

PENNSYLVANIA BULLETIN

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Agencies in this issue:

The Governor
The Courts
Department of Agriculture
Department of Banking
Department of Conservation and
Natural Resources
Department of Environmental Protection
Department of General Services
Department of Health
Department of Public Welfare
Department of Transportation
Independent Regulatory Review Commission
Insurance Department
Liquor Control Board
Pennsylvania Public Utility Commission
Philadelphia Regional Port Authority
State Conservation Commission

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(Master Transmittal Sheet):**

No. 333, August 2002

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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*.

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.

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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.

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THE GOVERNOR

GOVERNOR'S OFFICE

Governor's Commission on Abandoned Mine Voids and Mine Safety; Meeting Notice

The first meeting of the Governor's Commission on Abandoned Mine Voids and Mine Safety is to be held on September 12, 2002, at 10 a.m. in Room 105 of the Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA.

Questions concerning this meeting can be directed to Curtis Pieper at (717) 783-5338 or email cpieper@state.pa.us. The agenda and meeting materials will be available through the Department of Environmental Protection's (Department) Public Participation Center on the Department's World Wide Website 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 Heather Dwilet directly at (717) 783-8727 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.



Governor

[Pa.B. Doc. No. 02-1553. Filed for public inspection September 6, 2002, 9:00 a.m.]

THE COURTS

Title 255—LOCAL COURT RULES

ARMSTRONG COUNTY

Local Rules of Civil Procedure

PART I

LOCAL RULES OF CIVIL PROCEDURE

(cited as L.R.C.P. No. _____)

RULES OF CONSTRUCTION

Rule 51. Title of Rules. Purpose.

These Local Rules of Civil Procedure are intended to implement the Pennsylvania Rules of Civil Procedure to which their numbers correspond. They shall be cited as "L.R.C.P. No. _____."

Rule 76. Definitions.

Unless the context clearly indicates otherwise, the words and phrases used herein shall bear the same meaning as they bear in the Pennsylvania Rules of Civil Procedure.

Rule 101. Principles of Interpretation.

In the construction of any of these rules, the principles of interpretation set forth in the Pennsylvania Rules of Civil Procedure shall be used.

BUSINESS OF COURTS

Rule 205.2. Filing Legal Papers with the Prothonotary. Format.

(a) No pleading or other legal paper that complies with the Pennsylvania Rules of Civil Procedure shall be refused by the Prothonotary for filing because it fails to comply with these rules.

(b) All legal papers shall be 8 1/2" × 11" in size and be side bound.

Comment

The provisions of subsection (a) of this rule mirror the provisions of Pa.R.C.P. No. 205.2.

Rule 205.3. Pleadings and Other Legal Papers. Name of Attorney to be Typewritten or Printed.

Every legal paper signed by an attorney shall have the name of the attorney typewritten or printed immediately beneath the place of signature.

Rule 206.1. Petition.

(a) A petition shall specify the relief sought and state the material facts which constitute the grounds therefor.

(b) A petition shall be divided into paragraphs numbered consecutively. Each paragraph shall contain as far as practicable only one material allegation.

(c) Each petition shall have a cover sheet attached thereto as a front page. The cover sheet shall be substantially in the form prescribed by Appendix A of these Local Rules.

Rule 206.2. Answer to Petition.

(a) An answer shall state the material facts which constitute the defense to the petition.

(b) An answer to a petition shall be divided into paragraphs, numbered consecutively, corresponding to the numbered paragraphs of the petition.

(c) No answer shall contain a separate section entitled or equivalent to new matter. If an answer does contain such a separate section, no reply thereto need be filed.

Rule 206.3. Verification.

(a) A petition or an answer containing an allegation of fact which does not appear of record shall be verified.

(b) The Prothonotary shall not accept for filing any unverified petition or answer which is required to be verified.

Comment

Usually a petition will aver facts not of record, and must be verified. A motion usually will aver only facts of record, and need not be verified.

Rule 206.4. Rule to Show Cause.

(a) A rule to show cause shall be issued by the Court as of course upon petition. The rule shall direct that an answer be filed to the petition within twenty (20) days after service of the petition on the respondent. The Court may, in appropriate circumstances, direct that an answer be filed within a shorter period of time, or dispense with the necessity of filing an answer altogether.

(b) A petition seeking only the issuance of a rule to show cause shall be filed with the Prothonotary. Thereafter, the Prothonotary shall immediately transmit the petition to the Court Administrator. No advance notice of the filing need be given to any party.

(c) Every petition shall have attached to it a proposed order substantially in the form prescribed by Appendix B of these Local Rules, providing for an evidentiary hearing. The Court on its own motion or upon request of a party may require a case to be submitted on the basis of depositions and oral argument instead of an evidentiary hearing.

(d) The petition may request and the proposed order may provide for a stay of the proceedings. Stays will not be issued as of course.

Comment

The form of the order is prescribed by Pa.R.C.P. No. 206.6(c) and the Note thereto.

Rule 210. Briefs.

Issues which are raised by pleadings, petitions, motions, applications, or otherwise and which are not addressed in a brief by the person raising such issues, shall be deemed to have been waived when submission of the brief has been ordered by the Court.

Rule 212.1. Case Ready for Pre-trial Conference.

(a) A case involving a civil action or an action in equity, including an appeal from compulsory arbitration and any matter triable by a judge sitting without a jury, may be placed upon the Pre-trial Conference List upon praecipe of any party directed to the Prothonotary. A case involving an orphans' court matter shall likewise be placed on the Pre-trial Conference List by the Prothonotary upon delivery to the Prothonotary by the Clerk of the Orphans' Court Division of a copy of any praecipe filed with the Clerk to cause the matter to be scheduled for a pre-trial conference.

(b) The Prothonotary, at least monthly, shall provide the Court Administrator with a list of all cases placed upon the Pre-trial Conference List.

(c) The Court Administrator shall cause each case on the Pre-trial Conference List to be scheduled for a pre-trial conference before one of the judges of the Court. The Prothonotary shall serve a copy of the scheduling order upon all attorneys of record and upon all parties for whom no appearance has been entered, at least twenty (20) days before the scheduled date.

(d) Discovery shall be substantially completed prior to the filing of the praecipe placing the case on the Pre-trial Conference List.

(e) The Court, upon petition presented in Motions Court, upon good cause shown, may continue the date of a pre-trial conference or remove a case from the Pre-trial Conference List.

(f) A pre-trial conference subsequent to the first such conference may be scheduled by the Court on its own motion. A party may move that a subsequent pre-trial conference be scheduled by motion presented in Motions Court.

Rule 212.2. Pre-trial Statements.

(a) All parties shall file a pre-trial statement at least three (3) days prior to the initial pre-trial conference.

(b) A party may file an amended pre-trial statement as of course at any time prior to the issuance of the Trial List. After the Trial List has been issued, an amended pre-trial statement may be filed only with prior leave of court. Such leave shall be granted only for good cause and when no party will be substantially prejudiced as a result of the granting of such leave. The court may impose such conditions as it deems to be appropriate in connection with the granting of such leave, including the imposition of costs upon the moving party.

Rule 212.3. Pre-trial Conference.

(a) Unless excused by the Court, all parties must be present in the Armstrong County Courthouse during the pre-trial conference. When a party is an entity such as a corporation or partnership, an officer, principal or employee of such entity shall be present, who must have authority to settle. When the real party in interest is an insurer, the presence or immediate availability by telephone of a representative of the insurer who has authority to settle will be sufficient.

(b) Attorneys present at the pre-trial conference must have complete authority to enter into stipulations concerning liability, evidentiary, and other trial related issues.

(c) If discovery has not been completed before the pre-trial conference is conducted, the Court at the conference may, on motion of any party or on its own motion, set a date by which all discovery must be completed.

(d) The Court may proceed with a pre-trial conference when not all parties are present or represented, if it appears that notice of the conference was given under these rules.

(e) At the pre-trial conference, when it appears that the case is or will soon be ready for trial, the Court may set a date certain for the trial or may cause the case to be placed on the Ready for Trial List.

(f) The Court may impose appropriate sanctions upon a party for failure to abide by any rule pertaining to pre-trial statements or pre-trial conferences.

Rule 214. Preferences on Trial Lists.

(a) Preference shall be given in the preparation of Trial Lists as required by Pa.R.C.P. No. 214.

(b) A judge's Trial List in any month shall ordinarily be comprised of the two most senior cases on the judge's Trial Ready List, unless the preference requirements of Pa.R.C.P. No. 214 are applicable. Although the Court may treat a case on the Trial List as a "stand-by," parties must be prepared to proceed on the date for trial stated in the Trial List notice.

Rule 216. Continuances. Applications.

(a) Pa.R.C.P. No. 216 shall apply to continuances of both jury and non-jury trials.

(b) Continuances of proceedings other than trials will be granted only for good cause shown. The Court shall be guided by the factors set forth in Pa.R.C.P. No. 216 in determining whether such continuances should be granted.

(c) A party seeking a continuance of any proceeding, including a trial, shall present to the Court an application for continuance substantially in the form prescribed by Appendix C of these Local Rules. When all attorneys of record and unrepresented parties do not agree that a continuance should be granted, such application shall be presented at Motions Court.

(d) The Court will not consider granting a continuance a second time upon agreement of the attorneys unless there is a statement attached to the application signed by all parties to the action that they are aware of the filing of the application and that they consent to the continuance.

Rule 236. Notice by Prothonotary of Entry of Order, Decree or Judgment.

(a) The phrase "order, decree, or judgment," as used in Pa.R.C.P. No. 236 (a)(2), includes any rule to show cause, adjudication, opinion, and memorandum issued by the court.

(b) Service by the Prothonotary of a copy of the document itself shall be sufficient notice of its entry if the front page of the copy bears the date and time of its entry.

(c) The Prothonotary may serve the required notice upon an unrepresented party by ordinary mail, addressed to the party at the address most recently appearing in a pleading filed by him, or, if there is no such pleading, then to the most recent address appearing in any pleading.

Rule 248. Modification of Time.

The time prescribed by any of these rules for the doing of any act may be extended or shortened by written agreement of the parties or by order of Court.

Rule 249. Authority of Individual Judge. Motions Judge. Motions Court.

(a) The designated Motions Judge shall sit every Tuesday and Friday at 8:30 A.M., except on holidays ("Motions Court").

(b) Motions, petitions and applications intended for consideration by the Motions Judge shall be presented at Motions Court, and are not to be filed in the Office of the Prothonotary in advance of such presentation. The Prothonotary or a deputy shall be present at every session of Motions Court to receive such papers for filing. Any motion, petition, or application which merely prays for

the issuance of a rule to show cause or the scheduling of a hearing, or which has been consented to by all relevant parties need not be presented in Motions Court.

(c) Except in an emergency situation, no motion, petition or application shall be presented without compliance with the notice provisions of this rule. In an emergency situation, the nature of the emergency and the reasons why the required notice could not be given must be set forth in the petition or application then being filed.

(d) For all motions, petitions and applications subject to the notice requirements of this rule, a copy of the same together with a notice of the date and time of the intended presentation shall be served upon the other parties at least two (2) business days in advance of the presentation. Service of the copy and the notice may be accomplished personally, by first class mail or by facsimile transmission. Service by mail shall be deemed to be accomplished on the date the mail was received.

(e) A copy of the notice of intended presentation shall be presented to the Motions Judge at the time of presentation of the motion, petition or application. The copy shall have attached to it a certificate stating the date and manner of service.

(f) The notice of intended presentation shall be substantially in the form prescribed by Appendix D of these Local Rules.

(g) The certificate of service shall be substantially in the form prescribed by Appendix E of these Local Rules.

(h) Every motion, petition, and application presented to the Motions Judge shall have attached thereto a suggested order granting the relief requested.

(i) At the time of presentation of a motion, petition, or application, the Motions Judge may enter an order resolving the issues raised therein or may schedule hearing or argument thereon.

Comment

Motions Court is intended as the forum for the presentation of a motion which will not require an evidentiary hearing. It may also serve as a forum for presentation when a petitioner, movant, or applicant seeks an expedited time for hearing because of the threat of immediate harm, or seeks a stay of the proceedings or other interim relief in the proposed rule to show cause. A motion to continue is properly presentable in Motions Court pursuant to L.R.C.P. No. 216 of these rules, as is a petition to compromise, settle or discontinue an action brought by a minor, under L.R.C.P. No 2039 of these rules. This list is not intended to be all-inclusive.

Rule 250. Scope of Business of Courts Chapter.

These rules pertaining to Business of Courts shall apply to all civil actions and proceedings at law and in equity.

SERVICE OF ORIGINAL PROCESS AND OTHER LEGAL PAPERS

Rule 430. Service of Original Process by Publication.

The Armstrong County Legal Journal, the address of which is Law Library, Armstrong County Courthouse, Kittanning, PA 16201, shall be the legal publication for advertisement of notices constituting original process.

Rule 440. Service of Legal Papers Other than Original Process. Proof of Service.

After a legal paper other than original process has been served pursuant to Pa.R.C.P. No. 440, a proof of service

shall be filed with the Prothonotary, indicating the person who has been served, the manner of service and the date of service.

ACTIONS AT LAW

Rule 1018.1. Notice to Defend.

(a) Every notice to defend shall designate the "Prothonotary of Armstrong County, Armstrong County Courthouse, Room 103, Kittanning, PA 16201 (telephone: 724-543-2500)" as the person from whom legal help can be obtained.

(b) The Prothonotary, upon receiving an oral or written inquiry as the result of a person being served with a pleading containing a notice to defend, shall, in lieu of advising such person, immediately forward to the person the names, addresses and telephone numbers of all resident members of the Armstrong County Bar Association and of Laurel Legal Services, Inc.

Rule 1028. Preliminary Objections. Brief. Scheduling Order.

At the time of filing, all preliminary objections shall be accompanied by a separate brief in support thereof, addressing issues raised in the objections. The preliminary objections must also be accompanied by a proposed order for the purpose of scheduling a hearing or argument thereon, substantially in the form prescribed by Appendix F of these Local Rules.

Rule 1034. Motion for Judgment on the Pleadings. Brief. Scheduling Order.

At the time of filing, all motions for judgment on the pleadings shall be accompanied by a separate brief in support thereof, addressing all issues raised in the motion. The motion must also be accompanied by a proposed order for the purpose of scheduling an argument thereon, substantially in the form prescribed by Appendix G of these Local Rules.

Rule 1035.2. Motion for Summary Judgment. Brief. Scheduling Order.

At the time of filing, all motions for summary judgment shall be accompanied by a separate brief in support thereof, addressing all issues raised in the motion. The motion must also be accompanied by a proposed order for the purpose of scheduling an argument thereon, substantially in the form prescribed by Appendix G of these Local Rules.

COMPULSORY ARBITRATION

Rule 1301. Scope. Arbitration Limits.

(a) All cases, except those involving title to real estate, shall be referred for hearing before and decision by a Board of Arbitrators, when the amount in controversy, exclusive of interest and costs, is \$25,000 or less. When the amount in controversy exceeds said limit, it shall be referred to the Board upon agreement of all parties.

Rule 1302. List of Arbitrators. Appointment to Board.

(a) A Board of Arbitration shall be composed of three members of the Bar of Armstrong County, at least one of whom shall have been admitted to the practice of law for at least five (5) years. Upon praecipe, the Prothonotary shall appoint the arbitrators from a list of lawyers who are qualified to act, and they shall be chosen in alphabetical order. No more than one lawyer from a single law firm shall be appointed to the same Board. The first arbitrator so appointed who has been admitted to the practice of law for at least five (5) years shall serve as chairman. If an

appointed member becomes unable to serve, the chairman shall ask the Prothonotary to appoint a replacement, whereupon the Prothonotary shall do so.

(b) The compensation of arbitrators shall be set by orders of the president judge from time to time entered.

Rule 1303. Hearing Notice.

(a) All hearings before a Board of Arbitration shall be conducted in the Armstrong County Courthouse.

(b) The chairman of the Board of Arbitration shall be responsible for the scheduling of hearings and the mailing of notice of such hearings. The chairman shall grant a continuance if all parties to the action agree.

(c) Not less than thirty (30) days notice in writing shall be given by the chairman to the parties or their attorneys of record and to other members of the Board.

ACTIONS IN EQUITY

Rule 1524. Security for Costs.

The Court may, upon its own motion or upon petition of a party, master, auditor, etc., and rule to show cause, require a plaintiff or a defendant who claims affirmative relief to enter security for costs.

Rule 1527. Taxation of Costs.

(a) In order for costs to be taxable, a bill of costs must be submitted to the Prothonotary within ten (10) days of the date of the last hearing upon the matter. All bills of cost shall be verified by the party's attorney or, if none, by the party himself. The Prothonotary shall tax such costs unless manifest error in law or fact appear. The party filing a bill of costs shall serve a copy of the same upon all other parties whose whereabouts and addresses are known, or to their attorneys of record.

(b) The Prothonotary shall serve a copy of the taxation of costs upon the party submitting the bill and upon all other parties immediately after the Prothonotary's determination, which shall be made within five (5) days of the date of submission of the bill.

(c) Within ten (10) days of the date of the Prothonotary's taxation, any party may appeal the decision on taxation to the Court by filing a petition for appeal therefrom.

(d) Upon receipt of the petition for appeal, the Court shall set a hearing upon the same and determine de novo the issues thus presented.

(e) Any petition for appeal from the Prothonotary's decision concerning taxation of costs shall state with specificity the grounds therefor.

Comment

The statute which governs the establishment of taxable costs is found at 42 Pa.C.S. § 1726.

PARTITION OF REAL PROPERTY

Rule 1557. Order Directing Partition.

(a) A party seeking an order directing partition because of a default shall proceed under Pa.R.C.P. No. 1511(a), and shall file a motion with the Court alleging with specificity the facts constituting the default, including pertinent dates. No advance notice of the filing of such a motion need be given.

(b) The motion shall have attached thereto a copy of the notice of intention to enter a default judgment served upon the defaulting party pursuant to Pa.R.C.P. No. 237.1; provided, however, that this requirement shall not apply where a party has been served by publication.

Comment

Pa.R.C.P. No. 237.1, pertaining to notice of praecipe for entry of judgment by default for failure to plead, applies to default judgment entered pursuant to Pa.R.C.P. No. 1511(a). See the definition of "judgment by default" set forth in Pa.R.C.P. No. 237.1.

Rule 1559. Master Hearing.

(a) Where the parties have counsel of record, notice shall be given in writing to such counsel. The notice shall be given not less than twenty (20) days prior to making an examination or holding a hearing.

(b) Parties not represented by counsel of record shall be notified both by registered or certified mail and by first class mail not less than twenty (20) days prior to the date of making an examination or holding a hearing. If the notice by first class mail is not returned as undelivered, service shall be deemed to have been made. If all such notice to a party is returned undelivered, notice shall be given to that party by publication as set forth in (c) below.

(c) Notice to parties who cannot be notified pursuant to subsections (a) or (b) of this Rule shall be notified by publication in a newspaper of general circulation in Armstrong County one time and in the Armstrong County Legal Journal one time. Publication shall not be less than twenty (20) days before the date set for hearing or examination.

(d) The Master shall in his report set forth the notice given.

Rule 1566. Preliminary Determination. Notice to Accept or Reject.

(a) Preliminary notice of a proposed partition and allotment or purparts under Pa.R.C.P. No. 1560(b) or (c) or the inability to partition the property as provided under Pa.R.C.P. No. 1563 shall be given in the same manner as prescribed by L.R.C.P. No. 1559.

(b) The notice shall provide that the parties shall have twenty (20) days after service to accept or reject the proposed plan of allocation or to object to a private sale confined to the parties. Said notice shall also include all other applicable information specified in Pa.R.C.P. No. 1566.

(c) Notice of private sale confined to the parties as required in Pa.R.C.P. No. 1566(c) shall be given in the same manner prescribed by L.R.C.P. No. 1559, and may be combined with notice of proposed partition as set forth in subsections (a) and (b) of this Rule.

Rule 1567. Private Sale Confined to the Parties. Bond.

The Master, before accepting payment for property sold at a sale confined to the parties, shall file a bond in the amount of the payment, unless all parties waive such requirement in writing and the waiver is approved by order of Court. The Master may move the Court for such an order.

Rule 1569. Master's Report. Exceptions.

The Master shall give all persons in interest written notice of the date on which he intends to file his report and proposed decree in the same manner prescribed by L.R.C.P. No. 1559.

Rule 1572. Sale Not Confined to the Parties. Notice. Manner. Bond.

(a) Unless otherwise directed by special order of Court, a private sale not confined to the parties shall be held on

the premises to be sold and shall be by open bidding. Not less than ten percent (10%) of the purchase price shall be paid at the time of sale, the balance to be paid upon delivery of the deed.

(b) Unless otherwise directed by special order of Court, notice of a public sale shall be given by the Master by publication of a notice once a week for three (3) consecutive weeks in a newspaper of general circulation in each county in which the property is located and in the Armstrong County Legal Journal. The last publication shall be no less than ten (10) days before the date of sale. Notice shall also be given by a handbill conspicuously posted on the property at least ten (10) days before the date of sale. The notice shall state the down payment required at time of sale and identify who will pay the transfer taxes and real estate taxes.

(c) The Master, before accepting payment for property sold at a sale not confined to the parties or at a public sale, shall file a bond in the amount of payment, unless all parties waive such requirement in writing and the waiver is approved by order of Court. The Master may move the Court for such an order.

Rule 1573. Return of Sale and Schedule of Distribution. Notice.

(a) Notice of the return of sale and proposed schedule of distribution shall be given by the Master in the same manner prescribed by L.R.C.P. No. 1559.

(b) The notice shall include a statement that if the return is approved, a decree nisi will be entered, which decree will become final if no exceptions thereto are filed within ten (10) days of the date it is entered.

Rule 1574. Costs and Counsel Fees.

Each attorney shall furnish to the Master a request for a specific amount of counsel fees, together with a recommendation of whether the fees should be charged against the property or the fund resulting therefrom, and shall suggest the apportionment of the same among the parties. The Master shall attach these requests, recommendations and suggestions to his return of sale for consideration by the Court.

ACTIONS PURSUANT TO PROTECTION FROM ABUSE ACT

Rule 1901.3. Commencement of Action. Procedure. Temporary Order.

(a) The procedure in an action under the Protection from Abuse Act shall be governed by the requirements of the Pennsylvania Rules of Civil Procedure pertaining to such actions.

(b) The Court, in its discretion, may grant a temporary ex parte order solely on the basis of the facts averred in the petition.

(c) A temporary ex parte order providing for an eviction at the commencement of the action will only be issued after a hearing. A request for such a hearing, either oral or in writing, may be made at Motions Court, and the Court will attempt to conduct such a hearing immediately after all other motions, petitions and applications have been acted upon. Notice of such a request need not be given.

ACTIONS FOR SUPPORT

Rule 1910.10. Alternative Hearing Procedures.

(a) A support action shall proceed as prescribed by Pa.R.C.P. No. 1910.12.

(b) All claims for alimony pendente lite shall be decided under the procedures set forth in Pa.R.C.P. No. 1910.12. If at the time a complaint for alimony pendente lite is filed in the Domestic Relations Section, there is a matter involving the same parties then pending before a hearing officer of the Domestic Relations Section, the claim shall be referred directly to the hearing officer for adjudication.

Comment

Pa.R.C.P. No. 1920.31 and L.R.C.P. 1920.31 govern the procedure for adjudicating a claim for support or alimony pendente lite asserted in a divorce proceeding.

Rule 1910.12. Office Conference. Hearing. Continuances. Appearances by Attorneys. Exceptions to Hearing Officer's Report. Transcript.

(a) An office conference scheduled as a result of the filing of a complaint shall be continued by the conference officer one time upon written request of a party. Each party shall be entitled to one such continuance. Thereafter, an additional continuance shall be allowed by the conference officer only if the parties agree thereto in writing or if an order of Court is obtained directing the same.

(b) The continuance of an office conference scheduled as a result of the filing of a petition to modify shall be allowed by the conference officer only if the parties agree thereto in writing or if an order of Court is obtained directing the same. An application seeking such an order shall be presented in Motions Court.

(c) The continuance of a hearing to be conducted by a hearing officer may be allowed at the hearing officer's discretion.

(d) An application for a court order directing a continuance of either an office conference or a hearing shall be presented in Motions Court.

(e) An attorney who represents a party in any action for support shall file a written appearance. Except as otherwise provided in Pa.R.C.P. No. 1910.6, the withdrawal of an appearance shall be governed by Pa.R.C.P. No. 1012(b).

(f) A party who files exceptions to a hearing officer's report shall order and file a transcript of the hearing conducted by the hearing officer.

Rule 1910.21. Temporary Suspension of Order for Income Withholding.

A party who seeks to suspend temporarily an order for income withholding shall present a motion in Motions Court.

Comment

23 Pa.C.S.A. Section 4348(h) states the circumstances under which an order for income withholding may be terminated.

ACTIONS FOR CUSTODY, PARTIAL CUSTODY AND VISITATION OF MINOR CHILDREN

Rule 1915.3. Commencement of Action. Complaint. Order for Conciliation Conference. Conciliation Conference.

(a) An order shall be attached to the original copy of the complaint or petition directing the defendant to appear at a conciliation conference in Room 202 of the Armstrong County Courthouse. The order shall be substantially in the form prescribed by Appendix H of these

Local Rules. Upon presentation of the proposed order to the Court Administrator by the Prothonotary, the Court Administrator shall cause such a conference to be scheduled for a date not more than thirty (30) days after the filing of the complaint or petition.

(b) The parties and their lawyers shall all attend the conciliation conference.

(c) As a first order of business at the conciliation conference, the parties shall view and discuss the videotape "Children in the Middle" by Arbuthnot and Gordon. The videotape shall be made available by the Court Administrator and must be returned to the Court Administrator at the conclusion of the conference.

(d) After viewing the videotape, the parties and their respective attorneys shall then meet and discuss the issues with the goal of reaching an amicable settlement based on the best interests and welfare of the child/children involved. When appropriate, the input of the child/children shall be received and weighed.

(e) If at the conciliation conference the parties cannot agree upon a resolution of all the issues and a hearing before a judge becomes necessary to finally resolve the issues, the parties and their lawyers shall discuss and complete a Conciliation Conference Checklist. A blank checklist will be given to the parties by the Court Administrator at the commencement of the conciliation conference. A blank checklist will also be given to any requesting party at any time in advance of the conciliation conference so that the party may prepare therefor.

(f) The Court will attempt to make itself available during any conciliation conference to decide issues such as the necessity of psychological evaluations, the necessity of home studies, or cost allocation. If the Court is then unavailable, an appropriate motion may be presented at Motions Court in order to resolve the same.

Comment

The petition of a custodial parent seeking leave to relocate comes within the purview of this rule.

Rule 1915.7. Consent Order. Final and Temporary.

(a) If at any time during the course of a custody proceeding the parties agree upon a resolution of all the issues and are then available to consent in writing to an order reflecting the same, they shall so notify the Court. The Court will make its staff available to the parties and their lawyers for the immediate preparation of a final consent order.

(b) If after a conciliation conference the parties cannot agree upon a resolution of all the issues, counsel and the parties shall, within seven (7) days after such conference, submit to the Court a proposed temporary order providing for the occurrence of those things agreed upon at the conciliation conference. The proposed temporary order shall contain a provision requiring the parties together to attend an orientation session before a mediator as required by L.R.C.P. No. 1940.3(a). The proposed temporary order may provide for the deferral of evaluations and home studies until after such time as mediation is rejected or terminated. The proposed temporary order shall not contain a provision for the scheduling of a hearing before the Court. The completed Conciliation Conference Checklist shall be attached to the proposed temporary order.

Comment

If, after an orientation session conducted under the rules pertaining to mediation, mediation is termi-

nated or rejected, a hearing before the Court may be obtained pursuant to L.R.C.P. No. 1940.6.

Rule 1915.11. Attendance of Child at Conciliation Conference or Hearing.

(a) Upon motion presented at Motions Court, the Court may direct that a child attend a conciliation conference.

(b) The parties shall make any child age nine (9) or older available to the Court for in camera examination during a hearing. Upon motion presented at Motions Court, the Court may direct that any other child attend a hearing.

Rule 1920.31. Claims for Support or Alimony Pendente Lite.

(a) When a claim for support or alimony pendente lite is filed as a count in a divorce complaint rather than as a separate action in the Domestic Relations Section, the demand for hearing thereon shall be filed with the Domestic Relations Section, together with a copy of the divorce pleading which contains that count.

(b) Upon receipt of a demand for hearing filed pursuant to subsection (a), above, the Domestic Relations Section shall require the demanding party to complete and file a complaint in form prescribed by the Domestic Relations Section. The Domestic Relations Section shall not require a filing fee in connection therewith; nor shall it impose the filing fee as a cost upon any party.

(c) If at the time the demand for hearing is filed pursuant to subsection (a), above, a matter involving the same parties is then pending before a hearing officer of the Domestic Relations Section, the claim for support or alimony pendente lite shall be referred directly to the hearing officer for adjudication.

Rule 1920.51. Appointment of Master. Preliminary Conference. Security for Payment of Master's Fees and Costs. Allocation.

(a) In all divorce or annulment actions where there are unresolved issues properly referable to a master under applicable statutes or rules of court, a party may move for the appointment of a master. The form of the motion shall be as prescribed by Pa.R.C.P. No. 1920.51(a)(3). The moving party shall pay a sum of money to the Prothonotary at the time the motion is filed, which sum shall be determined from time to time by order of Court, as security for payment of master's fees and costs.

(b) The master shall schedule a preliminary conference immediately after the order of appointment has been entered. The preliminary conference shall occur within sixty (60) days of the date of appointment, and it shall be attended by the parties and their counsel. At the preliminary conference, those present shall explore the possibility of resolving the issues in dispute without further litigation. At least three (3) days in advance of the preliminary conference, the parties shall exchange memoranda expressing their perceptions of and position on the issues, providing the master with a copy of the same.

(c) After payment to the Prothonotary of an additional sum of money as security for payment of the master's fees and costs, the master shall schedule an evidentiary hearing to receive evidence on all issues which were not resolved at the preliminary conference. The master shall schedule the evidentiary hearing only after a party has presented satisfactory proof to him that the additional security for costs have been paid. The amount of the additional security shall be determined from time to time by order of Court.

(d) The Court may, upon motion of the master presented at Motions Court, require a party to enter security for the master's fees and costs in addition to that required under subsections (a) and (c) of this rule.

(e) The master's fees and costs shall be regarded as costs of the case, and the master may recommend and the Court may order an equitable allocation of the same as part of the final adjudication and order, even if the security already paid is sufficient to pay them in full.

(f) The provisions of this rule shall apply to instances where the Court appoints a master pursuant to its own motion.

(g) The master's fee and costs incurred as a result of the scheduling or conducting of a preliminary conference or a hearing shall be paid by the Prothonotary upon approval of the court.

Comment

See L.R.C.P. No. 1920.31 for the procedure to be followed in claims for alimony pendente lite asserted in a divorce proceeding.

Rule 1920.55-2. Master's Report. Exceptions. Transcript.

A party who files exceptions to a master's report pursuant to Pa.R.C.P. No. 1920.55-2(b) shall order and file a transcript of the hearing conducted by the master.

VOLUNTARY MEDIATION IN CUSTODY ACTIONS

Rule 1940.3. Order for Orientation Session.

(a) Except as provided in subsection (b) below, in all cases where the conciliation conference conducted pursuant to L.R.C.P. No. 1915.3 leaves unresolved custody, partial custody, visitation or relocation issues, the Court will order the parties to attend an orientation session. The orientation session shall be scheduled by the parties to occur within fourteen (14) days of the date of the conciliation conference.

(b) The Court will not order the parties to attend an orientation session if such an order is prohibited by Pa.R.C.P. No. 1940.3(b).

(c) If after an orientation session the parties agree to mediation, counsel for plaintiff or petitioner shall prepare a consent order and cause it to be signed by the parties. The consent order shall be substantially in the form prescribed by Appendix I of these Local Rules. After the consent order has been signed by the parties, it shall be forwarded to the Court for signing and entry.

Rule 1940.4. Minimum Qualifications of the Mediator.

(a) All orientation sessions and mediations shall be conducted by a mediator appointed from time to time by order of the Court. A post-graduate student meeting the qualifications of Pa.R.C.P. No. 1940.4(c) may mediate if the duly appointed mediator has actual and direct supervision of the same.

(b) The Court Administrator shall cause the mediator to file an affidavit regarding qualifications and a proof of insurance in January of every year.

Comment

A post-graduate student who is seeking to become a child custody mediator is afforded the opportunity to receive training under subsection (a), under certain conditions which insure maximum involvement by the duly appointed mediator in each particular case.

Rule 1940.6. Termination of Mediation. Need for Hearing.

If after an orientation session mediation is rejected or terminated and there is still a need for a hearing before the Court, either party may file a motion requesting a hearing date. The motion shall inform the Court of the amount of time necessary for the hearing.

Rule 1940.7. Mediator Compensation.

A mediator shall be compensated for services rendered at a rate established from time to time by order of the Court.

MINORS AS PARTIES

Rule 2039. Compromise, Settlement, Discontinuance. Distribution. Petition. Contents.

(a) Every petition for approval by the Court of a proposed compromise, settlement or discontinuance of an action for injury to the person of a minor shall contain a description of the injury, a brief account of the circumstances under which it was sustained, a statement of the nature of the evidence relied on to establish liability, any limits on the defendant's financial responsibility, a list of the expenses incurred, the fees of counsel, and arrangements for payment of unpaid bills. The petition shall be accompanied by a written report of the attending physician stating the extent of the injury, the treatment given and the prognosis for the injured party.

(b) The minor shall be present in Court at the time of the presentation of the petition unless excused by the Court for cause shown.

INCAPACITATED PERSONS AS PARTIES

Rule 2064. Compromise, Settlement, Discontinuance. Distribution. Petition. Contents.

Every petition for approval by the Court of a proposed compromise, settlement or discontinuance of an action for injury to the person of an incapacitated person shall contain a description of the injury, a brief account of the circumstances under which it was sustained, a statement of the nature of the evidence relied on to establish liability, any limits on the defendant's financial responsibility, a list of the expenses incurred, the fees of counsel and arrangements for payment of unpaid bills. The petition shall be accompanied by a written report of the attending physician stating the extent of the injury, the treatment given and the prognosis for the injured party.

ACTIONS FOR WRONGFUL DEATH

Rule 2205. Notice to Persons Entitled to Damages.

(a) The notice prescribed in Pa.R.C.P. No. 2205 shall be in substantially the form prescribed in Appendix J of these Local Rules. The plaintiff shall attach to the notice a copy of the complaint, if the action has been commenced by a complaint.

(b) When a person entitled to notice is not sui juris, such notice shall be addressed to his guardian if any, and if no guardian, to the person having legal custody or by whom such person is maintained.

(c) An affidavit of service of such notice shall be filed with the Prothonotary's Office and shall set forth the names and addresses of the persons to whom the notice was sent and the date of mailing such notice.

JOINER OF PARTIES

Rule 2227. Compulsory Joinder.

After a complaint has been filed, a plaintiff desiring to join an unwilling person having only a joint interest in

the subject matter of the action, either as a defendant or as an involuntary plaintiff, shall proceed by petition and rule to show cause. The petition shall set forth the substantive law permitting such joinder.

Rule 2232. Defective Joinder.

(a) The notice required by Pa.R.C.P. No. 2232(a) shall be served as directed by special order of Court, entered after petition. The notice shall be in such form as prescribed by the special order.

(b) A party who has been joined and who desires to be dropped from the action pursuant to Pa.R.C.P. No. 2232(b) shall proceed by petition and rule to show cause.

(c) A party who desires to join any additional person who could have joined or who could have been joined in the action pursuant to Pa.R.C.P. No. 2232(c), shall proceed by petition and rule to show cause.

INTERVENTION

Rule 2328. Petition to Intervene.

A person who seeks leave to intervene shall proceed by petition and rule to show cause.

SUBSTITUTION OF PARTIES

Rule 2352. Substitution of Successor. Objections.

(a) The Prothonotary shall serve a copy of the statement filed under Pa.R.C.P. No. 2352(a) or a copy of the rule to show cause issued under Pa.R.C.P. No. 2352(b) upon all parties or their attorneys of record.

(b) A party who objects to a substitution under Pa.R.C.P. No. 2352(a) shall proceed by petition and rule to show cause.

ENFORCEMENT OF MONEY JUDGMENTS FOR THE PAYMENT OF MONEY

Rule 3110. Execution Against Contents of Safe Deposit Box. Service of Petition and Rule to Show Cause by Publication.

If service of the petition and rule to show cause is to be accomplished by publication, the publication shall occur one time in a newspaper of general circulation in the community in which the safe deposit box is located.

ENFORCEMENT OF JUDGMENTS IN SPECIAL ACTIONS

Rule 3252. Writ of Execution. Money Judgments. Notice.

The notice of the defendant in a writ of execution shall designate the "Prothonotary of Armstrong County, Armstrong County Courthouse, Room 103, Kittanning, PA 16201 telephone: (724) 543-2500" as the person from whom the defendant can obtain information on where to get legal help.

**PART II
LOCAL RULES OF CRIMINAL PROCEDURE
(cited as L.R.Crim.P. _____)**

SCOPE OF RULES, CONSTRUCTION AND DEFINITIONS

Rule 101. Construction.

These rules shall construed using the same rules of construction as are used in construing the Pennsylvania Rules of Criminal Procedure.

Rule 102. Citing the Local Rules of Criminal Procedure.

These rules shall be cited as "L.R.Crim.P. _____."

BUSINESS OF THE COURTS

Rule 103. Definitions.

Words and phrases defined by the Pennsylvania Rules of Criminal Procedure shall bear the same meaning when used in these rules, unless the context clearly indicates otherwise.

Rule 105. Local Rules. Noncompliance.

No case shall be dismissed nor request for relief granted or denied because of failure to comply with one or more of these rules. In any case of noncompliance, the Court will alert the party to the specific provision at issue and will provide a reasonable time for subsequent compliance.

COUNSEL

Rule 121. Waiver of Counsel in Guilty Plea Proceeding.

After an appropriate colloquy, the Court will require a defendant who wishes to waive counsel to sign a written waiver of counsel.

Rule 123. Application for Assignment of Counsel.

All applications for assignment of counsel pursuant to Pa.R.Crim.P. 122 shall be submitted to the Armstrong County Public Defender's Office. The application shall be in form prescribed from time to time by the Office. The determination of whether a defendant is without financial resources and unable to employ counsel shall be made by the Public Defender. The Public Defender shall be responsible for preparation of written eligibility guidelines biennially. All such guidelines shall be approved by the Court prior to implementation.

INVESTIGATIONS

SEARCH WARRANTS

Rule 202. Approval of Search Warrant Applications by the Attorney for the Commonwealth.

The District Attorney of Armstrong County having filed a certification pursuant to Pa.R.Crim.P. 202, no search warrant shall be issued by any judicial officer unless the search warrant application has the approval of an attorney for the Commonwealth prior to filing.

Comment

The approval of the attorney for the Commonwealth may be oral in appropriate circumstances. Whenever feasible, such oral approval should be communicated directly to the judicial officer, who should make proper notations thereof.

ACCELERATED REHABILITATIVE DISPOSITION (ARD)

COURT CASES

Rule 313. Hearing. Condition of Acceptance in Cases Involving Alleged Violation of 75 Pa.C.S. § 3731.

The Court will refuse to accept into the Accelerated Rehabilitative Disposition program any defendant charged with a violation of 75 Pa.C.S. § 3731 unless, at the time of hearing, the Court has a Court Reporting Network (CRN) Report concerning the defendant in its possession.

**PRE-TRIAL PROCEDURES IN COURT CASES
COMPLAINT PROCEDURES**

Rule 507. Approval of Police Complaints and Arrest Warrant Affidavits by Attorney for the Commonwealth.

(a) The District Attorney of Armstrong County having filed a certification pursuant to Pa.R.Crim.P. 507, criminal complaints and arrest warrant affidavits by police officers, as defined in the Pennsylvania Rules of Criminal Procedure, charging any offense set forth in subsection (b), below, shall not hereafter be accepted by any judicial officer unless the complaint and affidavit have the approval of an attorney for the Commonwealth prior to filing.

(b) Subsection (a) of this rule shall apply when any of the following offenses is charged:

- (i) Criminal homicide, in violation of 18 Pa.C.S. § 2501;
- (ii) Murder in any degree, in violation of 18 Pa.C.S. § 2502;
- (iii) Voluntary manslaughter, in violation of 18 Pa.C.S. § 2503;
- (iv) Involuntary manslaughter, in violation of 18 Pa.C.S. § 2504;
- (v) Homicide by vehicle, in violation of 18 Pa.C.S. § 3732;
- (vi) Homicide by vehicle while driving under the influence, in violation of 18 Pa.C.S. § 3735;
- (vii) Aggravated assault, in violation of 18 Pa.C.S. § 2702(a)(1) through (6), inclusive;
- (viii) Rape, in violation of 18 Pa.C.S. § 3121;
- (ix) Involuntary deviate sexual intercourse, in violation of 18 Pa.C.S. § 3123;
- (x) Robbery, in violation of 18 Pa.C.S. § 3701(a)(1)(i) through (iv), inclusive; and
- (xi) Aggravated assault by vehicle while driving under the influence, in violation of 75 Pa.C.S. § 3735.1.

Comment

The approval of the attorney for the Commonwealth may be oral in appropriate circumstances. When feasible, such oral approval should be communicated directly to the judicial officer, who should make proper notations thereof.

BAIL

Rule 528. Monetary Condition of Release on Bail. Realty as Security.

(a) When realty is offered to satisfy a monetary condition of bail, in full or in combination with other forms of security, a completed affidavit of surety and surety information page (including a warrant of attorney for confession of judgment) must be submitted to the Clerk of Courts. The affidavit and the surety information page shall be in such form as the Clerk may prescribe from time to time.

(b) The affidavit of surety and the surety information page shall be signed by the defendant and by all owners of the realty being offered as security if the realty is not owned by the defendant.

(c) Attached to each affidavit of surety submitted pursuant to paragraph a, above, shall be the following:

(i) a photocopy of the deed, decree of distribution or other instrument of record, bearing all pertinent recording data, by which title was acquired, and

(ii) the written certification by a lawyer licensed to practice law in the Commonwealth certifying the names of the current owners of record of the realty, certifying that good and marketable title is vested in them, and further certifying the nature, holder and unpaid balance of each lien that then encumbers the realty, including, but not limited to, mortgage, judgment and tax liens. A title insurance policy with the County of Armstrong appearing as a named insured may be substituted for the lawyer's written certification.

(d) The Clerk of Courts shall make the determination of whether the net value of the property is sufficient to satisfy the monetary condition. For property located outside the Commonwealth but within the United States, the Clerk may impose reasonable conditions designed to perfect the lien. The Clerk shall not accept realty outside the Commonwealth as fulfillment of the monetary condition, in whole or in part, without special approval of Court.

(e) The Clerk of Courts shall, as final acceptance of the realty as security, cause a judgment to be confessed against all owners thereof in the appropriate county, in favor of the Commonwealth for the use of Armstrong County. The Clerk of Courts is hereby authorized to execute all judgment lien releases for property that may be encumbered by the judgment lien, but not intended to serve as security, and is further authorized to cause the judgment lien to be marked as satisfied after the full and final disposition of the case. The Clerk shall file a certificate among the papers of the criminal case certifying that judgment has been entered and setting forth the pertinent details of entry.

(f) A fee shall be paid to the Clerk of Court at the time of the submission of the affidavit of surety. The amount of the fee shall be determined from time to time by Order of the Court. No cost arising from the perfection, release or satisfaction of a judgment lien shall be paid by the Clerk, but shall be borne by the defendant or a surety.

MOTION PROCEDURES

Rule 585. Nolle Prosequi.

An order of nolle prosequi will be considered only upon motion of the attorney for the Commonwealth, either orally in open court or in writing.

PLEA PROCEDURES

Rule 590. Plea and Plea Agreements.

(a) At the time a plea of guilty to a felony or misdemeanor is taken in open court, the defendant shall present to the Court a completed Guilty Plea Questionnaire in form prescribed from time to time by the Court. The Court Administrator shall provide a defendant with a blank Questionnaire upon request.

(b) The Questionnaire presented to the Court shall have attached thereto a photocopy of the signed plea agreement reached by the defendant and the attorney for the Commonwealth, unless the record of the plea agreement has been sealed prior thereto.

TRIAL PROCEDURES IN COURT CASES

GENERAL PROVISIONS

Rule 602. Presence of the Defendant. Transportation from Current Place of Detention.

If a defendant represented by counsel is in detention in any facility other than the Armstrong County Jail, and if

he is scheduled for any appearance before the Court, defense counsel shall petition the court for an order causing his temporary release from his current place of confinement and his transportation to an confinement at the Armstrong County Jail pending and during his appearance before the Court. If the defendant is not represented by counsel, the attorney for the Commonwealth shall file such a petition. The petition shall have an appropriate Order attached thereto, and it shall be filed no later than ten (10) days before the date of appearance.

NON-JURY PROCEDURES

Rule 620. Waiver of Jury Trial.

After an appropriate colloquy, a written waiver of jury trial shall be signed by the defendant if the Court ascertains that the defendant is knowingly and intelligently ready to waive the same.

POST-TRIAL PROCEDURES IN COURT CASES SENTENCING PROCEDURES

Rule 700. Sentencing Judge.

A sentence on a plea of guilty or nolo contendere may be imposed by a judge other than the judge who received the plea, if the defendant has been so notified at the time of entering the plea or if he agrees thereto at the time of sentencing.

Comment

This rule is not intended to proscribe sentencing by a judge who did not receive the plea when there are extraordinary circumstances which preclude the presence of that judge.

Rule 702. Aids in Imposing Sentence.

(a) As an aid in imposing sentence, the Court will consider applications submitted to the Probation Office for the electronic monitoring of the defendant while confined to his home, and the fact of approval or disapproval thereof by the Probation Office, the attorney for the Commonwealth and the Warden of the Armstrong County Jail.

(b) Applications for electronic monitoring shall be in such form as may from time to time be prescribed by the Probation Office. Such applications shall be available at the Probation Office.

(c) A bench warrant will be issued for the arrest and confinement of a defendant who fails to appear for an interview by the Probation Office in connection with the preparation of a pre-sentence investigation report.

PART III LOCAL ORPHANS' COURT RULES (cited as L.O.C. Rule _____)

PRACTICE RELATING TO CERTAIN PETITIONS, MOTIONS and APPLICATIONS

Rule 1.2A. Definition. Parties in Interest.

"Parties in interest" can include intestate heirs, legatees, devisees, residuary heirs, beneficiaries, creditors, claimants, and lienholders. Who the parties in interest are in a particular situation will depend upon the circumstances.

Comment

The definition does not contain an exhaustive list. For instance, 20 Pa.C.S. § 767 authorizes the Court to join a taxing authority as a party in interest when the interests of the taxing authority may be adversely

affected in a proceeding before the Court. This may be done sua sponte or upon motion of a party.

Rule 1.2B. Filing with Clerk. Format.

(a) All petitions, motions and applications shall be filed with the Clerk.

(b) All petitions and other legal papers shall be 8 1/2" × 11" in size and shall be stapled in the left margin. Staples shall be the sole means by which the pages are fastened. Pages shall be typewritten or printed.

Rule 1.2C. Contents of Petition. Exhibits. Consents. Order.

(a) In addition to the items required by Pa.O.C. Rule 3.4(a), a petition shall set forth the names and addresses of all persons who are parties in interest.

(b) In addition to the items required by Pa.O.C. Rule 3.4(b), a petitioner shall attach to the petition true and correct copies of all wills, deeds, contracts and other instruments pertaining thereto. The petition shall state the place, if any, where the instruments may be found of record.

(c) Whenever a party in interest other than a petitioner desires to consent to or join in the prayer of a petition, there shall be attached to the petition a written consent signed by the party in substantially the form prescribed by Appendix K of these Local Rules. All consents shall be signed by at least one witness.

(d) Every petition shall have an appropriate order attached thereto. A petition seeking the award of a citation shall have attached thereto an order awarding a citation, substantially in the form of the order prescribed by Appendix L of these Local Rules.

Rule 1.2D. Petitions Requiring Notice After Filing. Proof of Service. Answers.

(a) Except as provided in subsection (d), below, notice of the filing of a petition shall be given to all parties in interest whose consents are not attached. A copy of the petition shall be attached to the notice. The notice shall be substantially in the form prescribed by Appendix M of these Local Rules. The notice shall state that the party in interest has twenty (20) days after the date of its service upon him to file an answer to the petition; provided, however, that the Court may set a shorter period of time within which an answer may be filed or may set a date certain by which the same may be done, for good cause alleged in the petition itself.

(b) The petitioner shall file a proof of service of notice.

(c) A party in interest may file a written answer to the petition at any time within the time limit set forth in the notice. "Answer," as the term is used in this rule, includes not only a formal answer admitting or denying the factual averments of the petition, but also a preliminary objection or any other objection or disagreement with the petition or the relief being sought. All answers shall be filed with the Clerk. A copy of the answer shall be served upon the petitioner or petitioner's attorney. A proof of service shall be filed thereafter.

(d) The provisions of this rule shall not apply to petitions

(i) where all parties in interest are petitioners or consent to the granting thereof;

(ii) when notice requirements are dispensed with by pertinent rule or statute, or when good cause is shown for dispensing with notice requirements;

- (iii) seeking the issuance of a citation;
- (iv) seeking the appointment of a guardian for an alleged incapacitated person;
- (v) for termination of parental rights; and
- (vi) for adoption.

Notice of petitions described in clauses (iii), (iv), (v) and (vi) shall be given as prescribed by applicable rule or statute.

RULES OF CONSTRUCTION

Rule 2.1A. Construction of Rules.

These rules shall be liberally construed to secure the just, speedy and inexpensive determination of every action or proceeding to which they are applicable. The Court at every stage of any action or proceeding may disregard any error or defect of procedure which does not affect the substantial rights of the parties in interest.

Rule 2.2A. Waiver of Time Limitation.

The Court upon its own motion or the petition of any party may extend any limitation of time prescribed by these rules.

Rule 2.3A. Words and Phrases.

Unless the context clearly indicates otherwise, the words and phrases used herein shall bear the same meaning as they bear in the Pennsylvania Orphans' Court Rules.

PLEADING AND PRACTICE

Rule 3.2A. Permissible Pleadings.

The pleadings in matters before this Court shall be limited to a petition, an answer, new matter, a reply, preliminary objections, and an answer to preliminary objections.

Rule 3.2B. Endorsement. Signature. Verification.

(a) Every pleading shall be endorsed with the name, address, telephone number and Supreme Court identification number of counsel and the party on whose behalf the pleading is filed.

(b) Every pleading shall be signed by the attorney, and where facts outside the record are averred, shall be verified by one or more of the parties. If this is impracticable, it may be signed and verified by someone familiar with the facts, in which case the reason for the failure of the parties to sign shall be set forth.

Rule 3.5A. Mode of Proceeding on Petition.

(a) The mode of proceeding on petition shall be by citation to be awarded by the Court upon application of petitioner in any case where jurisdiction over the person of the respondent is required and has not previously been obtained. In all other cases, the mode of proceeding shall be by notice as prescribed by Rule 1.2D of these rules. A copy of the petition shall be served with the citation or notice unless service is made by publication.

(b) No citation will be awarded which commands a party to personally appear before the Court, unless the order awarding the citation specifically directs that such a command be contained therein.

Comment

In the Orphans' Court, a citation is the proper process by which initial personal jurisdiction over the person is obtained. *In re: Hicks' Estate*, 414 Pa. 131, 199 A.2d 283 (1964).

Rule 3.5B. Citation Where Jurisdiction Over the Person is Required. Personal Service. Proof of Service.

(a) A citation where jurisdiction over the person is required shall be served in the manner prescribed by 20 Pa.C.S. § 765, when the person can be served within the Commonwealth.

(b) Proof of personal service of the citation shall be by affidavit of the person or the return of the sheriff making service. It shall state the date, time, place, and manner of service and that true copies of the citation and petition were handed to the respondent.

Comment

20 Pa.C.S. § 765 governs the service within the Commonwealth of a citation to obtain personal jurisdiction. *Kelsey Estate* 31 D & C 170 (1963).

20 Pa.C.S. § 768 anticipates the possibility of a citation being awarded and issued even when personal jurisdiction over a respondent is not required. In such a situation, the citation itself would constitute notice and the rules pertaining to service of notice will apply.

Rule 3.5C. Citation Where Jurisdiction Over the Person is Required. Service by Mail. Proof of Service.

(a) When a citation to obtain jurisdiction over a person is to be served upon a person outside the Commonwealth, service of the citation may be accomplished by certified mail, return receipt requested, within the United States and registered mail elsewhere.

(b) When service of the citation is by certified mail, the affidavit of service shall state that the return receipt bears a signature purporting to be that of the respondent, his agent, or a member of his household. The return receipt shall be filed with the affidavit. When service is by registered mail, proofs of mailing shall be filed with the affidavit.

Comment

Despite the authorization by this rule to serve original process by mail upon non-residents of the Commonwealth, the Due Process Clause of the Fourteenth Amendment can operate as a limitation on the jurisdiction of our courts.

20 Pa.C.S. § 768 anticipates the possibility of a citation being awarded and issued even when personal jurisdiction over a respondent is not required. In such a situation, the citation itself would constitute notice and the rules pertaining to service of notice will apply.

Rule 3.5D. Citation Where Jurisdiction Over the Person is Required. Service by Publication. Proof of Service.

(a) When a citation to obtain personal jurisdiction over a person cannot be served personally or by mail because the person cannot be found, the Court may, upon motion, authorize service by publication. Notice in advance of the presentation of such a motion is not required. When the last known residence of the respondent was in Armstrong County, such service shall be by publication once a week for three (3) successive weeks in a newspaper of general circulation published in the County and in the Armstrong County Legal Journal. If the respondent's last known residence was not in Armstrong County or is unknown, the publication shall be as the Court may direct. The first

publication shall not be less than twenty-one (21) days before the last day to file an answer.

(b) When service of the citation is by publication, the return shall consist of the proofs of publication verified by the affidavits of the publishers.

Comment

20 Pa.C.S. § 768 anticipates the possibility of a citation being awarded and issued even when personal jurisdiction over a respondent is not required. In such a situation, the citation itself would constitute notice and the rules pertaining to service of notice will apply.

Rule 3.5E. Preliminary Objections. Answers.

The practice and procedure relating to preliminary objections and answers thereto shall be governed by the pertinent Pennsylvania Rules of Civil Procedure as implemented by the Local Rules of Civil Procedure, including those requiring the filing of proposed scheduling orders.

Rule 3.5F. Disposition of Issues Raised by Pleadings.

(a) If the respondent fails to file an answer, the averments of fact set forth in the petition shall be deemed admitted and the Court may enter a decree granting the prayer of the petition.

(i) In proceedings where personal jurisdiction over the person served was not required, the petitioner shall file a praecipe with the Clerk directing the Clerk forthwith to transmit the record to the Court. The praecipe shall be substantially in the form prescribed by Appendix N of these Local Rules.

(ii) In proceedings where personal jurisdiction over the person served was required, the petitioner shall present a motion for order to transmit the record at any duly scheduled session of Motions Court in accordance with the Local Rule of Civil Procedure pertaining thereto. The motion shall state all the relevant facts of record, including the name of the petitioner, the type of petition, the date of service upon the respondent, the fact that a proof of service was filed as required by local rule, and the fact that no answer was filed by the respondent. The motion shall have attached thereto a proposed order in the form prescribed by Appendix O of these Local Rules.

When there is more than one respondent, the Court may, in its discretion, refrain from acting until the last date has passed on which any respondent could have filed an answer.

(b) If the petitioner fails to file a reply to an answer which contains new matter, the averments of fact set forth under new matter shall be deemed admitted and the case will be at issue.

(c) If the petitioner fails to file an answer to properly and appropriately pleaded factual averments of preliminary objections, the averments of fact set forth in said preliminary objections shall be deemed admitted, and the case will be at issue on the preliminary objections.

(d) The Court may, upon motion in appropriate cases, enter judgment on the pleadings in favor of any party or parties entitled thereto.

Comment

Subsection (a)(ii) provides a greater degree of protection, in default situations, to a respondent when personal jurisdiction over him must be obtained. This

results from the additional notice requirements set forth in the Local Rule of Civil Procedure pertaining to Motions Court.

Rule 3.5G. Motion for Judgment on the Pleadings.

The practice and procedure relating to motions for judgment on the pleadings shall be governed by the pertinent Pennsylvania Rules of Civil Procedure, as implemented by the Local Rules of Civil Procedure, including those requiring the filing of proposed scheduling orders. Notice in advance of the filing of such a motion is not required.

Rule 3.5H. Service of Pleadings and Legal Papers, Other than Petitions.

Pleadings and legal papers, other than petitions, shall be served by the filer in the manner prescribed by Pa.R.C.P. No. 440, as implemented by the Local Rules of Civil Procedure, except that all filings shall be with the Clerk.

Comment

The methods of service of citations to obtain personal jurisdiction over the person are found at Rule 3.5B through Rule 3.5D of these rules. The methods of service of notice, including notice of the filing of a petition, are found at Rule 5.1A of these rules.

Rule 3.5I. Jury Trial.

A person entitled to and desiring a trial by jury shall make timely demand therefor in accordance with 20 Pa.C.S. § 777.

Rule 3.5J. Trials. Jury and Non-jury. Pre-trial Conference List. Motion for Non-jury trial without Pre-trial Conference.

(a) When pleadings have been filed by the parties in conformity with prescribed procedure, or when the time for filing additional pleadings has expired, the matter may be placed on the Pre-trial Conference List by filing a praecipe with the Clerk. The Clerk shall deliver a copy thereof to the Prothonotary, and the case shall thereafter proceed as if it were an action in equity in the Civil Division, except as otherwise prescribed by these rules. A copy of the praecipe shall be served as prescribed by Rule 3.5H of these rules.

(b) As an alternative to placing a case on the Pre-trial Conference List, a matter may be scheduled for non-jury trial upon motion presented at any duly scheduled session of Motions Court pursuant to Local Rules of Civil Procedure.

Comment

Under this rule, relatively simple matters may be scheduled for non-jury trial without the case being the subject of a pre-trial conference.

The Prothonotary maintains a Pre-trial Conference List in accordance with the Local Rules of Civil Procedure. All filings after the case has been placed on the Pre-trial Conference List will nonetheless continue to be made with the Clerk of the Orphans' Court Division.

Rule 3.5K. Continuances.

The practice and procedure relating to continuances shall be governed by the pertinent Local Rules of Civil Procedure. An application for continuance may be presented at any duly scheduled session of Motions Court pursuant to said Rules.

Rule 3.5L. Costs Taxable to Fiduciary or Estate Fund.

When a fiduciary, in good faith, defends the estate fund against a claim, the fiduciary shall not be personally liable for any taxable costs, and any costs otherwise taxable against him shall be taxed instead against the estate fund.

Rule 3.6A. Discovery.

No discovery shall be conducted except with leave of Court. After leave is granted, the permitted discovery shall be conducted as prescribed by the Pennsylvania Rules of Civil Procedure. Motions for leave to conduct discovery may be presented at any duly scheduled session of Motions Court pursuant to the Local Rules of Civil Procedure.

Rule 3.6B. Subpoenas.

Subpoenas, including subpoenas duces tecum, shall be issued as of course by the Clerk.

Rule 3.7A. Attorneys. Appearances. Surety.

(a) An endorsement of an attorney or any legal paper filed with the Clerk shall constitute a written appearance.

(b) No attorney may withdraw an appearance without leave of court unless another attorney simultaneously enters an appearance for the same party.

(c) No attorney may act as surety in any proceeding, except with leave of court.

NOTICE**Rule 5.1A. Method of Notice Generally.**

(a) Except as may be provided otherwise by statute or by any rule adopted by the Supreme Court of Pennsylvania, and except as specifically directed or permitted otherwise by these rules, whenever notice is to be given to a person, it shall be given

(i) by personal service upon the attorney appearing of record for such person, delivery at the office of such attorney, or by mail; or

(ii) if there is no such attorney, by personal service, delivery at the residence of such person or by mail, if his residence is known; or

(iii) if his residence is not known, by publication during three (3) successive calendar weeks in the legal periodical and in a newspaper of general circulation published at or near his last known address within the county; or

(iv) in such other manner as the Court shall direct.

(b) "Mail" as the term is used in subsection (a) of this rule means registered mail providing for a return receipt or certified mail providing for a return receipt, except for addresses outside the United States, in which event it means registered mail. In the event such registered or certified mail is returned to the sender as unclaimed, refused or undelivered, "mail" shall also mean ordinary mail with the return address of the sender appearing thereon. Service by ordinary mail is complete if the mail is not returned to the sender within fifteen (15) days after mailing.

Rule 5.1B. Method. Legal Publication.

The legal periodical in which all publications of notice required by any statute, rule of Court or order pertaining to Orphans' Court matters is the *Armstrong County Legal Journal*, the address of which is Armstrong County Courthouse, Law Library, Kittanning, PA 16201.

Rule 5.2A. Method. Persons Under Incapacity.

(a) Notice to a person who is not sui juris and who has no guardian or trustee shall be given in such manner as the Court shall direct by special order. Such special order shall issue upon presentation of a petition reciting all known circumstances of the person that are relevant in determining who would be most concerned with his best interests. Notice in advance of the presentation of such a petition is not required.

(b) Notwithstanding the provisions of subsection (a) of this rule, when a minor's net interest in any estate is \$25,000 or less, notice shall be given to the minor and, in addition thereto, to the parent or other person maintaining the minor.

(c) In the case of notice of the filing of an account and a statement of proposed distribution, and notwithstanding the provisions of subsection (a) of this rule, when a person who is not sui juris and who has no guardian or trustee, has no interest in the residuary estate but only a fixed interest by way of legacy or bequest, and the obligation to pay the same is fully recognized in the proposed statement of distribution, then notice shall be given to such person, and, in addition thereto, to the parent or other person maintaining him.

Comment

20 Pa.C.S. § 5101 authorizes the Court to permit the distribution of a minor's share of an estate directly to the minor or the parent or other person maintaining the minor, when the share has a net value of \$25,000 or less. Notice as permitted by Rule 5.2A(b) of these rules would therefore appear to be appropriate.

Rule 5.4A. Notice. Proof of Service.

Proof of service of notice shall be by affidavit of the person serving, mailing, publishing or delivering such notice. When service has been accomplished by registered or certified mail within the United States, the return receipts shall be attached. A proof of service by mail or by delivery shall include the name and address of each party in interest so served.

ACCOUNTS AND DISTRIBUTION**Rule 6.1A. Form.**

(a) Accounts shall be substantially in the form prescribed by Appendix P of these Local Rules or in the form prescribed by Pa.O.C. Rule 6.1, at the election of the accountant. Each account shall bear the proper caption.

(b) All accounts shall be typewritten on 8 1/2" × 11" paper and shall be stapled in the left margin. Staples shall be the sole means by which the pages are fastened.

Comment

The preferred form of the account to be filed by the personal representative of an estate in most instances is the one set forth in Appendix P.

20 Pa.C.S. § 3392 pertains to the classification and order of payment of claims and charges against the assets of an insolvent estate. The claims and charges enumerated in 20 Pa.C.S. § 3392(2), (3), (4), and (5) are all to be included in that portion of the disbursements section of Appendix P labeled "Preferred Debts."

Rule 6.3A. Notice to Parties in Interest. Time.

(a) Notice of the filing with the Clerk of an account and a schedule of proposed distribution shall be given by the

accountant to all parties in interest at least twenty (20) days prior to the date when the same will be presented to the Court for confirmation.

(b) Notice of the filing of an account and schedule of proposed distribution shall be substantially in the form prescribed by Appendix Q of these Local Rules.

Rule 6.4A. Time for filing.

An account must be filed no later than thirty (30) days before the regularly scheduled confirmation date published in the annual Court calendar upon which the accountant desires to have the account presented to the Court for confirmation and the statement of proposed distribution, if any, presented for approval.

Rule 6.6. Filing with Clerk of the Orphans' Court Division.

All accounts shall be filed with the Clerk.

Rule 6.9A. Statement of Proposed Distribution. Distribution Determined by Auditor.

(a) When distribution is being proposed by an accountant, the accountant shall attach to the account, as its last page or pages, a statement of proposed distribution in the form of a proposed decree. The proposed decree shall be substantially in the form prescribed by Appendix R of these Local Rules.

(b) After confirmation of an account when no distribution has been proposed, a fiduciary may petition the Court for the appointment of an auditor to determine distribution, pursuant to Rule 8.0A of these rules.

Rule 6.10A. Objections to Accounts and Statements of Proposed Distribution.

(a) Objections to an account or a statement of proposed distribution shall be in writing and shall be filed with the Clerk.

(b) Objections may be filed at anytime before the day the account is to be presented to the Court for confirmation.

(c) Objections shall be numbered consecutively and each objection shall be specific as to description or amount, raise but one issue of law or fact, and set forth briefly the reason or reasons in support thereof.

(d) Copies of the objection shall be served by the objector promptly upon the accountant and all parties in interest.

Rule 6.10B. No Objections Filed.

Except as otherwise provided by statute or the Pennsylvania Orphans' Court Rules, no interested party may object to or in any other manner challenge an account or statement of proposed distribution after the account has been confirmed or the proposed distribution has been approved.

Comment

An order of confirmation or approval will be in the form of a final order and not a decree nisi.

Rule 6.10C. Appointment of Auditor.

Pursuant to Rule 8.0A of these rules, the accountant, the objector, or any other party in interest must move for the appointment by the Court of an auditor to resolve the issues raised by the objections. The Court may, in its discretion, resolve the issues without such an appointment. Notice in advance of the presentation of such a motion is not required.

EXCEPTIONS

Rule 7.1A. No Exceptions to Orders or Decrees Generally. Waiver of Grounds.

(a) No exceptions shall be filed to any order or decree unless permitted by the terms of such order or decree or by Pa.O.C. Rule 7.1.

(b) Exceptions to an order or decree may not be sustained unless the grounds are specified in the exceptions and were raised by petition; motion; answer; claim; objection; offer of proof; exceptions to auditor's reports, master's reports or appraisements; or other appropriate method.

Comment

Pa.O.C. Rule 7.1(e) does not permit the filing of an exception to any order in involuntary termination or adoption matters under the Adoption Act.

Rule 7.1B. Exceptions to Auditor's Report, Master's Report or Appraisal. Time. Waiver of Grounds.

(a) Exceptions to an auditor's report, a master's report, or an appraisal must be filed within ten (10) days after its date of filing. If a party files timely exceptions, any other party may file cross exceptions within ten (10) days after the filing of exceptions.

(b) Exceptions to an order or decree may not be sustained unless the grounds are specified in the exceptions and were raised by petition, motion, answer, claim, objection, offer of proof, or other appropriate method.

Rule 7.1C. Form of Exceptions. Place of Filing.

(a) Exceptions, whether to an order or decree, auditor's report, master's report, or appraisal, shall be in writing filed with the Clerk.

(b) Exceptions shall be set forth in consecutively numbered paragraphs, each paragraph raising but one issue, and stating the ground or grounds therefor. Exceptions shall be signed by the exceptant or the exceptant's attorney.

AUDITORS AND MASTERS

Rule 8.0A. Appointment. Petition.

(a) The Court, on its own motion or upon petition of an accountant or any other party in interest, may appoint an auditor or master.

(b) The petition shall recite why the appointment is sought and what issues the auditor or master is likely to be called upon to resolve.

Comment

The purposes of auditors, masters, and of certain other Orphans' Court Division officers may be found at 20 Pa.C.S. § 751.

Rule 8.0B. Oath.

The auditor or master, before undertaking appointive duties, shall take an oath before the Clerk to faithfully perform such duties.

Rule 8.1A. Notice of Hearings.

(a) The auditor or master shall fix a date, time and place for hearing and shall give written notice to the accountant or petitioner and all parties in interest or their counsel of record of the hearing by first class mail at least twenty (20) days prior thereto. In the event notice cannot be given in such manner, notice shall be given by advertisement one time in the Armstrong County Legal

Journal and one time in a newspaper of general circulation in the county where the decedent resided. The date of publication shall be at least twenty (20) days prior to the hearing.

- (b) the notice shall include the following:
 - (i) the caption and number of the case;
 - (ii) the fact and date of appointment;
 - (iii) the name of the fiduciary of the estate
 - (iv) the time and place of hearing;
 - (v) a general statement of the matters to be determined; and
 - (vi) the signature and the typewritten name, address and telephone number of the auditor or master.

Rule 8.1B. Conduct of Hearings.

- (a) All hearings before an auditor or master shall be conducted in accordance with the Pennsylvania Rules of Evidence.
- (b) The hearings may be continued or adjourned from time to time by the auditor or master for cause shown or upon agreement of all parties present, but each continuance or adjournment shall be to a day certain not more than thirty days distant.
- (c) Auditors and masters shall have the authority to administer oaths to witnesses.
- (d) Auditors and masters shall have the authority to issue subpoenas, including subpoenas duces tecum.
- (e) With leave of court, the auditor or master may retain experts as an aid in the performance of appointed duties. Leave may be obtained by motion presented in Motions Court pursuant to the Local Rules of Civil Procedure. All parties in interest shall receive notice of the presentation of such a motion.
- (f) An official court reporter shall take all the testimony and thereafter transcribe the same.

Rule 8.3A. Form of Auditor's Report.

- (a) In addition to the requirements of Pa.O.C. Rule 8.3, an auditor's report shall include a statement of proposed distribution and shall have attached a proposed decree which confirms the report and states in detail the distribution proposed by the auditor.
- (b) The auditor's report and proposed statement of distribution shall provide for the payment of the auditor's fees and expenses, imposing them upon one or more parties in such manner as is equitable.
- (c) The auditor's report shall state the manner of service of notice of the hearing.

Rule 8.6A. Notice of Filing of Report.

- (a) An auditor or master shall timely file the report with the Clerk and simultaneously serve notice thereof upon the accountant, all parties who appeared at the hearing, and all parties who received notice of the hearing other than by publication. The notice shall be given by first class mail. A copy of the report shall be attached to the notice. Proof of service of the notice shall be filed immediately after mailing of the same. A copy of the notice shall be attached to the proof.
- (b) The notice of the filing of the report shall be substantially in the form prescribed by Appendix S of these Local Rules. The notice shall state that exceptions thereto must be filed within ten (10) days of the date of

filing of the report or the report may be confirmed in the case of an auditor or its recommendation adopted in the case of a master.

Rule 8.7A. Confirmation of Auditor's Report.

Unless exceptions to an auditor's report are timely filed, the report will be confirmed by the Court. The Clerk shall transmit the report as of course so it may be so confirmed.

Rule 8.7B. Confirmation of Master's Report.

Unless exceptions to a master's report are timely filed, the Court will adopt its recommendations. The Clerk shall transmit the report to the Court as of course so its recommendations may be so adopted.

OFFICIAL EXAMINERS

Rule 9.1A. Appointment. Petition.

- (a) The Court, on its own motion, or upon petition of an auditor or any other party in interest, may appoint an official examiner.
- (b) The petition shall recite why the appointment is sought.

Comment

The purpose of official examiners and of certain other Orphans' Court Division officers may be found at 20 Pa.C.S. § 751.

Rule 9.1B. Order to Appear for Examination. Service. Attachment of Person for Failure to Appear. Civil Contempt.

- (a) An official examiner may order any person in custody or control of estate or trust assets to appear before him for examination. The order may include a directive to bring papers, other information, or the assets themselves, in an appropriate case. The official examiner shall cause the order to be personally served upon the person by a competent adult. An affidavit of service shall be promptly filed by the person making such service.
- (b) If the person directed to appear before the official examiner fails to appear despite proper service, the official examiner may petition the Court for an attachment of the person. The official examiner may file a petition seeking an adjudication of civil contempt. The Court will direct the manner of service of the contempt petition by special order. Notice of the presentation of either kind of petition is required.

Rule 9.1C. Compensation.

The compensation of the official examiner shall be paid from the estate fund. The amount of such compensation shall be fixed by special order of court.

REGISTER OF WILLS

Rule 10.1A. Filing of Inventory with Register of Wills.

The inventory filing requirement set forth in 20 Pa.C.S. § 3301 will be deemed to have been satisfied by the filing of an Pennsylvania Inheritance Tax return with the Register. If the decedent owned real estate outside the Commonwealth at the time of his death, a memorandum describing the real estate shall be attached to the return.

Comment

20 Pa.C.S. § 3301 requires the personal representative of an estate to file an inventory with the Register of Wills.

Rule 10.2A. Appeals from the Register of Wills. Petition. Contests. Citation. Service. Procedure.

(a) Appeals from a judicial act or decision of the Register of Wills shall be by petition directed to the Court.

(b) The petition shall bear the proper caption and shall be in paragraph form, stating the nature of the proceedings before the Register; the basis for the appeal, including the relevant facts which the petition relies upon; the names and addresses of all parties in interest, including those who are not a party to the record; and a prayer for appeal.

(c) When a petition for appeal has been filed with the Court, the Register of Wills shall cause the record to be certified to the Court and properly docketed in the Orphans' Court Division dockets.

(d) After the record has been certified and docketed as required in subparagraph (c) of this rule, the Court will award a citation directed to all parties in interest.

SPECIAL PETITIONS**FAMILY EXEMPTION****Rule 12.1A. Family Exemption. Petition. Procedure.**

In the event a petition is filed because the fiduciary has disallowed a claim for a family exemption, the matter shall proceed under Rule 3.5A of these rules.

Rule 12.1B. Personal Property. Appraisalment.

When personal property is claimed as the family exemption and an appraisalment is necessary, it shall be done in such manner as the Court may direct by special order in each case. The petition seeking such special order shall have a proposed special order attached thereto.

Rule 12.1C. Real Property. Appraisalment.

When real property is claimed as the family exemption, an appraisalment shall be done in accordance with 20 Pa.C.S. § 3123.

Rule 12.1D. Return of Appraisalment. Notice of Filing.

The order of appointment shall fix the date upon which the written appraisalment shall be filed with the Clerk by the appraisers. The appraisalment shall describe the property, specify the value, and specify the liens and encumbrances upon the property. The appraisers shall timely file their appraisalment with the Clerk and simultaneously serve notice thereof to all parties in interest who have been served with the petition other than by publication. The notice shall state the date of filing of the appraisalment, the fact that the appraisalment will be confirmed by the Court unless written exceptions are timely filed with the Clerk. The notice shall be served by first class mail, and the appraisers shall attach a copy of the appraisalment to the notice. A proof of service of notice shall be filed and a copy of the notice shall be attached thereto.

Rule 12.1E. Employment of Counsel by Appraisers.

The appraisers shall hire a lawyer to aid them in the preparation and filing of their appraisalment, and in giving the required notice of the filing thereof.

Rule 12.1F. Appraisers Compensation and Expenses.

In addition to the requirements set forth in Rule 12.1D of these rules concerning contents of the appraisalment,

the appraisalment shall have attached thereto a statement of the appraisers fees and expenses. An order of confirmation shall direct payment of the same by the personal representative.

Rule 12.1G. Confirmation of Appraisalment.

Unless exceptions to an appraisalment are timely filed, the appraisalment will be confirmed by the Court. The Clerk shall transmit the appraisalment as of course so it may be confirmed.

Rule 12.1H. Hearing or Argument.

Any exceptant or other party in interest may move the Court to schedule a hearing, an argument, or both, upon the exceptions, in the event the Court has not done so on its own. Notice of the presentation of such motion is not required.

ALLOWANCE TO SURVIVING SPOUSE OF INTESTATE**Rule 12.2A. Allowance to Surviving Spouse of Intestate. Appraisalment.**

The manner of appraising the property, of filing and confirming the appraisalment, and of giving notice thereof shall be as prescribed by Rule 12.1A through 12.1H of these rules, pertaining to claim for family exemption.

EXTENSION OF TIME FOR FILING OF SURVIVING SPOUSE'S ELECTION**Rule 12.3A. Petition for Extension of Time to File Election.**

A surviving spouse who seeks an extension of time to file an election under 20 Pa.C.S. Chapter 22 shall proceed under Rule 3.5A of these rules.

APPOINTMENT OF A GUARDIAN FOR THE ESTATE OR PERSON OF A MINOR**Rule 12.5A. Appointment of a Guardian for the Estate or Person of a Minor.**

(a) A hearing shall be held upon every petition filed for the appointment of a guardian of the person or the estate of a minor, even if the consents of all parties in interest are attached and even if no objection to the petition is filed by any party in interest.

(b) In lieu of the notice requirements of Rule 1.2E of these rules, the notice shall be substantially in the form prescribed by Appendix T of these Local Rules. The notice shall be served by the petitioner upon the minor if at least twelve (12) years of age, upon all parties in interest, including non-custodial parents, and upon any adult who actually has physical custody of the minor, even if their consents are attached to the petition. A copy of the petition shall be attached to the notice. A proof of service of the notice shall be filed. The notice shall be served at least twenty (20) days in advance of the hearing.

(c) The proposed guardian or co-guardians shall appear at the hearing. The minor shall appear at the hearing if he is at least 14 years of age.

(d) All bonds shall be filed with the Clerk within thirty (30) days of the date of appointment. Failure to file the bond may be deemed to be a refusal of the appointment.

Comment

An alternative to the appointment of a guardian of the estate may be the establishment of a sequestered deposit under 20 Pa.C.S. § 5103.

20 Pa.C.S. § 5101 authorizes the Court to permit the distribution directly to a minor of up to \$25,000 by a decedent's estate or trust.

PARTITION

Rule 12.8A. Partition. Procedure.

If the Court determines that there shall be a partition of real estate which can be divided without prejudice to or spoiling the whole, the Court shall enter an order directing partition, which shall set forth the names of all the co-tenants and the nature and extent of their interests in the realty. Further proceedings shall be in conformity with the Pennsylvania Rules of Civil Procedure pertaining to partition actions. All filings shall be with the Clerk.

Comment

20 Pa.C.S. § 3534 concerns distribution of assets in kind; it authorizes a court to partition real property in certain circumstances or to direct its sale, in others.

PUBLIC SALE OF REAL PROPERTY

Rule 12.9A. Public Sale of Real Property.

(a) After allowance of a public sale of real property, the petitioner shall, in addition to such notice as is required by law, give notice of the sale to each party in interest. The notice may be given by first class mail and must be given at least twenty (20) days prior to the date of the proposed sale. In addition, notice of the sale must be published one time in a newspaper of general circulation in the community where the real property is located.

(b) The notice shall bear the caption of the estate and shall contain:

(i) the address of the property and the municipality in which it is located;

(ii) the area of the property in terms of acres or square feet;

(iii) a list of the improvements on the property;

(iv) a deed or survey description of the property, if one is available;

(v) the name of the grantee of the last recorded deed for the property, together with the deed or record book volume and page; and

(vi) the liens and encumbrances thereon, including the identity of the lienholders and encumbrance holders.

Comment

For the power of personal representatives of an estate to sell real property, see 20 Pa.C.S. Chapter 33, Subchapter C. For the power of a guardian of a minor to sell real property, see 20 Pa.C.S. Chapter 51, Subchapter F. For the power of a guardian of the estate of an incapacitated person to sell real property, see 20 Pa.C.S. Chapter 55, Subchapter D.

INALIENABLE PROPERTY

Rule 12.12A. Inalienable Property.

After the filing of a petition to sell, mortgage, lease or exchange inalienable property pursuant to 42 Pa.C.S. Chapter 83, the matter shall proceed under Rule 3.5A of these rules.

DISTRIBUTION—SPECIAL SITUATIONS

Rule 13.3A. Report by Fiduciary. Distributee Whose Identity or Whereabouts Are Unknown.

(a) When the existence, identity or whereabouts of a distributee is unknown, the report shall be contained

within the body of a petition seeking approval to withhold or to make an award other than to the distributee. Notice of the filing of the petition shall be given as directed by special order of Court.

(b) The report shall set forth the nature of the investigation made to locate the distributee, in complete detail, and, in cases of intestacy, a family tree as complete as possible, supported by such documentary evidence as the fiduciary has been able to obtain. An investigation shall include, when appropriate, inquiries of relatives, friends and neighbors; residents of the household in which the decedent resided; labor unions; places of employment; social, fraternal or beneficial organizations; insurance companies; churches; schools; the Social Security Administration; the Veterans' Administration; and such other possible sources of information as circumstances may suggest, including naturalization records.

GUARDIANSHIP OF INCAPACITATED PERSONS

Rule 14.1A. Service of Notice of Filing of Petition and Hearing. Proof of Service.

(a) Notice of the petition for appointment of guardian and hearing shall be served by the petitioner upon those persons entitled thereto under 20 Pa.C.S. § 5511(a). A copy of the petition shall be attached to the notice. Service of the notice shall be given at least ten (10) days in advance of the hearing. The notice shall be substantially in the form prescribed by Appendix U of these Local Rules.

(b) Proof of service of the notice shall be presented to the Court at time of hearing.

(c) The petition shall have attached thereto a preliminary order of Court in the form prescribed by Appendix V of these Local Rules.

Rule 14.1B. Appointment of Counsel. Application.

The petitioner shall notify the Court at least seven (7) days prior to the final hearing upon the petition if counsel has not been retained by or on behalf of the alleged incapacitated person. Such notification shall consist of an application alleging the same and requesting the appointment of an attorney. Notice in advance of the presentation of such application is not required.

Rule 14.1C. Independent Evaluation.

A petition filed by an alleged incapacitated person seeking an order for an independent evaluation shall be presented to the Court in Motions Court pursuant to the Local Rules of Civil Procedure, after appropriate notice is given to the counsel for the petitioner, or, if unrepresented, to petitioner.

Rule 14.1D. Emergency Guardian.

(a) A separate petition for appointment of an emergency guardian shall be filed.

(b) After a petition for the appointment of an emergency guardian has been filed, the matter shall proceed on citation and hearing. The provisions of 20 Pa.C.S. § 5511, including those relating to counsel, shall be applicable, except when the Court has found that such provisions are not feasible under the circumstances. If a petitioner believes that one or more provisions of 20 Pa.C.S. § 5511 are not feasible under the circumstances, the petitioner shall state the factual basis for the same, and the Court may, in its discretion, dispense with compliance in the order awarding the citation. If not all required provisions have been complied with by the time of the hearing upon the petition, the Court may, in its

discretion at the hearing, further dispense with compliance, if compliance is shown to have been unfeasible.

(c) The petition shall have attached to it a preliminary order of court (emergency guardian) in form prescribed by Appendix W of these Local Rules.

(d) The citation issued in connection with a petition for appointment of emergency guardian shall be modeled after the citation prescribed by Pa.O.C. Rule 14.5, with appropriate changes. A proposed citation shall be presented to the Court for review at the time the petition is presented.

Rule 14.1E. Telephone Testimony.

If all parties or their attorneys of record agree, the Court will receive the testimony of a physician or other expert witness by telephone. In the event there is no such agreement, the Court will nonetheless consider permitting the same upon motion of any party presented at Motions Court in accordance with the Local Rules of Civil Procedure.

Rule 14.1F. Order of Appointment Not in Form of Decree Nisi.

An order appointing a guardian for an incapacitated person shall be in the form of a final order and not a decree nisi.

Rule 14.1G. Failure of Guardian of Estate to File Annual Report. Procedure.

In the event a guardian of an estate of an incapacitated person fails to file any report required by 20 Pa.C.S. § 5521(c)(1)(i), the Clerk shall so notify the Court. Thereafter, the Clerk shall give written notice of such failure to such persons and in such manner as the Court may direct.

Rule 14.1H. Testamentary Writings.

All testamentary writings of the incapacitated person, even those apparently revoked by subsequent instruments, shall, at the time of the filing of the inventory, be filed with the Clerk, to be kept under seal and not to be opened without order of court. The Clerk shall not transcribe, photocopy, microfilm or otherwise duplicate the writings, but shall merely docket their receipt; provided, however, that the Clerk shall provide the appointing judge with a photocopy of the same for retention in the judge's private file.

ADOPTION

Rule 15.1A. Filing.

All papers in adoption matters, including petitions for voluntary and involuntary termination, shall be filed with the Clerk. Every petition shall have a proposed order fixing a hearing date attached thereto. Notice regarding adoption-related petitions shall be given in accordance with statute.

Rule 15.1B. Orders Not in Form of Decrees Nisi.

An order terminating parental rights and an order decreeing an adoption shall each be in the form of a final order and not a decree nisi.

Comment

Pa.O.C. Rule 7.1(e) does not permit the filing of an exception to any order in involuntary termination or adoption matters under the Adoption Act.

Rule 15.4A. Involuntary Termination of Parental Rights. Form of Notice.

The notice required by 23 Pa.C.S. § 2513(b) shall designate the "Prothonotary of Armstrong County, Room

103, Armstrong County Courthouse, Kittanning, PA 16201 (telephone: 724-543-2500)" as the person from whom information can be obtained about legal help.

Comment

The Local Rules of Civil Procedure designate the Prothonotary as the person from whom information can be obtained about legal help. This rule makes the Prothonotary the source of similar information in orphans' court matters, as well.

Rule 15.5A. Adoption. Disclosure of Fees and Costs.

At the hearing upon the petition for adoption, there shall be offered in evidence a report, certified by counsel for the petitioner, setting forth the amount of fees, costs and expenses paid or to be paid to counsel, and any other fees, costs and expense paid or to be paid to an intermediary or any other person or institution, in connection with the adoption.

Comment

This rule mirrors the requirements of Pa.O.C. Rule 15.5(d).

TITLE OF RULES

Rules 17.1A. Title of Rules.

These rules shall be known as the Local Orphans' Court Rules and shall be cited as "L.O.C. Rule ____."

MISCELLANEOUS

Rule 18.1A. Notice by Clerk of Entry of Order, Decree, Etc.

(a) The Clerk shall immediately give written notice by regular mail of the entry of any order, decree, judgment, memorandum or opinion to the lawyer for the petitioner or accountant, or, if unrepresented, to the petitioner or accountant directly, and to all other parties in interest; provided, however, that the Clerk need not give such notice to anyone served by publication unless the person has personally appeared in writing in the proceeding.

(b) Service by the Clerk of a copy of the document itself shall be sufficient notice of its entry if the front page of the copy bears the date and time of its entry.

Comment

Rule 1.2C of these rules requires that the name and address of each party in interest be set forth in the body of any petition filed with the Clerk. The proof of service of the notice of the filing of an account or petition will set forth similar information. See Rule 5.4A of these rules. The proof of service of a citation will set forth the same information. See Rule 3.5B and Rule 3.5C of these rules. The Clerk will utilize these sources in determining who should receive notice of entry.

PART IV

LOCAL RULES GOVERNING CONDUCT, OFFICE STANDARDS AND CIVIL PROCEDURE FOR DISTRICT JUSTICES

(cited as L.R.C.P.D.J. No. ____)

APPELLATE PROCEEDINGS WITH RESPECT TO JUDGMENTS AND OTHER DECISIONS OF DISTRICT JUSTICES IN CIVIL MATTERS

Rule 1008. Appeal as Supersedeas.

(a) The procedure set forth in subsection (b) of this rule may be used as an alternative to the procedure set forth in Pa.R.C.P.D.J. No. 1008(B), but only when the judgment entered against the appellant includes no award of money

damages for physical damage to the leasehold property. The appellant shall bear the burden of demonstrating to the Prothonotary the applicability of subsection (b) of this rule.

(b) When an appeal is from a judgment of a district justice for the possession of real property, receipt by the district justice of the copy of the notice of appeal shall operate as a supersedeas only if the appellant at the time of filing the appeal deposits with the prothonotary a sum of money equal to the monthly rent payment due for the month in which the appeal was taken and by subsequently timely depositing a sum equal to the monthly rent with the prothonotary within thirty (30) days following the date of the appeal, and each successive thirty (30) day period thereafter.

(c) Upon motion presented at Motions Court pursuant to the Local Rules of Civil Procedure, the Court will strike an appeal whenever a subsequent rent payment required as a condition of a supersedeas has not been paid to the prothonotary.

PART V

LOCAL RULES OF JUDICIAL ADMINISTRATION

(cited as L.R.J.A No. _____)

MISCELLANEOUS ADMINISTRATIVE PROVISIONS

Rule 1901. Termination of Inactive Case. Notice.

(a) The Prothonotary shall list for general call on the first Monday of November of each year at 10:00 A.M. all civil matters in which no steps or proceedings have been taken for two (2) years or more prior thereto and shall give notice thereof to counsel of record, and to the parties for whom no appearance has been entered. If no action is taken or no written objection is docketed in such a matter prior to the commencement of the general call, the Prothonotary shall strike the matter from the list and enter an order as of course dismissing the matter with prejudice for failure to prosecute, under the provisions of this rule. If no good cause for continuing a matter is shown at the general call, an order shall be entered forthwith by the court for dismissal.

(b) The Clerk of Courts shall list for general call on the first Monday of November of each year at 10:00 A.M. all criminal proceedings in which no steps or proceedings have been taken for two (2) years or more prior thereto and shall give notice thereof to the District Attorney, any private prosecutor and the defendant. If no good cause for continuing a proceeding is shown at the general call, an order for dismissal shall be entered forthwith by the court.

(c) The Clerk of the Orphans' Court Division shall list for general call on the first Monday of November of each year at 10:00 A.M. all civil matters in which no steps or proceedings have been taken for two (2) years or more prior thereto and shall give notice thereof to counsel of record, and to the parties for whom no appearance has been entered. If no action is taken or no written objection is docketed in such a matter prior to the commencement of the general call, the Clerk of the Orphans' Court Division shall strike the matter from the list and enter an order as of course dismissing the matter with prejudice for failure to prosecute, under the provisions of this rule. If no good cause for continuing a matter is shown at the general call, an order shall be entered forthwith by the court for dismissal.

(d) Each District Justice shall annually provide to the Court Administrator on or before the first day of September in each year a list of all civil and criminal matters in

which no steps or proceedings have been taken for two (2) years or more prior thereto. The Court Administrator shall thereupon give notice to the parties in all civil matters, and to the police or private prosecutor, in all criminal matters, that the matter will be dismissed on the first Monday of November at 10:00 A.M. by the District Justice of the District in which the matter was commenced, unless good cause is shown. Each District Justice shall hear all objections to dismissal in the Third Floor Hearing Room of the Armstrong County Courthouse at 10:00 A.M. on the first Monday of November of each year.

(e) Notice of an opportunity for hearing on a proposed termination shall be given by the Prothonotary, Clerk of Courts, the Clerk of the Orphans' Court Division, or Court Administrator, as the case may be, as follows:

(i) in person or by regular mail to the last address of record of the parties or their counsel of record; or

(ii) by publication one time in the Armstrong County Legal Journal, at least thirty (30) days before the date of the general call, where notice by regular mail cannot be given or has been returned undelivered.

Rule 1904. Custody, Storage and Disposal of Exhibits.

(a) The term "official custodian," as used in this rule, shall mean the Prothonotary, Clerk of Courts, or Clerk of the Orphans' Court Division, as the case may be.

(b) All exhibits received in evidence, or offered and rejected, upon the hearing of any cause or motion shall be delivered to the official custodian, who shall keep the same in custody, unless otherwise ordered by the Court.

(c) All exhibits initially taken into custody by the official custodian shall be taken from the custody of the official custodian by the party who produced or offered them, or by such party's attorney of record, within ninety (90) days after the discontinuance of the case or the entry of a final judgment by the Court, or, in the event of an appeal, within ninety (90) days of the disposition of the case by the appellate court; otherwise, such exhibits shall be deemed to have been abandoned. The person seeking a return of exhibits shall, upon request, produce such identification as may satisfy the official custodian. After a return of exhibits, the official custodian shall enter the act upon the appropriate docket.

(d) The official custodian may petition the Court in writing for an order authorizing the destruction or disposal of any abandoned exhibits; provided, however, that the official custodian shall give written notice to the attorney of record of the party who produced or offered the exhibits, or if there is no attorney of record, to the unrepresented party, at least thirty (30) days in advance of the presentation of the petition, by regular mail sent to the attorney's or the party's last known address. The notice shall be substantially in the form prescribed by Appendix X of these Local Rules.

(e) After the destruction or disposal of an exhibit, the official custodian shall verify such destruction or disposal by affidavit filed in the appropriate case file. The affidavit shall include a description of the method and date of disposal.

RULES GOVERNING COURT REPORTING AND TRANSCRIPTIONS

Rule 5000.13. Retention and Safeguarding of Reporters' Notes.

(a) Every court reporter who is an employee of the County of Armstrong shall cause all notes of proceedings

to be stored and retained in the facilities owned by and provided by the County for such purposes.

(b) In the month of January of each year, every court reporter who is an independent contractor hired from time to time by the County shall deliver to the Court for storage, retention, and protection all notes of proceedings conducted two or more years earlier.

**PART VI
LOCAL LAW LIBRARY RULES**
(cited as L.L.L.R. No. _____)

Rule 1. Open to Lawyers and General Public Hours.

The Armstrong County Law Library ("Law Library") shall be open to lawyers and the general public during the regular business hours of the Court.

Rule 2. Purpose.

The Law Library shall serve as a legal research facility for the Court, County officials, lawyers and the general public. No books, other works or library equipment may be removed from the Law Library by anyone except the Court.

Rule 3. Role of President Judge.

The President Judge shall have authority to make all decisions pertaining to the Law Library. The President Judge shall be the chairman ex officio of the Law Library Committee.

Rule 4. Law Library Committee.

A committee of four resident lawyers appointed by the President Judge shall oversee the general operation of the Law Library and make such recommendations to the President Judge as may be appropriate from time to time. The Law Library Committee shall make recommendations for the selection of books, other works and equipment for the Law Library. The members of the Law Library Committee shall serve without compensation.

Rule 5. Law Librarian.

The general day-to-day operations of the Law Library shall be conducted by a Law Librarian appointed by the President Judge. The compensation of the Law Librarian shall be fixed in the same manner as that of other Court personnel. The Law Librarian shall be supervised by the President Judge.

APPENDIX A

[CAPTION]

**COVER SHEET
FOR PETITION REQUIRING EVIDENTIARY
HEARING**

-1-

Has any judge heard this matter previously?

_____ Yes _____ No

-2-

If yes, which judge has heard it? _____

-3-

How much time will be reasonably necessary to conduct the hearing?

_____ minutes _____ hours _____ days

I hereby certify all of the above statements are true and correct to the best of my knowledge.

Attorney for Petitioner

APPENDIX B

[CAPTION]

ORDER

AND NOW, this _____ day of _____, 20____, upon consideration of the foregoing petition, it is hereby ORDERED 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 respondent;

3) the petition shall be decided under Pa.R.C.P. No. 206.7;

4) an evidentiary hearing on disputed issues of material fact shall be held on _____ (day of week), _____, 20____, at _____ M. in Courtroom No. _____ of the Armstrong County Courthouse in Kittanning, Pennsylvania;

5) notice of the entry of this Order shall be provided to all parties by the Prothonotary.

BY THE COURT,

J.

APPENDIX C

[CAPTION]

APPLICATION FOR CONTINUANCE

NOW COMES _____, by and through
(Name of Applicant)
(his) (her) (its) attorney, _____, who
(Name of Attorney)
applies for a continuance based on the following:

1. The above-captioned matter is scheduled for

(Name of proceeding, i.e., argument, hearing, trial, etc.)
on the _____, 20____, at _____ M., before _____.
(Name of Judge, Master, etc.)

2. The moving party for said proceeding is

(Name of party whose claim is to be heard)

3. The other parties are:
_____ represented by: _____
_____ represented by: _____
_____ represented by: _____

4. The proceeding was scheduled by _____
(Order or notice)
dated _____.
(Date)

5. The proceeding (has) (has not) been previously continued (_____ time(s)). (The party filing this application has obtained a continuance _____ time(s)).

6. A continuance is requested because _____

(State specific reason for request. If continuance is requested because of a conflicting court matter, state (1) name of the case; (2) the court; (3) the nature of the scheduled proceeding; (4) the date, time and expected

duration of the conflicting proceeding; and (5) the date of the order or notice scheduling the conflicting proceeding. Attach a copy of the order or notice.)

7. (a) _____ The following parties have been notified of this request and have no objection:

(b) _____ The following parties have not been notified of this request:

(c) _____ Efforts to notify the opposing party include:

(d) _____ The following parties objected to the continuance for the reason stated herein: _____

8. The proceeding, when heard, will not exceed _____ (hours) (days).

9. I specifically request a continuance to the next available date.

Respectfully submitted,

[CAPTION]
ORDER

AND NOW, this _____ day of _____, _____, upon consideration of the attached Application of _____ (Name of Applicant) requesting a continuance:

_____ the Application is denied.

_____ the Application is granted and the matter is scheduled for _____, 2 _____ at _____ .m. before _____ (Date) (Time)

_____ is hereby continued until _____ (Name of judge, master, etc.) _____, 2 _____ at _____ .m. (Date) (Time)

The applicant shall promptly notify all interested parties of this Order. Thereafter, the Prothonotary shall serve notice of the entry of this Order upon all parties.

BY THE COURT,

_____ J.

APPENDIX D

[CAPTION]

NOTICE OF INTENT TO PRESENT MOTION, PETITION OR APPLICATION TO MOTIONS JUDGE

To: _____ (name of person)

TAKE NOTICE that the attached _____ (Name of legal paper) will be duly presented to the Motions Judge in Motions Court on the second floor of the Armstrong County Courthouse, Kittanning, Pennsylvania on (day of week), _____, 2 _____, at _____ .M. The Motions Judge will be asked to sign an order granting the prayer for relief. You may appear and be heard at that time if you wish.

Date: _____

Attorney

APPENDIX E

[CAPTION]

CERTIFICATE OF SERVICE (Civil Division Matter)

I, the undersigned, hereby certify that I caused a copy of the attached Notice of Intent to Present Motion, Petition or Application to Motions Court Judge to be served upon

Name of Person Method of Service Date of Service

and that attached to said Notice was a true and correct copy of the legal paper referred to therein.

Date: _____

Attorney

APPENDIX F

[CAPTION]

ORDER

AND NOW, this _____ day of _____, 2 _____, upon consideration of the _____ (the nature of the preliminary objection and the name of the objector) _____, it is ORDERED as follows:

1. An evidentiary hearing to be followed by oral argument will be held upon the Preliminary Objections on _____ (day of week) _____, 2 _____, at _____ .M. in Courtroom No. _____ of the Armstrong County Courthouse in Kittanning, Pennsylvania. (Strike if no evidentiary hearing is necessary.)

OR

1. Oral argument upon the Preliminary Objections will be held on _____ (day of week) _____, 2 _____, at _____ .M. in Courtroom No. _____ of the Armstrong County Courthouse in Kittanning, Pennsylvania. (Strike if no evidentiary hearing is necessary.)

2. _____ (Name of party to whom preliminary objections are addressed) shall file a brief concerning the issues raised in the Preliminary Objections on or before _____, 2 _____.

3. Notice of the entry of this Order shall be served by the Prothonotary.

BY THE COURT,

_____ J.

APPENDIX G

[CAPTION]

ORDER

AND NOW, this _____ day of _____, 20____, upon consideration of the _____ (the nature of the motion _____), it is hereby ORDERED as follows:

1. Oral argument upon the Motion will be held on _____ (day of week) _____, 20____, at _____M. in Courtroom No. _____, of the Armstrong County Courthouse, Kittanning, Pennsylvania.

2. _____ (Name of party defending against motion) shall file a brief concerning the issues raised in the Motion on or before _____, 20____.

3. Notice of the entry of this order shall be served upon all parties by the Prothonotary.

BY THE COURT,

_____ J.

APPENDIX H

[CAPTION]

ORDER

You, _____ (Name of Defendant or Respondent), have been sued in court concerning custody, partial custody, visitation or relocation of the children:

You are ORDERED to appear in person in Room 202 of the Armstrong County Courthouse in Kittanning, Pennsylvania on _____ (day of week) _____, 20____, at _____M. for a conciliation conference.

If you fail to appear as required by this order, an order concerning custody, partial custody, visitation or relocation may be entered against you or the court may issue a warrant for your arrest.

YOU SHOULD TAKE THIS PAPER 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.

PROTHONOTARY OF ARMSTRONG COUNTY
ARMSTRONG COUNTY COURTHOUSE
ROOM 103
KITTANNING, PA 16201
724-548-2500

AMERICAN WITH DISABILITIES ACT OF 1990

The Court of Common Pleas of Armstrong County is required by law to comply with the Americans with Disabilities Act of 1990. For information about accessible facilities and reasonable accommodations available to disabled individuals having business before the court, please contact our office. All arrangements must be made at least 72 hours prior to any hearing or business before the court. You must attend the scheduled conference or hearing.

BY THE COURT

Date: _____ J.

APPENDIX I

[CAPTION]

CONSENT ORDER FOR MEDIATION IN A CHILD CUSTODY MATTER

AND NOW, this _____ day of _____, 20____, the parties having consented to the entry of this Order as witnessed by their signatures below, it is hereby ORDERED as follows:

1) The parties are hereby referred to mediation. Mediation shall be conducted by _____ (Name of mediator) in accordance with Pa.R.C.P. No. 1940.1 through Pa.R.C.P. No. 1940.9, inclusive.

2) The compensation of the mediator shall be paid by the parties as follows: _____% by Plaintiff/Petitioner and _____% by Defendant/Respondent in accordance with the following: _____.

3) The following issues shall be the subject of the mediation:

4) The rules set forth in 42 Pa.C.S. § 5949, relating to confidential mediation communications and documents, shall be applicable.

5) Other:

BY THE COURT,

_____ J.

CONSENTED TO BY:

_____ Date: _____
Plaintiff/Petitioner

_____ Date: _____
Defendant/Respondent

APPENDIX J

[CAPTION]

NOTICE

TO: _____ (Name of Person)

TAKE NOTICE that an action has been instituted for the wrongful death of _____ (Name of decedent) at the above-captioned number.

A copy of the complaint is attached. (Strike if inapplicable.)

Name of Attorney for Plaintiff
Address
Telephone Number

APPENDIX K

[CAPTION]

CONSENT

I, _____, having read and considered the contents of the foregoing _____ (type of petition), do hereby consent to the Court granting the prayer for relief, and I join in such prayer.

Date: _____

Witnessed: _____

APPENDIX L
[CAPTION]

ORDER AWARDING CITATION

AND NOW, this _____ day of _____, 20____, upon presentation and consideration of the foregoing Petition, it is hereby **ORDERED** that a citation be awarded, directed to _____, to show cause why the relief prayed for therein should not be granted.

The citation shall be returnable on _____, 20____.

OR

The citation shall be returnable within twenty (20) days of the date of its service upon the person cited.

BY THE COURT,

_____ J.

APPENDIX M
[CAPTION]

NOTICE

TO: _____ (Name of Person)

TAKE NOTICE that _____ (name of petitioner) filed a Petition _____ (type of petition) with the Clerk of the Orphans' Court Division in connection with the above-captioned matter on _____, 20____. A copy of the petition is attached. You have twenty (20) days from the date you were served with this notice to file an Answer with the Clerk of the Orphans' Court Division admitting or denying the averments of the Petition, specifically stating your objections thereto and averring the facts which you rely upon. (Strike if inapplicable.)

OR

You have until _____, 20____ to file an Answer with the Clerk of the Orphans' Court Division admitting or denying the averments of the Petition, specifically stating your objections thereto and averring the facts which you rely upon. (Strike if inapplicable.)

If you do not file a timely Answer, the Court may grant the prayer of the Petition without further notice to you.

Name of Attorney for Petitioner
Address
Telephone Number

APPENDIX N
[CAPTION]

PRAECIPE TO TRANSMIT RECORD

TO THE CLERK OF THE ORPHANS' COURT DIVISION:

I, the undersigned, hereby direct the Clerk of the Orphans' Court Division forthwith to transmit the record of this matter, including this praecipe, to the Court for review and action. I certify that notice of _____ (type of petition) was served upon all parties in interest and that the required proofs of service have been filed. The date of service of the last notice to be served was _____, 20____.

Attorney for Petitioner

APPENDIX O
[CAPTION]

ORDER TO TRANSMIT THE RECORD

AND NOW, this _____ day of _____, 20____, upon consideration of Petitioner's Motion to Transmit the Record, it is hereby **ORDERED** that the Clerk of the Orphans' Court Division immediately transmit the full record of the above-captioned matter to the Court for further action.

BY THE COURT,

_____ J.

APPENDIX P

IN THE COURT OF COMMON PLEAS OF
ARMSTRONG COUNTY, PENNSYLVANIA

ORPHANS' COURT DIVISION

ESTATE OF _____, :
DECEASED, LATE OF _____ : Estate No. _____
_____ :

Date of Death: _____
Date of first publication of Letters: _____

Date Letters Granted: _____
Date to which Account is Stated: _____

ACCOUNT

RECEIPTS

Principal—Realty

Total Principal—Realty \$ _____

Income—Realty

(include date of receipt, source of payment and amount)

Total Income—Realty \$ _____

Principal—Personalty

Total Principal—Personalty \$ _____

Income—Personalty

(include date of receipt, source of payment and amount)

Total Income—Personalty \$ _____

DISBURSEMENTS

Costs of Administration

(include date of payment, payee and amount)

Total Costs of Administration \$ _____

Preferred Debts

(include date of payment, payee and amount)

Total Preferred Debts \$ _____

Other Debts

(include date of payment, payee and amount)

Total Other Debts \$ _____

Advance Distributions

(include date of payment, distributee and amount)

Total Advance Distributions \$ _____

RECAPITULATION

Receipts:
 Principal—Realty \$ _____
 Income—Realty \$ _____
 Principal—Personalty \$ _____
 Income—Personalty \$ _____
 Total Receipts \$ _____

Disbursements:
 Costs of Administration \$ _____
 Preferred Debts \$ _____
 Other Debts \$ _____
 Advance Distributions \$ _____
 Total Disbursements \$ _____

Balance for Distribution \$ _____

AFFIDAVIT

STATE OF _____ SS
 COUNTY OF _____

The above named Accountant(s) being duly sworn according to law depose(s) and say(s) that Letters _____ were granted to _____ and advertised more than four months prior to the filing of this Account; that the disbursements shown in the Account have been made to the parties entitled thereto and that the Account as stated is true and correct as _____ verily believe.

Sworn to and subscribed before me this ____ day of _____, 2 ____.

APPENDIX Q

[CAPTION]

NOTICE

Attached is a true and correct copy of the account of _____ which was filed in the Office of the Clerk of the Orphans' Court Division on _____, 2 ____, and which will be presented to the Court for confirmation on _____, 2 ____, unless written objections are filed.

Also attached is a proposed decree of distribution, which was filed on the same day, and which sets forth the distribution as proposed by the accountant(s). It will be presented to the Court for approval at the same time the account is presented. (Strike if inapplicable.)

After the account is confirmed, the Court will be asked to appoint an Auditor to determine distribution. (Strike if inapplicable.)

Also attached is a copy of the will. (Strike if inapplicable.)

Unless written objections to the account are filed in accordance with the Local Rules of Orphans' Court on or before _____, 2 ____, the Court may confirm the account.

Unless written objections to the proposed decree of distribution are filed in accordance with the Local Orphans' Court Rules on or before _____,

2 ____, the Court may approve it and enter a decree directing distribution as proposed. (Strike if inapplicable.)

Dated this _____ day of _____, 2 ____.

 Attorney

Address:

APPENDIX R

[CAPTION]

DECREE CONFIRMING ACCOUNT AND DIRECTING DISTRIBUTION

AND NOW, this _____ day of _____, 2 ____, it appearing that the account was duly filed; that proper notice was given to all parties in interest; and that no objections have been filed which require consideration before the entry of this decree; NOW, THEREFORE, the account is confirmed, the statement of proposed distribution is approved, and the accountant is directed to make distribution as follows:

BY THE COURT,

J.

APPENDIX S

[CAPTION]

NOTICE OF FILING AUDITOR'S (MASTER'S) REPORT

TAKE NOTICE, that the undersigned, the duly appointed auditor, (master,) filed his (her) Report with the Clerk of the Orphans' Court Division on _____, 2 ____. A copy of the Report is attached.

Under the Local Orphans' Court Rules, you have ten (10) days from the date the Report was filed to file written exceptions to it with the Clerk of the Orphans' Court Division. If you fail to do so, the Court may confirm the Report (may adopt the recommendations of the Report).

 Auditor (Master)

APPENDIX T

[CAPTION]

NOTICE OF HEARING FOR APPOINTMENT OF GUARDIAN OF MINOR

TO: _____ (Name of Person)

TAKE NOTICE that a Petition for the Appointment of a Guardian of (the person, the estate or both) has been filed by (name of petitioner) seeking the appointment of (name of proposed appointee). A hearing will be held on (day of week), _____, 2 ____, at .M. in Courtroom No. _____ of the Armstrong County Courthouse in Kittanning, Pennsylvania.

You may file written objections to the Petition with the Clerk of the Orphans' Court Division at any time before the hearing is held. Even if you do not file written objections, you may appear at the hearing and be heard if you wish.

 Attorney
 Address
 Telephone Number

APPENDIX U

[CAPTION]

NOTICE OF PETITION FOR APPOINTMENT OF GUARDIAN AND HEARING

TO: (Name of Person)

TAKE NOTICE that a Petition for Appointment of Guardian of the Person and/or the Estate has been filed by (name of petitioner) in connection with this matter. A copy of the petition is attached.

The Court will hold a hearing upon the petition on (day of week), 2, at .M. in Courtroom No. of the Armstrong County Courthouse, Kittanning, Pennsylvania. You may appear at that time and be heard if you wish.

Attorney
Address
Telephone Number

APPENDIX V

[CAPTION]

PRELIMINARY ORDER

AND NOW, this day of, 2, the foregoing Petition for Appointment of Guardian having been presented in open Court, upon consideration thereof, it is ORDERED that a Citation be awarded, directed to the above-named alleged incapacitated person, to show cause why he/she should not be adjudged an incapacitated person and a plenary/limited guardian of his/her person and estate be appointed.

The time and place of hearing on the petition are fixed for, 2, at .M. in Courtroom No. of the Armstrong County Courthouse, Kittanning, Pennsylvania.

The petitioner shall give notice to all persons who are entitled thereto as intestate heirs under 20 Pa.C.S. § 5511(a), at least ten (10) days in advance of the hearing.

BY THE COURT, J.

APPENDIX W

[CAPTION]

PRELIMINARY ORDER (Emergency Guardian)

AND NOW, this day of, 2, the foregoing Petition for Appointment of Emergency Guardian having been presented in open Court, upon consideration thereof, it is ORDERED that a Citation be awarded, directed to the above-named alleged incapacitated person, to show cause why an emergency plenary/limited guardian of his/her person and estate should not be appointed.

The time and place of hearing on the petition are fixed for, 2, at .M. in Courtroom No. of the Armstrong County Courthouse, Kittanning, Pennsylvania.

The Court finds that

[] Service of notice of the hearing on the petition for emergency guardian is not feasible under the circumstances and is waived.

[] Notice of the hearing to the following persons is feasible under the circumstances and directs that the same be given as indicated:

(Blank lines for names)

[] Strict compliance with 20 Pa.C.S. § 5511(e); relating to contents of the petition, is not feasible under the circumstances and is waived.

[] Strict compliance with 20 Pa.C.S. § 5511(a), pertaining to the right to counsel, is not feasible under the circumstances and is waived in connection with the petition for appointment of emergency guardian only.

BY THE COURT, J.

APPENDIX X

[CAPTION]

NOTICE OF INTENTION TO DESTROY OR DISPOSE OF COURT EXHIBITS

TO: (Name of Person)

Please take notice that I intend to petition the President Judge of the Court of Common Pleas of Armstrong County for an order authorizing the destruction or disposal of the following exhibit(s) currently in my custody:

Under Local Rule of Judicial Administration No. 1904, you have thirty (30) days from the date of the mailing of this notice to retrieve custody of the exhibit(s) from me; otherwise, I will present my petition and, if authorized by the President Judge, destroy or dispose of the same without further notice to you.

You may retrieve the exhibit(s) at my office in the Armstrong County Courthouse, during regular business hours.

Date of Mailing: (Signature of Official Custodian) (Title of Official Custodian)

[Pa.B. Doc. No. 02-1554. Filed for public inspection September 6, 2002, 9:00 a.m.]

CHESTER COUNTY

Amendment of Local Orphans' Court Rule L6.4A; 1502-9999

Order

And Now, this 6th day of August, 2002, Rule L6.4A is hereby Amended to reflect the change in the dates of the call of the audit list for July and August. The new Rule L6.4A shall read as follows:

Rule L6.4A. Audits.

Audit List-When Called—The audit list will be called on the first Wednesday of every month except July and September and on the third Wednesday of September. There will be no audit list in July. Each audit list shall include continued accounts and new accounts eligible for audit. No attorney need be present unless the attorney desires to file written objections or a claim.

This Rule is hereby *Adopted*, effective January 1, 2003¹.

By the Court

PAULA FRANCISCO OTT,
Judge

[Pa.B. Doc. No. 02-1555. Filed for public inspection September 6, 2002, 9:00 a.m.]

¹Original Rule L6.4A was adopted October 25, 1993, effective January 1, 1994.

RULES AND REGULATIONS

Title 4—ADMINISTRATION

DEPARTMENT OF GENERAL SERVICES

[4 PA. CODE CH. 86]

Use of Public Areas of the Capitol Complex

The Department of General Services (Department), acting under sections 2402 and 2416 of The Administrative Code of 1929 (71 P.S. §§ 632 and 646), amended Chapter 86 (relating use of the public areas of the Capitol Complex—statement of policy).

Purpose of Amendments

The Department has made changes over the past 4 years to security in and around the Capitol Complex. The attacks of September 11, 2001, in New York and Washington and the crash in western Pennsylvania have caused the Department to enhance security even beyond what it had previously planned. Certain changes in security will have an impact on visitors to the Capitol Complex. The amendments will:

- a. Change the hour of opening of buildings in the Capitol Complex from 6 a.m. to 7 a.m.
- b. Designate certain access points as visitor entrances.
- c. Require visitors to undergo screening and have their possessions X-rayed.

Fiscal Impact

The Department has expended significant funds to enhance security in and around the Capitol Complex. The costs include personnel, equipment, training and construction. There are no costs associated with these amendments.

Paperwork Requirements

There are no paperwork requirements.

Statutory Authority

The Department's authority for these amendments is contained in sections 2402 and 2416 of The Administrative Code of 1929.

Effective Date

The amendments take effect September 5, 2002.

Contact Person

For information regarding the amendments, please contact Gregory C. Santoro, Chief Counsel, Room 603 North Office Building, Harrisburg, PA 17125.

KELLY POWELL LOGAN,
Secretary

(Editor's Note: The regulations of the Department of General Services are amended by amending the statements of policy in §§ 86.1 and 86.3—86.6, to read as set forth in Annex A.)

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

Annex A

TITLE 4. ADMINISTRATION

PART III. GENERAL SERVICES

Subpart E. PUBLICATIONS

CHAPTER 86. USE OF THE PUBLIC AREAS OF THE CAPITOL COMPLEX—STATEMENT OF POLICY

§ 86.1. Introduction.

(a) The public areas of the Pennsylvania State Capitol Building and the Capitol Complex are under the jurisdiction of the Department. The public areas of the Capitol include the Rotunda and its balconies; the main corridors; the grand staircase; the ground floor entrances; the cafeteria, when open; the East Wing Rotunda and its balconies; the first floor exterior porches and staircases; all exterior building surfaces; and the Capitol grounds, defined as the property on which the Capitol building is situated. The Capitol Complex consists of that property which is delineated on the map in Appendix A. The public areas of the buildings within the Capitol Complex include the lobbies, elevators and common areas.

(b) The public areas of the Capitol Complex must be maintained as intact, attractive, safe and readily available to the thousands of individuals who visit and work there. The Capitol Complex also must be available to individuals who wish to exercise their constitutional rights to assemble and to communicate their views to government officials and the public. The Department has taken steps to secure parts of the Capitol Complex. The focus on these steps became more critical after the September 11, 2001, attacks on the World Trade Center in New York and the Pentagon in Washington and the aircraft crash in western Pennsylvania. There will be designated visitor entrances with security screening checkpoints. Capitol Police will conduct visitor screening using walk-through metal detectors, hand held metal detectors, X-ray machines, search procedures and CCTV monitors. The Department will post signs advising visitors of access requirements and rights.

(c) The policies and procedures in this chapter will be followed by the Department in its administration, operation and preservation of the public areas of the Capitol Complex. At no time will the application or administration of these policies and procedures be influenced or affected by considerations of age, sex, race, national origin, handicap, religion, partisan politics or the content of any written or oral communication or other expressive activity. Nothing in this chapter should be construed or applied in a manner that is inconsistent with Chapter 85 (relating to exercise of First Amendment rights on Commonwealth property), which is incorporated herein and made a part hereof.

§ 86.3. Policy governing the public areas of the Capitol Complex.

In its administration, operation and preservation of the Capitol Complex, the policy of the Department relating to the public use of all public areas of the Capitol Complex will be as stated in this section. For Department policy relating specifically to the interior or exterior public areas of the Capitol Complex, see §§ 86.4 and 86.5 (relating to policy governing the interior public areas of the Capitol Complex; and policy governing the exterior public areas of the Capitol Complex).

(1) *Discrimination.* A public event or exhibit that discriminates on the basis of race, national origin, religion, sex, age, handicap, partisan politics or the content of any written or oral communication or other expressive activity will not be permitted.

(2) *Interference with Commonwealth business.* A public event or exhibit within the Capitol Complex may not interfere with a Legislative session or the conduct of public business by agencies of the Commonwealth. An event or exhibit may not threaten the safety and well being of the individuals conducting the work of the General Assembly or Commonwealth agencies.

(3) *Emergencies.* In case of fire, bomb threat, utility malfunction, structural failure, other unforeseen emergency, threat endangering public safety or health or in the interest of maintaining the necessary level of security, the Secretary may delay or postpone any scheduled event until the emergency or threat is over, and until the event can be rescheduled.

(4) *Scheduling.* Subject to the provisions of Chapter 85 (relating to exercise of First Amendment rights on Commonwealth property), use of the Capitol by an individual or organization for an event or exhibit is authorized only if the event or exhibit has been scheduled with the Secretary in accordance with the procedures in § 86.6 (relating to scheduling events and exhibits).

(5) *Responsibilities of users of the Capitol Complex.* Individuals or organizations are responsible for returning the areas used in conducting their events or exhibits to their original condition. Individuals or organizations are responsible for any vandalism, damage, breakage, loss or other destruction to the Capitol Complex caused by that individual or organization. The Department will assess individuals or organizations for damages incurred. The cost of the repair will include the costs for the services of specialists in relevant historical restoration skills as determined by the Secretary.

(6) *Obligation to the Commonwealth to indemnify and hold harmless.* Individuals and organizations using the Capitol Complex will be required by the Department to indemnify and hold harmless the Commonwealth, its departments, agents and employees, from and against all suits, damages, claims or other liabilities due to personal injury or death, damage to or loss of property to the Commonwealth or to others, or for any other injury or damage arising out of or resulting from the use of the Capitol Complex.

(7) *Food and beverages.* Food and beverages may be served at an approved event or exhibit only with the approval of the Secretary. A request for permission to serve food and beverages shall be submitted in writing before the scheduled event or exhibit and shall conform to the following:

(i) A description of the type of food and beverages to be served, the desired service area and the identification of the caterer, if applicable, shall be provided.

(ii) The applicant shall agree to assume full responsibility for the preparation, service and consumption of the food and beverages provided during the event or exhibit.

(iii) The applicant shall assure that the food and beverage service will not cause physical damage to the building or grounds.

(iv) Alcoholic beverages may not be served or consumed in a public area within the Capitol Complex, except with the express permission of the Secretary.

(8) *Exhibits.* The Department will allow exhibits subject to the following conditions:

(i) The Commonwealth is not responsible for damage to or loss or theft of exhibits during the period of their installation, display or removal. Unless otherwise approved by the Secretary, special security required for an exhibit shall be provided by the exhibit's sponsor.

(ii) Exhibitors shall bear the cost of assembling, mounting, displaying and removing exhibits and of cleaning and restoring the exhibit space to its original condition under the supervision of the Secretary.

(iii) Displays shall be freestanding. Exhibits may not hang from walls or ceilings or be affixed to doors, windows, railings or other building surfaces (except for standing on the floor). Exhibits may not hang or be affixed to trees, shrubbery or other plantings, statuary, monuments, fences, light fixtures, light wells or the exterior surfaces of buildings. These items shall be removed at the expense of the person or organization responsible for the improper placement, and damages caused by the placement or removal will be assessed against the persons or organizations responsible.

(iv) Exhibits shall contain a disclaimer stating that the display is not owned, maintained, promoted, supported by or associated with the Commonwealth.

(v) Exhibits may be scheduled for display for up to 14 calendar days, subject to availability of time and space.

(vi) Requests for exhibit space shall include a clear layout, scale drawing or sketch of the proposed exhibit, preferably, as it will be displayed. The dimensions of the space required should be indicated, as well as the manner in which the exhibit will be mounted or displayed.

(9) *Certain signs and other displays prohibited.* No item or material with the potential to cause property damage may be used. The posting or affixing of signs, announcements or other documents on an exterior or interior wall, ceiling, floor, door, window or other surface of public areas not designed for that purpose is prohibited. Stickers, labels, tape or other adhesive material that might leave a residue or otherwise damage interior or exterior surfaces, including porches, stairs, statuary, monuments, light wells, fences and trees, are also prohibited. Tacks, nails, staples or other attachments may not be used. No item may be leaned against or tied to exterior or interior walls, pillars, portraits, furnishings, staircases or other features of any building. Items described in this paragraph will be removed at the expense of the person or organization responsible for the improper placement, and damages caused by the placement or removal will be assessed against the persons or organizations responsible.

(10) *Removal of signs and other displays.* Items or materials shall be removed promptly after an exhibit or event.

(11) *Equipment.* The Department has limited equipment (for example, public address system, chairs, tables, podium, and the like) for use at exhibits or events. Arrangements may be made for this equipment upon payment of reasonable charges, if available; otherwise desired equipment shall be provided by the individuals or organization sponsoring the event or exhibit. If equipment is required, an applicant should contact the Secretary to discuss availability of equipment and its intended use, and to place a reservation. Requests for equipment should be made at least 1 week in advance of the event or exhibit. Individuals or organizations using this equipment will be held responsible by the Department for damage to or loss to the equipment.

(12) *Audio and sound amplifying equipment.* No audio or sound amplifying equipment may be used the sound level of which interferes with any Legislative session or the conduct of public business by the General Assembly or Commonwealth agencies.

(13) *Fees and other charges.* The Department may charge fees for the use of equipment, power and labor to set up, operate and remove equipment, clean up and for other appropriate requirements.

(14) *Commonwealth property.* No person may remove Commonwealth property from the Capitol Complex except as permitted in the normal course of business, unless the removal has been previously authorized in writing by the Secretary.

(15) *Security.* To enhance security and public safety, visitors and other persons without a photo identification access badge will be subject to the procedures in § 86.4 (relating to policy governing the interior public areas of the Capitol Complex). Proper identification of employees and other visitors may be demanded at any time. If the facility is closed during an emergency, access may be denied for the duration of the emergency. Employees or other persons may be required to sign a registration sheet after normal working hours or when the building is closed.

(16) *Removal of persons.* A person who refuses to adhere to the policy of the Department will be subject to immediate removal from the building or grounds, or both, by Capitol security as authorized by section 2416 of The Administrative Code of 1929 (71 P. S. § 646). Nothing contained in this paragraph will be construed as limiting prosecution under an existing or future law.

§ 86.4. Policy governing the interior public areas of the Capitol Complex.

In its administration, operation and preservation of the Capitol Complex, the policy of the Department relating to the public use of the interior public areas of the Capitol Complex will be as stated in this section.

(1) *Visitor entrances.* Except as provided in this section, visitors (including infants and small children) will be required to enter at the designated visitor entrance for screening and pass through the metal detectors at the security-screening checkpoint. All packages, briefcases, handbags, backpacks, totes, containers and mail will be scanned by the X-ray machine.

(2) *Electronic equipment.* Electronic equipment/devices such as laptop computers, palm pilots, cell phones, pagers, video cameras, CD players, radios, and the like, should be screened using standard X-ray procedures.

(i) There will be a procedure for a visitor who requests a hand inspection.

(ii) The individual should be asked to remove the device from its carrying case.

(iii) The carrying case is to be X-rayed using standard X-ray procedures.

(iv) The visitor shall be asked to "power-up" the device and insure the device is operational and that the individual is familiar with the device.

(v) The exterior of the device will be checked for signs of tampering.

(vi) The weight of the device should feel accurate as to the type of device that it is.

(vii) There will be screening procedures for electronic equipment and camera screening.

(3) *Registration.* All visitors will be required to register and sign in at the designated visitor center and will receive a timed or disposable visitor badge issued by the Bureau of Police and Safety.

(4) *Visitor rights.* Visitors will have certain rights pertaining to the screening process.

(i) A visitor will have the right to refuse screening, which includes the visitor, the inspection of hand-carried items, the right to withdraw from screening of himself and hand-carried items.

(ii) A visitor who refuses screening or inspection of hand-carried items will have the right to withdraw unless an obvious threat has been identified.

(iii) If the visitor has exercised the right to withdraw and poses no threat, neither the individual nor any hand-carried item may enter the building.

(5) *Exception for persons with pacemakers/defibrillators.* If a visitor, vendor, lobbyist or member of the media desires to enter a building with screening and X-ray equipment, and states that he has a pacemaker or defibrillator and cannot go through the walk-through metal detector, the individual will be required to remain in full view of the officer and to present himself for hand-held metal detection. There will be appropriate equipment to conduct the screening.

(6) *Americans with Disabilities Act (ADA) (42 U.S.C.A. §§ 12101—12213) considerations.* In accordance with the ADA, a security station will be established at the ADA accessible entrances and will have the same machinery, items and procedures as the nonaccessible entrances and will include a metal detection wand.

(i) The accessible route and entrance will have the appropriate ADA designated signs. Individuals with disabilities will be thoroughly screened as well.

(ii) Those performing screening functions will be required to exercise sensitivity to the individual's physical condition.

(iii) If the individual is in a wheel chair and cannot be removed from the wheel chair, a same sex officer must conduct a whole-body pat-down search.

(iv) Permission must be obtained from the visitor before proceeding. If permission is denied, access may be denied.

(v) The wheelchair will be searched to insure that no weapons, contraband or explosive devices are concealed in any part of the chair.

(vi) Other hand-carried items should be screened using standard procedure.

(7) *Guide dogs.* Guide dogs will be required to pass through the metal detection equipment alone. The metal in a dog's collar/harness may sound the metal detection alarm. The dog will be visually inspected.

(8) *Hours of operation.* Except as provided by paragraph (9), Capitol visiting hours for the public are from 7 a.m. to 6 p.m. daily, except Saturdays, Sundays and State holidays. The Rotunda will be accessible to the public on Saturdays, Sundays and State holidays between 9 a.m. and 4 p.m. When either house of the General Assembly or a Legislative committee is in session prior to 7 a.m. or after 6 p.m., or on Saturday, Sunday or a State holiday, the Capitol will be open to the public with the commencement of the session and closed 2 hours after adjournment of the Senate, House of Representatives or Legislative

committee. Public hours of operation for the other buildings within the Capitol Complex will be posted.

(9) *Special events after public hours.* In accordance with § 86.6 (relating to scheduling events and exhibits), the Secretary may schedule special events to occur between the hours of 6 p.m. and 12 a.m. on weekdays and between the hours of 4 p.m. and 12 a.m. on weekends and Commonwealth holidays. Special events sponsored and conducted by an official or agency of the Commonwealth, including the General Assembly, for official governmental purposes may be open to the public in the discretion of the Commonwealth official or agency and the Secretary. A special event sponsored or conducted by a person or entity which is not an official or agency of the Commonwealth or which is not for official government purposes will not be open to the public. The Secretary will prescribe the conditions applicable to events scheduled after visiting hours.

(10) *Emergencies.* In case of fire, bomb threat, utility malfunction, structural failure, other unforeseen emergency, threat endangering public safety or health, or in the interest of maintaining the necessary level of security, the Secretary or Capitol Security may lock any or all buildings at any time and require that the entrances be used only as a means of egress. No person may enter or attempt to enter through an entrance which is closed due to emergency conditions until the emergency is over.

(11) *Smoking.* Smoking may be permitted in specifically designated areas.

(12) *Alcoholic beverages.* Alcoholic beverages may not be served or consumed in any public area within the Capitol Complex, except with the express permission of the Secretary.

(13) *Ingress and egress.* An event or exhibit may not obstruct entrances or block traffic flow through the building.

(14) *Furnishings.* Moving furnishings, such as furniture, lighting and paintings, by the organizers, conductors or participants at an event or exhibit is not permitted without the permission of the Secretary.

(15) *Movement of furniture.* Tables, displays, chairs or other items may not be dragged or rolled on the floors of the Rotunda and the East Wing Rotunda.

(16) *Commercial activities.* No individual or organization may engage in commercial, retail or business activities, whether for profit or nonprofit purposes, including sales, negotiations, the taking of orders and the displaying of wares, without the express written permission of the Secretary.

(17) *Certain signs prohibited.* Due to the constricted space and crowded conditions which often prevail inside the public areas of the buildings within the Capitol Complex, signs on hand-sticks are a safety hazard to visitors and occupants. They are not allowed.

(18) *Balloons.* Helium balloons are not allowed in public areas of the buildings within the Capitol Complex.

(19) *Food and beverages.* Food and beverages may not be served in the public areas inside the buildings within the Capitol Complex without the approval of the Secretary. See § 86.3(7) (relating to policy governing the public areas of the Capitol Complex). Food and beverages may be consumed only in the area approved for an event or exhibit, or in the cafeteria area.

(20) *Animals.* Except as may be required in the course of State business, animals are not allowed in the public

areas inside the buildings within the Capitol Complex. Guide dogs, however, may be used when necessary to assist persons with disabilities in the buildings within the Capitol Complex. The owner or person having the animal under his control is responsible for the animal.

(21) *Additional policies for events and exhibits.* Requests to hold an exhibit or event in the public areas inside the buildings of the Capitol Complex will be scheduled on a first-come, first-served basis and meet the following criteria:

(i) Exhibits and events may not obstruct entrances, interrupt traffic flow through the building or disrupt Legislative sessions or the normal conduct of public business in the building.

(ii) Mounted materials, whether items of display or information related to displays, shall be secured to tripods, display panels or other freestanding devices. Panels, tripods and the like, when provided by the exhibitor, shall meet the approval of the Secretary.

(22) *Capacity.* The maximum capacity for each public area will be strictly enforced.

(23) *Camping and sleeping prohibited.* Camping or sleeping overnight in public areas of the Capitol or other buildings within the Capitol Complex is not allowed.

§ 86.5. Policy governing the exterior public areas of the Capitol Complex.

In its administration, operation and preservation of the Capitol Complex, the policy of the Department relating to the public use of the exterior public areas of the Capitol Complex will be as stated in this section.

(1) *Hours.* To maintain the security, safety and aesthetic appearance of the Capitol, Capitol grounds and the Capitol Complex, and to provide for regular maintenance, improvements or alterations, scheduled events or exhibits on the Capitol grounds shall occur only between the hours of 6 a.m. and 8 p.m. on a daily basis, and may not block any entrance or exit of the building or impede free access to the building by its occupants, the public or emergency apparatus. When either house of the Legislature or a Legislative committee is in session prior to 6 a.m. or after 8 p.m., the grounds shall be open with the commencement of the session and closed 2 hours after adjournment of the Senate, House of Representatives or Legislative committee.

(2) *Damage to Commonwealth property.* Defacing or damaging in any manner the Capitol grounds, including (without limitation) trees, shrubbery, flowers, lawns, sidewalks, fences, lighting fixtures, light wells, fire hydrants, benches, statues, monuments, plaques and subterranean features that are necessary for the maintenance and operation of the Capitol (such as lawn sprinkler systems, sewer and water mains, electrical conduit, and the like), or any other feature is not allowed. Likewise, defacing or damaging the exterior walls and surfaces of the building, including the entrances, porches and staircases, is not allowed.

(3) *Limitations applicable to certain Commonwealth property.* Stepping or climbing upon statues, monuments, fences, lighting fixtures, light wells, trees or parts of the buildings and grounds within the Capitol Complex not intended for these purposes is not allowed.

(4) *Demonstrations and leafleting.* Picketing, demonstrations and the distribution of literature may not impede or interfere with Commonwealth business or public access to and use of the buildings within the

Capitol Complex. To inform individuals and organizations of the procedures for the use of public areas of the buildings within the Capitol Complex and grounds, it is recommended, but not required, that individuals and organizations desiring to distribute literature on the Capitol Complex grounds inform the Secretary of the date and time of the planned activity. To ensure the unimpeded conduct of public business, unobstructed access to the buildings within the Capitol Complex for occupants and the public, and to maintain the Capitol grounds, the Secretary may designate specific areas of the grounds for picketing and the distribution of literature. The Secretary's criteria for making designations will apply equally to all activities regardless of the content of any communications. Individuals distributing literature shall remove all discarded items from the grounds at the conclusion of their activity.

(5) *Driving stakes or other items into the ground prohibited.* Due to the presence of underground utility, electrical and drainage lines, signs or banners may not be driven into the ground, nor may they be supported in or by any tree, monument or other structure affixed to the Capitol grounds, except as authorized by the Secretary. Signs (excluding disclaimer signs required under § 86.3(8)(iv) (relating to policy governing the public areas of the Capitol Complex) or banners supported by free-standing devices) may not be left unattended. An individual shall be stationed within 2 feet of a freestanding sign or banner at all times to prevent damage to the grounds, injury to individuals, and for security reasons.

(6) *Equipment and structures.* Equipment or structures of any kind that are placed on the Capitol grounds in connection with an event or exhibit shall be entirely removed at the conclusion of the event or exhibit, or no later than the time limitations in paragraph (1).

(7) *Alcoholic beverages.* Alcoholic beverages may not be served or consumed in any public area within the Capitol Complex, except with the express permission of the Secretary.

(8) *Camping or sleeping.* Camping or sleeping overnight on grounds within the Capitol Complex is not allowed.

(9) *Structures.*

(i) To maintain the security, safety and aesthetic appearance of the buildings within the Capitol Complex and the Capitol grounds, and to provide for regular maintenance, improvements or alterations, structures erected by an organization (whether for shelter or for any other purpose), as part of a scheduled event or exhibit, shall be removed from the grounds by the time set forth in paragraph (1).

(ii) The size, number and location of structures erected for shelter will be determined by the Secretary based on the physical condition of the grounds and the expected size and nature of the event or exhibit. The Secretary's determination will be stated in writing to the organization scheduling the event or exhibit. Structures erected for the purpose of shelter, such as tents for first aid or lost children may not be used for habitation.

(iii) Structures for a scheduled event or exhibit, for purposes other than shelter, shall be limited in number to one and in size to 3 feet × 3 feet × 3 feet, and may not be capable of habitation. The Secretary will designate specified areas of the Capitol grounds for the location of structures of this kind. The Secretary's criteria for determining location will apply equally to all structures.

(10) *Vehicles.* Vehicles are not allowed on the Capitol grounds, except in areas designated for vehicular use or by permission of the Secretary.

(11) *Closure.* The Secretary may close any areas of the Capitol complex in the interest of maintaining the necessary level of security.

§ 86.6. Scheduling events and exhibits.

Requests to schedule events or exhibits in the public areas of the Capitol Complex or on the Capitol grounds should be made to the Deputy Secretary for Property Management, 503 North Office Building, Harrisburg, Pennsylvania 17125.

(1) Requests will be scheduled on a first-come, first-served basis. Because the areas available for events and exhibits are limited and the demand is at times high, it is recommended, but not required, that requests be made at least 1 month in advance. In the case of exhibits, due to the length of time an exhibit may remain on display, additional lead time may be necessary to secure the desired space and date. These factors should be kept in mind when making requests. The Secretary may set reasonable limits on the number or frequency of events by a single person, group of persons or organization to afford reasonable opportunities for other persons, groups or organizations to schedule events or exhibits.

(2) Each request shall be in writing and contain the following information:

(i) The name and description of the sponsoring organization.

(ii) The name, address and telephone number of the contact person.

(iii) The name, address and telephone number of the back-up contact person.

(iv) A description of the planned event or exhibit.

(v) The date and hours requested for the event or exhibit, and the duration of the event or exhibit.

(vi) The area requested for use.

(vii) The number of anticipated attendees.

(viii) The method of transportation, and number and type of vehicles used to transport participants.

(3) Equipment or services available through the Department may be used in connection with an event or exhibit on an "as available" basis, upon payment of reasonable fees and charges. A list of the equipment and the charges is available upon request from the Secretary.

(4) Decisions made by the Secretary under this chapter will be made as promptly as possible, but no later than 3 State business days after receiving the written request.

(5) To schedule an event or exhibit, a sponsor will be required to sign an acknowledgment that the sponsor has read, understood and will abide by the procedures governing the use of the public areas of the buildings within the Capitol Complex; that the sponsor is responsible for damages incurred as a result of its event or exhibit; that the sponsor will either restore or pay to have restored the area used for its event or exhibit to the condition that existed prior to its use; and that the sponsor will indemnify and hold harmless the Commonwealth and its agents and employees, for damage or loss the Commonwealth incurs arising out of its use of the buildings within the Capitol Complex or the Capitol grounds. A sponsor that fails to abide by the terms of the agreement may be

denied permission to schedule a future event or exhibit until the outstanding obligations have been fully satisfied.

(6) The Secretary may refuse the scheduling of an event or exhibit in any area or building the in interest of maintaining the necessary level of security.

[Pa.B. Doc. No. 02-1556. Filed for public inspection September 6, 2002, 9:00 a.m.]

Title 25—ENVIRONMENTAL PROTECTION

DEPARTMENT OF ENVIRONMENTAL PROTECTION
[25 PA. CODE CH. 93]

Corrective Amendment to 25 Pa. Code § 93.9d

The Department of Environmental Protection has discovered a discrepancy between the agency text of 25 Pa. Code § 93.9d (relating to Drainage List D) as deposited with the Legislative Reference Bureau, and the official text codified at 32 Pa.B. 2691, 2694 (June 1, 2002) and the official text in the *Pennsylvania Code Reporter*

(Master Transmittal Sheet No. 333), and as currently appearing in the *Pennsylvania Code*. When the amendments made by the Department at 32 Pa.B. 2691 were codified, the water uses protected for Aquashicola Creek in Carbon County were reflected incorrectly.

Therefore, under 45 Pa.C.S. § 901: The Department of Environmental Protection has deposited with the Legislative Reference Bureau a corrective amendment to 25 Pa. Code § 93.9d. The corrective amendment to 25 Pa. Code § 93.9d is effective as of June 1, 2002, the date the defective official text was printed in the *Pennsylvania Bulletin*.

The correct version of 25 Pa. Code § 93.9d appears in Annex A, with ellipses referring to the existing text of the regulation.

Annex A

TITLE 25. ENVIRONMENTAL PROTECTION PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION

Subpart C. PROTECTION OF NATURAL RESOURCES

ARTICLE II. WATER RESOURCES

CHAPTER 93. WATER QUALITY STANDARDS

§ 93.9d. Drainage List D.

Delaware River Basin in Pennsylvania

Lehigh River

<i>Stream</i>	<i>Zone</i>	<i>County</i>	<i>Water Uses Protected</i>	<i>Exceptions To Specific Criteria</i>
* * * * *				
3—Lizard Creek	Basin, Source to T-922 Bridge	Schuylkill	CWF	None
3—Lizard Creek	Basin, T-922 Bridge to Mouth	Carbon	TSF	None
3—Aquashicola Creek	Basin, Source to Buckwha Creek	Carbon	HQ-CWF, MF	None

* * * * *

[Pa.B. Doc. No. 02-1557. Filed for public inspection September 6, 2002, 9:00 a.m.]

PROPOSED RULEMAKING

DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

[17 PA. CODE CH. 51]

Snowmobile and All-Terrain Vehicle Registration and Operation

The Department of Conservation and Natural Resources (Department), Bureaus of Forestry and Administrative Services, proposes to amend Chapter 51 (relating to snowmobile and all-terrain vehicle registration and operation).

Statutory Authority

These amendments are proposed under the authority in 75 Pa.C.S. § 7704 (relating to rules and regulations).

Background and Purpose

These proposed amendments implement recent amendments to 75 Pa.C.S. Chapter 77 (relating to snowmobile and all-terrain vehicles) and update several provisions concerning the registration of snowmobiles and all-terrain vehicles (ATVs) to bring these provisions into conformity with current Department practice. In addition, provisions are deleted that merely repeat provisions of 75 Pa.C.S. Chapter 77 and are not needed as regulations.

Summary of Amendments

The following sections are proposed to be deleted because they repeat provisions in 75 Pa.C.S. Chapter 77 and are therefore not needed as regulations:

- § 51.16 (relating to notification of sale or trade)
- § 51.21 (relating to display of temporary registration decals)
- § 51.31 (relating to dealer applications)
- § 51.33 (relating to transferability)
- § 51.41 (relating to individual cost for 2 years)
- § 51.43 (relating to dealer cost)
- § 51.44 (relating to replacement cost for lost, mutilated or destroyed certificates)
- § 51.46 (relating to transfer of registration)
- § 51.61 (relating to duty of those involved in an accident)
- § 51.62 (relating to accident report forms)
- § 51.71 (relating to limitations on usage)
- § 51.74 (relating to operation on non-Department State-owned lands)
- § 51.81 (relating to operation on designated roads)
- § 51.94 (relating to head lamp and tail lamp requirements)
- § 51.95 (relating to brake requirements)
- § 51.96 (relating to muffler requirements)

Section § 51.11 (relating to certificate of registration) is deleted. The first paragraph is deleted because it repeats provisions in 75 Pa.C.S. Chapter 77 and is not necessary. The numbered paragraphs are deleted because they no

longer reflect Department procedures. As provided in 75 Pa.C.S. Chapter 77, a registration is valid for 2 years. The 2-year period begins on the date the registration certificate is issued (validated) by the Department.

Section 51.12 (relating to applications), is amended by adding new heading "Applications for title and registration." This section is revised for clarification purposes and to implement changes in the law relating to security interests the classification of ATVs as either Class I or Class II, and the classification of registration as either "registration" or "limited registration."

Section 51.13 (relating to affixation of registration decals and numbers), is amended by adding new heading "Display of registration decals, registration plates and expiration stickers." This section is revised to implement changes in the law concerning terminology for, and placement on machines of, registration decals (snowmobiles), registration plates (ATVs), and expiration stickers (snowmobiles and ATVs).

Section 51.14 (relating to registration numbers destroyed or lost) is deleted because it is not necessary. Under 75 Pa.C.S. Chapter 77, it is unlawful to operate a snowmobile unless it displays registration decals.

Section 51.17 (relating to abandoned, stolen or destroyed snowmobiles or ATVs) is deleted because it is not a requirement under 75 Pa.C.S. Chapter 77.

Section 51.21 (relating to display of temporary registration decals) is deleted because the subject of temporary registration is covered in revised § 51.13.

Section 51.22 (relating to temporary registration certificates) is deleted. The issuance of temporary registration certificates by dealers is deleted because it is covered by 75 Pa.C.S. Chapter 77. The 5-day deadline for dealers to submit paperwork and the fee to the Department is deleted because it is inconsistent with 75 Pa.C.S. Chapter 77, which establishes a 15-day deadline. The revocation sanction for dealers who do not comply with this requirement is deleted because it is covered in 75 Pa.C.S. Chapter 77.

Section 51.32 (relating to display of registration plates) is revised to delete provisions that merely repeat provisions of 75 Pa.C.S. Chapter 77 and to specifically prescribe the manner of display of ATV dealer plates.

Section 51.34 (relating to expiration) is deleted because, although the May 31 expiration date does reflect current Department practice, it does not allow for future changes.

Section 51.35 (relating to sanctions for violations by dealers) is added to implement the amendments to 75 Pa.C.S. Chapter 77. The amendments subject dealers who fail to timely forward paperwork and fees to the Department to suspension or revocation of their registration.

Section 51.42 (relating to individual cost reduced) is deleted because it no longer reflects Department practice. Under current Department practice, every registration is valid for 2 full years from date of registration. Because registrations are no longer issued for only the second year of the 2-year registration period, there is no need for a reduction in the registration fee.

Section 51.45 (relating to cost of additional plates), is amended by adding a new heading "Fees for additional dealer plates," and revised to increase the cost of an

additional set of snowmobile dealer plates from \$3 to \$5 and the cost of an additional ATV dealer plate from \$6 to \$10.

Section 51.51 (relating to safety training) is amended. Subsection (a) is deleted because it repeats provisions of 75 Pa.C.S. Chapter 77. Because of the deletion of subsection (a), subsection (b) is reformatted and revised to permit organizations that have been approved by the Department to conduct training. It also incorporates the provision that is in current § 51.53 (relating to safety course content).

Section 51.52 (relating to age requirements for safety training) is deleted because the provision is covered in revised § 51.54 (b) (relating to issuance of safety certificates).

Section 51.53 is deleted because the provision is covered in revised § 51.51(2).

Section 51.54 is revised to include, in subsection (b), the provision in current § 51.52. The provisions in subsection (c) accepts safety certificates of nonresidents of this Commonwealth if the training was comparable to the Department's safety training program.

Section 51.72 (relating to operation in a safe manner), is amended by adding a new heading "Operation of ATV with a passenger." In this section, the provision that merely incorporates 75 Pa.C.S. § 7726(a) (relating to operation in a safe manner) is deleted. Since 75 Pa.C.S. § 7726(a) can be enforced directly, this provision is not needed in the regulations. The deleted language is replaced with a provision that deems the carrying of a passenger on an ATV to be a violation of 75 Pa.C.S. § 7726(a)(2) unless the ATV was originally designed to carry a passenger. Section 7726(a)(2) of 75 Pa.C.S. prohibits operating a snowmobile or ATV "in any careless way so as to endanger the person or property of another." It is generally recognized that carrying a passenger on an ATV that was not designed to carry a passenger is a reckless and dangerous practice. The addition of a passenger shifts the center of gravity higher and toward the back, causing instability that can result in the machine flipping over backwards. Manufacturers recognize the danger of riding double and most are now, in addition to including warnings in the owners' manual, attaching warning tags or stickers to ATVs or even stamping "no passengers" onto ATV seats.

Section 51.73 (relating to criteria for designation by Department) which lists the factors the Department considers before designating a road, trail or other area for snowmobile or ATV use is deleted because it is both duplicative of and less comprehensive than internal Department procedures.

Under the Bureau of Forestry's procedures for considering a project such as construction of a snowmobile or ATV trail, the district forester must consider the impact of the following items in preparing a project review: promotion of goals under the State Forest Resource Management Plan; erosion and sedimentation; water quality; air quality; water quantity; groundwater; soils; unique and unusual geologic features; aesthetic values; noise levels; archeological and historic sites; recreation sites and opportunities; public health and safety; transportation; energy needs/use; existing/potential land use; protected animal and plant species; habitat diversity and interspersions; biological productivity; other unique features; and the need for permits. The district forester's project review must assess whether the impact of each item is beneficial or adverse. If it is adverse, the review

must state the corrective measures that will be taken or justification why none will be taken. The State forester makes the final approval or disapproval of a project based on the project review.

Section 51.75 (relating to spark arrestors) is deleted because 75 Pa.C.S. Chapter 77 requires that an ATV muffler be in good working order and does not have a separate requirement concerning the spark arrestor. Because a muffler in good working order acts as a fully functional spark arrestor, there is no need for a separate requirement in the regulations concerning the functioning of a spark arrestor.

Section 51.76 (relating to operation during forest fire danger) is deleted because it is not needed. State Forest regulations in § 21.72 (relating to closure because of fire danger) provide for closure of State forest land to certain uses if the forest-fire danger rating is very high or extreme. Similarly, State parks regulations in § 11.8 (relating to schedule) allow for the curtailment by the Department of activities in State parks.

Section 51.91 (relating to snowmobile noise level requirements) is revised so that, in accordance with 75 Pa.C.S. Chapter 77, the operation, rather than the manufacture, of snowmobiles that exceed the sound decibel limits is prohibited.

Affected Persons

Owners, operators and dealers of snowmobiles and ATVs are affected by this proposed rulemaking. In addition, organizations that conduct snowmobile and ATV safety training are also affected.

Cost and Paperwork Requirements

The only costs to the general public resulting from this proposed rulemaking will be the minimal cost, if any, to ATV registrants of attaching a registration plate to their machine. The costs to the private sector will be the costs dealers would incur from a suspension or revocation of dealer registration plates due to failure to submit forms and fees to the Department as required by law. The costs to the Commonwealth will be negligible. There will be no costs to local governments.

This proposed rulemaking does not impose additional paperwork requirements.

Effective Date/Sunset Date

These proposed amendments will be effective upon publication of final-form rulemaking in the *Pennsylvania Bulletin*. Chapter 51 will thereafter be monitored by the Department to determine whether the regulations effectively accomplish their intended goals.

Contact Person

These proposed amendments are published on the Department's website at www.dcnr.state.pa.us/forestry. Written comments, suggestions or objections from interested persons will be accepted by the Department for 60 days after publication of these proposed amendments in the *Pennsylvania Bulletin*. The comments may be directed to William Slippey, Chief, Recreation Section, Operations and Recreation Division, Bureau of Forestry, DCNR, by mail at P. O. Box 8552, Harrisburg, PA 17105-8552; by fax at 717-783-5109; or by e-mail at forestrecreation@state.pa.us.

Alternative means of providing comments and alternative formats of the proposed amendments may be made available to persons with disabilities upon request by

contacting William Slippey at (717) 783-7941 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD).

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on August 26, 2002, the Department submitted a copy of this proposed rulemaking to the Independent Regulatory Review Commission and the Chairpersons of the Senate and House Environmental Resources and Energy Committees for review and comment. In addition to submitting the proposed rulemaking, the Department has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of this material is available to the public upon request.

If the Commission has any objections to any portion of the proposed amendments, it will notify the Department within 10 days of the close of the Committees' review 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 Department, the Governor and the General Assembly to review these objections before final publication of the regulations.

JOHN C. OLIVER,
Secretary

Fiscal Note: 7B-5. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 17. CONSERVATION AND NATURAL RESOURCES

PART I. DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

Subpart E. OUTDOOR RECREATION

CHAPTER 51. SNOWMOBILE AND ALL-TERRAIN VEHICLE REGISTRATION AND OPERATION

GENERAL PROVISIONS

§ 51.1. Definitions.

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

[*Act—75 Pa.C.S. §§ 7701—7753 (relating to the Snowmobile and All-Terrain Vehicle Law).*]

ATV—[*All-terrain*] An all-terrain vehicle as defined in section 7702 of the Vehicle Code (relating to definitions).

Dealer—[*A person who sells snowmobiles or ATVs at wholesale or retail, including a manufacturer of snowmobiles or ATVs who sells at wholesale or retail.*] A dealer as defined in section 7702 of the Vehicle Code.

* * * * *

Snowmobile—A snowmobile as defined in section 7702 of the Vehicle Code.

Vehicle Code—Title 75 of the *Pennsylvania Consolidated Statutes* (relating to vehicles).

§ 51.2. [Scope] Authority.

This chapter is adopted [**in accordance with the duties placed on the Department by the act, and applies to a person who owns or operates a snowmobile or ATV or a dealer who sells snowmobiles or ATVs**] by the Department under section 7704 of the Vehicle Code (relating to rules and regulations) and applies to persons subject to Chapter 77 of the Vehicle Code (relating to snowmobiles and all-terrain vehicles).

REGISTRATION AND [DISPLAY OF NUMBERS—INDIVIDUAL] TITLING

§ 51.11. [Certificate of registration] (Reserved).

[**Application for snowmobile or ATV registration shall be made to the Department on prescribed forms. Upon payment of the fee required by law, a snowmobile or ATV registration certificate will be issued to the applicant. The snowmobile or ATV registration certificate shall be carried on the snowmobile or ATV at all times that the snowmobile or ATV is being operated. A decal showing the expiration date will be issued along with the registration certificate. The decal shall be affixed to the machine to the right of the permanent registration number. The registration periods for individual snowmobile or ATV registrations are as follows:**

(1) For a snowmobile owner whose last name begins with the letters A through L, the registration period is from December 1 of each odd-numbered year to November 30 of the following odd-numbered year.

(2) For a snowmobile owner whose last name begins with the letters M through Z, the registration period is from December 1 of each even-numbered year to November 30 of the following even-numbered year.

(3) The initial registration period for ATV owners begins March 10, 1986. For those governed by paragraph (4), the registration period ends on May 31, 1987. For those governed by paragraph (5), the registration period ends on May 31, 1988.

(4) For an ATV owner whose last name begins with the letter A through L, the registration period is June 1 of each odd-numbered year to May 31 of the following odd-numbered year.

(5) For an ATV owner whose last name begins with the letter M through Z, the registration period is from June 1 of each even-numbered year to May 31 of the following even-numbered year.]

§ 51.12. Applications for title and registration.

[**The application for a certificate of registration shall include the following:**

(1) Name, address, county and zip code of owner.

(2) Statement as to use, such as pleasure, commercial, rescue, rental or government.

(3) Description of vehicle to include make, model, year and manufacturer's serial number.

(4) The purchase price, registration fee paid, and whether the State Sales Tax has been paid or is due.

(5) A certification of ownership.

(6) Date of application.

(7) Class of ATV, if applicable.]

(a) *Contents of application.* An application for a certificate of title and registration shall include the following on a form furnished by the Department:

(1) The name, address and county of the residence of owner.

(2) The make, model, year, serial number of the vehicle.

(3) The date of purchase and the purchase price.

(4) A security interest, if applicable.

(5) A designation of whether the vehicle is a snowmobile, Class I ATV or Class II ATV under section 7702 of the Vehicle Code (relating to definitions).

(6) A designation of type of registration under section 7711.1 or section 7711.2 of the Vehicle Code (relating to registration of snowmobile or ATV; and limited registration of snowmobile or ATV).

(7) The amount of Sales Tax due, if any.

(8) The amount of applicable fees under section 7715.2 of the Vehicle Code (relating to fees).

(9) A temporary registration number, the date issued and the dealer registration number.

(b) *Proof of ownership; fees.* The following shall be included with a completed application form submitted to the Department:

(1) Proof of ownership of vehicle.

(2) Payment of applicable Sales Tax.

(3) Payment of applicable fees under section 7715.2 of the Vehicle Code.

§ 51.13. [Affixation of registration decals and numbers] Display of registration decals, registration plates and expiration stickers.

[The permanent registration number of the machine, shown on the registration certificate, shall be affixed as follows:

(1) *Snowmobiles.* The registration number shall be affixed forward of the handle bars on each side of the cowling, a minimum of 12 inches from the ground when the machine is resting on a smooth surface. The numbers shall be in block characters of good proportion, not less than 3 inches in height, and of a color which contrasts with the background, reflective and so maintained as to be clearly visible and legible.

(2) *Class I ATVs.* The permanent registration number and validation decal shall be affixed to the high point of the machine's left rear fender in a manner prescribed by the Department.

(3) *Class II ATVs.* The permanent registration number and validation decal shall be affixed to the left side of the machine at the midpoint, a minimum of 18 inches from the ground.]

(a) *Snowmobiles.*

(1) *Registration decals.* Two valid registration decals or valid temporary registration decals shall be affixed to the snowmobile forward of the handle bars, one on each side of the cowling, or one on the outside of each trailing edge of the windshield.

(2) *Expiration stickers.* Two valid expiration stickers shall be affixed to the snowmobile, each sticker to the immediate right of a registration decal. This requirement does not apply to snowmobiles with valid temporary registration decals or with limited registration.

(b) *ATVs.*

(1) *Registration plate.* A valid registration plate shall be displayed on the upper half of the rear of the ATV in the following manner:

(i) Securely attached. It is not a violation of this provision to attach the plate in such a manner that it can swing.

(ii) So that no part of the plate is in line with a tire.

(iii) So that the information on the plate, including any required stickers, is clearly visible from behind the ATV.

(2) *Temporary registration sticker.* For ATVs with temporary registration, a valid temporary registration sticker shall be affixed to a lower corner of the registration plate.

(3) *Expiration sticker.* A valid expiration sticker shall be affixed to a lower corner of the registration plate. This requirement does not apply to ATVs with a valid temporary registration sticker or with limited registration.

§ 51.14. [Registration numbers destroyed or lost] (Reserved).

[When snowmobile registration numbers are destroyed or lost, the snowmobile registration numbers assigned shall be promptly replaced and affixed as described in § 51.13 (relating to affixation of registration decals and numbers).]

§ 51.15. Replacement [registration certificate, decal or number] of registration certificates, limited registration certificates, registration decals, registration plates and expiration stickers.

A replacement of a registration certificate, limited registration certificate, registration decal, registration plate or [ATV registration number] expiration sticker will be issued upon application by the owner on [the prescribed] a form furnished by the Department and payment of the [amount] fee required [by statute] under section 7715.2 of the Vehicle Code (relating to fees).

§ 51.16. [Notification of sale or trade] (Reserved).

[The owner of a snowmobile or ATV shall notify the Department within 15 days if the machine is sold or traded.]

§ 51.17. [Abandoned, stolen or destroyed snowmobiles or ATVs] (Reserved).

[Abandoned, stolen or destroyed snowmobiles or ATVs shall be reported to the Department within 15 days. No fee is charged for this reporting.]

§ 51.19. Snowmobile or ATV owned by United States, another state or political subdivision.

[No certificate of registration or decal is required for a snowmobile or ATV owned and used by

the United States or another state, or a political subdivision thereof. The snowmobile shall display the name of the owner on the cowling. A Class I ATV shall display the name of the owner on the high point of the left rear fender. A Class II ATV shall display the name of the owner on the left side of the machine at the midpoint, a minimum of 18 inches from the ground.] If a snowmobile or ATV is exempt from registration under section 7711.1(f)(2) of the Vehicle Code (relating to registration of snowmobile or ATV) because it is owned and used by the United States or another state or political subdivision, the name of the owner shall be displayed on the cowling or windshield of the snowmobile and in a conspicuous location on the ATV.

[TEMPORARY REGISTRATION]

§ 51.21. [Display of temporary registration decals] (Reserved).

[A snowmobile or ATV may be operated without display of registration numbers for a period of 45 days after the date the application for individual registration and the required fee are mailed to the Department, if the temporary registration certificate is carried on the machine and the temporary registration decals are displayed as follows:

(1) *Snowmobiles*. The temporary registration decals are displayed forward of the handlebars on each side of the cowling.

(2) *Class I ATVs*. The temporary registration decal is displayed on the high point of the machine's left rear fender.

(3) *Class II ATVs*. The temporary registration decal is displayed on the left side of the machine at the midpoint, a minimum of 18 inches from the ground.]

§ 51.22. [Temporary registration certificates] (Reserved).

[Temporary registration certificates will be issued by registered snowmobile or ATV dealers who will forward one copy of the temporary registration application to the Department along with the prescribed forms and the appropriate fee within 5 working days. If a dealer fails to comply with this rule the Department may revoke the dealer's registration certificate.]

[REGISTRATION—DEALER] DEALERS

§ 51.31. [Dealer applications] (Reserved).

[Application for registration as a dealer shall be made to the Department on prescribed dealer forms. Upon payment of the fee required by law, three sets of registration plates will be issued, together with a registration certificate which shall be conspicuously displayed by the dealer in his place of business. These plates may be used by the dealer only for demonstration or testing purposes.]

§ 51.32. Display of registration plates.

[(a) No snowmobile dealer or manufacturer may operate or permit to be operated within this Commonwealth a snowmobile owned by or under the control of the dealer or manufacturer unless two valid registration plates furnished by the Department are displayed on the inside of each trailing

edge of the snowmobile windshield and a dealer plate registration is carried by the operator.

(b) No ATV dealer or manufacturer may operate or permit to be operated within this Commonwealth an ATV owned by or under the control of the dealer or manufacturer unless a registration plate with a valid decal furnished by the Department is displayed on the rear of the machine and a dealer plate registration is carried by the operator.]

Dealer registration plates required under section 7711 of the Vehicle Code (relating to registration of dealers) shall be displayed as follows:

(1) *Snowmobile*. Two plates shall be displayed on the snowmobile, one on the inside of each trailing edge of the windshield.

(2) *ATV*. The plate shall be displayed on the upper half of the rear of the ATV in the following manner:

(i) The plate shall be securely attached. It is not a violation of this provision to attach the plate so that it can swing.

(ii) So that no part of the plate is in line with a tire.

(iii) So that the information on the plate is clearly visible from behind the ATV.

§ 51.33. [Transferability] (Reserved).

[Dealer registrations are not transferable.]

§ 51.34. [Expiration] (Reserved).

[Dealer registrations expire on May 31 of each year.]

§ 51.35. Sanctions for violations by dealers.

(a) *Sanctions*. A dealer who has failed to forward documents required by section 7712.2(c) or section 7715.1(a) of the Vehicle Code (relating to transfer to or from dealer; and snowmobile or ATV purchased from dealer) to the Department within 15 days or who has submitted to the Department documents accompanied by uncollectable checks drawn on the account of the dealer, is subject to the following sanctions after receiving written notice and an opportunity for a hearing:

(1) *First offense*. Suspension of dealer registration until the documents are submitted or checks are paid.

(2) *Second offense*. Suspension of dealer registration until the documents are submitted or checks are paid, plus 3 months suspension.

(3) *Third offense*. Suspension of dealer registration until the documents are submitted or checks are paid, plus 6 months suspension.

(4) *Fourth and subsequent offense*. Revocation of dealer registration.

(b) *Second and subsequent violations*. Second violations are determined on the basis of a previous violation under this section committed within a 3-year period. Third or subsequent violations are determined on the basis of two or more previous violations committed within a 3-year period.

(c) *Multiple violations*. In the case of multiple violations considered at one time, the Department may impose separate sanctions for each violation

under the schedule in subsection (a). The Department may direct that a suspension imposed be served concurrently or consecutively.

(d) *Revocation.* Upon revocation of a dealer's registration, the dealer will be debarred from applying for a new registration for 1 year.

(e) *Effective date of suspension or revocation.* A suspension or revocation of dealer registration shall take effect on the date ordered by the Department.

(f) *Return of dealer certificate, plates and cards.*

(1) Within 3 days of the effective date of a suspension or revocation of dealer registration, a dealer shall return to the Department the registration certificate, the registration plates and the registration cards that had been issued to the dealer by the Department.

(2) A dealer who fails to comply with paragraph (1) is subject to an acceleration of the application of sanctions listed in subsection (a).

(g) *Hearings.* The provisions in 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure) apply to hearings under this section.

FEES

§ 51.41. [Individual cost for 2 years] (Reserved).

[The fee for each individual resident and non-resident snowmobile registration is \$10 for 2 years. The fee for each individual resident and nonresident ATV registration is \$20 for 2 years.]

§ 51.42. [Individual cost reduced] (Reserved).

[The fee is \$5.00 for a resident or nonresident individual snowmobile registration issued for the final year of a 2-year registration period. The fee is \$10 for a resident or nonresident individual ATV registration issued for the final year of a 2-year registration period.]

§ 51.43. [Dealer cost] (Reserved).

[The fee for each dealer registration shall be \$25 annually.]

§ 51.44. [Replacement cost for lost, mutilated or destroyed certificates] (Reserved).

[A fee of \$1.00 will be charged for the replacement of each lost, mutilated or destroyed certificate, decal or ATV registration number.]

§ 51.45. [Cost of] Fees for additional dealer plates.

The fee for each set of two additional snowmobile dealer plates is [\$3.00] \$5. The fee for each additional ATV dealer plate is [\$6.00] \$10.

§ 51.46. [Transfer of registration] (Reserved).

[When the owner of a currently registered snowmobile or ATV disposes of the machine, a transfer fee of \$3.00 is required for the transfer of the registration to another snowmobile or ATV.]

[SNOWMOBILE AND ATV] SAFETY TRAINING

§ 51.51. Safety training.

[(a) No person under 16 years of age may operate a snowmobile or ATV in this Commonwealth, unless the person satisfies one of the following conditions:

(1) Is upon the lands owned or leased by his parent or guardian.

(2) Is under the direct supervision of a certified snowmobile or ATV safety instructor during a safety training program.

(3) Has received safety training as prescribed by the Department and has received the appropriate snowmobile or ATV safety certificate.

(b) Snowmobile and ATV education and safety training programs will be conducted by instructors who have been certified by the Department.]

Safety training required by section 7725 of the Vehicle Code (relating to operation by persons under age sixteen) shall meet the following requirements:

(1) Training shall be conducted by instructors or organizations that have been approved by the Department.

(2) Training shall be based on a curriculum and manual approved by the Department, which include the following: machine nomenclature, control familiarization, machine safety features, operating procedures, snowmobile or ATV laws and regulations, proper clothing, safety equipment, emergency situations, first aid and written tests.

§ 51.52. [Age requirements for safety training] (Reserved).

[Training programs will be conducted for the purpose of qualifying persons 10 years of age or older, but less than 16, for a snowmobile or ATV safety certificate. No person under 10 years of age is eligible to enroll or participate in the safety training program prescribed by the Department.]

§ 51.53. [Safety course content] (Reserved).

[The course content will include the following: Machine nomenclature, control familiarization, machine safety features, operating procedures, snowmobile or ATV laws and regulations, proper clothing, safety equipment, emergency situations, first aid and written tests.]

§ 51.54. [Issuance of snowmobile or ATV safety] Safety certificates.

[Upon successful completion of the training program, a snowmobile or ATV safety certificate will be issued to the student, on behalf of the Secretary. The instructor will submit the name, address and date of birth of the students who have successfully completed the training program to the Department. A duplicate certificate will be issued by the Department if the original is lost or destroyed, upon application and payment of \$1.00.]

(a) The instructor or organization that conducted the training in accordance with § 51.51 (relating to safety training) shall submit to the Department the

name, address and date of birth of each student who successfully completed the training.

(b) The Department will issue a snowmobile or ATV safety certificate to the students whose names were submitted in accordance with subsection (a). Persons under the age of 10 years of age or over age of 15 years of age are not eligible for a safety certificate.

(c) The Department will honor, in lieu of a safety certificate issued under subsection (b), a safety certificate issued to a child who is a resident of another state or a province of Canada if the certificate was issued or is recognized by the state or province under a program deemed by the Department to be comparable to the Department's safety training program. The certificate will satisfy the requirements of section 7725 of the Vehicle Code (relating to operation by persons under age sixteen).

ACCIDENT [REPORTING] REPORTS

§ 51.61. [Duty of those involved in an accident] (Reserved).

[It is the duty of each operator of a snowmobile or ATV involved in an accident to exhibit the certificate of registration for the snowmobile or ATV being operated, and to give his name and address and the identification of the snowmobile or ATV to persons injured and to the owner of property damaged in the accident.]

§ 51.62. [Accident report forms] (Reserved).

[The operator of a snowmobile or ATV involved in an accident resulting in injuries to or death of a person or property damage in the estimated amount of \$100 or more shall report the accident within 7 days to the Department upon prescribed accident report forms.]

§ 51.63. [Information required] Accident reports.

[Every] A written report of an accident required by section 7728 of the Vehicle Code (relating to accidents and accident reports) shall contain the following information:

* * * * *

OPERATION [OF SNOWMOBILES AND ATVS ON DESIGNATED AREAS ON STATE-OWNED LANDS]

§ 51.71. [Limitations on usage] (Reserved).

[Snowmobiles or ATVs may be operated on public lands under the jurisdiction of the Department only on roads, trails or areas specifically designated for snowmobile or ATV operation.]

§ 51.72. Operation [in a safe manner] of ATV with a passenger.

[No person may operate a snowmobile or ATV in a manner inconsistent with the rules for operation in a safe manner as prescribed by 75 Pa.C.S. § 7726 (relating to operation in safe manner).] Operating an ATV with a passenger, unless the ATV was originally designed by the manufacturer to carry a passenger, is a violation of section 7726 (a)(2) of the Vehicle Code (relating to operation in safe manner—general rule) and is prohibited.

§ 51.73. [Criteria for designation by Department] (Reserved).

[Prior to designation of a snowmobile or ATV road, trail or area on public lands under the jurisdiction of the Department, the Department will consider the effect of the designation, as it pertains to:

- (1) Soil and other surface features.
- (2) Water quantity, water quality or other water conditions.
- (3) Danger or threat to plant or animal species.
- (4) Uses deemed to be conflicting.
- (5) Other factors considered by the Department to protect public health, welfare and safety.]

§ 51.74. [Operation on non-Department State-owned lands] (Reserved).

[Snowmobiles or ATVs may not be operated on lands under the jurisdiction of another Commonwealth agency except on roads, trails or areas clearly marked and previously designated by that agency.]

§ 51.75. [Spark arrestors] (Reserved).

[(a) ATVs operating on Commonwealth land shall have an approved, properly installed spark arrestor which shall meet and be qualified to either of the following:

(1) The United States Department of Agriculture, Forest Service Standard 5100-1a, published by the United States Forest Service as found in the United States Forest Service publication, *Spark Arrestor Guide*.

(2) The 80% efficiency level when determined in accordance with the appropriate Society for Automotive Engineers recommended practices J335 or J350 noise level restrictions.

(b) The United States Forest Service publication, *Spark Arrestor Guide*, will be used as the reference source in determining whether or not a spark arrestor is approved.

(c) Operation of an ATV on Commonwealth land without an approved spark arrestor is prohibited.]

§ 51.76. [Operation during forest fire danger] (Reserved).

[In the event the Department declares the forest fire danger to be very high or extreme, operation of ATVs will be forbidden on lands under the jurisdiction of the Department to which the declaration of forest fire danger applies.]

DESIGNATING SNOWMOBILE OR [ALL-TERRAIN VEHICLE] ATV ROADS

§ 51.81. [Operation on designated roads] (Reserved).

[Except as otherwise provided in sections 7722 and 7724 of the act (relating to designation of snowmobile and ATV roads and operation on private or State property), no person may operate a snowmobile or ATV on a street or highway unless the street or highway has been closed to vehicular

traffic and designated as a snowmobile or ATV road by the governmental agency having jurisdiction.]

§ 51.82. Barricades for snowmobile or ATV roads.

Streets and highways posted as exclusive snowmobile or ATV roads under section 7722 of the Vehicle Code (relating to designation of snowmobile and ATV roads) shall be barricaded in the following manner:

* * * * *

§ 51.83. Posting signs for snowmobile or ATV roads.

(a) A street or highway which has been posted as a snowmobile or ATV road allowing both snowmobiles or ATVs and other vehicular traffic under section 7722 [of the act] of the Vehicle Code (relating to designation of snowmobile and ATV roads) shall be posted in the following manner:

* * * * *

[SNOWMOBILE AND ALL-TERRAIN VEHICLE]
EQUIPMENT [REQUIREMENTS]

§ 51.91. Snowmobile [noise] sound level requirements.

[Snowmobiles manufactured after January 1, 1976, may not be sold or offered for sale by a manufacturer, distributor or dealer in this Commonwealth unless they are constructed so as to limit total vehicle sound to not more than 78 decibels of sound intensity at 50 feet on the A scale as measured in accordance with SAE Recommended Practice J-192a. Proof of compliance with the foregoing requirement shall be in either of the following forms:

(1) An "SSCC" label conspicuously attached showing certification by the Snowmobile Safety Certification Committee, Inc. that the snowmobile meets the sound standards of the Commonwealth.

(2) By a letter with test results submitted to the Secretary showing an evaluation of the noise levels by a competent independent testing laboratory and showing or certifying that the snowmobile meets the sound standards of the Commonwealth.]

(a) It is unlawful to operate a snowmobile that produces a sound intensity exceeding 78 decibels at 50 feet on the A scale as measured in accordance with SAE Recommended Practice J-192a.

(b) Except as provided in subsection (c), it is unlawful to operate a snowmobile unless its exhaust system displays an authentic "SSCC" (Snowmobile Safety Certification Committee) stamp.

(c) If the exhaust system of a snowmobile lacks an authentic "SSCC" stamp, the operator, upon the request of a person having authority to enforce the provisions of this chapter, shall produce alternate proof, acceptable to the Department, of SSCC certification.

§ 51.94. [Head lamp and tail lamp requirements] (Reserved).

[(a) *Visibility.* Every snowmobile or ATV operated during hours of darkness shall display a lighted head lamp and tail lamp. The lights shall be in operation during the period of from 1/2 hour after sunset to 1/2 hour before sunrise and at any time when, due to insufficient light or unfavorable atmospheric conditions caused by fog or otherwise, other persons, vehicles and other objects are not clearly discernible for a distance of 500 feet.

(b) *Head lamp.* The head lamp shall display white light of sufficient illuminating power to reveal a person, vehicle or substantial object at a distance of 100 feet.

(1) If the snowmobile or ATV is equipped with a multiple beam head lamp, the upper beam shall meet the minimum requirements set forth in this section and the lower-most beam shall be so aimed and of sufficient intensity to reveal persons and vehicles at a distance of at least 50 feet ahead.

(2) If the snowmobile or ATV is equipped with a single head lamp, the lamp shall be so aimed that when the vehicle is loaded none of the high intensity portion of the light, at a distance of 75 feet ahead, projects higher than the level of the center of the lamp from which it comes.

(c) *Tail lamp.* The tail lamp shall display a red light plainly visible during darkness from a distance of 500 feet.]

§ 51.95. [Brake requirements] (Reserved).

[(a) *Snowmobiles.* It is unlawful to operate a snowmobile which is not equipped with at least one brake of a design approved by the Department operated either by hand or foot, capable of bringing the snowmobile to a stop, under normal conditions, within 40 feet when traveling at a speed of 20 miles per hour with a 150 pound driver and on hard packed snow, or locking its traction belts. The design shall permit simple and easy adjustment to compensate for wear.

(b) *ATVs.* It is unlawful to operate an ATV which is not equipped with a braking system which may be operated by hand or foot, capable of producing deceleration of 14 feet per second on level ground at a speed of 20 miles per hour, and the design shall permit simple and easy adjustment to compensate for wear.]

§ 51.96. [Muffler requirements] (Reserved).

[It is unlawful to operate a snowmobile or an ATV which is not equipped at all times with a muffler in good working order which blends the exhaust noise into the overall snowmobile or ATV noise and is in constant operation to prevent excessive or unusual noise.]

[Pa.B. Doc. No. 02-1558. Filed for public inspection September 6, 2002, 9:00 a.m.]

NOTICES

DEPARTMENT OF AGRICULTURE

Dog Control Facility Bill Reimbursement Grant Program

The Department of Agriculture (Department) gives notice of the guidelines and conditions under which it will award up to \$200,000 in grants under its Year 2003 Dog Control Facility Bill Reimbursement Program (Program). The Program will award bill reimbursement grants of up to \$10,000 per recipient to humane societies or associations for the prevention of cruelty to animals that meet the guidelines and conditions of this Program. The Program will be funded from the Dog Law Restricted Account from funds which are surplus funds for the limited purposes set forth in section 1002(b) of the Dog Law (3 P. S. § 459-1002(b)).

A proposed version of these guidelines and conditions was published at 32 Pa.B. 3402 (July 13, 2002). The Department invited public and legislative review of these proposed guidelines and conditions in accordance with 7 Pa. Code § 23.4 (relating to guidelines and conditions). No comments were received. The Department attributes this, in part, to the fact that the Program is quite similar to programs conducted in previous years and, in part, to the fact the Department consulted with affected entities in the process of drafting the proposed guidelines and conditions.

The guidelines and conditions are substantively identical to the guidelines and conditions for last year's "Year 2002 Dog Control Facility Bill Reimbursement Grant Program," published at 31 Pa.B. 4545 (August 18, 2001), with three exceptions: (1) the total amount of grant funds available has increased to \$200,000 (up from \$175,000 in 2002); (2) the maximum per recipient grant amount has been raised to \$10,000 (up from \$7,500 in 2002); and (3) the eligibility criteria have been expanded to allow a grant applicant to have a maximum total operating budget of up to \$350,000 (up from \$250,000 in 2002).

The Department invites applications for grants under the Program in accordance with the final guidelines and conditions that follow.

Guidelines and Conditions for the Year 2003 Dog Control Facility Bill Reimbursement Grant Program

1. Definitions.

The following words and terms, when used in these guidelines and conditions, have the following meanings:

Department—The Department of Agriculture.

Dog control—The apprehending, holding and disposing of stray or unwanted dogs, or as otherwise defined in section 102 of the Dog Law (3 P. S. § 459-102).

Eligible Bill—A document seeking payment for materials, services or utilities from a grant recipient, setting forth the following:

- i. The date the document is issued.
- ii. The name and address of the humane society or association for the prevention of cruelty to animals to which the bill is issued.
- iii. If for materials, a description of the materials and the date of delivery.
- iv. If for services, a description of the nature of the services and the dates upon which the services were rendered.
- v. If for utilities (such as electricity, water, sewer, waste disposal and similar purposes), a statement of the period for which the utility, for which payment is sought, was provided.
- vi. The name, address and telephone number of the entity issuing the document.

Humane society or association for the prevention of cruelty to animals—A nonprofit society or association duly incorporated under 15 Pa.C.S. Chapter 53 Subchapter A (relating to incorporation generally) for the purpose of prevention of cruelty to animals, or as otherwise defined in section 102 of the Dog Law.

Program—The Year 2003 Dog Control Facility Bill Reimbursement Program.

2. Eligibility.

A humane society or association for the prevention of cruelty to animals is eligible to apply to receive a grant under the Program if that humane society or association for the prevention of cruelty to animals:

- a. Has been in operation for at least 1 year immediately preceding the application date.
- b. Has performed dog control functions for at least 1 year immediately preceding the application date.
- c. Has, in the performance of its dog control functions, accepted at least 100 stray or unwanted dogs into its facility within the year immediately preceding the application date.
- d. Is not a party to a contract with the Department under which the Department pays that humane society or association for the prevention of cruelty to animals for dog control activities performed in the year 2003.
- e. Agrees—as a condition of receiving any grant money under the Program—to continue to perform dog control activities through the year 2003.
- f. Has a total operating budget of \$350,000 or less for the 2003 calendar year or, if its budget is on a basis other than calendar year, has a total operating budget of \$350,000 or less for each fiscal year comprising any portion of calendar year 2003.

3. Use of Grant Funds.

The Department will allocate a specific maximum grant amount to a successful grant applicant through a written

grant agreement. This maximum grant amount will be specified in the grant agreement, and will not exceed \$10,000 with respect to any application. The maximum grant amount will be retained by the Department and used to reimburse the grant recipient for eligible bills the grant recipient has paid with respect to materials, services or utilities provided to the grant recipient from January 1, 2003, through December 31, 2003. The total reimbursement the Department will pay a grant recipient will not exceed the maximum grant amount. Money remaining in a grant allocation beyond the termination date of the grant agreement will lapse into the Dog Law Restricted Account. If a bill covers materials, services or utilities provided, in whole or in part, before January 1, 2003, or after December 31, 2003, that bill is not an eligible bill and will not be reimbursed by the Department under the Program.

4. Application Process.

a. *Application required.* A humane society or association for the prevention of cruelty to animals seeking a grant under the Program must complete a written application form and deliver it to the Department no later than 30 days from the date this notice is published in the *Pennsylvania Bulletin*. Applications received by the Department beyond that date will not be considered.

b. *Obtaining an application form.* The Department will provide grant application forms upon request. Requests for application forms should be directed to Richard Hess, Director, Bureau of Dog Law Enforcement, Department of Agriculture, 2301 North Cameron Street, Harrisburg, PA 17110-9408, (717) 787-4833, fax: (717) 772-4352.

c. *Contents of grant application form.* A grant application form shall require the following information:

- i. The name and address of the applicant.
- ii. Information to verify that the applicant is a humane society or association for the prevention of cruelty to animals and otherwise meets the eligibility requirements set forth in paragraph 2.
- iii. The maximum grant amount sought by the applicant—not to exceed \$10,000.
- iv. A description of the eligible bills for which the grant applicant intends to seek reimbursement, including a description (and copies, if available) of bills received by the applicant in 2003 for the same type of materials, services or utilities for which reimbursement will be sought under the grant agreement.
- v. Other information as the Department might reasonably require.

5. Review and approval of grant application.

a. *Review and notification.* The Department will review each timely grant application and provide the applicant written notification of whether the Department awards the grant, denies the grant or awards a grant in some amount less than the applicant sought. This written notification will be mailed no later than 60 days from the date this notice is published in the *Pennsylvania Bulletin*, to the address provided by the applicant on the grant application form. If an application is incomplete or the Department requires additional information or documentation to evaluate the grant request, it will so advise the applicant.

b. *Review criteria.* The Department will consider the following, among other factors, in determining whether to award a grant application:

- i. The number of applications received and the availability of funds for the grants sought.
- ii. The relative contribution of the applicant to dog control activities in the area it serves.
- iii. The relative contribution of the applicant to dog control as compared to the relative contribution of other applicants.
- iv. The relative importance of the grant to the continued operation of the applicant's dog control facility.
- v. The expense or logistical difficulty the Department would encounter if the applicant's dog control facility was no longer in operation.

6. Grant agreement.

a. *Grant agreement required.* A successful grant applicant must execute a grant agreement with the Department, setting forth the terms and conditions under which the grant money will be used by the Department to reimburse the grant recipient for payment of eligible bills.

b. *Reimbursement requests.* The grant agreement will set forth the exact procedure by which a grant recipient shall seek reimbursement from the Department for payment of eligible bills. The basic reimbursement request procedure will be as follows:

By May 15, 2003, the grant recipient will: (1) deliver copies of the eligible bills it has paid between January 1 and April 30, 2003; (2) verify that these bills have been paid and are eligible for reimbursement; and (3) provide a detailed report of the dog control activities performed by the successful applicant during the referenced 4-month period.

By September 15, 2003, the grant recipient will: (1) deliver copies of the eligible bills it has paid between May 1 and August 31, 2003; (2) verify that these bills have been paid and are eligible for reimbursement; and (3) provide a detailed report of the dog control activities performed by the successful applicant during the referenced 4-month period.

By January 15, 2004, the grant recipient will: (1) deliver copies of the eligible bills it has paid between September 1 and December 31, 2003; (2) verify that these bills have been paid and are eligible for reimbursement; and (3) provide a detailed report of the dog control activities performed by the successful applicant during the referenced 4-month period.

c. *Payment by the Department.* The Department will reimburse a grant recipient for eligible bills within 60 days of receiving a complete and timely reimbursement request.

d. *Termination.* The Department may terminate a grant agreement at any time by providing the grant recipient written notice of termination at the address set forth on the grant application.

SAMUEL E. HAYES, Jr.,
Secretary

[Pa.B. Doc. No. 02-1559. Filed for public inspection September 6, 2002, 9:00 a.m.]

DEPARTMENT OF BANKING

Action on Applications

The Department of Banking, 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 August 27, 2002.

BANKING INSTITUTIONS

Holding Company Acquisitions

<i>Date</i>	<i>Name of Corporation</i>	<i>Location</i>	<i>Action</i>
8-23-02	Sky Financial Group, Inc., Bowling Green, OH, to acquire 100% of the voting shares of Three Rivers Bancorp, Inc., Monroeville, PA, and thereby indirectly acquire Three Rivers Bank and Trust Company, Jefferson Borough, PA	Bowling Green, OH	Approved

Branch Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
8-14-02	Patriot Bank Pottstown Montgomery County	4930 5th St. Highway Muhlenberg Township Berks County (Temporary)	Opened

Branch Relocations

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
8-23-02	Citizens Bank of Pennsylvania Philadelphia Philadelphia County	<i>To:</i> 225 West Lancaster Avenue Ardmore Montgomery County <i>From:</i> 354 W. Lancaster Ave. Haverford Montgomery County	Approved
8-26-02	Parkvale Savings Bank Monroeville Allegheny County	<i>To:</i> Brentwood Town Square Pittsburgh Allegheny County <i>From:</i> 4128 Brownsville Road Pittsburgh Allegheny County	Filed

Branch Discontinuances

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
8-23-02	Farmers First Bank Lititz Lancaster County	Weis Market 5360 Lincoln Highway Gap Lancaster County	Approved

SAVINGS INSTITUTIONS

No activity.

CREDIT UNIONS

Branch Applications

<i>Date</i>	<i>Name of Credit Union</i>	<i>Location</i>	<i>Action</i>
8-22-03	Diamond Credit Union Pottstown Montgomery County	Corners at Broadcasting Ridge Wyomissing Berks County	Filed

FRANCES A. BEDEKOVIC,
Acting Secretary

[Pa.B. Doc. No. 02-1560. Filed for public inspection September 6, 2002, 9:00 a.m.]

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Applications, Actions and Special Notices

APPLICATIONS

NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS

NPDES APPLICATIONS

PART I PERMITS

Under the Federal Clean Water Act and The Clean Streams Law, the following parties have applied for an NPDES permit or to renew their current permit to discharge controlled wastewaters into the waters of this Commonwealth or to conduct other activities required by the NPDES permit. For renewal applications listed in Section I, the Department of Environmental Protection (Department) has made a tentative determination to reissue these permits for 5 years subject to effluent limitations and monitoring and reporting requirements in their current permits, with appropriate and necessary updated requirements to reflect new and changed regulations and other requirements. For all new permit applications, renewal application with major changes or applications for permits not waived by the EPA, the Department, based upon preliminary reviews, also made a tentative determination of proposed effluent limitations and other terms and conditions for the permit applications listed in Section II. These determinations are published as proposed actions for comments prior to taking final actions.

Unless indicated otherwise below, the EPA Region III 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 office noted before the application within 30 days from the date of this public notice. Comments received within this 30-day comment period will be considered in the formulation of the final determinations regarding this application. The comments 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 comment period, the Department's Water Management Program Manager will make a final determination regarding these applications. Notice of this final determination will be published in the *Pennsylvania Bulletin* at which time this determination may be appealed to the Environmental Hearing Board.

The renewal application, including proposed effluent limitations and special conditions, is available on file. For new permit applications, information submitted with the applications is available on file. The information may be inspected and arrangements made for copying at the office indicated above the application.

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

I. NPDES Renewal Applications

Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA-0032131 Sewage	Locust Lake State Park Bureau of State Parks P. O. Box 1467 Harrisburg, PA 17120	Ryan Township Schuylkill	Locust Creek (3A)	Yes
PA-0062316 Sewage	Blue Mountain Village Sales, Inc. 1 Blue Mountain Village Saylorsburg, PA 18353	Monroe Ross Township	Aquashicola Creek (2B)	Yes
PA-0051691	Pharmachem Corporation 719 Stefko Boulevard Bethlehem, PA 18016-1035	Northampton Bethlehem City	UNT to Lehigh Canal (2C)	Yes
PA-0038270 IW	Sunoco Partners Marketing & Terminals L. P. 1801 Market Street Philadelphia, PA 19103	Schuylkill Rush Township	Little Schuylkill River (3A)	Yes
PA-0062723	Sunoco Partners Marketing & Terminals, L. P. 1801 Market St. Philadelphia, PA 19103	Whitehall Township Lehigh County	Lehigh River (2C)	Yes

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA-0061182 (Minor Renewal)	Big Boulder Corporation P. O. Box 707 Blakeslee, PA 18610-0707	Kidder Township Carbon County	Unnamed Tributary to Tunkhannock Creek (2A)	Yes

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

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110 (717) 705-4707.

PAG123563, CAFO, Jason L. and Lucy L. Hege, 3966 Funk Road, Chambersburg, PA 17201-8776.

This proposed facility is located in Greene Township, **Franklin County**.

Description of Proposed Activity: The Hege Farm is an existing dairy and swine operation with a total AEU's of 473.9. An estimated quantity of total annual manure production is 9,644 tons. The operation consists of 125 Holsteins, 75 heifers, 20 calves and 1,700 finishing hogs. Plans include building a new freestall barn to house the dairy cows. All dairy waste is directed into an uncovered pit. The new building is planning to use the same pit. All hog waste is directed to a pit that is completely covered. The area surrounding the dairy pit is underlain with tile which outlets by two pond areas. Of the 1,031,334 gallons of liquid dairy manure generated on the farm, 235,700 gallons is used on the farm and 795,634 gallons are exported from the farm. All of the 503 tons of heifer and calf solids and 1,001,525 gallons of liquid swine manure generated on the farm is used on the farm.

The receiving stream, Rocky Spring Creek, is in the State Water Plan watershed 13-C and is classified for: TSF.

The proposed effluent limits for the operation/activity include: Except for the chronic or catastrophic rainfall events defined as over the 25 year/24 hour rain storms, the CAFO general permit is a nondischarge NPDES permit. Where applicable, compliance with 40 CFR Federal effluent limitation guidelines is required. The general permit requires no other numeric effluent limitations and compliance with Pennsylvania Nutrient Management Act and The Clean Stream Law constitutes compliance with the state narrative water quality standards.

Application No. PA 0033766, Sewage, **North Heidelberg Sewer Company**, P. O. Box 609, Bernville, PA 19506.

This facility is located in Jefferson Township, **Berks County**.

Description of activity: The application is for an amendment of an NPDES permit for an existing discharge of treated sewage.

The receiving stream, Northkill Creek, is in Watershed 3-C, and classified for cold water fishes, water supply, recreation and fish consumption. The nearest downstream public water supply intake for Western Berks Water Authority is located on Tulpehocken Creek, approximately 10 miles downstream. The discharge is not expected to affect the water supply.

The proposed interim effluent limits for Outfall 001 for a design flow of 0.05 MGD are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	25	50
Suspended Solids	30	60
NH ₃ -N		
(5-1 to 10-31)	3.0	6.0
(11-1 to 4-30)	9.0	18
Total Phosphorus	1.0	2.0
Total Residual Chlorine	0.44	1.45
Dissolved Oxygen	Minimum of 5.0 at all times	
pH	From 6.0 to 9.0 inclusive	
Fecal Coliform		
(5-1 to 9-30)	200/100 ml as a geometric average	
(10-1 to 4-30)	5,000/100 ml as a geometric average	

The proposed final effluent limits for Outfall 001 for a design flow of 0.10 MGD are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	25	50
Suspended Solids	30	60
NH ₃ -N	20	40
Total Phosphorus	1.0	2.0
Total Residual Chlorine	0.5	1.6
Dissolved Oxygen	Minimum of 5.0 at all times	
pH	From 6.0 to 9.0 inclusive	
Fecal Coliform		
(5-1 to 9-30)	200/100 ml as a geometric average	
(10-1 to 4-30)	10,000/100 ml as a geometric average	

Individuals may make an appointment to review the DEP files on this case by calling the File Review Coordinator at (717) 705-4732.

The EPA waiver is in effect.

Southwest Regional Office: Regional Manager, Water Management, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, (412) 442-4000.

PA0041114, Sewage, **The Kiski School**, 1888 Brett Lane, Saltsburg, PA 15684.

This application is for renewal of an NPDES permit to discharge treated sewage from The Kiski School STP in Loyalhanna Township, **Westmoreland County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Kiskiminetas River, which are classified as a warm water fishery with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Freeport Water Company.

Outfall 001: existing discharge, design flow of 0.04 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD ₅	25			50
Suspended Solids	30			60
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	50,000/100 ml as a geometric mean			
Total Residual Chlorine	1.4			3.3
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

PA0217620, Sewage, **Consol Pennsylvania Coal Company**, P. O. Box 355, Eighty Four, PA 15330.

This application is for renewal of an NPDES permit to discharge treated sewage from Crabapple Portal Sewage Treatment Plant in Rich Hill Township, **Greene County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Crabapple Creek, which are classified as a warm water fishery with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the City of Sistersville Water Company on the Ohio River.

Outfall 001: existing discharge, design flow of 0.025 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
(11-1 to 4-30)	25			50
Suspended Solids	30			60
Ammonia Nitrogen				
(5-1 to 10-31)	3.0			6.0
(11-1 to 4-30)	9.0			18.0
Fecal Coliform				
(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			
Total Residual Chlorine	0.4			1.0
Dissolved Oxygen	not less than 4.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

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

PA0238830, Sewage, **Louis Bartok I SRSTP**, 7458 Sugar Lake Road, Cochranon, PA 16314.

This proposed facility is located in Wayne Township, **Crawford County**.

Description of Proposed Activity: a new permit for a new discharge of treated sewage.

For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃ fluoride and phenolics, the existing/proposed downstream potable water supply (stream and public water supplier) considered during the evaluation is the Franklin General Authority on French Creek located at Franklin, approximately 15 miles below point of discharge.

The receiving stream, Unnamed Tributary to Lake Creek, is in watershed 16-D and classified for cold water fishes, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001 based on a design flow of 0.0004 MGD.

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow		Monitor and Report	
CBOD ₅	10		20
Total Suspended Solids	20		40
Fecal Coliform	200/100 ml as a geometric average		
pH	6.0 to 9.0 standard units at all times		

The EPA Waiver is in effect.

PA0238848, Sewage, **Louis Bartok II SRSTP**, 7437 Sugar Lake Road, Cochranon, PA 16314.

This proposed facility is located in Wayne Township, **Crawford County**.

Description of Proposed Activity: a new permit for a new discharge of treated sewage.

For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the existing/proposed downstream potable water supply (stream and public water supplier) considered during the evaluation is the Franklin General Authority on French Creek located at Franklin, approximately 15 miles below point of discharge.

The receiving stream, Sugar Lake (Lake Creek), is in watershed 16-D and classified for cold water fishes, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001 based on a design flow of 0.0004 MGD.

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow		Monitor and Report	
CBOD ₅	10		20
Total Suspended Solids	20		40
Fecal Coliform	200/100 ml as a geometric average		
pH	6.0 to 9.0 standard units at all times		

The EPA Waiver is in effect.

WATER QUALITY MANAGEMENT PERMITS

CONTROLLED INDUSTRIAL WASTE AND SEWAGE WASTEWATER

APPLICATIONS UNDER THE CLEAN STREAMS LAW

PART II PERMITS

The following permit applications or requests for plan approval have been received by the Department of Environmental Protection (Department).

Persons wishing to comment on any of the applications are invited to submit a statement to the office noted before the application within 15 days from the date of this public notice. Comments received within this 15-day comment period will be considered in making the final decision regarding the application. The comments should include the name, address, and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based.

The Department reserves the right to hold a public hearing if the responsible office considers the public response significant. If a hearing is scheduled, a notice of the hearing will be published in the *Pennsylvania Bulletin* and a newspaper of general circulation of the area. If no hearing is held, the Department's Water Management Program Manager will make a final determination regarding the applications after a complete review. Notice of this final determination will be published in the *Pennsylvania Bulletin* at which time this determination may be appealed to the Environmental Hearing Board.

A copy of the permit application or proposed plan is on file in the office indicated and is open to public inspection.

Appointments to review the application may be made by contacting Records Management at the indicated telephone number.

I. Industrial Waste and Sewerage Applications under The Clean Streams Law (35 P. S. §§ 691.1—691.1001)

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4707.

WQM Permit No. 3802402, Sewerage, **Copart Auto Auctions**, 5500 East 2nd Street, 2nd Floor, Benicia, CA 94510.

This proposed facility is located in East Hanover Township, **Lebanon County**.

Description of Proposed Action/Activity: Construction/operation of a small flow treatment system to serve the Copart Auto Auction in Grantville.

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

WQM Permit No. 1002411, Sewerage, **John C. Davis**, 212 Leslie Road, Renfrew, PA 16053. This proposed facility is located in Forward Township, **Butler County**.

Description of Proposed Action/Activity: This project is for a single residence sewage treatment plant.

WQM Permit No. 4302412, Sewerage, **Chester M. Miller**, 455 Fredonia Road, Fredonia, PA 16124. This proposed facility is located in Otter Creek Township, **Mercer County**.

Description of Proposed Action/Activity: This project is for a single residence sewage treatment plant.

WQM Permit No. 2502418, Sewerage, **Charles R. Kennedy**, 12580 Kerr Road, North East, PA 16428. This proposed facility is located in North East Township, **Erie County**.

Description of Proposed Action/Activity: This project is for a single residence sewage treatment plant.

NPDES Stormwater Individual Permit

The following parties have applied for an NPDES permit to discharge stormwater associated with a construction activity into 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 (Department) proposes to issue a permit to discharge, subject to certain limitations set forth in the permit conditions. These proposed determinations are tentative. Limitations are provided as erosion and sediment control best management practices which restrict the rate and quantity of sediment discharged.

Where indicated, the EPA Region III 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 appropriate Department Regional Office noted before the application

within 30 days from the date of this public notice. 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 Department of the exact basis of a comment and relevant facts upon which it is based. A public hearing may be held after consideration of comments received by the appropriate Department Regional Office during the 30-day public comment period.

Following the 30-day comment period, the appropriate Regional Office 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, including the erosion and sediment control plan for the earth disturbance activity, are on file and may be inspected at the office identified in this notice.

Persons with a disability that require an auxiliary aid, service or other accommodation to participate during the 30-day public comment period should contact the specified Regional Office. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

Lehigh County Conservation District: Lehigh Ag. Ctr., Suite 102, 4184 Dorney Park Road, Allentown, PA 18104, (610) 391-9583.

<i>NPDES No.</i>	<i>Applicant Name & Address</i>	<i>County & Municipality</i>	<i>Receiving Water/Use</i>
PAS10Q247	Norsemen Construction, Inc. P. O. Box 113 Creamery, PA 19430	Lehigh County Upper Macungie Township	Little Lehigh Creek HQ-CWF

Wayne County Conservation District: Ag Service Center, 470 Sunrise Avenue, Honesdale, PA 18431, (570) 253-0930.

<i>NPDES No.</i>	<i>Applicant Name & Address</i>	<i>County & Municipality</i>	<i>Receiving Water/Use</i>
PAS107427	Roger Dirlam Melvin Plucknett Eric Linde R. R. 6, Box 6825 Honesdale, PA 18431-9655	Wayne County Texas Township	Unnamed tributary to Lackawaxen River HQ-CWF, MF

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

Bedford County Conservation District, 702 W. Pitt Street, Suite 4, Bedford, PA 15009, (814) 623-6706.

<i>NPDES No.</i>	<i>Applicant Name & Address</i>	<i>County & Municipality</i>	<i>Receiving Water/Use</i>
PAS10-0423	Ardeth Facciani 221 Station Street Johnstown, PA 15905	Bedford Township Bedford County	Shobers Run (HQ-CWF)

Cumberland County Conservation District, 43 Brookwood Avenue, Suite 4, Carlisle, PA 17013; (717) 240-7812.

<i>NPDES No.</i>	<i>Applicant Name & Address</i>	<i>County & Municipality</i>	<i>Receiving Water/Use</i>
PAS10-H096	Mark Simpson 3609 Gettysburg Rd. Camp Hill, PA 17011	Silver Spring Township Cumberland County	Trindle Spring Run (CWF, HQ-CWF)

PUBLIC WATER SUPPLY (PWS) PERMIT

Under the Safe Drinking Water Act, the following parties have applied for a PWS permit to construct or substantially modify a public water system.

Persons wishing to comment on the permit application are invited to submit a statement to the office listed before the application within 30 days of this public notice. Comments received within this 30-day comment period will be considered in the formulation of the final determinations regarding this application. Comment 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 after consideration of comments received during the 30-day public comment period.

Following the comment period, the Department will make a final determination regarding the proposed permit. Notice of this final determination will be published in the *Pennsylvania Bulletin* at which time this determination may be appealed to the Environmental Hearing Board.

The permit application and any related documents are on file at the office listed before the application and available for public review. Arrangements for inspection and copying information should be made with the office listed before the application.

Persons with a disability that require an auxiliary aid service or other accommodations to participate during the 30-day public comment period should contact the office listed before the application. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

SAFE DRINKING WATER

Applications Received Under the Safe Drinking Water Act (35 P. S. §§ 721.1—721.17).

Northcentral Region: Water Supply Management Program Manager, 208 West Third Street, Williamsport, PA 17701.

Permit No. Minor Amendment, Public Water Supply.

Applicant	Renovo Borough Water System
Borough	Renovo Borough, Clinton County
Responsible Official	Judy Kelley, Water Committee Chairperson Renovo Borough Council 128 Fifth Street Renovo, PA 17764
Type of Facility	PWS
Consulting Engineer	Kerry A. Uhler & Associates 140 Rear West High Street Bellefonte, PA 16823
Application Received Date	August 20, 2002
Description of Action	Installation of butterfly flow control valve

Permit No. Minor Amendment, Public Water Supply.

Applicant	Pennsylvania Suburban Water Company
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Township	Monroe Township, Snyder County
Responsible Official	Richard T. Subasic, VP/Gen. Mgr. Pennsylvania Suburban Water Company 204 East Sunbury Street Shamokin, PA 17872
Type of Facility	PWS
Consulting Engineer	CET Engineering Services 321 Washington Street Huntington, PA 16652
Application Received Date	August 9, 2002
Description of Action	Installation of two interconnections between the former Monroe Manor Water Company and Rolling Green Water Company

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 1

Acknowledgment of Notices of Intent to Remediate Submitted Under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908)

Sections 302—305 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* an acknowledgment noting receipt of any Notices of Intent to Remediate. An acknowledgment of the receipt of a Notice of Intent to Remediate is used to identify a site where a person proposes to, or has been required to, respond to a release of a regulated substance at a site. Persons intending to use the background standard, Statewide health standard, the site-specific standard or who intend to remediate a site as a special industrial area, must file a Notice of Intent to Remediate with the Department. A Notice of Intent to Remediate filed with the Department provides a brief description of the location of the site, a list of known or suspected contaminants at the site, the proposed remediation measures for the site and a description of the intended future use of the site. A person who demonstrates attainment of one, or a combination of the cleanup standards, or who receives approval of a special industrial area remediation identified under the act, will be relieved of further liability for the remediation of the site for any contamination identified in reports submitted to and approved by the Department. Furthermore, the person shall not be subject to citizen suits or other contribution actions brought by responsible persons not participating in the remediation.

Under sections 304(n)(1)(ii) and 305(c)(2) of the act, there is a 30-day public and municipal comment period for sites proposed for remediation using a site-specific standard, in whole or in part, and for sites remediated as a special industrial area. This period begins when a summary of the Notice of Intent to Remediate is published in a newspaper of general circulation in the area of the site. For the sites identified as follows, proposed for remediation to a site-specific standard or as a special industrial area, the municipality, within which the site is located, may request to be involved in the development of

the remediation and reuse plans for the site if the request is made within 30 days of the date specified. During this comment period the municipality may request that the person identified, as the remediator of the site, develop and implement a public involvement plan. Requests to be involved and comments should be directed to the remediator of the site.

For further information concerning the content of a Notice of Intent to Remediate, contact the Environmental Cleanup Program Manager in the Department Regional Office under which the notice appears. If information concerning this acknowledgment is required in an alternative form, contact the Community Relations Coordinator at the appropriate Regional Office listed. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following Notices of Intent to Remediate:

Southeast Region: Environmental Cleanup Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.

Vacant Parcel (1126—1130 Spring Garden Street), City of Philadelphia, **Philadelphia County.** Keith D'Ambrosio, Whitestone Associates, Inc., 1120 Welsh Rd., North Wales, PA 19454, on behalf of Ross Goldberg, Posel Management Co., 212 Walnut St., Philadelphia, PA 19106, has submitted a Notice of Intent to Remediate soils contaminated with inorganics and PAHs. The applicant proposes to remediate the site to meet Site-Specific Standards. A summary of the Notice of Intent to Remediate was reported to have been published in the *Philadelphia Daily News* on July 31, 2002.

Chelsea Housing, City of Philadelphia, **Philadelphia County.** William F. Schmidt, P. E., Pennoni Associates, Inc., 3001 Market St., Philadelphia, PA 19104, on behalf of James L. McMahan, Chelsea Historic Properties, LP, 4041 Ridge Ave., Philadelphia, PA 19129, has submitted a Notice of Intent to Remediate soils contaminated with chlorinated solvents, Fuel Oil No. 2, Fuel Oil No. 6, inorganics, lead, other organics, PAHs, PCBs and pesticides; and groundwater contaminated with chlorinated solvents, Fuel Oil No. 2, Fuel Oil No. 6, other organics and PAHs. The applicant proposes to remediate the site to meet Statewide Health and Site-Specific Standards. A summary of the Notice of Intent to Remediate was reported to have been published in the *Philadelphia Daily News* on August 5, 2002.

Northwest Region: Environmental Cleanup Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

Ivy Wood Industrial Works, Saxonburg Borough and Clinton Township, **Butler County.** Civil and Environmental Consultants, Inc. (on behalf of Ivy Wood Industrial Works, 161 Deer Creek Road, Saxonburg, PA 16056) has submitted a Notice of Intent to Remediate Soil contaminated with inorganics. The applicant proposes to remediate the site to meet the site specific standards. A summary of the Notice to Remediate was reported to have been published in the *Butler Eagle* on August 26, 2002.

*Treesdale Inc. is also participating in the remediation of the site, per telephone call conversation with Claudia Smith Ciafre on August 22, 2002.

INFECTIOUS AND CHEMOTHERAPEUTIC WASTE TRANSPORTER LICENSES

**Applications received or withdrawn under the
Solid Waste Management Act (35 P. S.**

**§§ 6018.101—6018.1003) and the Infectious and
Chemotherapeutic Waste Law (35 P. S. §§ 6019.1—
6019.6) and regulations to transport infectious
and chemotherapeutic waste.**

Central Office: Bureau of Land Recycling and Waste Management, Division of Hazardous Waste Management, P. O. Box 8471, Harrisburg, PA 17105-8471.

Renewal Applications Received

Environmental Transport Group Inc., P. O. Box 296, Flanders, NJ 07836. License No. **PAHC 0023.** Received on August 22, 2002.

AIR QUALITY

PLAN APPROVAL AND OPERATING PERMIT APPLICATIONS

NEW SOURCES AND MODIFICATIONS

The Department of Environmental Protection (Department) has developed an "integrated" plan approval, State Operating Permit and Title V Operating Permit program. This integrated approach is designed to make the permitting process more efficient for Department, the regulated community and the public. This approach allows the owner or operator of a facility to complete and submit all the permitting documents relevant to its application one time, affords an opportunity for public input and provides for sequential issuance of the necessary permits.

The Department has received applications for plan approvals and/or operating permits from the following facilities.

Copies of these applications, subsequently prepared draft permits, review summaries and other support materials are available for review in the Regional Office identified in this notice. Persons interested in reviewing the application files should contact the appropriate Regional Office to schedule an appointment.

Persons wishing to receive a copy of the proposed Plan Approval or Operating Permit must indicate their interest to the Department Regional Office within 30 days of the date of this notice, and must file protests or comments on a Proposed Plan Approval or Operating Permit within 30 days of the Department's providing a copy of the proposed document to that person or within 30 days of its publication in the *Pennsylvania Bulletin*, whichever comes first. Interested persons may also request that a hearing be held concerning the proposed plan approval and operating permit. Comments or protests filed with the Department Regional Offices must include a concise statement of the objections to the issuance of the plan approval or operating permit and relevant facts, which serve as the basis for the objections. If the Department schedules a hearing, a notice will be published in the *Pennsylvania Bulletin* at least 30 days prior the date of the hearing.

Persons with a disability who wish to comment and require an auxiliary aid, service or other accommodation to participate should contact the Regional Office identified as follows. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

Final plan approvals and operating permits will contain terms and conditions to ensure that the source is constructed and operating in compliance with applicable requirements in 25 Pa. Code Chapters 121—143, the Federal Clean Air Act and regulations adopted under the Act.

PLAN APPROVALS

Plan Approval Applications Received under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter B that may have special public interest. These applications are in review and no decision on disposition has been reached.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701. Contact David Aldenderfer, Program Manager; (570) 327-3637.

49-00009A. Mohawk Flush Doors, Inc. (P. O. Box 112, Northumberland, PA 17857) for construction of a wood door spray booth and two roll coaters in Point Township, **Northumberland County**.

17-305-046. P and N Coal Co., Inc. (P. O. Box 332, Punxsutawney, PA 15767) for modification of a coal processing operation by increasing the operation's throughput in Goshen Township, **Clearfield County**. The processing operation is subject to Subpart Y of the Federal Standards of Performance for New Stationary Sources.

OPERATING PERMITS

Intent to Issue Title V Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter G.

Southeast Region: Air Quality Program, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428. Contact Edward Brown, Facilities Permitting Chief; (610) 832-6242.

46-00020. Superior Tube Co. (3900 Germantown Pike, Colledgeville, PA 19426) administratively amended to finalize an appeal of the Title V Operating Permit, as well as to address changes through Plan Approval 46-0020B in Lower Providence Township, **Montgomery County**.

09-00003. Superpac, Inc. (1220 Industrial Boulevard, Southampton, PA 18966) administratively amended to address testing requirements of the appeal and the addition of a flexographic printing press in Upper Southampton Township, **Bucks County**. The facility's major emission points include flexographic printing presses, which emit major levels of VOCs. This is Administrative Amendment No. 2 of Title V Operating Permit. The permit will include monitoring, recordkeeping and reporting requirements designed to keep the facility within all applicable air quality requirements.

23-00004. American Ref-Fuel Co. of Delaware Valley, L. P. (10 Highland Avenue, Chester, PA 19013) administratively amended to address the appeal of the Title V Operating Permit, as well as to incorporate changes from 23-0004 in the City of Chester, **Delaware County**.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110. Contact Yasmin Neidlinger, Facilities Permitting Chief; (717) 705-4702.

36-05015. Dart Container Corp. of PA (60 East Main Street, Leola, PA 17540) for operation of a foam products manufacturing facility in Upper Leacock Township, **Lancaster County**. This action is a renewal of the Title V Operating Permit that was issued in 1997.

Intent to Issue Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.

Southeast Region: Air Quality Program, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428. Contact Edward Brown, Facilities Permitting Chief; (610) 832-6242.

23-00095. Norquay Technology, Inc. (800 West Front Street, Chester, PA 19016) for a Synthetic Minor Operating Permit in the City of Chester, **Delaware County**. The facility manufactures custom and specialty chemicals. The sources of emissions include two boilers, process area, scrubbers and condensers. The facility has a potential to emit 11 tons of VOCs, 10 tons per year for single hazardous air pollutants (HAPs) and 25 tons per year for any combination of HAPs. Monitoring, recordkeeping and reporting requirements have been added to the permit to address applicable limitations.

15-00057. Coatesville Hospital Corp. (201 Reeceville Road, Coatesville, PA 19320) for a Synthetic Minor Operating Permit in Caln Township, **Chester County**. Coatesville Hospital is a medical facility providing patient care. The sources of emissions include two boilers and two diesel emergency generators. The facility has a potential to emit 24.9 tons of NOx. Monitoring, recordkeeping and reporting requirements have been added to the permit to address applicable limitations.

15-00085. Lincoln University (1570 Baltimore Pike, Lincoln University, PA 19352) for their facility in Lower Oxford Township, **Chester County**. The facility's major emission points include 43 boilers and 13 generators, which have the potential to emit major levels of NOx before taking limitations.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110. Contact Yasmin Neidlinger, Facilities Permitting Chief; (717) 705-4702.

67-03001. Frito-Lay, Inc. (3553 Gillespie Drive, York, PA 17404) for operation of a snack food manufacturing plant in West Manchester Township, **York County**. Annual emissions of PM-10, NOx and VOC are estimated at several tons per pollutant. The Natural Minor Operating Permit will include testing, monitoring, recordkeeping and reporting requirements designed to keep the facility operating in accordance with the applicable air quality requirements.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745. Contact Mark Wayner, Facilities Permitting Chief; (412) 442-4174.

65-00830. Mine Safety Appliances Co. (P. O. Box 428, 3880 Meadowbrook Road, Pittsburgh, PA 15230) a renewal for operation of a medical appliance and supplies plant in Murrysville, **Westmoreland County**.

56-00244. Pennsylvania Department of Corrections (P. O. Box 598, Camp Hill, PA 17001) a renewal for a State correctional facility in Brothersvalley Township, **Somerset County**.

Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104. Contact Edward Braun, Chief; (215) 685-9476.

96-034. Atlantic Metals Corp. (3100 East Orthodox Street, Philadelphia, PA 19137) for manufacture of specialty powders and service to the steel industry in the City of Philadelphia, **Philadelphia County**, to remove numerous particulate sources and the Plant 2 Dust Collector that have all been removed from the facility, to change the monitoring method from daily pressure drop checks across the Munson Baghouse and Chicago Conveyor Baghouse to daily visual inspections for emissions on the exhaust stack of each control device and to

incorporate a second baghouse that controls the spray dryer which was permitted under Installation Permit No. 98196, which will be monitored by a daily pressure drop check across the unit. There is no change in actual emissions. The Natural Minor Operating Permit was originally issued on April 17, 2001.

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 the 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 (Department). A copy of the application is available for inspection at the District Mining Office indicated before 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 certification.

Written comments, 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 will have discharges of wastewater to streams, the Department will incorporate NPDES permits into the mining activity permits issued in response to these applications. The 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 previous, 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 necessary, for compliance with water quality standards (in accordance with 25 Pa. Code Chapters 93 and 95). Persons or agencies which have requested review of the NPDES permit requirements for a particular mining activity within the previously 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.

Coal Applications Received

Hawk Run District Mining Office: Empire Road, P. O. Box 209, Hawk Run, PA 16840-0209, (814) 342-8200.

14990301 and NPDES Permit No. PA 0242781. Glenn O. Hawbaker, Inc., P. O. Box 135, State College, PA 16804. Revision to the existing NPDES Permit to allow utilization of an existing treatment basin, from an inactive coal mining operation, for pumped pit water settling. The permit is located in Rush Township, **Centre County** and affects 90.5 acres. Receiving streams unnamed tributary Moshannon Creek. Application received June 11, 2002.

17020111 and NPDES Permit No. PA 0243329. Larson Enterprises, Inc., P. O. Box 96, Kylertown, PA 16847-0096. Commencement, operation and restoration of a bituminous surface mine permit in Cooper Township, **Clearfield County** affecting 19.4 acres. Receiving stream: Sulphur Run, classified for the following use CWF. Application received August 19, 2002.

Greensburg District Mining Office: Armbrust Building, R. R. 2 Box 603-C, Greensburg, PA 15601-0982, (724) 925-5500.

03020110 and NPDES Permit No. PA0250244. Original Fuels, Inc. (P. O. Box 343, Punxsutawney, PA 15767). Application for commencement, operation and reclamation of a bituminous surface mine located in Redbank Township, **Armstrong County**, affecting 73 acres. Receiving streams: unnamed tributaries to Redbank Creek to Redbank Creek, classified for the following use: CWF. The first downstream potable water supply intake from the point of discharge is the Borough of Hawthorn. Application received August 19, 2002.

65980105 and NPDES Permit No. PA0202363. Joseph Rostosky Coal Company (2578 Country Lane, Monongahela, PA 15063). Renewal application for continuous operation and reclamation for a bituminous surface mine located in Rostraver Township, **Westmoreland County**, affecting 28.8 acres. Receiving streams unnamed tributary to the Monongahela River, classified for the following use: WWF. The first downstream potable water supply intake from the point of discharge is the Authority of the Borough of Charlerio. Renewal application received August 22, 2002.

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900.

56970103 and NPDES Permit No. PA0234524. Marquise Mining Corporation, 3889 Menoher Blvd., Johnstown, PA 15905, permit renewal for commencement, operation and restoration of a bituminous surface and auger mine and for discharge of treated mine drainage in Shade Township, **Somerset County**, affecting 308.9 acres. Receiving streams: Fallen Timber Run; unnamed tributary to Fallen Timber Run; unnamed tributary to Stonycreek classified for the following uses: cold water fishery; cold water fishery and cold water fishery. The first downstream potable water supply intake from the point of discharge is Cambria Somerset Authority Border Dam on Stonycreek River. Application received August 19, 2002.

Knox District Mining Office: White Memorial Building, P. O. Box 669, Knox, PA 16232-0669; (814) 797-1191.

33960109 and NPDES Permit No. 0227331. TDK Coal Sales, Incorporated (P. O. Box 259, Brockway, PA 15824). Renewal of an existing bituminous surface and auger operation in Union Township, **Jefferson County** affecting 157.4 acres. Receiving streams: unnamed tributary to Little Mill Creek, classified for the following: CWF. There are no potable surface water supply intakes within 10 miles downstream. Application received August 19, 2002.

Noncoal Applications Received

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901-2454, (570) 621-3118.

58990844. Douglas G. Kilmer (R. R. 1 Box 85K, Union Dale, PA 18470), Stage I and II release on a small quarry operation in Choconut Township, **Susquehanna County** affecting 3 acres for \$3,000 on property owned by Douglas Shea. Application received August 12, 2002.

58000856. David B. Salsman, Sr. (R. R. 3 Box 179, Meshoppen, PA 18630), Stage I and II release on a small quarry operation in Rush Township, **Susquehanna County** affecting 2 acres for \$2,000 on property owned by David B. Salsman, Sr. Application received August 13, 2002.

5376SM16C3 and NPDES Permit PA0593915. American Asphalt Paving Co. (500 Chase Road, Shavertown, PA 18708), renewal of NPDES Permit in Jackson Township, **Luzerne County**, receiving stream: Brown's Creek. Classified for the following use: CWF. Application received August 14, 2002.

19950301T. Benton Mobile Concrete, Inc. (P. O. Box 273, Benton, PA 17814-0273), transfer of an existing quarry operation from Stillwater Asphalt, Inc. in Stillwater Borough, **Columbia County** affecting 9.2 acres. Receiving stream: none. Application received August 15, 2002.

06910301C2. Berks Products Corporation (726 Spring Street, P. O. Box 421, Reading, PA 19603), boundary correction to an existing quarry operation in Maxatawny Township, **Berks County** affecting 38.4 acres, receiving stream: none. Application received August 15, 2002.

4873SM6C3 and NPDES Permit PA0009695. Global Stone PenRoc, LP (P. O. Box 1967, York, PA 17405), renewal of NPDES Permit in West Manchester Township, **York County**, receiving stream: Codorus Creek. Classified for the following use: warm water fishery. The first downstream potable water supply intake from the point of discharge is the York Water Company. Application received August 19, 2002.

7974SM3C6 and NPDES Permit PA0595853. New Hope Crushed Stone & Lime Co. (Phillips Mill Road, New Hope, PA 18938), renewal of NPDES Permit in Solebury Township, **Bucks County**, receiving stream Primrose Creek. Classified for the following use: trout stocking fishery. The first downstream potable water supply intake from the point of discharge is the BCWSA The Water Works. Application received August 19, 2002.

Greensburg District Mining Office: Armbrust Building, R. R. 2 Box 603-C, Greensburg, PA 15601-0982, (724) 925-5500.

03010407 and NPDES Permit No. PA0250040. Stitt Coal Company, Inc. (R. D. 1, Box 197A, Ford City, PA 16226). Application received for a pit variance and blast plan revision for a large noncoal surface mine located in Kittanning Township, **Armstrong County**, affecting

251.5 acres. Receiving streams Garrets Run to Allegheny River, classified as a warm water fishery. There are no potable water supply intakes within 10 miles of the point of discharge. Revision application received August 26, 2002.

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931 (814) 472-1900.

56022801. Mostoller Landfill, Inc., 7095 Glades Pike, Somerset, PA 15501, commencement, operation and restoration of a noncoal (clay) mine in Brothersvalley Township, **Somerset County**, affecting 5 acres. Receiving stream: unnamed tributary to Kimberly Run classified for the following use: cold water fishery. There are no potable water supply intakes within 10 miles downstream. Application received August 15, 2002.

Knox District Mining Office: White Memorial Building, P. O. Box 669, Knox, PA 16232-0669, (814) 797-1191.

4379305 and NPDES Permit No. PA 0118818. Atlantic States Materials of PA, Inc. (P. O. Box 269, Mercer, PA 16137). Revision to an existing sand and gravel permit in East Lackawannock Township, **Mercer County** affecting 164 acres. Receiving streams: Neshannock Creek, classified for the following: TSF. There are no potable surface water supply intakes within 10 miles downstream. Revision to add 8.6 acres to the permitted area. Application received August 19, 2002.

FEDERAL WATER POLLUTION CONTROL ACT, SECTION 401

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 (Department). Section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341(a)), requires the State to certify that the involved projects will not violate the applicable provisions of sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) as well as relevant State requirements. Initial requests for 401 Water Quality Certification will be published concurrently with the permit application. Persons objecting to approval of a request for certification under section 401 or to the issuance of a Dam Permit or Water Obstruction and Encroachment Permit, or the approval of an Environmental Assessment must submit any comments, suggestions or objections within 30 days of the date of this notice as well as any questions to the office noted before the application. Comments should contain the name, address and telephone number of the person commenting, identification of the certification request to which the comments or objections are addressed and a concise statement of comments, objections or suggestions including the relevant facts upon which they are based.

The Department may conduct a fact-finding hearing or an informal conference in response to comments if deemed necessary. Each individual will be notified, in writing, of the time and place of a scheduled hearing or conference concerning the certification request to which the comment, objection or suggestion relates. Maps, drawings and other data pertinent to the certification request are available for inspection between the hours of 8 a.m. and 4 p.m. on each working day at the office noted before the application.

Persons with a disability and who wish to attend the hearing and require an auxiliary aid, service or other accommodation to participate in the proceedings, should

contact the specified program. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

Applications Received Under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27) and section 302 of the Flood Plain Management Act (32 P. S. § 679.302) and Requests for Certification Under section 401 of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).

WATER OBSTRUCTIONS AND ENCROACHMENTS

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

E01-237. Lake Heritage Property Owners Association, Inc., 1000 Heritage Drive, Gettysburg, PA 17325 in Mount Joy Township, **Adams County**, ACOE Baltimore District.

To construct and maintain cast-in-place concrete, concrete block, segmental block, pressure treated timber seawalls, rip-rap stone bank protection and docks in Lake Heritage (WWF) (Gettysburg, PA Quadrangle N: 10.75 inches; W: 8.75 inches) in Mount Joy Township, Adams County.

E28-305. Tex R. Myers, 13204 Worleytown Road, Greencastle, PA 17225 in Antrim Township, **Franklin County**, ACOE Baltimore District.

To construct and maintain a 4-foot by 18-foot precast concrete box culvert in an unnamed tributary to the Conococheague Creek (WWF) (Williamson, PA Quadrangle N: 2.0 inches; W: 0.8 inch) in Antrim Township, **Franklin County**.

E34-107. Pennsylvania Department of Transportation District 2-0, 1924-30 Daisy Street, Clearfield, PA 16830 in Tuscarora Township, **Juniata County**, ACOE Baltimore District.

To remove the existing two span bridge and to construct and maintain a bridge with a span of 61 feet on a 38.5° skew with a minimum underclearance of 6.6 feet across Laurel Run (CWF) on SR 05850, Section A02, Segment 120, Offset 1089 located in Honey Grove Village (McCoyville, PA Quadrangle N: 4.5 inches; W: 7.0 inches) to Tuscarora Township, Juniata County.

E36-743. Drumore Township, 1675 Furniss Road, Drumore, PA 17518 in Drumore Township, **Lancaster County**, ACOE Baltimore District.

To remove the existing 5-foot, 6 inches by 16-foot span steel bridge and to construct and maintain a 7-foot by 16-foot wide precast concrete arch culvert at a point approximately 3,600 feet west of the intersection of SR

272 and T-375 (Goshen Mill Road) within the confines of an unnamed tributary to Peters Creek (HQ-WWF) (Wakefield, PA Quadrangle N: 10.0 inches; W: 10.3 inches) in Drumore Township, Lancaster County.

E67-727. Trent Brown, Izaac Walton League of America, York County, Chapter 67, 7131 Ironstone Hill Road, Dallastown, PA 17313 in Shrewsbury Township, **York County**, ACOE Baltimore District

To construct and maintain 1,100 linear feet of stream restoration/bank stabilization in and along the South Branch Codorus Creek using a natural stream channel design approach including the installation of in-stream structures (rock vanes, cross vanes, rock toe protection and root wads), bank grading and riparian plantings. The project is located on the Robert and Greta Dise property approximately 2,000 feet southeast of the intersection of SR 0616 and Fissels Church Road to the intersection of SR 0616 and the railroad tracks (Glen Rock, PA Quadrangle N: 4.6 inches; W: 13.6 inches) in Shrewsbury Township, York County. The restoration will impact 0.09 acre of palustrine emergent wetland, 0.04 acre permanent impact and 0.05 acre temporary impact. The amount of permanent wetland impact is considered a de minimis impact of 0.05 acre and wetland mitigation is not required.

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701, (570) 327-3636.

E08-397. Warren Township, P. O. Box 52, Warren Center, PA 18851. Bridge construction, in Warren Township, **Bradford County**, ACOE Baltimore District (Little Meadows, PA Quadrangle N: 11.8 inches; W: 7.5 inches).

To construct and maintain a 30 foot long by 20 foot wide truck scale bridge with side rails and a concrete block retaining wall over Corbin Creek (CWF) located adjacent to the Warren Township Municipal Building on the Township lot. The project will not impact wetlands while impacting about 40 feet of waterway.

E17-368. Dominion Transmission, Inc., 445 West Main Street, Clarksburg, WV 26301. Dominion Transmission, Inc., LN-280 Operation and Maintenance, in Brady, Goshen, Huston, Lawrence, Sandy and Union Townships and Troutville Borough, **Clearfield County**, ACOE Baltimore and Pittsburgh District (Various, PA Quadrangles N: 22.2 inches; W: 1.4 inches).

To replace, operate and maintain an existing 20-inch diameter pipeline over 30-miles within an existing 75-foot right-of-way for the transmission of natural gas. The operation and maintenance of the gas transmission line may require the replacement of 28 stream crossings that are as follows:

<i>Stream Name</i>	<i>Water Quality Designation</i>	<i>Latitude Coordinates</i>	<i>Longitude Coordinates</i>
Tributary—Jack Dents Branch of Medix Run	HQ-Cold Water Fishery	41°14'16"	78°22'14"
Tributary—Jack Dents Branch of Medix Run	HQ-Cold Water Fishery	41°13'58"	78°22'60"
Medix Run	HQ-Cold Water Fishery	41°13'22"	78°24'26"
Little Medix Run	HQ-Cold Water Fishery	41°12'57"	78°25'44"
Saunders Run	HQ-Cold Water Fishery	41°11'56"	78°28'7"
Little Laurel Run	HQ-Cold Water Fishery	41°11'10"	78°29'53"
Pray Run	HQ-Cold Water Fishery	41°10'41"	78°30'33"

<i>Stream Name</i>	<i>Water Quality Designation</i>	<i>Latitude Coordinates</i>	<i>Longitude Coordinates</i>
Tributary—Laurel Run	HQ-Cold Water Fishery	41°10'19"	78°31'5"
Laurel Run	HQ-Cold Water Fishery	41°09'55"	78°32'16"
Tributary—Laurel Run	HQ-Cold Water Fishery	41°09'52"	78°32'20"
Tributary—South, Bennetts Branch	HQ-Cold Water Fishery	41°08'15"	78°37'4"
Dressler Run	HQ-Cold Water Fishery	41°06'43"	78°39'12"
Laborde Branch	Cold Water Fishery	41°14'16"	78°40'11"
Sugarcamp Run	Cold Water Fishery	41°05'15"	78°41'52"
Tributary—Luthersburg Branch	Cold Water Fishery	41°04'40"	78°42'29"
Tributary—Luthersburg Branch	Cold Water Fishery	41°04'31"	78°42'44"
Tributary—Luthersburg Branch	Cold Water Fishery	41°04'9"	78°43'1"
Tributary—Luthersburg Branch	Cold Water Fishery	41°03'45"	78°43'24"
Tributary—Luthersburg Branch	Cold Water Fishery	41°03'43"	78°43'28"
Limestone Run	Cold Water Fishery	41°03'26"	78°43'60"
Stump Creek	Cold Water Fishery	41°02'30"	78°45'41"
Tributary—East Mahoning Creek	HQ-Cold Water Fishery	41°01'56"	78°46'5"
Tributary—East Mahoning Creek	HQ-Cold Water Fishery	41°01'43"	78°46'15"
Tributary—Beaver Run	HQ-Cold Water Fishery	41°01'10"	78°47'13"
Beaver Run	HQ-Cold Water Fishery	41°00'20"	78°47'37"

Replacement of gas transmission lines shall be completed so that there will be a minimum of 3 feet of cover between the top of the pipe and the lowest point in the streambed. Trench plugs or clay dikes shall be used at every waterway and wetland crossing to ensure the existing hydrology is not altered. If upon investigation the Department determines the gas transmission line approved by this permit is serving to degrade water quality, stream profile, meander pattern or channel geometries, then the permittee shall be required to implement all measures necessary to mitigate the degradation. This permit also authorizes the crossing of any wetland that may occur along the 30-mile right-of-way of LN-280 during replacement and maintenance operations, the permittee shall take all precautions necessary to ensure that wetland impacts along the right-of-way are temporary. Since Jack Dent Branch, Medix Run, Saunders Run, Laurel Run, Pray Run, South-Bennetts Branch, Laborde Branch and their tributaries are wild trout streams, no maintenance work shall be conducted in or along the stream channels between October 1 and April 1 without prior written approval from the Fish and Boat Commission. Since Jack Dents Branch, Medix Run and Laborde Branch are stocked trout fisheries, no maintenance work shall be conducted in or along the stream channels between March 1 and June 15 without prior written approval from the Fish and Boat Commission.

Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

E65-807. Pennsylvania Department of Transportation, Engineering District 10-0, P. O. Box 429, Indiana, PA 15701. Fairfield Township, **Westmoreland County** and West Wheatfield Township, **Indiana County**, ACOE Pittsburgh District.

To remove the existing structure and to construct and maintain a four span bridge having four normal spans of 31.69 meters and a minimum underclearance of 9.83 meters across the Conemaugh River (WWF) on a new alignment located 300 meters upstream from the existing bridge for the purpose of improving transportation safety. The proposed work includes the placement and maintenance of fill in 0.082 acre of palustrine emergent/forested wetland. To compensate for wetland loss, the applicant will make a monetary contribution to the Pennsylvania Wetland Replacement Project. The project is located on S.R. 0259, Section 450 (Bolivar, PA Quadrangle N: 4.25 inches; W: 2.2 inches).

STORAGE TANKS

SITE-SPECIFIC INSTALLATION PERMITS

The following Storage Tank Site-Specific Installation Permit application has been received by the Department of Environmental Protection (Department) and is currently under review. Persons wishing to comment on the proposed permit are invited to submit a statement to the Bureau of Land Recycling and Waste Management, Division of Storage Tanks, P. O. Box 8763, Harrisburg, PA 17105-8763, within 30 days from the date of this publica-

tion. 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 the comment and the relevant facts upon which it is based.

<i>SSIP Application No.</i>	<i>Applicant Name & Address</i>	<i>County</i>
02011	Charles L. Moeller P. O. Box 126 220 S. Elizabeth St. Spencerville, OH 45887	Lackawanna

ACTIONS

FINAL ACTIONS UNDER THE CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT—NPDES AND WQM PART II PERMITS INDUSTRIAL WASTE AND SEWERAGE WASTEWATER

The Department of Environmental Protection (Department) has taken the following actions on previously received permit applications and requests for plan approval.

Any person aggrieved by these actions 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 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 publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. you do not need a lawyer to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer, may qualify for free pro bono representation. Call the Secretary to the Board ((717) 787-3483) for more information.

I. Municipal and Industrial Permit Actions under The Clean Streams Law Act (35 P. S. §§ 691.1—691.1001).

Southeast Region: Water Management Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.

The following applications have been received for Storage Tank Site-Specific Installation Permits under the authority of the Storage Tank Spill Prevention Act (35 P. S. §§ 6021.304, 6021.504, 6021.1101 and 6021.1102) and under 25 Pa. Code Chapter 245, Subchapter C.

<i>Municipality</i>	<i>Tank Type</i>	<i>Tank Capacity</i>
Archibald Borough	4 ASTs storing hazardous substances	36,000 gallons

NPDES Permit No. PA0052078, Sewage, **Elverson Borough Municipal Authority**, P. O. Box 266, 101 South Chester Street, Elverson, PA 19520, Elverson Borough, **Chester County**.

The following notice reflects changes to the notice published at 32 Pa.B. 2603 (May 25, 2002):

1. The average monthly limit for Total Residual Chlorine has been revised to read 0.03 mg/l in the Final Permit.
2. The Fecal Coliform limit for October 1 through April 30 has been revised to read 2,000 colonies/100 ml as a geometric average, in the Final Permit.

WQM Permit No. 1502412, Sewage, **Pennsylvania American Water Company**, 114 East Lincoln Highway, P. O. Box 791, Coatesville, PA 19320.

This proposed facility is located in West Caln Township, **Chester County**.

Description of Proposed Action/Activity: Approval for the construction and operation of a sewage pump station and force main to serve the Calnshire West and Sandy Hill Residential Subdivision.

WQM Permit No. 4602409, Sewerage, **Whitpain Township**, 960 Wentz Road, P. O. Box 800, Blue Bell, PA 19422

This proposed facility is located in Whitpain Township, **Montgomery County**.

Description of Proposed Action/Activity: Approval for the replacement of an existing wastewater pump station with a new submersible pump station.

Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

WQM Permit No. 5401405, Sewerage, **Branch Township Municipal Authority**, P. O. Box 295, Llewellyn, PA 17974.

This proposed facility is located in Branch Township, **Schuylkill County**.

Description of Proposed Action/Activity: construction of a .45 MGD STP and associated collection system to treat domestic wastewater from Cass and Branch Townships.

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4707.

NPDES Permit No. PA0246476 and 5002402, Sewage, **Sonshine Ministries, Inc.**, 1481 Reigle Road, Harrisburg, PA 17712.

This proposed facility is located in Northeast Madison Township, **Perry County**.

Description of Proposed Action/Activity: Authorization for construction of sewage treatment facilities and authorization to discharge to Bixler Run in Watershed 7-A

NPDES Permit No. PA0051748, Sewage, **Tulpehocken Area School District**, 428 New Schaeferstown Road, Bernville, PA 19506-8939.

This proposed facility is located in Jefferson Township, **Berks County**.

Description of Proposed Action/Activity: Authorization for discharge to Little Northkill Creek in Watershed 3-C.

NPDES Permit No. PA0087530, Sewage, **Paul L. McAnulty**, 3651 Waggoners Gap Road, Carlisle, PA 17013-9540.

This proposed facility is located in North Middleton Township, **Cumberland County**.

Description of Proposed Action/Activity: Authorization for discharge to Conodoguin Creek in Watershed 7-B.

WQM Permit No. 2888407 (02-1), Sewerage, **Borough of Greencastle**, 60 North Washington Street, Greencastle, PA 17225-1230.

This proposed facility is located in Antrim Township, **Franklin County**.

Description of Proposed Action/Activity: Modifications to the construction/operation of a new headworks facility at existing STP. Project will consist of installation of screening and vortex grit removal.

WQM Permit No. 2102405, Sewerage, **Jesse K. King**, 222 Fairview Road, Shippensburg, PA 17257.

This proposed facility is located in Hopewell Township, **Cumberland County**.

Description of Proposed Action/Activity: Construction/operation of a small flow treatment system to serve their single family residence.

NPDES Permit No. PA0246620, Industrial Waste, **Norfolk Southern Railway Company**, 110 Franklin Road, S.E., Roanoke, VA 24042.

This proposed facility is located in Swatara Township, **Dauphin County**.

Description of Proposed Action/Activity: Authorization to discharge to UNT of Spring Creek in Watershed 7-C.

WQM Permit No. PA0084166, Industrial Waste, **City of Lebanon Authority**, 400 S. 8th Street, Lebanon, PA 17042.

This proposed facility is located in Swatara Township, **Lebanon County**.

Description of Proposed Action/Activity: Authorization for discharge to UNT Swatara Creek in Watershed 7-D.

NPDES Permit No. PA0082538, Industrial Waste, **Altoona City Authority (Andronic Pappas Water Treatment Facility)**, Horseshoe Curve Plant, 20 Greenwood Road, Altoona, PA 16602-7114.

This proposed facility is located in Logan Township, **Blair County**.

Description of Size and Scope of Proposed Operation/Activity: Authorization to discharge to Burgoon Run (Lake Altoona) in Watershed 11-A.

Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

NPDES Permit No. PA0039721, Sewage, **Rostraver Township Sewage Authority**, 202 Port Royal Road, P. O. Box 976 Municipal Building, Belle Vernon, PA 15102 is authorized to discharge from a facility located at Rehoboth Valley Industrial District STP, Rostraver Township, **Westmoreland County** to receiving waters named unnamed tributary of Speers Run.

NPDES Permit No. PA0205087, Sewage, **Rockwood Real Estate, Inc.**, R. D. 2, Box 208, Rockwood, PA 15557 is authorized to discharge from a facility located at Scottyland Camping Resort STP, Middle Creek Township, **Somerset County** to receiving waters named Lost Creek.

NPDES Permit No. PA0205966, Sewage, **Economy Borough Municipal Authority**, 2860 Conway Wallrose Road, Baden, PA 15005 is authorized to discharge from a facility located at Chestnut Ridge STP, Economy Borough, **Beaver County** to receiving waters named Cooney Hollow—Tributary to Big Sewickley Creek.

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

WQM Permit No. 2002414, Sewerage, **Todd and Julianne Sommers**, 10961 Heather Drive, Meadville, PA 16335.

This proposed facility is located in East Fairfield Township, **Crawford County**.

Description of Proposed Action/Activity: This project is for a single residence sewage treatment plant.

WQM Permit No. 4302410, Sewerage, **Jill A. Rock**, 206 Hooper Road, Transfer, PA 16154.

This proposed facility is located in Delaware Township, **Mercer County**.

Description of Proposed Action/Activity: This project is for a single residence sewage treatment plant.

NPDES STORMWATER INDIVIDUAL PERMITS—(PAS)

The following NPDES Individual Permits for Discharges of Stormwater Associated with Construction Activities have been issued.

Any person aggrieved by these actions may appeal, under Section 4 of the Environmental Hearing Board Act, 35 P. S. Section 7514, and the Administrative Agency Law, 2 Pa.C.S. Chapter 5A, to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Board through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Environmental Hearing Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

Individuals who want to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer, you may qualify for

free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

<i>NPDES No. Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAS10S109	Paradise Falls Lutheran Assoc. 1319 Paradise Falls Cresco, PA 18326	Monroe	Paradise Township	Paradise Creek HQ-CWF
PAS10U173	Jack Calahan, Inc. 2767 Mill Road Doylestown, PA 18901	Northampton	Hanover Township	Monocacy Creek HQ-CWF

Northwest Region: Oil and Gas Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481, (814) 332-6860.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAS104114	Keane Development 12 Keane Lane Bradford, PA 16701	McKean	Lafayette Township	Turnup Run (HQ- CWF) and unnamed tributaries to Turnup Run (HQ-CWF)

APPROVALS TO USE NPDES AND/OR OTHER GENERAL PERMITS

The following parties have submitted: (1) Notices of Intent for Coverage Under (1) General NPDES Permits to Discharge Wastewater into the Waters of this Commonwealth. The approval for coverage under these general NPDES permits is subject to applicable effluent limitations. Monitoring, reporting requirements and other conditions set forth in the general permit; (2) General Permits for Beneficial Use of Sewage Sludge or Residential Septage by Land Application in Pennsylvania; (3) General NPDES Permit Authorizing the Discharge of Stormwater Associated with Construction Activities to Waters of this Commonwealth; (4) Notification for First Use Application of Sewage Sludge.

The approval of coverage for land application of sewage sludge or residential septage under these general permits is subject to pollutant limitations, pathogen and vector attraction reduction requirements, operational standards, general requirements, management practices and other conditions set forth in the respective permit. The Department of Environmental Protection approves the following coverage under the specific General Permit.

The EPA Region III Administrator has waived the right to review or object to this permit action under the waiver provision 40 CFR 123.23(d).

The application and related documents, effluent limitations, permitting requirements and other information are on file and may be inspected and arrangements made for copying at the contact office noted.

List of NPDES and/or Other General Permit Types

PAG-1	General Permit for Discharges From Stripper Oil Well Facilities
PAG-2	General Permit for Discharges of Stormwater Associated With Construction Activities (PAR)
PAG-3	General Permit for Discharges of Stormwater From Industrial Activities
PAG-4	General Permit for Discharges From Single Residence Sewage Treatment Plant
PAG-5	General Permit for Discharges From Gasoline Contaminated Ground Water Remediation Systems
PAG-6	General Permit for Wet Weather Overflow Discharges From Combined Sewer Systems (CSO)
PAG-7	General Permit for Beneficial Use of Exceptional Quality Sewage Sludge by Land Application
PAG-8	General Permit for Beneficial Use of Non-Exceptional Quality Sewage Sludge by Land Application to Agricultural Land, Forest, a Public Contact Site or a Land Reclamation Site
PAG-8 (SSN)	Site Suitability Notice for Land Application Under Approved PAG-8 General Permit Coverage
PAG-9	General Permit for Beneficial Use of Non-Exceptional Quality Sewage Sludge by Land Application to Agricultural Land, Forest, or a Land Reclamation Site
PAG-9 (SSN)	Site Suitability Notice for Land Application Under Approved PAG-9 General Permit Coverage
PAG-10	General Permit for Discharge Resulting from Hydrostatic Testing of Tanks and Pipelines
PAG-11	(To Be Announced)
PAG-12	Concentrated Animal Feeding Operations (CAFOs)

General Permit Type—PAG-2

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Telephone No.</i>
Lehigh County Lynn Township	PAR10Q170	Lynn Township P. O. Box 8 New Tripoli, PA 18066	Ontelaunee Creek CWF	Lehigh County Conservation District (610) 391-9583
Lehigh County N. Whitehall Township	PAR10Q173	Western Lehigh Valley Corp. 1390 Ridgeview Dr. Suite 302 Allentown, PA 18104	Coplay Creek CWF	Lehigh County Conservation District (610) 391-9583
Northampton County Palmer Township	PAR10U186	J. B. Reilly/Robert Johnson Lehigh West Land Assoc., LP 1390 Ridgeview Drive Suite 302 Allentown, PA 18104	Shoeneck Creek WWF	Northampton County Conservation District (610) 746-1971
Amity Township Berks County	PAR10C434	James Hollenbach, Pres. Hollenbach Const. Inc. 166 Holly Rd. P. O. Box 507 Boyertown, PA 19512	Schuylkill River WWF	Berks County Conservation District P. O. Box 520 1238 County Welfare Road Leesport, PA 19533 (610) 372-4657
Clearfield County Sandy Township	PAR101777	Fontana and Fontana Development Inc. 645 W. Pittsburgh St. Greensburg, PA 15601	Sandy Lick Creek WWF	Clearfield County Conservation District 650 Leonard St. Clearfield, PA 16830 (814) 765-2626
Allegheny County Monroeville	PAR10A519-1	R. E. Cochran, LP 4200 William Penn Hwy. Monroeville, PA 15146	East Thompson Run/WWF	Allegheny County Conservation District (412) 241-7645
Allegheny County Elizabeth Township	PAR10A567	Round Hill Cemetery 2131 Round Hill Church Road Elizabeth, PA 15037	Douglas Run/WWF	Allegheny County Conservation District (412) 241-7645
Allegheny County Moon Township	PAR10A581	Robert Morris University 881 Narrows Run Rd. Coraopolis, PA 15108	Unit Narrows Run/WWF	Allegheny County Conservation District (412) 241-7645
Allegheny County South Fayette Township	PAR10A592	Hickory Grade Land Company, Inc. P. O. Box 401 Bridgeville, PA 15017	UNT Coal Run/WWF	Allegheny County Conservation District (412) 241-7645
Beaver County Center Township	PAR100293	Raymond and Karen Hall 137 Hall Road Aliquippa, PA 15001	Shafers Run/WWF	Beaver County Conservation District (724) 774-7090
Cambria County Richland Township	PAR101087	TVM Building Products 160 Jari Drive Suite 120 Johnstown, PA 15904	Sandy Run/CWF	Cambria County Conservation District (814) 472-2120
Somerset County Somerset Township	PAR106148	Paul S. Reisdorph 2001 Southeast 10th St. Bentonville, AR 72716-0550	UNT Somerset Lake/WWF	Somerset County Conservation District (814) 445-4652
Somerset County Addison Borough	PAR106149	Precision Pallets & Lumber 7044 National Road P. O. Box 51 Addison, PA 15411-0051	Chub Run/WWF	Somerset County Conservation District (814) 445-4652

General Permit Type—PAG-3

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Telephone No.</i>
City of Chester Delaware County	PAR600069	Clean Metal, LLC 21 High St. Elkins, WV 26241	Delaware River—3G Watershed	DEP Southeast Region Lee Park, Suite 6010 555 North Lane Conshohocken, PA 19428 (610) 832-6131
Hatfield Township Montgomery County	PAR120006	Rosenberger's Dairies 847 Forty Foot Rd. Hatfield, PA 19440	Neshaminy Creek—2F Watershed	DEP Southeast Region Lee Park, Suite 6010 555 North Lane Conshohocken, PA 19428 (610) 832-6131
West Goshen Township Chester County	PAR120007	Rosenberger's Dairies 847 Forty Foot Rd. Hatfield, PA 19440	Chester Creek—3G Watershed	DEP Southeast Region Lee Park, Suite 6010 555 North Lane Conshohocken, PA 19428 (610) 832-6131
Bristol Township Bucks County	PAR120005	Rosenberger's Dairies 847 Forty Foot Rd. Hatfield, PA 19440	Mill Creek-2F Watershed	DEP Southeast Region Lee Park, Suite 6010 555 North Lane Conshohocken, PA 19428 (610) 832-6131
Lehigh County Whitehall Township	PAR112206	John Medernach & Co., Inc. 117 Franklin Street P. O. Box 24 Whitehall, PA 18052	Lehigh River TSF	DEP—NERO Water Management 2 Public Square Wilkes-Barre, PA 18711 (570) 826-2511)
North Fayette Township Allegheny County	PAR506113	Deep Valley Coal & Disposal Inc. 711 Old Steubenville Pike Oakdale, PA 15071	Pinkertons Run	Southwest Regional Office: Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
Cambria Township Cambria County	PAR806218	FedEx Freight East Inc. P. O. Box 840 Harrison, AR 72601-0840	UNT to Little Conemaugh River	Southwest Regional Office: Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000

General Permit Type—PAG-4

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Telephone No.</i>
Armstrong Township Indiana County	PAG046258	David Semone 1695 Lions Health Camp Rd. Indiana, PA 15701	UNT to Curry Run	Southwest Regional Office: Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
East Fairfield Township Crawford County	PAG048825	Todd and Julianne Sommers 10961 Heather Drive Meadville, PA 16335	Unnamed tributary to French Creek	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Delaware Township Mercer County	PAG048821	Jill A. Rock 206 Hooper Road Transfer, PA 16154	Lawango Run Tributary	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

General Permit Type—PAG-5

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Telephone No.</i>
Center Township Beaver County	PAG056179	Morelli Corporation 2 Lindsay Drive Beaver Falls, PA 15010	Moon Run to Ohio River	Southwest Regional Office: Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
South Park Township Allegheny County	PAG056182	Washington Engineering & Construction Co. P. O. Box 1203 Washington, PA 15301	Piney Fork, tributary of Peters Creek	Southwest Regional Office: Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000

General Permit Type—PAG-8 (SSN)

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Site Name & Location</i>	<i>Contact Office & Telephone No.</i>
Derry Township	PAG-08-3518	Derry Township Munic. Auth. 670 Clearwater Dr. Hershey, PA 17033	Hershey Trust Farm #41	Tom Sweeney DEP—SCRO 909 Elmerton Ave. Harrisburg, PA 17110 (717) 705-4786
Derry Township	PAG-08-3518	Derry Township Munic. Auth. 670 Clearwater Dr. Hershey, PA 17033	Hershey Trust Farm #46	Tom Sweeney DEP—SCRO 909 Elmerton Ave. Harrisburg, PA 17110 (717) 705-4786
Leamer Farm Biosolids Site Green Township Indiana County	PAG086106	City of Johnstown 241 Asphalt Road Johnstown, PA 15906		Southwest Regional Office: Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000

General Permit Type—PAG-10

DEP—Southcentral Region, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4707.

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Telephone No.</i>
Berks County Cumru Township	PAG103514	Sunoco Pipeline, L. P. Ten Penn Center, 26th Floor Philadelphia, PA 19103-1699	UNT to Wyomissing/ CWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 2

The following final reports were submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

Provisions of Chapter 3 of the Land Recycling and Environmental Remediation Standards Act (Act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of submission of final reports. A final report is submitted to document cleanup of a release of a regulated substance at a site where one of the Act's remediation standards. A

final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis for selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling analytical results which demonstrate that remediation has attained the cleanup standard selected.

For further information concerning the final report, contact the Environmental Cleanup Program Manager in the Department Regional Office under which the notice of receipt of a final report appears. If information concerning a final report is required in an alternative form, contact the Community Relations Coordinator at the appropriate Regional Office listed. TDD users may tele-

phone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following final reports:

Southeast Region: Environmental Cleanup Program Manager; Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.

Realen Homes, L. P., Price Property, Falls Township, **Bucks County**. Joseph W. Standen, Jr., P. G., Leggette, Brashears & Graham, 426 Brandywine Parkway, West Chester, PA 19380, on behalf of H. C. Price Co, 15660 North Dallas Parkway, Dallas, TX 75428, has submitted a Final Report concerning remediation of site soil contaminated with heavy metals. The report is intended to document remediation of the site to meet Site-Specific Standards.

Former Charl-Stan Property, Upper Chichester Township, **Delaware County**. John Mihalich, RMT, Inc., 527 Plymouth Rd., Suite 406, Plymouth Meeting, PA 19462-1641 on behalf of Stephen J. Lewicki, Peter S. Lewicki, Gregory D. Lewicki and Virginia Lewicki, Successor Trustees under the Residuary Trust under Revocable Trust of Stephen Lewicki dated March 26, 1999, P. O. Box 2129, Aston, PA 19014-0129, has submitted a Final Report concerning remediation of site soil contaminated with lead and heavy metals. The report is intended to document remediation of the site to meet the Statewide Health Standards.

Majka Property, Upper Providence Township, **Montgomery County**. Christopher Orzechowski, RT Environmental Services, Inc., 215 W. Church Rd., King of Prussia, PA 19406, on behalf of Heritage Building Group, Inc., 326 Old York Rd., Suite B, Furlong, PA 18925, has submitted a Final Report concerning remediation of site soil contaminated with arsenic. The report is intended to document remediation of the site to meet the Statewide Health Standards.

Philadelphia Eagles Stadium & Parking Areas (Proposed), City of Philadelphia, **Philadelphia County**. Keith M. Kowalski, P. G., URS Corp., 1400 Union Meeting Rd., Suite 202, Blue Bell, PA 19422, on behalf of City of Philadelphia, Philadelphia Authority for Industrial Development and its agent Philadelphia Industrial Development Corp. c/o Patrick O'Neill, City of Philadelphia Law Department, 1515 Arch St., 16th Floor, Philadelphia, PA 19102, has submitted a Final Report concerning remediation of site soil contaminated with PCBs, lead, heavy metals, BTEX, petroleum hydrocarbons, polycyclic aromatic hydrocarbons and solvents; and site groundwater contaminated with lead, heavy metals, polycyclic aromatic hydrocarbons and solvents. The report is intended to document remediation of the site to meet Statewide Health Standards.

Bedrock Partners, City of Philadelphia, **Philadelphia County**. Charlie McGuth, Environmental Maintenance Co., Inc., 1420 Mermaid Lane, Glenside PA 19038, on behalf of Bedrock Partners, P. O. Box 29123, Philadelphia, PA 19127, has submitted a Final Report concerning remediation of site soil contaminated with aviation gasoline, diesel fuel, fuel oil no. 1, 2, 4 and 6, jet fuel, kerosene, leaded gasoline, lead, MTBE, unleaded gasoline and used motor oil. The report is intended to document remediation of the site to meet the Statewide Health Standards.

Northcentral Region: Environmental Cleanup Program Manager; 208 West Third Street, Williamsport, PA 17701.

Naftel Residence, Valley Township, **Montour County**. Chambers Environmental Group, Inc., on behalf of Mr. and Mrs. Brian Naftel, 7 Breezy Court, Danville, PA 17821, has submitted a Final Report concerning soil contaminated with BTEX and PAHs. The report is intended to document remediation of the site to meet the Statewide Health Standard.

Southwest Region: Environmental Cleanup Program Manager; 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

LTV Steel Company, Inc. Coke Plant, City of Pittsburgh, **Allegheny County**. Martin C. Knuth, Civil & Environmental Consultants, Inc., 333 Baldwin Road, Pittsburgh, PA 15205 (on behalf of LTV Steel Company, Inc., 200 Public Square, Cleveland, OH 44114) has submitted a Final Report concerning remediation of site soil and groundwater contaminated with PCBs, lead, heavy metals, solvents, BTEX, PHCs and PAHs. The report is intended to document remediation of the site to meet the Site Specific Standard.

The Glosser Property, City of Johnstown, **Cambria County**. Von E. Fisher, KU Resources, Inc., One Library Place, Suite 207, Duquesne, PA 15110 (on behalf of The Glosser Foundation, 72 Messenger Street, Johnstown, PA 15901 and The Sheesley Supply Company, Inc., 837 Horner Street, Johnstown, PA 15907) has submitted a Final Report concerning remediation of site soil and groundwater contaminated with lead, heavy metals, PAHs, solvents and VOCs. The report is intended to document remediation of the site to meet the Site Specific Standard.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 3

The Department has taken action on the following plans and reports under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

Provisions of 25 Pa. Code § 250.8, Administration of the Land Recycling and Environmental Remediation Standards Act (Act) requires the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of its final actions on plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the remediation standards of the Land Recycling and Environmental Remediation Standards Act. Plans and reports required by provisions of the Act for compliance with selection of remediation to a site-specific standard, in addition to a final report, include a remedial investigation report, risk assessment report and cleanup plan. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media; benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. A cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis of selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors,

a description of the remediation performed and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected. The Department may approve or disapprove plans and reports submitted. This notice provides the Department's decision and, if relevant, the basis for disapproval.

For further information concerning the plans and reports, contact the Environmental Cleanup Program Manager in the Department Regional Office under which the notice of the plan or report appears. If information concerning a final report is required in an alternative form, contact the Community Relations Coordinator at the appropriate Regional Office listed. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following final reports:

Southeast Region: Environmental Cleanup Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.

Sunoco, Inc., Old Pennell Road Leak Site #9000-0500, Aston Township, **Delaware County**. Lisa M. Holderbach, Groundwater & Environmental Services, Inc., 410 Eagleview Blvd., Exton, PA 19341, on behalf of Earl R. Sr. Marie H. Evans, 202 Barren Rd., Media, PA 19014, Marie H. Evans, 202 Barren Rd., Media, PA 19014, Glenn Gualtieri, 102 Old Pennell Rd., Aston, PA 19014, Kirk and Hope McGowan, 100 Old Pennell Rd., Aston, PA 19014 and Dean and Anna Fountain, 460 Old Pennell Rd., Aston, PA 19014, has submitted a Final Report concerning the remediation of site soil contaminated with BTEX and PAHs. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on August 13, 2002.

Sparango Construction Co., Inc., Whitmarsh Township, **Montgomery County**. Erik W. Stephens, Manko, Gold, Katcher & Fox, LLP, 401 City Ave., Bala Cynwyd, PA 19004, on behalf of Sparango Construction Co., Inc., 506 Bethlehem Pike, Ft. Washington, PA 19034, has submitted a Final Report concerning the remediation of site soil contaminated with PCBs, lead, heavy metals, PAHs, solvents and pesticides. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on August 16, 2002.

Hull Corporation Site, Upper Moreland Township, **Montgomery County**. Darryl D. Borrelli, Manko, Gold, Katcher & Fox, LLP, 401 City Ave., Bala Cynwyd, PA 19004, on behalf of Hull Corp., 21 Bonair Dr., Warminster, PA 18974, has submitted a Remedial Investigation Report concerning the remediation of site soil contaminated with PCBs, BTEX, PAHs and solvents; and groundwater contaminated with solvents and VOCs. The report was disapproved by the Department on August 14, 2002.

Southwest Region: Environmental Cleanup Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Big Beaver Falls Area School District, Beaver Falls, **Beaver County**. Dean Gerber, URS, 2020 Ardmore Blvd., Suite 205, Pittsburgh, PA 15221 (on behalf of Big Beaver Falls Area School District, 820 16th Street, Beaver Falls, PA 15010-4065) has submitted a Remedial Investigation Report and the Site Specific Risk Assessment Report concerning the remediation of site soil contaminated with lead, heavy metals and PAHs. The Remedial Investigation

Report and the Site Specific Risk Assessment Report was approved by the Department on June 11, 2002.

6260 Broad Street, City of Pittsburgh, **Allegheny County**. William G. Weir Civil & Environmental Consultants, Inc., 333 Baldwin Road, Pittsburgh, PA 15205 and Plumbers Equipment Company, 8150 North Lehigh Street, Morton Grove, IL 60053 (on behalf of URA of Pittsburgh, 200 Ross Street, Pittsburgh, PA 15219) has submitted a Cleanup Plan concerning the remediation of site soil and groundwater contaminated with PAHs and solvents. The Cleanup Plan was approved by the Department on June 17, 2002.

The Glosser Property, Johnstown, **Cambria County**. Von E. Fisher, KU Resources, Inc., One Library Place, Suite 207, Duquesne, PA 15110 (on behalf of The David A. Glosser Foundation, 72 Messenger Street, Johnstown, PA 15901 and The Sheesley Supply Company, Inc., 837 Horner Street, Johnstown, PA 15907) has submitted a Final Report concerning the remediation of site soil and groundwater contaminated with lead, heavy metals, PAHs, solvents and VOCs. The Final report demonstrated attainment of the Site Specific Standard and was approved by the Department on August 9, 2002.

LTV Steel Company, Inc. Coke Plant, City of Pittsburgh, **Allegheny County**. Martin C. Knuth, Civil & Environmental Consultants, Inc., 333 Baldwin Road, Pittsburgh, PA 15205 (on behalf of LTV Steel Company, Inc., 200 Public Square, Cleveland, OH 44114) has submitted a Cleanup Plan concerning the remediation of site soil and groundwater contaminated with PCBs, lead, heavy metals, solvents, BTEX, PHCs and PAHs. The Cleanup Plan was approved by the Department on April 5, 2002.

LTV Steel Company, Inc. Coke Plant, City of Pittsburgh, **Allegheny County**. Martin C. Knuth, Civil & Environmental Consultants, Inc., 333 Baldwin Road, Pittsburgh, PA 15205 (on behalf of LTV Steel Company, Inc., 200 Public Square, Cleveland, OH 44114) has submitted a Final Report concerning the remediation of site soil and groundwater contaminated with PCBs, lead, heavy metals, solvents, BTEX, PHCs and PAHs. The Final report demonstrated attainment of the Site Specific Standard and was approved by the Department on July 26, 2002.

Northwest Region: Environmental Cleanup Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

Former Spang Tool Facility, 150 East Brook Lane, East Butler, PA 16002, **Butler County**. Karen Suoza, PG, Civil & Env. Consultants Inc., 333 Baldwin Road, Pittsburgh, PA 15205-9702 (on behalf of Zach Estrin, Esq., JSP International, 213 Great Valley Parkway, Malvern, PA 19355) has submitted a Final Report concerning the remediation of Former Spang Tool Facility for groundwater contaminated with Trichloroethene and 1,2 dichloroethane. The report is intended to document remediation of the site to meet the Site-Specific Standards.

HAZARDOUS WASTE TRANSPORTER LICENSE

Actions on applications for Hazardous Waste Transporter License received under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and regulations to transport hazardous waste.

Central Office: Bureau of Land Recycling and Waste Management, Division of Hazardous Waste Management, P. O. Box 8471, Harrisburg, PA 17105-8471.

Hazardous Waste Transporter License Renewed

Allstate Power Vac, Inc., 928 E. Hazelwood Avenue, Rahway, NJ 07065. License No. **PA-AH 0339**. Effective August 8, 2002.

Willis Trucking, Inc., 3185 Columbia Road, Richfield, OH 44286. License No. **PA-AH 0292**. Effective August 19, 2002.

Inland Waters Pollution Control, Inc., 2021 S. Schaefer Highway, Detroit, MI 48217. License No. **PA-AH 0292**. Effective August 16, 2002.

Page E.T.C., Inc., P. O. Box 1290, Weedsport, NY 13166. License No. **PA-AH 0338**. Effective August 23, 2002.

Maumee Express, Inc., P. O. Box 278, Somerville, NJ 08876. License No. **PA-AH 0420**. Effective August 21, 2002.

AIR QUALITY

General Plan Approval and Operating Permit Usage Authorized under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127 to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790. Contact Mark Wejksznier, Acting New Source Review Chief, (570) 826-2531.

58-310-004GP. F S Lopke Contracting Inc. (3430 State Route 434, Apalachin, NY 13732-1232) for construction and operation of a portable stone crushing operation and associated air cleaning device in Forest Lake Township, **Susquehanna County**.

Plan Approvals Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations in 25 Pa. Code Chapter 127, Subchapter B relating to construction, modification and reactivation of air contamination sources and associated air cleaning devices.

Southeast Region: Air Quality Program, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428. Contact Thomas McGinley, New Source Review Chief, (610) 832-6242.

09-0061A. Donaldson Co., Inc. (1731 Loretta Avenue, Feasterville, PA 19053) on August 20, 2002, for operation of an extrusion line in Lower Southampton Township, **Bucks County**.

23-0094. Steinbeis Pkg. LLC (1515 Garnet Mine Road, Boothwyn, PA 19061) on August 23, 2002, for operation of rotogravure printing presses in Bethel Township, **Delaware County**.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110. Contact Ronald Davis, New Source Review Chief, (717) 705-4702.

36-05079B. Chester County Solid Waste Authority (P. O. Box 476, Honey Brook, PA 19344) on August 20, 2002, for installation of an enclosed ground flare to combust landfill gas generated at the Lanchester Landfill in Caernarvon Township, **Lancaster County**. This facility is subject to 40 CFR Part 60, Subpart WWW—Standards of Performance for Municipal Solid Waste Landfills.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701. Contact: David Aldenderfer, Program Manager, (570) 327-3637.

19-310-007. Sokol Quarries, Inc. (P. O. Box 366, Bloomsburg, PA 17815) on July 2, 2002, for construction of sand and gravel processing equipment in Fishing Creek Township, **Columbia County**. This equipment is subject to Subpart 000 of the Federal Standards of Performance for New Stationary Sources.

17-0001A. Reliant Energy Mid-Atlantic Power Holdings, LLC, owner, and **Reliant Energy Northeast Management Co.**, operator (1001 Broad Street, Johnstown, PA 15907) on July 22, 2002, for modification of a coal-fired boiler ash disposal facility by constructing an 86 acre expansion of the facility at the Shawville Generating Station in Bradford Township, **Clearfield County**.

60-310-006A. Eastern Industries, Inc. (P. O. Box 177, Winfield, PA 17889) on July 31, 2002, for construction of a stone crushing plant and associated air cleaning device (a water spray dust suppression system) in Buffalo Township, **Union County**. The plant is subject to Subpart 000 of the Federal Standards of Performance for New Stationary Sources.

08-302-042A. Oak Hill Veneer, Inc. (P. O. Box 304, Route 14 North, Troy, PA 16947) on July 31, 2002, for construction of a 14.7 million BTU per hour natural gas-fired boiler in Troy Township, **Bradford County**. The boiler is subject to Subpart Dc of the Federal Standards of Performance for New Stationary Sources.

17-305-042B. DTE River Hill, LLC (414 Main Street, Suite 600, Ann Arbor, MI 48104), owner, and **Covol Fuels** (11778 South Election Drive, Suite 210, Draper, UT 84020), operator, on July 31, 2002, for modification of a coal fines agglomeration (synthetic fuel) facility by increasing the facility's allowable throughput from 613,000 tons to 1,752,000 tons in any 12 consecutive month period in Karthaus Township, **Clearfield County**. The facility incorporates a coal crusher which is subject to Subpart Y of the Federal Standards of Performance for New Stationary Sources.

14-313-039A. Rutgers Organics Corp. (201 Struble Road, State College, PA 16801) on July 31, 2002, for modification of a chemical process facility by increasing the allowable production rate from 154,000 pounds to 275,000 pounds in any 12 consecutive month period in College Township, **Centre County**.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745. Contact William Charlton, New Source Review Chief, (412) 442-4174.

63-00916A. Perryman Co. (213 Vandale Drive, Houston, PA 15315) on August 2, 2002, for construction and installation of an Electrolytic Titanium Wire Strand Pickling/Cleaning facility at the Houston Plant in North Strabane Township, **Washington County**. Control of atmospheric emissions from the facility will be accomplished by two scrubber systems, considered best available technology for the processes involved.

Plan Approval Revisions Issued including Extensions, Minor Modifications and Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.13, 127.13a and 127.32.

Southeast Region: Air Quality Program, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428. Contact Thomas McGinley, New Source Review Chief, (610) 832-6242.

46-313-147. Cabot Corp. (County Line Road, Boyertown, PA 19512) on August 22, 2002, for operation of a refrigerated condenser in Douglass Township, **Montgomery County**.

46-0037C. Cabot Performance Materials (County Line Road, Boyertown, PA 19512) on August 22, 2002, for operation of a tantalum scrap digestion in Douglass Township, **Montgomery County**.

15-0085A. Lincoln University (1570 Baltimore Pike, Lincoln University, PA 19352) on August 22, 2002, for operation of two boilers in Lower Oxford Township, **Chester County**.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110. Contact Ronald Davis, New Source Review Chief, (717) 705-4702.

38-05019. AES Ironwood, LLC (829 Cumberland Street, Lebanon, PA 17042) on August 3, 2002, for construction of a turbine electric generating facility in South Lebanon Township, **Lebanon County**. This facility is subject to 40 CFR Part 60, Subpart Kb—Standards of Performance for Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction or Modification Commenced After July 23, 1984 and 40 CFR Part 60, Subpart GG—Standards of Performance for Stationary Gas Turbines. This plan approval was extended.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701. Contact: David Aldenderfer, Program Manager, (570) 327-3637.

53-329-011. Tennessee Gas Pipeline Co. (9 Greenway Plaza, Houston, TX 77046) on August 13, 2002, to correct erroneous particulate matter and sulfur oxides emission limitations previously established for a 367 horsepower natural gas-fired emergency generator in Genesse Township, **Potter County**.

Plan Approval Denied, Terminated, Modified, Suspended or Revoked under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.13b and 127.13c.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701. Contact: David Aldenderfer, Program Manager, (570) 327-3637.

49-000224A. Sunbury Property, LLC, owner, and Knight-Celotex, LLC (1400 Susquehanna Avenue, Sunbury, PA 17801) on August 13, 2002, rescinded because it was determined that the respective emission increase was unwarranted due to the laminating operation's demonstrated ability to comply with the original emission limitations in the City of Sunbury, **Northumberland County**. The original plan approval was issued on January 21, 2002, authorizing an increase in the allowable VOC emission rate for a fiberboard laminating operations.

Operating Permits for Non-Title V Facilities Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.

Southeast Region: Air Quality Program, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428. Contact Edward Brown, Facilities Permitting Chief, (610) 832-6242.

23-00031. Mercy Fitzgerald Hospital (1500 Lansdowne Avenue, Darby, PA 19023) on August 20, 2002,

for operation of a Synthetic Minor Operating Permit in Darby Borough, **Delaware County**.

Operating Permit Revisions Issued including Administrative Amendments, Minor Modifications or Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.412, 127.450, 127.462 and 127.464.

Southeast Region: Air Quality Program, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428. Contact: Edward Brown, Facilities Permitting Chief, (610) 832-6242.

46-00020. Superior Tube Co. (3900 Germantown Pike, Colledgeville, PA 19426) administratively amended to finalize an appeal of the Title V Operating Permit, as well as to address changes through Plan Approval 46-0020B in Lower Providence Township, **Montgomery County**.

09-00003. Superpac, Inc. (1220 Industrial Boulevard, Southampton, PA 18966) administratively amended to address testing requirements of the appeal and the addition of a flexographic printing press in Upper Southampton Township, **Bucks County**. The facility's major emission points include flexographic printing presses, which emit major levels of VOCs. This is Administrative Amendment No. 2 of Title V Operating Permit. The permit will include monitoring, recordkeeping, and reporting requirements designed to keep the facility within all applicable air quality requirements.

23-00004. American Ref-Fuel Co. of Delaware Valley, L. P. (10 Highland Avenue, Chester, PA 19013) administratively amended to address the appeal of the Title V Operating Permit, as well as to incorporate changes from 23-0004 in the City of Chester, **Delaware County**.

ACTIONS ON COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Actions on applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (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 and the NPDES permit application. Mining activity permits issued in response to such applications will also address the application permitting requirements of the following statutes; the Air Quality Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

Coal Permits Actions

Hawk Run District Mining Office: Empire Road, P. O. Box 209, Hawk Run, PA 16840-0209, (814) 342-8200.

17960106 and NPDES Permit No. PA 0220302. Bell Resources, Inc., R. R. 2, Box 281, Curwensville, PA 16833. Renewal of an existing bituminous surface mine permit in Penn and Pike Townships, **Clearfield County** affecting 124.8 acres. Receiving streams to Passmore Run, Passmore Run to West Branch Susquehanna River; unnamed tributaries of Kratzer Run to Kratzer Run,

Kratzer Run to Anderson Creek, Anderson Creek to West Branch Susquehanna River. Application received April 24, 2002. Permit issued August 14, 2002.

17010106 and NPDES Permit No. PA 0243086. Moravian Run Reclamation Co., Inc., 605 Sheridan Drive, Clearfield, PA 16830. Commencement, operation and restoration of a bituminous surface mine permit in Woodward Township, **Clearfield County** affecting 286.7 acres. Receiving streams unnamed tributary to Upper Morgan Run. Application received June 16, 2001. Permit issued July 22, 2002.

17990103 and NPDES Permit No. PA 0243132. River Hill Coal Co., Inc., P. O. Box 141, Kylertown, PA 16847. Commencement, operation and restoration of a bituminous surface mine-auger permit in Bigler and Woodward Townships, **Clearfield County** affecting 320 acres. Receiving streams unnamed tributary to Upper Morgan Run, Upper Morgan Run to Clearfield Creek. Application received July 27, 2001. Permit issued August 15, 2002.

Greensburg District Mining Office: Armbrust Building, R. R. 2 Box 603-C, Greensburg, PA 15601-0982, (724) 925-5500.

03990104 and NPDES Permit No. PA0202592. Seven Sisters Mining Co., Inc. (P. O. Box 300, U. S. Route 22, Delmont, PA 15626-0300). Revision for E & S conditions of an existing bituminous surface mine located in South Bend and Burrell Townships, **Armstrong County**, affecting 206.2 acres. Receiving streams unnamed tributary to Fagley Run and to Fagley Run. Revision application received April 19, 2002. Permit issued August 19, 2002.

04970101 and NPDES Permit No. PA0201910. Kerry Coal Company (R. D. 2, Box 2139, Wampum, PA 16157). Renewal permit for continuous operation and reclamation of a bituminous surface mine located in Darlington Township, **Beaver County**, affecting 316.6 acres. Receiving streams: unnamed tributaries to Coalbank Run, North Fork Little Beaver Creek and Dillworth Run. Renewal application received June 17, 2002. Renewal permit issued August 19, 2002.

03910113 and NPDES Permit No. PA 0203459. Walter L. Houser Coal Co., Inc. (13448 State Route 422, Suite 1, Kittanning, PA 16201). Permit renewed for reclamation only of a bituminous surface/auger mine located in Valley Township, **Armstrong County**, affecting 106.1 acres. Receiving streams: two unnamed tributaries to Cowanshannock Creek. Application received June 28, 2002. Reclamation only renewal issued August 20, 2002.

63000101 and NPDES Permit No. PA0202819. Muligan Mining, Inc. (5945 Puddingstone Lane, Bethel Park, PA 15102). Permit revised to add 10.6 acres of remaining area (including support), and to modify erosion and sedimentation controls at a bituminous surface mine located in Smith Township, **Washington County**, now affecting 173.4 acres. Receiving streams unnamed tributaries to Raccoon Creek and Burgetts Fork. Revision application received April 8, 2002. Revision issued August 26, 2002.

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900.

56000104 and NPDES Permit No. PA0235270. Mountainside Excavating, Inc., 2692 Salco Road, Berlin, PA 15530 to **PBS Coals, Inc.**, P. O. Box 260, Friedens, PA 15541, application and activity permit trans-

fer for continued operation of a bituminous surface and auger mine and for existing discharge of treated mine drainage in Brothersvalley Township, **Somerset County**, affecting 147.2 acres. Receiving streams unnamed tributaries to Tubs Run; Tubs Run classified for the following use: warm water fishery. There are no potable water supply intakes within 10 miles downstream. Application received March 18, 2002. Permit issued August 19, 2002.

56960109 and NPDES Permit No. PA0234273. Croner, Inc., P. O. Box 260, Friedens, PA 15541, permit renewal for continued operation of a bituminous surface mine and for existing discharge of treated mine drainage in Brothersvalley Township, **Somerset County**, affecting 129.0 acres. Receiving streams unnamed tributaries to Blue Lick Creek classified for the following use: cold water fishery. There are no potable water supply intakes within 10 miles downstream. Application received March 12, 2002. Permit issued August 19, 2002.

Noncoal Permits Actions

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901-2454, (570) 621-3118.

58020820. Matthew Barlow, (R. D. 3 Box 134, Meshoppen, PA 18630), commencement, operation and restoration of a quarry operation in Auburn Township, **Susquehanna County**, affecting 3 acres. Receiving stream: unnamed tributary to Reiley Creek and Elk Lake. Application received April 25, 2002. Permit issued August 20, 2002.

34022801. Spring Hollow Building and Landscape Stone, Inc. (1166 Rapps Dam Road, Phoenixville, PA 19460), commencement, operation and restoration of a quarry operation in Spruce Hill and Turbett Townships, **Juniata County**, affecting 8 acres. Receiving streams: none. Application received March 18, 2002. Permit issued August 20, 2002.

40022802. McClure Enterprises, Inc. (3 East McClure Ave., Old Forge, PA 18518), commencement, operation and restoration of a quarry operation in Duryea Borough, **Luzerne County**, affecting 5 acres. Receiving stream: none. Application received June 20, 2002. Permit issued August 20, 2002.

40910302T2. Reading Materials, Inc. (P. O. Box 1467, Skippack, PA 19474), transfer of an existing quarry operation in Lake Township, **Luzerne County** affecting 27.5 acres, receiving stream: none. Application received March 14, 2002. Transfer issued August 22, 2002.

ENVIRONMENTAL GOOD SAMARITAN PROPOSALS ISSUED

Knox District Mining Office: White Memorial Building, P. O. Box 669, Knox, PA 16232-0669, (814) 797-1191.

24021. Elk County Fisherman (HCR 1, Box 199A, Ridgway, PA 15853). A project to provide treatment for two mine drainage discharges to Johnson Run in Jones Township, **Elk County**, affecting 9 acres. Receiving stream: Johnson Run. Project proposal received May 16, 2002. Project approved August 13, 2002.

ACTIONS ON BLASTING ACTIVITY APPLICATIONS

Actions on applications under the Explosives Acts of 1937 and 1957 (43 P.S. §§ 151–161); and 25 Pa. Code § 211.124 (relating to blasting activity permits). Blasting activity performed as part of a coal or noncoal mining activity will be regulated

by the mining permit for that coal or noncoal mining activity.

Blasting Permits Actions

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901-2454, (570) 621-3118.

36024086. Keystone Blasting Service, (381 Reifsnyder Road, Lititz, PA 17543), construction blasting in Manheim Township, **Lancaster County** with an expiration date of September 5, 2007. Permit issued August 20, 2002.

22024011. Cumberland Valley Drilling & Blasting, Inc., (6820 Wertzville Road, Enola, PA 17025-0250), construction blasting in Susquehanna Township, **Dauphin County** with an expiration date of October 5, 2002. Permit issued August 20, 2002.

46024050. Hall Explosives, Inc., (2981 Elizabethtown Road, Hershey, PA 17033), construction blasting in Towamencin Township, **Montgomery County** with an expiration date of September 7, 2003. Permit issued August 20, 2002.

36024088. J. Roy's, Inc., (Box 125 Bowmansville, PA 17507), construction blasting in West Lampeter Township, **Lancaster County** with an expiration date of December 31, 2003. Permit issued August 20, 2002.

21024045. J. Roy's, Inc., (Box 125, Bowmansville, PA 17507), construction blasting in Silver Spring Township, **Cumberland County** with an expiration date of December 31, 2003. Permit issued: August 20, 2002.

36024087. J. Roy's, Inc., (Box 125, Bowmansville, PA 17507), construction blasting in Strasburg Township, **Lancaster County** with an expiration date of December 31, 2003. Permit issued August 20, 2002.

09024028. Joao & Bradley Construction Company, Inc., (4211 Tracy Lane, Bethlehem, PA 18020), construction blasting in Hilltown Township, **Bucks County** with an expiration date of November 8, 2002. Permit issued August 20, 2002.

55024002. Advanced Concrete, (R. D. 2 Box 147A, Middleburg, PA 17842), construction blasting in Center Township, **Snyder County** with an expiration date of September 30, 2002. Permit issued: August 20, 2002.

52024019. Holbert Explosives, Inc., (237 Masthlope Plank Road, Suite A, Lackawaxen, PA 18435), construction blasting in Lackawaxen Township, **Pike County** with an expiration date of September 15, 2002. Permit issued August 20, 2002.

22024010. Frank & Jones, (102 Royal Oak Court, Greer, SC 29650), construction blasting in Swatara Township, **Dauphin County** with an expiration date of September 25, 2002. Permit issued August 20, 2002.

01024011. T. J. Angelozzi, Inc., (7845 Kabik Court, Woodbine, MD 21797), construction blasting in Cumberland Township, **Adams County** with an expiration date of September 7, 2003. Permit issued August 21, 2002.

39024018. Schlouch Inc., (Excelsior Industrial Park, P. O. Box 69, Blandon, PA 19510), construction blasting in Lower Macungie Township, **Lehigh County** with an expiration date of September 13, 2003. Permit issued August 21, 2002.

06024039. Dick Corporation, (3001 Lancaster Pike, Sinking Springs, PA 19608), construction blasting in

Spring and Cumru Townships, **Berks County** with an expiration date of December 24, 2002. Permit issued August 21, 2002.

48024020. Ed Wean Drilling & Blasting, (112 Ravine Road, Stewartsville, NJ 08886), construction blasting in Bethlehem Township, **Northampton County** with an expiration date of September 7, 2003. Permit issued August 21, 2002.

36024089. Hall Explosives, Inc., (2981 Elizabethtown Road, Hershey, PA 17033), construction blasting in East Donegal Township, **Lancaster County** with an expiration date of October 7, 2002. Permit issued August 21, 2002.

38024024. Keystone Blasting Service, (381 Reifsnyder Road, Lititz, PA 17543), construction blasting in North Cornwall Township, **Lebanon County** with an expiration date of September 7, 2007. Permit issued August 21, 2002.

38024025. Keystone Blasting Service, (381 Reifsnyder Road, Lititz, PA 17543), construction blasting in South Lebanon Township, **Lebanon County** with an expiration date of December 7, 2002. Permit issued August 21, 2002.

45024058. Explosive Services, Inc., (7 Pine Street, Bethany, PA 18431), construction blasting in Paradise Township, **Monroe County** with an expiration date of July 30, 2003. Permit issued August 21, 2002.

45024059. Explosive Services, Inc., (7 Pine Street, Bethany, PA 18431), construction blasting in Pocono Township, **Monroe County** with an expiration date of July 30, 2002. Permit issued August 21, 2002.

46024051. Brubacher Excavating, Inc., (825 Reading Road, P. O. Box 528, Bowmansville, PA 17507), construction blasting in Lower Gwynedd Township, **Montgomery County** with an expiration date of September 13, 2003. Permit issued August 21, 2002.

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900.

07024002. Glenn O. Hawbaker, P. O. Box 135, State College, PA 16804-0135. Road construction in Holidaysburg Borough, **Blair County**. Anticipated duration August 2002 through December 2002. Permit issued August 19, 2002.

Any person aggrieved by these actions 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 publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

For individuals who wish to challenge this action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer, you may qualify for free pro bono representation. Call the Secretary to the Board ((717) 787-3483) for more information

FEDERAL WATER POLLUTION CONTROL ACT SECTION 401

The Department of Environmental Protection (Department) has taken the following actions on previously received permit applications, requests for Environmental Assessment approval, and requests for Water Quality Certification under section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341(a)).

Except as otherwise noted, the Department certifies that the construction and operation herein described will comply with the applicable provisions of sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317), and that the construction will not violate applicable Federal and State Water Quality Standards.

Any person aggrieved by these actions may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514), and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to Administrative Agency Law), 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 publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

For individuals who wish to challenge this action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer, you may qualify for free pro bono representation. Call the Secretary to the Board ((717) 787-3483) for more information

Actions on applications for the following activities filed under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27), section 302 of the Flood Plain Management Act (32 P. S. § 679.302) and The Clean Streams Law (35 P. S. §§ 691.1—691.702) 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: Water Obstruction and Encroachment Permits issued for Small Projects do not include 401 Certification, unless specifically stated in the description).

Permits Issued and Actions on 401 Certifications

WATER OBSTRUCTIONS AND ENCROACHMENTS

Southeast Region: Water Management Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.

E09-839. Borough of Perkasie, P. O. Box 275, Perkasie, PA 18944, Perkasie Borough, **Bucks County**, ACOE Philadelphia District.

To remove, replace and maintain an existing three span pedestrian bridge over the East Branch of Perkiomen Creek (TSF) on Market Street with a 75 linear feet of single span pedestrian bridge immediately down stream from the existing bridge. Work will also include approximately 520 linear feet of stream bank stabilization (Telford, PA Quadrangle N: 22.0 inches; W: 5.2 inches).

Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

E40-600. City of Wilkes-Barre, 40 East Market Street, Wilkes-Barre, PA 18711. The City of Wilkes-Barre, **Luzerne County**, Army Corps of Engineers Baltimore District.

To remove the existing structure and to construct and maintain a road crossing of Spring Run (locally known as Bowman Spring Run), consisting of an 18-foot x 6-foot concrete box culvert with its invert depressed 1 foot below stream bed elevation. The project is located along Stanton Street, approximately 100 feet northwest of the intersection of Stanton Street and South Empire Street (Wilkes-Barre West, PA Quadrangle N: 18.7 inches; W: 1.5 inches).

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

E06-568. Reading Materials, Incorporated, P. O. Box 79, Skippack, PA 19474 in Douglass Township, **Berks County**, ACOE Philadelphia District.

To construct and maintain: (1) Culvert No. 1 (CV-1), a 120-foot long reinforced concrete box stream enclosure with a clear span of 5 feet and an underclearance of 2.5 feet in an unnamed tributary to Schuylkill River (WWF) at roadway station 13+45; (2) Culvert No. 2 (CV-2), a 74-foot long 30-inch diameter reinforced concrete pipe crossing in an unnamed tributary to the Schuylkill River (WWF) at roadway station 3+45; (3) Outfall No. 6, a flared outfall structure with riprap apron installed within a wetland area located at roadway station 38+00 right side; (4) Fill No. 1, 0.017 acre of fill within a wetland at roadway station 42+30 right side; (5) Fill No. 2, 0.021 acre of fill within a wetland area at roadway station 46+75 right side; and (6) a 10-inch PVC Sanitary Sewer Line with 18-inch steel encasement and 6-inch concrete encasement across an unnamed tributary to the Schuylkill River (WWF) at roadway station 26+50 right side all for the purpose of developing the Traprock Business Center—a 101.74 acre residential, commercial and industrial development located approximately 0.25 mile west of the intersection of Grosstown Road and Benjamin Franklin Highway (SR 2022) along the north side of SR 2022 (Boyertown, PA Quadrangle N: 0.75 inch; W: 9.0 inch) in Douglass Township, Berks County. The permittee is required to provide 0.196 acre of replacement wetlands as a part of this project.

E21-330. Letterman Incorporated, 716 N. West Street, Carlisle, PA 17013 in Silver Springs Township, **Cumberland County**, ACOE Baltimore District.

To construct and maintain: (1) a 4-inch diameter ductile iron pipe with precast DW endwall and intake screen within the Conodoguinet Creek (WWF); and (2) a water-line crossing of a wetland for the purpose of supplying water to a system of irrigation ponds for the Rick Valley Golf Club located approximately 200 feet north of the intersection of the Creek and SR 81 South (Wertzville, PA

Quadrangle N: 1.3 inches; W: 9.4 inches) in Silver Springs Township, Cumberland County.

E28-287. The Greens of Greencastle, P. O. Box 68, Boonsboro, MD 21713 in Antrim Township, **Franklin County**, ACOE Baltimore District.

To: (1) construct and maintain 4,400 linear feet of 12-inch diameter PVC sewer line to serve Phase 3—5 of The Greens of Greencastle development project along Muddy Run (HQ CWF) which will cross Muddy Run twice and temporarily impact 2.43 acres of PEM/PFO wetland and permanently impact 0.005 acre of PEM/PFO wetland; (2) fill 0.04 acre of PEM wetland for the extension of Castlegreen Drive within Phase 3; and (3) secondarily impact 0.405 acre of PEM wetland within Phase 3. The project is located about 1.5 miles northwest of Greencastle Borough (Greencastle, PA Quadrangle N: 10.56 inches; W: 16.76 inches and Williams, PA Quadrangle N: 10.48 inches; W: 0.94 inch) in Antrim Township, Franklin County. The permittee is required to provide a minimum of 0.45 acre of replacement wetlands.

SPECIAL NOTICES

Planning Grant Awards under section 901 of the Municipal Waste Planning Recycling and Waste Reduction Act of 1988, Act 101

The Department of Environmental Protection (Department) hereby announces the following grants to counties

Act 101, Section 901 Planning Grants

<i>Region</i>	<i>County</i>	<i>Applicant</i>	<i>Project Description</i>	<i>Grant Award</i>
Southcentral	Berks	Berks County	Educational Materials, HHW Program	\$ 4,697
	Mifflin	Mifflin County	Municipal Waste Management Plan	\$141,993

BUREAU OF DEEP MINE SAFETY APPROVAL OF REQUEST FOR VARIANCE

The Department of Environmental Protection (Department), Bureau of Deep Mine Safety (BDMS) has approved RAG Cumberland Resources, LP's request for a variance from the requirements of section 224(b) of the Pennsylvania Bituminous Coal Mine Act at the Cumberland Mine. This notification contains a summary of this request and the basis for the Department's approval. A complete copy of the variance request may be obtained from Allison Gaida at (724) 439-7469 or from the BDMS website at <http://www.dep.state.pa.us/dep/deputate/minres/dms/dms.htm>.

Summary of the Request: RAG Cumberland Resources, LP requested a variance from section 224(b) of the Pennsylvania Bituminous Coal Mine Act to drill a 1,000-foot long continuous horizontal borehole to the north and west of 27 Butt West section in the Cumberland Mine. The proposal accords protections to persons and property substantially equal to or greater than the requirements of section 224(b).

The basis for the Bureau's approval is summarized as follows:

1. The long horizontal borehole method proposed in lieu of the requirements set forth in section 224 is a proven technology which has been used successfully at the Cumberland Mine and other underground mines in this Commonwealth.

under the Pennsylvania Municipal Waste Planning, Recycling and Waste Reduction Act of 1988, Act 101 (P. L. 556), sections 901 and 208 of the Waste Tire Recycling Act/Small Business and Household Pollution Prevention Act (Act 190 of 1996).

Planning grants are awarded to counties for 80% of approved costs for preparing municipal waste management plans as required by Act 101, for carrying out related studies, surveys, investigations, inquiries, research and analysis, including those related to siting, environmental mediation, education programs on pollution prevention and household hazardous waste and providing technical assistance to small businesses for pollution prevention. Grants may be awarded for feasibility studies and project development for municipal waste processing or disposal facilities, except for facilities for the combustion of municipal waste that are not proposed to be operated for the recovery of energy. Grant awards are predicated on the receipt of recycling fees required by sections 701 and 702 of Act 101, and the availability of monies in the Recycling Fund.

Inquiries regarding the grant offerings should be directed to Sally Lohman, Chief, Waste Planning Section, Department of Environmental Protection, Bureau of Land Recycling and Waste Management, Division of Waste Minimization and Planning, P. O. Box 8472, Harrisburg, PA 17105-8472.

2. The long horizontal borehole method proposed is much less labor intensive and provides much less exposure to lifting and strain type injuries, by not having to handle and use hand-held drills and steels. By mining normal depth cuts, the work force will be subjected to less risk associated with equipment place changes, rather than mining the outside entry 8 feet at a time.

3. The long horizontal borehole proposed in lieu of the requirements set forth in section 224(b) will provide a greater coal barrier than required by section 224(b). RAG Cumberland's proposed long horizontal borehole method provides an additional coal barrier protection of 35.86 feet over the requirements of section 224(b).

4. The long horizontal boreholes will provide a quicker method to close the borehole in the event of contacting the abandoned mine by closing the valve located at the end of the pipe grouted in the rib and will be more suitable for grouting, if needed.

5. The long horizontal borehole will provide a much larger area of coverage for protecting the workers against accidentally mining into the abandoned mine.

6. The single continuous borehole is drilled with a large mechanical drill that is set up once, as compared to hundreds of times with the manual drilling used to comply with section 224(b). The risk of accidents due to moving machinery and relocating drilling equipment within the same work area is reduced.

7. Accident risk is reduced due to using a contractor to drill the continuous hole as compared to each continuous miner crew being trained to drill individual holes as required in section 224(b).

This approval is limited to the alternate method to drill test holes as required in section 224(b). All other terms and requirements of section 224(b) shall remain in effect. Continued authorization for operation under the approval is contingent upon compliance with the measures described in RAG Cumberland's plan.

Request for Comment and Notice of Public Meeting for the Proposed Total Maximum Daily Load (TMDL) for the Babb Creek Watershed

The Department of Environmental Protection (Department) is holding a public meeting on October 1, 2002, at 6 p.m. at the Arnot Sportsmens Club, Arnot, PA, to discuss and accept comments on a proposed TMDL, established in accordance with the requirements of section 303(d) of the Clean Water Act. Three stream segments in the Babb Creek Watershed have been identified as impaired on the 1996 and 1998 Pennsylvania 303(d) list due to depressed pH and/or high concentrations of metals. The listed segments and miles degraded are shown in the following table:

<i>Stream Code</i>	<i>Stream Name</i>	<i>Miles Degraded</i>
21681	Babb Creek	0.99
21681	Babb Creek	12.85
21730	Wilson Creek	2.3

The proposed plan provides calculations of stream's total capacity to accept metals (aluminum, iron, manganese and acidity), pH and maintain levels below water quality criteria. The applicable water quality criteria are as follows:

<i>Parameter</i>	<i>Criterion Value (mg/l)</i>	<i>Total Recoverable/Dissolved</i>
Aluminum	0.1 of the 96 hour LC 50 0.75	Total Recoverable
Iron	1.5 0.3	Total Recoverable Dissolved
Manganese	1.00	Total Recoverable
pH	6.0—9.0	NA

The primary pollutant source for the watershed is abandoned mine workings. This watershed was heavily mined for coal from the late 19th to the mid 20th centuries. The effects of this are still present. All of the allocations made in the TMDL are load allocations (LA) which are made to nonpoint sources of pollution.

The TMDL was developed using Monte Carlo Simulation to determine long term average concentrations that each stream segment could accept and still meet water quality criteria 99% of the time. Monte Carlo Simulation allows for the expansion of a data set based on its statistical makeup. Since there was no critical flow condition where criteria were exceeded, the Department used the average flow to express the loading values in the TMDL.

The TMDL sets allowable loading rates for metals and acidity at specified points in the watershed. The basis of information used in the establishment of this TMDL is field data collected over the past 10 years.

The data and all supporting information used to develop the proposed TMDL are available from the Department. To request a copy of the proposed TMDL and an information sheet or for directions to the Arnot

Sportsmens Club, contact John Mital, Geologic Specialist, Hawk Run District Mining Office, P. O. Box 209, 792 Empire Road, Hawk Run, PA 16840-0209, (814) 342-8200, jmital@state.pa.us.

The TMDL can be viewed and printed from this website: http://www.dep.state.pa.us/watermanagement_apps/tmdl/

Written comments will be accepted at the previous address and must be postmarked by November 6, 2002. Persons who plan to make a presentation at the public meeting should notify the Department by 4 p.m. on September 24, 2002. The Department will consider all comments in developing the final TMDL, which will be submitted to the EPA for approval.

[Pa.B. Doc. No. 02-1561. Filed for public inspection September 6, 2002, 9:00 a.m.]

Extension for Public Notice of Proposed Pennsylvania NPDES General Permit (PAG-13) for Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4s)

The Department of Environmental Protection (Department) is extending the public comment period until September 23, 2002. The Department announced the availability of the draft permit package at 32 Pa.B. 3444 (July 13, 2002), for review and comment by regulated municipalities, interested agencies and the general public. The original 30-day comment period expired August 12, 2002.

The proposed permit document package is available from the Department's Bureau of Water Supply and Wastewater Management, P. O. Box 8467, Harrisburg, PA 17105-8467, (717) 783-3795, e-mail trutrutma@state.pa.us and on the Department's website at www.dep.state.pa.us; directLINK "participate"; scroll down to "Proposals Open for Comment"; then choose "Other Proposals."

Written comments should be submitted at the previously listed address. Comments will also be accepted by electronic mail and should be sent to Geoffrey Maduka at gmaduka@state.pa.us by the applicable deadline. Comments will not be accepted by facsimile or on voice mail.

DAVID E. HESS,
Secretary

[Pa.B. Doc. No. 02-1562. Filed for public inspection September 6, 2002, 9:00 a.m.]

DEPARTMENT OF HEALTH

Application of LifeCare Hospitals of Pittsburgh for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) hereby gives notice that LifeCare Hospitals of Pittsburgh has requested an exception to the requirements of 28 Pa. Code § 153.1 (relating to minimum standards), which requires compliance with minimum standards contained in the following publication: *Guidelines for Design and Construction of Hospital and Healthcare Facilities*. The facility specifically requests exemption from the following

standards contained in this publication: 7.6.B5 (relating to bathing facilities in a psychiatric nursing unit) and 7.6.C (relating to seclusion treatment room of a psychiatric nursing unit).

These requests are on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163 or e-mail ra-paexcept@state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the division and address previously listed.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and require an auxiliary aid, service or other accommodation to do so, should contact the Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, e-mail ra-paexcept@state.pa.us, for Speech and/or Hearing Impaired Persons V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984 [TT].

ROBERT S. ZIMMERMAN, Jr.,
Secretary

[Pa.B. Doc. No. 02-1563. Filed for public inspection September 6, 2002, 9:00 a.m.]

Health Policy Board Meeting

The Health Policy Board is scheduled to hold a meeting on Wednesday, September 18, 2002, at 10 a.m., in Room 907, Health and Welfare Building, Seventh and Forster Streets, Harrisburg, PA.

For additional information or persons with a disability who wish to attend the meeting and require an auxiliary aid, service or other accommodation to do so, should contact Joseph May at (717) 772-5298, for speech and/or hearing impaired persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Services at (800) 654-5984 [TT].

This meeting is subject to cancellation without notice.

ROBERT S. ZIMMERMAN, Jr.,
Secretary

[Pa.B. Doc. No. 02-1564. Filed for public inspection September 6, 2002, 9:00 a.m.]

Requests for Exception; Long-Term Care Nursing Facilities

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 205.10(b) (relating to doors):

The Bethlen Home of the Hungarian
Reformed Federation of America
125 Kalassay Drive
Ligonier, PA 15658-8726

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 205.28(a) (relating to nurses station):

The Bethlen Home of the Hungarian
Reformed Federation of America
125 Kalassay Drive
Ligonier, PA 15658-8726

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 205.39(b) (relating to toilet room equipment):

The Bethlen Home of the Hungarian
Reformed Federation of America
125 Kalassay Drive
Ligonier, PA 15658-8726

These requests are on file with the Department of Health (Department). Persons may receive a copy of a request for exception by requesting a copy from Division of Nursing Care Facilities, Room 526, Health and Welfare Building, Harrisburg, PA 17120, (717) 787-1816, fax (717) 772-2163, e-mail PAEXCEPT@HEALTH.STATE.PA.US.

Persons who wish to comment on these exception requests may do so by sending a letter by mail, e-mail or facsimile to the Department at the address previously listed.

Comments received by the Department within 15 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of the request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so, should contact the Department at the previously listed address or numbers or V/TT: (717) 783-6514 for speech and/or hearing impaired persons or the Pennsylvania AT&T Relay Service at (800) 654-5984 [TT].

ROBERT S. ZIMMERMAN, Jr.,
Secretary

[Pa.B. Doc. No. 02-1565. Filed for public inspection September 6, 2002, 9:00 a.m.]

DEPARTMENT OF PUBLIC WELFARE

Payments to Nursing Facilities; October 1, 2001 Final Rates

This notice announces final nursing facility per diem payment rates based on case-mix index (CMI) adjustments only for nursing facility services provided on or after October 1, 2001, in accordance with section 1902(a)(13)(A) of the Social Security Act (42 U.S.C.A. § 1902(a)(13)(A)), as amended by section 4711 of the Balanced Budget Act of 1997 (Pub.L. No. 105-33). An October 1, 2001 proposed rates notice was published at 31 Pa.B. 6748 (December 8, 2001) and provided for a 30-day comment period. The Department of Public Welfare (Department) did not receive any comments on the proposed October 1, 2001, rate notice.

Rates

The final October 1, 2001, rates are available at the local county assistance offices throughout this Common-

wealth, on the Office of Medical Assistance Programs' website at www.dpw.state.pa.us/omap or by contacting Tom Jayson in the Policy Section of the Bureau of Long Term Care Programs at (717) 705-3705.

Methodology

The methodology that the Department used to set the final rates based on CMI adjustments is contained in 55 Pa. Code Chapter 1187, Subchapter G (relating to rate setting) and the Commonwealth's approved Title XIX State Plan.

Justification

The justification for establishing the final rates is that the regulations in 55 Pa. Code Chapter 1187 (relating to nursing facility services) and the Commonwealth's approved Title XIX State Plan require that rates be set on a quarterly basis.

Appeals

A Medical Assistance nursing facility provider that has not submitted a signed Certification and Settlement Agreement for Year 7 (July 1, 2001—June 30, 2002) may file an administrative appeal if it believes that the Department made any errors or the provider otherwise disagrees with its year 7 rates. A provider's appeal must be in writing, sent to the Department's Bureau of Hearings and Appeals, P. O. 2675, Harrisburg, PA 17102, and received by the Bureau of Hearings and Appeals within 30 days of the date of the Department's letter notifying the provider of its final rates. The filing of an appeal constitutes the exclusive way by which a provider can present the Department with a demand that a final rate be modified, reversed, rescinded or otherwise altered, or with a demand that the Department increase the amount of reimbursement paid to the provider under that rate. If a provider chooses to appeal, the provider will be afforded the opportunity for a de novo hearing before the Bureau of Hearings and Appeals. The provider's rates may be changed as a result of the final adjudication of the appeal. Providers should refer to 55 Pa. Code § 1187.141 (relating to nursing facility's right to appeal and to a hearing) for more detail regarding their appeal rights and the requirements related to their written appeals.

The estimated increase in annual aggregate expenditures for Medical Assistance nursing facility services for FY 2001-2002 based on these final rates is \$5.045 million (\$2.301 million in State funds).

Interested persons are invited to submit written comments about the final rates to the Department within 30 days of publication of this notice in the *Pennsylvania Bulletin*. Comments should be addressed to: Department of Public Welfare, Office of Medical Assistance Programs, Attention: Suzanne Love, P. O. Box 2675, Harrisburg, PA 17105.

Persons with a disability may use the AT&T Relay Services by calling (800) 654-5984 (TDD Users) or (800) 654-5988 (Voice Users).

FEATHER O. HOUSTOUN,
Secretary

Fiscal Note: 14-NOT-330. (1) General Fund; (2) Implementing Year 2001-02 is \$2,301,000; (3) 1st Succeeding Year 2002-03 is \$5,522,000; 2nd Succeeding Year 2003-04 is \$5,522,000; 3rd Succeeding Year 2004-05 is \$5,522,000; 4th Succeeding Year 2005-06 is \$5,522,000; 5th Succeeding Year 2006-07 is \$5,522,000; (4) 2000-01 Program—\$722,565,000; 1999-00 Program—\$693,625,000; 1998-99 Program—\$721,631,000; (7) Medical Assistance—Long

Term Care; (8) recommends adoption. Funding for these changes is included in the 2001-02 and 2002-03 budgets.

[Pa.B. Doc. No. 02-1566. Filed for public inspection September 6, 2002, 9:00 a.m.]

Payments to Nursing Facilities; January 1, 2002 Final Rates

This notice announces final payment rates based on case-mix index (CMI) adjustments only for nursing facility services provided on or after January 1, 2002, in accordance with section 1902(a)(13)(A) of the Social Security Act (42 U.S.C.A. § 1902(a)(13)(A)), as amended by section 4711 of the Balanced Budget Act of 1997 (Pub.L. No. 105-33). A January 1, 2002, proposed rates notice was published at 32 Pa.B. 841 (February 9, 2002) and provided for a 30-day comment period. The Department of Public Welfare (Department) did not receive any comments on the proposed January 1, 2002, rate notice.

Rates

The final January 1, 2002, rates are available at the local county assistance offices throughout this Commonwealth, on the Office of Medical Assistance Programs' website at www.dpw.state.pa.us/omap or by contacting Tom Jayson in the Policy Section of the Bureau of Long Term Care Programs at (717) 705-3705.

Methodology

The methodology that the Department used to set the final rates based on CMI adjustments is contained in 55 Pa. Code Chapter 1187, Subchapter G (relating to rate setting) and the Commonwealth's approved Title XIX State Plan.

Justification

The justification for establishing the final rates is that the regulations at 55 Pa. Code Chapter 1187 (relating to nursing facility services) and the Commonwealth's approved Title XIX State Plan require that rates be set on a quarterly basis.

Appeals

A Medical Assistance nursing facility provider that has not submitted a signed Certification and Settlement Agreement for Year 7 (July 1, 2001—June 30, 2002) may file an administrative appeal if it believes that the Department made any errors or the provider otherwise disagrees with its year 7 rates. A provider's appeal must be in writing, sent to the Department's Bureau of Hearings and Appeals, P. O. 2675, Harrisburg, PA 17102, and received by the Bureau of Hearings and Appeals within 30 days of the date of the Department's letter notifying the provider of its final rates. The filing of an appeal constitutes the exclusive way by which a provider can present the Department with a demand that a final rate be modified, reversed, rescinded or otherwise altered, or with a demand that the Department increase the amount of reimbursement paid to the provider under that rate. If a provider chooses to appeal, the provider will be afforded the opportunity for a de novo hearing before the Bureau of Hearings and Appeals. The provider's rates may be changed as a result of the final adjudication of the appeal. Providers should refer to 55 Pa. Code § 1187.141 (relating to nursing facility's right to appeal and to a hearing) for more detail regarding their appeal rights and the requirements related to their written appeals.

The estimated increase in annual aggregate expenditures for Medical Assistance nursing facility services for FY 2001-2002 based on these final rates is \$4.221 million (\$ 1.925 million in State funds).

Interested persons are invited to submit written comments about the final rates to the Department within 30 days of publication of this notice in the *Pennsylvania Bulletin*. Comments should be addressed to: Department of Public Welfare, Office of Medical Assistance Programs, Attention: Suzanne Love, P. O. Box 2675, Harrisburg, PA 17105.

Persons with a disability may use the AT&T Relay Services by calling (800) 654-5984 (TDD Users) or (800) 654-5988 (Voice Users).

FEATHER O. HOUSTOUN,
Secretary

Fiscal Note: 14-NOT-331. (1) General Fund; (2) implementing Year 2001-02 is \$1,925,000; (3) 1st Succeeding Year 2002-03 is \$4,620,000; 2nd Succeeding Year 2003-04 is \$4,620,000; 3rd Succeeding Year 2004-05 is \$4,620,000; 4th Succeeding Year 2005-06 is \$4,620,000; 5th Succeeding Year 2006-07 is \$4,620,000; (4) 2000-01 Program—\$722,565,000; 1999-00 Program—\$693,625,000; 1998-99 Program—\$721,631,000; (7) Medical Assistance—Long Term Care; (8) recommends adoption. Funding for these changes is included in the 2001-02 and 2002-03 budgets.

[Pa.B. Doc. No. 02-1567. Filed for public inspection September 6, 2002, 9:00 a.m.]

Payments to Nursing Facilities; April 1, 2002 Final Rates

This notice announces final payment rates based on case-mix index (CMI) adjustments only for nursing facility services provided on or after April 1, 2002, in accordance with section 1902(a)(13)(A) of the Social Security Act (42 U.S.C.A. § 1902(a)(13)(A)), as amended by section 4711 of the Balanced Budget Act of 1997 (Pub.L. No. 105-33). An April 1, 2002, Proposed Rates Notice was published at 32 Pa.B. 1927 (April 13, 2002) and provided for a 30-day comment period. The Department of Public Welfare (Department) did not receive any comments on the proposed April 1, 2002, rate notice.

Rates

The final April 1, 2002, rates are available at the local county assistance offices throughout this Commonwealth, on the Office of Medical Assistance Programs' website at www.dpw.state.pa.us/omap or by contacting Tom Jayson in the Policy Section of the Bureau of Long Term Care Programs at (717) 705-3705.

Methodology

The methodology that the Department used to set the final rates based on CMI adjustments is contained in 55 Pa. Code Chapter 1187, Subchapter G (relating to rate setting) and the Commonwealth's approved Title XIX State Plan.

Justification

The justification for establishing the final rates is that the regulations at 55 Pa. Code Chapter 1187 (relating to nursing facility services) and the Commonwealth's approved Title XIX State Plan require that rates be set on a quarterly basis.

Appeals

A Medical Assistance nursing facility provider that has not submitted a signed Certification and Settlement Agreement for Year 7 (July 1, 2001—June 30, 2002) may file an administrative appeal if it believes that the Department made any errors or the provider otherwise disagrees with its year 7 rates. A provider's appeal must be in writing, sent to the Department's Bureau of Hearings and Appeals, P. O. 2675, Harrisburg, PA 17102, and received by the Bureau of Hearings and Appeals within 30 days of the date of the Department's letter notifying the provider of its final rates. The filing of an appeal constitutes the exclusive way by which a provider can present the Department with a demand that a final rate be modified, reversed, rescinded, or otherwise altered, or with a demand that the Department increase the amount of reimbursement paid to the provider under that rate. If a provider chooses to appeal, the provider will be afforded the opportunity for a de novo hearing before the Bureau of Hearings and Appeals. The provider's rates may be changed as a result of the final adjudication of the appeal. Providers should refer to 55 Pa. Code § 1187.141 (relating to nursing facility's right to appeal and to a hearing) for more detail regarding their appeal rights and the requirements related to their written appeals.

The estimated increase in annual aggregate expenditures for Medical Assistance nursing facility services for FY 2001-2002 based on these final rates is \$4.907 million (\$2.238 million in State funds).

Interested persons are invited to submit written comments about the final rates to the Department within 30 days of publication of this notice in the *Pennsylvania Bulletin*. Comments should be addressed to: Department of Public Welfare, Office of Medical Assistance Programs, Attention: Suzanne Love, P. O. Box 2675, Harrisburg, PA 17105.

Persons with a disability may use the AT&T Relay Services by calling (800) 654-5984 (TDD Users) or (800) 654-5988 (Voice Users).

FEATHER O. HOUSTOUN,
Secretary

Fiscal Note: 14-NOT-332. (1) General Fund; (2) Implementing Year 2001-02 is \$2,238,000; (3) 1st Succeeding Year 2002-03 is \$5,371,000; 2nd Succeeding Year 2003-04 is \$5,371,000; 3rd Succeeding Year 2004-05 is \$5,371,000; 4th Succeeding Year 2005-06 is \$5,371,000; 5th Succeeding Year 2006-07 is \$5,371,000; (4) 2000-01 Program—\$722,565,000; 1999-00 Program—\$693,625,000; 1998-99 Program—\$721,631,000; (7) Medical Assistance—Long Term Care; (8) recommends adoption. Funding for these changes is included in the 2001-02 and 2002-03 budgets.

[Pa.B. Doc. No. 02-1568. Filed for public inspection September 6, 2002, 9:00 a.m.]

DEPARTMENT OF TRANSPORTATION

Finding Clarion County

Under section 2002(b) of the Administrative Code of 1929 (71 P. S. § 512(b)), the Secretary of Transportation makes the following written finding:

The Federal Highway Administration, the Department of Transportation and Clarion County are planning the construction of a new bridge to carry Bryner's Mill Road (T-424) over Deer Creek in Elk Township, Clarion County. The new bridge will be approximately 15 meters (49 feet) downstream from the existing bridge, which was damaged during the July 1996 flood resulting in the closure of the bridge.

The subject project is considered a Level 2 Categorical Exclusion in accordance with 23 CFR Part 771.117(d), Item 3 as published in the August 28, 1987 *Federal Register*.

The project is located in State Game Lands No. 63 and will require the acquisition of approximately 0.56 hectares (1.38 acres) of right-of-way from State Game Lands No. 63, which is a Section 2002/Section 4(f) resource. It has been determined that there is no prudent and feasible alternative to the use of the resource and that necessary planning has been incorporated into the project to minimize harm to the resource.

Mitigation measures will be taken to minimize harm as stipulated in the Categorical Exclusion Evaluation Programmatic Section 4(f) Evaluation. Mitigation measures include the following:

- Payment of fair market value of property acquired through implementation of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.
- Transfer of abandoned right-of-way no longer needed for the proposed bridge and approaches to the Game Commission (Commission).
- Construction of an access point on the north approach where the proposed road departs from the existing road alignment (Station 10+280) to permit public access to a proposed parking area.
- Construction of a parking area of approximately 20 meters (66 feet) by 15 meters (49 feet) for the public near the abandoned Knox and Kane Railroad/T-424 intersection.
- Regrade and seed all disturbed and abandoned areas under the guidance of the Commission.
- Implementation of an approved Erosion and Sedimentation Control Plan.
- Stockpile any tree 8 inches or greater in diameter in areas designated by the Commission for timber sale.

The environmental, economic, social and other effects of the proposed project as enumerated in section 2002 of The Administrative Code of 1929, have been considered. It has been concluded that there is no feasible and prudent alternative to the project as designed, and all reasonable steps have been taken to minimize the effects.

BRADLEY L. MALLORY,
Secretary

[Pa.B. Doc. No. 02-1569. Filed for public inspection September 6, 2002, 9:00 a.m.]

Finding Mercer County

Under section 2002(b) of The Administrative Code of 1929 (71 P. S. § 512(b)), the Secretary of Transportation makes the following written finding:

The Department of Transportation (Department) plans to remove the existing Chestnut Street Bridge, carrying Chestnut Street over the Wolf Creek in the Borough of Grove City, Mercer County. The existing Chestnut Street Bridge has been determined eligible for the National Register of Historic Places. The effect of this project on the Chestnut Street Bridge will be mitigated by the following measures to minimize harm to the resource.

1. Recordation of the existing bridge to Historic American Engineering Record (HAER) narrative standards to record the historic structure and engineering characteristics.
2. Preparation of a high quality photocopy of the HAER documentation to be provided to the Mercer County Historical Society in Mercer, PA.
3. Erection of an appropriate plaque or marker at the bridge site describing its historical and engineering significance and its historic role in community development.

The Secretary has considered the environmental, economic, social and other effects of the proposed project as enumerated in section 2002 of The Administrative Code of 1929 and has concluded that there is no feasible and prudent alternative to the project as designed, and all reasonable steps have been taken to minimize the effect.

No adverse environmental effect is likely to result from the removal of this bridge.

BRADLEY L. MALLORY,
Secretary

[Pa.B. Doc. No. 02-1570. Filed for public inspection September 6, 2002, 9:00 a.m.]

INDEPENDENT REGULATORY REVIEW COMMISSION

Actions Taken by the Commission

The Independent Regulatory Review Commission met publicly at 10:30 a.m., Thursday, August 22, 2002, and took the following actions:

Regulations Approved:

Environmental Quality Board #7-366: Stream Redesignations (Class A Wild Trout Waters) (amends 25 Pa. Code Chapter 93)

Environmental Quality Board #7-369: Portable Fuel Containers (adds Chapter 130 to 25 Pa. Code)

Environmental Quality Board #7-370: Consumer Products (amends 25 Pa. Code Chapter 130)

Approval Order

Public Meeting held
August 22, 2002

Commissioners Voting: John R. McGinley, Jr., Chairperson, by Proxy; Alvin C. Bush, Vice Chairperson; Arthur Coccodrilli; Robert J. Harbison, III; John F. Mizner

Environmental Quality Board—Portable Fuel Containers; Regulation No. 7-369

On October 26, 2001, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Environmental Quality Board (EQB).

This rulemaking adds Chapter 130 to 25 Pa. Code. The proposed regulation was published in the November 10, 2001, *Pennsylvania Bulletin* with a 67-day public comment period. The final-form regulation was submitted to the Commission on July 24, 2002.

The regulation establishes performance standards for portable fuel containers and spouts. It also contains a process by which a manufacturer can apply for an innovative products exemption from the performance standards contained in the regulation.

We have determined this regulation is consistent with the statutory authority of the EQB (35 P. S. § 4005) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

By Order of the Commission:

This regulation is approved.

Approval Order

Public Meeting held
August 22, 2002

Commissioners Voting: John R. McGinley, Jr., Chairperson, by Proxy; Alvin C. Bush, Vice Chairperson; Arthur Coccodrilli; Robert J. Harbison, III; John F. Mizner

Environmental Quality Board—Consumer Products; Regulation No. 7-370

On October 26, 2001, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Environmental Quality Board (EQB). This rulemaking amends 25 Pa. Code Chapter 130. The proposed regulation was published in the November 10, 2001, *Pennsylvania Bulletin* with a 67-day public comment period. The final-form regulation was submitted to the Commission on July 24, 2002.

This regulation adopts volatile organic compound (VOC) standards, requirements and definitions for approximately 80 different types of consumer products. The purpose of this regulation is to reduce VOCs. It is based on the Model Rule for Consumer Products from the Ozone Transport Commission and standards and rules promulgated by the California Air Resources Board. Anyone who manufactures, supplies or sells consumer products in this Commonwealth after January 1, 2005, will be required to comply with this regulation.

We have determined this regulation is consistent with the statutory authority of the EQB (35 P. S. § 4005) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

By Order of the Commission:

This regulation is approved.

JOHN R. MCGINLEY, Jr.,
Chairperson

[Pa.B. Doc. No. 02-1571. Filed for public inspection September 6, 2002, 9:00 a.m.]

Notice of Comments Issued

Section 5(d) of the Regulatory Review Act (Act) (71 P. S. § 745.5(d)) provides that the designated standing Com-

mittees may issue comments within 20 days of the close of the public comment period, and the Independent Regulatory Review Commission (Commission) may issue comments within 10 days of the close of the Committee comment period. The Commission's comments are based upon the criteria contained in section 5.1(h) and (i) of the Act (71 P. S. § 745.5a(h) and (i)).

The Commission has issued comments on the following proposed regulations. The agency must consider these comments in preparing the final-form regulation. The final-form regulation must be submitted within 2 years of the close of the public comment period or it will be deemed withdrawn.

<i>Reg No.</i>	<i>Agency/Title</i>	<i>Close of the Public Comment Period</i>	<i>IRRC Comments Issued</i>
#16A-5712	State Board of Veterinary Medicine Professional Conduct; Prescription Drugs (32 Pa.B. 2997 (June 22, 2002))	7/22/02	8/22/02
#6-274	Professional Standards and Practices Commission Definitions of Statutory Terms (32 Pa.B. 2994 (June 22, 2002))	7/22/02	8/22/02

**State Board of Veterinary Medicine Regulation
No. 16A-5712
Professional Conduct; Prescription Drugs
August 22, 2002**

We submit for consideration the following objections and recommendations regarding this regulation. Each objection or recommendation includes a reference to the criteria in the Regulatory Review Act (71 P. S. § 745.5a(h) and (i)) which have not been met. The State Board of Veterinary Medicine (Board) must respond to these Comments when it submits the final-form regulation. If the final-form regulation is not delivered within years of the close of the public comment period, the regulation will be deemed withdrawn.

Section 31.21. Rules of Professional Conduct for Veterinarians.

Principle 8. Drugs.

1. Subsection (a)—Definitions of “drug” and “prescription drug”—Clarity.

In the version of the proposed rulemaking published in the *Pennsylvania Bulletin*, the definition of “drug” in subsection (a)(1) includes the phrase “[f]or the purposes of Principle 8, the term ‘drug’ means” The definition of “prescription drug” appears separately in subsection (a)(2). However, subsection (a)(2) does not contain the phrase “for the purposes of Principle 8.” In the final-form regulation, the phrase “for the purposes of Principle 8” should be added to subsection (a)(2).

2. Subsection (b)—“Under the veterinarian’s care”—Clarity.

This subsection contains a definition for the phrase “under the veterinarian’s care.” The second sentence of the subsection defines the phrase and begins with the words: “For the purposes of this section. . .” (*emphasis*

added). The phrase “under the veterinarian’s care” does not appear in the other Principles in § 31.21. Should the word “section” be replaced with “Principle 8”?

3. Subsection (d)(6)—Cautionary statements required by Federal law—Clarity.

This subsection references “the Federal Food, Drug and Cosmetic Act (21 U.S.C.A. §§ 301–397) and 21 CFR (relating to food and drugs).” Title 21 of the CFR contains over 1,400 parts. This reference should identify the specific sections, parts or other provisions that are pertinent to cautionary statements that must be added to animal drug labels. Federal regulations may be incorporated by reference under 1 Pa.C.S. § 1937, 45 Pa.C.S. § 727 and 1 Pa. Code § 3.41.

4. Subsection (f)—Written prescriptions—Reasonableness; Need; Clarity.

This subsection requires a veterinarian to provide a client with a written prescription upon request from the client. The subsection includes an exemption from the requirement if the veterinarian has “a good faith belief that the prescription may be misused.”

According to the Preamble, this exemption was included in response to concerns from commentators who work with farm animals. Veterinarians who dispense drugs in large, multiple doses were concerned that unless they dispensed the drugs themselves, it would be “impossible for the veterinarian to have even minimal knowledge or control over the remaining quantity or expiration date of the drug.”

We question the need for the “good faith belief” exemption. The veterinarian determines whether medication is necessary and directs the course of the medication therapy. In the prescription, the veterinarian determines the substance, quantity, dosage and amount of refills, if any. Where the prescription is filled is an unrelated issue. Therefore, unless the Board can justify the need for this exemption, it should delete it from the final-form regulation.

Second, how will clients or consumers be notified that they can request written prescriptions rather than paying for drugs dispensed directly by veterinarians? The final-form regulation should require veterinarians to notify clients that they have the option of receiving a written prescription that can be filled elsewhere.

5. Recordkeeping.—Clarity.

The regulation should reference the recordkeeping requirements in § 31.22 and the specific recordkeeping requirements for controlled substances in Federal regulations at 21 CFR Part 1304.

**Professional Standards and Practices Commission
Regulation No. 6-274**

Definitions of Statutory Terms

August 22, 2002

We submit for consideration the following objections and recommendations regarding this regulation. Each objection or recommendation includes a reference to the criteria in the Regulatory Review Act (71 P. S. § 745.5a(h) and (i)) which have not been met. The Professional Standards and Practices Commission (Commission) must respond to these Comments when it submits the final-form regulation. If the final-form regulation is not delivered within 2 years of the close of the public comment period, the regulation will be deemed withdrawn.

Section 237.3. Immorality—Reasonableness; Clarity.

Morals of the Commonwealth

This section defines the term “immorality” as “. . . conduct which offends the *morals of the Commonwealth*. . .” (*Emphasis added.*) The phrase “morals of the Commonwealth” is undefined and vague. Moreover, Pennsylvania is comprised of many diverse communities. Given the Commission’s authority to discipline professional educators and charter school staff members which it has found guilty of “immorality,” standards of conduct should be established in clear and explicit terms.

Section 237.9. Crimes involving moral turpitude.—Clarity.

Moral turpitude

Subsection (a)(1) contains the following language used to describe the phrase “moral turpitude”: “private and social duties which a person owes to his fellow human beings or to society in general” and “an act of baseness, vileness or depravity, and contrary to the accepted and customary rule of right and duty between two human beings.”

This language is derived from case law. However, one of the purposes of regulations is to clarify the language used in both statutes and case law. Clarity would be improved by describing with more precision the actions which constitute “moral turpitude,” or providing examples in the final-form regulation.

Specific crimes

Subsection (c) sets forth a mechanism for the Commission to consider crimes added or deleted from the list of crimes in section 111(e)(1) of the Public School Code of 1949 to determine if the crimes involve moral turpitude per se. The process states “The Commission will consider each additional or deleted crime to determine if the crime involves moral turpitude per se and will vote at a public meeting whether the crime will be designated as involving moral turpitude per se.” We have two concerns.

First, the final-form regulation should specify how the Commission’s decisions regarding crimes that are added or deleted to the list will be made available to the public. For example, will the Commission periodically publish a list of crimes that are considered crimes involving moral turpitude?

Second, the criteria the Commission will use for determining whether a crime involves moral turpitude per se are unclear. The Commission should include criteria for making this determination in the final-form regulation.

JOHN R. MCGINLEY, Jr.,
Chairperson

[Pa.B. Doc. No. 02-1572. Filed for public inspection September 6, 2002, 9:00 a.m.]

INSURANCE DEPARTMENT

Application for Domestic Certificate of Authority

Pennsylvania Healthcare Providers Insurance Exchange has applied for a Certificate of Authority to operate as a domestic reciprocal exchange in this Commonwealth. The filing was made under the requirements set forth under The Insurance Company Law of 1921 (40 P. S. §§ 341–991.1718).

Persons wishing to comment on the application are invited to submit a written statement to the Insurance Department (Department) within 30 days from the date of this issue of the *Pennsylvania Bulletin*. Written statements must include name, address and telephone number of the interested party, identification of the application to which the statement is addressed and a concise statement with sufficient detail and relevant facts to inform the Department of the exact basis of the statement.

Written statements should be directed to Robert Brackbill, Company Licensing Division, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, by fax to (717) 787-8557 or by e-mail to rbrackbill@state.pa.us.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 02-1573. Filed for public inspection September 6, 2002, 9:00 a.m.]

Keystone Insurance Company; Homeowners Rate Filing

On August 23, 2002, the Insurance Department (Department) received from Keystone Insurance Company a filing for a proposed rate level change for homeowners insurance.

The company requests an overall 17.3% increase amounting to \$2.435 million annually, to be effective October 15, 2002, for new business and November 26, 2002, for renewal business.

Unless formal administrative action is taken prior to October 22, 2002, the subject filing may be deemed approved by operation of law.

Copies of the filing will be available for public inspection, by appointment, during normal working hours at the Department's regional offices in Harrisburg, Philadelphia, Pittsburgh and Erie, PA.

Interested parties are invited to submit written comments, suggestions or objections to Xiaofeng Lu, Insurance Department, Bureau of Regulation of Rates and Policies, Room 1311, Strawberry Square, Harrisburg, PA 17120, e-mail xlu@state.pa.us, within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 02-1574. Filed for public inspection September 6, 2002, 9:00 a.m.]

Notice to Medical Malpractice Insurance Carriers and Self-Insured Health Care Providers

Insurance companies that offer basic limits medical malpractice coverage are required to report medical malpractice claims information to the Medical Care Availability and Reduction of Error Fund (Fund) and the Insurance Department (Department) for insureds who are subject to the provisions of the Medical Care Availability and Reduction of Error (MCare) Act (40 P. S. §§ 1303.101—1303.5108). Organizations and physicians that self-insure their medical malpractice exposures are also required to report this claims information. These reports are required under section 743 of the MCare (40 P. S. § 1303.743).

The following calendar year 2001 claims information must be reported to the Fund and to the Department by October 15, 2002:

- the aggregate amount of premium earned;
- the aggregate amount of losses paid;
- the aggregate amount of losses incurred;
- the aggregate amount of loss reserves outstanding;
- the aggregate amount of loss adjustment expenses paid;
- the aggregate amount of loss adjustment expenses incurred;
- the aggregate amount of loss adjustment expense reserves outstanding;
- a table showing separately by accident year and county the number of claims first reported (or arising) in 2001;
- a table showing separately by accident year and disposition (that is judgement of arbitration panel, judgment of court, settlement or other) the number of claims closed (or disposed) in 2001;
- a separate table for each type of disposition identified previously showing for claims closed (or disposed) in 2001 separately by accident year: the number of claims closed (or disposed) with payment; the total losses incurred for those claims closed with payment; the basic coverage premiums collected.

Reports must be submitted in electronic form as an Excel spreadsheet or in printed form. A letter has been mailed instructing medical malpractice carriers to submit their 2001 data.

Medical malpractice carriers who have not received a letter should contact Brenna Murphy, Actuarial Associate, 1311 Strawberry Square, Harrisburg, PA 17120, (717) 783-2114, e-mail brmurphy@state.pa.us. Questions concerning the information contained in this notice may also be directed to Brenna Murphy.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 02-1575. Filed for public inspection September 6, 2002, 9:00 a.m.]

Review Procedure Hearings; Cancellation or Refusal of Insurance

The following insured has requested a hearing as authorized by the act of June 17, 1998 (P. L. 464, No. 68), in connection with the termination of the insured's automobile policy. The hearing will be held in accordance with the requirements of the act, 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure) and 31 Pa. Code §§ 56.1—56.3 (relating to Special Rules of Administrative Practice and Procedure). The administrative hearing will be held in the Insurance Department's regional office in Harrisburg, PA. Failure by an appellant to appear at a scheduled hearing may result in dismissal with prejudice.

The following hearing will be held in the Harrisburg Administrative Hearings Office, Capital Associates Building, Room 200, 901 North Seventh Street, Harrisburg, PA 17102.

Appeal of Janene Higley and Shelton Jackson; file no. 02-181-05964; Allstate Insurance Company; doc. no. P02-08-026; September 25, 2002, at 10 a.m.

Parties may appear with or without counsel and offer relevant testimony and/or other relevant evidence. Each party must bring documents, photographs, drawings, claims files, witnesses, and the like, necessary to support the party's case. A party intending to offer documents or photographs into evidence shall bring enough copies for the record and for each opposing party.

In some cases, the Insurance Commissioner (Commissioner) may order that the company reimburse an insured for the higher cost of replacement insurance coverage obtained while the appeal is pending. Reimbursement is available only when the insured is successful on appeal and may not be ordered in all instances. If an insured wishes to seek reimbursement for the higher cost of replacement insurance, the insured must produce documentation at the hearing which will allow comparison of coverages and costs between the original policy and the replacement policy.

Following the hearing and receipt of the stenographic transcript, the Commissioner will issue a written order resolving the factual issues presented at the hearing and stating what remedial action, if any, is required. The Commissioner's Order will be sent to those persons participating in the hearing or their designated representatives. The Order of the Commissioner may be subject to judicial review by the Commonwealth Court.

Persons with a disability who wish to attend the previously referenced administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing, should contact Tracey Pontius, Agency Coordinator at (717) 787-4298.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 02-1576. Filed for public inspection September 6, 2002, 9:00 a.m.]

2003 MCare Fund Assessment; Notice 2002-07

The purpose of this notice is to advise all basic insurance coverage insurers and self-insured participating health care providers of issues relating to the timing and methods of notification of the 2003 Assessment of the Medical Care Availability and Reduction of Error Fund (MCare Fund).

Under section 712 of the Medical Care Availability and Reduction of Error Act (act) (40 P.S. § 1303.712), the Insurance Department (Department) is required to notify all basic insurance coverage insurers and self-insured participating health care providers of the 2003 Assessment by November 1, 2002. Consistent with the act, the notification will be provided by the Department no later than November 1, 2002, through publication on the Department's public Internet website. The Department will also contact all basic insurance coverage carriers and self-insured participating health care providers by means of e-mail by November 1, 2002. Basic insurance coverage carriers and self-insured participating health care providers should provide contact person information and e-mail addresses by October 1, 2002, to the Medical Professional Liability Catastrophe Loss Fund, Suite 800, 30 N. Third St., Harrisburg, PA 17101.

In implementing the 2003 Assessment, the Department is reviewing all aspects of the assessment, including, but not limited to, hospital based slot rating and discount levels. The Department requests comments from interested parties on these issues and other 2003 Assessment-related issues. Written comments should be sent by October 1, 2002, to Sarah Lawhorne, Special Assistant to the Insurance Commissioner, Suite 800, 30 N. Third St., Harrisburg, PA 17101.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 02-1577. Filed for public inspection September 6, 2002, 9:00 a.m.]

LIQUOR CONTROL BOARD

Expiration of Leases

The following Liquor Control Board lease will expire:

Monroe County, Wine & Spirits Shoppe #4505, Ames Plaza, Unit 13, Weir Lake Road, Route 209, Brodheadsville, PA 18322.

Lease Expiration Date: July 31, 2003

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 3,054 to 5,000 net useable square feet of new or existing retail commercial space on Route 209 within 1/2 mile of the intersection of Weir Lake Road, Chestnut Hill Township.

Proposals due: September 27, 2002, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, Brandywine Plaza, 2223 Paxton Church Road, Harrisburg, PA 17110-9661
Contact: Willard J. Rhodes, (717) 657-4228

JOHN E. JONES, III,
Chairperson

[Pa.B. Doc. No. 02-1578. Filed for public inspection September 6, 2002, 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 (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 September 30, 2002, as set forth at 52 Pa. Code § 3.381 (relating to the applications for the transportation of property, household goods in use 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 to begin operating as common carriers for transportation of persons as described under each application.

A-00119214. Friendly Express Limousine, Inc. (1810 Byberry Road, Suite C, Bensalem, Bucks County, PA 19020), a Pennsylvania corporation—transfer—persons in limousine service, between points in Pennsylvania; which is to be a transfer of the rights authorized under the certificate at A-00114167 issued to Getaway Car, Inc., subject to the same limitations and conditions.

A-00119213. Heather Noumeh t/d/b/a Royal Limousine Services (502-508 Union Blvd., Allentown, Lehigh County, PA 18102)—persons in limousine service, between points in the county of Lehigh, and from points in said county, to points in Pennsylvania, and return.

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-00108468, Folder 1, Am-A. David A. Simon, t/d/b/a First Class Limousine Service (207 East 16th Ave., Homestead, Allegheny County, PA 15120)—persons in limousine service, between points in Pennsylvania: *So as to Permit* the transportation of persons in limousine service, between points in Allegheny County. *Attorney:* John A. Pillar, 680 Washington Road, Suite B101, Pittsburgh, PA 15228.

A-00111056, Folder 1, Am-A. Cable Enterprises, Inc. (R. D. 3, Box 968, Saltsburg, Westmoreland County, PA 15681), a Pennsylvania corporation—persons in limousine service, between points in Pennsylvania: *So as to Permit* the transportation of persons in limousine service, between points in Allegheny County. *Attorney:* John A. Pillar, 680 Washington Road, Suite B101, Pittsburgh, PA 15228.

Complaint

Pennsylvania Public Utility Commission v. TST Expedited Services, Inc.; Doc. No. A-00113393C0202; A-00113393

Dear Respondent:

On April 10, 2002, the Bureau of Transportation and Safety instituted a complaint against TST Expedited Services, Inc., alleging respondent abandoned or discontinued service without having submitted a letter to this Commission containing a statement that the service is no longer being rendered.

Respondent was duly notified that, if an answer was not filed within twenty (20) days of receipt of the complaint, the Bureau of Transportation and Safety would request that the Commission enter an order imposing a penalty.

The complaint and notice were published in the *Pennsylvania Bulletin* on July 20, 2002, Volume 32, No. 29; and, more than thirty (30) days later, no response has been received from respondent.

Therefore, the allegations in the complaint are admitted and the complaint is sustained.

The certificate of public convenience held by TST Expedited Services, Inc. at A-00113393, F. 2 is hereby revoked and respondent shall cease and desist from further violations of the Public Utility Code, 66 Pa. Code §§ 101, et seq. and the regulations of this Commission, 52 Pa. Code §§ 1.1, et seq. In view of the cancellation of the

respondent's certificate of public convenience, it is specifically prohibited from rendering service as a common carrier by motor vehicle in intrastate commerce in the Commonwealth of Pennsylvania.

Should respondent wish to again begin transportation operations in the Commonwealth of Pennsylvania, respondent must file a new application for authority in order to obtain a Certificate of Public Convenience. The respondent must pay all outstanding assessments and fines before this Commission will act on an application for authority. Payment must be made by certified check or money order payable to the Pa. Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265.

Very truly yours,

James J. McNulty
Secretary

Complaint

Pennsylvania Public Utility Commission v. Daniel A. Pryse, t/a Pryse Trucking Company; Doc. No. A-00114108C0201; A-00114108

Dear Respondent:

On April 18, 2002, the Bureau of Transportation and Safety instituted a complaint against Daniel A. Pryse, t/a Pryse Trucking Company, alleging respondent abandoned or discontinued service without having submitted a letter to this Commission containing a statement that the service is no longer being rendered.

Respondent was duly notified that, if an answer was not filed within twenty (20) days of receipt of the complaint, the Bureau of Transportation and Safety would request that the Commission enter an order imposing a penalty.

The complaint and notice were published in the *Pennsylvania Bulletin* on July 20, 2002, Volume 32, No. 29; and, more than thirty (30) days later, no response has been received from respondent.

Therefore, the allegations in the complaint are admitted and the complaint is sustained.

The certificate of public convenience held by Daniel A. Pryse, t/a Pryse Trucking Company at A-00114108 is hereby revoked and respondent shall cease and desist from further violations of the Public Utility Code, 66 Pa. Code §§ 101, et seq. and the regulations of this Commission, 52 Pa. Code §§ 1.1, et seq. In view of the cancellation of the respondent's certificate of public convenience, it is specifically prohibited from rendering service as a common carrier by motor vehicle in intrastate commerce in the Commonwealth of Pennsylvania.

Should respondent wish to again begin transportation operations in the Commonwealth of Pennsylvania, respondent must file a new application for authority in order to obtain a Certificate of Public Convenience. The respondent must pay all outstanding assessments and fines before this Commission will act on an application for authority. Payment must be made by certified check or money order payable to the Pa. Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265.

Very truly yours,

James J. McNulty
Secretary

Complaint

Pennsylvania Public Utility Commission v. Distefano Transport, Inc.; Doc. No. A-00113790C0201; A-00113790

Dear Respondent:

On April 10, 2002, the Bureau of Transportation and Safety instituted a complaint against Distefano Transport, Inc., alleging respondent abandoned or discontinued service without having submitted a letter to this Commission containing a statement that the service is no longer being rendered.

Respondent was duly notified that, if an answer was not filed within twenty (20) days of receipt of the complaint, the Bureau of Transportation and Safety would request that the Commission enter an order imposing a penalty.

The complaint and notice were published in the *Pennsylvania Bulletin* on July 20, 2002, Volume 32, No. 29; and, more than thirty (30) days later, no response has been received from respondent.

Therefore, the allegations in the complaint are admitted and the complaint is sustained.

The certificate of public convenience held by Distefano Transport, Inc. at A-00113790 is hereby revoked and respondent shall cease and desist from further violations of the Public Utility Code, 66 Pa. Code §§ 101, et seq. and the regulations of this Commission, 52 Pa. Code §§ 1.1, et seq. In view of the cancellation of the respondent's certificate of public convenience, it is specifically prohibited from rendering service as a common carrier by motor vehicle in intrastate commerce in the Commonwealth of Pennsylvania.

Should respondent wish to again begin transportation operations in the Commonwealth of Pennsylvania, respondent must file a new application for authority in order to obtain a Certificate of Public Convenience. The respondent must pay all outstanding assessments and fines before this Commission will act on an application for authority. Payment must be made by certified check or money order payable to the Pa. Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265.

Very truly yours,

James J. McNulty
Secretary

Complaint

Pennsylvania Public Utility Commission v. Michael Russo, t/a Michael Russo Paving; Doc. No. A-00113779C0201; A-00113779

Dear Respondent:

On April 18, 2002, the Bureau of Transportation and Safety instituted a complaint against Michael Russo, t/a Michael Russo Paving, alleging respondent abandoned or discontinued service without having submitted a letter to this Commission containing a statement that the service is no longer being rendered.

Respondent was duly notified that, if an answer was not filed within twenty (20) days of receipt of the complaint, the Bureau of Transportation and Safety would request that the Commission enter an order imposing a penalty.

The complaint and notice were published in the *Pennsylvania Bulletin* on July 20, 2002, Volume 32, No. 29;

and, more than thirty (30) days later, no response has been received from respondent.

Therefore, the allegations in the complaint are admitted and the complaint is sustained.

The certificate of public convenience held by Michael Russo, t/a Michael Russo Paving at A-00113779 is hereby revoked and respondent shall cease and desist from further violations of the Public Utility Code, 66 Pa. Code §§ 101, et seq. and the regulations of this Commission, 52 Pa. Code §§ 1.1, et seq. In view of the cancellation of the respondent's certificate of public convenience, it is specifically prohibited from rendering service as a common carrier by motor vehicle in intrastate commerce in the Commonwealth of Pennsylvania.

Should respondent wish to again begin transportation operations in the Commonwealth of Pennsylvania, respondent must file a new application for authority in order to obtain a Certificate of Public Convenience. The respondent must pay all outstanding assessments and fines before this Commission will act on an application for authority. Payment must be made by certified check or money order payable to the Pa. Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265.

Very truly yours,

James J. McNulty
Secretary

Complaint

Pennsylvania Public Utility Commission v. Jacob R. Trinley, Inc.; Doc. No. A-00113194C0201; A-00113194, Fs. 1 & 2

Dear Respondent:

On April 18, 2002, the Bureau of Transportation and Safety instituted a complaint against Jacob R. Trinley, Inc., alleging respondent abandoned or discontinued service without having submitted a letter to this Commission containing a statement that the service is no longer being rendered.

Respondent was duly notified that, if an answer was not filed within twenty (20) days of receipt of the complaint, the Bureau of Transportation and Safety would request that the Commission enter an order imposing a penalty.

The complaint and notice were published in the *Pennsylvania Bulletin* on July 20, 2002, Volume 32, No. 29; and, more than thirty (30) days later, no response has been received from respondent.

Therefore, the allegations in the complaint are admitted and the complaint is sustained.

The certificate of public convenience held by Jacob R. Trinley, Inc. at A-00113194, Fs. 1 & 2 is hereby revoked and respondent shall cease and desist from further violations of the Public Utility Code, 66 Pa. Code §§ 101, et seq. and the regulations of this Commission, 52 Pa. Code §§ 1.1, et seq. In view of the cancellation of the respondent's certificate of public convenience, it is specifically prohibited from rendering service as a common carrier by motor vehicle in intrastate commerce in the Commonwealth of Pennsylvania.

Should respondent wish to again begin transportation operations in the Commonwealth of Pennsylvania, respondent must file a new application for authority in order to obtain a Certificate of Public Convenience. The respondent must pay all outstanding assessments and

finer before this Commission will act on an application for authority. Payment must be made by certified check or money order payable to the Pa. Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265.

Very truly yours,

James J. McNulty
Secretary

Complaint

Pennsylvania Public Utility Commission v. Michael Missimer, t/a Michael Missimer Trucking; Doc. No. A-00112779C0201; A-00112779

Dear Respondent:

On April 10, 2002, the Bureau of Transportation and Safety instituted a complaint against Michael Missimer, t/a Michael Missimer Trucking, alleging respondent abandoned or discontinued service without having submitted a letter to this Commission containing a statement that the service is no longer being rendered.

Respondent was duly notified that, if an answer was not filed within twenty (20) days of receipt of the complaint, the Bureau of Transportation and Safety would request that the Commission enter an order imposing a penalty.

The complaint and notice were published in the *Pennsylvania Bulletin* on July 20, 2002, Volume 32, No. 29; and, more than thirty (30) days later, no response has been received from respondent.

Therefore, the allegations in the complaint are admitted and the complaint is sustained.

The certificate of public convenience held by Michael Missimer, t/a Michael Missimer Trucking at A-00112779 is hereby revoked and respondent shall cease and desist from further violations of the Public Utility Code, 66 Pa. Code §§ 101, et seq. and the regulations of this Commission, 52 Pa. Code §§ 1.1, et seq. In view of the cancellation of the respondent's certificate of public convenience, it is specifically prohibited from rendering service as a common carrier by motor vehicle in intrastate commerce in the Commonwealth of Pennsylvania.

Should respondent wish to again begin transportation operations in the Commonwealth of Pennsylvania, respondent must file a new application for authority in order to obtain a Certificate of Public Convenience. The respondent must pay all outstanding assessments and fines before this Commission will act on an application for authority. Payment must be made by certified check or money order payable to the Pa. Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265.

Very truly yours,

James J. McNulty
Secretary

Complaint

Pennsylvania Public Utility Commission v. Bud's Transport & Towing, Inc.; Doc. No. A-00112516C0201; A-00112516

Dear Respondent:

On March 21, 2002, the Bureau of Transportation and Safety instituted a complaint against Bud's Transport & Towing, Inc., alleging respondent abandoned or discontinued service without having submitted a letter to this

Commission containing a statement that the service is no longer being rendered.

Respondent was duly notified that, if an answer was not filed within twenty (20) days of receipt of the complaint, the Bureau of Transportation and Safety would request that the Commission enter an order imposing a penalty.

The complaint and notice were published in the *Pennsylvania Bulletin* on July 20, 2002, Volume 32, No. 29; and, more than thirty (30) days later, no response has been received from respondent.

Therefore, the allegations in the complaint are admitted and the complaint is sustained.

The certificate of public convenience held by Bud's Transport & Towing at A-00112516 is hereby revoked and respondent shall cease and desist from further violations of the Public Utility Code, 66 Pa. Code §§ 101, et seq. and the regulations of this Commission, 52 Pa. Code §§ 1.1, et seq. In view of the cancellation of the respondent's certificate of public convenience, it is specifically prohibited from rendering service as a common carrier by motor vehicle in intrastate commerce in the Commonwealth of Pennsylvania.

Should respondent wish to again begin transportation operations in the Commonwealth of Pennsylvania, respondent must file a new application for authority in order to obtain a Certificate of Public Convenience. The respondent must pay all outstanding assessments and fines before this Commission will act on an application for authority. Payment must be made by certified check or money order payable to the Pa. Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265.

Very truly yours,

James J. McNulty
Secretary

Complaint

Pennsylvania Public Utility Commission v. Louis T. Decenzi, t/a Louis Decenzi Hauling; Doc. No. A-00112507C0201; A-00112507

Dear Respondent:

On March 21, 2002, the Bureau of Transportation and Safety instituted a complaint against Louis T. Decenzi, t/a Louis Decenzi Hauling, alleging respondent abandoned or discontinued service without having submitted a letter to this Commission containing a statement that the service is no longer being rendered.

Respondent was duly notified that, if an answer was not filed within twenty (20) days of receipt of the complaint, the Bureau of Transportation and Safety would request that the Commission enter an order imposing a penalty.

The complaint and notice were published in the *Pennsylvania Bulletin* on July 20, 2002, Volume 32, No. 29; and, more than thirty (30) days later, no response has been received from respondent.

Therefore, the allegations in the complaint are admitted and the complaint is sustained.

The certificate of public convenience held by Louis T. Decenzi, t/a Louis Decenzi hauling at A-00112507 is hereby revoked and respondent shall cease and desist from further violations of the Public Utility Code, 66

Pa. Code §§ 101, et seq. and the regulations of this Commission, 52 Pa. Code §§ 1.1, et seq. In view of the cancellation of the respondent's certificate of public convenience, it is specifically prohibited from rendering service as a common carrier by motor vehicle in intrastate commerce in the Commonwealth of Pennsylvania.

Should respondent wish to again begin transportation operations in the Commonwealth of Pennsylvania, respondent must file a new application for authority in order to obtain a Certificate of Public Convenience. The respondent must pay all outstanding assessments and fines before this Commission will act on an application for authority. Payment must be made by certified check or money order payable to the Pa. Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265.

Very truly yours,

James J. McNulty
Secretary

Complaint

Pennsylvania Public Utility Commission v. Gilbo Corp.;
Doc. No. A-00112176C0201; A-00112176

Dear Respondent:

On March 21, 2002, the Bureau of Transportation and Safety instituted a complaint against Gilbo Corp., alleging respondent abandoned or discontinued service without having submitted a letter to this Commission containing a statement that the service is no longer being rendered.

Respondent was duly notified that, if an answer was not filed within twenty (20) days of receipt of the complaint, the Bureau of Transportation and Safety would request that the Commission enter an order imposing a penalty.

The complaint and notice were published in the *Pennsylvania Bulletin* on July 20, 2002, Volume 32, No. 29; and, more than thirty (30) days later, no response has been received from respondent.

Therefore, the allegations in the complaint are admitted and the complaint is sustained.

The certificate of public convenience held by Gilbo Corp. at A-00112176 is hereby revoked and respondent shall cease and desist from further violations of the Public Utility Code, 66 Pa. Code §§ 101, et seq. and the regulations of this Commission, 52 Pa. Code §§ 1.1, et seq. In view of the cancellation of the respondent's certificate of public convenience, it is specifically prohibited from rendering service as a common carrier by motor vehicle in intrastate commerce in the Commonwealth of Pennsylvania.

Should respondent wish to again begin transportation operations in the Commonwealth of Pennsylvania, respondent must file a new application for authority in order to obtain a Certificate of Public Convenience. The respondent must pay all outstanding assessments and fines before this Commission will act on an application for authority. Payment must be made by certified check or money order payable to the Pa. Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265.

Very truly yours,

James J. McNulty
Secretary

Complaint

Pennsylvania Public Utility Commission v. Lawrence Estenich Enterprises, Inc.; Doc. No. A-00111786C0201; A-00111786

Dear Respondent:

On March 25, 2002, the Bureau of Transportation and Safety instituted a complaint against Lawrence Estenich Enterprises, Inc., alleging respondent abandoned or discontinued service without having submitted a letter to this Commission containing a statement that the service is no longer being rendered.

Respondent was duly notified that, if an answer was not filed within twenty (20) days of receipt of the complaint, the Bureau of Transportation and Safety would request that the Commission enter an order imposing a penalty.

The complaint and notice were published in the *Pennsylvania Bulletin* on July 20, 2002, Volume 32, No. 29; and, more than thirty (30) days later, no response has been received from respondent.

Therefore, the allegations in the complaint are admitted and the complaint is sustained.

The certificate of public convenience held by Lawrence Estenich Enterprises, Inc. at A-00111786 is hereby revoked and respondent shall cease and desist from further violations of the Public Utility Code, 66 Pa. Code §§ 101, et seq. and the regulations of this Commission, 52 Pa. Code §§ 1.1, et seq. In view of the cancellation of the respondent's certificate of public convenience, it is specifically prohibited from rendering service as a common carrier by motor vehicle in intrastate commerce in the Commonwealth of Pennsylvania.

Should respondent wish to again begin transportation operations in the Commonwealth of Pennsylvania, respondent must file a new application for authority in order to obtain a Certificate of Public Convenience. The respondent must pay all outstanding assessments and fines before this Commission will act on an application for authority. Payment must be made by certified check or money order payable to the Pa. Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265.

Very truly yours,

James J. McNulty
Secretary

Complaint

Pennsylvania Public Utility Commission v. DLC Management Group, Inc.; Doc. No. A-00110044C0201; A-00110044

Dear Respondent:

On April 18, 2002, the Bureau of Transportation and Safety instituted a complaint against DLC Management Group, Inc., alleging respondent abandoned or discontinued service without having submitted a letter to this Commission containing a statement that the service is no longer being rendered.

Respondent was duly notified that, if an answer was not filed within twenty (20) days of receipt of the complaint, the Bureau of Transportation and Safety would request that the Commission enter an order imposing a penalty.

The complaint and notice were published in the *Pennsylvania Bulletin* on July 20, 2002, Volume 32, No. 29;

and, more than thirty (30) days later, no response has been received from respondent.

Therefore, the allegations in the complaint are admitted and the complaint is sustained.

The certificate of public convenience held by DLC Management Group, Inc. at A-00110044 is hereby revoked and respondent shall cease and desist from further violations of the Public Utility Code, 66 Pa. Code §§ 101, et seq. and the regulations of this Commission, 52 Pa. Code §§ 1.1, et seq. In view of the cancellation of the respondent's certificate of public convenience, it is specifically prohibited from rendering service as a common carrier by motor vehicle in intrastate commerce in the Commonwealth of Pennsylvania.

Should respondent wish to again begin transportation operations in the Commonwealth of Pennsylvania, respondent must file a new application for authority in order to obtain a Certificate of Public Convenience. The respondent must pay all outstanding assessments and fines before this Commission will act on an application for authority. Payment must be made by certified check or money order payable to the Pa. Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265.

Very truly yours,

James J. McNulty
Secretary

Complaint

Pennsylvania Public Utility Commission v. Raymond D. Oehlmann, t/a Oehlmann Trucking; Doc. No. A-00109232C0201; A-00109232

Dear Respondent:

On March 21, 2002, the Bureau of Transportation and Safety instituted a complaint against Raymond D. Oehlmann, Oehlmann Trucking, alleging respondent abandoned or discontinued service without having submitted a letter to this Commission containing a statement that the service is no longer being rendered.

Respondent was duly notified that, if an answer was not filed within twenty (20) days of receipt of the complaint, the Bureau of Transportation and Safety would request that the Commission enter an order imposing a penalty.

The complaint and notice were published in the *Pennsylvania Bulletin* on July 20, 2002, Volume 32, No. 29; and, more than thirty (30) days later, no response has been received from respondent.

Therefore, the allegations in the complaint are admitted and the complaint is sustained.

The certificate of public convenience held by Raymond D. Oehlmann, t/a Oehlmann Trucking at A-00109232 is hereby revoked and respondent shall cease and desist from further violations of the Public Utility Code, 66 Pa. Code §§ 101, et seq. and the regulations of this Commission, 52 Pa. Code §§ 1.1, et seq. In view of the cancellation of the respondent's certificate of public convenience, it is specifically prohibited from rendering service as a common carrier by motor vehicle in intrastate commerce in the Commonwealth of Pennsylvania.

Should respondent wish to again begin transportation operations in the Commonwealth of Pennsylvania, respondent must file a new application for authority in order to obtain a Certificate of Public Convenience. The respondent must pay all outstanding assessments and fines before this Commission will act on an application for

authority. Payment must be made by certified check or money order payable to the Pa. Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265.

Very truly yours,

James J. McNulty
Secretary

Complaint

Pennsylvania Public Utility Commission v. Barclay Hotel Associates; Doc. No. A-00103186C0201; A-00103186

Dear Respondent:

On March 14, 2002, the Bureau of Transportation and Safety instituted a complaint against Barclay Hotel Associates, alleging respondent abandoned or discontinued service without having submitted a letter to this Commission containing a statement that the service is no longer being rendered.

Respondent was duly notified that, if an answer was not filed within twenty (20) days of receipt of the complaint, the Bureau of Transportation and Safety would request that the Commission enter an order imposing a penalty.

The complaint and notice were published in the *Pennsylvania Bulletin* on July 13, 2002, Volume 32, No. 28; and, more than thirty (30) days later, no response has been received from respondent.

Therefore, the allegations in the complaint are admitted and the complaint is sustained.

The certificate of public convenience held by Barclay Hotel Associates at A-00103186 is hereby revoked and respondent shall cease and desist from further violations of the Public Utility Code, 66 Pa. Code §§ 101, et seq. and the regulations of this Commission, 52 Pa. Code §§ 1.1, et seq. In view of the cancellation of the respondent's certificate of public convenience, it is specifically prohibited from rendering service as a common carrier by motor vehicle in intrastate commerce in the Commonwealth of Pennsylvania.

Very truly yours,

James J. McNulty
Secretary

Complaint

Pennsylvania Public Utility Commission v. Tommy P. B. Wizard Corp.; Doc. No. A-00102397C0201; A-00102397, Fs. 1, 2, & 3

Dear Respondent:

On March 14, 2002, the Bureau of Transportation and Safety instituted a complaint against Tommy P. B. Wizard Corp., alleging respondent abandoned or discontinued service without having submitted a letter to this Commission containing a statement that the service is no longer being rendered.

Respondent was duly notified that, if an answer was not filed within twenty (20) days of receipt of the complaint, the Bureau of Transportation and Safety would request that the Commission enter an order imposing a penalty.

The complaint and notice were published in the *Pennsylvania Bulletin* on July 13, 2002, Volume 32, No. 28; and, more than thirty (30) days later, no response has been received from respondent.

Therefore, the allegations in the complaint are admitted and the complaint is sustained.

The certificate of public convenience held by Tommy P. B. Wizard Corp. at A-00102397, Fs. 1, 2, & 3 is hereby revoked and respondent shall cease and desist from further violations of the Public Utility Code, 66 Pa. Code §§ 101, et seq. and the regulations of this Commission, 52 Pa. Code §§ 1.1, et seq. In view of the cancellation of the respondent's certificate of public convenience, it is specifically prohibited from rendering service as a common carrier by motor vehicle in intrastate commerce in the Commonwealth of Pennsylvania.

Very truly yours,

James J. McNulty
Secretary

Complaint

Pennsylvania Public Utility Commission v. Perfect Trucking Corporation of America, Inc.; Doc. No. A-00113697C0201; A-00113697

Dear Respondent:

On April 18, 2002, the Bureau of Transportation and Safety instituted a complaint against Perfect Trucking Corporation of America, Inc., alleging respondent abandoned or discontinued service without having submitted a letter to this Commission containing a statement that the service is no longer being rendered.

Respondent was duly notified that, if an answer was not filed within twenty (20) days of receipt of the complaint, the Bureau of Transportation and Safety would request that the Commission enter an order imposing a penalty.

The complaint and notice were published in the *Pennsylvania Bulletin* on June 8, 2002, Volume 32, No. 23; and, more than thirty (30) days later, no response has been received from respondent.

Therefore, the allegations in the complaint are admitted and the complaint is sustained.

The certificate of public convenience held by Perfect Trucking Corporation of America, Inc. at A-00113697 is hereby revoked and respondent shall cease and desist from further violations of the Public Utility Code, 66 Pa. Code §§ 101, et seq. and the regulations of this Commission, 52 Pa. Code §§ 1.1, et seq. In view of the cancellation of the respondent's certificate of public convenience, it is specifically prohibited from rendering service as a common carrier by motor vehicle in intrastate commerce in the Commonwealth of Pennsylvania.

Should respondent wish to again begin transportation operations in the Commonwealth of Pennsylvania, respondent must file a new application for authority in order to obtain a Certificate of Public Convenience. The respondent must pay all outstanding assessments and fines before this Commission will act on an application for authority. Payment must be made by certified check or money order payable to the Pa. Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265.

Very truly yours,

James J. McNulty
Secretary

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 02-1579. Filed for public inspection September 6, 2002, 9:00 a.m.]

Tentative Order

Public meeting held
August 8, 2002

Commissioners Present: Glen R. Thomas, Chairperson; Robert K. Bloom, Vice-Chairperson; Aaron Wilson, Jr.; Terrance J. Fitzpatrick; Kim Pizzingrilli

Petition for Relief; Alexa Cab Co. and Pars Transport, Inc.; Doc. No. P-00021959

Issuance of Additional Certificates of Public Convenience and Medallions; Docket No. M-00991301

Tentative Order

By the Commission:

Before us for consideration is the Petition for Relief (Petition) filed by Alexa Cab Co. (Alexa) and Pars Transport, Inc. (Pars) (collectively Petitioners), requesting that the Commission waive the A-title vehicle requirement for their medallion taxicabs. This requirement was set forth by Commission Order entered October 18, 1999, at Docket Number M-00991301 (1999 Order).¹ As previously interpreted by the Commission and its staff, the 1999 Order prohibited a newly issued medallion from ever being placed on any vehicle other than an A-titled vehicle.²

Pursuant to the medallion auction authorized by the 1999 Order, Alexa obtained 64 certificates and medallions; Pars allegedly obtained 26. Petition at 2.³ The Petitioners seek relief from the A-title requirement, alleging the following: (a) the requirement no longer serves the Commission's original intent to upgrade the entire Philadelphia taxicab fleet; (b) the A-title requirement is discriminatory because it is not imposed upon older medallions; (c) there was confusion regarding the language imposing the A-title requirement; (d) the A-title restriction is not imposed by the Public Utility Code or any regulation; (e) the Petitioners cannot operate at a profit because of the A-title requirement; and (f) the public would not be inconvenienced by the lifting of the A-title requirement. Petition at 3-4.

Upon careful consideration, we find merit to several of the Petitioners' arguments.⁴ First, the original purpose of the issuance of the additional 161 medallions has, in fact, been achieved. The stated intent of the titling requirement found in the 1999 Order was "to upgrade and improve the operations of taxicabs in Philadelphia." 1999 Order at 4. The goal was to create an immediate influx of new vehicles into the Philadelphia market, which was achieved. Basically, the Commission did not want the new medallions placed upon old vehicles. However, the history and language of the 1999 Order indicate that the Commission did not intend the A-title requirement to be a perpetual requirement. Such a requirement would lead to absurd results. For example, a medallion holder could not

¹*Issuance of Additional Certificates of Public Convenience and Medallions*, Docket No. M-00991301 (Order entered Oct. 18, 1999) (authorizing the issuance of 161 additional certificates of public convenience and medallions for taxicab service in Philadelphia). The 1999 Order defines an A-titled vehicle as "a vehicle purchased from a manufacturer or registered dealer, which was not previously titled and is not a reconstructed or stolen vehicle." *Id.* at 3, n.2.

²See Letter Issued by Commission's Bureau of Transportation and Safety to New Medallion Holders in January 2001 ("In consideration of the foregoing, be advised that any transfer of the subject medallion(s) will require placement on a motor vehicle which is a 1999 model year or newer vehicle and which is purchased from a manufacturer or registered dealer, which was not previously titled and is not a reconstructed or stolen vehicle.") (emphasis in original); see also *Petition for Waiver: Philadelphia Transport, Inc.*, Docket No. A-00116714, P-00108 (Order entered Oct. 15, 2001) (denying request to waive A-title requirement where owner alleged financial hardship).

³Contrary to the allegations contained in the Petition, Commission records indicate that Pars purchased 7 medallions pursuant to the auction. Currently, Pars holds 12 medallions.

⁴We note that the Petitioners raise several new and novel arguments that were not previously heard or considered by the Commission.

sell a month-old vehicle along with the medallion because the month-old vehicle would no longer be A-titled.

Second, a perpetual A-title requirement creates a two-tiered regulatory environment. Some medallions are burdened by the requirement and others are not. While this may not constitute unlawful discrimination, it certainly does not constitute good policy. As a matter of fundamental fairness, the Commission strives to regulate similarly situated entities in a similar manner. As a practical matter, a regulated community with different classes of medallions creates enforcement problems for the Commission.

Third, it is reasonable to believe that there was confusion regarding the specific requirement of the 1999 Order at the time of auction. The 1999 Order states, *inter alia*:

[W]e will require that a newly issued or reissued medallion shall be placed initially only on a 1999 or 2000 model year vehicle. Further, a newly issued or reissued medallion shall be placed only on an A-titled vehicle, or the equivalent. At no time following initial issuance shall a medallion be placed on a vehicle which is older than a 1999 model year or which is not an A-titled vehicle, or the equivalent.

1999 Order at 3-4 (emphasis added). While the foregoing passage clearly indicates that the medallion had to be initially placed only on a vehicle that was both a 1999 or 2000 model year vehicle and A-titled, the requirements for vehicles after the time of initial issuance arguably was unclear. The use of the word "or" may suggest that subsequent vehicles could either be a 1999 model year or A-titled. Because the Commission's goal was an immediate influx of new vehicles, this interpretation may have been reasonable.

Fourth, the Public Utility Code requires that a medallion taxicab be no more than eight years old.⁵ While the Commission does have great latitude in imposing conditions on certificates of public convenience,⁶ to continue a perpetual A-title requirement is not necessary. Requiring the medallions to be placed initially upon new vehicles was a reasonable condition imposed by the Commission. It served the legitimate purpose of creating an immediate influx of new vehicles into the Philadelphia market. Similarly, the requirement that the new medallions could not subsequently be placed upon vehicles older than 1999 model year was reasonable and consistent with the Public Utility Code. As stated earlier, the Commission's intent was to prevent the new medallion from being placed on old vehicles. Allowing the medallions to now be placed upon vehicles older than 1999 model year would be inconsistent with this intent. Notwithstanding our decision today, we will not permit medallion owners to trade down to vehicles older than a 1999 model year.

Finally, the Commission already regulates the quality of vehicles through its medallion regulations.⁷ If there is a policy issue relating to the quality of vehicles, the remedy should not be isolated to the 161 medallions issued pursuant to the 1999 Order and should be done through the regulatory process.⁸

⁵66 Pa. C.S. § 2404(a).

⁶See *Rheems Water Co. v. Pa. Pub. Util. Comm'n*, 620 A.2d 609 (Pa. Cmwlth. 1993).

⁷See 52 Pa. Code §§ 30.31-30.34 (relating to vehicle requirements and inspections). I also note that the Commission recently issued proposed medallion regulations, some of which relate to vehicle quality. See Proposed Rulemaking; Taxicab Medallion Regulations; 52 Pa. Code Chapter 30, Docket No. L-00020155 (Order entered Mar. 28, 2002).

⁸See, e.g., *Chimenti v. Pa. Dept. of Corrections*, 720 A.2d 205 (Pa. Cmwlth. 1998), *aff'd*, 559 Pa. 379, 740 A.2d 1139 (1999) (explaining that a regulation is a government agency's exercise of delegated legislative power to create a mandatory standard of behavior for similarly-situated persons); see also Commonwealth Documents Law (45 P.S. §§ 1102-1602).

For the foregoing reasons, we will tentatively grant the Petition of Alexa and Pars. Similar relief should also be granted to other similarly situated entities. Accordingly, the 1999 Order is tentatively amended to eliminate the perpetual A-title requirement for any and all medallions and certificates issued under the Order. Because this matter affects persons other than the Petitioners, the Opinion and Order entered based on this Motion will be tentative. Interested parties and the public will be given notice in the *Pennsylvania Bulletin* and an opportunity to file comments.

Therefore, It Is Ordered:

1. The Petition of Alexa Cab Co. and Pars Transport, Inc. is tentatively granted.

2. In accordance with 66 Pa.C.S. § 703(g), the Commission's Opinion and Order entered on October 18, 1999, at Docket No. M-00991301 is tentatively amended to eliminate the following words from the partial sentence at the top of page four: ". . . or which is not an A-titled vehicle, or the equivalent."

3. The perpetual A-title requirement upon medallions and certificates issued pursuant to the Commission's Opinion and Order entered on October 18, 1999, at Docket No. M-00991301 is tentatively eliminated.

4. This Tentative Order shall be published in the *Pennsylvania Bulletin*. The public and interested parties may file comments within 20 days from publication.

5. If no comments are filed, a Secretarial Letter shall be issued making final the Tentative Opinion and Order.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 02-1580. Filed for public inspection September 6, 2002, 9:00 a.m.]

PHILADELPHIA REGIONAL PORT AUTHORITY

Request for Bids

The Philadelphia Regional Port Authority (PRPA) will accept bids for Project #0280.P, Purchase of Printer and Fax Cartridges, until 2 p.m. on Thursday, September 19, 2002. The bid documents can be obtained from the Director of Procurement, PRPA, 3460 North Delaware Avenue, 2nd Floor, Philadelphia, PA 19134, (215) 426-2600, and will be available September 10, 2002. The cost of the bid documents is \$25 (includes 7% PA sales tax), which is nonrefundable. PRPA is an equal opportunity employer. Contractor must comply with all applicable equal employment opportunity laws and regulations.

JAMES T. MCDERMOTT, Jr.,
Executive Director

[Pa.B. Doc. No. 02-1581. Filed for public inspection September 6, 2002, 9:00 a.m.]

Request for Bids

The Philadelphia Regional Port Authority (PRPA) will accept bids for Project #0279.1, Roof Repairs, Building #7, Packer Avenue Marine Terminal (PAMT), until 2 p.m. on

Thursday, September 26, 2002. The bid documents can be obtained from the Director of Procurement, PRPA, 3460 North Delaware Avenue, 2nd Floor, Philadelphia, PA 19134, (215) 426-2600, and will be available September 10, 2002. The cost of the bid documents is \$25 (includes 7% PA sales tax), which is nonrefundable. PRPA is an equal opportunity employer. Contractor must comply with all applicable equal employment opportunity laws and regulations.

Mandatory prebid job site meeting will be held September 19, 2002, 10 a.m. at PAMT, Columbus Boulevard and Packer Avenue, Philadelphia, PA 19148.

JAMES T. MCDERMOTT, Jr.,
Executive Director

[Pa.B. Doc. No. 02-1582. Filed for public inspection September 6, 2002, 9:00 a.m.]

STATE CONSERVATION COMMISSION

Meeting Cancellation

The September 10, 2002, State Conservation Commission (Commission) meeting has been cancelled. The next Commission meeting will be held on November 1, 2002, at Toftrees, State College, PA.

KARL G. BROWN,
Executive Secretary

[Pa.B. Doc. No. 02-1583. Filed for public inspection September 6, 2002, 9:00 a.m.]

STATE CONTRACTS INFORMATION

DEPARTMENT OF GENERAL SERVICES

Act 266 of 1982 provides for the payment of interest penalties on certain invoices of "qualified small business concerns". The 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.

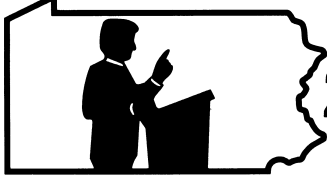
Act 1984-196 redefined a "qualified small business concern" as any independently owned and operated, for-profit business concern employing 100 or fewer employees. See 4 Pa. Code § 2.32. The business must include the following statement on every invoice submitted to the Commonwealth: "(name of business) is a qualified small business concern as defined in 4 Pa. Code 2.32."

A business is eligible for payments when the required payment is the latest of:
 The payment date specified in the contract.
 30 days after the later of the receipt of a proper invoice or receipt of goods or services.
 The net payment date stated on the business' invoice.

A 15-day grace period after the required payment date is provided to the Commonwealth by the Act.

For more information: contact: Small Business Resource Center
 PA Department of Community and Economic Development
 374 Forum Building
 Harrisburg, PA 17120
 800-280-3801 or (717) 783-5700

Reader's Guide



Legal Services & Consultation

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

⑤ Location

⑥ Duration

⑦ (For Commodities: Contact:)
 Vendor Services Section
 717-787-2199 or 717-787-4705

REQUIRED DATA DESCRIPTIONS

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.

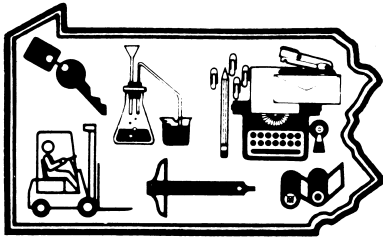
⑦ Contact: (For services) State Department or Agency where vendor inquiries are to be made.
 (For commodities) Vendor Services Section (717) 787-2199 or (717) 787-4705

GET A STEP AHEAD IN COMPETING FOR A STATE CONTRACT!

The Treasury Department's Bureau of Contracts and Public Records can help you do business with state government agencies. Our efforts focus on guiding the business community through the maze of state government offices. The bureau is, by law, the central repository for all state contracts over \$5,000. Bureau personnel can supply descriptions of contracts, names of previous bidders, pricing breakdowns and other information to help you submit a successful bid on a contract. We will direct you to the appropriate person and agency looking for your product or service to get you "A Step Ahead." Services are free except the cost of photocopying contracts or dubbing a computer diskette with a list of current contracts on the database. A free brochure, "Frequently Asked Questions About State Contracts," explains how to take advantage of the bureau's services.

Contact: **Bureau of Contracts and Public Records**
 Pennsylvania State Treasury
 Room G13 Finance Building
 Harrisburg, PA 17120
 717-787-2990
 1-800-252-4700

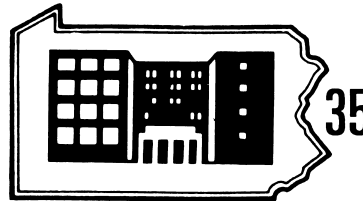
BARBARA HAFER,
State Treasurer



Commodities

ARP #29-6909 Daily Number/Big 4 Ping Pong Ball Sets (10 Balls per Set). Total of 54 Sets. Cash 5/Super 6 Lotto Ping Pong Ball Sets (69 Balls per Set). Total of 15 Sets. Specifications, delivery instructions and any other pertinent information will be included in the Invitation to Bid Package.

Department: Revenue
Location: Pennsylvania Lottery, 2850 Turnpike Industrial Dr., Door #5, Middletown, PA 17057
Duration: June 30, 2003
Contact: (Supply) Carol Kirkpatrick (717) 772-0506



Real Estate Services

93491 STATE-OWNED REAL ESTATE FOR SALE BENSLEM YDC, BENSLEM, PA. The Department of General Services will accept bids for the purchase of the 104.421-acre Bensalem Youth Development Center property located at 3701 Old Trevoise Road, Bensalem Township, Bucks County. Bids are due September 30, 2002. Interested parties wishing to receive a copy of solicitation #93491 should view the Department of General Services' website at www.dgs.state.pa.us or call (717) 787-5546.

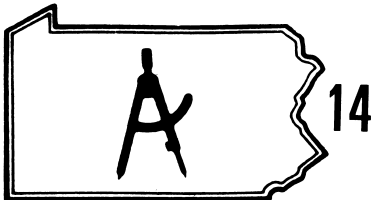
Department: General Services
Location: 500 North Office Building, Harrisburg, PA 17125
Contact: Ms. Kathy Walter (717) 787-5546

93492 STATE-OWNED REAL ESTATE FOR SALE TREVOISE PA STATE POLICE BARRACKS The Department of General Services will accept bids for the purchase of 15-acres of property and one building located at the northwest intersection of Neshaminy Boulevard and New Road, Bensalem Township, Bucks County. Bids are due on October 10, 2002. Interested parties wishing to receive a copy of solicitation #93492 should view the Department of General Services' website at www.dgs.state.pa.us or call 717-705-5764.

Department: General Services
Location: 500 North Office Building, Harrisburg, PA 17125
Contact: Mr. Bradley J. Swartz (717) 705-5764

93481 LEASE OFFICE SPACE TO THE COMMONWEALTH OF PA. Proposals are invited to provide the Department of Revenue with 4,100 useable square feet of office space in Northumberland County, PA. with a minimum parking for 15 vehicles, within the City of Sunbury, Downtown locations will be considered. For more information on SFP #93481 which is due on October 7, 2002; visit www.dgs.state.pa.us or call (717) 787-4394.

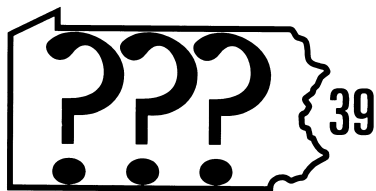
Department: Revenue
Location: 505 North Office Building, Harrisburg, PA 17125
Contact: Mr. John Hocker (717) 787-7396



Engineering Services

PennDOT-ECMS The Pennsylvania Department of Transportation has established a website advertising for the retention of engineering firms. You can view these business opportunities by going to the Department of Transportation's Engineering and Construction Management System at www.dot2.state.pa.us.

Department: Transportation
Location: Various
Contact: www.dot2.state.pa.us

**Miscellaneous**

20872005 Subscription service.

Department: Public Welfare

Location: Danville State Hospital, 200 State Hospital Drive, Danville, PA
17821

Duration: Anticipated to begin 1/1/03 through 12/31/03

Contact: Doris Cavallini (570) 271-4579

[Pa.B. Doc. No. 02-1321-16. Filed for public inspection September 6, 2002, 9:00 a.m.]

STATE CONTRACTS INFORMATION

4421

Contract Awards

The following awards have been made by the Department of General Services, Bureau of Purchases:

Requisition or Contract No.	PR Award Date or Contract Effective Date	To	In the Amount Of	Requisition or Contract No.	PR Award Date or Contract Effective Date	To	In the Amount Of
				7110-06	09/01/02	EAC/ Eckadams Co	250,000.00
0049-04	09/01/02	Moore North America	\$86,478.80	7110-06	09/01/02	Electronic Classroom Furniture	50,000.00
5999-01	09/01/02	Dauphin Electric	1,400,000.00	7110-06	09/01/02	Fabricated Components/ Toledo Fur- niture	50,000.00
5999-01	09/01/02	General Elec- tric	1,500,000.00	7110-06	09/01/02	First Source Furniture Group	150,000.00
5999-01	09/01/02	W W Grainger	100,000.00	7110-06	09/01/02	Fixtures Mfg/ Fixtures Furniture	50,000.00
5999-01	09/01/02	Powersafe	100,000.00	7110-06	09/01/02	Flex-Y-Plan	900,000.00
5999-01	09/01/02	Hite Co	1,000,000.00	7110-06	09/01/02	GE Office Furniture	500,000.00
7110-06	09/01/02	A/S Custom Furniture	50,000.00	7110-06	09/01/02	Global Indus- tries	300,000.00
7110-06	09/01/02	Adelphia Steel Equipment	50,000.00	7110-06	09/01/02	Grahl Indus- tries	50,000.00
7110-06	09/01/02	Affordable Interior Systems	50,000.00	7110-06	09/01/02	HAG	50,000.00
7110-06	09/01/02	Affordable Office Fur- niture	250,000.00	7110-06	09/01/02	Haskell Office LLC	150,000.00
7110-06	09/01/02	Allsteel	150,000.00	7110-06	09/01/02	Haworth	900,000.00
7110-06	09/01/02	Anthro Inter- national	50,000.00	7110-06	09/01/02	Hickory Leather	50,000.00
7110-06	09/01/02	APW-Wright Line	150,000.00	7110-06	09/01/02	High Point Furniture	50,000.00
7110-06	09/01/02	ATD- American	50,000.00	7110-06	09/01/02	Indiana Furniture/ Indiana Desk	150,000.00
7110-06	09/01/02	Atlantic Data Furniture Products	50,000.00	7110-06	09/01/02	Jami/ABCO Office Fur- niture	100,000.00
7110-06	09/01/02	BJR Business Furniture	450,000.00	7110-06	09/01/02	Jaspar Seat- ing	50,000.00
7110-06	09/01/02	Borroughs	50,000.00	7110-06	09/01/02	JSI/Jaspar Seating	100,000.00
7110-06	09/01/02	Cerain/ Woodtronics	50,000.00	7110-06	09/01/02	Kimball International/ Transwell	300,000.00
7110-06	09/01/02	Concord Products	50,000.00	7110-06	09/01/02	Knoll	800,000.00
7110-06	09/01/02	Corbett	100,000.00	7110-06	09/01/02	Krueger In- ternational	900,000.00
7110-06	09/01/02	Daco Limited Partnership/ Dauphin North America	50,000.00	7110-06	09/01/02	Lacasse USA	50,000.00
7110-06	09/01/02	Datum Filing systems	50,000.00	7110-06	09/01/02	Mayline Group	50,000.00
7110-06	09/01/02	Ditto Sales/ Versteel	50,000.00	7110-06	09/01/02	Merit Seating	50,000.00

STATE CONTRACTS INFORMATION

Requisition or Contract No.	PR Award Date or Contract Effective Date	To	In the Amount Of	Requisition or Contract No.	PR Award Date or Contract Effective Date	To	In the Amount Of
7110-06	09/01/02	Nova Lolutions	50,000.00	7110-06	09/01/02	Stylex	200,000.00
7110-06	09/01/02	Nucraft Furniture	50,000.00	7110-06	09/01/02	Supply Source	900,000.00
7110-06	09/01/02	Officenter	450,000.00	7110-06	09/01/02	Tab Products	100,000.00
7110-06	09/01/02	Packard Industries	50,000.00	7110-06	09/01/02	Tayco Panelink Ltd	50,000.00
7110-06	09/01/02	PA Office Service Group	100,000.00	7110-06	09/01/02	Tecknion LLC	50,000.00
7110-06	09/01/02	Phillips Office Group	950,000.00	7110-06	09/01/02	Arnold Group	50,000.00
7110-06	09/01/02	Rampart International/ Rampart Partitions	50,000.00	7110-06	09/01/02	Gunlocke Co	50,000.00
7110-06	09/01/02	Rosemount Office Systems	250,000.00	7110-06	09/01/02	HON Co	900,000.00
7110-06	09/01/02	Russ Bassett	50,000.00	7110-06	09/01/02	Thrasher Group	50,000.00
7110-06	09/01/02	SIS Human Factor Technologies	50,000.00	7110-06	09/01/02	Transamerican Office Furniture	250,000.00
7110-06	09/01/02	SMED International	200,000.00	7110-06	09/01/02	Trendway	50,000.00
7110-06	09/01/02	Source Interantional	50,000.00	9120-06	09/01/02	Amerada hess	1,356,732.35
7110-06	09/01/02	Southern Metal Industries	50,000.00	8254120-01	08/26/02	Walsh Equipment	21,801.00
				8254120-02	08/26/02	Ingersol-Rand Equipment KELLY POWELL LOGAN, <i>Secretary</i>	278,612.00

[Pa.B. Doc. No. 02-1585. Filed for public inspection September 6, 2002, 9:00 a.m.]