenue Bryn Mawr, PA 19010
Borough	Bristol
County	Bucks
Type of Facility	PWS
Consulting Engineer	Mott MacDonald 150 S. Independence Mall W Suite 1040 Philadelphia, PA 19106
Permit to Construct Issued	July 25, 2017

Permit No. 1517515, Public Water Supply.

Applicant	Aqua Pennsylvania, Inc. 762 West Lancaster Avenue Bryn Mawr, PA 19010
Township	Schuylkill
County	Chester
Type of Facility	PWS
Consulting Engineer	Brown and Caldwell Two Radnor Corporate Center 100 Matsonford Road, Suite 250 Radnor, PA 19087
Permit to Construct Issued	July 21, 2017

Permit No. 4617511, Public Water Supply.

Applicant	Pennsylvania American Water 800 West Hershey Park Drive Hershey, PA 17033
Township	Norristown
County	Montgomery
Type of Facility	PWS

Consulting Engineer Pennsylvania American Water
800 West Hershey Park Drive
Hershey, PA 17033

Permit to Construct July 25, 2017
Issued

Operations Permit # 2317503 issued to: **Joseph Silvestri and Son, Inc.**, 1168 Naamans Creek Road, Garnet Valley, PA 19060, [(PWSID)] Bethel Township, **Delaware County** on July 31, 2017 for the operation of Joseph Silvestri and Son, Inc.—Caustic Soda Addition facilities approved under construction permit # 2317503.

Operations Permit # 0916514 issued to: **Northampton Bucks County Municipal Authority**, 111 Township Road, Richboro, PA 18954, [(PWSID)] Northampton Township, Bucks County, on July 31, 2017 for the operation of Northampton **Bucks County** Municipal Authority Liquid Sodium Hypochlorite Feed Systems at Well House Nos. 1, 2, 7, 11 and 12, and the Humphrey's Drive Booster Pump Station facilities approved under construction Permit # 0916514.

Operations Permit # 1516514 issued to: **Coventry Terrace MHP, LLC**, 6 Orchard Lane, Spring City, PA 19475, [(PWSID)] East Coventry Township, **Chester County** on July 31, 2017 for the operation of Well 2 and Well 4 and Certification of 4-Log Treatment of Viruses approved under construction permit 1516514.

Northcentral Region: Safe Drinking Water Program Manager, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448.

Permit Nos. 5317501-MA—Construction—Public Water Supply.

Applicant	Charles Cole Memorial Hospital
Township/Borough	Eulalia Township
County	Potter
Responsible Official	Melvin Blake Director of Maintenance & Engineering 1001 East 2nd St. Coudersport, PA 16915
Type of Facility	Public Water Supply
Consulting Engineer	Andrew M. Clark, P.E. Penn Environment & Remediation 13180 Route 6 Mansfield, PA 16933
Permit Issued	July 26, 2017
Description of Action	Authorizes Charles Cole Memorial Hospital to clean and recoat the interior of its 0.2 MG finished water storage tank.

Shamokin Dam Borough (Public Water Supply), Shamokin Dam, **Snyder County**: On July 26, 2017, the Safe Drinking Water Program approved the Source Water Protection (SWP) plan for the Shamokin Dam Borough, Snyder County. 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 Stephens, P.G., (570) 327-3422).

Southwest Region: Water Supply Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Permit No. 2616507, Public Water Supply.

Applicant	Municipal Authority of Westmoreland County 124 Park & Pool Road New Stanton, PA 15672
[Borough or Township]	Dunbar Township
County	Fayette
Type of Facility	Upper Tyrone pump station
Consulting Engineer	Gibson-Thomas Engineering Co., Inc. 1004 Ligonier Street PO Box 853 Latrobe, PA 15650
Permit to Construct Issued	July 27, 2017

Permit No. 2613516-A1, Public Water Supply.

Applicant	Municipal Authority of Westmoreland County 124 Park & Pool Road New Stanton, PA 15672
[Borough or Township]	Dunbar Township
County	Fayette
Type of Facility	Rehabilitation work at Indian Creek water treatment
Consulting Engineer	Gibson-Thomas Engineering Co., Inc. 1004 Ligonier Street PO Box 853 Latrobe, PA 15650
Permit to Construct Issued	July 27, 2017

Operations Permit issued to: **Municipal Authority of Westmoreland County**, 124 Park & Pool Road, New Stanton, PA 15672, (**PWSID # 5650032**) New Alexandria, Irwin and Murrysville Boroughs; Jeannette and Westmoreland City, **Westmoreland County** on July 26, 2017 for the operation of facilities approved under Construction Permit # 6517507WMP-1.

Operations Permit issued to: **Municipal Authority of Westmoreland County**, 124 Park & Pool Road, New Stanton, PA 15672, (**PWSID # 5260036**) Salem, North Huntingdon, Mt. Pleasant, Rostraver, East Huntingdon, Hempfield and North Versailles Townships; and New Stanton Borough, **Allegheny and Westmoreland Counties** on July 26, 2017 for the operation of facilities approved under Construction Permit # 2617508WMP-1.

Operations Permit issued to: **Municipal Authority of Westmoreland County**, 124 Park & Pool Road, New Stanton, PA 15672, (**PWSID # 5020025**) City of McKeesport and White Oak Borough, **Allegheny County** on July 26, 2017 for the operation of facilities approved under Construction Permit # 0217516WMP-1.

Operations Permit issued to: **Creswell Heights Joint Water Authority**, 3961 Jordan Street, South Heights, PA 15081, (**PWSID # 5040063**) South Heights Borough, **Beaver County** on July 28, 2017 for the operation of facilities approved under Construction Permit # 0417504MA.

Permit No. 0416506, Minor Amendment. Public Water Supply.

Applicant **UMH Properties, Inc.**
150 Clay Street
Suite 450
Morgantown, WV 26501

[Borough or Township] Independence Township

County **Beaver**

Type of Facility Independence Park

Consulting Engineer UMH Properties, Inc.
150 Clay Street
Suite 450
Morgantown, WV 26501

Permit to Construct Issued July 27, 2017

Permit No. 1111501GWR-T1, Minor Amendment. Public Water Supply.

Applicant **Lilly Borough Water Authority**
421 Main Street
Lilly, PA 15938

[Borough or Township] Lilly Borough

County **Cambria**

Type of Facility Transfer of the groundwater rule approval from Lilly Borough to Lilly Borough Water Authority

Consulting Engineer

Permit to Operate Issued July 27, 2017

Permit No. 0209520A1-T1, Minor Amendment. Public Water Supply.

Applicant **Riverbend Foods, LLC**
1080 River Avenue
Pittsburgh, PA 15212

[Borough or Township] City of Pittsburgh

County **Allegheny**

Type of Facility Transfer of the water system permit from Bay Valley Foods, LLC to Riverbend Foods, LLC

Consulting Engineer

Permit to Operate Issued July 27, 2017

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

Permit No. 6188505-T1-MA1, Public Water Supply.

Applicant **Rocky Ridge Village LLC**

Township or Borough Sandycreek Township

County **Venango**

Type of Facility Public Water Supply

Consulting Engineer Steven R. Halmi, P.E.
Deiss & Halmi Engineering, Inc.
105 Meadville Street
Edinboro, PA 16412

Permit to Construct Issued July 21, 2017

Operation Permit issued to **Erie City Water Authority, PWSID No. 6250028,** Erie City, **Erie County.** Permit Number 2595501-MA3 issued July 21, 2017 for

the operation of the Depot Road Standpipe. This permit is issued in response to an operation inspection conducted by the Department of Environmental Protection personnel on July 6, 2017.

Construction/Operation Permit issued to **Oil Creek Township, PWSID No. 6200081,** Oil Creek Township, **Crawford County,** to construct and operate as a consecutive water supply to the City of Titusville. Construction and Operation authorized simultaneously under Permit Number 2017501 issued July 21, 2017.

Operation Permit issued to **Mound Grove Golf and Recreation, Inc., PWSID No. 6250936,** Geene Township, **Erie County.** Permit Number 2516504 issued July 28, 2017 for the operation of the Mound Grove Golf and Recreation, Inc. water treatment plant. This permit is issued in response to an operation inspection conducted by the Department of Environmental Protection personnel on July 25, 2017.

Permit No. 2515502-MA1, Public Water Supply.

Applicant **Erie City Water Authority**

Township or Borough Millcreek Township

County **Erie**

Type of Facility Public Water Supply

Consulting Engineer Edward St. John, P.E.
CDM Smith
1468 West 9th Street
Cleveland, OH 44113

Permit to Construct Issued July 28, 2017

Permit No. 3717501, Public Water Supply.

Applicant **Pennsylvania American Water Company**

Township or Borough Shenango Township

County **Lawrence**

Type of Facility Public Water Supply

Consulting Engineer Jay Lucas, P.E.
Pennsylvania American Water Company
300 Galley Road
McMurray, PA 15317

Permit to Construct Issued July 31, 2017

WATER ALLOCATIONS

Actions taken on applications received under the act of June 24, 1939 (P.L. 842, No. 365) (35 P.S. §§ 631—641) relating to the acquisition of rights to divert waters of the Commonwealth.

Southwest Region: Water Supply Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

WA56-808B, Water Allocations—Return. Seven Springs Municipal Authority, 290 Lagoon Lane, Champion, PA 15622, **Somerset County.** Return of the application for the withdrawal of 470,000 gallons of water from their springs.

WA30-587H, Water Allocations. Southwestern Pennsylvania Water Authority, 1442 Jefferson Road, Jefferson, PA 15344, **Greene County.** Modification Order to add new Permit Condition No. 14 to include Monongahela, Jackson and Morris Townships; and

Greensboro Borough located in Greene County to the Authority's approved service area.

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

WA 10-918A, Water Allocations. Seven Fields Borough, 2200 Garden Drive, Suite 100, Mars, PA 16046, Seven Fields Borough, **Butler County.** Water Allocation Permit for the right to purchase 500,000 gallons per day as a peak daily flow rate from the West View Water Authority.

WA 24-909B, Water Allocations. Ridgway Township Municipal Authority, 1537B Montmreenci Road, Ridgway, PA 15853, Ridgway Township, **Elk County.** Water Allocation Permit for the right to purchase 315,000 gallons per day as a peak month 30-day average flow rate from the Borough of Ridgway.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995 PREAMBLE 2

The following plans and reports were submitted under the Land Recycling and Environmental Remediation Standards Act (35 P.S. §§ 6026.101—6026.907).

Provisions of Sections 301—308 of the Land Recycling and Environmental Remediation Standards Act (act) (35 P.S. §§ 6026.301—6026.308) require the Department to publish in the *Pennsylvania Bulletin* a notice of submission of plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the act's remediation standards. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis for selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling analytical results which demonstrate that remediation has attained the cleanup standard selected. Submission of plans and reports, other than the final report, will also be published in the *Pennsylvania Bulletin*. These include the remedial investigation report, risk assessment report and cleanup plan for a site-specific standard remediation. A remedial investigation report includes conclusions from the site investigation; concentration of regulated substances in environmental media; benefits of reuse of the property; and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements.

For further information concerning plans or reports, contact the environmental cleanup program manager in the Department regional office under which the notice of receipt of plans or reports appears. If information concerning plans or reports is required in an alternative form, contact the community relations coordinator at the appropriate regional office. TDD users may telephone the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

Northeast Region: Eric Supey, Environmental Cleanup & Brownfields Program Manager, 2 Public Square, Wilkes-Barre, PA 18701-1915.

Former Conrail RR Property/Eastern Land & Trading, LLC Property, Main Street and Page Avenue, Kingston Borough, **Luzerne County.** Pennsylvania Tectonics, Inc., 723 Main Street, Archbald, PA 18403, on behalf of Eastern Land & Trading, LLC, 53 Gravel Street, Wilkes-Barre, PA 18705, submitted a Final Report concerning remediation of site soils and groundwater contaminated with Lead, Aluminum, Antimony, Cobalt, Iron, Manganese, Vanadium, Bis(2-ethylhexyl)phthalate. The report is intended to document remediation of the site to meet the Site-Specific Standard.

Southcentral Region: Environmental Cleanup and Brownfields Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110. Phone 717.705.4705.

Former Getty Highspire Terminal, 930 Eisenhower Boulevard, Middletown, PA 17057, Lower Swatara Township, **Dauphin County.** Antea Group, 2 Executive Drive, Suite 9, Moorestown, NJ 08057, on behalf of Getty Realty Corporation, Two Jericho Plaza, Suite 110, Jericho, NY 11753, and Pyramid Petroleum Terminals, LLC, 900 Eisenhower Boulevard, Middletown, PA 17057 submitted a Remedial Investigation and Final Report concerning remediation of site soil and groundwater contaminated with petroleum hydrocarbons. The combined report is intended to document remediation of the site to meet the Nonresidential Statewide Health and Site-Specific Standards.

Norfolk Southern Railway/Juniata Locomotive Repair Shop, 200 North 4th Avenue, Altoona, PA 16601, City of Altoona and Logan Township, **Blair County.** AECOM Technical Services, Inc., 681 Andersen Drive, Pittsburgh, PA 15220, on behalf of Norfolk Southern Railway Company, 1200 Peachtree Street NE, P.O. Box 13, submitted a Final Report concerning remediation of site soil contaminated with diesel fuel. The report is intended to document remediation of the site to meet the Residential Statewide Health Standard.

Miller Chemical & Fertilizer, LLC, 120, 150 and 170 Radio Road, Hanover, PA 17331, Conewago Township, **Adams County.** Ramboll Environ US Corporation, 4350 North Fairfax Drive, Suite 300, Arlington, VA 22203, on behalf of Miller Chemical & Fertilizer, LLC, 120 Radio Road, Hanover, PA 17332, submitted a Remedial Investigation and Final Report concerning remediation of site soil contaminated with fertilizer run-off. The report is intended to document remediation of the site to meet the Nonresidential Statewide Health, Background and Site-Specific Standards.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995 PREAMBLE 3

The Department has taken action on the following plans and reports under the Land Recycling and Environmental Remediation Standards Act (35 P.S. §§ 6026.101—6026.907).

Section 250.8 of 25 Pa. Code and administration of the Land Recycling and Environmental Remediation Standards Act (act) require the Department to publish in the *Pennsylvania Bulletin* a notice of its final actions on plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to

one of the remediation standards of the act. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis of selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected. Plans and reports required by the act for compliance with selection of remediation to a site-specific standard, in addition to a final report, include a remedial investigation report, risk assessment report and cleanup plan. A remedial investigation report includes conclusions from the site investigation; concentration of regulated substances in environmental media; benefits of reuse of the property; and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements. A work plan for conducting a baseline remedial investigation is required by the act for compliance with selection of a special industrial area remediation. The baseline remedial investigation, based on the work plan, is compiled into the baseline environmental report to establish a reference point to show existing contamination, describe proposed remediation to be done and include a description of existing or potential public benefits of the use or reuse of the property. The Department may approve or disapprove plans and reports submitted. This notice provides the Department's decision and, if relevant, the basis for disapproval.

For further information concerning the plans and reports, contact the environmental cleanup program manager in the Department regional office under which the notice of the plan or report appears. If information concerning a final report is required in an alternative form, contact the community relations coordinator at the appropriate regional office. TDD users may telephone the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

Northeast Region: Eric Supey, Environmental Cleanup & Brownfields Program Manager, 2 Public Square, Wilkes-Barre, PA 18701-1915.

Kay Moosch Property, 633 Molasses Road, Washington Township, **Northampton County**. MEA, Inc., 1365 Ackermanville Road, Bangor, PA 18301, on behalf of Kay Moosch, 633 Molasses Road, Bangor, PA 18013, submitted a Final Report concerning the remediation of site soils contaminated with tert-Butyl-Methyl-Ether, Benzene, Toluene, Ethylbenzene, Cumene, 1,3,5-Trimethylbenzene, 1,2,4-Trimethylbenzene, and Naphthalene. The Final Report demonstrated attainment of the Statewide Health Standard, and was approved by the Department on June 23, 2017.

Tague East Well Pad, 214 Saw Mill Road, Lemon Township, **Wyoming County**. Woodard & Curran, 300 Penn Center Boulevard, Suite 800, Pittsburgh, PA 15235, on behalf of Chief Oil & Gas LLC, 1720 Sycamore Road, Montoursville, PA 17754, submitted a Final Report concerning the remediation of site soils contaminated with Motor Oil, Ethylene Glycol, and Anti-Freeze. The Final Report demonstrated attainment of the Statewide Health Standard, and was approved by the Department on July 28, 2017.

Holiday Inn Express, 1 Corporate Drive, Butler Township, **Luzerne County**. MEA, Inc., 1365 Ackermanville Road, Bangor, PA 18013, on behalf of Sam Patel, 4 Jewel Court, Montville, NJ 07045, submitted a Final Report concerning remediation of site soils and groundwater contaminated with MTBE, Cis 1,2-dichloroethene, Benzene, TCE, Ethylbenzene, m-xylene, p-xylene, o-xylene, Cumene, n-propylbenzene, 1,3,5-TMB, 1,2,4-TMB, Sec-butylbenzene, p-isopropyltoluene, 1,4-dichlorobenzene, Hexachlorobutadiene, naphthalene, and Tert-butylbenzene. The report is intended to document remediation of the site to meet the Statewide Health and Background Standards, and was approved by the Department on July 25, 2017.

Southcentral Region: Environmental Cleanup and Brownfields Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110. Phone 717.705.4705.

Walker Elementary School, 7864 William Penn Highway, Mifflintown, PA 17059, Walker Township, **Juniata County**. P. Joseph Lehman, Inc., Olde Farm Office Centre, P.O. Box 419, Hollidaysburg, PA 16648, on behalf of Juniata County School District, 7864 William Penn Highway, Mifflintown, PA 17059, submitted a Final Report concerning remediation of site groundwater contaminated with # 2 fuel oil. The Final Report was administratively incomplete and was disapproved by the Department on July 27, 2017.

Northwest Region: Environmental Cleanup & Brownfields Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

NFG Midstream Clermont West Compressor Station, 12753 Shawmut Grade Road, Jones Township, **Elk County**. Environmental Remediation & Recovery, Inc., 4250 Route 6N, Edinboro, PA 16412, on behalf of National Fuel Gas Supply Corporation, P.O. Box 2081, 1100 State Street, Erie, PA 16512, submitted a Remedial Investigation/Risk Assessment Report concerning the remediation of site soil and site groundwater contaminated with benzene, toluene, ethyl benzene, xylene, sec-butyl benzene, tert-butyl benzene, cyclohexane, 1,3,4-trimethylbenzene, 1,3,5-trimethylbenzene, cumene, naphthalene, acenaphthene, anthracene, benzo[a]anthracene, benzo[a]pyrene, benzo[b]fluoranthene, benzo[g,h,i]perylene, chrysene, fluoranthene, fluorene, indeno[1,2,3-c,d]pyrene, 2-methylnaphthalene, phenanthrene, pyrene, 1,1, biphenyl, phenol, aluminum, barium, boron, chloride, iron, lithium, manganese, strontium, vanadium, zinc, selenium, and ethylene glycol. The Report was approved by the Department on July 12, 2017.

Wilderness Park Mobile Home Park, 108 Wilderness Park, Pleasant Township, **Warren County**. Environmental Remediation & Recovery, Inc., 4250 Route 6N, Edinboro, PA 16412, on behalf of Wilderness Mobile Park, 3800 Zimmerly Road, Erie, PA 16506 and BF Adventures, LLC, 50 Corvette Drive, Warren, PA 16365, submitted a Final Report concerning the remediation of site soils contaminated with benzene, toluene, ethylbenzene, xylene, sec-butyl benzene, tert-butyl benzene, cyclohexane, 1,2,4-trimethylbenzene, 1,3,5-trimethylbenzene, cumene, naphthalene, acenaphthene, anthracene, benzo[a]anthracene, benzo[a]pyrene, benzo[b]fluoranthene, benzo[g,h,i]perylene, 1,1-biphenyl, chrysene, fluoranthene, fluorene, indeno[1,2,3-cd]pyrene, 2-methylnaphthalene, phenanthrene, pyrene, phenol, aluminum, barium, boron, iron, lithium, manganese, strontium, zinc, and selenium. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on July 27, 2017.

HAZARDOUS WASTE TRANSPORTER LICENSE

Actions on applications for Hazardous Waste Transporter License received under the Solid Waste Management Act (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, PO Box 69170, Harrisburg, PA 17106-9170.

Hazardous Waste Transporter License Reissued

Heritage Transport, LLC, 7901 West Morris Street, Indianapolis, IN 46231. License No. PA-AH 0200. Effective Jul 27, 2017.

Renewal Applications Received

Heritage Transport, LLC, 7901 West Morris Street, Indianapolis, IN 46231. License No. PA-AH 0200. Effective Jul 27, 2017.

DETERMINATION OF APPLICABILITY FOR RESIDUAL WASTE GENERAL PERMITS

Renewal of a Determination of Applicability issued under the Solid Waste Management Act; 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.

Southcentral Region: Regional Solid Waste Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

General Permit No. WMGR028SC005A. H&K Group, Inc., Silver Hill Quarry, 470 Yellow Hill Rd., Narvon, PA 17555 in Brecknock Township, **Lancaster County**. The Department of Environmental Protection has issued a renewal of a Determination of Applicability under General Permit WMGR028 to H&K Group, Inc., previously permitted under permit number WMGR028D004F, for the beneficial use of baghouse fines and/or scrubber pond precipitates, generated by hot-mix asphalt plants, for use as (i) an aggregate in roadway construction, (ii) a soil additive, (iii) a soil conditioner, or (iv) a component or ingredient in the manufacturing of construction products. This Determination of Applicability was issued on August 1, 2017.

General Permit No. WMGR028SC005B. H&K Group, Inc., Bechtelsville Asphalt Plant, 1355 North Reading Ave., Bechtelsville, PA 19505 in Colebrookdale Township, **Berks County**. The Department of Environmental Protection has issued a renewal of a Determination of Applicability under General Permit WMGR028 to H&K Group, Inc., previously permitted under permit number WMGR028D004A for the beneficial use of baghouse fines and/or scrubber pond precipitates, generated by hot-mix asphalt plants, for use as (i) an aggregate in roadway construction, (ii) a soil additive, (iii) a soil conditioner, or (iv) a component or ingredient in the manufacturing of construction products. This Determination of Applicability was issued on August 1, 2017.

General Permit WMGR028SC005C. H&K Group, Inc., South Reading Blacktop Plant, 148 Angstadt Lane, Birdsboro, PA 19508 in Cumru Township, **Berks County**. The Department of Environmental Protection has issued a renewal of a Determination of Applicability under General Permit WMGR028 to H&K Group, Inc., previously permitted under permit number WMGR028D017A

for the beneficial use of baghouse fines and/or scrubber pond precipitates, generated by hot-mix asphalt plants, for use as (i) an aggregate in roadway construction, (ii) a soil additive, (iii) a soil conditioner, or (iv) a component or ingredient in the manufacturing of construction product. This Determination of Applicability was issued on August 1, 2017.

Persons interested in obtaining more information about these general permits may contact Mr. John Oren, P.E., Permits Section Chief, Southcentral Regional Office, Waste Management Program at 717-705-4706. TDD users may contact the Department through the Pennsylvania AT&T Relay Service, (800) 654-5984.

REGULATED MEDICAL WASTE GENERAL PERMITS

Permit(s) Extended Under the Solid Waste Management Act; 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 Regulated Medical and Chemotherapeutic Waste Processing Facilities.

Central Office: Division of Municipal and Residual Waste, Rachel Carson State Office Building, 14th Floor, 400 Market Street, Harrisburg, PA 17105-8472.

General Permit No. WMGI005A. Merck Sharp and Dohme Corp., Westpoint Facility, 770 Sumneytown Pike, West Point, PA 19486. This permit authorizes the use of chemical and/or thermal inactivation to disinfect regulated medical waste generated in the production and research and development of pharmaceuticals. Due to the Department being unable to reissue the permit prior to its expiration date of July 22, 2017, the Department extended coverage under WMGI005, on July 21, 2017, in accordance with 25 Pa. Code § 284.116. The extended coverage will expire on July 27, 2017.

Persons interested in obtaining a copy of the extended general permit may request a copy by contacting the Division of Municipal and Residual Waste, Bureau of Waste Management, P.O. Box 69170, Harrisburg, PA 17106-9170, 717-787-7381. TDD users may contact the Department through the Pennsylvania AT&T Relay Service, (800) 654-5984.

General Permit No. WMGI005D. Merck Sharp and Dohme Corp., North Wales Facility, 502 and 503 Louise Lane, 140 and 150 Wissahickon Avenue, North Wales, PA 19454. This permit authorizes the use of chemical and/or thermal inactivation to disinfect regulated medical waste generated in the production and research and development of pharmaceuticals. Due to the Department being unable to reissue the permit prior to its expiration date of July 22, 2017, the Department extended coverage under WMGI005, on July 21, 2017, in accordance with 25 Pa. Code § 284.116. The extended coverage will expire on July 27, 2017.

Persons interested in obtaining a copy of the extended general permit may request a copy by contacting the Division of Municipal and Residual Waste, Bureau of Waste Management, P.O. Box 69170, Harrisburg, PA 17106-9170, 717-787-7381. TDD users may contact the Department through the Pennsylvania AT&T Relay Service, (800) 654-5984.

General Permit No. WMGI005D003. Sanofi Pasteur, Inc., Swiftwater Facility, Discovery Drive, Swiftwater, PA 18370. This permit authorizes the use of

chemical and/or thermal inactivation to disinfect regulated medical waste generated in the production and research and development of pharmaceuticals. Due to the Department being unable to reissue the permit prior to its expiration date of July 22, 2017, the Department extended coverage under WMGI005, on July 21, 2017, in accordance with 25 Pa. Code § 284.116. The extended coverage will expire on July 27, 2017.

Persons interested in obtaining a copy of the extended general permit may request a copy by contacting the Division of Municipal and Residual Waste, Bureau of Waste Management, P.O. Box 69170, Harrisburg, PA 17106-9170, 717-787-7381. TDD users may contact the Department through the Pennsylvania AT&T Relay Service, (800) 654-5984.

General Permit No. WMGI005SC001. Corixa Corporation d/b/a GlaxoSmithKline Vaccines, 325 North Bridge Street, Marietta, PA 17547. This permit authorizes the use of chemical and/or thermal inactivation to disinfect regulated medical waste generated in the production and research and development of pharmaceuticals. Due to the Department being unable to reissue the permit prior to its expiration date of July 22, 2017, the Department extended coverage under WMGI005, on July 21, 2017, in accordance with 25 Pa. Code § 284.116. The extended coverage will expire on July 27, 2017.

Persons interested in obtaining a copy of the extended general permit may request a copy by contacting the Division of Municipal and Residual Waste, Bureau of Waste Management, P.O. Box 69170, Harrisburg, PA 17106-9170, 717-787-7381. TDD users may contact the Department through the Pennsylvania AT&T Relay Service, (800) 654-5984.

General Permit Application No. WMGI005 Base. This permit authorizes the use of chemical and/or thermal inactivation to disinfect regulated medical waste generated in the production and research and development of pharmaceuticals. The Department re-organized and re-formatted General Permit No. WMGI005 for overall clarity and use. The Department made changes to WMGI005 to ensure that the permit complies with the November, 2014 amendments to 25 Pa. Code, Chapter 284. The general permit was renewed by Central Office and became effective on July 27, 2017.

A person or municipality that proposes to use chemical and/or thermal inactivation to disinfect regulated medical waste generated in the production and research and development of pharmaceuticals by operating under the terms and conditions of this general permit after the date of permit renewal must apply for and obtain a Determination of Applicability prior to commencing activities authorized under this general permit. A completed application on forms available from the Department must be submitted to the Department's Central Office (see Section B of the general permit for more information).

Persons interested in obtaining a copy of the renewed general permit can download a copy at <http://www.dep.pa.gov/Business/Land/Waste/SolidWaste/MunicipalWaste/Regulated-Medical-Chemotherapeutic-Waste/Pages/General-Permits-for-Regulated-Medical-and-Chemotherapeutic-Waste.aspx> or may request a copy by contacting the Division of Municipal and Residual Waste, Bureau of Waste Management, P.O. Box 69170, Harrisburg, PA 17106-9170, 717-787-7381. TDD users may contact the Department through the Pennsylvania AT&T Relay Service, (800) 654-5984.

General Permit Application No. WMGI005A. Merck Sharp and Dohme Corp., Westpoint Facility,

770 Sumneytown Pike, West Point, PA 19486. This permit authorizes the use of chemical and/or thermal inactivation to disinfect regulated medical waste generated in the production and research and development of pharmaceuticals. The Department re-organized and re-formatted General Permit No. WMGI005 for overall clarity and use. The Department made changes to WMGI005 to ensure that the permit complies with the November, 2014 amendments to 25 Pa. Code, Chapter 284. The general permit was renewed by Central Office and became effective on July 27, 2017.

Persons interested in obtaining a copy of the renewed general permit can download a copy at <http://www.dep.pa.gov/Business/Land/Waste/SolidWaste/MunicipalWaste/Regulated-Medical-Chemotherapeutic-Waste/Pages/General-Permits-for-Regulated-Medical-and-Chemotherapeutic-Waste.aspx> or may request a copy by contacting the Division of Municipal and Residual Waste, Bureau of Waste Management, P.O. Box 69170, Harrisburg, PA 17106-9170, 717-787-7381. TDD users may contact the Department through the Pennsylvania AT&T Relay Service, (800) 654-5984.

General Permit Application No. WMGI005D. Merck Sharp and Dohme Corp., North Wales Facility, 502 and 503 Louise Lane, 140 and 150 Wissahickon Avenue, North Wales, PA 19454. This permit authorizes the use of chemical and/or thermal inactivation to disinfect regulated medical waste generated in the production and research and development of pharmaceuticals. The Department re-organized and re-formatted General Permit No. WMGI005 for overall clarity and use. The Department made changes to WMGI005 to ensure that the permit complies with the November, 2014 amendments to 25 Pa. Code, Chapter 284. The general permit was renewed by Central Office and became effective on July 27, 2017.

Persons interested in obtaining a copy of the renewed general permit can download a copy at <http://www.dep.pa.gov/Business/Land/Waste/SolidWaste/MunicipalWaste/Regulated-Medical-Chemotherapeutic-Waste/Pages/General-Permits-for-Regulated-Medical-and-Chemotherapeutic-Waste.aspx> or may request a copy by contacting the Division of Municipal and Residual Waste, Bureau of Waste Management, P.O. Box 69170, Harrisburg, PA 17106-9170, 717-787-7381. TDD users may contact the Department through the Pennsylvania AT&T Relay Service, (800) 654-5984.

General Permit Application No. WMGI005D003. Sanofi Pasteur, Inc., Swiftwater Facility, Discovery Drive, Swiftwater, PA 18370. This permit authorizes the use of chemical and/or thermal inactivation to disinfect regulated medical waste generated in the production and research and development of pharmaceuticals. The Department re-organized and re-formatted General Permit No. WMGI005 for overall clarity and use. The Department made changes to WMGI005 to ensure that the permit complies with the November, 2014 amendments to 25 Pa. Code, Chapter 284. The general permit was renewed by Central Office and became effective on July 27, 2017.

Persons interested in obtaining a copy of the renewed general permit can download a copy at <http://www.dep.pa.gov/Business/Land/Waste/SolidWaste/MunicipalWaste/Regulated-Medical-Chemotherapeutic-Waste/Pages/General-Permits-for-Regulated-Medical-and-Chemotherapeutic-Waste.aspx> or may request a copy by contacting the Division of Municipal and Residual Waste, Bureau of Waste Management, P.O. Box 69170, Harrisburg, PA

17106-9170, 717-787-7381. TDD users may contact the Department through the Pennsylvania AT&T Relay Service, (800) 654-5984.

General Permit Application No. WMGI005SC001. Corixa Corporation d/b/a GlaxoSmithKline Vaccines, 325 North Bridge Street, Marietta, PA 17547. This permit authorizes the use of chemical and/or thermal inactivation to disinfect regulated medical waste generated in the production and research and development of pharmaceuticals. The Department re-organized and reformatted General Permit No. WMGI005 for overall clarity and use. The Department made changes to WMGI005 to ensure that the permit complies with the November, 2014 amendments to 25 Pa. Code, Chapter 284. The general permit was renewed by Central Office and became effective on July 27, 2017.

Persons interested in obtaining a copy of the renewed general permit can download a copy at <http://www.dep.pa.gov/Business/Land/Waste/SolidWaste/MunicipalWaste/Regulated-Medical-Chemotherapeutic-Waste/Pages/General-Permits-for-Regulated-Medical-and-Chemotherapeutic-Waste.aspx> or may request a copy by contacting the Division of Municipal and Residual Waste, Bureau of Waste Management, P.O. Box 69170, Harrisburg, PA 17106-9170, 717-787-7381. TDD users may contact the Department through the Pennsylvania AT&T Relay Service, (800) 654-5984.

AIR QUALITY

General Plan Approval and Operating Permit Usage Authorized under the Air Pollution Control Act (35 P.S. §§ 4001—4015) and 25 Pa. Code Chapter 127 to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790.

Contact: Norman Frederick, P.E., Environmental Engineer Manager—Telephone: 570-826-2409.

GP3-35-007A: Powell Quarry (740 Justus Blvd, Scott Township, PA 18411) on July 26, 2017, for the operation of a portable stone crushing plant at Archbald Borough, **Lackawanna County**.

GP9-35-007A: Powell Quarry (740 Justus Blvd, Scott Township, PA 18411) on July 26, 2017, for the installation and operation of diesel/no. 2 oil fired I.C Engines at the facility located in Archbald Borough, **Lackawanna County**.

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

Contact: Alan Binder, P.E., Environmental Engineer Manager—Telephone: 412-442-4168.

GP11-63-01006A: Columbia Gibraltar Gathering, LLC (300 Woodcliff Drive, Canonsburg, PA 15317) on July 27, 2017, for authorization to construct and/or operate a 455 kW diesel-fired nonroad engine at the existing Gibraltar Compressor Station located in Donegal Township, **Washington County**.

Plan Approvals Issued under the Air Pollution Control Act and regulations in 25 Pa. Code Chapter 127, Subchapter B relating to construction, modification and reactivation of air contamination sources and associated air cleaning devices.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481.

Contact: David Balog, New Source Review Chief—Telephone: 814-332-6328.

25-00886: Cross Paving, LLC (11620 Lake Pleasant Rd, Union City, PA 16438). On July 25, 2017, the Department issued a renewal State Only Synthetic Minor Operating Permit for the facility located in Venango Township, **Erie County**. The facility's primary sources of emissions are a hot mix asphalt batch plant and the associated equipment. The only pollutant with potential emissions above the major source level is Carbon Monoxide (CO). Particulate matter is the pollutant with the next greatest potential for emissions which are no greater than 30 tons per year. In order to maintain status as a minor source, asphalt production is limited to no more than 440,000 tons per year. This production rate will limit CO emissions to no more than 90 tons per year. The renewal permit contains emission restrictions, recordkeeping, work practices, and additional requirements to ensure compliance with the Clean Air Act and the Air Pollution Control Act.

25-00326: FXI Holdings, Inc. (466 Shady Ave, Cory, PA 16407). On July 25, 2017, the Department issued a renewal State Only Natural Minor Operating Permit for the facility located in the City of Corry, **Erie County**. The primary sources at the facility include nine (9) natural gas-fueled heating units, a Maxfoam machine, a gluing station, four (4) TDI (Toluene Diisocyanate) 10,000-gallon storage tanks, and ten (10) 10,000-gallon resin storage tanks. Potential as follows: 10.07 TPY NO_x, 8.46 TPY CO, 0.98 TPY VOC, 0.19 TPY PM₁₀, and 0.06 TPY SO_x. This facility was previously a Title V Facility but reduced emissions to below the major source thresholds by eliminating the use of Methylene Chloride as an Auxiliary Blowing Agent. The renewal permit contains emission restrictions, recordkeeping, work practices, and additional requirements to ensure compliance with the Clean Air Act and the Air Pollution Control Act.

Plan Approval Revisions Issued including Extensions, Minor Modifications and Transfers of Ownership under the Air Pollution Control Act and 25 Pa. Code §§ 127.13, 127.13a and 127.32.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401.

Contact: James A. Beach, New Source Review Chief—Telephone: 484-250-5920.

09-0235: CP Converters Inc. (15 Gruenbacher Road, York, PA 17402-9421) On August 1, 2017 for the construction and operation of a new flexible packaging printing plant that includes the sources and control devices listed in Bristol Township, **Bucks County**.

23-0120: Agilyx Corp (7904 SW Hunziker Street, Tigard, OR 97223-8257) On August 1, 2017 for the extension of the installation of a new plastic-to-oil manufacturing facility in Marcus Hook Borough, **Delaware County**.

Southcentral Region: Air Quality Program, 909 Elmer-ton Avenue, Harrisburg, PA 17110.

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

34-05001D: AC Products, Inc. (12393 William Penn Highway, Thompsettown, PA 17094) on July 26, 2017, for

modification of the wood cabinet surface coating operation in Delaware Township, **Juniata County**. The plan approval was extended.

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

Contact: Alan Binder, P.E., Environmental Engineer Manager—Telephone: 412-442-4168.

PA-30-00077D Ext: Texas Eastern Transmission LP (258 Bristoria Road, Wind Ridge, PA 15380-1259) Plan Approval Extension issuance date effective July 28, 2017, to facilitate the shake-down of sources and air cleaning devices at their Holbrook Compressor Station located in Richhill Township, **Greene County**.

Title V Operating Permits Issued under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter G.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401.

Contact: Janine Tulloch-Reid, Facilities Permitting Chief—Telephone: 484-250-5920.

46-00221: Upper Moreland—Hatboro Joint Sewer Authority, (2875 Terwood Road, Willow Grove, PA 19090) On August 1, 2017 for the issuance of the initial Title V Operating Permit for the operation of a sewage sludge incinerator, subject to 40 CFR Part 62 Subpart LLL, located in Upper Moreland Township, **Montgomery County**.

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

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

05-05014: WSI Sandy Run Landfill LLC (995 Landfill Road, Hopewell, PA 16650-8653) on July 24, 2017, for the Sandy Run Landfill located in Broad Top Township, **Bedford County**.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481.

Contact: David Balog, New Source Review Chief—Telephone: 814-332-6328.

43-182D: John Maneely Company—Wheatland Tube Division (One Council Ave., Wheatland, PA 16161) for the installation of a wet scrubber at their facility in Wheatland Borough, **Mercer County**. This is a Title V facility.

Notice is hereby given pursuant to 25 Pa. Code §§ 127.44(b) and 127.424(b), that the Pennsylvania Department of Environmental Protection (DEP) intends to issue Plan Approval 43-182D to John Maneely Company—Wheatland Tube Division for the installation of a wet scrubber at the company's facility located at One Council Avenue, Wheatland Borough, Mercer County. The facility currently has a Title V permit No. 43-00182. The Plan Approval will subsequently be incorporated into the Title V Operating Permit through an administrative amendment in accordance with 25 Pa. Code § 127.450.

Plan Approval No. 43-182D is for the installation of a wet scrubber to control particulate emissions from the existing # 2 Galvanizing Kettle (Source ID # 103). Based on the information provided by the applicant and DEP's own analysis, emissions from the subject source will not exceed 0.45 ton of particulate matter per year. The

subject Plan Approval will not result in an increase in emissions over previously permitted levels.

The permittee will be required to monitor and maintain records of scrubber pressure drop, liquid pressure, flow rate, and pH. The Plan Approval will contain additional monitoring, recordkeeping and work practice requirements 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 are available for public inspection between the hours of 8 a.m. and 4 p.m. weekdays at the address shown below. To make an appointment, contact Records Management at 814-332-6340.

Anyone wishing to provide DEP with additional information they believe should be considered may submit the information to the address shown below. Comments must be received by the Department within 30 days of the last day of publication. Written comments should include the name, address, and telephone number of the person submitting comments, identification of the proposed Plan Approval; No. 43-182D and a concise statement regarding the relevancy of the information or any objections to issuance of the Plan Approval.

A public hearing may be held, if the Department of Environmental Protection, in its discretion, decides that such a hearing is warranted on the comments received during the public comment period. All persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in a local newspaper of general circulation or the *Pennsylvania Bulletin* or by telephone, where the Department determines such notification is sufficient. Written comments or requests for a public hearing should be directed to Eric Gustafson, Regional Air Quality Manager, Department of Environmental Protection, Northwest Regional Office, 230 Chestnut St., Meadville, PA 16335, 814-332-6940.

Operating Permits for Non-Title V Facilities Issued under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter F.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790.

Contact: Norman Frederick, P.E., Environmental Engineer Manager—Telephone: 570-826-2409.

54-00027: Perryman Company (235 Industrial Park Road, Frackville, PA 17931) issued on 7/31/17, a State-Only (Natural Minor) Operating Permit renewal for their nonferrous metal rolling, drawing, and extruding facility located in West Mahonoy Township, **Schuylkill County**. The sources include one (1) heat treating furnace and one (1) acid bath wire cleaning line controlled by one packed tower. 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, Virendra Trivedi, New Source Review Chief, 717-705-4863, or William Weaver, Regional Air Quality Manager, 717-705-4702.

22-05052: PA Department of Agriculture (2300 N. Cameron Street, Harrisburg, PA 17110-9443) on July 28, 2017, for the boilers, stationary engine and heaters at the

Farm Show Complex located in Harrisburg City, **Dauphin County**. The State-only permit was renewed.

Operating Permit Revisions Issued including Administrative Amendments, Minor Modifications or Transfers of Ownership under the Air Pollution Control Act and 25 Pa. Code §§ 127.412, 127.450, 127.462 and 127.464.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790.

Contact: Norman Frederick, P.E., Environmental Engineer Manager—Telephone: 570-826-2409.

39-00006: American Craft Brewery LLC (7880 Penn Dr, Breinigsville, PA 18031) on July 24, 2017, for the significant modification to the Title V operating permit TVOP 39-00006 for the incorporation of Reasonable Available Control Technology (RACT II) requirements pursuant to 25 Pa. Code §§ 129.96—129.100 at the American Craft Brewery's facility located in Upper Macungie Township, **Lehigh County**. The revised Title V operating permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

54-00017: Lehigh Asphalt Paving & Construction Co: (P O Box 549, Tamaqua, PA 18252) on July 31, 2017, in West Penn Township, **Schuylkill County** for an amendment to incorporate process modification. The conditions from Plan Approval 54-00017A were copied into the State Only Operating Permit. Administrative Amendment of State Only Operating Permit issued under the Air Pollution Control Act (35 P.S. §§ 4001—4015) and 25 Pa. Code § 127.450.

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

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

07-05021: Albemarle Corp. (2858 Back Vail Road, Tyrone, PA 16686-8100) on July 27, 2017, for the chemical manufacturing facility located in Tyrone Borough, **Blair County**. The State-only permit was administratively amended in order to correct various typographical errors.

De Minimis Emissions Increases Authorized under 25 Pa. Code § 127.449.

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

Contact: Alan Binder, P.E., Environmental Engineer Manager—Telephone: 412-442-4168.

OP-56-00160: Keystone Lime Co., Inc. (1252 Christner Hollow Rd., Fort Hill, PA 15540). Per 25 Pa. Code § 127.449(i), this Notice is for the following de minimis emission increase at the Eichorn HotMix Plant located in Addison Township, **Somerset County**:

1. Project to install a 550 bbl baghouse fines storage silo equipped with a 50 HP (670 scfm) blower which will be ducted back to existing dust collector C01, "Dusty Dustless JA-320S Baghouse." Baghouse fines will be metered back into the process by screw conveyors with all entry points sealed. Fines not used in production will be loaded into a truck by a wetting screw.

2. If at any time the Department determines that the operation of any portion of the crushing plant (other than the jaw crusher) or the storage and handling of material

collected in the air cleaning device(s) is causing the emission of fugitive air contaminants contrary to 25 Pa. Code § 123.1, or determines that particulate matter emissions from the fabric collector are in excess of the limitations specified in 25 Pa. Code § 123.13, the permittee shall take immediate steps, including the installation of air cleaning devices(s) if necessary, to reduce the excessive emissions to within the limitations specified in the applicable regulation.

3. The storage and handling of the material collected in the air pollution control equipment associated with these sources shall not at any time result in the emission of fugitive air contaminant emissions in excess of the limitations specified in 25 Pa. Code § 123.1.

4. The plant shall be equipped with an operable water truck and water sprays as necessary to maintain compliance with the requirements of 25 Pa. Code §§ 123.1 and 123.2.

Total emissions from this project will not exceed 0.1 tpy PM₁₀. Any affected facility installed under this approval will comply with all applicable provisions of 40 CFR Part 60, Subpart OOO, Standards of Performance for Nonmetallic Mineral Processing Plants.

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

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, 814-472-1900.

Permit No. 11060103 and NPDES No. PA0262242, Hoffman Mining Inc., P.O. Box 130, Friedens, PA 15541, commencement, operation and restoration of a bituminous surface & auger mine to change the land use from Woodland to Unmanaged Natural habitat in Adams Township, **Cambria County**, affecting 182.1 acres. Receiving streams: unnamed tributaries to and Paint Creek classified for the following use: cold water fishes. There are no potable water supply intakes within 10 miles downstream. Application received: April 14, 2017. Permit issued: July 24, 2017.

Permit No. 11000104 and NPDES No. PA0248851, Hoffman Mining Inc., P.O. Box 130, Friedens, PA 15541, commencement, operation and restoration of a bituminous surface & auger mine to change the land use

from Woodland to Unmanaged Natural habitat in Adams Township, **Cambria County**, affecting 151.0 acres. Receiving stream: Paint Creek classified for the following use: cold water fishes. There are no potable water supply intakes within 10 miles downstream. Application received: April 14, 2017. Permit issued: July 24, 2017.

Permit No. 56080105 and NPDES No. PA0234630, Hoffman Mining Inc., P.O. Box 130, Friedens, PA 15541, commencement, operation and restoration of a bituminous surface & auger mine to change the land use from Woodland to Unmanaged Natural habitat in Ogle & Paint Townships, **Somerset County**, affecting 290.8 acres. Receiving streams: Clear Shade Creek & unnamed tributaries to/and Shade Creek classified for the following uses: high quality cold water fishes, cold water fishes. There are no potable water supply intakes within 10 miles downstream. Application received: April 14, 2017. Permit issued: July 24, 2017.

Permit No. 11050102 and NPDES No. PA0249831, Hoffman Mining Inc., P.O. Box 130, Friedens, PA 15541, commencement, operation and restoration of a bituminous surface & auger mine to change the land use from Woodland to Unmanaged Natural habitat in Adams Township, **Cambria County**, affecting 90.6 acres. Receiving streams: unnamed tributaries to/and Paint Creek classified for the following use: cold water fishes. There are no potable water supply intakes within 10 miles downstream. Application received: April 14, 2017. Permit issued: July 24, 2017.

Permit No. 56880103 and NPDES No. PA0598143, Rosebud Mining Co., 301 Market Street, Kittanning, PA 15501, permit renewal for the continued operation and restoration of a bituminous surface mine in Summit Township, **Somerset County**, affecting 1,102.0 acres. Receiving streams: unnamed tributaries to/and Casselman River, unnamed tributaries to/and Lick Run, unnamed tributaries to/and Bigby Run and unnamed tributaries to/and Cranberry Run classified for the following use: cold water fisheries. There are no potable water supply intakes within 10 miles downstream. Application received: September 11, 2013. Permit issued: July 28, 2017.

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200.

17070101. RES Coal LLC (224 Grange Hall Road, P.O. Box 228, Armagh, PA 15920). Permit renewal for reclamation only of a bituminous surface coal and auger mine located in Morris Township, **Clearfield County** affecting 112.1 acres. Receiving stream: Unnamed Tributary to Moshannon Creek, classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received: July 6, 2017. Permit issued: July 25, 2017.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118.

Permit No. PAM116048. Hegins Mining Company, (290 Swatara Road, Tremont, PA 17981), General NPDES Permit for stormwater discharges associated with mining activities on Surface Mining Permit No. 54840205 in Reilly Township, **Schuylkill County**, receiving stream: Swatara Creek. Permit issued: July 24, 2017.

Noncoal Permits Issued

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, 814-472-1900.

Permit No. 21140301 and NPDES No. PA0594296, Hempt Brothers, Inc., 205 Creek Road, P.O. Box 278,

Camp Hill, PA 17001, renewal of NPDES permit, Silver Spring Township, **Cumberland County**. Receiving stream: unnamed tributary to Hogestown Run classified for the following use: cold water fishes. There are no potable water supply intakes within 10 miles downstream. Application received: April 28, 2017. Permit issued: July 28, 2017.

ACTIONS ON BLASTING ACTIVITY APPLICATIONS

Actions on applications under the Explosives Acts of 1937 and 1957 and 25 Pa. Code § 211.124. Blasting activity performed as part of a coal or noncoal mining activity will be regulated by the mining permit for that coal or noncoal mining activity.

Blasting Permits Issued

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, 814-342-8200.

14174108. Douglas Explosives, Inc. (2052 Philipsburg-Bigler Highway, Philipsburg, PA 16866). Blasting for residential development located in Walker Township, **Centre County** with an expiration date of December 1, 2017. Permit issued July 27, 2017.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, 570-621-3118.

Permit No. 45174102. Explosive Services, Inc., (7 Pine Street, Bethany, PA 18431), construction blasting for 112 Sleepy Hollow Lane in Middle Smithfield Township, **Monroe County** with an expiration date of July 10, 2018. Permit issued: July 24, 2017.

Permit No. 06174112. Maine Drilling & Blasting, Inc., (P.O. Box 1140, Gardiner, ME 04845), construction blasting for Sunoco Mariner Pipeline (Spread 5) in Heidelberg, South Heidelberg and Clay Townships, **Berks and Lebanon Counties** with an expiration date of July 22, 2018. Permit issued: July 27, 2017.

Permit No. 36174132. Abel Construction Co., Inc., (3925 Columbia Avenue, Mountville, PA 17554), construction blasting for Watson Run Subdivision in Leacock Township, **Lancaster County** with an expiration date of March 1, 2018. Permit issued: July 27, 2017.

Permit No. 38174112. Keystone Blasting Service, (15 Hopeland Road, Lititz, PA 17543), construction blasting for Greystone Crossing in North Cornwall Township, **Lebanon County** with an expiration date of December 31, 2017. Permit issued: July 27, 2017.

FEDERAL WATER POLLUTION CONTROL ACT SECTION 401

The Department has taken the following actions on previously received permit applications, requests for Environmental Assessment approval and requests for Water Quality Certification under section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341).

Except as otherwise noted, the Department has granted 401 Water Quality Certification certifying that the construction and operation described will comply with sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) and that the construction will not violate applicable Federal and State water quality standards.

Persons aggrieved by an action may appeal that action to the Environmental Hearing Board (Board) under sec-

tion 4 of the Environmental Hearing Board Act and 2 Pa.C.S. §§ 501—508 and 701—704. The appeal should be sent to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, PO Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Board through the Pennsylvania AT&T Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin* unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create a right of appeal beyond that permitted by applicable statutes and decisional law.

For individuals who wish to challenge an action, the appeal must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

Actions on applications for the following activities filed under the Dam Safety and Encroachments Act (32 P.S. §§ 693.1—693.27), section 302 of the Flood Plain Management Act (32 P.S. § 679.302) and The Clean Streams Law and Notice of Final Action for Certification under section 401 of the FWPCA.

Permits, Environmental Assessments and 401 Water Quality Certifications Issued:

WATER OBSTRUCTIONS AND ENCROACHMENTS

Southcentral Region: Waterways & Wetlands Program, 909 Elmerton Avenue, Harrisburg, PA 17110, Ed Muzic, Section Chief, 717.705.4802.

E21-454: Plenary Walsh Keystone Partners, 2000 Cliff Mine Road, Park West Two, 3rd Floor, Pittsburgh, PA 15272 in Lower Allen Township, **Cumberland County** and Fairview Township, **York County**, U.S. Army Corps of Engineers, Baltimore District.

To remove the existing structures and to install and maintain 1) a two-span concrete spread box beam bridge, having a total span of 155.0 feet, a width varying from 42.0 feet to 43.65 feet, and an underclearance of 13.4 feet, all over Yellow Breeches Creek (CWF-MF) (Latitude 40°12'43.90", Longitude -76°54'23.91"), and 2) a 48.0-inch Reinforced Concrete Pipe with a length of 78.75 feet in a millrace located within the floodway of Yellow Breeches Creek (Latitude 40°12'43.57", Longitude -76°54'25.79"), all along Spanglers Mill Road (SR2031) in Lower Allen Township, Cumberland County and Fairview Township, York County. The project will permanently impact 0.14 acre of floodway and will temporarily impact 0.24 acre of floodway and 0.08 acre of Palustrine Emergent (PEM) wetland. The purpose of the project is to improve the roadway to current safety standards.

E21-461: Kirk Stoner, Cumberland County, 1 Court House Square, Cumberland County Courthouse, Carlisle, PA 17013 in South Middleton Township, **Cumberland County**, U.S. Army Corps of Engineers, Baltimore District.

To remove the existing bridge in and across the Yellow Breeches Creek (HQ-CWF, MF), and to construct and maintain a bridge impacting 117 linear feet of Yellow Breeches Creek and 17,443 square feet of the floodway of Yellow Breeches Creek and to install and completely remove a temporary causeway within the Yellow Breeches Creek, all for the purpose of replacing an existing structurally deficient and functionally obsolete bridge. The project is located at Petersburg Road at the intersections with Lerew Road and Hinkel Lane (Latitude: 40.1424, Longitude: -77.1584) in South Middleton Township Cumberland County. Issued July 27, 2017.

E31-237: Plenary Walsh Keystone Partners, 2000 Cliff Mine Road, Park West Two, 3rd Floor, Pittsburgh, PA 15272 in Jackson Township, **Huntingdon County**, U.S. Army Corps of Engineers, Baltimore District.

To remove the existing structure and to install and maintain 1) a single-span prestressed concrete spread box beam, having a total span of 69.0 feet, a hydraulic opening of 358.0 square feet crossing over East Branch Standing Stone Creek (HQ-CWF, MF) and 2) a relocation of a 33.0-foot section of an Unnamed Tributary to East Branch Standing Stone Creek (HQ-CWF, MF) downstream of the bridge due to interference with a wingwall and roadway widening. The project is located on S.R. 1019 (East Branch Road) in Huntingdon, PA, Jackson Township, Huntingdon County (Latitude 40° 36' 3.6", Longitude -77° 49' 54.8"). The project will temporarily impact 0.171 acre of Palustrine Shrub (PSS) wetland, permanently impact 0.018 acre of Palustrine Shrub (PSS) and Palustrine emergent (PEM) wetlands, 0.038 acre of permanent stream impacts, and 0.02 acre of permanent floodway impacts. The purpose of the project is to improve the roadway to current safety standards. The project will have a detour implemented to maintain traffic control and a temporary causeway for construction purposes. Issued July 27, 2017.

Southwest Region: Waterways & Wetlands Program, 400 Waterfront Drive, Pittsburgh, PA 15222, Michael Forbeck, Acting Waterways and Wetlands Program Manager, 412-442-4000.

E63-693, Plenary Walsh Keystone Partners, 2000 Cliff Mine Road, Park West Two, Third Floor, Pittsburgh, PA 15275, Mount Pleasant Township, **Washington County**, Pittsburgh ACOE District.

Has been given consent to:

Remove an existing single span, concrete arch deck bridge that spans 22 LF of Millers Run (WWF), Construct and maintain a single-span, precast concrete box culvert that spans 58 LF of Miller Run. The stream channel impact is 102 feet and mitigation includes minimization of impact area, construction of baffles, and depression of the culvert. This project is for the purpose of replacing a structurally deficient bridge located on SR 4039, Sect. 000 over Millers Run near the intersection of SR 4039 and Southview Road (Quadrangle: Midway Latitude: 40° 19' 35.8"; Longitude: -80° 15' 17") in Mount Pleasant Township, Washington County.

Northwest Region: Watershed Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

E62-431, Plenary Walsh Keystone Partners, 2000 Cliff Mine Road, Park West Two, 3rd Floor, Pittsburgh, PA 15275. JV 019 State Route 0006 Segment 0390 Offset 0000 Section B11 over Mead Run, in Brokenstraw Township, **Warren County**, ACOE Pittsburgh District (Youngsville, PA Quadrangle N: 41.8471°, W: -79.3363°).

Remove the existing State Route 0006 structure over Mead Run and to construct and maintain a single-span, spread box beam bridge having a span of 45.0 feet, width of 42.17 feet, and an underclearance of 7.91 feet at a point approximately 800 feet east of the State Route 0006 and Mead Run Road intersection in Brokenstraw Township, Warren County.

District Oil and Gas Operations: Eastern Oil & Gas District, 208 West Third Street, Suite 101, Williamsport, PA.

E4129-110: NFG Midstream Trout Run, LLC, 6363 Main Street, Williamsville, NY, 14221, Gamble Township, **Lycoming County**, ACOE Baltimore District.

To construct, operate, and maintain:

1) an 8-inch gas pipeline and a timber mat bridge impacting 104 linear feet of an unnamed tributary to Mill Creek (EV) (Trout Run, PA Quadrangle 41°22'30"N 77°01'47"W);

2) an 8-inch gas pipeline and a timber mat bridge impacting 1,766 square feet of palustrine emergent (PEM) wetland (Trout Run, PA Quadrangle 41°22'31"N 77°01'46"W);

3) an 8-inch gas pipeline and a timber mat bridge impacting 619 square feet of palustrine emergent (PEM) wetland (Trout Run, PA Quadrangle 41°22'32"N 77°01'43"W);

4) an 8-inch gas pipeline and a timber mat bridge impacting 56 linear feet of an unnamed tributary to Mill Creek (EV) (Trout Run, PA Quadrangle 41°22'33"N 77°01'41"W);

5) an 8-inch gas pipeline and a timber mat bridge impacting 47 linear feet of an unnamed tributary to Mill Creek (EV) (Trout Run, PA Quadrangle 41°22'35"N 77°01'34"W);

6) an 8-inch gas pipeline and a timber mat bridge impacting 61 linear feet of an unnamed tributary to Mill Creek (EV) (Trout Run, PA Quadrangle 41°22'42"N 77°01'31"W).

The project will result in a total of 268 linear feet of stream impacts and 0.05 acre of wetland impacts all for the purpose of installing a natural gas gathering line and temporary access roadway for Marcellus well development.

Northwest Region: Oil and Gas Program Manager, 230 Chestnut Street, Meadville, PA 16335; 814-332-6860.

E10-08-012A XTO Energy Inc., 190 Thorn Run, Warrendale, PA 15086. Stein Temporary Water Pipeline Major Modification in Franklin Township, **Butler County**, Army Corps of Engineers Pittsburgh District (Prospect PA Quadrangle 40.917456N; 80.002158W). The applicant proposes to construct and maintain approximately 14,162 linear feet of one 16" overland temporary water pipeline located in Franklin Township, Butler County. The pipeline would convey water from PAWC vault on Old Route 422 to the Stein Well Pad and water from the Stein Impoundment to the Cratty Well Pad.

The water obstructions and encroachments are described below:

To construct and maintain:

<i>Impact No.</i>	<i>Description of Impact</i>	<i>Latitude / Longitude</i>
1	One (1) 16" temporary above ground waterline with associated right-of-way and a temporary road crossing through PEM Wetland (Wetland 1B) having 0.009 acre of temporary wetland impacts.	40.9054300 N 80.0116280 W
2	One (1) 16" temporary above ground waterline with associated right-of-way and temporary road crossing to cross floodway of UNT to Mulligan Run (CWF) (Stream 5) and PEM Wetland (Wetland 11A) having 14,286 square feet of temporary floodway impact and 0.1 acre of temporary wetland impacts.	40.9061810 N 80.0096440 W
3	One (1) 16" temporary above ground waterline with associated right-of-way and a temporary road crossing through PEM Wetland (Wetland 10A) having 0.08 acre of temporary wetland impacts.	40.9062530 N 80.0081640 W
4	One (1) 16" temporary above ground waterline with associated right-of-way and temporary road crossing to cross UNT to Mulligan Run (CWF) (Stream 7) and PEM Wetland (Wetland 10B) having 32 linear feet of temporary stream impact, 4,176 square feet of temporary floodway impact and 0.05 acre of temporary wetland impacts.	40.9064030 N 80.0078330 W
5	One (1) 16" temporary above ground waterline with associated right-of-way and a temporary road crossing through PEM Wetland (Wetland 11B) having 0.1 acre of temporary wetland impacts.	40.9069940 N 80.0078830 W
6	One (1) 16" temporary above ground waterline with associated right-of-way and a temporary road crossing through PEM/PSS Wetland (Wetland 12A) having a total of 0.1 acre of temporary wetland impacts.	40.9118140 N 80.0102720 W

<i>Impact No.</i>	<i>Description of Impact</i>	<i>Latitude/Longitude</i>
7	One (1) 16" temporary above ground waterline with associated right-of-way and a temporary road crossing through PEM/PSS/PFO Wetland (Wetland 13A/13/13B) having a total of 0.2 acre of temporary and 0.04 acre of permanent wetland impacts.	40.9154500 N 80.0097140 W
8	One (1) 16" temporary above ground waterline with associated right-of-way and temporary road crossing to cross UNT to Mulligan Run (CWF) (Stream 2) and PEM Wetland (Wetland 12) having 73 linear feet of temporary stream impact, 4,395 square feet of temporary floodway impact and 0.002 acre of temporary wetland impacts.	40.9159560 N 80.0091530 W
9	One (1) 16" temporary above ground waterline with associated right-of-way and temporary road crossing to cross UNT to Mulligan Run (CWF) (Stream 1) having 49 linear feet of temporary stream impact and 5,196 square feet of temporary floodway impact.	40.9162310 N 80.0043560 W
10	One (1) 16" temporary above ground waterline with associated right-of-way and a temporary road crossing through PEM Wetland (Wetland 2) having 0.02 acre of temporary wetland.	40.9173690 N 80.0033810 W

The project will result in 154 linear feet of temporary stream impacts. Total floodway impacts are 28,053 square feet. Wetland impacts include 0.66 acre of temporary and 0.04 acre of permanent, for a total of 0.7 acre of wetland impacts.

ENVIRONMENTAL ASSESSMENTS

Southcentral Region: Watershed Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110, Ed Muzic, Section Chief, 717.705.4802.

EA36-048: The Nature Conservancy, 2101 N. Front Street, Building 1, Suite 200, Harrisburg, PA 17110 in West Cocalico Township, **Lancaster County**, U.S. Army Corps of Engineers, Baltimore District.

To 1.) the relocation and maintenance of approximately 760 feet of Harnish Run (WWF, MF); and, 2.) the installation and maintenance of 620 feet of instream toe wood structures, all permanently impacting 0.04 acre of exceptional value, palustrine emergent wetlands for the purposes stabilizing the stream, re-connecting it with its floodplain and enhancing onsite wetlands. The project is located along Peartown Road approximately 0.2 mile north of its intersection with Blue Lake Road (Wolmeldorf, PA Quadrangle, Latitude 40° 16' 41.58"N, Longitude: 76° 09' 12.81"W) in West Cocalico Township, Lancaster County.

EROSION AND SEDIMENT CONTROL

The following Erosion and Sediment Control permits have been issued.

Persons aggrieved by an action may appeal that action to the Environmental Hearing Board (Board) under section 4 of the Environmental Hearing Board Act and 2 Pa.C.S. §§ 501—508 and 701—704. The appeal should be sent to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, PO Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Board through the Pennsylvania AT&T Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin* unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form

and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create a right of appeal beyond that permitted by applicable statutes and decisional law.

For individuals who wish to challenge an action, the appeal must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

Southwest District: Oil & Gas Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222.

ESCGP-2 # ESG17-059-0001

Applicant Name Rice Poseidon Midstream LLC

Contact Person Kyle Shirey

Address 2200 Rice Drive

City, State, Zip Canonsburg, PA 15317

County Greene

Township(s) Center

Receiving Stream(s) and Classification(s) UNTS to Pursley Creek including Turkey Hollow (HQ-WWF), Pursley Creek (HQ-WWF)

ESCGP-2 # ESG17-125-0003

Applicant Name Markwest Liberty Midstream & Resources LLC

Contact Person Richard Lowry

Address 4600 J Barry Ct, Suite 500

City, State, Zip Canonsburg, PA 15317

County Washington

Township(s) Mount Pleasant

Receiving Stream(s) and Classification(s) UNTs to South Fork Cross Ck (HQ-WWF); South Fork Cross Ck (HQ-WWF)

Secondary—South Fork Cross Ck (HQ-WWF); Cross Ck (HQ-WWF)

ESCGP-2 # ESX17-007-0005

Applicant Name EPT Northeast Field Services LLC

Contact Person Tom Glisson

Address 6051 Wallace Rd Ext, 3rd Fl

City, State, Zip Wexford, PA 15090
 County Beaver
 Township(s) New Sewickley Twp and Economy Boro
 Receiving Stream(s) and Classification(s) UNTs to Crows Run (WWF); UNTs to North Fork Big Sewickley Ck (TSF)
 Secondary—Crows Run (WWF); North Fork Big Sewickley Ck (TSF)

ESCGP-2 # ESX11-125-0119
 Applicant Name Range Resources—Appalachia LLC
 Contact Person Karl Matz
 Address 3000 Town Center Blvd
 City, State, Zip Canonsburg, PA 15317-5839
 County Washington
 Township(s) Donegal
 Receiving Stream(s) and Classification(s) UNTs to Buck Run (HQ-WWF)
 Secondary—Buck Run (HQ-WWF)

ESCGP-2 # ESX16-125-0046
 Applicant Name EQT Production Company
 Contact Person Todd Klaner
 Address 2400 Ansys Drive
 City, State, Zip Canonsburg, PA 15317
 County Washington
 Township(s) Union
 Receiving Stream(s) and Classification(s) UNTs to Peters Creek (TSF)

ESCGP-2 # ESX12-059-0002 Renewal
 Applicant Name Rice Drilling B LLC
 Contact Person Joseph Mallow
 Address 2200 Rice Drive
 City, State, Zip Canonsburg, PA 15317
 County Greene
 Township(s) Center
 Receiving Stream(s) and Classification(s) UNTS to Hargus Creek (HQ-WWF), UNTs to Turkey Hollow (HQ-WWF)
 Secondary—Hargus Creek (HQ-WWF) and Turkey Hollow (HQ-WWF)

ESCGP-2 # ESX17-063-0003
 Applicant Name XTO Energy Inc
 Contact Person Melissa Breitenbach
 Address 190 Thorn Hill Road
 City, State, Zip Warrendale, PA 15086
 County Indiana
 Township(s) Center
 Receiving Stream(s) and Classification(s) UNT to Cherry Run (CWF), Cherry Run (CWF)

ESCGP-2 # ESX09-059-0048 Major Modification
 Applicant Name CNX Gas Company LLC
 Contact Person Carol Phillips
 Address 1000 Consol Energy Drive
 City, State, Zip Canonsburg, PA 15317
 County Greene
 Township(s) Morris
 Receiving Stream(s) and Classification(s) UNT to Browns Creek (HQ-WWF), Browns Creek (HQ-WWF), UNT to Bates Fork (HQ-WWF), Bates Fork (HQ-WWF)

ESCGP-2 # ESG15-059-0038 Major Modification
 Applicant Name Rice Drilling B LLC
 Contact Person Joseph Mallow
 Address 2200 Rice Drive
 City, State, Zip Canonsburg, PA 15317
 County Greene
 Township(s) Jackson
 Receiving Stream(s) and Classification(s) UNTS to Garner Run (HQ-WWF), Garner Run (HQ-WWF)
 Secondary—South Fork Tenmile Creek (HQ-WWF)

ESCGP-2 # ESG15-125-0063
 Applicant Name Range Resources—Appalachia LLC
 Contact Person Karl Matz
 Address 3000 Town Center Blvd
 City, State, Zip Canonsburg, PA 15317-5839
 County Washington
 Township(s) Donegal
 Receiving Stream(s) and Classification(s) UNT to Dutch Fork (HQ-WWF), UNT to Ralston Run (HQ-WWF), UNT to Dog Run (HQ-WWF)

ESCGP-2 # ESX13-059-0018 Major Modification
 Applicant Name EQT Production Company
 Contact Person Todd Klaner
 Address 2400 Ansys Drive
 City, State, Zip Canonsburg, PA 15317
 County Greene
 Township(s) Washington
 Receiving Stream(s) and Classification(s) Boyd Run (WWF), Ruff Creek (WWF)

Northwest Region: Oil and Gas Program Manager, 230 Chestnut St., Meadville, PA 16335.

ESCGP-2 # ESX10-047-0005—Pad G15-A Applicant Seneca Resources Corporation
 Contact Mr. Doug Kepler
 Address 5800 Corporate Drive, Suite 300
 City Pittsburgh State PA Zip Code 15237
 County Elk Township(s) Horton
 Receiving Stream(s) and Classification(s) Rattlesnake Creek/Upper Clarion River Watershed, Mountain Run/Sinnemahoning Creek Watershed, Narrows Creek/Redbank Creek Watershed HQ, EV, CWF

ESCGP-2 # ESX16-125-0050—Sarah Well Pad
 Applicant EQT Production Company
 Contact Todd Klaner
 Address 2400 Ansys Drive, Suite 200
 City Canonsburg State PS Zip Code 15317
 County Washington Township(s) Union
 Receiving Stream(s) and Classification(s) Lobbs Run & UNT to Lobbs Run WWF

ESCGP-2 # ESX12-121-0013A-Allam 1 H Pad
 Applicant Halcon Operating Co., LLC.
 Contact Jon Wright
 Address 1000 Louisiana Street Suite 6700
 City Houston State TX Zip Code 77002
 County Frenchcreek Township(s) Venango
 Receiving Stream(s) and Classification(s) Unnamed Tributary to Little Sandy Creek/Ohio River Basin in PA (List Q)

Eastern Region: Oil & Gas Management Program Manager, 208 West Third Street, Williamsport, PA 17701.

ESCGP-2 # ESX29-131-17-0002
 Applicant Name Chief Oil & Gas LLC
 Contact Person Jeffrey Deegan
 Address 1720 Sycamore Rd
 City, State, Zip Montoursville, PA 17754
 County Wyoming
 Township(s) Lemon
 Receiving Stream(s) and Classification(s) UNTs to Meshoppen Ck (CWF)
 Secondary—Meshoppen Ck (CWF)

ESCGP-2 # ESX29-131-17-0003
 Applicant Name Chief Oil & Gas LLC
 Contact Person Jeffrey Deegan
 Address 1720 Sycamore Rd
 City, State, Zip Montoursville, PA 17754
 County Wyoming
 Township(s) Lemon

- Receiving Stream(s) and Classification(s) UNTs to Meshoppen Ck (CWF)
Secondary—Meshoppen Ck (CWF)
- ESCGP-2 # ESX29-115-17-0024
Applicant Name SWN Production Co LLC
Contact Person Justin Moore
Address 917 SR 92 N
City, State, Zip Tunkhannock, PA 18657
County Susquehanna
Township(s) Silver Lake
Receiving Stream(s) and Classification(s) Little Snake Ck (CWF-MF) & Rhiney Ck (CWF-MF)
- ESCGP-2 # ESX29-115-17-0015
Applicant Name Regency Marcellus Gas Gathering LLC
Contact Person Nicholas Bryan
Address 101 W Third St
City, State, Zip Williamsport, PA 17701
County Susquehanna
Township(s) Lathrop
Receiving Stream(s) and Classification(s) UNT to Martins Ck (CWF, MF)
- ESCGP-2 # ESX29-115-17-0013
Applicant Name Chesapeake Appalachia LLC
Contact Person Keri Fieno
Address 14 Chesapeake Lane
City, State, Zip Sayre, PA 18840
County Susquehanna
Township(s) Auburn
Receiving Stream(s) and Classification(s) UNT to Tuscorora Ck (CWF, MF) and UNT to Deer Lick Ck (CWF, MF)
- ESCGP-2 # ESG29-115-17-0014
Applicant Name Bluestone Pipeline Co of PA LLC
Contact Person Paul Corrigan
Address 333 Technology Dr, Suite 2545
City, State, Zip Canonsburg, PA 15317
County Susquehanna
Township(s) Jackson & New Milford
Receiving Stream(s) and Classification(s) Tributaries to Butler Ck (CWF, MF)
- ESCGP-2 # ESG29-115-16-0055
Applicant Name Susquehanna Gathering Co LLC
Contact Person Michael Spangenberg
Address 1299 Oliver Rd
City, State, Zip New Milford, PA 18834
County Susquehanna
Township(s) Great Bend & New Milford
Receiving Stream(s) and Classification(s) Smith Ck (HQ-CWF, MF) and Tributaries to Salt Lick (HQ-CWF, MF)
- ESCGP-2 # ESG29-105-17-0007
Applicant Name Chesapeake Appalachia LLC
Contact Person Brian Davis
Address 14 Chesapeake Lane
City, State, Zip Sayre, PA 18840
County Potter
Township(s) Sweden
Receiving Stream(s) and Classification(s) Lyman Ck (HQ-CWF); UNT to Trout Run (HQ-CWF)
Secondary—Mill Ck (HQ-CWF); Trout Run (HQ-CWF)
- ESCGP-2 # ESG29-117-17-0019
Applicant Name SWEPI LP
Contact Person Jason Shoemaker
Address 150 N Dairy Ashford, E1296-E
City, State, Zip Houston, TX 77079
County Tioga
Township(s) Liberty
Receiving Stream(s) and Classification(s) Salt Spring Run (HQ-CWF)
- ESCGP-2 # ESG29-035-17-0001
Applicant Name ARD Operating LLC
Contact Person Stephen Barondeau
Address 33 W Third St, Suite 200
City, State, Zip Williamsport, PA 17701
County Clinton
Township(s) Noyles
Receiving Stream(s) and Classification(s) Rock Run (HQ-CWF); East Branch Big Run (EV)
Secondary—Shoemaker Branch (HQ-CWF); Big Run (CWF)

SPECIAL NOTICES

Notice of Certification to Perform Radon-Related Activities in Pennsylvania

In the month of July 2017 Department of Environmental Protection of the Commonwealth of Pennsylvania, under the authority contained in the Radon Certification Act, act of July 9, 1987, P.L. 238, No. 43 (63 P.S. §§ 2001—2014) and regulations promulgated thereunder at 25 Pa. Code Chapter 240, has certified the persons listed below to perform radon-related activities in Pennsylvania. The period of certification is two years. (For a complete list of persons currently certified to perform radon-related activities in Pennsylvania and for information as to the specific testing devices that persons certified for testing or laboratory are certified to use, contact the Bureau of Radiation Protection, Radon Division, P.O. Box 8469, Harrisburg, PA 17105-8469, (1-800-23RADON).

<i>Name</i>	<i>Address</i>	<i>Type of Certification</i>
Air Chek, Inc.	PO Box 2000 Naples, NC 28760	Laboratory Analysis
All in One Home Inspections, Inc.	80 Cedar Ridge Hawley, PA 18428	Testing
A-Z Tech Home Inspections, Inc.	17 Fosterville Road Greensburg, PA 15601	Testing
Bass Home Inspection, Inc.	7501 East Parkside Drive Boardman, OH 44512	Testing
Harold Beers H. E. Beers Company	2421 Fishing Creek Valley Road Harrisburg, PA 17112	Mitigation

<i>Name</i>	<i>Address</i>	<i>Type of Certification</i>
Matthew Beinhour Harris Environmental, Inc.	600 Stone House Road Clarion, PA 16214	Testing
Scott Coslett	332 East 11th Street Berwick, PA 18603	Testing
D-Tech, Inc.	PO Box 902 Blue Bell, PA 19422	Testing
Edwin Dunckley	1357 Elbow Lane Chester Springs, PA 19425	Testing
Joseph Dunlap	115 Heather Drive Monaca, PA 15061	Testing
Barbara Fischer	1385 North River Road Yardley, PA 19067	Testing
Stephen Genzale	417 East Beil Avenue Nazareth, PA 18064	Testing
Richard Haag Safe Shelter Environmental	346 North Pottstown Pike Exton, PA 19341	Testing & Mitigation
John Christopher Haslip	14501 George Carter Way Suite 110 Chantilly, VA 20151	Testing
Ara Jones	14 Morgan Drive Leechburg, PA 15656	Testing
Patrick Kelly	601 South Irving Avenue Scranton, PA 18505	Testing
Robert Kolenda	212 Kleger Road Glenshaw, PA 15116	Mitigation
Robert Krause	113 Stanton Drive South Abington, PA 18410	Testing
Charles Lauble, III	14501 George Carter Way Suite 110 Chantilly, VA 20151	Testing
Jason Liszkiewicz	14501 George Carter Way Suite 110 Chantilly, VA 20151	Testing
James Makara	146 South Marmic Drive Holland, PA 18966	Testing
Joseph Miloser, Jr.	160 Rustic Ridge Fombell, PA 16123	Testing
Lewis Nelson, IV First Choice Radon Testing Company, Inc.	PO Box 830 Huntingdon Valley, PA 19006	Testing
Pillar to Post Philadelphia, LLC	8001 Roosevelt Boulevard # 310 Philadelphia, PA 19152	Testing
Terry Spalti	743 Hill Road Hegins, PA 17938	Testing
Paul Suhrie	2648 Majestic Court East Stroudsburg, PA 18302	Testing
Michael Watson	129 Colonial Village Drive Pittsburgh, PA 15235	Testing

**Proposed State Water Quality Certification
Required by Section 401 of the Clean Water Act for
the Birdsboro Pipeline Project**

*Southcentral Region: Waterways and Wetlands Program
Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

DEP File No.: WQ03-003. DTE Midstream Appalachia, LLC Inc. ("DTE" or "Applicant"), 333 Technology Drive, Suite 255, Canonsburg, PA 15317. Birdsboro Pipe-

line Project in Union, Oley, Rockland, Amity Townships, Birdsboro Borough, Berks County (Birdsboro and Fleetwood, PA Quadrangles, From Lat: 40° 16' 10.94"; Long: -75° 47' 59.9" to Lat: 40° 24' 39.14"; Long: -75° 45' 37.94"), ACOE Philadelphia District.

On May 1, 2017, DTE 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 a certificate of public convenience and necessity to construct and operate its Birdsboro Pipeline Project (FERC Docket No. CP17-409-000).

On June 23, 2017, DTE 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 Birdsboro Pipeline 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 proposed project consists of the installation of approximately 13.2 miles of new 12-inch diameter natural gas pipeline (Birdsboro Pipeline) which will rill run from the receipt point on Texas Eastern Transmission Company's (TETCO) pipeline in Rockland Township, Berks County to the Birdsboro Power Facility in the Borough of Birdsboro, Berks County and will cross 28 streams and 21 wetlands. The project also proposes one new pig receiver at the Birdsboro Power Facility and one new meter site at the TETCO interconnect with two new taps on the TETCO pipelines. The pipeline is being proposed to fuel the proposed Birdsboro Power facility. The proposed Birdsboro Pipeline Project will require approximately 128 acres of earth disturbance, and permanent impacts to 493 linear feet and temporary impacts to 649 linear feet of streams including the Schuylkill River (WWF) and two Unnamed Tributaries (UNT's) to the Schuylkill River (WWF); Monocacy Creek and eighteen UNT's to Monocacy Creek (WWF); four UNT's to Manatawny Creek (CWF); Little Manatawny Creek (CWF) and one UNT to Little Manatawny Creek (CWF), 0.2 acre of permanent impacts to floodway, 2.0 acres of temporary impacts floodway, 1.09 acre of temporary wetland impacts, and 1.22 acre of permanent wetland impacts that are associated with permanent right-of-way maintenance.

PADEP anticipates issuing a state water quality certification to Applicant for the Birdsboro Pipeline Project that will require compliance with the following State water quality permitting programs, criteria and conditions established pursuant to State law to ensure the Birdsboro Pipeline Project does not violate applicable State water quality standards set forth in 25 Pa. Code Chapter 93:

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 Birdsboro Pipeline Project pursuant to Pennsylvania's Clean Streams Law (35 P.S. §§ 691.1—691.1001) and all applicable implementing regulations (25 Pa. Code Chapter 92a) if such discharges are proposed.

2. *Erosion and Sediment Control Permit*—Applicant shall obtain and comply with PADEP's Chapter 102 Erosion and Sediment Control General Permit for Earth Disturbance Associated with Oil and Gas Exploration, Production, Processing or Treatment issued pursuant to Pennsylvania's Clean Streams Law and Storm Water Management Act (32 P.S. §§ 680.1—680.17), and all applicable implementing regulations (25 Pa. Code Chapter 102).

3. *Water Obstruction and Encroachment Permits*—Applicant shall obtain and comply with a PADEP Chapter 105 Water Obstruction and Encroachment Permits for the

construction, operation and maintenance of all water obstructions and encroachments associated with the Birdsboro Pipeline Project pursuant to Pennsylvania's Clean Streams Law, Dam Safety and Encroachments Act (32 P.S. §§ 673.1—693.27), and Flood Plain Management Act (32 P.S. §§ 679.10—679.601.) and all applicable implementing regulations (25 Pa. Code Chapter 105).

4. *Submerged Lands License Agreement*—DTE shall obtain and comply with a Pennsylvania Submerged Lands License Agreement, pursuant to the Pennsylvania Dam Safety and Encroachments Act (32 P.S. §§ 693.1—693.28) and all applicable implementing regulations (25 Pa. Code Chapter 105).

5. *Delaware River Basin Commission*—Applicant shall obtain and comply with any and all Delaware River Basin Commission's (DRBC) approvals that may be granted for the Birdsboro Pipeline Project. DTE filed an application with the DRBC on March 10, 2017 and is assigned DRBC Docket No. D-2016-008-1.

6. *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.

7. *Operation*—Applicant shall at all times properly operate and maintain all Birdsboro Pipeline 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.

8. *Inspection*—The Birdsboro Pipeline 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, or an authorized representative thereof, during such inspections of the Birdsboro Pipeline Project.

9. *Transfer of Projects*—If Applicant intends to transfer any legal or equitable interest in the Birdsboro Pipeline 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.

10. *Correspondence*—All correspondence with and submittals to PADEP concerning this State Water Quality Certification shall be addressed to: Department of Environmental Protection, Southcentral Regional Office, Program Manager, Waterways and Wetlands, 909 Elmerton Avenue, Harrisburg, PA 17110.

11. *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.

12. *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.

13. *Severability*—The provisions of this State Water Quality Certification are severable and should any provision of this certification be declared invalid or unenforceable, the remainder of the certification shall not be affected thereby.

Prior to issuance of the final State water quality certification, PADEP will consider all relevant and timely comments, suggestions or objections submitted to PADEP within 30 days of this notice. Written comments should be submitted by email to EP, WW-SCRO@pa.gov or by mail at the above address or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) and should be directed to Program Manager, Waterways and Wetlands Program. Comments must be submitted in writing and contain the name, address and telephone number of the person commenting and a concise statement of comments, objections or suggestions on this proposal. No comments submitted by facsimile will be accepted.

[Pa.B. Doc. No. 17-1346. Filed for public inspection August 11, 2017, 9:00 a.m.]

Coastal Zone Grants; 2018 Grant Opportunity

The Department of Environmental Protection (Department) Compacts and Commissions Office announces an opportunity to apply for Federal Fiscal Year 2018 Coastal Zone grants (grants). The application period will open August 14, 2017, and close October 16, 2017.

Applicants must meet certain eligibility requirements (for example, the applicant must be an authority, an incorporated nonprofit organization, a political subdivision or an educational institution) and must be located within the Delaware Estuary Coastal Zone or the Lake Erie Coastal Zone. Proposals must also support the Coastal Resources Management Program's mission to protect and enhance coastal resources in this Commonwealth.

The grant guidelines and application instructions are available on the Department's web site at www.dep.pa.gov (select "Businesses," then "Water," then "Compacts and Commissions," then "Coastal Resources Management Program," then "Grants"). Applications must be submitted online through the eGrants system at <https://www.ahs.dep.pa.gov/eGrants/index.aspx> (select "Find a Grant Program," scroll to "Coastal Zone Grants," and click "Apply for this grant").

Questions concerning the grant solicitation should be directed to the Compacts and Commissions Office at RA-epcoastalzone@pa.gov or (717) 772-4785.

PATRICK McDONNELL,
Secretary

[Pa.B. Doc. No. 17-1347. Filed for public inspection August 11, 2017, 9:00 a.m.]

Planning Grant Awards under Section 901 of the Municipal Waste Planning, Recycling and Waste Reduction Act, Act 101 of 1988

The Department of Environmental Protection announces the following grants to Lebanon County and Elk County under section 901 of the Municipal Waste Planning, Recycling and Waste Reduction Act (Act 101) (53 P.S. § 4000.901) and section 208 of the Small Business and Household Pollution Prevention Act (Act 190) (35 P.S. § 6029.208).

Planning grants are awarded to counties for 80% of approved costs for preparing municipal waste management plans as required by Act 101 for carrying out related studies, surveys, investigations, inquiries, research and analysis, including those related to siting, environmental mediation, education programs on pollution prevention and household hazardous waste (HHW) and providing technical assistance to small businesses for pollution prevention. Grants may be awarded for feasibility studies and project development for municipal waste processing or disposal facilities, except for facilities for the combustion of municipal waste that are not proposed to be operated for the recovery of energy. All grant awards are predicated on the receipt of recycling fees required by sections 701 and 702 of Act 101 (53 P.S. §§ 4000.701 and 4000.702) and the availability of funds in the Recycling Fund.

Inquiries regarding the grant offerings should be directed to Mark Vottero, Department of Environmental Protection, Bureau of Waste Management, Division of Waste Minimization and Planning, P.O. Box 8472, Harrisburg, PA 17105-8472, (717) 772-5719 or mvottero@pa.gov.

Act 101, Section 901 Planning Grant

<i>Region</i>	<i>County</i>	<i>Applicant</i>	<i>Project</i>	<i>Grant</i>
Southcentral	Lebanon	Lebanon County	HHW Education	\$47,969
Northwest	Elk	Elk County	HHW Education	\$17,836

PATRICK McDONNELL,
Secretary

[Pa.B. Doc. No. 17-1348. Filed for public inspection August 11, 2017, 9:00 a.m.]

Proposed State Implementation Plan Revision; Attainment Demonstration for the Indiana Nonattainment Area for the 2010 Sulfur Dioxide National Ambient Air Quality Standard; Public Hearing

The Department of Environmental Protection (Department) is seeking public comment on a proposed State Implementation Plan (SIP) revision which demonstrates how the Indiana nonattainment area will attain the 2010 1-hour Federal National Ambient Air Quality Standard (NAAQS) for Sulfur Dioxide (SO₂). Short-term exposure to SO₂ has been linked to adverse respiratory conditions in humans.

On June 22, 2010, the United States Environmental Protection Agency (EPA) promulgated a revised primary NAAQS for SO₂ of 75 parts per billion, which went into effect on August 23, 2010. See 75 FR 35520 (June 20, 2010). On August 5, 2013, the EPA designated four areas in this Commonwealth as nonattainment for the 2010 1-hour SO₂ NAAQS, including the Indiana nonattainment area. See 78 FR 47191 (August 5, 2013). These nonattainment designation areas were effective on October 4, 2013. See 78 FR 47192. The Indiana SO₂ nonattainment area includes all of Indiana County and Plumcreek Township, South Bend Township and Elderton Borough in Armstrong County. Section 192(a) of the Clean Air Act (CAA) (42 U.S.C.A. § 7514a(a)) requires SO₂ nonattainment areas to attain the 2010 NAAQS as expeditiously as practicable, but no later than 5 years from the effective date of EPA's 2013 designations, which is October 4, 2018.

The proposed SIP revision meets the requirements necessary for an approvable SIP revision as set forth in sections 110, 172, 191 and 192 of the CAA and 40 CFR 51.102 (relating to public hearings), including a base year emission inventory, reasonable further progress toward attainment, installation of reasonably available control measures/technology, dispersion modeling demonstrating attainment in 2018, approved New Source Review program and contingency measures. To this effect, the Department has drafted Consent Order and Agreements with Homer City Generation, LP and Seward Generation, LLC, and drafted Orders for Genon NE Management Company for the Keystone Station and Conemaugh Plant to incorporate control measures, emission limits and contingency measures applicable to the facilities into a Federally enforceable vehicle. After consideration of comments received from the public, the SIP revision will be finalized and submitted to the EPA for approval.

The proposed SIP revision is available on the Department's web site at www.ahs.dep.pa.gov/eComment or by contacting Amanda Rodriguez at (717) 787-9702 or amarodrigu@pa.gov.

The Department will hold a public hearing to receive comments on the proposal on September 13, 2017, at 1 p.m. in the Waterfront A and B Rooms, Southwest Regional Office, 500 Waterfront Drive, Pittsburgh, PA 15222. Persons wishing to present testimony should contact the Department no less than 24 hours in advance of the public hearing to reserve a time. Reservation requests should be directed to Amanda Rodriguez, P.O. Box 8468, Harrisburg, PA 17105, (717) 787-9702 or amarodrigu@pa.gov to reserve a time. Speakers will be limited to 10 minutes and should provide two written copies of their comments.

Persons with a disability who wish to attend a hearing and require an auxiliary aid, service or other accommodation to participate in the proceeding should contact

Amanda Rodriguez at (717) 787-9702 or amarodrigu@pa.gov. TDD users may contact the Pennsylvania AT&T Relay Service at (800) 654-5984 to discuss how the Department can best accommodate their needs.

The Department must receive comments no later than September 15, 2017. Commentators are encouraged to submit comments using the Department's eComment system at www.ahs.dep.pa.gov/eComment or by e-mail to ecomment@pa.gov. Written comments may be submitted to the Policy Office, Department of Environmental Protection, 400 Market Street, Harrisburg, PA 17105-2063. Use "Indiana 2010 SO₂" as the subject line in written communication.

PATRICK McDONNELL,
Secretary

[Pa.B. Doc. No. 17-1349. Filed for public inspection August 11, 2017, 9:00 a.m.]

Rescission of Technical Guidance

Technical guidance documents are available on the Department of Environmental Protection's (Department) web site at www.elibrary.dep.state.pa.us. The "Technical Guidance Final Documents" heading is the link to a menu of the various Department bureaus where each bureau's final technical guidance documents are posted. The "Technical Guidance Draft Documents" heading is the link to the Department's draft technical guidance documents.

Ordering Paper Copies of Department Technical Guidance

The Department encourages the use of the Internet to view and download technical guidance documents. When this option is not available, persons can order a paper copy of any of the Department's draft or final technical guidance documents by contacting the Department at (717) 783-8727.

In addition, bound copies of some of the Department's documents are available as Department publications. Check with the appropriate bureau for more information about the availability of a particular document as a publication.

Changes to Technical Guidance Documents

Following is the current list of recent changes. Persons who have questions or comments about a particular document should call the contact person whose name and phone number is listed with each document.

Rescission of Technical Guidance

DEP ID: 392-0900-001. **Title:** Final Trading of Nutrient and Sediment Reduction Credits—Policy and Guidelines. **Description:** Published as final at 36 Pa.B. 7999 (December 30, 2006), the contents of this document describe the requirements for the voluntary generation and trading of nutrient and sediment reduction credits to meet water quality requirements under then applicable laws and regulations. These guidelines were replaced by 25 Pa. Code § 96.8 (relating to use of offsets and tradable credits from pollution reduction activities in the Chesapeake Bay Watershed), which were finalized in 2010. This document is being rescinded, as it conflicts with the regulation.

Contact: Theia Hofstetter, Nutrient Credit Trading Program at (717) 787-6744 or RA_EPPANutrientTrad@pa.gov.

Effective Date: August 12, 2017

PATRICK McDONNELL,
Secretary

[Pa.B. Doc. No. 17-1350. Filed for public inspection August 11, 2017, 9:00 a.m.]

DEPARTMENT OF HEALTH

Ambulatory Surgical Facilities; Requests for Exceptions

The following ambulatory surgical facilities (ASF) have filed requests for exceptions under 28 Pa. Code § 51.33 (relating to requests for exceptions) with the Department of Health (Department), which has authority to license ASFs under the Health Care Facilities Act (35 P.S. §§ 448.101—448.904b). The following requests for exceptions relate to regulations governing ASF licensure in 28 Pa. Code Chapters 51 and 551—571 (relating to general information; and ambulatory surgical facilities).

<i>Facility Name</i>	<i>Regulation</i>
Lehigh Valley Hospital, Inc. d/b/a LVHN Children's Surgery Center	28 Pa. Code § 551.21(d)(2) (relating to criteria for ambulatory surgery)
Ridley Crossing Surgical Center, LLC	28 Pa. Code § 553.31 (relating to administrative responsibilities)
Tri-State Surgery Center, LLC	28 Pa. Code § 553.31(a)

All previously listed requests are on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, ra-paexcept@pa.gov. Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division at the previously listed address. Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980, for speech and/or hearing impaired persons V/TT (717) 783-6154, or the Pennsylvania AT&T Relay Service (800) 654-5984 (TT).

RACHEL L. LEVINE, MD,
Acting Secretary

[Pa.B. Doc. No. 17-1351. Filed for public inspection August 11, 2017, 9:00 a.m.]

Hospitals; Requests for Exceptions

The following hospitals have filed requests for exceptions under 28 Pa. Code § 51.33 (relating to requests for exceptions) with the Department of Health (Department), which has authority to license hospitals under the Health Care Facilities Act (35 P.S. §§ 448.101—448.904b). The following requests for exceptions relate to regulations governing hospital licensure in 28 Pa. Code Chapters 51 and 101—158 (relating to general information; and general and special hospitals), with the exception of 28 Pa. Code § 153.1 (relating to minimum standards). Exception requests related to 28 Pa. Code § 153.1 are listed separately in this notice.

<i>Facility Name</i>	<i>Regulation</i>
Saint Vincent Hospital	28 Pa. Code § 111.27 (relating to nutritional aspects of patient care)
Nason Hospital	28 Pa. Code § 138.15 (relating to high-risk cardiac catheterizations)

The following hospitals are requesting exceptions under 28 Pa. Code § 153.1. Requests for exceptions under this section relate to minimum standards that hospitals must comply with under the *Guidelines for Design and Construction of Hospitals and Outpatient Facilities (Guidelines)*. The following list includes the citation to the section under the *Guidelines* that the hospital is seeking an exception, as well as the publication year of the applicable *Guidelines*.

<i>Facility Name</i>	<i>Guidelines Section</i>	<i>Relating to</i>	<i>Publication Year</i>
Abington Memorial Hospital	2.6-2.2.2.5	Hand-washing stations	2014
Geisinger Medical Center	2.1-8.5.3.2	Size (TDRs)	2014
	2.5-3.4.2.2	ECT procedure rooms	2014
Pennsylvania Hospital of the University of PA Health System	2.1-8.5.3.2	Size (TDRs) (4th to 9th floor Schiedt building)	2014
	2.2-3.3.4.4(1)(b)(ii)	General (location phase II recovery room(s) or areas)	2014
UPMC Presbyterian Shadyside	2.1-2.6.11.3	Storage space for stretchers and wheelchairs	2014
	2.1-8.3.7.3	Bath stations	2014
	2.2-2.6.2.2(1)	Space requirements (area)	2014
	2.2-2.6.7.4	Staff accommodations (support areas for staff)	2014
	2.2-2.6.8.1(2)	Family and visitor lounges (support areas for families and visitors)	2014

<i>Facility Name</i>	<i>Guidelines Section</i>	<i>Relating to</i>	<i>Publication Year</i>
Wilkes-Barre General Hospital	2.2-3.6.1.2	Nuclear medicine procedure room space requirements	2014

All previously listed requests are on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, ra-paexcept@pa.gov. Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division at the previously listed address. Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980, for speech and/or hearing impaired persons V/TT (717) 783-6154, or the Pennsylvania AT&T Relay Service (800) 654-5984 (TT).

RACHEL L. LEVINE, MD,
Acting Secretary

[Pa.B. Doc. No. 17-1352. Filed for public inspection August 11, 2017, 9:00 a.m.]

DEPARTMENT OF REVENUE

Pennsylvania \$1 Million Pennsylvania Payout Instant Lottery Game 1295

Under the State Lottery Law (72 P.S. §§ 3761-101—3761-314) and 61 Pa. Code § 819.203 (relating to notice of instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

1. *Name:* The name of the game is Pennsylvania \$1 Million Pennsylvania Payout (hereinafter referred to as “\$1 Million Pennsylvania Payout”). The game number is PA-1295.

2. *Price:* The price of a \$1 Million Pennsylvania Payout instant lottery game ticket is \$20.

3. *Play Symbols:* Each \$1 Million Pennsylvania Payout instant lottery game ticket will contain one play area featuring a “WINNING NUMBERS” area, a “YOUR NUMBERS” area and three “BONUS” spots. The “BONUS” spots are played separately. The play symbols and their captions located in the “WINNING NUMBERS” area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVN), 12 (TWLV), 13 (THRTN), 14 (FORTN), 15 (FIFTN), 16 (SIXTN), 17 (SVNTN), 18 (EGHTN), 19 (NINTN), 20 (TWENT), 21 (TWYONE), 22 (TWYTWO), 23 (TWYTHR), 24 (TWYFOR), 25 (TWYFIV), 26 (TWYSIX), 27 (TWYSVN), 28 (TWYEGT), 29 (TWYNIN), 30 (THIRTY), 31 (THYONE), 32 (THYTWO), 33 (THYTHR), 34 (THYFOR), 35 (THYFIV), 36 (THYSIX), 37 (THYSVN), 38 (THYEGT), 39 (THYNIN) and 40 (FORTY). The play symbols and their captions located in the “YOUR NUMBERS” area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVN), 12 (TWLV), 13 (THRTN), 14 (FORTN), 15 (FIFTN), 16 (SIXTN), 17 (SVNTN), 18 (EGHTN), 19 (NINTN), 20 (TWENT), 21 (TWYONE), 22 (TWYTWO), 23 (TWYTHR), 24 (TWYFOR), 25 (TWYFIV), 26 (TWYSIX), 27 (TWYSVN), 28 (TWYEGT), 29 (TWYNIN), 30 (THIRTY), 31 (THYONE), 32 (THYTWO), 33 (THYTHR), 34 (THYFOR), 35 (THYFIV), 36 (THYSIX), 37 (THYSVN), 38 (THYEGT), 39 (THYNIN), 40 (FORTY), Keystone (KYSTN) symbol, PAYOUT (WINALL) symbol and a PA (\$1MIL) symbol.

The prize play symbols and their captions located in the “BONUS” spots are: NO BONUS (TRY AGAIN) symbol, TRY AGAIN (NO BONUS) symbol, \$20⁰⁰ (TWENTY), \$30⁰⁰ (THIRTY), \$50⁰⁰ (FIFTY), \$100 (ONE HUN), \$200 (TWO HUN) and \$500 (FIV HUN).

4. *Prize Symbols:* The prize symbols and their captions located in the “YOUR NUMBERS” area are: \$20⁰⁰ (TWENTY), \$30⁰⁰ (THIRTY), \$40⁰⁰ (FORTY), \$50⁰⁰ (FIFTY), \$100 (ONE HUN), \$200 (TWO HUN), \$500 (FIV HUN), \$1,000 (ONE THO), \$10,000 (TEN THO), \$100,000 (ONEHUNTHO) and \$1MILL (ONE MIL).

5. *Prizes:* The prizes that can be won in this game are: \$20, \$30, \$40, \$50, \$100, \$200, \$500, \$1,000, \$10,000, \$100,000 and \$1,000,000. The prizes that can be won in the “BONUS” spots are: \$20, \$30, \$50, \$100, \$200 and \$500. A player can win up to 23 times on a ticket.

6. *Approximate Number of Tickets Printed For the Game:* Approximately 5,400,000 tickets will be printed for the \$1 Million Pennsylvania Payout instant lottery game.

7. *Determination of Prize Winners:*

(a) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a PA (\$1MIL) symbol, and a prize symbol of \$1MILL (ONE MIL) appears in the “prize” area under that PA (\$1MIL) symbol, on a single ticket, shall be entitled to a prize of \$1,000,000. This prize shall be paid as a one-time, lump-sum cash payment.

(b) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol of \$100,000 (ONEHUNTHO) appears in the “prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$100,000.

(c) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol of \$10,000 (TEN THO) appears in the “prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$10,000.

(d) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a Keystone (KYSTN) symbol, and a prize symbol of \$10,000 (TEN THO) appears in the “prize” area under that Keystone (KYSTN) symbol, on a single ticket, shall be entitled to a prize of \$10,000.

(e) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a PAYOUT (WINALL) symbol, and a prize symbol of \$500 (FIV HUN) appears in all twenty of the "prize" areas, on a single ticket, shall be entitled to a prize of \$10,000.

(f) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$1,000 (ONE THO) appears in the "prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$1,000.

(g) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Keystone (KYSTN) symbol, and a prize symbol of \$1,000 (ONE THO) appears in the "prize" area under that Keystone (KYSTN) symbol, on a single ticket, shall be entitled to a prize of \$1,000.

(h) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a PAYOUT (WINALL) symbol, and a prize symbol of \$100 (ONE HUN) appears in four of the "prize" areas, a prize symbol of \$50⁰⁰ (FIFTY) appears in six of the "prize" areas and a prize symbol of \$30⁰⁰ (THIRTY) appears in ten of the "prize" areas, on a single ticket, shall be entitled to a prize of \$1,000.

(i) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Payout (WINALL) symbol, and a prize symbol of \$50⁰⁰ (FIFTY) appears in all twenty of the "prize" areas, on a single ticket, shall be entitled to a prize of \$1,000.

(j) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$500 (FIV HUN) appears in the "prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$500.

(k) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Keystone (KYSTN) symbol, and a prize symbol of \$500 (FIV HUN) appears in the "prize" area under that Keystone (KYSTN) symbol, on a single ticket, shall be entitled to a prize of \$500.

(l) Holders of tickets upon which a prize play symbol of \$500 (FIV HUN) appears in any one of the "BONUS" spots, on a single ticket, shall be entitled to a prize of \$500.

(m) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a PAYOUT (WINALL) symbol, and a prize symbol of \$40⁰⁰ (FORTY) appears in five of the "prize" areas and a prize symbol of \$20⁰⁰ (TWENTY) appears in fifteen of the "prize" areas, on a single ticket, shall be entitled to a prize of \$500.

(n) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$200 (TWO HUN) appears in the "prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$200.

(o) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Keystone (KYSTN) symbol, and a prize symbol of \$200 (TWO HUN) appears in the "prize" area under that Keystone (KYSTN) symbol, on a single ticket, shall be entitled to a prize of \$200.

(p) Holders of tickets upon which a prize play symbol of \$200 (TWO HUN) appears in any one of the "BONUS" spots, on a single ticket, shall be entitled to a prize of \$200.

(q) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the

"WINNING NUMBERS" play symbols and a prize symbol of \$100 (ONE HUN) appears in the "prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$100.

(r) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Keystone (KYSTN) symbol, and a prize symbol of \$100 (ONE HUN) appears in the "prize" area under that Keystone (KYSTN) symbol, on a single ticket, shall be entitled to a prize of \$100.

(s) Holders of tickets upon which a prize play symbol of \$100 (ONE HUN) appears in any one of the "BONUS" spots, on a single ticket, shall be entitled to a prize of \$100.

(t) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$50⁰⁰ (FIFTY) appears in the "prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$50.

(u) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Keystone (KYSTN) symbol, and a prize symbol of \$50⁰⁰ (FIFTY) appears in the "prize" area under that Keystone (KYSTN) symbol, on a single ticket, shall be entitled to a prize of \$50.

(v) Holders of tickets upon which a prize play symbol of \$50⁰⁰ (FIFTY) appears in any one of the "BONUS" spots, on a single ticket, shall be entitled to a prize of \$50.

(w) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$40⁰⁰ (FORTY) appears in the "prize" area under that matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$40.

(x) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$30⁰⁰ (THIRTY) appears in the "prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$30.

(y) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Keystone (KYSTN) symbol, and a prize symbol of \$30⁰⁰ (THIRTY) appears in the "prize" area under that Keystone (KYSTN) symbol, on a single ticket, shall be entitled to a prize of \$30.

(z) Holders of tickets upon which a prize play symbol of \$30⁰⁰ (THIRTY) appears in any one of the "BONUS" spots, on a single ticket, shall be entitled to a prize of \$30.

(aa) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$20⁰⁰ (TWENTY) appears in the "prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$20.

(bb) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Keystone (KYSTN) symbol, and a prize symbol of \$20⁰⁰ (TWENTY) appears in the "prize" area under that Keystone (KYSTN) symbol, on a single ticket, shall be entitled to a prize of \$20.

(cc) Holders of tickets upon which a prize play symbol of \$20⁰⁰ (TWENTY) appears in any one of the "BONUS" spots, on a single ticket, shall be entitled to a prize of \$20.

8. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes, and approximate odds of winning:

NOTICES

4775

When Any Of Your Numbers Match
Any Winning Number, Win Prize
Shown Under The Matching
Number. Win With:

	Bonus:	Win:	Approximate Odds Are 1 In:	Approximate No. Of Winners Per 5,400,000 Tickets
	\$20 w/ BONUS	\$20	30	180,000
\$20 w/ KEYSTONE		\$20	15	360,000
\$20		\$20	15	360,000
	\$30 w/ BONUS	\$30	60	90,000
\$30 w/ KEYSTONE		\$30	100	54,000
\$30		\$30	150	36,000
\$20	\$30 w/ BONUS	\$50	37.5	144,000
\$30	\$20 w/ BONUS	\$50	75	72,000
\$50 w/ KEYSTONE		\$50	60	90,000
\$50		\$50	60	90,000
\$20 x 5		\$100	300	18,000
\$50	\$50 w/ BONUS	\$100	150	36,000
	(\$50 w/ BONUS) x 2	\$100	150	36,000
	\$100 w/ BONUS	\$100	150	36,000
(\$50 w/ KEYSTONE) x 2		\$100	300	18,000
\$100 w/ KEYSTONE		\$100	300	18,000
\$100		\$100	300	18,000
\$20 x 10		\$200	2,400	2,250
\$50 x 4		\$200	2,400	2,250
\$50 x 2	\$100 w/ BONUS	\$200	2,400	2,250
\$100	\$100 w/ BONUS	\$200	2,400	2,250
(\$50 w/ KEYSTONE) + (\$30 x 2)	(\$30 w/ BONUS) x 3	\$200	1,200	4,500
(\$100 w/ KEYSTONE) x 2		\$200	2,400	2,250
\$200 w/ KEYSTONE		\$200	6,000	900
\$200		\$200	6,000	900
PAYOUT w/ ((\$40 x 5) + (\$20 x 15))		\$500	666.67	8,100
\$50 x 10		\$500	12,000	450
\$100 x 2	(\$100 w/ BONUS) x 3	\$500	12,000	450
\$200 x 2	\$100 w/ BONUS	\$500	6,000	900
	\$500 w/ BONUS	\$500	12,000	450
(\$100 w/ KEYSTONE) x 4	\$100 w/ BONUS	\$500	12,000	450
\$500 w/ KEYSTONE		\$500	12,000	450
\$500		\$500	12,000	450
PAYOUT w/ (\$50 x 20)		\$1,000	6,000	900
PAYOUT w/ ((\$100 x 4) + (\$50 x 6) + (\$30 x 10))		\$1,000	6,000	900
PAYOUT w/ ((\$40 x 5) + (\$20 x 15))	(((\$200 w/ BONUS) x 2) + (\$100 w/ BONUS))	\$1,000	8,000	675
PAYOUT w/ ((\$40 x 5) + (\$20 x 15))	\$500 w/ BONUS	\$1,000	8,000	675
\$100 x 8	(\$100 w/ BONUS) + ((\$50 w/ BONUS) x 2)	\$1,000	24,000	225
\$100 x 5	\$500 w/ BONUS	\$1,000	24,000	225
(\$100 w/ KEYSTONE) x 4	(\$200 w/ BONUS) x 3	\$1,000	24,000	225
\$500 w/ KEYSTONE	\$500 w/ BONUS	\$1,000	24,000	225
\$1,000 w/ KEYSTONE		\$1,000	24,000	225
\$1,000		\$1,000	24,000	225
PAYOUT w/ (\$500 x 20)		\$10,000	540,000	10
\$500 x 17	(\$500 w/ BONUS) x 3	\$10,000	540,000	10
(\$1,000) x 10		\$10,000	540,000	10
\$10,000 w/ KEYSTONE		\$10,000	540,000	10
\$10,000		\$10,000	540,000	10
\$100,000		\$100,000	1,080,000	5
\$1,000,000 w/ PA SYMBOL		\$1,000,000	1,080,000	5

Reveal a "KEYSTONE" (KYSTN) symbol, win prize shown under that symbol automatically.

Reveal a "PAYOUT" (WINALL) symbol, win all 20 prizes shown.

Reveal a "PA" (\$1MIL) symbol, win \$1 million instantly!

BONUS: Reveal a cash prize amount in any "BONUS" spot, win that amount instantly! "BONUS" spots are played separately.

Prizes, including top prizes, are subject to availability at the time of purchase.

9. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Program for retailers who sell \$1 Million Pennsylvania Payout instant lottery game tickets.

10. *Retailer Bonus:* The Lottery may offer a retailer bonus in connection with the sale of Pennsylvania instant lottery game tickets. If a retailer bonus is offered, a Lottery retailer shall be eligible for a bonus as described in this section. Lottery retailers who sell a winning ticket that entitles the ticket holder to a prize, either payable in a single installment or having a guaranteed minimum payout, of at least \$100,000 and not exceeding \$500,000 shall be paid a bonus of \$500. Lottery retailers who sell a winning ticket that entitles the ticket holder to a prize, either payable in a single installment or having a guaranteed minimum payout, of at least \$500,001 and not exceeding \$1,000,000 shall be paid a bonus of \$5,000. Lottery retailers who sell a winning ticket that entitles the ticket holder to a prize, either payable in a single installment or having a guaranteed minimum payout, of at least \$1,000,001 and not exceeding \$10,000,000 shall be paid a bonus of \$10,000. A Lottery retailer is entitled only to the largest bonus for which he qualifies on a winning ticket. A bonus will be initiated for payment after the instant ticket is claimed and validated. A bonus will not be awarded to a Lottery retailer that sells a non-winning Pennsylvania Lottery instant ticket used to enter a Pennsylvania Lottery second-chance drawing or promotion that is subsequently selected to win a prize.

11. *Unclaimed Prize Money:* For a period of 1 year from the announced close of \$1 Million Pennsylvania Payout, prize money from winning \$1 Million Pennsylvania Payout instant lottery 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 announced close of the \$1 Million Pennsylvania Payout instant lottery game, 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.

13. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote \$1 Million Pennsylvania Payout or through normal communications methods.

C. DANIEL HASSELL,
Secretary

[Pa.B. Doc. No. 17-1353. Filed for public inspection August 11, 2017, 9:00 a.m.]

Pennsylvania Crazy Wild Ca\$h Instant Lottery Game 1298

Under the State Lottery Law (72 P.S. §§ 3761-101—3761-314) and 61 Pa. Code § 819.203 (relating to notice of

instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

1. *Name:* The name of the game is Pennsylvania Crazy Wild Ca\$h (hereinafter referred to as “Crazy Wild Ca\$h”). The game number is PA-1298.

2. *Price:* The price of a Crazy Wild Ca\$h instant lottery game ticket is \$2.

3. *Play Symbols:* Each Crazy Wild Ca\$h instant lottery game ticket will contain one play area featuring a “WINNING NUMBERS” area and a “YOUR NUMBERS” area. The play symbols and their captions located in the “WINNING NUMBERS” area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVN), 12 (TWLV), 13 (THRTN), 14 (FORTN), 15 (FIFTN), 16 (SIXTN), 17 (SVNTN), 18 (EGHTN), 19 (NINTN) and 20 (TWENT). The play symbols and their captions located in the “YOUR NUMBERS” area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVN), 12 (TWLV), 13 (THRTN), 14 (FORTN), 15 (FIFTN), 16 (SIXTN), 17 (SVNTN), 18 (EGHTN), 19 (NINTN), 20 (TWENT), \$ (DLRSN) symbol and a CRAZY (WINALL) symbol.

4. *Prize Symbols:* The prize symbols and their captions located in the “prize” areas are: \$2.⁰⁰ (TWO DOL), \$4.⁰⁰ (FOR DOL), \$5.⁰⁰ (FIV DOL), \$10.⁰⁰ (TEN DOL), \$20.⁰⁰ (TWENTY), \$25.⁰⁰ (TWY FIV), \$50.⁰⁰ (FIFTY), \$100 (ONE HUN), \$200 (TWO HUN), \$500 (FIV HUN), \$1,000 (ONE THO) and \$25,000 (TWYFIVTHO).

5. *Prizes:* The prizes that can be won in this game are: \$2, \$4, \$5, \$10, \$20, \$25, \$50, \$100, \$200, \$500, \$1,000 and \$25,000. The player can win up to 8 times on a ticket.

6. *Approximate Number of Tickets Printed For the Game:* Approximately 6,000,000 tickets will be printed for the Crazy Wild Ca\$h instant lottery game.

7. Determination of Prize Winners:

(a) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches either of the “WINNING NUMBERS” play symbols and a prize symbol of \$25,000 (TWYFIVTHO) appears in the “prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$25,000.

(b) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches either of the “WINNING NUMBERS” play symbols and a prize symbol of \$1,000 (ONE THO) appears in the “prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$1,000.

(c) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches either of the “WINNING NUMBERS” play symbols and a prize symbol of \$500 (FIV HUN) appears in the “prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$500.

(d) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a \$ (DLRSN) symbol and a prize symbol of \$500 (FIV HUN) appears in the “prize” area under that \$ (DLRSN) symbol, on a single ticket, shall be entitled to a prize of \$500.

(e) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a CRAZY (WINALL) symbol and a prize symbol of \$100 (ONE HUN) appears in three of the “prize” areas, a prize symbol of \$50.⁰⁰

(bb) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a \$ (DLRSN) symbol and a prize symbol of \$2.00 (TWO DOL) appears in the "prize" area under that \$ (DLRSN) symbol, on a single ticket, shall be entitled to a prize of \$2.

8. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes, and approximate odds of winning:

<i>When Any Of Your Numbers Match Either Winning Number, Win Prize Shown Under The Matching Number. Win With:</i>	<i>Win:</i>	<i>Approximate Odds Are 1 In:</i>	<i>Approximate No. Of Winners Per 6,000,000 Tickets</i>
\$2 w/ \$ SYMBOL	\$2	25	240,000
\$2	\$2	15	400,000
\$2 × 2	\$4	75	80,000
(\$2 w/ \$ SYMBOL) + \$2	\$4	150	40,000
(\$2 w/ \$ SYMBOL) × 2	\$4	150	40,000
\$4 w/ \$ SYMBOL	\$4	150	40,000
\$4	\$4	75	80,000
\$5 w/ \$ SYMBOL	\$5	75	80,000
\$5	\$5	150	40,000
\$2 × 5	\$10	750	8,000
\$5 × 2	\$10	150	40,000
(\$5 w/ \$ SYMBOL) + \$5	\$10	100	60,000
\$10 w/ \$ SYMBOL	\$10	150	40,000
\$10	\$10	750	8,000
CRAZY w/ ((\$4 × 2) + (\$2 × 6))	\$20	300	20,000
\$4 × 5	\$20	1,500	4,000
\$5 × 4	\$20	1,500	4,000
(\$10 w/ \$ SYMBOL) × 2	\$20	1,500	4,000
\$20 w/ \$ SYMBOL	\$20	1,500	4,000
\$20	\$20	1,500	4,000
CRAZY w/ ((\$5 × 3) + (\$2 × 5))	\$25	480	12,500
\$5 × 5	\$25	600	10,000
(\$5 w/ \$ SYMBOL) × 5	\$25	1,200	5,000
\$25 w/ \$ SYMBOL	\$25	2,400	2,500
\$25	\$25	2,400	2,500
CRAZY w/ ((\$10 × 3) + (\$4 × 5))	\$50	1,200	5,000
CRAZY w/ ((\$10 × 2) + (\$5 × 6))	\$50	1,200	5,000
\$25 × 2	\$50	2,400	2,500
(\$10 w/ \$ SYMBOL) × 5	\$50	2,400	2,500
\$50 w/ \$ SYMBOL	\$50	2,400	2,500
\$50	\$50	2,400	2,500
CRAZY w/ ((\$25 × 2) + (\$10 × 4) + (\$5 × 2))	\$100	6,000	1,000
\$25 × 4	\$100	6,000	1,000
\$50 × 2	\$100	12,000	500
(\$25 × 2) + (\$20 × 2) + \$10	\$100	12,000	500
\$100 w/ \$ SYMBOL	\$100	12,000	500
\$100	\$100	12,000	500
CRAZY w/ (\$25 × 8)	\$200	60,000	100
(\$50 w/ \$ SYMBOL) × 2 + \$100	\$200	120,000	50
(\$100 w/ \$ SYMBOL) × 2	\$200	120,000	50
\$200	\$200	120,000	50
CRAZY w/ ((\$100 × 3) + (\$50 × 3) + (\$25 × 2))	\$500	600,000	10
(\$200 × 2) + \$100	\$500	600,000	10
(\$100 w/ \$ SYMBOL) × 5	\$500	600,000	10
\$500 w/ \$ SYMBOL	\$500	600,000	10
\$500	\$500	600,000	10
\$500 × 2	\$1,000	600,000	10
\$1,000	\$1,000	600,000	10
\$25,000	\$25,000	600,000	10

Reveal a "\$" (DLRSN) symbol, win prize shown under that symbol automatically.

Reveal a "CRAZY" (WINALL) symbol, win all 8 prizes shown!

Prizes, including top prizes, are subject to availability at the time of purchase.

9. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Program for retailers who sell Crazy Wild Ca\$h instant lottery game tickets.

10. *Retailer Bonus:* The Lottery may offer a retailer bonus in connection with the sale of Pennsylvania instant lottery game tickets. If a retailer bonus is offered, a Lottery retailer shall be eligible for a bonus as described in this section. Lottery retailers who sell a winning ticket that entitles the ticket holder to a prize, either payable in a single installment or having a guaranteed minimum payout, of at least \$100,000 and not exceeding \$500,000 shall be paid a bonus of \$500. Lottery retailers who sell a winning ticket that entitles the ticket holder to a prize, either payable in a single installment or having a guaranteed minimum payout, of at least \$500,001 and not exceeding \$1,000,000 shall be paid a bonus of \$5,000. Lottery retailers who sell a winning ticket that entitles the ticket holder to a prize, either payable in a single installment or having a guaranteed minimum payout, of at least \$1,000,001 and not exceeding \$10,000,000 shall be paid a bonus of \$10,000. A Lottery retailer is entitled only to the largest bonus for which he qualifies on a winning ticket. A bonus will be initiated for payment after the instant ticket is claimed and validated. A bonus will not be awarded to a Lottery retailer that sells a non-winning Pennsylvania Lottery instant ticket used to enter a Pennsylvania Lottery second-chance drawing or promotion that is subsequently selected to win a prize.

11. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Crazy Wild Ca\$h, prize money from winning Crazy Wild Ca\$h instant lottery 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 announced close of the Crazy Wild Ca\$h instant lottery game, 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.

13. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote Crazy Wild Ca\$h or through normal communications methods.

C. DANIEL HASSELL,
Secretary

[Pa.B. Doc. No. 17-1354. Filed for public inspection August 11, 2017, 9:00 a.m.]

Pennsylvania Fruit Loot Instant Lottery Game 1297

Under the State Lottery Law (72 P.S. §§ 3761-101—3761-314) and 61 Pa. Code § 819.203 (relating to notice of instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

1. *Name:* The name of the game is Pennsylvania Fruit Loot (hereinafter referred to as “Fruit Loot”). The game number is PA-1297.

2. *Price:* The price of a Fruit Loot instant lottery game ticket is \$3.

3. *Play Symbols:* Each Fruit Loot instant lottery game ticket will contain two “play grid” areas and a “WINNING SYMBOLS” area. Each “play grid” area consists of 16 spaces on a grid four vertical “LINES” wide and four horizontal “LINES” tall. The four vertical “LINES” on the first “play grid” are designated as “LINE 1,” “LINE 2,” “LINE 3” and “LINE 4.” The four horizontal “LINES” on the first “play grid” are designated as “LINE 5,” “LINE 6,” “LINE 7” and “LINE 8.” The four vertical “LINES” on the second “play grid” are designated as “LINE 9,” “LINE 10,” “LINE 11” and “LINE 12.” The four horizontal “LINES” on the second “play grid” are designated as “LINE 13,” “LINE 14,” “LINE 15” and “LINE 16.” Each “LINE” offers a separate chance to win. The play symbols and their captions located in the “play grid” areas are: Coins (COINS) symbol, Blueberry (BLUBRY) symbol, Diamond (DIAMND) symbol, Kiwi (KIWI) symbol, Safe (SAFE) symbol, Starfruit (STRFRT) symbol, Moneybag (MNYBAG) symbol, Cantaloupe (CANTLP) symbol, Piggy Bank (PIGBK) symbol, Plum (PLUM) symbol, Chest (CHEST) symbol, Lemon (LEMON) symbol, Necklace (NCKLAC) symbol, Coconut (COCNT) symbol, Silver Coin (SILVER) symbol, Pineapple (PINAPL) symbol, Picnic Basket (BASKET) symbol, Bananas (BANNAS) symbol, Crown (CROWN) symbol, Strawberry (BERRY) symbol, Cherries (CHRIES) symbol, Money Roll (MNYRLL) symbol, Peach (PEACH) symbol, Cash (CASH) symbol, Orange (ORANGE) symbol, Wallet (WALLET) symbol, Apple (APPLE) symbol, Gold Bar (GOLD) symbol, Pear (PEAR) symbol, Gem (GEM) symbol, Watermelon (WTRMLN) symbol and a Grapes (GRAPES) symbol. The play symbols and their captions located in the “WINNING SYMBOLS” areas are: Coins (COINS) symbol, Blueberry (BLUBRY) symbol, Diamond (DIAMND) symbol, Kiwi (KIWI) symbol, Safe (SAFE) symbol, Starfruit (STRFRT) symbol, Moneybag (MNYBAG) symbol, Cantaloupe (CANTLP) symbol, Piggy Bank (PIGBK) symbol, Plum (PLUM) symbol, Chest (CHEST) symbol, Lemon (LEMON) symbol, Necklace (NCKLAC) symbol, Coconut (COCNT) symbol, Silver Coin (SILVER) symbol, Pineapple (PINAPL) symbol, Picnic Basket (BASKET) symbol, Bananas (BANNAS) symbol, Crown (CROWN) symbol, Strawberry (BERRY) symbol, Cherries (CHRIES) symbol, Money Roll (MNYRLL) symbol, Peach (PEACH) symbol, Cash (CASH) symbol, Orange (ORANGE) symbol, Wallet (WALLET) symbol, Apple (APPLE) symbol, Gold Bar (GOLD) symbol, Pear (PEAR) symbol, Gem (GEM) symbol, Watermelon (WTRMLN) symbol and a Grapes (GRAPES) symbol.

4. *Prize Symbols:* The prize symbols and their captions located in the “Prize” area at the end of each “LINE” are: \$3⁰⁰ (THR DOL), \$5⁰⁰ (FIV DOL), \$10⁰⁰ (TEN DOL), \$15⁰⁰ (FIFTN), \$30⁰⁰ (THIRTY), \$50⁰⁰ (FIFTY), \$100 (ONE HUN), \$150 (ONEHUNFTY), \$300 (THR HUN), \$1,000 (ONE THO), \$3,000 (THR THO) and \$60,000 (STY THO).

5. *Prizes:* The prizes that can be won in this game are: \$3, \$5, \$10, \$15, \$30, \$50, \$100, \$150, \$300, \$1,000, \$3,000 and \$60,000. The player can win up to 6 times on each ticket.

6. *Approximate Number of Tickets Printed For the Game:* Approximately 8,400,000 tickets will be printed for the Fruit Loot instant lottery game.

7. *Determination of Prize Winners:*

(a) Holders of tickets upon which four of the “WINNING SYMBOLS” play symbols match the same exact four play symbols appearing in a complete vertical or horizontal “LINE,” and a prize symbol of \$60,000 (STY THO) appears in the “Prize” area at the end of that “LINE,” on a single ticket, shall be entitled to a prize of \$60,000.

(b) Holders of tickets upon which four of the “WINNING SYMBOLS” play symbols match the same exact four play symbols appearing in a complete vertical or horizontal “LINE,” and a prize symbol of \$3,000 (THR THO) appears in the “Prize” area at the end of that “LINE,” on a single ticket, shall be entitled to a prize of \$3,000.

(c) Holders of tickets upon which four of the “WINNING SYMBOLS” play symbols match the same exact four play symbols appearing in a complete vertical or horizontal “LINE,” and a prize symbol of \$1,000 (ONE THO) appears in the “Prize” area at the end of that “LINE,” on a single ticket, shall be entitled to a prize of \$1,000.

(d) Holders of tickets upon which four of the “WINNING SYMBOLS” play symbols match the same exact four play symbols appearing in a complete vertical or horizontal “LINE,” and a prize symbol of \$300 (THR HUN) appears in the “Prize” area at the end of that “LINE,” on a single ticket, shall be entitled to a prize of \$300.

(e) Holders of tickets upon which four of the “WINNING SYMBOLS” play symbols match the same exact four play symbols appearing in a complete vertical or horizontal “LINE,” and a prize symbol of \$150 (ONEHUNFTY) appears in the “Prize” area at the end of that “LINE,” on a single ticket, shall be entitled to a prize of \$150.

(f) Holders of tickets upon which four of the “WINNING SYMBOLS” play symbols match the same exact four play symbols appearing in a complete vertical or horizontal “LINE,” and a prize symbol of \$100 (ONE HUN) appears in the “Prize” area at the end of that “LINE,” on a single ticket, shall be entitled to a prize of \$100.

(g) Holders of tickets upon which four of the “WINNING SYMBOLS” play symbols match the same exact four play symbols appearing in a complete vertical or horizontal “LINE,” and a prize symbol of \$50⁰⁰ (FIFTY) appears in the “Prize” area at the end of that “LINE,” on a single ticket, shall be entitled to a prize of \$50.

(h) Holders of tickets upon which four of the “WINNING SYMBOLS” play symbols match the same exact four play symbols appearing in a complete vertical or horizontal “LINE,” and a prize symbol of \$30⁰⁰ (THIRTY) appears in the “Prize” area at the end of that “LINE,” on a single ticket, shall be entitled to a prize of \$30.

(i) Holders of tickets upon which four of the “WINNING SYMBOLS” play symbols match the same exact four play symbols appearing in a complete vertical or horizontal “LINE,” and a prize symbol of \$15⁰⁰ (FIFTN) appears in the “Prize” area at the end of that “LINE,” on a single ticket, shall be entitled to a prize of \$15.

(j) Holders of tickets upon which four of the “WINNING SYMBOLS” play symbols match the same exact four play symbols appearing in a complete vertical or horizontal “LINE,” and a prize symbol of \$10⁰⁰ (TEN DOL) appears in the “Prize” area at the end of that “LINE,” on a single ticket, shall be entitled to a prize of \$10.

(k) Holders of tickets upon which four of the “WINNING SYMBOLS” play symbols match the same exact four play symbols appearing in a complete vertical or horizontal “LINE,” and a prize symbol of \$5⁰⁰ (FIV DOL) appears in the “Prize” area at the end of that “LINE,” on a single ticket, shall be entitled to a prize of \$5.

(l) Holders of tickets upon which four of the “WINNING SYMBOLS” play symbols match the same exact four play symbols appearing in a complete vertical or horizontal “LINE,” and a prize symbol of \$3⁰⁰ (THR DOL) appears in the “Prize” area at the end of that “LINE,” on a single ticket, shall be entitled to a prize of \$3.

8. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes, and approximate odds of winning:

*Scratch The Winning Symbols Area.
Then Scratch The Corresponding
Symbols Found On Either Grid. When
You Match All Four Symbols In Any
Horizontal Or Vertical Line, Win Prize
Shown For That Line. Win With:*

	Win:	Approximate Odds Are 1 In:	Approximate No. Of Winners Per 8,400,000 Tickets
\$3	\$3	9.09	924,000
\$5	\$5	13.51	621,600
\$5 × 2	\$10	62.50	134,400
\$10	\$10	58.82	142,800
\$3 × 5	\$15	333.33	25,200
\$5 × 3	\$15	333.33	25,200
\$15	\$15	250	33,600
\$5 × 6	\$30	1,000	8,400
\$10 × 3	\$30	1,000	8,400
(\$5 × 4) + \$10	\$30	1,000	8,400
\$30	\$30	1,000	8,400
\$10 × 5	\$50	1,000	8,400
(\$5 × 4) + \$30	\$50	1,000	8,400
(\$15 × 2) + (\$5 × 4)	\$50	1,000	8,400
\$50	\$50	1,000	8,400

Scratch The Winning Symbols Area. Then Scratch The Corresponding Symbols Found On Either Grid. When You Match All Four Symbols In Any Horizontal Or Vertical Line, Win Prize Shown For That Line. Win With:

	Win:	Approximate Odds Are 1 In:	Approximate No. Of Winners Per 8,400,000 Tickets
$(\$10 \times 5) + \50	\$100	2,000	4,200
$(\$30 \times 2) + (\$10 \times 4)$	\$100	2,000	4,200
$(\$15 \times 2) + (\$10 \times 2) + \$50$	\$100	2,000	4,200
\$100	\$100	2,000	4,200
$\$30 \times 5$	\$150	8,000	1,050
$\$50 \times 3$	\$150	8,000	1,050
$(\$30 \times 3) + \$50 + \$10$	\$150	8,000	1,050
$(\$50 \times 2) + (\$15 \times 2) + (\$10 \times 2)$	\$150	12,000	700
$\$100 + \50	\$150	12,000	700
\$150	\$150	12,000	700
$\$50 \times 6$	\$300	24,000	350
$\$150 \times 2$	\$300	24,000	350
$(\$30 \times 5) + \150	\$300	24,000	350
$(\$100 \times 2) + (\$50 \times 2)$	\$300	24,000	350
\$300	\$300	24,000	350
$(\$150 \times 4) + \$300 + \$100$	\$1,000	60,000	140
$(\$300 \times 3) + \100	\$1,000	60,000	140
\$1,000	\$1,000	120,000	70
\$3,000	\$3,000	280,000	30
\$60,000	\$60,000	840,000	10

Each line is played separately.

Prizes, including top prizes, are subject to availability at the time of purchase.

9. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Program for retailers who sell Fruit Loot instant lottery game tickets.

10. *Retailer Bonus:* The Lottery may offer a retailer bonus in connection with the sale of Pennsylvania instant lottery game tickets. If a retailer bonus is offered, a Lottery retailer shall be eligible for a bonus as described in this section. Lottery retailers who sell a winning ticket that entitles the ticket holder to a prize, either payable in a single installment or having a guaranteed minimum payout, of at least \$100,000 and not exceeding \$500,000 shall be paid a bonus of \$500. Lottery retailers who sell a winning ticket that entitles the ticket holder to a prize, either payable in a single installment or having a guaranteed minimum payout, of at least \$500,001 and not exceeding \$1,000,000 shall be paid a bonus of \$5,000. Lottery retailers who sell a winning ticket that entitles the ticket holder to a prize, either payable in a single installment or having a guaranteed minimum payout, of at least \$1,000,001 and not exceeding \$10,000,000 shall be paid a bonus of \$10,000. A Lottery retailer is entitled only to the largest bonus for which he qualifies on a winning ticket. A bonus will be initiated for payment after the instant ticket is claimed and validated. A bonus will not be awarded to a Lottery retailer that sells a non-winning Pennsylvania Lottery instant ticket used to enter a Pennsylvania Lottery second-chance drawing or promotion that is subsequently selected to win a prize.

11. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Fruit Loot, prize money from winning Fruit Loot instant lottery 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 announced close of the Fruit Loot instant lottery game, 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.

13. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote Fruit Loot or through normal communications methods.

C. DANIEL HASSELL,
Secretary

[Pa.B. Doc. No. 17-1355. Filed for public inspection August 11, 2017, 9:00 a.m.]

Pennsylvania Gus Instant Lottery Game 1296

Under the State Lottery Law (72 P.S. §§ 3761-101—3761-314) and 61 Pa. Code § 819.203 (relating to notice of instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

1. *Name:* The name of the game is Pennsylvania Gus (hereinafter referred to as “Gus”). The game number is PA-1296.

2. *Price:* The price of a Gus instant lottery game ticket is \$5.

3. *Play Symbols:* Each Gus instant lottery game ticket will contain one play area featuring a “WINNING NUMBERS” area and a “YOUR NUMBERS” area. The play symbols and their captions located in the “WINNING NUMBERS” area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9

(NINE), 10 (TEN), 11 (ELEVN), 12 (TWLV), 13 (THRTN), 14 (FORTN), 15 (FIFTN), 16 (SIXTN), 17 (SVNTN), 18 (EGHTN), 19 (NINTN), 20 (TWENT), 21 (TWYONE), 22 (TWYTWO), 23 (TWYTHR), 24 (TWYFOR), 25 (TWYFIV), 26 (TWYSIX), 27 (TWYSVN), 28 (TWYEGT), 29 (TWNIN) and 30 (THIRTY). The play symbols and their captions located in the "YOUR NUMBERS" area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVN), 12 (TWLV), 13 (THRTN), 14 (FORTN), 15 (FIFTN), 16 (SIXTN), 17 (SVNTN), 18 (EGHTN), 19 (NINTN), 20 (TWENT), 21 (TWYONE), 22 (TWYTWO), 23 (TWYTHR), 24 (TWYFOR), 25 (TWYFIV), 26 (TWYSIX), 27 (TWYSVN), 28 (TWYEGT), 29 (TWNIN), 30 (THIRTY), Paw Print (PWPRNT) symbol and a Gus (WINALL) symbol.

4. *Prize Symbols:* The prize symbols and their captions located in the "YOUR NUMBERS" area are: \$5⁰⁰ (FIV DOL), \$10⁰⁰ (TEN DOL), \$20⁰⁰ (TWENTY), \$40⁰⁰ (FORTY), \$50⁰⁰ (FIFTY), \$60⁰⁰ (SIXTY), \$100 (ONE HUN), \$200 (TWO HUN), \$400 (FOR HUN), \$500 (FIV HUN), \$1,000 (ONE THO), \$5,000 (FIV THO) and \$100,000 (ONEHUNTHO).

5. *Prizes:* The prizes that can be won in this game are: \$5, \$10, \$20, \$40, \$50, \$60, \$100, \$200, \$400, \$500, \$1,000, \$5,000 and \$100,000. A player can win up to 12 times on a ticket.

6. *Approximate Number of Tickets Printed For the Game:* Approximately 9,600,000 tickets will be printed for the Gus instant lottery game.

7. *Determination of Prize Winners:*

(a) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$100,000 (ONEHUNTHO) appears in the "prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$100,000.

(b) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$5,000 (FIV THO) appears in the "prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$5,000.

(c) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$1,000 (ONE THO) appears in the "prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$1,000.

(d) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Gus (WINALL) symbol and a prize symbol of \$200 (TWO HUN) appears in two of the "prize" areas, a prize symbol of \$100 (ONE HUN) appears in five of the "prize" areas and a prize symbol of \$20⁰⁰ (TWENTY) appears in five of the "prize" areas, on a single ticket, shall be entitled to a prize of \$1,000.

(e) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$500 (FIV HUN) appears in the "prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$500.

(f) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$400

(FOR HUN) appears in the "prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$400.

(g) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Paw Print (PWPRNT) symbol, and a prize symbol of \$400 (FOR HUN) appears in the "prize" area under that Paw Print (PWPRNT) symbol, on a single ticket, shall be entitled to a prize of \$400.

(h) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Gus (WINALL) symbol and a prize symbol of \$10⁰⁰ (TEN DOL) appears in ten of the "prize" areas, a prize symbol of \$200 (TWO HUN) appears in one of the "prize" areas and a prize symbol of \$100 (ONE HUN) appears in one of the "prize" areas, on a single ticket, shall be entitled to a prize of \$400.

(i) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Gus (WINALL) symbol and a prize symbol of \$100 (ONE HUN) appears in two of the "prize" areas and a prize symbol of \$20⁰⁰ (TWENTY) appears in ten of the "prize" areas, on a single ticket, shall be entitled to a prize of \$400.

(j) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$200 (TWO HUN) appears in the "prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$200.

(k) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Paw Print (PWPRNT) symbol, and a prize symbol of \$200 (TWO HUN) appears in the "prize" area under that Paw Print (PWPRNT) symbol, on a single ticket, shall be entitled to a prize of \$200.

(l) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Gus (WINALL) symbol and a prize symbol of \$5⁰⁰ (FIV DOL) appears in ten of the "prize" areas, a prize symbol of \$100 (ONE HUN) appears in one of the "prize" areas and a prize symbol of \$50⁰⁰ (FIFTY) appears in one of the "prize" areas, on a single ticket, shall be entitled to a prize of \$200.

(m) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Gus (WINALL) symbol and a prize symbol of \$50⁰⁰ (FIFTY) appears in two of the "prize" areas and a prize symbol of \$10⁰⁰ (TEN DOL) appears in ten of the "prize" areas, on a single ticket, shall be entitled to a prize of \$200.

(n) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$100 (ONE HUN) appears in the "prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$100.

(o) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Paw Print (PWPRNT) symbol, and a prize symbol of \$100 (ONE HUN) appears in the "prize" area under that Paw Print (PWPRNT) symbol, on a single ticket, shall be entitled to a prize of \$100.

(p) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Gus (WINALL) symbol and a prize symbol of \$20⁰⁰ (TWENTY) appears in two of the "prize" areas, a prize symbol of \$10⁰⁰ (TEN DOL) appears in two of the "prize" areas and a prize

symbol of \$5⁰⁰ (FIV DOL) appears in eight of the “prize” areas, on a single ticket, shall be entitled to a prize of \$100.

(q) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a Gus (WINALL) symbol and a prize symbol of \$10⁰⁰ (TEN DOL) appears in eight of the “prize” areas and a prize symbol of \$5⁰⁰ (FIV DOL) appears in four of the “prize” areas, on a single ticket, shall be entitled to a prize of \$100.

(r) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol of \$60⁰⁰ (SIXTY) appears in the “prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$60.

(s) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a Paw Print (PWPRNT) symbol, and a prize symbol of \$60⁰⁰ (SIXTY) appears in the “prize” area under that Paw Print (PWPRNT) symbol, on a single ticket, shall be entitled to a prize of \$60.

(t) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a Gus (WINALL) symbol and a prize symbol of \$5⁰⁰ (FIV DOL) appears in all twelve of the “prize” areas, on a single ticket, shall be entitled to a prize of \$60.

(u) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol of \$50⁰⁰ (FIFTY) appears in the “prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$50.

(v) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a Paw Print (PWPRNT) symbol, and a prize symbol of \$50⁰⁰ (FIFTY) appears in the “prize” area under that Paw Print (PWPRNT) symbol, on a single ticket, shall be entitled to a prize of \$50.

(w) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol of \$40⁰⁰ (FORTY) appears in the “prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$40.

(x) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a Paw Print (PWPRNT) symbol, and a prize symbol of \$40⁰⁰ (FORTY) appears in the “prize” area under that Paw Print (PWPRNT) symbol, on a single ticket, shall be entitled to a prize of \$40.

(y) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol of \$20⁰⁰ (TWENTY) appears in the “prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$20.

(z) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a Paw Print (PWPRNT) symbol, and a prize symbol of \$20⁰⁰ (TWENTY) appears in the “prize” area under that Paw Print (PWPRNT) symbol, on a single ticket, shall be entitled to a prize of \$20.

(aa) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol of \$10⁰⁰ (TEN DOL) appears in the “prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$10.

(bb) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a Paw Print (PWPRNT) symbol, and a prize symbol of \$10⁰⁰ (TEN DOL) appears in the “prize” area under that Paw Print (PWPRNT) symbol, on a single ticket, shall be entitled to a prize of \$10.

(cc) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches any of the “WINNING NUMBERS” play symbols and a prize symbol of \$5⁰⁰ (FIV DOL) appears in the “prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$5.

(dd) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a Paw Print (PWPRNT) symbol, and a prize symbol of \$5⁰⁰ (FIV DOL) appears in the “prize” area under that Paw Print (PWPRNT) symbol, on a single ticket, shall be entitled to a prize of \$5.

8. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes, and approximate odds of winning:

<i>When Any Of Your Numbers Match Any Winning Number, Win Prize Shown Under The Matching Number. Win With:</i>	<i>Win:</i>	<i>Approximate Odds Are 1 In:</i>	<i>Approximate No. Of Winners Per 9,600,000 Tickets:</i>
\$5 w/ PAW PRINT	\$5	16.67	576,000
\$5	\$5	16.67	576,000
\$5 × 2	\$10	120	80,000
(\$5 w/ PAW PRINT) + \$5	\$10	100	96,000
(\$5 w/ PAW PRINT) × 2	\$10	60	160,000
\$10 w/ PAW PRINT	\$10	60	160,000
\$10	\$10	60	160,000
\$5 × 4	\$20	300	32,000
\$10 × 2	\$20	300	32,000
(\$10 w/ PAW PRINT) × 2	\$20	120	80,000
\$20 w/ PAW PRINT	\$20	150	64,000
\$20	\$20	300	32,000
\$5 × 8	\$40	600	16,000
\$10 × 4	\$40	600	16,000
\$20 × 2	\$40	600	16,000

When Any Of Your Numbers
Match Any Winning Number, Win
Prize Shown Under The
Matching Number. Win With:

	Win:	Approximate Odds Are 1 In:	Approximate No. Of Winners Per 9,600,000 Tickets:
(\$10 w/ PAW PRINT) × 4	\$40	600	16,000
(\$20 w/ PAW PRINT) × 2	\$40	600	16,000
\$40 w/ PAW PRINT	\$40	600	16,000
\$40	\$40	600	16,000
\$5 × 10	\$50	600	16,000
(\$10 × 4) + (\$5 × 2)	\$50	600	16,000
(\$10 w/ PAW PRINT) × 5	\$50	600	16,000
\$50 w/ PAW PRINT	\$50	300	32,000
\$50	\$50	600	16,000
GUS w/ (\$5 × 12)	\$60	1,500	6,400
\$10 × 6	\$60	4,000	2,400
\$20 × 3	\$60	4,000	2,400
\$60 w/ PAW PRINT	\$60	6,000	1,600
\$60	\$60	6,000	1,600
GUS w/ ((\$10 × 8) + (\$5 × 4))	\$100	1,200	8,000
GUS w/ ((\$20 × 2) + (\$10 × 2) + (\$5 × 8))	\$100	1,200	8,000
\$10 × 10	\$100	3,000	3,200
\$20 × 5	\$100	3,000	3,200
((\$40 w/ PAW PRINT) × 2) + (\$20 w/ PAW PRINT)	\$100	2,400	4,000
(\$50 w/ PAW PRINT) × 2	\$100	3,000	3,200
\$100	\$100	3,000	3,200
GUS w/ ((\$50 × 2) + (\$10 × 10))	\$200	6,000	1,600
GUS w/ ((\$5 × 10) + \$100 + \$50)	\$200	6,000	1,600
\$20 × 10	\$200	12,000	800
\$50 × 4	\$200	24,000	400
(\$40 w/ PAW PRINT) × 5	\$200	12,000	800
(\$100 w/ PAW PRINT) × 2	\$200	12,000	800
\$200 w/ PAW PRINT	\$200	12,000	800
\$200	\$200	24,000	400
GUS w/ ((\$100 × 2) + (\$20 × 10))	\$400	24,000	400
GUS w/ ((\$10 × 10) + \$200 + \$100)	\$400	24,000	400
\$40 × 10	\$400	24,000	400
\$100 × 4	\$400	24,000	400
\$400 w/ PAW PRINT	\$400	24,000	400
\$400	\$400	24,000	400
GUS w/ ((\$200 × 2) + (\$100 × 5) + (\$20 × 5))	\$1,000	960,000	10
\$100 × 10	\$1,000	960,000	10
(\$200 w/ PAW PRINT) × 5	\$1,000	960,000	10
\$1,000	\$1,000	960,000	10
\$500 × 10	\$5,000	960,000	10
\$5,000	\$5,000	960,000	10
\$100,000	\$100,000	960,000	10

Reveal a "PAW PRINT" (PWPRNT) symbol, win prize shown under that symbol automatically.

Reveal a "GUS" (WINALL) symbol, win all 12 prizes shown!

Prizes, including top prizes, are subject to availability at the time of purchase.

9. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Program for retailers who sell Gus instant lottery game tickets.

10. *Retailer Bonus:* The Lottery may offer a retailer bonus in connection with the sale of Pennsylvania instant lottery game tickets. If a retailer bonus is offered, a Lottery retailer shall be eligible for a bonus as described in this section. Lottery retailers who sell a winning ticket that entitles the ticket holder to a prize, either payable in a single installment or having a guaranteed minimum payout, of at least \$100,000 and not exceeding \$500,000 shall be paid a bonus of \$500. Lottery retailers who sell a winning ticket that entitles the ticket holder to a prize,

either payable in a single installment or having a guaranteed minimum payout, of at least \$500,001 and not exceeding \$1,000,000 shall be paid a bonus of \$5,000. Lottery retailers who sell a winning ticket that entitles the ticket holder to a prize, either payable in a single installment or having a guaranteed minimum payout, of at least \$1,000,001 and not exceeding \$10,000,000 shall be paid a bonus of \$10,000. A Lottery retailer is entitled only to the largest bonus for which he qualifies on a winning ticket. A bonus will be initiated for payment after the instant ticket is claimed and validated. A bonus will not be awarded to a Lottery retailer that sells a non-winning Pennsylvania Lottery instant ticket used to enter a Pennsylvania Lottery second-chance drawing or promotion that is subsequently selected to win a prize.

11. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Gus, prize money from winning Gus instant lottery 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 announced close of the Gus instant lottery game, 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.

13. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote Gus or through normal communications methods.

C. DANIEL HASSELL,
Secretary

[Pa.B. Doc. No. 17-1356. Filed for public inspection August 11, 2017, 9:00 a.m.]

Pennsylvania Hot Ticket Instant Lottery Game 1299

Under the State Lottery Law (72 P.S. §§ 3761-101—3761-314) and 61 Pa. Code § 819.203 (relating to notice of instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

1. *Name:* The name of the game is Pennsylvania Hot Ticket (hereinafter referred to as “Hot Ticket”). The game number is PA-1299.

2. *Price:* The price of a Hot Ticket instant lottery game ticket is \$1.

3. *Play Symbols:* Each Hot Ticket instant lottery game ticket will contain one play area featuring a “WINNING NUMBER” area and a “YOUR NUMBERS” area. The play symbols and their captions located in the “WINNING NUMBER” area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVN), 12 (TWLV), 13 (THRTN), 14 (FORTN), 15 (FIFTN), 16 (SIXTN), 17 (SVNTN), 18 (EGHTN), 19 (NINTN) and 20 (TWENT). The play symbols and their captions located in the “YOUR NUMBERS” area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVN), 12 (TWLV), 13 (THRTN), 14 (FORTN), 15 (FIFTN), 16 (SIXTN), 17 (SVNTN), 18 (EGHTN), 19 (NINTN), 20 (TWENT) and a Hot Cash (HTCSH) symbol.

4. *Prize Symbols:* The prize symbols and their captions located in the “YOUR NUMBERS” area are: FREE (TICKET), \$1⁰⁰ (ONE DOL), \$2⁰⁰ (TWO DOL), \$5⁰⁰ (FIV DOL), \$10⁰⁰ (TEN DOL), \$20⁰⁰ (TWENTY), \$25⁰⁰ (TWY FIV), \$40⁰⁰ (FORTY), \$50⁰⁰ (FIFTY), \$100 (ONE HUN), \$250 (TWOHUNFTY) and \$2,500 (TWYFIVHUN).

5. *Prizes:* The prizes that can be won in this game are: Free \$1 ticket, \$1, \$2, \$5, \$10, \$20, \$25, \$40, \$50, \$100, \$250 and \$2,500. A player can win up to 5 times on a ticket.

6. *Approximate Number of Tickets Printed For the Game:* Approximately 9,600,000 tickets will be printed for the Hot Ticket instant lottery game.

7. Determination of Prize Winners:

(a) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches the “WINNING NUMBER” play symbol and a prize symbol of \$2,500 (TWYFIVHUN) appears in the “prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$2,500.

(b) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches the “WINNING NUMBER” play symbol and a prize symbol of \$250 (TWOHUNFTY) appears in the “prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$250.

(c) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a Hot Cash (HTCSH) symbol and a prize symbol of \$250 (TWOHUNFTY) appears in the “prize” area under that Hot Cash (HTCSH) symbol, on a single ticket, shall be entitled to a prize of \$250.

(d) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches the “WINNING NUMBER” play symbol and a prize symbol of \$100 (ONE HUN) appears in the “prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$100.

(e) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a Hot Cash (HTCSH) symbol and a prize symbol of \$100 (ONE HUN) appears in the “prize” area under that Hot Cash (HTCSH) symbol, on a single ticket, shall be entitled to a prize of \$100.

(f) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches the “WINNING NUMBER” play symbol and a prize symbol of \$50⁰⁰ (FIFTY) appears in the “prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$50.

(g) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a Hot Cash (HTCSH) symbol and a prize symbol of \$50⁰⁰ (FIFTY) appears in the “prize” area under that Hot Cash (HTCSH) symbol, on a single ticket, shall be entitled to a prize of \$50.

(h) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches the “WINNING NUMBER” play symbol and a prize symbol of \$40⁰⁰ (FORTY) appears in the “prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$40.

(i) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a Hot Cash (HTCSH) symbol and a prize symbol of \$40⁰⁰ (FORTY) appears in the “prize” area under that Hot Cash (HTCSH) symbol, on a single ticket, shall be entitled to a prize of \$40.

(j) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols matches the “WINNING NUMBER” play symbol and a prize symbol of \$25⁰⁰ (TWY FIV) appears in the “prize” area under the matching “YOUR NUMBERS” play symbol, on a single ticket, shall be entitled to a prize of \$25.

(k) Holders of tickets upon which any one of the “YOUR NUMBERS” play symbols is a Hot Cash (HTCSH) symbol and a prize symbol of \$25⁰⁰ (TWY FIV) appears in the “prize” area under that Hot Cash (HTCSH) symbol, on a single ticket, shall be entitled to a prize of \$25.

(l) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches the "WINNING NUMBER" play symbol and a prize symbol of \$20⁰⁰ (TWENTY) appears in the "prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$20.

(m) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Hot Cash (HTCSH) symbol and a prize symbol of \$20⁰⁰ (TWENTY) appears in the "prize" area under that Hot Cash (HTCSH) symbol, on a single ticket, shall be entitled to a prize of \$20.

(n) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches the "WINNING NUMBER" play symbol and a prize symbol of \$10⁰⁰ (TEN DOL) appears in the "prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$10.

(o) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Hot Cash (HTCSH) symbol and a prize symbol of \$10⁰⁰ (TEN DOL) appears in the "prize" area under that Hot Cash (HTCSH) symbol, on a single ticket, shall be entitled to a prize of \$10.

(p) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches the "WINNING NUMBER" play symbol and a prize symbol of \$5⁰⁰ (FIV DOL) appears in the "prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$5.

(q) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Hot Cash (HTCSH) symbol and a prize symbol of \$5⁰⁰ (FIV DOL) appears in the "prize" area under that Hot Cash (HTCSH) symbol, on a single ticket, shall be entitled to a prize of \$5.

(r) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches the "WINNING NUMBER" play symbol and a prize symbol of \$2⁰⁰ (TWO DOL) appears in the "prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$2.

(s) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Hot Cash (HTCSH) symbol and a prize symbol of \$2⁰⁰ (TWO DOL) appears in the "prize" area under that Hot Cash (HTCSH) symbol, on a single ticket, shall be entitled to a prize of \$2.

(t) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches the "WINNING NUMBER" play symbol and a prize symbol of \$1⁰⁰ (ONE DOL) appears in the "prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$1.

(u) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Hot Cash (HTCSH) symbol and a prize symbol of \$1⁰⁰ (ONE DOL) appears in the "prize" area under that Hot Cash (HTCSH) symbol, on a single ticket, shall be entitled to a prize of \$1.

(v) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches the "WINNING NUMBER" play symbol and a prize symbol of FREE (TICKET) appears in the "prize" area under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of one Hot Ticket instant lottery game ticket or one Pennsylvania Lottery instant lottery game ticket of equivalent sale price which is currently on sale.

8. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes, and approximate odds of winning:

When Any Of Your Numbers Match The Winning Number, Win Prize Shown Under The Matching Number. Win With:

	Win:	Approximate Odds Are 1 In:	Approximate No. Of Winners Per 9,600,000 Tickets
FREE	FREE \$1 TICKET	12	800,000
\$1 w/ HOT CASH	\$1	60	160,000
\$1	\$1	150	64,000
\$1 x 2	\$2	100	96,000
(\$1 w/ HOT CASH) x 2	\$2	66.67	144,000
\$2 w/ HOT CASH	\$2	66.67	144,000
\$2	\$2	100	96,000
\$1 x 5	\$5	150	64,000
(\$1 w/ HOT CASH) x 5	\$5	75	128,000
\$5 w/ HOT CASH	\$5	75	128,000
\$5	\$5	150	64,000
\$2 x 5	\$10	1,000	9,600
\$5 x 2	\$10	1,000	9,600
(\$2 w/ HOT CASH) x 5	\$10	428.57	22,400
(\$5 w/ HOT CASH) x 2	\$10	500	19,200
\$10 w/ HOT CASH	\$10	500	19,200
\$10	\$10	1,000	9,600
\$5 x 4	\$20	3,000	3,200
\$10 x 2	\$20	3,000	3,200
(\$5 w/ HOT CASH) x 4	\$20	1,000	9,600
(\$10 w/ HOT CASH) x 2	\$20	1,500	6,400
\$20 w/ HOT CASH	\$20	1,500	6,400
\$20	\$20	3,000	3,200
\$5 x 5	\$25	5,333	1,800
(\$5 w/ HOT CASH) x 3) + (\$5 x 2)	\$25	5,333	1,800
(\$5 w/ HOT CASH) x 5	\$25	4,000	2,400

When Any Of Your Numbers
Match The Winning Number, Win
Prize Shown Under The
Matching Number. Win With:

Win:	Approximate Odds Are 1 In:	Approximate No. Of Winners Per 9,600,000 Tickets
\$25 w/ HOT CASH	\$25	3,429
\$25	\$25	8,000
\$10 × 5	\$50	8,000
\$25 × 2	\$50	8,000
(\$25 w/ HOT CASH) + \$25	\$50	12,000
\$50 w/ HOT CASH	\$50	12,000
\$50	\$50	12,000
\$20 × 5	\$100	24,000
(\$40 × 2) + (\$10 × 2)	\$100	24,000
(((\$40 w/ HOT CASH) × 2) + (\$10 × 2))	\$100	24,000
(\$20 w/ HOT CASH) × 5	\$100	24,000
\$100 w/ HOT CASH	\$100	48,000
\$100	\$100	48,000
\$50 × 5	\$250	960,000
(\$50 w/ HOT CASH) × 5	\$250	960,000
\$250 w/ HOT CASH	\$250	960,000
\$250	\$250	960,000
\$2,500	\$2,500	960,000

Reveal a "HOT CASH" (HTCSH) symbol, win prize shown under that symbol automatically.

Prizes, including top prizes, are subject to availability at the time of purchase.

9. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Program for retailers who sell Hot Ticket instant lottery game tickets.

10. *Retailer Bonus:* The Lottery may offer a retailer bonus in connection with the sale of Pennsylvania instant lottery game tickets. If a retailer bonus is offered, a Lottery retailer shall be eligible for a bonus as described in this section. Lottery retailers who sell a winning ticket that entitles the ticket holder to a prize, either payable in a single installment or having a guaranteed minimum payout, of at least \$100,000 and not exceeding \$500,000 shall be paid a bonus of \$500. Lottery retailers who sell a winning ticket that entitles the ticket holder to a prize, either payable in a single installment or having a guaranteed minimum payout, of at least \$500,001 and not exceeding \$1,000,000 shall be paid a bonus of \$5,000. Lottery retailers who sell a winning ticket that entitles the ticket holder to a prize, either payable in a single installment or having a guaranteed minimum payout, of at least \$1,000,001 and not exceeding \$10,000,000 shall be paid a bonus of \$10,000. A Lottery retailer is entitled only to the largest bonus for which he qualifies on a winning ticket. A bonus will be initiated for payment after the instant ticket is claimed and validated. A bonus will not be awarded to a Lottery retailer that sells a non-winning Pennsylvania Lottery instant ticket used to enter a Pennsylvania Lottery second-chance drawing or promotion that is subsequently selected to win a prize.

11. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Hot Ticket, prize money from winning Hot Ticket instant lottery 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 announced close of the Hot Ticket instant lottery game, 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.

13. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote Hot Ticket or through normal communications methods.

C. DANIEL HASSELL,
Secretary

[Pa.B. Doc. No. 17-1357. Filed for public inspection August 11, 2017, 9:00 a.m.]

INSURANCE DEPARTMENT

Ability Insurance Company; Rate Increase Filing for Several LTC Forms (TRIP-131126865)

Ability Insurance Company is requesting approval to increase the premium an aggregate 30.5% on 65 policy holders of LTC policy forms: LT691, LT692, LT694, LT695 and LT201.

Unless formal administrative action is taken prior to October 26, 2017, 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 (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 Regula-

tion, Room 1311, Strawberry Square, Harrisburg, PA 17120, jlaverty@pa.gov within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

TERESA D. MILLER,
Insurance Commissioner

[Pa.B. Doc. No. 17-1358. Filed for public inspection August 11, 2017, 9:00 a.m.]

Review Procedure Hearings; Cancellation or Refusal of Insurance

The following insureds have requested a hearing as authorized by the act of June 17, 1998 (P.L. 464, No. 68) (Act 68) in connection with the termination of the insureds' automobile insurance policies. The hearings will be held in accordance with the requirements of Act 68; 2 Pa.C.S. §§ 501—508, 561—588 and 701—704 (relating to Administrative Agency Law); 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure); and 31 Pa. Code §§ 56.1—56.3 (relating to Special Rules of Administrative Practice and Procedure). The administrative hearings will be held as follows. Failure by the appellants to appear at the scheduled hearing may result in dismissal with prejudice.

The following hearings will be held at Strawbridge and Clothier, Justice Hearing Room No. 4030, 801 Market Street, Philadelphia, PA 19107.

Appeal of Michele Schultz; File No. 17-119-208953; Progressive Specialty Insurance Company; Doc. No. P17-05-003; September 13, 2017; 9 a.m.

Appeal of Caryl L. Selby; File No. 17-119-211221; Progressive Specialty Insurance Company; Doc. No. P17-06-009; September 13, 2017; 10 a.m.

Appeal of Darlene and Ward Finkbeiner; File No. 17-115-209176; Nationwide Property & Casualty Insurance Company; Doc. No. P17-07-001; September 13, 2017; 11 a.m.

Appeal of Ju Yuen Lee; File No. 17-118-211987; Mid-Century Insurance Company; Doc. No. P17-07-006; September 13, 2017; 1 p.m.

Appeal of Margaret Hill; File No. 17-119-209856; Erie Insurance Exchange; Doc. No. P17-05-005; September 13, 2017; 2 p.m.

Following the hearings and receipt of the stenographic transcript, the Insurance Commissioner (Commissioner) will issue a written order resolving the factual issues presented at a hearing and stating what remedial action, if any, is required. The Commissioner's Order will be sent to those persons participating in a hearing or their designated representatives. The Order of the Commissioner may be subject to judicial review by the Commonwealth Court.

Persons with a disability who wish to attend a previously-referenced administrative hearing and require an auxiliary aid, service or other accommodation to participate in a hearing should contact Human Resources at (717) 705-4194.

TERESA D. MILLER,
Insurance Commissioner

[Pa.B. Doc. No. 17-1359. Filed for public inspection August 11, 2017, 9:00 a.m.]

Review Procedure Hearings under the Unfair Insurance Practices Act

The following insureds have requested a hearing as authorized by section 8 of the Unfair Insurance Practices Act (act) (40 P.S. § 1171.8) in connection with the companies' termination of the insureds' homeowners policies. The hearings will be held in accordance with the requirements of the act; 2 Pa.C.S. §§ 501—508, 561—588 and 701—704 (relating to Administrative Agency Law); 1 Pa. Code Part II (relating to Administrative Rules of Practice and Procedure); and 31 Pa. Code §§ 56.1—56.3 (relating to Special Rules of Administrative Practice and Procedure). The administrative hearings will be held as follows. Failure by the appellants to appear at the scheduled hearing may result in dismissal with prejudice.

The following hearing will be held at Strawbridge and Clothier, Justice Hearing Room No. 4030, 801 Market Street, Philadelphia, PA 19107.

Appeal of Cheryl and Jerome deLaTour; File No. 17-176-211338; Sentinel Insurance Company, Ltd.; Doc. No. P17-07-003; September 14, 2017; 9 a.m.

The following hearing will be held in Room 2026, Piatt Building, 301 5th Avenue, Pittsburgh, PA 15222.

Appeal of Kenneth Hogue; File No. 17-176-211725; Penn National Mutual Casualty Insurance Company; Doc. No. P17-07-011; September 19, 2017; 11 a.m.

Following the hearing and receipt of the stenographic transcript, the Insurance Commissioner (Commissioner) will issue a written order resolving the factual issues presented at the hearing and stating what remedial action, if any, is required. The Commissioner's Order will be sent to those persons participating in the hearing or their designated representatives. The Order of the Commissioner may be subject to judicial review by the Commonwealth Court.

Persons with a disability who wish to attend the previously-referenced administrative hearing and require an auxiliary aid, service or other accommodation to participate in a hearing, should contact Human Resources at (717) 705-4194.

TERESA D. MILLER,
Insurance Commissioner

[Pa.B. Doc. No. 17-1360. Filed for public inspection August 11, 2017, 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. Filings must be made

with the Secretary, Pennsylvania Public Utility Commission, P.O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant by August 28, 2017. Documents filed in support of the applications are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the business address of the respective applicant.

Applications of the following for approval to begin operating as common carriers for transportation of persons as described under each application.

A-2017-2615148. Obligated Transportation, LLC (616 East Clementine Street, Philadelphia, Philadelphia County, PA 19134) for the right to begin to transport as a common carrier, by motor vehicle, persons in paratransit service, limited to persons whose personal convictions prevent them from owning or operating motor vehicles, from points in Philadelphia County, to points in Pennsylvania, and return.

A-2017-2616913. Janice Buckwalter (1310 Harvest Drive, Denver, Lancaster County, PA 17517) for the right to transport as a common carrier, by motor vehicle, persons in paratransit service, limited to persons whose personal convictions prevent them from owning or operating motor vehicles, from points in Lancaster County, to points in Pennsylvania, and return.

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-2017-2617096. Modern Moving Company, Inc. (1534 Mockingbird Drive, Naples, FL 34135) household goods in use, between points in the City of Pittsburgh, Allegheny County.

A-2017-2617127. Keep It Moving, LLC (2212 Glendale Avenue, Philadelphia, Philadelphia County, PA 19152) for the right to begin to transport, as a common carrier, by motor vehicle, household goods in use, between points in Pennsylvania.

Application 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 the application.

A-2017-2616049. Ride Along Transportation, LLC (P.O. Box 56174, Philadelphia, Philadelphia County, PA 19130) for the discontinuance of service and cancellation of the certificate as a common carrier, by motor vehicle,

persons in paratransit service, from points in the City and County of Philadelphia, to correctional facilities in Pennsylvania, and return.

ROSEMARY CHIAVETTA,
Secretary

[Pa.B. Doc. No. 17-1361. Filed for public inspection August 11, 2017, 9:00 a.m.]

PHILADELPHIA PARKING AUTHORITY

Notice of Cancellation of Sales of Wheelchair Accessible Taxicab Medallions

The Philadelphia Parking Authority's (Authority) Board Order No. 17-003 (Authority Order), published at 47 Pa.B. 2301 (April 15, 2017), directed the Taxicab and Limousine Division (TLD) to administer the sale of 61 Philadelphia taxicab medallions, each of which are designated as wheelchair accessible vehicle (WAV) taxicab medallions. This notice included the date, time and location of the bid openings for each of those WAV medallions. To date, the Authority has sold 32 of those WAV medallions. The remaining WAV medallions were listed to be sold as follows:

Scheduled Sale Dates and Medallion Nos.

July 12, 2017: WP-1662, WP-1663, WP-1664, WP-1665, WP-1666, WP-1667, WP-1668, WP-1669, WP-1670 and WP-1671

July 19, 2017: WP-1673, WP-1674, WP-1675, WP-1676, WP-1677, WP-1678, WP-1679, WP-1680 and WP-1681

July 27, 2017: WP-1682, WP-1683, WP-1684, WP-1685, WP-1686, WP-1687, WP-1688, WP-1689, WP-1690 and WP-1691

However, under Paragraph No. 10 of the Authority Order, the TLD Director exercised her discretion to remove the remaining aforementioned 29 WAV medallions from being sold as scheduled due to lack of participation. The TLD Director will place the aforementioned WAV medallions before the Authority Board for a new sale authorization, under the terms and conditions as the Authority may then impose.

CLARENA TOLSON,
Executive Director

[Pa.B. Doc. No. 17-1362. Filed for public inspection August 11, 2017, 9:00 a.m.]

Taxicab and Limousine Division Fee Schedule for the 2018 Fiscal Year Beginning July 1, 2017

All Fees are Non-Refundable

<i>Fee Description</i>	<i>Fee</i>
Limousine Replacement Registration Sticker	\$50
Dispatcher Change in Name or Markings Scheme Application Fee	\$500
Duplicate Driver Certificate Replacement Fee	\$25
New or Renewal of Driver Certificate Fee (per designation: Taxicab or Limousine)**	\$25
Driver Training	\$100
Individual Medallion or CPC Ownership/Securities Transfer Fee	\$2,000
New and Annual Renewal Broker Registration Fee	\$1,200
New Dispatcher Certificate of Public Convenience Application Fee	\$15,000
New Limousine Certificate of Public Convenience Application Fee for One Class of Service	\$12,000
Application Fee for Each Additional Classification for Limousine Service for New Applicants for Any Limousine Service	\$3,000
Application Fee for Each Additional Limousine Certificate of Public Convenience for One Class of Service by a Current Limousine Certificate Holder	\$6,000
Transportation Network Company License Application Fee	\$50,000
Protest Fee	\$5,000
Petition Filing Fee	\$250
New Car and Replacement Vehicle Transfer	\$200
Age or Mileage Compliance Inspection Fee	\$200
PPA Compliance Inspection Fee (Taxicab, Limousine or TNC)	\$25
PA State Inspection Fee (Taxicab, Limousine or TNC)	\$50
Emission Inspection Waiver Fee	\$100
Inspection Rescheduling Fee	\$100
Fee for Medallion Return after Sheriff Levy	\$200
Administrative Hearing Fee (upon determination of liability)	\$75
Check Declined for Payment	\$200
Voluntary Suspension of Individual Medallion or Certificate of Public Convenience	\$75
Stand-By Vehicle Fleet Owner Application	\$350

**Subject to increase on January 1, 2018, under the percentage annual increase in the gross domestic product price index.

CLARENA TOLSON,
Executive Director

[Pa.B. Doc. No. 17-1363. Filed for public inspection August 11, 2017, 9:00 a.m.]

THADDEUS STEVENS COLLEGE OF TECHNOLOGY

Request for Resumes

Thaddeus Stevens College of Technology seeks a part-time development coordinator to assist the College Advancement Office in grant research, processes, recordkeeping and reporting; donor communications; publications; and events. The successful professional shall be proficient in communication skills and Word, Excel,

PowerPoint and mail merge. Basic accounting knowledge helpful. The successful professional will have a bachelor's degree in a related field and 3 years or more experience in nonprofit fundraising. Details are available at <http://stevenscollege.edu/employment/>. Respond with a cover letter, resume and a list of grants/donations personally secured to Deb Strubel, Thaddeus Stevens College, 750 East King Street, Lancaster, PA 17602, dstrubel@stevenscollege.edu.

DR. WILLIAM E. GRISCOM,
President

[Pa.B. Doc. No. 17-1364. Filed for public inspection August 11, 2017, 9:00 a.m.]

