

# PENNSYLVANIA BULLETIN

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the Department of Health Staffing  
for Drug and Alcohol Treatment  
Activities

## Part I

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

**No. 255, February 1996**

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## **PENNSYLVANIA**

## **BULLETIN**

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# READER'S GUIDE TO THE PENNSYLVANIA BULLETIN AND 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 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*.

There are no restrictions on the republication of official documents appearing in 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 where the agency may omit the proposal step; they 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, they must re-propose.

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

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

## ***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* contains, as Finding Aids, subject indexes for the complete *Code* and for each individual title, a list of Statutes Used As Authority for Adopting Rules and a list of annotated cases. Source Notes give you the history of the documents. 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*.

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.

**SUBSCRIPTION INFORMATION: (717) 766-0211**  
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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 such 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; and that the fiscal note shall provide 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 five 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 five 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.

## 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 1996.

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# THE GOVERNOR

## GOVERNOR'S OFFICE

### AMENDMENT TO PROCLAMATION

*Whereas*, On January 7, 1996, I declared a State of Disaster Emergency in forty-seven counties of the Commonwealth due to a severe winter storm which produced historical record amounts of snow accumulation, freezing rain, and high winds and also devastated certain areas of Pennsylvania and resulted in extensive road closures and posed other adverse life safety impacts upon the general population of the Commonwealth; and

*Whereas*, on January 12, 1996, a second severe winter storm struck Pennsylvania which resulted in additional large amounts of snow accumulation in most areas of Pennsylvania, additional road closures and continued adverse life safety impacts for the general population of Allegheny, Armstrong, Bradford and Washington Counties; and

*Whereas*, investigations by state agencies of recently developing conditions indicate that additional resources of the Commonwealth may be needed to assist county and municipal efforts to mitigate and contend with the magnitude and severity of this continuing and expanding disaster emergency;

*Now Therefore*, pursuant to the provisions of Subsection 7301(c) of the Emergency Management Services Code (35 Pa.C.S.A. Section 7101 et seq.), I do hereby amend my Proclamation of January 7, 1996, as follows:

1. The counties of Allegheny, Armstrong, Bradford, and Washington are now declared to be in a state of disaster emergency and are added to the previously designated disaster emergency area.
2. This Proclamation amendment shall take effect immediately.

GIVEN under my hand and the Great Seal of the Commonwealth, this thirteenth day of January in the year of our Lord one thousand nine hundred and ninety-six, and of the Commonwealth the two hundred and twentieth.

*Governor*

[Pa.B. Doc. No. 96-127. Filed for public inspection February 2, 1996, 9:00 a.m.]

### AMENDMENT TO PROCLAMATION

*Whereas*, On January 7, 1996, I declared a State of Disaster Emergency in forty-seven counties of the Commonwealth due to a severe winter storm which produced historical record amounts of snow accumulation, freezing rain, and high winds and also devastated certain areas of Pennsylvania and resulted in extensive road closures and posed other adverse life safety impacts upon the general population of the Commonwealth; and

*Whereas*, on January 12, 1996, a second severe winter storm struck Pennsylvania which resulted in additional large amounts of snow accumulation in most areas of Pennsylvania, additional road closures and continued adverse life safety impacts for the general population of the Commonwealth to the extent that Allegheny, Armstrong, Bradford and Washington Counties were added to the previously designated disaster emergency area; and



*Whereas*, on January 18 and 19, 1996, another weather system struck Pennsylvania with unseasonably high temperatures, large amounts of rain, fog, and high winds, all of which directly impacted upon the historical record amounts of accumulated snowpack and ice located upon the ground and frozen river and stream surfaces of the Commonwealth; and

*Whereas*, the large amount of rain caused an immediate and dramatic increase in the moisture and water content levels of the massive snowpack located throughout the Commonwealth and caused additional adverse impacts upon areas of the Commonwealth located both within and outside the previously designated disaster emergency area; and

*Whereas*, the cumulative impacts of the widespread and abnormally large amounts of rain, increased levels of moisture and water content in the snowpack, and the unseasonable high temperatures all combined to cause a sudden and widespread meltdown of the snowpack throughout the Commonwealth; and

*Whereas*, investigations made at my direction have disclosed that the sudden meltdown of the snowpack, as exacerbated in gravity and severity by the rains and high temperatures of January 18 and 19, 1996, has caused widespread flooding to occur throughout the stream and river systems of the Commonwealth; and

*Whereas*, the severe flooding caused by the sudden snowmelt and precedent rains has caused the evacuation and sheltering of tens of thousands of citizens of the Commonwealth, extensive damage to highways, bridges, and other forms of private and public property, and has seriously affected the safety, health and welfare of a substantial number of citizens of the Commonwealth, and has been of such magnitude and severity as to render essential the Commonwealth's augmentation of county and municipal efforts and resources and the continuing activation of all applicable state, county, and municipal emergency response plans in order to mitigate and contend with the magnitude and severity of this continuing and expanding disaster emergency.

*Now Therefore*, Pursuant to the provisions of Subsection 7301(c) of the Emergency Management Services Code (35 Pa.C.S.A. Section 7101 *et seq.*), I do hereby amend my Proclamation of January 7, 1996, as follows:

1. The counties of Beaver, Cameron, Elk, Jefferson, McKean, Potter and Tioga are now declared to be in a state of disaster emergency and are added to the previously designated disaster emergency area.

2. I direct that the Pennsylvania Emergency Management Agency coordinate the activities of the various agencies of the Commonwealth to take appropriate action aimed at the alleviation of human suffering, the restoration of essential public services, and the preparation of damage assessment reports concerning the economic, financial, public safety, and other impacts caused to Pennsylvania by this series of winter storms and resultant flooding.

3. I authorize the Secretary of the Department of Transportation to use all available equipment, resources, and personnel of the Department, in whatever manner that he deems necessary, to ensure that all interstate or other federal and state highways in the disaster affected areas are cleared of debris and any other obstructions resulting from the flooding. In addition, I hereby waive any laws or regulations that would restrict the application and use of the Department's equipment, resources, and personnel to assist local jurisdictions in the clearing and removal of debris and other types of obstructions from non-state-owned highways. This assistance to local jurisdictions may be provided solely at the discretion of the Secretary of the Department of Transportation.

4. I urge the governing bodies and executive officers of all political subdivisions affected by the winter storms and resultant flooding to act as necessary to meet the current exigencies as legally authorized under this proclamation, namely; by the employment of temporary workers, by the rental of equipment and by entering into such contracts and agreements as

## THE GOVERNOR

may be required to meet these emergencies, all without regard to those time-consuming procedures and formalities normally prescribed by law, mandatory constitutional requirements excepted.

GIVEN under my hand and the Seal of the Commonwealth, this twentieth day of January in the year of our Lord one thousand nine hundred and ninety-six, and of the Commonwealth the two hundred and twentieth.

*Governor*

[Pa.B. Doc. No. 96-128. Filed for public inspection February 2, 1996, 9:00 a.m.]

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# THE COURTS

## Title 231—RULES OF CIVIL PROCEDURE

### PART I. GENERAL

[231 PA. CODE CH. 200]

#### Proposed Rule 220.1-1 Governing Voir Dire; Recommendation No. 130

The Civil Procedural Rules Committee proposes the adoption of Rule of Civil Procedure 220.1-1 governing voir dire. The proposed recommendation is being submitted to the bench and bar for comments and suggestions prior to its submission to the Supreme Court. All communications should be sent no later than April 12, 1996 to Harold K. Don, Jr., Esquire, Counsel, Civil Procedural Rules Committee, 5035 Ritter Road, Suite 700, Mechanicsburg, PA 17055.

The Explanatory Comment which appears in connection with the proposed recommendation has been inserted by the Committee for the convenience of the bench and bar. It will not constitute part of the rules of civil procedure nor will it be officially adopted or promulgated by the Court.

#### Annex A

### TITLE 231. RULES OF CIVIL PROCEDURE

#### PART I. GENERAL

#### CHAPTER 200. BUSINESS OF COURTS

##### Rule 220.1-1. Voir Dire.

(a) Voir dire shall be conducted to provide the opportunity to obtain at a minimum a full description of the following information concerning the prospective jurors and their households:

- (1) Name;
- (2) Date and place of birth;
- (3) Residential neighborhood and zip code (not street address);
- (4) Marital status;
- (5) Nature and extent of education;
- (6) Number and ages of children;
- (7) Name, age and relationship of members of prospective juror's household;
- (8) Occupation and employment history of the prospective juror, the juror's spouse and children and members of the juror's household;
- (9) Involvement as a party or a witness in a civil lawsuit or a criminal case;
- (10) Relationship, friendship or association with a law enforcement officer, a lawyer or any person affiliated with the courts of any judicial district;
- (11) Relationship of the prospective juror or any member of the prospective juror's immediate family to the insurance industry, including employee, claims adjuster, investigator, agent, or stockholder in an insurance company;
- (12) Motor vehicle operation and licensure;

(13) Physical or mental condition affecting ability to serve on a jury;

(14) Reasons the prospective juror believes he or she cannot or should not serve as a juror;

(15) Relationship, friendship or association with the parties, the attorneys and prospective witnesses of the particular case to be heard;

(16) Such other pertinent information as may be appropriate to the particular case to achieve a competent, fair and impartial jury.

(b) The court may provide for voir dire to include the use of a written questionnaire. However, the use of a written questionnaire without the opportunity for oral examination is not a sufficient voir dire.

**Official Note:** The parties or their attorneys may conduct the examination of the prospective jurors unless the court itself conducts or otherwise directs the examination.

A written questionnaire may be used to facilitate and expedite the voir dire examination by providing the trial judge and attorneys with basic background information about the jurors, thereby eliminating the need for many commonly asked questions.

(c) The court may permit the examination of jurors out of the presence of other jurors.

#### Explanatory Comment

Recommendation No. 130 proposes new Rule 220.1-1 governing voir dire, the examination of prospective jurors. The proposed rule furthers the goal of establishing a uniform civil practice throughout the Commonwealth with respect to the information which the parties may obtain concerning prospective jurors.

The rule has been drafted to specify the information which the parties should be able to obtain through voir dire but not require a particular manner of voir dire. Subdivision (a) is devoted to listing the information to which the parties are entitled.

The rule does not dictate the mechanics of voir dire, but leaves the method of voir dire to the local courts of common pleas. Subdivision (b) does give some guidance, however. Voir dire may include the use of a written questionnaire, but no form of questionnaire is mandated or suggested. The note observes that a written questionnaire may "facilitate and expedite" voir dire by providing basic background information. The rule provides, however, that "the use of a written questionnaire without the opportunity for oral examination is not a sufficient voir dire." The parties are entitled to both hear prospective jurors and observe their demeanor.

The rule recognizes that service upon a jury may be a new and disquieting experience to citizens called as prospective jurors. Information may be sought which a prospective juror feels uncomfortable revealing in open court. Thus, subdivision (c) provides that the "court may permit the examination of jurors out of the presence of other jurors."

*By the Civil Procedural Rules Committee*

EDWIN L. KLETT,  
*Chairperson*

[Pa.B. Doc. No. 96-129. Filed for public inspection February 2, 1996, 9:00 a.m.]

## PART I. GENERAL

## [231 PA. CODE CH. 400]

## Amendment of Rules 401 and 404 Governing Service of Original Process; Proposed Recommendation No. 133

The Civil Procedural Rules Committee has issued Recommendation No. 133 which proposes the amendment of Rules of Civil Procedure 401 and 404 governing service of original process. The recommendation is published in full in the *Pennsylvania Bulletin*, the advance reports of *West's Atlantic* and *Pennsylvania Reporters*, the *Philadelphia Legal Intelligencer* and the *Pittsburgh Legal Journal*. The proposed recommendation is being submitted to the bench and bar for comments and suggestions prior to its submission to the Supreme Court. All communications should be sent no later than April 12, 1996 to Harold K. Don, Jr., Esquire, Counsel, Civil Procedural Rules Committee, 5035 Ritter Road, Suite 700, Mechanicsburg, PA 17055.

## Annex A

## TITLE 231. RULES OF CIVIL PROCEDURE

## PART I. GENERAL

## CHAPTER 400. SERVICE OF ORIGINAL PROCESS

## SERVICE GENERALLY

Rule 401. Time for Service. [Reissuance, Reinstatement and] Amended Original Process. [Substitution] Substituted [of] Original Process. Alternative Original Process. Copies for Service.

(a)(1) Original process shall be served [within the Commonwealth] upon a defendant within [thirty] one hundred eighty days after the issuance of the writ or the filing of the complaint first naming that defendant.

**Official Note:** The amendment of original process under subdivision (b)(2), the substitution of original process under subdivision (b)(3) or the filing of a complaint as alternative original process under subdivision (b)(5) does not extend the time for service upon a party defendant previously named.

(2) If service of original process is not made within the required one hundred eighty days, the court, upon motion filed within that period and good cause shown, may extend the time for service for an appropriate period. The court may also provide, if appropriate, for an alternative method of service as provided by Rule 440. If the time for service has been extended and if service is not made within the extended period, the court, upon motion filed within that period and good cause shown, may extend the time for service for one or more additional periods.

**Official Note:** [See Rule 404 for the time for service outside the Commonwealth.] Good cause to extend the time for service may be shown by affirmative action taken by the plaintiff to serve original process.

The plaintiff must act with reasonable diligence to see that the motion is promptly presented to the court if required by local practice.

(3) If service of original process is not made within the required one hundred eighty days under subdivision (a)(1) or an additional period of time under subdivision (a)(2) and either a motion to extend the time for service has not been filed within that time period or a motion has been denied, the process shall be deemed never to have been filed.

(b)(1) [If service within the Commonwealth is not made within the time prescribed by subdivision (a) of this rule or outside the Commonwealth within the time prescribed by Rule 404, the prothonotary upon praecipe and upon presentation of the original process, shall continue its validity by reissuing the writ or reinstating the complaint, by writing thereon "reissued" in the case of a writ or "reinstated" in the case of a complaint.]

Rescinded.

(2) [A writ may be reissued or a complaint reinstated at any time and any number of times. A new party defendant may be named in a reissued writ or a reinstated complaint.] Prior to service upon any named defendant, original process may be amended to name a new party defendant.

(3) A substituted writ may be issued or a substituted complaint filed upon praecipe stating that the former writ or complaint has been lost or destroyed.

(4) [A reissued, reinstated or substituted writ or complaint shall be served within the applicable time prescribed by subdivision (a) of this rule or by Rule 404 after reissuance, reinstatement or substitution.] Rescinded.

(5) If an action is commenced by writ of summons and a complaint is thereafter filed, the plaintiff instead of [reissuing] serving the writ may [treat] serve the complaint as alternative original process [and as the equivalent for all purposes of a reissued writ, reissued as of the date of the filing of the complaint. Thereafter the writ may be reissued, or the complaint may be reinstated as the equivalent of a reissuance of the writ, and the plaintiff may use either the reissued writ or the reinstated complaint as alternative original process].

[Official Note: If the applicable time has passed after the issuance of the writ or the filing of the complaint, the writ must be reissued or the complaint reinstated to be effective as process. Filing or reinstatement or substitution of a complaint which is used as alternative process under this subdivision, has been held effective in tolling the statute of limitations as the reissuance or substitution of a writ.]

(c) The copy of the original process to be served upon the defendant shall be attested by the prothonotary or certified by the plaintiff to be a true copy.

## Rule 404. Service Outside the Commonwealth.

Original process shall be served outside the Commonwealth [within ninety days of the issuance of the writ or the filing of the complaint or the reissuance or the reinstatement thereof]:

[Official Note: For reissuance and reinstatement of original process, see Rule 401(b).]

(1) by a competent adult who is not a party in the manner provided by Rule 402(a);

(2) by any competent adult by mail in the manner provided by Rule 403;

(3) in the manner provided by the law of the jurisdiction in which the service is made for service in an action in any of its courts of general jurisdiction;

(4) in the manner provided by treaty; or

**Official Note:** A treaty may provide that to effect service a plaintiff must satisfy requirements which are in addition to the procedures specified by this rule.

(5) as directed by the foreign authority in response to a letter rogatory or request.

**Official Note: See Rule 401(a) for the time in which to make service.**

Sections 5323 and 5329(2) of the Judicial Code, 42 Pa.C.S. §§ 5323, 5329(2), provide additional alternative procedures for service outside the Commonwealth.

**Explanatory Comment**

Recommendation No. 133 proposes amendment of Rules of Civil Procedure 401 and 404 to facilitate making a good faith effort to effectuate service of original process.

Rule 401. Time for Service. Amended Original Process. Substituted Original Process. Alternative Original Process. Copies for Service

The thirty-day period for service under present subdivision (a) is to be replaced with a one hundred eighty day period. The one hundred eighty day period for serving a defendant commences upon the filing of the original process naming the defendant. Upon expiration of that period, service may be made only pursuant to an order of court extending the time. The rule provides for the order to be made upon motion filed during the one hundred eighty day period and upon good cause shown. If service is not made during the extended period, the party seeking to make service may obtain further extensions of time in a manner similar to obtaining the initial extension, that is, upon motion filed during the extended period and upon good cause shown. If an extension is not sought or is sought but denied, the process is deemed to have been never filed.

In light of the revisions to subdivision (a), several amendments to subdivision (b) are proposed. Subdivision (b)(1) is to be rescinded and the practice of reissuing a writ of summons and reinstating a complaint abolished. Similarly, subdivision (b)(4) providing the time for service of a reissued writ or a reinstated complaint is also to be rescinded.

Subdivision (b)(2) will be revised to delete references to reissuance of the writ and reinstatement of the complaint. The practice of adding a new party defendant prior to service of original process upon any defendant in an action will be continued upon the filing of "amended original process." The filing of amended original process does not extend the time for service upon a party defendant previously named.

Subdivision (b)(3) providing for a substituted writ or complaint when original process is lost or destroyed will remain unchanged.

Subdivision (b)(5) providing for alternative original process will be revised by deleting reference to reissuance of the writ or reinstatement of the complaint. The filing of the complaint as alternative process does not extend the time for service under subdivision (a)(1).

Rule 404. Service Outside the Commonwealth

Rule 404 is revised by deleting references both to the ninety-day period for service outside the Commonwealth and to reissuance of the writ and reinstatement of the complaint. The time for making service of original process prescribed by Rule 401 will apply uniformly, both within and outside the Commonwealth.

*By the Civil Procedural Rules Committee*

EDWIN L. KLETT,  
*Chairperson*

[Pa.B. Doc. No. 96-130. Filed for public inspection February 2, 1996, 9:00 a.m.]

**PART I. GENERAL**

**[231 PA. CODE CHS. 2020, 2050 and 2200]**

**Revision of Rules 2039, 2064 and 2206 Governing Minors and Incapacitated Persons as Parties; Proposed Recommendation No. 132**

The Civil Procedural Rules Committee proposes the amendment of Rules of Civil Procedure 2039, 2064 and 2206 governing minors and incapacitated persons as parties. The proposed recommendation is being submitted to the bench and bar for comments and suggestions prior to its submission to the Supreme Court. All communications should be sent no later than April 12, 1996 to Harold K. Don, Jr., Esquire, Counsel, Civil Procedural Rules Committee, 5035 Ritter Road, Suite 700, Mechanicsburg, PA 17055.

The Explanatory Comment which appears in connection with the proposed recommendation has been inserted by the Committee for the convenience of the bench and bar. It will not constitute part of the rules of civil procedure nor will it be officially adopted or promulgated by the Court.

**Annex A**

**TITLE 231. RULES OF CIVIL PROCEDURE**

**PART I. GENERAL**

**CHAPTER 2020. MINORS AS PARTIES**

**Rule 2039. Compromise, Settlement, Discontinuance and Distribution.**

\* \* \* \* \*

(b) When a compromise or settlement has been so approved by the court, or when a judgment has been entered upon a verdict or by agreement, the court upon petition by the guardian or any party to the action, shall make an order approving or disapproving any agreement entered into by the guardian for the payment of counsel fees and other expenses out of the fund created by the compromise, settlement or judgment; or the court may make such order as it deems proper fixing counsel fees and other proper expenses. The balance of the fund shall be paid to a guardian of the estate of the minor qualified to receive the fund, if [ **he** ] **the minor** has one or one is to be appointed. **The balance of the fund payable to the guardian of the estate may include a structured settlement as described in subdivision (b)(3) of this rule.** If the minor has no such guardian and none is to be appointed, the court may order:

(1) an amount not more than [ **Ten Thousand Dollars (\$10,000.00)** ] **twenty-five thousand dollars (\$25,000.00)** to be paid to the guardian of the person or to the natural guardian or to the person or agency by whom the minor is maintained or to the minor;

**Official Note: The amount payable under subparagraph (1) conforms to the amount set forth in section 5101 of the Probate, Estates and Fiduciaries Code, 20 Pa.C.S. § 5101, relating to when a guardian is unnecessary.**

(2) any amount in cash of a resident or non-resident minor to be deposited in one or more savings accounts in the name of the minor in banks, building and loan associations or savings and loan associations, deposits in which are insured by a Federal governmental agency, provided that the amount deposited in any one such savings institution shall not exceed the amount to which accounts are thus insured, **or in one or more accounts in the name of the minor investing only in securities guaranteed by the United States government or a Federal governmental agency managed by financial institutions.** Every such order shall contain a provision that no withdrawal can be made from any such account until the minor attains [ **his** ] majority, except as authorized by a prior order of the court. Proof of the deposit shall be promptly filed of record[ . ];

**Official Note:** The order should provide for deposits in more than one savings institution if future accrued interest may reasonably be expected to increase a single deposit beyond the insured limit.

For the definition of savings account, see Rule 76.

(3) **an agreement be executed providing for a structured settlement underwritten by a financially responsible entity that assumes responsibility for future payments. All moneys paid from the structured settlement during minority shall be paid into a restricted account as provided by subdivision (b)(2) of this rule.**

\* \* \* \* \*

**CHAPTER 2050. INCAPACITATED PERSONS AS PARTIES**

**Rule 2064. Compromise, Settlement, Discontinuance and Distribution.**

\* \* \* \* \*

(b) When a compromise or settlement has been approved by the court, or when a judgment has been entered upon a verdict or by agreement, the court, upon petition by the guardian or the guardian ad litem or any party to the action, shall make an order approving or disapproving any agreement entered into by the guardian or the guardian ad litem for the payment of counsel fees and other expenses out of the fund created by the compromise, settlement or judgment; or the court may make such order as it deems proper fixing counsel fees and other proper expenses. The balance of the fund shall be paid to the guardian of the estate of the incapacitated person qualified to receive the fund, if there is one or one is to be appointed. **The balance of the fund payable to the guardian of the estate may include a structured settlement as described in subdivision (b)(3) of this rule.** If the incapacitated person has no such guardian, and none is to be appointed the court may order:

(1) an amount not more than [ **Ten Thousand Dollars (\$10,000.00)** ] **twenty-five thousand dollars**

(**\$25,000.00**) to be paid to the guardian of the person or to the person or agency by whom the incapacitated person is maintained;

**Official Note: The amount payable under subparagraph (1) conforms to the amount set forth in section 5101 of the Probate, Estates and Fiduciaries Code, 20 Pa.C.S. § 5101, relating to when a guardian is unnecessary, incorporated by reference into section 5505 of the Code, 20 Pa.C.S. § 5505.**

(2) any amount in cash of a resident or non-resident incapacitated person to be deposited in one or more savings accounts in the name of the incapacitated person in banks, building and loan associations or savings and loan associations, deposits in which are insured by a Federal governmental agency, provided that the amount deposited in any one such savings institution shall not exceed the amount to which accounts are thus insured, **or in one or more accounts in the name of the incapacitated person investing only in securities guaranteed by the United States government or a Federal governmental agency managed by financial institutions.** Every such order shall contain a provision that no withdrawal can be made from any such account unless the incapacitated person is adjudicated to have capacity, except as authorized by a prior order of the court. Proof of the deposit shall be promptly filed of record.

**Official Note:** The order should provide for deposits in more than one savings institution if future accrued interest may reasonably be expected to increase a single deposit beyond the insured limit.

For the definition of savings account see Rule 76.

(3) **an agreement be executed providing for a structured settlement underwritten by a financially responsible entity that assumes responsibility for future payments. All moneys paid from the structured settlement during incapacity shall be paid into a restricted account as provided by subdivision (b)(2) of this rule.**

\* \* \* \* \*

**CHAPTER 2200. ACTIONS FOR WRONGFUL DEATH**

**Rule 2206. Settlement, compromise, discontinuance and judgment.**

\* \* \* \* \*

(b)(1) When as the result of a verdict, judgment, compromise, settlement or otherwise it has been determined that a sum of money is due the plaintiff in an action for wrongful death, the court, upon petition of any party in interest, shall make an order designating the persons entitled to share in the damages recovered and the proportionate share of the net proceeds to which each is entitled. If a share shall be payable to a minor or incapacitated person, the court shall designate as the person to receive such share a guardian of the estate of the minor or incapacitated person qualified to receive the fund, if there is one or one is to be appointed. **The fund payable to the guardian of the estate may include a structured settlement as described in subdivision (b)(4)(ii) of this rule.**

(2) If the minor has no such guardian, and none is to be appointed, the court upon petition may order an amount not more than [ **Ten Thousand Dollars (\$10,000.00)** ] **twenty-five thousand dollars (\$25,000.00)** to be paid to the guardian of the person or

to the natural guardian or to the person or agency by whom the minor is maintained or to the minor.

**Official Note: The amount payable under paragraph (2) conforms to the amount set forth in section 5101 of the Probate, Estates and Fiduciaries Code, 20 Pa.C.S. § 5101, relating to when a guardian is unnecessary.**

(3) If the incapacitated person has no such guardian, and none is to be appointed, the court upon petition may order an amount not more than **[ Ten Thousand Dollars (\$10,000.00) ] twenty-five thousand dollars (\$25,000.00)** to be paid to the guardian of the person or to the person or agency by whom the incapacitated person is maintained.

**Official Note: The amount payable under paragraph (3) conforms to the amount set forth in section 5101 of the Probate, Estates and Fiduciaries Code, 20 Pa.C.S. § 5101, relating to when a guardian is unnecessary, incorporated by reference into section 5505 of the Code, 20 Pa.C.S. § 5505.**

(4) If the minor or the incapacitated person has no such guardian, and none is to be appointed, the court may order

(i) any amount in cash of a resident or nonresident minor or incapacitated person to be deposited in one or more savings accounts in the name of the minor or the incapacitated person in banks, building and loan associations or savings and loan associations, deposits in which are insured by a Federal governmental agency, provided that the amount deposited in any one such savings institution shall not exceed the amount to which such accounts are thus insured, **or in one or more accounts in the name of the minor or the incapacitated person investing only in securities guaranteed by the United States government or a Federal governmental agency managed by financial institutions.** Every such order shall contain a provision that no withdrawal can be made from any such account until the minor attains his majority or unless the incapacitated person is adjudicated to have capacity, except as authorized by a prior order of the court. Proof of the deposit shall be promptly filed of record[ . ];

**Official Note:** The order should provide for deposits in more than one savings institution if future accrued interest may reasonably be expected to increase a single deposit beyond the insured limit.

For the definition of savings account see Rule 76.

(ii) **an agreement be executed providing for a structured settlement underwritten by a financially responsible entity that assumes responsibility for future payments. All moneys paid from the structured settlement during minority or incapacity shall be paid into a restricted account as provided by subdivision (b)(4)(i) of this rule.**

\* \* \* \* \*

**Explanatory Comment**

Recommendation No. 132 proposes identical amendments to three rules governing compromise, settlement, discontinuance and distribution: Rule 2039 (Minors), Rule 2064 (Incapacitated Persons) and Rule 2206 (Wrongful Death Actions).

The first amendment increases from \$10,000 to \$25,000 the amount which may be paid directly to the guardian of the person, the natural guardian, the person or agency by

whom the minor or incapacitated person is maintained or to the minor. This amendment conforms the amount set forth in the rules to the amount stated in section 5101 of the Probate Estates and Fiduciaries Code, 20 Pa.C.S. § 5101, relating to when a guardian is unnecessary in small estates of minors. The amount in section 5101 of the Code was similarly increased from \$10,000 to \$25,000 by Act No. 102 of 1994. This statutory provision applies also to small estates of incapacitated persons as it is incorporated by reference into section 5505 of the Code, 20 Pa.C.S. § 5505.

The second amendment is a specific authorization for the court to approve a distribution of funds which includes a structured settlement. The present rule contains no explicit statement in this regard. The rule authorizes structured settlements both where there is a guardian of the estate and where there is no such guardian.

Presently, the rules limit the investment of funds to savings accounts in banks, building and loan associations or savings and loan associations. The third amendment proposes to expand the permissible investments to include accounts "investing only in securities guaranteed by the United States government or a Federal governmental agency managed by financial institutions."

*By the Civil Procedural Rules Committee*

EDWIN L. KLETT,  
*Chairperson*

[Pa.B. Doc. No. 96-131. Filed for public inspection February 2, 1996, 9:00 a.m.]

**PART I. GENERAL**

**[231 PA. CODE CH. 4000]**

**Revision of Rule 4009 Governing Production of Documents and Things and Entry Upon Land; Proposed Recommendation No. 131**

The Civil Procedural Rules Committee proposes the rescission of Rule of Civil Procedure 4009 governing the production of documents and things and entry upon land and the adoption of new Rule 4009.1 et seq. The proposed recommendation is being submitted to the bench and bar for comments and suggestions prior to its submission to the Supreme Court. All communications should be sent no later than April 12, 1996 to Harold K. Don, Jr., Esquire, Counsel, Civil Procedural Rules Committee, 5035 Ritter Road, Suite 700, Mechanicsburg, PA 17055.

The Explanatory Comment which appears in connection with the proposed recommendation has been inserted by the Committee for the convenience of the bench and bar. It will not constitute part of the rules of civil procedure nor will it be officially adopted or promulgated by the Court.

**Annex A**

**TITLE 231. RULES OF CIVIL PROCEDURE**

**PART I. GENERAL**

**CHAPTER 4000. DEPOSITIONS AND DISCOVERY**

**PRODUCTION OF DOCUMENTS AND THINGS**

**Rule 4009.1. Production of Documents and Things.**

Any party may serve a request upon a party pursuant to Rule 4009.2 or a subpoena upon a person not a party pursuant to Rule 4009.3 to produce and permit the

requesting party, or someone acting on the party's behalf, to inspect and copy any designated documents (including writings, drawings, graphs, charts, photographs, electronically created data, and other compilations of data from which information can be obtained, translated, if necessary, by the respondent party or person upon whom the request or subpoena is served through detection or recovery devices into reasonably usable form), or to inspect and copy, test or sample any tangible things which constitute or contain matters within the scope of Rules 4003.1 through 4003.5 inclusive and which are in the possession, custody or control of the party or person upon whom the request or subpoena is served.

**Official Note:** These rules do not prevent a court from entering an order under its common law power preserving or protecting a document or thing.

Parties to an action and persons not parties but served with a subpoena or request pursuant to these rules have the protective and enforcement provisions of the discovery rules available to them. See Rule 4012 governing protective orders and Rule 4019 governing enforcement and sanctions for failure to make discovery.

These rules do not preclude (1) the issuance of a subpoena under Rule 234.1 et seq. for the production of documents or things at a deposition or (2) an independent action against a person not a party for production of documents or things.

**Rule 4009.2. Request Upon a Party for Production of Documents and Things.**

(a) The request may be served without leave of court upon the plaintiff after commencement of the action and upon any other party with or after service of the original process upon that party.

(b) The request shall set forth in numbered paragraphs the items to be produced either by individual item or by category, and describe each item or category with reasonable particularity. Each paragraph shall seek only a single item or a single category of items. The request shall be prepared in such fashion that sufficient space is provided immediately after each paragraph for insertion of the answer.

(c)(1) The party upon whom the request is served shall within thirty days after the service of the request

(i) serve an answer including objections to each numbered paragraph in the request, and

(ii) produce or make available to the party submitting the request those documents and things described in the request to which there is no objection.

(2) The answer shall be in the form of a paragraph-by-paragraph response which shall

(i) identify by number, using the system of numbering prescribed by subdivision (d), all documents or things produced or made available;

(ii) identify by number, using the system of numbering prescribed by subdivision (d), all documents or things not produced or made available because of the objection that they are not within the scope of permissible discovery under Rule 4003.2 through Rule 4003.5 inclusive and Rule 4011(c). Each document or thing not produced shall be identified with reasonable particularity together with the basis for non-production;

(iii) object to the request on the grounds set forth in Rule 4011(a), (b), and (e) or on the ground that the request does not meet the requirements of subdivision (b) of this rule;

(iv) state that after reasonable investigation, it has been determined that there are no documents responsive to the request.

(3) The answer shall be signed and verified by the person making it and signed also by the attorney making an objection if one is set forth.

(d) The party producing documents or things shall identify through a system of numbering the documents or things produced and the documents and things withheld. The party producing the documents and things and the party receiving them shall keep a current list of the documents and things produced and withheld based on the numbering system.

**Official Note:** Ordinarily, each page of a document should receive a separate number. However, a document may be assigned a number as a whole if it is bound or if it contains pages which are sequentially numbered.

(e) If a request is reasonably susceptible to one construction under which documents sought to be produced are within the scope of the request and another construction under which the documents are outside the scope of the request, the answering party shall either produce and identify the documents pursuant to subdivision (c)(2)(i) of this Rule or object to the request pursuant to subdivision (c)(2)(ii).

**Rule 4009.3. Subpoena Upon a Person Not a Party for Production of Documents and Things.**

(a)(1) A party seeking production from a person not a party to the action shall give written notice to every other party of the intent to serve a subpoena at least thirty days before the date of service. A copy of the subpoena proposed to be served shall be attached to the notice.

**Official Note:** For the form of the written notice, see subdivision (f) of this rule.

(2) The written notice shall not be given to the person named in the subpoena.

(b)(1) Any party may file of record written objections to the service of the subpoena and shall serve a copy of the objections upon every other party to the action.

**Official Note:** For the form of the objections, see subdivision (g) of this rule.

(2) If objections are filed of record or are received by the party intending to serve the subpoena on or before the thirtieth day after service of the notice of intent, the subpoena shall not be served. The court upon motion shall rule upon the objections and may enter an appropriate order.

**Official Note:** The party seeking production is under a duty to check the docket of the case in the prothonotary's office to determine if an objection has been filed.

(3) If objections are not filed or received within thirty days after service of the notice of intent, the subpoena may be served as provided by subdivision (c) subject to the right of any party or interested person to seek a protective order.

(c)(1) The party seeking production may serve on the person named in the subpoena a copy of the subpoena only if it is identical to the subpoena attached to the notice of intent to serve the subpoena and if the party seeking production has filed of record a certificate that

(i) the notice of intent to serve a subpoena was mailed or delivered to each party at least thirty days prior to the date on which the subpoena is sought to be served,



(ii) a copy of the notice of intent, including the proposed subpoena attached to the notice of intent, is attached to the certificate, and

(iii) no party has filed of record or served an objection to the service of the subpoena.

**Official Note:** For the form of the certificate, see subdivision (h) of this rule.

(2) The subpoena shall be issued as provided by Rule 234.2(a) and shall be served in the manner provided by Rule 234.2(b).

**Official Note:** Rule 234.2(a) governs the issuance by the prothonotary of a subpoena to testify. Rule 234.2(b) governs service of a subpoena to testify.

For the form of a subpoena to produce, see subdivision (i) of this rule.

(d) The person upon whom the subpoena has been served in complying with the subpoena shall execute a certification of compliance and deliver it with the documents or things produced to the party serving the subpoena within thirty days of service. A form of certification to be executed and delivered shall be served with the subpoena.

**Official Note:** For the form of the certification of compliance, see subdivision (j) of this rule.

(e) The party receiving documents and things pursuant to the subpoena shall give notice of receipt to every other party to the action and upon the payment of reasonable cost shall

(1) furnish a legible copy of each document to any other party who requests a copy and

(2) allow reasonable access to the things to any other party who requests access.

(f) The written notice of intent to issue a subpoena required by subdivision (a)(1) shall be substantially in the following form:

(CAPTION)

NOTICE OF INTENT TO OBTAIN A SUBPOENA TO PRODUCE DOCUMENTS AND THINGS FOR DISCOVERY PURSUANT TO RULE 4009.3

\_\_\_\_\_ (party) intends to serve a subpoena identical to the one that is attached to this notice. You have thirty (30) days from the date listed below in which to file of record and serve upon the undersigned an objection to the issuance of the subpoena. If no objection is made the subpoena may be served.

Date: \_\_\_\_\_  
Attorney for

(g) The objection to the issuance of a subpoena prescribed by subdivision (b) shall be substantially in the following form:

(CAPTION)

OBJECTIONS TO THE SERVICE OF A SUBPOENA PURSUANT TO RULE 4009.3

\_\_\_\_\_ (party) objects to service of the proposed subpoena that is attached to these objections for the following reasons: \_\_\_\_\_

Date: \_\_\_\_\_  
Attorney for

(h) The certificate required by subdivision (b) as a prerequisite to the service of a subpoena shall be substantially in the following form:

(CAPTION)

CERTIFICATE

PREREQUISITE TO SERVICE OF A SUBPOENA PURSUANT TO RULE 4009.3

As a prerequisite to service of a subpoena for documents and things pursuant to Rule 4009.3, \_\_\_\_\_ certifies that

(Plaintiff/Defendant)

(1) a notice of intent to serve the subpoena with a copy of the subpoena attached thereto was mailed or delivered to each party at least thirty days prior to the date on which the subpoena is sought to be served,

(2) a copy of the notice of intent, including the proposed subpoena, is attached to this certificate,

(3) no party has filed of record an objection to the service of the subpoena nor has the undersigned received an objection to the service of the subpoena, and

(4) the subpoena which will be served is identical to the subpoena which is attached to the notice of intent to serve the subpoena.

Date: \_\_\_\_\_  
Attorney for

**Official Note:** The party who signs the certificate must ascertain that no objections have been filed of record. See Rule 4009.3(c).

(i) A subpoena to produce documents or things shall be substantially in the following form:

(CAPTION)

SUBPOENA TO PRODUCE DOCUMENTS OR THINGS FOR DISCOVERY PURSUANT TO RULE 4009.3

TO: \_\_\_\_\_  
(Name of Person or Entity)

Within thirty (30) days after service of this subpoena, you are ordered by the court to produce the following documents or things: \_\_\_\_\_

at \_\_\_\_\_  
(Address)

You may deliver or mail legible copies of the documents or produce things requested by this subpoena, together with the certificate of compliance, to the party making this request at the address listed above. You have the right to seek in advance the reasonable cost of preparing the copies or producing the things sought.

If you fail to produce the documents or things required by this subpoena within thirty (30) days after its service, the party serving this subpoena may seek a court order compelling you to comply with it.

This subpoena was issued at the request of the following person:

\_\_\_\_\_  
Attorney's Name

\_\_\_\_\_  
Identification Number

\_\_\_\_\_  
Address

\_\_\_\_\_  
Telephone Number

Attorney for \_\_\_\_\_

BY THE COURT:

DATE: \_\_\_\_\_ By \_\_\_\_\_  
(Prothonotary)

Seal of the Court

(j) The certification of compliance required by subdivision (d) shall be substantially in the following form:

(CAPTION)

NOTICE

To \_\_\_\_\_ (Person Served with Subpoena):

You are required to complete the following Certificate of Compliance when producing documents or things pursuant to the Subpoena.

**CERTIFICATE OF COMPLIANCE  
WITH SUBPOENA TO PRODUCE DOCUMENTS OR  
THINGS PURSUANT TO RULE 4009.3**

\_\_\_\_\_ (person served with subpoena) certifies to the best of his or her knowledge, information and belief that all documents or things required to be produced pursuant to the subpoena issued on \_\_\_\_\_ (date of subpoena) have been produced.

Date: \_\_\_\_\_  
Person served with subpoena

**ENTRY UPON PROPERTY FOR INSPECTION AND  
OTHER ACTIVITIES**

**Rule 4009.11. Entry Upon Property for Inspection and Other Activities.**

Any party may serve a request upon a party pursuant to Rule 4009.12 or a motion upon a person not a party pursuant to Rule 4009.13 to permit entry upon designated property in the possession or control of the party or person upon whom the request is served for the purpose of inspecting and measuring, surveying, photographing, testing, or sampling the property or any designated object or operation thereon, within the scope of Rules 4003.1 through 4003.5 inclusive.

**Official Note:** These rules do not prevent a court from entering an order under its common law power preserving or protecting property.

Parties to an action and persons not parties but served with a subpoena or request pursuant to these rules have the protective and enforcement provisions of the discovery rules available to them. See Rule 4012 governing protective orders and Rule 4019 governing enforcement and sanctions for failure to make discovery.

These rules do not preclude an independent action against a person not a party for permission to enter upon property.

**Rule 4009.12. Request for Entry upon Property of a Party.**

(a) The request may, without leave of court, be served upon the plaintiff after commencement of the action and upon any other party with or after service of the original process upon that party. The request shall describe with

reasonable particularity the property to be entered and the activities to be performed.

(b) The party upon whom the request is served shall allow the requested entry unless the request is objected to within thirty days after service of the request, in which event the reasons for objection shall be stated. If objection is made to party of a request, the part shall be specified. The party submitting the request may move for an order under Rule 4019(a) with respect to any objection to or failure to respond to the request or any part thereof, or any failure to permit entry as requested.

(c) A party may enter upon property one or more times to accomplish the activities set forth in the request.

**Official Note:** The remedy of a protective order is available to the party to whom the request is directed to prevent abuse.

**Rule 4009.13. Motion for Entry Upon Property of a Person Not a Party.**

(a) A motion to permit entry upon property of a person not a party shall begin with the notice prescribed by subdivision (c) and shall be served personally by a competent adult in the same manner as original process. A copy of the motion shall also be served upon all other parties to the action pursuant to Rule 440.

**Official Note:** For general provisions governing entry upon property, see Rule 4009.11.

(b) If the person served does not affirmatively consent to the entry, the motion may be presented to the court. The moving party shall give the person served not less than fifteen days notice of the presentation. Upon proof of service of the notice of the presentation, the court, as it deems appropriate, may enter an order permitting or denying the entry or set a date for a hearing. The order permitting entry shall specify a reasonable time, manner or other condition of entry and of making the inspection and performing any related acts.

(c) The notice required by subdivision (a) shall be substantially in the following form:

(CAPTION)

**IMPORTANT NOTICE**

YOU HAVE PROPERTY WHICH THE PARTIES TO THE ABOVE LAWSUIT WISH TO ENTER FOR INSPECTION OR OTHER ACTIVITIES. THE MOTION ATTACHED TO THIS NOTICE ASKS THE COURT FOR AN ORDER ALLOWING THE ENTRY INTO YOUR PROPERTY. IF YOU HAVE NO OBJECTION TO THIS ENTRY PLEASE FILL IN THE ATTACHED FORM. PLEASE CONTACT THE ATTORNEY LISTED BELOW:

\_\_\_\_\_  
(Attorney filing the motion)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(Telephone Number)

IF YOU DO HAVE OBJECTIONS YOU HAVE A RIGHT TO A HEARING ON THE MATTER. A DATE FOR PRESENTATION OF THE MOTION TO THE COURT WILL BE SET AND THE PARTY FILING THE MOTION WILL GIVE YOU FIFTEEN DAYS NOTICE OF THE PRESENTATION. IF YOU DO NOT APPEAR AT THE PRESENTATION OF THE MOTION, THE COURT MAY ENTER AN ORDER ALLOWING ENTRY.

YOU MAY WISH TO TAKE THIS NOTICE TO A LAWYER WHO CAN ADVISE YOU. IF YOU DO NOT HAVE A LAWYER AND WISH TO OBTAIN ONE, CONTACT THE FOLLOWING OFFICE TO FIND OUT WHERE YOU CAN GET LEGAL HELP:

\_\_\_\_\_  
(Name of Office)

\_\_\_\_\_  
(Address of Office)

\_\_\_\_\_  
(Telephone Number)

**Official Note:** The office shall be that designated by the court under Rule 1018.1(c).

#### **Explanatory Comment**

Recommendation No. 131 proposes to rescind present Rule 4009 governing production of documents and things and entry upon land and to replace it with Rule 4009.1 et seq. The new section is divided into Rules 4009.1—4009.3, relating to production of documents and things and Rules 4009.11—4009.13, relating to entry upon property.

#### **PRODUCTION OF DOCUMENTS AND THINGS**

##### *Rule 4009.1 Production of Documents and Things*

Proposed Rule 4009.1 is derived from present Rule 4009(a)(1) and sets forth the parameters of production. While continuing to provide for a request for production by a party to an action, the rule also provides for a new subpoena for production by a person not a party.

##### *Rule 4009.2 Request Upon a Party for Production*

The rule provides that the request is to be in the form of numbered paragraphs, each of which should request one item or category of items described with "reasonable particularity." As in the case of written interrogatories to a party, the rule requires that sufficient space be "provided following each paragraph for insertion of the answer."

The party upon whom the request is served must serve a verified answer within thirty days after service of the request. Any objections to the request must be set forth in the answer. Subdivision (c) also provides specific guidance to the manner of answering a request. Documents or things whether produced or not produced are to be identified through a system of numbering required by subdivision (d).

If a request is subject to a reasonable interpretation that certain documents are within the scope of the request, the party from whom production is sought must respond to the request. Subdivision (e) requires that in such a circumstance the document must be produced and identified or an objection made.

##### *Rule 4009.3 Subpoena Upon a Person Not a Party for Production of Documents and Things*

The subpoena upon a person not a party for the production of documents and things is new. A party who wishes to take advantage of this procedure must give thirty days advance notice to all other parties of the intention to serve the subpoena. A copy of the subpoena proposed to be served must be attached to the notice of intent. Advance notice is not given to the person to be served with the subpoena from whom production is sought.

Any party may object to service of the subpoena and, if the objection is filed of record or received by the party who served the notice of intent within thirty days of service, "the subpoena shall not be served." A protective order is available to a party who has not timely filed or served objections.

Service of the subpoena is authorized by subdivision (c) if it is identical to the subpoena attached to the notice of intent and if the party seeking to serve it files the required certification. The rule provides several forms, including the form of subpoena and the form of certification.

Subdivision (d) provides for the party upon whom the subpoena has been served to execute a certificate of compliance. Subdivision (e) provides for the party who has received documents or things to give notice to other parties of the receipt of documents or things and, upon request and payment of reasonable costs, to provide copies of documents or reasonable access to things.

#### **ENTRY UPON PROPERTY FOR INSPECTION AND OTHER ACTIVITIES**

##### *Rule 4009.11 Entry Upon Property for Inspection and Other Activities*

Proposed Rule 4009.11 is derived from present Rule 4009(a)(2) and describes the entry upon property. In addition to providing for a request for entry upon property of a party to an action as under the present rule, the proposed rule also provides for a motion for entry upon the property of a person not a party.

##### *Rule 4009.12 Request for Entry Upon Property of a Party*

The request must "describe with reasonable particularity the property to be entered and the activities to be performed." The party served must permit the requested entry or object within thirty days after service of the request. The enforcement provisions of Rule 4019(a) are available with respect to an objection, a failure to respond or a failure to permit the requested entry.

The party requesting entry may enter "one or more times to accomplish the activities set forth in the request." A note advises that abuse may be prevented by means of a protective order.

##### *Rule 4009.13 Motion for Entry Upon Property of a Person Not a Party*

The rule governs three aspects of procedure upon a motion for entry upon property of a person not a party. First, subdivision (a) requires that the motion begin with the form of "Important Notice" prescribed by subdivision (c). Second, subdivision (a) also requires service of the motion upon both the person not a party whose property is to be entered and all other parties to the action. Finally, subdivision (b) provides for notice of presentation of the motion to the court when the person does not affirmatively consent to the entry.

*By the Civil Procedural Rules Committee,*

EDWIN L. KLETT,  
*Chairperson*

[Pa.B. Doc. No. 96-132. Filed for public inspection February 2, 1996, 9:00 a.m.]

# Title 234—RULES OF CRIMINAL PROCEDURE

## PART I. GENERAL

### [234 PA. CODE CHS. 50 AND 100]

Revision of the Comments to Rules 51, 55 and 101; No. 203; Doc. No. 2

#### Order

*Per Curiam:*

Now, this 16th day of January, 1996, upon the recommendation of the Criminal Procedural Rules Committee, this proposal having been submitted without publication pursuant to Pa.R.J.A. 103(a)(3), and an explanatory *Report* to be published with this Order:

*It Is Ordered* pursuant to Article V, Section 10 of the Constitution of Pennsylvania that the *Comments* to Pa.Rs.Crim.P. 51, 55, and 101, as revised in the following form, are hereby approved.

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

The Criminal Procedural Rules Committee has prepared a *Report* explaining the January 16, 1996 revisions of the *Comments* to Rules of Criminal Procedure 51 (Means of Instituting Proceedings in Summary Cases), 55 (Issuance of Citation), and 101 (Means of Instituting Proceedings in Court Cases), which are the subject of the following Order. The *Report* follows the Court's Order.

#### Annex A

### TITLE 234. RULES OF CRIMINAL PROCEDURE

#### PART I. GENERAL

### CHAPTER 50. PROCEDURE IN SUMMARY CASES

#### PART I. INSTITUTING PROCEEDINGS

#### Rule 51. Means of Instituting Proceedings in Summary Cases.

\* \* \* \* \*

**Official Note:** Previous Rule 51, adopted January 23, 1975, effective September 1, 1975; Comment revised January 28, 1983, effective July 1, 1983; Comment revised December 15, 1983, effective January 1, 1984; rescinded July 12, 1985; effective January 1, 1986; and replaced by present Rules 3 [ (0) ], 51, 52, 55, 60, 65, 70, 75, and 95. Present Rule 51 adopted July 12, 1985, effective January 1, 1986. The January 1, 1986 effective dates all are extended to July 1, 1986; Comment revised February 1, 1989, effective July 1, 1989; Comment revised January 31, 1991, effective July 1, 1991; **Comment revised January 16, 1996, effective immediately.**

#### Comment

[ This rule is derived from previous Rule 51A. ] This rule establishes the means of instituting criminal proceedings in summary cases. For general citation procedures, see Part II, Rules 52 and 53.

\* \* \* \* \*

Summary cases are cases in which all the offenses charged are either summary offenses, as defined in the Crimes Code, 18 Pa.C.S. § 106(c) [ (1983) ], or violations of ordinances for which imprisonment may be imposed upon conviction or upon failure to pay a fine or penalty. See Rule 3. Criminal proceedings in summary cases are

to be brought under this chapter of the rules. If one or more of the offenses charged is a misdemeanor, felony, or murder, the case is a court case (see Rule 3) and proceeds under Chapter 100 of the rules. Any summary offenses in such a case, if known at the time, must be charged in the same complaint as the higher offenses and must be disposed of as part of the court case. See Crimes Code § 110, 18 Pa.C.S. § 110, and *Commonwealth v. Campana*, [ 452 Pa. 233, ] 304 A.2d 432 (Pa. 1973), vacated and remanded, 414 U. S. 808 (1973), on remand, [ 455 Pa. 622, ] 314 A.2d 854 (Pa. 1974) [ , and *Grady v. Corbin*, 110 S. Ct. 2084 (1990) ]. But see *Commonwealth v. Beatty*, [ 500 Pa. 284, ] 455 A.2d 1194 (Pa. 1983), [ with regard to ] concerning summary violations of the Vehicle Code.

The summary case rules are not intended to prohibit or to suspend any acknowledgment of guilt procedures that may be specifically authorized by statute. See, e.g., Section 926 of the Game and Wildlife Code, 34 Pa.C.S. § 926, and Section 925 of the Fish and Boat Code, 30 Pa.C.S. § 925. **Furthermore, the use of a field acknowledgment of guilt pursuant to 34 Pa.C.S. § 926 or 30 Pa.C.S. § 925 should not be construed as the issuance of a citation for the purpose of instituting a summary case under these rules.** See [ also ] Rules [ 56 ] 55 and 60.

The Rules of Criminal Procedure generally do not apply to juvenile proceedings, but these rules do apply to proceedings in summary cases involving juveniles to the extent that the Juvenile Act does not apply to such proceedings. See, e.g., Juvenile Act §§ 6302—6303, 42 Pa.C.S. §§ 6302—6303; Vehicle Code § 6303, 75 Pa.C.S. § 6303. See also 42 Pa.C.S. § 1515(a)(1) and 6303(a)(5) concerning jurisdiction of summary offenses arising out of the same episode or transaction involving a delinquent act for which a petition alleging delinquency is filed.

See [ Section 1 of Act 9 of 1990, effective April 14, 1990, adding ] Section 1522 to the Judicial Code, 42 Pa.C.S. § 1522, concerning parental notification in certain summary cases involving juveniles.

\* \* \* \* \*

#### Committee Explanatory Reports:

Report explaining the January 31, 1991 amendments published at 20 [ Pa. Bull. ] Pa.B. 4788 (September 15, 1990); Supplemental Report published at 21 [ Pa. Bull. ] Pa.B. 621 (February 16, 1991).

**Report explaining the January 16, 1996 Comment revisions published with the Court's Order at 26 Pa.B. 437 (February 3, 1996).**

#### PART IIA. PROCEDURES WHEN CITATION IS ISSUED TO DEFENDANT

#### Rule 55. Issuance of Citation.

\* \* \* \* \*

**Official Note:** Previous rule, originally numbered Rule 135, adopted January 31, 1970, effective May 1, 1970; renumbered [ as ] Rule 55 September 18, 1973, effective January 1, 1974; rescinded July 12, 1985, effective January 1, 1986, and replaced by present Rule 58. Present Rule 55 adopted July 12, 1985, effective January 1, 1986. The January 1, 1986 effective dates are all extended to July 1, 1986; Comment revised February 11, 1989, effective July 1, 1989; **Comment revised January 16, 1996, effective immediately.**

**Comment**

[This rule is derived from previous Rule 51A, subparagraphs (1)(a) and (3)(a).]

A law enforcement officer may issue a citation based upon information that the defendant has committed a summary violation, which information may be received from a personal observation of the commission of the offense; a witness; another police officer; investigation; or speed-timing equipment, including radar. Contrast *Commonwealth v. Hatfield*, [307 Pa. Super. 454,] 453 A.2d 671 (Pa. Super. 1982), decided before the adoption of previous Rule 70 (Defects in Form, Content, or Procedure—Summary Cases) and the 1983 revision of the previous Comment.

It is preferable that a law enforcement officer making a stop for a traffic violation be in uniform.

The use of a [citation for a] field acknowledgment of guilt pursuant to Section 926 of [The] the Game and Wildlife Code, [( ) 34 Pa.C.S. § 926, (Supp. 1988)] and Section 925 of the Fish and Boat Code. [( ) 30 Pa.C.S. § 925, (Supp. 1988)] should not be construed as [an] the issuance of a citation for the purpose of instituting a summary case under these rules. See Rule 60.

**Committee Explanatory Reports:**

Report explaining the January 16, 1996 Comment revisions published with the Court's Order at 26 Pa.B. 437 (February 3, 1996).

**CHAPTER 100. PROCEDURE IN COURT CASES**

**Rule 101. Means of Instituting Proceedings in Court Cases.**

\* \* \* \* \*

**Official Note:** Original Rule 102(1), (2), and (3), adopted June 30, 1964, effective January 1, 1965; suspended January 31, 1970, effective May 1, 1970. New Rule 102 adopted January 31, 1970, effective May 1, 1970; renumbered Rule 101, and made applicable to court cases only, September 18, 1973, effective January 1, 1974; Comment revised February 15, 1974, effective immediately; amended June 30, 1975, effective September 1, 1975; Comment amended January 4, 1979, effective January 9, 1979; paragraph (1) amended October 22, 1981, effective January 1, 1982; Comment revised July 12, 1985, effective January 1, 1986; January 1, 1986 effective date extended to July 1, 1986; Comment revised January 31, 1991, effective July 1, 1991; Comment revised August 12, 1993, effective September 1, 1993; amended August 9, 1994, effective January 1, 1995; **Comment revised January 16, 1996, effective immediately.**

**Comment**

\* \* \* \* \*

There are only a few exceptions to this rule regarding the instituting of criminal proceedings in court cases. There are, for example, special proceedings involving a coroner or medical examiner. See *Commonwealth v. Lopinson*, [427 Pa. 284,] 234 A.2d 552 (Pa. 1967), and *Commonwealth v. Smouse*, [406 Pa. Super. 369,] 594 A.2d 666 (Pa. Super. 1991).

Whenever a misdemeanor or felony is charged, even if a summary offense is also charged in the same complaint, the case should proceed as a court case under Chapter

100. See *Commonwealth v. Campana*, [452 Pa. 233,] 304 A.2d 432 (Pa. 1973). [See also *Grady v. Corbin*, 495 U. S. 908 (1990).]

\* \* \* \* \*

*Committee Explanatory Reports:*

Report explaining the January 31, 1991 amendments published at 20 Pa.B. 4788 (September 15, 1990); Supplemental Report published at 21 Pa.B. 621 (February 16, 1991).

Report explaining the August 12, 1993 Comment revisions published at 22 Pa.B. 3826 (July 25, 1992).

Report explaining the August 9, 1994 amendments published at 22 Pa.B. 6 (January 4, 1993); Final Report published with the Court's Order at 24 Pa.B. 4342 (August 27, 1994).

**Report explaining the January 16, 1996 Comment revisions published with the Court's Order at 26 Pa.B. 437 (February 3, 1996).**

**REPORT**

*Revision of the Comments to Rules 51, 55, and 101*

*Field Acknowledgments of Guilt; Jurisdiction of Summary Offenses in Juvenile Cases; Grady v. Corbin*

On January 16, 1996, upon the recommendation of the Criminal Procedural Rules Committee, the Court approved the revision of the Comments to Rules of Criminal Procedure 51 (Means of Instituting Proceedings in Summary Cases), 55 (Issuance of Citation), and 101 (Means of Instituting Proceedings in Court Cases). These "house-keeping" revisions were submitted for the Court's approval without prepublication. The revisions update the Comments:

(1) by recognizing that the statutorily authorized field acknowledgment of guilt used by both the Pennsylvania Game Commission and the Pennsylvania Fish and Boat Commission is a separate document from the criminal citation;

2) by including in the Rule 51 Comment a citation to Section 6303(a)(5) of the Juvenile Act, 42 Pa.C.S. § 6303(a)(5), and Section 1515(a)(1) of the Judicial Code, 42 Pa.C.S. § 1515(a)(1), concerning the jurisdiction of summary offenses arising out of the same episode or transaction involving a delinquent act; and

(3) by deleting from the Comments to Rules 51 and 101 the citation to *Grady v. Corbin*, 495 U. S. 908 (1990), which has been expressly overruled in *United States v. Dixon*, 509 U. S. \_\_\_\_ (1993).

These revisions are effective immediately.

This Report highlights the Committee's considerations in formulating its recommendation.<sup>1</sup>

*Discussion*

1) Field Acknowledgments of Guilt

It recently came to the Committee's attention that the Pennsylvania Game Commission and the Pennsylvania Fish and Boat Commission are no longer using the preprinted criminal citation form as the field acknowledgment of guilt. See 30 Pa.C.S. § 925 and 34 Pa.C.S. § 926 for the statutory authority to use field acknowledgments of guilt. To avoid confusion about the function of the field acknowledgment as it relates to the institution of crimi-

<sup>1</sup> Please note that the Committee's Reports should not be confused with the official Committee Comments to the rules. In addition, the Supreme Court does not adopt the Committee's Comments or the contents of the explanatory Reports.

nal proceedings by citation, the Commissions developed a separate form for the field acknowledgment of guilt. In view of this, the present Rule 55 *Comment* is outdated and misleading, and has been revised to reflect this change in the forms.

When the Committee reviewed the other summary case rules to see if any of them needed similar changes, we looked at Rule 51 (Means of Instituting Proceedings in Summary Cases). Because Rule 51 deals generally with instituting summary criminal proceedings, the Committee agreed that the Rule 51 *Comment* should be revised to make it clear that the field acknowledgment is not a citation for purposes of instituting a summary criminal proceeding under the rules.

## 2) Juvenile Cases

The Committee has been monitoring the recent legislation related to criminal practice which impacts on the Criminal Rules. On March 31, 1995, the Governor signed Act No. 1995-9 (SS1), which amends Section 1515(a)(1) of the Judicial Code, 42 Pa.C.S. § 1515(a)(1), and Section 6303(a)(5) of the Juvenile Act, 42 Pa.C.S. § 6303(a)(5), to vest jurisdiction in the Juvenile Court over proceedings in which a child is charged with a summary offense arising out of the same episode or transaction involving a delinquent act for which a petition alleging delinquency is filed under the Juvenile Act. In view of this statutory change, we agreed that the Rule 51 *Comment* provision concerning the application of the Criminal Rules to juveniles should be updated to reflect these recent amendments.

## 3) *Grady v. Corbin*

Since we were already making "housekeeping" revisions to the Rule 51 *Comment*, the Committee agreed that the citation to *Grady v. Corbin*, 495 U. S. 908 (1990), should be deleted from the paragraph discussing Section 110 of the Crimes Code, 18 Pa.C.S. § 110, and *Commonwealth v. Campana*, 304 A.2d 432 (Pa. 1973) because *Grady* has been expressly overruled in *United States v. Dixon*, 509 U. S. \_\_\_\_ (1993). For the same reason, we also deleted the reference to *Grady* in the Rule 101 *Comment*.

[Pa.B. Doc. No. 96-133. Filed for public inspection February 2, 1996, 9:00 a.m.]

## PART I. GENERAL

### [234 PA. CODE CH. 1100]

### Order Amending Rule 1114; No. 204; Doc. No. 2

#### Order

*Per Curiam:*

Now, this 16th day of January, 1996, upon the recommendation of the Criminal Procedural Rules Committee, the proposal having been published in the *Pennsylvania Bulletin* (24 Pa.B. 1479 (March 19, 1994)) and in the *Atlantic Reporter* (Second Series Advance Sheets Vol. 637, No. 1) before adoption, 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 Rule 1114 is hereby amended in the following form.

This Order shall be processed in accordance with Pa.R.J.A. 103(b), and shall be effective July 1, 1996.

The Criminal Procedural Rules Committee has prepared a *Final Report* explaining the changes which are the subject to the Court's Order. The *Final Report* follows the Court's Order.

#### Annex A

### TITLE 234. RULES OF CRIMINAL PROCEDURE

#### PART I. GENERAL

#### CHAPTER 1100. TRIAL

#### Rule 1114. Material permitted in possession of the jury.

[ Upon retiring for deliberations, the jury shall not be permitted to have a transcript of any trial testimony, nor a copy of any written confession by the defendant, nor a copy of the information or indictment. Otherwise, upon retiring, the jury may take with it such exhibits as the trial judge deems proper. ]

1. Upon retiring, the jury may take with it such exhibits as the trial judge deems proper, except as provided in paragraph 2.

2. During deliberations, the jury shall not be permitted to have a transcript of any trial testimony, nor a copy of any written or otherwise recorded confession by the defendant, nor a copy of the information.

**Official Note:** Adopted January 24, 1968, effective August 1, 1968; amended, and second paragraph of Comment and the words "or information" added June 28, 1974, effective September 1, 1974; Comment revised August 12, 1993, effective September 1, 1993; amended January 16, 1996, effective July 1, 1996.

#### Comment

[ This rule substantially changed the former law in many Pennsylvania counties by prohibiting ] This rule prohibits the jury from receiving a copy of the indictment or information during its deliberations. The rule also prohibits the jury from taking into the jury room any written or otherwise recorded confession of the defendant. In *Commonwealth v. Pitts*, [ 450 Pa. 359, 363 n.1, ] 301 A.2d 646, 650 n.1 (Pa. 1973), the Court noted that "it would be better procedure not to allow exhibits into the jury room which would require expert interpretation." See *Commonwealth v. Oleynik*, 568 A.2d 1238 (Pa. 1990), in which the Supreme Court held that it was improper to permit a jury to take written jury instructions with them for use during deliberations.

Although most references to indictments and indicting grand juries were deleted from these rules in 1993 because the indicting grand jury was abolished in all counties, see PA. CONST. art. I, § 10 and 42 Pa.C.S. § 8931(b), the reference was retained in this rule because there may be some cases still pending that were instituted prior to the abolition of the indicting grand jury.

The amendment adding "or otherwise recorded" is not intended to enlarge or modify what constitutes a confession under this rule. Rather, the amendment is only intended to recognize that a confession can be recorded in a variety of ways. See *Commonwealth v. Foster*, 624 A.2d 144 (Pa. Super. 1993).

*Committee Explanatory Reports:*

Report explaining the August 12, 1993 Comment revision published at 22 Pa.B. 3826 (July 25, 1992).

**Final Report explaining the January 16, 1996 amendments published with the Court's Order at 26 Pa.B. 439 (February 3, 1996).**

**FINAL REPORT**

*Amendments to Rule 1114  
(Materials Permitted in Possession of Jury)  
Written or Otherwise Recorded Confessions*

**I. Introduction**

On January 16, 1996, upon the recommendation of the Criminal Procedural Rules Committee, the Supreme Court of Pennsylvania adopted amendments to Rule of Criminal Procedure 1114 (Material Permitted in Possession of the Jury) to clarify the rule's exception for confessions in light of *Commonwealth v. Foster*, 624 A.2d 144 (Pa. Super. 1993). This *Final Report* highlights the Committee's considerations in formulating its recommendation.<sup>1</sup>

**II. Discussion**

Under Rule 1114, a jury is not permitted to have a copy of a defendant's written confession. In *Commonwealth v. Foster*, 624 A.2d 144 (Pa. Super. 1993), the Superior Court declined to construe Rule 1114 as imposing a like proscription for videotaped confessions, but raised the question of whether Rule 1114 should be amended to encompass all mediums by which a criminal defendant's confession could be recorded.

Prompted by the Superior Court's suggestion in *Foster*, the Committee reviewed the history of Rule 1114. In 1974, at the Court's request, the Committee added the "written confession" exception to Rule 1114, although at the time, the Committee believed that there should be no exception and that the entire matter should be left to the judge's discretion. As we reexamined Rule 1114, there was some sentiment that the Committee's 1974 position was correct and that the rule should be completely discretionary. Ultimately, however, we decided that the exception should remain.

Because the Committee agreed with the suggestion in *Foster* that the "confession" exception should encompass all mediums by which a defendant's confession can be recorded, we reviewed examples of Pennsylvania statutory and rule language distinguishing audio and video recordings from a police officer's written "record" or report of a defendant's statement in order to determine how best to phrase a rule amendment. We rejected some terminology, such as "electronic recordings," because technological developments would soon render it obsolete. Other terminology, such as that found in the Wiretap Act, see 18 Pa.C.S. § 5714 (Recording of Intercepted Communications) and in the statutes governing videotaped depositions and closed-circuit television, see 42 Pa.C.S. §§ 5984, 5985, and 5985.1, was too narrow in scope. As a result of this review, the Committee concluded that the amendment should be broadly drafted to insure that it would encompass not only the current means for recording confessions, but also future technological developments.

Finally, to make it clear that the amendment is not intended to change what constitutes a confession under Rule 1114, we added the following paragraph to the Comment:

<sup>1</sup> Please note that the Committee's *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 *Reports*.

The amendment adding "or otherwise recorded" is not intended to enlarge or modify what constitutes a confession under this rule. Rather, the amendment is only intended to recognize that a confession can be recorded in a variety of ways. See *Commonwealth v. Foster*, 624 A.2d 144 (Pa. Super. 1993).

[Pa.B. Doc. No. 96-134. Filed for public inspection February 2, 1996, 9:00 a.m.]

## Title 25—LOCAL COURT RULES

### SCHUYLKILL COUNTY

#### Amended Rules of Procedure; S.96 1996

##### Order of Court

*And Now*, this 17 day of January, 1996, at 1:10 p.m., Schuylkill County Civil Rules of Procedure, Criminal Rules of Procedure for the Court of Common Pleas and District Justice Courts and Judicial Administration are amended and/or adopted for use in the Court of Common Pleas of Schuylkill County, Pennsylvania, Twenty-First Judicial District, Commonwealth of Pennsylvania, effective thirty days after publication in the *Pennsylvania Bulletin*.

The Prothonotary of Schuylkill County is Ordered and Directed to do the following:

- 1) File seven (7) certified copies of this Order and Rules with the Administrative Office of Pennsylvania Courts.
- 2) File two (2) certified copies of this Order and Rules with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.
- 3) File one (1) certified copy of this Order and Rules with the Pennsylvania Civil Procedural Rules Committee, Criminal Procedural Rules Committee and the Domestic Relations Committee.
- 4) Forward one (1) copy with the Law Library of Schuylkill County for publication in the *Schuylkill Legal Record*.
- 5) Keep continuously available for public inspection copies of this Order and Rule.

It is further *Ordered* that said rules as they existed prior to the amendment is hereby repealed and annulled on the effective date of said rule as amended, but no right acquired thereunder shall be disturbed.

JOSEPH F. McCLOSKEY,  
*President Judge*

REVISED RULES  
of  
CIVIL PROCEDURE  
in the

Court of Common Pleas  
of Schuylkill County  
Twenty-First Judicial District  
Commonwealth of Pennsylvania

**RULES OF CIVIL PROCEDURE  
FOR COMMON PLEAS COURT**

**APPEALS FROM CERTAIN ADMINISTRATIVE  
AGENCIES**

**RULE 14: APPEALS FROM ZONING BOARD AND  
GOVERNMENTAL AGENCIES**

I. PENNSYLVANIA MUNICIPALITIES PLANNING  
CODE (nothing contained in this Local Rule shall super-

sede the requirements of the Pennsylvania Municipalities Planning Code).

A. APPEAL NOTICE. A land use appeal shall be in writing and shall contain the following:

1. A caption in substantially the following form: In Re: The Appeal of \_\_\_\_\_ (Name) \_\_\_\_\_ from the decision of the \_\_\_\_\_ (Name of local agency, such as zoning hearing board or governing body).

2. Where applicable and where available to the appellant, in separately numbered paragraphs and in the following order:

- a. name and address of the appellant.
- b. name and address of the local agency the decision of which is being appealed.
- c. the name and address of the owners, both real and equitable of any real estate which may be the subject of the application and an identification of any real estate which may be the subject matter of the application.
- d. a chronology of the case, including the following dates:
  - i. date of application.
  - ii. date of filing application with the zoning officer.
  - iii. date of action of the zoning officer or other official.
  - iv. date of appeal or request to local agency.
  - v. dates of all hearings.
  - vi. date of decision or adjudication from which the appeal has been taken.
  - vii. date decision received.
- e. the purpose for which the original application was made.
- f. all specific legal and factual grounds relied upon for the appeal.
- g. prayer for relief specifying all relief sought by the appellant.

3. A certification by the appellant that a transcript of the proceedings has been ordered, if one is not already in existence. At the time of the ordering, a party must make satisfactory arrangements with the reporter for payment of the costs of the transcript.

#### B. INTERVENTION

1. Notice of intervention under Section 1004-A of the Pennsylvania Municipalities Planning Code shall be under caption of the appeal and contain:

- i. name and address of intervenor.
- ii. nature of interest of intervenor in the proceedings.
- iii. statement setting forth the factual and legal circumstances under which the intervenor alleges a right to intervene.
- iv. a brief summary of the position of intervenor and grounds therefor.

2. All other intervention shall be governed by the Pennsylvania Rules of Civil Procedure.

3. The petitioner seeking intervention in a land use appeal shall comply with the procedures in Sch.R.C.P. 206 to submit the matter to the Court.

#### C. CERTIORARI.

1. In making its return, the local agency shall submit its entire record, including but not limited to:

- a. all original papers filed, in chronological order, commencing with the application and all documents relating thereto, including correspondence;
- b. the transcript of testimony in existence and available to the local agency within the time it is required to make its return;
- c. the complete current zoning ordinance of the municipality, including maps, and any relevant prior ordinances or citation of, and copies of rules or regulations which affect the appeal; and
- d. the findings of fact and conclusions of law of the local agency and its decision.
- e. the names and addresses of all persons officially recognized as parties by the local agency.

2. The return on the certiorari shall be verified by the chairman or other officer designated by the local agency.

3. Notice of making the return shall be given forthwith by the Prothonotary to appellant who shall, within 4 days after receipt of the notice of making the return, give written notice of the return to the municipality, any applicant before the local agency and any property owner, whether real or equitable, whose land is the subject matter of the application, as well as all other parties to the original proceedings. The appellant shall contemporaneously file a certificate of service of such notice, setting forth the name and address of each party served and the manner of service.

4. If a transcript subsequently becomes available, a supplemental return, containing such transcript, shall be promptly filed, and notice given as required by I.C.3. above.

#### D. SUBMISSION TO COURT

1. Unless otherwise ordered by the court or by stipulation of the parties, the only issues before the court shall be those raised by the specific legal or factual grounds and prayers for relief in the appeal notice pursuant to subsection A(2)(f) and (g), and supplemental grounds filed in writing within 5 days of receipt of notice that the transcript has been filed.

2. Upon receiving notice of the return on certiorari, any party may submit the appeal to the court for disposition by praecipe pursuant to Sch.R.C.P. 206. The submitting party shall contemporaneously file a brief supporting that party's position and an affidavit of service on all other parties or their counsel. The briefs of all other parties shall be filed within 20 days of such service. If any party believes that the proper consideration of the appeal requires the presentation of additional evidence, that party shall, on or before the date when that party's brief is due, file a written motion, in compliance with Sch.R.C.P. 206, and shall be accompanied by the praecipe mandated by Sch.R.C.P. 205.3, setting forth specifically the nature of the proposed additional testimony and the reasons why such testimony is necessary for the proper consideration of the appeal.

3. In the absence of a motion to present additional testimony, the Court may render a decision based solely on the record, briefs of the parties and oral argument if requested; may direct that the parties brief and/or argue additional issues; or may remand the matter for additional hearing. If a motion for additional hearing is filed and it is shown that proper consideration of the appeal



requires the presentation of additional evidence, the Court may hold a hearing to receive additional evidence, may remand the case to the body, agency or officer whose decision or order has been brought up for review if permitted by law, or may refer the case to a referee to receive additional evidence.

4. An appeal from a decision on remand shall be docketed to the original docket from which the remand was made. Only issues arising from the remand may be raised. All requirements of all parties (including, but not limited to, the local agency), as elsewhere provided in this Rule shall apply to an appeal after remand.

II. LOCAL AGENCY LAW. Except as otherwise provided in the Local Agency Law, 2 Pa.C.S.A. § 101 et seq., appeals taken under the Local Agency Law shall be governed by part I above to the extent applicable.

III. OTHER GOVERNMENT AGENCIES. Appeals taken from any governmental action for which no other procedure is provided by statute or rule shall be governed by part I above to the extent applicable.

#### **RULE 15: SUPERSEDEAS IN APPEALS**

Unless otherwise provided by law, the grant of a supersedeas or a stay of proceedings in connection with appeals shall be discretionary with the Courts and may be upon ex parte application; provided, however, that the other parties of record in the proceedings shall have the right to petition for the withdrawal of such supersedeas or stay.

#### **RULES OF CONSTRUCTION**

##### **RULE 51: TITLE AND CITATION OF RULES**

(a) All Civil procedural rules adopted by the Court of Common Pleas of Schuylkill County shall be known as the Schuylkill County Rules of Civil Procedure and shall be cited as "Sch.R.C.P. \_\_\_\_."

##### **RULE 52: EFFECTIVE DATE OF RULES**

These rules are intended to supplement and implement the Pennsylvania Rules of Civil Procedure, and they shall govern the practice and procedure in the Court of Common Pleas of Schuylkill County when appropriate. These Rules have been filed with the Administrative Office of the Pennsylvania Courts on \_\_\_\_\_, as required by Pa.R.J.A. 103(c)(1) and shall be effective from such date.

##### **RULE 76: DEFINITIONS**

(a) Unless the context clearly indicates otherwise, the words and phrases used in any rule promulgated by the Court of Common Pleas of Schuylkill County shall be given the same meanings as said words and phrases are given by Pa.R.C.P. 76, except:

(1) "Court" or "The Court" shall mean the Court of Common Pleas of Schuylkill County.

(2) "Rule" shall mean any rule of court promulgated by the Court of Common Pleas of Schuylkill County.

##### **RULE 101: PRINCIPLES OF INTERPRETATION**

(a) In the construction of any Schuylkill Rule, the principles set forth in Pa.R.C.P. 101 through 153 shall be employed whenever possible.

##### **RULE 105.1: APPROVAL OF SURETIES AND BONDSMEN, LIMITATIONS**

(a) Sureties and bondsmen required at the commencement of actions shall be approved by the Court. No attorney, sheriff's officer, officer of the court, or person

concerned in the issue or execution of process, shall become bail except by written leave of Court.

##### **(b) Individual Sureties**

When other than corporate security is offered, the party offering it shall at the same time present an affidavit of justification of the surety in the following form for approval of the Court:

#### (CAPTION) JUSTIFICATION OF SURETY

State of Pennsylvania

ss.

County of Schuylkill

\_\_\_\_\_, being duly sworn, depose(s) and says(s):

1. I (we) reside at \_\_\_\_\_ in the County of \_\_\_\_\_ and are by occupation \_\_\_\_\_.

2. I am (We are) the owner(s) of real estate in said County of \_\_\_\_\_, consisting of a piece of ground in size \_\_\_\_\_, situate at No. \_\_\_\_\_, in the \_\_\_\_\_ of \_\_\_\_\_, which is improved with the following buildings:

3. The said property was obtained by me (us) by deed or will from \_\_\_\_\_ in the year \_\_\_\_\_, the title is in my (our) name(s) alone, and the deed or will is recorded in Schuylkill County in Deed (Will) Book Volume \_\_\_\_\_, page \_\_\_\_\_.

4. I am (We are) surety for the following named persons, and no others, in the following amounts:

5. I (We) do not contemplate the sale of the above described property and am (are) not now negotiating any sale of the same.

6. There are no encumbrances upon said property, except:

7. The said property has not been offered and accepted as bail or security for any other bail or bond still in force, except \_\_\_\_\_.

8. The above property is assessed by the County for taxation in the sum of \$ \_\_\_\_\_, and I (we) believe that at present said property would sell for \$ \_\_\_\_\_ County Assessment Code No. \_\_\_\_\_.

9. I (we) have read over the foregoing affidavit and swear the facts set forth therein are true and correct.

\_\_\_\_\_  
Sworn and subscribed before me  
this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_.

##### **RULE 107: PUBLICATION**

(a) The *Schuylkill Legal Record* is designated the legal publication for the Court of Common Pleas of Schuylkill County

#### **BUSINESS OF COURTS**

##### **RULE 202: CONTINGENT FEE AGREEMENT**

(a) All moneys collected by an attorney under a contingent fee agreement shall be paid, after the deduction of fees and proper charges for costs and expenses of the case, directly to the client without other deduction unless otherwise authorized in writing by the client.

**RULE 205.1: FILING OF PAPERS**

(a) All papers relating to civil matters shall be filed in the Office of the Prothonotary, with the exception of support matters which shall be filed with the Domestic Relations Section in accordance with appropriate statutes, Pennsylvania Rules of Civil Procedure, and these rules, with a case number and year thereon and the date and hour of filing to be stamped thereon by the Prothonotary or Clerk of the Domestic Relations Section.

(b) Upon receipt by the Prothonotary of the record of a case transferred from another judicial district, the Prothonotary shall assign a case number and year to the action and shall notify all counsel of record thereof.

(c) All papers, pleadings, and documents filed with the Prothonotary and Domestic Relations Section shall be on 8 1/2 x 11 inch paper, and where signatures are required, such signatures shall be in black or blue-black ink.

(d) Prepayment of costs for filing. The Prothonotary, Clerk of Court of Common Pleas, Register of Wills, Clerk of the Orphans' Court Division, Clerk of the Domestic Relations Section, and the Recorder of Deeds shall have the right to require payment for the filing, recording, or service of a paper or pleading at the time same is filed and, if said officer is unable to determine in advance the amount so required, he shall have a right to require a reasonable sum as a deposit against the costs for filing, recording, or service of a paper or pleading at the time same is filed.

**RULE 205.2: PAPERS AND RECORDS**

(a) The record papers in the Office of the Prothonotary and Domestic Relations Section shall be in the custody of said officials who shall be responsible for their safekeeping. No person, other than the Prothonotary or the Chief of the Domestic Relations Section, or their duly authorized clerks, shall have access to the files in which such record papers are kept.

(b) Auditors, masters, and other similar officers appointed by the Court shall have authority to remove such records as may be necessary for the purposes of their appointment, and they shall return the same within three (3) months unless the Court authorizes their longer retention.

(c) None other than those named in (b) shall be permitted to remove papers from the Office of the Prothonotary or Domestic Relations Section without the written Order of Court. It shall be the duty of the Prothonotary and the Chief of the Domestic Relations to insure full compliance with this rule.

(d) The record papers may be examined and copied by any other party in interest only in the office of the Prothonotary or Domestic Relations Section. However, the rule copy of notes or testimony may not be photocopied.

(e) The Prothonotary shall keep and maintain the following dockets:

- (1) Suit Docket
- (2) Judgment Docket
- (3) Federal Tax Lien Docket
- (4) Secured Transactions Docket
- (5) Fictitious Names Docket

**RULE 205.3: PRAECIPE TO TRANSMIT**

All filings which require action by a judge or an assignment by the Court Administrator (except certificates of readiness for arbitration or trial) shall be accom-

panied by a praecipe to transmit on Prothonotary Form 205.3, and shall indicate the nature of the filing and what action is being sought to move the matter forward. The purpose of the praecipe is to advise the Court of what may be necessary for a disposition (i.e. when a hearing is required; when a matter is ripe for disposition on the record; matters that can be immediately addressed) and to expedite action on the filing. Failure to file the praecipe to transmit or to indicate what action is required from the Court may result in denial of the relief.

**RULE 206: PETITIONS**

Petition and answer practice shall comport with Pa.R.C.P. 206 and the rule provisions of Pa.R.C.P. 206.6. Each petition shall be accompanied by a praecipe pursuant to Sch.R.C.P. 205.3 indicating that the movant seeks issuance of a Rule to Show Cause. Upon filing, an Order in the form set forth herein shall be issued as of course and the parties shall thereafter proceed pursuant to the provisions of Pa.R.C.P. 206.

**206.7(a)**—In the event the respondent fails to file an answer to the rule within the time set forth in the rule, the movant may request to have the matter assigned to the court for entry of an appropriate order by praecipe pursuant to Sch.R.C.P. 205.3.

**206.7(c)**—When a contested case is at issue, and the parties have complied with the fact finding provisions of Pa.R.C.P. 206.7(c) and 206.7(d), where applicable, either party may move to have the matter assigned to the court for disposition by praecipe pursuant to Sch.R.C.P. 205.3.

In cases where an answer has been filed, each party shall file of record a brief in support of their respective position within twenty (20) days of the date of filing the praecipe to transmit the matter to the court for disposition. Unless otherwise requested, contested petitions shall be decided upon the record. Either party may request oral argument by filing a written request for oral argument with the Court Administrator of Schuylkill County.

**Form of Order:** Pursuant to this rule the petitioner shall attach to any petition seeking a rule to show cause a proposed order and the following form:

(CAPTION)

ORDER

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_, upon consideration of the foregoing petition, it is hereby DIRECTED that:

- (1) A rule is issued upon the respondent to show cause why the petitioner is not entitled to the relief requested;
- (2) The respondent shall file an answer to the petition within twenty (20) days of service upon the respondent;
- (3) The petition shall be decided under Pa.R.C.P. No. 206.7;
- (4) Depositions shall be completed within 60 days of this date unless otherwise extended by the court;
- (5) Either party may request oral argument pursuant to Sch.R.C.P. 206.

\_\_\_\_\_ J.

**RULE 206A: MOTIONS**

(a) All motions or petitions for appointment, and for all miscellaneous matters, shall be governed by this rule.

(b) An original and one copy of all motions or filings pursuant to this provision, together with a praecipe to transmit as set forth in Sch.R.C.P. 205.3, shall be filed

with the Prothonotary, which office shall promptly transmit the pleadings to the court administrator for assignment to a Judge for disposition. The praecipe must indicate the nature of the action which is required by the Court to move the matter forward.

(c) All motions shall state with particularity the grounds on which they are based, and each shall be accompanied by a form of order which, if approved by the Court, would grant the relief sought by the motion. Every response in opposition to a motion shall be accompanied by a form of order, which, if approved by the Court, will deny or amend the relief sought by the motion.

(d) Every uncontested motion shall be accompanied by a certificate of counsel that such motion is uncontested, substantially in the form provided in subsection (h) of this rule.

Motions for final judgment on quiet title actions, where service was made by publication, shall contain a certificate of publication indicating the dates and sources of such publication.

(e) Every motion not certified as uncontested shall be accompanied by a memorandum containing a concise statement of the legal contentions and authorities relied upon in support of the motion and an affidavit of service upon the party against whom relief is sought, or to his attorney. Any party opposing the motion shall file and serve such answer or other response that may be appropriate, a memorandum in opposition, and an affidavit of service upon the other party within fifteen (15) days after service of the originating motion and supporting brief. In the absence of timely response, the motion may be treated as uncontested. The Court may require or permit further briefing, if appropriate.

(f) Any interested party may make a written request for oral argument on a motion. The Court may require oral argument, whether or not requested by a party.

(g) This rule does not apply to motions made during the actual trial of a case; nor to motions for post-trial relief under Pa.R.C.P. 227.1; nor to an application for special or preliminary injunction to the extent the Court may dispense with notice pursuant to Pa.R.C.P. 1531(a); nor to applications for continuance of a hearing before a master or permanent hearing officer; nor to petitions for special relief under the divorce code (See Sch.R.C.P. 1920;43); nor to allowable appeals from decisions or actions of state or local agencies where no such prior notice is required by the law or ordinance allowing the appeal.

**(h) CERTIFICATION**

\_\_\_\_\_ hereby certifies that a copy of the attached petition/motion was served upon the party listed below, in the manner and date as set forth, and that the undersigned has received an affirmative response from that party indicating that the petition/motion is not opposed.

Date served: \_\_\_\_\_ Served upon: \_\_\_\_\_  
(name)

Manner of Service: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
(signature)

**RULE 210: FORM OF BRIEFS**

The brief of the moving party shall contain a history of the case, a statement of the issues involved, and argu-

ment. The brief of any responding party shall contain an argument and may contain a counter history of the case and a counterstatement of the issues involved.

**RULE 211: ARGUMENT/ORAL ARGUMENT**

Unless otherwise requested by counsel in writing all matters will be decided based upon the written arguments set forth in the briefs of the litigants. Requests for oral argument shall be submitted in writing to the assigned judge, or when there has not been a specific assignment to the Court Administrator, and shall be submitted not later than the date that the last brief is due to be filed. Failure to request oral argument in writing, including matters in which argument is required by rule (e.g. Pa.R.C.P. 1910.12(g)), will be deemed by the court to constitute an agreement by the parties to waive oral argument, and allow disposition on the record.

**RULE 212.1: PRE-TRIAL LIST**

(a) When a case is at issue, counsel shall proceed to complete discovery where desired and shall hold settlement meetings at which serious attempts shall be made by counsel to resolve the issues raised by the pleadings.

Thereafter, any party may list the case for pre-trial by filing a certificate of readiness on Prothonotary form 212. The Prothonotary shall then promptly forward the certificate to the Court Administrator. Failure to complete each item of Prothonotary Form 212 shall be cause for striking the case from the pre-trial list. Misrepresentations in the completion of this form which would delay the court process may be subject to the contempt powers of the Court.

(b) A copy of Prothonotary Form 212 shall be served on all counsel contemporaneously with the filing thereof. Within 10 days after filing of the form, opposing counsel may file with the Prothonotary written objections thereto stating the reasons, and shall serve a copy thereof upon the Court Administrator and other counsel. The Court Administrator shall promptly deliver the certificate and objections to the President Judge who shall promptly dispose of said objections.

(c) Each case on the pre-trial list shall be assigned by the President Judge to one of the Judges for pre-trial and trial proceedings. Thereupon, the Judge to whom a case is assigned shall summon the parties to a pre-trial conference.

(d) This rule shall be applicable to paternity cases where trial is demanded on the issue of paternity.

**RULE 212.2: PRE-TRIAL CONFERENCE**

(a) Pre-trial conferences shall be mandatory in all contested civil actions listed for trial by jury, and shall be held in the chambers of the Judge for the purposes set forth in Pa.R.C.P. 212.

(b) At least 1 week prior to the pre-trial conference, each of the parties shall submit a memorandum to the Court, with a copy to opposing counsel, containing:

1) A narrative statement of the facts which will be offered into evidence on behalf of that party.

2) The names and addresses of all witnesses the party expects to call, classifying them as witness to liability, non-liability, damages, diminution of damages, or expert.

3) A statement of the legal theory upon which the cause of action or defense is predicated, together with a complete citation of authorities relied on.

4) A complete list of photographs, contracts, maps, models, records or other documents or things intended to be used for evidence at the time of trial.

5) A written statement setting forth an itemized list of damages that any party intends to claim and prove at the time of trial.

6) A written detailed statement of items of claim for which a defense is believed available and the method to be used for proving such defense items.

7) A list of stipulations which opposing counsel reasonably can be expected to agree for purposes of avoiding need for proof.

8) A history of negotiations to date.

9) Where appropriate, a rough sketch illustrating the incident giving rise to the cause of action.

10) Copies of reports received from expert listed as a witness.

11) Such other matters as may be required by the Conference Judge.

(c) The attorneys who will actively try the case shall attend the pre-trial conference. At the time of the pre-trial conference, the parties or their authorized representatives shall be present or immediately available by telephone at the time of the conference. If a party, by contract or otherwise, has relinquished the right to settle and to control the conduct of the case, the person with such authority must be present or immediately available by telephone at the time of the conference. Any failure to comply with the foregoing may result in the imposition of sanctions.

(d) Failure to fully disclose in the pre-trial memorandum or the pre-trial conference the substance of the evidence as to liability, defenses, witnesses, exhibits, damages proposed to be offered at the trial, etc., may result in the exclusion of that evidence at the trial.

(e) The Judge may, at his discretion:

1) Require any party to file a supplemental memorandum, communicate to his client the recommendations of the Court or conduct additional negotiations.

2) Require the parties to submit points for charge on or before a designated date.

3) Schedule an additional pre-trial settlement conference.

4) Certify the case as ready for trial.

(f) Failure to file a pre-trial memorandum in accordance with these rules and/or failure to promptly attend the pre-trial conference may be deemed contempt of court and subject to such sanctions as the Court may impose.

#### **RULE 212.3: CASES CERTIFIED FOR TRIAL**

(a) All cases certified by the pre-trial Judge for trial shall be consolidated by the Court Administrator in a trial list according to the record age of the cases, giving priority to those cases as required by law or special Order of Court.

(b) At least 2 weeks before the first day of the next civil jury trials, the Court Administrator shall post the trial list in his office and in the office of the Prothonotary and shall also mail a copy of the trial list to each counsel, whose names appear on the certificate of readiness, for the cases listed.

(c) There shall be no call of the civil jury trial list. In the event of a settlement or discontinuance, counsel for

plaintiff shall promptly notify the assigned judge. Continuances shall be granted only by the assigned judge and only for good cause shown.

(d) Paternity cases will be called for trial at the discretion of the Judge to whom such cases are assigned.

(e) Any attorney who appears as trial counsel in more than 2 cases on any civil trial list shall within 5 days after the list is posted identify to the Court Administrator which 2 trials he/she will try and the name and address of the associate counsel who will try the remaining cases. Trial counsel shall contemporaneously also notify opposing counsel. Upon failure of counsel to timely designate associate counsel as required, the Court Administrator shall strike from the trial list all of that trial counsel's cases except those 2 commenced earlier than the others.

#### **RULE 213: CONSOLIDATION AND SEVERANCE OF ACTIONS AND ISSUES**

It shall be the duty of counsel at the pre-trial conference to advise the Court of any pending case that arises out of the same facts or circumstances as the case on the trial list. The Court, either by application or on its own motion, may order such cases consolidated for trial and, if need be, continue the case on the trial list until the other case or cases are at issue for the purpose of consolidating them for trial.

#### **RULE 216: APPLICATION FOR CONTINUANCE**

Applications for continuance of any court scheduled proceedings shall be made to the scheduling judge in writing on the general continuance form available through the office of the Court Administrator. The movant shall comply with Pa.R.C.P. 216, indicate whether the request is opposed and specify the reasons for the request. If the request is due to a prior attachment of counsel, a copy of the scheduling notice or attachment order shall accompany the continuance application. Each request for continuance shall include a certification by counsel that his/her client has been informed about and agrees with the request for continuance.

#### **RULE 216.1: MEDICAL WITNESSES**

Medical witnesses shall be served with a subpoena to appear. All reasonable effort will be made to schedule the testimony of medical witnesses at times consistent with the schedule of such witness, provided that the progress of the proceedings are not unduly interfered with or delayed.

#### **RULE 216.2: CONFLICT OF COUNSEL**

(a) No case shall be continued because of a pending engagement of an attorney in any court, other than the Supreme Court of the United States, the Supreme, Superior or Commonwealth Courts of Pennsylvania, or a Federal Appeals Court. When it is known subsequent to the listing of the trial, that counsel will be engaged, counsel shall forthwith notify opposing counsel and the Court of such engagement.

#### **RULE 217: COSTS ON CONTINUANCE**

When an application for the continuance of any proceeding scheduled by the Court, or by a master appointed by the Court or by an officer of the Domestic Relations Section, is presented so close to the scheduled time for the proceeding as to cause undue inconvenience to opposing parties and/or their counsel, the Court may impose on the party making the application, or that party's counsel, the reasonable costs and expenses actually incurred by the opposing party which would not have been incurred if the application had been made more promptly. When

determining the appropriateness of imposing costs and expenses, the Court shall consider the extent of notice to the parties when the proceeding was scheduled, the time when the applicant or counsel knew or should have known of the need for a continuance, how soon in advance of the scheduled proceeding the application for continuance was made and the inconvenience and expenses of opposing parties and their counsel.

**RULE 223: CONDUCT OF THE JURY TRIAL**

(a) The following rules shall apply to all civil jury trials.

(i) The attorney for a party who begins the examination or cross-examination of a witness must alone conduct it through all its stages unless otherwise permitted by the Court.

(ii) The mechanical or electronic recording of proceedings in the courtroom, without first obtaining leave of the Presiding Judge to do so, is forbidden.

(iii) The conduct of all trials shall be under the control and supervision of the Trial Judge, who shall be free to alter or change the usual procedure if the ends of justice so require.

**RULE 225: OPENING AND CLOSING ARGUMENTS**

(a) The defendant's attorney may make his opening speech immediately following the opening speech of the plaintiff's attorney or at the opening of the defendant's case. After the evidence is closed, only 1 attorney for each party or group of parties may address the jury. Closing addresses shall be limited to one for each party or group of parties and shall be made in the reverse order of presentation of testimony, so that the last defendant to present testimony will make the first closing and the first plaintiff to present testimony will make the final closing address.

**RULE 226: POINTS FOR CHARGE**

(a)(1) Points for charge shall be submitted to the Trial Judge as directed by pre-trial order of that Judge.

(2) The points for charges shall be in writing and shall be signed by counsel, and shall include a citation of authority justifying each point submitted.

(3) Unless otherwise directed by the Trial Judge, only those points for charge submitted in compliance with subsections (1) and (2) hereof will be considered by the trial Judge at the time of trial.

**RULE 227.1: POST-TRIAL MOTIONS**

(a) All motions for post-trial relief shall be filed in the Prothonotary's office and copies shall be served promptly upon the Trial Judge and all opposing counsel.

(b) A motion for post-trial relief which alleges after discovered evidence, misconduct of a party or the jury or any matter of fact which was not brought out at the trial, must be supported by affidavit stating the after discovery, the names of the witnesses in support of the motion, the substance of their expected testimony, and the party's belief of its sufficiency to change the verdict; otherwise such reasons will be disregarded.

(c) Upon receipt of a Motion for Post-trial Relief, the Trial Judge may promptly schedule a conference of counsel to resolve any dispute between the parties as to the portion of the trial record required for the disposition of the motion. If parties cannot agree, the Trial Judge shall enter an order designating the portions to be transcribed and assigning the costs of transcription. The Judge shall also at that time establish a briefing schedule. In the

event a party fails to pay the estimated or final costs of transcription in accordance with Rule 5000.6 of the Schuylkill County Rules of Judicial Administration within 10 days after receipt of the stenographer's statement, the transcription of the record shall be deemed unnecessary to the disposition of the motions.

**RULE 227.2: COURT EN BANC**

(a) Should the Trial Judge, on the Judge's own motion, or on motion of a party, determine matters raised in the post-trial motion should be heard by a court en banc, the President Judge shall designate the members of the court who shall compose the panel.

**RULE 262: CHANGE OF NAME—ADVERTISING**

In all proceedings for a change of name, the notice required shall be published in the Schuylkill Legal Record and in a newspaper of general circulation in Schuylkill County, the last day of publication to appear at least seven (7) days before the date set for the hearing thereon.

**RULE 301: BOARDS OF VIEWERS**

(a) COMPOSITION AND APPOINTMENT OF BOARDS OF VIEWERS PURSUANT TO 42 Pa.C.S. § 214

The Board of Viewers shall consist of not less than nine (9) members, all of whom shall be adult residents of Schuylkill County. At least one-third (1/3) of its members shall be attorneys. Board members shall be appointed for a term of three (3) years by the Court of Common Pleas. Sitting board members may be reappointed for an additional term or terms of three (3) years upon expiration of their terms. Vacancies in an unexpired term of a board member shall be filled by the President Judge. The Court shall have the power to remove a board member at will.

(b) PETITIONS FOR APPOINTMENT OF A BOARD OF VIEWERS

Petitions for appointment of a Board of Viewers shall be accompanied by a praecipe to transmit pursuant to Sch.R.C.P. 205.3 and shall comply with Sch.R.C.P. 206A. In case of a vacancy in the Viewers appointed in a specific case before the panel files its report, the President Judge shall fill such vacancy by appointing another member of the Board of Viewers.

(c) APPEALS FROM DECISION OF VIEWERS

Any party who appeals to the court from the decision of the Viewers and sets forth in the appeal objections to the Viewers' Report other than to the amount of the award shall comply with Sch.R.C.P. 14.

(d) STENOGRAPHIC NOTES

Whenever, in the opinion of the Board of Viewers, it shall be desirable, accurate stenographic notes of the hearing shall be taken and copies of such notes shall be furnished to the parties interested, when desired, upon payment of such sum as shall be fixed from time to time by the Court. The stenographer in any particular case shall be appointed from the list of the court-appointed stenographers by the Chairman of the Board of Viewers appointed to the case.

(e) COMPENSATION OF VIEWERS

(i) Compensation of Viewers shall be on a case by case basis in an amount fixed by the Court. A Petition for compensation shall be made at the time of filing of the Report of the Board of Viewers by a Petition for Compensation directed to the President Judge. A copy of the Petition for Compensation shall be served upon all par-

ties, or their attorneys of record, at the time the Board transmits a copy of its report to them pursuant to 26 Pa.C.S. § 1-512.

(ii) Compensation approved by the President Judge pursuant to a Petition for Compensation shall be paid to the Viewers by Schuylkill County, taxed as costs against the condemnor and recoverable as such by Schuylkill County at any time after the date of approval by the President Judge.

(iii) Prior to the view, the Chairman of a Board of Viewers shall have the authority to require that the condemnor escrow an amount reasonably likely to cover the fees and costs of the Board. Such escrow shall be held by counsel for the condemnor or by the Prothonotary as the Chairman shall direct. Failure to deposit said funds may result in imposition of sanctions as the Court deems appropriate.

(f) RULES ALSO APPLY TO PROCEEDINGS NOT CONTROLLED BY THE EMINENT DOMAIN CODE

In addition to proceedings under the Eminent Domain Code, except as otherwise provided by statute, these rules shall also apply to actions to vacate public roadways, actions to open private roadways and actions under the Public Utility Code.

**RULE 410.1: SERVICE BY PUBLICATION—EJECTMENT ACTIONS**

Service by publication when appropriate shall be made by publishing the appropriate notice one (1) time in the Schuylkill Legal Record and a newspaper of general circulation in Schuylkill County. No further action can be taken until twenty (20) days after the date of publication. Proof of publication shall be filed in the Prothonotary's Office.

**RULE 410.2: SERVICE—ACTION TO QUIET TITLE**

Service by publication when appropriate, shall be made by publishing the appropriate notice one (1) time in the Schuylkill Legal Record and in a newspaper of general circulation in Schuylkill County. Said notice shall be in substantially the following form:

(CAPTION OF CASE)

To \_\_\_\_\_  
(Name(s) of Defendant(s))

You are notified that the Plaintiff(s) has/have commenced an action against you to quiet the title to the following land:

(Description)

If you wish to defend this action, you must enter a written appearance personally or by an attorney and file your defenses or objections in writing with the court. You are warned that if you fail to do so, the case may proceed without you and a judgment may be entered against you without further notice for the relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS NOTICE TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(Telephone Number)

(Note: For the office designated by the Court, See Sch.R.C.P. 1018.1)

(2) Service shall be complete upon appearance of the publication. Proofs of publication shall be filed before judgment or any other action is taken by plaintiff.

**RULE 410.3: SERVICE BY PUBLICATION OF ACTIONS FOR THE EXECUTION AND ENFORCEMENT OF JUDGMENTS AS REQUIRED BY 41 P.S. § 407**

(b)(2) Service upon a defendant by publication of actions commenced in accordance with the requirements of the Act of January 30, 1974, P.L. 13, No. 6, § 407 as amended, (41 P.S. Section 407), when authorized by Pa.R.C.P. 400 et seq., shall be made by the Sheriff publishing once in the Schuylkill Legal Record and in one daily newspaper of general circulation within Schuylkill County a notice which shall be substantially in the following form:

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF SCHUYLKILL

(CAPTION)

TO \_\_\_\_\_  
(Name of Defendant)

You are notified that \_\_\_\_\_  
(Name of Plaintiff)

has commenced an action to execute on residential real property pursuant to a judgment entered by confession in the Court of Common Pleas of Schuylkill County, which judgment is entered to docket number \_\_\_\_\_, \_\_\_\_\_ (date) 19\_\_ . You are required to defend this action, which seeks to obtain possession of real estate which you own or in which you reside, which real estate is located at

\_\_\_\_\_  
(Street Address)

\_\_\_\_\_  
(City and State)

and described as follows:

**\*\*NOTE:** This published notice shall also include a Notice to Defend substantially in the form set forth at Pa.R.C.P. 430(b).

**RULE 440: SERVICE OF PAPERS**

(a) Unless otherwise provided by an Act of Assembly or Rule of Court, a copy of each paper filed in any case, other than the writ or complaint by which an action is commenced or other original process, shall be served by the party filing it upon all other parties to the litigation or their attorneys of record in Schuylkill County within forty-eight (48) hours after filing.

(b) Whenever any person, having been served with a petition, rule, notice, pleading or process, original or interlocutory, fails to appear in response thereto, proof of service of the same must be filed in the case before the Court will act thereon.

(c) All notices shall be in writing.

(d) Except as otherwise provided by Acts of Assembly, rule or special Order of Court, service by publication shall be made once in the Schuylkill Legal Record and in one (1) daily or weekly newspaper of general circulation within Schuylkill County.

### **ACTIONS AT LAW PLEADINGS**

#### **RULE 1018.1: NOTICE TO DEFEND**

(c)(1) Schuylkill County Legal Services, 514 North Center Street, Pottsville, PA, 17901, (717) 628-3270, is designated as the organization or agency to be named in the notice to defend from which legal help can be obtained.

#### **RULE 1019: CONTENTS OF PLEADINGS, GENERAL AND SPECIFIC AVERMENTS**

Whenever any right, claim or defense is asserted to be founded upon a specific statute of this or another jurisdiction or upon an ordinance, governmental regulation, or Rule of Court, the first pleading in which such right, claim or defense is asserted shall cite, for the information of the Court, the statute, ordinance, regulation or rule so relied upon.

#### **RULE 1021: CLAIM FOR RELIEF**

Whenever a party claims relief in the form of liquidated money damages, he shall, at the conclusion of his pleading, state the precise amount of damages claimed and, if entitled to interest, the date or dates from which interest thereon, or any part thereof, is claimed.

#### **RULE 1028: PRELIMINARY OBJECTIONS**

(a) All preliminary objections will be disposed of by one Judge on behalf of the Court, unless such objections are certified by the Judge to be of sufficient importance to require disposition by the Court en banc.

(b) Preliminary objections shall be accompanied by a memorandum of law in support of the objections. A certification of service thereof upon opposing counsel shall be filed within 10 days after the filing of the preliminary objections.

(c) Respondent's memorandum of law contra the preliminary objections shall be filed within 20 days after service of the brief of the moving party, and shall contain a certification of service upon the moving party.

(d) When the date for the filing of respondent's memorandum has passed, the Prothonotary shall deliver the preliminary objections, memorandum of law, and other file papers to the Court Administrator. The Judge to whom the preliminary objections are assigned may, if requested, set the matter for oral argument, or may dispose of the objections on the briefs submitted.

(e) Preliminary objections filed in domestic relations and paternity cases shall not be cause for delay in hearings or interviews scheduled by the Domestic Relations Office. Such objections will be determined by the Court when and if hearings before a Judge and/or a jury are required for adjudication of the issues involved in the petition or complaint. Defendant's brief will be filed with the objections and plaintiff's brief shall be filed 3 days before any scheduled hearing.

(f) In the event disposition of a preliminary objection requires fact finding, the filing party shall accompany the preliminary objections with a praecipe to transmit pursuant to Sch.R.C.P. 205.3, specifying that a hearing is required and the reasons the hearing is necessary.

#### **RULE 1029: DENIALS. DEMANDS OF PROOF. EFFECT OF FAILURE TO DENY OR DEMAND PROOF**

(a) In actions in which book accounts may be offered in evidence, if a copy thereof is attached to any pleading, it shall not be necessary to produce the books at the trial, unless a responsive pleading shall allege that the account or copy is incorrect, stating particulars, or that the books are not books or original entry, and shall demand the production of the books at the trial; otherwise, the copy shall be admitted as evidence without further proof.

#### **RULE 1033: AMENDMENT**

Pleadings amended before trial shall be executed, verified and filed in their complete amended form. Amendments to pleadings allowed at the trial need not be executed, verified and filed.

#### **RULE 1034: MOTION FOR JUDGMENT ON THE PLEADINGS**

A motion for judgment on the pleadings shall be accompanied by a praecipe for transmittal pursuant to Sch.R.C.P. 205.3 indicating that the matter can be disposed of on the record and shall further be accompanied by the brief of the moving party. The answer and brief of any opposing party shall be filed within twenty (20) days from the date of service of the original motion.

#### **RULE 1035: MOTION FOR SUMMARY JUDGMENT**

A motion for summary judgment shall be accompanied by a praecipe to transmit pursuant to Sch.R.C.P. 205.3 indicating that the matter can be disposed of on the record and shall further be accompanied by the brief of the moving party. The answer and brief of any opposing party shall be filed within twenty (20) days after service of the original motion.

#### *ACTION TO QUIET TITLE*

#### **RULE 1066: FORM OF JUDGMENT OR ORDER**

(a) When judgment is given for a plaintiff in any action brought under Pa.R.C.P. 1061(b)(4), the Court will enter an Order directing a writ of possession to issue.

#### **COMPULSORY ARBITRATION**

#### **RULE 1301: SCOPE OF PROCEDURE**

(a) All civil cases, where the amount in controversy (exclusive of interest and costs) is less than the compulsory arbitration amount for fourth class counties as set forth in the Judicial Code, including claims or mechanics liens and all appeals from a civil judgment of a District Justice, excepting those involving title to real property and those involving equitable or other than monetary relief, shall be submitted to compulsory arbitration.

(b) In addition, cases, whether or not at issue and without regard to the amount in controversy, may be referred to a Board of Arbitrators by an agreement of reference signed by all of the parties and their counsel. The agreement of reference may contain stipulations as to facts agreed upon or defenses waived. In such cases, the agreement of reference shall take the place of the pleadings and shall be filed of record.

(c) The Court, on its own motion or on the motion of either party at pre-trial settlement conference, after depositions, after hearing or otherwise, may determine that the amount actually in controversy does not exceed the compulsory arbitration amount as set forth at 42 Pa.C.S.A. § 7361(b) and may enter an order of reference to a Board of Arbitration.

**RULE 1302: LIST OF ARBITRATORS, APPOINTMENT OF BOARD, OATH**

(a) A list of available arbitrators shall be prepared annually by the Court Administrator, consisting of members of the bar actively engaged in the practice of law in the 21st Judicial District and who have not notified the Court Administrator in writing of his or her desire not to participate as an arbitrator.

(b) The Court Administrator shall appoint from said list three members to each Board of Arbitrators, at least one of whom shall have been admitted to the practice of law before the Supreme Court of Pennsylvania for more than five years prior to his or her appointment.

(c) Each Board shall be chaired by the member senior in years admitted to the practice of law in the 21st Judicial District.

(d) Not more than one member or associate of any firm or association of attorneys shall be appointed to the same Board.

(e) A member of a Board who would be disqualified for any reason that would disqualify a judge under the Code of Judicial Conduct shall immediately withdraw as an arbitrator. Any request for recusal of an appointed Board member shall be submitted to the Office of the Court Administrator within seven days of the appointment of the arbitrator setting forth specifically the reasons the Board member should not act an arbitrator. The Court Administrator shall immediately contact that member of the Board with regard to the request for recusal, and the Board members shall advise the Court Administrator as to whether or not voluntary withdrawal as an arbitrator will take place. In the event that the arbitrator does not voluntarily withdraw, the request for recusal shall be transmitted to the Court for appropriate action.

(f) Members of the Board of Arbitration will generally be assigned to a panel for a period of two consecutive days. Each associate member of the panel shall receive as compensation the sum of \$175.00 per day for each day, or part thereof, served, and the chairperson shall receive the sum of \$200.00 per day for each day, or part thereof, served on the arbitration panel. Fees paid to arbitrators shall not be taxed as costs nor follow the award as other costs.

**RULE 1303: HEARING, NOTICE AND CONTINUANCES**

(a) The scheduled dates for arbitration, which will generally consist of two consecutive days, shall be set forth on the annual court calendar as compiled by the Court Administrator, as well as such other dates as may be ordered by the President Judge as caseloads warrant. The Court Administrator shall designate the place, time, and specific date for hearings, and give at least 30 days written notice thereof to the arbitrators, the parties, or their attorneys of record.

(b) When a case is at issue, the case may be ordered upon the next available arbitration list by filing with the Prothonotary an arbitration certificate of readiness on or before 45 days preceding the next arbitration schedule. The Prothonotary shall promptly serve the certificate upon the Court Administrator. The certificate shall be on forms provided by the Prothonotary and shall contain the following:

1. the caption of the case;
2. name, address and phone number of trial counsel for all parties;

3. certification that all outstanding motions are resolved;

4. certification that discovery has been completed and disclosure made to the other parties of any and all reports to be utilized at the arbitration hearing.

5. a complete list of all witnesses who are to be called at the time of the arbitration hearing and an estimate of the time that will be required to present that parties portion of the case.

(c) Within 10 days of the notice of the arbitration hearing, any opposing party or opposing counsel shall submit a written report to the Court Administrator listing the names of their witnesses who will be used at the hearing and an estimate of the time required to present their case.

**ONLY THOSE WITNESSES LISTED BY THE PARTIES, AND REPORTED AS REQUIRED IN THIS RULE, WILL BE PERMITTED TO TESTIFY AT THE ARBITRATION HEARING, UNLESS THE COURT DIRECTS OTHERWISE.**

(d) Not less than 10 days prior to each arbitration hearing the parties shall file with the Office of the Prothonotary a memorandum, and serve a copy upon the opposing party or opposing counsel, which sets forth a narrative statement of the facts which will be offered into evidence by that party, a statement of the legal theory upon which the cause of action or defense is predicted, a statement setting forth an itemized list of the damages that a party intends to claim and prove, a rough sketch illustrating the incident given rise to the cause of action (where appropriate), and a statement of any unusual or intricate legal issues or claims together with citation of authorities relied upon.

(e) Arbitrators may not grant continuances. Applications for continuances of any scheduled arbitration hearing shall be made in writing and on the form provided by the Court Administrator, to the Court Administrator at least 20 days before such hearing and after reasonable notice of such application being given to the opposing party or opposing counsel. The application shall indicate the number of continuances previously requested, and whether or not the continuance is opposed.

Whenever any case has been continued twice after assignment of a board of arbitration, the case shall be certified by the Court Administrator to the President Judge or his designee, to rule upon the request for continuance. In the interest of expediting disposition of the case the judge may order a conference or enter an appropriate order including but not limited to an order for non pros or an order directing the board to proceed with hearing whether or not the defendant appears and defends.

Continuances within 20 days of an arbitration hearing shall not be granted without approval of the President Judge or his designees and only upon exigent circumstances. In the event of an emergency continuance, the Court may assess actual expenses against the moving party or counsel which may have been incurred by the Court or the opposing party. The actual costs which may include added arbitration fees, actual work loss, travel expenses, expert fees, etc., shall be certified to the Court by the party incurring such fees for appropriate consideration. Added arbitration fees may likewise be assessed where a late continuance results in the need for additional payment to a Board of Arbitration.



**RULE 1305: CONDUCT OF HEARING/EVIDENCE**

The chairman of the board of arbitration shall be responsible for the conduct of the hearing. The chairman shall make preliminary rulings on objections and evidentiary matters, which shall be binding unless overridden by a majority of the board of arbitration.

**RULE 1306: AWARD, DAMAGES FOR DELAY**

(a) Arbitrators shall not consider the subject of damages for delay until an award has been made on the merits of the case, including the determination of the amount of damages, if any, to be awarded.

(b) After the determination and announcement of the award on the merits and damages, the arbitrators shall make a determination as to any delay by:

1) Accepting a stipulation from the parties which contains the following:

- a) whether an offer was made in writing;
- b) the amount of the offer;
- c) the date of the offer, or

2) If no stipulation is reached, the panel shall take evidence regarding damages for delay from counsel following the original deliberation and announcement of the award.

(c) The arbitrators shall separately enumerate the delay damages as to each party on the appropriate form, and then add this amount to the principal sum awarded in order to reach a total amount of award. Only the total amount shall be shown on the Report and Award but the computation form must be appended when the Award is filed.

**RULE 1308: APPEAL COMPENSATION**

(a) In filing an appeal, the appellant shall make payment to the Prothonotary for the compensation of the arbitrators. The compensation shall be determined by the Prothonotary of Schuylkill County by multiplying one-half of the total daily arbitration fee times the total number of half days, or parts thereof, necessary to conclude an arbitration hearing. The arbitrators shall note on the award the total number of half days or parts thereof, expended on each separate proceeding. The parties thereafter shall proceed as set forth in Sch.R.C.P. No. 212.1.

**ACTIONS IN EQUITY****RULE 1511: JUDGMENT UPON DEFAULT OR ADMISSION**

(a) If a judgment is entered upon default or admission, the plaintiff shall submit to the Court a proposed decree for the Court's consideration when entering the appropriate decree.

**RULE 1513: TRIAL. ADVISORY VERDICT BY JURY**

(a) When any equity action is at issue, either party may submit the case to the Court for disposition on Prothonotary Form 205.3, unless the Court, on its own motion or on motion of a party, has entered an Order directing that all or some of the issues of fact be submitted to a jury in accordance with Pa.R.C.P. 1513.

(b) At any time prior to the date fixed for hearing or trial, the Court, on its own motion or on motion of either party, may schedule a conference to attempt to resolve the matter or simplify the issues.

**RULE 1531: INJUNCTIONS**

An application for an injunction shall be immediately transmitted by counsel to the Court Administrator for assignment to a judge for disposition.

**RULE 1534: ACCOUNTING BY FIDUCIARIES**

(a) Fiduciaries filing accounts with the Prothonotary shall comply with Pa.R.C.P. 1534 if applicable, and insofar as practicable, shall follow the procedure provided by the Orphans' Court Rules of the Supreme Court of Pennsylvania and of the Orphans' Court Division of the Court of Common Pleas of Schuylkill County, except as hereinafter provided in subsections (b) and (c). All duties imposed by said rules on the Register of Wills or Clerk of the Orphans' Court, as applicable for the particular account, shall be performed by the Prothonotary.

(b) If at the expiration of 30 days after the filing of said account, provided that notice shall have been given as required and proof hereof filed, no exceptions are filed to the account or to the proposed distribution, the account shall be confirmed absolutely as of course and the accountant shall make the distribution proposed and file in the Prothonotary's Office a release or satisfaction of award from the distributees.

(c) If exceptions are filed to the account or to the proposed distribution, the account shall be listed by the Prothonotary for audit before the Court following the expiration of 30 days from the date of filing the account, and the Court shall make such adjudication and order such distribution as shall be proper under the circumstances.

**PARTITION OF REAL PROPERTY****RULE 1568: PUBLIC SALE: NOTICE**

(a) Except as therein provided by Act of Assembly or special Order of Court, notice of the time and place of sale of real estate at public auction by a master in partition shall be advertised by the master once a week for three successive weeks in the Schuylkill County Legal Record and in a newspaper of general circulation in the County. The first advertisement to be not less than twenty-one days before the date of sale. The master shall also post handbills of such advertisement, one on the real estate to be sold and not less than six additional handbills in as many other public places in the county. Whenever a property or properties so to be sold lie in different counties, publication of notice of sale shall be in such manner as the Court by special order may direct.

**CLASS ACTIONS****RULE 1703: COMMENCEMENT OF CLASS ACTION: ASSIGNMENT OF JUDGE**

(a) Counsel for the plaintiff(s) shall immediately notify the Court Administrator that a class action complaint has been filed and shall forward a copy of the Complaint to the Court Administrator for assignment of the action to a judge.

**RULE 1707: DISCOVERY PERTAINING TO CLASS ACTION ISSUES**

(a) Whenever discovery is permitted with respect to the class action issues, the Order granting such limited discovery shall also indicate the period of time during which discovery shall be permitted. All parties are required to complete such discovery within that time period.

**RULE 1710: DETERMINATION OF CLASS ACTION CERTIFICATION**

(a) The presiding Judge may require the parties to submit proposed Findings of Fact and Conclusions of Law pertaining to whether or not the case should be certified as a class action.

**RULE 1712: ORDER AND NOTICE OF CERTIFICATION AS CLASS ACTION**

(a) After the entry of an order of certification of a class action, the presiding Judge shall conduct a Class Action Notice Conference at which all parties shall be represented for the purpose of considering the matters set forth in Pa.R.C.P. 1712.

(b) If at the time of the Class Action Notice Conference, the Court determines that individual notice is to be given, a uniform statement shall be drafted by which each individual who is to receive notice may opt for exclusion from the class.

(c) The proposed form of notice required by Pa.R.C.P. 1712(c) to be submitted for approval by the plaintiff to the Court and to all named defendants, must be submitted no later than fifteen (15) days prior to the Class Action Notice Conference.

**RULE 1713: PRE-TRIAL OF CLASS ACTIONS**

(a) In addition to the normal matters to be considered at pre-trial conferences, as set forth within these rules, a pre-trial conference conducted in a class action case shall consider the matters set forth in Pa.R.C.P. 1713.

**PROTECTION FROM ABUSE****RULE 1905: NOTIFICATION UPON RELEASE**

(a) Notification upon release. The Warden of Schuylkill County shall notify the victim by contacting Schuylkill Women In Crisis sufficiently in advance of the release of the offender from any incarceration imposed under a Protection from Abuse action and/or contempt, and any criminal act between family or household members, sexual or intimate partners or persons who share biological parenthood.

Notification shall be required for work release, furlough, medical leave, community service, discharge, escape and recapture. Notification shall include the terms and conditions imposed on any temporary release from custody.

(b) The Warden of Schuylkill County shall immediately notify the Schuylkill Women In Crisis 24-hour hotline sufficiently in advance of the release of any defendant sentenced in accordance with subsection (a). Notification shall include transmitting the message by telephone and also faxing the release form which shall include the terms and conditions imposed on any temporary release from custody.

(c) The plaintiff must keep the Schuylkill Women In Crisis advised of contact information; failure to do so will constitute waiver of any right to notification under this section.

(d) It shall be the responsibility of Schuylkill Women In Crisis to promptly notify the victim of the release.

**RULE 1906: CONTEMPT OF ABUSE ORDER**

The procedure governing the enforcement of Protection from Abuse Orders is set forth at Sch.R.Crim.P.D.J. 130.1.

**ACTIONS FOR SUPPORT****RULE 1910.4: COMMENCEMENT OF ACTION**

(c) If a claim for spousal support or child support is properly raised pursuant to Pa.R.C.P. 1920.31 and the Divorce Code, then:

(1) One (1) certified copy and two (2) photocopies of the pleading in which child or spousal support is claimed shall be filed by the party seeking such relief with the Domestic Relations Section within forty-eight (48) hours of its first filing in the Prothonotary's office.

(2) The Domestic Relations Section shall assign a support docket number (S.D. # \_\_\_\_\_) to the action, and thereafter all pleadings in the case shall contain both the civil number and the support docket number.

(3) Thereafter, the claim for child support or spousal support shall proceed as if initiated as an original action under Pa.R.C.P. 1910.5.

**RULE 1910.10: ALTERNATIVE HEARING PROCEDURE**

(a) The action shall proceed as prescribed by Pa.R.C.P. 1910.11 unless the Court has appointed a Hearing Officer in which case the action shall proceed as provided by Sch.R.C.P. 1910.12.

**RULE 1910.11: OFFICE CONFERENCE. REQUEST FOR CONTINUANCE.**

(a)(3) A request for continuance of a support conference shall be made in writing to the Domestic Relations Director on a form established by the Court. The request shall include a statement of the reasons for the request, whether the request is opposed or unopposed, and the number of times the case has been previously continued. The Domestic Relations Director shall have authority to approve only one continuance request from each party. If the Domestic Relations Director denies a request for a continuance, he shall state the reasons for the denial on the written request.

(4) A party may appeal the denial of a request for continuance to the President Judge by submission of the denied continuance request to the Court Administrator/President Judge.

**RULE 1910.12: OFFICE CONFERENCE. HEARING. RECORD. EXCEPTIONS. ORDER.**

(b) (1) If an agreement has not been reached by the parties, the court shall enter an interim order calculated in accordance with the guidelines and substantially in the form set forth in Pa.R.C.P. 1910.26(e). Within ten (10) days after the date of the order, either party may demand a hearing before a hearing officer. If a demand for hearing is filed, the matter shall be assigned to the Hearing Officer for hearing and further proceedings in accordance with Pa. R.C.P. 1910.12.(b)-(g) and these rules. If no hearing is requested, the order shall become final.

(b)(1)(i) A request for continuance of a support hearing shall be made in writing to the Hearing Officer on a form established by the Court. The request shall include a statement of the reasons for the request, whether the other party is opposed or unopposed, and the number of times the case has been previously continued. The Hearing Officer shall have authority to approve only one continuance request from each party. If the Hearing Officer denies a request for a continuance, he shall state the reasons for the denial on the written request.

(b) (1) (ii) A party may appeal the denial of a request for continuance to the President Judge by submission of

the denied continuance request to the Court Administrator/President Judge.

(c) (3) The order may also specify the time within which such discovery must be completed.

(d) Within five (5) business days following the taking of testimony, the Hearing Officer shall file with the court a report containing a recommendation with respect to the entry of an order of support.

(f)(1) Within five (5) days of filing Exceptions to the Report of the Hearing Officer, pursuant to Pa.R.C.P. 1910.12(f), the party raising exceptions shall request a transcript of all of the testimony, pursuant to Pa.R.J.A. 5000.5, and shall thereupon make a deposit with the court reporter for the cost of said transcript pursuant to Pa.R.J.A. 5000.6.

(2) If both parties file Exceptions to the Report of the Hearing Officer, they shall equally bear the cost of the transcript of the testimony.

(3) In the event of the failure of an excepting party within the time allowed either to order the transcript, or to pay for the same, or to file a memorandum of law, the exceptions may be deemed to have been withdrawn and may be dismissed by the Court.

(4) Upon filing of the transcript of testimony, the file shall be delivered to the Court for disposition pursuant to Pa.R.C.P. 1910.12(h). Within ten (10) days of receiving notice of such filing with the Court, the moving party shall file a memorandum of law related to the issues raised in the exceptions, and shall within three (3) days serve a copy of such memorandum upon counsel or upon the opposing party, if not represented by counsel. The opposing party may within ten (10) days file an opposing memorandum.

**RULE 1910.19: SUPPORT ORDER. MODIFICATION. REVIEW. TERMINATION.**

(a)(1) A petition for modification or termination of an existing support order shall not request any relief other than modification or termination. The original and two (2) copies of the petition shall be filed with the Domestic Relations Section.

(2) Where the order which the petitioner seeks to modify was entered less than three (3) years prior to the filing of the petition, the petition shall specifically aver the reasons for the relief sought.

(3) Where a petition is filed pursuant to 23 Pa.C.S.A. § 4352(a), the petition shall allege the date of the entry of the order of support which the petitioner seeks to have reviewed and shall not request any relief other than review of the previous order. No specific change of circumstance need be alleged.

(4) The Domestic Relations Officer shall promptly schedule a conference pursuant to Pa.R.C.P. 1910.12, and shall serve a copy of the petition upon the responding party or such party's attorney of record.

(5) No answer to such petitions need be filed.

(6) After review of the information and evidence, the Conference Officer or the Hearing Officer will recommend to the Court that the current order be modified, or that the petition be dismissed in the event there is not a significant change in circumstances. The recommendation may result in any appropriate increase, decrease, modification or rescission of the prior order, as well as modification of other terms as authorized by law.

**RULE 1910.21: CIVIL CONTEMPT**

(a)(1) The Office of the Public Defender, 206 North Second Street, Pottsville, Pennsylvania, 17901, (717) 628-2420, is designated as the office to be named in the notice to plead.

**RULE 1910.26: DESIGNATED OFFICE**

(b)(1) For the office to be named in the Order of Court, refer to "Sch.R.C.P. 1018.1."

*CUSTODY PROCEDURE*

**RULE 1915.1(b): DEFINITIONS**

These rules shall govern all actions for custody, partial custody, and visitation, including original actions, petitions to modify decrees, registration of foreign decrees and contempts. The rules shall be interpreted as supplementing the Rules of Civil Procedures governing custody actions Pa.R.C.P. 1915.1 et seq.

**RULE 1915.3: COMPLAINT OF ACTION. COMPLAINT. ORDER.**

(a)(1) The moving party shall file all pleadings, including petitions for modifications, special relief, contempt and preliminary objections, with the office of the Prothonotary and shall immediately transmit the original and two (2) copies to the Court Administrator, Custody Conciliation Section, Schuylkill County Courthouse for appropriate assignment. The moving party shall be responsible for service upon the adverse party pursuant to Pa.R.C.P. 412.

(b) If the custody claim is asserted in the divorce complaint, the moving party shall, after filing the divorce with the Prothonotary, provide three (3) copies, with the appropriate order attached as per Sch.R.C.P. 1915.15, to the Court Administrator, Custody Conciliation Section, Schuylkill County Courthouse for appropriate assignment. The moving party shall be responsible for service upon the adverse party pursuant to Pa.R.C.P. 412.

**RULE 1915.3A: CUSTODY CONCILIATION**

(1) The court shall appoint a member(s) of the Schuylkill County Bar Association, or other appropriate person, as an official of the Court to:

(a) conciliate custody cases filed with the Court;

(b) recommend to the Court interim Orders in appropriate custody cases which shall be in the best interest of the child;

(c) recommend appointment of counsel for the child;

(d) recommend the ordering of home studies, psychologicals, or other evaluations by expert witnesses.

(2) All custody matters, not specifically reserved to the Court, shall be promptly scheduled for a conference before the Custody Conciliation Officer. All parties, and any child eleven (11) years or older for whom custody and visitation is sought, shall be present at the location of such conference. Failure of a party to appear at the conference may provide grounds for the entry of an Interim Order.

(3) To facilitate the conciliation process, and encourage frank, open, and meaningful exchanges between the parties and their respective counsel, statements made by the parties, or their witnesses shall not be admissible as evidence in Court. The Custody Conciliation Officer may not be a witness for any party.

(4) More than one (1) conciliation conference may be scheduled by the Custody Conciliation Officer, as that Officer deems necessary to conciliate the matter.

(5) If at the conclusion of the conciliation process the case remains contested, the Custody Conciliation Officer shall transfer the case to the Court for assignment to a Judge. As part of that transfer, the Custody Conciliation Officer shall file a report to the Court, with copies to the parties. The report may contain the following:

- (a) procedural history;
- (b) undisputed facts;
- (c) disputed facts;
- (d) summary of the conference(s);
- (e) copies of expert opinions or other relevant documents;
- (f) pertinent case law; and
- (g) a recommendation for resolution.

The report will be filed with the Prothonotary, with the exception that copies of expert opinions or other documents shall only be provided to the Court and shall not be made part of the record.

(6) If the matter is transferred to the Court, the following information shall be provided to the Custody Conciliator by way of Pre-Trial Memorandum, within twenty (20) days of the last conciliation conference:

- (a) a list of all fact witnesses;
- (b) a list of all expert witnesses;
- (c) issues for resolution;
- (d) estimated length of trial;
- (e) documentary reports from appropriate agencies;
- (f) reports of experts intended to be called as witnesses which the Custody Conciliation Officer did not previously have in Officer's possession; and
- (g) the manner to be utilized in presentation of expert witnesses or expert reports (i.e. stipulation of parties or presentation of testimony).

Failure to provide the information requested prior to trial, for the Conciliator or the Court, may be grounds for excluding the evidence or witnesses at trial.

**RULE 1915.3B: CUSTODY CONCILIATION. POST-CONFERENCE PROCEDURE.**

(1) If prior to or during the conciliation conference, the parties are able to reach an agreement, the conciliator will prepare a custody stipulation which shall be submitted to all parties for their signature. Upon the parties' execution of the stipulation, the Custody Conciliation Officer shall also sign the stipulation and prepare a proposed Order of Court and transmit the stipulation and order to the Court for disposition of the matter.

(2) Should the parties fail to reach an agreement at the conclusion of the conciliation process, the Custody Conciliation Officer shall submit the summary report to the Court for prompt assignment to a Judge, along with any other documents available. Once the assigned Judge has set a time and date for hearing of the matter, the parties will be so notified. The Court may schedule a pre-trial conference or immediately set a date for hearing.

**RULE 1915.5: QUESTION OF JURISDICTION OR VENUE. NO RESPONSIVE PLEADING REQUIRED. COUNTERCLAIM.**

(b) Only the issues set forth in Pa.R.C.P. 1915.5(a) may be raised by way of preliminary objections. Filing of preliminary objections shall be as set forth in Sch.R.C.P. 1915.3, and thereafter shall be governed by Sch.R.C.P. 1028.

(c) If a question of jurisdiction or venue is raised prior to the conciliation conference, such objections shall be referred by the Custody Conciliation Officer to the Court for disposition. Upon filing of preliminary objections with the Prothonotary, three (3) copies must be provided to the Court Administrator, Custody Conciliation Section, Schuylkill County Courthouse for assignment to the Court.

(d) Counterclaims, crossclaims or answers shall be filed with the Prothonotary prior to the conciliation conference, and a copy provided to the Custody Conciliation Officer.

**RULE 1915.7: CONSENT ORDER.**

(a) Consent Orders shall be filed with the Custody Conciliation Officer and shall be substantially in the form of the custody stipulation utilized by the Custody Conciliation Officer, which are available at the office of the Court Administrator, Custody Conciliation Section, Schuylkill County Courthouse.

(b) Consent Orders should not be filed with the Prothonotary but given directly to the Custody Conciliation Officer who shall review the consent orders and refer them to the Court, in conjunction with the Rules, for further disposition.

(c) Upon presentation of a consent order from the Custody Conciliation Officer, the court may, in its discretion, enter an Order without taking testimony.

**RULE 1915.8: PHYSICAL OR MENTAL EXAMINATION OF PERSONS.**

(e) The Custody Conciliation Officer shall maintain and, on request, provide counsel and the parties with a list of psychiatrists, psychologists, social workers, counselors, and the like, who are available for consultation, evaluation, and testimony in custody matters.

(f) In the event that ether psychological studies or home studies, or other evaluations, become necessary to a proper disposition of the matter, the cost of such studies may be assessed against the parties in a manner recommended to the Court to the Custody Conciliation Officer following the conciliation conference to the Court. Such a recommendation to the Court for assessment will be based on what the Custody Conciliation Officer believes to be in the best interest of the child and also what will facilitate the timely resolution of the matter, taking into consideration the parties' ability to pay. Upon a recommendation for evaluations from the custody Conciliation Officer, the Court will issue an Order requiring the evaluations and providing for the assessment.

**RULE 1915.12: CIVIL COMPLAINT.**

(a) Petitions for contempt of Custody Orders shall follow the procedure and form set forth in Pa.R.C.P. 1915.12. The petitioner shall complete a praecipe to transmit indicating that the matter is a contempt petition, shall list witnesses and time necessary for hearing and list the Judge who entered the Order to be enforced. Filing and transmittal shall follow Sch.R.C.P. 1915.3.

Upon receipt of service of a petition for contempt and the praecipe for transmittal the responding party shall,

within five (5) days, submit a written report to the Court Administrator estimating the time required for presentation of respondent's case and a list of witnesses to be called.

**RULE 1915.15: FORM OF COMPLAINT.**

(b) In addition to the information required by Pa.R.C.P. 1915.15(a), each complaint or petition relating to child custody or visitation shall incorporate additional information and shall substantially be in the following format.

COURT OF COMMON PLEAS OF SCHUYLKILL COUNTY  
TWENTY-FIRST JUDICIAL DISTRICT OF PENNSYLVANIA

vs.

CIVIL ACTION—LAW

*ORDER OF COURT*

You have been sued in Court to obtain custody, partial custody or visitation of the child(ren) named in the Complaint.

You are ordered to appear in person at Custody Office, Schuylkill County Courthouse, \_\_\_\_\_ at \_\_\_\_\_ o'clock .m. for a conference.

You are/are not further ordered to bring with you the child(ren) named in the Complaint.

If you fail to appear as provided by this Order, an order of custody, partial custody or visitation may be entered against you or the Court may issue a warrant for your arrest.

**YOU SHOULD TAKE THIS PAPER (and the attached papers) TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.**

Schuylkill County Legal Services  
514 North Centre Street  
Pottsville, PA 17901  
Telephone: (717) 628-3270

BY THE COURT

J.

(a) In addition, to the Order of Court the Complaint must also contain a Notice of Custody Conference sheet substantially in the following format.

COURT OF COMMON PLEAS OF SCHUYLKILL COUNTY  
TWENTY-FIRST JUDICIAL DISTRICT OF PENNSYLVANIA

Plaintiff : CIVIL ACTION—LAW

vs.

Defendant : CUSTODY

*NOTICE OF CUSTODY CONFERENCE*

TO:

Please be advised that a Custody Conference has been ordered for \_\_\_\_\_ at \_\_\_\_\_ o'clock .m. on the above-captioned matter; and, counsel, and

interested parties are to report to Custody Office, Schuylkill County Courthouse in Pottsville, Pennsylvania, to appear before the Custody Conciliation Officer.

Enclosed is a copy of the Order of Court. Copies of it and the supporting pleading are to be served on all interested parties immediately. Promptly thereafter, an Affidavit of Service is to be filed with the Prothonotary. The original Order and the pleading have been filed.

All requests for a continuance of a CUSTODY CONFERENCE must be made on the *APPLICATION FOR CONTINUANCE* form, shall be filed with the Court Administrator; and a continuance will be granted only upon good cause shown. Forms are available from the Court Administrator's Office and Prothonotary Office of the Schuylkill County Courthouse.

Dated:

CUSTODY CONCILIATION OFFICER  
SCHUYLKILL COUNTY COURTHOUSE  
POTTSVILLE, PA 17901  
717-628-1330

**RULE 1915.17: CUSTODY CONFERENCE REQUEST FOR CONTINUANCE.**

(1) A request for a continuance of a custody conference shall be made in writing to the Custody Conciliation Officer on a form established by the Court and available from the Court Administrator, Custody Conciliation Section, Schuylkill County Courthouse and from the Prothonotary. The request shall include a statement of the reasons for the request, whether the request is opposed or unopposed, and the number of times the case has been previously continued.

(2) All requests for continuances of custody conferences shall be made at least four (4) working days prior to the scheduled custody conferences, unless unusual circumstances do not allow such a request. The unusual circumstances must be explained in writing.

(3) The Custody Conciliation Officer shall have the authority to approve only one continuance request from each party. If the Custody Conciliation Officer denies the request for a continuance for any reason, the Officer shall state the reasons for the denial on the written request.

(4) A party may appeal the denial of a request for continuance to the President Judge by submission of the denied continuance request to the President Judge. It is that party's responsibility to advise the Custody Conciliation Officer of the appeal and of the President Judge's decision.

**ACTIONS OF DIVORCE OR ANNULMENT OF MARRIAGE**

**RULE 1920.1: DEFINITIONS**

(a)(1) As used in this chapter:

"additional issues" shall mean any claim beyond the claim for divorce, or annulment, as follows:

- (i) distribution of property,
- (ii) alimony,
- (iii) child support,
- (iv) alimony pendente lite,
- (v) counsel fees, costs and expenses, and
- (vi) child custody or visitation;

“Associate Domestic Relations Master” means those attorneys, who are members of the Bar of Schuylkill County, appointed by the Court to act as the Domestic Relations Master where the standing Domestic Relations Master shall have a conflict of interest or when the caseload prevents the standing Master from attending to all cases promptly;

“Domestic Relations Master” shall mean that attorney(s), a member of the Bar of Schuylkill County who has actively practiced law for more than five (5) years and who during such practice has regularly represented clients in custody, support, and divorce actions, who has been appointed by the Court as Permanent Divorce Master and as the Permanent Hearing Officer of the Domestic Relations Section to hear support actions;

“moving party” shall be that party who initially presents a motion for appointment of Master, notwithstanding that the opposing party may subsequently move for the Master to hear additional issues beyond the initial appointment; and

“qualified professionals” shall consist of those persons or organizations, as defined by Section 104 of the Divorce Code, which have filed an application with the Court Administrator and which have been approved by the President Judge for listing in the Prothonotary’s office.

#### **RULE 1920.3: COMMENCEMENT OF ACTION**

(a) If an action for divorce is filed separately during the pendency of an action for custody, partial custody or visitation between the parties, then the complaint shall be docketed to the same term and number as such custody matter.

(b) Any party filing a pleading with the Prothonotary which raises a claim for child support, spousal support, or alimony pendente lite in a divorce action shall, within forty-eight (48) hours thereof, file a certified copy and two (2) photocopies of same with the Domestic Relations Section, where it shall proceed in accordance with the practice and procedure of the Domestic Relations Section after being assigned a support docket number (S.D. # \_\_\_\_\_).

(c) Any party filing an action for divorce with the Prothonotary, where there is also an action for child support or spousal support pending between the parties, shall include the support docket number (S.D. # \_\_\_\_\_) in the caption. If any divorce pleading includes claims for child support, spousal support, or alimony pendente lite beyond the scope of the active support matter (based on change in circumstances or as a new issue), then a copy of the pleading shall, within forty-eight (48) hours, be filed with the Domestic Relations Section where it shall proceed in accordance with the practice and procedure of the Domestic Relations Section.

#### **RULE 1920.4: SERVICE**

(f) A true and correct copy of every pleading or other filing shall be sent by ordinary mail to the opposing counsel of record, or to a party where there is no counsel of record.

#### **RULE 1920.11: PLEADING ALLOWED**

(a) All actions for divorce or annulment shall be deemed at issue twenty (20) days after service of the Complaint.

#### **RULE 1920.13: PLEADING MORE THAN ONE CAUSE OF ACTION, ALTERNATIVE PLEADING**

(d) A claim for child support, spousal support, or alimony pendente lite, whether filed as a separate peti-

tion or as a count in the divorce complaint, shall conform to the requirements of Pa.R.C.P. 1910.26.

(e) A claim for custody, whether filed as a separate complaint or petition, or as a count in the divorce complaint, shall conform to the requirements of Pa.R.C.P. 1915.15.

(f) Once a divorce action has been commenced, a Complaint for Alimony Pendente Lite should be filed with the Domestic Relations Section. A fee of \$15.00 shall be charged for this filing.

(g) The contents of the Alimony Pendente Lite complaints should conform to the Rules for the contents of a Support Complaint and should also provide the date and docket number of the previously filed divorce action.

(h) Upon filing of a Complaint for Alimony Pendente Lite in the Domestic Relations Section, a Praecipe shall be filed in the Prothonotary’s office requesting the Prothonotary to note on its docket that an Alimony Pendente Lite claim has been filed with the Domestic Relations Section and docketed to S.D. No. \_\_\_\_\_.

(i) Thereafter, the Alimony Pendente Lite claim shall proceed in the same manner as a Support Complaint, that is, first to a conference, then either by Agreement or Recommended Order, or Exceptions to a Hearing Officer.

(j) Enforcement and Modification of an Alimony Pendente Lite Order shall follow the same procedure as enforcement or modification of a Support Order.

(k) No award of Alimony Pendente Lite or of spousal support shall automatically continue after the entry of a divorce decree, whether the divorce action has been bifurcated or not. A recipient of Alimony Pendente Lite seeking to have the same continue after the entry of a divorce decree or a recipient of a spousal support seeking to convert it to Alimony Pendente Lite after the entry of a divorce decree shall file a complaint for Alimony Pendente Lite in the Domestic Relations Section of the Court.

#### **RULE 1920.15: COUNTERCLAIM. SUBSEQUENT PETITION**

(c) A claim for child support, spousal support, or alimony pendente lite, whether filed as a separate petition or as a counterclaim, shall conform to the requirements of Pa.R.C.P. 1910.26.

(d) A claim for custody, whether filed as a separate petition or as a counterclaim, shall conform to the requirements of Pa.R.C.P. 1915.15.

#### **RULE 1920.16: SEVERANCE OF ACTIONS AND CLAIMS**

(a) Where one or more additional issues are pending, a decree of divorce or annulment may be entered if the parties stipulate. A bifurcation stipulation shall include the following:

I understand that having a divorce entered prior to the disposition of additional issues poses substantial risks and may result in additional litigation. These risks have been thoroughly discussed with my attorney and I am willing to have the divorce decree entered prior to the disposition of any outstanding additional issues. I shall pursue any additional issues and claims without unreasonable delay.

(b) A bifurcation stipulation shall be signed by the parties and their respective counsel. A stipulation entered between unrepresented parties shall be approved only upon petition and hearing.

(c) Where the action is ready for the entry of a decree of divorce or annulment but bifurcation is opposed, the court may upon application and after hearing enter a bifurcation order if (1) neither party would be substantially economically prejudiced and (2) the opposing party is unreasonably delaying the entire action by failing to file required pleadings or failing to initiate other appropriate action.

**RULE 1920.21: BILL OF PARTICULARS IN DIVORCE OR ANNULMENT. NON PROS**

(a)(1) A Request for a Bill of Particulars shall be filed within twenty (20) days of the service of the Complaint.

**RULE 1920.31: JOINDER OF RELATED ISSUES. CHILD SUPPORT. ALIMONY. ALIMONY PENDENTE LITE. COUNSEL FEES. EXPENSES. MODIFICATION OF ALIMONY. MODIFICATION OF ALIMONY PENDENTE LITE.**

(d)(1) A request for counsel fees, costs and expenses, or modification of alimony, shall be made by petition. The petition shall include:

- (i) petitioner's income and expense statement as prescribed by the rules of court;
- (ii) a copy of petitioner's most recent federal income tax return;
- (iii) a verification by the petitioner's employer of petitioner's wages for the past six (6) months;
- (iv) petitioner's inventory and appraisal of property as prescribed by the rules of court; and
- (v) a certification by counsel setting forth services rendered to date, including time expended and the services and time estimated to be rendered and the fee requested therefore, and a list of all expenses for which reimbursement is sought.

(2) A Respondent's answer to the petition shall include information similar to that required of the petitioner together with a concise statement of respondent's position in regard to the amounts claimed by petitioner and reasons why an award should not be entered as requested.

(3) After the petition is at issue, the petitioner or respondent shall move for the appointment of a Domestic Relations Master. The Master shall proceed as provided for in Pa.R.C.P. 1920.51 et seq. and these Rules.

(e) All payments in response to an Order of Court for child support, alimony, or alimony pendente lite shall be made through the Domestic Relations Office unless otherwise ordered by the Court.

(f) A petition for alimony pendente lite, and modification of alimony pendente shall be made through the Domestic Relations Office.

**RULE 1920.34: JOINDER OF PARTIES**

(a) No order staying the proceedings under this section or any other section of these rules shall be granted ex parte unless the Court deems it necessary.

**RULE 1920.42: AFFIDAVIT AND DECREE UNDER SECTION 201(c) OR 201(d)(1)(i) OF THE DIVORCE CODE**

(c) A praecipe presented under Pa.R.C.P. 1920.42(a) shall contain a certification by the presenting party or their counsel that advance notice of the presentation of the praecipe was delivered to the opposing party or to his attorney at least two (2) business days prior to filing, or was mailed to such party or to his attorney at least four

(4) business days before filing. Where no appearance has been entered on behalf of the defendant, notice shall be served on the defendant in like manner as a complaint [see Pa.R.C.P. 1920.4. Service].

(d) There shall be attached to a praecipe presented under Pa.R.C.P. 1920.42(a) a proposed form for the final decree substantially in the form provided for in Pa.R.C.P. 1920.76.

**RULE 1920.43: PETITION FOR SPECIAL RELIEF UNDER DIVORCE CODE**

(a) All petitions for special relief under the Divorce Code shall be presented only to the Judge assigned to hear such petitions at the time of filing.

(b) The original and one copy of all such petitions shall be time stamped by the Prothonotary prior to presentation of said petition, and a copy of each such petition shall be provided to the Court Administrator contemporaneously with the presentation of the petition to the assigned Judge.

(c) No application for injunction or other special relief will be considered by the Court unless the factual reasons are set forth specifically and in detail in the pleadings and affidavits. The pleading or averring of conclusions will not be sufficient. Upon consideration of the pleadings and attached affidavits, the court may order that a hearing be held or grant such other relief as the Court may deem appropriate and necessary.

**RULE 1920.45: COUNSELING**

(e) If there is a request for counseling pursuant to the Divorce Code, and the parties cannot agree upon a Counselor, a qualified professional from the list maintained in the Prothonotary's office shall be appointed by either the Court where the matter has not yet been assigned to a Master, or by the Master, without leave of Court, where the matter has been referred to the Master.

**RULE 1920.51: APPOINTMENT OF MASTER**

(f) A motion for appointment of a Master shall contain a certificate by the moving party that all parties have complied with the filing requirements of Pa.R.C.P. 1920.31(a)(1), 1920.33(a) and 1920.46. Where no appearance has been entered on behalf of the defendant, service of advance notice shall be by first-class mail to the defendant's last known address.

(1) If Pa.R.C.P. 1920.31(a)(1) or 1920.33(a) are inapplicable, the moving party shall so certify in his motion. A Master shall not be appointed until the parties have either complied with Pa.R.C.P. 1920.31(a)(1), 1920.33(a) and 1920.46 or the Court has made an Order under Pa.R.C.P. 4019.

(g)(1) Before presenting a motion for appointment of a Master, the moving party shall deposit with the Prothonotary the applicable Master's fees for the issues raised in the amount as set by Order of Court. The Prothonotary shall endorse the fact of such payment upon the proposed "Order Appointing Master" before same is submitted to the Court.

(2) No Master's fee shall be refunded after a pre-hearing conference has been held or continued under "Sch.R.C.P. 1920.51(j)(2)."

(h) The Court, upon motion for appointment of Master, shall refer the matter to the Domestic Relations Master, designate the issues to be considered, and serve the Order of Appointment on the Master.

(i) Within ten (10) days of being served by the Court with the order of Master's appointment, the Domestic Relations Master may move the Court to have an Associate Domestic Relations Master appointed in his place for cause shown. The Court in its discretion, based on the averments of the motion, may deny the motion or may enter a modified order replacing the Domestic Relations Master with an Associate Domestic Relations Master. Where an Associate Domestic Relations Master is appointed, he shall proceed as provided for below.

(j)(1) The Master, within ten (10) days of being served with the order of Master's appointment, may give notice of the time and place for a pre-hearing conference, by first-class mail at least five (5) business days prior to the pre-hearing conference.

(2) A pre-hearing conference may be continued only for cause shown and upon approval of an "Application for Continuance" by the Court Administrator or Master.

(k)(1) Within twenty (20) days after the appointment of a Master by the Court, but no later than the pre-hearing conference, each party shall file a memorandum substantially in the form required by Sch.R.C.P. 212.2(b) prior to a pre-trial conference.

(2) Either party may include in their memorandum copies of documents, reports, bills, statements, or appraisals certified by competent expert witnesses, officials, or from governmental records which are to be offered into evidence. Unless objected to at the pre-hearing conference, same may be entered into evidence without further proof. If there are objections, then the evidentiary rules must be strictly complied with. However, should the documentary evidence objected to be substantiated at the time of hearing and it appears that the objections to the documentary evidence were in bad faith, the cost of producing the witnesses to substantiate such evidence may be assessed against the objecting party.

(l) At the pre-hearing conference the Master will review the following with counsel for the parties or, where a party has appeared without counsel, with the party:

(1) the respective positions of the parties on each claim, including those where settlement has been reached;

(2) discovery which has been completed, including the income and expense statements (see Pa.R.C.P. 1920.33);

(3) any documentary evidence to be presented at hearing under Sch.R.C.P. 1920.51(k);

(4) the witnesses each party proposes to call at hearing;

(5) all matters which may be stipulated by the parties at hearing; and

(6) such other relevant matters as should be raised by either of the parties or the Master.

(m) Following the pre-hearing conference, the Master shall:

(1) prepare a summary of the discussions and action taken at the pre-hearing conference;

(2) serve a copy of the summary on counsel for the parties, or where a party has appeared without counsel, on the party;

(3) include notice with the summary served that either party shall have ten (10) days to serve each other party and the Master with a countersummary addressed to such points as that party views differently than was noted in the summary by the Master and that at the expiration of said ten (10) days the Master's summary

and any countersummaries properly served will be included as part of the record; and

(4) where it appears that discovery has not been completed, including specifically filing of income and expense statements, inventory and appraisal, and pre-hearing memoranda, the Master may proceed and deem the right to file waived, direct parties to complete discovery prior to the time set for hearing, direct that the discovery be completed and a second pre-hearing conference be scheduled, or move the court to vacate the Master's appointment with forfeiture of Master's fees paid.

(n)(1) In complex contested matters which require the hearing to be continued in progress, the Master may assess additional Master's fees of \$100.00 per each additional hearing day. Each additional conference, beyond the first, shall be considered for these purposes as a hearing.

(2) Where additional Master's fees are assessed, the moving party shall deposit the fee with the Prothonotary and concurrently file a Praecipe substantially in the following form:

(CAPTION)

PRAECIPE FOR DEPOSIT OF  
ADDITIONAL MASTER'S FEE

To the Prothonotary:

As directed by the Master in the above-captioned case, deposit the sum of \$ \_\_\_\_ .00 for \_\_\_\_\_ additional Master's Hearing days in compliance with Sch.R.C.P. 1920.51(n).

\_\_\_\_\_  
Attorney for (Plaintiff/Defendant)

RECEIVED this day the sum of \$ \_\_\_\_ .00, additional Master's fee in the above-captioned case.

\_\_\_\_\_  
Prothonotary

**RULE 1920.52: HEARING BY COURT. DECISION. DECREE**

(e) Hearings by the Court shall be conducted as in actions at law tried by a judge without a jury in accordance with these Rules.

(f) A petition for the allowance of a jury shall be filed within ten (10) days after the action is at issue, unless the Court, upon a rule to show cause, shall extend the time.

**RULE 1920.53: HEARING BY MASTER. REPORT**

(d) The Master shall direct the examination of witnesses and the general course of the proceedings before him. Subpoenas for the attendance of witnesses before the Master shall be issued by the Prothonotary under the seal of Court. The Master shall cause a record to be kept of all proceedings before him. If objection is made to the admission of evidence, an offer and statement of purpose of said evidence, as well as the objection and its grounds, and the Master's ruling shall be noted in the record.

(e) The Master shall hold a hearing within sixty (60) days after the pre-hearing conference provided for in Sch.R.C.P. 1920.51(j); or, when he finds that counseling is required under Pa.R.C.P. 1920.45, within sixty (60) days after the expiration of the time for the completion of counseling under that Rule.

(f) The Master or Court Administrator may grant only one continuance of a hearing to a day certain to each



party. However, the Master may continue any hearing in progress. Should it appear that the Master's hearing ought to be continued beyond the scope of this Rule, the Master, or either party, may move the Court for such continuance, after having given four (4) business days notice to the other parties and the Master.

The motion for continuance shall be made in writing to the President Judge on a form established by the Court by filing the form with the Court Administrator. The motion shall state the reason for the request, whether the other party or the Master is opposed or unopposed, and the number of times the case has previously been continued. If the Master is opposed to the motion, he shall state his reasons for opposition on the written form. However, the Master may continue any hearing in progress. Should it appear that the Master's hearing ought to be continued beyond the scope of this Rule, the Master, or either party, may move the Court for such continuance, after having given four (4) business days notice to the other parties and the Master.

(g)(1) In a contested case the testimony given at a Master's hearing shall be taken by an Official Court Reporter. The Court Reporter shall bill the moving party and shall serve a copy of the bill upon the Master.

Upon satisfaction of all fees by the moving party, the Court Reporter shall certify the transcript thereof and serve same upon the Master.

(2) Unless the Master shall raise objections within ten (10) days after the Court Reporter has served the transcript on him, the transcript shall be deemed certified by him.

(3) The Master shall file his report within thirty (30) days after the testimony has been served on him, or, if briefs are filed, within thirty (30) days after the final reply brief is due, unless upon cause shown, the Court shall extend the time therefore. However, the Master shall not be deemed served with the transcript until all Master's fees and Court Reporter fees have been satisfied by the moving party.

(h)(1) The testimony in an uncontested case shall be transcribed in question and answer form, shall be read by the witness, and shall be sworn to and signed by the witness in the presence of the Master. Before the Master shall certify such testimony he may examine the witness as to any answers given in such testimony and may demand that the testimony be supplemented, in writing, by answers to other specific questions, or under oath before an Official Court Reporter.

(2) The Master shall file his report within twenty (20) days after hearing or service upon him of the transcript by an Official Court Reporter after all fees have been satisfied.

(i) Should the Master fail to file his final report within the time specified in Sch.R.C.P. 1920.53(g) or 1920.53(h), there being no rule or other matter not disposed of, a party shall have the right to obtain a rule upon the Master to show cause why the final report should not be filed promptly. If no good cause is shown, and if no report is filed, the Court shall take appropriate action promptly. No action taken hereunder by a party shall adversely influence the Master against that party, and the willful violation of this admonition shall result in the removal of the Master from consideration for appointment as a Master thereafter, any other disciplinary and remedial action that the Court may feel appropriate under the circumstances, or both.

(j) The Master shall enclose the papers in the case in a strong paper backer arranged in the following order:

(1) Recommendation as to the form and content of the final decree as to the divorce or annulment and for the disposal of related claims;

(2) In an uncontested case, the Master's report in the form required by Pa.R.C.P. 1920.53(c) and in a contested matter, in the form required by Pa.R.C.P. 1920.53(b);

(3) Testimony; except that in a contested matter, the transcript by the court reporter may be separate from the other papers as long as it is filed at the same time;

(4) Exhibits, if any, which are not included with the transcript;

(5) Docket entries;

(6) Record papers in the case; and

(7) A certificate of service of the Notice required by "Sch.R.C.P. 1920.55."

**RULE 1920.55: MASTER'S REPORT. NOTICE. EXCEPTIONS. FINAL DECREE**

(d) In all cases, whether contested or uncontested, the Master shall serve written notice upon counsel of record for the parties, or by first class mail to the last known address of any party not represented by an attorney of record, of the Master's intent to file his report with the Prothonotary on a date certain and that all exceptions to the report shall be filed within ten (10) days from the date of filing of the Master's report. This notice shall be substantially in the form provided for in Sch.R.C.P. 1920.55(e) and shall have attached thereto a copy of the Master's report and the proposed decree.

(e) Notice of filing Master's Report shall be substantially in the following form:

(CAPTION)

*NOTICE OF PROPOSED FILING OF MASTER'S  
REPORT AND THE TIME IN WHICH TO FILE  
EXCEPTIONS*

Dear Counselor (or party pro se):

The report of the Master in the above entitled case will be filed in the office of the Prothonotary on \_\_\_\_\_, 19 \_\_\_\_.

The Master recommends in his report, which is enclosed, that a final decree in divorce (or annulment) be entered on the grounds of \_\_\_\_\_ (or that the complaint be dismissed). (and that the related issues be disposed of according to the proposed "Order of Court" enclosed herewith).

You are hereby notified that written exceptions to the report of the Master must be filed with the Prothonotary within ten (10) days from the date of filing of the report or a final decree may be entered by the Court without further notice.

(signature)

\_\_\_\_\_  
MASTER

(f) As a final item in the report, the Master shall certify that the notice, with proposed decree and report enclosed, required by this Rule have been served on the parties or their counsel at least four (4) business days prior to the filing of the report.

(g) After the Master's report has been on file ten (10) days in the office of the Prothonotary and no exceptions filed, the Prothonotary shall transmit the Master's report to the Court for review.

(h) A party filing exceptions to the Master's Report shall contemporaneously file a praecipe for transmittal pursuant to Sch.R.C.P. 205.3 indicating that the matter can be disposed of on the record. The moving party shall, within twenty (20) days of filing the exceptions, file a brief in support of said exceptions. The answer and brief of any opposing party shall be filed within twenty (20) days after service of the brief of the moving party.

(i) If both parties file exceptions to the Master's Report, the exceptions shall be consolidated for consideration by the Court without the necessity of filing a second praecipe. The briefing requirements of Sch.R.C.P. 1920.55(h) shall also apply to this section. For purposes of complying with the briefing schedule, each party shall be considered the moving party with respect to the exceptions filed by that party and the responding party to the exceptions filed by the opposing party.

(j) In all cases where the related claims include one or more issues from alimony, alimony pendente lite, and child support, it shall be the responsibility of the recipient to notify the Domestic Relations Section of such Order.

**RULE 1920.62: PROCEEDINGS BY INDIGENT PARTIES**

(d) The Court may hear testimony, or upon its own motion or the motion of either party, may appoint the Domestic Relations Master to hear testimony and return the record and the transcript of the testimony to the Court, together with a report and recommendation upon petition as provided for in Pa.R.C.P. 1920.62(a).

(e) Upon being served with an order for appointment as a Master on a petition by a party averring inability to pay all or part of the costs of the action, the Master shall, within ten (10) days, give notice of the time and place for hearing on the petition to the parties. Such hearing shall be held not less than ten (10) days nor more than thirty (30) days after notice is served on the parties by the Master.

(f) The Master shall file a transcript of the testimony together with his report and recommendation within thirty (30) days after receipt of the transcript. Upon filing, the Master shall immediately send notice, substantially in the form required by "Sch.R.C.P. 1920.55(c)," of the filing of the report to each party and accompany the notice with a copy of the report and recommendation.

(g) After the filing of the Master's Report, the procedure provided for in "Sch.R.C.P. 1920.55(g)" et seq. shall be followed.

**RULE 1920.71: FORM OF NOTICE**

(a) The following shall appear at the beginning of the Notice to Defend and Claim Rights as provided for in Pa.R.C.P. 1920.71:

(CAPTION)

You have been sued in Court for:

- Divorce
- Distribution of Property
- Child Support
- Custody/Visitation
- Annulment
- Alimony
- Alimony pendente lite
- Counsel fees, costs, and expenses

(b) For the office to be named in the notice to defend and claim rights, refer to Sch.R.C.P. 1018.1.

**RULE 1920.74: FORM OF MOTION FOR APPOINTMENT OF MASTER. ORDER**

(b)(1) The order appointing a Master shall be substantially in the following form:

(CAPTION)

AND NOW, \_\_\_\_\_, 19 \_\_, \_\_\_\_\_, Esquire, is appointed Master with respect to the following claims:

- Divorce
- Distribution of Property
- Child Support
- Custody/Visitation
- Annulment
- Alimony
- Alimony pendente lite
- Counsel fees, costs, and expenses

BY THE COURT:

\_\_\_\_\_ J.

**MINORS AS PARTIES**

**RULE 2032: FILING AFFIDAVIT AS TO AGE**

(a) A party, required to file the affidavit under Pa.R.C.P. 2032, shall do so within twenty (20) days from the date of service of the Rule.

**RULE 2039: COMPROMISE, SETTLEMENT, DISCONTINUANCE AND DISTRIBUTION**

(a) No settlement of an action of a minor for personal injuries will be authorized or approved without the appearance of the minor in court, medical evidence as to the extent of the minor's injuries, and such further information as the Court shall deem necessary, provided, however, that if the petition of the guardian for the compromise of a minor's action is accompanied by (a) a written report of a physician; (b) a statement under oath by the guardian certifying (i) the present physical or mental condition of the minor, and (ii) approval of the proposed settlement and distribution thereof; (iii) a statement by counsel of his professional opinion of the probabilities of proof of defendant's negligence by plaintiff and the minor's negligence, if any, by defendant; and (iv) in the event that the minor is sixteen (16) years of age or over, his or her written approval of the proposed settlement and distribution thereof; the Court may approve the petition without requiring the appearance of the minor, his guardian or his doctor, in the event that the Court concludes that the information contained in the petition is sufficient to satisfy it that the proposed settlement adequately compensates the minor and his guardian for the injuries sustained and expenses incurred.

(b) If the case has already been assigned to a trial judge, the petition shall be submitted to that judge. All other petitions under the rule will be filed with the Prothonotary and shall be accompanied by a praecipe to transmit pursuant to Sch.R.C.P. 205.3.

**INCAPACITATED PERSONS AS PARTIES**

**RULE 2059: NOTICE TO INCAPACITATED PERSONS OF APPLICATION FOR GUARDIAN AD LITEM**

(a) In every case in which a petition is filed for the appointment or removal of a guardian ad litem for an incapacitated person, a copy of the petition and stay order issued thereon shall be served personally on the incapacitated person immediately upon the filing of the petition.

**RULE 2064: COMPROMISE, SETTLEMENT, DISCONTINUANCE AND DISTRIBUTION IN ACTION INVOLVING AN INCAPACITATED PERSON**

(a) The praecipe upon the presentation of a petition pursuant to Pa.R.C.P. 2064 shall be the same as that prescribed under Sch.R.C.P. 2039.

**ACTIONS FOR WRONGFUL DEATH**

**RULE 2205: NOTICE TO PERSONS ENTITLED TO DAMAGES**

(a) The notice prescribed in Pa.R.C.P. 2205 shall name the decedent, the court, file number of the action, and state that, if the person to whom it is addressed objects to the authority of the plaintiff to maintain the action, such person may petition the Court to remove the plaintiff and to substitute as a new plaintiff any person entitled by law to recover damages in the action or a personal representative of the decedent.

(b) An affidavit of service of such notice shall be filed in the Prothonotary's Office within five (5) days after service or as soon thereafter as the registered return receipt, signed by the person to whom it is addressed is returned to the plaintiff.

**JOINDER OF PARTIES**

**RULE 2232: DEFECTIVE JOINDER. CHANGE OF PARTIES**

(a)(1) Where notice of the pendency of an action to recover damages for an injury, not resulting in death, inflicted upon the person of a wife or a minor is given by the defendant under Pa.R.C.P. 2232(a), it shall be given within twenty (20) days after service upon him of the complaint, unless the Court, on petition, permits the giving of notice on a later date.

(2) The notice shall state the court, and docket number of the action, the parties thereto and its nature, and that the person to whom it is addressed is required to join therein within twenty (20) days after receipt of such notice, or his cause of action will be barred and the action will proceed without him.

(b)(1) Application under Pa.R.C.P. 2232(b), to drop from the record a party who has been misjoined or against whom no claim for relief is asserted in the action, shall be by motion and served on all other parties.

(c)(1) Application under Pa.R.C.P. 2232(c), to join as a party any other person who could have joined or could have been joined as such in this action, shall be by motion and served on all other parties.

**RULE 2959: OPENING JUDGMENTS**

(a) A petition for a rule to show cause why a judgment by default for want of an answer should not be opened, must have attached to it a copy of the proposed answer to the complaint if an answer is required under the Pennsylvania Rules of Civil Procedure.

(b) The petition to strike off or open a judgment shall be accompanied by a praecipe to transmit pursuant to Sch.R.C.P. 205.3 requesting the issuance of a rule to show cause. If a rule to show cause is issued the parties shall immediately proceed to develop any necessary factual evidence by deposition. When the matter is ripe for disposition either party may transmit the case to the Court by filing a praecipe for transmittal pursuant to Sch.R.C.P. 205.3, indicating that the issue may be disposed of on the record.

**RULE 3104: LIS PENDENS**

(a) The Prothonotary shall index on the judgment index in his office all proceedings, (1) for specific performance of an agreement to purchase or sell real estate, (2) in lunacy or habitual drunkenness, (3) to revive and continue the lien of debts against a decedent's real estate, (4) to declare void any agreement, deed, or other paper conveying or vesting title to real estate, or (5) any proceeding by which purchasers of real estate would be deemed to have had constructive notice. In each case all owners of the land as indicated by the pleading filed shall be indexed as defendants.

**RULE 3112: SERVICE BY PUBLICATION FOR THE ENFORCEMENT OF JUDGMENTS FOR PAYMENT OF MONEY**

(a) When service by publication may be had under Pa.R.C.P. 3112(c), the plaintiff may cause service to be made by publication once in the Schuylkill Legal Record and in one (1) newspaper of daily circulation in Schuylkill County of a notice which shall be in substantially the following form:

NOTICE IF HEREBY GIVEN TO \_\_\_\_\_ that on \_\_\_\_\_ a writ of execution issued against real property of \_\_\_\_\_ held in your name and described as follows:

Said writ issued on JUDGMENT No. \_\_\_\_\_, 19\_\_ . You are directed to notify \_\_\_\_\_ that the plaintiff issued an attachment execution against you which \_\_\_\_\_ is/are require to defend.

**RULE 3130: NOTICE OF SALE OF SECURITIES**

(a) When notice to a defendant of the sale of securities is required by Pa.R.C.P. 3130, such notice may be given by the Sheriff by ordinary mail, first class postage prepaid, addressed to the defendant at his or her last known residence and by the posting of handbills in the Sheriff's Office, which mailing and which handbills shall contain a description of the securities to be sold, the name and place of the business of the broker through whom sale will be made, and the date when the securities will be offered for sale.

**DEPOSITIONS AND DISCOVERY**

**RULE 4007.1: EXAMINATION BY ORAL DEPOSITION**

(a) In every civil action filed in Schuylkill county, unless otherwise ordered by the Court, all discovery by deposition on oral examination of fact witnesses shall be conducted within Schuylkill County.

**RULE 4007.2: WHEN LEAVE OF COURT REQUIRED/COMPLETION OF DISCOVERY**

(b) After a case has been certified as ready for arbitration or trial pursuant to these rules there shall be no discovery proceeding whatsoever except upon order of court, or by agreement of counsel which does not result in delay of the case.

**RULE 4009: PRODUCTION OF DOCUMENTS**

(a) Unless otherwise ordered by the Court, a "place", in order to be deemed reasonable for purposes of Pa.R.C.P. 4009(b)(1), shall be located within Schuylkill County.

**RULE 4011: LIMITATIONS OF SCOPE OF DISCOVERY AND INSPECTION**

(a) A party who has given a signed or electronically recorded statement to another party shall not be required to submit to deposition for discovery by such other party with respect to the subject matter of such statement unless he has been furnished with a copy of such statement not less than forty-eight (48) hours prior to the deposition.

(b) The term "party" as used herein means (1) a party to the litigation; (2) any officer, director or managing agent of a party; and (3) any agent or employee of a party where the conduct of such agent or employee is within the subject matter of the issues set forth in the pleadings.

(c) A "statement" within the meaning of this rule shall include a signed statement, a recorded interview or transcript of any such recorded interview.

**RULE 4015: PERSONS BEFORE WHOM DEPOSITIONS MAY BE TAKEN**

(a) Letters rogatory, substantially in the following form, may be issued on the application of either party:

COURT OF COMMON PLEAS OF  
SCHUYLKILL COUNTY, PENNSYLVANIA

To the Appropriate Judicial Authority in \_\_\_\_\_

Whereas a certain suit is pending before us, in which A.B. is plaintiff and C.D. is defendant, and it has been suggested to us that there are witnesses residing within your jurisdiction, without whose testimony justice cannot completely be done between the said parties; we, therefore, request that you, in furtherance of justice, will by the proper and usual process of your court, cause such witness or witnesses as shall be named or pointed out to you by the said parties, or either of them, to appear before you or some competent person by you for that purpose to be appointed and authorized, at a time and place by you to be fixed, and there to answer on their oaths or affirmations, to the several interrogatories hereunto annexed; and that you will cause their testimony to be committed to writing, and returned to us under cover duly closed and sealed, together with these presents; and we shall be ready and willing to do the same for you in similar case when required.

Witness, etc.

**RULE 4017.1: OBJECTIONS DURING VIDEOTAPE DEPOSITION**

(a) Objections made during videotape depositions shall be made only upon the stenographic record and not on the video/audio tape portion of the record.

(b) Upon objection made during videotape deposition, the tape operator shall announce on camera that the tape is being turned off; the operator shall then pause the tape during argument on the objection; upon completion of the argument, the tape operator shall resume taping and announce on camera that taping has resumed.

REVISED RULES  
of  
CRIMINAL PROCEDURE  
in the  
Court of Common Pleas  
of Schuylkill County  
Twenty-First Judicial District  
Commonwealth of Pennsylvania

**RULES OF CRIMINAL PROCEDURE FOR COMMON PLEAS****RULE 4: CITATION OF RULES**

(a) These rules shall be known as Schuylkill Rules of Criminal Procedure. They may be cited as "Sch.R.Crim.P. No. \_\_\_\_\_".

**RULE 141: PRELIMINARY HEARING: TRANSCRIPTS**

(a) Whenever a court stenographer prepares a transcript of the testimony of witnesses at a preliminary hearing, said stenographer shall furnish a copy of the transcript to the District Attorney.

**RULE 176: MOTION FOR A.R.D. DISPOSITION**

(a) In all cases in which a defendant charged with violation of 75 Pa.C.S.A. § 3731 (Driving Under the Influence) seeks a special handling by way of A.R.D., the District Attorney shall arrange with (1) the Drug and Alcohol Clinic at the Good Samaritan Hospital for examination and evaluation, and (2) the Adult Probation Department for an investigation of prior criminal history.

Reports prepared by the Drug and Alcohol Clinic and the Adult Probation Department shall be delivered to the District Attorney and shall be subject to inspection by the District Attorney and defense counsel. Such reports shall become part of the defendant's probation department file. All such reports shall be submitted along with the necessary A.R.D. forms to the Criminal Court Administrator on the cutoff date for submission of paperwork for negotiated pleas as established by the published Court Calendar.

(b) The A.R.D. motions for defendants who have been recommended by the District Attorney for the Fast Track A.R.D. Program shall be heard on the dates published for Fast Track A.R.D. in the Court Calendar.

**RULE 185: PROCEDURE FOR OBTAINING ORDER UPON SUCCESSFUL COMPLETION OF A.R.D. PROGRAM**

(a) Whenever a defendant is placed under the Accelerated Rehabilitation Disposition Program and he shall have satisfactorily completed the program provided for him and complied with its conditions, the Probation Office of Schuylkill County, upon filing of an affidavit by the defendant, shall file a report with the Court Administrator and a copy with the District Attorney, the latter of whom shall within thirty (30) days if he has objection to the dismissal of the charges, file such objection with the Clerk of Courts, serving a copy thereof on the defendant and his attorney. If such objections are filed, the Court shall proceed to hear the case under Pa.R.Crim.P. No. 184.

If no objections are filed within the thirty (30) day period, the Clerk of Courts shall endorse upon the report of the Probation Office as follows: "No objection having been filed within thirty (30) days by the District Attorney, the charges contained in the information filed against the defendant, as a result of which he was placed under the A.R.D. Program on \_\_\_\_\_, are hereby dismissed". The Clerk shall present said report with its endorsement to the sentencing Judge for signature.

(b) The Clerk of Courts shall furnish the Probation Department with a list of the cases under A.R.D. where the probationary period has heretofore expired and where petitions to dismiss have not been filed. The Probation Office shall review its files and make the required reports

as set forth under subsection (a) of this Rule, so that appropriate cases may be dismissed.

**RULE 225: INFORMATION: FILING, CONTENTS, FUNCTIONS**

(e) Promptly after receipt of transcripts in court cases, the Clerk of Courts shall forward copies of the same to the District Attorney. The District Attorney shall make such investigation as he deems appropriate and shall then prepare the information for filing against the defendants. The District Attorney shall file with the Clerk of Courts on the second and last Mondays of each month the informations he has prepared by said dates.

**RULE 301: CONTINUANCES**

(a) Motion by Defendant

Motions for Continuance by the defendant shall be in writing, upon forms approved by the Court, executed by the defendant and his attorney. At least twenty-four (24) hours advance notice of the presentation of said motions shall be given to the District Attorney. The motion shall be filed with the Clerk of Courts and contemporaneously a copy shall be served on the District Attorney by the defendant. The defendant will be obliged to appear in Court, with counsel, to waive the time requirements under Rule 1100. The Clerk of Courts shall forward all motions for continuance to the Court Administrator, who shall list the motion for hearing on the date when continuance requests shall be heard in accordance with the published Court Calendar.

**RULE 302: DUTIES OF COUNSEL**

Every counsel of record in a criminal case shall be timely present for each hearing, conference or other court proceeding involving his or her client as scheduled pursuant to the provision of these rules, or as the Court may otherwise direct. It shall further be the duty of counsel to promptly notify the client of the date, time, place and duty to be present at each proceeding involving the client's case until such time as the case has been disposed of by verdict, plea or Order of Court. Counsel who fail to comply with this rule may be held in Contempt of Court.

**RULE 303: ARRAIGNMENT**

(a) Every defendant who shall be held for Court by the District Justice, at the conclusion of the preliminary hearing or at the time he waives his preliminary hearing, shall be furnished with a notice of arraignment form by the District Justice. The form shall advise defendant of the time periods wherein he may commence discovery and file an omnibus pre-trial motion in Court. He shall further be given notice that he has the right to waive appearing for formal arraignment in the District Attorney's Office.

In the event he desires to waive formal arraignment, he and his attorney, if any, shall execute the form provided for that purpose by the District Justice, and said form shall be returned to Court with the transcript of the case by the District Justice. The date of arraignment will begin the running of the time for the exercise of defendant's pre-trial rights.

In the event the defendant does not waive his arraignment, the District Attorney, upon filing the information, shall give the defendant notice of arraignment by first class mail, addressed to defendant's last known address of record, arraignment to be held at the District Attorney's Office the following Monday morning at 9:30 a.m.

At the time the District Attorney mails the arraignment notices, he shall give the Public Defender a list of those

defendants who are scheduled for arraignment. The Public Defender shall assign one of his attorneys to meet with the District Attorney on the day of arraignment to represent those defendants who are not represented by counsel. Such representation shall be solely for the purpose of arraignment and shall not constitute an entry of appearance.

If a defendant fails to appear for arraignment, the Court, upon motion of the District Attorney, may issue a bench warrant for the defendant.

**RULE 305: PRE-TRIAL DISCOVERY AND INSPECTION**

Defense counsel desiring pre-trial discovery and inspection under Pa.R.Crim.P. No. 305 shall make an appointment and hold an informal conference with the District Attorney's Office within fourteen (14) days after arraignment for that purpose. The District Attorney's Office shall make available all information not in dispute to the defendant. Should the defendant request copies of any items of information, same shall be at the expense of the defendant. At that conference, in addition to discussing discovery sought, the parties may discuss possible plea negotiations.

**RULE 306: CONTENTS OF OMNIBUS PRE-TRIAL MOTIONS**

(a) All omnibus pre-trial motions shall state specifically and with particularity the following:

- (1) type of relief requested;
- (2) grounds for relief requested;
- (3) facts and events in support thereof; and
- (4) citations or law in support thereof.

All motions for pre-trial disclosure or discovery shall set forth the fact that an informal conference to discuss the requested material has taken place and proved unsuccessful.

**RULE 307: TIME FOR OMNIBUS PRE-TRIAL MOTIONS**

All omnibus pre-trial motions shall be filed within thirty (30) days after arraignment in accordance with Pa.R.Crim.P. No. 307. The defendant shall file the original with the Clerk of Courts and contemporaneously serve a copy on the District Attorney. The Clerk of Courts shall forward all motions to the Court Administrator for assignment to a judge. In those cases where the defendant acquires new counsel, either through appointment or through the resignation of his original counsel, the new counsel shall have no more than thirty (30) days from his appointment or employment to file such omnibus pre-trial motion as he may deem necessary. Only one extension of time shall be permitted.

**RULE 319.1: PLEAS AND PLEA AGREEMENTS**

(a) The District Attorney shall prepare the sentencing guideline forms provided by the Court as soon as practicable after the informations are lodged, setting forth the sentences required by the guidelines if a plea of guilty is entered by the defendant, and shall forward this material to defense counsel. Counsel for defendants who wish to engage in plea negotiations shall promptly thereafter schedule a meeting with the District Attorney.

(b) In those cases where no plea agreement has been made, a plea negotiation conference shall be held. At said conference, the District Attorney assigned to the case and prosecuting officer or an officer from his department with authority to resolve the case shall meet with the defen-

dant and defense counsel with the end in view to determine whether they can arrive at a plea agreement. The victim shall be notified and given an opportunity to attend and participate in the negotiations.

(c) If the parties arrive at a plea agreement, the defense counsel or defendant shall complete the form for entry of a written guilty plea available at the office of the District Attorney and promptly return it to that office. The District Attorney shall promptly forward the written guilty plea together with a copy of the information against the defendant, a report of the defendant's prior criminal record, and a list of maximum penalties and sentence guidelines for each charge to the Criminal Court Administrator. When the charge is D.U.I., a copy of the CRN shall also be provided to the Court.

Each written guilty plea shall be accompanied by a "Guilty Plea Certification" completed and signed by the District Attorney and defense counsel, certifying to the Court that the defendant's guilty plea has not previously been presented to the Court, or specifying the date when the plea was presented and identifying the judge who rejected the plea. Counsel who fail to comply with this rule may be held in contempt of Court.

Only those negotiated pleas and motions for A.R.D. for which the required documents are received by the District Attorney before 4:00 p.m. on the "plea paperwork cutoff" date as published in the Court Calendar for a particular term of Court will be considered by the Court during that term of Court. A defendant whose paperwork is not received by the cutoff may proceed to trial, request a continuance to the next term of Court, or enter a general plea of guilty without agreement as to sentence.

The District Attorney must forward all paperwork for negotiated pleas and motions for A.R.D. to the Criminal Court Administrator on the date established for transmittal as published in the Court Calendar.

The Criminal Court Administrator shall assign all guilty pleas and motions for A.R.D. among the judges who will hear those cases. Except for a plea of guilty entered after commencement of trial, the Court shall accept no guilty plea or A.R.D. motion unless scheduled and assigned by the Criminal Court Administrator.

(d) All guilty pleas and motions for A.R.D. for which the paperwork has been timely submitted to the Criminal Court Administrator shall be heard on the date scheduled for guilty pleas in the published Court Calendar.

(1) The pleas of all defendants who are incarcerated at that time shall be heard on the published prisoner plea date at 9:30 a.m.

(2) The pleas of all defendants who are not incarcerated and are represented by the Public Defender or have no counsel shall be heard on the published guilty plea date at 9:30 a.m.

(3) The pleas of all defendants who are not incarcerated and have retained private counsel shall be heard on the published guilty plea date at 1:30 p.m.

(e) General pleas of guilty entered after the dates in subsection (d) shall be scheduled by the Criminal Court Administrator at the direction of the President Judge.

#### **RULE 1100.1: REPORT OF CASES READY FOR TRIAL**

By 4:00 p.m. on the day after the District Attorney must transmit the plea paperwork to the Criminal Court Administrator, as published on the Court Calendar, the District Attorney shall prepare and submit to the Crimi-

nal Court Administrator a report listing all cases in which the District Attorney is prepared to go to trial during that term of Court (including those in which the defendant has indicated an intent to request a continuance). This list shall constitute the trial list for that term of Court. Thereafter no case may be removed from or added to the trial list without leave of Court.

Pretrial conferences with a member of the Court shall be conducted at 9:30 a.m. on the pretrial conference date as published in the Court Calendar for all cases remaining on the trial list by that date. The conference shall be attended by the assigned assistant district attorney and defense counsel. Pro se defendants must also attend. A victim may be present, if the victim desires to attend.

It shall be the duty of each party, *prior to the pretrial conference*, to verify the availability of all necessary witnesses for trial. The Court may decline to consider scheduling problems and requests which are not brought to the Court's attention at the pretrial conference.

#### **RULE 1123: POST-SENTENCE MOTIONS**

(a) Post-sentence motions shall be filed and served promptly on the Trial Judge and opposing counsel. The Trial Judge may schedule a conference to review the record and fix a briefing schedule.

(b) All motions requesting the appointment of a panel sitting as a court en banc shall be presented to the President Judge.

##### **(1) Transcript of Court Trial**

When directed by the Court, the transcript of the testimony of the trial of a criminal case shall be filed with the Clerk of Courts. The clerk shall make said transcript available to defense counsel and to the District Attorney, respectively, for a two (2) week period of time for preparation of briefs.

#### **RULE 1124: JUDGMENT OF ACQUITTAL MOTION**

(a) Any motion for judgment of acquittal shall follow the procedure set forth at Sch.R.Crim.P. 1405.

#### **RULE 1405: PROCEDURE AT SENTENCING**

(a) Motions for extraordinary relief.--Any defendant seeking to present an oral motion for extraordinary relief pursuant to Pa.R.Crim.P. 1405(B) shall file of record and serve upon the Commonwealth a written request briefly setting forth the rationale for the relief including an explanation as to why immediate relief is essential. Only upon a prima facie showing that alleged errors are so manifest that immediate relief is essential will leave be granted to present the oral motion for judgment of acquittal/arrest of judgment/new trial. The application to the Court shall be captioned "Application for Leave to Argue Oral Motion for Extraordinary Relief" and shall ask for leave to present and argue the merits set forth in the application.

#### **RULE 1407: FINES OR COSTS OR RESTITUTION**

(a) If at the time of sentencing the Court determines the defendant is without the financial means to pay the fines or costs or restitution immediately or in a single remittance, the Court may provide for payment of said monies in such installments and over such period of time as is deemed just and practicable by the Adult Probation Office and/or Schuylkill Collection Bureau, taking into account the financial resources of the defendant and nature of the burden its payments will impose.

(b) In any case in which the court has ordered payment of a fine or cost or restitution in installments, the

defendant may request a re-hearing on his payment schedule as established by the Adult Probation Office and/or Schuylkill Collection Bureau, or when he is in default of a payment, or when such default is imminent.

**RULE 1408.1: APPLICATIONS FOR PAROLE**

(a) Upon serving the minimum sentence as ordered by the Court, a defendant may be considered for parole.

(b) The Warden, District Attorney and Adult Probation Department shall indicate on the application any objection to the defendant's parole.

(c) The Court may in its discretion, or in the event any of the above said parties object to the application schedule a hearing on the application for parole.

**RULE 4006: TYPES OF BAIL: PERCENTAGE CASH BAIL**

(a) Provided a bond in the form set forth by the Court Administrator of Pennsylvania pursuant to Pa.R.Crim.P. No. 5 is executed, a defendant charged with a crime may furnish as bail with the District Justice or with the Clerk of Courts, a sum of U.S. currency equal to ten percent (10%) of the bail fixed in his or her case, but the sum of money furnished shall in no event be less than Fifty Dollars (\$50.00).

(b) The sum of money furnished shall be receipted for, deposited, accounted for, forfeited, or returned in accordance with Pa.R.Crim.P. No. 4015.

(c) After the final disposition of the case, and provided there has been no forfeiture, the money constituting percentage cash bail shall be returned to the defendant, less a retention fee for administering the percentage cash bail program of ten (10%) percent of the money entered as bail, and in no event shall the retention fee be less than Ten Dollars (\$10.00). The retention fee withheld shall be for the use of the County and shall be received and accounted for by the Clerk of Courts.

(d) When a defendant or a third party surety has deposited a sum of money under the percentage cash bail program, then upon full and final disposition of the case, the deposit less the retention fee for administrative costs, shall be returned to the person who originally posted the deposit. Notice of the full and final disposition shall be sent by the Clerk of Courts to the person who originally posted money at his address of record. Any money not claimed within one hundred eighty (180) days from the time of full and final disposition of the case shall be deemed as fees and shall be forfeited to the use of the County of Schuylkill.

**RULES FOR CRIMINAL PROCEDURE  
FOR DISTRICT JUSTICE COURTS**

**RULE 4: CITATION OF RULES**

(a) These rules shall be known as Schuylkill Rules of Criminal Procedure for District Justice Courts. They may be cited as "Sch.R.Crim.P.D.J. No. \_\_\_\_".

**RULE 106: PRIVATE COMPLAINTS**

(c) Private complaints shall be instituted in the manner set forth in Pa.R.Crim.P. No. 133. The affiant shall appear in the office of the District Attorney, who shall determine whether there is a probable cause and either approve or disapprove the complaint without unreasonable delay. If the complaint is approved, it shall be transmitted to the appropriate District Justice who shall act as the issuing authority.

**RULE 124: FUGITIVES—COURT CASES**

(c) In any court case in which a warrant of arrest has been issued, either upon the filing of the complaint or after the defendant fails to respond to a summons, if the officer to whom the warrant was issued is unable to serve such warrant after good faith effort within thirty (30) days, the said officer shall make a return of "NOT FOUND" to the District Justice.

**RULE 130: ARREST WITHOUT A WARRANT IN CERTAIN CASES**

(e) Pursuant to the authority granted by Pa.R.Crim.P. No. 130, police officers are hereby authorized, when making an arrest in Schuylkill County and when they deem it appropriate, to promptly release from custody a defendant who has been arrested without a warrant, rather than taking the defendant before the issuing authority when the following conditions have been met:

- (1) the most serious offense charged is a misdemeanor of the second degree;
- 2) the defendant is a resident of the Commonwealth;
- (3) the defendant poses no threat of immediate physical harm to any other person or to himself or herself;
- (4) the arresting officer has reasonable grounds to believe that the defendant will appear as required; and
- (5) the defendant does not demand to be taken before an issuing authority.

When a defendant is released pursuant to this Rule, a complaint shall be filed against the defendant within five (5) days of the defendant's release. Thereafter, a summons, not a warrant of arrest, shall be issued.

**RULE 130.1: CONTEMPT PROCEDURE IN PROTECTION FROM ABUSE CASES**

(a)(1) Upon information received on a violation of a protection order, the defendant may be arrested without a warrant, provided that the information is sufficient to constitute probable cause.

(2) Upon arrest, defendant shall be taken before either the district justice who has jurisdiction or the district justice on call; the arresting officer shall file a criminal complaint charging the defendant with indirect criminal contempt per 35 P.S. § 10190; defendant shall at that time be arraigned and bail shall be set; defendant shall either be released on bail or taken to Schuylkill County Prison if bail cannot be posted.

(3) The District Justice shall immediately (next working day) provide the Court Administrator with the following information:

- (a) name of defendant
- (b) name of judge whose order was violated

(4) Court Administrator shall arrange with judge who issued original protection order for a hearing to be scheduled within ten (10) days.

**RULE 142: CONTINUANCES OF PRELIMINARY HEARINGS**

(a) Every request for continuance of a preliminary hearing shall be submitted in writing on a form obtained from the District Justice or Criminal Court Administrator and shall be signed by the defendant and his/her counsel if any. The form may be submitted to the District Justice by fax directly (or via the Criminal Court Administrator if the District Justice office does not have fax capability).

(b) Each party may be granted one continuance by the District Justice upon cause shown. Any such continuance shall not be for more than seven (7) days. Any subsequent continuance by either party may be granted only by the President Judge, or his designee, upon completion and with just cause shown on the approved aforementioned continuance request form. This request for continuance form must be completed and signed by the defendant and his/her counsel if any. Upon refusal or approval of said request for continuance form, the Criminal Court Administrator shall file the signed form with the Clerk of Court's Office and shall notify the District Justice who in turn shall notify the parties.

(1) Pre-Preliminary Hearing Line-Up

Defendants desiring a pre-preliminary hearing line-up shall make such request known to the District Attorney and the District Justice at least forty-eight (48) hours in advance of the scheduled preliminary hearing.

In the event the District Attorney opposes defendant's request for a line-up prior to his preliminary hearing, the District Attorney shall advise defendant of such opposition at least twenty-four (24) hours in advance of the scheduled preliminary hearing. Defendant may then request a line-up by filing an original petition with the Clerk of Courts. The Court Administrator shall then assign the matter to a criminal list Judge for disposition. Defendant shall give notice of such filing to the District Attorney and the District Justice.

When a District Justice has been notified of the filing of such petition, he shall continue the case for at least two (2) weeks to allow for the disposition of the petition.

(2) Scheduling of Preliminary Hearings

Unless there are compelling reasons, no preliminary hearing shall be scheduled for a court case by any District Justice during the first two days of jury selection or the first week of criminal court trials in Schuylkill County. If a preliminary hearing is required to be held within that week by the Pa.R.Crim.P., this local Rule of Court shall be cited by the District Justice as a reason for re-scheduling the case for as soon thereafter as possible.

**RULE 146: TRANSCRIPT OF DISTRICT JUSTICE**

(c) In addition to the requirements under the Pa.R.Crim.P., the District Justice shall also list the defendant's date of birth in brackets following his name on the transcript, and shall list the names, addresses, and telephone numbers of all witnesses who testified at the preliminary hearing or who the parties request to be listed on the transcript.

(d) The District Justice shall prepare a transcript of the proceedings before him and return the same together with the documents required by Pa.R.Crim.P. No. 146 to the Office of the Clerk of Courts by first class mail or by hand delivery. In appeals from summary convictions, the District Justice shall return the transcript filed with the Office of the Clerk of Courts together with the documents required by Pa.R.Crim.P. No. 67 by certified mail, return receipt requested, together with a letter of transmittal. The copy of the transmittal letter and return receipt card shall be retained by the District Justice in the event the defendant files a rule for judgment of non pros under Pa.R.Crim.P. No. 67(e) and proof of filing becomes material.

**RULES OF JUDICIAL ADMINISTRATION**

**RULE 1901: TERMINATION OF INACTIVE CASES**

(b)(1)(a) The Prothonotary shall prepare for call, on the first Monday of October of each year or on such other date as the Court by special order may direct, a list containing all civil matters in which no steps or proceedings have been taken for two years or more prior thereto and shall give notice thereof to counsel of record and to those parties for whom no appearance has been entered as required by Pa.R.J.A. No. 1901(c). If no good cause for continuing a matter is shown at the call of the list, the Court shall enter an order dismissing such matter.

**RULE 5000.6: TRANSCRIPT FEES—DEPOSIT**

(a) In all cases where a notice of appeal or post trial motion is filed, and a transcript is required, the moving party, except where the State or County Government is liable for the cost, shall be required to pay one-half of the estimated cost for the transcript to the Court Stenographer. Upon request, the stenographer shall provide the parties with a written estimate of the costs of the transcript and provide a copy thereof to the Court Administrator. The stenographer shall give a uniform receipt to the parties, and to the Court Administrator, and shall keep a copy for the stenographer's personal files.

When the transcript is completed, the stenographer shall immediately notify the parties and shall bill the moving party for the balance of the cost of the transcript. Upon receipt of the balance of the transcript fee, the stenographer shall file the transcript of record. The transcript fee shall be a legal cost assessed by the Court.

[Pa.B. Doc. No. 96-135. Filed for public inspection February 2, 1996, 9:00 a.m.]

**SCHUYLKILL COUNTY**

**Amendments to Orphans' Court Rules**

**Order of Court**

*And Now*, this 17 day of January, 1996, at 12:30 p.m., the Schuylkill County Orphans' Court Rules are amended as follows:

1. Rule 15.4D is amended to read as follows.
2. Rule 14.1B is promulgated to read as follows.

These rules shall be effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

The Clerk of the Orphans' Court of Schuylkill County is Ordered and Directed to do the following:

- 1) File ten (10) certified copies of this Order and Rules with the Administrative Office of Pennsylvania Courts.
- 2) File two (2) certified copies of this Order and Rules with the Legislative Reference Bureau for Publication in the *Pennsylvania Bulletin*.
- 3) File one (1) certified copy of this Order and Rules with the Pennsylvania Orphans' Court Rules Committee.
- 4) Forward one (1) copy to the Schuylkill County Bar Association for publication in the *Schuylkill Legal Record*.



5) Keep continuously available for public inspection copies of this Order and Rules.

JOSEPH F. MCCLOSKEY,  
*President Judge*

**Rule 15.4D. Contested Involuntary Termination of Parental Rights. Appointment of Counsel for Minor Child. Costs.**

(a) Whenever a proceeding for involuntary termination of parental rights is contested, an Answer shall be filed and the Court shall appoint counsel for the minor child or children in accordance with Section 2313 of the Adoption Act.

(b) In every contested involuntary termination proceeding, Petitioner and Respondent shall each deposit into the Clerk of the Orphans' Court a payment on account for the transcript fees and for fees and costs of counsel for the minor in an amount to be fixed by the Court. Additional fees may be assessed, and said fees may be taxed as costs and may be ultimately charged against the parties in interest as the Court deems appropriate.

(1) Respondent shall deposit said payment upon the filing of the Answer and Petitioner shall deposit said payment within ten (10) days after service of the Answer. Failure to deposit said funds may result in civil contempt of court or imposition of sanctions as the Court deems appropriate.

(c) All parties shall file a list of witnesses and the expected time required for hearing within ten (10) days after service of court order appointing counsel for the minor.

**Rule 14.1B. Reports of Guardian. Notice.**

(a)(1) *Guardian of the Person.* At least once within the first twelve months of the appointment and annually thereafter, the guardian of the person, whether plenary or limited, shall file a report with the Court outlining the guardian's performance. The form of the report shall be substantially the same as the Clerk of the Orphans' Court Form No. 53. A final report shall be filed within sixty (60) days after the death of the incapacitated person.

(2) *Guardian of the Estate.* In addition to the filing of an inventory which must be filed within ninety (90) days of appointment, the guardian of the estate, whether plenary or limited, shall file a report with the Court at least once within the first twelve months of the appointment and annually thereafter as to the administration of the ward's estate. The Court, in its discretion, may require that the report be filed more frequently. The form of the report shall be substantially the same as the Clerk of the Orphans' Court Form No. 54. A final report shall be filed within sixty (60) days after the death of the ward.

(b) *Notice.* The guardian shall serve written notice of the filing of the report upon each care provider, next-of-kin, and all parties in interest by first-class mail within ten (10) days of filing the report in substantially the following form:

COURT OF COMMON PLEAS OF  
SCHUYLKILL COUNTY, PENNSYLVANIA  
ORPHANS' COURT DIVISION  
ANNUAL REPORT OF GUARDIAN

In the matter of the Estate of \_\_\_\_\_,  
an Incapacitated Person. To the care providers, next-of-kin, and all parties in interest in said affairs:

Notice is hereby given that \_\_\_\_\_,  
(guardian of the estate—guardian of the person) has filed

in the office of the Clerk of the said Court the annual report concerning the affairs of the ward. A copy of the report is available for inspection in the office of the Clerk of the Orphans' Court, Schuylkill County Courthouse, 401 North Second Street, Pottsville, Pennsylvania.

**Order of Court**

*And Now*, this 10 day of April, 1995, at 10:11 a.m., the Court hereby amends Schuylkill County Orphans' Court Rule 12.5F and hereby approves and adopts Schuylkill County Orphans' Court Rules 12.5G for use in the Court of Common Pleas of Schuylkill County, Pennsylvania (21st Judicial District). These rules shall be effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

It is further *Ordered* that said rules as they existed prior to the amendment are hereby repealed and annulled on the effective date of said rules as amended, but no right acquired thereunder shall be disturbed.

The Clerk of the Orphans' Court of Schuylkill County is Ordered and Directed to do the following:

1) File ten (10) certified copies of this Order and Rules with the Administrative Office of Pennsylvania Courts.

2) File two (2) certified copies of this Order and Rules with the Legislative Reference Bureau for Publication in the *Pennsylvania Bulletin*.

3) File one (1) certified copy of this Order and Rules with the Pennsylvania Orphans' Court Rules Committee.

4) Forward one (1) copy to the Schuylkill County Bar Association for publication in the *Schuylkill Legal Record*.

5) Keep continuously available for public inspection copies of this Order and Rules.

JOSEPH F. MCCLOSKEY,  
*President Judge*

**Rule 12.5F. Minor's Estate. Allowances. Approval of Court.**

(a)(1) *In General. Responsibility of Guardian.* Expenditures from income for the benefit of the minor, or for counsel fees in a nominal amount for routine services, whether payable from principal or income, should ordinarily be made by the guardian upon his own responsibility without application to the Court for approval.

(2) *Mandatory Approval by the Court.* Except as provided in subparagraph (a)(1) of this rule, no payments shall be made by the guardian of the estate, unless approval by the Court is first obtained, when payment is to be made from principal, or, when special services have been performed by counsel and the guardian is in doubt as to the reasonableness of the fee.

(b) *Contents of Petition.* Allowances for Maintenance, Support, or Education. A petition for an allowance from a minor's estate, for the maintenance, support, or education of the minor, his spouse or children, shall be presented by the guardian of the estate and shall set forth:

(1) the manner of the guardian's appointment and the date thereof; and, where appropriate, the terms of the instrument creating the estate;

(2) the age and residence of the minor; whether his parents are living; the name of the person with whom he resides; and, if married, the name and age of his spouse and children;

(3) the value of the minor's estate, real and personal, and the net annual income;

(4) the circumstances of the minor, whether employed or attending school; if the minor's parents are living, the reason why the parents cannot support and educate the minor without resorting to the minor's estate;

(5) the date and amount of any previous allowances by the Court;

(6) a recommendation to the Court of the amount of the allowance the petitioner believes should be decreed; and

(7) if the petition is presented by someone other than the guardian of the estate, that demand was made upon the guardian to act, and the reason, if any, given by him for his failure to do so.

(c) *Contents of Petition. Joinder.* Attached to the petition shall be the joinder of the minor, if over fourteen years of age, and of the parents or surviving parent; or, if both parents are deceased, the joinder of the adult person with whom the minor resides, or the superintendent or other official in charge of the institution having custody of the minor.

(d) *Allowance for More than One Minor.* A single petition may be used for an order of allowance for care, maintenance and education of more than one minor or for funeral expenses of a deceased child, spouse, or indigent parent where the minors are members of the same family, have the same guardian, and substantially the same reasons in support of the petition apply to all of the minors.

(e) Whenever a sequestered deposit has been created for the benefit of a minor, whether or not a guardian has been named, allowances therefrom may be upon petition of anyone interested in the welfare of the minor. Such a petition shall conform as nearly as may be to the requirements of these rules and shall, in addition, set forth the interest of the petitioner in the matter.

#### **Rule 12.5G. Minor's Estate. Funeral Expenses.**

A petition for allowance for reasonable funeral expenses of a minor's spouse, child, or indigent parent shall set forth the facts, so far as appropriate, required to be set forth in a petition for allowance for maintenance, support, and education and such other facts as may aid the Court in determining the necessity for an affirmative decree.

#### **Order of Court**

*And Now*, this 13 day of March, 1995, at 2:46 p.m., the Court hereby approves and adopts Schuylkill County Orphans' Court Rules 14.1A and 12.5E and hereby amends Schuylkill County Orphans' Court Rule 8.1A for use in the Court of Common Pleas of Schuylkill County, Pennsylvania (21st Judicial District). These rules shall be effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

It is further *Ordered* that said rules as they existed prior to the amendment are hereby repealed and annulled on the effective date of said rules as amended, but no right acquired thereunder shall be disturbed.

The Clerk of the Orphans' Court of Schuylkill County is Ordered and Directed to do the following:

1) File ten (10) certified copies of this Order and Rules with the Administrative Office of Pennsylvania Courts.

2) File two (2) certified copies of this Order and Rules with the Legislative Reference Bureau for Publication in the *Pennsylvania Bulletin*.

3) File one (1) certified copy of this Order and Rules with the Pennsylvania Orphans' Court Rules Committee.

4) Forward one (1) copy to the Schuylkill County Bar Association for publication in the *Schuylkill Legal Record*.

5) Keep continuously available for public inspection copies of this Order and Rules.

JOSEPH F. MCCLOSKEY,  
*President Judge*

#### **Rule 14.1A. Counsel. Incapacitated Persons.**

(a) Upon the filing of a petition alleging incapacity and seeking appointment of a guardian, the Court shall appoint separate counsel for the alleged incapacitated person.

(b) Counsel, as guardian ad litem, for the alleged incapacitated person shall immediately investigate the matter; shall file pleadings and defend the petition, *if contested*; or shall report and recommend to the Court at the hearing on the petition as to those matters which affect the rights of the alleged incapacitated person.

#### **Rule 12.5E. Compromise, Settlement, Discontinuance and Distribution. Minors.**

(a) *General rule.* Except as provided in subsection (b), no settlement of an action of a minor for personal injuries will be authorized or approved without the appearance of the minor in court, medical evidence as to the extent of the minor's injuries and whether such injuries have fully resolved, and such further information as the Court shall deem necessary.

(b) The Court may approve the petition without requiring the appearance of the minor, his guardian, or his doctor, provided the Court concludes that the information contained in the petition is sufficient to satisfy that the proposed settlement adequately compensates the minor and his guardian for the injuries sustained and expenses incurred and if the petition is accompanied by:

(1) a written report of a physician as to the extent of the minor's injuries and whether such injuries have fully resolved;

(2) a statement under oath by the guardian certifying (i) the present physical or mental condition of the minor, and

(ii) approval of the proposed settlement and distribution thereof;

(3) a statement by counsel certifying

(i) the fee charged, detailing any fee in excess of 25%, and

(ii) stating counsel's professional opinion of the probabilities of proof of the case and the reason why the Settlement is proper and in the best interest of the minor;

(4) a statement under oath by a minor age sixteen (16) years or over, certifying his or her approval of the proposed settlement and distribution; and

(5) the written consent and joinder of each interested party.

(c) Every petition filed under this rule shall include an Order setting forth a proposed distribution and shall state whether such distribution is to be made to the Guardian of the Estate or to a restricted account until such time as the minor reaches majority.

#### **Rule 8.1A. Appointment. Fees and Costs.**

(c) Each party in interest shall deposit into the Clerk of the Orphans' Court a payment on account of fees and costs in an amount to be fixed by the Court. Failure to

deposit said funds as ordered may result in a dismissal of the issues or imposition of appropriate sanctions.

### Order of Court

*And Now*, this 1st day of April, 1993, at 1:45 p.m., the Court hereby approves and adopts the following Schuylkill County Orphans' Court Rules for use in the Court of Common Pleas of Schuylkill County, Pennsylvania (21st Judicial District). These rules shall be effective thirty (30) days after publication in the *Pennsylvania Bulletin*. It is further *Ordered* and *Decreed* that all former Schuylkill County Orphans' Court Rules are hereby Rescinded as of said date.

The Clerk of the Orphans' Court of Schuylkill County is Ordered and Directed to do the following:

- 1) File ten (10) certified copies of this Order and Rules with the Administrative Office of Pennsylvania Courts.
- 2) File two (2) certified copies of this Order and Rules with the Legislative Reference Bureau for Publication in the *Pennsylvania Bulletin*.
- 3) File one (1) certified copy of this Order and Rules with the Pennsylvania Orphans' Court Rules Committee.
- 4) Forward one (1) copy to the Schuylkill County Law Library for publication in the *Schuylkill County Legal Record*.
- 5) Keep continuously available for public inspection copies of this Order and Rules.

JOSEPH F. MCCLOSKEY,  
*President Judge*

## RULE 1: JUDGES AND LOCAL RULES

### Rule 1.2A. Local Rules. Rules Committee.

The Court shall, as often as needed, appoint a committee and shall designate the Chairperson to serve with an assigned Judge on the Orphans' Court Rules Committee. Each member of the committee shall be an active, practicing member of the bar of this Court and knowledgeable and experienced in substantive and procedural matters within the jurisdiction of the Court. It shall be the duty of said committee to meet with the Court for the purpose of recommending amendment, supplementation and/or repeal of these Rules so that said Rules shall at all times constitute a modern and efficient code for the conduct of the affairs of this Court.

### Rule 1.2B. Filing, Indexing and Transmittal.

The original of all motions, petitions, and other pleadings shall be filed in the office of the Clerk. The Clerk shall assign a file number to each new proceeding, which number shall be included in all subsequent pleadings filed. The Clerk shall promptly transmit the pleadings to the Deputy Court Administrator—Orphans' Court for assignment to a Judge for disposition.

### Rule 1.2C. Petitions and Motions.

(a) Every original petition or motion filed shall set forth in its first paragraph the citation of any statute, rule of court, or other authority relied upon to justify the relief requested.

(b) Every petition or motion filed shall state with particularity the grounds on which it is based and shall be accompanied by a proposed order which, if approved by the Court, would grant the relief sought by the pleading. Every response in opposition to a motion or petition shall be accompanied by a proposed order which, if approved by the Court, would deny or amend the relief sought by the pleading.

(c) The Court may direct that a Rule or Citation be issued, or may schedule a hearing or conference as the issues in the case may dictate.

(d) A copy of the notice required to be given shall be attached to the petition or motion.

### Rule 1.2D. Briefs and Argument.

(a) The Court after conference or hearing or in lieu thereof, and whether requested by an interested party or on its own motion, may direct disposition of the issues upon briefs.

(b) Any party or his attorney may request oral argument upon a motion or issue involved in any controverted proceeding and the Court shall have the right to require oral argument.

(c) Unless oral argument is requested or specifically directed, the Court will decide the issues on briefs as submitted per briefing schedule set by the Court.

### Rule 1.2E. Procedure Where Briefs are Filed. Contents of Briefs.

When a matter is directed for disposition on briefs, the attorney for the moving party, following a briefing schedule set by the Court, shall furnish the Court with a typewritten brief containing:

(a)(1) an index; (2) a history of the case; (3) a statement of the questions involved; (4) a statement of the facts of the case; (5) a copy of the exceptions, if any; (6) in cases begun by petition, copies of the pertinent docket entries and of the pleadings; (7) a copy of the will and codicils or trust instrument and any other documents the construction of which is involved; (8) a brief of argument; and (9) a certificate of service per (c) of this rule.

(b) The brief of the respondent may contain a counter-statement of the questions involved, a counter-statement of the facts of the case, and shall contain a brief of argument.

(c) Copies of briefs shall be delivered to counsel of record for opposing parties at the same time a copy is delivered to the Court.

### Rule 1.2F. Witnesses.

Unless the exigencies of the case require it, an attachment will not be issued to compel the appearance of a witness unless the witness shall have been served with a subpoena at least three days before the day fixed for hearing.

### Rule 1.2G. Attorneys.

(a) *Agreements.* The Pennsylvania Supreme Court Rules of Civil Procedure relating to the Business of the Courts shall govern in agreements of attorneys relating to the business of the Court and to contingent fees, and to the regulation of fees for services and promises to pay for services.

(b) *As witnesses.* Members of the Bar should not appear as sole counsel in matters in which they expect to be called as witnesses.

(c) *Attorney of Record.* Every attorney, when employed by any party in any proceeding pending in this Court, shall have his name and Supreme Court identification number marked on the initial pleading or paper filed in the office of the Clerk. So long as the name of the attorney remains in the record, he shall be considered as the attorney for the party for whom his appearance is entered and shall be served with all required notices and pleadings. Any attorney whose client has an interest in

the proceeding may, by praecipe, enter an appearance as of record. Any attorney who has properly entered an appearance will receive notice of all hearings, conferences, and orders.

**Rule 1.2H. Record Papers. Reproduction of Papers.**

(a)(1) *Record Papers.* The record papers in the office of the Clerk shall be in the custody of said official, who shall be responsible for their safekeeping. No person, other than the Clerk, or his duly authorized clerks shall have access to the files in which such record papers are kept.

(2) No one is authorized to remove records from the office of the Clerk. It is the duty of the Clerk to insure full compliance with this rule.

(3) The record papers in any proceeding may be examined and copied by any party in interest in the office of the Clerk. While the record papers in any case may be photocopied, the file copy of testimony may not be photocopied.

**Rule 1.2I. Costs.**

When not otherwise regulated by law, the Court will allocate costs in such manner as it deems equitable.

**Rule 1.2J. Depository of the Court.**

(a) *Deposit of Money or Securities in Court.* All monies paid or securities delivered into Court shall be deposited immediately in such bank or trust company as the Clerk may designate, to the credit of the court, in the particular estate or proceeding to which the money or securities may belong; and such depository shall keep a separate account of each payment and delivery, designating the same by name of the estate or proceeding.

(b) *Withdrawals.* No money shall be paid out of Court by the depository, or securities delivered, except on checks or orders of the Clerk accompanied by a certified copy of the Order of Court authorizing such withdrawal or delivery.

(c) *Docket to be maintained.* The Clerk shall maintain in his office a Money in Court Docket in which shall be entered concisely under the name of the respective estates, the Orders of Court directing money to be paid into Court, as well as an accurate account of the money paid in and paid out, so that the record will fully explain itself.

**Rule 1.2K. Decrees. Satisfaction and Enforcement.**

(a) *Satisfaction. Release.* Acknowledgment of receipt of sums of money or property ordered to be paid or delivered by any award or decree of the Court may be made by appropriate release filed of record and noted in the docket entries.

(b) *Order to Enforce Decree or Adjudication.* Any party in interest may petition the Court for an Order to enforce compliance with the provisions of a decree or an adjudication.

**Rule 1.2L. Bonds and Sureties.**

(a) *Corporate Fiduciaries.* When the fiduciary is a corporation having fiduciary powers and authorized to do business in the Commonwealth, a bond will not be required unless the Court, upon cause shown, deems it advisable that a bond be filed.

(b) *Corporate Sureties.* Every application for the approval of a corporation to act as surety shall be accompanied by a statement, sworn to by the president, secretary or authorized agent of the corporation, that it is duly authorized by certificate issued to it by the Insurance Department of this Commonwealth to become surety on

all bonds and obligations, that it has filed such certificate together with a copy of its financial statement with the Prothonotary of Schuylkill County in accordance with the rules of the Court of Common Pleas of Schuylkill County and that the certificate is still in full force and effect.

(c) *Individuals as Sureties.* All bonds presented for approval, except those having proper corporate surety, shall be accompanied by an affidavit of each person offered as surety, setting forth: (1) his name and residence, and (2) that he is the owner in his individual right in fee simple of real estate located in Schuylkill County having a fair net value, after deducting all liens and encumbrances, in excess of the face amount of the bond upon which he is a surety.

(d) *Bond Without Surety.* The Court in its discretion may permit a party in interest to execute his individual bond, without surety. When a party in interest is authorized to execute his individual bond, the Court may direct that the bond to be executed contain a warrant of attorney to confess judgment, with or without default, and that judgment thereon be entered of record in the office of the Prothonotary.

**Rule 1.2M. Individual Fiduciaries. Assets and Investments.**

(a) *Segregation.* Assets held by individual fiduciaries subject to the jurisdiction of the Court shall be kept separate and apart from their individual assets and, except where otherwise permitted by Act of Assembly, shall be held in the name of the fiduciary as such.

(b) *Deposit of Uninvested Funds.* All funds held uninvested shall be deposited in a bank or banks, or trust company or trust companies, the deposits of which are insured by the Federal Deposit Insurance Corporation.

**RULE 2: CONSTRUCTION AND APPLICATION OF RULES**

**Rule 2.3A. Definitions.**

(a) As used in these rules "P.E.F. Code" shall mean a reference to the Probate, Estates and Fiduciary Code, June 30, 1972, P. L. 508, 20 Pa.C.S.A. § 101, et seq.

(b) As used in these rules "Clerk" shall mean a reference to the Clerk of the Orphans' Court—Register of Wills.

**Rule 2.4A. The Business of the Court.**

(a) *Calendar.* Prior to the close of each calendar year, the Court shall prepare, publish, and make available for distribution, a calendar setting forth the days upon which various matters will be regularly heard during the ensuing year. In the event of a variance or conflict between the contents of such a published calendar and the provisions of these rules, the former shall supersede the latter.

**Rule 2.4B. Audits and Continued Audits.**

(a) New accounts shall be called for audit on the second Wednesday of each month, at the time and place advertised pursuant to Sch.Co.O.C. Rule 6.6A.

(b) Continued audits shall be heard on such days and at such times as the Court shall set.

**Rule 2.4C. Return Days.**

Return days, i.e. the days to which citations, rules or other processes are returnable, shall, subject to the provision of § 764 of the P.E.F. Code and except as otherwise provided, be as fixed by local rule or special order of Court. No hearing shall be held on the return

day of a citation or rule unless specially ordered by the Court. (See Pa.O.C. Rule 3.2.)

### **RULE 3: PLEADINGS AND PRACTICE**

#### **Rule 3.2A. Pleadings, Signature and Verification.**

(a) The pleadings in matters before the Court shall be limited to a petition, an answer, new matter, a reply to new matter, preliminary objections, and an answer to preliminary objections.

(1) *New Matter.* Any defense which is not a denial of the averments of fact shall be set forth under the heading "New Matter".

(2) *Reply to New Matter.* A reply shall be required when new matter is set forth in the answer.

(b) All pleadings, including every petition, motion, answer, and reply, containing an allegation or allegations of fact, shall be signed by the petitioner or petitioners and their attorney and attested either by an affidavit or by a verified statement setting forth that it is subject to the penalties of 18 Pa.C.S.A. § 4904 (relating to unsworn falsifications to authorities) by one or more of the petitioners. When it is impractical to comply with the foregoing, the pleading may be signed and attested by someone familiar with the facts, in which case the reason for the failure of petitioner or petitioners to sign shall be set forth in the attestation.

(c) A copy of every pleading, including exceptions, shall be promptly served upon counsel of record for all parties in interest.

#### **Rule 3.2B. Pleadings. Disposition. Issues of Fact or Law.**

(a)(1) *Failure to Answer.* If the respondent fails to answer a petition as required by the Citation, all material averments of fact in the petition shall be taken as admitted and the Court may, at any time after the return day and upon proof of service of the Citation upon the respondent at least ten (10) days prior to the return date, upon motion, enter a decree granting the prayer of the petition or such other relief deemed appropriate by the Court.

(2) *Failure to Reply to New Matter.* If the petitioner fails to reply to new matter contained in an answer, the averments of fact set forth as new matter shall be deemed admitted and the case will be at issue.

(b)(1) When an issue of fact is raised by the pleadings, including preliminary objections to jurisdiction, any party may move for a hearing, and the Court, in its discretion, will hear the matter, or refer the same to a master.

(2) When the pleadings are closed, any party in interest may move the Court for disposition of a question of law, upon briefs and oral argument, as needed.

#### **Rule 3.4A. Form. Exhibits.**

(a) *Typing and Endorsements.* Every pleading shall be endorsed with the name of counsel and where practical typewritten and double spaced.

(b)(1) There shall be attached to all petitions as exhibits the originals or copies of all wills, codicils, agreements, and other written instruments relied upon. If the petitioner is unable to attach a necessary exhibit, he shall so state in his petition together with the reason.

(2) The signature of an attorney to a petition shall constitute a certification by that attorney that all copies

of written or printed instruments, records, or documents which are not certified or authenticated, are true and correct copies of the original.

#### **Rule 3.4B. Consents. Joinders. Form.**

(a) All petitions shall aver that all parties in interest are petitioners, or that consents or joinders of all necessary parties are attached. If the petitioner is unable to attach a necessary consent or joinder, he shall so state in his petition together with the reason.

(b) Whenever a party other than a petitioner desires to consent to or join in the prayer of a petition, there shall be appended to the petition a written "Consent" or "Joinder" signed by the party in the following form:

I, \_\_\_\_\_, having read and considered the contents of the foregoing petition, do herewith waive the benefit of all requirements of notice of the presentation, or service upon me, of said petition, do authorize the Court to note my general appearance in said proceeding as though I had appeared personally or by counsel, do herewith waive all objections to the Court's jurisdiction over my person, and do herewith consent to or join in [add specifics of prayer for relief]

All "Consents" and "Joiinders" shall be signed by at least two (2) witnesses.

#### **Rule 3.5A. Citation. Proof of Service.**

(a)(1) *Personal Service.* Proof of personal service of a citation shall conform to the provisions of § 766 of the P.E.F. Code. The return shall set forth the date, time, place and manner of service and that true copies of the citation, petition, and preliminary order awarding the citation were handed to the respondent.

(2) *Service by Registered or Certified Mail.* Proof of service of a citation by registered or certified mail shall be by affidavit of the person making service, which shall set forth that true and correct copies of the citation, petition, and preliminary order awarding the citation were mailed to the respondent postage prepaid, return receipt requested, the date of mailing, the address to which notice was mailed and that attached to the return is the signed return receipt card which accompanied the letter.

(3) *Service by Publication.* Proof of service of a citation by publication shall consist of proofs of publication together with affidavits by the publisher.

(b) Except as otherwise provided, a return of notice shall be filed with the Clerk on or before the date set for the occurrence of the event of which notice has been given.

#### **Rule 3.6A. Guardians or Trustees ad Litem. Appointment.**

Guardians or trustees ad litem may be appointed to represent the interests of any prospective parties in interest who are not sui juris or who are absentees and for whom no guardian or trustee has previously been appointed. Such appointments may be made upon the presentation of the petition to the Court or at any time during the course of the proceeding when the Court deems such action necessary.

#### **Rule 3.7. Pre-hearing Conference.**

In any action the Court, on its own motion or upon the motion of any party, may direct the attorneys for the parties to appear for a conference to consider simplification of the issues, possibility of obtaining admissions of

facts and documents, and such other matters as may aid in the disposition of the action.

#### RULE 5: NOTICE

##### Rule 5.1A. Notice. Legal Publication.

The *Schuylkill Legal Record* shall be the legal periodical for the publication of notices whenever publication in a legal periodical is required by Act of Assembly, by Rule, or by Order of Court.

##### Rule 5.1B. Service on Attorneys.

Written notice served personally on an attorney of record or on a partner or employee of his office, or by mail addressed to his office, shall be notice to the party whom he represents, except where personal service on the party is specifically required.

##### Rule 5.2A. Method. Person under Incapacity. No Guardian or Trustee.

Whenever notice is given to a person who is not sui juris and for whom there is no guardian or trustee, notice shall be given by serving it upon him, if he is over fourteen years of age, and, in all cases, upon:

- (a) His spouse, if sui juris, or
- (b) His next of kin, if sui juris, or
- (c) The person with whom he resides or by whom he is maintained; or
- (d) The superintendent or other official of the institution having custody of him; or
- (e) In such manner as the Court, by special order, may direct.

##### Rule 5.4A. Notice. Additional Requirements.

(a)(1) *Personal Service.* Return of personal service shall set forth the date, time, place and manner of such service, and that a true and correct copy of the petition and notice were handed to the person served.

(2) *Registered or Certified Mail.* Return of notice by registered or certified mail shall set forth the date and place of mailing the petition and notice and shall include the return receipt or a copy thereof.

(3) *Publication.* Return of notice by publication shall set forth the date(s) and newspapers and/or legal periodicals of publication and shall include proofs of publication or copies thereof.

(b) Except as otherwise provided, a return of notice shall be filed with the Clerk on or before the date set for the occurrence of the event of which notice has been given.

#### RULE 6: ACCOUNTS AND DISTRIBUTION

##### Rule 6.1A. Accounts. Form. Additional Requirements.

(a)(1) All accounts shall be in the form approved by the Pennsylvania Supreme Court and known as Uniform Fiduciary Accounting Standards. Should the account filed fail to comply with said accounting standards, the Clerk shall notify the Accountant to immediately comply prior to ten (10) days before Audit Day. The corrected account shall be given to all parties in interest. A failure to correct the account shall result in the account being stricken.

(2) Accounts shall be stated on 8 1/2" by 11" paper, fastened together at the top and numbered consecutively at the bottom.

(3) Every account filed with the Clerk shall be signed by each accountant and shall be verified by at least one accountant.

##### Rule 6.3A. Notice. Return. Failure to Give. Penalty.

(a) (1) An accountant shall serve written notice of the filing of an account upon each claimant and party in interest by first-class mail, at least twenty (20) days prior to Audit, in substantially the following form:

COURT OF COMMON PLEAS OF  
SCHUYLKILL COUNTY  
ORPHANS' COURT DIVISION  
IN THE MATTER OF \_\_\_\_\_ ESTATE  
FIRST ACCOUNT OF \_\_\_\_\_ (EXECUTOR)  
UNDER THE WILL OF \_\_\_\_\_

NUMBER \_\_\_\_\_

*NOTICE TO PARTIES IN INTEREST*

Notice is hereby given that the (\_\_\_\_\_) of the above-captioned Estate has filed (\_\_\_\_\_) Account and Statement of Proposed Distribution with the Clerk of the Orphans' Court of Schuylkill County, Pennsylvania, and the Audit thereon shall be before the Court on the \_\_\_\_ day of \_\_\_\_\_, 19\_\_, at \_\_\_\_ .M., in Courtroom No. 2, Schuylkill County Courthouse, Pottsville, Pennsylvania.

If you have any objection to any transaction or matter involving the Estate, you must file with the Clerk of the Orphans' Court objections thereto in writing prior to Audit, or appear in person or by legal counsel and present your objections to the Court at Audit.

If you fail to present objections, the Court may assume you have no objection to the Account and Statement of Proposed Distribution. You are not required to appear if you have no objections.

A copy of the Account and Statement of Proposed Distribution is attached hereto; and if not attached, it is available for your examination at the Register of Wills office, Schuylkill County Courthouse.

(2) For the purposes of this Rule, a "Party in Interest" is defined as follows:

- (i) when decedent dies intestate, as all intestate heirs;
- (ii) when decedent dies testate, as all residuary legatees.

(3)(i) a statement that the Account and Statement of Proposed Distribution are available for examination at the Register of Wills office shall be attached to any notice to a Claimant.

(ii) a copy of the Account and Statement of Proposed Distribution shall be attached to any notice to a party in interest.

(4) Every notice to a claimant shall contain the date; time and place of the Audit of the account; whether the claim, interest, or obligation of the person notified is admitted or denied; if admitted, whether it will be paid in full or in part; and, if denied, that an objection to such denied claim must be filed with the Clerk prior to Audit or by appearance in person or by counsel at the Audit to present such objection.

(b) On or before the date for the call of the account for audit, the accountant, or his counsel, shall file with the Court a return of notice as prescribed in Rule 5.4 hereof.

(c) Failure by the accountant or his counsel to give all required notices and to file returns thereof in accordance

with this rule shall result in the Court continuing the audit of the account until all of the provisions of all of the aforementioned rules have been satisfied.

**Rule 6.4A. Accounts. Time for Filing. Audit Days.**

(a) Accounts to appear on a particular Audit List must be filed not later than 4 p.m. of the third Wednesday immediately preceding the Wednesday on which it is desired the account shall be called for Audit.

(b) All accounts on the advertised Audit List will be called for Audit on the day set for calling the List; but, in cases requiring the taking of considerable testimony or the hearing or argument on legal questions or in which objections have been filed, a special day for conference or hearing may be fixed.

**Rule 6.6A. Advertisements of Accounts. Form of Advertisements.**

(a)(1) *Advertisement of Account.* The Clerk shall give notice of all accounts filed and of the time and place of the call of the Audit List. The notice shall be published once a week during two (2) consecutive weeks immediately before the day on which the Accounts, with accompanying Statement of Proposed Distribution, shall be presented for Audit and confirmation in the legal publication designated by these rules and in one daily newspaper of general circulation published within Schuylkill County, and the Clerk shall also post copies of the Audit List in his office.

(2) *Form of Advertisement.* The form of advertisement of Accounts and Statements of Proposed Distribution that have been filed for Audit and adjudication by the Court shall be as follows:

Notice of Audit of Fiduciaries Accounts.

To all claimants, beneficiaries, heirs, next-of-kin, and all other parties in interest:

NOTICE is hereby given that the following named fiduciaries of the respective estates designated below have filed their Accounts and Statements of Proposed Distribution in the office of the Register of Wills in and for the County of Schuylkill, Pennsylvania, and the same will be presented to the Orphans' Court Division, Courtroom No. 2, Schuylkill County Courthouse, Pottsville, Pennsylvania, on Wednesday, the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_ .M., for audit and confirmation at which time and place all persons interested shall attend, if they desire, and present their claims or forever thereafter be barred from coming in upon said respective estates so accounted for; namely:

Estate	Fiduciary	Attorney
X	X	X

\_\_\_\_\_  
Clerk of the Orphans' Court

**Rule 6.9A. Accounts. Statements of Proposed Distribution.**

(a)(1) A Statement of Proposed Distribution, signed by each accountant and verified by at least one of them, shall be filed with each Account at the same time the Account is filed, except in Accounts of Guardians of the Estates of Minors and Settlement of Small Estates (See Sch.Co.O.C. Rule 6.9C).

(2) Except by special leave of Court, printed forms of the Statement of Proposed Distribution provided by the Clerk shall be used.

**Rule 6.9B. Accounts. Order of Procedure on Audit Day.**

The order of procedure at the Audit of Accounts shall be as follows:

- (a) appearances;
- (b) report of additional receipts and/or disbursements;
- (c) objections;
- (d) claims; and
- (e) other matters.

**Rule 6.9C. Accounts. Papers to be Submitted.**

(a) *All Accounts.* Counsel for all fiduciaries shall submit:

- (1) Orphans' Court Account Checklist executed by counsel of record;
- (2) Copies of all agreements with respect to settlements and compromises;
- (3) Accurate description of all real property to be awarded in kind described by metes and bounds in the manner appearing in the last deed of record, together with recital of title into the decedent.

(b) *Accounts of Personal Representatives.* Counsel for personal representatives shall also attach:

- (1) the original proofs of advertisement of grant of letters;
- (2) a copy of letters, inventory, and inheritance tax appraisalment;
- (3) a copy of the Will and codicils;
- (4) the official receipt for any inheritance tax paid;
- (5) the official receipt for any federal estate tax paid; and
- (6) a Statement of Proposed Distribution.

(c) *Accounts of Trustees.* Counsel for Trustees shall also submit:

- (1) a copy of the letters, and of the will and codicils, if any, creating the testamentary trust, or a copy of the trust instrument and any amendments thereto, creating the inter vivos trust;
- (2) a waiver of an income accounting executed by all of the income beneficiaries, if the account does not contain a complete income accounting;
- (3) the official receipt for any inheritance tax paid during the period of the accounting;
- (4) the official receipt for any federal estate tax paid during the period of the accounting; and
- (5) a Statement of Proposed Distribution.

(d) *Accounts of Guardians of the Estates of Minors.* Counsel for a Guardian of the estate of a minor shall also submit:

- (1) a copy of the appointment of the guardian or of the Will or other instrument by which the guardian was appointed;
- (2) where the former minor has attained the age of eighteen (18) years, his written stipulation setting forth that he attained the age of eighteen (18) years on a certain designated date; that he has examined the account and has found it correct; and that he has received the balance or balances shown in the account and requests that the guardian be discharged;

(3) where the former minor has attained the age of eighteen (18) years but has not executed the stipulation referred to in paragraph (d)(2) of this Rule, then in place thereof a Statement of Proposed Distribution shall be filed;

(4) where the minor is deceased, or has been adjudged an incompetent/incapacitated person under the P.E.F. Code, or is an absentee or presumed decedent, or the guardian has resigned or has been removed, a Statement of Proposed Distribution shall be filed.

(e) *Accounts of Guardians of Estates of Incompetents/Incapacitated Persons.* Counsel for a Guardian of the Estate of an Incompetent/Incapacitated Person shall also submit:

- (1) a copy of the appointment of the guardian;
- (2) a copy of the original inventory filed; and
- (3) a Statement of Proposed Distribution.

**Rule 6.10A. Objections. Form and Content.**

(a) Objections to an account, inventory, and statement of proposed distribution shall be in writing; shall be numbered consecutively; shall be signed by the objector or his attorney; and where they contain allegations of fact, shall be properly verified in the same manner as a petition.

(b) Each objection shall be specific as to description and amount, shall raise but one issue of law or fact, and shall set forth briefly the reason or reasons in support thereof.

**Rule 6.10B. Objections. Time for Filing.**

(a) Written objections to an account, inventory, and statement of proposed distribution may be filed as of course with the Clerk at any time prior to, or at, the call of the account for audit.

(b) Objections may be made orally when an account is first called for audit, in which event they shall be reduced to writing and filed in conformance with these Rules within five (5) days thereafter.

(c) No objections shall be made or filed except as provided in (a) and (b) hereof unless leave of Court is first obtained.

**Rule 6.10C. Objections. Service. Return.**

A copy of objections to an account, inventory, or statement of proposed distribution shall be served upon the accountant and all other parties in interest or their attorney of record, immediately after the objections have been filed with the Clerk. Proof of such service shall be filed forthwith with the Clerk. Any unreasonable delay in serving objections shall constitute grounds for dismissal of the same by the Court.

**Rule 6.10D. Objections. Continued Audit.**

When objections to an account, inventory, or statement of proposed distribution have been filed prior to or at audit or presented orally, as herein provided, the audit of the account shall be continued to a day fixed by the Court for disposition of the objections and auditing of the account.

**Rule 6.10E. Objections. Failure to Make, Effect.**

Any question which can be and is not raised by objections conforming to these rules shall not thereafter be the subject of an exception to an order confirming an account or decreeing distribution.

**Rule 6.11A. Adjudication and Decree of Distribution. Service. Method. Proof.**

(a)(1) *In General.* Decrees of distribution shall be entered and filed with the adjudication of an account except where the facts warrant the filing of the decree separately and on a later date. Unless written exceptions are filed within ten (10) days from the date of mailing set forth in the Clerk's Affidavit of Service, the decree of distribution shall become FINAL.

(b) The Clerk shall immediately serve, or cause to be served, by first class United States mail, a true copy of the adjudication and order upon—

- (1) Each attorney of record;
- (2) Each claimant, whether claiming as a creditor or as an heir, or legatee, who appeared at the audit in personam and without counsel and whose claim has been denied in full or in part; and
- (3) Such other parties as the Court may direct.

(c) Immediately upon effecting service of the Court's adjudication and order as provided in (b) hereof, the Clerk shall file of record proof of such service and shall provide a copy of the same to Accountant and his counsel.

**Rule 6.11B. Decree of Distribution P.E.F. § 3534.**

*Real property.* Distribution under Section 3534 of the P.E.F. Code, where at the time of distribution of the estate the personal representative or a distributee requests the Court to divide, partition, and allot the real estate or to direct a sale thereof, an interlocutory decree shall be entered fixing a day certain, not less than twenty (20) days from the date of the interlocutory decree, for hearing; the interlocutory decree to be entered shall be in the form of a notice to all parties in interest that on the day so fixed for hearing the Court will hear the contentions of the parties in interest with respect to:

(a) whether the real estate can be divided among less than all of the parties in interest without prejudice to or spoiling the whole and if so, how; and

(b) whether the Court should direct the personal representative to sell at a sale confined to the distributees or at a private or public sale not so confined.

A copy of the interlocutory decree, duly certified, shall be served by certified or registered mail, by the personal representative, upon all parties in interest, not less than ten (10) days before the return day fixed in the decree; proof of service of notice, in the form of return receipts, to be filed upon the return day.

**Rule 6.11C. Settlement of Small Estates. Contents of Petition.**

(a) *Contents of Petition.* A petition for the settlement of small estates under section 3102 of the P.E.F. Code shall set forth:

- (1) the name, date of death, and residence of the decedent;
- (2) the name and address of the petitioner and his relationship to the decedent;
- (3) if the petitioner is the surviving spouse, the date and place of marriage to the decedent;
- (4) whether the decedent died testate or intestate;
- (5) the names, relationship, and interest of all persons entitled to share in the decedent's estate under the Will or intestate laws, stating who are minors, incompetents/incapacitated persons, or decedents, with the names of



their fiduciaries, if any, and whether any of them received or retained any property of the decedent by payment of wages, salary or any accrued pension under Section 3101 of the P.E.F. Code or otherwise;

(6) where a claim for family exemption is included, a statement that claimant formed a part of the decedent's household at the date of his death and, if the claimant is the surviving spouse, that he has not forfeited his right to the family exemption;

(7) an itemized statement of the gross personal estate to be distributed and the fair value of each item other than cash, such value to be that given in the inventory filed, and if none was filed, then the fair value, if not readily ascertainable, shall be fixed by two appraisers whose affidavits of value shall be attached to the petition;

(8) the disbursements made prior to the filing of the petition; the date and name of the person to whom paid; and the nature and amount of each payment;

(9) the names of all unpaid claimants of whom the petitioner has notice, the nature and amount of each claim, and whether such claims are admitted;

(10) that a schedule of assets and deductions for inheritance tax purposes has been filed with the Register of Wills; the amount of any inheritance tax assessed, and the date of payment thereof;

(11) a statement that ten (10) days written notice of intention to present the petition has been given to every unpaid beneficiary, heir, or claimant who has not joined in the petition, or to the Attorney General, if the decedent's heirs are unknown; and

(12) a statement of distribution of the property, setting forth the persons entitled and their distributive shares and requesting the discharge of the personal representative if letters have been granted.

(b) *Exhibits.* The following exhibits shall be attached to the petition:

- (1) a copy of the decedent's Will;
- (2) the consents of unpaid beneficiaries, heirs, and claimants;
- (3) a copy of the inventory, if one was filed;
- (4) a copy of the notice given; and
- (5) the inheritance tax voucher, or in lieu thereof a statement from the inheritance tax department that no tax is due.

#### **RULE 7: EXCEPTIONS**

##### **Rule 7.1A. Exceptions. Form and Contents.**

(a) No exceptions shall be filed to orders or decrees entered in proceedings unless the right to except thereto is expressly conferred by Act of Assembly, by general rule, or by special order; and all decrees other than those to which exceptions are so allowed to be taken are FINAL.

(b)(1) Exceptions to findings of fact and conclusions of law contained in adjudications, orders and decrees shall be in writing, shall be numbered consecutively, and shall be signed by the exceptant or his attorney.

(2) Each exception shall be specific, shall raise but one question and shall set forth briefly the reason or reasons in support thereof.

(3) Questions which were the proper subject of objections to accounts, inventory, or statements of proposed distribution and were not raised when the account was called for audit, or questions which might properly have

been raised by an answer to or during a hearing on a petition, shall not be subject of exceptions, and if so made shall be subject to dismissal.

(4) Exceptions shall not contain averments of fact.

##### **Rule 7.1B. Exceptions. Time for Filing. Brief.**

Except as otherwise provided, exceptions, with a brief in support thereof, shall be filed as of course with the Clerk within ten (10) days from service of a copy of the adjudication, order, or decree complained of, and a true and correct copy of the exceptions and brief served upon all parties in interest, or their counsel of record, who shall have ten (10) days to respond. Proof of service as aforesaid shall be filed with the Clerk prior to any disposition of the exceptions.

##### **Rule 7.1C. Exceptions. Partial Distribution.**

When the matters which are the subject of an adjudication, schedule of distribution, or the report of an auditor or master, are so separate and distinct that an exception to any one or more, whether sustained or dismissed, cannot affect the remainder, and the accountant will not be prejudiced by the distribution of such remainder, confirmation of the adjudication, schedule of distribution, or report, shall not be suspended, except as to those matters to which exceptions have been filed; distribution may proceed as to the remainder, and any party from whom such distribution has been withheld may petition the Court to order distribution.

#### **RULE 8: AUDITORS AND MASTERS**

##### **Rule 8.1A. Appointment.**

(a) The Court, on its own motion, or upon petition of the accountant, or of any other party in interest, may appoint an Auditor or Master to assist the Court in the audit of an account or the disposition of an issue of fact in a matter.

(b) The Court may, at or after a conference on the issues or in lieu thereof, direct that each counsel of record and any party in interest not represented by counsel shall file with the Clerk a praecipe listing Witnesses and the anticipated length of the Master's or Auditor's hearing.

(c) Each party in interest shall deposit into the Clerk of the Orphans' Court a payment on account of fees and costs in an amount to be fixed by the Court.

##### **Rule 8.1B. Notice of Hearing. Hearings.**

(a) The Clerk shall give written notice of an Auditor's or Master's appointment and give ten (10) days prior written notice of the time and place of the first hearing to all counsel of record and all interested parties not represented by counsel known to the Clerk.

(b) Notice of succeeding hearings, if any, given by the Auditor or Master at a hearing of which proper notice has been given shall constitute sufficient notice of such succeeding hearings.

(c) The hearing shall be held at a time and place indicated and not later than forty-five (45) days after the Auditor's or Master's appointment and shall be extended only upon application to the Court for good cause shown.

##### **Rule 8.2A. Filing of Report. Place. Time.**

(a) The report of an Auditor or Master who has been appointed to assist the Court in the audit of an account or the disposition of an issue of fact in a matter shall be filed with the Clerk.

(b) The report of the Auditor or Master shall be filed within ninety (90) days after his appointment and shall be extended only upon application to the Court for good cause shown.

**Rule 8.5A. Transcript of Testimony.**

(a) Testimony given at an Auditor's or Master's hearing shall be stenographically recorded.

(b) The transcript of testimony taken before an Auditor or Master shall be filed with his report.

(c) The Auditor or Master shall, in the first instance, pass on questions of evidence. If he is of the opinion that the testimony is clearly frivolous and irrelevant, or that the witness is clearly incompetent, he need not take the testimony, but the Record shall show the offer and the purpose of it, the objection and the ground of it, as well as the decision of the Auditor or Master, so that if objection be taken to the Report of the Auditor or Master on this ground his decision may be properly reviewed by the Court. However, if the Auditor or Master is in doubt, the testimony shall be taken subject to exception and the question may be raised upon exception to his Report.

(d) Fees may be taxed as costs and the Auditor or Master shall have authority to recommend to the Court that the stenographer's fees follow the award as costs in appropriate cases.

**Rule 8.6A. Notice of Intention to File. Proof of Notice.**

(a) An Auditor or Master shall give ten (10) days notice in writing to all parties in interest or their counsel of record of his intention to file his report with the Clerk on a day certain and shall file proof of the giving of notice with the Clerk. A copy of said report together with the proposed Decree of Confirmation Nisi shall accompany the notice to each party in interest or their counsel of record. A copy thereof together with the transcript of testimony shall be made available in the office of the Clerk for inspection during the notice period.

(b) The Auditor or Master shall file his original Report and proposed Decree with the Clerk upon expiration of the ten (10) day notice period.

**Rule 8.7A. Report of Auditor or Master. Disposition. Procedure.**

(a) The report of an Auditor or Master shall be transmitted to the Court for Confirmation Nisi upon filing with the Clerk and shall become FINAL unless written exceptions thereto are filed within ten (10) days after the date of filing the report.

(b) *Exceptions.* Any party in interest shall have the right to file exceptions to the report of an Auditor or Master within ten (10) days after the filing and confirmation Nisi thereof. Exceptions shall conform to the pertinent provisions of Chapter 7 of these rules.

(c) *Re-Examination by Auditor or Master.* In the event that exceptions are filed, the Auditor or Master shall have a period of twenty (20) days to re-examine the subject of the exceptions and shall file a supplemental report disposing of the exceptions seriatim, setting forth his reason or reasons for sustaining or dismissing each exception.

(d) Written notice of the filing of the supplemental report shall be given by the Auditor or Master to all parties in interest or their counsel and proof of such notice shall be filed with the Clerk.

(e) The supplemental report shall become absolute upon filing with the Clerk, unless written exceptions

thereto are filed within ten (10) days after the date of filing the supplemental report. Such exceptions shall be disposed of as are exceptions to an adjudication of the Court.

**Rule 8.8A. Compensation and Security.**

(a) Any Auditor or Master appointed by the Court under these rules shall be compensated by reasonable fees as fixed by the Court and paid from such sources as the Auditor or Master shall recommend and the Court shall direct.

(b) Fees may be taxed as costs and the Auditor or Master shall have authority to recommend to the Court that the Auditor's or Master's fees follow the award as costs in appropriate cases.

(c) A motion to the Court to require security for payment of fees and expenses may be filed with the Clerk at any time by the Auditor or Master, Accountant, or any party in interest.

**RULE 9: OFFICIAL EXAMINERS**

**Rule 9.1A. Official Examiners.**

Whenever an examination of assets is ordered in connection with an accounting, the special order of appointment will be included in the adjudication of the account, and the examiner shall make his examination after the schedule of distribution has been filed and approved so that the assets distributable to fiduciaries, which are the assets to be examined, will have been determined.

**Rule 9.1B. Official Examiners. Compensation.**

Each estate shall be liable for the compensation of the examiner and the amount of such compensation shall be fixed by special Order of the Court.

**RULE 10: REGISTER OF WILLS**

**Rule 10.1A. Form of Appeal from Register of Wills' Decision.**

When an appeal is taken from a judicial act or proceeding before the Register of Wills, the appellant shall do so by petition which sets forth:

- (1) the nature of the proceedings before the Register of Wills;
- (2) the reasons for the appeal;
- (3) the names and addresses of all parties in interest, including those who have not been made parties to the record; and
- (4) a request that a Citation be issued directed to all parties in interest including those not represented on the record to show cause why the appeal should not be sustained and the judicial act or proceeding complained of be set aside and reversed.

Upon the issuance of the Citation, the Register of Wills shall certify the record.

**Rule 10.2A. Inheritance Tax Appeals.**

Practice and procedure in inheritance tax appeals shall be in accordance with the Inheritance and Estate Tax Act, 71 P. S. § 9101 et seq.

**RULE 12: SPECIAL PETITIONS**

**Rule 12.1A. Family Exemption. Appraisal.**

(a) Where the exemption is claimed from personal property included in the inventory filed, the value of each item so claimed shall be that given in the inventory filed.

(b) Where the exemption is claimed from personal property forming part of a Small Estate and no inventory has been filed, the value of each item claimed shall be the fair value thereof.

(c) Unless otherwise directed by the Court, no appraisal shall be required if the exemption is claimed;

(1) in money;

(2) from personal property and the gross value of the estate does not exceed the amount of the exemption;

(3) in real or personal property at valuations agreed upon by all parties in interest.

**Rule 12.1B. Family Exemption. Allowance.**

(a) *Prior to Audit.*

(1) *Personal Property.* If the petitioner requests the exemption prior to Audit, the petitioner shall file a petition with the Clerk and thereupon shall give ten (10) days written notice of intention to request the exemption on a stated Citation Returnable date to the personal representative, if any, and to all persons adversely affected thereby who do not join in the prayer of the petition. In the absence of any objection, on presentation of a verified return of notice on the stated citation returnable date, an appropriate decree may be entered. Where all parties adversely affected have joined in the prayer of the petition and ten days prior notice of the filing of the petition has been given to the personal representative, if any, the petitioner may present the petition to the Court on a citation returnable date, whereupon, in the absence of objections and on presentation of a verified return of notice upon the personal representative, an appropriate decree may be entered.

(2) *Real Property.* If the Petitioner requests the exemption prior to the Audit, the appraisers shall, within thirty (30) days after their appointment, file with the Clerk an appraisal of the property claimed, and written notice of such filing shall be given to the personal representative and to the next of kin, or, if there be neither personal representative nor next of kin, to the Attorney General. The notice shall contain a copy of the petition and the appraisal, and a statement that confirmation of the appraisal and the setting apart of the real estate to the petitioner will be requested and may be allowed by the Court at a stated Citation Returnable date, of which not less than ten (10) days notice is given therein, unless objections are filed. If the address or whereabouts of any of the next of kin is unknown, notice shall be given in such manner as the Court may direct.

(b) *At Audit.* The petition for Family Exemption may be filed with the Clerk at any time prior to the Audit in order that the demand may be a matter of record or the request may be presented at the audit. The auditing Judge may require that the property claimed be appraised or that notice be given in such manner as he shall direct.

**Rule 12.1C. Family Exemption. Risk Distribution Prior to Audit.**

When the personal representative at his own risk delivers assets of the estate in satisfaction of the exemption he shall set forth the same as a disbursement in his account under the subheading "Family Exemption". Such delivery may be the subject of objection by any claimant or party in interest.

**Rule 12.2A. Allowance to Surviving Spouse of Intestate. Appraisal.**

If an appraisal of property is needed, the manner of appraising the property, of filing and confirming the appraisal, and of advertising or giving notice thereof shall be by special order in each case.

**Rule 12.3A. Election of Surviving Spouse. Filing of Petition for Extension of Time.**

(a)(1) A petition for the extension of time in which the surviving spouse may file an Election to Take Against the Will shall include the requirements for a petition under Pa.O.C. Rule 12.3(a) and the facts relied upon to justify an extension of time in which to file the election.

(2) The petitioner shall file the petition with the Clerk and thereafter give ten (10) days written notice of intention to request the extension at a stated citation returnable day to all persons adversely affected thereby who do not join the prayer of the petition.

(3) In the absence of objection, on the presentation of an appropriate motion and verified return of notice at the citation returnable day designated in the petition, an appropriate decree may be entered.

**Rule 12.5A. Appointment of Guardian for Minor. Consents Required.**

(a) *Consent of Parents or Person in Loco Parentis.* Written consent of the parents or surviving parent of the minor to the appointment of a guardian for his estate or person is required. If both parents are deceased, such consent is required of the adult person with whom the minor resides or of the superintendent or other official in charge of the institution having custody of the minor. If such consent is not obtained, the petitioner shall set forth the reason and give such notice of the petition as the Court may direct.

(b)(i) *Consent of Guardian. Individual.* When the proposed guardian is an individual, his written consent to act as such shall contain the following:

(1) his business, and domicile;

(2) a statement that he is a citizen of the United States, able to speak, read, and write the English language; and

(3) a statement that he is not the fiduciary or an officer or employee of the corporate fiduciary of an estate in which the minor has an interest nor the surety or an officer or an employee of the corporate surety of such a fiduciary; and

(4) a statement that he has no interest adverse to the minor.

(b)(ii) *Consent of Guardian. Corporate.* When the proposed guardian is a corporation authorized to act as fiduciary, its written consent to act as such shall contain a statement that it is not the fiduciary of an estate in which the minor has an interest nor the surety of such a fiduciary and that it has no interest adverse to the minor.

(c) *Consent of Minor.* If the minor is fourteen and over, he shall make his selection of a Guardian by Consent and Joinder conforming to Rule 3.4B.

Note: the foregoing rules relating to the appointment of a guardian of a minor's estate are subject to the powers given to persons to appoint a guardian by Will, by inter vivos trust agreement, etc. (See section 2519 of the P.E.F. Code.)

**Rule 12.5B. Guardians. Minors. Bond. Restricted Account.**

(a) *Individuals as Guardians.* Except in special circumstances, the Court will not appoint an individual as a guardian of the estate of a minor without setting bond, as the Court in its discretion deems appropriate. (Exceptions may include situations where a corporate guardian cannot be secured or the only asset of the minor is a regular benefit payment such as pension, Social Security, Veterans' Administration, Public Assistance, Railroad Retirement payments.)

(b)(1) In lieu of the entry of security, an individual guardian may be authorized to

(i) deposit the funds comprising the minor's estate in an insured interest-bearing account; or

(ii) invest in a building and loan association or Federal savings and loan association

subject to the express restriction, to be noted on the records of the institution, NOT TO BE WITHDRAWN UNTIL SAID MINOR REACHES THE AGE OF EIGHTEEN (18), OR UPON FURTHER ORDER OF THIS COURT, and with a further requirement that counsel shall file of record proof of the deposit of funds into the restricted account with the Clerk within thirty (30) days of the order.

(2) Whenever an individual guardian has been appointed, the Court will, except in special circumstances, require a bond with corporate surety authorized to do business in Pennsylvania and approved by the Court to act as surety on bonds. All such bonds shall be approved by the Court before filing.

(c) *Minor reaching majority. No prior withdrawals.* The decree of the Court may contain a further provision that if no withdrawals are made from the account prior to the minor reaching his majority, the institution may pay over the funds when the minor attains age eighteen (18) years, upon the joint requests of the guardian and the former minor without further Order of the Court.

(d) *Minor reaching majority. Prior withdrawals.* If, upon subsequent Order of Court, withdrawals have been made from the account, the guardian shall file a petition for his discharge upon the minor's attaining age eighteen (18). There shall be attached to the petition:

(1) a statement in the nature of an account which shall conform to the requirements of Sch.Co.O.C. Rule 6.9C(1) and (4); and

(2) an affidavit by the guardian setting forth that he has received no additional assets belonging to the minor, and that all claims of which he has notice have been paid.

(e) *Additional Assets.* When the guardian has received assets in addition to the deposit or investment made in accordance with this rule, he shall account as if the restricted account did not form part of his estate.

**Rule 12.5D. Minor's Estate Not Exceeding Statutory Limitation.**

(a) *Disposition.* If the value of the real and personal estate of a minor does not exceed the statutory limitation as defined in Section 5101 of the P.E.F. Code, the Court may:

(1) authorize payment or delivery to the minor, or the parent or other person maintaining the minor;

(2) direct the deposit of the money in a restricted account, in the name of the natural guardian of the minor, or of the minor himself; or

(3) make such provision for the retention or deposit of securities or other assets, as the Court shall deem in the best interests of the minor.

(b) *Mortgage or Sale of Real Property.* If the entire estate of a minor does not exceed the statutory limitation as defined in Section 3531 of the P.E.F. Code, the Court, upon petition, may authorize the parent or other person maintaining the minor to convey or mortgage any real property forming a part or all of such estate without the appointment of a guardian or the entry of security. The petition shall be in compliance with Sch.Co.O.C. Rule 12.9A(5) and 12.11A governing the sale or mortgage of real property by a guardian. The Order of Court may be conditioned upon the deposit of the proceeds of the sale or mortgage in a restricted account.

**Rule 12.5E. Minor's Estate. Allowances. Approval of Court.**

(a)(1) *In General. Responsibility of Guardian.* Expenditures from income for the benefit of the minor, or for counsel fees in a nominal amount for routine services, whether payable from principal or income, should ordinarily be made by the guardian upon his own responsibility without application to the Court for approval.

(2) *Mandatory Approval by the Court.* Except as provided in subparagraph (a)(1) of this rule, no payments shall be made by the guardian of the estate, unless approval by the Court is first obtained, when payment is to be made from principal, or, when special services have been performed by counsel and the guardian is in doubt as to the reasonableness of the fee.

(b) *Contents of Petition.* Allowances for Maintenance, Support, or Education. A petition for an allowance from a minor's estate, for the maintenance, support, or education of the minor, his spouse or children, shall be presented by the guardian of the estate and shall set forth:

(1) the manner of the guardian's appointment and the date thereof; and, where appropriate, the terms of the instrument creating the estate;

(2) the age and residence of the minor; whether his parents are living; the name of the person with whom he resides; and, if married, the name and age of his spouse and children;

(3) the value of the minor's estate, real and personal, and the net annual income;

(4) the circumstances of the minor, whether employed or attending school; if the minor's parents are living, the reason why the parents cannot support and educate the minor without resorting to the minor's estate;

(5) the date and amount of any previous allowances by the Court;

(6) a recommendation to the Court of the amount of the allowance the petitioner believes should be decreed; and

(7) if the petition is presented by someone other than the guardian of the estate, that demand was made upon the guardian to act, and the reason, if any, given by him for his failure to do so.

(c) *Contents of Petition. Joinder.* Attached to the petition shall be the joinder of the minor, if over fourteen years of age, and of the parents or surviving parent; or, if both parents are deceased, the joinder of the adult person with whom the minor resides, or the superintendent or other official in charge of the institution having custody of the minor.

(d) *Allowance for More than One Minor.* A single petition may be used for an order of allowance for care, maintenance and education of more than one minor or for funeral expenses of a deceased child, spouse, or indigent parent where the minors are members of the same family, have the same guardian, and substantially the same reasons in support of the petition apply to all of the minors.

(e) Whenever a sequestered deposit has been created for the benefit of a minor, whether or not a guardian has been named, allowances therefrom may be upon petition of anyone interested in the welfare of the minor. Such a petition shall conform as nearly as may be to the requirements of these rules and shall, in addition, set forth the interest of the petitioner in the matter.

**Rule 12.5F. Minor's Estate. Funeral Expenses.**

A petition for allowance for reasonable funeral expenses of a minor's spouse, child, or indigent parent shall set forth the facts, so far as practicable to the requirements of a petition for allowance for maintenance, support, and education and such other facts as may aid the Court in determining the necessity for an affirmative decree.

**Rule 12.6A. Appointment of Trustee. Exhibit.**

A copy of the trust instrument shall be attached to the petition.

**Rule 12.7A. Discharge of Fiduciary.**

A petition with account annexed for the discharge of a personal representative under Pa.O.C. Rule 12.7(b) shall also conform as far as practicable to the requirements of a petition under Sch.Co.O.C. Rule 6.11C for the settlement of a small estate under the provisions of Section 3102 of the P.E.F. Code.

**Rule 12.7B. Discharge of Guardian Prior to Ward Attaining Age 18.**

Where a guardian asks to be discharged prior to ward attaining age eighteen (18), he shall file an account in the office of the Clerk, accompanied by a petition setting forth the grounds for the application, and asking for the appointment of a suitable person to act as guardian of the ward, and also accompanied by a proposed order to place the account upon the Audit List; provided, however, where the net estate does not exceed the statutory limitation as defined in Section 5101 of the P.E.F. Code, the Court, in its discretion, may dispense with an order to place the account upon the Audit List and may award the balance for which the guardian may be found accountable to the minor or to the parent or other person maintaining the minor without requiring the appointment of another guardian or the entry of security.

**Rule 12.9A. Public Sale of Real Property. Contents of Petition.**

(a)(1) *Personal Representative.* A petition by a personal representative to sell real property at public sale, under the P.E.F. Code, shall set forth in separate paragraphs:

(i) name, residence, and date of death of the decedent; whether he died testate or intestate; and the date of grant of letters;

(ii) that the personal representative is not otherwise authorized to sell by the P.E.F. Code, or that the personal representative is not authorized or is denied the power to do so by the Will; or that it is desirable that the sale have the effect of a judicial sale, stating the reasons;

(iii) the total value of the personal estate and all of the real property, respectively, as shown in the inventory filed, including the value at which the real property to be sold was included therein;

(iv) a full description of the real property to be sold, improvements thereon, by whom it is occupied and its rental value;

(v) if the personal representative entered bond with the Clerk, the amount of such bond and the name of the surety;

(vi) the names of all parties in interest, as heirs, devisees, legatees, or lienholders, who will be affected by the granting of the petition and the interest of each; whether any of them are minors, incompetents/incapacitated persons, or deceased, and if so, the names and the record of the appointment of their fiduciaries;

(vii) the liens and charges, if any, of record against the property to be sold;

(viii) the terms of the proposed sale; and

(ix) any additional facts which may aid the Court to determine that the sale is desirable for the proper administration and distribution of the estate.

(2) *Personal Representative. Payment of Debts.* A petition by a personal representative to sell real property at public sale for the payment of debts under the P.E.F. Code, shall set forth in separate paragraphs:

(i) the information required to be set forth under subparagraph (a)(1) of this rule, so far as appropriate;

(ii) a statement that the personal estate and the rents of real property are insufficient for payments of debts;

(iii) a statement of all real property owned by decedent, wherever situated, which has come to the petitioner's knowledge; and

(iv) a just and true account of all debts of decedent which have come to petitioner's knowledge; and which, if any, of the debts not of record have had their liens preserved.

(b) *Trustee.* A petition by a trustee to sell real property at public sale under the P.E.F. Code shall set forth, in separate paragraphs:

(1) a statement, in substance, of the provisions of the instrument creating the trust, particularly the powers, if any, therein given to the trustee in respect of real property;

(2) a copy of the instrument creating the trust, in the form of an exhibit;

(3) the total value of the personal property and the real property, respectively, forming the corpus of the trust;

(4) the amount of the bond, if any, filed;

(5) the names of all parties interested as beneficiaries, including life tenants and remaindermen, who will be affected by the granting of the petition, whether any of them are minors, incompetents/incapacitated persons, or deceased, and if so, the names and the record of appointment of their fiduciaries;

(6) a full description of the real property proposed to be sold, the improvements thereon, by whom it is occupied, and the rental value thereof;

(7) the reason the sale of the real property involved is necessary or desirable for the proper administration of the trust estate;

(8) the liens and charges, if any, of record against the real property to be sold;

(9) that the trustee is not otherwise authorized to sell by the P.E.F. Code, or is denied the power by the trust

instrument; or that it is advisable that the sale have the effect of a judicial sale, stating the reason; and

(10) the terms of the proposed sale.

(c) *Guardian. Incompetent's/Incapacitated Person's Estate.* A petition by a guardian of an incompetent's/incapacitated person's estate to sell real property at public sale under the P.E.F. Code shall set forth in separate paragraphs:

(1) the name, age, marital status and domicile of the incompetent/incapacitated person; the date of appointment of the guardian and by what Court; and the amount of bond filed;

(2) the total value of the personal estate and all of the real property, respectively, as shown in the inventory filed;

(3) a full description of the real property proposed to be sold, the improvements thereon, by whom occupied, and the rental value thereof;

(4) the names of the parties in interest as next of kin;

(5) why the sale of the real property involved is necessary or desirable for the administration of the incompetent's/incapacitated person's estate;

(6) the liens and charges, if any, of record against the property to be sold; and

(7) the terms of the proposed sale.

(d) *Guardian. Minor's Estate.* A petition by a guardian of a minor's estate to sell real property at public sale under the P.E.F. Code shall set forth in separate paragraphs:

(1) the name, age, and domicile of the minor; the date of appointment of the guardian and the amount of the bond filed;

(2) the total value of the personal estate and all of the real property, respectively, as shown in the inventory, if filed, otherwise the value of each as received by the guardian and how and from whom received;

(3) a full description of the real property proposed to be sold, the improvements thereon, by whom occupied, the rental value thereof and how title was acquired by the minor;

(4) the name and relationship of the person with whom the minor lives;

(5) where the proposed sale is of an undivided interest, whether the owners of the other undivided interests join in the proposed sale;

(6) why the sale of the real property involved is necessary or desirable for the administration or distribution of the minor's estate and whether the proposed sale is for the best interest of the minor's estate;

(7) the liens and charges, if any, of record against the real property to be sold; and

(8) the terms of the proposed sale.

**Rule 12.9B. Notice of Public Sale of Real Property.**

(a) Public notice of any proposed sale under Order of Court shall be given by advertisement one (1) time in at least one newspaper of general circulation published in the County of Schuylkill and in the legal publication designated by these rules, and shall be placed under a general heading as follows:

COURT OF COMMON PLEAS OF  
SCHUYLKILL COUNTY  
ORPHANS' COURT DIVISION  
PUBLIC SALE OF REAL ESTATE

In pursuance of an Order of the Orphans' Court Division aforesaid, the real estate indicated below will be offered for sale at the time and place stated. The terms and conditions of sale are of record in the office of the Clerk of the Orphans' Court at the Schuylkill County Courthouse, Pottsville, Pennsylvania, where they may be examined by the parties interested.

(b) The advertisement shall give the name of the decedent, trust beneficiary, minor, or incompetent/incapacitated person, the municipality in which he resided, the place in which lies the real estate to be offered for sale, an abridged description of the real estate (including, where possible, the street and house number, and block and lot number), the improvements thereon erected, the place, date, and time of sale, the name and title of the personal representative directed to make the sale, and the name of the attorney representing the fiduciary.

(c) At least ten (10) days written notice shall be given to all non-joining parties interested (1) as heirs, devisees, legatees, or lien holders, where the property to be sold is that of a decedent's estate; or (2) as the next of kin, where the property to be sold is that of an incompetent/incapacitated person; or (3) as beneficiaries, including life tenant and remaindermen, of the trust estate where the sale is to be by a trustee; or (4) as the parents or other person maintaining the minor where the property to be sold is that of a minor.

The written notice herein provided for shall be by personal service or by registered mail to the last known address of the person to be notified.

**Rule 12.9C. Public Sale of Real Property. Return of Sale.**

All returns of sale of real estate sold at public sale shall be in writing and sworn to and shall include:

(a) proofs of publication of the notice required by Sch.Co.O.C. Rule 12.9B(a);

(b) when and to whom written notice was given under Sch.Co.O.C. Rule 12.9B(c); and

(c) the name of the purchaser and the purchase price.

**Rule 12.9D. Public Sale of Real Property. Decree.**

Upon return of sale under Sch.Co.O.C. Rule 12.9C, the Court may enter a Decree of Confirmation Nisi and fix the amount of security or additional security which the personal representative, trustee, or guardian shall be required to enter or the Court may excuse the fiduciary from entering additional security; and the Decree of Confirmation Nisi so entered is FINAL unless exceptions are filed within ten (10) days of the date signed.

**Rule 12.10A. Private Sale of Real Property.**

A petition of a fiduciary to sell real property at private sale shall also conform as closely as practicable to the requirements of Sch.Co.O.C. Rule 12.9 with regard to a petition to sell real property at public sale by the same fiduciary and shall also be supported by the affidavits required under Pa.O.C. Rule 12.10(b).

**Rule 12.10B. Private Sale of Real Property. Public Notice of Sale. Form of Notice.**

Public notice of any proposed private sale under Order of Court shall be given by advertisement one (1) time in

at least one newspaper of general circulation published in the Court of Schuylkill and in the legal publication designated by these rules; unless excused by Order of Court, notice shall also be given by personal service or registered mail to the last known address of all non-joining interested parties as specified in Sch.Co.O.C. Rule 12.9B(c); and shall be in the following form:

COURT OF COMMON PLEAS OF  
SCHUYLKILL COUNTY  
ORPHANS' COURT DIVISION  
PRIVATE SALE OF REAL ESTATE

In the matter of the Estate of (deceased—a minor—an incompetent/incapacitated person). To the heirs, legatees, devisees, next of kin, and all other persons interested in said estate:

Notice is hereby given that \_\_\_\_\_ (personal representative—trustee—guardian) has filed in the office of the Clerk of the said Court his petition praying for an order of sale of the real estate of said (decendent—minor—incompetent/incapacitated person) situate \_\_\_\_\_ at private sale to \_\_\_\_\_ for the sum of \$ \_\_\_\_\_ for the purposes in the petition set forth. If no exceptions are filed thereto or objections are made to granting the same, the Court will be asked to take action upon the petition on the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_, at \_\_\_\_\_ a.m., at the Schuylkill County Courthouse, Pottsville, Pennsylvania.

\_\_\_\_\_  
Attorney for Petitioner

**Rule 12.10C. Private Sale of Real Property. Higher Offer.**

Any person desiring to make a substantially higher offer for real property offered at private sale may do so at the time the petition is presented for confirmation of the proposed sale, whereupon the Court will make such order as it deems advisable under the circumstances.

**Rule 12.10D. Confirmation of Sale.**

If no exceptions are filed, objections made, or substantially higher offer presented, the Court may enter a decree:

- (1) fixing the amount of security or additional security which the personal representative, trustee, or guardian shall be required to enter or excusing the fiduciary from entering additional security; and
- (2) confirming the sale absolutely effective immediately or as of the time the required security or additional security, if any, is approved and filed.

**Rule 12.10E. Sale By Fiduciary Without Court Order.**

In a sale, whether public or private, of real property by a fiduciary without benefit of an Order of Court directing or authorizing such sale, where he was required to give bond as such fiduciary, he shall present his petition to the Court before the proceeds of the sale are paid to him by the purchaser setting forth:

- (a) the date of death of the decedent;
- (b) the date of grant of letters to the petitioner;
- (c) the amount of the bond filed by him and the date of such filing;
- (d) the date of filing of the inventory and the total valuation of the personal estate and the real estate, respectively;

(e) a short description of the real property sold, the name of the purchaser, and the amount of the consideration to be paid; and

(f) a prayer for an order fixing the amount of additional security to be entered or for an order excusing him from filing additional security, as the case may be, and authorizing the fiduciary to receive the proceeds of sale.

**Rule 12.11A. Mortgage of Real Property.**

*Contents of Petition.* A petition to mortgage real property by a personal representative, trustee, or guardian shall conform as closely as practicable to the requirements of Sch.Co.O.C. Rule 12.9A with regard to a petition to sell real property at public sale by the same fiduciary.

**Rule 12.11B. Pledge, Lease, or Exchange of Real Property.**

The practice and procedure governing petitions by a personal representative, trustee, or guardian to pledge, lease, or exchange, or to grant an option for the pledge, lease, or exchange of property under the P.E.F. Code, shall be governed by Sch.Co.O.C. Rule 12.10 governing the private sale of mortgage by such fiduciary.

**Rule 12.12A. Inalienable Property. Public Sale.**

(a) *Trustee.* A petition to sell real property at public sale, under Chapter 83 of the P.E.F. Code, shall set forth in separate paragraphs:

- (1) how title was acquired, stating the date and place of probate of the will or recording of the deed;
- (2) a full description of the real property, its improvements, by whom it is occupied, its rental value, and the liens and charges to which it is subject;
- (3) the interest of the petitioner, if a fiduciary, how and when he was appointed; if other than a fiduciary, the name of the fiduciary, if any, and how and when such fiduciary was appointed;
- (4) a recital of the history of the trust, and of the relevant provisions of the Will or Deed pertaining to the real property to be sold; the names of all parties and the nature and extent of their interests, stating which, if any, are minors or incompetents/incapacitated persons, and giving the names and record of appointment of their guardians, if any; and the names of the next of kin and the age of any minors;

(5) that the purpose of the proceeding is to obtain a decree stating that the title transferred to the purchaser shall be indefeasible by any person ascertained or unascertained, or by any class of persons mentioned in the petition or decree having a present or expectant interest in the premises, and unprejudiced by any error in the proceedings of the Court;

(6) sufficient facts to enable the Court to determine whether the proposed sale will be to the interest and advantage of the parties, and whether the proposed sale may be made without prejudice to any trust, charity, or purpose for which the real property is held, and without violation of any laws which may confer an immunity or exemption from sale or alienation; and

(7) the names of any parties who do not voluntarily appear.

(b) *Guardian of a Minor.* A petition by a guardian to sell real property at public sale, under Chapter 83 of the P.E.F. Code, shall set forth in separate paragraphs:

- (1) that the petitioner was appointed guardian of the estate of the minor, stating the method, date, and record

of his appointment; or, if the estate of the minor consists of an interest in real property to the value prescribed by statute, that the petitioner is the natural guardian, or the person by whom the minor is maintained, stating the relationship of the petitioner to the minor;

(2) the interest of the minor and full description of the real property proposed to be sold; its improvements; by whom occupied; its rental value; and the liens and charges to which it is subject;

(3) whether title was acquired by Will, descent, or deed; the date of decedent's death; the date and place of probate of the Will or recording of deed with respect to the real property proposed to be sold; and if the interest of the minor is partial, the names of the other parties; the nature of their interest; that they desire the sale to be made and are willing to join in the deed;

(4) the age of the minor; the names of his next of kin; and the notice given them of the presentation of the petition; and

(5) sufficient facts to enable the Court to determine that it would be in the interest of such minor that the real property be sold.

**Rule 12.12B. Inalienable Property. Public Sale. Exhibits.**

(a) *Exhibits.* Consents to the sale signed by those parties in interest who consent thereto, and the notice which has been given to those parties who do not consent or voluntarily appear as petitioners or respondents; if all parties having an interest do not voluntarily appear as petitioners or respondents, a citation will be granted, directed to all parties who have not appeared, as provided by the P.E.F. Code.

(b) The practice and procedure with respect to the notice, confirmation and the entry of security shall conform to the appropriate provisions of Sch.Co.O.C. Rules 12.9B, 12.9C and 12.9D.

**Rule 12.12C. Inalienable Property. Private Sale.**

(a)(1) *Trustee.* A petition by a trustee to sell real property at private sale, under Chapter 83 of the P.E.F. Code, shall set forth in separate paragraphs:

(i) the information required under Sch.Co.O.C. Rules 12.12A and 12.12B;

(ii) the name and address of the proposed purchaser, the price to be paid; the terms of the proposed sale; and that the price offered is better than can be obtained at a public sale; and

(iii) when the proposed sale is of an undivided interest, that the other parties in interest desire the sale to be made and are willing to join in the deed.

(2) *Guardian of a Minor.* A petition by a guardian to sell real property at private sale, under Chapter 83 of the P.E.F. Code, shall set forth in separate paragraphs:

(i) the information required in Rules 12.12A and 12.12B; and

(ii) the name and address of the proposed purchaser, the price to be paid, the terms of the proposed sale, and that the price offered is better than can be obtained at a public sale.

(b) *Exhibits.* The following exhibits shall be attached to a petition by a fiduciary to sell real property at private sale, under Chapter 83 of the P.E.F. Code:

(1) affidavits of two real estate appraisers setting forth the information required by Pa.O.C. Rule 12.10(b); and

(2) consents to the sale signed by those parties in interest who consent thereto and the notice which has been given to those parties who do not consent or voluntarily appear as petitioners or respondents; if all parties having an interest do not voluntarily appear as petitioners or respondents, a citation will be granted directed to all parties who have not appeared as provided by the P.E.F. Code.

(c) The Court, in the decree approving or confirming the sale, will fix the amount of security which the fiduciary shall be required to enter.

**Rule 12.12D. Inalienable Property. Mortgage.**

(a) (1) *Contents of Petition.* A petition by a fiduciary to mortgage real property, under Chapter 83 of the P.E.F. Code, shall conform as closely as practicable to the requirements of Sch.Co.O.C. Rule 12.9 with regard to a petition to sell real property at public sale by the same fiduciary; shall set forth the amount and terms of the proposed loan; and shall provide sufficient facts to enable the Court to determine whether the proposed loan should be approved.

(2) *Exhibits. Security.* The exhibits required by Sch.Co.O.C. Rule 12.12C(b) shall be attached to the petition, with the proviso regarding consents, that if all parties having an interest do not voluntarily appear as petitioners or respondents, a citation will be granted directed to all parties who have not appeared, as provided by the P.E.F. Code. Security shall be fixed as provided by Rule 12.12C(c).

**RULE 14: ESTATES OF INCAPACITATED PERSONS/INCOMPETENTS**

**Rule 14.2A. Guardians. Bond.**

(a) *Individuals as Guardians.* Except in special circumstances, the Court will not appoint an individual as a guardian of the estate of an incompetent/incapacitated person without setting bond, as the Court in its discretion, deems appropriate. (Exceptions may include situations where a corporate guardian cannot be secured or the only asset of the incompetent/incapacitated person is a regular benefit payment such as pension, Social Security, Veterans' Administration, public assistance, railroad retirement payments.)

**Rule 14.2B. Small Estates.**

If at hearing the incompetency/incapacity is established, and it appears that the gross estate does not exceed the statutory limitation as defined in § 5505 of the P.E.F. Code, the Court may award the entire estate to the person or institution maintaining the incapacitated person/incompetent, or make such order as may be appropriate under the circumstances.

**Rule 14.2C. Notice.**

Proof of service of notice shall be presented at the hearing. The affidavit of service shall, in all cases, relate that the petition and citation were read to the alleged incapacitated person/incompetent in the terms that person is most likely to understand.

**Rule 14.2D. Allowance for Maintenance and Support.**

(a) *Petition for Maintenance and Support.* A petition for an allowance for maintenance and support of an incapacitated person/incompetent during incapacity or incompetency shall set forth:

(1) the name of the guardian and the date of his appointment; if the petitioner is not the guardian, his



relationship to the incapacitated person/incompetent, and if not related, the nature of his interest;

(2) a summary of the inventory, the date it was filed, and the nature and present value of the estate;

(3) the address and occupation, if any, of the incapacitated person/incompetent;

(4) the names and addresses of the incapacitated person's/incompetent's dependents, if any;

(5) a statement of all claims of the incapacitated person's/incompetent's creditors known to petitioner;

(6) a statement of the requested allowance and the reason therefor; a statement of all previous allowances made by the Court; and

(7) if any portion of the incapacitated person's/incompetent's estate is received from the United States Veterans' Administration or its successor, that notice of the request for allowance has been given to that agency.

(b) *Accounts and Distribution.* The practice and procedure with respect to the filing and audit of accounts, as well as the distribution of the assets of the estate, shall conform with Sch.Co.O.C. Rule 6.9C(e).

#### **RULE 15: ADOPTIONS**

##### **Rule 15.1A. Petition to Confirm Consent of Natural Parent. Notice. Copy of Consent to Natural Parent.**

(a) A petition to confirm the consent of a natural parent to the adoption of a child under Section 2504 of the Adoption Act, where the natural parent executed the consent outside this Commonwealth, must include a certification by petitioner's attorney that the consent is in accordance with the laws of the jurisdiction where it was executed.

(b) A copy of the notice of the hearing prescribed by Section 2513(b) of the Adoption Act shall be a part of each petition. Service of the notice of hearing shall be as prescribed by Section 2504 of the Adoption Act and Pa.O.C. Rule 15.6.

(c) Petitioner's attorney shall certify at hearing that the natural parent has received a copy of the consent of adoption which he/she signed.

##### **Rule 15.4A. Involuntary Termination of Parental Rights. Notice.**

A copy of the notice of the hearing prescribed by section 2513(b) of the Adoption Act shall be a part of each petition. Service of the notice of hearing shall be as prescribed by Pa.O.C. Rule 15.6.

##### **Rule 15.4B. Involuntary Termination of Parental Rights. Service.**

(a) Where service is attempted by registered mail at the natural parent's last known address pursuant to Pa.O.C. Rule 15.6 and the post office's return indicates that service was not made, petitioner may petition the Court to order service by publication.

(b) A petition for publication must outline efforts made by petitioner through postal authorities, relatives, mutual friends, or other means to locate the present address of the natural parents.

(c) Where the Court orders service by publication, it shall be made in a newspaper of general circulation one (1) time in the area of the natural parent's last known address. Proof of publication must be submitted at the hearing on the petition for involuntary termination.

(d) Where service of the hearing has been made by publication, the Decree Nisi shall be immediately published in the same newspaper of general circulation referred to in subparagraph (c) of this rule.

##### **Rule 15.4C. Involuntary Termination of Parental Rights. Incarcerated Parent.**

Where the natural parent is incarcerated, a petition for involuntary termination of that parent's parental rights must include a statement in the proposed Preliminary Order submitted with the petition setting the hearing date that if the natural parent desires to attend the hearing for the purpose of contesting the petition, he may do so by requesting the issuance of a Writ of Habeas Corpus ad testificandum and/or by requesting Schuylkill Legal Services to represent him.

##### **Rule 15.4D. Contested Involuntary Termination of Parental Rights. Appointment of Counsel for Minor Child.**

When the attorney for petitioners has reason to believe the petition for involuntary termination will be contested, the attorney for petitioners, at the time of presentation of the petition or as soon thereafter as there is reason to believe the petition will be contested, shall request the Court to appoint counsel for the minor child or children in accordance with Section 2313 of the Adoption Act.

##### **Rule 15.5A. Adoptions.**

(a)(1) When a Report of Intention to Adopt has been filed, a Petition for Adoption must include in all cases a statement that petitioner's attorney has made arrangements for a public child care agency or a consenting private child care agency or appropriate person designated by the Court to perform a Home Investigation on the adopting parent(s).

(i) If a public or private child care agency is to be used to perform the study, counsel for petitioners must provide that agency with a copy of the Report of Intent to Adopt, or other similar information and take whatever steps are necessary to cause the required Home Investigation to be sent directly to the Orphans' Court Division.

(ii) If an appropriate person is to be designated by the Court to perform the study, counsel for petitioners shall seek such appointment by presenting a motion and proposed order along with the petition for adoption. Subsequent thereto, counsel shall supply information and take whatever steps are necessary to cause the required Home Investigation to be sent directly to the Orphans' Court Division.

(2) A Home Investigation should contain in all cases:

(i) A report from the agency/designated person outlining the investigation made into the adopting parents' background and character;

(ii) A report of criminal history from the Pennsylvania State Police; and

(iii) A certification from the Pennsylvania Department of Public Welfare certifying that the proposed adopting

parent(s) are not registered as the perpetrator(s) of a founded or indicated report of child abuse.

(3) Where the Petition for Adoption contains the consent of the natural parent whose parental rights have not previously been terminated, petitioner's attorney shall certify at the hearing that the natural parent has received a copy of the consent of adoption which he/she signed.

**RULE 17: SHORT TITLE****Rule 17.1A. Short Title.**

These rules shall be known as Rules of the Court of Common Pleas of Schuylkill County, Orphans' Court Division, and shall be cited as Sch.Co.O.C. Rules.

[Pa.B. Doc. No. 96-136. Filed for public inspection February 2, 1996, 9:00 a.m.]

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# RULES AND REGULATIONS

## Title 13—COMMERCE AND TRADE

### NAVIGATION COMMISSION FOR THE DELAWARE RIVER AND ITS NAVIGABLE TRIBUTARIES

[13 PA. CODE CH. 205]

#### Fees

The Navigation Commission for the Delaware River and its Navigable Tributaries (Commission) amends § 205.15 (relating to initial license and license renewal fee) as set forth in Annex A.

The amendment raises from \$50 to \$200 the fee for initial issuance of a river pilot's license and for the annual renewal of a pilot's license.

#### Background

The regulation at § 205.15, which sets forth a fee of 50¢, was superseded by section 604-A of The Administrative Code of 1929 (71 P. S. § 240.4A), which in 1981 established the current \$50 fee.

As the following table shows, the Commission's revenues, which are overwhelmingly dependent on licensure and renewal fees, have proven to be inadequate to meet the Commission's expenses:

<i>Fiscal Year</i>	<i>Revenues</i>	<i>Expenditures</i>
FY 1991-92	\$2,005	\$6,746
FY 1992-93	\$2,235	\$7,078
FY 1993-94	\$2,020	\$2,944
FY 1994-95	\$2,020 (est.)	\$6,000 (est.)

Section 37(a) of the act of March 29, 1803 (P. L. 542) added by section 8 of the act of June 23, 1993 (P. L. 114, No. 27) (55 P. S. § 103(a)) (Act 27 of 1993), restored the Commission's power to fix fees by regulation, subject to a maximum fee of \$250, and provided that the fees, fines and civil penalties collected during each license renewal period shall meet or exceed the Commission's expenditures for that period.

The Commission budgets on a fiscal year basis; a license renewal occurs each fiscal year. The Commission anticipates that its sole source of revenues for FY 1995-96 (July 1, 1995—June 30, 1996) is the license renewal fee that the Commission will collect from the 38 pilots with active licenses when they renew their licenses in May 1996. Historically, the Commission has realized negligible revenues from fines and civil penalties. Furthermore, the earliest that the Commission can expect to receive fee revenues from newly licensed pilots is 1998, when one or more of the six trainees selected by the Commission this year for its apprentice pilot program will be eligible for initial licensure.

At the current rate, the Commission's renewal fee would generate \$1,900 in revenues (38 active pilots times \$50) for FY 1995-96. The Administrative Office of the Bureau of Professional and Occupational Affairs (BPOA), an administrative unit of the Department of State (Department) comprising the Commission and 26 other licensing boards, projects that the Commission's expenses for FY 1995-96 will be approximately \$7,000, which is broken down as follows:

BPOA Administration	\$ 200
Legal Office	4,200
Commissioner's Office	700
Law Enforcement	1,200
Direct Board Expense	50
Test Administration	0
Hearings	0
Department of State	650
Board Office	0
Total	\$7,000

The new \$200 fee for initial issuance and annual renewal of a license will generate revenues of \$7,600 (38 active pilots times \$200) for FY 1995-96. The fee will enable the Commission to meet its projected revenue requirements of \$7,000 while leaving a surplus of \$600 as a cushion against unanticipated expenses or revenue shortfalls.

#### *Responses to Comments Received During Proposed Rule-making*

The Commission entertained public comment for 30 days following publication of the notice of proposed rulemaking at 24 Pa.B. 4369 (August 27, 1994). No comments were received from the general public.

The Commission also solicited comments from each of the 38 active licensed pilots; three pilots responded, two favoring the amendment and one opposing it. On April 11, 1995, the president of the Pilots' Association for the Bay and River Delaware, a trade association which represents Pennsylvania licensed pilots, advised the Commission that the vast majority of the Association's members consider the amendment to be in their best interests.

The amendment in proposed form was reviewed by the Independent Regulatory Review Commission (IRRC), the Senate Committee on Consumer Protection and Professional Licensure (Senate Committee) and the House Committee on Professional Licensure (House Committee) under the Regulatory Review Act (71 P. S. §§ 745.1—745.15). IRRC and the Senate Committee submitted comments on the proposed amendment. The House Committee acknowledged receipt of the proposed amendment but offered no comments.

Following is a discussion of the questions raised by the commentators:

1. The lone pilot who registered an objection to the amendment complained about the 300% increase in the Commission's fees, admonishing the Commission for not gradually increasing the fee over the years as its expenses rose.

The Commission, too, would have preferred a gradual increase instead of the sharp increase reflected in the amendment. However, as noted in this Preamble, the Commission was not given the authority to raise its fees until the passage of Act 27 of 1993.

2. One of the pilots who submitted a comment in support of the amendment asked whether any surplus that was generated by the higher fees would be used for purposes other than the support of the Commission's operations.

With the passage of Act 27 of 1993, the Commission became the last of the BPOA's 27 licensing boards to be placed under a statutory duty to periodically review its budget to ensure that there are sufficient revenues to

meet or exceed expenses. The purpose of these periodic reconciliations of revenues and expenses is to make each licensing board financially self-sufficient; as a consequence, surplus of revenues over expenses that the Commission may generate in one fiscal year will be carried over to offset the Commission's expenses in the next fiscal year.

3. IRRC, as well as the pilot who opposed the amendment, expressed concern about the Commission's legal and law enforcement costs, which comprise about 77% of the Commission's estimated expenditures for FY 1995-96. Noting that a substantial component of the Commission's legal and law enforcement costs relate to the investigation of complaints, IRRC asked the Commission to provide information as to the number of complaints it has investigated and whether any of the complaints resulted in the imposition of fines or civil penalties against pilots. IRRC surmised that as complaint activity increases, the Commission's revenues from fines and civil penalties should increase as well.

From 1983 to 1995, the Commission received 33 complaints against pilots. Of these, 28 were closed after an investigation determined that no disciplinary charges were warranted; one complaint resulted in a negotiated consent agreement with a pilot and the imposition of a \$500 fine; and four complaints remain under investigation. Clearly, fines and civil penalties are not significant or predictable sources of revenue for the Commission.

4. IRRC, noting that another aspect of the Commission's legal expenses relates to its rulemaking activities and its review of draft legislation, asked the Commission to provide information on projected rulemaking initiatives and legislative proposals.

For the past several years, the Commission has been working on general revisions to four of its six chapters of regulations. The revisions affect Chapters 201 (relating to general provisions), 202 (relating to administration), 203 (relating to construction permits) and 205 (relating to pilots and pilotage) and involve 34 sections. In May 1991, the Commission submitted proposed rulemaking for the general revisions to the Office of General Counsel; in December 1992, a revised proposal, approved by the Office of General Counsel, was sent to the Office of Attorney General for review and approval. The Commission withdrew its proposal in early 1993 pending the outcome of legislative action on Senate Bill 503, which became Act 27 of 1993. The Commission has further revised its proposal to conform to changes in the Commission's enabling statutes brought about by Act 27 of 1993. The Commission is now in the process of resubmitting its proposal for proposed rulemaking. The Commission also will likely consider general revisions to its two other chapters of regulations—Chapters 207 and 209 (relating to navigation; and wharves and docks). The Commission's regulatory efforts, when completed, will constitute the first updating of the Commission's regulations since their adoption in 1977.

Given the sweep and scope of Act 27 of 1993, the Commission does not consider it likely that additional major legislation affecting the Commission will be introduced in the General Assembly in the near term. However, at the Federal level, the Commission will continue to monitor the promulgation of Coast Guard regulations that impact State-licensed pilots.

5. The Senate Committee suggested that accounting procedures be carefully reviewed to ensure that the Commission's licensees do not bear an unfair share of the costs of the Department and the BPOA.

The Department and the BPOA provide administrative and operational support to all 27 licensing boards in the BPOA. Each board's share of the Department's and the BPOA's generalized costs are based on the board's number of active licensees. With only 38 of the BPOA's approximately 670,000 active licensees, the Commission's share of these costs is small indeed.

In early 1994, the Department began implementing new procedures, recommended by a 1993 audit of the Central Services Comptrollers Office, that would improve the methodologies by which the Department's costs are allocated to the BPOA and, in turn, to the licensing boards.

#### *Fiscal Impact*

The amendment requires each applicant for initial issuance of a pilot's license, or for annual renewal of a pilot's license, to pay a fee of \$200, an increase of \$150 over the current fee. Thirty-eight active pilots are expected to renew their licenses during FY 1995-96, generating new revenues of \$5,700 (38 × \$150).

#### *Paperwork Requirements*

The amendment requires the Commission to alter its initial license application and license renewal application to reflect the new fee. The amendment does not create additional paperwork for the private sector.

#### *Statutory Authority*

Act 27 of 1993 provides in pertinent part as follows: "All pilots, upon being issued an original license or upon renewal thereof, shall pay to the Navigation Commission a fee to be fixed by the Navigation Commission by regulation but not to exceed two hundred fifty dollars, which shall be subject to review in accordance with the act of June 25, 1982 (P. L. 33, No. 181), known as the Regulatory Review Act. If the projected revenues to be generated by fees, fines and civil penalties imposed under the act are not sufficient to match expenditures over the renewal period, the Navigation Commission shall increase fees by regulation, subject to review under the Regulatory Review Act, so that the projected revenues will meet or exceed projected expenditures."

#### *Regulatory Review*

On August 16, 1994, as required by section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), the Commission submitted a copy of the notice of proposed rulemaking published at 24 Pa.B. 4369 to IRRC and the House and Senate Committees for review and comment.

In adopting the amendment in final form, the Commission considered comments submitted by IRRC, the Senate Committee, three licensed pilots and the trade association representing licensed pilots.

The amendment in final form was submitted to IRRC and the House and Senate Committees on October 27, 1995. Under section 5(c) of the Regulatory Review Act, the amendment was approved by the Senate Committee on November 14, 1995, approved by the House Committee on November 15, 1995, and approved by IRRC on November 16, 1995.

#### *Findings*

The Commission finds that:

(1) Public notice of the Commission's intention to amend Chapter 205, by this order has been given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations thereunder at 1 Pa. Code §§ 7.1 and 7.2.

(2) The amendment of the Commission's regulations provided for in this order is necessary and appropriate for the administration and enforcement of the navigation laws.

*Order*

The Commission orders that:

(a) The regulations of the Commission, 13 Pa. Code Chapter 205, are amended by amending § 205.15 to read as set forth in Annex A.

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

(c) The Commission shall certify this order and Annex A and shall deposit them with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin* as required by law.

(d) The amendment shall take effect upon publication in the *Pennsylvania Bulletin*.

YVETTE KANE,  
*Secretary of the Commonwealth*

*(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 25 Pa.B. 5667 (December 12, 1995).)*

**Fiscal Note:** 16A-661. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 13. COMMERCE AND TRADE**

**PART III. NAVIGATION COMMISSION FOR THE DELAWARE RIVER AND ITS NAVIGABLE TRIBUTARIES**

**CHAPTER 205. PILOTS AND PILOTAGE**

**§ 205.15. Initial license and license renewal fee.**

The fee for initial issuance of a license and for annual renewal of a license is \$200.

[Pa.B. Doc. No. 96-137. Filed for public inspection February 2, 1996, 9:00 a.m.]

**Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS**

**STATE BOARD OF OSTEOPATHIC MEDICINE**

**[49 PA. CODE CH. 25]**

**Examination Fees**

The State Board of Osteopathic Medicine (Board) amends §§ 25.231 and 25.241 (relating to fees; and unrestricted license by examination), pertaining to schedule of fees and unrestricted license by examination, as set forth in Annex A.

Under section 812.1 of The Administrative Code of 1929 (71 P.S. § 279.3a) and sections 13.1 and 16 of the Osteopathic Medical Practice Act (act) (63 P.S. §§ 271.13a and 271.16), examinations for licensure other than National uniform examinations must be prepared

and administered by a professional testing organization under contract to the appropriate board.

These amendments will reduce the fee for the osteopathic manipulative therapy (OMT) examination. Contract costs for the OMT examination will decrease under the new contract executed September 1, 1995.

These amendments also make technical changes to §§ 25.231 and 25.241(2) which pertain to the National Board of Osteopathic Medical Examiners examination (NBOME). The fees for the NBOME are removed from the listing of Board fees because the Board makes use of the NBOME, but does not contract with the National Board to develop or administer the NBOME. The Board deletes unnecessary, dated language from § 25.241(2) and adds language to indicate that the applicant pay the required NBOME fee at the direction of the National Board. This amendment will neither change the requirement that applicants for licensure by examination will be required to pass the NBOME examination nor will it change the examination fee.

Public notice of intention to amend §§ 25.231 and 25.241 under the procedures specified in sections 201 and 202 of the act of July 31, 1968 (CDL) (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202), has been omitted as authorized under section 204(3) of the CDL (45 P. S. § 1204(3)), because the Board finds that these procedures are, under the circumstances, unnecessary. Public comment is unnecessary because section 812.1 of The Administrative Code of 1929 requires that candidate fees cover the cost of the examination. Persons affected by the amendments have been given actual notice of the Board's intention to amend §§ 25.231 and 25.241 in advance of final rule-making under section 204(2) of the CDL.

*Statutory Authority*

These amendments are adopted under section 812.1 of The Administrative Code of 1929 and sections 13.1 and 16 of the act.

*Fiscal Impact and Paperwork Requirements*

These amendments will have no fiscal impact on the Commonwealth or its political subdivisions. Candidates for licensure by examination will pay a lower fee to cover contract costs for the OMT examination.

*Regulatory Review*

Under section 5(f) of the Regulatory Review Act (71 P. S. § 745.5(f)), a copy of the amendments were submitted on December 7, 1995, to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the Senate Committee on Consumer Protection and Professional Licensure and the House Committee on Professional Licensure. In addition, at the same time, the amendments were submitted to the Office of Attorney General for review and comment under the Commonwealth Attorneys Act (71 P. S. §§ 732-101—732-506).

Under section 5(c) of the Regulatory Review Act, the amendments were approved by the House Committee on December 13, 1995, deemed approved by the Senate Committee on December 27, 1995, and were approved by IRRC on January 3, 1996.

*Additional Information*

Individuals who desire information are invited to submit inquiries to Gina Bittner, Board Administrator, State Board of Osteopathic Medicine, P. O. Box 2649, Harrisburg, PA 17105-2649, (717) 783-4858.

Findings

The Board finds that:

(1) Public notice of intention to amend the regulations as adopted by this order under the procedures specified in sections 201 and 202 of the CDL, has been omitted under the authority contained in section 204(3) of the CDL, because the Board has, for good cause, found that the procedure specified in sections 201 and 202 of the CDL, is in this circumstance, unnecessary, because section 812.1 of The Administrative Code of 1929 requires that candidate fees cover the cost of the examination.

(2) Persons affected by the amendments adopted by this order have been given actual notice of the Board's intention to amend the regulations in advance of final rulemaking under section 204(2) of the CDL.

(3) The amendments of the regulations of the Board in the manner provided in this order is necessary and appropriate for the administration of its authorizing statute.

Order

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

(a) The regulations of the Board, 49 Pa. Code Chapter 25, are amended by amending §§ 25.231 and 25.241 to read as set forth in Annex A.

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

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

(d) This order shall become effective immediately upon publication in the Pennsylvania Bulletin, and apply to examinations administered on and after September 1, 1995.

MORRIS A. FISHMAN, D.O.,
Chairperson

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 26 Pa.B. 284 (January 20, 1996).)

Fiscal Note: 16A-534. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 25. STATE BOARD OF OSTEOPATHIC MEDICINE

Subchapter F. FEES

§ 25.231. Schedule of fees.

An applicant for a license, certificate, registration or service shall pay the following fees at the time of application:

- Application for unrestricted license—original, reciprocal, boundary or by endorsement . . . . . \$85
Application for short-term camp license . . . . . \$25

- Osteopathic Manipulative Therapy Examination . . \$87
Temporary training license or graduate training certificate . . . . . \$25
Annual renewal of temporary training license or graduate training certificate . . . . . \$25
Application for physician assistant certificate . . . . \$85
Application for supervising physician . . . . . \$80
Uncertified verification of licensure . . . . . \$10
Certification of licensure or examination grades . . \$15
Biennial renewal—physicians . . . . . \$75
Biennial renewal—physician assistants . . . . . \$10
Penalty for late biennial renewal—per month or part of month . . . . . \$5
Duplicate license or certificate . . . . . \$5
ARRT Examination in Radiography . . . . . \$30
ARRT Examination in Nuclear Medicine Technology . . . . . \$30
ARRT Limited Examination in Radiography . . . . . \$35
ARRT Limited Examination in Radiography—Skull and Sinuses . . . . . \$35
Study Materials for ARRT Limited Examination in Radiography . . . . . \$21
Application for acupuncturist registration . . . . . \$15
Biennial renewal—acupuncturists . . . . . \$25
Application for acupuncturist supervisor registration . . . . . \$15

Subchapter G. LICENSING, EDUCATION AND GRADUATE TRAINING

LICENSURE REQUIREMENTS

§ 25.241. Unrestricted license by examination.

To secure an unrestricted license for the practice of osteopathic medicine and surgery by examination, the applicant shall meet the following educational and professional requirements. The applicant shall have:

- (1) Graduated from an approved osteopathic medical college.
(2) Received passing scores on Parts I, II and III of the National Board Examination. The applicant shall pay the required examination fee at the direction of the National Board.
(3) Received a passing score on the practical examination in osteopathic diagnosis and manipulative therapy developed and administered by the Board or a designated professional testing organization.
(4) Successfully completed an approved internship.
(5) Complied with the malpractice insurance requirements of the Health Care Services Malpractice Act (40 P. S. §§ 1301.101—1301.1006) and regulations thereunder.
(6) Completed an application obtained from the Board detailing education and experience and indicating compliance with the applicable provisions of the act and this chapter, submitted with the required fees.

[Pa.B. Doc. No. 96-138. Filed for public inspection February 2, 1996, 9:00 a.m.]

STATE BOARD OF MEDICINE

[49 PA. CODE CH. 16]

Examination Fees

The State Board of Medicine (Board) amends § 16.13 (relating to licensure, certification, examination and registration fees) pertaining to increased fees for December 1995, and subsequent examinations as set forth in Annex A.

Under section 812.1 of The Administrative Code of 1929 (71 P. S. § 279.3a) and sections 6, 8 and 24 of the Medical Practice Act of 1985 (act) (63 P. S. §§ 422.6, 422.8 and 422.24), examinations for licensure must be prepared and administered by a professional testing organization under contract to the appropriate board. This amendment changes fees for examinations to candidates for licensure. Contract costs for examinations services increased December 1995, under newly executed contracts. There is also established the contract fee for the Special Purpose Examination (SPEX), which a medical doctor may be required to pass coincident to a disciplinary or corrective measure under § 17.12d (relating to SPEX Examination). Outdated and unnecessary language relating to the FLEX examination, which is no longer available, has been deleted.

Public notice of intention to amend § 16.13 under the procedures specified in sections 201 and 202 of the act of July 31, 1968 (CDL) (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202), has been omitted as authorized under section 204(3) of the CDL (45 P. S. § 1204(3)), because the Board finds that these procedures are, under the circumstances, unnecessary. Public comment is unnecessary because section 812.1 of The Administrative Code of 1929 requires that candidate fees cover the cost of the examination. Persons affected by this amendment have been given actual notice of the Board's intention to amend § 16.13 in advance of final rulemaking under section 204(2) of the CDL.

*Statutory Authority*

This amendment is adopted under section 812.1 of The Administrative Code of 1929 and sections 6, 8 and 24 of the act.

*Fiscal Impact and Paperwork Requirements*

This amendment will have no fiscal impact on the Commonwealth or its political subdivisions. Candidates for licensure by examination will be required to pay an increased fee to cover contract costs for the examination, and candidates for the SPEX examination will be required to pay the contract fee.

*Regulatory Review*

Under section 5(f) of the Regulatory Review Act (71 P. S. § 745.5(f)), a copy of the amendment was submitted on December 7, 1995, to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the Senate Committee on Consumer Protection and Professional Licensure and the House Committee on Professional Licensure. In addition, at the same time, the amendment was submitted to the Office of Attorney General for review and comment under the Commonwealth Attorneys Act (71 P. S. §§ 731-101—731-506).

Under section 5(c) of the Regulatory Review Act, the amendment was deemed approved by the House and Senate Committees on December 27, 1995, and was approved by IRRC on January 6, 1996.

*Additional Information*

Individuals who desire information are invited to submit inquiries to Cindy Warner, Board Administrator, State Board of Medicine, P. O. Box 2649, Harrisburg, PA 17105-2649, (717) 783-1400.

*Findings*

The Board finds that:

(1) Public notice of intention to amend the regulation adopted by this order under the procedures specified in sections 201 and 202 of the CDL has been omitted under the authority contained in section 204(3) of the CDL because the Board has, for good cause, found that the procedure specified in sections 201 and 202 of the CDL is in this circumstance, unnecessary, because section 812.1 of The Administrative Code of 1929 requires candidate fees cover the cost of examinations.

(2) Persons affected by the amendment adopted by this order have been given actual notice of the Board's intention to amend the regulation in advance of final rulemaking under section 204(2) of the CDL.

(3) The amendment of the regulation of the Board in the manner provided in this order is necessary and appropriate for the administration of its authorizing statute.

*Order*

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

(a) The regulations of the Board, 49 Pa. Code Chapter 16, are amended by amending § 16.13 to read as set forth in Annex A.

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

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

(d) This order shall become effective immediately upon publication in the *Pennsylvania Bulletin*, and apply to examinations administered on and after September 1, 1995.

CHARLES J. BANNON, M.D.,  
*Chairperson*

*(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 26 Pa.B. 284 (January 20, 1996).)*

**Fiscal Note:** 16A-491. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS**  
**PART I. DEPARTMENT OF STATE**  
**Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS**  
**CHAPTER 16. STATE BOARD OF MEDICINE**  
**Subchapter B. GENERAL LICENSE, CERTIFICATION AND REGISTRATION PROVISIONS**

**§ 16.13. Licensure, certification, examination and registration fees.**

(a) The examination fee for the December 1995, and following administrations of the USMLE Step 3 examination is \$375.

(b) The fee for a license without restriction for a graduate of an accredited medical college is \$20. The fee for a license without restriction for a graduate of an unaccredited medical college is \$80. The biennial registration fee for a license without restriction is \$80.

(c) The fee for an institutional license is \$35.

(d) The fee for an extraterritorial license is \$10. The biennial registration fee for an extraterritorial license is \$80.

(e) The fee for a graduate license for a graduate of an accredited medical college is \$15. The fee for a graduate license for a graduate of an unaccredited medical college is \$80. The fee to renew a graduate license is \$10.

(f) The fee for a temporary license is \$35.

(g) The fee for an interim limited license is \$10. The fee to renew an interim limited license is \$10.

(h) The fee for a midwife license is \$20. The biennial registration fee for a midwife license is \$25.

(i) The fee for a physician assistant certificate is \$15. The biennial registration fee for a physician assistant certificate is \$25.

(j) The fee for registration as a supervising physician of a physician assistant is \$15.

(k) The fee for registration as a physician assistant supervisor of a physician assistant is \$55.

(l) The application fee for satellite location approval is \$45.

(m) The fee for an acupuncturist supervisor registration is \$15.

(n) The biennial registration fee for a drugless therapist license is \$25.

(o) The biennial registration fee for a limited license—permanent—is \$25.

(p) There is no initial registration fee for a license, certificate or registration subject to biennial registration requirements.

(q) The fees for examination in radiologic procedures are listed in this subsection.

(1) The fee for the ARRT Examination in Radiography is \$30.

(2) The fee for the ARRT Examination in Radiation Therapy Technology is \$30.

(3) The fee for the ARRT Examination in Nuclear Medicine Technology is \$30.

(4) The fee for the ARRT Limited Examinations in Radiography is \$35. Study material may be purchased from the Board for \$21.

(5) The fee for the ARRT Limited Examination in Radiography—Skull and Sinuses is \$35.

(r) The fee for SPEX (Special Purpose Examination) is \$550.

[Pa.B. Doc. No. 96-139. Filed for public inspection February 2, 1996, 9:00 a.m.]



# PROPOSED RULEMAKING

## STATE BOARD OF CERTIFIED REAL ESTATE APPRAISERS

[49 PA. CODE CH. 36]

### General Provisions/Standards of Professional Conduct

The State Board of Certified Real Estate Appraisers (Board) proposes to amend Chapter 36, Subchapter C (relating to certified Pennsylvania evaluators) as set forth in Annex A. The purpose of the proposed amendments is to prescribe standards of professional conduct for certified Pennsylvania evaluators practicing in this Commonwealth. The proposed standards of conduct are modeled after the Code of Ethics and Standards of Professional Conduct of the International Association of Assessing Offices, and are intended to guide certified Pennsylvania evaluators in their relations with assessment offices, public officials and the general public.

Following is a description of the proposed amendments:

#### § 36.201. *Definitions.*

Definitions are proposed to be added to § 36.201 to define the terms "act," "business with which a certified Pennsylvania evaluator is associated," "conflict of interest" and "immediate family." Within the context of Subchapter C, the term "act" would mean "The Assessors Certification Act (63 P. S. §§ 458.1—458.16)." This term is currently defined in Subchapter A within the context of certified real estate appraisers to mean "The Real Estate Appraisers Certification Act (63 P. S. §§ 457.1—457.19)." Since certified Pennsylvania evaluators are not governed by the Real Estate Appraisers Certification Act, it is important that the term "act" be defined in Subchapter C to refer to the act which governs certified Pennsylvania evaluators.

The phrase "conflict of interest" appears in Standards 7 and 9 (Limitations on activities; and Advertising). Within the context of these standards, this phrase would be defined to mean "a situation in which a certified Pennsylvania evaluator uses the certified Pennsylvania evaluator's employment or any confidential information received through the course of the employment for the private pecuniary benefit of the certified Pennsylvania evaluator, a member of the certified Pennsylvania evaluator's immediate family or a business with which the certified Pennsylvania evaluator or a member of the certified Pennsylvania evaluator's immediate family is associated."

The phrase, "business with which a certified Pennsylvania evaluator is associated" is proposed to mean "any business in which the certified Pennsylvania evaluator or a member of the certified Pennsylvania evaluator's immediate family is a director, officer, owner, employe or has a financial interest."

Finally, the term "immediate family" within the context of these definitions would mean "A parent, spouse, child, brother or sister."

#### § 36.281. *Standards of Professional Conduct.*

Proposed § 36.281 announces the standards of professional conduct to which certified Pennsylvania evaluators

are expected to conform. As proposed, the Preamble to the standards of professional conduct would explain that some of the standards of professional conduct are imperatives, cast in the terms "shall" or "may not." Certified Pennsylvania evaluators are advised that those who fail to adhere to these standards will be subject to disciplinary action under section 7(a)(6) of the act (63 P. S. § 458.7(a)(6)). By contrast, other standards, cast in the terms "may" or "should" are intended as aspirational goals and, therefore, announce areas under which the certified Pennsylvania evaluator has professional discretion. No disciplinary action will be taken when a certified Pennsylvania evaluator acts within the bounds of discretionary standards.

The proposed standards of professional conduct would consist of ten standards. Standard 1 (Duties) would require certified Pennsylvania evaluators to perform their respective duties in accordance with general or specific county assessment laws and generally accepted assessment standards. Certified Pennsylvania evaluators would also be encouraged to perform all assessment and appraisal related assignments to the best of their ability with the ultimate goal of adhering to the Uniform Standards of Professional Appraisal Practice as promulgated and adopted by the Appraisal Standards Board of the Appraisal Foundation.

Standard 2 (Availability of information and records) would require certified Pennsylvania evaluators to make available for public review all records in their custody unless the records are deemed confidential by the county or the property owner or are prohibited or otherwise protected from disclosure by law.

Standards 3 and 4 (Relationship with the public; and Relationship with public officials), respectively, would announce standards to which certified Pennsylvania evaluators should aspire when dealing with the public and public officials.

Proposed Standard 5 (Conduct). Under this standard, certified Pennsylvania evaluators would be expected to conduct their duties in a forthright manner which avoids the appearance of impropriety. Certified Pennsylvania evaluators would also be expected to inform the public of appropriate procedures under the law and local administrative regulations.

Proposed Standard 6 (Professional qualifications) would encourage certified Pennsylvania evaluators to increase their knowledge and enhance their professional skills beyond the minimum continuing education requirements announced in § 36.261 (relating to continuing education). Standard 6 also proposes to advise certified Pennsylvania evaluators of the prohibition against claiming qualifications or using professional designations that are false or misleading.

Standards 7 and 8 (Limitations on activities; and Contingent fees), respectively, announce mandatory rules of conduct. Standard 7 would prohibit a certified Pennsylvania evaluator from performing an appraisal or assessment assignment if the assignment could reasonably create a conflict of interest with the certified Pennsylvania evaluator's client or employer. Standard 7 also announces disclosure requirements for certified Pennsylvania evaluators who are not properly qualified to perform an assignment. As proposed, Standard 8 would prohibit a certified Pennsylvania evaluator from performing an appraisal or assessment assignment when the employment

is contingent upon the reporting of a predetermined analysis or opinion, or where the fee to be paid is contingent upon the opinion, conclusion or value reached, or upon the consequences resulting from the appraisal or assessment assignment.

Proposed Standard 9 addresses the issue of advertising. As proposed, advertising is permissible as long as it is not false, deceptive or misleading and as long as the advertisement does not solicit assignments which would create the appearance of a conflict of interest. Finally, proposed Standard 10 (Unethical practices notification) would encourage certified Pennsylvania evaluators to report unethical or other similar actions which reflect discredit upon the appraisal or assessment profession to the Complaints Office of the Bureau of Professional and Occupational Affairs.

#### *Statutory Authority*

This proposal is made under the authority of sections 3 and 7(a)(6) of the act (63 P. S. §§ 458.3 and 7(a)(6)). Section 3 of the act empowers the Board to promulgate rules and regulations consistent with the statutes of the Commonwealth to administer and enforce the provisions of the act. Section 7(a)(6) of the act empowers the Board to impose disciplinary and corrective measures against a certificateholder who violates any of the standards of professional conduct for real property assessment as adopted by the Board by regulation.

#### *Fiscal Impact and Paperwork Requirements*

The proposed amendments will have no fiscal impact and will require no additional paperwork by the Commonwealth, its political subdivisions or the private sector.

#### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), the Board submitted a copy of these proposed amendments on January 19, 1996, to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House Committee on Professional Licensure and the Senate Committee on Consumer Protection and Professional Licensure. In addition to submitting the proposed amendments, the Board has provided IRRC and will provide the Committees with a detailed regulatory analysis form prepared by the Board in compliance with Executive Order 1982-2, "Improving Government Regulations." A copy of this material is available to the public upon request.

If IRRC has any objections to any portion of the proposed amendments, it will notify the agency within 30 days from the close of the public comment period. The notification shall specify the regulatory review criteria which have not been met by that portion. The Regulatory Review Act specifies detailed procedures for the Agency, the Governor and the General Assembly to review these objections before final publication of the regulations.

#### *Public Comment*

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed amendments to Jackie Wiest Lutz, Counsel, State Board of Certified Real Estate Appraisers, 116 Pine Street, P. O. Box 2649, Harrisburg, PA 17105-2649, within 30 days of publication of this proposed rulemaking.

*(Editor's Note: A proposal to amend § 36.201 (relating to definitions), which is proposed to be amended in this document, remains outstanding at 25 Pa.B. 5613 (December 9, 1995).)*

DAVID J. KING,  
*Chairperson*

**Fiscal Note:** 16A-704. No fiscal impact; recommends adoption.

#### Annex A

### TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

#### PART I. DEPARTMENT OF STATE

#### Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

#### CHAPTER 36. STATE BOARD OF CERTIFIED REAL ESTATE APPRAISERS

#### Subchapter C. CERTIFIED PENNSYLVANIA EVALUATORS

#### GENERAL PROVISIONS

#### § 36.201. Definitions.

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

**Act—The Assessors Certification Act (63 P. S. §§ 458.1—458.16).**

\* \* \* \* \*

**Business with which a certified Pennsylvania evaluator is associated—A business in which the certified Pennsylvania evaluator or a member of the certified Pennsylvania evaluator's immediate family is a director, officer, owner, employe or has a financial interest.**

\* \* \* \* \*

**Conflict of interest—A situation in which a certified Pennsylvania evaluator uses the certified Pennsylvania evaluator's employment or confidential information received through the course of the employment for the private pecuniary benefit of the certified Pennsylvania evaluator, a member of the certified Pennsylvania evaluator's immediate family or a business with which the certified Pennsylvania evaluator or a member of the certified Pennsylvania evaluator's immediate family is associated.**

**Immediate family—A parent, spouse, child, brother or sister.**

\* \* \* \* \*

#### STANDARDS OF PROFESSIONAL CONDUCT

#### § 36.281. Standards of Professional Conduct.

#### *Preamble*

Certified Pennsylvania evaluators shall comply with the act and this subchapter and conform to the standards of professional conduct in this section. Some of the standards of professional conduct are imperatives, cast in the terms, "shall" or "may not." Certified Pennsylvania evaluators who fail to adhere to these standards will be subject to professional discipline under section 7(a)(6) of the act (63 P. S. § 458.7(a)(6)). Other standards, generally cast in the terms "may" or "should," are intended as aspirational goals and define areas under which the certified Pennsylvania evaluator has professional discretion. Disciplinary action will not be taken when a certified Pennsylvania evaluator acts within the bounds of discretionary standards.

**Standard 1. Duties.**

Certified Pennsylvania evaluators shall perform their respective duties in accordance with general or specific county assessment laws and generally accepted assessment standards. Certified Pennsylvania evaluators should perform all assessments and appraisal related assignments to the best of their ability and with the ultimate goal of adhering to the standards announced in the Uniform Standards of Professional Appraisal Practice (USPAP) as promulgated and adopted by the Appraisal Standards Board (ASB) of the Appraisal Foundation. The USPAP will be amended by the ASB and published annually in separate yearly bound editions. A copy of the USPAP may be obtained from the Appraisal Foundation, 1029 Vermont Avenue, N. W., Suite 900, Washington, D. C. 20005, (202) 347-7722.

**Standard 2. Availability of information and records.**

Certified Pennsylvania evaluators shall make available for public review the records in their custody unless the records are deemed confidential by the county or the property owner or are prohibited or otherwise protected from disclosure by law.

**Standard 3. Relationship with the public.**

In dealing with the public, certified Pennsylvania evaluators should act in a courteous, candid and respectful way. Certified Pennsylvania evaluators who hold supervisory positions should require this same level of professionalism from staff personnel under their jurisdiction.

**Standard 4. Relationship with public officials.**

Certified Pennsylvania evaluators should cooperate with public officials to improve the effectiveness of real estate tax procedures and to coordinate with other administrative functions of government.

**Standard 5. Conduct.**

Certified Pennsylvania evaluators should conduct their duties in a forthright manner which avoids the appearance of impropriety. Certified Pennsylvania evaluators should make every effort to inform the public of appropriate procedures under the law and local administrative regulations.

**Standard 6. Professional qualifications.**

Certified Pennsylvania evaluators should strive to increase their knowledge and enhance their professional skills beyond the minimum mandatory continuing education requirements announced in § 36.261 (relating to continuing education). Certified Pennsylvania evaluators shall use a professional designation only when they are properly authorized to do so. Certified Pennsylvania evaluators may not claim qualifications that are false or misleading.

**Standard 7. Limitations on activities.**

Certified Pennsylvania evaluators who are licensed to perform appraisals under the Real Estate Licensing and Registration Act (63 P. S. §§ 455.101—455.902) may not perform appraisal or assessment related assignments that could reasonably be construed as creating a conflict of interest with their respective client or employer. Certified Pennsylvania evaluators who are not properly qualified to perform an assignment shall do the following:

(1) Disclose the lack of knowledge or experience, or both, to their respective employer before performing the assignment.

(2) Take the steps necessary or appropriate to complete the assignment competently.

(3) Describe the lack of knowledge or experience, or both, and the steps taken to complete the assignment competently in the report.

**Standard 8. Contingent fees.**

Certified Pennsylvania evaluators may not perform an appraisal or assessment assignment when the employment itself is contingent upon the certified Pennsylvania evaluator reporting a predetermined analysis or opinion, or if the fee to be paid for the performance of the appraisal or assessment assignment is contingent upon the opinion, conclusion or valuation reached, or upon the consequences resulting from the appraisal or assessment assignment.

**Standard 9. Advertising.**

Advertising by certified Pennsylvania evaluators is permissible when it does not include false, deceptive or misleading statements or claims. False, deceptive or misleading advertising is prohibited. Certified Pennsylvania evaluators who are employees of a governmental agency should not solicit any type of assessment assignments which could create the appearance of a conflict of interest.

**Standard 10. Unethical practices notification.**

Certified Pennsylvania evaluators should report unethical practices or other similar actions which reflect discredit upon the appraisal or assessment profession to the Complaints Office of the Bureau of Professional and Occupational Affairs by telephoning the Complaint's Office at (800) 822-2113 or by submitting a written complaint to the Complaint's Officer of the Bureau of Professional and Occupational Affairs, Post Office Box 2649, Harrisburg, Pennsylvania 17105-2649.

[Pa.B. Doc. No. 96-140. Filed for public inspection February 2, 1996, 9:00 a.m.]

## UNDERGROUND STORAGE TANK INDEMNIFICATION BOARD

[25 PA. CODE CH. 971]

### Fees of the Underground Storage Tank Indemnification Fund

The Underground Storage Tank Indemnification Board (Board) proposes to amend § 971.2 (relating to fees) as set forth in Annex A. This revision is proposed under the authority of the Storage Tank and Spill Prevention Act (act) (36 P. S. §§ 6021.101—6021.2104), as amended by the act of December 18, 1992 (P. L. 1660, No. 184) (Act 184) and by the act of June 26, 1995 (P. L. 79, No. 16) (Act 16).

The purpose of this proposal is to amend § 971.2 which governs the fees of the Underground Storage Tank Indem-

nification Fund (Fund). The proposed amendment comports with the recent changes made to the act. Specifically, the Board seeks to amend the existing fee structure and to change the administration of those underground storage tanks (USTs) that store regulated substances as defined by the act and regulations promulgated thereunder.

#### *Background*

The Board has studied carefully the numerous amendments to the act to determine the effect new provisions will have on Fund liabilities and the resulting Fund fees. The most significant amendment eliminates commercial heating oil tanks (CHOTs), defined as USTs that equal or exceed 3,000 gallons in capacity storing heating oil for consumptive use on the premises where stored, from the definition of regulated USTs. However, the amendments to the act allow owners or operators of CHOTs to participate in the Fund voluntarily. CHOTs represent approximately 20% of all USTs registered with the Department of Environmental Protection (Department). However, the Fund estimates that CHOT liabilities will constitute approximately 60% of the Fund's total liabilities for the period January 1995, to December 2004.

A second provision requires the Board to assess the per-gallon and per-tank fee on diesel fuel USTs located at farms in lieu of the current capacity fee assessment.

On February 15, 1992, the Board promulgated a dual-component fee structure consisting of a 2¢ per gallon fee on regulated substances entering USTs and an annual \$100 per tank per year fee. On December 18, 1992, Act 184 required the Board to establish a capacity fee on USTs that store heating oil and diesel fuel products. The Board amended its fee section to comport with Act 184 mandates. The amendment was published in final form on December 17, 1993.

On June 26, 1995, the Legislature passed Act 16, which once again amended the fee structure. Consequently, the revisions contained herein are being promulgated to ensure that the Board's fee structure complies with the mandates of Act 16. Under the Board's proposed rule-making, the per gallon and per tank fees will be changed as indicated in Annex A. The capacity fee will also be changed as indicated in Annex A.

#### *Summary of the Proposed Amendment*

##### *Section 971.2(1) and (3)*

The Board is adding language to these paragraphs to clarify the product types upon which the tank fee, gallon/fee and capacity fee will be assessed. The additional language is provided to address concerns raised by Fund participants during routine telephone and written correspondence with the Fund. The Department registers regulated USTs based on information supplied by the UST owners or operators and provides this information to the Fund. The proposed clarifying language provides UST owners and operators with the link between the registration information they provide to the Department and the type of fee assessed on their UST by the Fund.

##### *Section 971.2(1)(i) and (ii)*

Section 705 of the act, as amended, authorizes the Board to set fees to be assessed on regulated USTs within this Commonwealth. These fees shall then be established by regulation. A statutory requirement imposed upon the Board at section 705(d) of the act ensures that the fees are set on an actuarially sound basis.

To ensure that the fees proposed under this amendment are established on an actuarially sound basis, the Board

contracted with William M. Mercer, Inc. (Mercer), an actuarial consulting firm, to provide revenue projections and recommended fees. Mercer estimated the liability of the regulated USTs under the recently-amended act and estimated the liability associated with voluntary participation of owners or operators of CHOTs at various levels of participation in 25% increments ranging from 0% to 100% participation. Mercer also studied the revenue impact of diesel fuel tanks located at farms which will revert to the per tank and per gallon fee from the currently-assessed capacity fee.

The Board estimated that 25% of CHOTs would eventually participate in the Fund through the voluntary Opt-In program. At this level of participation, required revenue for the Fund for the period January 1995, through December 2004, is estimated to be \$700.08 million. This level represents a 35.5% reduction from the Board's previous analysis dated December 1994.

The overriding cause for the reduction in required revenue is the expected decrease in the number of CHOTs that elect to participate in the Fund.

At a special meeting of the Board on July 18, 1995, the Board eliminated the current \$100 per tank per year fee and decreased the gallon fee to 1¢ from its current level of 2¢ per gallon. Moreover, the Board increased the capacity fee from 15¢ to 24¢ per gallon of tank capacity. These proposed amended fees are set forth in Annex A.

##### *Section 971.2(3)*

Section 705(d)(2) of the act, as amended, provides the Board with a formula to use in determining the capacity fee. The Board must "determine the total revenue a uniform per tank, per gallon insurance fee for all underground storage tanks would generate if it were applied to heating oil and diesel fuel tanks and divide that number by the total tank storage capacity of heating oil and diesel fuel tanks registered with the Department at the beginning of the policy period." The recommended change in fee structure is revenue neutral in that the same gross amount will be collected from all diesel fuel and heating oil product UST owners or operators under the new capacity fee schedule as would have been collected under the proposed per gallon fee schedule.

Mercer recommended that a capacity fee of 24¢ per gallon of capacity be adopted. Mercer based this recommendation on an actuarial analysis of heating oil and diesel fuel product UST capacity information maintained by the Department as part of their tank registration program. Mercer's analysis indicated that a 24¢ per gallon of capacity fee would generate the same total revenues from diesel fuel and heating oil product UST owners or operators as would have been collected under the proposed gallon fee schedule.

The Board, at a public meeting on July 18, 1995, discussed its findings and voted to adopt formally the fee schedule shown at § 971.2(3) in Annex A.

#### *Fiscal Impact*

##### *State Government*

The Commonwealth will not experience a direct fiscal impact because the expenses of the Fund will come from the fees paid by the UST owner or operator. However, the Commonwealth may bear the cost of defending legal actions initiated against the Fund.

##### *General Public*

Costs to the general public may decrease due to the likelihood that the costs of goods and services supplied by

the UST owners or operators to the general public will decrease. However, heating oil and diesel fuel UST fees will increase based on the capacity of the UST.

*Political Subdivisions*

Costs to political subdivisions may decrease based on the number of USTs owned, and the amount of regulated substances entering the USTs. However, heating oil and diesel fuel UST fees will increase based on the capacity of the UST.

*Paperwork*

The adoption of this amendment will not immediately require additional paperwork by the regulated community. In fact, the elimination of the tank fee as proposed may reduce paperwork requirements for owners and operators to which the tank fee applies.

*Contact Person*

Questions or comments concerning this proposal should be addressed in writing to Ronald A. Gallagher, Jr., P.E., Executive Director, Underground Storage Tank Indemnification Fund, 901 North 7th Street, Harrisburg, PA 17102, within 30 days of the publication of this proposal in the *Pennsylvania Bulletin*.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), the Board submitted a copy of this proposed amendment on January 18, 1996, to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate Environmental Resources and Energy Committee and the House Environmental Resources and Energy Committee. In addition to submitting the proposed amendment, the Board has provided IRRC and the Committees with a copy of a detailed regulatory analysis form prepared by the Board in compliance with Executive Order 1982-2, "Improving Government Regulations." A copy of this material is available to the public upon request.

If IRRC has any objections to any portion of the proposed amendment, it will notify the Board within 30 days after the close of the public comment period, specifying the regulatory review criteria which have not been met by that portion. The Regulatory Review Act specifies detailed procedures for review prior to final publication of the regulation by the Board, the General Assembly and the Governor of objections raised.

RONALD A. GALLAGHER, Jr., P.E.,  
*Executive Director*

**Fiscal Note:** 11-129. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 25. ENVIRONMENTAL PROTECTION  
PART VIII. UNDERGROUND STORAGE TANK  
INDEMNIFICATION BOARD**

**CHAPTER 971. FEES OF THE UNDERGROUND  
STORAGE TANK INDEMNIFICATION FUND**

**§ 971.2. Fees.**

The fees in this section are assessed to finance the Fund by tank category as follows:

(1) USTs **[ which ] that** store regulated substances other than heating oil and diesel fuel products. **For purposes of this section, "regulated substances other than heating oil and diesel fuel products" include, but are not limited to, gasoline, gasohol, aviation fuel, hazardous substances, new motor oil and other products registered with the Department of Environmental Protection under the substance codes "other" and "mixture." In addition, USTs storing diesel fuel and located at farms shall be assessed fees under this section.**

**[ (i) A per tank fee on USTs set at \$100 per regulated UST per year.**

**(ii) ] A per gallon fee imposed on all gallons of regulated substances entering regulated USTs set at [ 2¢ ] 1¢ per gallon.**

(2) USTs **[ which ] that** are used for nonretail bulk storage or wholesale distribution of gasoline. Total fees paid by owners or operators of nonretail bulk storage or wholesale distribution USTs storing gasoline are calculated using the method described in paragraph (1) and are capped at \$5,000 per UST per year in accordance with section 705(d)(3) of the act (35 P. S. § 6021.705(d)(3)).

(3) USTs **[ which ] that** store regulated substances limited to heating oil products and diesel fuel products. A per-gallon-of-capacity fee on regulated USTs storing heating oil or diesel fuel products set at **[ 15¢ ] 24¢** per gallon of capacity, which amount is calculated in accordance with section 705(d)(2) of the act.

[Pa.B. Doc. No. 96-141. Filed for public inspection February 2, 1996, 9:00 a.m.]

# STATEMENTS OF POLICY

## Title 25—ENVIRONMENTAL PROTECTION

### DEPARTMENT OF ENVIRONMENTAL PROTECTION [25 PA. CODE CH. 105]

#### Identification and Delineation of Wetlands; and Status of Prior Converted Cropland in this Commonwealth

The Department of Environmental Protection (Department) amends § 105.451 (relating to the identification and delineation of wetlands—statement of policy). The amendment refers to the methodology used to identify and delineate wetlands. The Department adds § 105.452 (relating to status of prior converted cropland—statement of policy) to exclude prior converted cropland from jurisdiction under the Department's Wetland Protection Program contained in Chapter 105 (relating to dam safety and waterway management).

##### A. Effective Date

These statements of policy will take effect upon final publication in the *Pennsylvania Bulletin*.

##### B. Contact Persons

For further information, contact Kenneth R. Reisinger, Chief, Division of Wetlands Protection, Bureau of Dams, Waterways and Wetlands, P. O. Box 8554, Rachel Carson State Office Building, Harrisburg, PA 17105-8554, (717) 787-6827; or David Gromelski, Assistant Counsel, Bureau of Regulatory Counsel, P. O. Box 8464, Rachel Carson State Office Building, Harrisburg, PA 17105-8464, (717) 787-7060. Persons with a disability may use the AT&T Relay Service by calling (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). These policies are available electronically through the Department's web site (<http://www.dep.state.pa.us>).

##### C. Statutory Authority

These statements of policy are amended and added under the authority of the Dam Safety and Encroachments Act (act) (32 P. S. §§ 693.1—693.28) and by other affected statutes administered by the Department, including The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003); the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.31); the Pennsylvania Sewage Facilities Act (35 P. S. §§ 750.1—750.20); and the Oil and Gas Act (58 P. S. §§ 601.101—601.605) which authorize the Department to permit, inspect and otherwise regulate structures or activities described as dams, encroachments or water obstructions in wetlands.

##### D. Summary and Purpose of the Amendment to § 105.451

This amendment will provide consistency among State and Federal agencies that are involved in the permitting of activities affecting wetlands while at the same time providing the necessary protection of this Commonwealth's wetland resources. The amendment refers to the methodology used to identify and delineate wetlands.

The Department is authorized and has the duty under the act to permit, inspect and otherwise regulate structures or activities-labeled dams, encroachments or water obstruction-in wetlands. "Wetlands" is defined in regula-

tions promulgated under the act, at § 105.1 (relating to definitions), as follows:

"Areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs and similar areas."

This definition, as used by the Department, is identical to the definition of "wetlands" used by the United States Environmental Protection Agency (EPA) and the United States Army Corps of Engineers (USACOE). However, the Department uses a different manual than the Federal agencies to determine how the definition is to be applied in identifying and delineating wetlands.

The Department until now used the *Federal Manual for Identifying and Delineating Jurisdictional Wetlands* (1989 Interagency Manual). The EPA and the USACOE use the 1987 *Corps of Engineers Wetlands Delineation Manual (Technical Report Y-87-1)* with the guidance provided by the USACOE, Major General Arthur E. Williams' memorandum dated 6 March 1992, *Clarification and Interpretation of the 1987 Manual*. Permit applicants have been required to provide wetland delineations using two different methods, even though both methods are based on a similar three-parameter approach and result in very similar wetland delineations in this Commonwealth.

With this amendment, the Department will adopt the same methodology for identifying and delineating wetlands used by the United States Army Corps of Engineers which is the 1987 *Corps of Engineers Wetlands Delineation Manual (Technical Report Y-87-1)* with guidance provided in the 6 March 1992 USACOE memorandum entitled *Clarification and Interpretation of the 1987 Manual* and any subsequent changes, as part of the Department's permitting program under Chapter 105 and other applicable regulatory programs.

##### Summary and Purpose of the Addition of § 105.452

This statement of policy will exclude areas identified as prior converted cropland from jurisdiction under the Department's Wetland Protection Program contained in Chapter 105. This will provide consistency among State and Federal agencies that are involved in the permitting of activities affecting wetlands while at the same time providing the necessary protection of this Commonwealth's wetland resources.

The definition of "wetlands" in § 105.1 is identical to the definition of wetlands used by the EPA and USACOE. However, the Federal agencies do not include prior converted croplands as waters of the United States under the Clean Water Act. Waters of the United States are defined, in pertinent part at 33 U.S.C.A. § 328.3(a)(8), amended August 25, 1993, by notice at 58 FR 45036, as follows:

"Waters of the United States do not include Prior Converted Cropland. Notwithstanding the determination of an area's status as Prior Converted Cropland by any other federal agency, for the purposes of the Clean Water Act, the final authority regarding Clean Water Act justification remains with EPA."

This policy excludes areas identified as prior converted cropland as defined in the *National Food Security Act Manual* (180-V-NFSAM, 3rd Edition, March 1994) from

jurisdiction under the Department's Wetland Protection Program. According to that definition, "prior converted cropland" are wetlands that were drained, dredged, filled, leveled or otherwise manipulated, including the removal of woody vegetation, before December 23, 1985, and have not been abandoned for the purpose of, or to have the effect of, making the production of an agricultural commodity possible, and an agricultural commodity was planted or produced at least once prior to December 23, 1985. Abandonment is the cessation of cropping, forage production or management on prior converted cropland for 5 consecutive years, so that:

- Wetland criteria are met.
- The area has not been enrolled in a conservation set-aside program.
- The area was not enrolled in a State or Federal wetland restoration program other than the Wetland Reserve Program.

Prior converted cropland may also be considered abandoned if the landowner provides written intent to abandon the area and wetland criteria are met.

Under this statement of policy, the Department will recognize prior converted croplands as a normal circumstance as the term is used in the definition of wetlands and will not regulate prior converted cropland under the Commonwealth's Wetland Protection Program. This is consistent with USACOE regulations that specify that waters of the United States do not include prior converted cropland. This policy change does not affect the existing Chapter 105 exemption for plowing, cultivating, seeding and harvesting for the production of food fiber and forest products or the waiver for maintenance of field drainage systems. See § 105.12(a)(7) and (8) (relating to waiver of permit requirements). These waivers and exemptions remain unchanged and in effect.

*E. Benefits and Costs; Paperwork Requirements—  
§ 105.451*

Because there will be only one accepted method to delineate wetlands, a reduction in time, effort and paperwork in preparing permit applications is expected. This change will require minimal staff retraining as the two methods currently used at the State and Federal levels are very similar in nature. This change will not result in an increase in paperwork or cost to the Commonwealth.

*Benefits and Costs; Paperwork Requirements—  
§ 105.452*

In acknowledging prior converted cropland as "normal circumstances" and therefore not wetlands, the State program is consistent with the Federal agencies in not regulating agricultural lands that meet the definition of prior converted cropland. This change will not result in an increase in paperwork or cost to the Commonwealth.

JAMES M. SEIF,  
*Secretary*

*(Editor's Note: The regulations of the Department of Environmental Protection, 25 Pa. Code Chapter 105, are amended by amending a statement of policy at § 105.451 and by adding a statement of policy at § 105.452.)*

**Fiscal Note:** 7-502 remains valid for the final adoption of the subject regulations.

**Annex A**

**TITLE 25. ENVIRONMENTAL PROTECTION**

**PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**Subpart C. PROTECTION OF NATURAL RESOURCES**

**ARTICLE II. WATER RESOURCES**

**CHAPTER 105. DAM SAFETY AND WATERWAY MANAGEMENT**

**Subchapter M. STATEMENTS OF POLICY**

**WETLANDS**

**§ 105.451. Identification and delineation of wetlands—statement of policy.**

(a) This section sets forth the policy of the Department as to the methodology to be used for the identification and delineation of wetlands.

(b) The use of some delineation method is necessary in order to administer, implement, enforce and determine compliance with the act, The Clean Streams Law (35 P. S. §§ 691.1—691.1001), the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.31), the Pennsylvania Sewage Facilities Act (35 P. S. §§ 750.1—750.20), the Oil and Gas Act (58 P. S. §§ 601.101—601.605) and other applicable statutes administered by the Department and regulations promulgated under these statutes.

(c) The Department adopts and incorporates by reference the 1987 *Corps of Engineers Wetland Delineation Manual (Technical Report Y-87-1)* along with the guidance provided by the United States Army Corps of Engineers, Major General Arthur E. Williams' memorandum dated 6 March 1992, *Clarification and Interpretation of the 1987 Manual* and any subsequent changes as the methodology to be used for identifying and delineating wetlands in this Commonwealth. The 1987 *Corps Wetland Delineation Manual*, Publication No. ADA 176734 is available from the National Technical Information Service (NTIS), Springfield, VA 21161, or telephone: (703) 487-4650. Copies of the Supplemental Guidance issued by the Corps concerning use of the 1987 Manual, (that is, the October 7, 1991, Questions and Answers, and the March 6, 1992, Clarification and Interpretation Memorandum) as well as the Administration's Wetlands Plan of August 24, 1993, may be obtained by contacting the regulatory branch of a local Corps District, or the EPA Wetlands Hotline at (800) 832-7828. For more information, contact Pennsylvania Department of Environmental Protection, Bureau of Dams, Waterways and Wetlands, Post Office Box 8554, Harrisburg, Pennsylvania 17105-8554, telephone (717) 787-6827.

**§ 105.452. Status of prior converted cropland—statement of policy.**

(a) This section sets forth the policy of the Department as to the status of prior converted cropland in this Commonwealth.

(b) The use of some procedure for determining wetlands is necessary in order to administer, implement, enforce and determine compliance with the act, The Clean Streams Law (35 P. S. §§ 691.1—691.1001), the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.31), the Pennsylvania Sewage Facilities Act (35 P. S. §§ 750.1—750.20), the

Oil and Gas Act (58 P. S. §§ 601.101—601.605) and other applicable statutes administered by the Department and regulations promulgated under these statutes.

(c) Naturally occurring events may result in either creation or alteration of wetlands. It is necessary to determine whether alterations to an area have resulted in changes that are now "normal circumstances" of the particular area. The Department recognizes "prior converted cropland," as defined in the *National Food Security Act Manual* (180-V-NFSAM, Third Edition, March 1994), as "normal circumstances" as the term is used in the definition of wetlands in § 105.1 (relating to definitions). These prior converted croplands are not regulated as wetlands under the Commonwealth's Wetland Protection Program contained in this chapter. Prior converted cropland is defined in the *National Food Security Act Manual*, as wetlands that were drained, dredged, filled, leveled or otherwise manipulated, including the removal of woody vegetation, before December 23, 1985, and have not been abandoned, for the purpose of, or to have the effect of making the production of an agricultural commodity possible, and an agricultural commodity was planted or produced at least once prior to December 23, 1985.

(1) Abandonment is the cessation of cropping, forage production or management on prior converted cropland for 5 consecutive years, so that:

(i) Wetland criteria are met.

(ii) The area has not been enrolled in a conservation set-aside program.

(iii) The area was not enrolled in a State or Federal wetland restoration program other than the Wetland Reserve Program.

(2) Prior converted cropland may also be considered abandoned if the landowner provides written intent to abandon the area and wetland criteria are met.

(d) This policy change does not affect the exemption for plowing, cultivating, seeding and harvesting for the production of food, fiber and forest products or the waiver for maintenance of field drainage systems found at § 105.12(a)(7) and (8) (relating to waiver of permit requirements).

[Pa.B. Doc. No. 96-142. Filed for public inspection February 2, 1996, 9:00 a.m.]

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# NOTICES

## DEPARTMENT OF BANKING

### Action on Applications

The Department of Banking of the Commonwealth of Pennsylvania, 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 December 14, 1967 (P. L. 746, No. 345), known as the Savings Association Code of 1967; 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 January 23, 1996.

#### BANKING INSTITUTIONS

##### Branch Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
1-9-96	Coatesville Savings Bank Coatesville Chester County	126 S. Third Street Oxford Chester County	Approved
1-19-96	Dauphin Deposit Bank and Trust Company Harrisburg Dauphin County	Giant Food Store South Spring Garden St. Carlisle Cumberland County	Filed

##### Branch Relocations

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
1-19-96	First Commonwealth Bank Indiana Indiana County	<i>To:</i> Southwest Corner of Rte. 224 and Rte. 60 Union Township Lawrence County  <i>From:</i> 2008 Westgate Plaza Union Township Lawrence County	Filed

##### Branch Discontinuances

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
7-14-95	S & T Bank Indiana Indiana County	121 N. McKean St. Kittanning Armstrong County	Effective
1-23-96	Dauphin Deposit Bank and Trust Company Harrisburg Dauphin County	100 Carlisle Plaza Carlisle Cumberland County	Filed

##### Section 112 Applications

<i>Date</i>	<i>Name of Individual</i>	<i>Location</i>	<i>Action</i>
1-12-96	Edwin C. Hostetter to acquire up to 20,000 additional shares of outstanding stock of Jonestown Bank and Trust Company of Jonestown, PA	Palmyra	Filed

##### Articles of Amendment

<i>Date</i>	<i>Name of Bank</i>	<i>Purpose</i>	<i>Action</i>
1-18-96	Woodlands Bank Williamsport Lycoming County	To restate Article Third in its entirety to provide for limited fiduciary powers.	Approved and Effective

## NOTICES

## SAVINGS ASSOCIATIONS

## Branch Applications

<i>Date</i>	<i>Name of Association</i>	<i>Location</i>	<i>Action</i>
11-15-96	Slovenian Savings and Loan Association Conemaugh Cambria County	95 Hostetler Road Johnstown Cambria County	Opened

## CREDIT UNION

No activity.

RICHARD C. RISHEL,  
*Secretary*

[Pa.B. Doc. No. 96-143. Filed for public inspection February 2, 1996, 9:00 a.m.]

## DEPARTMENT OF ENVIRONMENTAL PROTECTION

### Applications, Actions and Special Notices

#### APPLICATIONS

The following parties have applied for an NPDES permit to discharge controlled wastewaters into the surface waters of this Commonwealth. Unless otherwise indicated on the basis of preliminary review and application of lawful standard and regulations, the Department of Environmental Protection proposes to issue a permit to discharge, subject to certain effluent limitations and special conditions. These proposed determinations are tentative.

Where indicated, the EPA, Region III, Regional Administrator has waived the right to review or object to this proposed permit action under the waiver provision 40 CFR 123.6E.

Persons wishing to comment on the proposed permit are invited to submit a statement to the office noted above the application within 30 days from the date of this public notice. Comments received within this 30-day period will be considered in the formulation of the final determinations regarding this application. Responses should include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based. A public hearing may be held if the responsible office considers the public response significant.

Following the 30-day comment period, the Water Management Program Manager will make a final determination regarding the proposed permit. Notice of this determination will be published in the *Pennsylvania Bulletin* at which time this determination may be appealed to the Environmental Hearing Board.

The application and related documents, proposed effluent limitations and special conditions, comments received and other information are on file and may be inspected and arrangements made for copying at the office indicated above the application.

Persons with a disability who wish to attend the hearing and require an auxiliary aid, service or other accommodations to participate in the proceeding should contact the Secretary to the Board at (717) 787-3483. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at 1 (800) 654-5984.

#### **Applications for National Pollutant Discharge Elimination System (NPDES) Permit to discharge to State waters.**

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*Southeast Regional Office: Regional Manager, Water Management, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428, telephone (610) 832-6130.*

**PA 0026531.** Sewage, **Downingtown Area Regional Authority**, P. O. Box 8, 347 North Pottstown Pike, Downingtown, PA 19341.

This application is for renewal of an NPDES permit to discharge treated sewage from the Downingtown Regional Water Pollution Control Center in East Caln Township, **Chester County**. This is an existing discharge to East Branch Brandywine Creek.

The receiving stream is classified for warm water fish, migratory fish, potable water supply, industrial water supply, livestock water supply, wildlife water supply, irrigation, boating, fishing, water contact sports and esthetics.

The proposed effluent limits for Outfall 001, based on an average flow of 7.0 mgd are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub> (5-1 to 10-31)	10	15	20
(11-1 to 4-30)	20	30	40
Suspended Solids	30	45	60
Ammonia (as N) (5-1 to 10-31)	2	3	4
(11-1 to 4-30)	6	9	12
Phosphorus (as P)	2	3	4
Fecal Coliforms	200 colonies/100 ml as a geometric average		
Dissolved Oxygen	minimum of 6.0 mg/l at all times		
pH	within limits of 6.0—9.0 standard units at all times		

For permit issuance through third year:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum (mg/l)</i>
Total Residual Chlorine	monitor/report		monitor/report
Copper	monitor/report	monitor/report	monitor/report
Chlorodibromomethane	20	40	50
Dichlorobromomethane	30	60	75

From the fourth year through expiration:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum (mg/l)</i>
Total Residual Chlorine	0.10		0.34
Copper	19	38	47
Chlorodibromomethane	4.0	8.0	10.0
Dichlorobromomethane	3.0	6.0	7.5

*Other Requirements:*

Requirement to submit a toxics reduction evaluation.

Procedures for demonstrating alternative site-specific bioassay based effluent limitations.

The EPA waiver is not in effect.

**PA 0053651.** Industrial waste, **Johnson Matthey**, 1401 King Street, West Chester, PA 19380.

This application is for renewal of an NPDES permit to discharge treated groundwater and stormwater from groundwater remediation system in West Whiteland Township, **Chester County**. This is an existing discharge to unnamed tributary to Valley Creek.

The receiving stream is classified for cold water fish, warm water fish, migratory fish, potable water supply, industrial water supply, livestock water supply, wildlife water supply, irrigation, boating, fishing, water contact sports and esthetics.

The proposed effluent limits for Outfall 001, based on an average flow of 36,000 gpd are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
1,1,2 Trichloroethane	0.002	0.004	0.005
1,1,2,2 Tetrachloroethane	0.0007	0.0014	0.0017
Trichloroethylene	0.01	0.02	0.025
Tetrachloroethylene	0.0025	0.005	0.0062

The proposed effluent limits for Outfall 002 are as follows:

<i>Parameter</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	monitor/report
Chemical Oxygen Demand	monitor/report
Oil and Grease	monitor/report
pH	monitor/report
Total Suspended Solids	monitor/report
Total Kjeldahl Nitrogen	monitor/report
Total Phosphorus	monitor/report
Iron (Dissolved)	monitor/report

The EPA waiver is in effect.

**PA 0054046.** Sewage, **Perry and Claudia Godshall**, 830 Kulp Road, Perkiomenville, PA 18964.

This application is for renewal of an NPDES permit to discharge treated sewage from single residence sewage treatment plant in New Hanover Township, **Montgomery County**. This is an existing discharge to unnamed tributary to Deep Creek.

The receiving stream is classified for warm water fish, trout stocking, migratory fish, potable water supply, industrial water supply, livestock water supply, wildlife water supply, irrigation, boating, fishing, water contact sports and esthetics.

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>		
(5-1 to 10-31)	10	20
(11-1 to 4-30)	20	40
Suspended Solids	10	20
Ammonia (as N)		
(5-1 to 10-31)	3	6
(11-1 to 4-30)	9	18
Total Residual Chlorine	monitor/report	monitor/report
Fecal Coliforms	200 colonies/100 ml as a geometric average	
Dissolved Oxygen	minimum of 2 mg/l at all times	
pH	within limits of 6.0—9.0 standard units at all times	

The EPA waiver is in effect.

**PA 0056740.** Industrial waste, **The Woodbridge Group**, 4240 Sherwoodtowne Boulevard, Suite 300, Mississauga, Ontario, Canada L4Z2G6.

This application is for issuance of an NPDES permit to discharge treated groundwater from 160 Veterans Lane property in Doylestown Borough, **Bucks County**. This is a new discharge to unnamed tributary leading to Cooks Run Creek.

The receiving stream is classified for warm water fish, migratory fish, potable water supply, industrial water supply, livestock water supply, wildlife water supply, irrigation, boating, fishing, water contact sports and esthetics.

The proposed effluent limits for Outfall 001 based on an average flow of 0.028 mgd are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
1-1 Dichloroethene	0.0007	0.0014	0.0018
Carbon Tetrachloride	0.0015	0.003	0.0038
Trichloroethene	0.002	0.004	0.005
Tetrachloroethene	0.004	0.008	0.01
pH	within limits of 6.0—9.0 standard units at all times		

*Other Conditions.*

Conditions for future permit modification.

Special Test Methods for specified pollutants.

The EPA waiver is in effect.

*Northcentral Region: Environmental Program Manager, Water Management, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448, telephone (717) 327-3666.*

**PA 0111911.** Industrial waste, SIC: 3446, 3089, 2599 and 3999, **Construction Specialties, Inc.**, P. O. Box 380, Muncy, PA 17756.

This proposed action is for renewal of an NPDES permit for an existing discharge of noncontact cooling water to Turkey Run in Clinton Township, **Lycoming County**.

The receiving stream is classified for the following uses: warm water fishery and aquatic life, water supply and recreation.

For the purpose of evaluating effluent requirements for TDS, NO<sub>2</sub>-NO<sub>3</sub>, fluoride and phenolics, the existing downstream potable water supply (PWS) considered during the evaluation is PA American Water Company located at Milton approximately 15 river miles downstream.

The proposed effluent limits for Outfall 001 based on a design flow of 0.036 mgd are:

<i>Parameter</i>	<i>Maximum Daily (BTUs/Day)</i>	<i>Parameter</i>	<i>Maximum Daily (BTUs/Day)</i>
<i>*Heat</i>		<i>*Heat</i>	
January	3.56 x 10 <sup>6</sup>	July	4.54 x 10 <sup>6</sup>
February	3.90 x 10 <sup>6</sup>	August	4.05 x 10 <sup>6</sup>
March	9.35 x 10 <sup>6</sup>	September (1-15)	3.92 x 10 <sup>6</sup>

<i>Parameter</i>	<i>Maximum Daily (BTUs/Day)</i>	<i>Parameter</i>	<i>Maximum Daily (BTUs/Day)</i>
April (1-15)	4.14 x 10 <sup>6</sup>	September (16-30)	2.45 x 10 <sup>6</sup>
April (16-30)	16.56 x 10 <sup>6</sup>	October (1-15)	4.01 x 10 <sup>6</sup>
May (1-15)	4.54 x 10 <sup>6</sup>	October (16-31)	2.40 x 10 <sup>6</sup>
May (16-31)	13.62 x 10 <sup>6</sup>	November (1-15)	4.63 x 10 <sup>6</sup>
June (1-15)	7.35 x 10 <sup>6</sup>	November (16-30)	1.78 x 10 <sup>6</sup>
June (16-30)	10.02 x 10 <sup>6</sup>	December	2.67 x 10 <sup>6</sup>
pH	6.0—9.0 at all times		

\*This discharge shall not change the stream temperature by more than  $\pm 2^{\circ}\text{F}$  in any 1 hour period.

The EPA waiver is in effect.

**PA 0209317.** Sewerage, SIC: 4952, **Oakridge Personnel Care Home**, R. D. 2, Box A195, Mill Hall, PA 17751.

This proposed action is for issuance of an NPDES permit for a new discharge of treated water to Tangascootack Creek in Colebrook Township, **Clinton County**.

The receiving stream is classified for the following uses: cold water fishery and aquatic life, water supply and recreation.

For the purpose of evaluating effluent requirements for TDS, NO<sub>2</sub>-NO<sub>3</sub>, fluoride and phenolics, the proposed downstream potable water supply (PWS) considered during the evaluation is on the west branch of the Susquehanna River located at Lock Haven 11 miles downstream.

The proposed effluent limits for Outfall 001 based on a design flow of 0.005 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25	50
TSS	30	60
Total Residual Chlorine	1.0	2.3
Fecal Coliforms (5-1 to 9-30)	200/100 ml as a geometric average	
(10-1 to 4-30)	2,000/100 ml as a geometric average	
pH	6.0—9.0 at all times	

The EPA waiver is in effect.

**PA 0114294.** Sewerage, SIC: 4952, **Richard Morris**, R. D. 2, Box 299, Catawissa, PA 17820.

This proposed action is for renewal of an NPDES permit for an existing discharge of treated sewage to Little Roaring Creek in Mayberry Township, **Montour County**.

The receiving stream is classified for the following uses: cold water fishery and aquatic life, water supply and recreation.

For the purpose of evaluating effluent requirements for TDS, NO<sub>2</sub>-NO<sub>3</sub>, fluoride and phenolics, the existing downstream potable water supply (PWS) considered during the evaluation is Danville Borough Water Company located on the north branch of the Susquehanna River, approximately 4 river miles downstream.

The proposed effluent limits for Outfall 001 based on a design flow of 0.0004 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25	50
Total Suspended Solids	30	60
Fecal Coliforms	200/100 ml as a geometric average	
pH	6.0—9.0 at all times	
Total Residual Chlorine	report	

The EPA waiver is in effect.

**PA 0032514.** Sewerage, SIC: 4952, **Department of Conservation and Natural Resources**, Bureau of State Parks, Denton Hill State Park, c/o Lyman Run State Park, R. D. 1, Box 136, Galeton, PA 16922-9782.

This proposed action is for renewal of an NPDES permit for an existing discharge of treated sewage to Elm Hollow in Ulysses Township, **Potter County**.

The receiving stream is classified for the following uses: high quality cold water fishery and aquatic life, water supply and recreation.

For the purpose of evaluating effluent requirements for TDS, NO<sub>2</sub>-NO<sub>3</sub>, fluoride and phenolics, the existing downstream potable water supply (PWS) considered during the evaluation is Jersey Shore Area Water Authority located on Pine Creek approximately 80 river miles downstream.

The proposed effluent limits for Outfall 001 based on a design flow of 0.013 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25	50
Total Suspended Solids	30	60
Ammonia Nitrogen (6-1 to 10-31)	8.5	17.0
(11-1 to 5-31)	25	50
Fecal Coliforms (5-1 to 9-30)	200/100 ml as a geometric average	
(10-1 to 4-30)	2,000/100 ml as a geometric average	
Total Residual Chlorine	report-provide effective dechlorination within 2 years	
pH	6.0—9.0 at all times	

The EPA waiver is in effect.

**Permit No. PA 0209171.** Transfer application. Conrail facility in Clearfield, Pennsylvania applied for transfer to the **R. J. Corman Railroad Company**, One Jay Station, P. O. Box 788, Nicholasville, KY 40356. This facility is located in Clearfield Borough, **Clearfield County**.

*Southcentral Regional Office: Regional Water Management Program Manager, One Ararat Boulevard, Harrisburg, PA 17110, telephone (717) 657-4590.*

**PA 0087122.** Sewage, SIC: 6514, **Borough of Carroll Valley**, 5685 Fairfield Road, Carroll Valley, PA 17320.

This application is for issuance of an NPDES permit for an experimental single residence sewage treatment facility project, which will include new discharges of treated sewage in the Carroll Valley area, **Adams County**. The actual locations will be determined when appropriate candidates are selected by the Borough of Carroll Valley. These locations will be reviewed by the Department of Environmental Protection prior to commencement of any discharge. No discharges will be permitted to Special Protection Waters. No discharges will impact any potable water supply.

The proposed effluent limits for all discharges under this permit are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	10	20
Suspended Solids	10	20
NH <sub>3</sub> -N (5-1 to 10-31)	3.0	6.0
(11-1 to 4-30)	9.0	18
Total Residual Chlorine	monitor and report	
Dissolved Oxygen	minimum of 5.0 at all times	
pH	6.0—9.0	
Fecal Coliforms (5-1 to 9-30)	200/100 ml as a geometric average	
(10-1 to 4-30)	2,000/100 ml as a geometric average	

The EPA waiver is in effect.

**PA 0008010.** Industrial waste, SIC: 2015, **College Hill Poultry, Inc.**, North Pine Grove Street, Fredericksburg, PA 17026.

This application is for renewal of an NPDES permit for an existing discharge of treated industrial waste to Beach Run, in Bethel Township, **Lebanon County**.

The receiving stream is classified for warm water fish, recreation, water supply and aquatic life. For the purpose of evaluating effluent requirements, the existing downstream potable water supply intake considered during the evaluation was the Pennsylvania American Water Company located in South Hanover Township, Dauphin County. The discharge is not expected to impact any potable water supply.

The proposed effluent limits for Outfall 001 for a design flow of 0.150 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
BOD <sub>5</sub>	20	40	50
Suspended Solids	25	50	75
NH <sub>3</sub> -N (5-1 to 10-31)	2.5	5.0	6.25
(11-1 to 4-30)	7.5	15.0	18.75
Total Phosphorus	2.0	4.0	5.0

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Dissolved Oxygen	minimum of 5.0 at all times		
pH	6.0—9.0		
Fecal Coliforms (5-1 to 9-30)	200/100 ml as a geometric average		
(10-1 to 4-30)	4,500/100 ml as a geometric average		
Total Residual Chlorine (Interim)	1.0	monitor and report	1.72
(Final)	0.1	monitor and report	0.33

The EPA waiver is in effect.

**PA 0035157.** Industrial waste, SIC: 2015, **Farmers Pride**, Main Street, P. O. Box 39, Fredericksburg, PA 17026.

This application is for renewal of an NPDES permit for an existing discharge of treated industrial waste to Deep Run, in Bethel Township, **Lebanon County**.

The receiving stream is classified for warm water fish, recreation, water supply and aquatic life. For the purpose of evaluating effluent requirements, the existing downstream potable water supply intake considered during the evaluation was the Pennsylvania American Water Company located in South Hanover Township, Dauphin County. The discharge is not expected to impact any potable water supply.

The proposed effluent limits for Outfall 001 for a design flow of 0.459 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	20	40	50
Suspended Solids	25	50	75
NH <sub>3</sub> -N (5-1 to 10-31)	1.5	3	3.5
(11-1 to 4-30)	4.5	9	10.5
Total Phosphorus	2.0	4.0	5.0
Total Residual Chlorine (Interim)	0.9	monitor and report	1.5
(Final)	<0.1	monitor and report	<0.2
Dissolved Oxygen	minimum of 5.0 at all times		
pH	6.0—9.0		
Fecal Coliforms (5-1 to 9-30)	200/100 ml as a geometric average		
(10-1 to 4-30)	2,300/100 ml as a geometric average		

The EPA waiver is in effect.

**PA 0087131.** Sewage, SIC: 4952, **Northern Lancaster County Authority** (Gehman School Road Project), 983 Beam Road, Denver, PA 17517.

This application is for issuance of an NPDES permit for a new discharge of treated sewage to Little Muddy Run, in Brecknock Township, **Lancaster County**.

The receiving stream is classified for trout stocking fishery, recreation, water supply and aquatic life. For the purpose of evaluating effluent requirements for TDS, NO<sub>2</sub>-NO<sub>3</sub>, fluoride and phenolics, the existing downstream potable water supply intake considered during the evaluation was the Lancaster Municipal Water Authority located in Lancaster City, Lancaster County. The discharge is not expected to impact any potable water supply.

The proposed effluent limits for Outfall 001 for a design flow of 0.005 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25	40		50
Suspended Solids	30	45		60
Total Residual Chlorine	0.5			1.6
Dissolved Oxygen	minimum of 5.0 at all times			
pH	6.0—9.0			
Fecal Coliforms (5-1 to 9-30)	200/100 ml as a geometric average			
(10-1 to 4-30)	11,000/100 ml as a geometric average			

The EPA waiver is in effect.

Northwest Regional Office: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, telephone (717) 826-2511.

**PA 0063487.** Sewerage, **Duane Schleicher** R. R. 7, Box 198, Lehighton, PA 18235.

This proposed action is for issuance of an NPDES permit to discharge treated sewage into an unnamed tributary of Lizard Creek in East Penn Township, **Carbon County**.

The receiving stream is classified for the following uses: trout stocking fishery, aquatic life, water supply and recreation.

For the purpose of evaluating effluent requirements for NO<sub>2</sub>-NO<sub>3</sub>, the existing downstream potable water supply (PWS) considered during the evaluation is Northampton Water Supply on Lehigh River.

The proposed effluent limits for Outfall 001 based on a design flow of 0.1 mgd are:

Parameter	Monthly Average (mg/l)	Instantaneous Maximum (mg/l)
CBOD <sub>5</sub>	25	50
Total Suspended Solids	30	60
NH <sub>3</sub> -N		
(5-1 to 10-31)	5.3	10.6
(11-1 to 4-30)	15.9	31.8
Dissolved Oxygen	a minimum of 5 mg/l at all times	
Fecal Coliforms		
(5-1 to 9-30)	200/100 ml as a geometric mean	
(10-1 to 4-30)	2,000/100 ml as a geometric mean	
pH	6.0—9.0 standard units at all times	
Total Residual Chlorine		
First month through 36th month	monitor and report	
37th month through expiration date	.50	1.2

This permit also contains special conditions allowing the permittee to conduct site specific data collection for total residual chlorine.

The EPA waiver is in effect.

**PA 0063495.** Industrial waste, SIC: 9959, **Travel Ports of America, Inc.**, Jerry L. Beiermann, 3495 Winton Place, Building C, Rochester, NY 14623.

This proposed action is for issuance of an NPDES permit to discharge treated groundwater (gasoline contaminated) into a storm sewer to unnamed tributary of Cedar Creek in Upper Macungie Township, **Lehigh County**.

The receiving stream is classified for the following uses: high quality cold water fishery, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001 based on a design flow of 0.0288 mgd are:

Parameter	Monthly Average (mg/l)	Daily Maximum (mg/l)	Instantaneous Maximum (mg/l)
Benzene	0.001	0.002	0.0025
Total BETX*	0.1	0.2	0.25
Ethylbenzene	monitor and report		
Toluene	monitor and report		
Total Xylenes	monitor and report		
Dissolved Iron	monitor and report		
Total Iron	monitor and report		
pH	6.0—9.0 standard units at all times		
Oil and Grease	15		30

\*Total BETX shall be measured as the sum of benzene, ethylbenzene, toluene and xylenes.

The EPA waiver is not in effect.

Northwest Regional Office: Regional Manager, Water Management, 230 Chestnut Street, Meadville, PA 16335, telephone (814) 332-6942.

**PA 0014494.** Industrial waste, SIC: 3313 (Electrometallurgical Products). Another related SIC Code 3339 (Primary Smelting and Refining of Nonferrous Metals). **Reactive Metals and Alloys Corp.**, P. O. Box 366, West Pittsburgh, PA 16160.

This application is for renewal of an NPDES permit to discharge treated industrial waste, noncontact cooling water, and stormwater to the Beaver River in Taylor Township, **Lawrence County**. This is an existing discharge.

The receiving water is classified for the following uses: warm water fishes, aquatic life, water supply and recreation. For the purpose of evaluating effluent requirements for TDS, NO<sub>2</sub>-NO<sub>3</sub>, fluoride and phenolics, the existing/proposed downstream potable water supply considered during the evaluation is the Municipal Authority of the Borough of N. Sewickley intake on the Beaver River located at N. Sewickley, approximately 12 miles below point of discharge.



The proposed discharge limits for Outfall No. 001 based on a design flow of 0.0135 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow	monitor and report		
Total Suspended Solids	30		60
Total Residual Chlorine	1		5
Lead	monitor and report		
Dissolved Iron	monitor and report		
pH	6.0—9.0 at all times		

The proposed discharge limits for Outfall No. 002 based on a design flow of 0.072 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow	monitor and report		
pH	6.0—9.0 at all times		

The proposed discharge limits for Outfall No. 003 based on a design flow of 0.0288 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow	monitor and report		
Total Suspended Solids	30		60
pH	6.0—9.0 at all times		

The proposed discharge limits for Outfall Nos. 004—008 are

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
	stormwater only		

The EPA waiver is in effect.

**PA 0001449.** Industrial waste, SIC: 3291, Abrasive Products. **Barnsteel Abrasives**, 110 Etna Street, P. O. Box 869, Butler, PA 16003.

This application is for renewal of an NPDES permit to discharge contact cooling water and stormwater to Connoquenessing Creek in Butler Township, **Butler County**. This is an existing discharge.

The receiving water is classified for the following uses: warm water fishes, aquatic life, water supply and recreation. For the purpose of evaluating effluent requirements for TDS, NO<sub>2</sub>-NO<sub>3</sub>, fluoride and phenolics, the existing/proposed downstream potable water supply considered during the evaluation is the Zelienople Municipal Water Works intake on Connoquenessing Creek located at Zelienople, approximately 22 miles below point of discharge.

The proposed discharge limits for Outfall No. 001 are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
	stormwater only		

The proposed discharge limits for Outfall No. 002 based on a design flow of 0.03 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow	monitor and report		
Total Suspended Solids	20	45	
Iron (total)	3.2	6.4	8.0
Aluminum	0.8	1.6	2.0
Manganese	0.2	0.4	0.5
Temperature (°F)	monitor and report		
pH	6.0—9.0 at all times		

The proposed discharge limits for Outfall No. 003 are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
	stormwater only		

The EPA waiver is in effect.

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**Proposed NPDES Permit Renewal Actions for Minor Sewage Discharges**


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The following parties have applied to renew their current NPDES permits to allow the continued discharge of controlled wastewater into the surface waters of this Commonwealth. The Department of Environmental Protection (DEP) has made a tentative determination to renew these permits and proposes to issue them, subject to their current permit effluent limitations, and monitor-

ing and reporting requirements, with appropriate and necessary updated requirements to reflect new or changed regulations and other requirements. The updates may include, but will not be limited to, applicable permit conditions and/or requirements addressing combined sewer overflows (CSOs), municipal sewage sludge management and total residual chlorine control (TRC). Any major changes to or deviations from the terms of the existing permit will be documented and published with the final Department actions.

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*Southcentral Regional Office: Water Management Program, One Ararat Boulevard, Harrisburg, PA 17110, telephone (717) 657-4590.*

<i>NPDES No.</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Tributary Stream</i>	<i>New Permit Requirements</i>
PA0040789	Adelle Britton J & A M.H.P. 3100 York Haven Road, Manchester, PA 17345	York Newberry Twp.	Conewago Creek	TRE
PA0082619	Sangri-La Associates MGM Enterprises, Inc. One Waterford Prof. Cntr. York, PA 17462	York Newberry Twp.	Conewago Creek	TRE

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*Northeast Regional Office: Regional Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, telephone (717) 826-2553.*

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**NOI Received and Final Actions Under NPDES General Permits**


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Coverage under the General Permits issued under the National Pollutant Discharge Elimination System (NPDES) Permit Program to discharge wastewaters to waters of the Commonwealth.

<i>NPDES No.</i>	<i>Applicable GP No.</i>	<i>Facility Name and Address</i>	<i>Facility Location</i>	<i>Stream Name</i>	<i>SIC</i>
PAR802226	2	Schwerman Trucking Co., P. O. Box 736 Milwaukee, WI 53201-0736 Northampton Terminal	Northampton Northampton Boro.	Hokendaqua Creek	4231
PAR212218	2	Glen-Gery Corp. P. O. Box 7001 Wyomissing, PA 19610- 6001 (Lehigh Valley Block)	Lehigh Hanover Twp.	Unnamed trib. to Catasauqua Creek	3271

The following parties have applied for an NPDES permit to discharge stormwater into the surface waters of this Commonwealth. Unless otherwise indicated on the basis of preliminary review and application of lawful standards and regulations, the Department of Environmental Protection proposes to issue a permit to discharge, subject to certain effluent limitations set forth in Appendix A-J of the general permit and special conditions. These proposed determinations are tentative.

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**NOIS and Applications Received**


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Applications for National Pollutant Discharge Elimination System (NPDES) Permit to discharge stormwater runoff to State waters.

*Northcentral Regional Office: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17001-0000, telephone (717) 327-3664.*

<i>NPDES No.</i>	<i>Facility Name and Address</i>	<i>Facility Location</i>	<i>Stream Name</i>	<i>SIC</i>
PAR504807	Forest Lawn Landfill c/o Browning Ferris Industries, Inc. 5600 Niagara Falls Blvd. Niagara Falls, NY 14304	Clearfield Boggs Twp.	Clearfield Creek CWF	4953

**Notices of Intent for Coverage Under NPDES General Permit for Construction Activities and Department Final Actions**

*Northwest Regional Office: Regional Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481, telephone (814) 332-6942.*

The following parties have submitted Notices of Intent for coverage under NPDES General Permit PAG-2, General Permit for Discharges of Stormwater From Construc-

<i>NPDES Permit No.</i>	<i>Name and Address</i>	<i>County and Municipality</i>	<i>Receiving Stream</i>
PAR104102	Otto Township P. O. Box 284 Duke Center, PA 16729	McKean County Otto Township	Tributary to Knapp Creek

The following parties have applied for an NPDES permit to discharge stormwater from a proposed construction activity into the surface waters of the Commonwealth. Unless otherwise indicated on the basis of preliminary review and application of lawful standards and regulations, the Department of Environmental Protection proposes to issue a permit to discharge, subject to certain limitations set forth in the permit and special conditions. These proposed determinations are tentative. Limitations are provided in the permit as erosion and sedimentation control measures and facilities which restrict the rate and quantity of sediment discharged.

Where indicated, the EPA, Region III, Regional Administrator has waived the right to review or object to this proposed permit action under the waiver provision 40 CFR 123.24(d).

Persons wishing to comment on the proposed permit are invited to submit a statement to the Regional Office or County Conservation District office indicated as the responsible office, within 30 days from the date of this public notice. A copy of the written comments should be sent to the County Conservation District Office. Comments reviewed within this 30-day period will be considered in the formulation of the final determinations regarding this application. Responses should include the name, address and telephone number of the writer and a concise statement to inform the Regional Office of the exact basis of a comment and the relevant facts upon which it is based. A public hearing may be held if the Regional Office considers the public response significant.

Following the 30-day comment period, the Water Program Manager will make a final determination regarding the proposed permit. Notice of this determination will be published in the *Pennsylvania Bulletin* at which time this determination may be appealable to the Environmental Hearing Board.

The application and related documents, including the erosion and sedimentation control plan for the construction activity, are on file and may be inspected at the County Conservation District Office or the Department Regional Office indicated above 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 1 (800) 654-5984.

tion Activities. Unless otherwise indicated, on the basis of preliminary review and application of lawful standards and regulations, the Department of Environmental Protection will authorize, subject to the terms and conditions contained in the general permit, the discharge of stormwater from eligible new and existing discharges.

The application and related documents, including the erosion and sedimentation control plan for the construction activity, are on file and may be inspected at the office noted above.

*Southeast Regional Office: Regional Water Management Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428-2233, telephone (610) 832-6130.*

*Northeast Regional Office: Regional Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, telephone (717) 825-2511.*

*Southwest Regional Office: Regional Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, telephone (412) 442-4000.*

*Northcentral Regional Office: Regional Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701, telephone (717) 327-3669.*

*Allegheny County Conservation District, District Manager, 875 Greentree Rd., Rm. 208 Acacia Bldg., Pittsburgh, PA 15220, telephone (412) 921-1999.*

**NPDES Permit PAS10A081.** Stormwater. **Consolidated Rail Corporation**, 2001 Market Street, Room 11D, Philadelphia, PA 19101-1411 has applied to discharge stormwater from a construction activity located in Wall Borough and North Versailles and Monroeville Townships, **Allegheny County**, to Turtle Creek.

*Centre County Conservation District, District Manager, 414 Holmes Ave. Ste. 4, Bellefont PA 16823, telephone (814) 355-6817.*

**NPDES Permit PAS10F052.** Stormwater. **Harry Falk**, Nittany Construction Company, 1372 S. Atherton Street, State College, PA 16801 has applied to discharge stormwater from a construction activity located in College Township, **Centre County**, to a storm sewer and Slab Cabin Run.

*Delaware County Conservation District, District Manager, 1521 N. Providence Rd., Media, PA 19063, telephone (610) 892-9484.*

**NPDES Permit PAS10J029.** Stormwater. **Penn Property Developers Inc.**, 219 Country Gate Road, Wayne, PA 19087-5321 has applied to discharge stormwater from a construction activity located in Upper Providence Township, **Delaware County**, to Ridley Creek.

*Lehigh County Conservation District, District Manager, Lehigh Ag. Ctr., Ste. 102, 4184 Dorney Park Rd., Allentown, PA 18104, telephone (610) 820-3398.*

**NPDES Permit PAS10Q104.** Stormwater. **Pitcairn Properties Healthcare Group**, 1 Pitcairn Place, 165 Township Line, Jenkintown, PA has applied to discharge

stormwater from a construction activity located in Salisbury Township, **Lehigh County**, to Little Lehigh Creek.

*Montour County Conservation District, District Manager, 112C Woodbine Lane, Danville, PA 17821, telephone (717) 271-1140.*

**NPDES Permit PAS104704.** Stormwater. **James Barbarich**, 9 Millwood Drive, Danville, PA 17821 has applied to discharge stormwater from a construction activity located in Mahoning Township, **Montour County**, to UNT to Sechler Run.

*Tioga County Conservation District, District Manager, 5 East Avenue, Wellsboro, PA 16901, telephone (717) 724-4812.*

**NPDES Permit PAS106602.** Stormwater. **N E Hub Partners LP**, Two Riverbend at Lansdowne, 44084 Riverside Parkway, Suite 340, Leesburg, VA 22075 has applied to discharge stormwater from a construction activity located in Lawrence, Farmington and Middleburg Townships, **Tioga County**, to the Tioga and Cowanesque Rivers, Crooked and Baldwin Creeks, and Norris Brook.

The following permit applications and requests for plan approval have been received by the Department of Environmental Protection.

Persons objecting on the grounds of public or private interest to the approval of an application or submitted plan may file a written protest with the Department of Environmental Protection at the address indicated above each permit application or plan. Each written protest should contain the following: name, address and telephone number, identification of the plan or application to which the protest is addressed and a concise statement in sufficient detail to inform the Department of the exact basis of the protest and the relevant facts upon which it is based. The Department may conduct a fact-finding hearing or an informal conference in response to any given protest or protests. Each commentor will be notified in writing of the time and place if a hearing or conference concerning the plan, action or application to which the protest relates is held. To insure consideration by the Department prior to final action on permit applications and proposed plans, initial protests and additions or amendments to protests already filed should be filed within 15 calendar days from the date of this issue of the *Pennsylvania Bulletin*. A copy of each permit application and proposed plan is on file in the office indicated and is open to public inspection.

Persons with a disability who wish to attend the hearing and require an auxiliary aid, service or other accommodation to participate in the proceeding should contact the Secretary to the Board at (717) 787-3483. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at 1 (800) 654-5984.

**Industrial waste and sewerage applications under The Clean Streams Law (35 P. S. §§ 691.1—691.1001).**

*Southwest Regional Office: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, telephone (412) 442-4000.*

**A. 0296201.** Industrial waste, **Aristech Chemical Corporation**, 300 North State Street, Clairton, PA 15025. Application for the installation and operation of a cooling tower at the Tarben Plant located in the City of Clairton, **Allegheny County**.

**A. 0496401.** Sewerage, **Beaver County Corporation for Economic Development**, 798 Turnpike Street, Beaver, PA 15009. Application for construction and operation of a sanitary sewage pumping station and force main to serve the Aliquippa Industrial Park located in Aliquippa Borough, **Beaver County**.

**A. 6396402.** Sewerage, **Walter Morris**, 180 McAdams Avenue, Washington, PA 15301. Application for construction and operation of a single residence sewage treatment plant to serve the Morris SR STP located in the Township of Amwell, **Washington County**.

*Northcentral Regional Office: Regional Water Management Program Manager, 208 W. Third Street, Ste. 101, Williamsport, PA 17701, telephone (717) 327-3670.*

**Permit No. 5596401.** Industrial waste. **Pennsylvania Power and Light Company** (Sunbury Steam Electric Company, 2 North Ninth Street, Allentown, PA 18101-1179) has applied for permit to construct treatment facility located in Shamokin Dam Boro, **Snyder County**.

*Southcentral Regional Office: Water Management Program Manager, One Ararat Boulevard, Harrisburg, PA 17110, telephone (717) 657-4590.*

**A. 3896401.** Sewage, **City of Lebanon Authority**, 400 South Eighth Street, Lebanon, PA 17042 in Lebanon City, **Lebanon County** to upgrade their Hazelyke interceptor was received in the Southcentral Region on January 10, 1995.

*Southeast Regional Office: Regional Water Management Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428-2233, telephone (610) 832-6130.*

**Permit No. 0996201.** Industrial waste. **Geological Reclamation Operations and Waste Systems, Inc.** (G.R.O.W.S.) (1000 New Ford Mill Road, Morrisville, PA 19067). Proposed modifications to improve the treatment efficiency to serve G.R.O.W.S. Landfill Wastewater Treatment Plant located in Falls Township, **Bucks County**.

**Permit No. 0996401.** Sewerage. **Solebury School** (P. O. Box 429, New Hope, PA 18938). Construction of a sewage treatment plant expansion to serve Solebury School located in Solebury Township, **Bucks County**.

**Permit No. 1596201.** Industrial waste. **Deluxe Corporation** (P. O. Box 64468, St. Paul, MN 55164-0468). Construction of a groundwater remediation system to serve Deluxe Check Printers located in Willistown Township, **Chester County**.

**Permit No. 1596401.** Sewerage. **Utility Group Services Corporation** (1732 Horseshoe Pike, Glenmore, PA 19343). Construction and expansion of the sewage treatment plant to serve Little Washington Drainage Company located in East Brandywine Township, **Chester County**.

**Permit No. 2396401.** Sewerage. **Glen Mills Schools** (Glen Mills Road, Concordville, PA 19331). Conversion of present disinfection system from gas chlorine to liquid sodium hypochlorite to serve Glen Mills Schools located in Thornbury Township, **Delaware County**.

*Northwest Regional Office: Regional Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481, telephone (814) 332-6942.*

**WQM Permit No. 4395401.** Sewage. **Tri-Lane Mobile Home Park**, R. D. 7, Mercer, PA 16137. This project is for the construction of a sewage treatment plant to serve a 3,000 gpd discharge from a mobile home park in Lackawannock Township, **Mercer County**.

**WQM Permit No. 4395418.** Sewage, **William L. Bloodsaw, Jr.**, SRSTP, 714 Lee Ave., Farrell, PA 16121. This project is for the construction of a single residence sewage treatment plant in Shenango Township, **Mercer County**.

**Application received under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17).**

*Bureau of Water Supply and Community Health, Division of Drinking Water Management, 400 Market Street, Harrisburg, PA 17105, Contact Person: Godfrey C. Maduka, (717) 787-9037.*

**A. 9996217. Great Spring Waters of America, Inc.**, P. O. Box 499, Poland Spring, Maine 04274; Kristin Gregory, Quality Control Manager. Applicant requests a major permit amendment to replace the existing borehole with a new production borehole at their Poland Spring site in Poland, Maine. Water from this source will be used to bottle their Poland Spring Natural Spring Water and Poland Spring Distilled Water brands to be sold in Pennsylvania.

**Applications 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.**

*Central Office: Division of Municipal and Residual Waste, 14th Floor, Rachel Carson State Office Building, 400 Market St., Harrisburg, PA 17101-2301.*

**General Permit Application No. WMGR041. RecOil, Inc.**, 280 North East Street, York, PA 17403-1292. An application for processing of used oil, used anti-freeze, petroleum contaminated solids and wastewater with recoverable oil.

Comments on the general permit application may be submitted to Ronald C. Hassinger, Chief, General Permits and Beneficial Use Section, Division of Municipal and Residual Waste, P. O. Box 8472, Harrisburg, PA 17105-8472. Persons interested in examining the application may make arrangements by calling the Division of Municipal and Residual Waste at (717) 787-7381. TDD users may contact the Department through the Pennsylvania Relay Service, (800) 654-5984. Arrangements can also be made for persons with disabilities who wish to inspect the application. Public comments must be submitted to the Department within 60 days of the date of this notice and may recommend conditions upon, revisions to, and approval or denial of the application.

**Applications submitted under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and regulations to operate solid waste processing or disposal area or site.**

*Regional Office: Regional Solid Waste Manager, One Ararat Boulevard, Harrisburg, PA 17110.*

**A. 603405. Countryside Pumping Service, S. Dean and Gail K. Stephens**, (R. R. 1, Box 11, Liverpool, PA 17045). Application previously published as Gaylene Enterprises. Amendment to application changing the name of the applicant from Gaylene Enterprises to Countryside Pumping Service for a site located in Liverpool Township,

**Perry County** and Susquehanna Township, **Juniata County**. The amendment was received in the Regional Office January 4, 1996.

**Applications received for operating permits issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations to construct, modify or reactivate air contaminant sources.**

*Regional Office: Southeast Regional Office, Bureau of Air Quality, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.*

The Department intends to issue an air quality operating permit for the air contaminant sources and associated air cleaning devices described below for the specified companies.

Permit: **15-323-001B**  
Source: One Existing Horizontal Grit Blaster  
Company: **Lukens Steel Company**  
Location: Valley Township  
County: **Chester**

**Applications received for operating permits under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations for an operating permit to comply with 25 Pa. Code § 129.91 for Reasonable Available Control Technology.**

*Regional Office: Southeast Regional Office, Bureau of Air Quality, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.*

The Department intends to issue an air quality operating permit for the air contaminant sources and associated air cleaning devices described for:

Permit: **OP-09-0034**  
Source: Facility VOC Sources  
Company: **Penn Protective Coatings Corporation**  
Location: Lower Southampton Township  
County: **Bucks**

**Applications received for operating permits issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015).**

*Regional Office: Southcentral Regional Office, Air Quality Program, One Ararat Boulevard, Harrisburg, PA 17110.*

**36-302-016B.** The Department intends to issue an air quality operating permit to **Wyeth Laboratories, Inc.** (P. O. Box 304, Marietta, PA 17545) for three natural gas/No. 2 oil-fired water tube boilers in East Donegal Township, **Lancaster County**. The source is subject to 40 CFR 60, Subpart Dc, Standards of Performance for New Stationary Sources.

**38-302-056.** The Department intends to issue an air quality operating permit to the **Department of Military and Veterans Affairs** (Fort Indiantown Gap, Annville, PA 17003-5002) for three No. 2 fuel oil-fired boilers in Union Township, **Lebanon County**. The source is subject to 40 CFR 60, Subpart Dc, Standards of Performance for New Stationary Sources.

**Applications under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations to construct, modify or reactivate air contamination sources.**

*Regional Office: Southcentral Regional Office, Air Quality Program, One Ararat Boulevard, Harrisburg, PA 17110.*

**67-329-001.** Installation of four reciprocating engines/generators fueled by landfill gas by **Modern Landfill** (P. O. Box 317, York, PA 17402) in Lower Windsor Township, **York County**.

*Regional Office: Northcentral Regional Office, Bureau of Air Quality, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448.*

**41-302-040B.** Construction of two wood fired boilers and associated air cleaning devices (multiclones) by **Keystone Veneers, Inc.** (P. O. Box 3455, Williamsport, PA 17701) in the City of Williamsport, **Lycoming County**. These boilers are subject to Subpart Dc of the Federal Standards of Performance For New Stationary Sources.

**18-329-006.** Construction of a 165 horsepower natural gas-fired engine by **Eastern States Exploration Company** (P. O. Box 178, Snow Shoe, PA 16874) in Grugan Township, **Clinton County**.

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**Applications received for operating permits issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015).**

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*Regional Office: Northcentral Regional Office, Bureau of Air Quality, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448.*

**17-399-018.** The Department intends to issue an operating permit to **Metaltech, Inc.** (R. D. 1, Box 26, DuBois, PA 15801) for the operation of a metal parts sintering operation in Sandy Township, **Clearfield County**.

**17-318-018A.** The Department intends to issue an operating permit to **Equimeter, Inc.** (P. O. Box 528, DuBois, PA 15801) for the operation of a residential gas meter surface coating operation at plant no. 1 in the city of DuBois, **Clearfield County**.

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**Operating permit applications received under the Air Pollution Control Act (35 P. S. §§ 4001—4015).**

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*Regional Office: Northeast Regional Office, Bureau of Air Quality, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

The Department intends to issue an air quality operating permit for the air contamination sources and associated air cleaning devices described below for the specified companies.

Permit: **40-310-007A**

Source: Secondary Crush and Screen W/Sprays  
Company: **American Ashpalt and Paving Company**  
Location: Jackson Township  
County: **Luzerne**

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**Plan approval applications received under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations to construct, modify or reactivate air contamination sources and associated air cleaning devices.**

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*Regional Office: Northeast Regional Office, Bureau of Air Quality, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

An application for plan approval has been received by this office for the construction, modification or reactiva-

tion of the air contamination sources and associated air cleaning devices described below for the specified companies.

Permit: **35-313-008**

Source: Plastic Film Extruder W/Filters  
Received: January 2, 1996  
Company: **Gentex Corporation**  
Location: Fell Township  
County: **Lackawanna**

Permit: **45-318-026**

Source: Paperboard Rod Coater  
Received: January 4, 1996  
Company: **Rock-Tenn Company**  
Location: Smithfield Township  
County: **Monroe**

Permit: **48-329-001A**

Source: Natural Gas Compressor Station  
Received: January 1, 1996  
Company: **Columbia Gas Transmission Corp.**  
Location: Williams Township  
County: **Northampton**

**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); The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). Mining activity permits issued in response to such applications will also address the applicable permitting requirements of the following statutes: the Air Pollution Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

The following permit applications to conduct mining activities have been received by the Department of Environmental Protection. A copy of the application is available for inspection at the District mining office indicated above each application. Where a 401 water quality certification is needed for any aspect of a particular proposed mining activity, the submittal of the permit application will serve as the request for such certification.

Written comments or objections, or requests for informal conferences on applications, 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 same address within 30 days of this publication, or within 30 days after the last publication of the applicant's newspaper advertisement, as provided by 25 Pa. Code §§ 77.121—77.123 and 86.31—86.34 (relating to public notices of filing of permit applications, opportunity for comment, and informal conferences).

Where any of the mining activities listed below will have discharges of wastewater to streams, the Department will incorporate NPDES permits into the mining activity permits issued in response to these applications. Such NPDES permits will contain, at a minimum, technology-based effluent limitations (as described in the Department's regulations—25 Pa. Code §§ 77.522, 87.102, 88.92, 88.187, 88.242, 89.52 and 90.102) for iron, manganese, suspended solids, settleable solids, alkalinity and pH. In addition to the above, more restrictive effluent limitations, restrictions on discharge volume or restrictions on the extent of mining which may occur will be incorporated into a mining activity permit when neces-

sary for compliance with water quality standards (in accordance with 25 Pa. Code Chs. 93 and 95). Persons or agencies which have requested review of the NPDES permit requirements for a particular mining activity within the above-mentioned public comment period will be provided with a 30-day period to review and submit comments on those requirements.

Written comments or objections should contain the name, address and telephone number of persons submitting comments or objections, application number and a statement of sufficient detail to inform the Department on the basis of comment or objection and relevant facts upon which it is based. Requests for an informal conference must contain the name, address and telephone number of requestor, 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.

*District Mining Operations, 437 South Center Street, P. O. Box 625, Ebensburg, PA 15931-0625.*

*Coal Applications Received*

**17820176. K & J Coal Company, Inc.** (P. O. Box 189, Westover, PA 16692), permit revision to modify the 138.2 acre surface mine permit to include the land application of sewage sludge in Chest Township, **Clearfield County**, receiving stream unnamed tributaries to Chest Creek to west branch of Susquehanna River, application received January 4, 1996.

**11960101. Cloe Mining Company, Inc.** (P. O. Box 247, Barnesboro, PA 15714), commencement, operation and restoration of bituminous strip mine in Reade Township, **Cambria County**, affecting 107.0 acres, receiving stream unnamed tributaries to Muddy Run, Muddy Run, application received January 5, 1996.

*District Mining Operations, R. D. 2, Box 603-C, Greensburg, PA 15601.*

**65920104(T). Mehlic Brothers** (R. D. 1, Box 296, Latrobe, PA 15650). Application received to transfer a surface mining permit, currently issued to Amerikohl Mining, Inc., for a bituminous surface mine located in Mt. Pleasant Township, **Westmoreland County**, affecting 100 acres. Receiving streams unnamed tributaries to Welty Run to Welty Run to Sewickley Creek to the Youghiogheny River. Application received December 13, 1995.

**04890101. Kerry Coal Company** (R. D. 2, Box 19, Portersville, PA 16051). Application for a variance to operate a strip mine within 100 feet of the outside line of the right-of-way on the east side of State Route 4009. The existing surface mining operation is located in South Beaver Township, **Beaver County**, affecting 186.0 acres. Receiving streams unnamed tributary to Brush Run. Application received December 15, 1995.

**65840117(T). M. B. Energy, Inc.** (P. O. Box 1319, Indiana, PA 15701). Application received to transfer a surface mining permit, currently issued to Latimer Construction Company, Inc., for a bituminous surface mine located in Salem Township, **Westmoreland County**, affecting 134.45 acres. Receiving streams unnamed tributaries to Beaver Run Reservoir. Application received December 14, 1995.

**63850111(T). Twilight Industries, Division of U. S. Natural Resources, Inc.** (212 State Street, Belle Vernon, PA 15012). Application received to transfer a surface mining permit, currently issued to Joseph

Rostosky Coal Co., for a bituminous surface mine located in Somerset Township, **Washington County**, affecting 29.5 acres. Receiving streams unnamed tributary to north branch of Pigeon Creek to Pigeon Creek to the Monongahela River. Application received December 15, 1995.

**65850102(T). V. P. Smith Company, Inc.** (P. O. Box 242, Ligonier, PA 15658). Application received to transfer a surface mining permit, currently issued to Victor P. Smith, for a bituminous surface mine located in Derry Township, **Westmoreland County**, affecting 182 acres. Receiving streams unnamed tributary to McGee Run to Conemaugh River. Application received December 22, 1995.

**03950113. Seven Sisters Mining Co., Inc.** (U. S. Route 22, Delmont, PA 15626). Application received for commencement, operation and reclamation of a bituminous surface mine coal preparation plant/processing facility located in Burrell and South Bend Townships, **Armstrong County**, proposed to affect 93.0 acres. Receiving streams Crooked Creek to Allegheny River. Application received December 22, 1995.

**65960101. Amerikohl Mining, Inc.** (202 Sunset Drive, Butler, PA 16001). Application received for commencement, operation and restoration of a bituminous surface mine located in Derry Township, **Westmoreland County**, proposed to affect 9.5 acres. Receiving streams Union Run to Loyalhanna Creek to Kiskiminetas River. Application received January 9, 1996.

*Hawk Run District Office, P. O. Box 209, Hawk Run, PA 16840.*

**17850133. Hepburnia Coal Company** (P. O. Box I, Grampian, PA 16838), renewal of an existing bituminous surface mine-auger permit in Greenwood Township, **Clearfield County** affecting 147.7 acres, receiving streams unnamed tributaries of McCracken Run to McCracken Run to west branch of Susquehanna River, application received December 18, 1995.

**17950119. Moravian Run Reclamation Co., Inc.** (605 Sheridan Drive, Clearfield, PA 16830), commencement, operation and restoration of a bituminous surface mine-auger permit in Pike Township, **Clearfield County** affecting 168 acres, receiving streams unnamed tributaries of Little Clearfield Creek, application received December 21, 1995.

**17950120. Waroquier Coal Company** (P. O. Box 128, Clearfield, PA 16830), commencement, operation and restoration of a bituminous surface mine permit in Goshen Township, **Clearfield County** affecting 173.5 acres, receiving streams Bloody Run and unnamed tributaries to Trout Run, application received December 27, 1995.

**17900117. E. M. Brown, Inc.** (P. O. Box 767, Clearfield, PA 16830), renewal of an existing bituminous surface mine permit in Cooper Township, **Clearfield County** affecting 11.3 acres, receiving streams Crawford Run to Moshannon Creek, Moshannon Creek to west branch Susquehanna River, application received December 20, 1995.

**17840135. Al Hamilton Contracting Company** (R. D. 1, Box 87, Woodland, PA 16881), renewal of an existing bituminous surface mine permit in Bradford Township, **Clearfield County** affecting 87.6 acres, receiving streams Millstone Run; unnamed tributaries of Moravian Run and west branch Susquehanna River; unnamed tributaries of Moravian Run, Moravian Run, all

listed streams to west branch Susquehanna River, application received December 21, 1995.

**17820151. Junior Coal Contracting, Inc.** (R. D. 3, Box 225-A, Philipsburg, PA 16866), renewal of an existing bituminous surface mine permit in Bradford Township, **Clearfield County** affecting 250.2 acres, receiving streams Millstone and Valley Fork Run, to west branch Susquehanna River, application received December 26, 1995.

**17813091. Sky Haven Coal, Inc.** (R. D. 1, Box 180, Penfield, PA 15849), revision to an existing bituminous surface mine permit to add a new source of Beneficial Use Ash, Graham Township, **Clearfield County**, receiving streams two unnamed tributaries to, and Alder Run to west branch Susquehanna River, application received December 27, 1995.

**17820104. Sky Haven Coal, Inc.** (R. D. 1, Box 180, Penfield, PA 15849), revision to an existing bituminous surface mine permit to add a new source of Beneficial Use Ash, Boggs and Bradford Townships, **Clearfield County**, receiving streams Lon Run and an unnamed tributary to Clearfield Creek to west branch Susquehanna River, application received December 27, 1995.

**17850143. Sky Haven Coal, Inc.** (R. D. 1, Box 180, Penfield, PA 15849), renewal of an existing bituminous surface mine permit in Lawrence Township, **Clearfield County** affecting 148.7 acres, receiving streams Wolf Run and west branch Susquehanna River, Wolf Run to west branch Susquehanna River, application received December 27, 1995.

**17890105. Al Hamilton Contracting Company** (R. D. 1, Box 87, Woodland, PA 16881), renewal of an existing bituminous surface mine permit in Decatur Township, **Clearfield County** affecting 52 acres, receiving streams to unnamed tributaries of Morgan Run to Morgan Run to Clearfield Creek, application received January 4, 1996.

**17910103. Al Hamilton Contracting Company** (R. D. 1, Box 87, Woodland, PA 16881), renewal of an existing bituminous surface mine-auger permit in Jordan and Knox Townships, **Clearfield County** affecting 87.0 acres, receiving streams Potts Run, an unnamed tributary of Potts Run, and McNeel Run, application received January 4, 1996.

**17900145. L. T. Contracting, Inc.** (P. O. Box 147, West Decatur, PA 16878), renewal of an existing bituminous surface mine permit in Cooper and Morris Township, **Clearfield County** affecting 22.5 acres, receiving streams two unnamed tributaries to Moshannon Creek, application received January 9, 1996.

*District Mining Operations, P. O. Box 669, Knox, PA 16232.*

**33950109. Original Fuels, Inc.** (P. O. Box 343, Punxsutawney, PA 15767). Commencement, operation and restoration of a bituminous strip and auger operation in Beaver Township, **Jefferson County** affecting 110.5 acres. Receiving streams Red Run, Tarkiln Run and two unnamed tributaries to Tarkiln Run. Application received December 27, 1995.

**16940104. Cookport Coal Company, Inc.** (425 Market Street, Kittanning, PA 16201). Transfer of an existing bituminous surface strip operation in Toby Township, **Clarion County** affecting 28.4 acres. Receiving streams an unnamed tributary to Cherry Run. Transfer from Crispen Contracting Co. Application received January 2, 1996.

**24960101. Energy Resources, Inc.** (P. O. Box 259, Brockway, PA 15824). Commencement, operation and restoration of a bituminous surface strip and auger operation in Horton Township, **Elk County** affecting 321.0 acres. Receiving streams unnamed tributaries to Mead Run and Mead Run. Application received January 3, 1996.

**102327-24960101-E-1. Energy Resources, Inc.** (P. O. Box 259, Brockway, PA 15824). Application for a stream encroachment to construct a crossing across unnamed tributary "A" to Mead Run in Horton Township, **Elk County** for the purpose of access to the mine site. Application received January 3, 1996.

**102327-24960101-E-2. Energy Resources, Inc.** (P. O. Box 259, Brockway, PA 15824). Application for a stream encroachment to construct a crossing across and to place erosion and sedimentation control facilities within 100 feet of unnamed tributary "E" to Mead Run for the purpose of access to the mine site and for maximum coal removal. Application received January 3, 1996.

**102327-24960101-E-3. Energy Resources, Inc.** (P. O. Box 259, Brockway, PA 15824). Application for a stream encroachment to mine through unnamed tributary "F" to Mead Run for the purpose of maximum coal removal. Application received January 3, 1996.

**37850117. Ambrosia Coal & Construction Company** (R. D. 1, Box 422, Edinburg, PA 16116). Renewal of an existing bituminous surface strip and auger operation in Mahoning Township, **Lawrence County** affecting 110.0 acres. Receiving streams unnamed tributaries to the Shenango River. Application for reclamation only. Application received January 11, 1996.

**24890108. Energy Resources, Inc.** (P. O. Box 259, Brockway, PA 15824). Renewal of an existing bituminous surface strip, auger and beneficial use of lime mud operation in Horton Township, **Elk County** affecting 695.0 acres. Receiving streams three unnamed tributaries to Mead Run and Mead Run. Application for reclamation only. Application received January 12, 1996.

*Mineral Resources Management—District Mining, Pottsville District Office, 5 West Laurel Boulevard, Pottsville, PA 17901-2454.*

**54851601R2. Superior Preparation Co., Inc.** (R. D. 1, Box 114, Hegins, PA 17938), renewal of an anthracite coal preparation plant operation in Hegins and Hubley Townships, **Schuylkill County** affecting 19.0 acres, receiving stream none. Application received January 11, 1996.

*Hawk Run District Office, P. O. Box 209, Hawk Run, PA 16840.*

*Large Noncoal Applications Received*

**1474301. Bellefonte Lime Co., Inc.** (P. O. Box 448, Bellefonte, PA 16823), transfer of an existing Deep Mine Permit from Bellefonte Lime Co., Inc., Spring Township, **Centre County** affecting 956.6 acres, receiving streams Logan Branch and Nittany Creek to Spring Creek to Bald Eagle Creek to Susquehanna River, application received January 3, 1996.

*District Mining Operations, P. O. Box 669, Knox, PA 16232.*

*Noncoal Applications Received*

**37910305. G. L. McKnight, Inc.** (R. D. 2, Slippery Rock, PA 16057). Revision to an existing sand and gravel operation in Plain Grove Township, **Lawrence County** affecting 103.0 acres. Receiving stream: there is no



discharge. Revision to include a post-mining landuse change from "cropland" to "unmanaged water impoundment" on the lands of Wayne A. Reese. Application received January 4, 1996.

**37960301. Atlantic States Limestone of PA, Inc.** (P. O. Box 348, Sewickley, PA 15143). Commencement, operation and restoration of a limestone operation in North Beaver Township, **Lawrence County** affecting 245.0 acres. Receiving streams unnamed tributary to Mahoning River; unnamed tributary to Hickory Run and Hickory Run. Application received January 9, 1996.

*Mineral Resources Management—District Mining, Pottsville District Office, 5 West Laurel Boulevard, Pottsville, PA 17901-2454.*

**0179301A1C. Wilson C. Clapsaddle** (1790 Baltimore Pike, Gettysburg, PA 17325), renewal of NPDES Permit #PA0122297 in Mt. Joy Township, **Adams County**, receiving stream unnamed tributary to Rock Creek. Application received January 4, 1996.

The following permit applications and requests for Environmental Assessment approval and requests for water quality certification have been received by the Department of Environmental Protection.

In addition to permit applications, the Bureau of Dams, Waterways and Wetlands (BDWW) and the Regional Office Soils and Waterways Sections have assumed primary responsibility for processing requests for certification under section 401 of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)), for projects requiring both a Dam Safety and Encroachments Permit, and a United States Army Corps of Engineers (ACOE) permit. Section 401(a) of the Federal Water Pollution Control Act requires the State to certify that the involved projects will not violate the applicable provisions of 33 U.S.C.A. §§ 1301—1303, 1306 and 1307, as well as relevant State requirements. Initial requests for 401 certification will be published concurrently with the BDWW permit application. Persons objecting to approval of a request for certification under section 401 or to the issuance of a Dam Safety or Encroachment Permit, or the approval of Environmental Assessments must submit any comments, suggestions or objections within 30 days of the date of this notice as well as any questions to the Bureau or Field Office indicated as the responsible office.

**Applications filed under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27) and section 302 of the Flood Plain Management Act (32 P. S. § 679.302) and requests for certification under section 401 of the Federal Water Pollution Control Act.**

*Bureau of Dams, Waterways and Wetlands, P. O. Box 8554, Harrisburg, PA 17105-8554, telephone (717) 783-1384.*

The following Environmental Assessment and request for Water Quality Certification are being processed under section 105.12(a)(16) and 105.15(b), restoration activities undertaken and conducted under a restoration plan approved by the Department.

**Environmental Assessment No. EA14-002CO. Camp 407 Hunting Club**, 2777A Charlestown Road, Lancaster, PA 17603. To breach and abandon the Camp 407 Hunting Club Dam for the purpose of restoring a tributary to Moshannon Creek (CWF) to a free-flowing condition located approximately 5 miles southwest of

Moshannon (Black Moshannon, PA Quadrangle N: 19.90 inches; W: 8.15 inches) in Rush Township, **Centre County**.

**Applications received under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27) and section 302 of the Flood Plain Management Act (32 P. S. § 679.302) and requests for certification under section 401 of the Federal Water Pollution Control Act.**

*Northwest Regional Office: Regional Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481, telephone (814) 332-6942.*

**E10-230. Encroachment. St. John Lutheran Care Center**, 500 Wittenberg Way, Mars, PA 16046. To maintain a 6-foot high by 19-foot wide corrugated metal arch bridge across a tributary to Breakneck Creek (WWF) to provide access to St. John Lutheran Care Center in Mars, PA. Project is located approximately 1,600 feet northeast of the intersection of SR 0228 and SR 3019 (Pittsburgh Street) (Mars, PA Quadrangle N: 12.6 inches; W: 2.0 inches), in Mars Borough, **Butler County**.

**E43-246. Encroachment. Rodney B. McClelland**, 101 Beaver Street, Mercer, PA 16137. To construct and maintain a 4-story motel within the regulated left floodway and with a portion of the structure enclosing approximately 120 feet of the channel of a tributary to Neshannock Creek (Scollard Run) approximately 200 feet downstream of Falls Road (T-335) adjoining State Game Lands No. 284 (Mercer, PA Quadrangle N: 3.5 inches; W: 12.75 inches), in Springfield Township, **Mercer County**.

*Northcentral Region: Water Management, Soils and Waterways Section, F. Alan Sever, Chief, 208 West Third St., Suite 101, Williamsport, PA 17701.*

**E41-355. Encroachment. Muncy Creek Township Supervisors**, P. O. Box 336, Muncy, PA 17756. To construct and maintain a wastewater pumping station in the floodway of the west branch Susquehanna River, a WWF stream. This project will have no stream or wetland impacts and is located off Pepper Street about 0.25 mile west of its intersection with Railroad Street (Muncy, PA Quadrangle N: 13.0 inches; W: 7.0 inches) in Muncy Creek Township, **Lycoming County**.

**E59-319. Encroachment. Pine Hill, Inc.**, P. O. Box 62, Blossburg, PA 16912-0062. To place and maintain fill in a 0.02 acre isolated palustrine emergent wetland in order to construct a proposed disposal area as part of an existing residual waste landfill. The project will result in de minimus wetland impacts of less than 0.05 acre and therefore, replacement will not be required. The project is located approximately 1.2 miles east of the Village of Morris Run (Gleason, PA Quadrangle N: 9.0 inches; W: 16.6 inches) in Ward Township, **Tioga County**.

**E59-317. Encroachment. NE Hub Partners, L. P.**, 2 Riverbend at Lansdowne, 44084 Riverside Parkway, Suite 340, Leesburg, VA 22075. To construct and maintain a freshwater pumping station approximately 45 feet by 70 feet with an 8 foot by 4 foot rectangular intake 300 feet long within the floodway of Baldwin Creek, WWF, and the Cowanesque Reservoir for the purpose of supplying water to a gas storage facility which will permanently impact .27 acre of PFO wetlands (Tioga, PA Quadrangle N: 15.5 inches; W: 8.9 inches) in Lawrence Township, **Tioga County**. Also, to construct and maintain a railcar loading station in the floodways of three unnamed tributaries to Crooked Creek, WWF, (Tioga, PA Quadrangle N: 7.6 inches; W: 1.9 inches) in Tioga Township, **Tioga**

**County.** This project will also involve temporary impacts on 28.59 acres of wetlands located throughout Farmington, Tioga, Middlebury and Delmar Townships. Total estimated stream disturbance is approximately 1,500 feet.

*Northeast Regional Office: Regional Soils and Waterways Section, 2 Public Square, Wilkes-Barre, PA 18711-0790, telephone (717) 826-5485.*

**E39-304. Encroachment. Pitcairn Properties Healthcare Group, Inc.,** One Pitcairn Place, 165 Township Line Road, Jenkintown, PA 19046. To construct and maintain a 30-inch C.P.P.P. stormwater outfall structure along the left bank of the Little Lehigh Creek (HQ-CWF) for the construction of a healthcare facility. The project is located approximately 0.5 mile southeast of the intersection of S. R. 0309 and S. R. 0029 (Allentown West, PA Quadrangle N: 11.8 inches; W: 1.3 inches) in Salisbury Township, **Lehigh County** (Philadelphia District, Army Corps of Engineers).

## ACTIONS

The Department of Environmental Protection has taken the following actions on previously received permit applications and requests for plan approval and has issued the following significant orders.

Any person aggrieved by this action may appeal, 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 the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel

Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Board through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Environmental Hearing Board within 30 days of receipt of written notice of this action unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

## Actions under The Clean Streams Law (35 P. S. §§ 691.1—691.1001).

### Permits Issued

*Southwest Regional Office: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, telephone (412) 442-4000.*

**NPDES Permit No. PA0006254.** Industrial waste. **ARCO Chemical Company**, 3801 West Chester Pike, Newton Square, PA 19073.

This notice reflects changes from the notice published in the August 26, 1995 *Pennsylvania Bulletin*.

### Outfall 001

Deleted limits for TOC

*Outfall 002:* existing discharge, average flow of 3.0 mgd.

Parameter	Mass (lb/day)		Concentration (mg/l)		Instantaneous Maximum
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	
Chromium	12.13	30.3	1.11	2.77	
Copper			0.083	0.166	
Lead	3.50	7.5	0.32	0.69	
Nickel	18.5	43.5	1.69	3.98	
Total cyanide	4.6	13.1	0.42	1.20	
Zinc			0.48	0.96	
2-Chlorophenol	0.34	1.07	0.031	0.098	
2,4-Dichlorophenol	0.43	1.22	0.039	0.112	
2,4-Dimethylphenol	0.20	0.39	0.018	0.036	
4,6-Dinitro-O-Cresol	0.85	3.03	0.078	0.277	
2,4-Dinitrophenol	0.78	1.34	0.071	0.123	
2-Nitrophenol	0.45	0.75	0.041	0.069	
4-Nitrophenol	0.79	1.35	0.072	0.124	
Phenol	0.16	0.28	0.015	0.026	
Acrylonitrile	1.05	2.64	0.096	0.242	
Benzene	0.40	1.49	0.037	0.136	
Carbon tetrachloride	0.20	0.42	0.018	0.038	
Chlorobenzene	0.16	0.31	0.015	0.028	
Chloroethane	1.14	2.92	0.104	0.268	
Chloroform	0.23	0.50	0.021	0.046	
1,1-Dichloroethane	0.24	0.64	0.022	0.059	
1,2-Dichloroethane	0.74	2.31	0.068	0.211	

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
1,1-Dichloroethylene	0.17	0.27	0.016	0.025	
1,2-Dichloropropane	1.7	2.5	0.153	0.230	
1,3-Dichloropropylene	0.32	0.48	0.029	0.044	
Ethylbenzene	0.35	1.18	0.032	0.108	
Methyl Chloride	0.94	2.1	0.086	0.190	
Methylene Chloride	0.43	0.97	0.04	0.089	
Tetrachloroethylene	0.24	0.61	0.022	0.056	
Toluene	0.28	0.87	0.026	0.080	
1,2-trans-Dichloroethylene	0.23	0.59	0.021	0.054	
1,1,1-trichloroethane	0.23	0.59	0.021	0.054	
1,1,2-trichloroethane	0.23	0.59	0.021	0.054	
Trichloroethylene	0.23	0.59	0.021	0.054	
Vinyl Chloride			0.086	0.172	
Acenaphthene	0.24	0.64	0.022	0.059	
Acenaphthylene	0.24	0.64	0.022	0.059	
Anthracene	0.24	0.64	0.022	0.059	
Benzo(a)Anthracene			0.013	0.026	
Benzo(a)Pyrene			0.013	0.026	
3,4-Benzofluoranthene			0.013	0.026	
Benzo(k)Fluoranthene			0.013	0.026	
Bis(2-Ethylhexyl) Phthalate	1.13	3.05	0.103	0.279	
Chrysene			0.013	0.026	
1,2-Dichlorobenzene	0.84	1.78	0.077	0.163	
1,3-Dichlorobenzene	0.39	0.48	0.031	0.044	
1,4-Dichlorobenzene	0.16	0.31	0.015	0.028	
Diethyl Phthalate	0.88	2.22	0.081	0.203	
Dimethyl Phthalate	0.21	0.51	0.019	0.047	
Di-N-Butyl Phthalate	0.29	0.62	0.027	0.057	
2,4-Dinitrotoluene	1.23	3.1	0.113	0.285	
2,6-Dinitrotoluene	2.79	7.0	0.255	0.641	
Fluoranthene	0.273	0.74	0.025	0.068	
Fluorene	0.24	0.64	0.022	0.059	
Hexachlorobenzene			0.0031	0.0062	
Hexachlorobutadiene	0.22	0.53	0.020	0.049	
Hexachloroethane	0.23	0.59	0.021	0.054	
Naphthalene	0.24	0.64	0.022	0.059	
Nitrobenzene	0.29	0.74	0.027	0.068	
Phenanthrene	0.24	0.64	0.022	0.059	
Pyrene	0.27	0.73	0.025	0.067	
1,2,4-Trichlorobenzene	0.74	1.53	0.068	0.140	
Styrene			monitor only		
BOD <sub>5</sub> *	561	1,469	22	58	
TSS*	1,158	3,734	46	150	
Dissolved Oxygen	5.0 mg/l minimum				
Total Residual Chlorine			0.5	1.25	

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
pH	6.0—9.0				

\* Influent sampling (at the inlet pond) is included in the permit.

**NPDES Permit No. PA0006254.** Industrial waste. **ARCO Chemical Company**, 3801 West Chester Pike, Newton Square, PA 19073 is authorized to discharge from a facility located at 400 Frankfort Road (Beaver Valley Plant), Monaca, PA 15061, Potter Township, **Beaver County** to Outfalls 001, 003, 023, 024 and 101—Ohio River and Outfalls 002, 102, 020, 021 and 022—Raccoon Creek.

**NPDES Permit No. PA0204935.** Industrial waste. **New Enterprise Stone & Lime Company, Inc.**, P. O. Box 77, New Enterprise, PA 16664 is authorized to discharge from a facility located at Ebensburg Batch Plant, Cambria Township, **Cambria County** to unnamed tributary of South Branch Blacklick Creek.

**NPDES Permit No. PA0042561.** Sewage. **Upper Stonycreek Joint Municipal Authority**, P. O. Box 24, Hooversville, PA 15936 is authorized to discharge from a facility located at Upper Stonycreek Joint Municipal Authority STP, Quemahoning Township, **Somerset County** to Stony Creek.

**NPDES Permit No. PA0093611.** Sewage. **Elias and Gregory Gabriel**, 1099 East Pittsburgh Street, Route 30 East and Nature Drive, Greensburg, PA 15601 is authorized to discharge from a facility located at Gabriel Plaza STP, Bullsken Township, **Fayette County** to drainage swale to Irish Run.

**NPDES Permit No. PA0204498.** Sewage. **Marion Center Area School District**, P. O. Box 156, Marion Center, PA 15759 is authorized to discharge from a facility located at Rayne Township Elementary School STP, Rayne Township, **Indiana County** to unnamed tributary of Crooked Creek.

**Industrial waste and sewage applications under The Clean Streams Law (35 P. S. §§ 691.1—691.1001).**

*Permits Issued*

*Southcentral Regional Office: Regional Water Management Program Manager, One Ararat Boulevard, Harrisburg, PA 17110, telephone (717) 657-4590.*

**NPDES Permit No. PAG043529.** Sewerage. **Carl Michael**, R. D. 2, Box 628, Everett, PA 15537 is authorized to discharge to UNT of the Raystown Branch of the Juniata River.

**NPDES Permit No. PA0023442.** Sewerage. **Wrightsville Borough Municipal Authority**, 129 South Second Street, P. O. Box 187, Wrightsville, PA 17368 is authorized to discharge from a facility located in Wrightsville Borough, **York County** to the receiving waters named Susquehanna River.

**NPDES Permit No. PA0027014.** Sewerage. **Altoona City Authority**, 20 Greenwood Road, Altoona, PA 16602 is authorized to discharge from a facility located in Logan Township, **Blair County** to the receiving waters named Little Juniata River.

**NPDES Permit No. PA0081434.** Sewerage. **Countryside Mobile Homes**, 84 Dew Drop Road, York, PA 17403

is authorized to discharge from a facility located in North Codorus Township, **York County** to the receiving waters named South Branch Codorus Creek.

**NPDES Permit No. PA0007897.** Industrial waste and groundwater clean-up. **BP Oil Company**, 200 Public Square, Cleveland, OH 44114-2375 is authorized to discharge from a facility located in Monroe Township, **Cumberland County** to the receiving waters named Trindle Spring Run.

**NPDES Permit No. PA0087084.** Industrial waste. **Kuhn Transportation Co., Inc.**, 1670 York Road, Gettysburg, PA 17325 is authorized to discharge from a facility located in Straban Township, **Adams County** to the receiving waters of an unnamed tributary of Rock Creek.

**NPDES Permit No. PA0086487.** Industrial waste. **PPG Industries, Inc.**, 400 Park Drive, Carlisle, PA 17013 is authorized to discharge from a facility located in South Middleton Township, **Cumberland County** to receiving waters named drainage ditch to Yellow Breeches Creek.

**NPDES Permit No. PAG043525.** Sewerage. **Clair Bennett Glass**, R. D. 1, Box 646A, Claysburg, PA 16625 is authorized to discharge from a facility located in Kimmell Township, **Bedford County** to receiving waters named Beaverdam Creek.

**NPDES Permit No. PA0027596.** Industrial waste. **New Enterprise Stone and Lime Co., Inc.**, P. O. Box 77, New Enterprise, PA 16664 is authorized to discharge from a facility located in Taylor Township, **Blair County** to the receiving waters named Halter Creek.

**NPDES Permit No. PA0026484.** Sewerage. **Derry Township Municipal Authority**, P. O. Box 447, Hershey, PA 17033-0447 is authorized to discharge from a facility located in Derry Township, **Dauphin County** to the receiving waters named Swatara Creek.

**NPDES Permit No. PA0087092.** Groundwater Clean-Up. **Martin Limestone, Inc.**, P. O. Box 155, Blue Ball, PA 17506 is authorized to discharge from a facility located in Salisbury Township, **Lancaster County** to the receiving waters of an unnamed tributary to the Pequea Creek.

**NPDES Permit No. PA0081272.** Industrial waste. **Redco Corporation**, P. O. Box 110, Red Lion, PA 17356 is authorized to discharge from a facility located in Red Lion Borough, **York County** to the receiving waters named Fishing Creek by swale.

**NPDES Permit No. PA0087114.** Sewerage. **Glen Campbell**, 103 Warrington Road, Dillsburg, PA 17019 is authorized to discharge from a facility located in Carroll Township, **York County** to the receiving waters of an unnamed tributary of Stoney Run.

**NPDES Permit No. PA0085316.** Sewerage. **Fort Heritage, LTD**, 1960 Emmitsburg Road, Gettysburg, PA 17325 is authorized to discharge from a facility located in Cumberland Township, **Adams County** to the receiving water named Marsh Creek.

**NPDES Permit No. PA0028746.** Sewerage. **Hampden Township**, 230 South Sporting Hill Road, Mechanicsburg, PA 17055 is authorized to discharge from a facility located in Hampden Township, **Cumberland County** to the receiving waters named Conodoguinet Creek.

**NPDES Permit No. PA0027189.** Sewerage. **Lower Allen Township Authority**, 120 Limekiln Road, New Cumberland, PA 17070 is authorized to discharge from a facility located in Fairview Township, **York County** to the receiving waters named Susquehanna River.

**NPDES Permit No. PA0009776.** Industrial waste. **The Pfaltzgraff Company**, 1857 West King Street, York, PA 17404 is authorized to discharge from a facility located in West York Borough, **York County** to the receiving waters of an unnamed tributary to Codorus Creek.

**NPDES Permit No. PA0082465.** Sewerage. **United Methodist Church**, 900 South Arlington Avenue, Harrisburg, PA 17109 is authorized to discharge from a facility located in Quincy Township, **Franklin County** to the receiving waters named Trucker Run.

**NPDES Permit No. PA0032883.** Sewerage. Amendment No. 1. **Borough of Duncannon**, P. O. Box 205, 1146 Third Avenue, Duncansville, PA 16635 is authorized to discharge from a facility located in Allegheny Township, **Blair County** to the receiving waters named Blair Gap Run.

**NPDES Permit No. PA0009733.** Industrial waste. Amendment 95-1. **PECO Energy Company**, 2301 Market Street, s21-2, P. O. Box 8699, York, PA 19101-8699 is authorized to discharge from a facility located in Peach Bottom Township, **York County** to the receiving waters named Susquehanna River.

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**Actions under The Clean Streams Law (35 P. S. §§ 691.1—691.1001).**

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*Permits Issued*

*Southeast Regional Office: Regional Water Management Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428-2233, telephone (215) 832-6130.*

**NPDES Permit No. PA0028584.** Sewerage. **West Goshen Sewer Authority**, 1025 Paoli Pike, West Chester, PA 19380 is authorized to discharge from a facility located in West Goshen Township, **Chester County** to Goose Creek into the East Branch Chester Creek.

**NPDES Permit No. PA0056502.** Industrial waste. **Transit America, Inc.**, One Red Lion Road, Philadelphia, PA 19115 is authorized to discharge from a facility located in the City of Philadelphia, **Philadelphia County** to an unnamed tributary of Huntington Valley Creek and Pennypack Creek.

**NPDES Permit No. PA0053937.** Sewerage. **Ralph and Gayla Johnson**, 1021 Copeland School Road, West Chester, PA 19380 is authorized to discharge from a facility located in East Bradford Township, **Chester County** to Broad Run Creek.

**NPDES Permit No. PA0025976.** Sewerage. **Upper Moreland-Hatboro Joint Sewer Authority**, P. O. Box 535, Willow Grove, PA 19090-0535 is authorized to discharge from a facility located in Upper Moreland Town-

ship, **Montgomery County** to Pennypack Creek and an unnamed tributary to Pennypack Creek.

*Northwest Regional Office: Regional Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335, telephone (814) 332-6942.*

**NPDES Permit No. PA 0103446.** Industrial waste, **Homestand Land Corporation**, Greentree Landfill, 635 Toby Road, Kersey, PA 15846 is authorized to discharge from a facility located in Fox Township, **Elk County** to Little Toby Creek.

**NPDES Permit No. PA 0033201.** Sewage, **Warren County School District**, Lander Elementary School, 185 Hospital Drive, North Warren, PA 16365-4885 is authorized to discharge from a facility located in Farmington Township, **Warren County**, to an unnamed tributary to Kiatone Creek.

**NPDES Permit No. PA 0101087.** Sewage, **Twilight Mobile Home Park**, Norman J. Cutri, 1324 South Shore Drive #601, Erie, PA 16505-2536 is authorized to discharge from a facility located in Mahoning Township, **Lawrence County** to an unnamed tributary to the Shenango River.

**NPDES Permit No. PA 0104469.** Sewage, **Kasgro Rail Corporation**, 320 East Cherry Street, New Castle, PA 16102 is authorized to discharge from a facility located in Taylor Township, **Lawrence County** to the Shenango River.

**NPDES Permit No. PA 0102580.** Sewage, **Baxter Mobile Home Park**, R. D. 5, Butler, PA 16001 is authorized to discharge from a facility located in Center Township, **Butler County** to an unnamed tributary to Stoney Run.

**NPDES Permit No. PA 0102962.** Sewage, **Sugar Grove American Legion Home Corporation**, P. O. Box 386, Sugar Grove, PA 16350 is authorized to discharge from a facility located in Sugar Grove Township, **Warren County** to an unnamed tributary to Stillwater Creek.

**NPDES Permit No. PAS 228301.** Industrial waste, **International Paper**, Kane Woodyard, 9 Green Street, Augusta, Maine 04330 is authorized to discharge from a facility located in Wetmore Township, **McKean County** to West Run.

The Department of Environmental Protection 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 (33 U.S.C.A. § 1341(a)).

These actions of the Department may be appealed 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, by any aggrieved person under The Environmental Hearing Board Act (35 P. S. § 7514); 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law). Appeals must be filed with the Environmental Hearing Board within 30 days from the date of this issue of the *Pennsylvania Bulletin* unless the appropriate statute provides a different time period. Copies of the appeal form and the Department's regulations governing practice and procedure before the Board may be obtained from the Board.

**List of NPDES General Permits Issued by DEP'S  
Water Management Deputate**

<i>General Permit No.</i>	<i>Short Title of General Permit</i>	<i>Responsible Bureau</i>
1	Stormwater—Construction Activities	BLWC
2	Stormwater—Industrial Activities	BWQM
3	Single Residence Sewage Treatment Plant	BWQM
4	Combined Sewer Overflows	BWQM

*Northeast Regional Office: Regional Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, telephone (717) 826-2511.*

**NOI Received and Final Actions Under NPDES General Permits**

Coverage under the General Permits issued under the for National Pollutant Discharge Elimination System (NPDES) Permit Program to discharge wastewaters to waters of the Commonwealth.

<i>NPDES No.</i>	<i>Applicable GP No.</i>	<i>Facility Name and Address</i>	<i>Facility Location</i>	<i>Stream Name</i>	<i>SIC</i>
PAR-802226	2	Schwerman Trucking Co. P. O. Box 736 Milwaukee, WI 53201-0736 Northampton Terminal	Northampton Northampton Boro.	Hokendaqua Creek	4231
PAR-212218	2	Glen-Gery Corp. P. O. Box 7001 Wyomissing, PA 19610-6001 (Lehigh Valley Block)	Lehigh Hanover Twp.	Unnamed Tributary to Catasqua Creek	3271

**Notices of Intent for Coverage Under NPDES General Permit for Construction Activities and Department Final Actions**

*Allegheny County Conservation District: District Manager, 875 Greentree Road, Pittsburgh, PA 15220-3501, telephone (412) 921-1999.*

*Berks County Conservation District: District Manager, P. O. Box 520, Ag. Center, Leesport, PA 19533-0520, telephone (610) 372-4657.*

*Bucks County Conservation District: District Manager, 924 Town Center, New Britain, PA 18901-5182, telephone (215) 345-7577.*

*Butler County Conservation District: District Manager, 122 McCune Drive, Butler, PA 16001-6501, telephone (412) 284-5270.*

*Chester County Conservation District: District Manager, Government Services Center, Ste. 395, 601 Westtown Road, West Chester, PA 19382-4519, telephone (610) 696-5126.*

*Cumberland County Conservation District: District Manager, 43 Brookwood Avenue, Ste. 4, Carlisle, PA 17013-9172, telephone (717) 249-8632.*

*Erie County Conservation District: District Manager, 12723 Route 19, P. O. Box 801, Waterford, PA 16441, telephone (814) 796-4203.*

*Franklin County Conservation District: District Manager, 550 Cleveland Avenue, Chambersburg, PA 17201, telephone (717) 264-8074.*

*Indiana County Conservation District: District Manager, Ag. Service Ctr., 251 Rt. 286 N., Indiana, PA 15701, telephone (412) 463-7702.*

*Lancaster County Conservation District: District Manager, Rm. 6, Farm and Home Ctr., 1383 Arcadia Road, Lancaster, PA 17601, telephone (717) 299-5361.*

*Lebanon County Conservation District: District Manager, Ste. 5, 2120 Cornwall Road, Lebanon, PA 17042-9788, telephone (717) 272-3377.*

*Luzerne County Conservation District: District Manager, 5 Water Street, Wilkes-Barre, PA 18711, telephone (717) 825-1844.*

*Montgomery County Conservation District: District Manager, 1015 Bridge Road, Ste. B, Collegetown, PA 19426, telephone (610) 489-4506.*

*Schuylkill County Conservation District: District Manager, 1206 Ag. Center Drive, Pottsville, PA 17901, telephone (717) 622-3742.*

*Somerset County Conservation District: District Manager, 1590 North Center Avenue, Ste. 103, Somerset, PA 15501-7000, telephone (814) 445-4652.*

*York County Conservation District: District Manager, 118 Pleasant Acres Road, York, PA 17402, telephone (717) 840-7430.*

The following parties have submitted Notices of Intent for coverage under NPDES General Permit PAG-2, General Permit for Discharges of Stormwater From Construction Activities. Unless otherwise indicated, on the basis of preliminary review and application of lawful standards and regulations, the Department of Environmental Protection will authorize, subject to the terms and conditions contained in the general permit, the discharge of stormwater from eligible new and existing discharges.

The application and related documents, including the erosion and sedimentation control plan for the construction activity, are on file and may be inspected at the office noted above.

<i>NPDES Permit No.</i>	<i>Name and Address</i>	<i>County and Municipality</i>	<i>Receiving Stream</i>
PAR10A154	Fourway Properties 1198 Mulberry St. Bridgewater, PA 15009	Allegheny Co. Crescent Twp.	Shouse and Spring Runs
PAR10A147	Barrington Manor Inc. P. O. Box 11067 Pittsburgh, PA 15237	Allegheny Co. Collier Twp.	UNT to Robinson Run
PAR10A157	Robinson Mall Dev. 300 Park Manor Dr. Pittsburgh, PA 15205	Allegheny Co. Robinson Twp.	UNT to Montour Run
PAR10C143	Frank Perano P. O. Box 278 King of Prussia, PA 19406	Berks Co. Tilden Twp.	Schuylkill River
PAR10D102	Buckingham Athletic Assoc. Box 111 Buckingham, PA 18912	Bucks Co. Plumstead Twp.	Geddos Run
PAR10D180	Tille and Arthur Pease 1775 Guinea Ln. Warrington, PA 18976	Bucks Co. Warwick Twp.	UNT to Neshaminy
PAR10D209	Quakertown Interchange Assoc. 1030 Germantown Pke. Fairview Vlg., PA 19409	Bucks Co. Milford Twp.	Molasses Crk.
PAR10D217	Pipersville Realty P. O. Box 320 Pipersville, PA 18947	Bucks Co. Tinicum Twp.	Tohickon Crk.
PAR10D226	Faison 6931 Arlington Rd. Bethesda, MD 20814	Bucks Co. L. Makefield Twp.	Queen Anne Crk.
PAR10D222	Quakertown Interchange P. O. Box 97676 Harrisburg, PA 17106	Bucks Co. Milford Twp.	Molasses Crk and UNT to Neshaminy
PAR10E047	Samaritan Healthcare 1323 Freedom Rd. Cranberry Twp., PA 16066	Butler Co. Center Twp.	Connoquenessing Crk.
PAR10G158	New Garden Twp. 506 Newark Rd. Landenberg, PA 19350	Chester Co. New Garden Twp.	Egypt Run
PAR10H090	Rothman, Schubert & Reed P. O. Box 188 Camp Hill, PA 17001	Cumberland Co. E. Pennsboro Twp.	UNT to Conodoguinet Crk.
PAR10K056	Joe Palermo & Sons Development Co. P. O. Box 8026 Erie, PA 16505	Erie Co. Millcreek Twp.	Mill Crk.
PAR10K057	Westlake Partnership P. O. Box 928 Erie, PA 16512	Erie Co. Millcreek Twp.	Marshall Run
PAR10M108	Dave Million P. O. Box 10 Maitland Rd. Goderich, Ontario Canada	Franklin Co. Chambersburg Boro.	Conococheague Crk.
PAR103122	Kriebel Gas Inc. P. O. Box 765 Clarion, PA 16214	Indiana Co. Washington and Rayne Twps.	Crooked Crk.
PAR10-O-171	Village at Gap Assocs. 750 Springdale Dr. Exton, PA 19341	Lancaster Co. Salisbury Twp.	UNT to Pequea Crk.
PAR10-O-162	Penn Manor Schools P. O. Box 1001 Millersville, PA 17551	Lancaster Co. Millersville Boro.	UNT to Conestoga River

<i>NPDES Permit No.</i>	<i>Name and Address</i>	<i>County and Municipality</i>	<i>Receiving Stream</i>
PAR10-O-170	Elm Developers 656 W. Newport Rd. Elm, PA 17521	Lancaster Co. Penn Twp.	UNT to Shearers Crk.
PAR10-O-174	David Fite 23 Shady Ln. Quarryville, PA 17566	Lancaster Co. Providence Twp.	UNT to Big Beaver Crk.
PAR10-O-175	Price-Costco 46000 Manekin Plz. Sterling, VA 20166	Lancaster Co. City of Lancaster	Conestoga River
PAR10-O-181	Hempfield Square Assocs. 802 N. Duke St. Lancaster, PA 17602	Lancaster Co. E. Hempfield Twp.	UNT to Brubaker Rn.
PAR10-O-185	Urban Outfitters Inc. 1809 Walnut St. Philadelphia, PA 19103	Lancaster Co. Salisbury Twp.	Houston Run
PAR10-O-191	George Desmond 2690 Old Phila. Pike Bird-In-Hand, PA 17505	Lancaster Co. W. Lampeter Twp.	UNT to Big Spring Run
PAR10P043	Boscov's Assoc. of Lebanon 4500 Perkiomen Ave. Reading, PA 19606	Lebanon Co. W and N Lebanon Twps.	N/A
PAR10R074	Walden Park Inc. 281 S. River St. Wilkes-Barre, PA 18702	Luzerne Co. Wright Twp.	Big Wapwallopen Crk.
PAR10R078	The Home Depot One Cragwood Rd. South Plainfield, NJ 07080 and Sunshine Market Inc. 1492 Highway 315 Wilkes-Barre, PA	Luzerne Co. City of Wilkes-Barre	Mill Crk.
PAR10T249	Dennis and Gisela Alter 718 Arch St., Ste. 300 Philadelphia, PA 19106	Montgomery Co. Whitemarsh Twp.	Pheasant Run
PAR10T247	Werna Fricker P. O. Box 129 Horsham, PA 19044	Montgomery Co. Horsham Twp.	N/A
PAR10T257	George Bitler 3761 Mill Run Collegeville, PA 19426	Montgomery Co. Skippack Twp.	UNT to Skippack Crk.
PAR10T251	Souderton Area School District 139 Harleysville Pike Souderton, PA 18964	Montgomery Co. Franconia Twp.	Indian Crk.
PAR10T256	Turnpike Commission P. O. Box 67676 Harrisburg, PA 17106	Montgomery Co. U. Merion Twp.	Schuylkill River
PAR10T263	Cornerstone Christian Fellowship Rte. 73 and 113 Skippack, PA 19474	Montgomery Co. Skippack Twp.	N/A
PAR105731	William Spotts 460 Columbia St. Schuylkill Haven, PA 17972	Schuylkill Co. S. Manheim Twp.	Red Crk.
PAR106100	Somerset School Dist. 821 S. Columbia Ave. Somerset, PA 15501	Somerset Co. Somerset Boro.	Coxes Crk.
PAR106101	Somerset Care Inc. 3495 Piedmont Rd. Atlanta, GA 30305	Somerset Co. Berlin Boro.	Buffalo Crk.



<i>NPDES Permit No.</i>	<i>Name and Address</i>	<i>County and Municipality</i>	<i>Receiving Stream</i>
PAR106102	Revco DS Inc. 1925 Enterprise Pkwy. Twinsburg, OH 44087	Somerset Co. Somerset Twp.	Coxes Crk.
PAR106103	James Godin R. D. 3 Boswell, PA 15531	Somerset Co. Jenner Twp.	Roaring Run
PAR106104	DEP-BAMR P. O. Box 149 Ebensburg, PA 15931	Somerset Co. Shade Twp.	Dark Shade Crk.
PAR106105	THF Development 955 Executive Pkwy. St. Louis, MO 63141	Somerset Co. Somerset Twp.	Somerset Lake
PAR10Y197	Reichart's Camping Center 1800 Baltimore Pke. Hanover, PA 17331	York Co. W. Manheim Twp.	Furnace Crk.
PAR10Y198	DDSP Federal Govt. ASCE-WI Bldg. 1—3 New Cumberland, PA 17070	York Co. Fairview Twp.	Susquehanna Rvr.

The following approvals for coverage under NPDES Individual Permit for discharges of stormwater from construction activities have been issued.

*Northwest Regional Office: Regional Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481, telephone (814) 332-6942.*

<i>NPDES Permit No.</i>	<i>Name and Address</i>	<i>County and Municipality</i>	<i>Receiving Streams</i>
PAS10K009	Fairview School Dist. 7460 McCray Road Fairview, PA 16415	Fairview Township Fairview Borough Erie County	Unnamed tributary to Trout Run

#### **Actions taken under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17).**

*Southwest Regional Office: Regional Manager, Water Supply and Community Health, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, telephone (412) 442-4000.*

**Permit No. 2688503.** Public water supply. **Point Marion Borough**, 426 Morgantown Street, Point Marion, PA 15474.

*Type of Facility:* Package water treatment plant, new intake and raw water transmission line and water storage tank.

*Consulting Engineer:* Duncan, Lagnese and Associates Inc., 3185 Babcock Boulevard, Pittsburgh, PA 15237.

*Permit to Operate Issued:* January 11, 1996.

#### **Industrial waste and sewerage actions under The Clean Streams Law (35 P. S. §§ 691.1—691.1001).**

##### *Permits Issued*

*Southwest Regional Office: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, telephone (412) 442-4000.*

**Permit No. 6395403.** Sewerage, **Mark Moyer**, 231 Walnut Road, McDonald, PA 15057-3034. Construction of single residence sewage treatment plant located in Mt. Pleasant Township, **Washington County** to serve the Mark Moyer Property.

*Southeast Regional Office: Regional Water Management Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428, telephone (610) 832-6130.*

**Permit No. 0995425.** Sewerage. **Steve and Carol Marci**, 535 Schoolhouse Lane, Willow Grove, PA 19090. Construction of a small flow sewage treatment plant located in Plumstead Township, **Bucks County** to serve the Marci single family home.

**Permit No. 2394408.** Sewerage. **Delaware County Prison**, P. O. Box 23A, Thornton, PA 19373. Construction of a sewage treatment plant located in Thornbury Township, **Delaware County** to serve the Delaware County Prison and a seasonal Camp Sunshine.

*Southcentral Regional Office: Regional Water Management Program Manager, One Ararat Boulevard, Harrisburg, PA 17110, telephone (717) 657-4590.*

##### *Part II Permits Issued*

**Permit No. 0195404.** Sewerage. **Fort Heritage, LTD**, 1960 Emmitsburg Road, Gettysburg, PA 17325. Construction of a small flow sewage treatment facility located in Cumberland Township, **Adams County**.

**Permit No. 6795409.** Sewerage. **Glenn Campbell**, 103 Warrington Road, Dillsburg, PA 17019. Construction of a septic tank and sand filter treatment system located in Carroll Township, **York County**.

**Permit No. 0795404.** Sewerage. **Logan Township Board of Supervisors**, 800 39th Street, Altoona, PA 16602. Extension of interceptor to serve North Lakemont area and the proposed Altoona Galleria in Logan Township, **Blair County**.

**Permit No. 6771405.** Sewerage. Amendment No. 1. **James R. Holley and Associates, Inc.**, 18 South George Street, York, PA 17401, located in Hopewell Township, **York County**.

**Permit No. 3695408.** Sewerage. **East Cocalico Township Authority**, P. O. Box 402, Reamstown, PA 17567. Construction of interceptor to connect to Adamstown borough STP in East Cocalico Township, **Lancaster County**.

**Permit issued under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003); the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904); and residual waste regulations for a general permit to operate residual waste processing facilities and the beneficial use of residual waste other than coal ash.**

*Central Office: Division of Municipal and Residual Waste, 14th Floor, Rachel Carson State Office Building, 400 Market St., Harrisburg, PA 17101-2301.*

**General Permit No. WMGR015. Clean Water Resources, Inc.**, P. O. Box 359, Epsom, NH 03234. A permit for the beneficial use of virgin fuel contaminated soil for use as an ingredient in the production of cold-mix bituminous paving material. The permit was issued by Central Office on January 17, 1996.

Persons interested in reviewing the permit may contact the General Permits and Beneficial Use Section, Division of Municipal and Residual Waste, P. O. Box 8472, Harrisburg, PA 17105-8472.

**Operating permits issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations for an operating permit to comply with 25 Pa. Code § 127.450 for Reasonable Available Control Technology.**

*Regional Office: Southeast Regional Office, Bureau of Air Quality, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.*

The Department has amended the following air quality operating permits for the operation of the air contamination sources and associated air cleaning devices described below for the specified companies:

Permit: **OP-23-0004**  
Source: Facility VOC  
Administrative Amendment: January 4, 1996  
Company: **Waste Resource Energy, Inc.**  
Location: City of Chester  
County: **Delaware**

**Operating Permits issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.**

*Regional Office: Northeast Regional Office, Bureau of Air Quality, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

The Department has issued the following air quality operating permits for the operation of the air contamination sources and associated air cleaning devices described below for the specified companies.

Permit: **39-307-004A**  
Source: 2 Electric Furn/Ladle W/2 Baghouses  
Company: **Ransom Industries Incorporated**  
Location: Macungie Borough  
County: **Lehigh**

Permit: **39-313-008A**  
Source: Resin Handling Sys. W/3 Baghouses  
Company: **Tarkett, Incorporated**  
Location: Whitehall Township  
County: **Lehigh**

**Plan approvals issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations to construct, modify, reactivate and operate air contamination sources or air cleaning devices.**

*Regional Office: Southcentral Regional Office, Air Quality Program, One Ararat Boulevard, Harrisburg, PA 17110.*

**36-303-016A.** On January 16, 1996, the Department issued a plan approval to **Highway Materials, Inc.** (1750 Walton Road, Blue Bell, PA 19422-0465) for the modification of an asphalt plant in Warwick Township, **Lancaster County**. The sources are subject to 40 CFR 60, Subpart I, Standards of Performance for New Stationary Sources.

**36-310-013D.** On January 16, 1996, the Department issued a plan approval to **Compass Quarries, Inc.** (47 McIlvaine Road, Paradise, PA 17562) for a stone crushing plant in Paradise Township, **Lancaster County**. The source is subject to 40 CFR 60, Subpart OOO, Standards of Performance for New Stationary Sources.

**67-309-098A.** On January 16, 1996, the Department issued a plan approval to **Lehigh Portland Cement Company, Inc.** (200 Hokes Mill Road, York, PA 17404) for a cement packing system controlled by two fabric filters in West Manchester Township, **York County**. The source is subject to 40 CFR 60, Subpart F, Standards of Performance for New Stationary Sources.

**67-309-104.** On January 16, 1996, the Department issued a plan approval to **Lehigh Portland Cement Company, Inc.** (200 Hokes Mill Road, York, PA 17404) for a pneumatic conveying system controlled by a fabric filter in West Manchester Township, **York County**.

**67-310-001D.** On January 16, 1996, the Department issued a plan approval to **York Building Products, Inc.** (P. O. Box 1708, York, PA 17405) for a stone crushing plant controlled by wet suppression in West Manchester Township, **York County**. The sources are subject to 40 CFR 60, Subpart OOO, Standards of Performance for New Stationary Sources.

*Regional Office: Southeast Regional Office, Bureau of Air Quality, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.*

The Department has issued the following air quality plan approvals for the specified companies described below:

Permit: **09-330-011A**  
Source: Asphalt Plant/Soil Remediation Facility  
Issued: January 11, 1996  
Change of ownership: formerly, Mix Design Methods, Inc.  
Company: **R3 Technologies, Inc.**  
Location: Falls Township  
County: **Bucks**

The Department has extended the following air quality plan approvals permits for the specified companies described below:

Permit: **46-313-002A**  
Source: Main Plant Facility (Bld. #3)  
Issued: December 15, 1995

Extended: April 15, 1996  
 Company: **Quaker Chemical Corporation**  
 Location: Whitemarsh  
 County: **Montgomery**

Permit: **46-313-115**  
 Source: Antibiotic Manufacturing  
 Issued: December 15, 1995  
 Extended: April 15, 1996  
 Company: **SmithKline Beecham Pharmaceutical**  
 Location: Upper Merion  
 County: **Montgomery**

Permit: **09-399-035**  
 Source: Sewage Pump Station Wetwell  
 Issued: December 29, 1995  
 Extended: April 30, 1996  
 Company: **Bucks County Water & Sewer Authority**  
 Location: Doylestown  
 County: **Bucks**

Permit: **09-313-063A**  
 Source: Arsine and Hydrogen Selenide  
 Issued: December 29, 1995  
 Extended: April 30, 1996  
 Company: **Solkatronics Chemical, Inc.**  
 Location: Falls Township  
 County: **Bucks**

Permit: **09-313-074A**  
 Source: Specialty Gas Plant (S1-5) (S8-11)  
 Issued: December 29, 1995  
 Extended: April 30, 1996  
 Company: **Solkatronics Chemical, Inc.**  
 Location: Falls Township  
 County: **Bucks**

**Plan approvals issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.**

*Regional Office: Northeast Regional Office, Bureau of Air Quality, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

A plan approval has been issued by this office for the construction, modification, reactivation or operation of the air contamination sources and associated air cleaning devices described below for the specified companies.

Permit: **35-318-070A**  
 Source: Paint Lines # 1, 2, 3 W/Filters  
 Issued: January 5, 1996  
 Company: **Suckle Corporation**  
 Location: City of Scranton  
 County: **Lackawanna**

Permit: **40-309-026A**  
 Source: Waste Material Recycling System  
 Issued: January 10, 1996  
 Company: **Celotex Corporation**  
 Location: Exeter Township  
 County: **Luzerne**

Permit: **48-307-013**  
 Source: Scrap Burn/Cinder Dump W/Baghouse  
 Issued: January 11, 1996  
 Company: **Bethlehem Steel Corporation**  
 Location: City of Bethlehem  
 County: **Northampton**

**MINING ACTIVITY ACTIONS**

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 (35 P. S. §§ 691.1—691.1001); The Coal Refuse Disposal Control Act (52 P. S. 30.51—30.66); the Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). The final action on each application also constitutes action on the request for 401 water quality certification. 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).

*District Mining Operations, 437 South Center Street, P. O. Box 625, Ebensburg, PA 15931-0625.*

*Coal Applications Issued*

**32950105. K.M.P. Associates** (301 Salt Street, Saltsburg, PA 15681), commencement, operation and restoration of a bituminous strip mine in Young Township, **Indiana County**, affecting 10.6 acres, receiving stream Harpers Run, application received July 17, 1995, permit issued January 2, 1995.

**32940105. Transfer from General Mining, Inc. to Kent Coal Mining Company** (P. O. Box 729, Indiana, PA 15701), commencement, operation and restoration of a bituminous strip-auger mine in Center Township, **Indiana County**, affecting 180.0 acres, receiving stream unnamed tributary to Yellow Creek, application received November 17, 1995, permit issued January 4, 1996.

*District Mining Operations, R. D. 2, Box 603-C, Greensburg, PA 15601.*

*Coal Permits Issued*

**26900109R. Chess Coal Company** (R. R. 1, Box 151, Smithfield, PA 15478). Renewal permit issued for continued operation and reclamation of a bituminous surface mine located in Georges Township, **Fayette County**, affecting 186 acres. Receiving streams unnamed tributary to York Run. Application received August 7, 1995. Renewal permit issued December 27, 1995.

**65840103R. M. B. Energy, Inc.** (250 Airport Road, P. O. Box 1319, Indiana, PA 15701-1319). Renewal permit issued for continued operation and reclamation of a bituminous surface mine located in Derry Township, **Westmoreland County**, affecting 133.5 acres. Receiving streams Stony Run to the Conemaugh River. Application received September 1, 1995. Renewal issued December 28, 1995.

**65900110R. M. B. Energy, Inc.** (250 Airport Road, P. O. Box 1319, Indiana, PA 15701-1319). Renewal permit issued for continued reclamation of a bituminous surface mine located in Ligonier Township, **Westmoreland County**, affecting 57.5 acres. Receiving streams four unnamed tributaries to Mill Creek. Application received September 7, 1995. Renewal issued December 28, 1995.

**03840106. State Industries, Inc.** (P. O. Box 1022, Kittanning, PA 16201). Permit revisions issued, including an incidental boundary correction, stream encroachment, and additional sediment and treatment ponds and associated collection ditches, on a bituminous surface/auger mining site located in East Franklin Township, **Armstrong County**, affecting 583.4 acres. Receiving streams unnamed tributary to the Allegheny River. Application received October 10, 1995. Revision issued January 2, 1996.

**26900110R. Robert Sperko** (R. R. 1, Box 400-H, McClellandtown, PA 15458). Renewal permit issued for continued operation and reclamation of a bituminous surface mine located in German Township, **Fayette County**, affecting 90.0 acres. Receiving streams Browns Run and its unnamed tributaries. Renewal application received October 27, 1995. Renewal permit issued January 4, 1996.

**65840117R. Latimer Construction Co., Inc.** (250 Airport Road, P. O. Box 1319, Indiana, PA 15701-1319). Renewal permit issued for continued operation and reclamation of a bituminous surface mine located in Salem Township, **Westmoreland County**, affecting 134.45 acres. Receiving streams unnamed tributary to Beaver Run. Renewal application received September 11, 1995. Renewal permit issued January 4, 1996.

**03743055R. Terry Reddinger** (Box 58, Distant, PA 16223). Renewal permit issued for continued operation and reclamation of a bituminous surface mine located in Madison Township, **Armstrong County**, affecting 96.7 acres. Receiving streams unnamed tributary to Mahoning Creek. Renewal application received August 18, 1995. Renewal permit issued January 5, 1996.

*Hawk Run District Office, P. O. Box 209, Hawk Run, PA 16840.*

**41870101. Fisher Mining Company** (460 Market Street, Williamsport, PA 17701-6321), revision to an existing bituminous surface mine permit for a stream crossing on Buckeye Run, tributary to Otter Run, to Little Pine Creek, crossing located approximately 9,600 feet upstream from Buckeye Run confluence with Otter Run and 200 feet upstream of an existing so-called Thomas Road Crossing on Buckeye Run, Pine Township, **Lycoming County**, application received May 3, 1994, permit issued December 27, 1995.

**17870102. R. B. Contracting** (R. D. 1, Box 13, Curwensville, PA 16833), transfer of an existing bituminous surface mine permit from Francis Kitko, Bigler Township, **Clearfield County** affecting 87.1 acres, receiving streams to Muddy Run and unnamed tributaries to Muddy Run, application received September 20, 1995, permit issued December 29, 1995.

**17950108. King Coal Sales, Inc.** (P. O. Box 712, Philipsburg, PA 16866), commencement, operation and restoration of a bituminous surface mine permit in Morris Township, **Clearfield County** affecting 38 acres, receiving streams unnamed tributaries of Flat Run to Flat Run to Alder Run to west branch Susquehanna River, application received May 16, 1995, permit issued December 29, 1995.

*Mineral Resources Management—District Mining, Pottsville District Office, 5 West Laurel Boulevard, Pottsville, PA 17901-2454.*

**13743002R2. Pagnotti Coal Company** (800 Exeter Avenue, West Pittston, PA 18643), renewal of an existing anthracite surface mine operation in Hazle and Banks Townships, **Luzerne and Carbon Counties** affecting 964.0 acres, receiving stream none. Renewal issued January 12, 1996.

**35910102C2. Silverbrook Anthracite, Inc.** (322 Simpson Street, Dupont, PA 18641), correction to an existing anthracite surface mine (boundary correction) in Archbald Borough, **Lackawanna County** affecting 1,000.0 acres, receiving stream unnamed tributary to Aylesworth Creek. Correction issued January 5, 1996.

*District Mining Operations, R. D. 2, Box 603-C, Greensburg, PA 15601.*

*Noncoal Permits Issued*

**03920301. Continental Clay Company** (260 Oak Avenue, Kittanning, PA 16201). Permit issued for commencement, operation and reclamation of a large noncoal surface/underground mining site located in Rayburn Township, **Armstrong County**, affecting 334.5 acres. Receiving streams unnamed tributaries to the Allegheny River. Application received March 16, 1992. Permit issued January 4, 1996.

*Hawk Run District Office, P. O. Box 209, Hawk Run, PA 16840.*

*Large Noncoal Permits Issued*

**59950301. Clifford Cross, Jr.** (P. O. Box 240, Mainesburg, PA 16932), commencement, operation and restoration of a large noncoal permit in Sullivan Township, **Tioga County** affecting 30 acres, receiving streams unnamed tributary to Corey Creek to Corey Creek to Tioga River, application received May 5, 1995, permit issued January 5, 1996.

*Mineral Resources Management—District Mining, Pottsville District Office, 5 West Laurel Boulevard, Pottsville, PA 17901-2454.*

*Noncoal Permits Issued*

**6276SM2A1C2. Martin Limestone, Inc.** (P. O. Box 155, Blue Ball, PA 17506), renewal of NPDES permit #PA0594512 in East Earl Township, **Lancaster County**, receiving stream Conestoga Creek. Renewal issued January 4, 1996.

*Field Operations—Mining and Reclamation, R. D. 2, Box 603-C, Greensburg, PA 15601.*

*General Small Noncoal Authorizations Granted*

**26952302. Lorie J. Corporation** (R. D. 3, Box 537, Monongahela, PA 15063). Permit issued for commencement, operation and reclamation of a small noncoal (slag) surface mining operation located in Dunbar Township and Vanderbilt Borough, **Fayette County**, affecting 13.5 acres. Receiving streams Dickerson Run and unnamed tributary to Dickerson Run to Youghiogheny River. Application received February 13, 1995. Permit issued January 3, 1996.

*Mineral Resources Management—District Mining, Pottsville District Office, 5 West Laurel Boulevard, Pottsville, PA 17901-2454.*

**28950801. James L. Walls Exc.** (5364 Racetrack Road, St. Thomas, PA 17252), commencement, operation and restoration of a small shale operation in St. Thomas Township, **Franklin County** affecting 2.0 acres, receiving stream none. Authorization granted January 4, 1996.

The Department of Environmental Protection 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 (33 U.S.C.A. § 1341(a)).

Any person aggrieved by this action may appeal, 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 the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Board through the Pennsylvania Relay Service, (800)

654-5984. Appeals must be filed with the Environmental Hearing Board within 30 days of receipt of written notice of this action unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

**Actions on applications filed 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 sections 5 and 402 of the act of June 22, 1937 (P. L. 1987, No. 394) (35 P. S. §§ 691.5 and 691.402) and notice of final action for certification under section 401 of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)), (Note: Permits issued for Small Projects do not include 401 Certification, unless specifically stated in the description).**

*Permits Issued and Actions on 401 Certification*

*Southeast Regional Office: Program Manager, Water Management Program, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.*

**E46-720.** Encroachment. **Lower Salford Township**, 474 Main Street, Township Building, Harleysville, PA 19438. To construct and maintain an additional 64-inch × 43-inch CMP culvert adjacent to the two existing 64-inch × 43-inch CMP culverts situated beneath the Lower Salford Township bike path, which crosses the west branch of Skippack Creek, for the purpose of improving the drainage under the bike path. This site is located approximately 400-feet north of the intersection of (S. R. 63) and Alderfer Road (Perkiomenville, PA Quadrangle N: 4.1 inches; W: 0.25 inch) in Lower Salford Township, **Montgomery County**. This permit was issued under section 105.13(e) "Small Projects". This permit also includes 401 Water Quality Certification.

**E55-136.** Encroachment. **844 Associates**, 5632 Akron Drive, Harrisburg, PA 17109. To construct and maintain twin 128 inch × 83 inch × 51 foot CMP culverts with associated retaining/wing walls in an unnamed tributary of the Susquehanna River located approximately 140 feet west of the intersection of SR 0015/11 and Stetler Avenue (Sunbury, PA Quadrangle N: 16.5 inches; W: 11.0 inches) in the Borough of Shamokin Dam, **Snyder County**. This permit was issued under section 105.13(e) "Small Projects". This permit also includes 401 Water Quality Certification.

**E23-331.** Encroachment. **Greenview Estates, Inc.**, 2EF Raymond Drive, Havertown, PA 19083. To construct and maintain a twin 13-foot by 6-foot culvert natural stream invert in and along Spring Run, a tributary of Naaman's Creek (WWF) and 0.54 acre adjacent wetland (PF01A) for a proposed roadway stream crossing at the Greenview Estates Subdivision located approximately 1,300 feet northwest of the intersection of Larkin and Bethel Roads (Marcus Hook, PA-NJ Quadrangle N: 17.0 inches; W: 12.5 inches) in Bethel Township, **Delaware County**. This is a reissuance and amendment of previously issued permit E23-177. The permittee shall provide 0.54 acre of replacement wetlands.

**E46-703.** Encroachment. **Ardmore Tire, Inc.**, 520 Calwell Lane, Conshohocken, PA 19428. To maintain an

existing gabion retaining wall and associated backfill which are approximately 230 feet in length, and 9 feet in maximum height. This structure is installed along the eastern bank of Plymouth Creek at the Ardmore Tire, Inc. property, and is used to stabilize a deteriorated bank from future stream bank erosion. This site is located near the intersection of Calwell Lane and 6th Street at Conshohocken Borough (Norristown, PA Quadrangle N: 15.0 inches; W: 8.75 inches) in Plymouth Township, **Montgomery County**.

**E46-715.** Encroachment. **Plymouth Township**, 700 Belvoir Road, Norristown, PA 19401-2599. To maintain a culvert structure installed in and along an unnamed tributary to the Plymouth Creek (WWF), to convey flow beneath an access cartway to the Township Sewer Authority Pump Station. This culvert consists of a 15-foot wide by 4-foot high reinforced concrete box culvert, precast 65-foot long and appurtenant 8-foot long precast concrete wingwalls installed on each side of the culvert outlet. Also, as a part of this structure, are gabion wingwalls, which have been installed along each side of the stream bank at the culvert inlet. This site is located approximately 500 feet north of the junction of Ridge Pike and Alan Wood Road (S. R. 3018), and is situated at the Chemical Road Pump Station property (Norristown, PA Quadrangle N: 18.3 inches; W: 7.1 inches) in Plymouth Township, **Montgomery County**.

*Northwest Regional Office: Regional Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481, telephone (814) 332-6942.*

**E20-431.** Encroachment. **Department of Transportation District 1-0**, 1140 Liberty Street, Franklin, PA 16323. To remove the existing bridge and to construct and maintain a prestressed concrete adjacent box beam bridge having a clear span of 60.75 feet and an average underclearance of 10.5 feet on a 75 degree skew across Muddy Creek on SR 0077, Segment 0340, Offset 1589 in the Village of Little Cooley. To remove a vegetated gravel bar from the stream extending approximately 150 feet upstream and downstream of the bridge (Township, PA Quadrangle N: 21.3 inches; W: 1.9 inches) in Athens Township, **Crawford County**.

**E43-245.** Encroachment. **Department of Transportation District 1-0**, 1140 Liberty Street, Franklin, PA 16323. To remove the existing bridge and to construct and maintain a prestressed concrete adjacent box beam bridge having a clear normal span of 100 feet and an average underclearance of 9.6 feet across North Deer Creek on SR 1015, Segment 0050, Offset 1430 approximately 1 mile south of the Village of Carlton (New Lebanon, PA Quadrangle N: 15.8 inches; W: 3.0 inches) in French Creek Township, **Mercer County**. This permit was issued under section 105.13(e) "Small Projects". This permit also includes 401 Water Quality Certification.

**E61-199.** Encroachment. **Department of Transportation District 1-0**, 1140 Liberty Street, Franklin, PA 16323. To remove the existing bridge and to construct and maintain a prestressed concrete spread box beam bridge having a normal span of 42 feet and an average underclearance of 19.25 feet on a 75 degree skew across Hemlock Creek on SR 0062, Segment 0720, Offset 0937 approximately 450 feet upstream of the confluence with the Allegheny River (President, PA Quadrangle N: 13.9 inches; W: 7.8 inches) in President Township, **Venango County**.

**E62-320.** Encroachment. **Sugar Grove Township Supervisors**, R. D. 3, Box 50, Sugar Grove, PA 16350. To

excavate accumulated sediment and to maintain the impoundment area of Chandlers Valley Community Association Dam, an area measuring approximately 240 feet long by 80 feet wide by a maximum 7 feet deep in Jackson Run. To install and maintain a dry fire hydrant water intake structure in/along Chandlers Valley approximately 600 feet south of the intersection of SR 0069 and Brown Hill Road (Sugar Grove, PA Quadrangle N: 10.1 inches; W: 7.2 inches) in Sugar Grove Township, **Warren County**. This permit was issued under section 105.13(e) "Small Projects". This permit also includes 401 Water Quality Certification.

[Pa.B. Doc. No. 96-144. Filed for public inspection February 2, 1996, 9:00 a.m.]

### Low-Level Waste Advisory Committee; Schedule of 1996 Meetings

The Department of Environmental Protection's Low-Level Waste Advisory Committee announces its schedule of 1996 meetings. The meetings will be held at 9 a.m. at the Holiday Inn West, Mechanicsburg, on the following dates:

March 14  
June 13  
September 12  
December 12

Questions concerning this schedule or agenda items can be directed to Marianne Hansen at (717) 787-2480 or e-mail at Hansen.Marianne@a1.dep.state.pa.us. This schedule and an agenda for each meeting will be available through the Public Participation Center on DEP's World Wide Web site at <http://www.dep.state.pa.us>.

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact Marianne Hansen directly at (717) 787-2480 or through the Pennsylvania AT&T Relay Service at 1-800-654-5984 (TDD) to discuss how the Department may accommodate their needs.

JAMES M. SEIF,  
*Secretary*

[Pa.B. Doc. No. 96-145. Filed for public inspection February 2, 1996, 9:00 a.m.]

### Notice of Issuance of General Permit BDWW-GP-15: Private Residential Construction in Wetlands and 401 Water Quality Certification

#### Attention

#### General Permit-15 Special Processing Procedure

The Army Corps of Engineers (ACOE) under the conditions of the Pennsylvania State Programmatic General Permit (PASPGP-1), requires that any GP-15 registrant who proposes to impact greater than .10 acre of wetland obtain separate Federal approval. The ACOE and DEP have agreed on a processing procedure that requires such registrants to obtain Federal approval prior to registering GP-15.

Please carefully review the registration requirements found in the general permit to ensure complete and timely permit processing.

The Department of Environmental Protection (Department), under the authority of section 7 of the Dam Safety and Encroachments Act (32 P. S. § 693.7) (Act) and 25 Pa. Code Chapter 105, Subchapter L (relating to general permits), hereby authorizes, by General Permit BDWW-GP-15, the placement and maintenance of fill in, or excavation of, wetlands for the construction or expansion of a single-family residence, and associated driveway, yard, storage sheds and utility lines, on residential lots within established subdivisions that were approved by the local governing authority prior to November 22, 1991, where such activities do not impact greater than .50 acre of wetland. The Department is authorized by the Act and regulations to issue general permits where it determines a category of projects are similar in nature and can be adequately regulated using standard specifications and conditions. The Department has found the construction of a single-family residence, and associated driveway, yard, storage sheds and utility lines within these designated subdivisions to be a category which meets the general permit requirements.

Authorization provided by this general permit will eliminate the need of filing an application for an individual permit by an owner who intends to construct a private residence in wetlands, in accordance with the terms, criteria and conditions of the general permit. The owner will be required to register the project by submitting written notice to the Department or delegated County Conservation District indicating the intent to fill or excavate wetlands in accordance with the conditions and terms of the general permit.

The general permit is structured to allow a maximum impact of .50 acre of wetlands, consistent with the Clean Water Act Section 404 Single-Family Housing Nationwide Permit issued by the U.S. Army Corps of Engineers (ACOE) on July 27, 1995. Permittees are required to avoid and minimize wetland impacts, utilize nonwetland areas where possible, minimize impacts to natural water regimes and not increase or obstruct stormwater. To address concerns about the effects of cumulative fills on local stormwater, the permit has been further conditioned so that fills or excavations in wetlands, including previously filled areas may not exceed more than 40% of the total lot area, except where lots are less than .25 acre in size where a maximum of .10 acre of fill in wetlands is authorized. In no circumstances may the total fill or excavation exceed .50 acre of wetlands. All proposed wetland impacts over .10 acre must be evaluated by the ACOE for separate Federal approval prior to State authorization. The Corps of Engineers Nationwide Permit review process includes an evaluation of impacts of flooding on adjacent property owners (Condition A.c. of Nationwide Permit 29). In addition to these permitting procedures, the Department, in cooperation with County Conservation Districts and other interested State and Federal resource agencies will monitor the use of GP-15 to evaluate impacts. If significant individual or cumulative impacts are found or indicated, the Department has the authority to condition, modify or revise GP-15 based upon the specific circumstances of an individual subdivision, area or local watershed.

Under the provisions of the Federal Clean Water Act Section 404 Pennsylvania State Programmatic General Permit (PASPGP-1), the ACOE has determined that wetland impacts .10 acre or less comply with the terms and conditions of PASPGP-1. This determination will eliminate the requirement for a registrant to acquire a separate permit from the ACOE. Impacts greater than .10 acre of wetland require separate Federal approval prior to

registration of GP-15. The ACOE and the Department have developed a processing procedure that facilitates Federal approval prior to registration.

Notice of intent to issue the proposed BDWW-GP-15 was published in the *Pennsylvania Bulletin* on July 1, 1995. Comments received in response to this notice and the Section 404 Single-Family Housing Nationwide Permit were reviewed and incorporated into the General Permit where applicable. The major comments on the proposed BDWW-GP-15 follow:

1. Many commentators suggested that this general permit should only be available to applicants who were recorded as property owners prior to October 5, 1984.

The Department believes that the use of GP-15 should not be based on date of ownership but rather be based on the date the established subdivision received final approval from the local governing authority. Therefore, individual parcel owners will not be penalized based on when they purchased property. November 22, 1991, is the date that the Federal Section 404 Clean Water Act Nationwide Permits were reauthorized by the ACOE and is also the qualifying date for the new Nationwide Permit for Single-Family Housing. This date has also been adopted by the Department to be consistent with Army Corps of Engineers Nationwide Permit.

2. Many commentators were concerned about the cumulative impacts of flooding, and to water quality, associated with GP-15 if the permit registrant was not required to avoid and minimize the impact.

The Department has included a requirement that users of the General Permit must avoid and minimize impacts to wetlands, and provide a site plan which indicates the wetland area, the extent of fill, and location of erosion and sedimentation control measures. Permittees are also required to minimize impacts to natural water regime and not increase or obstruct stormwater. Further, the impact is limited to 40% of the lot size or .10 acre, whichever is greater. In addition, for impacts greater than .10 acre, the Corps of Engineers Nationwide Permit review process includes an evaluation of impacts of flooding on adjacent property owners (Condition A.c. of Nationwide Permit 29).

3. Many commentators suggested that .10 acre (4,356 sq. ft.) of fill is adequate to construct a private residence, driveway and necessary utilities.

To be consistent with the ACOE Nationwide Permit, GP-15 allows impacts up to .50 acre of wetlands. The Department believes the vast majority of applicants who use this general permit, through avoidance and minimization, will impact .10 acre or less. In some cases greater areal impacts may be warranted. The General Permit is structured to allow the consideration of these permitting situations without necessitating a full joint permit application and review process.

4. Several commentators had concerns about allowing onlot sewage systems in wetlands.

The Department has amended GP-15 restricting fills to lots where a central sewage and collection system is available, in place and operational. Existing sewage facility regulations do not permit the placement of fill for the purpose of installing an onlot sewage system in areas where a seasonal high water table exists.

5. Several commenters suggested that GP-15 should only be used once.

The Department has added a condition that the general permit may only be used once per individual per lot, tract

or parcel of land in subdivisions established prior to November 22, 1991. The same condition of one time use per lot is also stated in the ACOE Nationwide Permit for Single-Family Housing.

6. Several commentators suggested that the Department should require a wetland delineation to determine the extent of the wetland impact.

The Department believes that a formal wetland delineation is not necessary for single-family lots within subdivisions. A requirement has been added that if the subdivided lot is greater than .50 acre, a formal wetland delineation, conducted in accordance with established procedures, must be submitted with the registration form. This conclusion is shared by the ACOE Nationwide Permit for Single-Family Housing. For lots less than .50 acre the Department is requiring the individual to indicate the wetland and fill areas on the registration sketch plan.

7. Several commentators believe, as in other general permits, that the review and approval of an erosion and sedimentation plan by the County Conservation District should be a condition of GP-15.

The permit user is responsible for stabilizing the site to control erosion and sedimentation during and after construction. For lots greater than .50 acre, an Erosion and Sedimentation Control Plan must be reviewed by the County Conservation District. For lots less than .50 acre, an Erosion and Sedimentation Control Plan, meeting the requirements of 25 Pa. Code Chapter 102, must be implemented and must be available at the site for review by the Department and/or the County Conservation District. This method of addressing erosion and sedimentation control issues has been tailored specifically to the activities authorized by GP-15. The Department, in the future, will be evaluating each general permit individually to insure the conditions and requirements within each are appropriate and essential for the permitted activity.

#### **401 Water Quality Certification**

The projects covered by the proposed General Permit BDWW-GP-15 may also require a Federal license or permit. Section 401(a) of the Federal Clean Water Act (33 U.S.C.A. § 1341(a)) requires that any applicant for a Federal license or permit to conduct any activity which may result in any discharge into the waters of the United States provide the Federal licensing or permitting agency a certification from the state in which the discharge will originate that the discharge will comply with applicable provisions of the Clean Water Act as well as applicable State law related to water quality protection.

The Department, by this notice, certifies that the construction, operation and maintenance of encroachment or water obstructions, in accordance with the terms, criteria and conditions of BDWW-GP-15, comply with the applicable provisions of sections 301—303, 306 and 307 of the Clean Water Act (33 U.S.C.A. §§ 1311—1313, 1316 and 1317). The Department further certifies that the construction, operation and maintenance of such projects comply with applicable State laws related to water quality protection and standards, provided that the construction, operation and maintenance complies with the terms, criteria and conditions of the permit.

This permit, in accordance with section 7(d) of the Dam Safety and Encroachments Act, will be effective on March 4, 1996.

BDWW-GENERAL PERMIT-15  
PRIVATE RESIDENTIAL CONSTRUCTION IN  
WETLANDS

FEDERAL/STATE COORDINATION REQUIREMENTS  
SPECIAL PROCESSING PROCEDURES FOR GENERAL  
PERMIT 15

Carefully review the requirements of the General Permit to determine if your project can qualify for authorization under this General Permit. If your project cannot be authorized under the General Permit, you may request approval of an individual permit by submitting an application to the appropriate Soils and Waterways Section in the Regional Office.

WETLAND IMPACTS GREATER THAN .10 ACRE

The ACOE under the conditions of the Pennsylvania State Programmatic General Permit (PASPGP-1), requires that any GP-15 registrant who proposes to impact greater than .10 acre of wetland obtain separate Federal approval. The ACOE and the Department have agreed on a processing procedure that requires such registrants to obtain Federal approval prior to registering GP-15. To obtain Federal approval:

- Complete all the information required in General Permit 15.
- Send one copy of the entire GP-15 package, *with the exception of the check payable to the National Fish and Wildlife Foundation*, to the appropriate office of the ACOE.

Delaware River Basin  
Philadelphia District Corps of Engineers  
Wanamaker Bldg.  
100 Penn Square East  
Philadelphia, PA 19107  
Phone: 215-656-6728

Susquehanna River Basin  
Baltimore District Corps of Engineers  
P. O. Box 1715  
Baltimore, MD 21203-1715  
Phone: 410-962-1846

Ohio River Basin  
Pittsburgh District Corps of Engineers  
Room 1834 Federal Bldg.  
1000 Liberty Avenue  
Pittsburgh, PA 15222  
Phone: 412-644-6872

- The ACOE will provide a response within 30 days from the date of receipt of the GP-15 package informing the applicant whether or not the proposed project is authorized by the Pennsylvania State Programmatic General Permit.
- To register GP-15 with DEP, forward a copy of the ACOE authorization with your GP-15 registration package and a check in the correct amount payable to the National Fish and Wildlife Foundation to the DEP Regional Office or the delegated County Conservation District.

WETLAND IMPACTS EQUAL TO OR LESS THAN .10  
ACRE

Permit registrants who minimize wetland impacts to .10 acre or less may register to use GP-15 by submitting the complete GP-15 registration package directly to the DEP Regional Office or the delegated County Conservation District.

GENERAL PERMIT BDWW-GP-15  
PRIVATE RESIDENTIAL CONSTRUCTION IN  
WETLANDS

**A. General Description.** The Department of Environmental Protection hereby authorizes, by general permit, the placement and maintenance of fill in, or the excavation of, nontidal wetlands for the construction or expansion of a single-family home for the personal residence of the permittee, including reasonable and necessary features such as a driveway, yard, storage shed and utilities on residential lots within established subdivisions approved by the local governing authority prior to November 22, 1991, where such activities do not impact greater than .50 acre of nontidal wetlands. The issuance of this General Permit also constitutes approval of a Water Quality Certification under section 401 of the Federal Clean Water Act (33 U.S.C.A. § 1341). The contribution associated with this General Permit is for participation in the Pennsylvania Wetland Replacement Project.

Neither the Department of Environmental Protection nor any County Conservation District which is delegated Chapter 105 permitting authority shall be liable for incidents resulting from subsidence, structure failure, water damage, vector problems or any other hardships that may occur as a result of building in wetlands.

**B. Registration procedure:**

1. Complete the Registration Form (Exhibit A).

The information requested in Item 2 on the registration form will be used to determine potential impacts to threatened and endangered species. If a potential impact is indicated, the Department will provide assistance to you to address threatened and endangered species concerns.

If you desire, to avoid possible project delays, a search for potential impacts can be conducted prior to registration by completing the attached Supplement No. 1, Pennsylvania Natural Diversity Inventory Form (PNDI) and submitting it to the appropriate DEP Regional Office or delegated County Conservation District. The completed search information should be submitted when you register the permit.

2. Prepare a project location map utilizing a photocopy of a 7-1/2 minute U.S.G.S. Quadrangle Map showing the project site.

3. Prepare a sketch plan (Exhibit B) or attach a copy of a plot plan of the project showing the: (a) dimension of the entire property, (b) location of wetland, (c) location of erosion and sedimentation control measures, and (d) dimension of the proposed wetland impact area.

4. In addition to B1, 2 and 3, prior to registration, if the subdivided lot is greater than .50 acre; (a) conduct a formal wetland delineation in accordance with established procedures, and (b) obtain an Erosion and Sedimentation Control Plan approval letter from the County Conservation District.

5. To register use of the general permit for wetland impacts of .10 acre or less send one copy of the:

- a. Location Map,
- b. Registration Form (Exhibit A),
- c. Sketch Plan (Exhibit B).
- d. A formal wetland delineation, if required, (see B.4. above),
- e. Erosion and Sedimentation Control Plan approval letter, if applicable (see B.4. above), and,



f. A Wetland Replacement Plan or, a contribution to the Pennsylvania Wetland Replacement Project, as described in Part D.9 of this general permit,

g. Processed Supplement Number 1, (if applicable, see B.1);

to the DEP Regional Soils and Waterways Section or the delegated County Conservation District. A list of delegated Conservation Districts and addresses is attached (see Supplement No. 1). You may not start your project until you have received confirmation of registration.

**6. Special permit processing procedures for wetlands impacts greater than .10 acre.**

a. Complete all the information required in General Permit 15.

b. Send one copy of the entire GP-15 package, with the exception of the check payable to the National Fish and Wildlife Foundation, to the appropriate office of the ACOE.

Delaware River Basin  
Philadelphia District Corps of Engineers  
Wanamaker Bldg.  
100 Penn Square East  
Philadelphia, PA 19107  
Phone: 215-656-6728

Susquehanna River Basin  
Baltimore District Corps of Engineers  
P. O. Box 1715  
Baltimore, MD 21203-1715  
Phone: 410-962-1846

Ohio River Basin  
Pittsburgh District Corps of Engineers  
Room 1834 Federal Bldg.  
1000 Liberty Avenue  
Pittsburgh, PA 15222  
Phone: 412-644-6872

c. The ACOE District will provide a response within 30 days from the date of receipt of the GP-15 package informing the applicant whether or not the proposed project is authorized by the Pennsylvania State Programmatic General Permit.

d. To register GP-15, forward a copy of the ACOE authorization with your GP-15 registration package and a check in the correct amount payable to the National Fish and Wildlife Foundation to the DEP Regional Office or the delegated County Conservation District.

**C. Definitions Applicable to this General Permit:**

*Floodway*—The channel of the watercourse and those portions of the adjoining floodplains which are reasonably required to carry and discharge the 100-year frequency flood. Unless otherwise specified, the boundary of the floodway is as indicated on maps and flood insurance studies provided by FEMA. In an area where no FEMA maps or studies have defined the boundary of the 100-year frequency floodway, it is assumed, absent evidence to the contrary, that the floodway extends from the stream to 50 feet from the top of the bank of the stream.

*Impact*—The loss of nontidal wetlands of the Commonwealth including any filled area previously permitted, the proposed filled area, and any other nontidal wetlands of the Commonwealth that are adversely affected by flooding, excavation or drainage as a result of the project.

*Individual*—A natural person and/or couple but does not include a corporation, partnership or similar entity.

*Parcel of Land*—The entire contiguous quantity of land in possession of, recorded as property of, or owned (in any form of ownership, including land owned as a partner, corporation, joint tenant, etc.) by the same individual (and/or his or her spouse), and comprises not only the area of wetlands sought to be filled, but also all land contiguous to those wetlands, owned by the individual and/or his or her spouse in any form of ownership.

*Pennsylvania Wetland Replacement Project*—A fund managed by the National Fish and Wildlife Foundation from which money is dispersed at the direction of the Department of Environmental Protection, to which Chapter 105 permit applicants can make a monetary contribution, in lieu of creating wetlands.

*Subdivision*—The division or redivision of a lot, tract or parcel of land into two or more lots, tracts, parcels or other divisions of land including changes in existing lot lines.

*Wetlands*—Areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs and similar areas.

*Emergent Wetland*—Wetland areas dominated by nonwoody vegetation.

*Forested Wetland*—Wetland areas dominated by woody vegetation 20 feet or more in height.

*Scrub/Shrub Wetland*—Wetland areas dominated by woody vegetation less than 20 feet in height.

**D. Conditions:**

1. Impacts to wetlands must be avoided and minimized. Nonwetland areas on-site must be utilized whenever practical.
2. Fills or excavations in wetlands, including previously filled areas may not exceed more than 40% of the total lot area, except where lots are less than .25 acre in size where a maximum of .10 acre of fill in wetlands is authorized. In no circumstances may the total fill or excavation exceed .50 acre of wetlands.

The following conversion table provides an example of the amount of wetland fill authorized in accordance with the 40% maximum fill condition.

<i>Lot Area in Acres</i>	×	<i>40% of Lot Area</i>	=	<i>Maximum Area of Wetland Fill</i>
0.25	×	0.40	=	0.10 acre
0.33	×	0.40	=	0.13 acre
0.50	×	0.40	=	0.20 acre
0.75	×	0.40	=	0.30 acre
1.00	×	0.40	=	0.40 acre
1.25	×	0.40	=	0.50 acre

3. Fills, and/or excavations, in floodways are not authorized by this General Permit.
4. This permit may only be used once per parcel of land.
5. This permit may only be used for a single-family home for a personal residence by an individual.
6. This permit may only be used on lots with access to a central sewage system which is in place and operational at the time of registration, except in instances where the fill is for the expansion of an existing residence. Under no circumstances may fill be used to construct or expand an on-lot sewage disposal system.

7. Fill material cannot contain wastes as defined in the Solid Waste Management Act.

8. Appropriate erosion control measures and facilities must be incorporated into all earthmoving activities associated with construction. Upon completion of construction the site shall be stabilized.

a. For lots greater than .50 acre an Erosion and Sedimentation Control Plan must be reviewed and approved by the County Conservation District in the county where your project is located prior to registration.

b. For lots less than .50 acre an Erosion and Sedimentation Control Plan meeting the requirements of 25 Pa. Code, Chapter 102, must be implemented and must be available at the site for review by the Department and/or the County Conservation District (see Exhibit B, Erosion and Sedimentation Control Notes). Permit users are encouraged to contact County Conservation Districts for erosion and sedimentation control planning assistance.

9. Individuals who wish to use this General Permit for impacts of up to .50 acre of wetlands must provide for the replacement of functions, values and areal extent of the wetlands impacted by:

a. creating a wetland in accordance with the Department's Design Criteria for Wetland Replacement on a 1:1 area ratio, replacement wetlands to filled wetlands. (Copies of the criteria are available at DEP Regional Offices.)

—or—

b. participating in the Pennsylvania Wetland Replacement Project by contributing to the National Fish and Wildlife Foundation Fund Project 95-096.

The contribution rate is as follows:

De minimus impact less than or equal to .05 acre	— \$ 0.00
Greater than .05 acre to .10 acre	— \$ 500.00
Greater than .10 acre to .20 acre	— \$ 1,000.00
Greater than .20 acre to .30 acre	— \$ 2,500.00
Greater than .30 acre to .40 acre	— \$ 5,000.00
Greater than .40 acre to .50 acre	— \$ 7,500.00

10. Fills and/or excavations should not increase flood levels or permanently restrict, impede, accelerate, increase or obstruct the passage of normal or expected stormwater flows in such a manner that adversely impacts the property or riparian rights of owners above, below, or adjacent to the project.

**E. Activities Not in Accordance with Terms or Conditions**—If the Department determines, upon inspection, that the construction, operation or maintenance of a project has violated the terms or criteria of this General Permit or of the Chapter 105 Rules and Regulations, the Department may take such actions, legal or administrative, that it may deem to be appropriate.

**F. Denial of Authorization**—The Department shall have the discretion to deny, revoke or suspend the use of the General Permit for any project which the Department determines to have a substantial risk to life, health, property or the environment.

**G. Authority**—Authorization of this General Permit is under section 7 of the Dam Safety and Encroachment Act (32 P. S. 693.7 et seq.), and the rules and regulations promulgated thereunder at 25 Pa. Code §§ 105.441—105.449 (relating to general permits). This general permit becomes effective March 4, 1996, and will remain in effect indefinitely unless specifically modified, suspended or revoked by the Department.

**PU—INSERT 3 PAGES OF  
ART**



[Pa.B. Doc. No. 96-146. Filed for public inspection February 2, 1996, 9:00 a.m.]

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## Pennsylvania Wetland Replacement Project

The Department of Environmental Protection (Department) hereby announces the implementation of the Pennsylvania Wetland Replacement Project. This project provides a mechanism by which the Department will assist permit applicants in meeting the wetland replacement/mitigation requirements associated with Chapter 105 Water Obstruction and Encroachment Permits. The project will ease administrative and financial burdens associated with small wetland replacement areas while maintaining appropriate levels of environmental protection for significant wetland resources. The project furthers the goals of the Department to ensure that mitigation efforts are effective, productive and beneficial.

### *Background*

The goal of wetlands protection programs is to ensure that the many functions and values provided by wetlands related to water quality, wildlife habitat and public safety, are preserved. In order to meet that goal, regulatory programs require that wetlands lost as a result of Federal or State permitting actions be replaced by creating new wetlands. Although seemingly insignificant on an individual basis, the cumulative impact of small incremental wetland losses can, over the long-term, result in major impairments to the environment, especially within the context of a specific watershed or locale. If wetland protection programs are to ensure future environmental quality, the replacement of these small incremental impacts becomes a major concern.

Permit recipients, usually a business, municipality, individual or State agency, assume the responsibility for providing replacement wetlands as a special condition of the permit. The goal of wetlands replacement is to provide a wetland which replicates and provides the same functions and values as the wetland which was lost.

The creation of wetlands requires careful planning, design, construction, monitoring, and often, new land acquisition. Wetland creation on large scale projects is often incorporated within the project scope and wetland functions and values can be replaced on site or on adjacent sites. However, the creation of wetlands on a small scale presents both regulators and permit applicants with challenges which often complicate the permit process.

Permit applicants, even for small projects, are often faced with requirements to identify and acquire suitable land for wetland replacement, and provide funding for wetland construction and long-term monitoring. Permits may not be issued until applicants provide for wetland replacement which often results in permit delays and frustrations for the applicant and the regulatory agency. As a result of this situation, the Department was keenly interested in developing a strategy to achieve wetland replacement to meet program goals while minimizing the regulatory burdens on permit applicants, especially those proposing minor projects.

In order to address this regulatory issue, the Department, in cooperation with the National Fish and Wildlife Foundation (Foundation), has agreed to establish and manage a fund, titled the Pennsylvania Wetland Replacement Project, to which Chapter 105 permit applicants for activities in wetlands can make a monetary contribution, in lieu of creating replacement wetlands. The Foundation was created by Congress in 1984 as a charitable and nonprofit corporation. The purposes of the Foundation are (1) to encourage, accept and administer private gifts of

property for the benefit of, or in connection with, the activities and services of the United States Fish and Wildlife Service and (2) to undertake and conduct such other activities as will further the conservation and management of the fish, wildlife and plant resources of the United States, its territories and its possessions, for present and future generations of Americans.

### *Public Comments*

On July 1, 1995 the Department of Environmental Protection advertised and requested comments regarding the establishment of the Pennsylvania Wetland Replacement Project (Fund) in the *Pennsylvania Bulletin*. Eighty-three comments were received.

A brief summary of the public comments and the Department's responses follows:

1. The majority of the commentators suggested that the contribution rate be raised to support the purchase of land.

The Department's fee schedule reflects the emphases placed on restoration of wetlands and projects that will partner private landowner and conservation groups on a voluntary basis, thereby eliminating the necessity of buying land. The fee schedule is based on similar restoration programs at the Federal level, and the Department believes the fees are appropriate.

2. Many commentators stated that wetlands destruction represents a loss to a specific watershed and restoration work should be done in the watershed where the loss occurred.

The Department will consider the recorded amount of wetland loss within each watershed when evaluating the benefits of proposed projects.

3. Some commentators questioned whether the Department has a plan and/or methodology to evaluate the success of the program and if necessary, make changes to it.

The Department will monitor wetland impacts and evaluate restoration projects based upon the stated goals and objectives of each project. Changes to this effort will be made where and when appropriate.

4. A few commentators believe that a consequence of the fund will be an easing of the current requirement to avoid and minimize wetland impacts before mitigating.

Permit applicants must continue to provide an alternatives analysis including avoidance and minimization as required by Chapter 105.

### *Implementation*

Upon review and consideration of the comments, the Department believes the proposal will ease administrative and financial burdens associated with small replacement wetlands while providing effective resource protection and restoration. The Department further believes that the use of the fund is an appropriate means of providing regulatory relief for those individuals who meet all other permit requirements but cannot replace wetlands. Those applicants will be afforded the opportunity to make a contribution to the fund in order to meet that requirement.

The Department has the discretion to approve or deny the use of the fund as appropriate wetland mitigation and replacement for permit actions on a case by case basis. Permit applicants must continue to provide sound alternative analyses, demonstrate avoidance, and minimize impacts to wetlands in accordance with existing regulatory requirements contained in 25 Pa. Code Chapter 105.

If sufficient onsite area is available and suitable for replacement, and will provide environmental benefits, onsite wetland replacement will be required. The Department is establishing an upper limit of .50 acre for eligibility to participate in the fund. Under special circumstances, exceptions to the .50 acre upper limit may be considered. The Department's Regional Office permit review staff will be responsible for determining special circumstances when the .50 acre threshold should be exceeded.

Applicants who propose impacts to wetlands that fall under the threshold of .50 acre will be informed of the potential opportunity to participate in the Pennsylvania Wetland Replacement Project. Applicants for any class of activity who meet all other permit requirements but can not replace wetlands will be afforded the opportunity to make a contribution to the fund in order to meet that requirement.

The Department has determined that individual impacts to wetlands less than .05 acre are de minimus, and do not present a significant impact individually or cumulatively to wetland resources in the Commonwealth. Therefore, they do not need to be replaced either on the ground or by a contribution to the fund. The fee schedule for impacts greater than .05 acre of wetlands follows:

Greater than .05 acre to .10 acre	\$ 500.00
Greater than .10 acre to .20 acre	1,000.00
Greater than .20 acre to .30 acre	2,500.00
Greater than .30 acre to .40 acre	5,000.00
Greater than .40 acre to .50 acre	7,500.00

The fund will be used by the Department to support projects which link volunteer land owners with public and private agencies which will result in the restoration of wetlands, riparian corridors and other aquatic systems. Project sponsors are not limited to any specific public or private agency and can include County Conservation Districts, conservation agencies, sportsmen's groups, municipal governments, and conservancies. All funds contributed under the Pennsylvania Wetland Replacement Project will be released at the direction of the Department to support wetland and stream restoration and protection projects within the Commonwealth.

The Department will, to the best of its ability, strive to ensure that replacement projects are located within the same subbasin (as identified in the State Water Plan), coastal zone management areas, or within reasonable proximity to the wetlands which are impacted. The Division of Wetlands Protection will maintain an accurate and detailed accounting of projects funded and wetland acreage replaced through funds contributed to the Foundation.

Implementation of the Pennsylvania Wetland Replacement Project is effective immediately for all actions reviewed and authorized under the Chapter 105 program including applications presently under review. Applicants and permittees are encouraged to contact the Department's Regional Offices for information regarding specific projects.

JAMES M. SEIF,  
*Secretary*

[Pa.B. Doc. No. 96-147. Filed for public inspection February 2, 1996, 9:00 a.m.]

## Proposed Revision to the Pennsylvania State Implementation Plan for Ozone; Public Hearing

### Ozone Maintenance Plans for the following areas: Allentown, Bethlehem and Easton Area

The Department of Environmental Protection is submitting redesignation requests to the Federal Environmental Protection Agency under section 107(d) of the Federal Clean Air Act for the above noted areas. As support for this request, the Department is also amending the State Implementation Plan (SIP) to include maintenance plans for each of these areas. These plans which demonstrate maintenance of the ozone air quality standard through the year 2007 are the subject of this public review process.

These plans are required under section 175A of the Federal Clean Air Act.

The public hearing will be held on Monday, March 4, 1996, at 1 p.m. at the following location: Department of Environmental Protection, Bethlehem District Office, 4530 Bath Pike, Bethlehem, PA.

Persons wishing to present testimony at the hearing must contact Karen Matter at (717) 787-9495 or at the address given below no later than Thursday, February 29, 1996, to reserve a time to present testimony. Oral testimony will be limited to 10 minutes for each witness and 3 written copies of the oral testimony must be submitted at the hearing. Each organization should designate one witness to present testimony on its behalf.

Persons interested in submitting written comments should send the comments to J. Wick Havens, Chief, Division of Air Resource Management at the address given below by March 18, 1996. Copies of the proposed revision may be obtained from the Bureau of Air Quality, Rachel Carson State Office Building, 12th Floor, P. O. Box 8468, Harrisburg, PA 17105-8468 or by telephone at (717) 787-4310.

Persons with a disability who wish to attend the hearing, and require an auxiliary aid, service or other accommodation to participate in the proceeding, should contact J. Wick Havens at the above address or telephone number; or for TDD users, the AT&T Relay Service at 1 (800) 654-5984 to discuss how the Department can best accommodate their needs.

JAMES M. SEIF,  
*Secretary*

[Pa.B. Doc. No. 96-148. Filed for public inspection February 2, 1996, 9:00 a.m.]

## Proposed Revision to the Pennsylvania State Implementation Plan for Ozone; Public Hearing

### Ozone Maintenance Plans for the following areas: Erie, Youngstown-Warren-Sharon (Mercer County), Lawrence County, Warren County and Crawford County

The Department of Environmental Protection is submitting redesignation requests to the Federal Environmental Protection Agency under section 107(d) of the Federal Clean Air Act for the above noted areas. As support for this request, the Department is also amending the State Implementation Plan (SIP) to include maintenance plans for each of these areas. These plans which demonstrate

maintenance of the ozone air quality standard through the year 2007 are the subject of this public review process.

These plans are required under section 175A of the Federal Clean Air Act.

The public hearing will be held on Monday, March 4, 1996, at 1 p.m. at the following location: Department of Environmental Protection, Meadville Regional Office, 230 Chestnut Street, Meadville, PA.

Persons wishing to present testimony at the hearing must contact Karen Matter at (717) 787-9495 or at the address given below no later than Thursday, February 29, 1996, to reserve a time to present testimony. Oral testimony will be limited to 10 minutes for each witness and 3 written copies of the oral testimony must be submitted at the hearing. Each organization should designate one witness to present testimony on its behalf.

Persons interested in submitting written comments should send the comments to J. Wick Havens, Chief, Division of Air Resource Management at the address given below by March 18, 1996. Copies of the proposed revision may be obtained from the Bureau of Air Quality, Rachel Carson State Office Building, 12th Floor, P. O. Box 8468, Harrisburg, PA 17105-8468 or by telephone at (717) 787-4310.

Persons with a disability who wish to attend the hearing, and require an auxiliary aid, service or other accommodation to participate in the proceeding, should contact J. Wick Havens at the above address or telephone number; or for TDD users, the AT&T Relay Service at 1 (800) 654-5984 to discuss how the Department can best accommodate their needs.

JAMES M. SEIF,  
*Secretary*

[Pa.B. Doc. No. 96-149. Filed for public inspection February 2, 1996, 9:00 a.m.]

### **Proposed Revision to the Pennsylvania State Implementation Plan for Ozone; Public Hearing**

#### **Ozone Maintenance Plans for the following areas: Harrisburg Area, York Area, Lancaster Area, Franklin County, Snyder County, Juniata County and Northumberland County**

The Department of Environmental Protection is submitting redesignation requests to the Federal Environmental Protection Agency under section 107(d) of the Federal Clean Air Act for the above noted areas. As support for this request, the Department is also amending the State Implementation Plan (SIP) to include maintenance plans for each of these areas. These plans which demonstrate maintenance of the ozone air quality standard through the year 2007 are the subject of this public review process.

These plans are required under section 175A of the Federal Clean Air Act.

The public hearing will be held on Monday, March 4, 1996, at 1 p.m. at the following location: Department of Environmental Protection, Harrisburg Central Office, Hearing Room 1, Rachel Carson State Office Building, 2nd Floor, 400 Market Street, Harrisburg, PA.

Persons wishing to present testimony at the hearing must contact Karen Matter at (717) 787-9495 or at the

address given below no later than Thursday, February 29, 1996, to reserve a time to present testimony. Oral testimony will be limited to 10 minutes for each witness and 3 written copies of the oral testimony must be submitted at the hearing. Each organization should designate one witness to present testimony on its behalf.

Persons interested in submitting written comments should send the comments to J. Wick Havens, Chief, Division of Air Resource Management at the address given below by March 18, 1996. Copies of the proposed revision may be obtained from the Bureau of Air Quality, Rachel Carson State Office Building, 12th Floor, P. O. Box 8468, Harrisburg, PA 17105-8468 or by telephone at (717) 787-4310.

Persons with a disability who wish to attend the hearing, and require an auxiliary aid, service or other accommodation to participate in the proceeding, should contact J. Wick Havens at the above address or telephone number; or for TDD users, the AT&T Relay Service at 1 (800) 654-5984 to discuss how the Department can best accommodate their needs.

JAMES M. SEIF,  
*Secretary*

[Pa.B. Doc. No. 96-150. Filed for public inspection February 2, 1996, 9:00 a.m.]

### **Proposed Revision to the Pennsylvania State Implementation Plan for Ozone; Public Hearing**

#### **Ozone Maintenance Plans for the following areas: Johnstown Area; Altoona Area; and Greene County**

The Department of Environmental Protection is submitting redesignation requests to the Federal Environmental Protection Agency under section 107(d) of the Federal Clean Air Act for the above noted areas. As support for this request, the Department is also amending the State Implementation Plan (SIP) to include maintenance plans for each of these areas. These plans which demonstrate maintenance of ozone air quality standard through the year 2007 are the subject of this public review process.

These plans are required under section 175A of the Federal Clean Air Act.

The public hearing will be held on Monday, March 4, 1996, at 1 p.m. at the following location: Department of Environmental Protection, Ebensburg District Office, R. D. 3, Wilmore Road, Ebensburg, PA.

Persons wishing to present testimony at the hearing must contact Karen Matter at (717) 787-9495 or at the address given below no later than Thursday, February 29, 1996, to reserve a time to present testimony. Oral testimony will be limited to 10 minutes for each witness and 3 written copies of the oral testimony must be submitted at the hearing. Each organization should designate one witness to present testimony on its behalf.

Persons interested in submitting written comments should send the comments to J. Wick Havens, Chief, Division of Air Resource Management at the address given below by March 18, 1996. Copies of the proposed revision may be obtained from the Bureau of Air Quality, Rachel Carson State Office Building, 12th Floor, P. O. Box 8468, Harrisburg, PA 17105-8468 or by telephone (717) 787-4310.

Persons with a disability who wish to attend the hearing, and require an auxiliary aid, service or other



accommodation to participate in the proceeding, should contact J. Wick Havens at the above address or telephone number; or for TDD users, the AT&T Relay Service at 1 (800) 654-5984 to discuss how the Department can best accommodate their needs.

JAMES M. SEIF,  
*Secretary*

[Pa.B. Doc. No. 96-151. Filed for public inspection February 2, 1996, 9:00 a.m.]

## Proposed Revision to the Pennsylvania State Implementation Plan for Ozone; Public Hearing

### Ozone Maintenance Plans for the following areas: Scranton, Wilkes-Barre Area; Susquehanna County; Pike County and Wayne County

The Department of Environmental Protection is submitting redesignation requests to the Federal Environmental Protection Agency under section 107(d) of the Federal Clean Air Act for the above noted areas. As support for this request, the Department is also amending the State Implementation Plan (SIP) to include maintenance plans for each of these areas. These plans which demonstrate maintenance of the ozone air quality standard through the year 2007 are the subject of this public review process.

These plans are required under section 175A of the Federal Clean Air Act.

The public hearing will be held on Monday, March 4, 1996, at 1 p.m. at the following location: Department of Environmental Protection, Wilkes-Barre Regional Office, Cross Valley Center, 2 Public Square, Wilkes-Barre, PA.

Persons wishing to present testimony at the hearing must contact Karen Matter at (717) 787-9495 or at the address given below no later than Thursday, February 29, 1996, to reserve a time to present testimony. Oral testimony will be limited to 10 minutes for each witness and 3 written copies of the oral testimony must be submitted at the hearing. Each organization should designate one witness to present testimony on its behalf.

Persons interested in submitting written comments should send the comments to J. Wick Havens, Chief, Division of Air Resource Management at the address given below by March 18, 1996. Copies of the proposed revision may be obtained from the Bureau of Air Quality, Rachel Carson State Office Building, 12th Floor, P. O. Box 8468, Harrisburg, PA 17105-8468 or by telephone at (717) 787-4310.

Persons with a disability who wish to attend the hearing, and require an auxiliary aid, service or other accommodation to participate in the proceeding, should contact J. Wick Havens at the above address or telephone; or for TDD users, the AT&T Relay Service at 1-(800)-654-5984 to discuss how the Department can best accommodate their needs.

JAMES M. SEIF,  
*Secretary*

[Pa.B. Doc. No. 96-152. Filed for public inspection February 2, 1996, 9:00 a.m.]

## DEPARTMENT OF HEALTH

### Laboratories Approved to Determine Blood Alcohol Content Under the Clinical Laboratory Act, the Vehicle Code, the Fish and Boat Code and the Game and Wildlife Code

The following laboratories are licensed by the Department of Health under the Clinical Laboratory Act (35 P. S. §§ 2151—2165) and are currently approved by the Department under 28 Pa. Code §§ 5.50 and 5.103 (relating to approval to provide special analytical services; and blood tests for blood alcohol content) to perform alcohol analyses of blood and/or serum and plasma. This approval is based on demonstrated proficiency in periodic tests conducted by the Department's Bureau of Laboratories. Since procedures for determining the alcohol content of serum and plasma are identical and results obtained from serum or plasma derived from a blood sample are the same, laboratories that demonstrate reliability in the analysis of serum proficiency testing specimens are approved to analyze both serum and plasma. These laboratories are also approved and designated under the provisions of the Vehicle Code, 75 Pa.C.S. §§ 1547 and 3755 (relating to chemical testing to determine amount of alcohol or controlled substance; and reports by emergency room personnel), the Fish and Boat Code, 30 Pa.C.S. § 5125 (relating to chemical testing to determine amount of alcohol or controlled substance), and the Game and Wildlife Code, 34 Pa.C.S. § 2502, (relating to hunting or furtaking under the influence of alcohol or controlled substance) as qualified to perform the types of specialized services which will reflect the presence of alcohol in blood and/or serum and plasma. Laboratories located outside the Commonwealth may not provide blood and/or serum and plasma alcohol testing services in Pennsylvania unless they are specifically licensed by the Department under the Clinical Laboratory Act.

Persons seeking forensic blood and/or serum and plasma analysis services from the following designated laboratories should determine that the laboratory employs techniques and procedures acceptable for forensic purposes, and that the director of the facility is agreeable to performing determinations for this purpose. The list of approved laboratories will be revised semiannually and published in the *Pennsylvania Bulletin*.

The Department's blood alcohol and serum/plasma alcohol proficiency testing programs are approved by the U.S. Department of Health and Human Services (HHS) in accordance with the requirements contained in the Clinical Laboratory Improvement Amendments of 1988 (42 CFR 493.901 and 493.937) which are administered by the Health Care Financing Administration (HCFA). Participation in these programs may therefore be used to demonstrate acceptable performance for approval purposes under both Federal and Commonwealth statutes.

Questions regarding this list should be directed to Dr. M. Jeffery Shoemaker, Division of Chemistry and Toxicology, Department of Health, Bureau of Laboratories, P. O. Box 500, Exton, PA 19341-0500, (215) 363-8500. Persons with a disability may submit questions to Dr. Shoemaker in alternative formats, such as by audio tape, braille or using TDD: (717) 783-6514. Persons with a disability who require an alternative format of this document (for example, large print, audio tape, braille) should contact Dr. Shoemaker so that he may make the necessary arrangements.

The symbols S and B indicate the following:

S = approved for serum and plasma analyses

B = approved for blood analyses

SB = approved for serum, plasma and blood analyses

**Abington Memorial Hospital-S**

1200 Old York Road  
Abington, PA 19001  
215-576-2350

**Albert Einstein Medical Center-Northern Division-S**

5500 Old York Road  
Philadelphia, PA 19141  
215-456-6100

**Aliquippa Hospital-SB**

2500 Hospital Drive  
Aliquippa, PA 15001  
412-857-1238

**Allegheny County Dept. of Labs., Toxicology Section-SB**

10 County Office Building  
Pittsburgh, PA 15219  
412-355-6873

**Allegheny General Hospital-Dept. Lab. Medicine-S**

320 East North Avenue  
Pittsburgh, PA 15212  
412-359-3521

**Allegheny Valley Hospital-SB**

1300 Carlisle Street  
Natrona Heights, PA 15065  
412-224-5100

**Allentown Osteopathic Medical Center-S**

1736 Hamilton Street  
Allentown, PA 18104  
610-439-4000

**Altoona Hospital-SB**

620 Howard Avenue  
Altoona, PA 16601  
814-946-2340

**American Medical Laboratories, Inc.-SB**

14225 Newbrook Drive  
Chantilly, VA 22021  
703-802-6900

**Analytic Bio-Chemistries, Inc.-SB**

1680-D Loretta Avenue  
Feasterville, PA 19053  
215-322-9210

**Armstrong County Memorial Hospital-SB**

R.D.#8, Box 50  
Kittanning, PA 16201  
412-543-8122

**Associated Clinical Laboratories-SB**

1526 Peach Street  
Erie, PA 16501  
814-453-6621

**Ayer Clinical Laboratory-Penna. Hospital-S**

8th & Spruce Streets  
Philadelphia, PA 19107  
215-829-3541

**Braddock Medical Center-S**

412 Holland Avenue  
Braddock, PA 15104  
412-636-5000

**Bradford Hospital-SB**

116-156 Interstate Parkway  
Bradford, PA 16701  
814-834-8282

**Brandywine Hospital and Trauma Center-S**

Route 30 Bypass  
Coatesville, PA 19320  
610-383-8000

**Brownsville General Hospital Laboratory-SB**

125 Simpson Road  
Brownsville, PA 15417  
412-785-7200

**Butler Memorial Hospital-S**

911 East Brady Street  
Butler, PA 16001  
412-284-4510

**Canonsburg General Hospital-SB**

R.D.#1, Box 147, Route 519  
Canonsburg, PA 15317  
412-745-6100

**CareLabs, Inc.-S**

225 Penn Avenue  
Pittsburgh PA 15221  
412-247-2552

**Carlisle Hospital-S**

245 Parker Street  
Carlisle, PA 17013  
717-249-1212

**Central Intake Unit-S**

111 North Broad Street, 1st Floor  
Philadelphia PA 19107  
215-557-0400

**Centre Community Hospital-B**

1800 East Park Avenue  
State College, PA 16803  
814-234-6117

**Chambersburg Hospital-S**

112 North Seventh Street  
Chambersburg, PA 17201  
717-267-7152

**Charles Cole Memorial Hospital-S**

R.D.#3, U.S. Route 6  
Coudersport, PA 16915  
814-274-9300

**Chester County Hospital-S**

701 East Marshall Street  
West Chester, PA 19380  
610-431-5182

**Chestnut Hill Hospital-S**

8835 Germantown Avenue  
Philadelphia, PA 19118  
215-248-8630

**The Children's Hospital of Philadelphia-S**

One Children's Center, 34th and Civic Center Blvd.  
Philadelphia, PA 19104  
215-590-1000

**Citizens General Hospital-SB**

651 Fourth Avenue  
New Kensington, PA 15068  
412-337-5031

**Clarion Hospital-SB**

One Hospital Drive  
Clarion, PA 16214  
814-226-9500

**Clearfield Hospital Lab-S**

809 Turnpike Avenue, P.O. Box 992  
Clearfield, PA 16830  
814-765-5341

Clintox Laboratories-S  
601 Gay Street  
Phoenixville, PA 19460  
610-933-6550

Community General Hospital-S  
145 North Sixth Street  
Reading, PA 19603  
610-378-8350

Community General Osteopathic Hospital-SB  
4300 Londonderry Road, P.O. Box 3000  
Harrisburg, PA 17109  
717-657-7214

Community Hospital-B  
North Fraley Street  
Kane, PA 16735  
814-837-8585

Community Hospital of Lancaster-S  
1100 Orange Street  
Lancaster, PA 17604  
717-397-3711

Community Medical Center-S  
1822 Mulberry Street  
Scranton, PA 18510  
717-969-8000

Conemaugh Valley Memorial Hospital-SB  
1086 Franklin Street  
Johnstown, PA 15905  
814-533-9000

Corning Clinical Laboratories, Inc.-SB  
900 Business Center Drive  
Horsham PA 19044  
215-957-9300

Corning MetPath, d/b/a-SB  
One Malcolm Avenue  
Teterboro, NJ 07608  
201-288-0900

Crozer Chester Medical Center-SB  
15th Street and Upland Avenue  
Chester, PA 19013  
610-447-2000

Delaware County Memorial Hospital-SB  
501 N. Lansdowne Avenue  
Drexel Hill, PA 19026  
610-284-8100

Delaware Valley Medical Center-S  
200 Oxford Valley Road  
Langhorne, PA 19047  
215-949-5275

Department of Pathology & Lab Med-HUP-SB  
3400 Spruce Street  
Philadelphia, PA 19104  
215-662-3435

Divine Providence Hospital-B  
1100 Grampian Boulevard  
Williamsport, PA 17701  
717-326-8167

Doylestown Hospital-S  
595 West State Street  
Doylestown, PA 18901  
215-345-2250

DrugScan, Inc.-SB  
1119 Mearns Road, P.O. Box 2969  
Warminster, PA 18974  
215-674-9310

DuBois Regional Medical Center-West Unit-S  
100 Hospital Avenue  
DuBois, PA 15801  
814-371-2200

Easton Hospital-SB  
250 S. 21st Street  
Easton, PA 18042  
610-250-4140

Elk County Regional Medical Center-S  
94 Hospital Street  
Ridgway, PA 15853  
814-776-6111

Ellwood City General Hospital-S  
724 Pershing Street  
Ellwood City, PA 16117  
412-752-0081

Ephrata Community Hospital-S  
169 Martin Avenue, P.O. Box 1002  
Ephrata, PA 17522  
717-733-0311

Episcopal Hospital-S  
Front Street and Lehigh Avenue  
Philadelphia, PA 19125  
215-427-7333

Evangelical Community Hospital-SB  
1 Hospital Drive  
Lewisburg, PA 17837  
717-522-2510

Forbes Regional Health Center-SB  
2570 Haymaker Road  
Monroeville, PA 15146  
412-858-2560

Frankford Hospital-Frankford Division-S  
Frankford Avenue and Wakeling Street  
Philadelphia, PA 19124  
215-831-2068

Frankford Hospital-Torresdale Division-S  
Red Lion and Knights Road  
Philadelphia, PA 19114  
215-612-4000

Frick Hospital and Community Health Center-S  
508 South Church Street  
Mount Pleasant, PA 15666  
412-547-1500

Fulton County Medical Center-S  
216 South First Street  
McConnellsburg, PA 17233  
717-485-3155

Geisinger Medical Center-S  
North Academy Road  
Danville, PA 17822  
717-271-6338

Geisinger Wyoming Valley Medical Center-S  
1000 East Mountain Drive  
Wilkes-Barre, PA 18711  
717-826-7830

George Tolstoi Laboratory-Uniontown Hospital-S  
500 W. Berkeley Street  
Uniontown, PA 15401  
412-430-5143

Germantown Hospital and Medical Center-S  
One Penn Boulevard  
Philadelphia, PA 19144  
215-951-8800

Gettysburg Hospital-SB  
147 Gettys Street  
Gettysburg, PA 17325  
717-334-2121

GHS-Parkview Hospital-SB  
1331 East Wyoming Avenue  
Philadelphia, PA 19124  
215-537-7430

GHS-Osteopathic, Inc., City Avenue Campus-SB  
4150 City Avenue, Dept. of Pathology  
Philadelphia, PA 19131  
215-871-1000

Girard Medical Center-S  
Eighth and Girard Avenue  
Philadelphia, PA 19122  
215-787-2469

Gnaden Huetten Memorial Hospital-SB  
Eleventh and Hamilton Streets  
Lehighton, PA 18235  
610-377-1300

Good Samaritan Hospital-SB  
Fourth and Walnut Streets, P.O. Box 1281  
Lebanon, PA 17042  
717-270-7500

Good Samaritan Medical Center-SB  
1020 Franklin Street  
Johnstown, PA 15905  
814-533-1906

Good Samaritan Regional Medical Center-SB  
700 East Norwegian Street  
Pottsville, PA 17901  
717-622-3400

Graduate Hospital-S  
One Graduate Plaza, 4th Floor, Pepper Pavilion  
Philadelphia, PA 19146  
215-893-2240

Grand View Hospital-S  
700 Lawn Avenue  
Sellersville, PA 18960  
215-257-3611

Greene County Memorial Hospital-SB  
Bonar Avenue  
Waynesburg, PA 15370  
412-627-3101

Greenville Regional Hospital-SB  
110 North Main Street  
Greenville, PA 16125  
412-588-2100

Hahnemann Hospital-SB  
Broad and Vine Streets, MS 113  
Philadelphia, PA 19102  
215-448-7154

Hamot Medical Center-S  
201 State Street  
Erie, PA 16550  
814-455-6711

Hanover General Hospital-SB  
300 Highland Avenue  
Hanover, PA 17331  
717-637-3711

Harrisburg Hospital-SB  
South Front Street  
Harrisburg, PA 17101  
717-782-3131

Hazleton General Hospital-SB  
East Broad Street  
Hazleton, PA 18201  
717-454-2441

Health Network Laboratories, A Service of Lehigh Valley  
Hospital-SB  
17th and Chew Streets  
Allentown, PA 18102  
215-778-2236

Highlands Hospital and Health Center-SB  
401 East Murphy Avenue  
Connellsville, PA 15425  
412-628-1500

Holy Spirit Hospital-SB  
503 North 21st Street  
Camp Hill, PA 17011  
717-763-2206

Indiana Hospital-Department of Medicine-S  
P.O. Box 788  
Indiana, PA 15701  
412-357-7166

Jameson Memorial Hospital-S  
1211 Wilmington Avenue  
New Castle, PA 16105  
412-658-9001

J. C. Blair Memorial Hospital-S  
Warm Springs Avenue  
Huntingdon, PA 16652  
814-643-8645

Jeanes Hospital - S  
7600 Central Avenue  
Philadelphia, PA 19111  
215-728-2347

Jeannette District Memorial Hospital-S  
Jefferson Avenue  
Jeanette, PA 15644  
412-527-3551

Jefferson Regional Health Services, Inc.-Brookville Div.-S  
100 Hospital Road  
Brookville, PA 15825  
814-849-2312

John F. Kennedy Memorial Hospital-S  
Cheltenham Avenue and Langdon Streets  
Philadelphia, PA 19124  
215-831-7203

Kensington Hospital-S  
136 W. Diamond Street  
Philadelphia, PA 19122  
215-426-8100

LabOne, Inc.-SB  
8915 Lenexa Drive  
Overland Park KS 66214  
913-888-1770

Laboratory Corporation of America-SB  
750 Walnut Avenue  
Cranford, NJ 07016  
908-272-2511

Laboratory Corporation of America-SB  
13900 Park Center Road  
Herndon, VA 22071  
703-742-3100

Lab Corp. of America Holdings-SB  
69 First Avenue, PO Box 500  
Raritan, NJ 08869  
201-526-2400

Lab Corp. of America Holdings-SB  
6370 Wilcox Road  
Dublin, OH 43017  
800-282-7300

Lancaster General Hospital-S  
555 North Duke Street, P.O. Box 3555  
Lancaster, PA 17603  
717-299-5511

Lancaster General Hospital-Susquehanna Division-S  
631 Poplar Street  
Columbia, PA 17512  
717-684-2841

Latrobe Area Hospital-B  
West Second Avenue  
Latrobe, PA 15650  
412-537-1550

Lee Hospital-SB  
320 Main Street  
Johnstown, PA 15901  
814-533-0130

Lewistown Hospital-SB  
Highland Avenue  
Lewistown, PA 17044  
717-248-5411

Lock Haven Hospital-B  
24 Cree Drive  
Lock Haven, PA 17745  
717-893-5000

Lower Bucks Hospital-SB  
501 Bath Road  
Bristol, PA 19007  
215-785-9200

Main Line Clinical Laboratories-Bryn Mawr-CP-S  
Bryn Mawr Avenue  
Bryn Mawr, PA 19010  
610-526-3554

Main Line Clinical Laboratories-Lankenau-CP-S  
100 East Lancaster Avenue  
Wynnwood, PA 19096  
610-645-2615

Main Line Clinical Laboratories-Paoli Memorial-CP-S  
255 W. Lancaster Avenue  
Paoli, PA 19301  
610-648-1000

Marian Community Hospital-S  
100 Lincoln Avenue  
Carbondale, PA 18407  
717-282-2100

McKeesport Hospital-S  
1500 Fifth Avenue  
McKeesport, PA 15132  
412-664-2233

Meadville Medical Center-Liberty Street-S  
751 Liberty Street  
Meadville, PA 16335  
814-336-3121

MedExpress/National Laboratory Center, Inc.-SB  
3955 Vantech Drive  
Memphis TN 38115  
901-795-1515

The Medical Center, Beaver, PA, Inc.-S  
1000 Dutch Ridge Road  
Beaver, PA 15009  
412-728-7000

Medical Center of Delaware-Department of Pathology-S  
4755 Ogetown-Stanton Road  
Newark, DE 19718  
302-733-3673

Medical Center of Delaware-Department of Pathology-S  
501 W. 14th Street  
Wilmington, DE 19899  
302-428-2955

Medical College Hospital-Bucks County Campus-S  
225 Newtown Road  
Warminster, PA 18974  
215-441-6700

Medical College Hospital-Elkins Park Campus-SB  
60 East Township Line  
Elkins Park, PA 19117  
215-663-6102

Medical College Hospital-Main Clinic Campus-S  
3300 Henry Avenue  
Philadelphia, PA 19129  
215-842-6615

Medlab Clinical Testing, Inc.-S  
212 Cherry Lane  
New Castle, DE 19720  
800-633-5221

Memorial Hospital-SB  
325 South Belmont Street, P.O. Box 15118  
York, PA 17403  
717-843-8623

Memorial Hospital Lab-SB  
R.D. #1  
Towanda, PA 18848  
717-265-2191

Memorial Hospital of Bedford County-SB  
Route 1  
Everett, PA 15537  
814-623-6161

Mercy Catholic Medical Center-Fitzgerald Division-S  
Lansdowne Avenue and Bailey Road  
Darby, PA 19023  
610-237-4175

Mercy Catholic Medical Center-Misericordia Division-S  
5301 Cedar Avenue  
Philadelphia, PA 19143  
215-748-9170

Mercy Haverford Hospital Laboratory-S  
2000 Old West Chester Pike  
Haverford, PA 19083  
610-645-3600

Mercy Hospital-SB  
2500 Seventh Avenue  
Altoona, PA 16602  
814-949-4495

Mercy Hospital-S  
Pride and Locust Streets  
Pittsburgh, PA 15219  
412-232-7831

Mercy Hospital - S  
746 Jefferson Avenue  
Scranton, PA 18501  
717-348-7100

Mercy Hospital Laboratory-S  
25 Church Street  
Wilkes-Barre, PA 18765  
717-826-3100

Mercy Providence Hospital-S  
1004 Arch Street  
Pittsburgh, PA 15212  
412-323-5783

Methodist Hospital-SB  
2301 South Broad Street  
Philadelphia, PA 19148  
215-952-9059

MetPath Laboratories-SB  
875 Greentree Road  
Four Parkway Center  
Pittsburgh, PA 15220-3610  
412-920-7600

MidValley Hospital-S  
1400 Main Street  
Peckville, PA 18452  
717-489-7546

Miner's Hospital Lab of North Cambria-B  
Crawford Avenue and First Street  
Spangler, PA 15775  
814-948-7171

Monongahela Valley Hospital, Inc.-S  
Country Club Road, Route 88  
Monongahela, PA 15063  
412-258-2000

Monsour Medical Center-SB  
70 Lincoln Way East  
Jeannette, PA 15644  
412-527-1511

Montgomery Hospital Laboratory-S  
Powell and Fornance Streets  
Norristown, PA 19401  
610-270-2173

Montrose General Hospital -SB  
3 Grow Avenue  
Montrose, PA 18801  
717-278-3801

Moses Taylor Hospital-S  
700 Quincy Avenue  
Scranton, PA 18510  
717-963-2100

Muhlenberg Hospital Center-S  
2545 Schoenersville Road  
Bethlehem, PA 18017  
610-861-2261

Nason Hospital-B  
Nason Drive  
Roaring Spring, PA 16673  
814-224-6215

National Medical Services, Inc.-Laboratory-SB  
2300 Stratford Avenue  
Willow Grove, PA 19090  
215-657-3565

National Psychopharmacology Laboratory, Inc.-SB  
9320 Park West Boulevard  
Knoxville, TN 37923  
615-690-8101

Nazareth Hospital-SB  
2601 Holme Avenue  
Philadelphia, PA 19152  
215-335-6245

Neumann Medical Center, Inc.-S  
Frankford Avenue and Palmer Street  
Philadelphia, PA 19125  
215-291-2118

North Hills Passavant Hospital-S  
9100 Babcock Boulevard  
Pittsburgh, PA 15237  
412-367-6700

North Penn Hospital-S  
100 Medical Campus Drive  
Lansdale, PA 19446  
215-368-2100

Northeastern Hospital-S  
2301 East Allegheny Avenue  
Philadelphia, PA 19134  
215-291-3671

Northwest Medical Center-Franklin-S  
1 Spruce Street  
Franklin, PA 16323  
814-437-7000

Northwest Medical Center, Oil City Campus-SB  
174 East Bissell Avenue  
Oil City, PA 16301  
814-677-1711

Ohio Valley General Hospital-S  
Heckel Road  
McKees Rocks, PA 15136  
412-777-6244

Omega Medical Laboratories, Inc.-SB  
2001 State Hill Road, Suite 100  
Wyomissing, PA 19610  
610-378-1900

PA Department of Health, Bureau of Laboratories-SB  
P.O. Box 500  
Exton, PA 19341-0500  
610-363-8500

PA State Police Lab-Bethlehem Regional Laboratory-SB  
2930 Airport Road  
Bethlehem, PA 18017-2149  
610-861-2103

PA State Police Lab-Erie-SB  
4310 Iroquois Avenue  
Erie, PA 16511  
814-899-8447

PA State Police Lab-Greensburg-SB  
PA State Police, P.O. Box P  
Greensburg, PA 15601  
412-832-3299

PA State Police Lab-Harrisburg-SB  
1800 Elmerton Avenue  
Harrisburg, PA 17110  
717-783-5548

PA State Police Lab-Lima-SB  
350 N. Middletown Road  
Media, PA 19063  
610-566-9066

PA State Police Lab-Wyoming-SB  
479 Wyoming Avenue  
Wyoming, PA 18644  
717-826-2230

Palmerton Hospital-S  
135 Lafayette Avenue  
Palmerton, PA 18071  
610-826-3141

Philadelphia Police Laboratory-SB  
Room 305 PAB, 8th & Race Streets  
Philadelphia, PA 19106  
215-592-5831

Philipsburg Area Hospital-S  
210 Lock Lomond Road  
Philipsburg, PA 16866  
814-342-7112

Phoenixville Hospital-S  
140 Nutt Road  
Phoenixville, PA 19460  
610-933-9281

Pittsburgh Criminalistics-SB  
1320 Fifth Avenue  
Pittsburgh, PA 15219  
412-391-6118

Pocono Medical Center Lab-SB  
206 East Brown Street  
East Stroudsburg, PA 18301  
717-476-3544

Polyclinic Medical Center-SB  
2601 North Third Avenue  
Harrisburg, PA 17110  
717-782-4141

Pottstown Memorial Medical Center-S  
1600 East High Street  
Pottstown, PA 19464  
215-327-7111

Pottsville Hospital and Warne Clinic-SB  
420 South Jackson Streets  
Pottsville, PA 17901  
717-622-6120

Presbyterian Medical Center of UPHS-S  
51 North 39th Street  
Philadelphia, PA 19104  
215-662-6000

Quality Medical Lab-SB  
215 North 12th Street, Box 316  
Reading, PA 19603  
215-378-2000

Reading Hospital and Medical Center-S  
Sixth and Spruce Streets  
Reading, PA 19603  
610-378-6080

Riddle Memorial Hospital-S  
Baltimore Pike Highway 1  
Media, PA 19063  
215-566-9400

Robert Packer Hospital-SB  
200 South Wilbur Avenue  
Sayre, PA 18840  
717-888-6666

Roxborough Memorial Hospital-S  
5800 Ridge Avenue  
Philadelphia, PA 19128  
215-483-9900

Sacred Heart Hospital-S  
Fourth and Chew Streets  
Allentown, PA 18102  
610-776-4727

Saint Agnes Medical Center-S  
1900 South Broad Street  
Philadelphia, PA 19145  
215-339-4360

Saint Clair Memorial Hospital-S  
1000 Bower Hill Road  
Pittsburgh, PA 15243  
412-561-4900

Saint Francis Central Hospital-S  
1200 Centre Avenue  
Pittsburgh, PA 15219  
412-562-3060

Saint Francis Medical Center-North-SB  
One Francis Way  
Mars, PA 16046  
412-772-5300

Saint Francis Hospital-S  
1000 South Mercer Street  
New Castle, PA 16101  
412-658-3511

Saint Francis Medical Center-SB  
400-45th Street  
Pittsburgh, PA 15201  
412-622-4838

Saint Joseph Hospital-S  
250 College Avenue, P.O. Box 3509  
Lancaster, PA 17604  
717-291-8022

Saint Joseph's Hospital-Div. of NPHS-S  
16th Street and Girard Avenue  
Philadelphia, PA 19130  
215-787-9000

Saint Lukes Hospital-SB  
801 Ostrum Street  
Bethlehem, PA 18015  
610-691-4141

Saint Margaret's Memorial Hospital-S  
815 Freeport Road  
Pittsburgh, PA 15215  
412-784-4000

Saint Mary Hospital-S  
Langhorne & Newtown Roads  
Langhorne, PA 19047  
215-750-2162

St. Marys Regional Medical Center-B  
763 Johnsonburg Road  
St. Marys, PA 15857  
814-834-8519

Saint Vincent Health Center-S  
232 West 25th Street  
Erie, PA 16544  
814-452-5383

Sewickley Valley Hospital Laboratory-S  
Blackburn Road and Fitch Drive  
Sewickley, PA 15143  
412-741-6600

Shadyside Hospital - S  
5230 Centre Avenue  
Pittsburgh, PA 15232  
412-622-2315

Sharon Regional Health System-SB  
740 East State Street  
Sharon, PA 16146  
412-983-3911

Shenango Valley Medical Center-SB  
2200 Memorial Drive  
Farrell, PA 16121  
412-981-3500

Sierra Analytical Laboratories-SB  
625 East Drinker Street  
Dunmore, PA 18512  
717-341-2224

SmithKline Beecham Clinical Laboratories, Inc.-SB  
400 Egypt Road  
Norristown, PA 19403  
610-631-4200

SmithKline Beecham Clinical Laboratories, Inc.-SB  
2300 Market Street, Suite 101  
Philadelphia, PA 19103  
215-567-2800

Soldiers & Sailors Memorial Hospital-S  
Central Avenue  
Wellsboro, PA 16901  
717-724-1631

Somerset Hospital Laboratory-SB  
225 South Center Avenue  
Somerset, PA 15501  
814-443-2626

South Hills Health System-Jefferson-SB  
Coal Valley Road, P.O. Box 18119  
Pittsburgh, PA 15236  
412-469-5723

Southern Chester County Medical Center-S  
1015 West Baltimore Pike  
West Grove, PA 19390  
610-869-1080

Springfield Hospital-S  
Sproul and Thompson Roads  
Springfield, PA 19064  
610-328-9200

St. Lukes Quakertown Hospital-S  
Eleventh Street and Park Avenue  
Quakertown, PA 18951  
215-536-2400

Suburban General Hospital-S  
100 S. Jackson Avenue  
Bellevue, PA 15202  
412-734-6000

Suburban General Hospital-S  
2701 DeKalb Pike  
Norristown, PA 19404  
610-278-2075

Taylor Hospital-S  
175 East Chester Pike  
Ridley Park, PA 19078  
610-595-6450

Temple University Hospital-S  
3401 N. Broad Street  
Philadelphia, PA 19140  
215-221-3453

Thomas Jefferson University Hospital-S  
125 South 11th Street, 204 Pavillion  
Philadelphia, PA 19107  
215-955-6374

Titusville Area Hospital-S  
406 West Oak Street  
Titusville, PA 16354  
814-827-1851

Toxi-Con-SB  
120 Monahan Avenue, Suite 101  
Dunmore, PA 18512  
717-963-0722

Tyler Memorial Hospital-S  
RD #1, Route 6  
Tunkhannock, PA 18657  
717-836-2161

Tyrone Hospital-SB  
Clay Avenue Extension  
Tyrone, PA 16686  
814-684-1255

United Community Hospital-S  
631 North Broad Street Ext.  
Grove City, PA 16127  
412-458-5442

University Hospital-M.S. Hershey Medical Center-S  
500 University Avenue  
Hershey, PA 17033  
717-531-8353

University of Pittsburgh Medical Center-SB  
Room 5929 Main Tower/UPMC  
Pittsburgh PA 15213  
412-647-7813

Warren General Hospital-SB  
212 Crescent Park West  
Warren, PA 16365  
814-723-3300

Washington Hospital-S  
155 Wilson Avenue  
Washington, PA 15301  
412-225-7000

Wayne Memorial Hospital-S  
601 Park Street  
Honesdale, PA 18431  
717-253-1300

Waynesboro Hospital-SB  
East Main Street  
Waynesboro, PA 17268  
717-765-3403

West Virginia University Hospitals-S  
Clinical Laboratories  
PO Box 8009  
Morgantown, WV 26506  
304-598-4241

Western Pennsylvania Hospital-S  
4800 Friendship Avenue  
Pittsburgh, PA 15224  
412-578-5779

Western Reserve Care System-SB  
500 Gypsy Lane  
Youngstown, OH 44504  
216-740-3794

Westmoreland Hospital-S  
532 W. Pittsburgh Street  
Greensburg, PA 15601  
412-832-4365

Wilkes-Barre General Hospital-SB  
Corner North River and Auburn Streets  
Wilkes-Barre, PA 18764  
717-829-8111

Williamsport Hospital and Medical Center-B  
777 Rural Avenue  
Williamsport, PA 17701  
717-321-2300

Windber Hospital and Wheeling Clinic-SB  
600 Somerset Avenue  
Windber, PA 15963  
814-467-6611



York Hospital-SB  
1001 South George Street  
York, PA 17405  
717-771-2696

PETER J. JANNETTA, M.D.,  
*Secretary*

[Pa.B. Doc. No. 96-153. Filed for public inspection February 2, 1996, 9:00 a.m.]

### Notice of Beginning of Review; Certificates of Need

The Department has completed its preliminary assessment of the following applications for the offering, development, construction, renovation, expansion or establishment of reviewable clinically related health services or health care facilities. This notice is published in accordance with sections 702(c), 704(a) and 704(b) of the Health Care Facilities Act (35 P. S. §§ 448.702(c), 704(a) and 704(b)).

*CON-94-D-2095-B:* Miners Memorial Medical Center, Seventh Street, Coaldale, PA 18218. The applicant proposes to add six long-term beds to an existing 53 bed facility. The project entails no additional cost.

*CON-93-A-1845-B:* Norristown Ambulatory Surgery Center, c/o SMP Associates, 91 Chestnut Road, Paoli, PA 19301. The project involves establishment of a free-standing ambulatory surgery center in Norristown, Montgomery County, by SMP Associates, Montgomery Hospital, and Suburban General Hospital, at an estimated cost of \$3,700,000.

*CON-95-B-2327-B:* Easton Hospital, 250 South 21st Street, Easton, PA 18042-3892. The project involves establishment of two dedicated open heart operating rooms and closure of an existing operating room, at an estimated cost of \$1,628,577.

The projects are scheduled to be reviewed and a decision rendered by the Department of Health within 90 days beginning February 3, 1996. Interested persons, as defined in section 103 of the act (35 P. S. § 448.103) may request a public meeting. Requests must be made in writing, within 15 days of this notice, to the Department of Health, Division of Need Review, Room 1027, Health and Welfare Building, Harrisburg, PA 17120. In order to preserve any appeal rights under section 506(a) of the act (35 P. S. § 448.506(a)) regarding the decisions made on these applications, any interested person as defined in the act must request a public meeting and participate in that meeting.

If the Department of Health receives a timely request for public meeting, such meeting will be held in Room 812 of the Health and Welfare Building, Seventh and Forster Streets, Harrisburg, PA. The public meeting for Miners Memorial Medical Center will begin at 9 a.m., Thursday, February 22, 1996. The public meeting for Easton Hospital will begin at 9 a.m., Friday, March 8, 1996. The public meeting for Norristown Ambulatory Surgery Center will begin at 11 a.m., Thursday, March 21, 1996. Persons who need an accommodation due to a disability and want to attend a meeting should contact Jack W. Means, Jr., Director, Division of Need Review at (717) 787-5601 at least 24 hours in advance so arrangements can be made. These meetings are subject to cancellation without further notice.

For additional information, contact the Division of Need Review at (717) 787-5601.

PETER J. JANNETTA, M.D.,  
*Secretary*

[Pa.B. Doc. No. 96-154. Filed for public inspection February 2, 1996, 9:00 a.m.]

## DEPARTMENT OF MILITARY AND VETERANS AFFAIRS

### Income Restriction for Admission to a Pennsylvania State Veterans' Home

Effective immediately, the allowable income for a single Domiciliary care applicant is \$22,440 per year plus \$1,260 per year per dependent, the maximum income paid to a 100% disabled veteran by the United States Department of Veterans Affairs. An income below the \$22,440 will demonstrate the applicant may be incapable of self-support and demonstrate a financial need. An amount above the \$22,440 may qualify an applicant for admission on his/her ability to pay the full per diem cost.

JAMES MACVAY,  
*Adjutant General*

[Pa.B. Doc. No. 96-155. Filed for public inspection February 2, 1996, 9:00 a.m.]

## DEPARTMENT OF TRANSPORTATION

### Retention of Engineering Firms

#### Allegheny, Beaver and Lawrence Counties Reference No. 08430AG1974

The Department of Transportation will retain an engineering firm for an open-end contract for various engineering services and environmental studies on various projects located in Allegheny, Beaver and Lawrence Counties in Engineering District 11-0. The contract will be for a 30 month period with projects assigned on an as-needed basis. The required services may encompass a wide range of design and environmental efforts with the possibility of several different types of projects having short completion schedules. The anticipated types of projects may include, but are not limited to, bridge replacements or bridge rehabilitations with minor approach work, roadway betterments (3R Type), SAMI studies, SAMI final design, Capital Improvement Projects (bridges or roadways), and minor location studies. The maximum amount of the open-end contract will be \$750,000.

The Department will establish an order of ranking of a minimum of three firms for the purpose of negotiating an open-end contract based on the Department's evaluation of the acceptable letters of interest received in response to this solicitation. The ranking will be established directly from the letters of interest. Technical proposals will not be requested prior to the establishment of the ranking.

The following factors, listed in order of importance, will be considered by the Department during the evaluation of the firms submitting letters of interest:

a. Specialized experience and technical competence of firm. Emphasis will be placed on a firm's geotechnical capabilities for this open-end contract.

b. Past record of performance with respect to cost control, work quality, ability to meet schedules and previous experience on open-end contracts. The specific experience of individuals who constitute the firms shall be considered.

c. Available staffing for this assignment.

d. Relative size of firm to size of projects that may be completed under this contract.

e. Current workload.

f. Location of consultant in respect to the District.

The firm may be required to perform any or all of the following engineering services: attend field views and prepare minutes; prepare submissions for field views and safety review meeting; field surveys; plot topography and cross sections; prepare submissions and materials necessary for the Department to prepare the application to Public Utility Commission (PUC) for the PUC field conference; attend and supply any required information for all PUC meetings and hearings during project design; develop erosion control details and narrative; develop right-of-way plans; prepare type, size and location reports; prepare hydraulic report for waterway approval; prepare bridge drawings; traffic control plans and narrative; procure core borings; provide the soil and foundation engineering report; investigate utility and property involvement; prepare and disseminate right of entry letters; prepare prints and information required for a value engineering review; make the necessary investigations and adjustments to the design as a result of the value engineering review comments; make all necessary contact with railroad officials for any railroad-related costs estimates, permits, insurance, approvals and other required information; collect traffic signal timing and accident data; perform traffic counts and speed delay studies; prepare plans for signal design and implementation of signal interconnections; evaluate alternatives using benefit/cost analysis; document study activities and findings; and prepare construction plans, specifications and estimates.

The format and content of all documents, plans and specifications will be consistent with applicable State and Federal regulations and guidelines.

The firm may be required to perform any or all of the following environmental studies: air quality; surface water and groundwater hydrology; terrestrial ecology; wetlands; soils; geology; farmland; visual quality; socio-economic; cultural; section 4(f) and section 106 documents; and other related studies not identified above. The environmental studies will be conducted in accordance with Department policy and accepted analysis techniques and methodologies.

The firm may also be required to perform any or all of the following in order to ensure a complete environmental investigation has been performed: provide all necessary environmental services, material and equipment necessary to collect, analyze and organize data; assess impacts; conduct agency and public involvement activities; and prepare reports and design mitigation plans.

The reports and other written graphic material to be prepared may include, but are not limited to, early coordination and scoping correspondence; meeting minutes; public meetings and hearing presentations; handouts and displays; technical basis reports; NEPA environ-

mental documents; section 106 documents; section 4(f) evaluations; mitigation plans and reports; and wetland and floodplain findings.

The engineering services and environmental studies identified above are the general work activities that can be expected under this open-end contract. A more specific and project-related scope of work will be outlined for each individual work order developed under this open-end contract.

Technical questions concerning the requirements for this project should be directed to Robert Collins, District 11-0, at (412) 429-4928.

Questions concerning the submittal of the letter of interest can be directed to the Consultant Agreement Division at (717) 783-9309.

#### **General Requirements and Information**

Firms interested in performing any of the above services are invited to submit letters of interest to: Director, Consultant Selection Committee, Room 1118, Transportation and Safety Building, Harrisburg, PA 17120.

A separate letter of interest and required forms must be submitted for each project for which the applicant wishes to be considered. The letter of interest and required forms must be received within 13 calendar days of this notice. The deadline for receipt of a letter of interest at the above address is 4:30 p.m. of the thirteenth day.

If the project advertisement indicates that the Department will retain an engineering firm, letters of interest will only be accepted from individuals, firms or corporations duly authorized to engage in the practice of engineering. If an individual, firm or corporation not authorized to engage in the practice of engineering desires to submit a letter of interest, said individual, firm or corporation may do so as part of a joint venture with an individual, firm or corporation which is permitted under State law to engage in the practice of engineering.

If a goal for Disadvantaged Business Enterprise (DBE) participation is established for an advertised project, firms expressing interest in the project must agree to ensure that Disadvantaged Business Enterprise (DBE) firms as defined in the Intermodal Surface Transportation Efficiency Act of 1991 and currently certified by the Department of Transportation shall have the maximum opportunity to participate in any subcontracting or furnishing supplies or services approved under Form 442, Section 1.10(a). The act requires that firms owned and controlled by women (WBEs) be included, as a presumptive group, within the definition of Disadvantaged Business Enterprise (DBE). The goal for DBE participation shall be as stated in the individual project advertisement. Responding firms shall make good faith efforts to meet the DBE goal using DBEs (as they were defined prior to the act), WBEs or combinations thereof. Proposed DBE firms must be certified at the time of submission of the letter of interest. If the selected firm fails to meet the goal established, it shall be required to demonstrate its good faith efforts to attain the goal. Failure to meet the goal and to demonstrate good faith efforts may result in being barred from Department contracts in the future.

Responses are encouraged by small engineering firms, disadvantaged business enterprise engineering firms and other engineering firms who have not previously performed work for the Department of Transportation.

Each letter of interest must include in the heading, the firm's Federal Identification Number and the Project

Reference Number indicated in the advertisement. The letter of interest must also include the following:

1. Standard Form 255, "Architect-Engineer and Related Services Questionnaire for Specific Project."

2. Standard Form 254, "Architect-Engineer and Related Services Questionnaire" not more than 1 year old as of the date of this advertisement, must accompany each letter of interest for the firm, each party to a joint venture and for each subconsultant the firm or joint venture is proposing to use for the performance of professional services regardless of whether the subconsultant is an individual, a college professor or a company. Please disregard the statements on Standard Form 255 that indicate a Standard Form 254 is only required if not already on file with the contracting office. The Department does not maintain a file for Standard Form 254 for contracting purposes; therefore, this Form is required for the prime consultant and each subconsultant as stated above.

3. Two copies of the Department's Form D-427 (Rev. 6-89), "Current Workload" for the firm submitting the letter of interest. At least one copy of Form D-427 must remain free and not bound in any way to any other portion of the letter of interest or accompanying documentation. Copies of Form D-427 are available upon request from the above address or by contacting the Department's Consultant Agreement Division at (717) 783-9309.

4. Firms with out-of-State headquarters or corporations not incorporated in Pennsylvania must include with each letter of interest a copy of their registration to do business in the Commonwealth as provided by the Department of State. Firms who are not registered to do business in Pennsylvania at the time of this advertisement must document that they have applied for registration to the Department of State, Corporation Bureau. The telephone number for the Corporation Bureau is (717) 787-1057 or (717) 787-2004.

The Standard Form 255 must be filled out in its entirety including Item No. 6 listing the proposed subconsultants and the type of work or service they will perform on the project. If a Disadvantaged Business Enterprise (DBE) goal is specified for the project, the DBE must be presently certified by the Department of Transportation, and the name of the firm and the work to be performed must be indicated in Item 6. If a Women Business Enterprise (WBE) firm is substituted for the DBE, the WBE firm must also be presently certified by the Department of Transportation and indicated in Item 6.

The Standard Form 254 must be signed and dated and must be less than 1 year old as of the date of this advertisement. A Standard Form must accompany each letter of interest for the firm submitting the letter of interest, each party to a joint venture, and for each subconsultant shown under Item 6 of the Standard Form 255.

Unless other factors are identified under the individual project reference number, the following factors, listed in their order of importance, will be considered by the Committee during their evaluation of the firms submitting letters of interest:

a. Specialized experience and technical competence of firm.

b. Past record of performance with respect to cost control, work quality, and ability to meet schedules. The specific experience of individuals who constitute the firms shall be considered.

c. Current workload and capacity of firm to perform the work within the time limitations.

d. Location of consultant.

e. Special requirements of the project.

f. Other factors, if any, specific to the project.

The Department currently limits its participation in the remuneration of principals or consultant employees performing work on projects to \$72,800 per annum or \$35 per hour or their actual audited remuneration, whichever is less. The Department currently limits its participation in the consultant's indirect payroll costs (overhead) on design and miscellaneous projects to 130% of the direct payroll cost or the consultant's actual audited overhead rate, whichever is less. The Department currently limits its participation in the consultant's indirect payroll costs (overhead) on construction inspection projects to 85.2% of the direct payroll cost or the consultant's actual audited overhead rate, whichever is less. The Department's limitations will apply to the projects advertised above unless the Department policy is revised prior to the negotiation of an agreement or contract.

The assignment of the above services will be made to one of the firms responding to this notice, but the Committee reserves the right to reject all letters of interest submitted, to cancel the solicitations requested under this notice, and/or to readvertise solicitation for these services.

BRADLEY L. MALLORY,  
*Secretary*

[Pa.B. Doc. No. 96-156. Filed for public inspection February 2, 1996, 9:00 a.m.]

## FISH AND BOAT COMMISSION

### Triploid Grass Carp Permit Applications

Under 58 Pa. Code § 71.7, the Fish and Boat Commission may issue permits to stock triploid grass carp in Commonwealth waters. Triploid grass carp are sterile fish that may, in appropriate circumstances, help control aquatic vegetation. The Commission has determined consistent with 58 Pa. Code § 71.7(e)(3) to seek public input with respect to any proposed stockings of triploid grass carp in waters having a surface area of more than 5 acres.

The following applications to stock triploid grass carp in waters having a surface area of more than 5 acres are currently undergoing staff review:

<i>Applicant</i>	<i>Water</i>	<i>Location of Water</i>	<i>Description of Water</i>	<i>Nature of Vegetation to be Controlled</i>
City of Harrisburg, Parks & Recreation	Italian Lake	Harrisburg, Dauphin Co.	Seven acre public park lake fed by springs and municipal water	Spirogyra, Potamogeton
William D. Summerville	Mirabella Lake (formerly Galvin Pond)	Ridgebury Twp. Bradford Co.	Mirabella Lake is a 20 acre spring-fed lake which drains into Bently Creek.	Myriophyllum
Apollo Spring Church Sportsmen's Club	Apollo Spring Church Lake	Kiskiminetas Twp. Armstrong Co.	A 12 acre lake fed by springs.	Elodea

PETER COLANGELO,  
*Executive Director*

[Pa.B. Doc. No. 96-157. Filed for public inspection February 2., 1996, 9:00 a.m.]

## INDEPENDENT REGULATORY REVIEW COMMISSION

### Actions Taken by the Commission

The Independent Regulatory Review Commission met publicly at 11 a.m., Thursday, January 18, 1996, and took the following actions:

#### *Regulation Approved:*

Department of Revenue #15-346: Personal Income Tax; Exempt and Nonexempt Income (amends 61 Pa. Code Chapter 103 and deletes Chapter 125)

Department of Public Welfare #14-412: Long-Term Structured Residences (amends 55 Pa. Code by adding Chapter 5320)

*Commissioners Present:* Robert J. Harbison, III, Vice-Chairperson; Thomas P. Comerford, Jr.; John F. Mizner; Irvin G. Zimmerman

Public meeting held  
January 18, 1996

*Department of Revenue—Personal Income Tax; Exempt and Nonexempt Income; Doc. No. 15-346*

#### Order

On July 13, 1994, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Department of Revenue (Revenue). This rulemaking would amend 61 Pa. Code Chapter 103 (Imposition and Determination of Tax), Chapter 117 (Return and Payment of Tax) and delete Chapter 125 (Personal Income Tax Pronouncements—Statement of Policy). Revenue also seeks to add a new Chapter 108 (Distributions). The authority for this regulation is set forth in section 7354 of the Tax Reform Code of 1971, as amended (72 P. S. § 7354), relating to personal income tax. The proposed rulemaking was published in the *Pennsylvania Bulletin* on July 23, 1994, with a 30-day public comment period. The final-form regulation was submitted to the Commission on December 20, 1995.

Revenue states that these amendments are necessary to implement Act 68 of 1993, which makes taxable those gains derived from dispositions of Federal, State and local obligations issued on or after February 1, 1994, and

exempts from taxation exempt-interest dividends of investment companies. It also provides the circumstances under which information returns will be required from investment companies, Subchapter S corporations and certain other organizations.

Lastly, this rulemaking will supersede and delete as unnecessary current provisions in sections 125.11—125.15 relating to "Income Tax Pronouncements—Statement of Policy." These provisions relate to: gains or losses on the sale, exchange or other disposition of obligations otherwise exempt from tax; interest; distribution by corporations; distributions by business trusts; and distributions by investment companies. This Statement of Policy was published in the *Pennsylvania Bulletin* on May 6, 1994.

Revenue has added a new subsection (i) to section 103.13 (relating to net gains or income from disposition of property), which sets forth the determination of net gains or income with respect to obligations issued on or after February 1, 1994. A new subparagraph (j) details adjustments to basis. Paragraph (l) deals with adjustments to the basis of a debt instrument in the hands of the holder for taxable years beginning on or after January 1, 1993. Paragraph (2) describes adjustments to the basis for an obligation issued by the Commonwealth, a public authority, commission, board or other agency created by the Commonwealth, a political subdivision of the Commonwealth or a public authority created by the latter, or an obligation exempt from tax under the laws of the United States in the hands of the holder.

Section 103.16 (relating to interest) is being amended to indicate that any payment for the use of money, whether or not paid specifically as interest, is taxable as "interest." In addition, for taxable years beginning on or after January 1, 1993, "interest" shall also include any excess of a publicly offered obligation's stated redemption price at maturity over the first price at which a substantial amount of the obligations included in the issue are sold to the public. A new subsection (f) details the procedure for calculation of unstated or imputed interest for taxable years beginning on or after January 1, 1993.

Revenue has also added a new Chapter 108 relating to distributions. In summary, section 108.1 explains that corporate dividend distributions paid out of profits are subject to tax and other payments to shareholders will reduce the basis of the taxpayer's holdings. Section 108.2 states that distributions made by business trusts are treated the same as distributions by a corporation to its stockholders. Section 108.3 defines what investment com-

panies are, indicates that their distributions are taxed the same as corporations, and requires each investment company to create an accumulated income account for each taxable year beginning on or after January 1, 1993. In summary, an accumulated income account reflects retained taxable earnings not distributed to shareholders.

Section 117.18 (relating to return of information as to payment in excess of \$10) of the final-form regulation would provide that any person (that is, investment companies, corporations, associations and business trusts) making distributions to taxpayers in excess of \$10 shall provide annually to Revenue an information return showing its distributions (to recipients or beneficial interests) of dividends and other taxable or nontaxable shares of stock. Information returns are to be filed with Revenue on or before February 28 of each year for distributions made to any taxpayer in the preceding calendar year.

There were four comment letters submitted on the proposed version of this rulemaking. Commentators were The Vanguard Group of Investment Companies, SEI Corporation and the Philadelphia-based law firms of Dechert, Price and Rhoads, and Stradley, Ronan, Stevens and Young (Stradley, Ronan), respectively. The only objection to the final-form regulation was received from the Stradley, Ronan firm. They were concerned about the clarity of certain provisions. At the public meeting (after having conferred with Revenue's officials before the public meeting), they withdrew their objections.

The proposed amendments will generate some additional paperwork for certain personal holding companies, foreign corporations, non-Pennsylvania Subchapter S corporations, and investment companies and the investors of such organizations, where there are differences for resident taxpayers (in order to accurately report personal income) between Federal income tax and the Pennsylvania Personal Income Tax Act. Revenue has mitigated some of the increased paperwork impacts, however, by amending section 117.18(c)(1) of the final-form regulation in response to commentators' comments. Under that provisions, payer entities have the option of using their own current forms to provide the required information, so long as certain specified items of information are included. Revenue states that additional accounting procedures will be required of those entities that are mandated to make information returns under this regulation.

There will also be additional administrative costs for the Commonwealth in developing and providing the new Pennsylvania Form 99-DIV "Information Return for Recipients of Dividends and Distributions" to Pennsylvania taxpayers. This rulemaking will not impose any costs upon political subdivisions of the Commonwealth.

Revenue made a number of revisions to the regulation in response to commentators' comments on the proposed version of this rulemaking. Section 117.18 has also been further amended in several respects. A new Pennsylvania Form 1099 entitled "Information Return for Recipients of Dividends and Distributions" may be used to provide the Pennsylvania tax information, instead of Revenue trying to require use of the Federal Form 1099 DIV. Section 117.18(c)(1) will give payer entities the flexibility to use their own information forms, as previously noted, provided the forms set forth: (1) the payer's name, address and Federal tax identification number; (2) the recipient's name; address and Federal tax identification number; and (3) the amount of dividends, nontaxable distributions and Pennsylvania exempt-interest dividends paid.

Section 117.18 of the final-form regulation includes some new provisions to give payer entities some addi-

tional latitude in informational reporting. Subsection (c)(2) provides that where a regulated investment company furnishes Federal Form 1099 DIV to a recipient (for Federal tax purposes), a Pennsylvania information return may be made by separate statement showing the ratio of Pennsylvania exempt-interest dividends paid to total ordinary dividends reported on the Federal form. Subsection (c)(3) provides that where a regulated investment company is not required to furnish a Federal Form 1099 DIV to a recipient, a Pennsylvania information return may be made by separate statement showing the amount of dividends, nontaxable distributions, and Pennsylvania exempt-interest dividends paid.

A new subsection (E) will allow certain entities, including corporations, to rely on their own business records in determining the identity and place of residence of recipients. This new provision is responsive to our comment that investment companies, and the like should not be held responsible for providing these forms to investors who have reported an address outside of Pennsylvania, but who have an obligation to pay Pennsylvania taxes.

We also recommended that the regulation provide a specific effective date for compliance with this regulation. While Revenue has not specified an overall compliance date, it does provide (in new section 117.18(d)) that extensions of time (to provide the Pennsylvania information return form) may be granted by Revenue "on or before February 28 of each calendar year beginning on or after January 1, 1997." This is a reasonable lead time for all parties to come into compliance with this new regulation. Revenue notes that this amended provision also addresses questions regarding who must be furnished an information return.

We have reviewed this regulation and find it to be in the public interest. The amendments will help facilitate the implementation of Act 68 of 1993, and clarify the information reporting requirements of exempt and nonexempt personal income tax.

*Therefore, It Is Ordered That:*

1. Regulation No. 15-346 from the Department of Revenue, as submitted to the Commission on December 20, 1995, is approved; and
2. The Commission will transmit a copy of this Order to the Legislative Reference Bureau.

*Commissioners Present:* Robert J. Harbison, III, Vice Chairperson; Thomas P. Comerford, Jr., Recused; John F. Mizner; Irvin G. Zimmerman

Public meeting held  
January 18, 1996

*Department of Public Welfare—Long-Term Structured Residences; Doc. No. 14-412*

#### Order

On November 30, 1993, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Department of Public Welfare (Department). This rulemaking would amend 55 Pa. Code by adding Chapter 5320. The authority for this regulation is the Public Welfare Code (62 P. S. § 1021). The proposed regulation was published in the December 11, 1993 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on October 27, 1995.

At its November 16, 1995 public meeting, the Commission voted to disapprove the final-form regulation. On

November 27, 1995, the Department notified the Commission of its intent to revise and resubmit the regulation. On December 27, 1995, the revised final-form regulation was submitted to the Commission.

The Department proposes to add Chapter 5320, relating to licensure requirements for Long Term Structured Residences (LTSRs). LTSRs, which have been in existence since 1990, provide an alternative to inpatient hospitalization for individuals with mental health problems which require inpatient psychiatric care for an extended period of time. This regulation establishes minimum standards for operation of LTSRs which are defined as highly structured therapeutic residential treatment facilities for adults.

LTSRs are operated by providers who contract with the County Administrator's Office. LTSRs must be included in the county plan to obtain licensure. Providers are required to establish written policies and records for operation, maintenance, safety, program goals, protection of resident rights and resident care.

LTSRs are staffed by direct care staff and support staff and an interdisciplinary team of three mental health professionals who must be involved in the development, implementation and review of residents' treatment plans. A mental health professional must be on site for at least 8 hours a day. A minimum of two direct-care staff persons must be on duty within the LTR when 10-16 residents are on the premises and a third direct-care staff person must be available on-call; a minimum of two direct care staff must be awake and on duty when fewer than 10 residents are on the premises.

Admission criteria for residents include a physical examination, psychiatric evaluation and certification that the applicant does not require a level of care more restrictive than a LTR. Admission of a resident requires approval by the County Administrator and assessment of the resident's needs by the referring agency and by the LTR interdisciplinary team. Reassessment of each resident is required at least annually. Resident care and protection are addressed through requirements for access by community legal services, advocacy groups, and mental health consumer and family organizations, a resident/provider contract; a therapeutic treatment plan for each resident with periodic review and reexamination; written procedures for administration of medication; a prohibition against restraints or seclusion of residents; and training residents in tasks of daily living, personal care and management of financial affairs.

This proposal contains a provision that allows the waiver of standards which the Department may, within its discretion, grant when the health, safety and welfare of the residents and the quality of service provided to residents are not affected.

On this proposed rulemaking, the Department received comments from Supportive Services, Inc., four employees of the Mental Health Association LTR in Bentleyville, the Disabilities Law Project, West Haven LTR, the Allegheny County Mental Health/Mental Retardation Drug and Alcohol Program and a staff person in the Department's Office of Mental Health.

In response to Comments from the Commission and other commentators, the Department made a number of revisions to the final-form rulemaking. Those revisions included changes in definitions, community service organization access to the facility on a case-by-case basis, clarification of services and items included in the per diem cost of care, medication administration policy, modi-

fication of staffing requirements on evening shifts, and numerous other clarifying changes. Additionally, the Department responded to the concerns of commentators with justification for the educational requirements of program directors and mental health professionals.

We have reviewed the revised final-form regulation and find it to be in the public interest. The Department responded to the Commission's November Disapproval Order by making additional revisions to address three areas of concern. First, the Appendix, titled "Long Term Residences and Community Support Program Principles (Principles)," outlined LTR program philosophy and provided guidelines for operation of an LTR. Our Disapproval Order and earlier Comments both recommended the removal of the Appendix from the rulemaking because we believed it was unenforceable. We also stated that if the Department desired to publish the Principles, they should do so as a Statement of Policy. In the revised final-form rulemaking, the Department responded by converting the Appendix to a new Subchapter L titled "Statement of Policy—Community Support Program Principles." We find this to be an appropriate solution.

A second concern with the initial final-form rulemaking was the lack of clarity in the provision for imposition of sanctions added to section 5320.11 of the final-form regulation. In response, the Department has addressed two separate concerns with the sanctions provision raised in our Disapproval Order. First, the sanction provisions are now correctly cited. Second, the sanction language has been appropriately relocated at § 5320.12. This rulemaking now contains an effective sanction provision.

A third area of concern addressed to our satisfaction is the correction of citations in the final-form rulemaking. The previous final-form had incorrect citations at § 5320.25(8), § 5320.42(7) and § 5320.83(b). The correct citations are in the revised final-form rulemaking.

The final area of concern addressed in our Disapproval Order is the separate orientation requirements for part-time direct care staff and full-time direct care staff. In the revised rulemaking, the Department continues to require full-time direct care staff, defined as working 30 hours per week or more, to receive a minimum of 20 hours of orientation. By contrast, part-time direct care staff are required to receive only a minimum of 10 hours of orientation and training.

Our Disapproval Order questioned how part-time direct care staff could receive sufficient orientation in 10 hours, if full-time direct care staff must have 20 hours for orientation. Because we believe that staffing standards raise important safety concerns for residents, we requested that before the Department resubmit this rulemaking, it survey the existing LTSRs to determine existing part-time and full-time staff scheduling.

The Department provided survey results which indicated that 12 of the existing 15 LTSRs always have full-time direct-care staff on site and select part-time workers from among those who have received more than the minimum 10 hours of orientation. In its response document, the Department provided further justification, explaining that many part-time employees come from agencies or background where they have previously received training. For these reasons, we are satisfied with the proposed orientation requirements.

*Therefore, It Is Ordered that:*

1. Regulation No. 14-412 from the Department of Public Welfare, as submitted to the Commission on December 27, 1995, is approved;

2. The Commission's bar to final publication of Regulation No. 14-412 issued under section 6(b) of the Regulatory Review Act (71 P. S. § 745-6(b)) is hereby rescinded; and

3. The Commission will transmit a copy of this Order to the Legislative Reference Bureau.

JOHN R. MCGINLEY, Jr.,  
*Chairperson*

[Pa.B. Doc. No. 96-158. Filed for public inspection February 2, 1996, 9:00 a.m.]

### Notice of Filing of Final-Form Rulemakings

The Independent Regulatory Review Commission received, on the dates indicated, the following final-form regulations for review. The regulations will be considered within 30 days of their receipt at a public meeting of the Commission. To obtain the date and time of the meeting, interested parties may contact the office of the Commission at (717) 783-5417. To obtain a copy of the regulation, interested parties should contact the agency promulgating the regulation.

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Received</i>
#12-36	Department of Labor and Industry Restroom Equity	1/19/96

JOHN R. MCGINLEY, Jr.,  
*Chairperson*

[Pa.B. Doc. No. 96-159. Filed for public inspection February 2, 1996, 9:00 a.m.]

## INSURANCE DEPARTMENT

### Capital Blue Cross; Muhlenberg Hospital Center; Member Hospital Prospective Payment Agreement; Filing No. 96-A

By filing no. 96-A, Capital Blue Cross submits for the Department's review and approval a Member Hospital Prospective Payment Agreement with Muhlenberg Hospital Center. The proposed contract has an effective date of July 1, 1995.

Copies of the filing are available for public inspection on Monday, Wednesday and Friday, by appointment, during normal working hours at the Insurance Department's Office in Harrisburg. This form filing consists of 31 pages.

Interested parties are invited to submit written comments, suggestions or objections to Richard W. Stoner, Insurance Department, Bureau of Accident and Health Insurance, 1311 Strawberry Square, Harrisburg, PA 17120, within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

LINDA S. KAISER,  
*Insurance Commissioner*

[Pa.B. Doc. No. 96-160. Filed for public inspection February 2, 1996, 9:00 a.m.]

### Children's Health Insurance Program Grantee Applications

The Management Team for the Children's Health Insurance Program (CHIP), established under the Children's Health Care Act (62 P. S. §§ 5001.101 *et seq.*), (act), will accept applications from health insurance entities for grants to administer the CHIP program. Potential grantees should request grant applications from Ronald A. Gallagher, Jr., Acting Director, Bureau of Special Funds, 901 North 7th Street, Capitol Associates Building, Harrisburg, Pennsylvania 17102, or by calling (717) 783-8093. A public informational meeting to answer questions concerning the CHIP program and application instructions is scheduled for February 15, 1996, in the Administrative Hearings Room, 901 North 7th Street, Harrisburg, PA 17102 at 1 p.m. Final proposals are due from potential grantees on March 15, 1996, by 4:30 p.m. at the offices identified in the application.

Applications from all interested companies are encouraged and preference will be given to managed health care entities (that is, HMOs or PPOs with primary care gatekeepers) currently licensed in this Commonwealth.

CHIP is funded by the proceeds from a per pack cigarette tax and provides health insurance for low to moderate income uninsured Pennsylvania children. The services provided to enrollees shall include preventive and primary care, as well as vision, hearing, dental and mental health services, pharmaceutical services with a \$5 co-pay, and 90 day hospitalization coverage per year.

It is anticipated that grantees selected to administer the program will enter into a 1 year contract with 2 option years with the Insurance Department and shall have the responsibility to provide a minimum benefit package for eligible children, including the above services; ensure that eligible children have access to primary health care physicians and nurse practitioners on an equitable basis; contract with qualified, cost-effective providers to provide primary and preventive health care for enrollees; and comply with all other requirements specified in the act.

LINDA S. KAISER,  
*Insurance Commissioner*

[Pa.B. Doc. No. 96-161. Filed for public inspection February 2, 1996, 9:00 a.m.]

### D & M Truck Service; Hearing

*D & M Truck Service; D & M Enterprises; Pennsylvania Compensation Rating Bureau; Doc. No. WC 96-01-002*

The formal administrative hearing is scheduled for March 19, 1996, at 9 a.m. in the Administrative Hearings Office, Room 200, Capitol Associates Building, 901 North Seventh Street, Harrisburg, PA 17120.

The proceedings in this matter will be governed by 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law) and the General Rules of Administrative Practice and Procedure, 1 Pa. Code § 31.1 *et seq.*

Pending hearing, parties shall informally attempt to resolve undisputed facts by stipulation, exchange proposed exhibits, the names of witnesses and provide an offer of proof with respect to each witness. The Bureau

shall certify and file a copy of the proceedings involving D & M Truck Service and D & M Enterprises on or before March 5, 1996.

A prehearing teleconference will be conducted on March 5, 1996, at 11 a.m. initiated by the Hearing Office. All parties shall notify the Hearings Office of the telephone number to be contacted at the time of the scheduled prehearing teleconference.

Motions preliminary to those at hearing, protests, petitions to intervene, or notices of intervention, if any, must be filed in writing to Donna Sherrick, Docket Clerk, Insurance Department, 901 North Seventh Street, Harrisburg, PA 17102, on or before March 5, 1996.

LINDA S. KAISER,  
*Insurance Commissioner*

[Pa.B. Doc. No. 96-162. Filed for public inspection February 2, 1996, 9:00 a.m.]

### Insurance Coverages or Risks Eligible for Export by Insurance Commissioner

Under section 1604 of The Insurance Company Law of 1921 (40 P. S. § 991.1604(2)(ii)), the Insurance Commissioner hereby declares the following insurance coverages to be generally unavailable in the authorized market at the present, and thus exportable, and hereby adopts the following export list. Accordingly, three declinations from admitted insurers shall not be required with regard to the placement of insurance coverages which are included on the export list.

#### *Export List*

#### Amusements

- Carnival ride owners/operators
- Amusement parks and their devices
- Auto racing and automobile race tracks
- Golf courses and driving ranges
- Midget autos and Go-Karts
- Animal rides
- Rodeos and horse shows
- Balloon rides—hot air/gas
- Recreational and sporting events
- Guide, lodge, or outfitters
- Horseback/pony riding establishments
- Special short term events
- Skating rinks (roller and ice) and skate board parks
- Ski resorts owners/operators liability
- Theatrical presentations

Asbestos abatement contractors liability and cleanup coverage

#### Aviation

- Cargo
- Vehicles maintaining or servicing aircraft
- Fixed base operations
- Nonownership liability
- Hull
- Chartered
- Excess passenger liability
- Antique aircraft
- Airport liability
- Hangarkeeper's liability
- Helicopters

Blood banks, blood and organ facilities

Boat rentals

Chemical spray and/or drift

Demolition contractors liability

Earthquake

Explosive hauling

Explosives, munitions or fireworks manufacturing/storage/sales

Flood insurance not provided under Federal flood insurance

Ground applicators—chemical

Hazardous waste site mitigation contractors liability

Hazardous waste disposal site liability and cleanup coverage

Kidnapping, ransom and extortion insurance

Lead liability

Lead abatement contractors liability

Liability for employment related practices

Nuclear energy general liability

Ocean marine

Physical Damage coverage for private passenger, classic, antique or commercial vehicles with an original new cost or market value of \$40,000 or greater

Railroad liability

Questions regarding the Export List may be directed to Kenneth B. Allen, Director, Bureau of Licensing and Financial Analysis, Office of Company Regulation, 1346 Strawberry Square, Harrisburg, PA 17120.

The list shall remain in effect until revised or superseded by a subsequent list as published in the *Pennsylvania Bulletin*.

LINDA S. KAISER,  
*Insurance Commissioner*

[Pa.B. Doc. No. 96-163. Filed for public inspection February 2, 1996, 9:00 a.m.]

## LIQUOR CONTROL BOARD

### Expiration of Leases

The following Liquor Control Board lease will expire:

Allegheny County, Wine & Spirits Shoppe #0274, Lebanon Shops, 300 Mount Lebanon Boulevard, Pittsburgh, PA 15234.

*Lease Expiration Date:* September 30, 1996

Lease retail commercial space to the Commonwealth of Pennsylvania. Proposals are invited to provide the Pennsylvania Liquor Control Board with approximately 4,500 net useable square feet of new or existing retail commercial space within 1 mile of the intersection of Castle Shannon Boulevard and Mount Lebanon Boulevard, Allegheny County.

*Proposals due:* February 23, 1996 at 12 noon

**Department:** Pennsylvania Liquor Control Board  
**Location:** Bureau of Real Estate, State Office Building, Rm. 408, 300 Liberty Avenue, Pittsburgh, PA 15222

**Contact:** Bruce VanDyke, (412) 565-5130

JOHN E. JONES, III  
*Chairperson*

[Pa.B. Doc. No. 96-164. Filed for public inspection February 2, 1996, 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. Publication of this notice shall be considered as sufficient notice to all carriers holding authority from this Commission. Applications will be considered without hearing in the absence of protests to the application. Protests to the applications published herein are due on or before February 26, 1996, as set forth at 52 Pa. Code § 3.381 (relating to applications for transportation of property and persons). The protest shall also indicate whether it applies to the temporary authority application or the permanent application or both.

### Applications of the following for approval of the right to begin to operate as a *broker* for the transportation of *property* as described under the applications.

**A-00112280, Folder 2. Priority Dispatch and Transport, Inc.** (P. O. Box 10261, Erie, Erie County, PA 16514-0261), a corporation of the Commonwealth of Pennsylvania—brokerage license evidencing the Commission's approval of the beginning of the right and privilege to operate as a broker, to arrange for the transportation of property, between points in Pennsylvania. *Attorney:* John A. Pillar, 1106 Frick Building, Pittsburgh, PA 15219.

### Applications of the following for *amendment* to the certificate of public convenience approving the operation of motor vehicles as common carriers for transportation of *persons* as described under each application.

**A-00111413, Folder 1, Am-A. Lorraine S. Legg, t/d/b/a Legg Transportation** (269 Maryellen Drive, North Versailles, Allegheny County, PA 15137)—persons upon call or demand in the boroughs of Chalfant, Churchill, East McKeesport, East Pittsburgh, Forest Hills, Monroeville, Oakmont, Pitcairn, Plum, Turtle Creek and Wilmerding, and the townships of Penn Hills and Wilkins, all in Allegheny County; and in the borough of Export, Westmoreland County, and within an airline distance of 5 statute miles of the limits of the borough of Export, subject to various conditions: *so as to permit* the transportation of persons upon call or demand in the cities of New Kensington, Arnold and Lower Burrell, Westmoreland County, and the boroughs of Tarentum, Brackenridge, Springdale and Cheswick, and the townships of East Deer, Frazier, Fawn, Harmar, Harrison, Indiana and Springdale, Allegheny County, subject to the following condition: that no right, power or privilege is granted to provide service in that portion of the township of Harmar, Allegheny County, located within an airline distance of 10 statute miles of the Allegheny County Courthouse in the city of Pittsburgh. *Attorney:* William A. Gray, 2310 Grant Building, Pittsburgh, PA 15219.

**A-00109523, F.1, Am-B. Ryder Student Transportation Services, Inc., t/d/b/a Ryder Transportation** (3600 N. W. 82nd Avenue, Miami, FL 33166), a corporation of the State of Florida—persons, in group and party service, in school bus equipment, between points in the county of Erie, and from points in said county to points in Pennsylvania; subject to the following condition: that no

right, power or privilege is granted to utilize vehicles with a seating capacity of 14 passengers or less excluding the driver when providing transportation between points in Erie County, *so as to permit* the transportation of persons, in group and party service, in school bus equipment, between points in the county of Bucks and that portion of the city and county of Philadelphia which is east of Levick Street, and from points in said territory to points in Pennsylvania. *Attorney:* David H. Radcliff, 2216 Walnut Street, Harrisburg, PA 17103.

### 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 *persons* by *transfer of rights* as described under each application.

**A-00112718. Michael Richard Grab, t/d/b/a Grab-a-Cab** (524 Arlington Street, Reading, Berks County, PA 19611), persons upon call or demand, in the city of Reading, Berks County; which is to be a transfer of all of the rights authorized under the certificate issued at A-00107360 to Teofilo Dejesus Cruz, t/d/b/a Berks Taxi Service at A-00107360, subject to the same limitations and conditions. *Attorney:* J. D. Krafczek, 44 North Sixth Street, P. O. Box 8521, Reading, PA 19603.

**A-00112676. Danielle Viktor, Ltd. t/d/b/a Sterling Limousine** (3224 Lisa Turn, Bensalem, Bucks County, PA 19020), a corporation of the Commonwealth of Pennsylvania—persons in limousine service between points in Bucks County, and from points in said county to points in Pennsylvania and return; which is to be a transfer of all of the right authorized under the certificate issued at A-00107667 to Ragan Transport Services, Inc., t/d/b/a Elegance Unlimited, subject to the same limitations and conditions. Application for temporary authority has been filed at A-00112676, seeking the right cited above. *Attorney:* Robert L. Kramer, 127 Bridgestone Drive, Langhorne, PA 19053.

### Applications of the following for *amendment* to the certificate of public convenience approving the operating of motor vehicle as common carriers for transportation of *persons* by *transfer of rights* as described under each application.

**A-00109663, Folder 1, Am-B. Wilson Metz** (1033 Bridge Road, Box 115, Creamery, Montgomery County, PA 19430), inter alia—persons in group and party service, between points in the townships of Skippack, Perkiomen, Lower Providence and Lower Frederick, and the boroughs of Schwenksville, Colledgeville and Trappe, Montgomery County, and from points in said territory to points in Pennsylvania; *so as to permit* the transportation of persons in group and party service, between points in the city of Reading, Berks County, and from points in said city to points in Pennsylvania; which is to be a transfer of all of the rights authorized under the certificate issued at A-00110504 to Concordia Tours, Inc., t/d/b/a Concordia Travelcenter, a corporation of the Commonwealth of Pennsylvania, subject to the same limitations and conditions. *Attorney:* James D. Campbell, Jr., 3631 North Front Street, Harrisburg, PA 17110-1533.

### Applications of the following for approval of the *partial discontinuance of service* for the transportation of persons as *described* under each application.

**A-00100147, Folder 1, Am-D. Edenfield Stages, Inc.** (50 West Main Street, Box 116, New Salem, Fayette County, PA 15468), a corporation of the Commonwealth of Pennsylvania—partial discontinuance of service—persons

on schedule over the following alternate route and spur routes in North Union Township, Fayette County: *Alternate Route*: beginning at the intersection of Craig's Lane and Highway Route T-517 (Coolspring Road), North Union Township, thence on Highway Route T-517 (Coolspring Road) and State Highway Legislative Route 26045 to its intersection with State Highway Legislative Route 26115 at Sullivan's Crossing, and returning over the same route, all in Fayette County; *Spur Route*: beginning at the intersection of State Highway Legislative Route 26115 and Highway Route T-521 in North Union Township, thence on Highway Route T-521 (Nubbins Ridge Road) to the baseball diamond at Nubbins Ridge, and returning over the same route, all in Fayette County; (2) persons on schedule over the following: *Spur Route*: beginning at the intersection of State Highway Legislative Route 26115 and Township Road 684 near the village of Coolspring, Fayette County, thence on Township Road 684 in State Highway Legislative Route 26047, thence on State Highway Legislative Route 26047 through the villages of Lemon Wood North Braddock to its intersection with Township Road 631 to the borough of Dunbar, thence on Township Road 631 and U. S. Highway Route 119 to Crawford Avenue in the city of Connellsville, thence on Crawford Avenue and Arch Street to Mongell's Delicatessen, thence returning on Arch Street and over the same route to the place of beginning; *Alternate Route*: beginning at the intersection of Main Street and Connellsville Street in the city of Uniontown, thence on Connellsville Street to Boquet Street in North Union Township, thence on Boquet Street and Coolspring Street to its intersection with Dunlap Street in the city of Uniontown; (3) persons on schedule over the following routes: *Alternate Route*: beginning at the intersection of State Highway Legislative Route 26047 and Township Road 634 near the village of Lemont Furnace, thence on Township Road 684 to its intersection with State Highway Legislative Route 26047 near the village of Mount Braddock, and returning over the same route, all in the township of Fayette; *Spur Route*: beginning at the intersection of Township Road 631 and Connellsville Street in the borough of Dunbar, thence on Connellsville Street and Township Road 746 to a point known as Bow West in Dunbar Township, and returning over the same route, all in the township of Fayette; *Spur Route*: beginning at the intersection of Prospect Street and Thomas Street in the city of Uniontown, thence on Thomas Street to its intersection with Connellsville Street, and returning over the same route, all in the county of Fayette; *Alternate Route*: beginning at the intersection of Wayne Street and Ester Street in the city of Uniontown, thence on Ester Street to the Fayette Housing Project known as Lemon Wood Acres, thence on an unnumbered street in said Lemon Wood Acres to Herman Street, thence on Herman Street to its intersection with Wayne Street, and returning over the same route, all in the county of Fayette; (4) persons on schedule over the following alternate route and extension: *Alternate Route*: beginning at the intersection of Ninth Street and West Crawford Avenue in the city of Connellsville, Fayette County, said intersection being an outer limit of the present route of Burke Bus Lines (prior to transfer to Raymond O. Burke, Jr.), thence west on West Crawford Avenue to the village of Leisenring, Fayette County; thence along a public road to the intersection of Highway Route 119, said intersection being the point where the new alternate route joins the already existing route of Burke Bus Lines (prior to transfer to Raymond O. Burke, Jr.); *Extension*: beginning

at the intersection of Arch Street and Fairview Avenue in the city of Connellsville, Fayette County, said intersection being the outermost limit of the present route of Burke Bus Lines (prior to transfer of Raymond O. Burke, Jr.), thence south on Arch Street to the intersection of Green Avenue, thence east on Green Avenue to the intersection of Race Street, thence south on Race Street to the intersection of Davidson Avenue, thence west on Davidson Avenue to the intersection of Pittsburgh Street, thence south on Pittsburgh Street to the borough of South Connellsville, Fayette County, and continuing on Pittsburgh Street to the southern boundary of said borough of South Connellsville, thence returning north on Pittsburgh Street into the city of Connellsville and continuing on Pittsburgh Street to the intersection of Crawford Avenue, thence on Crawford Avenue to the intersection of Arch Street where the extension joins the already existing route of Burke Bus Lines (prior to transfer to Raymond O. Burke, Jr.). *Attorney*: John A. Pillar, 1106 Frick Building, Pittsburgh, PA 15219.

**Applications of the following for approval of the beginning of the exercise of the right and privilege of operating as common carriers for transportation of persons as described under each application.**

**A-00112751. Western Berks Ambulance Association** (2506 Belmont Avenue, West Lawn, Berks County, PA 19609)—persons in paratransit service, between points in the county of Berks, and from points in the said county, to points in Pennsylvania, and return; limited to the transportation of ambulatory and non-ambulatory passengers in specially equipped vehicles with side opening doors, ramps, lifts or other facilities to accommodate the infirm or disabled. *Attorney*: Wolf, Baldwin & Assoc., P. O. Box 444, Pottstown, PA 19464.

**Notice of Motor Carrier Applications—Property, Excluding Household Goods in Use**

The following applications for the authority to transport property, excluding household goods in use, between points in Pennsylvania, have been filed with the Pennsylvania Public Utility Commission. Public comment to these applications may be filed, in writing with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265 on or before February 20, 1996.

- A-00112749 Mark A. Link, t/d/b/a P & M Hauling  
1218 Schoolhouse Drive, Dysart, PA  
16636
- A-00112750 Sentinel Transportation Company  
3525 Silverside Road, Concord  
Plaza-Read Building 100,  
Wilmington, DE 19810
- A-00112752 Casa Trucking Limited Partnership  
P. O. Box 76, Spain Road,  
Klingertown, PA 17941
- A-00112753 One Call, Inc.  
1530 Grampian Boulevard,  
Williamsport, PA 17701
- A-00112754 Quaker State Farms, Inc.  
P. O. Box 76, Klingerstown, PA  
17941
- A-00112755 Dash Delivery Service, Inc.  
5471 Euclid Street, Philadelphia,  
PA 19131

A-00112756 Blue Mt. Express, Inc., t/d/b/a BMX  
Trucking  
291 Bucheimer Road, Frederick, MD  
21701-3141

JOHN G. ALFORD,  
*Secretary*

[Pa.B. Doc. No. 96-165. Filed for public inspection February 2, 1996, 9:00 a.m.]

**Utility Clean Air Act Implementation Plans; Doc.  
No. M-00950763**

The General Assembly passed into law Act 27 which includes approval of Utility Clean Air Act Implementation Plans, 66 Pa.C.S. § 530 (relating to Clean Air Act implementation plans). Under Act 27, each public utility must submit to the Commission its Phase I and/or Phase II compliance plans. Phase I was filed February 1, 1993.

On January 2, 1996, the following utilities submitted their Phase II compliance plans to the Commission: Dusquesne Light Company, Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, Pennsylvania Power and Light Company, Philadelphia Electric Company, UGI and West Penn Power Company.

The Commission contact person is Dr. Z. Ahmed Kaloko, telephone (717) 787-2139.

JOHN G. ALFORD,  
*Secretary*

[Pa.B. Doc. No. 96-166. Filed for public inspection February 2, 1996, 9:00 a.m.]

**PHILADELPHIA REGIONAL  
PORT AUTHORITY**

**Request for Proposals**

The Philadelphia Regional Port Authority (PRPA) will accept sealed proposals for Proj. #9523.ER, Repairs to

Sewage Lift Station at Packer Ave. Marine Terminal (PAMT) until 2 p.m. on Thurs., February 8, 1996. The bid documents can be obtained from the Procurement Administrator, PRPA, 210 W. Washington Sq., 8th Flr., Phila., PA 19106, (215) 928-9100 and will be available January 23, 1996. The cost of the bid document is \$35 (includes 7% PA Sales Tax). The cost is nonrefundable. PRPA is an equal opportunity employer. Contractor will be required to comply with all applicable equal opportunity laws and regulations.

Mandatory prebid job site meeting will be held February 1, 1996, 10 a.m. at PAMT, Shed 6.

JAMES T. MCDERMOTT,  
*Executive Director*

[Pa.B. Doc. No. 96-167. Filed for public inspection February 2, 1996, 9:00 a.m.]

**Request for Proposals**

The Philadelphia Regional Port Authority (PRPA) will accept sealed proposals for Project #9525.3—Downspout Revisions at Pier 82 South until 2 p.m. on Thurs., February 29, 1996. The bid document can be obtained from the Procurement Administrator, PRPA, 210 W. Washington Sq., 8th Flr., Phila., PA 19106, (215) 928-9100 and will be available February 6, 1996. The cost of the bid document is \$35 (includes 7% PA Sales Tax). The cost is nonrefundable. PRPA is an equal opportunity employer. Contractor will be required to comply with all applicable equal opportunity laws and regulations. Mandatory prebid job site meeting will be held February 22, 1996, 10 a.m. at the job site.

JAMES T. MCDERMOTT,  
*Executive Director*

[Pa.B. Doc. No. 96-168. Filed for public inspection February 2, 1996, 9:00 a.m.]

# STATE CONTRACTS INFORMATION

## DEPARTMENT OF GENERAL SERVICES

Notices of invitations for bids and requests for proposals on State contracts for services and commodities for which the bid amount is reasonably expected to be over \$5,000, are published in the State Contracts Information Section of the *Pennsylvania Bulletin* prior to bid opening date. Information in this publication is intended only as notification to its subscribers of available bidding and contracting opportunities, and is furnished through the Department of General Services, Vendor Information and Support Division. No action can be taken by any subscriber or any other person, and the Commonwealth of Pennsylvania is not liable to any subscriber or any other person, for any damages or any other costs incurred in connection with the utilization of, or any other reliance upon, any information in the State Contracts Information Section of the *Pennsylvania Bulletin*. Interested persons are encouraged to call the contact telephone number listed for the particular solicitation for current, more detailed information.

**EFFECTIVE JULY 1, 1985, A VENDOR'S FEDERAL IDENTIFICATION NUMBER (NUMBER ASSIGNED WHEN FILING INCOME TAX DOCUMENTS) OR SOCIAL SECURITY NUMBER IF VENDOR IS AN INDIVIDUAL, MUST BE ON ALL CONTRACTS, DOCUMENTS AND INVOICES SUBMITTED TO THE COMMONWEALTH.**

Act 266 of 1982 provides for the payment of interest penalties on certain invoices of "qualified small business concerns". A qualified small business concern is an independently owned, operated for profit, business employing 100 or fewer employes and is not a subsidiary or affiliate of a corporation otherwise not qualified.

Such penalties apply to invoices for goods or services when payments are not made by the required payment date or within a 15 day grace period thereafter. The small business concern must include on every invoice submitted to the Commonwealth: "(name of vendor) is a qualified small business concern as defined at 4 Pa. Code § 2.32".

For information on the required payment date and annual interest rate, please call the Pennsylvania Department of Commerce, Small Business Action Center, 483 Forum Building, 783-5700.

### Reader's Guide

#### REQUIRED DATA DESCRIPTIONS

- ① Service Code Identification Number
- ② Commodity/Supply or Contract Identification No.

**B-54137.** Consultant to provide three 2-day training sessions, covering the principles, concepts, and techniques of performance appraisal and standard setting with emphasis on performance and accountability, with a knowledge of State Government constraints.

Department: General Services  
 Location: Harrisburg, Pa.  
 Duration: 12/1/93-12/30/93  
 Contact: Procurement Division  
 787-0000

- ③ Contract Information
- ④ Department

⑦

(For Commodities: Contact:)  
 Vendor Services Section  
 717-787-2199 or 717-787-4705

⑤ Location

⑥ Duration

- ① Service Code Identification Number: There are currently 39 state service and contractual codes. See description of legend.
- ② Commodity/Supply or Contract Identification No.: When given, number should be referenced when inquiring of contract of Purchase Requisition. If more than one number is given, each number represents an additional contract.
- ③ Contract Information: Additional information for bid preparation may be obtained through the departmental contracting official.
- ④ Department: State Department or Agency initiating request for advertisement.
- ⑤ Location: Area where contract performance will be executed.
- ⑥ Duration: Time estimate for performance and/or execution of contract.
- ⑦ Contact: (For services) State Department or Agency where vendor inquiries are to be made.

(For commodities) Vendor Services Section (717) 787-2199 or (717) 787-4705

**GET THAT COMPETITIVE EDGE—FOR FREE!**

Do you want to do business with your state government? The Treasury Department's office of Contract Information Services can assist you by providing you with information that may be helpful to you in successfully bidding on State contracts.

Act 244 of 1980 requires Commonwealth departments and agencies to file with the Treasury Department a copy of all contracts involving an expenditure of \$5,000 or more.

These fully executed contracts usually contain the vendor's name, dollar value, effective and termination dates and contract specifications. Some contracts also include the names of other bidding vendors and the bid proposal compiled by the awarded vendor. There is a minimal cost for photocopying contracts.

Allow the Treasury Department to "make a difference for you." For contract information call the office of Contract Information Services TOLL-FREE (in Pennsylvania) at 1-800-252-4700 or (717) 787-4586. Or you may write or visit the office at Room G13, Finance Building, Harrisburg, Pa. 17120.

CATHERINE BAKER KNOLL,  
*State Treasurer*

**Online Subscriptions At <http://www.statecontracts.com> 1-800-334-1429 x337**

**NOTICE TO VENDORS:**

**SUBJECT:** Contract #9110-01, Coal Anthracite for All Using Agencies of the Commonwealth.

Only shipments from a preapproved source are acceptable for the Anthracite Coal Contract. Sources currently approved and maintaining their approval through June 30, 1996, will automatically be considered approved for the next contract period beginning July 1, 1996. New or additional sources must pass inspection by the Commonwealth in order to be added to the list of approved sources.

To add new sources for the next contract period beginning July 1, 1996, vendors must contact Jim Myers or Paul Moser, Penn State Facilities Engineering Institute at (814) 865-7615, no later than February 16, 1996, to arrange for source inspection.

The list of approved sources will be part of the invitation to bid for the next contract.

**Commodities**

**1940305** Construction, mining, excavating and highway maintenance equipment—1 each; Gravelly pro chipper Model 310.

**Department:** Historical and Museum Commission  
**Location:** Harrisburg, Dauphin County, PA 17108-1026  
**Duration:** Indeterminate 1995-96  
**Contact:** Vendor Services, (717) 787-2199 or (717) 787-4705

**1867215** Data processing and computer equipment and supplies—1 each; Digital dictation system.

**Department:** Public Welfare  
**Location:** Warren State Hospital, North Warren, Bradford County, PA 16365-5099  
**Duration:** Indeterminate 1995-96  
**Contact:** Vendor Services, (717) 787-2199 or (717) 787-4705

**2071155** Data processing and computer equipment and supplies—2 each; Gateway 2000 computer Model No. P5-75 or approved equal.

**Department:** State System of Higher Education  
**Location:** University of Pittsburgh, Greensburg, Westmoreland County, PA 15601  
**Duration:** Indeterminate 1995-96  
**Contact:** Vendor Services, (717) 787-2199 or (717) 787-4705

**2072155** Data processing and computer equipment and supplies—2 each; Gateway 2000 P5-90 or approved equal.

**Department:** State System of Higher Education  
**Location:** University of Pittsburgh, Greensburg, Westmoreland County, PA 15601  
**Duration:** Indeterminate 1995-96  
**Contact:** Vendor Services, (717) 787-2199 or (717) 787-4705

**1908815** Data processing and computer equipment and supplies—2 each; LAN 14 bay CD-ROM tower, no substitute.

**Department:** Office of Administration  
**Location:** Harrisburg, Dauphin County, PA 17120  
**Duration:** Indeterminate 1995-96  
**Contact:** Vendor Services, (717) 787-2199 or (717) 787-4705

**2221215** Household and commercial furnishings and appliances—2 each; air conditioning, split-system, air-cooled, 10 ton condensing unit.

**Department:** Public Welfare  
**Location:** Selinsgrove Center, Selinsgrove, Snyder County, PA 17870  
**Duration:** Indeterminate 1995-96  
**Contact:** Vendor Services, (717) 787-2199 or (717) 787-4705

**2115215** Household and commercial furnishings and appliances—3 systems; air conditioning split system w/accessories.

**Department:** Public Welfare  
**Location:** Torrance State Hospital, Torrance, Westmoreland County, PA 15779-0111  
**Duration:** Indeterminate 1995-96  
**Contact:** Vendor Services, (717) 787-2199 or (717) 787-4705

**2147115** Household and commercial furnishings and appliances—10 each; furnish and install air conditioning indoor units, 9000 BTU wall mounted single evaporator system Model MS09EW or approved equal.

**Department:** Corrections  
**Location:** Muncy, Lycoming County, PA 17756  
**Duration:** Indeterminate 1995-96  
**Contact:** Vendor Services, (717) 787-2199 or (717) 787-4705

**1951205** Motor vehicle and safety devices—1 lot; furnish and deliver a traffic and collision alert device w/appropriate accessories.

**Department:** State Police  
**Location:** Hershey, Dauphin County, PA 17033  
**Duration:** Indeterminate 1995-96  
**Contact:** Vendor Services, (717) 787-2199 or (717) 787-4705

**2182235** Paper and printing—420M; combination bear license application and envelope, green in color with black printing. Stock shall be 80 lb. white offset, vellum finish—1475M; Antlerless deer envelope—pink in color with black printing.

**Department:** Game Commission  
**Location:** Harrisburg, Dauphin County, PA 17110-9797  
**Duration:** Indeterminate 1995-96  
**Contact:** Vendor Services, (717) 787-2199 or (717) 787-4705

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# SERVICES

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## Telecommunications Services and Equipment—03

**SPC 244925** Contractor shall provide necessary parts and repair service to color televisions, VCRs and network antenna system.

**Department:** Public Welfare  
**Location:** Bensalem Youth Development Center, 3701 Old Trevoise Road, Bensalem, PA 19020  
**Duration:** July 1, 1996 through June 30, 1999  
**Contact:** Mary Jo Scanlon, (215) 953-6405

**WC 611** West Chester University is seeking sealed bids for the providing, installing, terminating, testing, and documenting Category 3 Voice and TV distribution, horizontal wiring to approximately 435 and 219 outlets, respectively, in approximately 219 rooms on eight floors on Schmidt Hall. Prevailing wages apply. Contract bonds will be required.

**Department:** State System of Higher Education  
**Location:** West Chester University, Schmidt Hall, West Chester, PA 19383  
**Duration:** 40 days  
**Contact:** Jacki Marthinsen, (610) 436-2705

## Construction—04

**080879** Erie County, SR 90-A08; Allegheny County, S. R. 19-A11.

**Department:** Transportation  
**Location:** Districts 1-0 and 11-0  
**Duration:** FY 1995/1996  
**Contact:** V. C. Shah, P.E., (717) 787-5914

**080878** Districtwide, District 5-0, GR 5-96-PMI.

**Department:** Transportation  
**Location:** District(s) 5-0  
**Duration:** FY 1995/1996  
**Contact:** V. C. Shah, P.E., (717) 787-5914

**AE-2640** Construction of a 36' x 45' pole building. FAX (717) 787-0462.

**Department:** Transportation  
**Location:** Embreeville State Hospital, Chester County, PA  
**Duration:** 90 calendar days, proposed bid February, 1996  
**Contact:** Tina Chubb, (717) 787-7001

**AE-2642** Construction of a 36' x 45' pole building. FAX (717) 787-0462.

**Department:** Transportation  
**Location:** SR 30, Downingtown, Chester County, PA  
**Duration:** 90 calendar days, proposed bid February, 1996  
**Contact:** Tina Chubb, (717) 787-7001

**AE-2922** Construction of a 36' x 45' pole building. FAX (717) 787-0462.

**Department:** Transportation  
**Location:** Kennett Square, Chester County, PA  
**Duration:** 90 calendar days, proposed bid February, 1996  
**Contact:** Tina Chubb, (717) 787-7001

**AE-4054** Construction of a 36' x 45' pole building. FAX (717) 787-0462.

**Department:** Transportation  
**Location:** Kennett Square, Chester County, PA  
**Duration:** 90 calendar days, proposed bid March, 1996  
**Contact:** Tina Chubb, (717) 787-7001

**AE-4055** Construction of a 36' x 45' pole building. FAX (717) 787-0462.

**Department:** Transportation  
**Location:** Boyd's Corner, Chester County, PA  
**Duration:** 90 calendar days, proposed bid February, 1996  
**Contact:** Tina Chubb, (717) 787-7001

**AE-4056** Construction of a 36' x 45' pole building. FAX (717) 787-0462.

**Department:** Transportation  
**Location:** Blackrock, Montgomery County, PA  
**Duration:** 90 calendar days, proposed bid February, 1996  
**Contact:** Tina Chubb, (717) 787-7001

**AE-4057** Construction of a 36' x 45' pole building. FAX (717) 787-0462.

**Department:** Transportation  
**Location:** Sanatoga, Montgomery County, PA  
**Duration:** 90 calendar days, proposed bid February, 1996  
**Contact:** Tina Chubb, (717) 787-7001

**AE-4058** Construction of a 36' x 45' pole building. FAX (717) 787-0462.

**Department:** Transportation  
**Location:** Pennhurst, Chester County, PA  
**Duration:** 90 calendar days, proposed bid February, 1996  
**Contact:** Tina Chubb, (717) 787-7001

**AE-4059** Construction of a 36' x 45' pole building. FAX (717) 787-0462.

**Department:** Transportation  
**Location:** Swedesford, Chester County, PA  
**Duration:** 90 calendar days, proposed bid March, 1996  
**Contact:** Tina Chubb, (717) 787-7001

**AE-4060** Construction of a 36' x 45' pole building. FAX (717) 787-0462.

**Department:** Transportation  
**Location:** Swedesford, Chester County, PA  
**Duration:** 90 calendar days, proposed bid February, 1996  
**Contact:** Tina Chubb, (717) 787-7001

**AE-4061** Construction of a 36' x 45' pole building. FAX (717) 787-0462.

**Department:** Transportation  
**Location:** Skipack, Montgomery County, PA  
**Duration:** 90 calendar days, proposed bid February, 1996  
**Contact:** Tina Chubb, (717) 787-7001

**AE-4062** Construction of a 36' x 45' pole building. FAX (717) 787-0462.

**Department:** Transportation  
**Location:** Gladwyn, Montgomery County, PA  
**Duration:** 90 calendar days, proposed bid February, 1996  
**Contact:** Tina Chubb, (717) 787-7001

**AE-4063** Construction of a 36' x 45' pole building. FAX (717) 787-0462.

**Department:** Transportation  
**Location:** Downingtown, Chester County, PA  
**Duration:** 90 calendar days, proposed bid March, 1996  
**Contact:** Tina Chubb, (717) 787-7001

**AE-4065** Construction of a 36' x 45' pole building. FAX (717) 787-0462.

**Department:** Transportation  
**Location:** Stockpile No. 05, Rockton, Clearfield County, PA  
**Duration:** 90 calendar days, proposed bid February, 1996  
**Contact:** Tina Chubb, (717) 787-7001

**AE-4066** Construction of a 44' x 77' 3-bay concrete bldg. foundation. FAX (717) 787-0462.

**Department:** Transportation  
**Location:** Stockpile No. 25, Philipsburg, Clearfield County, PA  
**Duration:** 90 calendar days, proposed bid February, 1996  
**Contact:** Tina Chubb, (717) 787-7001

**AE-4067** Construction of a 44' x 77' 3-bay concrete bldg. foundation. FAX (717) 787-0462.

**Department:** Transportation  
**Location:** Stockpile No. 12, Martha Furnace, Centre County, PA  
**Duration:** 90 calendar days, proposed bid February, 1996  
**Contact:** Tina Chubb, (717) 787-7001

## Demolition and Renovation—09

**Contract No. FDC-314-115** Removal of existing superstructures on two bridges (steel I-beams, timber decks) and portions of the stone masonry abutments; construct reinforced concrete beam seats, backwalls and concrete filled steel grid decks; and place bituminous roadway material. All work is located at Trough Creek State Park.

**Department:** Conservation and Natural Resources  
**Location:** Todd Township, Huntingdon County  
**Duration:** 120 days after Notice to Proceed  
**Contact:** Construction Management, (717) 787-5055

**Medical Services—10**

**96-04** The contractor shall provide limited, high priority, time constraint dental prosthetic work to the inmate population of the State Correctional Institution at Waymart as prescribed by the institution dentist. The contract will cover all basic charges, cast frames, acrylic dentures and repairs.

**Department:** Corrections  
**Location:** State Correctional Institution Waymart, P. O. Box 256, Waymart, Canaan Township, Wayne County, PA 18472-0256  
**Duration:** July 1, 1996 to June 30, 1999  
**Contact:** Jerome M. Lewis, Business Manager, (717) 488-2504

**Inquiry No. 8747** Physical Therapy Service: approximately 40 hours per week. Services include screening, consultation, evaluation and subsequent direct treatment, conduct in-service programs, measure and recommend specific devices as required. To be provided in a minimum of one-hour sessions. Agency to provide equipment and space necessary for service. Must be PA licensed Physical Therapist and meet ACDD, ICFMR and Federal and State rules and regulations.

**Department:** Public Welfare  
**Location:** Selinsgrove Center, Selinsgrove, Snyder County, PA 17870  
**Duration:** July 1, 1996 to June 30, 2001  
**Contact:** Arletta K. Ney, Purchasing Agent, (717) 372-5070

**Food Services—13**

**8160** Meat and meat products. Delivery date(s), special delivery instructions and quantities may be obtained from the hospital. Award to be made on an item by item basis. Delivery schedules 8 a.m.—3:30 p.m., Monday—Friday except State and National holidays.

**Department:** Public Welfare  
**Location:** Warren State Hospital, Institutional Storeroom, Route 62 North, North Warren, Warren County, PA 16365  
**Duration:** April, 1996  
**Contact:** JD Sample, (814) 726-4448

**8165** Miscellaneous foods. Delivery date(s), special delivery instructions and quantities may be obtained from the hospital. Award to be made on an item by item basis. Delivery schedules 8 a.m.—3:30 p.m., Monday—Friday except State and National holidays.

**Department:** Public Welfare  
**Location:** Warren State Hospital, Institutional Storeroom, Route 62 North, North Warren, Warren County, PA 16365  
**Duration:** April, 1996  
**Contact:** JD Sample, (814) 726-4448

**HUN 287** Flour: bread, all purpose, medium rye and whole wheat, and any other flour as required by the agency. Specifications as listed on the Bid Proposal at the agency. Monthly bids—monthly deliveries.

**Department:** Corrections  
**Location:** State Correctional Institution at Huntingdon, 1100 Pike Street, Huntingdon, PA 16654  
**Duration:** 2/1/96 to 1/31/97  
**Contact:** Robert Jessell, Purchasing Agent, (814) 643-2400

**No. 796** Meat: beef, cubes, flaked and formed—700 lbs.; ground beef—2650 lbs.; beef steaks—220 lbs.; ground veal and beef patties, unbreaded—270 lbs.; ground pork—920 lbs.; pork steak, flaked and formed—(100 lbs.—chop) and (100 lbs.—back rib shape); pork cubes—540 lbs.; pork sausage—30 lbs.; pork, ham, cured and smoked, stuffed, fully cooked, shankless—880 lbs.; frankfurters, beef—200 lbs.; bologna, beef—110 lbs.; meat food product loaves (olive loaf)—110 lbs.

**Department:** Public Welfare  
**Location:** Polk Center, Polk, Venango County, PA 16342  
**Duration:** April, 1996  
**Contact:** Don D. Lynn, Purchasing Agent, (814) 432-0229

**Inquiry No. 95-28** Provide milk and milk products to DPW facilities throughout the Commonwealth. Awards will be made by lottery drawings for each of the 6 milk marketing areas. Copies of bid proposals can be obtained by contacting the Procurement Office.

**Department:** Public Welfare  
**Location:** Room 106, Health and Welfare Building, Harrisburg, PA 17105  
**Duration:** July 1, 1996 to June 30, 1997  
**Contact:** Nancy Lebo, Purchasing Agent, (717) 783-5675

**791** Cheese: 210 lbs.—American cheese, yellow, sliced; 240 lbs.—American cheese, yellow, unsliced; 630 lbs.—cheddar cheese, natural, shredded; 180 lbs.—mozzarella cheese, natural, low moisture, shredded; 110 lbs.—Swiss cheese, processed, sliced; 40 lbs.—cheese, low fat, low cholesterol Swiss; 36 lbs.—bleu cheese; 60 lbs.—cream cheese.

**Department:** Public Welfare  
**Location:** Polk Center, Polk, Venango County, PA 16342  
**Duration:** April through June, 1996  
**Contact:** Patty Frank, Purchasing Agent, (814) 432-0397

**CRE-FS-0152** Frozen vegetables—food group consisting of broccoli spears, cauliflower, lima beans, carrots, mixed vegetables, French fried potatoes, tater tots, peas, and similar items as required. Quarterly bids—monthly deliveries—monthly awards. Bid proposal on file within agency prior to quarterly solicitation.

**Department:** Corrections  
**Location:** State Correctional Institution at Cresson, P. O. Box A, Old Route 22, Cresson, PA 16630  
**Duration:** July 1, 1996 to June 30, 1997  
**Contact:** Barbara A. Lloyd, Purchasing Agent, (814) 881-8181, ext. 166

**CRE-FS-0153** Processed meats (beef/pork products)—frankfurters (all beef and turkey franks); beef livers, sliced; turkey ham; turkey salami (no pork products); bologna (all beef); hams, various; Polish sausage; ground veal breaded patties, frozen; and similar items as required. Quarterly bids—monthly deliveries. Bid proposal on file within agency prior to quarterly solicitation.

**Department:** Corrections  
**Location:** State Correctional Institution at Cresson, P. O. Box A, Old Route 22, Cresson, PA 16630  
**Duration:** July 1, 1996 to June 30, 1997  
**Contact:** Barbara A. Lloyd, Purchasing Agent, (814) 886-8181, ext. 166

**CRE-FS-0154** Fresh produce—food group consisting of approximately 15—25 items, monthly bids—monthly contract awards—weekly deliveries. Garlic, lettuce, red salad mix, celery, cucumbers, carrots, oranges, apples, potatoes, onions, mushrooms, kale, spinach, bananas, cabbage, grapefruit, tomatoes, peppers, and similar items including watermelon, tangerines, cantaloupe, etc. Bid proposal on file within agency prior to monthly solicitation. All produce must be delivered by 9:30 a.m. on scheduled delivery dates.

**Department:** Corrections  
**Location:** State Correctional Institution at Cresson, P. O. Box A, Old Route 22, Cresson, PA 16630  
**Duration:** July 1, 1996 to June 30, 1997  
**Contact:** Barbara A. Lloyd, Purchasing Agent, (814) 886-8181, ext. 166

**CRE-FS-0155** Shell eggs, medium—quarterly bids—weekly deliveries. Quantities as required. Bid proposal on file within agency prior to monthly bid solicitation. Eggs must be delivered in a refrigerated truck.

**Department:** Corrections  
**Location:** State Correctional Institution at Cresson, P. O. Box A, Old Route 22, Cresson, PA 16630  
**Duration:** July 1, 1996 to June 30, 1997  
**Contact:** Barbara A. Lloyd, Purchasing Agent, (814) 886-8181, ext. 166

**CRE-FS-0156** Baking products—to consist of, but not limited to: pizza shells, tacos, taco seasonings, baking soda, baking powder, yeast, various extracts, sauces (soy, pizza, Worcestershire), lemon juice, caraway seeds, sesame seeds, icing fruits, flour (whole wheat, all purpose, rye), assorted purees, parsley flakes, various baking chips, oleo margarine, oil, shortening and other related items as required. Bid proposal on file in agency purchasing department. Bid on quarterly basis.

**Department:** Corrections  
**Location:** State Correctional Institution at Cresson, P. O. Box A, Old Route 22, Cresson, PA 16630  
**Duration:** July 1, 1996 to June 30, 1997  
**Contact:** Barbara A. Lloyd, Purchasing Agent, (814) 886-8181, ext. 166

**CRE-FS-0157** Poultry and poultry products—approximate requirements: turkey roasts, chicken, drumsticks, chicken breast fillets, turkeys (as required) and similar items as required. Quarterly bids—monthly awards, monthly deliveries. Quantities and items as required. Bid proposal on file within agency prior to quarterly solicitation.

**Department:** Corrections  
**Location:** State Correctional Institution at Cresson, P. O. Box A, Old Route 22, Cresson, PA 16630  
**Duration:** July 1, 1996 to June 30, 1997  
**Contact:** Barbara A. Lloyd, Purchasing Agent, (814) 886-8181, ext. 166

**CRE-FS-0158** Fish and seafood—approximate requirements—haddock, batter dipped cod, pollock, as required and similar items as required. Tuna, solid water packed (when not available from Statewide Contract). Quarterly bids—monthly awards—monthly deliveries. Quantities and items as required. Bid proposal on file within agency prior to monthly solicitation.

**Department:** Corrections  
**Location:** State Correctional Institution at Cresson, P. O. Box A, Old Route 22, Cresson, PA 16630  
**Duration:** July 1, 1996 to June 30, 1997  
**Contact:** Barbara A. Lloyd, Purchasing Agent, (814) 886-8181, ext. 166

**CRE-FS-0159** Cheese—consisting of yellow or white American cheese, shredded mozzarella, provolone, Swiss and various block cheeses and related items as required. Quarterly bids—monthly awards—monthly deliveries. Quantities as needed. Bid proposal on file within agency prior to quarterly solicitation.

**Department:** Corrections  
**Location:** State Correctional Institution at Cresson, P. O. Box A, Old Route 22, Cresson, PA 16630  
**Duration:** July 1, 1996 to June 30, 1997  
**Contact:** Barbara A. Lloyd, Purchasing Agent, (814) 886-8181, ext. 166

**CRE-FS-0160** Ice cream, coffee creamers, cottage cheese, iced tea—quarterly bids—monthly awards. Ice cream, vanilla and Neapolitan slices; sherbet; ice cream sandwiches and similar items as required (no pork products). Coffee creamers, 1/2 oz. size; cottage cheese, large curd; iced tea (1/2 pt. containers)—all in quantities as needed. Bid proposal on file within agency prior to quarterly solicitation.

**Department:** Corrections  
**Location:** State Correctional Institution at Cresson, P. O. Box A, Old Route 22, Cresson, PA 16630  
**Duration:** July 1, 1996 to June 30, 1997  
**Contact:** Barbara A. Lloyd, Purchasing Agent, (814) 886-8181, ext. 166

**CRE-FS-0161** Dry beans—various types—baby limas, blackeyed peas, pinto beans and other related items as required. Quarterly bids—monthly awards—monthly deliveries. Bid proposal on file within agency prior to solicitation.

**Department:** Corrections  
**Location:** State Correctional Institution at Cresson, P. O. Box A, Old Route 22, Cresson, PA 16630  
**Duration:** July 1, 1996 to June 30, 1997  
**Contact:** Barbara A. Lloyd, Purchasing Agent, (814) 886-8181, ext. 166

**CRE-FS-0162** Frozen eggs/frozen egg products—quarterly bids—monthly awards—monthly deliveries. Quantities as required. Bid proposal on file within agency prior to quarterly bid solicitation.

**Department:** Corrections  
**Location:** State Correctional Institution at Cresson, P. O. Box A, Old Route 22, Cresson, PA 16630  
**Duration:** July 1, 1996 to June 30, 1997  
**Contact:** Barbara A. Lloyd, Purchasing Agent, (814) 886-8181, ext. 166

### Fuel-Related Services—14

**Inquiry No. 59** This service will require replacement of the coal ash removal system to our boiler plant Building No. 32. Copies of the bid proposal can be obtained by contacting the Allentown State Hospital Purchasing Department.

**Department:** Public Welfare  
**Location:** Allentown State Hospital, 1600 Hanover Avenue, Allentown, PA 18103-2498  
**Duration:** 01-01-96 to 06-30-96  
**Contact:** T. F. Snyder, Purchasing Agent, (610) 740-3428

**Inquiry No. 60** This service will provide repair/replace boiler refractory brickwork in boiler plant Building No. 32. Copies of the bid proposal can be obtained by contacting the Allentown State Hospital Purchasing Department.

**Department:** Public Welfare  
**Location:** Allentown State Hospital, 1600 Hanover Avenue, Allentown, PA 18103-2498  
**Duration:** 01-01-96 to 06-30-96  
**Contact:** T. F. Snyder, Purchasing Agent, (610) 740-3428

**Inquiry No. 8745** Weighing of refuse and coal trucks and miscellaneous weights. Gross and tar. Licensed weighmaster slip required.

**Department:** Public Welfare  
**Location:** Selinsgrove Center, Selinsgrove, Snyder County, PA 17870  
**Duration:** July 1, 1996 to June 30, 2001  
**Contact:** Arletta K. Ney, Purchasing Agent, (717) 372-5070

**Project No. 9661** Oil-fired furnace replacement.

**Department:** Military Affairs  
**Location:** PAARNG Armory, R. D. 1, Lock Haven, Clinton County, PA  
**Duration:** 15 March 96—30 September 96  
**Contact:** Emma Schroff, (717) 861-8518

### Janitorial Services—15

**814163** Provide labor, materials, and equipment necessary to clean the windows of the passenger terminal building at Harrisburg International Airport, Middletown, PA.

**Department:** Transportation  
**Location:** Aviation, Passenger Terminal Building No. 510, Harrisburg International Airport, Middletown, PA 17057  
**Duration:** 04/01/96 through 03/31/97  
**Contact:** Curt Summers, (717) 948-3927

**11095027** Contractor will provide general cleaning and janitorial services, snow and ice removal and lawn care to the District 11-0 Office Building located in Bridgeville, Allegheny County. Services consist of daily cleaning of all office areas, meeting rooms, restrooms, window cleaning, snow and ice removal, lawn maintenance and other minor tasks.

**Department:** Transportation  
**Location:** Engineering District 11-0, District 11-0 Office Building, Bridgeville, Collier Township, Allegheny County, PA  
**Duration:** April 1, 1996 through March 31, 1997 with renewal clauses  
**Contact:** Sam Patterson, (412) 429-4942

### Landscaping Services—16

**026-0001** Roadside mowing on various routes in Potter County.

**Department:** Transportation  
**Location:** Various Routes in Potter County, PA  
**Duration:** 6-1-96/5-31-97  
**Contact:** Gary L. Gunzburger, (814) 274-9181

### Maintenance and Repair Services—20

**Contract No. FDC-313-114** Repair piers and abutments of two bridges at Shawnee State Park. Work includes removal of all loose or deteriorated concrete; clean all exposed steel reinforcement; replace steel reinforcement; construct a reinforced concrete collar around each pier and on top of the web wall; and pressure mortar surface treatment.

**Department:** Conservation and Natural Resources  
**Location:** Napier Township, Bedford County, PA  
**Duration:** 120 days after Notice to Proceed  
**Contact:** Construction Management, (717) 787-5055

**Inquiry No. 58** This service will require replacement of 400 feet of 3" diameter condensate piping located in a walk-through tunnel between Buildings No. 21 and 14. Copies of this bid proposal can be obtained by contacting the Allentown State Hospital Purchasing Office.

**Department:** Public Welfare  
**Location:** Allentown State Hospital, 1600 Hanover Avenue, Allentown, PA 18103-2498  
**Duration:** 01-01-96 to 06-30-96  
**Contact:** T. F. Snyder, Purchasing Agent, (610) 740-3428



**Project No. 409-EI** Lock Haven University of PA of the State System of Higher Education (SSHE) invites interested parties to submit sealed proposals for necessary repairs and renovations of the theater stage in its Sloan Fine Arts Building, Project No. 409-EI. Sealed proposals will be received at the University Facilities Department, Russell Hall Room No. 12. Bids must be time stamped at the Facilities Office no later than 2:00 p.m. on Monday, March 11, 1996. Brief description: furnish all labor, material, and equipment for the specified repairs and renovations to the theater stage and rigging equipment. Pre-bid conference: February 22, 1996, 12:30 p.m. at the Sloan Fine Arts Building. Attendance is mandatory. Proposed date of completion: work can be started no earlier than May 27, 1996 and must be completed no later than June 14, 1996. For further information and project manual (\$10.00 payable to Lock Haven University), contact Todd Webber, Facilities Contract Manager, at (717) 893-2019. The System encourages responses from small firms, minority firms, women owned firms, and firms which may have not previously performed work for the System, and will consider joint-ventures which will enable these firms to participate in System contracts.

**Department:** State System of Higher Education  
**Location:** Lock Haven University, Lock Haven, PA  
**Duration:** Indeterminate 1995-96  
**Contact:** Todd Webber, Maintenance Facilities Department, (717) 893-2019

**SPC 244924** Contractor shall supply all labor and parts necessary to repair various types of electric motors which are utilized by the Maintenance Department of the Bensalem Youth Development Center.

**Department:** Public Welfare  
**Location:** Bensalem Youth Development Center, 3701 Old Trevoise Road, Bensalem, PA 19020  
**Duration:** July 1, 1996 through June 30, 1999  
**Contact:** Mary Jo Scanlon, (215) 953-6405

**Project No. DGS A 950-19** Project title: Repair Bulging Walls in Stairway "B". Brief description: remove and reinstall/replace approximately 450 square feet of structural glazed tile facing including new wall tiles and shelf angles in an interior stairway. General construction. Plans deposit: \$25.00 per set. Payable to: The Commonwealth of Pennsylvania. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. The bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed below to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail request to: The Department of General Services, Room 107, Headquarters Building, 18th and Herr Streets, Harrisburg, Pennsylvania 17125. Telephone: (717) 787-3923. Bid date: Wednesday, February 21, 1996 at 2:00 p.m.

**Department:** General Services  
**Location:** Labor and Industry Building, Harrisburg, Dauphin County, PA  
**Duration:** 120 calendar days from date of award of contract  
**Contact:** Bidding Unit, (717) 787-6556

**Project No. DGS A 251-202** Project title: Upgrade Electrical System. Brief description: work consists of replacing existing electrical distribution system. Electrical construction. Plans deposit: \$25.00 per set. Payable to: The Commonwealth of Pennsylvania. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. The bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed below to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail request to: The Department of General Services, Room 107, Headquarters Building, 18th and Herr Streets, Harrisburg, Pennsylvania 17125. Telephone: (717) 787-3923. Bid date: Wednesday, February 21, 1996 at 11:00 a.m.

**Department:** General Services  
**Location:** PennDOT Maintenance Building, Meadville, Crawford County, PA  
**Duration:** 180 calendar days from date of award of contract  
**Contact:** Bidding Unit, (717) 787-6556

**Project No. DGS A 1574-13** Project title: Roof Repairs—Outside Maintenance Building. Brief description: removal of asbestos roofing shingles, replace with fiberglass based asphalt shingles, install gutter and downspouts, install metal panels over existing fascia and soffit. General construction. Plans deposit: \$25.00 per set. Payable to: The Commonwealth of Pennsylvania. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. The bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed below to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail request to: The Department of General Services, Room 107, Headquarters Building, 18th and Herr Streets, Harrisburg, Pennsylvania 17125. Telephone: (717) 787-3923. Bid date: Wednesday, February 21, 1996 at 11:00 a.m.

**Department:** General Services  
**Location:** State Correctional Institution, Cresson, Cambria County, PA  
**Duration:** 90 calendar days from date of award of contract  
**Contact:** Bidding Unit, (717) 787-6556

**Inquiry No. 8746** Repair oxygen and respiratory equipment.

**Department:** Public Welfare  
**Location:** Selinsgrove Center, Selinsgrove, Snyder County, PA 17870  
**Duration:** July 1, 1996 to June 30, 2001  
**Contact:** Arletta K. Ney, Purchasing Agent, (717) 322-5070

**401-BL-530** Luzerne Hall Renovation—replacement of ceilings, bathrooms, drinking fountains, relocation of control panels in elevators and ADA braille signage; and replacement of some floors in the dorm. Work will include, general construction, plumbing, and electrical as separate prime contracts. Plans can be obtained by submitting a non-refundable \$55.00 deposit by February 15, 1996 made payable to Robert A. Lack, Inc., 230 Market Street, Lewisburg, PA 17837, phone (717) 524-2300. Bids will open in mid-March, actual dates of bid opening and pre-bid will be contained in the bid documents.

**Department:** State System of Higher Education  
**Location:** Bloomsburg University, Bloomsburg, PA 17815  
**Duration:** 4 months  
**Contact:** Joseph C. Quinn, (717) 389-4311

**SO-105** The contractor shall provide all labor, equipment, materials, repair parts, and replacement components necessary to repair two (2) power plant diesel generator units at the State Correctional Institution at Somerset. This service will include semi-annual inspections and preventative maintenance. Contractor must be within a distance to allow for emergency repairs within six (6) hours after proper notification.

**Department:** Corrections  
**Location:** State Correctional Institution at Somerset, 1590 Walters Mill Road, Somerset, PA 15510-0001  
**Duration:** 7/1/96 through 6/30/99  
**Contact:** Theresa Solarczyk, Purchasing Agent II, (814) 443-8100, ext. 311

**251773197** Electric Deer Fence Installation. Light site preparation, installation, and all materials for fencing around a portion of an old timber sale located on the Tuscarora State Forest. The site is known as Shade Bench and is located in Lack Township, Juniata County. The fence has a total perimeter of approximately 8234 lineal foot. Prospective bidders must attend a mandatory prebid inspection of the site.

**Department:** Conservation and Natural Resources  
**Location:** Bureau of Forestry, District 3, Tuscarora State Forest, Shade Bench haul road in Lack Township, Juniata County, PA  
**Duration:** 5/13/96 to 6/30/96 SP 217974  
**Contact:** Peter C. Johnson, (717) 536-3191

## Data Processing Services—27

**PGC2495** 1 copy—Microstation 5 for Windows NT; 1 copy—Microstation I/RAS B; 1 copy—Microstation I/GEOVEC. All software must run on Windows NT. I/RAS B and I/GEOVEC must run with Microstation 5 for Windows NT. All software must be supplied on CD-ROM. No substitutes. Bid opening will be March 1, 1996 at 1 p.m. at PGC Headquarters, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

**Department:** Game Commission  
**Location:** Bureau of Management Information Systems, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797  
**Duration:** 3/1/96—3/1/97  
**Contact:** Timothy Smith, (717) 783-6625

## Auctioneer Services—30

**2620** Auctioneering services to be provided to the Department of General Services, State Surplus Property Division. The successful bidder will provide State Surplus Property with an auctioneer who is experienced in selling general merchandise to the general public by way of Buyers Premium Sales. One (1) or more auction sale(s) will be held in Harrisburg or elsewhere in Pennsylvania.

**Department:** General Services  
**Location:** State Surplus Property Division, 2221 Forster Street, Harrisburg, PA 17125  
**Duration:** April 1, 1996 through March 31, 1997  
**Contact:** Thomas Ford, (717) 787-9038

**Real Estate Services—35**

**030-0268** Provide a before and after appraisal of an apartment complex in Athens Township, Bradford County along SR 1069, (Elmira Street) Sayre, PA. The property is a commercial appraisal classification and is a partial take. Appraiser must be on PA Department of Transportation general pre-qualified fee appraiser list. Appraisal contract will be awarded by competitive bid. Appraisal must be prepared in accordance with PA Department of Transportation's Publication 94 and regulations including extensive review of the appraisal report.

**Department:** Transportation

**Location:** District 3-0, 715 Jordan Avenue, Montoursville, PA 17754

**Duration:** 45 days

**Contact:** P. E. Stine, (717) 368-4238

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**Drilling Services—39**

**C2:33-101.5** Subsurface Exploration, Unnamed Tributary to Lick Run. Involves an estimated 60 L. F. of overburden drilling and sampling and 40 L. F. of Rock Coring (NX).

**Department:** Environmental Protection

**Location:** Borough of Baldwin, Allegheny County

**Duration:** 30 days after Notice to Proceed

**Contact:** Construction Contracts Unit, (717) 783-7994

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**FC-096H1** Contract is for Rehabilitation of Well No. 1 at Pleasant Mount Fish Culture Station, Mount Pleasant Township, Wayne County, Pennsylvania.

**Department:** Fish and Boat Commission

**Location:** 450 Robinson Lane, Bellefonte, PA 16823-9620; Pleasant Mount Fish Culture Station, Mount Pleasant Township, Wayne County, PA

**Duration:** 60 days after receipt of order

**Contact:** Amos C. Ferguson, (814) 359-5105

[Pa.B. Doc. No. 96-169. Filed for public inspection February 2, 1996, 9:00 a.m.]

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## DESCRIPTION OF LEGEND

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| <p>01. <b>BARBER SERVICES</b><br/>general</p> <p>02. <b>PERSONNEL/CLERICAL SERVICES</b><br/>transcribing, telephone answering, radio dispatch, secretarial, temporary help employment agency</p> <p>03. <b>TELECOMMUNICATIONS SERVICES AND EQUIPMENT</b><br/>mobile radios, P. A. systems, televisions, radios and telephones: equipment and repair</p> <p>04. <b>CONSTRUCTION</b><br/>alterations, miscellaneous, roofing, building, flooring, remodeling, asphalt and concrete, paving, highway projects, stream rehabilitation projects</p> <p>05. <b>HVAC</b><br/>air conditioning and heating, water conditioner, miscellaneous repair, refrigeration services, furnace and steam plant</p> <p>06. <b>ELEVATOR MAINTENANCE SERVICES</b><br/>elevator maintenance</p> <p>07. <b>CONSULTING SERVICES</b><br/>miscellaneous, training, workshops, education, research, testing service, technical assistance legal, certified public accountant, management, public relations, bilingual services, planning, financial planning, environmental research</p> <p>08. <b>COURT REPORTING SERVICES</b><br/>hearing</p> <p>09. <b>DEMOLITION AND RENOVATION</b><br/>structure, equipment</p> <p>10. <b>MEDICAL SERVICES</b><br/>medicine and drugs, general, consultant, laboratory, optical, mortuary, dental, ambulance, health care, veterinarian</p> <p>11. <b>ENGINEERING SERVICES</b><br/>miscellaneous, geologic, civil, mechanical, electrical, surveying, solar</p> <p>12. <b>FIREFIGHTING, SAFETY AND RESCUE SERVICES</b><br/>guard, burglar alarm, private investigator, armed courier, miscellaneous equipment</p> <p>13. <b>FOOD SERVICES</b><br/>commodities, surplus food processing, employment opportunities, etc.</p> <p>14. <b>FUEL-RELATED SERVICES</b><br/>installation of fuel tanks, pumping stations, pipe lines for fuel, includes utility related services</p> <p>15. <b>JANITORIAL SERVICES</b><br/>includes general, commercial maintenance, sweeping, cleaning, property maintenance</p> <p>16. <b>LANDSCAPING SERVICES</b><br/>general, pruning, tropical plants, design, harvesting crops</p> <p>17. <b>LAUNDRY AND DRY CLEANING SERVICES</b><br/>linen, laundry</p> <p>18. <b>LODGING/MEETING FACILITIES</b><br/>rooms and service, meals, room and board</p> <p>19. <b>MAIL SERVICES</b><br/>delivery, labeling, stuffing</p> | <p>20. <b>MAINTENANCE AND REPAIR SERVICES</b><br/>installation and/or repair of windows, doors, siding, fencing, walls, tanks, recapping tires, plumbing, electrical, equipment maintenance, painting and restoration, carpeting services, welding, drilling, excavating</p> <p>21. <b>MOVING SERVICES</b><br/>moving, car rental, storage, hauling, flying, bus, freight, travel service</p> <p>22. <b>MUSICAL SERVICES</b><br/>tuning and repair of musical instruments, use of instructors</p> <p>23. <b>PHOTOGRAPHY SERVICES</b><br/>general, aerial, lab development, consultant, blueprint reproduction art studios and schematic, advertising, graphic arts</p> <p>24. <b>SANITATION</b><br/>sanitation, recycling</p> <p>25. <b>SUBSCRIPTION SERVICES</b><br/>textbook educational material, testing material, miscellaneous, newsletter, miscellaneous printing, advertising</p> <p>26. <b>UPHOLSTERING SERVICES</b><br/>repair, refinishing, restoration</p> <p>27. <b>DATA PROCESSING SERVICES</b><br/>computer, keypunch, programming, analysis miscellaneous, equipment rental</p> <p>28. <b>PEST CONTROL SERVICES</b><br/>pest control, termite control, biological pest control</p> <p>29. <b>RELIGIOUS SERVICES</b><br/>contracting various clergy for hospitals, centers, etc.</p> <p>30. <b>AUCTIONEER SERVICES</b><br/>assistance in the sale of motor vehicles, equipment, etc.</p> <p>31. <b>CHILD CARE SERVICES</b><br/>Statewide child care services</p> <p>32. <b>INSURANCE SERVICES</b><br/>miscellaneous brokerage insurance services</p> <p>33. <b>MECHANICAL MAINTENANCE AND REPAIRS</b><br/>installation of handicap equipment into vehicles, homes, etc.</p> <p>34. <b>RAILROAD SERVICES</b><br/>transporting of goods by rail</p> <p>35. <b>REAL ESTATE SERVICES</b><br/>acquisition, disposition, leasing and appraisals of real estate</p> <p>36. <b>SHOE REPAIRS</b><br/>repair of shoes, braces and prosthetics</p> <p>37. <b>RENTALS/LEASES</b><br/>of medical equipment, construction equipment, movies, canvas tents, laboratory equipment, vehicles, storage facilities, office space</p> <p>38. <b>MINE RECLAMATION</b><br/>backfilling mine openings, extinguishing abandoned mine fires, flushing of mine voids, acid mine drainage abatement, regrading surface mines</p> <p>39. <b>DRILLING SERVICES</b><br/>well drilling, core drilling and exploratory drilling</p> |
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GARY E. CROWELL,  
*Secretary*

## STATE CONTRACTS INFORMATION

## Contract Awards

The following awards have been made by the Department of General Services, Bureau of Purchases:

Requisition or Contract #	Awarded On	To	In the Amount Of
1348115-01-1	01/18/96	ATD American Co.	117,300.00
1484215-01	01/16/96	Bellco Drug Corp.	97,737.85
1707215-01	01/16/96	Bellco Drug Corp.	79,772.00
2310-01	01/19/96	Manheim Chrysler/Plymouth/GMC Truck	5,097,600.00
2310-01	01/19/96	E-Town Dodge	3,256,275.00
2310-01	01/19/96	Meissner Chev/Geo/Olds, Inc.	3,340,200.00
2310-01	01/19/96	Hoffman Ford Sales, Inc.	6,168,975.00
2310-01	01/19/96	Murphy Ford Co.	2,224,350.00

Requisition or Contract #	Awarded On	To	In the Amount Of
2310-01	01/19/96	Cramer Motors, Inc.	15,154,393.30
2310-01	01/19/96	Cheltenham Dodge Co.	1,060,500.00
2310-01	01/19/96	Warnock Automotive, Inc. d/b/a Warnock Jeep/Eagle/Chrysler/Plymouth	2,371,050.00
5306-01	02/01/96	Key Sales, Inc.	43,267.00
7520-10	02/01/96	Staples National Advantage	23,119.50

GARY E. CROWELL,  
*Secretary*

[Pa.B. Doc. No. 96-170. Filed for public inspection February 2, 1996, 9:00 a.m.]

# RULES AND REGULATIONS

## Title 28—HEALTH AND SAFETY

### DEPARTMENT OF HEALTH

#### [28 PA. CODE CHS. 701 AND 704]

#### Staffing for Drug and Alcohol Treatment Activities

The Department of Health (Department), Office of Drug and Alcohol Programs, under the authority of Articles IX and X of the Public Welfare Code (62 P. S. §§ 901—922 and 1001—1059), as transferred to the Department under Reorganization Plan No. 2 of 1977 (71 P. S. § 751-25) and Reorganization Plan No. 4 (71 P. S. § 751-31); the Health Care Facilities Act (35 P. S. §§ 448.101—448.904b); the Drug and Alcohol Abuse Control Act (71 P. S. §§ 1690.101—1690.114) and Article VI-A of The Insurance Company Law of 1921 (40 P. S. §§ 908-1—908-8), amends Chapter 701 (relating to general provisions) and adopts Chapter 704 (relating to staffing requirements for drug and alcohol treatment activities). Chapter 701 contains the definition section for the regulations governing licensing of drug and alcohol abuse treatment facilities. Chapter 704 sets out requirements for staff employed by those facilities to provide treatment, supervision of treatment and administration for the facilities.

#### *Purpose*

The Department is authorized, by the General Assembly through Articles IX and X of the Public Welfare Code, to license drug and alcohol treatment facilities. This licensing procedure is undertaken to oversee treatment provided to the citizens of this Commonwealth and to ensure that the treatment provided by those facilities meets acceptable standards. Further, The Insurance Company Law of 1921 (40 P. S. §§ 341—991) was amended in 1986 to require that the Department establish minimum qualifications for staff of drug and alcohol treatment facilities and minimum standards for client to staff ratios. Drug and alcohol treatment is only a covered benefit for insurance purposes when it takes place in facilities licensed by the Commonwealth which comply with such regulations. See Article VI-A of The Insurance Company Law of 1921.

Under The Insurance Company Law of 1921, and as part of the need to ensure the consistency of treatment provided to the substance abusing population, the Department, for the past 8 years, has been developing regulations setting out specific educational and experiential qualifications and training requirements for project directors, clinical supervisors, counselors and counselor assistants employed by licensed drug and alcohol treatment facilities. The Department has also set out maximum client-to-staff and client-to-counselor ratios in each of several specific types of facilities.

Neither these requirements nor the client-to-staff ratios developed by the Department have been the work of 1 day. Rather, the Department began 8 years ago to meet with licensed drug and alcohol abuse treatment facilities to discuss their ideas and concerns, to survey other states on these issues and to investigate the regulations of other human service agencies within this Commonwealth. After this initial research period, the Department developed the

first of two preliminary drafts of what were to become the proposed staffing regulations published at 22 Pa.B. 4542 (September 5, 1992).

The Department's first preliminary draft was based on the qualifications set by the Civil Service Commission. The Department circulated this first preliminary draft among licensed drug and alcohol abuse treatment facilities within this Commonwealth and requested their input. When the Department received contradictory responses on various requirements, it surveyed its licensed facilities to determine the common practice, or industry standard. These comments and suggestions were incorporated into the second preliminary draft developed by the Department. Comments were again solicited on this second draft. It was only after receiving these comments, and revising the second draft, that the proposed amendments were prepared and published.

Before drafting the proposed amendments, however, the Department found that it was necessary to resurvey other states to determine what the current practice was for regulating staff in drug and alcohol abuse treatment facilities. The Department found that a number of those states utilize categories similar to the Department's "project director," "clinical supervisor" and "counselor." Training requirements as set forth in the regulations are also similar to the majority of states surveyed. The amendments proposed by the Department, and adopted in Annex A in final form, are the result of more than 8 years of discussion, research, evaluation and close attention to the concerns of those entities which are being regulated.

It should also be noted that these amendments will apply to personnel in more than 650 licensed drug and alcohol treatment facilities. These facilities vary widely in size and in staffing patterns. The amendments must apply to facilities with a staff of one person, as well as to facilities with a staff of hundreds. Therefore, the amendments must be sufficiently broad to cover all variations of drug and alcohol abuse treatment facilities licensed in this Commonwealth while at the same time providing a standard against which staff may be compared to ensure a safe environment for the substance-abusing client. For this and other reasons, the amendments are intended to be the minimum requirements for entry level employees, although the Department encourages facilities to urge employees to go beyond these amendments whenever possible.

The Department's discussions with and surveys of drug and alcohol abuse treatment facilities in the course of the development of these amendments indicate that many facilities already meet, if not exceed, these minimum requirements. Department statistics indicate that out of a total of 622 project directors Statewide, 551, or 89%, already meet qualifications set out in these amendments. The remaining 11% will nevertheless be able to retain their current position. Of 415 clinical supervisors currently employed across this Commonwealth, 91% exceed the standards set out in the amendments. Further, only facilities employing eight or more full-time counselors are required by regulation to employ a clinical supervisor. Of these facilities, of which there are 58 in number, only 15 clinical supervisors do not meet qualifications. Of 1,911 counselors who are not licensed health care professionals, 1,532 or 80% currently meet the qualifications for the counselor position set out in these amendments.

*Affected Persons*

These amendments affect persons currently employed by drug and alcohol treatment facilities, as well as those who will be employed prior to and after March 4, 1996. The Department, however, has provided for the waiving in of individuals who are currently project directors and facility directors. These individuals would only be required to meet the additional qualifications of the amendments if they were to leave the project with which they are currently employed and take a position in a different project.

The amendments will also affect the drug and alcohol treatment facilities. These facilities will be required to bring staff employed prior to March 4, 1996, into compliance with those amendments and, after the effective date, to hire only those individuals with a certain level of experience and education. These requirements will raise operational costs because of the training which must be provided under the amendments and the increased salaries that the newly-trained employees might be able to command.

The Department is looking for ways to enable facilities to obtain low-cost training for their employees. Indeed, some training institutes already exist. These increased costs will also be counter-balanced by the benefit to another group of affected persons: the clients of the drug and alcohol abuse treatment facilities. The amendments, which are intended to provide a minimum level of qualifications for staff of drug and alcohol treatment facilities, should improve the quality of care provided to those clients.

*Comments*

Approximately 100 letters of comment were received by the Department following the 60-day public comment period after publication of the staffing regulations in proposed form at 22 Pa.B. 4542. The Department received comments from individual and institutional drug and alcohol abuse treatment providers. The Department also received comments from provider associations such as the Drug and Alcohol Service Providers Organization of Pennsylvania and the Pennsylvania Community Providers Organization, from county-related organizations including several single county authorities (Venango County Drug and Alcohol Administration, Chester County and County of Cambria MH/MR Drug and Alcohol Program), the Berks County Prison, the Greater Erie Community Action Committee and from various other interested organizations and individuals, including Shippensburg University, Thomas Jefferson University, the National Association of Social Workers, the Pennsylvania Medical Society, the Psychiatric Physicians of Pennsylvania and the Pennsylvania Psychological Association. The Independent Regulatory Review Commission (IRRC) also commented on the amendments.

*Chapter 701. Definitions*

The Department has made several changes to the proposed definitions in response to comments it received. The Department added a definition for "active client" to further assist in the calculation of client to staff ratios. The phrase "for chemical dependency" was added in the definition of "counselor" to define what types of assessments a counselor is to do. In order to make the definition of "primary care services" more consistent with that of "primary care staff," the Department included medical and psychological services in the definition. The Department qualified the definition of "primary care staff" to better define which individuals are considered to

be primary care staff. Comments were received as to whether house managers and residential assistants should be considered to be part of the primary care staff. The Department did not add house managers and residential assistants to this definition because, by definition, they are not a part of the clinical treatment team. The Department did add clinical supervisors, who are a part of the treatment team, to the definition. Finally, in response to comments questioning the applicability of the regulations to facility directors, the Department added a definition for "facility director," and revised § 704.5 (relating to qualifications for the positions of project director and facility director) setting forth the qualifications for project directors to apply to facility directors.

*Chapter 704. Staffing*

The Department received one comment on the amendments in general to which it must respond before addressing the remainder of the comments. The person commented that the amendments have a disparate impact on the recovering community, and therefore, cause those individuals harm. The Department takes issue with this statement because it does not believe the inference which must follow: no recovering person has the education or experience to meet the variety of qualifications for each position which the Department has set forth.

The Department has great regard for those individuals who are working through their addiction. The Department recognizes the vital role these persons can play in the recovery process of others. The Department has created each position under these amendments with a variety of qualifications so that recovering persons of all educational and experiential qualifications can, if they choose, work in the addictions field. For those with little or no experience, the Department has provided an on-the-job-training opportunity in the position of counselor assistant which permits those individuals with very little education and skills to work their way into the position of counselor or clinical supervisor. It is incorrect to view these amendments as preventing the hiring of recovering individuals.

*Section 704.1. Scope.*

Section 704.1 outlines the scope of the staffing regulations. This section states that the amendments apply to persons employed by facilities licensed or approved under Chapters 157, 709 and 711 (relating to drug and alcohol services; standards for licensure of freestanding treatment activities; and standards for certification of treatment activities which are a part of a health care facility). IRRC, as well as others, questioned whether the staffing regulations should apply to intake, evaluation and referral facilities which are required to meet the licensing regulations in Chapters 709 and 711. The Department did not intend to require that facilities which only performed intake, evaluation and referral services meet these staffing regulations. Therefore, § 704.1 has been revised accordingly.

*Section 704.3. General requirements for projects.**Section 704.3(a)*

The Department received the most comments on § 704.3(a) of the proposed amendments which required that recovering clinical personnel providing direct counseling care and clinical supervision have been in recovery for 2 years prior to hire. Some of the views expressed were in agreement with the provision but felt that changes were necessary; others disagreed on a variety of bases. The most common concerns focused on the possibility that this provision of the regulations violated the

Americans with Disabilities Act (ADA) (42 U.S.C.A. § 12101 et seq.) and the Rehabilitation Act of 1973 (29 U.S.C.A. § 701 et seq.).

The Department gave much consideration to this provision before including it in the proposed amendments. The provision is similar to abstinence requirements in other states. The Department recognizes that the recovering community plays a integral role in the treatment of drug and alcohol abuse problems in this Commonwealth. The empathy and example of a recovering person can be an important part of recovery for someone beginning the process. The Department also recognizes, however, that the need for stability within the recovery process is necessary if recovering individuals are not to be harmful to themselves as well as the clients. Involvement in another's recovery process may create a strain on a counselor if the counselor has not progressed beyond those levels of his own recovery process.

Although the Department believes that this provision violates neither the ADA nor the Rehabilitation Act of 1973, given the unique job requirements of the drug and alcohol abuse counselor, the pressures that such a position puts on the individual filling it and the precarious nature of the recovery process, particularly at its beginning, the Department has chosen to eliminate this provision for the present. The Department also believes that the 2 year abstinence period it proposed is an appropriate time period. With the amount of disagreement on this issue, however, the Department feels that more research and discussion is necessary. Because the research would necessarily delay publication of the entire body of staffing regulations, and because the need for rapid implementation of these regulations is great, the Department has decided to publish the regulations as final without this provision.

#### Section 704.3(b)

Because the Department has decided to remove the 2 year abstinence requirement from the regulations, the Department has revised § 704.3(b) to remove the requirement that a facility develop a policy which addresses compliance with the abstinence requirement and renumbered this subsection as subsection (a). In response to other comments on this subsection, the Department is now requiring that facility policies address drug and alcohol abuse of all personnel. This subsection had previously addressed only relapse of recovering personnel.

#### Section 704.3(e)

Section 704.3(e) had required 24 hour awake staff coverage for all residential facilities, except transitional living facilities. Those who operate residential facilities as halfway houses recommended that they should also be exempted from this requirement. IRRC recommended that the awake staff coverage requirement be deleted for halfway houses and those facilities where the coverage was not essential for the treatment of clients. The Department agrees that awake staff coverage is not essential in a facility operating a halfway house, but does believe that in a halfway house, at least one staff person should be on the premises at all times. The Department has therefore revised this provision accordingly and renumbered it as subsection (d).

#### Section 704.4. *Compliance with staff qualifications.*

The Department's amendments provide that project directors who were hired prior to March 4, 1996, need not comply with the specific qualifications set out in § 704.5. IRRC and others expressed confusion over whether this special status could be transferred to another project at a

later date. IRRC recommended that the Department amend this provision to clarify the question of transfer of status. The Department has done so.

The Department's intention in permitting the waiving in of project directors was to allow those individuals who founded the institutions in which they work to remain in their positions in those institutions. The Department, however, finds it imperative for project directors to have a formal education as well as prior administrative, fiscal and program experience. The qualifications are necessitated by the complexity of the problems facing the drug and alcohol abuse client today and by the extremely difficult fiscal situation many projects find themselves in due to decreasing human service dollars. Therefore, the Department will not allow project directors to transfer their special status to another project.

According to the Department's surveys of the licensed providers in this Commonwealth, the majority of individuals in project director positions at the present time already meet the qualifications set out in § 704.5. Therefore, this section will cause difficulties only for those few project directors without the enumerated qualifications who choose to leave employment with one project for employment with another project. The Department will, however, permit facility directors grandfathered into positions under these amendments to move from one facility to another within a project without meeting the applicable qualifications. This latter provision will enable projects to transfer staff as needed.

#### *Sections 704.5—704.7. Qualifications for the position of project director; facility director; clinical supervisor and counselor.*

These three sections set out qualifications for the positions of project director and facility director, clinical supervisor and counselor. The Department received many comments on the qualifications in general. Comments ranged from complaints that the qualifications were too stringent to complaints that the qualifications were too lax. The Department, in reviewing the comments received, determined to keep the qualifications as proposed for the most part. These amendments are intended only as minimum requirements; there is nothing to prevent facilities from exceeding these requirements and, in fact, many do. The Department has chosen to set forth minimum requirements in order to prevent the cost of staff from becoming too costly for facilities.

The Department has made some changes to these sections based on comments it received. Several persons commented on the way in which the Department chose to list the options for each position. It was not the Department's intention to list options in order of the Department's preference and the regulations do not indicate so. The sets of qualifications under each position are listed generally in order from the option which requires the most time to complete to the option which requires the least time.

It was also suggested that the Department list the Pennsylvania Chemical Abuse Certification Board (PCACB) by name in the amendments which offer the option of certification as an addictions counselor to fulfill one set of qualifications for the position of counselor, see § 704.7(b)(6), and part of one set of qualifications for the position of clinical supervisor. See § 704.6(b)(4). IRRC has also raised this issue and recommended that the Department specify in the regulation which certification bodies and certification levels will satisfy the requirements contained in these subsections.

The Department has always enjoyed a good relationship with the PCACB and has respect for the work that it does. The PCACB has done much to elevate the level of care of drug and alcohol abuse clients in this Commonwealth by ensuring that those counselors who choose to be certified are well qualified to serve these clients. The Department's amendments, by definition, include the PCACB. It is inappropriate, however, to grant special recognition to any certification board. The Legislature is the body which must make the decision of whether, and by whom, addictions counselors are to be licensed or certified.

The Department has made several changes to the sections setting out options for meeting the qualifications for the positions of project director, facility director, clinical supervisor, counselor and counselor assistant. These revisions are outlined as follows:

*Section 704.5. Project director and facility director.*

As stated in this Preamble, in response to comments requesting clarification on the applicability of the amendment to facility directors, the Department has added that category of position to the amendments. A project director is responsible for the operation of a project which may include several facilities. A facility director is responsible for the operation of a facility, which is the physical location from which services are provided. A project may consist of one facility. In that case, the project director is the facility director. Because the Department believes that both positions require similar skills, education and experience, it has chosen to include facility directors in the section addressing qualifications of project directors.

Comments concerning the position of project director suggested that an individual in this position be required to have specific drug and alcohol abuse treatment experience. The Department agrees that that experience would be helpful, but will not mandate that experience. To this end, it has added the phrase "preferably in a drug and alcohol setting" to describe the experiential requirement in what is now § 704.5(c).

A project director or a facility director must be able to manage personnel, to seek and obtain funding (often through grants which require considerable administrative and communication skills to apply) and to possess a thorough knowledge of Federal, State and local bureaucracies. The Department is hesitant to require that an individual have experience in a drug and alcohol setting in order to be qualified as a project director or a facility director because to do so would eliminate talented individuals with public administration or business management backgrounds admirably suited to run the business that providing drug and alcohol abuse treatment has become.

It is conceivable that a project or facility would need to employ a project director or facility director with specific drug and alcohol abuse experience. In this case, the project or facility may require these qualifications on its own or may choose to have a clinical director who advises the project director or facility director. The Department has also added two alternatives to address the issue of what is to be done when a facility does not have a clinical supervisor. The facility must either comply with § 704.5(b)(1) which requires that a facility director who has direct responsibility for clinical services in a project must meet the qualifications in § 704.7 for the counselor position, or § 704.5(b)(2) which requires the appointment of a lead counselor or part-time clinical supervisor if the

project director does not meet the requirements for a counselor, and the facility employs less than eight counselors.

IRRC and others have also suggested that the regulations should be amended to permit properly certified addictions counselors with sufficient experience to serve as project directors. The Department has chosen not to accept this recommendation. The course of training counselor certification bodies require of an individual to obtain certification as an addictions counselor does not address the primary function of a project director, that is, administration and financial management skills. The certified addictions counselor course of training focuses on counseling. Credentialing bodies offer no credentials for "project director" or "facility director."

Finally, the separate paragraphs for physician, psychologist and social worker were deleted. It was deemed that these professions were included in the paragraphs containing types of degrees. The word "medicine" was added to subsection (c)(1) to clarify that physicians were included in that paragraph.

*Section 704.6. Clinical supervisor.*

The proposed amendments required that a project employ one clinical supervisor for every eight full-time counselors. IRRC recommended that the Department require a full-time clinical supervisor for every eight counselors and suggested, as did others, that the Department should also outline similar requirements for facilities employing less than eight counselors. To this end, the Department has added language to § 704.6(a) requiring that a facility employ a full-time clinical supervisor for every eight counselors. Facilities employing less than eight counselors may use a lead counselor or part-time clinical supervisor to supervise clinical functions at the facility.

Initially, the Department had proposed that clinical supervisors who have not earned a post-secondary degree complete Department-approved training on clinical supervision skills. IRRC and others commented that the training should be required for all clinical supervisors. The Department agrees and has added appropriate language to § 704.6(c). Further, an additional provision has been added requiring those clinical supervisors or lead counselors who have had less than 2 years of clinical experience working directly with chemically dependent persons to obtain 6 hours of training required by § 704.11(e)(2) and (f)(2) to be in the areas of diseases of addiction.

The Department also included in its proposed amendments the requirement that a clinical supervisor who had qualified for that position by experience and having certification under § 704.6(b)(7), but who lacked a formal degree, was required to meet monthly with a supervisor for 1 full year. The Department has extended this requirement to all clinical supervisors for the first 6 months of employment. Whether and how often the meetings are continued after that initial 6-month period is to be determined by the performance of the individual. See § 704.6(e).

IRRC had specifically suggested that the Department exempt physicians and psychiatrists from any requirement that they be supervised or undergo any course of training. The Department takes the position that those individuals in positions requiring supervision skills who have not had either adequate experience in supervisory positions or any education in supervising other personnel must undergo that education. The Department will also require licensed professionals functioning as clinical su-



pervisors to participate in monthly meetings with their supervisors for the first few months of their employment.

It is also the Department's position that additional training in treating the substance addicted client is necessary for those individuals without specific expertise in this unique area. For this reason, it may be appropriate for licensed professionals with little or no experience in dealing with the substance abusing client to undergo additional training in this specific area. These training decisions are to be made by the facility in conjunction with the employed individual based upon the expertise and experience of that individual.

The Department is aware that it would be improper for a nonlicensed individual to attempt to interfere with the clinical judgment of a licensed professional. This section is not intended to permit an interference. The Department does believe, however, that the supervision skills of the licensed professional operating as a clinical supervisor can be appropriately supervised and evaluated.

Finally, as with § 704.5, qualifications for the positions of project director and facility director, the separate paragraphs for physician, psychologist and social worker were deleted.

#### *Section 704.7. Counselor.*

Several comments were received which requested that the Department add licensure as a physician to the options for fulfilling the qualifications of a counselor. The Department did not intend to suggest by its regulations that physicians were not authorized to provide counseling. It has added to the list of qualifications "licensure in this Commonwealth as a physician" to alleviate confusion on this issue.

#### *Sections 704.8—704.10. Counselor assistant.*

Concern was expressed regarding the Department's requirement that student interns be counted as counselor assistants. The issue of type and length of supervision was of some concern as well as the fact that interns are only temporarily assigned to the provider as part of their education. The Department has removed that requirement for these reasons.

The requirement that counselor assistants be directly observed also raised concerns. Specifically, it was felt by some that requiring both a counselor assistant and a counselor for each contact was too burdensome financially and in terms of use of program staff. The Department therefore chose to lower this requirement from direct observation to close supervision for those individuals with a postsecondary degree. Close supervision means a formal documented case review and an additional hour of direct observation of the counselor assistant by a supervising counselor or clinical supervisor once a week.

Further, for those counselor assistants with postsecondary degrees, the Department has chosen to eliminate the requirement that the counselor assistant only counsel part of a full caseload until the counselor assistant had gained a certain amount of experience. The Department is allowing the provider to specify time periods and caseloads if it chooses.

The Department will not eliminate the requirement that a counselor assistant with a high school diploma or equivalent be directly observed for 3 months. See § 704.9(c)(5). The Department, however, has eliminated the requirement that, after the first 3 months, a counselor assistant shall be permitted to carry only one-half of a counselor's caseload under close supervision. Section 704.9(c)(5) will provide training for those with limited or

no education experience with the issues facing drug and alcohol abuse treatment clients or counseling skills and gives them an opening into the field of their choice while at the same time protecting the drug and alcohol abuse client.

The counselor assistant position is not intended to be a permanent position. Rather, it is intended to be a training position for those who cannot meet the qualifications for counselor. To emphasize this fact, the Department has added language clarifying the promotion requirements, in § 704.10, requiring that an individual document his progress toward meeting one or more of the set of qualifications for a counselor position and limiting the length of time an individual employed full-time can remain a counselor assistant to 5 years. Part-time employees will be given 7 years to meet the qualifications for counselor. Further, there is a process whereby exceptions to the 7-year limit may be granted for extenuating circumstances, thus allowing for a period of time even longer than 7 years for a person to meet the qualifications of counselor.

#### *Section 704.11. Staff development programs.*

Several comments were received by the Department on this section, including some from IRRRC, which mainly fell into four categories. First, many who submitted comments misunderstood the Department's intention in listing a series of suggested training topics. The Department did not intend to have each employe of a facility complete 30 hours of training in each of the topics; rather, the Department list was intended to be indicative of those areas which were to be covered by the trainings. The Department has altered the language of § 704.11(d)—(g) to clarify this intent.

Second, comments were made regarding the number of training hours the Department had required for counselors in § 704.11(f)(2). The Department has lowered the required number of hours of training from 30 hours to 25 hours to comport with the amount of training time required annually by the PCACB.

Third, the Department has included many of the suggested training topics from the comments in its listings. The type of training to be undertaken by an employe should be discussed and agreed upon by both the employe and the employe's supervisor based upon the employe's specific job functions, previous education and experience.

Fourth, in order to accommodate facilities' need for flexibility in assigning staff, and to ensure a more comprehensive training on health care related issues, the Department reduced the amount of AIDS training it had required from 6 hours annually to 6 hours on a one time basis. Facilities will also be required to provide at least 4 hours of training on tuberculosis, sexually transmitted diseases and other health-related topics. Further, the Department has reduced the required number of personnel with CPR certification at a facility from two to one.

IRRC and others also raised the question of whether an individual functioning in more than one position must satisfy training requirements for each of those positions. IRRRC recommended that the Department amend this section to delineate what training requirements individuals holding multiple positions must meet and to require that the total clock hours of training be less than the combined sum of the training required for each of the positions held. The Department has revised these training requirements to provide that the individual who holds more than one position must meet the training requirements set forth for the individual's primary position.

*Section 704.12. Full-time equivalent (FTE) maximum client/staff ratios.*

The Department received differing comments on the client-to-staff ratios set by the Department; some wanted the Department to decrease the ratios and others wanted the Department to increase them. In order to develop these ratios, the Department surveyed licensed facilities in this Commonwealth, as well as what ratios are commonly utilized in other states. Prior to the publication of the proposed amendments, the Department circulated to the facilities and other interested parties several preliminary drafts of these amendments which included suggested ratios. The client-to-staff ratios included in the proposed amendments represent the industry standard among licensed drug and alcohol abuse treatment facilities. No compelling reasons were offered to the Department for either increasing or decreasing these ratios. The Department, therefore, will not alter the ratios it has developed, except in the case of partial hospitalization facilities, which was increased to one to ten. Also, because of the nature of inpatient nonhospital treatment and rehabilitation and partial hospitalization facilities, the requirement was changed from primary care staff person to counselor.

The Department has agreed to allow counselor assistants to be included in the FTE ratios when those individuals begin to carry a caseload. The Department has also agreed that the ratios are to include all clients being treated at a facility, even those with diagnoses other than drug or alcohol abuse. Further, family units may be counted as one client in the ratios.

IRRC suggested that this section be amended to include a provision permitting facilities to petition the Department for permission to institute client-to-staff ratios different from those set out here. The Department agrees that flexibility should be permitted to facilities. The provision is added as § 704.12(d).

Many comments raised concerns about the cost of implementing the amendments. These concerns are addressed as follows.

*Cost and Paperwork Estimate*

A. *Cost*

1. *Commonwealth*

The amendments will create no additional costs for the Commonwealth.

2. *Local governments*

Generally, there will be no cost to local governments. However, some single county authorities (SCAs) which are connected to county government may have what is termed as a "functional unit." (A functional unit is a drug and alcohol abuse treatment facility actually operated by the SCA). To the extent that a functional unit is within the scope of these amendments, the same additional costs as accrue to the private sector facilities will accrue here.

3. *Private sector*

There will be some additional cost to licensed drug and alcohol abuse treatment facilities. Those facilities which do not currently employ staff meeting the minimum standards set forth in the amendments will be required either to hire staff with these qualifications, presumably at a higher salary, or to make certain that their staff meets the qualifications as the regulations require. The Department, however, has taken steps to ensure that facilities are not overwhelmed with the necessity of ensuring that each employee meets the qualifications set

forth in the new amendments. Currently employed project directors or facility directors need not comply with the amendments unless they are newly hired following the March 4, 1996, or unless they choose to leave the project by which they are currently employed. Clinical supervisors and counselors have a 4-year period in which to obtain the necessary qualifications. As most counselors, clinical supervisors and project directors already meet minimum standards, the cost of meeting standards initially should be a minimal one for most facilities.

There will be an additional cost associated with the required annual training of the employes. The Department, however, does provide training at a low cost through its biannual institutes. For those who can not afford the low fees, the Department provides training scholarships. The Department also offers regional trainings on other health-related topics such as HIV/AIDS and tuberculosis at no charge or for a nominal fee. Additional training and technical assistance is offered at low cost through the SCAs, each of which receives a minimum of six training or technical assistance days per year. The Department uses these days to address issues raised by the SCAs from an assessment of the needs of their regions at a site chosen by the SCAs.

4. *General public*

There will be no additional cost to the general public.

B. *Additional paperwork*

Drug and alcohol abuse treatment facilities are already required to document their compliance with existing licensing regulations so that the mechanism for verification of compliance with these amendments is already in place. Drug and alcohol treatment facilities are presently required to have an employe's full application for employment and verification of training, experience, professional licensure or registration available for the Division of Licensing's review during licensure visits. Additional documentation would only be necessary in relation to verification of completion of required training hours.

*Effective Date/Sunset Date*

The amendments will take effect March 4, 1996, and will apply to project directors and facility directors, clinical supervisors, counselors and counselor assistants hired or promoted on or after March 4, 1996.

Project directors or facility directors who were hired prior to March 4, 1996, need not meet the qualifications set out in § 704.5(c). These individuals will be required to comply with the remaining provisions of Chapter 704.

Under § 704.4(e), clinical supervisors and counselors hired or promoted prior to March 4, 1996, need not meet the qualifications set forth in the amendments on that date. Upon request, however, these individuals must produce documentation to show that they are working toward attaining these qualifications. Licensed treatment providers must ensure that clinical supervisors and counselors in their employ are in full compliance with the staffing regulations within the time periods set forth in these amendments after March 4, 1996.

No sunset date has been assigned to these regulations; the regulations will be evaluated on an ongoing basis by the Department.

*Contact Person*

The contact person for an explanation of these amendments is Gene R. Boyle, Director, Office of Drug and

Alcohol Programs, Department of Health, Room 933, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8200.

A person with a disability may submit inquiries to the Office of Program Coordination and Grants Management in alternative formats, such as by audio tape, braille or using TDD: (717) 783-6514. A person with a disability who requires an alternative format of this document (for example, large print, an audio tape, braille) may contact the Office of Drug and Alcohol Programs so that it can make the necessary arrangements.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), the Department submitted a copy of the notice of proposed rulemaking, published at 22 Pa.B. 4542, to IRRC and the Chairpersons of the House Committee on Health and Welfare and the Senate Committee on Public Health and Welfare, for review and comment. In compliance with section 5(b.1) of the Regulatory Review Act, the Department also provided IRRC and the Committees with copies of the comments received, as well as other documentation.

In preparing these final-form regulations, the Department considered the comments received from IRRC, the Committees and the public. These final-form regulations initially were submitted to the Committees and to IRRC and were disapproved on November 29, 1994. The Department notified IRRC of its intention to resubmit these final-form regulations. The Department and interested parties, including both the Committees and IRRC, met several times in order to amend the regulations based on the initial order of disapproval. These final-form regulations were submitted to the Committees and IRRC on January 27, 1995. These final-form regulations were deemed approved by the House Committee on February 3, 1995, and deemed approved by the Senate Committee on February 3, 1995. IRRC met on February 16, 1995, and approved the regulations in accordance with section 7(c) of the Regulatory Review Act (71 P. S. § 745.7(c)).

*Findings*

The Department finds that:

- (1) Public notice of intention to adopt the amendments has been given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations thereunder, at 1 Pa. Code §§ 7.1 and 7.2.
- (2) A public comment period was provided as required by law and that the comments received were considered.
- (3) The adoption of these amendments in the manner provided in this order is necessary and appropriate for the administration and enforcement of the authorizing statutes.

*Order*

The Department, acting under the authorizing statutes, orders that:

- (a) The regulations of the Department, 28 Pa. Code, are amended by amending § 701.1 and by adding §§ 704.1—704.12 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.
- (b) The Secretary of the Department shall submit this order and Annex A to the Office of Attorney General and the Office of General Counsel for approval as to legality and form as required by law.

(c) The Secretary of the Department shall certify this order and Annex A and deposit them with the Legislative Reference Bureau, as required by statute.

(d) This order shall take effect March 4, 1996.

PETER J. JANNETTA, M.D.,  
*Secretary*

*(Editor's Note:* For the text of the order of the Independent Regulatory Review Commission relating to this document, see 25 Pa.B. 900 (March 11, 1995).)

**Fiscal Note:** Fiscal Note 10-123 remains valid for the final adoption of the subject regulations.

**Annex A**

**TITLE 28. HEALTH AND SAFETY**

**PART V. DRUG AND ALCOHOL ACTIVITIES**

**CHAPTER 701. GENERAL PROVISIONS**

**Subchapter A. DEFINITIONS**

**§ 701.1. General definitions.**

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

\* \* \* \* \*

*Active client*—A client in any phase of treatment.

\* \* \* \* \*

*Caseload*—The number of clients who are receiving direct counseling services on a regular basis at least twice per month. The number of clients does not include clients who are seen by a counselor only for intake evaluations.

\* \* \* \* \*

*Clinical supervisor*—The director of treatment services who supervises counselors and counselor assistants and who meets the education and experience requirements in Chapter 704 (relating to staffing requirements for drug and alcohol treatment activities).

*Close supervision*—Formal documented case review and an additional hour of direct observation by a supervising counselor or a clinical supervisor once a week.

\* \* \* \* \*

*Counselor*—An individual who provides a wide variety of treatment services which may include performing diagnostic assessments for chemical dependency, developing treatment plans, providing individual and group counseling and other treatment modes and who meets the education and experience requirements in Chapter 704.

*Counselor assistant*—An entry level position for an individual without counseling experience who provides treatment services under the direct supervision of a trained counselor or clinical supervisor. This individual shall complete a structured supervision and training program as delineated in §§ 704.9 and 704.11(g) (relating to supervision of counselor assistant; and staff development program). The length of time spent in assistant status is dependent upon previous education and clinical experience and satisfactory completion of the performance evaluation completed during the assistant status.

\* \* \* \* \*

*Department approved curriculum*—Training courses developed or funded by the National Institute on Drug Abuse (NIDA), the National Institute on Alcohol Abuse

and Alcoholism (NIAAA), the Office for Substance Abuse Prevention (OSAP), the Department or other Federal or state agencies.

\* \* \* \* \*

*Direct observation*—In person observation of staff working in a clinical setting for the purpose of planning, oversight, monitoring and evaluating their activities.

\* \* \* \* \*

*Facility director*—The administrator of the treatment facility who is responsible for the overall management of the facility and staff and who meets the education and experience requirements in Chapter 704.

\* \* \* \* \*

*Long-term residential facilities*—Facilities where the average length of stay exceeds 90 days.

\* \* \* \* \*

*Primary care hours*—The primary hours of operation during which primary care services are provided as established by the facility and approved by the Department.

*Primary care services*—Medical, psychological, counseling and support services provided by primary care staff in a treatment and rehabilitation activity as defined in this chapter.

*Primary care staff*—The group of individuals, including clinical supervisors, counselors, physicians, physician's assistants, psychologists, registered nurses and licensed practical nurses who provide primary care services and those individuals who are responsible for developing and implementing the treatment plan.

\* \* \* \* \*

*Project director*—The administrator of the treatment project who is responsible for the overall management of the project and staff and who meets the education and experience requirements in Chapter 704.

\* \* \* \* \*

**CHAPTER 704. STAFFING REQUIREMENTS FOR DRUG AND ALCOHOL TREATMENT ACTIVITIES**

Sec.	
704.1.	Scope.
704.2.	Compliance plan.
704.3.	General requirements for projects.
704.4.	Compliance with staff qualifications.
704.5.	Qualifications for the positions of project director and facility director.
704.6.	Qualifications for the position of clinical supervisor.
704.7.	Qualifications for the position of counselor.
704.8.	Qualifications for the position of counselor assistant.
704.9.	Supervision of counselor assistant.
704.10.	Promotion of counselor assistant.
704.11.	Staff development program.
704.12.	Full-time equivalent (FTE) maximum client/staff and client/counselor ratios.

**§ 704.1. Scope.**

This chapter applies to staff persons employed by drug and alcohol treatment facilities which are licensed or approved under Chapters 157, 709 and 711 (relating to drug and alcohol services; standards for licensure of freestanding treatment activities; and standards for certification of treatment activities which are a part of a health care facility) with the exception of staff persons employed in intake, evaluation and referral facilities as delineated in Chapter 709, Subchapter D (relating to standards for intake, evaluation and referral activities) and Chapter 711, Subchapter C (relating to standards for intake evaluation and referral activities). Staff persons

shall possess the qualifications set forth in this chapter and shall also participate in training as required in this chapter.

**§ 704.2. Compliance plan.**

(a) The project's governing body shall approve a written compliance plan to insure that the staff persons affected by this chapter meet the appropriate educational and experiential qualifications and receive training as stipulated in this chapter.

(b) The plan documenting the qualifications and training of staff shall be presented to Department licensing representatives at the time of the project's site visit.

**§ 704.3. General requirements for projects.**

(a) The project shall develop a written policy to address relapse of recovering clinical personnel. The project's policy shall also address the discipline of nonrecovering employees who abuse alcohol and other drugs.

(b) The project shall develop a policy that addresses the recruitment and hiring of staff persons who are appropriate to the population to be served. Every effort shall be made to hire staff persons representative of that population.

(c) Clerical and other support staff shall be employed in sufficient numbers to insure efficient and safe operation of all of the services provided by the project.

(d) Inpatient nonhospital facilities except for transitional living facilities and licensed facilities providing halfway house services shall have awake staff coverage 24 hours a day. Halfway houses shall have at least one staff person on the premises at all times.

**§ 704.4. Compliance with staff qualifications.**

(a) This chapter applies to project directors, facility directors, clinical supervisors, counselors and counselor assistants hired or promoted on or after March 4, 1996.

(b) Project directors and facility directors who were hired prior to March 4, 1996, need not comply with the specific qualifications listed in § 704.5 (relating to qualifications for the positions of project director and facility director). They shall comply with §§ 704.11(a)—(f) and 704.12 (relating to staff development program; and full-time equivalent (FTE) maximum client/staff and client/counselor ratios).

(c) A facility director who transfers to the same position in another facility operated by the same project after March 4, 1996, need not meet the qualifications set forth in § 704.5(c).

(d) A project director who accepts a position as a project director in a different project after March 4, 1996, shall comply with § 704.5(c).

(e) Persons employed as clinical supervisors and counselors who were hired or promoted prior to March 4, 1996, who do not meet the appropriate staff qualifications shall show evidence that they are working toward full compliance. They shall be in full compliance with this chapter by March 6, 2000. Upon completion of course work, transcripts and other forms of documentation shall be placed in the individual's personnel file. A licensing representative will check progress at the time of the project site visit.

**§ 704.5. Qualifications for the positions of project director and facility director.**

(a) A drug and alcohol treatment project shall have a project director responsible for the overall management of

the project and staff and each drug and alcohol treatment facility shall have a facility director responsible for the overall management of the facility and staff unless the project has but one facility.

(b) If the facility does not have a clinical supervisor on staff, clinical responsibilities shall be addressed in one of the following ways:

(1) A facility director who has direct responsibility for clinical services shall meet the qualifications in at least one of the paragraphs of § 704.7(b) (relating to qualifications for the position of counselor).

(2) If the facility director does not meet counselor qualifications and the facility employs less than eight counselors, a lead counselor or part-time clinical supervisor shall be appointed.

(c) The project director and the facility director shall meet the qualifications in at least one of the following paragraphs:

(1) A Master's Degree or above from an accredited college with a major in medicine, chemical dependency, psychology, social work, counseling, nursing (with a specialty in nursing/health administration, nursing/counseling education or a clinical specialty in the human services), public administration, business management or other related field and 2 years of experience in a human service agency, preferably in a drug and alcohol setting, which includes supervision of others, direct service and program planning.

(2) A Bachelor's Degree from an accredited college with a major in chemical dependency, psychology, social work, counseling, nursing (with a specialty in nursing/health administration, nursing/counseling education or a clinical specialty in the human services), public administration, business management or other related field and 3 years of experience in a human service agency, preferably in a drug and alcohol setting, which includes supervision of others, direct service and program planning.

(3) An Associate Degree from an accredited college with a major in chemical dependency, psychology, social work, counseling, nursing (with a specialty in nursing/health administration, nursing/counseling education or a clinical specialty in the human services), public administration, business management or other related field and 4 years of experience in a human service agency, preferably in a drug and alcohol setting, which includes supervision of others, direct service and program planning.

**§ 704.6. Qualifications for the position of clinical supervisor.**

(a) A drug and alcohol treatment project shall have a full-time clinical supervisor for every eight full-time counselors or counselor assistants, or both.

(b) A clinical supervisor shall meet at least one of the following groups of qualifications:

(1) A Master's Degree or above from an accredited college with a major in medicine, chemical dependency, psychology, social work, counseling, nursing (with a clinical specialty in administration or the human services) or other related field and 2 years of clinical experience in a health or human service agency which includes 1 year of working directly with the chemically dependent.

(2) A Bachelor's Degree from an accredited college with a major in chemical dependency, psychology, social work, counseling, nursing (with a clinical specialty in administration or the human services) or other related field and 3 years of clinical experience in a health or human service

agency which includes 1 year of working directly with the chemically dependent person.

(3) An Associate Degree from an accredited college with a major in chemical dependency, psychology, social work, counseling, nursing (with a clinical specialty in administration or the human services) or other related field and 4 years of clinical experience in a health or human service agency which includes 1 year of working directly with the chemically dependent person.

(4) Full certification as an addictions counselor by a statewide certification body which is a member of a National certification body or certification by another state government's substance abuse counseling certification board and 3 years of clinical experience in a health or human service agency which includes 1 year of working directly with the chemically dependent person. The individual shall also complete a Department approved core curriculum training which includes a component on clinical supervision skills.

(c) Clinical supervisors and lead counselors who have not functioned for 2 years as supervisors in the provision of clinical services shall complete a core curriculum in clinical supervision. Training not provided by the Department shall receive prior approval from the Department.

(d) If a clinical supervisor or lead counselor has less than 2 years of clinical experience working directly with the chemically dependent person, 6 of the training hours required in § 704.11(e)(2) and (f)(2) (relating to staff development program) during the first year of employment shall be in diseases of addiction.

(e) Clinical supervisors are required to participate in documented monthly meetings with their supervisors to discuss their duties and performance for the first 6 months of employment in that position. Frequency of meetings thereafter shall be based upon the clinical supervisor's skill level.

**§ 704.7. Qualifications for the position of counselor.**

(a) Drug and alcohol treatment projects shall be staffed by counselors proportionate to the staff/client and counselor/client ratios listed in § 704.12 (relating to full-time equivalent (FTE) maximum client/staff and client/counselor ratios).

(b) Each counselor shall meet at least one of the following groups of qualifications:

(1) Current licensure in this Commonwealth as a physician.

(2) A Master's Degree or above from an accredited college with a major in chemical dependency, psychology, social work, counseling, nursing (with a clinical specialty in the human services) or other related field which includes a practicum in a health or human service agency, preferably in a drug and alcohol setting. If the practicum did not take place in a drug and alcohol setting, the individual's written training plan shall specifically address a plan to achieve counseling competency in chemical dependency issues.

(3) A Bachelor's Degree from an accredited college with a major in chemical dependency, psychology, social work, counseling, nursing (with a clinical specialty in the human services) or other related field and 1 year of clinical experience (a minimum of 1,820 hours) in a health or human service agency, preferably in a drug and alcohol setting. If a person's experience did not take place in a drug and alcohol setting, the individual's written

training plan shall specifically address a plan to achieve counseling competency in chemical dependency issues.

(4) An Associate Degree from an accredited college with a major in chemical dependency, psychology, social work, counseling, nursing (with a clinical specialty in the human services) or other related field and 2 years of clinical experience (a minimum of 3,640 hours) in a health or human service agency, preferably in a drug and alcohol setting. If a person's experience was not in a drug and alcohol setting, the individual's written training plan shall specifically address a plan to achieve counseling competency in chemical dependency issues.

(5) Current licensure in this Commonwealth as a registered nurse and a degree from an accredited school of nursing and 1 year of counseling experience (a minimum of 1,820 hours) in a health or human service agency, preferably in a drug and alcohol setting. If a person's experience was not in a drug and alcohol setting, the individual's written training plan shall specifically address a plan to achieve counseling competency in chemical dependency issues.

(6) Full certification as an addictions counselor by a statewide certification body which is a member of a National certification body or certification by another state government's substance abuse counseling certification board.

**§ 704.8. Qualifications for the position of counselor assistant.**

(a) A person who does not meet the educational and experiential qualifications for the position of counselor may be employed as a counselor assistant if the requirements of at least one of the following paragraphs are met. However, a project may not hire more than one counselor assistant for each employee who meets the requirements of clinical supervisor or counselor.

- (1) A Master's Degree in a human service area.
- (2) A Bachelor's Degree in a human service area.
- (3) Licensure in this Commonwealth as a registered nurse.
- (4) An Associate's Degree in a human service area.
- (5) A high school diploma or General Education Development (GED) equivalent.

(b) A counselor assistant shall also complete the training requirements in § 704.11 (relating to staff development program).

(c) In addition to training, assignment of a full caseload shall be contingent upon the supervisor's positive assessment of the counselor assistant's individual skill level.

**§ 704.9. Supervision of counselor assistant.**

(a) *Supervision.* A counselor assistant shall be supervised by a full-time clinical supervisor or counselor who meets the qualifications in § 704.6 or § 704.7 (relating to qualifications for the position of clinical supervisor; and qualifications for the position of counselor).

(b) *Performance evaluation.* The counselor assistant shall be given a written semiannual performance evaluation based upon measurable performance standards. If the individual does not meet the standards at the time of evaluation, the counselor assistant shall remain in this status until the supervised period set forth in subsection (c) is completed and a satisfactory rating is received from the counselor assistant's supervisor.

(c) *Supervised period.*

(1) A counselor assistant with a Master's Degree as set forth in § 704.8(a)(1) (relating to qualifications for the position of counselor assistant) may counsel clients only under the close supervision of a trained counselor or clinical supervisor for at least the first 3 months of employment.

(2) A counselor assistant with a Bachelor's Degree as set forth in § 704.8(a)(2) may counsel clients only under the close supervision of a trained counselor or clinical supervisor for at least the first 6 months of employment.

(3) A registered nurse as set forth in § 704.8(a)(3) may counsel clients only under the close supervision of a trained counselor or clinical supervisor for at least the first 6 months of employment.

(4) A counselor assistant with an Associate Degree as set forth in § 704.8(a)(4) may counsel clients only under the close supervision of a trained counselor or clinical supervisor for at least the first 9 months of employment.

(5) A counselor assistant with a high school diploma or GED equivalent as set forth in § 704.8(a)(5) may counsel clients only under the direct observation of a trained counselor or clinical supervisor for the first 3 months of employment. For the next 9 months, the counselor assistant may counsel clients only under the close supervision of a lead counselor or a clinical supervisor.

**§ 704.10. Promotion of counselor assistant.**

(a) A counselor assistant who satisfactorily completes one of the sets of qualifications in § 704.7 (relating to qualifications for the position of counselor) may be promoted to the position of counselor.

(b) A counselor assistant shall document to the facility director that he is working toward counselor status. This information shall be documented upon completion of each calendar year.

(c) A counselor assistant shall meet the requirements for counselor within 5 years of employment. A counselor assistant who has accumulated less than 7,500 hours of employment during the first 5 years of employment will have 2 additional years to meet the requirements for counselor.

(d) A counselor assistant who cannot meet the time requirements in subsection (c) may submit to the Department a written petition requesting an exception. The petition shall describe the circumstances that make compliance with subsection (c) impracticable and shall be approved by both the clinical supervisor or lead counselor and the project director. Granting of the petition will be within the discretion of the Department.

**§ 704.11. Staff development program.**

(a) *Components.* The project director shall develop a comprehensive staff development program for agency personnel including policies and procedures for the program indicating who is responsible and the time frames for completion of the following components:

- (1) An assessment of staff training needs.
  - (2) An overall plan for addressing these needs.
  - (3) A mechanism to collect feedback on completed training.
  - (4) An annual evaluation of the overall training plan.
- (b) *Individual training plan.*

(1) A written individual training plan for each employe, appropriate to that employe's skill level, shall be developed annually with input from both the employe and the supervisor.

(2) This plan shall be based upon an employe's previous education, experience, current job functions and job performance.

(3) Each individual employe shall complete the minimum training hours as listed in subsections (d)—(g). The subject areas in subsections (d)—(g), with the exception of subsection (g), are suggested training areas. They are not mandates. Subject selections shall be based upon needs delineated in the individual's training plan.

(c) *General training requirements.*

(1) Staff persons and volunteers shall receive a minimum of 6 hours of HIV/AIDS and at least 4 hours of tuberculosis, sexually transmitted diseases and other health related topics training using a Department approved curriculum. Counselors and counselor assistants shall complete the training within the first year of employment. All other staff shall complete the training within the first 2 years of employment.

(2) CPR certification and first aid training shall be provided to a sufficient number of staff persons, so that at least one person trained in these skills is onsite during the project's hours of operation.

(3) At least one-half of all training in this section shall be provided by trainers not directly employed by the project unless the project employs staff persons specifically to provide training for its organization and staff.

(4) An individual who holds more than one position in a facility shall meet the training requirement hours set forth for the individual's primary position. Subject areas shall be selected according to the individual's training plan. Primary position is defined as that position for which an individual was hired.

(d) *Training requirements for project directors and facility directors.*

(1) Subject areas for training shall be selected according to the training plan for each individual.

(2) A project director and facility director shall complete at least 12 clock hours of training annually in areas such as:

- (i) Fiscal policy.
- (ii) Administration.
- (iii) Program planning.
- (iv) Quality assurance.
- (v) Grantsmanship.
- (vi) Program licensure.
- (vii) Personnel management.
- (viii) Confidentiality.
- (ix) Ethics.
- (x) Substance abuse trends.
- (xi) Developmental psychology.
- (xii) Interaction of addiction and mental illness.
- (xiii) Cultural awareness.
- (xiv) Sexual harassment.
- (xv) Relapse prevention.
- (xvi) Disease of addiction.

(xvii) Principles of Alcoholics Anonymous and Narcotics Anonymous.

(e) *Training requirements for clinical supervisors.*

(1) Subject areas for training shall be selected according to the training plan for each individual.

(2) Each clinical supervisor shall complete at least 12 clock hours of training annually in areas such as:

- (i) Supervision and evaluation.
- (ii) Counseling techniques.
- (iii) Substance abuse trends and treatment methodologies in the field of addiction.
- (iv) Confidentiality.
- (v) Codependency/Adult Children of Alcoholics (ACOA) issues.
- (vi) Ethics.
- (vii) Interaction of addiction and mental illness.
- (viii) Cultural awareness.
- (ix) Sexual harassment.
- (x) Developmental psychology.
- (xi) Relapse prevention.
- (xii) Disease of addiction.
- (xiii) Principles of Alcoholics Anonymous and Narcotics Anonymous.

(f) *Training requirements for counselors.*

(1) Subject areas for training shall be selected according to the training plan for each individual.

(2) Each counselor shall complete at least 25 clock hours of training annually in areas such as:

- (i) Client recordkeeping.
- (ii) Confidentiality.
- (iii) Pharmacology.
- (iv) Treatment planning.
- (v) Counseling techniques.
- (vi) Drug and alcohol assessment.
- (vii) Codependency.
- (viii) Adult Children of Alcoholics (ACOA) issues.
- (ix) Disease of addiction.
- (x) Aftercare planning.
- (xi) Principles of Alcoholics Anonymous and Narcotics Anonymous.
- (xii) Ethics.
- (xiii) Substance abuse trends.
- (xiv) Interaction of addiction and mental illness.
- (xv) Cultural awareness.
- (xvi) Sexual harassment.
- (xvii) Developmental psychology.
- (xviii) Relapse prevention.

(3) If a counselor has been designated as lead counselor supervising other counselors, the training shall include courses appropriate to the functions of this position and a Department approved core curriculum or comparable training in supervision.

(g) *Training requirements for counselor assistants.*

(1) Each counselor assistant shall complete at least 40 clock hours of training the first year and 30 clock hours annually thereafter in areas such as:

- (i) Pharmacology.

- (ii) Confidentiality.
- (iii) Client recordkeeping.
- (iv) Drug and alcohol assessment.
- (v) Basic counseling.
- (vi) Treatment planning.
- (vii) The disease of addiction.
- (viii) Principles of Alcoholics Anonymous and Narcotics Anonymous.
- (ix) Ethics.
- (x) Substance abuse trends.
- (xi) Interaction of addiction and mental illness.
- (xii) Cultural awareness.
- (xiii) Sexual harassment.
- (xiv) Developmental psychology.
- (xv) Relapse prevention.
- (h) *Training hours.* Training hours are not cumulative from one personnel classification to another.

**§ 704.12. Full-time equivalent (FTE) maximum client/staff and client/counselor ratios.**

(a) *General requirements.* Projects shall be required to comply with the client/staff and client/counselor ratios in paragraphs (1)—(6) during primary care hours. These ratios refer to the total number of clients being treated including clients with diagnoses other than drug and alcohol addiction served in other facets of the project. Family units may be counted as one client.

(1) *Inpatient nonhospital detoxification (residential detoxification).*

(i) There shall be one FTE primary care staff person available for every seven clients during primary care hours.

(ii) There shall be a physician on call at all times.

(2) *Inpatient hospital detoxification.* There shall be one FTE primary care staff person available for every five clients during primary care hours.

(3) *Inpatient nonhospital treatment and rehabilitation (residential treatment and rehabilitation).*

(i) Projects serving adult clients shall have one FTE counselor for every eight clients.

(ii) Projects serving adolescent clients shall have one FTE counselor for every six clients.

(4) *Inpatient hospital treatment and rehabilitation (general, psychiatric or speciality hospital).*

(i) Projects serving adult clients shall have one FTE counselor for every seven clients.

(ii) Projects serving adolescent clients shall have one counselor for every five clients.

(5) *Partial hospitalization.* Partial hospitalization programs shall have a minimum of one FTE counselor who provides direct counseling services to every ten clients.

(6) *Outpatients.* FTE counselor caseload for counseling in outpatient programs may not exceed 35 active clients.

(b) *Counselor assistants.* Counselor assistants may be included in determining FTE ratios when the counselor assistant is eligible for a caseload.

(c) *Exemption for transitional living.* Specific client/staff ratios are not required for transitional living facilities.

(d) *Exceptions.* A project director may submit to the Department a written petition requesting an exception to the client/staff and client/counselor ratios in this section. The petition shall describe how the characteristics of the program and its client mix support the request for the exception and shall be approved by the governing body. Granting the petition shall be at the discretion of the Department. Long-term residential facilities and halfway houses which include a client's participation in schooling or employment as part of a treatment day are examples when requests for exceptions will be considered.

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