

PENNSYLVANIA BULLETIN

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for the Supreme Court's
Orphans' Court Rules

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No. 391, June 2007

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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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List of Pa. Code Chapters Affected

The following numerical guide is a list of the chapters of each title of the *Pennsylvania Code* affected by documents published in the *Pennsylvania Bulletin* during 2007.

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GENERAL ASSEMBLY

Recent Actions during the 2007 Regular Session of the General Assembly

The following is a summary of recent actions of the General Assembly during the 2007 Regular Session.

<i>Doc. No.</i>	<i>Date of Action</i>	<i>Bill Number</i>	<i>Printer's Number</i>	<i>Effective Date</i>	<i>Subject Matter</i>
2007 GENERAL ACTS OF REGULAR SESSION ENACTED—ACT 001 through 003					
001	May 7	HB0195	PN0807	60 days	Sgt. Major Clarence Edward Mathias Bridge—designation
002	May 7	HB0294	PN0336	60 days	Veterans Memorial Bridge—designation
003	May 16	HB0085	PN0109	Immediately	Conveyance—Commonwealth property in City of Scranton, Lackawanna County

*denotes an effective date with exceptions

Effective Dates of Statutes

The effective dates specified previously for laws and appropriation acts were contained in the applicable law or appropriation act. Where no date is specified or where the effective date specified is prior to the date of enactment, the effective date is 60 days after final enactment except for statutes making appropriations or affecting budgets of political subdivisions. See 1 Pa.C.S. §§ 1701—1704 (relating to effective dates of statutes).

Advance Copies of Statutes

Section 1106 of Title 1 of the *Pennsylvania Consolidated Statutes* provides that the prothonotaries of each county shall file advance copies of statutes in their offices for public inspection until the *Laws of Pennsylvania* are generally available. Section 2406(h) of The Administrative Code of 1929 provides that the Department of General Services (Department) shall distribute advance sheets of the *Laws of Pennsylvania* to each law judge of the courts, to every county and public library of this Commonwealth and to each member of the General Assembly. These copies shall be furnished without charge. The Department shall also mail one copy of each law enacted during any legislative session to any person who pays to it the sum of \$20.

Requests for annual subscriptions for advance copies of statutes should be sent to the State Bookstore-PHMC, Commonwealth Keystone Building, 400 North Street, Harrisburg, PA 17120-0053, accompanied by a check or money order in the sum of \$20, payable to the "Commonwealth of Pennsylvania."

ROBERT W. ZECH, Jr.,
Director
Legislative Reference Bureau

[Pa.B. Doc. No. 07-959. Filed for public inspection June 1, 2007, 9:00 a.m.]

THE COURTS

Title 201—RULES OF JUDICIAL ADMINISTRATION

[201 PA. CODE CH. 5]

Promulgation of Rule 509 Governing Access to Financial Records; No. 303 Judicial Administration; Doc. No. 1

Order

Per Curiam:

And Now, this 14th day of May, 2007, Pennsylvania Rule of Judicial Administration 509 is promulgated to read as follows.

Whereas prior distribution and publication of this rule would otherwise be required, it has been determined that immediate promulgation is required in the interest of justice and efficient administration. Pa.R.J.A. 103(a)(3).

This Order shall be processed in accordance with Pa.R.J.A. 103(b) and shall be effective July 1, 2007.

Annex A

TITLE 201. RULES OF JUDICIAL ADMINISTRATION

CHAPTER 5. ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS

ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS

Rule 509. Access to Financial Records.

(a) *General policy.* Financial records of the Unified Judicial System in the possession or control of the Administrative Office of Pennsylvania Courts are presumed to be open to any member of the public for inspection or copying during established business hours. The term "financial records" is defined as any account, contract, invoice or equivalent dealing with: 1) the receipt or disbursement of funds appropriated to the system; or 2) acquisition, use or disposal of services, supplies, materials, equipment or property secured through funds appropriated to the system.

Official Note: The powers and duties of the Court Administrator of Pennsylvania and Administrative Office of Pennsylvania Courts related to purchasing and financial activities are established under Rules 504 and 505.

(b) *Accessibility.* All financial records are accessible to the public except the following:

(1) any part of a record setting forth information to which access is otherwise restricted by federal law, state law, court rule, court order or court policy;

(2) any part of a record setting forth a person's social security number, home address, home telephone number, date of birth, operator's license number, e-mail address, or other personal information;

(3) any part of a record setting forth financial institution account numbers, credit card numbers, personal identification numbers (PINs) and passwords used to secure accounts;

(4) any part of a record setting forth information presenting a risk to personal security, personal privacy, or

the fair, impartial and orderly administration of justice, as determined by the Court Administrator of Pennsylvania.

(c) *Procedure for requesting access.*

(1) A request to inspect or obtain copies of records accessible pursuant to this rule shall be made in writing to the AOPC records manager, as designated by the Court Administrator of Pennsylvania. A written request may be submitted in person, by mail, by e-mail, by facsimile, or, to the extent provided, any other electronic means, on a form provided by the Administrative Office.

Official Note: Information related to procedures applicable to written requests may be found on the UJS website, located at www.courts.state.pa.us.

(2) A request should identify or describe the records sought with sufficient specificity to enable the AOPC records manager to ascertain which records are being requested. A request need not include any explanation of the requester's reason for requesting or intended use of the records.

(3) The Administrative Office shall not be required to create financial records which do not currently exist or to compile, maintain, format or organize such records in a manner in which the Administrative Office does not currently compile, maintain, format or organize the records.

(4) Within 10 business days of receipt of a written request, the AOPC records manager shall respond in one of the following manners:

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

(ii) notify the requester in writing that the requester has not complied with provisions in this rule and specifically identify the reason(s) why;

(iii) notify the requester in writing that the information cannot be provided and specifically identify the reason(s) why;

(iv) notify the requester in writing that the request has been received and the expected date that the information will be available, not to exceed 30 business days.

Official Note: This rule contemplates that bona fide reasons may impede the Administrative Office's ability to fulfill a records request within 10 business days (e.g., extensive redaction required of personal identifiers; retrieval of a record(s) stored in a remote location may be required; timely response cannot be accomplished due to staffing limitations; or the extent or nature of the request precludes a response within the requisite time period).

(5) If the AOPC records manager denies a written request for access, the denial may be appealed in writing to the Court Administrator of Pennsylvania or designee. The Court Administrator or designee shall make a determination and forward it in writing to the requester. This remedy need not be exhausted before other relief is sought. Any further appeal shall be subject to Chapter 15, Judicial Review of Governmental Determinations, of the Pennsylvania Rules of Appellate Procedure.

(d) *Fees.*

(1) The Administrative Office may charge reasonable costs incurred in providing public access to records pursu-

ant to this rule. Such costs may include, but are not limited to, postage, photocopying, copying onto electronic media, transmission by facsimile or other electronic means, and other means of duplication.

(2) Prior to granting a request for access in accordance with this rule, the Administrative Office may require a requester to prepay an estimate of the fees associated with the request, if the fees are expected to exceed \$100.

[Pa.B. Doc. No. 07-960. Filed for public inspection June 1, 2007, 9:00 a.m.]

Title 210—APPELLATE PROCEDURE

PART I. RULES OF APPELLATE PROCEDURE [210 PA. CODE CHS. 9 AND 15]

Order Amending Pa.R.A.P. 901 and 1561; No. 181 Appellate Procedural Rules; Doc. No. 1

Order

Per Curiam:

And Now, this 15th day of May, 2007, upon the recommendation of the Appellate Court Procedural Rules Committee, this recommendation having been submitted without publication in the interest of justice, pursuant to Pa.R.J.A. 103(a)(3):

It Is Ordered, pursuant to Article V, Section 10 of the Constitution of Pennsylvania, that Pennsylvania Rules of Appellate Procedure 901 and 1561 are amended in the following form.

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

Annex A

TITLE 210. APPELLATE PROCEDURE

PART I. RULES OF APPELLATE PROCEDURE

ARTICLE II. APPELLATE PROCEDURE

CHAPTER 9. APPEALS FROM LOWER COURTS

Rule 901. Scope of Chapter.

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

* * * * *

(3) An appeal which may be taken by petition for review pursuant to Rule 1762 [(a)](b)(2) [(release prior to sentence)], which governs applications relating to bail when no appeal is pending.

* * * * *

CHAPTER 15. JUDICIAL REVIEW OF GOVERNMENTAL DETERMINATIONS

PETITION FOR REVIEW

Rule 1561. Disposition of Petition for Review.

* * * * *

(d) Review of detention.—Except as prescribed by Rule 1762 [(a)](b)(2) [(release in criminal matters)], which governs applications relating to bail when

no appeal is pending, or by Rule 3331 (review of special prosecutions or investigations), review in the nature of criminal habeas corpus or post conviction relief may not be granted under this chapter.

* * * * *

[Pa.B. Doc. No. 07-961. Filed for public inspection June 1, 2007, 9:00 a.m.]

Title 225—RULES OF EVIDENCE

[225 PA. CODE ART. I]

Order Approving Revision of Comment to Rule 104; No. 416 Supreme Court Rules; Doc. No. 1

Order

Per Curiam:

Now, this 15th day of May, 2007, upon the recommendation of the Committee on Rules of Evidence, this proposal having been published before adoption at 36 Pa.B., No. 30, page 3977 (July 29, 2006) and a Final Report to be published with this Order:

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that the revision of comment is hereby approved in the following form.

This Order shall be processed in accordance with Pa.R.J.A. 103(b), and shall be effective June 15, 2007.

Mr. Justice Fitzgerald did not participate in the consideration or decision of this matter.

Annex A

TITLE 225. RULES OF EVIDENCE

ARTICLE I. GENERAL PROVISIONS

Rule 104. Preliminary Questions.

* * * * *

Comment

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In *Commonwealth v. Washington*, 554 Pa. 559, 722 A.2d 643 ([Pa.] 1998), a case involving child witnesses, the Supreme Court created a per se [error] rule requiring competency hearings to be conducted outside the presence of the jury. In *Commonwealth v. Delbridge*, 578 Pa. 641, 855 A.2d 27 ([Pa.] 2003), the Supreme Court held that a competency hearing is the appropriate way to explore an allegation that the [testimony] memory of a child has been ["impaired"] so corrupted or "tainted" by unduly suggestive or coercive interview techniques [, and that the burden is on a party alleging testimonial incompetency by reason of taint to prove it by clear and convincing evidence] as to render the child incompetent to testify.

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FINAL REPORT

Pa. R.E. 104: Preliminary Questions Revision of Comment

In examining the effect of decisions of the Supreme Court on the Rules of Evidence, the Committee has

proposed certain refinements in the Comment to Pa. R.E. 104. In reviewing *Commonwealth v. Washington*, 554 Pa. 539, 722 A.2d 643 (1998), we decided to delete the word "error" from the per se rule language requiring a competency hearing to be held outside of the presence of the jury.

Turning to *Commonwealth v. Delbridge*, 578 Pa. 641, 855 A.2d 27 (2003), the effect of the opinion is that in the competency hearing it is whether the memory of the child, rather than the testimony of the child, has been "tainted" deleting the word "impaired." Reference to burden of proof is deleted as surplusage because the burden is always on the party challenging competency.

[Pa.B. Doc. No. 07-962. Filed for public inspection June 1, 2007, 9:00 a.m.]

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CHS. 1910 AND 1920]

Amendments to the Rules of Civil Procedure Relating to Domestic Relations Matters; Recommendation 89

The Domestic Relations Procedural Rules Committee is planning to recommend that the Supreme Court of Pennsylvania amend the Rules of Civil Procedure relating to domestic relations matters as set forth herein. This proposal has not been submitted for review by the Supreme Court of Pennsylvania.

Notes and explanatory comments which appear with proposed amendments have been inserted by the committee for the convenience of those using the rules. Reports, notes and comments will not constitute part of the rules and will not be officially adopted or promulgated by the Supreme Court.

The committee solicits and welcomes comments and suggestions from all interested persons prior to submission of this proposal to the Supreme Court of Pennsylvania. Please submit written comments no later than Friday, August 3, 2007 directed to:

Patricia A. Miles, Esquire
Counsel, Domestic Relations Procedural Rules Committee
5035 Ritter Road, Suite 700
Mechanicsburg, Pennsylvania 17055
FAX (717) 795-2175
E-mail: patricia.miles@pacourts.us

*By the Domestic Relations
Procedural Rules Committee*

NANCY P. WALLITSCH, Esq.,
Chair

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 1910. ACTIONS FOR SUPPORT

Rule 1910.11. Office Conference. Subsequent Proceedings. Order.

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(c) At the conference, the parties shall furnish to the officer true copies of their most recent federal income tax returns, their pay stubs for the preceding six months, verification of child care expenses and proof of medical coverage which they may have or have available to them. In addition, they shall provide copies of their Income and Expense Statements in the forms required by Rule 1910.27(c), completed as set forth below.

(1) For cases which can be determined according to the guideline formula, the Income Statement must be completed and the Expense Statement at Rule 1910.27(c)(2)(A) should be completed if a party is claiming unusual needs and unusual fixed expenses. **In a support case that can be decided according to the guidelines, even if the support claim is raised in a divorce complaint, no expense form is needed unless a party claims unusual needs or unusual fixed expenses or seeks apportionment of expenses pursuant to Rule 1910.16-6. However, in the divorce action, the Expense Statement at Rule 1910.27(c)(2)(B) may be required.**

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CHAPTER 1920. ACTIONS OF DIVORCE OR FOR ANNULMENT OF MARRIAGE

Rule 1920.31. Joinder of Related Claims. Child and Spousal Support. Alimony. Alimony Pendente Lite. Counsel Fees. Expenses.

(a)(1) Within thirty days after the service of the pleading or petition containing a claim for [**child or spousal support,**] alimony, alimony pendente lite or counsel fees, costs and expenses, each party shall file a true copy of the most recent federal income tax return, pay stubs for the preceding six months, a completed Income Statement in the form required at Rule 1910.27(c)(1) and a completed Expense Statement in the form required by Rule 1910.27(c)(2)(B). **If a claim for child or spousal support is raised in a divorce complaint, no expense form is needed in a support action that can be decided pursuant to the guidelines unless a party claims unusual needs or unusual fixed expenses or seeks apportionment of expenses pursuant to Rule 1910.16-6.**

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[Pa.B. Doc. No. 07-963. Filed for public inspection June 1, 2007, 9:00 a.m.]

PART I. GENERAL

[231 PA. CODE CH. 1915]

Amendments to the Rules of Civil Procedure Relating to Domestic Relations Matters; Recommendation 88

The Domestic Relations Procedural Rules Committee is planning to recommend that the Supreme Court of Pennsylvania amend the Rules of Civil Procedure relating to domestic relations matters as set forth herein. This proposal has not been submitted for review by the Supreme Court of Pennsylvania.

Notes and explanatory comments which appear with proposed amendments have been inserted by the committee for the convenience of those using the rules. Reports,

notes and comments will not constitute part of the rules and will not be officially adopted or promulgated by the Supreme Court.

The committee solicits and welcomes comments and suggestions from all interested persons prior to submission of this proposal to the Supreme Court of Pennsylvania. Please submit written comments no later than Friday, August 3, 2007 directed to:

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E-mail: patricia.miles@pacourts.us

*By the Domestic Relations
Procedural Rules Committee*

NANCY P. WALLITSCH, Esq.,
Chair

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 1915. ACTIONS FOR CUSTODY, PARTIAL CUSTODY AND VISITATION OF MINOR CHILDREN

Rule 1915.4-1. Alternative Hearing Procedures for Partial Custody or Visitation Actions.

(a) [Except as provided in subdivision (b),] A custody action shall proceed as prescribed by Rule 1915.4-3 unless the court, by local rule, adopts the alternative hearing procedure authorized by Rule 1915.4-2 pursuant to which an action for partial custody or visitation may be heard by a hearing officer [as prescribed by Rule 1915.4-2], except as provided in subdivision (b) below.

(b) Promptly after the parties' initial contact with the court as set forth in Rule 1915.4(a) [above], a party may move the court for a hearing before a judge, rather than a hearing officer, in an action for partial custody or visitation where:

- (1) there are complex questions of law, fact or both, or
- (2) the parties certify to the court that there are serious allegations affecting the child's welfare.

(c) The president judge or the administrative judge of the family division of each county shall certify that custody proceedings generally are conducted in accordance with either Rule 1915.4-2 or Rule 1915.4-3. The certification shall be filed with the Domestic Relations Procedural Rules Committee of the Supreme Court of Pennsylvania and shall be substantially in the following form:

I hereby certify that _____ County conducts its custody proceedings in accordance with Rule ____ .

(President Judge) (Administrative Judge)

Official Note: Pursuant to Rule 1915.4-1, the following counties have certified to the Domestic Relations Procedural Rules Committee that their custody proceedings generally are conducted in accordance with the rule specified below:

Adams
Allegheny
Armstrong
Beaver
Bedford
Berks
Blair
Bradford
Bucks
Butler
Cambria
Cameron
Carbon
Centre
Chester
Clarion
Clearfield
Clinton
Columbia
Crawford
Cumberland
Dauphin
Delaware
Elk
Erie
Fayette
Forest
Franklin
Fulton
Greene
Huntingdon
Indiana
Jefferson
Juniata
Lackawanna
Lancaster
Lawrence
Lebanon
Lehigh
Luzerne
Lycoming
McKean
Mercer
Mifflin
Monroe
Montgomery
Montour
Northampton
Northumberland
Perry
Philadelphia
Pike
Potter
Schuylkill
Snyder
Somerset
Sullivan
Susquehanna
Tioga
Union
Venango
Warren
Washington
Wayne
Westmoreland
Wyoming
York

Explanatory Comment—1994

These new rules provide an optional procedure for using hearing officers in partial custody and visitation cases. The procedure is similar to the one provided for support cases in Rule 1910.12: a conference, record hearing before a hearing officer, and argument on exceptions before a judge. The terms “conference officer” and “hearing officer” have the same meaning here as in the support rules.

It is important to note that use of the procedure prescribed in Rules 1915.4-1 and 1915.4-2 is optional rather than mandatory. Counties which prefer to have all partial custody and visitation cases heard by a judge may continue to do so.

These procedures are not intended to replace or prohibit the use of any form of mediation or conciliation. On the contrary, they are intended to be used in cases which are not resolved through use of less adversarial means.

Explanatory Comment—2007

The intent of the amendments to Rules 1915.4-1 and 1915.4-2, and new Rule 1915.4.3, is to clarify the procedures in record and non-record custody proceedings. When the first proceeding is non-record, no exceptions are required and a request for a de novo hearing may be made.

Rule 1915.4-2. **Partial Custody. Visitation.** Office Conference. Hearing. Record. Exceptions. Order.

(a) Office Conference.

(1) The office conference shall be conducted by a conference officer.

(2) **[The hearing shall be conducted by a hearing officer. A hearing officer who is a lawyer employed by a judicial district shall not practice family law before a conference officer, hearing officer or permanent or standing master employed by the same judicial district.**

(b)] If the respondent fails to appear at the conference before the **conference** officer as directed by the court, the conference may proceed without the respondent.

[(c)] (3) The conference officer may make a recommendation to the parties relating to partial custody or visitation of the child or children. If an agreement for partial custody or visitation is reached at the conference, the conference officer shall prepare a written order in conformity with the agreement for signature by the parties and submission to the court together with the officer’s recommendation for approval or disapproval. The court may enter an order in accordance with the agreement without hearing the parties.

[(d)] (4) At the conclusion of the conference, if an agreement relating to partial custody or visitation has not been reached, the parties shall be given notice of the date, time and place of a hearing **before a hearing officer**, which may be the same day, but in no event shall be more than forty-five days from the date of the conference.

(b) Hearing.

(1) The hearing shall be conducted by a hearing officer who must be a lawyer, and a record shall be made of the testimony. **A hearing officer who is a lawyer employed by a judicial district shall not practice family law before a conference officer, hearing**

officer or permanent or standing master employed by the same judicial district.

[(e)] (2) The hearing officer shall receive evidence and hear argument. The hearing officer may recommend to the court that the parties and/or the subject child or children submit to examination and evaluation by experts pursuant to Rule 1915.8.

[(f)] (3) Within ten days of the conclusion of the hearing, the hearing officer shall file with the court and serve upon all parties a report containing a recommendation with respect to the entry of an order of partial custody or visitation. The report may be in narrative form stating the reasons for the recommendation and shall include a proposed order, including a specific schedule for partial custody or visitation.

[(g)] (4) Within twenty days after the date the hearing officer’s report is mailed or received by the parties, whichever occurs first, any party may file exceptions to the report or any part thereof, to rulings on objections to evidence, to statements or findings of fact, to conclusions of law, or to any other matters occurring during the hearing. Each exception shall set forth a separate objection precisely and without discussion. Matters not covered by exceptions are deemed waived unless, prior to entry of the final order, leave is granted to file exceptions raising those matters. If exceptions are filed, any other party may file exceptions within twenty days of the date of service of the original exceptions.

[(h)] (5) If no exceptions are filed within the twenty-day period, the court shall review the report and, if approved, enter a final order.

[(i)] (6) If exceptions are filed, the court shall hear argument on the exceptions within forty-five days of the date the last party files exceptions, and enter an appropriate final order within fifteen days of argument. No motion for Post-Trial Relief may be filed to the final order.

[Explanatory Comment—1994

These new rules provide an optional procedure for using hearing officers in partial custody and visitation cases. The procedure is similar to the one provided for support cases in Rule 1910.12: a conference, record hearing before a hearing officer and argument on exceptions before a judge. The terms “conference officer” and “hearing officer” have the same meaning here as in the support rules.

It is important to note that use of the procedure prescribed in Rules 1915.4-1 and 1915.4-2 is optional rather than mandatory. Counties which prefer to have all partial custody and visitation cases heard by a judge may continue to do so.

These procedures are not intended to replace or prohibit the use of any form of mediation or conciliation. On the contrary, they are intended to be used in cases which are not resolved through the use of less adversarial means.]

Explanatory Comment—2006

The time for filing exceptions has been expanded from ten to twenty days. The purpose of this amendment is to provide ample opportunity for litigants and counsel to receive notice of the entry of the order, to assure commonwealth-wide consistency in calculation of time for filing and to conform to applicable general civil procedural rules.

Rule 1915.4-3. Non-Record Proceedings. Trial.

(a) *Non-Record Proceedings.* In those jurisdictions which utilize an initial non-record proceeding such as a conciliation conference or office conference, if no agreement is reached at the conclusion of the proceeding, the conference officer or conciliator shall promptly notify the court that the matter should be listed for trial.

(b) *Trial.* The trial before the court shall be *de novo*. The court shall hear the case and render a decision within the time periods set forth in Rule 1915.4.

[Pa.B. Doc. No. 07-964. Filed for public inspection June 1, 2007, 9:00 a.m.]

Title 234—RULES OF CRIMINAL PROCEDURE

[234 PA. CODE CH. 5]

Order Adopting New Rule 559, Amending Rules 509, 510, 511, 512, 542, 543, 547, and 571, and Approving the Revision of Rule 536; Criminal Procedural Rules No. 357; Doc. No. 2

Amended Order

Per Curiam:

Now, this 1st day of May, 2007, upon the recommendation of the Criminal Procedural Rules Committee; this proposal having been submitted without publication pursuant to Pa.R.J.A. 103(a)(3) in the interests of justice and efficient administration, and a Final Report to be published with this *Order*:

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that:

- (1) New Rule 559 is hereby promulgated; and
- (2) Rules of Criminal Procedure 509, 510, 511, 512, 542, 543, 547, and 571 are hereby amended; and
- (3) the revision of the Comment to Rule of Criminal Procedure 536 is hereby approved, all in the following form.

This *Order* shall be processed in accordance with Pa.R.J.A. 103(b), and shall be effective September 4, 2007.

Mr. Justice Fitzgerald did not participate in the consideration or decision of this matter.

Annex A

TITLE 234. RULES OF CRIMINAL PROCEDURE CHAPTER 5. PRETRIAL PROCEDURES IN COURT CASES

PART B(1). Complaint Procedures

Rule 509. Use of Summons or Warrant of Arrest in Court Cases.

If a complaint charges an offense that is a court case, the issuing authority with whom it is filed shall:

- (1) issue a summons and not a warrant of arrest in cases in which the most serious offense charged is a misdemeanor of the second degree or a misdemeanor of

the first degree in cases arising under 75 Pa.C.S. § 3802, except as set forth in paragraph (2);

(2) issue a warrant of arrest when:

(a) one or more of the offenses charged is a felony or murder; or

(b) the issuing authority has reasonable grounds for believing that the defendant will not obey a summons; or

(c) the issuing authority has reasonable grounds for believing that the defendant poses a threat of physical harm to any other person or to himself or herself; or

(d) the summons was mailed pursuant to Rule 511(A) and has been returned undelivered; or

(e) [a summons has been served and disobeyed by a defendant; or

(f)] the identity of the defendant is unknown; or

(3) issue a summons or a warrant of arrest, within the issuing authority's discretion, when the offense charged does not fall within any of the categories specified in paragraphs (1) or (2).

Comment

This rule provides for the mandatory use of a summons instead of a warrant in court cases except in the special circumstances enumerated in paragraphs (2) and (3).

Before a warrant may be issued pursuant to paragraph (2)(d) when a summons is returned undelivered, the summons must have been served **upon the defendant by both first class mail and certified mail, return receipt requested** as provided in Rule 511(A), and both the certified mail and the first class mail must have been returned undelivered. **“Undelivered” includes a return receipt that is signed by someone other than the defendant.**

Pursuant to Rule 511, a return receipt signed by the defendant or a notation on the transcript that the first class mailing was not returned within 20 days is proof that the defendant received notice of the summons for purposes of paragraph (2)(d). See also Rule 543(D)(1).

When a defendant has been released pursuant to Rule 519(B), the issuing authority must issue a summons.

See Rule 1003 (Procedure in Non-Summary Municipal Court Cases), paragraph (C), for the procedures for issuing a summons and a warrant in Philadelphia.

It is expected when a case meets the requirements for the issuance of a summons, the police officer will proceed during the normal business hours of the proper issuing authority except in extraordinary circumstances. See Rule 117 (Coverage: Issuing Warrants; Preliminary Arraignments and Summary Trials; and Setting and Accepting Bail).

The procedure in paragraph (3) allows the issuing authority to exercise discretion in whether to issue a summons or an arrest warrant depending on the circumstances of the particular case. Appropriate factors for issuing a summons rather than an arrest warrant will, of course, vary. Among the factors that may be taken into consideration are the severity of the offense, the continued danger to the victim, the relationship between the defendant and the victim, the known prior criminal history of the defendant, etc. However, in all cases in which the defendant has been released pursuant to Rule 519(B), a summons shall be issued.

Official Note: Original Rule 108 adopted June 30, 1964, effective January 1, 1965; suspended January 31, 1970, effective May 1, 1970. New Rule 108 adopted January 31, 1970, effective May 1, 1970; renumbered Rule 102 and amended September 18, 1973, effective January 1, 1974; amended December 14, 1979, effective April 1, 1980; Comment revised April 24, 1981, effective July 1, 1981; amended October 22, 1981, effective January 1, 1982; renumbered Rule 109 and amended August 9, 1994, effective January 1, 1995; renumbered Rule 509 and amended March 1, 2000, effective April 1, 2001; Comment revised August 24, 2004, effective August 1, 2005; amended June 30, 2005, effective August 1, 2006; **amended May 1, 2007, effective September 4, 2007, and May 1, 2007 Order amended May 15, 2007.**

Committee Explanatory Reports:

Report explaining the August 9, 1994 amendments published at 22 Pa.B. 6 (January 4, 1992); Final Report published with the Court's Order at 24 Pa.B. 4342 (August 27, 1994).

Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. 1478 (March 18, 2000).

Final Report explaining the August 24, 2004 Comment revision adding a new second paragraph elaborating on paragraph (2)(c) published with the Court's Order at 34 Pa.B. 5025 (September 11, 2004).

Final Report explaining the June 30, 2005 amendments concerning in which cases a summons or a warrant are issued published with the Court's Order at 35 Pa.B. 3911 (July 16, 2005).

Final Report explaining the May 1, 2007 amendments amending paragraph (2)(d) and the Comment and deleting paragraph (2)(e) published with the Court's Order at 37 Pa.B. 2503 (June 2, 2007).

PART B(2). Summons Procedures

Rule 510. Contents of Summons; Notice of Preliminary Hearing.

(A) Every summons in a court case shall command the defendant to appear before the issuing authority for a preliminary hearing at the place and on the date and at the time stated on the summons. The date set for the preliminary hearing shall be not less than 20 days from the date of mailing the summons unless the issuing authority fixes an earlier date upon the request of the defendant or the defendant's attorney with the consent of the affiant.

(B) The summons shall give notice to the defendant:

(1) of the right to secure counsel of the defendant's choice and, for those who are without financial resources, of the right to assigned counsel in accordance with Rule 122;

(2) that bail will be set at the preliminary hearing; and

(3) that if the defendant fails to appear on the date, and at the time and place specified on the summons, the case will proceed in the defendant's absence, and a bench warrant will be issued for the defendant's arrest.

(C) A copy of the complaint shall be attached to the summons.

Comment

For the summons procedures in non-summary cases in the Municipal Court of Philadelphia, see Rule 1003(C).

When a defendant appears for a preliminary hearing pursuant to a summons under this rule and is held for court, the issuing authority should require the defendant to submit to administrative processing and identification procedures (such as fingerprinting) as authorized by law. It is suggested that these processing procedures be made a condition of bail or release. See Criminal History Record Information Act, 18 Pa.C.S. § 9112.

See Rule 511 for service of the summons and proof of service.

See Rule 543(D) for the procedures when a defendant fails to appear for the preliminary hearing.

For the consequences of defects in a summons in a court case, see Rule 109.

Official Note: Original Rule 109[,] adopted June 30, 1964, effective January 1, 1965; suspended January 31, 1970, effective May 1, 1970. New Rule 109 adopted January 31, 1970, effective May 1, 1970; renumbered Rule 110 and amended September 18, 1973, effective January 1, 1974; amended October 22, 1981, effective January 1, 1982; amended November 9, 1984, effective January 2, 1985; amended August 9, 1994, effective January 1, 1995; renumbered Rule 510 and amended March 1, 2000, effective April 1, 2001; amended August 24, 2004, effective August 1, 2005; **amended May 1, 2007, effective September 4, 2007, and May 1, 2007 Order amended May 15, 2007.**

Committee Explanatory Reports:

Report explaining the August 9, 1994 amendments published at 22 Pa.B. 6 (January 4, 1992); Final Report published with the Court's Order at 24 Pa.B. 4342 (August 27, 1994).

Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. [1477] 1478 (March 18, 2000).

Final Report explaining the August 24, 2004 amendments concerning notice that case will proceed in defendant's absence published with the Court's Order at 34 Pa.B. 5025 (September 11, 2004).

Final Report explaining the May 1, 2007 amendments paragraph (B)(3) published with the Court's Order at 37 Pa.B. 2503 (June 2, 2007).

Rule 511. Service of Summons; Proof of Service.

(A) The summons shall be served upon the defendant by both first class mail and certified mail, return receipt requested. A copy of the complaint shall be served with the summons.

(B) Proof of service of the summons by mail shall include:

(1) a return receipt signed by the defendant; or

(2) [if the certified mail is returned for whatever reason, the returned summons with the notation that the certified mail was undelivered and evidence that the first class mailing of the summons was not returned to the issuing authority within 15 days after mailing.] the returned summons showing that the certified mail was not signed by the defendant and a notation on the transcript that the first class mailing of the summons was not returned to the issuing authority within 20 days after the mailing.

Comment

This rule was amended in 2004 to require that the summons be served by both first class mail and certified mail, return receipt requested.

Paragraph (B) sets forth what constitutes proof of service of the summons by mail in a court case for purposes of these rules.

Official Note: Original Rule 111, adopted June 30, 1964, effective January 1, 1965; suspended January 31, 1970, effective May 1, 1970. New Rule 111 adopted January 31, 1970, effective May 1, 1970; renumbered Rule 112 September 18, 1973, effective January 1, 1974; renumbered Rule 511 March 1, 2000, effective April 1, 2001; amended August 24, 2004, effective August 1, 2005; **amended May 1, 2007, effective September 4, 2007, and May 1, 2007 Order amended May 15, 2007.**

Committee Explanatory Reports:

Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. [1477] 1478 (March 18, 2000).

Final Report explaining the August 24, 2004 amendments adding new paragraph (B) concerning proof of service published with the Court's Order at 34 Pa.B. 5025 (September 11, 2004).

Final Report explaining the May 1, 2007 amendments amending paragraph (B)(2) concerning proof of service published with the Court's Order at 37 Pa.B. 2503 (June 2, 2007).

Rule 512. Procedure in Court Cases Following Issuance of Summons.

The defendant shall appear before the issuing authority for a preliminary hearing on the date, and at the time and place specified in the summons. If the defendant fails to appear, the issuing authority shall [**issue a warrant for the arrest of the defendant and**] proceed as provided in Rule 543(D).

Comment

For the proper time for the preliminary hearing, see Rule 510.

When a defendant appears for a preliminary hearing pursuant to a summons and is held for court, the issuing authority should require that the defendant submit to administrative processing and identification procedures (fingerprinting, for example) as authorized by law. It is recommended that this requirement be made a condition of bail or release. See Criminal History Record Information Act, 18 Pa.C.S. § 9112.

For the procedures in non-summary cases in the Municipal Court, see Chapter 10.

Official Note: Rule 113 adopted September 18, 1973, effective January 1, 1974; amended August 9, 1994, effective January 1, 1995; renumbered Rule 512 and Comment revised March 1, 2000, effective April 1, 2001; amended August 24, 2004, effective August 1, 2005; **amended May 1, 2007, effective September 4, 2007, and May 1, 2007 Order amended May 15, 2007.**

Committee Explanatory Reports:

Report explaining the August 9, 1994 amendments published at 22 Pa.B. 6 (January 4, 1992); Final Report published with the Court's Order at 24 Pa.B. 4342 (August 27, 1994).

Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. [1477] 1478 (March 18, 2000).

Final Report explaining the August 24, 2004 amendments cross-referencing Rule 543(D) published with the Court's Order at 34 Pa.B. 5025 (September 11, 2004).

Final Report explaining the May 1, 2007 amendments deleting the warrant language published with the Court's Order at 37 Pa.B. 2503 (June 2, 2007).

PART C(2). General Procedures In All Bail Cases**Rule 536. Procedures Upon Violation of Conditions: Revocation of Release and Forfeiture; Bail Pieces; Exoneration of Surety.**

* * * * *

Comment

This rule does not apply when a defendant has been arrested pursuant to extradition proceedings. See generally Uniform Criminal Extradition Act, 42 Pa.C.S. §§ 9121—9148, and particularly Section 9139 concerning forfeiture proceedings in such cases. See also the Crimes Code, 18 Pa.C.S. § 5124, which imposes criminal sanctions for failing to appear in a criminal case when required.

Paragraph (A)(1)(b) was amended and paragraph (A)(1)(d) was deleted in 2005 to make it clear that a warrant for the arrest of the defendant for failure to comply with a condition of bail is a bench warrant. For the procedures when a paragraph (A)(1)(b) bench warrant is executed, see Rule 150 (Bench Warrants). **For the procedures for issuing a bench warrant when a defendant fails to appear for a preliminary hearing, see paragraph (D) of Rule 543 (Disposition of Case at Preliminary Hearing).**

Once bail has been modified by a common pleas judge pursuant to Rule 529, only the common pleas judge subsequently may change the conditions of release, even in cases that are pending before a magisterial district judge. See Rules 543 and 529.

Whenever the bail authority is a judicial officer in a court not of record, pursuant to paragraph (A)(2)(a), that officer should set forth in writing his or her reasons for ordering a forfeiture, and the written reasons should be included with the transcript.

Paragraph (A)(2)(c) provides an automatic 20-day stay on the execution of the forfeiture to give the surety time to produce the defendant or the defendant time to appear and comply with the conditions of bail.

"Conditions of the bail bond" as used in this rule include the conditions set forth in Rule 526(A) and the conditions of release defined in Rules 524, 527, and 528.

Official Note: Former Rule 4016 adopted July 23, 1973, effective 60 days hence, replacing prior Rule 4012; Comment revised January 28, 1983, effective July 1, 1983; rescinded September 13, 1995, effective January 1, 1996, and replaced by Rule 4016. Present Rule 4016 adopted September 13, 1995, effective January 1, 1996. The January 1, 1996 effective dates extended to April 1, 1996; the April 1, 1996 effective dates extended to July 1, 1996; renumbered Rule 536 and Comment revised March 1, 2000, effective April 1, 2001; amended March 3, 2004, effective July 1, 2004; Comment revised August 24, 2004, effective August 1, 2005; amended December 30, 2005, effective August 1, 2006; **Comment revised May 1,**

2007, effective September 4, 2007, and May 1, 2007 Order amended May 15, 2007.

Committee Explanatory Reports:

Final Report explaining the provisions of the new rule published with Court's Order at 25 Pa.B. 4116 (September 30, 1995).

Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. 1478 (March 18, 2000).

Final Report explaining the March 3, 2004 rule changes deleting "show cause" published with the Court's Order at 34 Pa.B. 1561 (March 20, 2004).

Final Report explaining the August 24, 2004 Comment revision published with the Court's Order at 34 Pa.B. 5025 (September 11, 2004).

Final Report explaining the December 30, 2005 amendments concerning bench warrants published with the Court's Order at 36 Pa.B. 184 (January 14, 2006).

Final Report explaining the May 1, 2007 Comment revision concerning bench warrants following a failure to appear at a preliminary hearing published with the Court's Order at 37 Pa.B. 2503 (June 2, 2007).

PART D. Proceedings in Court Cases Before Issuing Authorities

Rule 542. Preliminary Hearing; Continuances.

* * * * *

(E) CONTINUANCES

* * * * *

(2) The issuing authority shall give notice of the new date and time for the preliminary hearing to the defendant, the defendant's attorney of record, if any, and the attorney for the Commonwealth.

(a) The notice shall be in writing.

(b) Notice shall be served on the defendant either in person or by **[both]** first class mail **[and certified mail, return receipt requested]**.

(c) Notice shall be served on defendant's attorney of record and the attorney for the Commonwealth either by personal delivery, or by leaving a copy for or mailing a copy to the attorneys at the attorneys' offices.

Comment

As the judicial officer presiding at the preliminary hearing, the issuing authority controls the conduct of the preliminary hearing generally. When an attorney appears on behalf of the Commonwealth, the prosecution of the case is under the control of that attorney. When no attorney appears at the preliminary hearing on behalf of the Commonwealth, the issuing authority may ask questions of any witness who testifies, and the affiant may request the issuing authority to ask specific questions. In the appropriate circumstances, the issuing authority may also permit the affiant to question Commonwealth witnesses, cross-examine defense witnesses, and make recommendations about the case to the issuing authority.

Paragraph (C)(3) is intended to make clear that the defendant may call witnesses at a preliminary hearing only to negate the existence of a prima facie case, and not merely for the purpose of discovering the Commonwealth's case. The modification changes the language of the rule interpreted by the Court in *Commonwealth v.*

Mullen, 460 Pa. 336, 333 A.2d 755 (1975). This amendment was made to preserve the limited function of a preliminary hearing.

Former paragraph (D) concerning the procedures when a prima facie case is found was deleted in 2004 as unnecessary because the same procedures are set forth in Rule 543 (Disposition of Case at Preliminary Hearing).

For the procedures when a defendant fails to appear for the preliminary hearing, see Rule 543(D).

[The proof of service by mail on the defendant of the notice of the continued preliminary hearing is comparable to proof of service under Rule 511(B), and must include:

(1) a return receipt signed by the defendant, or

(2) if the certified mail is returned for whatever reason, the returned notice with the notation that the certified mail was undelivered and evidence that the first class mailing of the notice was not returned to the issuing authority within 15 days after mailing.]

In cases in which summary **[offenses]** offenses are joined with misdemeanor, felony, or murder charges, pursuant to paragraph (D), during the preliminary hearing, the issuing authority is prohibited from proceeding on the summary offenses, including the taking of evidence on the summary offenses, or adjudicating or disposing of the summary offenses except as provided in Rule 543(F).

For the contents of the transcript, see Rule 135.

Official Note: Former Rule 141, previously Rule 120, adopted June 30, 1964, effective January 1, 1965; suspended January 31, 1970, effective May 1, 1970; revised January 31, 1970, effective May 1, 1970; renumbered Rule 141 and amended September 18, 1973, effective January 1, 1974; amended June 30, 1975, effective July 30, 1975; amended October 21, 1977, effective January 1, 1978; paragraph (D) amended April 26, 1979, effective July 1, 1979; amended February 13, 1998, effective July 1, 1998; rescinded October 8, 1999, effective January 1, 2000. Former Rule 142, previously Rule 124, adopted June 30, 1964, effective January 1, 1965, suspended effective May 1, 1970; present rule adopted January 31, 1970, effective May 1, 1970; renumbered Rule 142 September 18, 1973, effective January 1, 1974; amended October 22, 1981, effective January 1, 1982; effective date extended to July 1, 1982; amended July 12, 1985, effective January 1, 1986, effective date extended to July 1, 1986; rescinded October 8, 1999, effective January 1, 2000. New Rule 141, combining former Rules 141 and 142, adopted October 8, 1999, effective January 1, 2000; renumbered Rule 542 and Comment revised March 1, 2000, effective April 1, 2001; amended August 24, 2004, effective August 1, 2005; amended March 9, 2006, effective September 1, 2006; **amended May 1, 2007, effective September 4, 2007, and May 1, 2007 Order amended May 15, 2007.**

Committee Explanatory Reports:

Final Report explaining the February 13, 1998 amendments concerning questioning of witnesses published with the Court's Order at 28 Pa.B. 1127 (February 28, 1998).

Final Report explaining new Rule 141 published with the Court's Order at 29 Pa.B. 5509 (October 23, 1999).

Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. 1478 (March 18, 2000).

Final Report explaining the August 24, 2004 amendments concerning notice published with the Court's Order at 34 Pa.B. 5025 (September 11, 2004).

Final Report explaining the March [3] 9, 2006 amendments to paragraph (D) published with the Court's Order at 36 Pa.B. 1392 (March 25, 2006).

Final Report explaining the May 1, 2007 amendments deleting the certified mail service requirement from paragraph (D)(2)(b) published with the Court's Order at 37 Pa.B. 2503 (June 2, 2007).

Rule 543. Disposition of Case at Preliminary Hearing.

(A) At the conclusion of the preliminary hearing, the decision of the issuing authority shall be publicly pronounced.

(B) If the Commonwealth establishes a prima facie case of the defendant's guilt, the issuing authority shall hold the defendant for court. Otherwise, the defendant shall be discharged.

(C) When the defendant **has appeared and** has been held for court, the issuing authority shall:

(1) set bail as permitted by law if the defendant did not receive a preliminary arraignment; or

(2) continue the existing bail order, unless the issuing authority modifies the order as permitted by Rule 529.

(D) In any case in which the defendant fails to appear for the preliminary hearing:

(1) if the issuing authority finds that the defendant did not receive notice [, or] **of the preliminary hearing by a summons served pursuant to Rule 511, a warrant of arrest shall be issued pursuant to Rule 509(2)(d).**

(2) **If the issuing authority finds that there was good cause explaining the defendant's failure to appear, the issuing authority shall continue the preliminary hearing to a specific date and time, and shall give notice of the new date and time as provided in Rule 542[(D)](E)(2). The issuing authority shall not issue a bench warrant.**

[(2)] (3) If the issuing authority finds that the defendant's absence is without good cause and after notice, the absence shall be deemed a waiver by the defendant of the right to be present at any further proceedings before the [issuing] issuing authority. **[In these cases, the issuing authority shall:]**

(a) **In these cases, the issuing authority shall proceed with the case in the same manner as though the defendant were present[;].**

(b) **[if] If the preliminary hearing is conducted[,] and the case held for court, the issuing authority shall**

(i) give the defendant notice by first class mail of the results of the preliminary hearing **and that a bench warrant has been requested;** and

(ii) **pursuant to Rule 547, transmit the transcript to the clerk of courts with a request that a bench warrant be issued by the court of common pleas.**

(c) **[if the case is held for court or if the preliminary hearing is continued, issue a bench warrant for the arrest of the defendant.] If the preliminary hearing is conducted and the case is dismissed, the**

issuing authority shall give the defendant notice by first class mail of the results of the preliminary hearing.

(d) **If a continuance is granted, the issuing authority shall give the parties notice of the new date and time as provided in Rule 542(E)(2), and may issue a bench warrant. If a bench warrant is issued and the warrant remains unserved for the continuation of the preliminary hearing, the issuing authority shall vacate the bench warrant. The case shall proceed as provided in paragraphs (D)(3)(b) or (c).**

[(3) When the issuing authority issues a bench warrant pursuant to paragraph (D)(2)(C), the issuing authority retains jurisdiction to dispose of the warrant until:

(a) the arraignment occurs; or

(b) the defendant fails to appear for the arraignment and the common pleas judge issues a bench warrant for the defendant.

Upon receipt of notice that the arraignment has occurred or a bench warrant has been issued, the issuing authority promptly shall recall and cancel the issuing authority's bench warrant.]

(E) If the Commonwealth does not establish a prima facie case of the defendant's guilt, and no application for a continuance is made and there is no reason for a continuance, the issuing authority shall dismiss the complaint.

(F) In any case in which a summary offense is joined with misdemeanor, felony, or murder charges:

(1) If the Commonwealth establishes a prima facie case pursuant to paragraph (B), the issuing authority shall not adjudicate or dispose of the summary offenses, but shall forward the summary offenses to the court of common pleas with the charges held for court.

(2) If the Commonwealth does not establish a prima facie case pursuant to paragraph (B), upon the request of the Commonwealth, the issuing authority shall dispose of the summary offense as provided in Rule 454 (Trial In Summary Cases).

(3) If the Commonwealth withdraws all the misdemeanor, felony, and murder charges, the issuing authority shall dispose of the summary offense as provided in Rule 454 (Trial In Summary Cases).

Comment

Paragraph (C) reflects the fact that a bail determination will already have been made at the preliminary arraignment, except in those cases in which, pursuant to a summons, the defendant's first appearance is at the preliminary hearing. See Rules 509 and 510.

Nothing in this rule is intended to preclude judicial districts from providing written notice of the arraignment to the defendant at the conclusion of the preliminary hearing when a case is held for court. See Rule 571.

When a defendant fails to appear for the preliminary hearing, before proceeding with the case as provided in paragraph (D), the issuing authority must determine (1) whether the defendant received notice of the time, date, and place of the preliminary hearing either in person at a preliminary arraignment as provided in Rule 540(F)(2) or

in a summons served as provided in Rule 511, and (2) whether the defendant had good cause explaining the absence.

If the issuing authority determines that the defendant did not receive notice [or], **the issuing authority must issue an arrest warrant as provided in Rule 509, and the case will proceed pursuant to Rules 516 or 517. See paragraph (D)(1).**

If the issuing authority determines that there is good cause explaining why the defendant failed to appear, the preliminary hearing must be continued and rescheduled for a date certain. See paragraph [(E)(1)] (D)(2). For the procedures when a preliminary hearing is continued, see Rule 542[(D)] (E).

If the issuing authority determines that the defendant received [notice] service of the summons as defined in Rule 511 and has not provided good cause explaining why he or she failed to appear, the defendant's absence constitutes a waiver of the defendant's right to be present for subsequent proceedings before the issuing authority. The duration of this waiver only extends through those proceedings that the defendant is absent.

When the defendant fails to appear after notice and without good cause, paragraph (D)[(2)](3)(a) provides that the case is to proceed in the same manner as if the defendant were present. The issuing authority either would proceed with the preliminary hearing as provided in Rule 542(A), (B), (C) and Rule 543(A), (B), [and] (C), **and (D)(3)(b) or (c)**; or, if the issuing authority determines it necessary, continue the case to a date certain as provided in Rule 542(E); or, in the appropriate case, convene the preliminary hearing for the taking of testimony of the witnesses who are present, and then continue the remainder of the hearing until a date certain. When the case is continued, the issuing authority [still should] **may issue a bench warrant as provided in paragraph (D)(3)(d), and must** send the required notice of the new date to the defendant, thus providing the defendant with another opportunity to appear.

Paragraph (D)[(2)(c)] (3)(b)(ii) requires the issuing authority to **include with the Rule 547 transmittal a request that the court of common pleas issue a bench warrant if the case is held for court [or when the preliminary hearing is continued]**.

[Pursuant to paragraph (D)(3), the defendant must be taken before the issuing authority for resolution of the bench warrant, counsel, and bail in those cases in which a defendant is apprehended on the issuing authority's bench warrant prior to the arraignment or the issuance of a common pleas judge's bench warrant. See Rule 150 for the procedures in a court case after a bench warrant is executed.]

In addition to the paragraph (D)(3)(b) notice requirements, the notice may include the date of the arraignment in common pleas court.

For purposes of modifying bail once bail has been set by a common pleas judge, see Rules 529 and 536.

See Rule 571 (Arraignment) for notice of arraignment requirements.

Rule 542(D) specifically prohibits an issuing authority at a preliminary hearing from proceeding on any summary offenses that are joined with misdemeanor, felony,

or murder charges, except as provided in paragraph (F) of this rule. Paragraph (F) sets forth the procedures for the issuing authority to handle these summary offenses at the preliminary hearing. These procedures include the issuing authority (1) forwarding the summary offenses together with the misdemeanor, felony, or murder charges held for court to the court of common pleas, or (2) disposing of the summary offenses as provided in Rule 454 by accepting a guilty plea or conducting a trial whenever (a) the misdemeanor, felony, and murder charges are withdrawn, or (b) a prima facie case is not established at the preliminary hearing and the Commonwealth requests that the issuing authority proceed on the summary offenses.

Under paragraph (F)(2), in those cases in which the Commonwealth does not intend to refile the misdemeanor, felony, or murder charges, the Commonwealth may request that the issuing authority dispose of the summary offenses. In these cases, if all the parties are ready to proceed, the issuing authority should conduct the summary trial at that time. If the parties are not prepared to proceed with the summary trial, the issuing authority should grant a continuance and set the summary trial for a date and time certain.

In those cases in which a prima facie case is not established at the preliminary hearing, and the Commonwealth does not request that the issuing authority proceed on the summary offenses, the issuing authority should dismiss the complaint, and discharge the defendant unless there are outstanding detainers against the defendant that would prevent the defendant's release.

Nothing in this rule would preclude the refile of one or more of the charges, as provided in these rules.

See Rule 313 for the disposition of any summary offenses joined with misdemeanor or felony charges when the defendant is accepted into an ARD program on the misdemeanor or felony charges.

See Rule 1003 (Procedure in Non-Summary Municipal Court Cases) for the preliminary hearing procedures in Municipal Court.

Official Note: Original Rule 123, adopted June 30, 1964, effective January 1, 1965, suspended January 31, 1970, effective May 1, 1970. New Rule 123 adopted January 31, 1970, effective May 1, 1970; renumbered Rule 143 September 18, 1973, effective January 1, 1974; amended January 28, 1983, effective July 1, 1983; amended August 9, 1994, effective January 1, 1995; amended September 13, 1995, effective January 1, 1996. The January 1, 1996 effective date extended to April 1, 1996; the April 1, 1996 effective date extended to July 1, 1996; renumbered Rule 142 October 8, 1999, effective January 1, 2000; renumbered Rule 543 and amended March 1, 2000, effective April 1, 2001; amended August 24, 2004, effective August 1, 2005; amended December 30, 2005, effective August 1, 2006; amended March 9, 2006, effective September 1, 2006; amended May 19, 2006, effective August 1, 2006; **amended May 1, 2007, effective September 4, 2007, and May 1, 2007 Order amended May 15, 2007.**

Committee Explanatory Reports:

Report explaining the August 9, 1994 amendments published at 22 Pa.B. 6 (January 4, 1992); Final Report published with the Court's Order at 24 Pa.B. 4342 (August 27, 1994).

Final Report explaining the September 13, 1995 amendments published **with the Court's Order** at 25 Pa.B. 4116 (September 30, 1995).

Final Report explaining the October 8, 1999 renumbering of Rule 143 published with the Court's Order at 29 Pa.B. 5509 (October 23, 1999).

Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. 1478 (March 18, 2000).

Final Report explaining the August 24, 2004 changes concerning the procedures when a defendant fails to appear published with the Court's Order at 34 Pa.B. 5025 (September 11, 2004).

Final Report explaining the December 30, 2005 changes adding references to bench warrants published with the Court's Order at 36 Pa.B. 184 (January 14, 2006).

Final Report explaining the March [3] 9, 2006 amendments adding new paragraphs (E) and (F) published with the Court's Order at 36 Pa.B. 1392 (March 25, 2006).

Final Report explaining the May 19, 2006 amendments correcting cross-references to Rule 529 published with the Court's Order at 36 Pa.B. 2633 (June 3, 2006).

Final Report explaining the May 1, 2007 changes clarifying the procedures when a defendant fails to appear published with the Court's Order at 37 Pa.B. 2503 (June 2, 2007).

Rule 547. Return of Transcript and Original Papers.

(A) When a defendant is held for court, the issuing authority shall prepare a transcript of the proceedings. The transcript shall contain all the information required by these rules to be recorded on the transcript. It shall be signed by the issuing authority, and have affixed to it the issuing authority's seal of office.

(B) The issuing authority shall transmit the transcript to the clerk of the proper court within 5 days after holding the defendant for court.

(C) In addition to this transcript the issuing authority shall also transmit the following items:

- (1) the original complaint;
- (2) the summons or the warrant [or] of arrest and its return;
- (3) all affidavits filed in the proceeding; [and]
- (4) the appearance or bail bond for the defendant, if any, or a copy of the order committing the defendant to custody [.]; and

(5) a request for the court of common pleas to issue a bench warrant as required in Rule 543(D)(3)(b).

Comment

See Rule 135 for the general contents of the transcript. There are a number of other rules that require certain things to be recorded on the transcript to make a record of the proceedings before the issuing authority. See, e.g., Rules 542 and 543.

When the case is held for court pursuant to Rule 543(D)(3), the issuing authority must include with the transcript transmittal a request for the court of common pleas to issue a bench warrant.

Official Note: Formerly Rule 126, adopted June 30, 1964, effective January 1, 1965; suspended January 31, 1970, effective May 1, 1970; revised January 31, 1970; effective May 1, 1970; renumbered Rule 146 and amended September 18, 1973, effective January 1, 1974; amended

October 22, 1982, effective January 1, 1982; amended July 12, 1985, effective January 1, 1986; effective date extended to July 1, 1986; renumbered Rule 547 and amended March 1, 2000, effective April 1, 2001; amended August 24, 2004, effective August 1, 2005; **amended May 1, 2007, effective September 4, 2007, and May 1, 2007 Order amended May 15, 2007.**

Committee Explanatory Reports:

Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. 1478 (March 18, 2000).

Final Report explaining the August 24, 2004 changes published with the Court's Order at 34 Pa.B. 5025 (September 11, 2004).

Final Report explaining the May 1, 2007 amendments concerning the request for a bench warrant published with the Court's Order at 37 Pa.B. 2503 (June 2, 2007).

PART E. [Informations] Procedures Following a Case Held for Court

Rule 559. Request for Bench Warrant.

In any case held for court following a preliminary hearing conducted in the defendant's absence pursuant to Rule 543(D), upon receipt of a request by the issuing authority for the common pleas court to issue a bench warrant, the court promptly shall act upon the request.

Comment

For the requirement that the issuing authority request a bench warrant from the court of common pleas in cases in which the defendant has failed to appear for the preliminary hearing, see Rule 543(D)(3)(b)(i) and (ii). See also Rule 547(C)(5) that requires the issuing authority to transmit the request for a bench warrant with the transcript of the proceedings before the issuing authority.

Official Note: Adopted May 1, 2007, effective September 4, 2007, and May 1, 2007 Order amended May 15, 2007.

Committee Explanatory Reports:

Final Report explaining new Rule 559 published with the Court's Order at 37 Pa.B. 2503 (June 2, 2007).

PART F. Procedures Following Filing of Information

Rule 571. Arraignment.

* * * * *

[(E) At the conclusion of the arraignment, or after the common pleas judge issues a bench warrant because the defendant fails to appear for the arraignment, in cases held for court following a preliminary hearing in the defendant's absence, the clerk of courts promptly shall notify the issuing authority that the arraignment has occurred or a bench warrant has been issued.]

Comment

The main purposes of arraignment are: to ensure that the defendant is advised of the charges; to have counsel enter an appearance, or if the defendant has no counsel, to consider the defendant's right to counsel; and to commence the period of time within which to initiate pretrial discovery and to file other motions. Although the specific form of the arraignment is not prescribed by this

rule, judicial districts are required to ensure that the purposes of arraignments are accomplished in all court cases.

Concerning the waiver of counsel, see Rule 121.

Nothing in this rule is intended to preclude judicial districts from providing written notice of the arraignment to the defendant at the conclusion of the preliminary hearing when a case is held for court. See Rule 543.

Under paragraph (A), in addition to other instances of "cause shown" for delaying the arraignment, the arraignment may be delayed when the defendant is unavailable for arraignment within the 10-day period after the information is filed.

Within the meaning of paragraph (B), counsel is present when physically with the defendant or with the judicial officer presiding over the arraignment.

Under paragraph (B), the court has discretion to order that a defendant appear in person for the arraignment.

Under paragraph (B), two-way simultaneous audio-visual communication is a form of advanced communication technology.

Paragraph (D) is intended to facilitate, for defendants represented by counsel, waiver of appearance at arraignment through procedures such as arraignment by mail. For the procedures to provide notice of court proceedings requiring the defendant's presence, see Rule 114.

[In cases that are held for court following a preliminary hearing in the defendant's absence, paragraph (E) requires that, following the arraignment or the issuance of a bench warrant, the clerk of courts must inform the issuing authority in the most expedient manner, such as by telephone, or by facsimile or electronic transmission. In addition, the clerk should complete and return the notification form provided by the issuing authority. See Rule 543(D) (Disposition of Case at Preliminary Hearing).]

Official Note: Formerly Rule 317, adopted June 30, 1964, effective January 1, 1965; paragraph (b) amended November 22, 1971, effective immediately; paragraphs (a) and (b) amended and paragraph (e) deleted November 29, 1972, effective 10 days hence; paragraphs (a) and (c) amended February 15, 1974, effective immediately. Rule 317 renumbered Rule 303 and amended June 29, 1977, amended and paragraphs (c) and (d) deleted October 21, 1977, and amended November 22, 1977, all effective as to cases in which the indictment or information is filed on or after January 1, 1978; Comment revised January 28, 1983, effective July 1, 1983; amended October 21, 1983, effective January 1, 1984; amended August 12, 1993, effective September 1, 1993; rescinded May 1, 1995, effective July 1, 1995, and replaced by new Rule 303. New Rule 303 adopted May 1, 1995, effective July 1, 1995; renumbered Rule 571 and amended March 1, 2000, effective April 1, 2001; amended November 17, 2000, effective January 1, 2001; amended May 10, 2002, effective September 1, 2002; amended March 3, 2004, effective July 1, 2004; amended August 24, 2004, effective August 1, 2005; **amended May 1, 2007, effective September 4, 2007, and May 1, 2007 Order amended May 15, 2007.**

Committee Explanatory Reports:

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

Final Report explaining the May 1, 1995 changes published with the Court's Order at 25 Pa.B. 1944 (May 20, 1995).

Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. [1477] 1478 (March 18, 2000).

Final Report explaining the November 17, 2000 amendments concerning a defendant's waiver of appearance at arraignment published with the Court's Order at 30 Pa.B. 6184 (December 2, 2000).

Final Report explaining the May 10, 2002 amendments concerning advanced communication technology published with the Court's Order at 32 Pa.B. 2591 (May 25, 2002).

Final Report explaining the March 3, 2004 amendments updating the cross-references correlative to the March 3, 2004 changes to the motions [rule] rules published with the Court's Order at 34 Pa.B. 1561 (March 20, 2004).

Final Report explaining the August 24, 2004 addition of paragraph (E) and the [Correlative] correlative Comment provisions published with the Court's Order at 34 Pa.B. 5025 (September 11, 2004).

Final Report explaining the May 1, 2007 deletion of paragraph (E) and the correlative Comment provisions published with the Court's Order at 37 Pa.B. 2503 (June 2, 2007).

FINAL REPORT¹

New Pa.R.Crim.P. 559; Amendments to Pa.Rs.Crim.P. 509, 510, 511, 512, 542, 543, 547, and 571; and Revision of the Comment to Pa.R.Crim.P. 536

Procedures when Defendant Fails to Appear for Preliminary Hearing

On May 1, 2007, effective September 4, 2007, and May 1, 2007 Order amended May 15, 2007, upon the recommendation of the Criminal Procedural Rules Committee, the Court adopted new Rule of Criminal Procedure 559, amended Rules 509, 510, 511, 512, 542, 543, 547, and 571, and approved the revision of the Comment to Rule 536.² These rule changes address several issues that have arisen since August 2005 when the new uniform procedure for handling court cases in which a defendant has failed to appear for the preliminary hearing became effective.

I. INTRODUCTION

Following the August 2005 effective date of the rule changes that established the procedures governing when a defendant fails to appear for the preliminary hearing, the Committee received a number of inquiries about the new procedures. The communications (1) asked for clarification of some of the procedures, (2) noted problems with the implementation by the Magisterial District Judges Computer System (MDJS), and (3) requested changes to some of the procedures. Following a full review of the concerns raised with the Committee,³ the members reaffirmed what we explained in our original proposal in

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

² The May 1, 2007 Order was amended on May 15, 2007 to reflect in bold and brackets language that was being deleted from the eighth paragraph of the Rule 543 Comment.

³ The Committee convened an Ad Hoc Subcommittee of individuals familiar with the issues and with the MDJS to assist the Committee in addressing the problems. The Ad Hoc Subcommittee included members of the Criminal Procedural Rules Committee and the Minor Courts Rules Committee; representatives from the Administrative Offices of Pennsylvania Courts legal and computer staff; Magisterial District Judges; and District Court Administrators.

2005⁴ that the procedural linchpin to conduct the preliminary hearing in the defendant's absence is that the defendant has received notice of the preliminary hearing. Under the rules, notice of a preliminary hearing is given to the defendant either in person at the time of a preliminary arraignment following an arrest pursuant to Rule 540 or by a summons that is served on the defendant by both first class mail and certified mail, return receipt requested as required by Rule 511(A). When the case proceeds by summons, Rule 511(B) provides that proof of service of the summons by mail is shown either by a return receipt signed by the defendant or evidence that the first class mailing was not returned if the certified mail is returned undelivered or the return receipt is signed by someone other than the defendant. Using these rule provisions, an issuing authority is able to make the Rule 543 determination whether the defendant has received notice of the preliminary hearing. At the same time, the members acknowledged that the existing rules should be modified to respond to the questions that have continued to come to our attention. Accordingly, the rules governing the procedures when a defendant fails to appear for a preliminary hearing have been modified as follows:

- What constitutes good service has been more clearly explained in Rules 509, 511, 542, and 543.
- The rules more clearly distinguish when a warrant being issued is a bench warrant and when the warrant is a Rule 509 warrant, see Rules 510, 536, and 543.
- Rule 543(D) more clearly distinguishes between the procedures when an issuing authority (1) finds the defendant did not receive notice, paragraph (D)(1), or (2) finds the defendant did receive notice but has good cause for not appearing, paragraph (D)(2), or (3) finds the defendant received notice and does not have good cause for failing to appear, paragraph (D)(3).
- The procedure when an issuing authority finds the defendant did not receive notice of the summons has been amended to provide that an arrest warrant is issued as provided in Rule 509 and the case proceeds with a preliminary arraignment following an arrest.
- The procedures when the preliminary hearing is continued have been amended by providing that (1) when the issuing authority finds the defendant received notice and does not have good cause for failing to appear, the issuing authority may issue a bench warrant and must give the defendant notice of the date for the continued preliminary hearing, and (2) when the issuing authority finds the defendant received notice and has good cause for failing to appear, the issuing authority must give notice of the date for the continued preliminary hearing but may not issue a bench warrant.
- The notice of a continued preliminary hearing is to be served by first class mail only, see Rule 542.
- The procedure for issuing a warrant following a preliminary hearing that is conducted in the defendant's absence has been modified to provide that the bench warrant is to be issued by a judge of the court of common pleas rather than by the issuing authority.

II. DISCUSSION OF RULE CHANGES

A. Rule 543 (Disposition of Case at Preliminary Hearing)

Rule 543(A) and (B) set forth the general procedures governing the disposition of a case at the preliminary hearing. Paragraph (C) sets forth the procedures when

the defendant has appeared for the preliminary hearing, and paragraph (D) sets forth the procedures when the defendant has not appeared. In order to more clearly distinguish between the procedures in paragraph (C) and in paragraph (D), paragraph (C) has been amended by the addition of "has appeared and" before "has been held for court" in the first line.

The amendments to paragraph (D) elaborate on the distinction between the three procedural scenarios when a defendant fails to appear for the preliminary hearing:

- when the defendant has failed to appear and the issuing authority determines the defendant did not receive notice;
- when the defendant has failed to appear and the issuing authority finds that the defendant received notice and had good cause explaining the failure to appear;
- when the defendant has failed to appear and the issuing authority finds that the defendant received notice and did not have good cause to explain the failure to appear.

Paragraph (D)(1) now addresses only those cases in which the issuing authority finds the defendant did not receive notice. New paragraph (D)(2), which is taken from current paragraph (D)(1), and new paragraph (D)(3), which is taken from current paragraph (D)(2), both address the cases in which the issuing authority finds the defendant received notice of the preliminary hearing; that is, the defendant received notice of the preliminary hearing either in person at the preliminary arraignment or by receipt of a summons that was served as provided by Rule 511.

Paragraph (D)(1)

The Committee received numerous communications expressing concern about the impact on the criminal justice system of continuing preliminary hearings when a defendant has failed to appear in cases in which the summons that was served upon the defendant by both first class mail and certified mail, return receipt requested as provided in Rule 511(A) is returned undelivered. These communications noted that, in most of these cases, the notice of the continued preliminary hearing also is returned undelivered, thereby causing additional delays and continuances because the defendant continues to fail to appear. The Committee agreed this was a significant problem and concluded the only way to stop the cycle of continuances and failures to appear when there is no proof of service of the summons is to require that the magisterial district judge issue a warrant pursuant to Rule 509(2)(d). When the defendant is located, a preliminary arraignment is conducted and the defendant is given notice of the preliminary hearing in person.

Paragraph (D)(2)

New paragraph (D)(2) recognizes that there may be valid reasons for a defendant's failure to appear, such as when the magisterial district judge finds the defendant is in a hospital or incarcerated elsewhere. In other words, the defendant had good cause for failing to appear. In these cases, the preliminary hearing is continued, notice of the new date and time for the rescheduled preliminary is mailed pursuant to Rule 542(E)(2), and no warrant may be issued.

Paragraph (D)(3)

New paragraph (D)(3), which is taken from current paragraph (D)(2), addresses those cases in which the issuing authority finds the defendant had notice and the

⁴ See Committee's explanatory Final Report at 34 Pa.B. 5025 (September 11, 2004).

failure to appear is without good cause. In these cases, the defendant is deemed to have waived the preliminary hearing and the case is to proceed in the same manner as though the defendant was present.

Paragraph (D)(3)(b) sets forth the procedures when the preliminary hearing is conducted and the case is held for court. A major concern about the new procedures raised with the Committee concerned the warrant requirements in current paragraph (D)(2)(c) and (D)(3). There was a great deal of confusion about how to proceed when the magisterial district judge issues a bench warrant after the case is held for court because the case is no longer within his or her jurisdiction, particularly with regard to bail. After a good deal of discussion, the Committee settled on a new procedure that requires, when the issuing authority transmits the case to the common pleas court pursuant to Rule 547, that the issuing authority must also request that a bench warrant be issued by the court of common pleas. This new procedure, which is set forth in Rule 543(D)(3)(b)(ii) and Rule 547(C)(5), is more efficient because, by having the bench warrant issued by the court of common pleas, the defendant, when arrested, will be taken before the common pleas court judge who will address any bail questions pursuant to Rule 536. In addition, by requiring the request to be forwarded when the case is forwarded to the court, the attorney for the Commonwealth will have an opportunity to review the matter and make recommendations to the common pleas court judge.

In addition to the new procedure requiring the magisterial district judge to request a bench warrant from the court of common pleas, the issuing authority must include with the notice to the defendant of the results of the preliminary hearing required by paragraph (D)(3)(b)(i) of Rule 543 notice that the bench warrant has been requested. This notice provides the defendant with the opportunity to appear before the warrant is executed. Correlative to these changes, the provisions in current paragraph (D)(3) and Rule 571(E) concerning the duration and withdrawal of the warrant have been deleted.

Paragraphs (D)(3)(c) and (D)(3)(d) are new. Paragraph (D)(3)(c) provides, when the defendant has failed to appear without good cause, that the preliminary hearing is conducted and the case is dismissed. In these cases, the issuing authority must give the defendant notice of the results of the preliminary hearing. Although a dismissal in these circumstances is not likely to occur, the Committee agreed the procedure should be included in Rule 543 to avoid any confusion.

Paragraph (D)(3)(d) sets forth the procedure when the defendant has failed to appear without good cause and the preliminary hearing is continued. The possibility of this scenario occurring is referenced in the sixth paragraph of the Comment, but there is no guidance in the rule about how to proceed. The Committee agreed that, in these cases, the issuing authority may issue a bench warrant for the arrest of the defendant and must provide the parties with notice of the date and time for the continued preliminary hearing. If the issuing authority issues a bench warrant, the bench warrant would be effective only until the commencement of the continued preliminary hearing.

During the Committee's discussions, some members pointed out that in some judicial districts, the date of the arraignment in the common pleas court is provided to the defendant at the conclusion of the preliminary hearing.

They suggested it would be helpful if the rules recognized this practice. Accordingly, the Rule 543 Comment explains that

Nothing in this rule is intended to preclude judicial districts from providing written notice of the arraignment to the defendant at the conclusion of the preliminary hearing when a case is held for court. See Rule 571.

The same language has been added to the Rule 571 Comment with a cross-reference to Rule 543.

B. Correlative Changes

1. Rule 509 (*Use of Summons or Warrant of Arrest in Court Cases*)

Rule 509(2)(d) has been amended to reflect more accurately that an arrest warrant issues when the summons was mailed pursuant to Rule 511(A) and the summons was returned undelivered or the return receipt card was returned signed by someone other than the defendant. In both these situations, the defendant did not receive notice of the summons. This provision is further explained in the second paragraph of the Rule 509 Comment as follows:

Before a warrant may be issued pursuant to paragraph (2)(d) when a summons is returned undelivered, the summons must have been served upon the defendant by both first class mail and certified mail, return receipt requested as provided in Rule 511(A), and both the certified mail and the first class mail must have been returned undelivered. "Undelivered" includes a return receipt that is signed by someone other than the defendant.

In addition, current paragraph (2)(e) has been deleted because a bench warrant not a warrant instituting proceedings would be issued when a summons has been delivered; that is, the defendant has notice of the summons and the defendant fails to appear.

2. Rule 510 (*Contents of Summons; Notice of Preliminary Hearing*)

Rule 510(B)(3) has been amended to conform with new Rule 150 (Bench Warrants) by the addition of "bench" before "warrant" in the last line.

3. Rule 511 (*Service of Summons; Proof of Service*)

Because of the confusion expressed by the correspondents about proof of service, Rule 511(B)(2) has been amended to clarify what constitutes proof of service of the summons—a returned summons showing the certified mail was not signed by the defendant and a notation on the transcript that the first class mail was not returned within 20 days. The time for the return has been increased from 15 to 20 days thereby more accurately reflecting the time required by the postal service.

4. Rule 512 (*Procedure in Court Cases Following Issuance of Summons*)

Rule 512 has been amended by the deletion of the phrase "issue a warrant for the arrest of the defendant and" because a warrant is not always issued in Rule 543(D) cases.

5. Rule 536 (*Procedures Upon Violation of Conditions: Revocation of Release and forfeiture; Bail Pieces; Exoneration of Surety*)

The second paragraph of the Comment to Rule 536 has been revised to include a cross-reference to the Rule 543(D) requirements for the issuance of bench warrants.

This cross-reference is intended to alert the bench to the need to address bail when a bench warrant is executed in the failures to appear cases.

6. *Rule 542 (Preliminary Hearing; Continuance)*

An ongoing concern expressed by some magisterial district judges and district court administrators is the costs they incur for the certified mailings. Although reaffirming the need for both certified and first class mailing for service of the summons pursuant to Rule 511, the Committee noted that when a preliminary hearing is going to be continued, there is the presumption that the address information for the defendant is correct. In view of this, the requirement for service of the continuance notice by both certified and first class mail is unnecessary, and first class mailing is sufficient. Accordingly, the certified mail provision in Rule 542(E)(2)(b) has been deleted, and the correlative provision in the Rule 542 Comment has been revised so that preliminary continuance notices will be mailed by first class mail only.

7. *New Rule 559 (Request for Bench Warrant)*

As the Committee discussed the new procedures in Rule 543(D)(3) with regard to the issuance of a bench warrant by the court of common pleas, some members expressed concern that, without a specific requirement in the rules that the common pleas court take action on the magisterial district judge's request, there could be delays in the issuance of the bench warrant or no action. In view of these concerns, new Rule 559 has been adopted. Rule 559 provides:

In any case held for court following a preliminary hearing conducted in the defendant's absence pursuant to Rule 543(D), upon receipt of a request by the issuing authority for the common pleas court to issue a bench warrant, the court promptly shall act upon the request.

New Rule 559 has been placed in Chapter 5 Part E, preceding Rule 560 (Information: Filing, Contents, Function), because, procedurally, the request from the magisterial district judge will occur after the case is held for court but before the information is prepared. To accommodate this new rule and because Part E addresses matters other than informations, the title to Part E has been amended to read "Procedures Following a Case Held for Court."

[Pa.B. Doc. No. 07-965. Filed for public inspection June 1, 2007, 9:00 a.m.]

Title 237—JUVENILE RULES

PART I. RULES

[237 PA. CODE CH. 5]

Order Amending Rule 512 and Adopting New Rule 520; No. 417 Supreme Court Rules; Doc. No. 1

Order

Per Curiam:

Now, this 17th day of May, 2007, upon the recommendation of the Juvenile Court Procedural Rules Committee and an Explanatory Report to be published with this Order:

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that new Rule 520 and the

amendments to Rule 512 of the Rules of Juvenile Court Procedure are approved in the following form.

To the extent that prior distribution and publication of this rule would otherwise be required, it has been determined that immediate promulgation is required in the interest of justice and efficient administration. Pa.R.J.A. 103(a)(3).

This Order shall be processed in accordance with Pa.R.J.A. 103(b), and shall be effective August 20, 2007.

Annex A

TITLE 237. JUVENILE RULES

PART I. RULES

Subpart A. DELINQUENCY MATTERS

CHAPTER 5. DISPOSITIONAL HEARING

PART B. DISPOSITIONAL HEARING AND AIDS

Rule 512. Dispositional Hearing.

* * * * *

C. Duties of the court. The court shall determine on the record that the juvenile has been advised of the following:

- 1) the right to file a post-dispositional motion;
- 2) the right to file an appeal;
- 3) the time limits for a post-dispositional motion and appeal;
- 4) the right to counsel to prepare the motion and appeal;
- 5) the time limits within which the post-dispositional motion shall be decided; and
- 6) that issues raised before and during adjudication shall be deemed preserved for appeal whether or not the juvenile elects to file a post-dispositional motion.

Comment

Under paragraph (A)(2), for victim's right to be heard, see Victim's Bill of Rights, 18 P. S. § 11.201 *et seq.*

To the extent practicable, the judge or master that presided over the adjudicatory hearing for a juvenile should preside over the dispositional hearing for the same juvenile.

Official Note: Rule 512 adopted April 1, 2005, effective October 1, 2005; amended May 17, 2007, effective August 20, 2007.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 512 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005).

Final Report explaining the amendments to Rule 512 published with the Court's Order at 37 Pa.B. 2509 (June 2, 2007).

PART C. POST-DISPOSITIONAL MOTIONS

Rule 520. Post-Dispositional Motions

A. *Optional Post-Dispositional Motion.*

1) The parties shall have the right to make a post-dispositional motion. All requests for relief from the court shall be stated with specificity and particularity, and shall be consolidated in the post-dispositional motion.

2) Issues raised before or during the adjudicatory hearing shall be deemed preserved for appeal whether or not the party elects to file a post-dispositional motion on those issues.

B. Timing.

1) If a post-dispositional motion is filed, it shall be filed no later than ten days after the imposition of disposition.

2) If a timely post-dispositional motion is filed, the notice of appeal shall be filed:

a) within thirty days of the entry of the order deciding the motion;

b) within thirty days of the entry of the order denying the motion by operation of law in cases in which the judge fails to decide the motion; or

c) within thirty days of the entry of the order memorializing the withdrawal in cases in which a party withdraws the motion.

3) If a post-dispositional motion is not timely filed, a notice of appeal shall be filed within thirty days of the imposition of disposition.

C. Court Action.

1) *Briefing Schedule and Argument.* Within ten days of the filing of the post-dispositional motion, the court shall:

a) determine if briefs, memoranda of law, or oral arguments are required; and

b) set a briefing schedule and dates for oral argument, if necessary.

2) *Failure to Set Schedule.* If the court fails to act according to paragraph (C)(1), briefs and oral arguments are deemed unnecessary.

3) *Transcript.* If the grounds asserted in the post-dispositional motion do not require a transcript, neither the briefs nor arguments on the post-dispositional motion shall be delayed for transcript preparation.

D. Time Limits for Decision on Motion. The judge shall not vacate disposition pending the decision on the post-dispositional motion, but shall decide the motion as provided in this paragraph.

1) Except as provided in paragraph (D)(2), the judge shall decide the post-dispositional motion as soon as possible but within thirty days of the filing of the motion. If the judge fails to decide the motion within thirty days, or to grant an extension as provided in paragraph (D)(2), the motion shall be deemed denied by operation of law.

2) Upon motion of a party within the 30-day disposition period, for good cause shown, the judge may grant one 30-day extension for decision on the motion. If the judge fails to decide the motion within the 30-day extension period, the motion shall be deemed denied by operation of law.

3) When a post-dispositional motion is denied by operation of law, the clerk of courts shall forthwith enter an order on behalf of the court, and, as provided pursuant to Rule 167, forthwith shall serve a copy of the order on each attorney and the juvenile, if unrepresented, that the post-dispositional motion is deemed denied. This order is not subject to reconsideration.

4) If the judge denies the post-dispositional motion, the judge promptly shall issue an order and the order shall be filed and served as provided in Rule 167.

5) If a party withdraws a post-dispositional motion, the judge promptly shall issue an order memorializing the withdrawal, and the order shall be filed and served as provided in Rule 167.

E. Contents of order. An order denying a post-dispositional motion, whether issued by the judge pursuant to paragraph (D)(4) or entered by the clerk of courts pursuant to paragraph (D)(3), or an order issued following a party's withdrawal of the post-dispositional motion pursuant to paragraph (D)(5), shall include notice to the party of the following:

1) the right to appeal;

2) the time limits within which the appeal shall be filed; and

3) the right to counsel in the preparation of the appeal.

F. After-discovered evidence. A motion for a new adjudication on the grounds of after-discovered evidence shall be filed in writing promptly after such discovery. If an appeal is pending, the judge may grant the motion only upon remand of the case.

Comment

The purpose of this rule is to promote the fair and prompt disposition of all issues relating to admissions, adjudication, and disposition by consolidating all possible motions to be submitted for court review, and by setting reasonable but firm time limits within which the motion is to be decided. Because the post-dispositional motion is optional, a party may choose to raise any or all properly preserved issues in the trial court, in the appellate court, or both.

OPTIONAL POST-DISPOSITIONAL MOTION

See In re Brandon Smith, 393 Pa. Super. 39, 573 A.2d 1077 (1990), for motions on ineffective assistance of counsel.

Under paragraph (A)(2), any issue raised before or during adjudication is deemed preserved for appeal whether a party chooses to raise the issue in a post-dispositional motion. It follows that the failure to brief or argue an issue in the post-dispositional motion would not waive that issue on appeal as long as the issue was properly preserved, in the first instance, before or during adjudication. Nothing in this rule, however, is intended to address Pa.R.A.P. 1925(b) or the preservation of appellate issues once an appeal is filed. *See Commonwealth v. Lord*, 553 Pa. 415, 719 A.2d 306 (1998) (any issues not raised in a 1925(b) statement will be deemed waived).

Under paragraph (B)(1), if a party chooses to file a post-dispositional motion, the motion is to be filed within ten days of imposition of disposition. The filing of the written post-dispositional motion triggers the time limits for decision on the motion. *See* paragraph (D)(1).

TIMING

Paragraph (B) contains the timing requirements for filing the optional post-dispositional motion and taking an appeal. Under paragraph (B)(1), the post-dispositional motion is to be filed within ten days of imposition of disposition. Supplemental motions may be filed but the time requirements of paragraph (B)(1) are to be followed.

When a party files a timely post-dispositional motion, the 30-day period for the juvenile's direct appeal on all matters in that case is triggered by the judge's decision on the post-dispositional motion, the denial of the motion by operation of law, or the withdrawal of the post-dispositional motion. The appeal period runs from the

entry of the order. As to the date of entry of orders, see Pa.R.A.P. 108. No direct appeal may be taken by the party while the post-dispositional motion is pending. See paragraph (B)(2).

If no timely post-dispositional motion is filed, the party's appeal period runs from the date disposition is imposed. See paragraph (B)(3).

BRIEFS; TRANSCRIPTS; ARGUMENT

Under paragraph (C)(1), the judge should determine, on a case-by-case basis, whether briefs, memoranda of law, or arguments are required for a fair resolution of the post-dispositional motion. If they are not needed, or if a concise summary of the relevant law and facts is sufficient, the judge should so order. Any local rules requiring briefs or oral argument are inconsistent with this rule. See Rule 121(C).

Under paragraph (C)(3), the judge, in consultation with the attorneys, should determine what, if any, portions of the notes of testimony are to be transcribed so that the post-dispositional motion can be resolved. The judge should then set clear deadlines for the court reporter to insure timely disposition of the motion. Nothing in this rule precludes the judge from ordering the transcript or portions of it immediately after the conclusion of the adjudicatory hearing or the entry of an admission.

For the recording and transcribing of court proceedings generally, see Rule 127. The requirements for the record and the writing of an opinion on appeal are set forth in the Pennsylvania Rules of Appellate Procedure.

There is no requirement that oral argument be heard on every post-dispositional motion. When oral argument is heard on the post-dispositional motion, the juvenile need not be present.

DISPOSITION

Under paragraph (D), once a party makes a timely written post-dispositional motion, the judge retains jurisdiction for the duration of the disposition period. The judge may not vacate the order imposing disposition pending decision on the post-dispositional motion.

Paragraph (D)(2) permits one 30-day extension of the 30-day time limit, for good cause shown, upon motion of a party. In most cases, an extension would be requested and granted when new counsel has entered the case. Only a party may request such an extension. The judge may not, *sua sponte*, extend the time for decision: a congested court calendar or other judicial delay does not constitute "good cause" under this rule.

The possibility of an extension is not intended to suggest that thirty days are required for a decision in most cases. The time limits for disposition of the post-dispositional motion are the outer limits. Easily resolvable issues, such as a modification of disposition or an admission challenge, should ordinarily be decided in a much shorter period of time.

If the judge decides the motion within the time limits of this rule, the judge may grant reconsideration on the post-dispositional motion pursuant to 42 Pa.C.S. § 5505 or Pa.R.A.P. 1701(b)(3), but the judge may not vacate the disposition pending reconsideration. The reconsideration period may not be used to extend the timing requirements set forth in paragraph (D) for decision on the post-dispositional motion: the time limits imposed by paragraphs (D)(1) and (D)(2) continue to run from the date the post-dispositional motion was originally filed. The judge's reconsideration, therefore, is to be resolved

within the 30-day decision period of paragraph (D)(1) or the 30-day extension period of paragraph (D)(2), whichever applies. If a decision on the reconsideration is not reached within the appropriate period, the post-dispositional motion, including any issues raised for reconsideration, will be denied pursuant to paragraph (D)(3).

Under paragraph (D)(1), on the date when the court disposes of the motion, or the date when the motion is denied by operation of law, the judgment becomes final for the purposes of appeal. See Judicial Code, 42 Pa.C.S. §§ 102, 722, 742, 5105(a) and *Commonwealth v. Bolden*, 472 Pa. 602, 373 A.2d 90 (1977). See Pa.R.A.P. 341.

An order entered by the clerk of courts under paragraph (D)(3) constitutes a ministerial order and, as such, is not subject to reconsideration or modification pursuant to 42 Pa.C.S. § 5505 or Pa.R.A.P. 1701.

If the motion is denied by operation of law, paragraph (D)(3) requires that the clerk of courts enter an order denying the motion on behalf of the court and immediately notify the attorneys, or the juvenile, if unrepresented, that the motion has been denied. This notice is intended to protect the party's right to appeal. The clerk of courts also is to comply with the filing, service, and docket entry requirements of Rule 167.

CONTENTS OF ORDER

Paragraph (E) protects a party's right to appeal by requiring that the judge's order denying the motion, the clerk of courts' order denying the motion by operation of law, or the order entered memorializing a party's withdrawal of a post-dispositional motion, contain written notice of the party's appeal rights. This requirement ensures adequate notice to the party, which is important given the potential time lapse between the notice provided at disposition and the resolution of the post-dispositional motion. See also *Commonwealth v. Miller*, 715 A.2d 1203 (Pa. Super. Ct. 1998), concerning the contents of the order memorializing the withdrawal of a post-dispositional motion.

When a party withdraws a post-dispositional motion in open court and on the record, the judge should orally enter an order memorializing the withdrawal for the record, and give the party notice of the information required by paragraph (E). See *Commonwealth v. Miller*, *supra*.

MISCELLANEOUS

Under paragraph (A)(1), the grounds for the post-dispositional motion should be stated with particularity. Motions alleging insufficient evidence, for example, are to specify in what way the evidence was insufficient, and motions alleging that the court's findings were against the weight of the evidence are to specify why the findings were against the weight of the evidence.

Because the post-dispositional motion is optional, the failure to raise an issue with sufficient particularity in the post-dispositional motion will not constitute a waiver of the issue on appeal as long as the issue was preserved before or during adjudication. See paragraph (A)(2).

Issues properly preserved at the dispositional hearing need not, but may, be raised again in a motion to modify disposition in order to preserve them for appeal. In deciding whether to move to modify disposition, counsel carefully is to consider whether the record created at the dispositional hearing is adequate for appellate review of the issues, or the issues may be waived. See *Commonwealth v. Jarvis*, 444 Pa. Super. 295, 663 A.2d 790 (1995).

As a general rule, the motion to modify disposition under paragraph (A)(1) gives the dispositional judge the earliest opportunity to modify the disposition. This procedure does not affect the court's inherent powers to correct an illegal disposition or obvious and patent mistakes in its orders at any time before appeal or upon remand by the appellate court. *See, e.g., Commonwealth v. Jones*, 520 Pa. 385, 554 A.2d 50 (1989) (court can, *sua sponte*, correct an illegal sentence even after the defendant has begun probation or placement) and *Commonwealth v. Cole*, 437 Pa. 288, 263 A.2d 339 (1970) (inherent power of the court to correct obvious and patent mistakes).

Once a disposition has been modified or reimposed pursuant to a motion to modify disposition under paragraph (A)(1), a party wishing to challenge the decision on the motion does not have to file an additional motion to modify disposition in order to preserve an issue for appeal, as long as the issue was properly preserved at the time disposition was modified or reimposed.

Official Note: Rule 520 adopted May 17, 2007, effective August 20, 2007.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 520 published with the Court's Order at 37 Pa.B. 2509 (June 2, 2007).

PART [C] D. INTER-STATE TRANSFER OF DISPOSITION

Rule [520] 530. Transfer of Disposition and Supervision of Juvenile to Another State (Reserved).

Rule [521] 531. Disposition and Supervision of a Juvenile Received From Another State (Reserved).

**EXPLANATORY REPORT
MAY 2007**

INTRODUCTION

The Supreme Court of Pennsylvania has adopted the proposed changes to Rule 512 and a new Rule 520.

Rule 512—Dispositional Hearing

At the dispositional hearing, the court is to determine on the record if the juvenile has been advised of the right to file a post-dispositional motion, the right to file an appeal, the time limits for a post-dispositional motion and appeal, the right to counsel to prepare the post-dispositional motion and appeal, the time limits within which the post-dispositional motion must be decided, and that issues raised before and during adjudication shall be deemed preserved for appeal whether the juvenile elects to file a post-dispositional motion.

In some counties, the District Attorney advises the juvenile of these rights on the record. In other counties, the juvenile's attorney advises the juvenile of these rights. Under the rule addition, any person can advise the juvenile of these rights. It is the court's duty to ensure that someone has spoken to the juvenile about these rights.

Rule 520—Post-Dispositional Motions

The amended rule gives the parties the option to file a post-dispositional motion. A motion may include, but is not limited to, a motion challenging the validity of an admission pursuant to Rule 407 or a motion to withdraw the admission, a motion for reconsideration of findings, a motion for a new adjudication, a motion to modify disposition, or a motion of ineffective assistance of counsel.

See In re Brandon Smith, 393 Pa. Super. 39, 573 A.2d 1077 (1990), for a matter of first impression when the Superior Court sitting *en banc* held that a post-dispositional motion is the appropriate means for alleging ineffective assistance of counsel.

Under paragraph (B)(1), a supplemental motion may be filed but it must be filed within the ten-day limit. Because of the urgency of moving the juvenile case through the system and the judge has only thirty days to respond to the motion pursuant to paragraph (D)(1), no supplemental motions can be filed after the original ten-day time frame. Pursuant to paragraph (A)(2), issues raised before or during the adjudicatory hearing are deemed preserved regardless of whether the party elects to file a post-dispositional motion. *See also* Rule 512 (C)(6).

Paragraph (B)(2) sets forth the time clock for when an appeal must be taken. If a post-dispositional motion is not filed, a notice of appeal must be filed within thirty days of the imposition of disposition. *See* paragraph (B)(3).

Under paragraph (C), the judge shall determine within ten days of the filing of a post-dispositional motion, if briefs, memoranda of law, or arguments are necessary. If they are deemed necessary, the judge is to set a briefing and argument schedule.

Paragraph (D) sets forth the time limits for the decision on the post-dispositional motion. If the court fails to respond to the motion, the motion is denied by operation of law pursuant to paragraph (D)(3). The clerk of courts shall forthwith enter an order denying the motion on behalf of the judge.

[Pa.B. Doc. No. 07-966. Filed for public inspection June 1, 2007, 9:00 a.m.]

Title 255—LOCAL COURT RULES

LEHIGH COUNTY

Administrative Order for Amendment of Local Rule of Civil Procedure 3129.2 Pertaining to Notice of Sale—Real Property; No. 07-J-49

Order

And Now, this 10th day of April, 2007, *It Is Ordered* that the following Lehigh County Rule of Civil Procedure 3129.2 relating to Notice of Sale—Real Property be amended as hereinafter set forth, said amendment to become effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

The Court Administrator of Lehigh County is directed to:

1. File seven (7) certified copies of this Order with the Administrative Office of Pennsylvania Courts.
2. File two (2) certified copies and one disk copy with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.
3. File one (1) certified copy with the Pennsylvania Civil Procedural Rules Committee.
4. File one (1) copy with the Clerk of Courts of the Lehigh County Court of Common Pleas.

5. Forward one (1) copy for publication in the *Lehigh County Law Journal*.

Rule 3129.2 Notice of Sale—Real Property.

The brief description of the property required to be set forth pursuant to Pa.R.C.P. 3129.2(b)(1) need not include the metes and bounds description set forth in the last recorded deed as long as the description sets forth the location of the property by street address and by reference to the parcel identifier number (PIN).

By the Court

ALAN M. BLACK,
President Judge

[Pa.B. Doc. No. 07-967. Filed for public inspection June 1, 2007, 9:00 a.m.]

LYCOMING COUNTY

Amendments to the Rules of Civil Procedure; Doc. No. 07-01074

Order

And Now, this 14th day of May, 2007, it is hereby *Ordered and Directed* that Lyc. Co. R.C.P. L1007C is amended as set forth as follows.

The Prothonotary is directed as follows:

1. Seven certified copies of this order shall be filed with the Administrative Office of Pennsylvania Courts.

2. Two certified copies of this order and a computer diskette containing the text of the order shall be distributed to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*. The diskette must (1) be formatted in one of the following formats: MSDOS, ASCII, Microsoft Word, or WordPerfect, (2) contain the local rule text as reflected in the "hard copy" version of the rule, and (3) be labeled with court's name and address and computer file name.

3. One certified copy of the this order shall be filed with the Pennsylvania Civil Procedural Rules Committee.

4. The local rule shall be kept continuously available for public inspection and copying in the office of the prothonotary. Upon request and payment of reasonable costs of reproduction and mailing, the prothonotary shall furnish to any person a copy of any local rule.

5. One copy of this order shall be sent to the *Lycoming Reporter* for publication therein.

6. One copy of this order shall be sent to the chairman of the Lycoming County Customs and Rules Committee.

The rule changes approved by this order shall become effective 30 days after publication in the *Pennsylvania Bulletin*.

By the Court

KENNETH D. BROWN,
President Judge

C. The form of the scheduling order shall be one page (captions may be abbreviated) and shall be substantially as follows:

Plaintiff : IN THE COURT OF COMMON PLEAS OF
 : LYCOMING COUNTY, PENNSYLVANIA
vs. : NO.
 :
Defendant : CIVIL ACTION

SCHEDULING ORDER

It is ORDERED AND DIRECTED as follows:

1. This is a _____ JURY _____ NON-JURY
_____ ARBITRATION LIMITS case.

2. Case monitoring track:
___ NORMAL, ___ COMPLEX, ___ ADMINISTRATIVE

3. (a) Trial term dates: _____ .
(b) Jury selection dates: _____ .
(c) Pretrial conference dates: _____ .

The deputy court administrator will schedule the exact date and time by future notice.

(d) Settlement conference dates, if needed: _____ .

(e) Counsel are attached for the above dates and shall immediately notify parties and witnesses to be available.

4. List for arbitration on or after: _____ .

5. Cut-off date for completion of discovery: _____ .

6. Cut-off dates for filing expert reports:
(a) By plaintiff(s) - _____ .
(b) By defendant(s) - _____ .

7. Cut-off date for filing dispositive motions, including motions to exclude expert testimony under PA.R.C.P. 207.1: _____ .

8. **Mediation:** The parties agree to use alternative dispute resolution (ADR) as follows:

(a) Specify: _____ Yes _____ No

(b) Above ADR is: ___ Binding ___ Non-Binding

9. This Order cancels the case scheduling conference, which had previously been scheduled for the date of _____ .

10. Other: _____ .

Judge Date

cc: Deputy court administrator
List all parties—if pro se or out of County, include address

[Pa.B. Doc. No. 07-968. Filed for public inspection June 1, 2007, 9:00 a.m.]

RULES AND REGULATIONS

Title 37—LAW

OFFICE OF THE VICTIM ADVOCATE

[37 PA. CODE CHS. 801 AND 802]

Domestic and Sexual Violence Victim Address Confidentiality Program

The Office of the Victim Advocate (OVA), under 23 Pa.C.S. Chapter 67 (relating to Domestic and Sexual Violence Victim Address Confidentiality Act) (act), rescinds the statement of policy in Chapter 801 and adopts Chapter 802 (relating to the domestic and sexual violence address confidentiality program) to read as set forth in Annex A.

Omission of Proposed Rulemaking

Notice of proposed rulemaking is omitted in accordance with section 204(1)(iii) and (3) of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. § 1204(1)(iii) and (3)), known as the Commonwealth Documents Law (CDL), and 1 Pa. Code § 7.4(1)(iii) and (3) (relating to omission of notice of proposed rulemaking) because the OVA, for good cause, finds and incorporates the finding and the brief statement of the reasons therefore in the final-omitted rulemaking, that the proposed rulemaking procedure is unnecessary. The final-omitted regulations are identical to the statement of policy in Chapter 801. After publication of the guidelines, the OVA circulated the guidelines to all interested entities including county and State agencies as well as various members of the public. To date, the OVA has received no negative feedback regarding the guidelines. In fact, the OVA has received requests from other states who wish to use the guidelines as a template for the development of their own procedures and processes regarding address confidentiality programs. Accordingly, the OVA finds good cause for omitting the proposed rulemaking.

Purpose

The purpose of this final-omitted rulemaking is to implement the Domestic and Sexual Violence Victim Address Confidentiality Program (ACP). The regulations implement the act, which permits eligible persons to receive a confidential substitute address provided by the OVA. The final-omitted rulemaking reflects the statutory changes affecting 23 Pa.C.S. (relating to Domestic Relations Code) and 75 Pa.C.S. (relating to Vehicle Code) and procedures affecting State and local government agencies impacted by the ACP.

Requirement of the Final-Omitted Rulemaking

The final-omitted rulemaking enumerates and details the requirements of the act in the following structure:

§ 802.1. Scope.

§ 802.2. Definitions.

These sections provide the scope of the regulations and the definitions of words and terms used in the act.

§ 802.3. Persons eligible for participation.

This section provides the scope of eligibility for participation.

§ 802.11. Application.

§ 802.12. Certification.

These sections provide procedures for application to the ACP and the certification process.

§ 802.13. Use of substitute address.

This section provides for the proper use of the ACP substitute address by State and local government agencies.

§ 802.14. Marriage licenses.

§ 802.15. Certificate of vehicle title, security interest in vehicle, vehicle registration and driver's license.

These sections explain specific situations when the ACP participant can utilize the substitute address rather than the actual address.

§ 802.16. ACP participant responsibility.

This section provides procedures for ACP participants to notify the OVA of a change of address or name.

§ 802.17. Cancellation, expiration and voluntary withdrawal.

This section provides procedures for cancellation and expiration from ACP and also voluntary withdrawal.

§ 802.21. Agency of use of substitute address.

This section provides procedures for the use of the substitute legal address.

§ 802.22. ACP records and release of information.

This section explains the status of ACP records in the hands of the OVA as well as what information will be released by OVA pertaining to requests for information in these records.

§ 802.23. Disclosure of actual address.

This section provides procedures pertaining to the disclosure of the actual address by the OVA if certain requirements are satisfied by the person or entity that is requesting disclosure.

§ 802.31. Agency request for waiver.

§ 802.32. Waiver review.

These sections provide procedures for government agencies that are requesting disclosure of the actual address by the OVA. These sections also set forth the process that the government agencies should follow should they wish to appeal a decision of the OVA pertaining to the waiver process.

Affected Parties

Victims of domestic violence, sexual assault or stalking, as defined in the act, benefit by having clear regulations regarding eligibility, application and waiver procedures. Additionally, the regulations provide guidance and direction to State and local government agencies and victim service agencies, including domestic violence programs and sexual assault programs.

Accomplishments and Benefits

Victims of domestic violence, sexual assault or stalking, as defined in the act, benefit by having clear and up-to-date regulations regarding eligibility, enrollment, participant responsibilities, and address disclosure procedures. The final-omitted rulemaking is intended to provide further guidance and direction to victim service providers in advising victims of crime of eligibility criteria, enrollment procedures and services available under the act. Additionally, the final-omitted rulemaking provides direction to local, county and State agencies required to accept the substitute address. Finally, the act

directs the OVA to promulgate regulations to replace the previously adopted guidelines.

Fiscal Impact

The final-omitted rulemaking provides direction in implementing a program that is already in effect and for which funding has been appropriated. Therefore, there is no new significant fiscal impact to the OVA, other State agencies, county governments, the regulated community, consumers, clients, recipients, families and the general public as modification to existing processes is minimal.

Public Comment

Although this final-omitted rulemaking is being adopted without publication as a proposed rulemaking, interested persons are invited to submit written comments, suggestions or objections to the Office of the Victim Advocate, 1101 South Front Street, Suite 5200, Harrisburg, PA 17104.

Persons with a disability who require an auxiliary aid or service may submit comments by using the AT&T Relay Service, (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

Regulatory Review Act

Under section 5.1(c) of the Regulatory Review Act (71 P. S. § 745.5a(c)), on April 9, 2007, the OVA submitted a copy of the final-omitted rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Judiciary Committee and the Senate Judiciary Committee. On the same date, the regulations were submitted to the Office of Attorney General for review and approval under the Commonwealth Attorneys Act (71 P. S. §§ 732-101—732-506).

Under section 5.1(j.1) and (j.2) of the Regulatory Review Act, on May 8, 2007, the final-omitted rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on May 17, 2007, and approved the final-omitted rulemaking.

Findings

The OVA finds that:

(1) Notice of proposed rulemaking is omitted in accordance with section 204(1)(iii) and (3) of the CDL and 1 Pa. Code § 7.4(1)(iii) and (3) because the OVA, for good cause, finds and incorporates the finding and the brief statement of the reasons therefore in the order adopting the administrative regulation, that the proposed rulemaking procedure is unnecessary.

(2) The adoption of this rulemaking in the manner provided by this order is necessary and appropriate for the administration and enforcement of act.

Order

The OVA, under the act, orders that:

(a) The statement of policy of the OVA in §§ 801.1—801.3, 801.11—801.17, 801.21—801.23 and 801.31—801.33 is deleted and the regulations in §§ 802.1—802.3, 802.11—802.17, 802.21—802.23 and 802.31—802.33 are added to read as set forth in Annex A.

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

(c) The Victim Advocate shall certify and deposit this order and Annex A with the Legislative Reference Bureau as required by law.

(d) This order shall take effect upon final publication in the *Pennsylvania Bulletin*.

CAROL LAVERY,
Victim Advocate

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 37 Pa.B. 2566 (June 2, 2007).)

Fiscal Note: 41-20. (1) Victim/Witness Services Restricted Revenue Account within the General Fund; (2) Implementing Year 2006-07 is \$52,000; (3) 1st Succeeding Year 2007-08 is \$54,000; 2nd Succeeding Year 2008-09 is \$56,000; 3rd Succeeding Year 2009-10 is \$58,000; 4th Succeeding Year 2010-11 is \$59,000; 5th Succeeding Year 2011-12 is \$61,000; (4) 2005-06 Program—\$6,804,158; 2004-05 Program—\$6,817,846; 2003-04 Program—\$5,981,737; (7) Victim/Witness Services; (8) recommends adoption.

Annex A

TITLE 37. LAW

PART XI. OFFICE OF THE VICTIM ADVOCATE

CHAPTER 801. (Reserved)

§§ 801.1—801.3. (Reserved).

§§ 801.11—801.17. (Reserved).

§§ 801.21—801.23. (Reserved).

§§ 801.31—801.33. (Reserved).

CHAPTER 802. THE DOMESTIC AND SEXUAL VIOLENCE ADDRESS CONFIDENTIALITY PROGRAM

GENERAL PROVISIONS

Sec.	
802.1.	Scope.
802.2.	Definitions.
802.3.	Persons eligible for participation.

PROGRAM

802.11.	Application.
802.12.	Certification.
802.13.	Use of substitute address.
802.14.	Marriage licenses.
802.15.	Certificate of vehicle title, security interest in vehicle, vehicle registration and driver's license.
802.16.	ACP participant responsibility.
802.17.	Cancellation, expiration and voluntary withdrawal.

ADDRESS

802.21.	Agency of use of substitute address.
802.22.	ACP records and release of information.
802.23.	Disclosure of actual address.

WAIVER

802.31.	Agency request for waiver.
802.32.	Waiver review.
802.33.	Waiver appeal process.

GENERAL PROVISIONS

§ 802.1. Scope.

This chapter sets forth standards and procedures relating to participation in the ACP on or after June 1, 2005, as well as waiver requests from entities that have an interest in obtaining an ACP participant's actual address.

§ 802.2. Definitions.

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

ACP—The Domestic and Sexual Violence Victim Address Confidentiality Program (see 23 Pa.C.S. § 6703 (relating to Address Confidentiality Program)).

ACP authorization card—A card issued by the OVA under § 802.12 (relating to certification).

ACP code—An identifying number unique to each ACP participant.

Act—The Domestic and Sexual Violence Victim Address Confidentiality Act (23 Pa.C.S. §§ 6701—6713).

Agent for service of process—Third party agent for the formal delivery of a writ, summons or other legal process.

Cohabitant—A person who is a member of the same household as an ACP participant who is certified by the OVA to participate in ACP.

OVA—The Office of the Victim Advocate.

Victim service provider—A State or local agency that provides services to victims of domestic violence, sexual assault or other crimes.

(b) The definitions in section 6702 of the act (23 Pa.C.S. § 6702) (relating to definitions) are incorporated by reference.

§ 802.3. Persons eligible for participation.

(a) Except as otherwise provided in the act, the following persons are eligible for participation:

- (1) Victims of domestic violence.
- (2) Victims of sexual assault.
- (3) Victims of stalking.
- (4) A minor child who is a member of the same household as an ACP participant.
- (5) An adult who is a cohabitant of an ACP participant.
- (6) An ACP participant who notifies OVA of the ACP participant's intent to continue participation prior to expiration of the 3-year ACP certification period.

(b) An adult who is a cohabitant of an ACP participant shall apply separately for participation.

(c) Minor children who are enrolled with an adult ACP participant are required to apply separately upon reaching 18 years of age.

(d) Commonwealth residency is not a requirement for ACP participation. ACP applicants who do not provide a Commonwealth residential address will be enrolled as a "Non-PA Resident." This designation will appear on the ACP participant's ACP authorization card.

PROGRAM

§ 802.11. Application.

(a) An application may be filed by any eligible person on the form provided by OVA.

(1) An eligible ACP participant may apply, in person, at a victim service provider.

(2) The role of the victim service provider is to:

- (i) Assist the eligible person in determining whether ACP should be part of the person's overall safety plan.
- (ii) Explain ACP services and limitations.
- (iii) Explain ACP participants' responsibilities.
- (iv) Assist the person eligible for participation with the completion of application materials.

(b) The completed application must include the following:

(1) An affidavit from the applicant describing, in detail, a perpetrator's violent actions or threatened violent actions, or course of stalking conduct and describing, in detail, the applicant's fear of future violent acts of abuse, sexual assault or stalking, or all, by the perpetrator.

(2) Designation of the OVA as the applicant's agent for service of process.

(3) An applicant's mailing address to which mail can be forwarded by the OVA.

(4) An applicant's actual address and telephone number, if different from the applicant's mailing address.

(5) A listing of minor children residing at the actual address, each minor child's date of birth and each minor child's relationship to the applicant.

(6) When applicable, a listing of all pending civil and criminal proceedings, including, but not limited to, domestic relations, family court, child custody or Protection From Abuse proceedings, in which the applicant or minor child is a victim, witness, plaintiff or defendant.

(7) When applicable, an explanation of the applicant's probation or parole supervision requirements (Federal, State or county) as well as the name and phone number of the applicant's probation or parole officer.

(8) A signed statement affirming that information provided on the ACP application is true and acknowledging the applicant's duty to notify OVA of any change in information provided on the application.

(9) The date and signature of the applicant and the signature of any person who assisted in the preparation of the application.

(c) Completed applications shall be submitted to the ACP substitute address by mail. Applications submitted by means of facsimile or electronic mail will not be accepted.

(d) Application packets must contain the following completed materials:

- (1) Completed and signed ACP application form.
- (2) Criminal/civil case information.
- (3) Affidavit.
- (4) Signed ACP authorization card.

(e) Upon receipt, OVA will determine if the applicant meets the prescribed criteria for eligibility for enrollment in ACP in accordance with 23 Pa.C.S. § 6704 (relating to persons eligible to apply), which is incorporated by reference.

(f) For purposes of ACP, residents of temporary housing (30 days or less), such as emergency domestic violence shelter, are not eligible to enroll in ACP until a permanent, residential address is obtained, unless otherwise determined by the OVA, at the sole discretion of the OVA.

(g) OVA will contact the applicant if additional information is necessary for OVA to determine the eligibility of the applicant or minor child for participation in ACP.

§ 802.12. Certification.

(a) If OVA determines that an applicant is eligible for participation in ACP, the ACP participant is assigned a unique ACP number, known as an ACP code.

(b) ACP participant data will be entered into OVA's confidential records.

(c) An ACP authorization card is created and certified by OVA. The ACP authorization card contains the ACP participant's substitute address.

(d) Certification is valid for 3 years unless the certification is withdrawn by OVA, at the sole discretion of OVA, or canceled by the ACP participant prior to the expiration of the 3-year period.

(e) If the ACP participant is a victim, witness, plaintiff or defendant involved in an ongoing civil or criminal case, OVA will provide, upon certification, notice of the ACP participant's substitute address to appropriate court officials in which an ACP participant is a victim, witness, plaintiff or defendant. Appropriate officials may include, but not be limited to, the county district attorney, clerks of court or other agencies with prosecutorial authority.

(f) If an ACP participant who is a victim, witness, plaintiff or defendant involved in an ongoing civil or criminal case cancels, withdraws or expires from ACP participation, OVA will provide notice to any appropriate court officials previously notified.

(g) Upon certification by OVA, the ACP participant will receive the following:

(1) Notification of the ACP participant's enrollment in ACP.

(2) A completed and laminated ACP authorization card with the ACP participant's ACP code on the ACP authorization card.

(3) ACP materials advising the ACP participant how to use ACP when the ACP participant is dealing with Commonwealth and local agencies.

(h) If OVA determines, in the sole discretion of OVA, that an applicant or minor child does not meet the criteria for ACP certification, the applicant will receive notice of this decision from OVA.

§ 802.13. Use of substitute address.

(a) The substitute address shall be used in the following format on all mail sent to an ACP participant:

Participant Name, (ACP # _____)
PO Box _____
Harrisburg, PA 17105

(b) The OVA will accept only first class, registered and certified mail on behalf of an ACP participant at the substitute address.

(c) The OVA will not forward magazines, packages, articles of bulk mailing or other items of mail.

(d) The OVA may arrange, at the discretion of the OVA, to receive and forward other classes or kinds of mail at the ACP participant's expense.

(e) ACP participant mail received at OVA will be repackaged and forwarded, by means of first class mail, to the ACP participant's actual address within 3 business days of receipt at the OVA. Mail that is forwarded by OVA will use the ACP PO Box as a return address.

§ 802.14. Marriage licenses.

(a) ACP participants may use the substitute address as the ACP participant's residential address when applying for a marriage license.

(b) ACP participants residing with the ACP participant's parents may use the substitute address as the ACP participant's residential address when applying for a marriage license.

(c) Adult children of an ACP participant may use the substitute address as the ACP participant's residential address when applying for a marriage license.

§ 802.15. Certificate of vehicle title, security interest in vehicle, vehicle registration and driver's license.

(a) ACP participants may use the substitute address as the ACP participant's actual address when applying to the Department of Transportation (PennDOT) for the following:

(1) A vehicle certificate of title.

(2) A perfection of a security interest in a vehicle.

(3) Vehicle registration, including the process of self-certification of financial responsibility.

(4) Applying for or renewing a Commonwealth driver's license or a PennDOT identification card.

(b) ACP participants are responsible for any fee associated with the issuance of an updated Commonwealth driver's license or identification card.

(c) ACP participants shall utilize a centralized address provided by PennDOT when applying for or renewing a Commonwealth driver's license or a PennDOT identification card.

§ 802.16. ACP participant responsibility.

ACP participants shall:

(1) Notify OVA of any change in the information provided to OVA during the ACP certification procedure.

(2) Provide the ACP participant's actual address to OVA but can opt to receive mail forwarded by OVA at an alternative address.

(3) Accept all mail forwarded to them by OVA.

(4) Designate OVA as the ACP participant's legal agent for service of process and maintain responsibility for all legal documents received by OVA on behalf of the ACP participant.

(5) Present the ACP participant's ACP authorization card to Commonwealth and local government agencies to receive ACP privileges.

(6) Notify OVA of any name change or change of actual address within 5 calendar days of the date that the change occurs.

§ 802.17. Cancellation, expiration and voluntary withdrawal.

(a) ACP participation will expire 3 years after the date of ACP certification. The date of expiration will be indicated on the ACP authorization card.

(b) At least 60 days prior to the expiration of certification, OVA will send written notification to the ACP participant's actual address to afford the ACP participant the option of continuing the ACP participant's ACP certification.

(c) ACP participants may voluntarily withdraw from ACP at any time by advising OVA in writing of the ACP participant's intent to withdraw. OVA will verify, to the extent possible, the accuracy of the request to ensure that the ACP participant is making the request knowingly and voluntarily.

(d) The OVA may, in its sole discretion, cancel an ACP participant's certification if the following occurs:

(1) The ACP participant provides false information on any part of the ACP application.

(2) The ACP participant fails to notify OVA of a change of name or change of address within 5 calendar days of the date that the change occurred.

(3) The ACP participant's mail is returned to OVA as nondeliverable.

(e) Mail that is returned to OVA as nondeliverable will be retained for 5 business days before being returned to the sender as nondeliverable.

(f) ACP participants whose participation is canceled, withdrawn or expires may reapply for participation in ACP.

ADDRESS

§ 802.21. Agency of use of substitute address.

(a) Commonwealth and local government agencies will accept the substitute address indicated on an ACP participant's ACP authorization card whenever the ACP participant's actual address is required except as set forth in 23 Pa.C.S. § 6707(2) (relating to agency use of designated address), which is incorporated by reference.

(b) The substitute address shall be in the following format on all mail sent to the ACP participant by a Commonwealth or local government agency:

Jane Doe, (ACP # _____)
 PO Box _____
 Harrisburg, PA 17105

(c) Commonwealth and local government agencies may not require an ACP participant to disclose the ACP participant's actual address.

(d) Commonwealth and local government agencies may contact OVA during regular business hours to verify a person's participation in ACP and the substitute address.

§ 802.22. ACP records and release of information.

(a) Records regarding ACP applicants and participants are the property of OVA. This includes, but is not limited to, the following records:

- (1) ACP applications.
- (2) Actual residential, work or school, or both, addresses of ACP participant.
- (3) Records related to Commonwealth or local government agencies' requests for waiver.

(b) OVA will verify the enrollment status of an ACP participant to Commonwealth and local government agencies. No other information regarding ACP participants will be released to any entities or persons except as provided in this section and § 802.23 (relating to disclosure of actual address) or as permitted and agreed to by the ACP participant in writing.

§ 802.23. Disclosure of actual address.

(a) OVA will disclose the actual address of an ACP participant in accordance with 23 Pa.C.S. § 6708 (relating to disclosure of actual address), which is incorporated by reference.

(b) Government agencies may request emergency disclosure of an ACP participant's actual address by contacting the phone number established by the OVA.

(c) For government agencies making requests for emergency disclosure, the requirements are contained in 23 Pa.C.S. § 6710(c) (relating to emergency disclosure), which are incorporated by reference.

(d) The OVA will disclose an ACP participant's actual address in accordance with 23 Pa.C.S. § 6710(b), which is incorporated by reference.

(e) Determinations regarding the emergency disclosure of an ACP participant's actual address will be made solely at the discretion of the Victim Advocate or the designee of the Victim Advocate.

WAIVER

§ 802.31. Agency request for waiver.

(a) A Commonwealth or local government agency requesting disclosure of an ACP participant's actual address will provide OVA with the information set forth in 23 Pa.C.S. § 6709(a) (relating to waiver process), which is incorporated by reference, and specify in the written statement what persons shall have access to the actual address information, where the actual address information shall be maintained and how the actual address information shall be maintained.

(b) The completed request for a waiver shall be sent to OVA by means of certified mail.

(c) Upon receipt of an agency waiver request, OVA will contact the ACP participant in accordance with 23 Pa.C.S. § 6709(b), which is incorporated by reference.

(d) Whenever possible, the ACP participant may be given the opportunity to be heard by the Victim Advocate or Victim Advocate's designee regarding the waiver request. Notice and the opportunity to be heard regarding disclosure of an ACP participant's actual address may not be provided to an ACP participant if the requirements of 23 Pa.C.S. § 6709(b)(3) are met, which are incorporated by reference.

(e) The OVA may grant the waiver request of Commonwealth and local government agencies if the ACP participant provides written consent to OVA to disclose the ACP participant's actual address.

§ 802.32. Waiver review.

(a) Promptly after receiving a complete waiver request as set forth in § 802.31 (relating to agency request for waiver) from a Commonwealth or local government agency, the OVA will review the request and determine whether to grant or deny the waiver request.

(b) The OVA may require additional information during the review of the waiver request, and the request for information will toll the waiver review process until the Commonwealth or local government agency complies with OVA's request for additional information.

(c) The OVA will grant a request for waiver from a Commonwealth or local government agency in accordance with 23 Pa.C.S. § 6709(d) (relating to waiver process), which is incorporated by reference.

(d) When the OVA grants a waiver to a Commonwealth or local government agency, OVA will provide, in writing, to the requesting agency the following:

- (1) The ACP participant's actual address.
- (2) A description of the scope of permitted use of the ACP participant's actual address.
- (3) A listing of the names or classes of persons permitted to have access to and use of the actual address.

(4) An explanation that the agency receiving the actual address is required to limit access to and use of the actual address.

(5) When the permitted use of the actual address is only for a set period of time, OVA will provide a date that the granted waiver expires. Upon reaching the expiration date, the agency which obtained a waiver will be required to no longer maintain, use or have access to the ACP participant's actual address and shall delete all references to the ACP participant's actual address from all of its files.

(e) A Commonwealth or local government agency receiving a waiver by the OVA shall comply with 23 Pa.C.S. § 6709(f), which is incorporated by reference.

§ 802.33. Waiver appeal process.

(a) When the OVA denies a request for a waiver, the Commonwealth or local government agency requesting the waiver will be notified of the refusal, in writing, by the OVA and provided the reasons for denial of the waiver.

(b) Within 15 calendar days of receiving written notice of the waiver denial, the Commonwealth or local government agency may file a written exception with the OVA. The exception must:

(1) Attach a copy of the letter from OVA denying the original waiver request.

(2) State the reason that and the grounds upon which the original waiver request should be granted.

(3) Specifically respond to the reasons stated by the OVA for denying the original waiver request.

(c) The filing of an exception to the OVA shall be submitted by means of certified mail and the date of actual delivery to the OVA controls for purposes of time calculations.

(d) If a Commonwealth or local government agency timely files exceptions, the OVA will review the exception request in accordance with 23 Pa.C.S. § 6709(i) (relating to waiver process), which is incorporated by reference.

(e) A Commonwealth or local government agency may appeal the final determination of the OVA in accordance with 23 Pa.C.S. § 6709(j), which is incorporated by reference.

[Pa.B. Doc. No. 07-969. Filed for public inspection June 1, 2007, 9:00 a.m.]

STATEMENTS OF POLICY

Title 37—LAW

JUVENILE COURT JUDGES' COMMISSION

[37 PA. CODE CH. 200]

Standards Governing the Assignment of Community Service in Juvenile Delinquency Cases

The Juvenile Court Judges' Commission (Commission) rescinds Chapter 200, Subchapter D and adopts Chapter 200, Subchapter J (relating to standards governing the assignment of community service in juvenile delinquency cases) to read as set forth in Annex A.

Authority

This statement of policy is promulgated under the authority of section 4 of the act of December 21, 1959 (11 P. S. § 270-4).

Purpose and Requirements

Chapter 200, Subchapter D is rescinded because the recommended practices in this subchapter are now addressed by Rules of Juvenile Court Procedure that have been adopted by the Pennsylvania Supreme Court. See 237 Pa. Code (relating to juvenile rules).

This statement of policy is intended to provide guidance to president judges of courts of common pleas regarding the assignment of community service in juvenile delinquency cases under 42 Pa.C.S. § 6352(a)(6) (relating to disposition of delinquent child), which gives juvenile courts the authority to order participation in a constructive program of service by a child.

Affected Parties

This statement of policy affects president judges of courts of common pleas in this Commonwealth.

Cost and Paperwork Estimates

Although advisory in nature, this statement of policy recommends the development of written guidelines that may not currently exist in all jurisdictions.

Effective Date

This statement of policy will become effective upon publication in the *Pennsylvania Bulletin*.

Contact Person

For further information regarding this statement of policy, contact Lisa J. Freese, Director of Policy and Program Development, Juvenile Court Judges' Commission, 401 Finance Building, Harrisburg, PA 17120-0018, (717) 705-9003.

Findings

The Commission finds that this statement of policy is necessary for the effective assignment of community service in juvenile delinquency cases.

The Commission further finds that Chapter 200, Subchapter D is no longer necessary to ensure effective procedure in juvenile delinquency hearings.

Order

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

(a) The regulations of the Commission, 37 Pa. Code Chapter 200, are amended by deleting §§ 200.301—

200.308, 200.321—200.327 and 200.341—200.348 and by adding §§ 200.901—200.903 to read as set forth in Annex A.

(b) The Executive Director of the Commission will certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(c) The order shall take effect upon publication in the *Pennsylvania Bulletin*.

JAMES E. ANDERSON,
Executive Director

Fiscal Note: 23-8. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 37. LAW

PART III. AGENCIES AND OFFICES

Subpart N. JUVENILE COURT JUDGES' COMMISSION

CHAPTER 200. JUVENILE COURT JUDGES' COMMISSION

Subchapter D. (Reserved)

§§ 200.301—200.308. (Reserved).

§§ 200.321—200.327. (Reserved).

§§ 200.341—200.348. (Reserved).

Subchapter J. STANDARDS GOVERNING THE ASSIGNMENT OF COMMUNITY SERVICE IN JUVENILE DELINQUENCY CASES

Sec.

200.901. Definitions.

200.902. Written guidelines.

200.903. Elements of written guidelines.

§ 200.901. Definitions.

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

Community service—A specific number of work or service hours, or a task that a juvenile is ordered by the court to perform, or agrees to perform, as a condition of an informal adjustment, consent decree or probation disposition following an adjudication of delinquency.

(i) Community service is intended to be symbolic reparation for the harm that a juvenile's actions have caused a specific crime victim or the community, or both, that is integral to a juvenile delinquency case disposition which provides balanced attention to the protection of the community, the imposition of accountability for offenses committed, and the development of competencies to enable the juvenile to become a responsible and productive member of the community.

(ii) Community service enables juveniles to develop valuable skills and positive work habits, and is normally performed in association with a civic or nonprofit organization.

(iii) Whenever possible, community service should provide tangible benefits to the community, the crime victim and the juvenile.

§ 200.902. Written guidelines.

The president judge of the court of common pleas shall promulgate written guidelines governing the assignment

of community service as a condition of supervision for juveniles who have been alleged or found to be delinquent.

§ 200.903. Elements of written guidelines.

The written guidelines governing the assignment of community service as a condition of supervision for juveniles who have been alleged or found to be delinquent must, at a minimum, include the following elements:

(1) A policy regarding the purpose, eligibility criteria, and the appropriate amount of community service required as a condition of an informal adjustment, consent decree, or probation disposition following an adjudication of delinquency that considers:

(i) The juvenile's age, mental capacity and physical capability.

(ii) The nature, grading and location of the offense.

(iii) The impact that the offense has had upon the victim and community.

(iv) Any verbal or written victim impact statement that is received, which may include a recommendation for community service from the victim.

(v) The hours the juvenile is available to perform community service.

(vi) The times of day that community service can be performed at a particular site.

(vii) How community service will benefit the community in which it is being performed.

(viii) The juvenile's strengths and interests and how the juvenile is likely to benefit from the community service experience.

(ix) The assignment of community service to juveniles is consistent with sections 1—24.1 of the Child Labor Law (43 P. S. §§ 41—66.1).

(x) The specific amount of community service to be performed by the juvenile is assigned at disposition.

(2) A strategy for community service site recruitment, selection and retention which includes the opportunity for input by crime victims and the community-at-large.

(3) A policy describing the referral process for community service assignments.

(4) A policy requiring that juveniles assigned to complete community service are kept separate from adults who are performing community service.

(5) A policy requiring communication with the community service site supervisor and periodic visits to the community service site.

(6) A policy regarding procedures to address noncompliance with community service obligations.

(7) A policy that provides the opportunity for a juvenile's crime victim to be notified when community service has been completed by the juvenile.

(8) A strategy for the dissemination of information to the public regarding the community service program.

(9) A policy outlining any accident or liability insurance coverage associated with the community service program.

(10) A policy requiring an annual report, including individual and aggregate data on the amount of community service assigned and performed.

[Pa.B. Doc. No. 07-970. Filed for public inspection June 1, 2007, 9:00 a.m.]

NOTICES

DEPARTMENT OF AGRICULTURE

Vegetable Marketing and Research Program Referendum

Under 3 Pa.C.S. §§ 4501—4513 (relating to Agricultural Commodities Marketing Act), an assessment-related referendum was held from March 26 to April 9, 2007, to determine if the producers affected by the Pennsylvania Vegetable Marketing and Research Program (Program) desired to increase the program's assessment rate as described in the original ballot mailing to producers. To pass, a majority of eligible producers voting had to vote in favor of the increased rate and the representative acreage must be in the majority as well. An impartial Teller Committee met on April 13, 2007, to count the ballots. The following results were submitted by the Teller Com-

mittee: a total of 397 eligible votes were cast with 239 producers voting in favor of, and 158 producers voting against, the program's assessment rate increase. An additional three ballots were invalid because they were either incomplete or ineligible due to the acreage requirement. Eligible producers voting in favor of the Program's increased assessment rate represented 60.2% of the votes and 62.7% of production acreage. Producers voting against the assessment rate increase represented 39.8% of the votes and 37.3% of production acreage. Because a majority of the votes and represented acreage were cast in favor of the referendum, the Program assessment rate increase shall become effective immediately.

DENNIS C WOLFF,
Secretary

[Pa.B. Doc. No. 07-971. Filed for public inspection June 1, 2007, 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 9, 2002 (P. L. 1572, No. 207), known as the Credit Union Code, has taken the following action on applications received for the week ending May 22, 2007.

BANKING INSTITUTIONS

Branch Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
5-16-07	Marquette Savings Bank Erie Erie County	1073 Park Avenue Meadville Crawford County	Approved

Branch Relocations

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
5-14-07	The Fidelity Deposit and Discount Bank Dunmore Lackawanna County	<i>To:</i> Corner of Green Ridge Street and Ross Avenue Scranton Lackawanna County <i>From:</i> Greenridge Plaza Scranton Lackawanna County	Effective
5-16-07	Republic First Bank Philadelphia Philadelphia County	<i>To:</i> 421 West Germantown Pike Plymouth Meeting Montgomery County <i>From:</i> 75 West Germantown Pike East Norriton Montgomery County	Filed

SAVINGS INSTITUTIONS

No activity.

CREDIT UNIONS

No activity.

The Department's website at www.banking.state.pa.us includes public notices for more recently filed applications.

VICTORIA A. REIDER,
Acting Secretary

[Pa.B. Doc. No. 07-972. Filed for public inspection June 1, 2007, 9:00 a.m.]

DEPARTMENT OF EDUCATION

21st Century Community Learning Center Request for Application for 2007-2010; Announcement

The Department of Education (Department), Bureau of Community and Student Services, announces the availability of Federal grant funding for Fiscal Years (FY) 2007-2010 for 21st Century Community Learning Center (21st CCLC) and the release of Cohort 4, Request for Applications (RFA).

The 21st CCLC Program provides Federal funding for the establishment of community learning centers that provide academic, artistic and cultural enrichment opportunities for children, particularly students who attend high-poverty and low-performing schools, to meet State and local standards in core academic subjects; to offer students a broad array of activities that can complement their regular academic programs and to offer literacy and other educational services to the families of participating children. Grantees must provide academic enrichment activities to students when school is not in session (before school, after school and/or during holidays or summer recess) and help them meet state and local standards in core content areas such as reading, math and science.

Centers may also offer participants a broad array of other services and programs, including art, music, character education, service learning, recreation activities and technology education. Ancillary services for adult family members, such as literacy instruction, may also be given.

Contracts with successful applicants will be issued for a 3-year period beginning October 1, 2007, with the possibility of continuation for an additional 2-year period. The minimum grant award is \$50,000 per year.

Eligible Applicants: Federal law mandates per section 4203(a)(3) that any public or private organization may apply for CCLC funding if it proposes to serve: (1) students who primarily attend; (a) schools eligible for school wide programs under Title I, section 1114 of the No Child Left Behind Act; or (b) schools that serve a high percentage of students (at least 40%) from low-income families; and (2) the families of students described in item (1).

Application Information: Detailed information outlining grant terms and conditions, pertinent regulations and the application process is contained in the 21st CCLC RFA FY 2007-2010 document, which may be secured by these methods:

- Online at the Department's website at www.pde.state.pa.us/21stcccl.

- Email request: Susan D'Annunzio at sdannunzio@state.pa.us, Deb Klabe at dklabe@state.pa.us or Jackie LaPlaca at jlaplaca@state.pa.us.

- Telephone questions will be accepted at (717) 783-6466 or TTY (717) 783-8445.

Applications must be received by 4 p.m. on Friday, June 29, 2007, at the Bureau of Community and Student Services, 333 Market Street, 5th Floor, Harrisburg, PA 17126-0333. Applications submitted after that time will be ineligible for consideration, as will be faxed or emailed applications. Mail original and five copies of application to Deana Zerby, 21st Century Community Learning Centers Program, Department of Education, 333 Market Street, 5th Floor, Harrisburg, PA 17126-0333.

Grant Award Selection and Notification: The Department has developed a competitive application and peer review process that ensures that awards are made through an open and fair grant award process. Notice of funding availability will be disseminated through publication in the *Pennsylvania Bulletin*; the Department website; direct notification of all local educational agencies through Penn LINK and email to interested parties who have contacted Department in the past 2 years.

Preproposal Conferences: The Department will conduct one preproposal workshop in Camp Hill on Wednesday, May 30, 2007, and one Elluminate® Webinar on Tuesday, June 5, 2007, where attendees will be provided information about the goals and priorities of the 21st CCLC Program, application procedures, evaluation criteria and technical assistance and resource information about high-quality programming and related State and Federal requirements.

The Camp Hill workshop will be held on Wednesday, May 30, 2007, from 9:30 a.m. to 12:15 p.m. at the Radisson Penn Harris Hotel, 1150 Camp Hill Bypass, Camp Hill, PA 17011 with registration from 8:30 a.m. to 9:30 a.m. The workshop will begin promptly at 9:30 a.m. Responses to questions asked at the preproposal workshops will be posted on the Department's website www.pde.state.pa.us/21stcccl. The Elluminate® session will be held on Tuesday, June 5, 2007, from 10:30 a.m. to 1:30 p.m. Registration will be limited to the first 100 who register.

Registration for both workshops will open on Monday, May 21, 2007. Please register for either the Radisson Penn Harris workshop or the Elluminate® workshop at www.21stcccl.org/cohort4_information_sessions.php.

GERALD L. ZAHORCHAK, D. Ed.,
Secretary

[Pa.B. Doc. No. 07-973. Filed for public inspection June 1, 2007, 9:00 a.m.]

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Applications, Actions and Special Notices

APPLICATIONS

THE CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT

APPLICATIONS FOR NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS AND WATER QUALITY MANAGEMENT (WQM) PERMITS

This notice provides information about persons who have applied for a new, amended or renewed NPDES or WQM permit, a permit waiver for certain stormwater discharges or submitted a Notice of Intent (NOI) for coverage under a general permit. The applications concern, but are not limited to, discharges related to industrial, animal or sewage waste, discharges to groundwater, discharges associated with municipal separate storm sewer systems (MS4), stormwater associated with construction activities or concentrated animal feeding operations (CAFOs). This notice is provided in accordance with 25 Pa. Code Chapters 91 and 92 and 40 CFR Part 122, implementing The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and the Federal Clean Water Act.

<i>Location</i>	<i>Permit Authority</i>	<i>Application Type or Category</i>
Section I	NPDES	Renewals
Section II	NPDES	New or amendment
Section III	WQM	Industrial, sewage or animal waste; discharge into groundwater
Section IV	NPDES	MS4 individual permit
Section V	NPDES	MS4 permit waiver
Section VI	NPDES	Individual permit stormwater construction
Section VII	NPDES	NOI for coverage under NPDES general permits

For NPDES renewal applications in Section I, the Department of Environmental Protection (Department) has made a tentative determination to reissue these permits for 5 years subject to effluent limitations and monitoring and reporting requirements in their current permits, with appropriate and necessary updated requirements to reflect new and changed regulations and other requirements.

For applications for new NPDES permits and renewal applications with major changes in Section II, as well as applications for MS4 individual permits and individual stormwater construction permits in Sections IV and VI, the Department, based upon preliminary reviews, has made a tentative determination of proposed effluent limitations and other terms and conditions for the permit applications. These determinations are published as proposed actions for comments prior to taking final actions.

Unless indicated otherwise, the EPA Region III Administrator has waived the right to review or object to proposed NPDES permit actions under the waiver provision in 40 CFR 123.24(d).

Persons wishing to comment on an NPDES application are invited to submit a statement to the regional office noted before an application within 30 days from the date of this public notice. Persons wishing to comment on a WQM permit application are invited to submit a statement to the regional office noted before the application within 15 days from the date of this public notice. Comments received within the respective comment periods will be considered in the final determinations regarding the applications. 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 will also accept requests for a public hearing on applications. A public hearing may be held if the responsible office considers the public response significant. If a hearing is scheduled, a notice of the hearing will be published in the *Pennsylvania Bulletin* and a newspaper of general circulation within the relevant geographical area. The Department will postpone its final determination until after a public hearing is held.

Persons with a disability who require an auxiliary aid, service, including TDD users, or other accommodations to seek additional information should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

I. NPDES Renewal Applications

Northeast Region: 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>
PA0062863	Pike County Commissioners Administrative Offices 506 Broad Street Milford, PA 18337	Blooming Grove Township Pike County	Billings Creek 1D	Y
PA0020206	Bath Borough Authority 160 Mill Street P. O. Box 87 Bath, PA 18014	Northampton County Bath Borough	Monocacy Creek 2C	Y

II. Applications for New or Expanded Facility Permits, Renewal of Major Permits and EPA Nonwaived Permit Applications

Southeast Region: Water Management Program Manager, 2 East Main Street, Norristown, PA 19401.

PA0057029, Industrial Waste, **Hewlett Packard Company**, 10375 Park Meadows Drive, Suite 150, Littleton, CO 80124. This existing facility is located in New Garden Township, **Chester County**.

Description of Proposed Activity: This application is for the renewal of an NPDES permit for an existing discharge from a groundwater remediation system for Hewlett Packard Company Avondale GWCU.

The receiving stream, a UNT to Egypt Run, is in the State Water Plan Watershed 3I and is classified for: CWF, aquatic life, water supply and recreation. Egypt Run is a tributary to East Branch White Clay Creek, which flows into White Clay Creek. There are no public water supply intakes identified downstream of the discharge.

The proposed effluent limits for Outfall 001, based on an average flow of 0.144 mgd are as follows:

<i>Parameters</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Chloroform	0.006		0.012	0.015
1,1-Dichloroethylene	0.001		0.002	0.0025
1,2-Cis-Dichloroethylene	Monitor and Report	Monitor and Report		Monitor and Report
1,2-Trans-Dichloroethylene	0.7	1.4		1.75
Tetrachloroethylene	0.001		0.002	0.0025
Trichloroethylene	0.005		0.01	0.012
pH	Within limits of 6.0 to 9.0 standard units at all times			

In addition to the effluent limits, the permit contains the following major special conditions:

1. Notification of Designation of Operator.
2. Remedial Measures if Unsatisfactory Effluent.
3. Discharge to Dry/Intermittent Stream.
4. BAT/ELG Reopener.
5. Test Methods.
6. Change of Ownership.
7. Sludge Disposal Requirement.
8. Groundwater Monitoring Requirements.
9. Summary Reports Evaluating Operation.
10. No Stripper Tower Cleaning Water Discharge.

PA0051292, Industrial Waste, SIC 4941, **Municipal Authority of the Borough of Morrisville**, 35 Union Street, Morrisville, PA 19067. This proposed facility is located in Morrisville Borough, **Bucks County**.

Description of Proposed Activity: Renewal of an NPDES permit to discharge filter backwash water and settling basin supernatant into the Delaware River.

The receiving stream, the Delaware River (Zone 1E), is in the State Water Plan Watershed 2E and is classified for: WWF. The nearest downstream public water supply intake for LBCJMA Water Treatment Plant is located on the Delaware River and is 1.8 miles below the point of discharge.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.15 mgd.

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	25	40	50
Suspended Solids	30	45	60
Total Iron	2.0	3.0	4.0
Total Aluminum	4.0	6.0	8.0
pH	Within limits of 6.0 to 9.0 standard units at all times		
Total Manganese	1.0	1.5	2.0
Total Residual Chlorine	0.5		1.64

Other Conditions:

The EPA waiver is in effect.

PA0056880, IW, SIC 4941, **Lower Bucks County Joint Municipal Authority**, 7811 New Falls Road, Levittown, PA 19058-0460. This proposed facility is located in Tullytown Borough, **Bucks County**.

Description of Proposed Activity: Renewal of an NPDES permit to discharge supernatant from secondary clarifiers twice per year into the Delaware River.

The receiving stream, Delaware River (Zone 2), is in the State Water Plan Watershed 2E and is classified for: WWF. The nearest downstream public water supply intake for Bristol Borough Water Filtration Plant is located on Delaware River and is 2.5 miles below the point of discharge.

The proposed effluent limits for Outfall 003 are based on a design flow of 500 gpm.

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Total Suspended Solids	30	75
pH	Within limits of 6.0 to 9.0 standard units at all times	
Iron, Total	2.0	5.0
Aluminum, Total	4.0	10.0
Manganese, Total	1.0	2.5
TRC	0.5	1.2

The EPA waiver is in effect.

PA0026701, Sewage, SIC 4952, **Municipal Authority of the Borough of Morrisville**, 35 Union Street, Morrisville, PA 19067. This proposed facility is located in Morrisville Borough, **Bucks County**.

Description of Proposed Activity: Renewal of an NPDES permit to discharge 7.1 mgd of treated sewage into the Delaware River.

The receiving stream, the Delaware River, is in the State Water Plan Watershed 2E and is classified for: WWF. The nearest downstream public water supply intake for the Pennsylvania Water Company is located on the Delaware River and is 2.5 miles below the point of discharge.

The proposed effluent limits for Outfall 001 are based on a design flow of 7.1 mgd.

<i>Parameters</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	22	33	44
Total Suspended Solids	30	45	60
TSS % Removal	≥85%		
Ammonia as N	35		70
BOD ₅ % Removal	≥88.5%		
CBOD ₂₀	2,418 lbs/day		
Total Residual Chlorine	0.5		1.2
Fecal Coliform	200 colonies/100 ml as a geometric average		1,000
Dissolved Oxygen	Minimum of 2.0 mg/l at all times		
pH	Within limits of 6.0 to 9.0 standard units at all times		
Phosphorus	Monitor and Report		
Toxicity, Acute (TUA)	Monitor and Report		
Toxicity, Chronic (TUC)	Monitor and Report		
Copper, Total	Monitor and Report		
Polychlorinated Biphenyls, Total (PCBs)	Monitor and Report		

In addition to the effluent limits, the permit contains the following major special conditions:

1. Conditions for Future Permit Modification.
2. Effective Disinfection.
3. 85% Reduction of Total Suspended Solids per DRBC Requirements.
4. 88.5% Reduction of BOD₅, per DRBC Requirements.
5. TMDL/WLA Analysis.
6. Whole Effluent Toxicity Testing.

The EPA waiver is not in effect.

Northeast Region: Water Management Program Manager; 2 Public Square, Wilkes-Barre, PA 18711-0790.

PA0060054, Sewage, **Mount Airy No. 1, LCC**, 299 Main Street—Sturges, Olyphant, PA 18447-2319. This proposed facility is located in Paradise Township, **Monroe County**.

Description of Proposed Activity: Renewal of NPDES permit to discharge 0.22 mgd of treated sewage.

The receiving stream, Forest Hills Run, is in the State Water Plan Watershed No. 1E and is classified for: HQ-CWF. The nearest downstream public water supply intake for East Stroudsburg is located on the Delaware River below the point of discharge.

The proposed effluent limits for Outfall 001 based on a design flow of 0.220 mgd.

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	25		50
Total Suspended Solids	30		60
NH ₃ -N			
(5-1 to 10-31)	3.0		6.0
(11-1 to 4-30)	9.0		18.0
Phosphorus as "P"	A minimum of 6.0 mg/l at all times.		
Dissolved Oxygen	A minimum of 6.0 mg/l at all times.		
Fecal Coliform	A minimum of 6.0 mg/l at all times.		
(5-1 to 9-30)	200/100 ml as a geometric mean		
(10-1 to 4-30)	2,000/100 ml as a geometric mean		
pH	6.0 to 9.0 standard units at all times.		
Total Residual Chlorine	1.0		2.0
Total Dissolved Solids	1,000		2,000

Southwest Regional Office: Regional Manager, Water Management, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, (412) 442-4000.

PA0204153, Industrial Waste, SIC 4911, **Cambria Cogen Company**, 243 Rubisch Road, Ebensburg, PA 15931. This application is for renewal of an NPDES permit to discharge treated process water, cooling water, stormwater, untreated stormwater and pump recycle water from the Cambria Cogen Facility in Cambria Township, **Cambria County**.

The following effluent limitations are proposed for discharge to the receiving waters, Little Conemaugh River, classified as a CWF with existing and/or potential uses for aquatic life, water supply and recreation. The first existing/proposed downstream potable water supply (PWS) is Buffalo Township Municipal Authority, Freeport located 100 miles below the discharge point.

Outfall 101: existing discharge, design flow of 0.154 mgd.

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow (mgd)	Monitor and Report				
Total Suspended Solids			30	100	
Oil and Grease			15	20	
Chromium			0.2	0.2	
Zinc			1.0	1.0	
Temperature (° F)					110
Free Available Chlorine			0.2		0.5
Total Residual Chlorine			0.5		1.25
pH	not less than 6.0 nor greater than 9.0				

Other Conditions: Part C permit conditions concerning priority pollutants, residual waste disposal, total residual and free available chlorine, PCBs, chemical additives and stormwater.

The EPA waiver is in effect.

Outfall 001: existing discharge, design flow of 0.154 mgd.

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
The discharge from this outfall shall consist of sources monitored at Internal Monitoring Point 101.					

Outfall 002: existing discharge.

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
This outfall shall discharge raw water (pump recycle water) from Wilmore Dam.					

Outfall 003: existing discharge of stormwater.

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Chemical Oxygen Demand					Monitor and Report
Total Suspended Solids					Monitor and Report

PA0218863, Industrial Waste, SIC 4911, **Duke Energy Ohio, Inc.**, 139 East 4th Street, Cincinnati, OH 45202. This application is for renewal of an NPDES permit to discharge treated process water, cooling water and stormwater from the Fayette Energy Facility in German Township, **Fayette County**.

The following effluent limitations are proposed for discharge to the receiving waters, Monongahela River (001) and UNT 41154 (002), classified as a WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first existing/proposed downstream potable water supply (PWS) is Carmichaels Municipal Authority, located below Nemaocolin 3.1 miles below the discharge point.

Outfall 001: existing discharge, design flow of 0.67 mgd.

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow (mgd)	Monitor and Report				
Total Suspended Solids	Monitor and Report				
Temperature (° F)	110				
Total Residual Chlorine	0.5			1.0	
Oil and Grease	Monitor and Report				
pH	not less than 6.0 nor greater than 9.0				

Other Conditions: Part C permit conditions concerning residual waste, floating material, temperature control, total residual and free available chlorine, PCBs, chemical additives, priority pollutants and stormwater.

The EPA waiver is in effect.

Outfall 101: existing discharge, design flow of 0.639 mgd.

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow (mgd)	Monitor and Report				
Total Suspended Solids	30				
Oil and Grease	15				
Chromium	0.2				
Zinc	1.0				
Free Available Chlorine	0.2				
pH	not less than 6.0 nor greater than 9.0				

Outfall 201: existing discharge, design flow of 0.022 mgd.

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow (mgd)	Monitor and Report				
Oil and Grease	15				
Total Suspended Solids	30				
pH	not less than 6.0 nor greater than 9.0				

Outfall 301: existing discharge, design flow of 0.009 mgd.

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow (mgd)	Monitor and Report				
Oil and Grease	15				
Total Suspended Solids	30				
pH	not less than 6.0 nor greater than 9.0				

Outfall 002: existing discharge of stormwater.

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow (mgd)	Monitor and Report				
Total Residual Chlorine	Monitor and Report		Monitor and Report		

PA0092355-A1, Sewage, **Municipal Authority of the Borough of Belle Vernon**, P. O. Box 181, 10 Main Street, Belle Vernon, PA 15012. This application is for amendment of an NPDES permit to discharge treated sewage from Belle Vernon-North Belle Vernon WPCP in Belle Vernon Borough, **Fayette County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Monongahela River, which are classified as a WWF 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 Charleroi Borough Water Authority.

Outfall 001: existing discharge, design flow of 0.5 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD ₅	25	38		50
Suspended Solids	30	45		60
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	0.5			1.6
pH	not less than 6.0 nor greater than 9.0			

Other Conditions: The following effluent limitations will apply if/when the treatment plant is expanded to a flow of 0.95 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD ₅	25	38		50
Suspended Solids	30	45		60
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	0.5			1.6
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

PA0253472, Sewage, **Hanover Township Sewer Authority**, 116 Steubenville Pike, Paris, PA 15021. This application is for issuance of an NPDES permit to discharge treated sewage from the proposed Bavington STP in Hanover Township, **Washington County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Raccoon Creek, which are classified as a WWF 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 Midland Water Authority.

Outfall 001: new discharge, design flow of 0.18 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD ₅	25	38		50
Suspended Solids	30	45		60
Ammonia Nitrogen (5-1 to 10-31)	18.0	27.0		36.0
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			
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.

PA0240010, Sewage, **Paul L. and Catherine P. LaBrie**, 112 Wetmore Trail, Kane, PA 16735. This proposed facility is located in Hamilton Township, **McKean County**.

Description of Proposed Activity: discharge of treated sewage from a Nonmunicipal STP.

The receiving water is the UNT to Two Mile Run. The receiving stream is in State Water Plan 16-F and is classified for the following uses: HQ-CWF, aquatic life, water supply and recreation. The nearest downstream potable water supply is the Emlenton Water Company which is located approximately 93 miles downstream on the Allegheny River.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.0004 mgd.

Parameter	Concentrations		
	Average Monthly (mg/l)	Average Weekly (mg/l)	Instantaneous Maximum (mg/l)
Flow	XX		
CBOD ₅	10		20

<i>Parameter</i>	<i>Concentrations</i>		
	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Total Suspended Solids	20		40
**Total Residual Chlorine	XX		
**Fecal Coliform		200/100 ml as a geometric average	
pH		6.0 to 9.0 standard units at all times	

XX—Monitor and report.

**—Data to be recorded on the Annual Maintenance Report.

The EPA waiver is in effect.

PA0238490, Sewage, **Kennedy MHP**, P. O. Box 226, Slippery Rock, PA 16057. This proposed facility is located in Marion Township, **Butler County**.

Description of Proposed Activity: New NPDES permit including the relocation of a treated minor discharge from an existing sewage treatment works.

For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride, phenolics, sulfate and chloride, the existing/proposed downstream potable water supply, considered during the evaluation is the Camp Allegheny intake located on the Slippery Rock Creek and is approximately 36 miles below point of discharge.

The receiving stream, the UNT to McMurry Run, is in Watershed 20-C and classified for: CWF, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.005 mgd.

Interim Limits (until outfall relocation)

<i>Parameter</i>	<i>Concentrations</i>		
	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow	XX		
CBOD ₅	10		20
Total Suspended Solids	10		20
NH ₃ -N			
(5-1 to 10-31)	3		6
(11-1 to 4-30)	9		18
Fecal Coliform			
(5-1 to 9-30)		200/100 ml as a geometric average	
(10-1 to 4-30)		2000/100 ml as a geometric average	
Total Residual Chlorine	1.4		3.3
pH		6.0 to 9.0 standard units at all times	

Final Limits (after outfall relocation)

<i>Parameter</i>	<i>Concentrations</i>		
	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow	XX		
CBOD ₅	25		50
Total Suspended Solids	30		60
NH ₃ -N			
(5-1 to 10-31)	8		16
(11-1 to 4-30)	24		48
Fecal Coliform			
(5-1 to 9-30)		200/100 ml as a geometric average	
(10-1 to 4-30)		2000/100 ml as a geometric average	
Total Residual Chlorine	1.4		3.3
pH		6.0 to 9.0 standard units at all times	

XX—Monitor and report on monthly DMRs.

III. WQM Industrial Waste and Sewerage Applications under The Clean Streams Law (35 P. S. §§ 691.1—691.1001)

Southeast Region: Water Management Program Manager, 2 East Main Street, Norristown, PA 19401.

WQM Permit No. 0907404, Sewerage, **Upper Southampton Sewer Authority**, 945 Street Road, P. O. Box 481, Southampton, PA 18966. This proposed facility is located in Lower Southampton Township, **Bucks County**.

Description of Action/Activity: Extension of force main 4,600 feet.

Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

WQM Permit No. 3907403, Sewerage, **Allied Utility Services, Inc.**, P. O. Box 1488, Skippack, PA 19474. This proposed facility is located in North Whitehall Township, **Lehigh County**.

Description of Proposed Action/Activity: This project consists of construction of a sewage pump station within a 55 single-family residential lot development with proposed sewage flows of 14,437 gpd with conveyance of sewage to existing Schnecksville North sewage treatment facility.

Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

WQM Permit No. 6307401, Sewerage, **Henry Berdine**, 559 Zediker Station Road, Washington, PA 15301. This proposed facility is located in South Strabane Township, **Washington County**.

Description of Proposed Action/Activity: Application for the construction and operation of a single-residence sewage treatment plant.

Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

WQM Permit No. WQG018538, Sewerage, **Paul L. and Catherine P. LaBrie**, 112 Wetmore Trail, Kane, PA 16735. This proposed facility is located in Hamilton Township, **McKean County**.

Description of Proposed Action/Activity: A Single-Residence Sewage Treatment Plant.

IV. NPDES Applications for Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)

V. Applications for NPDES Wavier Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)

VI. NPDES Individual Permit Applications for Discharges of Stormwater Associated with Construction Activities

Northeast Region: Watershed Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

Northampton County Conservation District: Greystone Building, Gracedale Complex, Nazareth, PA 18064-9211, (610) 746-1971.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI024807007	James and Sharon Carty 619 East Lawn Street Nazareth, PA 18064	Northampton	Bushkill Township	Monocacy Creek HQ-CWF
PAI024807008	Jack Muschlitz 615 Moorestown Drive Bath, PA 18014	Northampton	Wind Gap Borough	Little Bushkill Creek HQ-CWF, MF

VII. List of NOIs for NPDES and/or Other General Permit Types

PAG-12	Concentrated Animal Feeding Operations (CAFOs)
PAG-13	Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)

PUBLIC WATER SUPPLY (PWS) PERMIT

Under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17), the following parties have applied for a PWS permit to construct or substantially modify a public water system.

Persons wishing to comment on a 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 the 30-day comment period will be considered in the formulation of the final determinations regarding the application. Comments should include the name, address and telephone number of the writer and a concise statement to inform the Department of Environmental Protection (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 are available for public review. Arrangements for inspection and copying information should be made with the office listed before the application.

Persons with a disability who 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 should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

SAFE DRINKING WATER

Applications Received under the Pennsylvania Safe Drinking Water Act

Southeast Region: Water Supply Management Program Manager, 2 East Main Street, Norristown, PA 19401.

Permit No. 4607502, Public Water Supply.

Applicant **Eadeh Family Limited Partnership**
 Township Lower Providence
 County **Montgomery**
 Responsible Official Ernest C. Eadeh
 511 Old Lancaster Road
 No. 8
 Berwyn, PA 19312
 Type of Facility Public Water Supply
 Consulting Engineer Ebert Engineering, Inc.
 P. O. Box 540
 4092 Skippack Pike
 Skippack, PA 19474

Application Received Date April 25, 2007

Description of Action Permit application for the addition of activated carbon filters for VOC treatment and an ultra violet unit for disinfection.

Northeast Region: Water Supply Management Program, 2 Public Square, Wilkes-Barre, PA 18711-0790.

Application No. 5407503, Public Water Supply.

Applicant **Borough of Schuylkill Haven**
 North Manheim Township
Schuylkill County
 Responsible Official James New, Borough Manager
 Borough of Schuylkill Haven
 12 West Main Street
 Schuylkill Haven, PA 17972
 Type of Facility Community Water System
 Consulting Engineer Darryl A. Jenkins, P. E.
 Great Valley Consultants
 75 Commerce Drive
 Wyomissing, PA 19610

Application Received Date May 8, 2007

Description of Action Application for construction of a replacement booster pump station to serve the Chestnut Hill development.

Application No. 4807504, Public Water Supply.

Applicant **Pennsylvania American Water (PAW)**
 Pen Argyl and Roseto Boroughs
 Plainfield, Washington and Upper
 Mount Bethel Townships
Northampton County
 Responsible Official David Kaufman
 PAW
 800 West Hersheypark Drive
 Hershey, PA 17033
 Type of Facility PWS

Consulting Engineer Karl Shellenberger, P. E.
 Buchart-Horn, Inc.
 1200 West College Avenue
 State College, PA 16801

Application Received Date May 10, 2007

Description of Action PAW proposes the construction of the PAW Blue Mountain/Bangor Interconnect Project which includes the construction of approximately 7,400 LF of new distribution mains, a new underground booster pumping station, new raw water pump at the Oxford Reservoir, and approximately 800 LF of new transmission main piping from the Bangor Plant to the Lower Handalong Reservoir.

Northwest Region: Water Supply Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

Application No. 2007503, Public Water Supply.

Applicant **Mitchell Lake MHP**
 Township or Borough Cambridge Township
Crawford County
 Responsible Official Scott A. Mitchell, Owner
 Consulting Engineer Dennis A. DeSilvey, P. E.
 Project Consultant
 211 Gearhart Road
 Pulaski, PA 16143

Application Received Date May 15, 2007

Description of Action Modification of public water supply treatment for arsenic removal.

Application No. 1007501, Public Water Supply.

Applicant **Fleming Mobile Home Park**
 Township or Borough Center, Clay, Concord and
 Oakland Townships
Butler County
 Responsible Official Beth and Mark McGarragh, Owner
 Consulting Engineer William J. McGarvey, P. E.
 Consulting Engineer
 172 Woodcrest Road
 Butler, PA 16002

Application Received Date May 15, 2007

Description of Action Permit existing system

Application No. 6207501, Public Water Supply.

Applicant **North Warren Municipal Authority**
 Township or Borough Conewango Township
Warren County
 Responsible Official D. Melvin Jacobson, Chairperson
 Consulting Engineer Dale W. Sorensen, P. E.
 Northwest Engineering, Inc.
 R. D. 1
 P. O. Box Q
 Tidioute, PA 16351

Application Received May 18, 2007
 Date
 Description of Action Replace pumps and install
 controls in the two booster pump
 stations along Follett Run Road.

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 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, 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, 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 before 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. 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, 2 East Main Street, Norristown, PA 19401.

1707-1737 North Delaware Avenue, Prop., City of Philadelphia, **Philadelphia County**. Gary Brown, RT Env. Svc., Inc., 215 West Church Road, King of Prussia, PA 19406 on behalf of James Anderson, Columbus Boulevard, Assoc., LP, 6958 Torresdale Avenue, Philadelphia, PA 19135 has submitted a Notice of Intent to Remediate. Groundwater at the site has been impacted by release of chlorinated solvents. The future proposed use of property would be nonresidential for food distribution.

Harvey Gray Inc., Upper Merion Township, **Bucks County**. Tarek Selim, Penn E & R, 2755 Bergey Road, Hatfield, PA 19440 on behalf of Harvey Gray, Harvey Gray, Inc., 921 Creamery Road, Newtown, PA 18940 has submitted a Notice of Intent to Remediate. Groundwater and soil at the site has been impacted by release of PCB. Currently the site is inactive and considered for nonresidential redevelopment as a wastewater treatment facility.

Northeast Region: Ronald S. Brezinski, Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

Pirone Residence, City of Allentown, **Lehigh County**. Richard D. Trimpi, Trimpi Associates, Inc., 1635 Old Plains Road, Pennsburg, PA 18073 has submitted a Notice of Intent to Remediate (on behalf of his client, Richard and Olga Pirone, 1037 North 21st Street, Allentown, PA 18104) concerning the remediation of soils impacted with No. 2 fuel oil as a result of a filter connection error on the No. 2 fuel oil heating system. The applicant proposes to remediate the site to meet the Residential Statewide Health Standard for soils. The proposed future use of the property will be residential use. A summary of the Notice of Intent to Remediate was published in *The Express-Times* on April 26, 2007.

Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

FR & S No. 3 Industrial Waste Site, Exeter Township, **Berks County**. Synergy Environmental, Inc., 155 Railroad Plaza, 1st Floor, Royersford, PA 19508, on behalf of Wood Nursery Corporation, Exeter Associates, Inc., and Buddies Nursery, Inc., P. O. Box 264, Birdsboro, PA 19508-0264, submitted a Notice of Intent to Remediate soils and groundwater contaminated with metals, VOCs and SVOCs. Portions of the property were used for disposal of hazardous, industrial and demolition wastes. Future use is nonresidential.

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 the 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 the 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 a 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 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 before the application. TDD users should 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 (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.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, Ronald Davis, New Source Review Chief, (717) 705-4702.

06-05113A: PPL Distributed Generation, LLC (2 North Ninth Street, Allentown, PA 18101-1179) for construction of a 143.3 mmBtu/hr biomass rotogrator stoker boiler controlled by fluegas recirculation, overfired air, SNCR NO_x control, Trona injection and electrostatic precipitator in Maiden Creek Township, **Berks County**. The boiler will be used to generate electricity. The boiler will be subject to 40 CFR Part 60, Subpart Db, Standards of Performance for New Stationary Sources.

36-05067K: C and D Technologies, Inc. (82 East Main Street, Leola, PA 17540) for modifications to the existing battery manufacturing plant in Upper Leacock Township, **Lancaster County**. The plant is subject to 40 CFR Part 60, Subpart KK—Standards of Performance for Lead-Acid Battery Manufacturing Plants.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, George Monasky, New Source Review Chief, (814) 332-6940.

20-106A: Greenleaf Corp. (18695 Greenleaf Drive, Saegertown, PA 16433-4429) to install a thermal oxidizer on a graphite resistance furnace at their manufacturing facility in Hayfield Township, **Crawford County**.

Intent to Issue Plan Approvals and Intent to Issue or Amend Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001–4015) and 25 Pa. Code Chapter 127, Subchapter B. These actions may include the administrative amendments of an associated operating permit.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401, Thomas McGinley, New Source Review Chief, (484) 250-5920.

23-0009D: Boeing Aircraft & Military System Group (P. O. Box 16858, Philadelphia, PA 19142) Plan Approval submittal for the installation of 73 mmBtu/hr Nebraska Boiler firing Natural Gas and Number No. 2 Fuel Oil in Ridley Township, **Delaware County**. The permit is for a Title V facility. The permit will include monitoring, testing, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

46-0198L: Blommer Chocolate Co. (1101 Blommer Drive, East Greenville, PA 18041) for the addition of an Aspiration Box and associated dust collector to existing Production Line 2/3 between the Line 2/3 Micronizer and the Line 2/3 Winnower. The proposed source has a potential to emit 4.81 tpy PM after controls. The facility is located in Upper Hanover Township, **Montgomery County**.

09-0024E: Waste Management Disposal Services of Pennsylvania, Inc.—Tullytown Landfill (1121 Bordertown Road, Morrisville, PA 19067) Plan Approval submittal for the installation of Eastern Expansion of 7,400,000 cubic yards at the Tullytown Facility in Tullytown Borough, **Bucks County**. The design includes a modification of the gas collection and control system by adding collection wells, extending gas pipeline system, using the existing back-up flares and installing a new back-up flare. The permittee shall comply with 40 CFR Part 60, Subpart WWW. The permit is for a Title V facility. The permit will include monitoring, testing, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

46-0264: Caddick Construction Co., Inc. (P. O. Box 179, Ambler, PA 19002) for the installation of a Non-Metallic Mineral Processing Plant (plant) at the Caddick Construction Company, Inc., stone, concrete, asphalt, brick and other demolition debris crushing new facility located at 7147 Camp Hill Road, Fort Washington, PA 19034, Whitmarsh Township, **Montgomery County**. The installation of a plant may result in the emissions of 5.53 tpy of NO_x, 1.22 tpy of PM₁₀ or smaller, 1.22 tpy of PM, 1.34 tpy of CO, 0.46 tpy of SO_x, 0.13 tpy of VOC and 0.13 tpy of HAPs. The Plan Approval and Operating Permit will contain additional recordkeeping and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

46-0025K: Lonza, Inc. (900 River Road, Conshohocken, PA 19428) for the replacement of its existing venturi scrubber in Upper Merion Township, **Montgomery County**. This facility is a Title V facility. This

replacement will not result in any emission increase. The Plan Approval and Operating Permit will contain recordkeeping requirements and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790, Mark Wejkszner, New Source Review Chief, (570) 826-2531.

48-313-100: Ecopax, LLC—United Plastics Group (30 Commerce Drive, Somerset, NJ 08873) for construction and operation of a styrofoam production line and associated air cleaning devices at their facility in Forks Township, **Northampton County**. The construction of one line replaces the construction of two styrofoam production lines identified in the notice published at 36 Pa.B. 7314 (December 2, 2006). The operation of the production line will result in a facility-wide total VOC emission rate not to exceed 49.9 tpy. The plan approval will contain operating restrictions, testing, monitoring, reporting, recordkeeping and work practice requirements designed to keep the facility operating within all applicable air quality requirements.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701, David Aldenderfer, Program Manager, (570) 327-3637.

14-00002I: Graymont (PA), Inc. (965 East College Avenue, Pleasant Gap, PA 16823) to construct and operate a pneumatic truck transfer line system (Source ID P523), as well as install two bin-vent fabric filters (IDs C523A & B), at the Con-Lime plant in Benner Township, **Centre County**. This site is associated with the Pleasant Gap and Bellefonte facility in Spring Township, Centre County. The respective facility is a major facility for which a Title V operating permit 14-00002 has been issued.

The Department of Environmental Protection's (Department) review of the information provided by Graymont (PA), Inc. indicates that the proposed installation and construction will comply with all air quality regulatory requirements, including the BAT requirement of 25 Pa. Code §§ 127.1 and 127.12 pertaining to air contamination sources and the emission of air contaminants. Based on these findings, the Department intends to issue a plan approval for the proposed modification. Additionally, the plan approval, if issued, will subsequently be incorporated in an operating permit by means of an administrative amendment in accordance with 25 Pa. Code § 127.450 at a later date. The following is a summary of the conditions that the Department proposes to place in the plan approval to ensure compliance with all applicable air quality regulatory requirements.

1. All conditions contained in TVOP 14-00002 remain in effect unless superseded or amended by conditions contained in Plan Approval 14-00002I. If there is a conflict between a condition contained in Plan Approval 14-00002I and a condition contained in TVOP 14-00002, the permittee shall comply with the condition contained in Plan Approval 14-00002I.

2. The emission of PM from the IAC model 96TB-BHI-25 bin-vent fabric filters (IDs C523A and C523B) associated with the storage silos and pneumatic truck transfer line system (Source ID P523) shall not exceed 0.01 grain per dry standard cubic foot.

3. The total emissions of PM and PM10 from the pneumatic truck transfer line system shall not exceed 0.26 pound per hour and 0.63 ton in any 12-consecutive month period.

4. The total amount of material processes through Silos 3, 4, 7 and 8 shall not exceed 250,000 tons in any 12-consecutive month period. The total amount of material processes through Silos 1, 2, 5 and 6 shall not exceed 250,000 tons in any 12-consecutive month period.

5. The permittee may install and operate bin-vent fabric filters, other than the IAC model 96TB-BHI-25 bin-vent fabric filters, as long as the permittee requests, in writing, and the Department approves, in writing, the change prior to the installation. The bin-vent fabric filters shall each have a minimum fabric area of 13 square feet per filter and handle no more than 1,500 actual cubic feet of gas per minute. Any substitute bin-vent fabric filters must meet all design specifications and requirements contained in the plan approval application and supplemental materials submitted by Graymont (PA), Inc., dated September 1, 2006, and April 17, 2007, and all conditions of this plan approval.

6. The permittee shall only use 16 weight (ounces per square yard) polytetrafluoroethylene membrane filters, or another bag as approved by the Department that offers equivalent or better control of PM emissions, in the bin-vent fabric filters.

7. The permittee shall not operate the pneumatic truck transfer line system associated with Silos 3, 4, 7 and 8 (unloading station No. 1) without the simultaneous operation of the associated bin-vent fabric filter. The permittee shall not operate the pneumatic truck transfer line system associated with Silos 1, 2, 5 and 6 (unloading station No. 2) without the simultaneous operation of the associated bin-vent fabric filter. The PM emissions from the storage silos and the pneumatic truck transfer line system shall be controlled by the IAC model 96TB-BHI-25 bin-vent fabric filters (IDs C523A and C523B).

8. The permittee shall not simultaneously unload more than two tanker trucks with the pneumatic truck transfer line system. In addition, if two tanker trucks are simultaneously unloaded, one must be at unloading station No. 1 and the other must be at unloading station No. 2.

9. The bin-vent fabric filters shall be equipped with a device to continuously measure differential pressure across the respective fabric filter. In addition, the permittee shall record the differential pressure across each fabric filter at least once per week when each fabric filter is in operation.

10. The permittee shall keep records of the supporting calculations for PM and PM10 emissions on a monthly basis and shall verify compliance with the PM and PM10 emissions limitation for the pneumatic truck transfer line system in any 12-consecutive month period. These records shall be retained for a minimum of 5 years and shall be made available to the Department upon request.

11. The permittee shall keep records of the amount of material process through Silos 3, 4, 7 and 8 on a monthly basis and shall verify compliance with the material throughput limitation for the silos in any 12-consecutive month period. The permittee shall keep records of the amount of material process through Silos 1, 2, 5 and 6 on a monthly basis and shall verify compliance with the material throughput limitation for the silos in any 12-consecutive month period. These records shall be retained for a minimum of 5 years and shall be made available to the Department upon request.

12. The permittee shall comply with the fugitive PM emission limitations specified in 25 Pa. Code § 123.1.

A copy of the plan approval application and the Department's review is available for public review between 8

a.m. and 4 p.m. at the Department's Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701. Appointments for scheduling a review may be made by calling the Department at (570) 327-3693. Written comments or requests for a public hearing should be directed to Muhammad Q. Zaman, Manager, Facilities Permitting Section, Department of Environmental Protection, Air Quality Program, Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701, (570) 327-0512.

49-00033C: Watsontown Brick Co. (P. O. Box 68, Route 405, Watsontown, PA 17777-0068) has submitted an application (No. 49-00033C) to the Department of Environmental Protection (Department) for plan approval for construction and operation of a 660 tph impact crusher, and associated material handling equipment (Source ID P125) for their brick making facility in Delaware Township, **Northumberland County**. Source ID P125 will be equipped with a water spray dust suppression system (ID C125) to control fugitive particulate emissions. The respective facility is a major facility for which a Title V operating permit 49-00033 has been issued.

The Department's review of the information submitted by Watsontown Brick Company indicates that the crusher and associated conveying and material handling equipment will meet all applicable air quality regulatory requirements pertaining to air contamination sources and the emission of air contaminants, including the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12. In addition, the impact crusher will meet the requirements of Subpart 000 of the New Source Performance Standards, 40 CFR 60.670—60.676. Based on these findings, the Department intends to approve the application and issue plan approval for the construction of the crusher and associated conveying and material handling equipment. Additionally, if the Department determines that the sources are operating in compliance with all plan approval conditions, the conditions established in the plan approval will be incorporated into Title V operating permit 49-00033 by means of an administrative amendment under 25 Pa. Code § 127.450.

The following is a summary of the conditions that the Department proposes to place in the plan approval to be issued to ensure compliance with all applicable regulatory requirements:

1. Source ID P125 consists of a 660 tph Metso Nordberg model NP-1415 impact crusher, a 20' vibrating pan feeder, and a 48" by 28' discharge conveyor.

2. Under the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, Source ID P125 shall not be operated in excess of 3,000 hours in any 12-consecutive month period.

3. Under the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, the PM emissions from Source ID P125 shall be controlled to an efficiency of at least 95%.

4. The permittee shall comply with the fugitive PM emission limitations specified in 25 Pa. Code § 123.1.

5. The permittee shall keep records of the following information for Source ID P125:

(a) The total hours Source ID P125 is operated each month and the supporting calculations to verify compliance with the operating hours limitation for Source ID P125 in any 12-consecutive month period.

(b) The total amount of shale and brick batts processed through Source ID P125 each month.

These records shall be retained for a minimum of 5 years and shall be made available to the Department upon request.

6. Under the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, Source ID P125 shall be equipped with a water spray dust suppression system (ID C125). The water spray dust suppression system (ID C 125) shall be operated on any and all occasions that Source ID P125 is operated. Operation without simultaneous operation of the water spray dust suppression system can take place only in those unusual instances where processed materials contain sufficient moisture so as not to create air contaminant emissions in excess of the limitations specified in 25 Pa. Code § 123.1. If, however, the water spray dust suppression system is incapable of operation due to weather conditions or any other reason, the permittee may not operate Source ID P125.

7. Under the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, the discharge conveyor of Source ID P125 shall be completely covered to its discharge point to control fugitive PM emissions.

8. Source ID P125 is subject to 40 CFR Part 60, Subpart 000, 60.670—60.676. The permittee shall comply with all applicable requirements of that subpart.

9. The permittee shall comply with the visible emission limitations specified in 40 CFR 60.672.

10. The permittee shall comply with all recordkeeping and reporting requirements specified in 40 CFR 60.676.

A copy of the plan approval application is available for public review between 8 a.m. and 4 p.m. at the Department's Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701. Appointments for scheduling a review may be made by calling the Department at (570) 327-3693. Written comments or requests for a public hearing should be directed to Muhammad Q. Zaman, Chief, Facilities Permitting Section, Department of Environmental Protection, Air Quality Program, Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701, (570) 327-0512.

18-315-002B: First Quality Products, Inc. (P. O. Box 270, McElhattan, PA 17748) for construction of two absorbent products (adult briefs) manufacturing lines (Lines 31 and 32) in Wayne Township, **Clinton County**.

The PM emissions from each line will be controlled by either an "Ibis International" or "Osprey Corporation" unit which incorporates a drum filter section, a cartridge filter section and a HEPA filter section operating in series. The resultant PM emissions from both machines combined are not expected to exceed .012 tpy. The total combined VOC emissions from the use of adhesives, inks and clean-up solvents are not expected to exceed 3.73 tpy.

The facility in which the two absorbent products manufacturing lines will be constructed is not a major (Title V) facility for any air contaminant.

The Department of Environmental Protection's (Department) review of the information submitted by First Quality Products, Inc. indicates that the proposed absorbent products manufacturing lines will comply with all applicable regulatory requirements pertaining to air contamination sources and the emission of air contaminants, including the BAT requirement of 25 Pa. Code §§ 127.1 and 127.12. Based on this finding, the Department proposes to issue plan approval for the construction of the two proposed absorbent products manufacturing lines. Additionally, if the Department determines that the re-

spective manufacturing lines are operating in compliance with all conditions of the plan approval and all applicable regulatory requirements following their construction, the Department intends to incorporate the plan approval conditions into State-only Operating Permit 18-00026 in accordance with the administrative amendment requirements of 25 Pa. Code § 127.450.

The following is a summary of the conditions the Department proposes to place in the plan approval to be issued to ensure compliance with all applicable regulatory requirements:

1. The PM emissions from each line shall be controlled by either an Ibis International or Osprey Corporation unit consisting of a drum filter section, cartridge filter section and HEPA filter section operating in series. The concentration of PM in the exhaust of each of these units shall not exceed .0000044 grains per dry standard cubic foot of effluent gas volume and there shall be no visible air contaminant emissions from the exhaust of either unit (other than water vapor or steam).

2. Each of the two Ibis International or Osprey Corporation units shall be equipped with instrumentation to monitor the pressure differential across each of its three component sections on a continuous basis.

3. Spare drum filters, cartridge filters and HEPA filters shall be kept on hand.

4. Any air compressor supplying compressed air to any Ibis International or Osprey Corporation unit shall be equipped with air dryer and oil trap.

5. The total combined VOC emissions resulting from adhesive, ink and cleanup solvent usage associated with the two manufacturing lines shall not exceed 3.73 tons in any 12-consecutive month period and there shall be no volatile HAP emissions.

6. The adhesives used on, or in association with, the two manufacturing lines shall be restricted to hot melt adhesives which do not contain, as an intentionally-added ingredient, any VOC or volatile HAP. The hot melt adhesives may however result in the emission of VOCs provided that the emissions do not exceed .003 pound per pound of adhesive used.

7. No more than a combined total of 1,745,432 pounds of hot melt adhesive may be used on, or in association with, the two manufacturing lines in any 12-consecutive month period.

8. No more than a combined total of 321 gallons of VOC-containing cleanup solvent may be used on, or in association with, the two manufacturing lines in any 12-consecutive month period, including that used on the associated box printers, and the specific solvents used shall be as described in the plan approval application. The cleanup solvent used on the bag printers associated with the two manufacturing lines shall be acetone only.

9. No more than a combined total of 24 gallons of VOC-containing ink shall be used on, or in association with, the two manufacturing lines in any 12-consecutive month period, including that used on the associated box printers. The solvent in the inks used on the bag printers associated with the two manufacturing lines shall be acetone only.

10. No ink or solvent used on the two manufacturing lines shall contain any volatile HAPs.

11. All containers of VOC-containing materials and acetone-containing materials shall be kept closed except when in actual use. All used cleaning cloths shall be

stored in closed containers and such cloths shall never be treated in any manner which would unnecessarily promote the evaporative loss of any contained VOC or acetone to the atmosphere.

12. Records shall be maintained of the identity and amount of each adhesive, ink and cleanup solvent used on the respective two manufacturing lines each month. All such records shall be retained for at least 5 years and shall be made available to the Department upon request.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, George Monasky, New Source Review Chief, (814) 332-6940.

37-264G: Ellwood Quality Steels (700 Moravia Street, New Castle, PA 16101) For modification of the existing Electric Arc Furnace (EAF) to allow the Melt Shop to increase production from 415,446 to 450,000 tons of steel per year in **Lawrence County**.

Under 25 Pa. Code § 127.44 and 40 CFR 52.21(1)(2), the Department of Environmental Protection (Department) is soliciting comments on the proposed Air Quality Plan Approval for Ellwood Quality Steels to modify the existing EAF in Lawrence County. This modification will allow the Melt Shop to increase production from 415,446 to 450,000 tons of steel per year.

Ellwood Quality Steels has filed an application with the Department (230 Chestnut Street, Meadville, PA 16335) to modify the EAF. EQS is proposing to increase production capacity of the Melt Shop by reducing tap-to-tap time at the EAF. The major factor in the projected EAF production increase is a new 35/42 mva transformer at the EAF, which will increase production by a maximum of 2.4 heats per day. The new transformer has the same secondary amperage, but a slightly higher secondary voltage which provides a longer, more stable arc, allowing a theoretical 5% reduction in the current "power on time." Other operational and mechanical improvements include increased operator efficiency, replacement of the EAF electrode regulation system and EAF gunning machine.

Applicable requirements for the proposed application include the Prevention of Significant Deterioration (PSD) regulations (40 CFR 52.21). This plan approval will in accordance with 25 Pa. Code § 127.450, be incorporated into the Title V operating permit through an administrative amendment at a later date.

Based on the information provided by the applicant and the Department's own analysis, the proposed modifications to the EAFs will have a net emission increase of: NO_x 13 tpy; CO 179 tpy; SO₂ 16 tpy; VOCs 11 tpy PM < 10 μm 8 tpy; and Total Suspended Particulates 8 tpy.

The Department has determined that the application reflects the use of BACT, as required by the PSD regulations. The expected allowable emission increase in CO from the proposed facility modifications exceeds the significant emission rate of 100 tpy listed under 40 CFR 52.21(b)(23)(i). A source impact analysis, under 40 CFR 52.21(k), was necessary to demonstrate that the CO emission will not contribute to air pollution in violation of the National Ambient Air Quality Standards (NAAQS). Additional impact analyses were required under 40 CFR 52.21(o). A Class I Area analysis was not required as no PSD increment standards exist for CO and CO emissions do not play a significant role in visibility degradation, thus the proposed modification is not expected to have an adverse effect on visibility.

According to 40 CFR 52.21(l) and (2), an alternative to the air quality models specified in 40 CFR Part 51,

Appendix W (relating to Guideline on Air Quality Models) may be used to model air quality if the United States Environmental Protection Agency (EPA) approves the substitute model. Use of the substitute model is subject to notice and an opportunity for public comment.

As an alternative to EPA Guideline Models, ISC-Prime was used in the air quality analysis for the proposed EAF project. Approval for the use of ISC-Prime in this analysis was granted by the EPA Region III. Under 25 Pa. Code §§ 127.44 and 127.83, as well as 40 CFR 52.21(l)(2) and (q), notice is hereby given that the Department is soliciting written comments on the use of the ISC-Prime, nonguideline model.

The model estimated that the maximum CO impact will be below the Class II significant impact levels (SILs). This is sufficient to demonstrate that the proposed modifications to the operating procedure at the EQS facility will not cause or significantly contribute to air pollution in violation of CO NAAQS. The maximum 8-hour CO concentration was also found to be below the de minimis monitoring level for CO.

The results of the NAAQS analysis for CO indicates a total value of 265.7 $\mu\text{g}/\text{m}^3$ for a urban 1-hour averaging period and a total value of 199.3 $\mu\text{g}/\text{m}^3$ for a urban 8-hour averaging period. The Class II SIL for an urban 1-hour averaging period is 2,000 $\mu\text{g}/\text{m}^3$ and for an 8-hour averaging period is 500 $\mu\text{g}/\text{m}^3$. The de minimis level for a rural 8-hour averaging period is 575 $\mu\text{g}/\text{m}^3$.

Sources subject to PSD regulations must meet certain conditions prior to the issuance of a preconstruction/modification approval. These conditions are briefly described below. For exact text, please refer to 40 CFR 52.21.

Site Level Conditions:

The production of steel ingots from the facility shall not exceed 450,000 ton of steel ingots per year (based on a 12-month rolling total).

Boilers (4) Source ID: 033

The natural gas consumption from the boiler shall not exceed 221,808 MCF of natural gas per year, calculated as a 12-month rolling total.

Misc Heater Units (< 2.5 mmBtu/hr) Source ID: 034, Scrap Torch Source ID: 103 and Gas Cutter Source ID: 104

The total natural gas consumption from the scrap torch (Source 103), gas cutter (Source 104) and the miscellaneous heaters (Source 034) shall not exceed 241,092 MCF of natural gas per year, calculated as a 12-month rolling total.

Electric Arc Furnace Source ID: 101

1. The Department reserves the right to establish to impose more stringent limitations based on results from stack testing.

2. The emissions from the EAF (Source 101) shall not exceed the following:

- (a) CO—1,035 tpy and 4.6 lbs/ton steel produced.
- (b) NO_x—22.5 tpy and 0.1 lb/ton steel produced.
- (c) SO_x—101.25 tpy and 0.45 lb/ton steel produced.
- (d) VOC—67.5 tpy and 0.3 lb/ton steel produced.
- (e) PM₁₀—33.75 tpy and 0.15 lb/ton steel produced.

The tpy limits shall be calculated as a 12-month rolling total.

3. The capture efficiency from the EAF Direct Evacuation Control duct shall be at least 90%.

4. (a) Within 120 days of the issue date of this plan approval, a test procedure and a sketch with dimensions indicating the location of sampling ports and other data to ensure the collection of representative samples shall be submitted to the Department.

(b) Within 180 days of the issue date of this plan approval, stack tests shall be performed in accordance with the provisions of 25 Pa. Code Chapter 139 to show compliance with the NO_x, SO_x, VOC, PM and PM₁₀ emission limitations for the EAF. The stack tests shall be performed while the EAF is operating at the maximum rated capacity as stated on the application (based on 54.8 tons per hour). During the stack test for PM and PM₁₀ the sampling time and volume for each run shall be at least 4 hours and 160 dscf. The NO_x, SO_x and VOC testing for the EAF shall be conducted in the duct prior to the positive pressure baghouse.

(c) At least 2 weeks prior to the test, the Permittee shall inform the Department of the date and time of the test.

5. (a) Compliance with the CO emission limits shall be shown through an initial stack test and annual stack test thereafter as outlined as follows.

(b) Within 180 days of the issue date of this plan approval and annually thereafter, a stack test shall be performed in accordance with the provisions of 25 Pa. Code Chapter 139 and the most current edition of the Department's "Source Testing Manual" for CO emissions. The stack tests shall be performed while the EAF is operating at the maximum rated capacity as stated on the application (based on 54.8 tons per hour). The CO testing for the EAF shall be conducted in the duct prior to the positive pressure baghouse.

(c) At least 2 weeks prior to the test, the permittee shall inform the Department of the date and time of the test.

(d) Within 45 days after completion of the test, two copies of the complete test report, including all operating conditions, shall be submitted to the Department for approval.

(e) Actions Related to Noncompliance Demonstrated by a Stack Test:

(i) If the results of a stack test, performed as required by this approval, exceed the level specified in any condition of this approval, the Permittee shall take appropriate corrective actions. Within 30 days of the Permittee receiving the stack test results, a written description of the corrective actions shall be submitted to the Department. The Permittee shall take appropriate action to minimize emissions from the affected facility while the corrective actions are being implemented. The Department shall notify the Permittee within 30 days, if the corrective actions taken are deficient. Within 30 days of receipt of the notice of deficiency, the Permittee shall submit a description of additional corrective actions to the Department. The Department reserves the authority to use enforcement activities to resolve noncompliant stack tests.

(ii) If the results of the required stack test exceed any limit defined in this plan approval, the test was not performed in accordance with the stack test protocol or the source and/or air cleaning device was not operated in accordance with the plan approval, then another stack test shall be performed to determine compliance. Within 120 days of the Permittee receiving the original stack test

results, a retest shall be performed. The Department may extend the retesting deadline if the Permittee demonstrates, to the Department's satisfaction, that retesting within 120 days is not practicable. Failure of the second test to demonstrate compliance with the limits in the plan approval, not performing the test in accordance with the stack test protocol or not operating the source and/or air cleaning device in accordance with the plan approval may be grounds for immediate revocation of the plan approval to operate the affected source.

(d) Within 45 days after completion of the test, two copies of the complete test report, including all operating conditions, shall be submitted to the Department for approval.

(e) Actions Related to Noncompliance Demonstrated by a Stack Test:

(i) If the results of a stack test, performed as required by this approval, exceed the level specified in any condition of this approval, the Permittee shall take appropriate corrective actions. Within 30 days of the Permittee receiving the stack test results, a written description of the corrective actions shall be submitted to the Department. The Permittee shall take appropriate action to minimize emissions from the affected facility while the corrective actions are being implemented. The Department shall notify the Permittee within 30 days, if the corrective actions taken are deficient. Within 30 days of receipt of the notice of deficiency, the Permittee shall submit a description of additional corrective actions to the Department. The Department reserves the authority to use enforcement activities to resolve noncompliant stack tests.

(ii) If the results of the required stack test exceed any limit defined in this plan approval, the test was not performed in accordance with the stack test protocol or the source and/or air cleaning device was not operated in accordance with the plan approval, then another stack test shall be performed to determine compliance. Within 120 days of the Permittee receiving the original stack test results, a retest shall be performed. The Department may extend the retesting deadline if the Permittee demonstrates, to the Department's satisfaction, that retesting within 120 days is not practicable. Failure of the second test to demonstrate compliance with the limits in the plan approval, not performing the test in accordance with the stack test protocol or not operating the source and/or air cleaning device in accordance with the plan approval may be grounds for immediate revocation of the plan approval to operate the affected source.

6. The permittee shall maintain a rolling total of the hours of operation, natural gas consumption and facility production by adding the monthly totals to the 11 previous months.

7. The total natural gas consumption from the EAF burners shall not exceed 116,603 MCF of natural gas per year, calculated as a 12-month rolling total.

Anneal Furnaces (6) Source ID: 102 Source Name

(a) The total natural gas consumption from the numbers 15–19 furnaces (equipped with low NO_x burners) shall not exceed 1,014,504 MCF of natural gas per year, calculated as a 12-month rolling total. The NO_x emissions from the numbers 15–19 furnaces shall not exceed 65 lbs/MMCF (for each unit, respectively).

(b) The total natural gas consumption from the number 20 furnace shall not exceed 54,744 MCF of natural gas per year, calculated as a 12-month rolling total.

Electric Ladle Furnaces Source ID: 109A and Source ID: 109B

The emission of PM₁₀ from the baghouse that controls the two ladle furnaces shall not exceed 4.5 tpy, calculated as a 12-month rolling total, and shall not exceed 0.02 lb per ton of steel.

Ladle Preheaters (2) Source ID: 132

The natural gas consumption from the two ladle preheaters shall not exceed 130,355 MCF of natural gas per year, calculated as a 12-month rolling total.

EAF Preheater Source ID: 135

The natural gas consumption from the EAF preheat shall not exceed 41,895 MCF of natural gas per year, calculated as a 12-month rolling total.

The Department has made a preliminary determination to approve the plans submitted by Ellwood Quality Steels subject to the conditions listed. A final determination will be made based on any additional inputs received.

The Department will consider any written comments received within 30 days of the publication of this notice. Any person may oppose this preliminary determination by filing a written notice with the Department of Environmental Protection, Air Quality Program, 230 Chestnut Street, Meadville, PA 16335, Attn.: John Guth, Regional Air Program Manager.

Each protest shall include the following:

1. Name, address and telephone number of the person filing each protest.
2. Identification of the proposed plan approval issuance being opposed (37-264G).
3. Concise statement of the reasons for objection to the issuance of the plan approval and the relevant facts upon which the objections are based.

Copies of the application and the modeling analysis used in the evaluation are available for public inspection between 8 a.m. and 4 p.m. at the Department of Environmental Protection's Northwest Regional Office, 230 Chestnut Street, Meadville, PA. Appointments for scheduling a review may be made by calling Linda Conway at (814) 332-6340.

If sufficient public interest is generated, the Department, prior to the issuance of the plan approval, may in its discretion, hold a public meeting or fact-finding conference, at which time any person may appear and give testimony. If it is decided to hold a public hearing, then a notice to this effect shall be published in the local newspaper giving the place and time of such a hearing.

For any additional information regarding the previous, contact George Monasky, P. E. or John Guth at (814) 332-6940 or by writing the Department at the Meadville address given.

Persons with a disability who wish to comment and require an auxiliary aid, service or other accommodations to do so should by contacting the Department or the Pennsylvania AT&T relay service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104, Edward Braun, Chief, (215) 685-9476.

AMS 07075: Verizon—Locust Central Office (1631 Arch Street, Philadelphia, PA 19108) for installation of two 1500 Kilowatt diesel emergency generators in the

City of Philadelphia, **Philadelphia County**. There will be a potential annual emission increase of 24.1 tons of NOx for the facility. The plan approval will contain operating, monitoring and recordkeeping requirements to ensure operation within all applicable requirements.

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.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, Matthew Williams, Facilities Permitting Chief, (814) 332-6940.

33-00140: Dominion Transmission, Inc. (88 Laska Road, Punxsutawney, PA 15767) for reissuance of a Title V Permit in the Perry Township, **Jefferson County**. The facility is a gas transmission and distribution company. The facility's major emission sources included Boiler No. 1, miscellaneous combustion units, compressor engines Nos. 1 and 2, auxiliary generator No. 1, miscellaneous storage tanks, compressor engines No. 3, facility pumps, valves and flanges. The facility is a major facility due to its potential to emit of VOC and NOx. The facility is not subject to compliance assurance monitoring.

Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104, Edward Braun, Chief, (215) 685-9476.

V06-014: Exelon Generating Co.—Schuylkill Station (2800 Christian Street, Philadelphia, PA 19146) for issuance of a Title V Operating Permit in the City of Philadelphia, **Philadelphia County**. The facility's air emission sources include one 1,530 mmBtu/hr boiler, one 233 mmBtu/hr combustion turbine, one 284 mmBtu/hr combustion turbine, one 2.75 MW diesel emergency generator and cold degreasing operations.

The operating permit will be issued under the 25 Pa. Code, Philadelphia Code Title 3 and Air Management Regulation XIII. Permit copies and other supporting information are available for public inspection at AMS, 321 University Avenue, Philadelphia, PA 19104. For further information, contact Edward Wiener (215) 685-9426.

Persons wishing to file protest or comments on the previous operating permit must submit the protest or comments within 30 days from the date of this notice. Any protests or comments filed with AMS must include a concise statement of the objections to the permit issuance and the relevant facts upon which the objections are based. Based upon the information received during the public comment period, AMS may modify the operating permit or schedule a public hearing. The hearing notice will be published in the *Pennsylvania Bulletin* and a local newspaper at least 30 days before the hearing.

Intent to Issue Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790, Mark Wejkszner, New Source Review Chief, (570) 826-2531.

35-00060: Preferred Meal Systems (4135 Birney Avenue, Moosic, PA 18507) for a food processing facility in Upper Moosic Borough, **Lackawanna County**. The facility's main sources include two natural gas fired convection ovens. The facility has potential to emit PM, VOCs, HAPs, NOx, SOx and CO below the major emission thresholds. The proposed State-only Operating Permit

contains applicable requirements for emissions limitations, monitoring, recordkeeping, reporting and work practice standards designed to ensure facility compliance with Federal and State air pollution regulations.

39-00072: Hamilton TEK Partners (9999 Hamilton Boulevard, Breinigsville, PA 18031-9359) for an electronic manufacturing facility in Upper Macungie Township, **Lehigh County**. The facility's main sources include three natural gas/No. 2 fuel fired boilers. The facility has potential to emit PM, VOCs, HAPs, NOx, SOx and CO below the major emission thresholds. The proposed State-only Operating Permit contains applicable requirements for emissions limitations, monitoring, recordkeeping, reporting and work practice standards designed to ensure facility compliance with Federal and State air pollution regulations.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, Ronald Davis, New Source Review Chief, (717) 705-4702.

07-05035: Grannas Brothers Stone and Asphalt Co., Inc. (P. O. Box 488, Hollidaysburg, PA 16648) for operation of a batch asphalt plant in Frankstown Township, **Blair County**. This is a renewal of the State-only operating permit issued in December 9, 2002.

36-03134: Wilmac Healthcare, Inc. (209 North Beaver Street, York, PA 17403) for operation of their nursing and rehabilitation center in Manheim Township, **Lancaster County**. This is a renewal of the State-only operating permit issued in March of 2002.

67-03100: Iris Energy, LLC (50 Danbury Road, Wilton, CT 06897) for operation of a synthetic fuel processing plant at the PPL Brunner Island Steam Electric Station in East Manchester Township, **York County**. This is a renewal of the State-only operating permit issued in May of 2002.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701, David Aldenderfer, Program Manager, (570) 327-3637.

53-00013: C.A. Elliott Lumber Co., Inc. (P. O. Box 260, Roulette, PA 16746) for operation of a lumber manufacturing facility in Roulette Township, **Potter County**.

The facility incorporates a 4.8 million Btu/hr wood-fired boiler, six lumber drying kilns and various pieces of woodworking equipment. The PM emissions from the woodworking equipment processing kiln-dried lumber shall be controlled by a dry sawdust hopper and a cyclone collector equipped with a fabric after filter, all of which shall be installed by no later than August 1, 2007.

Following the installation of the dry sawdust hopper and cyclone/fabric afterfilter, the air contaminant emissions from the facility are not expected to exceed 10.44 tons of PM and PM10, 10.30 tons of NOx, 12.62 tons of CO, .50 ton of VOC, .40 ton of volatile HAP and .53 ton of SOx per year.

The facility is not a major (Title V) facility for any air contaminant.

The Department of Environmental Protection (Department) proposes to incorporate into the operating permit to be issued conditions requiring compliance with all applicable regulatory requirements pertaining to air contamination sources and the emission of air contaminants as well as conditions previously contained in Operating Permit 53-302-009, issued on February 13, 1995.

The conditions previously contained in Operating Permit 53-302-009 include:

1. A condition restricting the fuel used in the wood-fired boiler to dry and green sawdust generated onsite from sawing logs and machining kiln-dried lumber.
2. A condition requiring analyses and/or samples of the fuel used in the wood-fired boiler to be submitted to the Department upon request.
3. A condition prohibiting the storage and handling of the ash generated in the wood-fired boiler from resulting in the emission of excessive fugitive dust.

The Department additionally proposes to incorporate several new conditions into the operating permit to be issued including:

4. A condition requiring both the construction of a dry sawdust storage hopper, consisting of a metal structure and concrete floor, and the installation of a cyclone collector and fabric afterfilter on a five head molder by no later than August 1, 2007.
5. A condition requiring the sawdust collected in the cyclone collector and fabric afterfilter to be deposited into the dry sawdust storage hopper by means of a rotary air lock.
6. A condition requiring records to be maintained of the type (hardwood or softwood) and quantity (board feet) of lumber processed through the kilns each month.

41-00070: PMF Industries, Inc. (2601 Reach Road, Williamsport, PA 17701) for operation of a metal products fabrication facility in the City of Williamsport, **Lycoming County**.

The facility incorporates an open top batch vapor degreaser, a grinding operation, an electro-polishing operation and a five kilowatt propane-fired emergency generator. The VOC emissions from the vapor degreaser are controlled by a refrigerated chiller and the PM emissions from the grinding operation are controlled by a cyclone collector.

The air contaminant emissions from the facility are not expected to exceed 13.01 tons of VOC, 9.77 tons of PM (including up to 9.77 tons of PM10), .45 ton of NOx, .04 ton of CO and .01 ton of SOx per year.

The facility is not a major (Title V) facility for any air contaminant.

The Department of Environmental Protection proposes to incorporate into the operating permit to be issued conditions requiring compliance with all applicable regulatory requirements pertaining to air contamination sources and the emission of air contaminants as well as conditions previously established in Plan Approval 41-327-003A, as modified on March 20, 2007.

The conditions previously established in Plan Approval 41-327-003A, as modified on March 20, 2007, include:

1. A condition limiting the solvent used in the vapor degreaser to n-propyl bromide.
2. A condition limiting the VOC emissions from the vapor degreaser to no more than 13.0 tons in any 12-consecutive month period.
3. A condition prohibiting the temperature of the chilled air blanket created by the vapor degreaser's refrigerated chiller, as measured at the coldest point on a vertical axis through the center of the degreaser, from exceeding 47.4° F at any time the sump heater is on except during the chiller defrost cycle.

4. A condition prohibiting the vapor degreaser's refrigerated chiller defrost cycle from exceeding 5 minutes during any 50 minute interval and prohibiting any more than 3 of the 6 refrigerated chiller coils from being defrosted simultaneously.

5. A condition requiring the vapor degreaser to incorporate a freeboard ratio of at least 1.15 and a manually-operated cover.

6. Conditions specifying the applicable 25 Pa. Code § 129.63 requirements for open top batch vapor degreasers.

7. Conditions requiring the maintenance, and periodic submittal, of records of the amount of solvent added to the vapor degreaser each month.

The Department additionally proposes to incorporate several new conditions into the operating permit to be issued including:

8. Conditions requiring the maintenance, and periodic submittal, of records of the identity of the solvent added to the vapor degreaser each month.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, Matthew Williams, New Source Review Chief, (814) 332-6940.

25-00501: Corry Forge (441 East Main Street, Corry, PA 16407-2013) for renewal of an operating permit in Corry City, **Erie County**. The significant sources are miscellaneous natural gas combustion units, test sample cutting, billet grinding, heat treat furnaces, forge furnaces, miscellaneous storage tanks and degreasers. The conditions of the previous plan approvals and operating permit were incorporated into the renewal permit. The permittee shall not exceed 99 tpy of NOx emissions facility-wide based on a consecutive 12-month period. The natural gas usage for the facility shall not exceed 1,980 mmcf/yr based on a consecutive 12-month period. The natural gas throughput limit is based on not exceeding the NOx emission factor of 100 lbs/mmcf of gas. The facility shall monitor the natural gas usage on a monthly basis. The permittee shall keep records of the natural gas usage on a monthly basis. The permittee shall keep records of the NOx emissions on a monthly basis. The records of gas usage and NOx emissions shall be kept on site and made available to the Department of Environmental Protection upon request. The NOx emissions for the facility shall be calculated on a monthly basis for the entire facility based on the NOx emission factor of 100 lbs/mmcf multiplied by the gas usage (mmcf) divided by 2,000 lbs/ton. With the given restrictions, the status of the facility-operating permit is a Synthetic Minor.

COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); and The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). Mining activity permits issued in response to 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 an application is available for inspection at the district mining office indicated before an 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 district mining office indicated before an application within 30 days of this publication, or within 30 days after the last publication of the applicant's newspaper advertisement, as provided by 25 Pa. Code §§ 77.121—77.123 and 86.31—86.34.

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. NPDES permits will contain, at a minimum, technology-based effluent limitations as identified in this notice for the respective coal and noncoal applications. In addition, 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 who have requested review of 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 the requirements.

Written comments or objections should contain the name, address and telephone number of the person submitting comments or objections; the 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; the application number; a brief summary of the issues to be raised by the requestor at the conference; and a statement whether the requestor wishes to have the conference conducted in the locality of the proposed mining activities.

Coal Applications Received

Effluent Limits—The following coal mining applications that include an NPDES permit application will be subject to, at a minimum, the following technology-based effluent limitations for discharges of wastewater to streams:

<i>Parameter</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Iron (total)	3.0 mg/l	6.0 mg/l	7.0 mg/l
Manganese (total)	2.0 mg/l	4.0 mg/l	5.0 mg/l
Suspended solids	35 mg/l	70 mg/l	90 mg/l
pH*		greater than 6.0; less than 9.0	
Alkalinity greater than acidity*			

*The parameter is applicable at all times.

A settleable solids instantaneous maximum limit of 0.5 ml/l applied to: (1) surface runoff (resulting from a precipitation event of less than or equal to a 10-year 24-hour event) from active mining areas; active areas disturbed by coal refuse disposal activities; and mined areas backfilled and revegetated; and (2) drainage (resulting from a precipitation event of less than or equal to a 1-year 24-hour event) from coal refuse disposal piles.

California District Office: 25 Technology Drive, Coal Center, PA 15423, (724) 769-1100.

Permit Number: 32971302 and NPDES Permit No. PA0215046, Rosebud Mining Company (301 Market Street, Kittanning, PA 16201-9642), to revise the permit for the Dutch Run Mine in Armstrong and Washington Townships, **Indiana County** to add underground permit and subsidence control plan area acres. Underground acres proposed 3,027.0, subsidence control plan acres Proposed 3,027.0. No additional discharges. Application received April 18, 2007.

Permit Number: 30841307 and NPDES Permit No. PA0213438, Emerald Coal Resources, LP (158 Portal Road, P. O. Box 1020, Waynesburg, PA 15370), to revise the permit the Emerald Mine No. 1 in Franklin Township, **Greene County** and related NPDES permit to construct and operate the No. 9 Airshaft and one additional discharge point. Surface acres proposed 15.7. No additional discharges. Application received March 19, 2007.

Permit Number: 30841307 and NPDES Permit No. PA0213438, Emerald Coal Resources, LP (158 Portal Road, P. O. Box 1020, Waynesburg, PA 15370), to revise the permit the Emerald Mine No. 1 in Franklin and Washington Townships, **Greene County** to add acreage for longwall mining and perform stream remediation as may be necessary to alleviate subsidence pooling impacts to Purman Run in two areas bound by the following points on the Waynesburg USGS Quad, N: 8.53 inches; W: 9.00 inches, N: 7.43 inches; W: 8.90. Underground acres proposed 3,071.0, subsidence control plan acres proposed 3,071.0. No additional discharges. Application received March 22, 2007.

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900.

32070105 and NPDES No. PA0262412. Walter L. Houser Coal Co. Inc. (12968 US 422, Kittanning, PA 16201), commencement, operation and restoration of a bituminous surface mine and for a variance on the 100' barrier on a UNT to the South Branch of Plum Creek for the purpose of using an existing stream crossing for access to the permit area and for a variance on the 100' barrier on the South Branch of Plum Creek for the purpose of topsoil storage and construction of erosion and sedimentation controls and treatment facilities in Washington Township, **Indiana County**, affecting 35.0 acres. Receiving stream: South Branch Plum Creek classified for

the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received May 7, 2007.

56070105 and NPDES No. PA0262421. Amerikohl Mining, Inc. (1384 SR 711, Stahlstown, PA 15687), commencement, operation and restoration of a bituminous surface-blasting mine and for a variance to conduct mining activities within 100 feet of a stream. The stream encroachment activities consist of installing erosion and sedimentation controls and removing a small portion of Upper Freeport coal beginning midway along the proposed permit line and proceeding upstream for approximately 1,100 feet on the southern bank of UNT 'B' to Casselman River in Black Township, **Somerset County**, affecting 155.2 acres. Receiving streams: UNTs to Casselman and Casselman Rivers classified for the following use: WWF. There are no potable water supply intakes within 10 miles downstream. Application received May 9, 2007.

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.

17070110 and NPDES No. PA0256561. Waroquier Coal Company (P. O. Box 128, Clearfield, PA 16830),

commencement, operation and restoration of a bituminous surface mine in Lawrence Township, **Clearfield County**, affecting 9.0 acres. Receiving streams: UNTs to Montgomery Creek, classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received May 10, 2007.

4473SM10 and NPDES Permit No. PA0119440. Penn Coal Land, Inc. (P. O. Box 68, Boswell, PA 15531), renewal of NPDES Permit in Decatur Township, **Clearfield County**. Receiving streams: UNTs to Little Laurel Run to Laurel Run to Moshannon Creek to West Branch Susquehanna River and UNTs to Coal Run to Moshannon Creek to West Branch Susquehanna River, classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. NPDES renewal application received February 23, 2007.

Noncoal Applications Received

Effluent Limits—The following noncoal mining applications that include an NPDES permit application will be subject to, at a minimum, the following technology-based effluent limitations for discharges of wastewater to streams:

<i>Parameter</i>	<i>30-day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Suspended Solids	35 mg/l	70 mg/l	90 mg/l
Alkalinity exceeding acidity ¹		greater than 6.0; less than 9.0	
pH ¹			

¹ The parameter is applicable at all times.

A settleable solids instantaneous maximum limit of 0.5 ml/l applied to surface runoff resulting from a precipitation event of less than or equal to a 10-year 24-hour event. If coal will be extracted incidental to the extraction of noncoal minerals, at a minimum, the technology-based effluent limitations identified under coal applications will apply to discharges of wastewater to streams.

Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, (814) 797-1191.

43070303. Three Rivers Aggregates (P. O. Box 6090, Falmouth, VA 22403) Commencement, operation and restoration of a sand and gravel operation in Springfield and Wilmington Townships, **Mercer County** affecting 114.0 acres. Receiving streams: UNT to Indian Run and Indian Run, classified for the following use: Unclassified. There are no potable surface water supply intakes within 10 miles downstream. Application received May 10, 2007.

17802-43070303-E-1. Three Rivers Aggregates (P. O. Box 6090, Falmouth, VA 22403). Application for a stream encroachment to modify an existing crossing over UNT No. 1 to Indian Run in Springfield and Wilmington Townships, **Mercer County** affecting 114.0 acres. Receiving streams: UNT to Indian Run and Indian Run, classified for the following use: Unclassified. There are no potable surface water supply intakes within 10 miles downstream. Application received May 10, 2007.

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.

Permit No. 4976SM4 and NPDES Permit No. PA0608858. Eastern Industries, Inc. (4401 Camp Meeting Road, Suite 200, Center Valley, PA 18034), renewal of NPDES Permit, in Middleburg Township, **Tioga County**. Receiving stream: Norris Brook, classified

for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. NPDES renewal application received May 4, 2007.

FEDERAL WATER POLLUTION CONTROL ACT, SECTION 401

The following permit applications, requests for Environmental Assessment approval and requests for 401 Water Quality Certification have been received by the Department of Environmental Protection (Department). Section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341) 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. Persons objecting to approval of a request for certification under section 401 of the FWPCA or to the issuance of a Dam Permit, Water Obstruction and Encroachment Permit or the approval of an Environmental Assessment must submit comments, suggestions or objections within 30 days of the date of this notice, as well as questions, to the regional 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. Individuals will be notified, in writing, of the time and place of a scheduled hearing or conference concerning the certification request to which the com

ment, objection or suggestion relates. Maps, drawings and other data pertinent to the certification request are available for inspection between 8 a.m. and 4 p.m. on each working day at the regional office noted before the application.

Persons with a disability who wish to attend a hearing and require an auxiliary aid, service or other accommodation to participate in the proceedings should contact the specified program. TDD users should 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 Floodplain Management Act (32 P. S. § 679.302) and requests for certification under section 401(a) of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).

WATER OBSTRUCTIONS AND ENCROACHMENTS

Southeast Region: Water Management Program Manager, 2 East Main Street, Norristown, PA 19401.

E15-774. West Vincent Township, 729 St. Matthews Road, Chester Springs, PA 19425, West Vincent Township, Chester County, ACOE Philadelphia District.

To perform the following water obstructions and encroachments associated with the relocation and reconstruction of Eagle Farms Road and the Ewing Tract Residential Subdivision (E15-775). This site is located approximately 5,400 feet northeast of the intersection Pottstown Pike and Conestoga Road (Downingtown, PA USGS Quadrangle N: 16.1 inches, W: 6.3 inches) in West Vincent Township, Chester County.

1) To modify and maintain Chester Springs Road Crossing by removing the existing 30-inch RCP culvert and constructing 60 linear feet of 8-foot high by 28-foot wide concrete arch bridge across a tributary of Pickering Creek (HQ-TSF) and 0.01 acre of adjacent wetland (PFO). The crossing includes a proposed 8-inch Natural Gas Main.

2) To modify and maintain Eagle Farms Road Crossing No. 2 by removing the existing 24-inch culvert and constructing immediately downstream a replacement structure consisting of 66 linear feet of 8-foot high by 28-foot wide concrete arch bridge across a tributary of Pickering Creek (HQ-TSF) and 0.01 acre of adjacent wetland (PFO). The crossing includes several utility line crossings.

3) To modify and maintain Eagle Farms Road Crossing No. 3, by extending an existing 18-inch RCP culvert. The work will include an M-type inlet, junction box, 6 linear feet of 18-inch RCP, new outfall structure, a stormwater outfall channel and associated riprap apron, as an extension to the downstream end. The work will impact approximately 19 linear feet of stream.

4) To modify and maintain Eagle Farms Road Crossing No. 4, by extending the existing 15-inch RCP, which crosses a tributary of Pickering Creek (HQ-TSF). This 350-foot long stream enclosure will be extended at the upstream end with 44 linear feet of 18-inch RCP. The crossing includes several utility crossings.

This project also includes a General Permit No. 5 for a utility line (GP051507314), which will cross a tributary of

Pickering Creek (HQ-TSF). This general permit will be transferred to the appropriate utility company after construction.

E15-775. Ewing Group, LLC, 1180 Station Boulevard, Chester Springs, PA 19425, West Vincent Township, Chester County, ACOE Philadelphia District.

To perform the following water obstructions and encroachments associated with the relocation and reconstruction of Eagle Farms Road and the Ewing Tract Residential Subdivision (E15-775). This site is located approximately 5,400 feet northeast of the intersection Pottstown Pike and Conestoga Road (Downingtown, PA USGS Quadrangle N: 16.1 inches, W: 6.3 inches) in West Vincent Township, Chester County.

1) To modify and maintain Chester Springs Road Crossing by removing the existing 30-inch RCP culvert and constructing 60 linear feet of 8-foot high by 28-foot wide concrete arch bridge across a tributary of Pickering Creek (HQ-TSF) and 0.01 acre of adjacent wetland (PFO). The crossing includes a proposed 8-inch Natural Gas Main.

2) To modify and maintain Eagle Farms Road Crossing No. 2 by removing the existing 24-inch culvert and constructing immediately downstream a replacement structure consisting of 66 linear feet of 8-foot high by 28-foot wide concrete arch bridge across a tributary of Pickering Creek (HQ-TSF) and 0.01 acre of adjacent wetland (PFO). The crossing includes several utility line crossings.

3) To modify and maintain Eagle Farms Road Crossing No. 3, by extending an existing 18-inch RCP culvert. The work will include an M-type inlet, junction box, 6 linear feet of 18-inch RCP, new outfall structure, a stormwater outfall channel and associated riprap apron, as an extension to the downstream end. The work will impact approximately 19 linear feet of stream.

4) To modify and maintain Eagle Farms Road Crossing No. 4, by extending the existing 15-inch RCP, which crosses a tributary of Pickering Creek (HQ-TSF). This 350-foot long stream enclosure will be extended at the upstream end with 44 linear feet of 18-inch RCP. The crossing includes several utility crossings.

This project also includes a General Permit No. 5 for a utility line (GP051507314), which will cross a tributary of Pickering Creek (HQ-TSF). This general permit will be transferred to the appropriate utility company after construction.

DAM SAFETY

Central Office: Bureau of Waterways Engineering, 400 Market Street, Floor 3, P. O. Box 8554, Harrisburg, PA 17105-8554.

D44-034A. Dark Hollow Dam. Mount Union Municipal Authority, 9 West Market Street, Mount Union, PA 17066. To modify, operate and maintain Dark Hollow Dam across Dark Hollow Run (HQ-CWF) for the purpose of recreation. Works includes the construction of a 1.5-foot concrete cap on top of the masonry section of the dam and repairing the spillway and spillway discharge channel to allow safe passage of the spillway design flood. (Mount Union, PA Quadrangle N: 4.9 inches; W: 1.6 inches) Wayne Township, **Mifflin County.**

ACTIONS

**THE CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT
FINAL ACTIONS TAKEN FOR NATIONAL POLLUTION DISCHARGE
ELIMINATION SYSTEM (NPDES) PERMITS AND WATER QUALITY
MANAGEMENT (WQM) PERMITS**

The Department of Environmental Protection (Department) has taken the following actions on previously received applications for new, amended and renewed NPDES and WQM permits, applications for permit waivers and Notices of Intent (NOI) for coverage under general permits. This notice is provided in accordance with 25 Pa. Code Chapters 91 and 92 and 40 CFR Part 122, implementing provisions of The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and the Federal Clean Water Act.

<i>Location</i>	<i>Permit Authority</i>	<i>Application Type or Category</i>
Section I	NPDES	Renewals
Section II	NPDES	New or amendment
Section III	WQM	Industrial, sewage or animal wastes; discharges to groundwater
Section IV	NPDES	MS4 individual permit
Section V	NPDES	MS4 permit waiver
Section VI	NPDES	Individual permit stormwater construction
Section VII	NPDES	NOI for coverage under NPDES general permits

Sections I—VI contain actions related to industrial, animal or sewage wastes discharges, discharges to groundwater and discharges associated with municipal separate storm sewer systems (MS4), stormwater associated with construction activities and concentrated animal feeding operations (CAFOs). Section VII contains notices for parties who have submitted NOIs for coverage under general NPDES permits. The approval for coverage under general NPDES permits is subject to applicable effluent limitations, monitoring, reporting requirements and other conditions set forth in each general permit. The approval of coverage for land application of sewage sludge or residential septage under applicable general permit is subject to pollutant limitations, pathogen and vector attraction reduction requirements, operational standards, general requirements, management practices and other conditions set forth in the respective permit. Permits and related documents, effluent limitations, permitting requirements and other information are on file and may be inspected and arrangements made for copying at the contact office noted before the action.

Persons aggrieved by an action may appeal, 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 should contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

I. NPDES Renewal Permit Actions

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>
PA0061115	Cove Haven, Inc. d/b/a Paradise Stream Resort P. O. Box 400 Scot Run, PA 18355	Paradise Township Monroe County	Paradise Creek 1E	Y
PA0041912	Deer Haven, LLC 41 Elm Street Morristown, NJ 07960	Palmyra Township Pike County	Lake Wallenpaupack 1C	N

Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

<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>
PA0026212 Sewage	Washington-East Washington Joint Authority 60 East Beau Street Washington, PA 15301	South Strabane Township Washington County	Chartiers Creek	N

Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0238457	Amy J. Wagner and Sue A. Brown 562 Wilson Mill Road New Wilmington, PA 16142	Wilmington Township Lawrence County	UNT to Little Neshannock Creek 20-A	Y
PA0238601	Elmer Sutton Mobile Home Park, STP 129 Elgie Drive Butler, PA 16001	Clay Township Butler County	UNT to Glade Run 20-C	Y
PA0031437	Edinboro Mobile Home Village 14520 Mystic Road Cambridge Springs, PA 16403	Washington Township Erie County	UNT to Conneauttee Creek 16-A	Y
PA0222259	Heckathorne United Methodist Church, SFTF 605 Heckathorne Church Road Seneca, PA 16346-3915	Cranberry Township Venango County	UNT to Halls Run 16-G	Y
PA0033421	Mercer Grove City KOA 1337 Butler Pike Mercer, PA 16137	Findley Township Mercer County	UNT to Pine Run 20-A	Y

II. New or Expanded Facility Permits, Renewal of Major Permits and EPA Nonwaived Permit Actions

Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

NPDES Permit No. PAS802225, Industrial Stormwater, **Student Transportation of America**, 230 East Main Street, Suite 100, Carnegie, PA 15106. This proposed facility is located in Washington Township, **Northampton County**.

Description of Proposed Action/Activity: Issuance of NPDES Industrial Stormwater Permit.

Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

NPDES Permit No. PA0000370, Industrial Waste, **Latrobe Municipal Authority**, P. O. Box 88, Latrobe, PA 15650. This proposed facility is located in Derry Township, **Westmoreland County**.

Description of Proposed Action/Activity: Permit issuance to discharge from a facility located at the Kingston Filtration Plant to receiving waters named Loyalhanna Creek.

III. WQM Industrial Waste and Sewerage Actions under The Clean Streams Law (35 P. S. §§ 691.1—691.1001)

Southeast Region: Water Management Program Manager, 2 East Main Street, Norristown, PA 19401.

WQM Permit No. 1505420, Amendment 1, **West Vincent Township**, 729 St. Matthews Road, Chester Springs, PA 19425-3301. This proposed facility is located in West Vincent Township, **Chester County**.

Description of Action/Activity: Expansion to existing permit.

WQM Permit No. 2399201, Industrial, Amendment 1, **Springfield Township**, 50 Powell Road, Springfield, PA 19064. This proposed facility is located in Springfield Township, **Delaware County**.

Description of Action/Activity: Construction and operation of Leachate Collection Trench, Limestone Treatment Cells and Wetlands Treatment System (existing as a backup).

Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

WQM Permit No. WQG016140, Sewerage, **Department of Veterans Affairs National Cemetery**, Administration Office of Construction Management, 811 Vermont Avenue Northwest, Room 235, Washington, DC 20005. This proposed facility is located in Cecil Township, **Washington County**.

Description of Proposed Action/Activity: Permit issuance for the construction and operation of a small flow sewage treatment facility.

Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

WQM Permit No. 2407401, Sewerage, **Johnsonburg Municipal Authority**, 520 A Market Street, Johnsonburg, PA 15845. This proposed facility is located in Johnsonburg Borough, **Elk County**.

Description of Proposed Action/Activity: This project is for the replacement of three pump stations and the rehabilitation of deteriorated sewers in the Borough of Johnsonburg.

IV. NPDES Stormwater Discharges from MS4 Permit Actions

V. NPDES Waiver Stormwater Discharges from MS4 Actions

VI. NPDES Discharges of Stormwater Associated with Construction Activities Individual Permit Actions

Northeast Region: Watershed Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI024506013	Sciota Properties, LLC HC 1, Box 70 Saylorburg, PA 18353	Monroe	Hamilton Township	McMichael Creek HQ-CWF
PAI023906015	Upper Macungie Township 8330 Schantz Road Breinigsville, PA 18031	Lehigh	Upper Macungie Township	Iron Run HQ-CWF
PAI024806010	3 Twins Realty Partners, Inc. 287 Park Avenue Bangor, PA 18013	Northampton	Plainfield Township	Bushkill Creek HQ-CWF

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701.

Centre County Conservation District: 414 Holmes Avenue, Suite 4, Bellefonte, PA 16823, (814) 355-6817.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAS10F106(2) Revision No. 52	Ian Salada Penn State East Campus Penn State University 101P Physical Plant Building University Park, PA 16802	Centre	College Township	Tributary to Slab Cabin Run CWF

Northwest Region: Watershed Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI063306001(1)	Department of Transportation 2550 Oakland Avenue Indiana, PA 15701	Jefferson	Pine Creek and Warsaw Townships	Little Mill Creek HQ, CWF

VII. Approvals to Use NPDES and/or Other General Permits

The EPA Region III Administrator has waived the right to review or object to this permit action under the waiver provision 40 CFR 123.23(d).

List of NPDES and/or Other General Permit Types

PAG-1	General Permit for Discharges From Stripper Oil Well Facilities
PAG-2	General Permit for Discharges of Stormwater Associated With Construction Activities (PAR)
PAG-3	General Permit for Discharges of Stormwater From Industrial Activities
PAG-4	General Permit for Discharges From Small Flow Treatment Facilities
PAG-5	General Permit for Discharges From 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 Residential Septage by Land Application to Agricultural Land, Forest, or a Land Reclamation Site
PAG-9 (SSN)	Site Suitability Notice for Land Application Under Approved PAG-9 General Permit Coverage

PAG-10	General Permit for Discharge Resulting from Hydrostatic Testing of Tanks and Pipelines
PAG-11	(To Be Announced)
PAG-12	Concentrated Animal Feeding Operations (CAFOs)
PAG-13	Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)

*General Permit Type—PAG-02**Facility Location:*

<i>Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Lower Saucon Township Northampton County	PAG2004807009	Robert Agentis Agentis Brothers, LLC 308 East Broad Street Bethlehem, PA 18018	Black River CWF	Northampton Co. Cons. Dist. (610) 746-1971
Wilkes-Barre Township Luzerne County	PAG2004007005	Joseph W. Balz King's College 133 North River Street Wilkes-Barre, PA 18711	Mill Creek CWF	Luzerne Co. Cons. Dist. (570) 674-7991
West Brunswick Township Schuylkill County	PAG2005403016(2)	Auburn Business Park South P. O. Box 472 Schuylkill Haven, PA 17972	1,500 feet Schuylkill River CWF	Schuylkill Co. Cons. Dist. (570) 622-3742
Bradford County Canton Borough Canton Township	PAG2000807004	Jeffrey Johnston Superintendent Canton Area School District 139 East Main Street Canton, PA 17724	Mill and Towanda Creeks CWF	Bradford County Conservation District Stoll Natural Resource Center R. R. 5 Box 5030C Towanda, PA 18848 (570) 265-5539, Ext. 6
Columbia County North Centre Township	PAG2001907002	Robert G. Paden 1326 Orange Street Berwick, PA 18603	Cabin Run CWF	Columbia County Conservation District 702 Sawmill Road Suite 204 Bloomsburg, PA 17815 (570) 784-1310, Ext. 102
Northumberland County Point Township	PAG2004907001	PAW Point Township Tank 484 Comfort Road Northumberland, PA 17857	Lithia Spring Creek CWF	Northumberland County Conservation District R. R. 3 Box 238-C Sunbury, PA 17801 (570) 286-7114, Ext. 4
Butler County Center Township	PAG2001007012	Stratford Heights Bradley A. Kress Kress Brothers Builders, Inc. 4930 South Pioneer Road Gibsonia, PA 15044	Stony Run WWF	Butler Conservation District (724) 284-5270
Crawford County Meadville City	PAG2002007003	Kenneth Hanna Allegheny College Maintenance Building 295 Loomis Street Meadville, PA 16335	Mill Run WWF	Crawford Conservation District (814) 463-5269
McKean County Bradford Township	PAG2004206002	Universal Well Services	Rutherford Run CWF	McKean Conservation District (814) 887-4001

*Facility Location:
Municipality &
County*Taylor Borough
Lackawanna
County

Permit No.

PAG2113507001

*Applicant Name &
Address*Department of
Environmental
Protection
Bureau of Abandoned
Mine Reclamation
2 Public Square
Fifth Floor
Wilkes-Barre, PA
18711-0790*Receiving
Water/Use*Keyser Creek
CWF*Contact Office &
Phone No.*Department of
Environmental Protection
Bureau of Abandoned
Mine Reclamation
2 Public Square
Fifth Floor
Wilkes-Barre, PA
18711-0790
(570) 826-2371*General Permit Type—PAG-3**Facility Location:
Municipality &
County*Hazle Township
Luzerne County

Permit No.

PAR322204

*Applicant Name &
Address*Polyglass USA, Inc.
555 Oakridge Drive
Hazleton, PA 18202*Receiving
Water/Use*

Tomhicken Creek

*Contact Office &
Phone No.*DEP—NERO
Water Mgmt. Program
2 Public Square
Wilkes-Barre, PA
18711-2511
(570) 826-2511Schuylkill County
Foster and Frailey
Townships

PAR502208

Commonwealth
Environmental Systems,
LP
249 Dunham Drive
Dunmore, PA 18512Swatara and
Middle CreeksDEP—NERO
Water Mgmt. Program
2 Public Square
Wilkes-Barre, PA
18711-2511
(570) 826-2511Ridgway Township
Elk County

PAR238315

General Chemical, LLC
90 East Halsey Road
Parsippany, NJ 07054

Powers Run

DEP—NWRO
Water Management
230 Chestnut Street
Meadville, PA 16335-3481
(814) 332-6942Big Run Borough
Jefferson County

PAR118319

Star Iron Works, Inc.
257 Caroline Street
Punxsutawney, PA 15767Big Run and Mahoning
CreeksDEP—NWRO
Water Management
230 Chestnut Street
Meadville, PA 16335-3481
(814) 332-6942Oil City
Venango County

PAR208326

WEBCO Industries, Inc.
Oil City Tube Division
363 Seneca Street
Oil City, PA 16301

Oil Creek

DEP—NWRO
Water Management
230 Chestnut Street
Meadville, PA 16335-3481
(814) 332-6942*General Permit Type—PAG-4**Facility Location
County &
Municipality*Brothersvalley
Township
Somerset County

Permit No.

PAG046139

*Applicant Name &
Address*David E. Hummel
544 Plank Road
Berlin, PA 15530-9668*Receiving
Water/Use*

Miller Run

*Contact Office &
Phone No.*Southwest Regional Office
Water Management
Program Manager
400 Waterfront Drive
Pittsburgh, PA
15222-4745
(412) 442-4000Salem Township
Westmoreland
County

PAG046259

Mark W. Hult
P. O. Box 170
Main Street
Slickville, PA 15684

Getty Run

Southwest Regional Office
Water Management
Program Manager
400 Waterfront Drive
Pittsburgh, PA
15222-4745
(412) 442-4000

<i>Facility Location County & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Cecil Township Washington County	PAG046344	Department of Veterans Affairs National Cemetery Administration Office of Construction Management 811 Vermont Avenue Northwest Room 235 Washington, DC 20005	UNT of McPherson Creek	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
Shenango Township Mercer County	PAG048744	Floyd E. Arrow 168 Mitchell Road West Middlesex, PA 16159-3314	UNT to Shenango River 20-A	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Pine Grove Township Warren County	PAG048412	Debra D. and John L. Young 1588 Town Line Road Russell, PA 16345	Intermittent Stream Tributary to Fairbanks Run 16-F	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

General Permit Type—PAG-10

<i>Facility Location: Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Salem and Huntington Townships Luzerne County	PAG102212	Williams Gas Pipe Line—Transco 2800 Post Oak Boulevard Houston, TX	Huntington Creek TSF	DEP—NERO Water Management 2 Public Square Wilkes-Barre, PA 18711 (570) 826-2511
Whiteley Township Greene County	PAG106109	Columbia Gas Transmission Corporation 950 Manifold Road Washington, PA 15301	Dutch Run	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000

PUBLIC WATER SUPPLY (PWS) PERMITS

The Department of Environmental Protection has taken the following actions on applications received under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17) for the construction, substantial modification or operation of a public water system.

Persons aggrieved by an action may appeal, 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 should contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board

at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

SAFE DRINKING WATER

Actions taken under the Pennsylvania Safe Drinking Water Act

Northeast Region: Water Supply Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

Permit No. 3396420, Public Water Supply.

Applicant	Nestle Waters North America, Inc. 405 Nestle Way Breinigsville, PA Upper Macungie Township
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County **Lehigh**
 Type of Facility Bottling plant
 Consulting Engineer Forino Company, LP
 555 Mountain Home Road
 Sinking Spring, PA
 Permit to Construct March 19, 2007
 Issued

Permit No. 3390077, Operations Permit, Public Water Supply.

Applicant **Upper Saucon Township**
 5500 Camp Meeting Road
 Center Valley, PA 18034
 Upper Saucon Township

County **Lehigh**
 Type of Facility PWS
 Consulting Engineer Steven R. Henning, P. E.
 The Pidcock Company
 2451 Parkwood Drive
 Allentown, PA 18103

Permit to Construct May 9, 2007
 Issued

Permit No. 3480055, Operations Permit, Public Water Supply.

Applicant **Pennsylvania American Water (PAW)**
 100 North Pennsylvania Avenue
 Wilkes-Barre, PA 18701

Hamilton Township
 County **Monroe**
 Type of Facility PWS
 Consulting Engineer Scott Thomas, P. E.
 PAW
 852 Wesley Drive
 Mechanicsburg, PA 17055

Permit to Construct May 11, 2007
 Issued

Northcentral Region: Water Supply Management Program Manager, 208 West Third Street, Williamsport, PA 17701.

Permit No. M.A.—5974501—Construction, Public Water Supply.

Applicant **Blossburg Municipal Authority**
 Bloss Township
 Township or Borough
 County **Tioga**
 Responsible Official Frank Wasowicz
 Blossburg Municipal Authority
 245 Main Street
 Blossburg, PA 16912

Type of Facility Public Water
 Supply—Construction

Consulting Engineer William S. Bray, P. E.
 Civil Engineering
 P. O. Box 535
 Wellsboro, PA 16901

Permit Issued Date May 17, 2007

Description of Action Addition of potassium
 permanganate and THM-R.

Permit No. 4107501—Construction, Public Water Supply.

Applicant **American Tempo Village Park**
 Township or Borough Lycoming Township
 County **Lycoming**

Responsible Official Jeff Stout
 American Tempo Village Park
 528 Ruben Kehrer Road
 Muncy, PA 17756-8043

Type of Facility Public Water
 Supply—Construction

Consulting Engineer Britt Bassett, P. E.
 Bassett Engineering
 1440 Broad Street
 Montoursville, PA 17754

Permit Issued Date May 17, 2007

Description of Action Construction of a barium
 removal system for Well No. 2,
 including a dual tank ion
 exchange system, with Purolite
 C 100E FM resin. Also approves
 construction of four existing 325
 gallon polyethylene finished
 water storage tanks and a
 booster pump.

Northwest Region: Water Supply Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

Permit No. 6106502, Public Water Supply.

Applicant **Bucholz Mobile Home Park**
 Township or Borough Frenchcreek Township
 County **Venango County**

Type of Facility Public Water Supply
 Permit to Construct May 16, 2007
 Issued

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 2

The following plans and reports were submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

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 plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the act's remediation standards. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis for selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling analytical results which demonstrate that remediation has attained the cleanup standard selected. Submission of plans and reports, other than the final report, shall also be published in the *Pennsylvania Bulletin*. These include the remedial

investigation report, risk assessment report and cleanup plan for a site-specific standard remediation. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media; benefits of 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. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements.

For further information concerning plans or reports, contact the Environmental Cleanup Program manager in the Department regional office after which the notice of receipt of plans or reports appears. If information concerning plans or reports is required in an alternative form, contact the Community Relations Coordinator at the appropriate regional office. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

Southeast Region: Environmental Cleanup Program Manager, 2 East Main Street, Norristown, PA 19401.

Rodriquez Res. Upper Merion Township, **Montgomery County.** Richard D. Trimpi, Trimpi Assoc., Inc., 1635 Old Plains Road, Pennsburg, PA 18073 on behalf of Leonora Rodriquez, 546 North Henderson Road, King of Prussia, PA 19406 has submitted a Final Report concerning remediation of site soil contaminated with No. 2 fuel oil. The report is intended to document remediation of the site to meet the Statewide Health Standards.

Ten Tower Bridge, Conshohocken Borough, **Montgomery County.** Gerald Kirkpatrick, Env. Standards, Inc., 1140 Valley Forge, P. O. Box 810, Valley Forge, PA 19482 on behalf of Josh Rubinich, O'Neil Properties Group, 2701 Renaissance Boulevard, 4th Floor, King of Prussia, PA 19406 has submitted a Remedial Investigation Report, Cleanup Report and Final Report concerning remediation of site soil contaminated with arsenic. The report is intended to document remediation of the site to meet the Site-Specific Standards and Statewide Health Standards.

PECO Wyncote MGP, Cheltenham Township, **Montgomery County.** Matthias Ohr, URS, 335 Commerce Drive, Suite 300, Fort Washington, PA 19134, Benjamin E. Henry, URS, 335 Commerce Drive, Suite 300, Fort Washington, PA 19134 on behalf of Michael Heffron, PECO Energy Co., 2301 Market Street, S9-1, Philadelphia, PA 19103 has submitted a Cleanup Plan concerning remediation of site soil contaminated with PAH's and other organics. The report is intended to document remediation of the site to meet the Site-Specific Standards.

Agway Inc., Penn Township, **Chester County.** Larry Roach, Groundwater Science Corp., 2601 Market Place Street, Suite 310, Harrisburg, PA 17110 on behalf of John Steiner, Agway Liquidating Trust, 5790 Widewaters Parkway, Dewitt, NY 13214 has submitted a Remedial Investigation Report and Final Report concerning remediation of site soil and groundwater contaminated with pesticide. The report is intended to document remediation of the site to meet the Site-Specific Standards and Statewide Health Standards.

315 West First Avenue, Property, Parkesburg Borough, **Chester County.** Christopher Ward, RT Env. Svc., Inc., 510 Hernon Drive, Suite 306, Bridgeport, NJ 08014

on behalf of Senya Isayeff, Keystone Community Alliance, 550 East Union Street, The Goodwill Business Park, West Chester, PA 19382 has submitted a Final Report concerning remediation of site soil contaminated with other organic. The report is intended to document remediation of the site to meet the Statewide Health Standards.

Rosenblum/Hetch Property, Lower Merion Township, **Montgomery County.** David Farrington, Brickhouse Env., 515 South Franklin Street, West Chester, PA 19382 on behalf of Mandy Rosenblum and Elizabeth Hecht, 210 Ladbroke Road, Bryn Mawr, PA 19010 has submitted a Final Report concerning remediation of site soil contaminated with No. 2 fuel oil. The report is intended to document remediation of the site to meet the Statewide Health Standards.

Suburban West Chester Facility, West Chester Borough, **Chester County.** J. Neil Ketchum, Groundwater Sciences Corp., 2601 Market Place Street, Suite 310, Harrisburg, PA 17110 on behalf of Richard D. Williams, Suburban PA Prop., Acquisitions, LLC, P. O. Box 4833, Syracuse, NY 13221-4833, has submitted a Remedial Investigation Report concerning remediation of site soil and groundwater contaminated with No. 2 fuel oil. The report is intended to document remediation of the site to meet the Site-Specific Standards.

Colony Arms Apts., Lower Providence Township, **Montgomery County.** Herb Grant, ConTech Services Inc., 23 East Front Street, Media, PA 19063 on behalf of Dan Stephano, Colony Arms Associates, P. O. Box 370, Springhouse, PA 19477 has submitted a Final Report concerning remediation of site soil contaminated with No. 2 fuel oil. The report is intended to document remediation of the site to meet the Statewide Health Standards.

Trans Material, West Goshen Township, **Chester County.** Christopher Ward, RT Env. Svc., Inc., Pureland Complex, Suite 306, 510 Heron Drive, P. O. Box 521, Bridgeport, NJ 08014 on behalf of Senya Isayeff, CIRR-Keystone Community Alliance—West Goshen, 550 Union Street, West Chester, PA 19382 has submitted a Background Final Report concerning remediation of site groundwater contaminated with chlorinated solvents. The report is intended to document remediation of the site to meet the Statewide Health Standards.

Mill Creek Business Center, Lower Merion Township, **Montgomery County.** Jonathan Spergel, Manko, Gold, Katcher & Fox, LLP, 401 City Avenue, Suite 500, Bala Cynwyd, PA 19004, Jeffrey Walsh, Penn Env. & Remediation, Inc., 2755 Bergey Road, Hatfield, PA 19440 on behalf of Rick Patton, Millcreek Road, Assoc., LP, 2701 Renaissance Boulevard, 4th Floor, King of Prussia, PA 19406 has submitted a Final Report concerning remediation of site soil and groundwater contaminated with heavy metals, BTEX and PAHs. The report is intended to document remediation for the site to meet the Statewide Health Standards.

Bovosso Residence, Kennett Township, **Chester County.** Paul Hagerty, Hagerty Env., LLC, 202 Winding Lane, Kennett Square, PA 19348, on behalf of Ronald Bovasso, 948 Patricia Lane, Kennett Square, PA 19348 has submitted a Final Report concerning remediation of site soil contaminated with No. 2 fuel oil. The report is intended to document remediation for the site to meet the Statewide Health Standards.

Salmon & Butler Property, City of Philadelphia, **Philadelphia County.** Justin Lauterbach, RT Env. Svc., Inc., 510 Heron Drive, Suite 306, P. O. Box 521, Bridgeport, NJ 08014 on behalf of Brad Ullery, Target Corp.,

1000 Nicollet Mall, TPN-0725, Minneapolis, MN 55403 has submitted a Final Report concerning a remediation of site soil and groundwater contaminated with inorganics and PAHs. The report is intended to document remediation for the site to meet the Statewide Health Standards and Site-Specific Standards.

Pathan Chemical Site, City of Philadelphia, **Philadelphia County**. Bill Schmidt, Pennoni Assoc. Inc., 3001 Market Street, Philadelphia, PA 19104 on behalf of Sandy Salzman, New Kensington CDC, 2515 Frankford Avenue, Philadelphia, PA 19125 has submitted a Cleanup Plan concerning a remediation of site soil and groundwater contaminated with inorganics, lead, PAHs and chlorinated solvents. The report is intended to documents remediation for the site to meet the Site-Specific Standards.

Bridgeview Site, Borough of Bridgeport, **Montgomery County**. Jonathan Spergel, Manko, Gold, Katcher & Fox, LLP, 401 City Avenue, Suite 500, Bala Cynwyd, PA 19004 on behalf of Brian Finnegan, Bridgeview Development, LP, 2701 Renaissance Boulevard, 4th Floor, King of Prussia, PA 19406 has submitted a Final Report concerning a remediation of site soil and groundwater contaminated with unleaded gasoline and leaded gasoline. The report is intended to documents remediation for the site to meet the Site-Specific Standards.

Four Falls Corp Center, West Conshohocken Borough, **Montgomery County**. Thomas Petercz, Penn E & R, Inc., 2755 Bergey Road, Hatfield, PA 19440, Michael Christie, Penn E & R, Inc. 2755 Bergey Road, Hatfield, PA 19440 on behalf of Richard Evans, Thomas Properties Group Inc., 200 Four Falls, Suite 109, West Conshohocken, PA 19428 has submitted a Final Report concerning a remediation of site soil contaminated with Nos. 4 and 5 fuel oil. The report is intended to documents remediation for the site to meet the Statewide Health Standards.

Northeast Region: Ronald S. Brezinski, Regional Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

Pirone Residence, City of Allentown, **Lehigh County**. Richard D. Trimpi, Trimpi Associates, Inc., 1635 Old Plains Road, Pennsburg, PA 18073 has submitted a Final Report (on behalf of his client, Richard and Olga Pirone, 1037 North 21st Street, Allentown, PA 18104) concerning the remediation of soils impacted with No. 2 fuel oil as a result of a filter connection error on the No. 2 fuel oil heating system. The report was submitted in order to document attainment of the Residential Statewide Health Standard for soils. The proposed future use of the property will be residential use.

Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

City of Reading/Baer Park, Reading City, **Berks County**. Services Environmental, Inc., 375 Morgan Street, Phoenixville, PA 19460, on behalf of City of Reading/Department of Public Works, 503 North 6th Street, Reading, PA 19067, submitted a Final Report concerning remediation of site soils contaminated with No. 2 fuel oil from a removed underground storage tank. The report is intended to document remediation of the site to the Residential Statewide Health Standard.

McCoy Electronics Facility, Mercersburg Borough, **Franklin County**. Weston Solutions, Inc., 1400 Weston Way, Suite 2653, West Chester, PA 19380, on behalf of Spirit Washers, 95 Fox Road, Mercersburg, PA 17236, and Corning, Inc., HP-Me-02-50, Corning, NY 14831 submit-

ted a Remedial Investigation and Risk Assessment report concerning remediation of site soils and groundwater contaminated with chlorinated solvents and cobalt. The report is intended to document remediation of the site to the Site-Specific and Residential Statewide Health Standards.

Northwest Region: Environmental Cleanup Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

Former Fenestra Corporation, Millcreek Township, **Erie County**. Converse Consultants, 2738 West College Avenue, State College, PA 16801, on behalf of the Marmon Group, Inc., 225 West Washington Street, Chicago, IL 60606-3418 has submitted a Remedial Investigation Report and Final Report concerning remediation of site groundwater contaminated with trichloroethene. The reports are intended to document remediation of the site to meet the Site-Specific Standards.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 3

The Department has taken action on the following plans and reports under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

Provisions of 25 Pa. Code § 250.8, administration 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 final actions on plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the remediation standards of the act. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis of selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected. Plans and reports required by 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. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements. A work plan for conducting a baseline remedial investigation is required by provisions of the act for compliance with selection of a special industrial area remediation. The baseline remedial investigation, based on the work plan, is compiled into the baseline environmental report to establish a reference point to show existing contamination, describe proposed remediation to be done and include a description of existing or potential public benefits of the use or reuse of the property. The Department may approve or disapprove plans and reports submitted. This notice provides the Department's decision and, if relevant, the basis for disapproval.

For further information concerning the plans and reports, contact the Environmental Cleanup Program manager in the Department regional office before which the notice of the plan or report appears. If information concerning a final report is required in an alternative form, contact the Community Relations Coordinator at the appropriate regional office. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

Southeast Region: Environmental Cleanup Program Manager, 2 East Main Street, Norristown, PA 19401.

Rodriquez Res. Upper Merion Township, **Montgomery County.** Richard D. Trimpi, CHMM, P. G. Trimpi Assoc., Inc., 1635 Old Plains Road, Pennsburg, PA 18073 on behalf of Leonora Rodriquez, 546 North Henderson Road, King of Prussia, PA 19406 has submitted a Final Report concerning the remediation of site soil contaminated with No. 2 fuel oil. The Final Report demonstrated attainment of the Statewide Health Standards and was approved by the Department on April 20, 2007.

PECO Wyncote MGP. Cheltenham Township, **Montgomery County.** Matthias Ohr, URS, 335 Commerce Drive, Suite 300, Fort Washington, PA 19134, Benjamin E. Henry, URS, 335 Commerce Drive, Suite 300, Fort Washington, PA 19134 on behalf of Michael Heffron, PECO Energy Co., 2301 Market, Suite S9-1, Philadelphia, PA 19103 has submitted a Cleanup Plan concerning the remediation of site soil contaminated with PAHs and other organics. The Cleanup Plan was approved by the Department on May 10, 2007.

Air Shield Property. Warminster Township, **Bucks County.** Samuel Kucia, Env. Consulting, Inc., 500 East Washington Street, Suite 375, Norristown, PA 19401 on behalf of Gregory Rogerson, JERC Partners VIII, LP, 171 Route 173, Suite 201, Asbury, NJ 08802 has submitted a Final Report concerning the remediation of site groundwater and soil contaminated with other organics. The Final report demonstrated attainment of the Statewide Health Standards and was approved by the Department on April 25, 2007.

315 West First Avenue Property. Parkesburg Borough, **Chester County.** Christopher Ward, RT Env. Svc. Inc., 510 Heron Drive, Suite 306, Bridgeport, NJ 08014 on behalf of Senya Isayeff, Keystone Community Alliance, 550 East Union Street, The Goodwill Business Park, West Chester, PA 19382 has submitted a Final Report concerning the remediation of site soil contaminated with other organic. The Final Report demonstrated attainment of the Statewide Health Standards and was approved by the Department on April 20, 2007.

Belmont Ridge. Bensalem Township, **Bucks County.** Geoffrey Kristof, Leggette, Brashears, and Graham, Inc., 426 Brandywine Parkway, West Chester, PA 19380 on behalf of Bill Briegel, Orleans homebuilders, 3333 Street Road, Bensalem, PA 19020 has submitted a Final Report concerning the remediation of site soil and groundwater contaminated with No. 2 fuel oil. The Final Report demonstrated attainment of the Site-Specific Standards and was approved by the Department on May 1, 2007.

McDonald Property. City of Philadelphia, **Philadelphia County.** Keith T. D'Ambrosio, P.E., Whitestone Assoc., Inc., New Britain Corp. Center, 1600 Manor Drive, Suite 220, Chalfont, PA 18914 on behalf of Scott Lang, McDonald Corp., 150 South Warner Road, Suite 470, King of Prussia, PA 19406 has submitted a Final Report

concerning the remediation of site soil contaminated with solvents. The Final Report demonstrated attainment of the Site-Specific Standards and was approved by the Department on April 24, 2007.

Irwin Residence. Aston Township, **Delaware County.** Joseph Diamadi, Marshall Geoscience, Inc., 170 East First Avenue, Collegeville, PA 19426 on behalf of Sue Irwin, 55 Seward Lane, Aston, PA 19014 has submitted a 90-day Final Report concerning the remediation of site soil contaminated with No. 2 fuel oil. The Final Report demonstrated attainment of the Statewide Health Standards and was approved by the Department on April 30, 2007.

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.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401, Thomas McGinley, New Source Review Chief, (484) 250-5920.

46-310-066GP: David Erb Contractors, Inc. (2930 Felton Road, East Norriton, PA 19401) on May 17, 2007, to operate a portable crusher/screener unit in Skippack Township, **Montgomery County.**

46-329-018GP: David Erb Contractors, Inc. (2930 Felton Road, East Norriton, PA 19401) on May 17, 2007, to operate a No. 2 fuel-fired internal combustion in Skippack Township, **Montgomery County.**

09-329-004GP: Rohm & Haas Co., (727 Norristown Road, P. O. Box 0904, Spring House, PA 19477) on May 22, 2007, to operate a diesel fuel-fired internal combustion engine in Bristol Township, **Bucks 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, 2 East Main Street, Norristown, PA 19401, Thomas McGinley, New Source Review Chief, (484) 250-5920.

23-0109: Catayzlst International, Inc. (1050 Ashland Avenue, Folcroft, PA 19032) on May 16, 2007, to operate three solvent based laminators in Folcroft Borough, **Delaware County.**

09-0016B: Exelon Generation Co. (955 River Road, Bristol, PA 19007) on May 18, 2007, to operate a cycle combustion turbine in Bristol Township, **Bucks County.**

23-0066B: PyroPure, Inc. (5 Commerce Drive, Aston, PA 19014) on May 18, 2007, to operate a replacement baghouse in Chester Township, **Delaware County.**

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790, Mark Wejkszner, New Source Review Chief, (570) 826-2531.

40-305-028: Carbon Enterprises, Inc. (603 South Church Street, Hazleton, PA 18201) on May 9, 2007, to construct a coal drying/screening plant and associated air cleaning devices at their facility in Hazleton, **Luzerne County.**

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, Ronald Davis, New Source Review Chief, (717) 705-4702.

06-05109A: Atlas Minerals and Chemicals, Inc. (1227 Valley Road, P. O. Box 38, Mertztown, PA 19539) on May 18, 2007, to install a second asphalt processing line in Longswamp Township, **Berks County**.

34-03007A: Dominion Transmission, Inc. (445 West Main Street, Clarksburg, WV 26301) on May 18, 2007, to construct a natural gas fired 4,735 bhp engine driven natural gas compressors and 814 bhp auxiliary generator in Lackawanna Township, **Juniata County**.

67-05004M: P. H. Glatfelter Co. (228 South Main Street, Spring Grove, PA 17362-1000) on May 18, 2007, for production of new products on the facility's paper machines in Spring Grove Borough, **York County**.

Plan Approval Revisions Issued including Extensions, Minor Modifications and Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.13, 127.13a and 127.32.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401, Thomas McGinley, New Source Review Chief, (484) 250-5920.

09-0124F: Fairless Energy, LLC (5000 Dominion Boulevard, Glen Allen, VA 23060) on May 16, 2007, to operate an auxiliary boiler retrofit in Falls Township, **Bucks County**.

09-0124B: Fairless Energy, LLC (5000 Dominion Boulevard, Glen Allen, VA 23060) On May 16, 2007, to operate combined cycle combustion turbines in Falls Township, **Bucks County**.

09-0124E: Fairless Energy, LLC (5000 Dominion Boulevard, Glen Allen, VA 23060) On May 16, 2007, to operate a 31.9 mmBtu/hr gas fired preheater in Falls Township, **Bucks County**.

46-0161B: Reading Materials, Inc. (2052 Lucon Road, P. O. Box 1467, Skippack, PA 19474) On May 22, 2007, to operate a hot asphalt plant in Lower Pottsgrove Township, **Montgomery County**.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701, David Aldenderfer, Program Manager, (570) 327-3637.

41-305-010B: Keystone Filler & Manufacturing Co. (214 Railroad Street, Muncy, PA 17756) on May 15, 2007, to operate a portable coal, shale and rottenstone crushing and screening operation on a temporary basis until September 12, 2007, in Muncy Creek Township, **Lycoming County**. The plan approval has been extended.

59-304-008G: ACP Manufacturing Co., LLC (P. O. Box 68, Blossburg, PA 16912) on May 16, 2007, to operate a dip coat tank on a temporary basis until September 13, 2007, in Lawrence Township, **Tioga County**. The plan approval has been extended.

19-320-005A: Press Enterprise, Inc. (3185 Lackawanna Avenue, Bloomsburg, PA 17815) on May 16, 2007, to operate an eight color heatset web offset lithographic printing press on a temporary basis until September 13, 2007, in Scott Township, **Columbia County**. The plan approval has been extended.

53-399-008: PA Pellets, LLC (958 SR 49W, Ulysses, PA 16948) on May 16, 2007, to use a fabric collector to control the PM emissions from a wood hammermill

instead of the cartridge collector originally approved, to extend the deadline for the performance of stack testing on a wood-fired rotary sawdust/wood chip dryer and pellet cooler until June 20, 2007, to install check valves on the pressure differential monitoring systems associated with a multiclone collector and a cyclone collector, to require the pressure differential across the multiclone collector and cyclone collector to be recorded at least once per day and to operate the wood-fired rotary sawdust/wood chip dryer, hammermill and pellet cooler on a temporary basis until September 13, 2007, in Ulysses Borough, **Potter County**. The plan approval has been extended.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, George Monasky, New Source Review Chief, (814) 332-6940.

10-027E: Penreco (138 Petrolia Street, Karns City, PA 16041) on May 21, 2007, effective on May 31, 2007, to construct a new gas/oil fired boiler rated at 91 mmBtu/hr to replace the existing coal fired boiler in Karns City Borough, **Butler County**. The new boiler is subject to the New Source Performance Standards for boilers greater than 10 mmBtu and less than 100 mmBtu. The facility is a Title V Facility.

24-083H: Carbone of America Ind. Corp. (215 Stackpole Street, St. Marys, PA 15857) on May 16, 2007, effective on April 30, 2007, to construct four additional mixers, two mills and a pulverizer in St. Marys City, **Elk County**. The mixers will be controlled by the existing scrubber. This is a Title V facility.

24-131J: SGL Carbon, LLC (900 Theresia Street, St. Marys, PA 15857) on May 16, 2007, effective on May 31, 2007, to construct two reactors in St. Marys, **Elk County**.

Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104, Edward Braun, Chief, (215) 685-9476.

AMS 05202: Veteran's Health Affairs (3900 Woodland Avenue, Philadelphia, PA 19104) on May 16, 2007, under 25 Pa. Code § 127.13a, Philadelphia Air Management Code § 3-400 and Air Management Regulation XIII to correct the rated capacity of three boilers from 24 mmBtu/hr to 29.4 mmBtu/hr. There is no potential increase of NOx emissions. The plan approval was originally issued September 13, 2006, for installation of low NOx burners on three existing boilers and to allow the boilers to burn No. 6 fuel oil in the City of Philadelphia, **Philadelphia County**.

Title V Operating Permits Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter G.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, Matthew Williams, Facilities Permitting Chief, (814) 332-6940.

37-00059: Praxis Northeast—Universal Rundle Plant, (435 Industrial Drive, Savannah, TN 38372-5996) on May 16, 2007, the Department reissued the Title V Operating Permit for this Reinforced Plastics Plumbing Fixture manufacturing facility in Taylor Township, **Lawrence County**. The facility is a major source due to its potential to emit VOCs and HAPs.

Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104, Thomas Huynh, Chief, (215) 685-9476.

V04-003: Park Towne Place Apartments (2200 Ben Franklin Parkway, Philadelphia, PA 19130) for operation

of an apartment complex in the City of Philadelphia, **Philadelphia County**. The facility's air emission sources include two 25.1 mmBtu/hr boilers fired by No. 4 fuel oil or natural gas and four 35 kW emergency generators firing natural gas.

Operating Permits for Non-Title V Facilities Issued under the Air Pollution Control Act (35 P.S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401, Edward Jurdones Brown, Facilities Permitting Chief, (484) 250-5920.

46-00222: Bostik, Inc. (1740 County Line Road, Huntingdon Valley, PA 19006) on May 16, 2007, for the manufacturing of caulking, adhesives and sealants. This is a non-Title V, Synthetic Minor facility located in Upper Moreland Township, **Montgomery County**. This Operating Permit incorporates the requirements of Plan Approval No. 46-0222A. The main sources of emissions are the facility's cleaning operations and seven mixers, used to make product. The facility also has numerous combustion sources that result in very little emissions. The Department has determined these to be insignificant sources. The facility also has various storage tanks that result in less than 1 pound of emissions a year. The facility has a potential to emit more than 25 tpy of VOCs. However, the facility has adopted an emission limit of 24.9 tpy for VOCs for the entire facility. The facility has a potential to emit of 6.13 tpy for HAPs, 0.62 tpy for PM and 1.32 tpy for NOx. Emissions of SOx and CO from the facility are insignificant.

46-00240: Moyer Packing Co. (249 Allentown Road, Souderton, PA 18964) on May 22, 2007, for a non-Title V, State-only, Synthetic Minor Operating Permit in Franconia Township, **Montgomery County**. Moyer Packing Company's Beef Plant is a slaughtering and meat packing facility. The boilers that are used for facility heating are a major source of NOx. The company has elected to take appropriate operating and emission restrictions to restrict NOx emissions to below 21 tpy and maintain a minor operating status. Monitoring, recordkeeping and reporting requirements have been added to the permit to address applicable limitations.

23-00106: BPG Real Estate Investors—Straw Party 1 LP (3815 West Chester Pike, Newtown Square, PA 19073) on May 22, 2007, for operation of three boilers, one emergency generator and one fire pump located at the Ellis Preserve at Newtown Square in Newtown Township, **Delaware County**. The permit is for a non-Title V (State-only) facility. The facility has elected to cap NOx and SOx to less than major facility thresholds; therefore, the facility is a Synthetic Minor. The permit will include monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790, Mark Wejkszner, New Source Review Chief, (570) 826-2531.

64-00006: Hanson Aggregates PA, Inc. (1900 Sullivan Trail, Easton, PA 18040) on May 11, 2007, to operate a batch asphalt plant and associated air cleaning devices at their facility in Lake Township, **Wayne County**.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, Ronald Davis, New Source Review Chief, (717) 705-4702.

06-03551: MGP LLC (796 Fritztown Road, P. O. Box 2193, Sinking Spring, PA 19608) on May 17, 2007, to operate a graphite processing facility controlled by five fabric collectors in Spring Township, **Berks County**.

28-03011: ATI Landis Threadings System (360 South Church Street, Waynesboro, PA 17268-2610) on May 18, 2007, to operate of two natural gas fired boilers, 20.3 mmBtu/hr each and three blast cabinets controlled by a fabric collector, in Waynesboro Borough, **Franklin County**. This is a renewal of the State-only operating permit.

28-03013: Grove Bowersox Funeral Home, Inc. (50 South Broad Street, Waynesboro, PA 17268-1611) on May 18, 2007, for a crematorium at Waynesboro Borough, **Franklin County**. This is a renewal of the State-only operating permit.

36-03074: Colonial Metals Co. (2nd and Linden Streets, Columbia, PA 17512) on May 21, 2007, to operate a brass and bronze foundry in Columbia Borough, **Lancaster County**. This is a renewal of the State-only operating permit.

36-05115: MGS, Inc. (178 Muddy Creek Church Road, Denver, PA 17517-9328) on May 14, 2007, for surface coating and curing operations in East Cocalico Township, **Lancaster County**. This is a renewal of the State-only operating permit.

36-05119: Signature Custom Cabinetry, Inc. (434 Springville Road, Ephrata, PA 17522-9610) on May 17, 2007, for a wood working operation at Ephrata Township, **Lancaster County**. This is a renewal of the State-only operating permit.

67-03030: Bickel's Snack Foods, Inc. (1120 Zinns Quarry Road, York, PA 17404-3533) on May 16, 2007, to construct two potato chip fryers controlled by a mist eliminator in West Manchester Township, **York County**.

67-03098: Workinger-Semmel Funeral Home, Inc. (849 East Market Street, York, PA 17403-1101) on May 18, 2007, to operate their human crematory in the City of York, **York County**. This is a renewal of the State-only operating permit.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, Barbara Hatch, Facilities Permitting Chief, (412) 442-4174.

65-00623: Wabtec Rubber Products (269 Donahoe Road, Greensburg, PA 15601) on May 18, 2007, to operate a rubber manufacturing facility in Hempfield Township, **Westmoreland County**.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, Matthew Williams, Facilities Permitting Chief, (814) 332-6940.

37-00126: Hickman Manufacturing, Inc. (352 Industrial Park Drive, Route 18, Wampum, PA 16157) on May 15, 2007, the Department reissued State-only Operating Permit for to operate an asphalt coating facility, located in New Beaver Borough, **Lawrence 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, 2 East Main Street, Norristown, PA 19401, Edward Jurdones Brown, Facilities Permitting Chief, (484) 250-5920.

15-00055: Highway Materials, Inc. (850 Quarry Road, Downingtown, PA) on May 22, 2007, for incorporation of PA-15-0039, for the additional use of the following fuels as at their existing asphalt plant in East Caln Township, **Chester County**. Waste Derived Liquid Fuel, fuel oil Nos. 2, 4 and 5 and also to increase the emission limit of fuel bound sulfur from these fuels, into SMOP-15-00055 Administrative Amendment of Synthetic Minor Operating Permit issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code § 127.450. The Operating Permit will contain recordkeeping requirements, monitoring requirements and operating conditions designed to keep the facility operating within the allowable emission limits and all applicable air quality requirements.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, Ronald Davis, New Source Review Chief, (717) 705-4702.

36-05087: Morgan Corp. (35 Thousand Oaks Boulevard, Box 588, Morgantown, PA 19543-8838) on May 14, 2007, to operate a truck body manufacturing facility in Ephrata Borough, **Lancaster County**. This operating permit was administratively amended to incorporate Plan Approval 36-05087B. This is revision No. 1.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, Matthew Williams, Facilities Permitting Chief, (814) 332-6940.

25-00337: Custom Engineering Co. (2800 McClelland Avenue, Erie, PA 16510) on March 14, 2007, to administratively amend a natural minor operating permit to incorporate Plan Approval 25-337A to add a paint booth in Erie City, **Erie County**.

43-00319: John Maneely Co.—Sharon Tube Division—Wheatland Plant (20 Church Street, Wheatland, PA 16161) on May 14, 2007, to administratively amend a natural minor operating permit to incorporate the change of ownership and responsible official in the Borough of Wheatland, **Mercer County**.

De Minimis Emissions Increases Authorized under 25 Pa. Code § 127.449.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, Barbara Hatch, Facilities Permitting Chief, (412) 442-4174.

03-00062: Freeport Terminals, Inc. (P. O. Box 29, Butler, PA 16003) De Minimis emission increase of 0.36 ton PM per year resulting from the installation on May 8, 2007, of a "Puckmaster" electric hydraulic press for the compaction of scrap metal at the Freeport Plant located in Freeport Borough, **Armstrong 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); and 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 the 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

California District Office: 25 Technology Drive, Coal Center, PA 15423, (724) 769-1100.

Permit Number: 32901603 and NPDES Permit No. PA0214507, Tipple Four J, Inc., (P. O. Box 435, Seward, PA 15954), to renew the permit for the Tipple Four J in Armstrong Township, **Indiana County** and related NPDES permit. No additional discharges. Application received October 31, 2006. Permit issued May 14, 2007.

Greensburg District Mining Office: Armbrust Professional Center, 8205 Route 819, Greensburg, PA 15601, (724) 925-5500.

26-06-08 and NPDES Permit No. PA0251020. Purco Coal, Inc. (22 Van Voorhis Lane, Monongahela, PA 15063). Government Financed Construction Contract issued for reclamation of approximately 5.2 acres of abandoned mine lands located in Springhill Township, **Fayette County**. Receiving streams: UNT to Georges Creek. Application received December 18, 2006. Contract issued May 15, 2007.

03020110 and NPDES Permit No. PA0250244. Original Fuels, Inc. (P. O. Box 343, Punxsutawney, PA 15767). Permit renewal issued for continued reclamation only of a bituminous surface mining site located in Redbank Township, **Armstrong County**, affecting 73.0 acres. Receiving streams: UNTs to Redbank Creek to Allegheny River. Application received April 12, 2007. Renewal issued May 15, 2007.

Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, (814) 797-1191.

33950108 and NPDES Permit No. PA0227111. TLH Coal Company (4401 Pollock Road, Marion Center, PA 15759) Renewal of an existing bituminous strip and auger operation in Perry Township, **Jefferson County** affecting 67.0 acres. This renewal is issued for reclamation only. Receiving streams: McCracken Run. Application received March 27, 2007. Permit Issued May 15, 2007.

33820121 and NPDES Permit No. PA0604623. Terry Coal Sales, Inc. (P. O. Box 58, Distant, PA 16223-0058) Renewal of an existing bituminous strip and auger operation in Knox Township, **Jefferson County** affecting 144.0 acres. This renewal is issued for reclamation only. Receiving streams: UNTs to Sandy Lick Creek. Application received March 27, 2007. Permit Issued May 15, 2007.

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.

GFCC No. 17-07-01: A. W. Long Coal Company, Morris Township, **Clearfield County** (Emigh Run to Moshannon Creek—Upper West Branch Watershed): A Government-Financed Construction Contract has been awarded to A. W. Long Coal Company that will result in the reclamation of 1,800-feet of open highwall, the reclamation of approximately 5 acres of abandoned underground mines and the reclamation of approximately 12.2 acres of abandoned mine land in Morris Township, Clearfield County. The reclamation of the abandoned mine land will also reduce the amount of sediment entering Emigh Run. As a Best Management

Practice alkaline addition, in the form of waste lime, will be added to the Upper Freeport mining area pit floor at a rate of 50 tons/acre. The value of this reclamation is estimated at \$50,000. (Contact: John Varner; (814) 342-8200, Moshannon)

Noncoal Permits Actions

Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, (814) 797-1191.

37900802. Fred Whelpley Excavation. (2599 Horizon Drive, Brockway, PA 15824). Transfer of an existing small noncoal shale operation from Fred Whelpley Excavation in Snyder Township, **Jefferson County** affecting 5.0 acres. Receiving streams: UNT to Little Toby Creek. Application received April 25, 2007. Permit Issued May 15, 2007.

37950303. Cemex, Inc. (840 Gessner, Suite 1400, Houston, TX 77024) Renewal of NPDES Permit No. PA0227129 in Shenango Township, **Lawrence County** affecting 188.0 acres. Receiving streams: UNTs to McKee Run and McKee Run. Application received March 28, 2007. Permit Issued May 15, 2007.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118.

64070810. Gary and Scott Hunt, (111 Hunt Road, Lake Como, PA 18437), commencement, operation and restoration of a quarry operation in Buckingham Township, **Wayne County** affecting 5.0 acres, receiving stream: none. Application received February 5, 2007. Permit issued May 14, 2007.

64070811. Gary and Scott Hunt, (111 Hunt Road, Lake Como, PA 18437), commencement, operation and restoration of a quarry operation in Buckingham Township, **Wayne County** affecting 5.0 acres, receiving stream: none. Application received February 8, 2007. Permit issued May 14, 2007.

64070812. Gary and Scott Hunt, (111 Hunt Road, Lake Como, PA 18437), commencement, operation and restoration of a quarry operation in Buckingham Township, **Wayne County** affecting 5.0 acres, receiving stream: none. Application received February 15, 2007. Permit issued May 14, 2007.

66060808. Royals Legacy Farm, (P. O. Box 434, Chinchilla, PA 18410), commencement, operation and restoration of a quarry operation in Nicholson Township, **Wyoming County** affecting 5.0 acres, receiving stream: none. Application received July 19, 2006. Permit issued May 15, 2007.

58070812. Todd B. Schmidt, (R. R. 2, Box 2212, Hallstead, PA 18822), commencement, operation and restoration of a quarry operation in Great Bend Township, **Susquehanna County** affecting 5.0 acres, receiving stream: none. Application received February 8, 2007. Permit issued May 15, 2007.

40060301. Pioneer Aggregates, Inc., (202 Main Street, Laflin, PA 18702-2706), commencement, operation and restoration of a quarry operation in Plains Township, **Luzerne County** affecting 190.5 acres, receiving stream: none. Application received August 18, 2006. Permit issued May 15, 2007.

58060874. Herbert Kilmer, (R. R. 4, Box 56C, Montrose, PA 18801), commencement, operation and restoration of a quarry operation in New Milford Township, **Susquehanna County** affecting 5.0 acres, receiving stream: none. Application received November 3, 2006. Permit issued May 16, 2007.

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

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900.

28074123. David H. Martin Excavating, Inc., (4961 Cumberland Highway, Chambersburg, PA 17201-9655), blasting activity permit issued for school development in Chambersburg Borough, **Franklin County**. Blasting activity permit end date is November 5, 2008. Permit issued May 10, 2007.

Greensburg District Mining Office: Armbrust Professional Center; 8205 Route 819, Greensburg, PA 15601, (724) 925-5500.

63074002. Hilltop Energy, Inc. (6978 Linden Tree Road, Mineral City, OH 44656). Blasting activity permit issued for construction of Tanger Outlet Center, located in South Strabane Township, **Washington County**, with an expected duration of 7 months. Permit issued May 14, 2007.

02074006. Chambers Development Company (Monroeville Landfill, 600 Thomas Street, Monroeville, PA 15146). Blasting activity permit issued for landfill development located in Monroeville Borough, **Allegheny County**, with an expected duration of 6 months. Permit issued May 14, 2007.

65074005. Kesco, Inc. (P. O. Box 95, Adrian, PA 16210-0095). Blasting activity permit issued for construction of a borrow pit located in South Huntingdon Township, **Westmoreland County**, with an expected duration of 1 year. Permit issued May 14, 2007.

02074004. Oakview, LP (11676 Perry Highway, Suite 1100, Wexford, PA 15090). Blasting activity permit issued for sanitary sewer installation at the Summitt housing development located in Marshall Township, **Allegheny County**, with an expected duration of approximately 1 month. Permit issued May 16, 2007.

Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, (814) 797-1191.

62074005. Minard Run Oil Co. (609 South Avenue, P. O. Box 18, Bradford, PA 16701). Blasting activity permit for gas and oil exploration in Mead Township, **Warren County**. This blasting activity permit will expire on May 17, 2008. Application received May 15, 2007. Application issued May 17, 2007.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118.

35074002. James Resseguie, Resseguie Explosive Service, (P. O. Box 271, Harford, PA 18823), construction blasting for the Filipek Foundation in Glenburn Township, **Lackawanna County** with an expiration date of August 1, 2007. Permit issued May 16, 2007.

64074001. Chris Grady, Northeast Blasting, (403 Middle Creek Road, Honesdale, PA 18431), construction blasting for the Robert Sohosky Sewer Project in Cherry

Ridge Township, **Wayne County** with an expiration date of May 31, 2008. Permit issued May 16, 2007.

58074001. John Brainard, (R. R. 1, Box 275, Kingsley, PA 18826), construction blasting for the Holgate House Foundation in Lenox Township, **Susquehanna County** with an expiration date of June 30, 2007. Permit issued May 16, 2007.

09074110. Silver Valley Drilling & Blasting, Inc., (R. R. 4, Box 4196, Saylorsburg, PA 18353-9514), construction blasting for commercial development in Richland Township, **Bucks County** with an expiration date of May 9, 2008. Permit issued May 16, 2007.

22074111. Dyno Nobel Inc., (1320 Galiffa Drive, Donora, PA 15033), construction blasting for The Preserves at Bow Creek in East Hanover Township, **Dauphin County** with an expiration date of May 30, 2008. Permit issued May 16, 2007.

35074111. Holbert Explosives, Inc., (237 Mast Hope Plank Road, Lackawaxen, PA 18435), construction blasting for a warehouse at Covington Industrial Park in Covington Township, **Lackawanna County** with an expiration date of May 10, 2008. Permit issued May 11, 2007.

36074149. Newville Construction Services, Inc., (408 Mohawk Road, Newville, PA 17241-9424), construction blasting for pool/pond in Mount Joy Township, **Lancaster County** with an expiration date of May 30, 2008. Permit issued May 16, 2007.

45074130. Explosive Services, Inc., (7 Pine Street, Bethany, PA 18431), construction blasting for Skytop Lodge in Barrett Township, **Monroe County** with an expiration date of May 31, 2008. Permit issued May 14, 2007.

48074107. Silver Valley Drilling & Blasting, Inc., (R. R. 4, Box 4196, Saylorsburg, PA 18353-9514), construction blasting for commercial development in Lower Nazareth Township, **Northampton County** with an expiration date of May 15, 2008. Permit issued May 16, 2007.

48074107. Silver Valley Drilling & Blasting, Inc., (R. R. 4, Box 4196, Saylorsburg, PA 18353-9514), construction blasting for commercial development in Palmer Township, **Northampton County** with an expiration date of May 15, 2008. Permit issued May 16, 2007.

52074119. Explosive Services, Inc., (7 Pine Street, Bethany, PA 18431), construction blasting for Pocono Ranchlands in Lehman Township, **Pike County** with an expiration date of May 31, 2008. Permit issued May 14, 2007.

64074105. Explosive Services, Inc., (7 Pine Street, Bethany, PA 18431), construction blasting for commercial development in Dyberry Township, **Wayne County** with an expiration date of May 31, 2008. Permit issued May 11, 2007.

64074106. Explosive Services, Inc., (7 Pine Street, Bethany, PA 18431), construction blasting for Paupackan Lake Estates in Paupack Township, **Wayne County** with an expiration date of May 31, 2008. Permit issued May 14, 2007.

67074120. Newville Construction Services, Inc., (408 Mohawk Road, Newville, PA 17241-9424), construction blasting for Laurel Vista in Windsor Township, **York County** with an expiration date of May 30, 2008. Permit issued May 11, 2007.

67074121. David H. Martin Excavating, Inc., (4961 Cumberland Highway, Chambersburg, PA 17201-9655), construction blasting for North Hanover Mall in Hanover Borough, **York County** with an expiration date of May 15, 2008. Permit issued May 16, 2007.

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).

Except as otherwise noted, the Department has granted 401 Water Quality Certification certifying that the construction and operation 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.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

Actions on applications for the following activities filed under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27), section 302 of the Flood Plain Management Act (32 P. S. § 679.302) and The Clean Streams Law (35 §§ 691.1—691.702) and Notice of Final Action for Certification under section 401 of the FWPCA (33 U.S.C.A. § 1341).

Permits, Environmental Assessments and 401 Water Quality Certifications Issued

WATER OBSTRUCTIONS AND ENCROACHMENTS

Southeast Region: Water Management Program Manager, 2 East Main Street, Norristown, PA 19401.

E46-1000. Montgomery Township Municipal Sewer Authority, 1001 Stump Road, Montgomeryville, PA 18936-9605, Montgomery Township, **Montgomery County**, ACOE Philadelphia District.

To construct and maintain four ford stream crossings of the Little Neshaminy Creek (WWF) at different points along an approximately 2,800-foot stream segment to facilitate maintenance access to an existing sanitary sewer interceptor that runs mostly parallel to the creek. The work will involve minor excavation and placement of stone bedding measuring approximately 12 inches deep by 9 feet wide along the creek bed and banks with different lengths based on the design submission.

The site is a narrow corridor containing the stream and running approximately 4,700 feet from the south side of Horsham Road and heading north with the last crossing located approximately 1,000 feet from Bethlehem Pike. The east side is bordered by a subdivision that extends towards Stump Road and the west is bordered by Upper State Road/SR 0202 (Ambler, PA, Quadrangle N: 19.42 inches; W: 15.29 inches).

The issuance of this permit also constitutes approval of a Water Quality Certification under section 401(a) of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).

E09-914. Steven Vernachio, 200 Constitution Avenue, Perkasio, PA 18944, Perkasio Borough, **Bucks County**, ACOE Philadelphia District.

To expand and maintain an existing Dairy Queen Restaurant to accommodate drive-through access within and along the floodway of the Perkiomen Creek (TSF) and Pleasant Spring Creek (TSF). This project is located approximately 500 feet southwest of the intersection Walnut Street and SR 152 (Telford, PA, USGS Quadrangle N: 21.2 inches; W: 6.4 inches).

Northeast Regional Office, Watershed Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.

E40-657. Fred Sheaman, 940 Rabbit Lane, White Haven, PA 18661, Foster Township, **Luzerne County**, United States Army Corps of Engineers Philadelphia District.

To authorize fill previously placed in approximately 590 linear feet of channel of a tributary to Pond Creek and 0.14 acre of wetlands for the construction of the entrance road to White Haven Estates residential subdivision. The tributary will be relocated to the western side of said entrance road and three road crossings will be installed as follows: 1) a 36-inch diameter HDPE culvert along Hillary Drive West, approximately 1,000 feet south of SR 0940; 2) a 60-inch diameter HDPE culvert, half buried, for a private driveway on Lot 102 in the relocated tributary; and 3) a 60-inch diameter HDPE culvert, half buried, along Hillary Drive West, approximately 120 feet south of SR 0940. The project is located on the south side of SR 0940, approximately 0.5 mile east of the intersection of SR 0940 and T382 (White Haven, PA Quadrangle N: 7.0 inches; W: 11.7 inches). (Subbasin: 5D)

Northwest Region: Watershed Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

E61-278. Richland Township Supervisors, 1740 Rockland Nickelville Road, Emlenton, PA 16373. Geiring Road Bridge, in Richland Township, **Venango County**, ACOE Pittsburgh District (Emlenton, PA Quadrangle N: 41° 14' 48.5"; W: 79° 41' 24.5").

The applicant proposes to remove the existing structure and to construct and maintain a prestressed spread box beam bridge having a clear span of 41.5 feet and an underclearance of 6.9 feet on a 90° skew across Mill Creek (CWF) on T-552 (Geiring Road), approximately 0.6

mile West of the intersection of SR 38 and T-357. Project includes a temporary ford crossing. The project proposes to impact approximately 200 linear feet of stream.

Northeast Region: Bureau of Abandoned Mine Reclamation, Wilkes-Barre District Office, 2 Public Square, 5th Floor, Wilkes-Barre, PA 18711-0790, (570) 826-2371.

E3511-002: Bureau of Abandoned Mine Reclamation, Wilkes-Barre District Office. Taylor South Main project in Taylor Borough, **Lackawanna County**, ACOE Baltimore District, Scranton PA Quadrangle N: 2.7 inches; W: 10.8 inches.

To perform the following water obstruction and encroachment activities associated with an impaired creek caused by previously abandoned mine lands.

This project will construct an Abandoned Mine Land (AML) reclamation project to eliminate health and safety problems associated with an 84-acre AML site. The reclamation project will result in an encroachment of Keyser Creek, which has been impaired from previous mining. The project includes the reconstruction and stabilization of approximately 1,700 feet of creek.

ENVIRONMENTAL ASSESSMENTS

Central Office: Bureau of Waterways Engineering, Rachel Carson State Office Building, Floor 3, 400 Market Street, Harrisburg, PA 17105.

D35-081EA. Pennsylvania-American Water Company, 100 Pennsylvania Avenue, Wilkes-Barre, PA 18701 Spring Brook Township, **Lackawanna County**, ACOE Baltimore District.

Project proposes to modify Watres Dam across Spring Brook (HQ-CWF). The project proposes to regrade the downstream slope of the embankment with rock to improve issues associated with slope stability, incorporate a drainage blanket and relief wells to address issues associated with embankment seepage and widen the spillway to address issues associated with spillway capacity. The project will permanently impact 0.06 acre of Palustrine Emergent wetlands and 228 linear feet of stream channel. The applicant proposes to construct 0.07 acre of replacement wetlands on site. The dam is located approximately 3,800 feet southwest of the intersection of SR 502 and SR 690 (Moscow, PA Quadrangle, N: 8.0", W: 16.2").

DAM SAFETY

Central Office: Bureau of Waterways Engineering, 400 Market Street, Floor 3, P. O. Box 8554, Harrisburg, PA 17105-8554.

D64-148. Department of Conservation and Natural Resources—Bureau of Facility Design & Construction, P. O. Box 8451, Harrisburg, PA 17105-8451. To modify, operate and maintain Gouldsboro Lake Dam across Oakes Swamp Run (HQ-CWF), impacting 0.038 acre of Palustrine Emergent wetlands and zero feet of stream, for the purpose of rehabilitating the existing dam and increasing spillway capacity to the requirements of Commonwealth Regulations (Tobyhanna, PA Quadrangle N: 19.9 inches; W: 10.6 inches) in Lehigh Township, **Wayne County**.

D08-063A. John and Holly Firely, 798 Sharon Lane, Harleysville, PA 19438. To modify, operate and maintain Galvin Pond Dam across a Tributary to Trout Creek (WWF), impacting 0 acres of wetlands and 0 feet of

stream, for the purpose of upgrading the structure to comply with current dam safety standards (Bentley Creek, PA Quadrangle N: 13.4 inches; W: 9.0 inches) in

Ridgebury Township, **Bradford County**. Proposed modifications consist of leveling the crest of the dam and improving the emergency spillway.

SPECIAL NOTICES

CATEGORICAL EXCLUSION

Northeast Region: Water Management Program, 2 Public Square, Wilkes-Barre, PA 18711-0790.

Project Information:

<i>Project Applicant</i>	<i>Project Applicant's Address</i>	<i>Project Location (Municipality)</i>	<i>Project Location (County)</i>
Saint Clair Sewer Authority	16 South Third Street St. Clair, PA 17970	Saint Clair Borough	Schuylkill

Description: The Pennsylvania Investment Authority (Authority), which administers the Commonwealth's State Revolving Fund, is intended to be the funding sources for this project. The Authority proposes to rehabilitate/renovate the existing wastewater treatment plant. The Department of Environmental Protection's (Department) review of the project and the information received has not identified any significant, adverse environmental impact resulting from this proposal. The Department hereby categorically excluded this project from the State Environmental Review Process.

Greensburg District Mining Office: Armbrust Professional Center, 8205 Route 819, Greensburg, PA 15601, (724) 925-5500.

EGS65005. Loyalhanna Watershed Association (110 Andi Lane, Ligonier, PA 15658). Project approved to abate mine drainage pollution in Derry Township and Latrobe Borough, **Westmoreland County**, affecting 3 acres. Receiving stream: Loyalhanna Creek. Project proposal received December 22, 2006. Project approval issued May 14, 2007.

[Pa.B. Doc. No. 07-974. Filed for public inspection June 1, 2007, 9:00 a.m.]

Request for Bids

D19-076-101.1, Dam and Trestle Removal on Fishing Creek, Mount Pleasant and Scott Townships, Columbia County. The principal items of work include mobilization and demobilization, erosion and sediment control, dam removal, railroad trestle removal, 250 square yards of streambank reconstruction, seeding and 1,000 cubic yards of construction of rock causeway. This project issues on June 1, 2007, and bids will be opened on June 28, 2007, at 2 p.m. Bid documents cost \$10 per set and will not be mailed until payment has been received. Contact the Construction Contracts Section at (717) 787-7820 or joelmiller@state.pa.us for more information on this bid.

KATHLEEN A. MCGINTY,
Secretary

[Pa.B. Doc. No. 07-975. Filed for public inspection June 2, 2007, 9:00 a.m.]

Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.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 listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

CALVIN B. JOHNSON, M. D., M.P.H.,
Secretary

[Pa.B. Doc. No. 07-976. Filed for public inspection June 1, 2007, 9:00 a.m.]

DEPARTMENT OF HEALTH

Application of Abington Surgical Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Abington Surgical Center has requested an exception to the requirements of 28 Pa. Code § 551.21(d) (relating to criteria for ambulatory surgery).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of

Application of Bradford Regional Medical Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Bradford Regional Medical Center 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 Health Care Facilities*. The facility specifically

requests exemption from the following standards contained in this publication: 5.4.1.1 (relating to cardiac cath. lab).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, dditlow@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 listed previously.

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 the request and require an auxiliary aid, service or other accommodation to do so should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980, V/TT (717) 783-6154 for speech and/or hearing impaired persons or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

CALVIN B. JOHNSON, M. D., M.P.H.,
Secretary

[Pa.B. Doc. No. 07-977. Filed for public inspection June 1, 2007, 9:00 a.m.]

Application of Carbon-Schuylkill Endoscopy Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Carbon-Schuylkill Endoscopy Center has requested an exception to the requirements of 28 Pa. Code § 551.3 (relating to definitions).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.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 listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

CALVIN B. JOHNSON, M. D., M.P.H.,
Secretary

[Pa.B. Doc. No. 07-978. Filed for public inspection June 1, 2007, 9:00 a.m.]

Application of Community Medical Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Community Medical Center 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 Health Care Facilities*. The facility specifically requests exemption from the following standards contained in this publication: 3.4.2.1 (relating to patient care areas).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, dditlow@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 listed previously.

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 the request and require an auxiliary aid, service or other accommodation to do so should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980, V/TT (717) 783-6154 for speech and/or hearing impaired persons or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

CALVIN B. JOHNSON, M. D., M.P.H.,
Secretary

[Pa.B. Doc. No. 07-979. Filed for public inspection June 1, 2007, 9:00 a.m.]

Application of Frick Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Frick Hospital has requested an exception to the requirements of 28 Pa. Code §§ 103.3—103.5, 103.8, 103.31, 107.1, 107.21—107.26, 107.31—107.33, 107.51—107.54, 111.2, 115.27, 127.3, 129.4, 131.3, 135.2, 137.3, 139.3, 145.3, 146.1, 146.2, 147.13 and 155.3.

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, dditlow@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 listed previously.

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 the request and require an auxiliary aid, service or other accommodation to do so should contact Director, Division

of Acute and Ambulatory Care at (717) 783-8980, V/TT (717) 783-6154 for speech and/or hearing impaired persons or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

CALVIN B. JOHNSON, M. D., M.P.H.,
Secretary

[Pa.B. Doc. No. 07-980. Filed for public inspection June 1, 2007, 9:00 a.m.]

Application of Latrobe Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Latrobe Hospital has requested an exception to the requirements of 28 Pa. Code §§ 103.3—103.5, 103.8, 103.31, 107.1, 107.21—107.26, 107.31—107.33, 107.51—107.54, 111.2, 115.27, 127.3, 129.4, 131.3, 135.2, 137.3, 139.3, 145.3, 146.1, 146.2, 147.13 and 155.3.

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, dditlow@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 listed previously.

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 Director, Division of Acute and Ambulatory Care at (717) 783-8980, V/TT (717) 783-6154 for speech and/or hearing impaired persons or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

CALVIN B. JOHNSON, M. D., M.P.H.,
Secretary

[Pa.B. Doc. No. 07-981. Filed for public inspection June 1, 2007, 9:00 a.m.]

Application of Northwood Surgery Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Northwood Surgery Center has requested an exception to the requirements of 28 Pa. Code § 551.21(d) (relating to criteria for ambulatory surgery).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.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 listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

CALVIN B. JOHNSON, M. D., M.P.H.,
Secretary

[Pa.B. Doc. No. 07-982. Filed for public inspection June 1, 2007, 9:00 a.m.]

Application of Rhawn Street Endoscopy Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Rhawn Street Endoscopy Center has requested an exception to the requirements of 28 Pa. Code § 551.3 (relating to definitions).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.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 listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

CALVIN B. JOHNSON, M. D., M.P.H.,
Secretary

[Pa.B. Doc. No. 07-983. Filed for public inspection June 1, 2007, 9:00 a.m.]

Application of Robert Packer Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Robert Packer Hospital has requested an exception to the requirements of 28 Pa. Code § 123.25(2) (relating to regulations for control of anesthetic explosion hazards).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of

Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

The facility is requesting a waiver of the comment period, as set forth in 28 Pa. Code § 51.33(c).

Persons with a disability who wish to obtain a copy of a request for exception and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

CALVIN B. JOHNSON, M. D., M.P.H.,
Secretary

[Pa.B. Doc. No. 07-984. Filed for public inspection June 1, 2007, 9:00 a.m.]

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 listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

CALVIN B. JOHNSON, M. D., M.P.H.,
Secretary

[Pa.B. Doc. No. 07-986. Filed for public inspection June 1, 2007, 9:00 a.m.]

Application of Village SurgiCenter for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Village SurgiCenter has requested an exception to the requirements of 28 Pa. Code § 569.35 (relating to general safety precautions).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

The facility is requesting a waiver of the comment period, as set forth in 28 Pa. Code § 51.33(c).

Persons with a disability who wish to obtain a copy of a request for exception and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

CALVIN B. JOHNSON, M. D., M.P.H.,
Secretary

[Pa.B. Doc. No. 07-985. Filed for public inspection June 1, 2007, 9:00 a.m.]

Application of Warren General Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Warren General Hospital has requested an exception to the requirements of 28 Pa. Code § 107.61 (relating to written orders).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Application of The Western Pennsylvania Hospital—Forbes Regional Campus for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that The Western Pennsylvania Hospital—Forbes Regional Campus 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 Health Care Facilities*. The facility specifically requests exemption from the following standards contained in this publication: 7.8A3(i) (relating to anesthesia room), 7.8A3.3(c) (relating to sterilizing facilities) and 7.4.A7 (relating to workrooms).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, dditlow@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 listed previously.

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 the request and require an auxiliary aid, service or other accommodation to do so should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980, V/TT (717) 783-6154 for speech and/or hearing impaired persons or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

CALVIN B. JOHNSON, M. D., M.P.H.,
Secretary

[Pa.B. Doc. No. 07-987. Filed for public inspection June 1, 2007, 9:00 a.m.]

Application of Westmoreland Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Westmoreland Hospital has requested an exception to the requirements of 28 Pa. Code §§ 103.3, 103.4, 103.5, 103.8, 103.31, 107.1, 107.21—107.26, 107.31—107.33, 107.51—107.54, 111.2, 115.27, 127.3, 129.4, 131.3, 135.2, 137.3, 139.3, 145.3, 146.1, 146.2, 147.13 and 155.3.

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, dditlow@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 listed previously.

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 the request and require an auxiliary aid, service or other accommodation to do so should contact, the Director, Division of Acute and Ambulatory Care at (717) 783-8980, V/TT (717) 783-6154 for speech and/or hearing impaired persons or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

CALVIN B. JOHNSON, M. D., M.P.H.,
Secretary

[Pa.B. Doc. No. 07-988. Filed for public inspection June 1, 2007, 9:00 a.m.]

Health Policy Board Meeting

The Health Policy Board is scheduled to hold a meeting on Wednesday, June 13, 2007, at 10 a.m., in Room 812, Health and Welfare Building, Seventh and Forster Streets, Harrisburg, PA 17120.

For additional information or if you are a person with a disability and desire to attend the meeting and require an auxiliary aid, service or other accommodation to do so contact Lewis Wolkoff, Bureau of Health Planning at (717) 772-5298 or lwolkoff@state.pa.us or 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.

CALVIN B. JOHNSON, M. D., M.P.H.,
Secretary

[Pa.B. Doc. No. 07-989. Filed for public inspection June 1, 2007, 9:00 a.m.]

Long-Term Care Nursing Facility; Request for Exception

The following long-term care nursing facility is seeking an exception to 28 Pa. Code §§ 205.10(a) and (b) and 205.38(f) (relating to doors; and toilet facilities).

John Heinz Senior Rehab Care
150 Mundy Street
Wilkes-Barre, PA 18702
FAC ID 01370201

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Division of Nursing Care Facilities, Room 526, Health and Welfare Building, Harrisburg, PA 17120, (717) 787-1816, fax (717) 772-2163, rapaexcept@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 listed previously.

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 require an alternative format of this document or who desire to comment in an alternative format (for example, large print, audiotape, Braille), should contact the Division of Nursing Care Facilities at the address listed previously or for speech and/or hearing impaired persons V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

CALVIN B. JOHNSON, M. D., M.P.H.,
Secretary

[Pa.B. Doc. No. 07-990. Filed for public inspection June 1, 2007, 9:00 a.m.]

DEPARTMENT OF REVENUE

Pennsylvania \$50,000 Birthday Dough Instant Lottery Game

Under the State Lottery Law (72 P. S. §§ 3761-101—3761-314) and 61 Pa. Code § 819.203 (relating to notice of instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

1. *Name:* The name of the game is Pennsylvania \$50,000 Birthday Dough.

2. *Price:* The price of a Pennsylvania \$50,000 Birthday Dough instant lottery game ticket is \$5.

3. *Play and Prize Play Symbols:*

(a) Each Pennsylvania \$50,000 Birthday Dough instant lottery game ticket will contain three play areas known as "Game 1," "Game 2" and "Game 3" respectively. Each game has a different game play method and is played separately. Each Pennsylvania \$50,000 Birthday Dough instant lottery game ticket will also contain a "Birthday Bonus Box" area.

(b) The prize play symbols and their captions located in the play area for "Game 1" are: \$5⁰⁰ (FIV DOL), \$10⁰⁰ (TEN DOL), \$20\$ (TWENTY), \$50\$ (FIFTY), \$100 (ONE HUN), \$500 (FIV HUN) and \$50,000 (FTY THO).

(c) The play symbols and their captions located in the play area for "Game 2" are: Balloon symbol (BALLOON) and an X symbol (XXX).

(d) The play area for "Game 3" will contain a "YOUR SYMBOLS" area and a "LUCKY SYMBOLS" area. The play symbols and their captions located in the "YOUR SYMBOLS" area and the "LUCKY SYMBOLS" area are: Rocket symbol (RCKT), Ice Cream Cone symbol (ICEC), Noisemaker symbol (NOISE), Money Bag symbol (SBAG), Bills symbol (BILLS), Stack symbol (STACK), Bow symbol (BOW), Hat symbol (HAT), Candle symbol (CANDL), Party Favor symbol (FAVOR), Cake symbol (CAKE), Gift symbol (GIFT), Horn symbol (HORN), Cupcake symbol (CUPC), Music symbol (MUSIC), Dance symbol (DANCE) and a Confetti symbol (CNFTI).

(e) The prize play symbols and the play symbol and their captions located in the "Birthday Bonus Box" area are: \$5^{.00} (FIV DOL), \$10^{.00} (TEN DOL), \$20\$ (TWENTY), \$50\$ (FIFTY), \$100 (ONE HUN), \$500 (FIV HUN) and NO BONUS (TRY AGAIN).

4. Prize Symbols:

(a) The play area for "Game 2" will contain a "PRIZE" area. The prize symbols and their captions located in the "PRIZE" area for "Game 2" are: \$5^{.00} (FIV DOL), \$10^{.00} (TEN DOL), \$20\$ (TWENTY), \$50\$ (FIFTY), \$100 (ONE HUN), \$500 (FIV HUN) and \$50,000 (FTY THO).

(b) The play area for "Game 3" will contain six "Prize" areas. The prize symbols and their captions located in the six "Prize" areas for "Game 3" are: \$5^{.00} (FIV DOL), \$10^{.00} (TEN DOL), \$20\$ (TWENTY), \$50\$ (FIFTY), \$100 (ONE HUN), \$500 (FIV HUN) and \$50,000 (FTY THO).

5. Prizes: The prizes that can be won in "Game 1," "Game 2" and "Game 3" are: \$5, \$10, \$20, \$50, \$100, \$500 and \$50,000. The prizes that can be won in the "Birthday Bonus Box" area are: \$5, \$10, \$20, \$50, \$100 and \$500. The player can win up to eight times on a ticket.

6. Approximate Number of Tickets Printed For the Game: Approximately 4,800,000 tickets will be printed for the Pennsylvania \$50,000 Birthday Dough instant lottery game.

7. Determination of Prize Winners:

(a) Determination of prize winners for "Game 1" are:

(1) Holders of tickets with three matching prize play symbols of \$50,000 (FTY THO) in the play area, on a single ticket, shall be entitled to a prize of \$50,000.

(2) Holders of tickets with three matching prize play symbols of \$500 (FIV HUN) in the play area, on a single ticket, shall be entitled to a prize of \$500.

(3) Holders of tickets with three matching prize play symbols of \$100 (ONE HUN) in the play area, on a single ticket, shall be entitled to a prize of \$100.

(4) Holders of tickets with three matching prize play symbols of \$50\$ (FIFTY) in the play area, on a single ticket, shall be entitled to a prize of \$50.

(5) Holders of tickets with three matching prize play symbols of \$20\$ (TWENTY) in the play area, on a single ticket, shall be entitled to a prize of \$20.

(6) Holders of tickets with three matching prize play symbols of \$10^{.00} (TEN DOL) in the play area, on a single ticket, shall be entitled to a prize of \$10.

(7) Holders of tickets with three matching prize play symbols of \$5^{.00} (FIV DOL) in the play area, on a single ticket, shall be entitled to a prize of \$5.

(b) Determination of prize winners for "Game 2" are:

(1) Holders of tickets with three matching Balloon (BALLOON) play symbols in the same row, column or diagonal, and a prize symbol of \$50,000 (FTY THO) in the "PRIZE" area for that game, on a single ticket, shall be entitled to a prize of \$50,000.

(2) Holders of tickets with three matching Balloon (BALLOON) play symbols in the same row, column or diagonal, and a prize symbol of \$500 (FIV HUN) in the "PRIZE" area for that game, on a single ticket, shall be entitled to a prize of \$500.

(3) Holders of tickets with three matching Balloon (BALLOON) play symbols in the same row, column or diagonal, and a prize symbol of \$100 (ONE HUN) in the "PRIZE" area for that game, on a single ticket, shall be entitled to a prize of \$100.

(4) Holders of tickets with three matching Balloon (BALLOON) play symbols in the same row, column or diagonal, and a prize symbol of \$50\$ (FIFTY) in the "PRIZE" area for that game, on a single ticket, shall be entitled to a prize of \$50.

(5) Holders of tickets with three matching Balloon (BALLOON) play symbols in the same row, column or diagonal, and a prize symbol of \$20\$ (TWENTY) in the "PRIZE" area for that game, on a single ticket, shall be entitled to a prize of \$20.

(6) Holders of tickets with three matching Balloon (BALLOON) play symbols in the same row, column or diagonal, and a prize symbol of \$10^{.00} (TEN DOL) in the "PRIZE" area for that game, on a single ticket, shall be entitled to a prize of \$10.

(7) Holders of tickets with three matching Balloon (BALLOON) play symbols in the same row, column or diagonal, and a prize symbol of \$5^{.00} (FIV DOL) in the "PRIZE" area for that game, on a single ticket, shall be entitled to a prize of \$5.

(c) Determination of prize winners for "Game 3" are:

(1) Holders of tickets where any one of the "YOUR SYMBOLS" play symbols matches either of the "LUCKY SYMBOLS" play symbols and a prize symbol of \$50,000 (FTY THO) appears in the "Prize" area under the matching "YOUR SYMBOLS" play symbol, on a single ticket, shall be entitled to a prize of \$50,000.

(2) Holders of tickets where any one of the "YOUR SYMBOLS" play symbols matches either of the "LUCKY SYMBOLS" play symbols and a prize symbol of \$500 (FIV HUN) appears in the "Prize" area under the matching "YOUR SYMBOLS" play symbol, on a single ticket, shall be entitled to a prize of \$500.

(3) Holders of tickets where any one of the "YOUR SYMBOLS" play symbols matches either of the "LUCKY SYMBOLS" play symbols and a prize symbol of \$100 (ONE HUN) appears in the "Prize" area under the matching "YOUR SYMBOLS" play symbol, on a single ticket, shall be entitled to a prize of \$100.

(4) Holders of tickets where any one of the "YOUR SYMBOLS" play symbols matches either of the "LUCKY SYMBOLS" play symbols and a prize symbol of \$50\$ (FIFTY) appears in the "Prize" area under the matching "YOUR SYMBOLS" play symbol, on a single ticket, shall be entitled to a prize of \$50.

(5) Holders of tickets where any one of the "YOUR SYMBOLS" play symbols matches either of the "LUCKY SYMBOLS" play symbols and a prize symbol of \$20\$ (TWENTY) appears in the "Prize" area under the matching "YOUR SYMBOLS" play symbol, on a single ticket, shall be entitled to a prize of \$20.

(6) Holders of tickets where any one of the "YOUR SYMBOLS" play symbols matches either of the "LUCKY SYMBOLS" play symbols and a prize symbol of \$10⁰⁰ (TEN DOL) appears in the "Prize" area under the matching "YOUR SYMBOLS" play symbol, on a single ticket, shall be entitled to a prize of \$10.

(7) Holders of tickets where any one of the "YOUR SYMBOLS" play symbols matches either of the "LUCKY SYMBOLS" play symbols and a prize symbol of \$5⁰⁰ (FIV DOL) appears in the "Prize" area under the matching "YOUR SYMBOLS" play symbol, on a single ticket, shall be entitled to a prize of \$5.

(d) Determination of prize winners for the "Birthday Bonus Box" are:

(1) Holders of tickets with a prize play symbol of \$500 (FIV HUN) in the "Birthday Bonus Box" area, on a single ticket, shall be entitled to a prize of \$500.

(2) Holders of tickets with a prize play symbol of \$100 (ONE HUN) in the "Birthday Bonus Box" area, on a single ticket, shall be entitled to a prize of \$100.

(3) Holders of tickets with a prize play symbol of \$50\$ (FIFTY) in the "Birthday Bonus Box" area, on a single ticket, shall be entitled to a prize of \$50.

(4) Holders of tickets with a prize play symbol of \$20\$ (TWENTY) in the "Birthday Bonus Box" area, on a single ticket, shall be entitled to a prize of \$20.

(5) Holders of tickets with a prize play symbol of \$10⁰⁰ (TEN DOL) in the "Birthday Bonus Box" area, on a single ticket, shall be entitled to a prize of \$10.

(6) Holders of tickets with a prize play symbol of \$5⁰⁰ (FIV DOL) in the "Birthday Bonus Box" area, on a single ticket, shall be entitled to a prize of \$5.

8. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes and approximate odds of winning:

<i>Birthday Bonus Box</i>	<i>Game 1</i>	<i>Game 2</i>	<i>Game 3</i>	<i>Win:</i>	<i>Approximate Odds Are 1 In:</i>	<i>Approximate No. of Winners Per 4,800,000 Tickets</i>
\$5				\$5	20	240,000
	\$5			\$5	30	160,000
		\$5		\$5	30	160,000
			\$5	\$5	30	160,000
\$10				\$10	42.86	112,000
	\$10			\$10	200	24,000
		\$10		\$10	200	24,000
			\$10	\$10	200	24,000
\$5			\$5	\$10	150	32,000
			\$5 × 2	\$10	200	24,000
\$20				\$20	200	24,000
	\$20			\$20	200	24,000
		\$20		\$20	200	24,000
			\$20	\$20	300	16,000
\$10	\$5	\$5		\$20	200	24,000
\$10			\$5 × 2	\$20	200	24,000
			\$5 × 4	\$20	200	24,000
\$50				\$50	200	24,000
	\$50			\$50	600	8,000
		\$50		\$50	600	8,000
			\$50	\$50	600	8,000
\$5	\$20	\$20	\$5	\$50	600	8,000
\$10	\$10	\$10	\$10 × 2	\$50	600	8,000
\$20			\$5 × 6	\$50	600	8,000
			\$10 × 5	\$50	600	8,000
\$100				\$100	2,400	2,000
	\$100			\$100	2,400	2,000
		\$100		\$100	2,400	2,000
			\$100	\$100	2,400	2,000
\$10	\$20	\$20	\$10 × 5	\$100	2,400	2,000
\$20	\$20	\$20	\$20 × 2	\$100	2,400	2,000
\$50	\$50			\$100	2,400	2,000
			\$20 × 5	\$100	2,400	2,000
\$500				\$500	10,000	480
	\$500			\$500	10,000	480
		\$500		\$500	10,000	480
			\$500	\$500	10,000	480

<i>Birthday Bonus Box</i>	<i>Game 1</i>	<i>Game 2</i>	<i>Game 3</i>	<i>Win:</i>	<i>Approximate Odds Are 1 In:</i>	<i>Approximate No. of Winners Per 4,800,000 Tickets</i>
			\$100 × 5	\$500	10,000	480
	\$50,000			\$50,000	960,000	5
		\$50,000		\$50,000	960,000	5
			\$50,000	\$50,000	960,000	5

GAME 1—Get 3 like amounts, win that prize.

GAME 2—Get three “BALLOON” (BALLOON) symbols in a row, column or diagonal, win prize shown.

GAME 3—When any of YOUR SYMBOLS match either LUCKY SYMBOL, win the prize shown under the matching symbol.

BIRTHDAY BONUS BOX—Reveal prize amount from \$5 to \$500 and win that prize.

Prizes, including the top prizes, are subject to availability at the time of purchase.

9. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania \$50,000 Birthday Dough instant lottery game tickets. The conduct of the game will be governed by 61 Pa. Code § 819.222 (relating to retailer bonuses and incentives).

10. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania \$50,000 Birthday Dough, prize money from winning Pennsylvania \$50,000 Birthday Dough instant lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto. If no claim is made within 1 year of the announced close of the Pennsylvania \$50,000 Birthday Dough instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

11. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law (72 P. S. §§ 3761-101—3761-314), 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

12. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote Pennsylvania \$50,000 Birthday Dough or through normal communications methods.

THOMAS W. WOLF,
Secretary

[Pa.B. Doc. No. 07-991. Filed for public inspection June 1, 2007, 9:00 a.m.]

DEPARTMENT OF TRANSPORTATION

Contemplated Sale of Land No Longer Needed for Transportation Purposes

The Department of Transportation (Department), District 9-0, under section 2003(e)(7) of The Administrative Code of 1929 (71 P. S. § 513(e)(7)), intends to sell certain land owned by the Department.

The following property is available for sale by the Department:

Parcel No. 52: (Kenneth P. Coho and Ruth E. Coho) located in Allegheny Township, Blair County. The parcel contains approximately 39,663.28 square feet of unimproved land situated at Plank Road and Kathryn Street. The estimated fair market value is \$92,900.

Interested public entities are invited to express their interest in purchasing the site within 30-calendar days from the date of publication of this notice to Sherry Nelson, Property Manager, Department of Transportation, R/W Unit, 1620 North Juniata Street, Hollidaysburg, PA 16648-1080.

ALLEN D. BIEHLER, P. E.,
Secretary

[Pa.B. Doc. No. 07-992. Filed for public inspection June 1, 2007, 9:00 a.m.]

FISH AND BOAT COMMISSION

Triploid Grass Carp Permit Application

Under 58 Pa. Code § 71.7 (relating to triploid grass carp), the Fish and Boat Commission (Commission) may issue permits to stock triploid grass carp in Commonwealth waters. Triploid grass carp are sterile fish that may, in appropriate circumstances, help control aquatic vegetation. The Commission has determined consistent with 58 Pa. Code § 71.7(e)(3) to seek public input with respect to any proposed stockings of triploid grass carp in waters having a surface area of more than 5 acres.

Interested persons are invited to submit written comments, objections or suggestions about the notice to the Executive Director, Fish and Boat Commission, P. O. Box 67000, Harrisburg, PA 17106-7000, within 10 days after publication of this notice in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted. Comments also may be submitted electronically by completing the form at www.state.pa.us/Fish/regcomments. If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt.

The following applications to stock triploid grass carp in waters having a surface area of greater than 5 acres are currently undergoing staff review:

<i>Applicant</i>	<i>Water</i>	<i>Location of Water</i>	<i>Description of Water</i>	<i>Nature of Vegetation to be Controlled</i>
Omega Engineering	Lake Russell	Greene Township Pike County	50 acre lake which discharges into Freeling Run	Elodea canadensis
Fish and Boat Commission	Harris Pond	Ross Township Luzerne County	30 acre lake which discharges into Roaring Brook	Myriophyllum sp. Elodea canadensis Ceratophyllum sp.

DOUGLAS J. AUSTEN, Ph.D.,
Executive Director

[Pa.B. Doc. No. 07-993. Filed for public inspection June 1, 2007, 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, May 17, 2007, and announced the following:

Regulations Approved:

Pennsylvania Gaming Control Board #125-45: General and Operative Provisions; Board Procedures (adds 58 Pa. Code Chapters 401a, 403a, 405a and 407a)

Office of the Victim Advocate #41-20: Domestic and Sexual Violence Victim Address Confidentiality Program (amends 37 Pa. Code Chapter 802)

Approval Order

Public Meeting held
May 17, 2007

Commissioners Voting: Arthur Coccodrilli, Chairperson; Alvin C. Bush, Vice Chairperson; David M. Barasch, Esq.; David J. DeVries, Esq.; John F. Mizner, Esq.

*Pennsylvania Gaming Control Board—General and Operative Provisions; Board Procedures
Regulation No. 125-45 (#2561)*

On August 28, 2006, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Pennsylvania Gaming Control Board (Board). This rulemaking adds 58 Pa. Code Chapters 401a, 403a, 405a and 407a. The proposed regulation was published in the September 9, 2006, *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on April 10, 2007. On May 1, 2007, the Board simultaneously tolled and resubmitted the final-form regulation to revise a definition.

This final-form rulemaking establishes four chapters of the Board's regulations. These chapters relate to preliminary provisions, the operations and organization of the Board, the Bureau of Investigations and Enforcement and organization and access to the Board's case files.

We have determined this regulation is consistent with the statutory authority of the Board (4 Pa.C.S.A. §§ 1201(f), 1202(a), 1202(b)(25) and (30) and 1206) 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
May 17, 2007

Commissioners Voting: Arthur Coccodrilli, Chairperson; Alvin C. Bush, Vice Chairperson; David M. Barasch, Esq.; David J. DeVries, Esq.; John F. Mizner, Esq.

*Office of the Victim Advocate—Domestic and Sexual Violence Victim Address Confidentiality Program
Regulation No. 41-20 (#2603)*

On April 9, 2007, the Independent Regulatory Review Commission (Commission) received this regulation from the Office of the Victim Advocate (OVA). This rulemaking amends 37 Pa. Code Chapter 802. Notice of proposed rulemaking was omitted for this regulation; it will become effective upon publication in the *Pennsylvania Bulletin*.

This final-omitted regulation establishes eligibility and administrative procedures for the Address Confidentiality Program under Act 188 of 2004.

We have determined this regulation is consistent with the statutory authority of the OVA (23 Pa.C.S. § 6712) 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.

ARTHUR COCCODRILLI,
Chairperson

[Pa.B. Doc. No. 07-994. Filed for public inspection June 1, 2007, 9:00 a.m.]

Notice of Filing of Final Rulemakings

The Independent Regulatory Review Commission (Commission) received the following regulations. They are scheduled to be considered on the date noted. The Commission's public meetings are held at 333 Market Street, 14th Floor, in Harrisburg at 10:30 a.m. To obtain a copy of the regulation, interested parties should first contact the promulgating agency. If a copy cannot be obtained from the promulgating agency, the Commission will provide a copy.

This schedule is tentative. Contact the Commission at (717) 783-5417 or check our website at www.irrc.state.pa.us for updates.

Final Form

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Received</i>	<i>Public Meeting</i>
125-49	Pennsylvania Gaming Control Board Accounting and Internal Controls; Slot Computer Systems; Commencement of Slot Operations	5/17/07	6/21/07
12-67	Department of Labor and Industry General Provisions	5/21/07	6/21/07

ARTHUR COCCODRILLI,
Chairperson

[Pa.B. Doc. No. 07-995. Filed for public inspection June 1, 2007, 9:00 a.m.]

MILK MARKETING BOARD

Sunshine Meetings 2007-2008

<i>Date</i>	<i>Room</i>	<i>Time</i>
July 11, 2007	VIP Lounge Farm Show Complex Cameron Street Harrisburg, PA 17110	1 p.m.
August 1, 2007	Room 202 Agriculture Building Harrisburg, PA 17110	1 p.m.
September 5, 2007	Room 202 Agriculture Building Harrisburg, PA 17110	1 p.m.
October 3, 2007	Commonwealth Technology Center Technology Park Harrisburg, PA 17110	12 p.m.
November 7, 2007	Room 309 Agriculture Building Harrisburg, PA 17110	1 p.m.
December 5, 2007	Room 202 Agriculture Building Harrisburg, PA 17110	1 p.m.
January 3, 2008	Room 202 Agriculture Building Harrisburg, PA 17110	1 p.m.
February 13, 2008	Room 202 Agriculture Building Harrisburg, PA 17710	1 p.m.
March 5, 2008	Room 202 Agriculture Building Harrisburg, PA 17110	1 p.m.
April 2, 2008	Room 202 Agriculture Building Harrisburg, PA 17110	1 p.m.

<i>Date</i>	<i>Room</i>	<i>Time</i>
May 7, 2008	Room 202 Agriculture Building Harrisburg, PA 17110	1 p.m.
June 4, 2008	Room 202 Agriculture Building Harrisburg, PA 17110	1 p.m.

This notice replaces the notice printed at 37 Pa.B. 2357 (May 19, 2007).

KEITH BIERLY,
Secretary

[Pa.B. Doc. No. 07-996. Filed for public inspection June 1, 2007, 9:00 a.m.]

**PENNSYLVANIA PUBLIC
UTILITY COMMISSION**

Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission. Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). A protest shall indicate whether it applies to the temporary authority application, the permanent authority application, or both. Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant by June 25, 2007. Documents filed in support of the applications are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the business address of the respective applicant.

Applications of the following for approval to begin operating as common carriers for transportation of persons as described under each application.

A-00123769. Janis G. Filiaggi, t/a Door To Door & More (310 Mountain Road, State College, Centre County, PA 16801)—persons, in paratransit service, from points in the County of Centre, to points in Pennsylvania, and return.

A-00123781. Corry Ambulance Service, Inc. (1701 Sassafras Street, Erie, Erie County, PA 16502)—persons, in paratransit service, from points in the Counties of Erie, Crawford, Warren and Venango, to points in Pennsylvania, and return. *Attorney:* Christina M. Mellott, 5010 East Trindle Road, Suite 202, Mechanicsburg, PA 17050.

A-00123786. Riverfront Limousine Service, LLC (77 East Main Street, P. O. Box 5, Penns Grove, NJ 15001), a corporation of the State of New Jersey—persons in limousine service, between points in Pennsylvania, excluding the right to transport between points in Allegheny County; which is to be a transfer of all the right authorized under the certificate issued at A-00108205 to Gitt-A-Limo, Inc., t/a Affordable Limousine Service, subject to the same limitations and conditions. *Attorney:* Richard T. Mulcahey, Jr., 1500 JFK Boulevard, Suite 1400, Philadelphia, PA 19102.

A-00123787. Tekay Transportation Services, LLC (6032 Loretto Avenue, Philadelphia, Philadelphia County, PA 19149)—a limited liability company of the Commonwealth—persons in paratransit service from points in the Counties of Bucks, Chester, Delaware, Montgomery and Philadelphia, to points in Pennsylvania, and return.

Application 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 the application.

A-00108814, F4, Am-A. Bucks Transit Co., Inc. (609 Iva Lane, Fairless Hills, Bucks County, PA 19030)—a corporation of the Commonwealth—persons in airport transfer service from points in the Borough of Bristol, the Township of Bristol and that portion of the Township of Bensalem southeast of US Route 1, but excluding that portion of the Township of Bensalem west of Woodhaven Boulevard, to the Philadelphia International Airport located in the City and County of Philadelphia and the Township of Tincum, Delaware County, and vice versa: *So As To Permit* the transportation of persons in airport transfer service, from the Townships of Bensalem, Middletown, Lower Southampton and Northampton, and the Borough of Doylestown, to the Philadelphia International Airport located in the City and County of Philadelphia and the Township of Tincum, Delaware County, and vice versa.

A-00118810, F1, Am-E. Felix M. Szczepanski, t/d/b/a J. B. Taxi (7 Seventh Street, Midland, Beaver County, PA 15059)—inter alia, persons, upon call or demand, in the County of Beaver: *So As To Permit* the transportation of persons, upon call or demand, in the County of Crawford.

Complaint

Pennsylvania Public Utility Commission, Bureau of Transportation and Safety v. Smathers Construction, Inc.; Doc. No. A-00115788c0601

COMPLAINT

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings which are prosecutory in nature to the Bureau of Transportation and Safety and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Transportation and Safety Prosecutory Staff hereby represents as follows:

1. That Smathers Construction, Inc., respondent, maintains its principal place of business at 6274 Ehr Gott Road, Meadville, PA 16335.

2. That respondent was issued a certificate of public convenience by this Commission on June 15, 1999, at Application Docket No. A-00115788.

3. That respondent abandoned or discontinued service without having first submitted a letter to this Commission containing a statement that the service is no longer being rendered. Respondent has not reported intrastate revenue for the years 2003, 2004 and 2005.

4. That respondent, by failing to submit a letter to this Commission containing a statement that the service is no longer being rendered, failed to comply with the January 11, 1999 Commission Decision at P-981458 and, by failing to maintain adequate, efficient and safe service and facilities, violated 66 Pa.C.S. § 1501.

Wherefore, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission revoke respondent's Certificate of Public Convenience at A-00115788.

Respectfully submitted,

Wendy J. Keezel, Chief of Enforcement
Motor Carrier Services & Enforcement Division
Bureau of Transportation and Safety
P. O. Box 3265
Harrisburg, PA 17105-3265

VERIFICATION

Wendy J. Keezel, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: _____
Wendy J. Keezel, Chief of Enforcement

NOTICE

A. You must file an answer within twenty days of the date of service of this Complaint. The date of service is the mailing date, as indicated at the top of the Secretarial Cover Letter for this Complaint and Notice, 52 Pa. Code § 1.56(a). An answer is a written explanation of circumstances wished to be considered in determining the outcome. The answer shall raise all factual and legal arguments that you wish to claim in your defense and must include the reference number of this Complaint. Your answer must be verified and the original and three copies sent to:

James J. McNulty, Secretary
 Pennsylvania Public Utility Commission
 P. O. Box 3265
 Harrisburg, PA 17105-3265

B. If you fail to answer this Complaint within twenty days, the Bureau of Transportation and Safety will request that the Commission issue an Order imposing a penalty, which will include the revocation of your Certificate of Public Convenience.

C. If you file an answer which admits or fails to deny the allegations of the Complaint, the Bureau of Transportation and Safety will request that the Commission issue an Order imposing a penalty, which may include the revocation of your Certificate of Public Convenience.

D. If you file an answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision.

E. Alternative formats of this material are available, for persons with disabilities, by contacting the Compliance Office at 717-787-1168.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 07-997. Filed for public inspection June 1, 2007, 9:00 a.m.]

Telecommunications

A-313200F7003. Commonwealth Telephone Company, d/b/a Frontier Communications Commonwealth Telephone Company and Sprint Communications Company, LP. Joint petition of Commonwealth Telephone Company, d/b/a Frontier Communications Commonwealth Telephone Company and Sprint Communications Company, LP for approval of a negotiated interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Commonwealth Telephone Company, d/b/a Frontier Communications Commonwealth Telephone Company and Sprint Communications Company, LP, by its counsel, filed on May 17, 2007, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of a negotiated interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Commonwealth Telephone Company, d/b/a Frontier Communications Commonwealth Telephone Company and Sprint Communications Company, LP joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 07-998. Filed for public inspection June 1, 2007, 9:00 a.m.]

Telecommunications

A-311067F7005. North Pittsburgh Telephone Company and Dobson Cellular Systems, Inc. Joint petition of North Pittsburgh Telephone Company and Dobson Cellular Systems, Inc. for approval of a commercial radio mobile radio services interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

North Pittsburgh Telephone Company and Dobson Cellular Systems, Inc., by its counsel, filed on May 16, 2007, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of a commercial radio mobile radio services interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the North Pittsburgh Telephone Company and Dobson Cellular Systems, Inc. joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 07-999. Filed for public inspection June 1, 2007, 9:00 a.m.]

STATE BOARD OF NURSING

Bureau of Professional and Occupational Affairs v. Stacey L. Reamer, R. N., Doc. No. 1690-51-2004

On April 4, 2007, Stacey L. Reamer, R. N., of Bethlehem, Lehigh County, was suspended for at least 3 years, retroactive to October 26, 2004, based on her violation of a State Board of Nursing (Board) order by which disciplinary action was deferred while she participated in a treatment program approved by the Board.

Individuals may obtain a copy of the adjudication by writing to Thomas A. Blackburn, Board Counsel, State Board of Nursing, P. O. Box 2649, Harrisburg, PA 17105-2649.

This adjudication and order represents the final Board decision in this matter. It may be appealed to the Commonwealth Court of Pennsylvania by the filing of a petition for review with that court in accordance with the Pennsylvania Rules of Appellate Procedure. Individuals who take an appeal to the Commonwealth Court must serve the Board with a copy of the petition for review. The Board contact for receiving service of appeals is the previously named Board counsel.

MARY E. BOWEN, R. N., CRNP,
Chairperson

[Pa.B. Doc. No. 07-1000. Filed for public inspection June 1, 2007, 9:00 a.m.]

SUSQUEHANNA RIVER BASIN COMMISSION

Public Hearing and Meeting

The Susquehanna River Basin Commission (Commission) will hold a public hearing as part of its regular business meeting beginning at 8:30 a.m. on June 13, 2007, at Cecil Community College Conference Center, Room TC208, 1 Seahawk Drive, North East, MD. At the public hearing, the Commission will consider: (1) the approval of certain water resources projects, including a project modification involving a diversion of water from the basin; (2) an enforcement action involving one project; and (3) a revision of its Comprehensive Plan for Management and Development of the Water Resources of the Susquehanna River Basin (Comprehensive Plan). Details concerning the matters to be addressed at the public hearing, as well as other matters on the business meeting agenda, are contained in the Supplementary Information section of this notice.

For further information contact Richard A. Cairo, General Counsel, (717) 238-0423, Ext. 306, fax (717) 238-2436, rcairo@srbc.net or Deborah J. Dickey, Secretary to the Commission, (717) 238-0423, Ext. 301, fax (717) 238-2436, ddickey@srbc.net.

In addition to the public hearing and its related action items identified, the business meeting also includes the following items on the agenda: 1) a presentation by the United States Fish and Wildlife Service regarding the 2007 migratory fish run and a presentation by the United States Geological Survey regarding a 7-year Coastal Plain Aquifer Study; 2) consideration of a Fiscal Year 09 Budget; 3) approval/ratification of grants and contracts; 4) election of Commission officers for the 2007/2008 term; and 5) presentation of the Commission's Maurice K. Goddard Award.

Public Hearing—Projects Scheduled for Action:

1. Project Sponsor and Facility: Town of Conklin (Well 5), Broome County, NY. Application for groundwater withdrawal of up to 0.350 mgd.

2. Project Sponsor and Facility: Town of Erwin (IP Well 2), Steuben County, NY. Application for groundwater withdrawal of up to 0.504 mgd.

3. Project Sponsor and Facility: Far Away Springs—Brandonville, East Union Township, Schuylkill County, PA. Applications for groundwater withdrawal of up to 0.200 mgd and consumptive water use of up to 0.200 mgd.

4. Project Sponsor and Facility: Hughesville Borough Authority, Wolf Township, Lycoming County, PA. Application for groundwater withdrawal of up to 1.440 mgd.

5. Project Sponsor: Glenn O. Hawbaker, Inc. Project Facility: Pleasant Gap, Spring Township, Centre County, PA. Modification of consumptive water use approval (Docket No. 20050307).

6. Project Sponsor and Facility: Centre Hills Country Club, College Township, Centre County, PA. Application for groundwater withdrawal of up to 0.300 mgd.

7. Project Sponsor: New Enterprise Stone & Lime Company, Inc. Project Facility: Tyrone Quarry, Warriors Mark Township, Huntingdon County, PA. Modification of surface water and groundwater approval (Doc. No. 20031205).

8. Project Sponsor: New Enterprise Stone & Lime Company, Inc. Project Facility: Ashcom Quarry, Snake Spring Township, Bedford County, PA. Modification of groundwater approval (Doc. No. 20031204).

9. Project Sponsor and Facility: East Cocalico Township Authority (Well M), West Cocalico Township, Lancaster County, PA. Application for groundwater withdrawal of up to 1.580 mgd.

10. Project Sponsor and Facility: East Cocalico Township Authority (Well F), East Cocalico Township, Lancaster County, PA. Application for groundwater withdrawal of up to 1.150 mgd.

11. Project Sponsor: Golf Enterprises, Inc. Project Facility: Valley Green Golf Course, Newberry Township, York County, PA. Modification of consumptive water use approval (Doc. No. 20021019).

12. Project Sponsor and Facility: Dillsburg Area Authority, Carroll Township, York County, PA. Application for groundwater withdrawal of up to 0.360 mgd.

13. Project Sponsor and Facility: Mount Joy Borough Authority, Mount Joy Borough, Lancaster County, PA. Application for groundwater withdrawal of up to 1.020 mgd.

14. Project Sponsor and Facility: Dart Container Corporation of Pennsylvania (Well B), Upper Leacock Township, Lancaster County, PA. Application for groundwater withdrawal of up to 0.123 mgd.

15. Project Sponsor and Facility: Honey Run GIBG LLC, Dover Township, York County, PA. Modification of surface water withdrawal approval (Doc. No. 20020827).

Public Hearing—Project Scheduled for Action Involving a Diversion:

1. Project Sponsor and Facility: AES Ironwood, LLC, South Lebanon Township, Lebanon County, PA. Modification of surface water and consumptive use approval and diversion (Doc. No. 19980502).

Public Hearing—Project Scheduled for Enforcement Action:

1. Project Sponsor: South Slope Development Corporation (Doc. No. 19991103). Project Facility: Song Mountain Ski Resort, Town of Preble, Cortland County, NY.

Public Hearing—Revision of Comprehensive Plan:

1. Incorporation of the Whitney Point Lake Section 1135 Project Modification and the (Barnes and Tucker) Lancashire No. 15 AMD Treatment Plant into the Commission's Comprehensive Plan.

Opportunity to Appear and Comment:

Interested parties may appear at the previously mentioned hearing to offer written or oral comments to the Commission on any matter on the hearing agenda, or at

the business meeting to offer written or oral comments on other matters scheduled for consideration at the business meeting. The Chair of the Commission reserves the right to limit oral statements in the interest of time and to otherwise control the course of the hearing and business meeting. Written comments may also be mailed to the Susquehanna River Basin Commission, 1721 North Front Street, Harrisburg, PA 17102-2391, or submitted electronically to Richard A. Cairo, General Counsel, rcairo@srbc.net or Deborah J. Dickey, Secretary to the Commission, dddickey@srbc.net. Comments mailed or electronically submitted must be received prior to June 13, 2007, to be considered. Authority: Pub. L. No. 91-575, 84 Stat. 1509 et seq., 18 CFR Parts 806, 807 and 808.

PAUL O. SWARTZ,
Executive Director

[Pa.B. Doc. No. 07-1001. Filed for public inspection June 1, 2007, 9:00 a.m.]

THADDEUS STEVENS COLLEGE OF TECHNOLOGY

Request for Bids

Thaddeus Stevens College of Technology is soliciting bids for Project 06-0010, Higher Education Continuing Education and Workforce Development Plan for the College. This should not exceed 40 hours per month to begin after July 1, 2007. Minimum qualification to be at least 10 years of higher education experience in continuing education. Bid documents can be obtained from Nancy Froeschle, Thaddeus Stevens College Technology, 750 East King Street, Lancaster, PA 17602, (717) 299-7787, froeschle@stevenscollege.edu, until June 4, 2007.

DR. WILLIAM E. GRISCOM,
President

[Pa.B. Doc. No. 07-1002. Filed for public inspection June 1, 2007, 9:00 a.m.]

THE COURTS

Title 231—RULES OF CIVIL PROCEDURE

PART II. ORPHANS' COURT RULES

[231 PA. CODE PART II]

Proposed Amendments to Rule 15.8(b), Proposed New Rules 15.9 and 15.9.1 and New Model Forms; Recommendation No. 2 of 2007

The Orphans' Court Procedural Rules Committee proposes new Pennsylvania Orphans' Court Rules 15.9 and 15.9.1 and conforming amendments to Rule 15.8(b). The Committee further proposes to recommend new model forms pertaining to Rules 15.9 and 15.9.1. This Recommendation is being submitted to the bench and bar for comments and suggestions prior to the Committee's consideration for submission to the Supreme Court for adoption.

Proposed new additions in Rule 15.8(b) and the proposed new Rules 15.9 and 15.9.1 are bold. The bracketed material in Rule 15.8(b) is to be deleted. The entire text of the forms is new.

All communications in reference to the proposed amendment should be sent, no later than July 15, 2007, to:

Dean R. Phillips, Chief Counsel
Ceil S. Blumenthal, Deputy Counsel
Orphans' Court Procedural Rules Committee
5035 Ritter Road, Suite 700
Mechanicsburg, PA 17055

Or via E-Mail to:
orphanrules@pacourts.us

The Committee has prepared the Explanatory Comment which appears in connection with the proposed amendments for the convenience of the bench and bar. It will not constitute part of the rule nor will it be officially adopted or promulgated.

By the Orphans' Court Procedural Rules Committee

MARY JANE BARRETT,
Chair

EXPLANATORY COMMENT

A. Introduction

The following recommendation is in response to Act 96 of 2006, enacted July 7, 2006, effective September 5, 2006, amending Section 2908 of Title 23 of the *Pennsylvania Consolidated Statutes*, 23 Pa.C.S. § 2908, as it pertains to the completion of a foreign adoption which is not full and final, a process which the legislature has described as "readoption." "Readoption" process is described in 23 Pa.C.S. § 2908(e) as follows: "The court shall develop a standard petition, a standard court order and instructions for their use for occasions when a child must be readopted to finalize the adoption. The clerk shall provide the adopting parent with the standardized information."

Foreign adoption procedures pose complications for all states including the Commonwealth of Pennsylvania because they occur in the context of the laws of the country of the child's origin and the federal law governing immi-

gration and citizenship. However, the involvement of the United States government in the immigration process provides some level of assurance to the states that certain minimum requirements have been met.

Before setting forth the various foreign adoption procedures, this Committee strongly recommends that all parties interested in the foreign adoption procedures should contact the relevant federal authorities and see the U.S.C.I.S. website for complete updated information. The following explanation merely addresses the most common circumstances arising from foreign adoptions that are not completed prior to the child immigrating to the United States, and which are seen in the Orphans' Court Division of the Courts of Common Pleas in this Commonwealth.¹

As a general rule, foreign adoptions follow distinct tracks:

First, many children adopted from foreign countries by adoptive parents from Pennsylvania are able to complete the adoption process overseas. An IR-2 Visa is issued when the child is adopted overseas and has resided with the U.S. citizen (parent(s)) for at least two years overseas with the parent having full legal and physical custody. The issuance of an IR-3 Visa also designates that the child has been fully adopted overseas, but has not resided with adopting parents. In order to issue an IR-3 Visa, the federal adjudicating officer must be satisfied that the adoption was both legal in the foreign country where it occurred and that it met the requirements of all United States immigration laws. If these terms are met and an IR-3 Visa is issued, then the adoptive parents need only "register" the foreign adoption decree with their local Orphans' Court in order to obtain a Pennsylvania adoption decree. Once the Court issues a Decree, the parents may obtain a Pennsylvania birth certificate. While registration is not a prerequisite for citizenship, it is an important step in the adoption process because the result is a decree of adoption issued by a local court, which is required to obtain a birth certificate, and may also be helpful documentation to adoptive parents and adopted foreign children in other contexts. These foreign adoptions pose the least problems for adoptive parents, Pennsylvania state courts and the Pennsylvania legislature. The Pennsylvania Supreme Court has previously provided for a simplified registration procedure as described below.

The second track that a foreign initiated adoption may follow is the subject of the proposed new rules. It arises when the foreign adoption has been declared by the United States government's adjudicating officer to be not "full and final." This is evidenced through the IR-4 Visa.

There are several reasons for the issuance of an IR-4 designated adoption. The primary reason is that both adoptive parents were not in the foreign county at the time of the adoption hearing and ruling. Another reason may be that the foreign country does not permit an "adoption" by a citizen of another country and grants only permanent guardianship rights to the child. Such children are issued an IR-4 Visa by the federal government.

In issuing the IR-4 Visa the United States government has determined that the child is an "orphan under the law." This is an acknowledgment that the biological

¹ In general, foreign adoption registration and completion of foreign adoptions that are not full and final falls within the jurisdiction of the Orphans' Court. However, in Philadelphia County jurisdiction is in the Family Court Division of the Philadelphia Court of Common Pleas.

parents rights have been terminated or that the parents are deceased or unknown. It further acknowledges that all of the pre-adoption requirements of the adoptive parents' home state have been met.

When a child enters the United States under an IR-4 Visa, it is necessary for the adopting parents to obtain a full and final decree of adoption from the Orphans' Court Division of the Court of Common Pleas. The child will become a United States' citizen only after a legal parent-child relationship has been created by decree of the Orphans' Court in the proper jurisdiction.

The Supreme Court and the legislature have already addressed the registration of foreign adoptions as discussed above. The subject of this proposed Recommendation is the procedure for completion of the adoption of a foreign born child with IR-4 Visa status. In developing procedures for completion of the adoption of a foreign born child with IR-4 status, The Committee has reviewed Act 96, existing statewide and local Orphans' Court Rules² and the relevant federal legislation to determine whether it is possible to prescribe a uniform procedure for completion of foreign adoptions.

B. Overview of Foreign Adoptions and Act 96

Act 96

The following is a summary of Act 96 which was adopted on July 7, 2006, and which prescribes certain procedures with respect to registration of full and final foreign adoptions and completion of foreign adoptions that are not full and final. Prior to the adoption of Act 96, 23 Pa.C.S. § 2908 simply provided adoptive parents with the option of filing a foreign adoption decree and related documents with the clerk in the county of residence of the adoptive child. Practice varied among the counties and the procedure has sometimes been confusing to adoptive parents. Act 96 amends Section 2908 and addresses both registration and completion of foreign adoptions.

New subsection (a) (Registration) requires the adoptive parents to file an authenticated copy of the foreign adoption decree with a certified English translation, if needed, and a copy of the child's visa, birth certificate or birth identification.

New subsection (b) (Foreign Adoption Registration Form) provides that the "court"³ shall develop a foreign adoption registration form and instructions for its use, and that the adoptive parents sign an acknowledgment that they have read and understand the information.

New subsection (c) (Contents of Form) requires that the registration form include a notice explaining that the foreign adoption may not be a full and final adoption for one of the following reasons: (1) if one or both of the adoptive parents was not present for the foreign adoption hearing, (2) the foreign adoption decree is not full and final, or (3) the child's visa does not afford full citizenship to the child.

New subsection (d) (Foreign Adoption Review) calls for judicial review of the registration form. If the court finds that the foreign adoption is full and final, it is to direct the clerk to enter upon the docket the foreign court identification of the proceedings and the date of the decree, and the clerk is directed by statute to issue a certificate of adoption as prescribed in 23 Pa.C.S.

² A survey of local Orphans' Court Rules establishes that there are no published local rules governing completion of foreign adoptions. The existing Pennsylvania Orphans' Court Rules do not address completion of foreign adoptions.

³ The legislature did not define "court" in Act 96, but 23 Pa.C.S. § 2102, the definitional section of the Adoption Act, defines "court" as "the court of common pleas."

§ 2907.⁴ The clerk is then to forward documentation to the Department of Health.⁵ No hearing is required initially, and the Act specifies that the parent shall not be required to obtain counsel.

New subsection (e) (Readoption) calls for the court to develop a standard petition, court order and instructions for their use when a child must be readopted to finalize the adoption, and further requires the clerk to provide the adopting parent or parents with the standardized information.

New subsection (f) (Records) pertains to confidentiality of the record of a foreign adoption, and directs that the record be sealed, except as ordered by the court. It further states that information identifying the birth parents of the adoptee shall not be required. Subsection (f) also provides that the clerk may charge a filing fee in accordance with the court's regular fee schedule.

Registration of Foreign Adoption Decrees

On September 5, 2006, the Supreme Court adopted Rule 15.8(a), which mandated use of a form of petition with model decrees and instructions for the pro se petitioner. The instructions for completing and filing the petition explain that the court will review the petition and, if it determines the foreign adoption is full and final, will enter a decree that will direct the clerk to enter the foreign decree on the docket and issue a certificate of adoption. The clerk is also directed to process the forms necessary to obtain a birth certificate from the Department of Health. The instruction form is geared to the pro se petitioner, as directed in the statute, and provides a checklist of the requirements for filing; the instruction form also contains the required statutory notices regarding the reasons the adoption might not be full and final. If the reviewing court determines that a foreign adoption decree cannot be registered, a decree shall be issued denying the petition. The instructions will have already provided information to the adopting parents of the possible reasons for the court's denial. The instructions also direct the adopting parents in that situation of the need to proceed under the Adoption Act and local adoption practice.

C. Readoption/Completion of Foreign Adoption Which is Not Full and Final

Rule 15.8(b), as adopted in September of 2006, states that if registration is denied by the court, the petitioner must proceed under the Adoption Act and local rules to seek an adoption decree under the laws of the Commonwealth of Pennsylvania. At the time the Supreme Court adopted a streamlined registration procedure for completed foreign adoptions, the Committee had determined that it could not recommend a statewide procedure for completion of foreign adoptions that are not full and final.

Subdivision (e) of Act 96 calls for the court to develop a standard petition, court order and instructions for their use when a child must be readopted to finalize the adoption, and further requires the clerk to provide the adopting parent or parents with the standardized information. The Committee did determine that the term readoption (which is not defined in Act 96) is misleading. Whether there has been an adoption is a matter for the

⁴ Section 2907 states: "The clerk shall issue to the adopting parent or parents a certificate reciting that the court has granted the adoption. The certificate shall not disclose the name of any natural parent or the original name of the person adopted. The certificate shall be accepted in any legal proceedings in this Commonwealth as evidence of the fact that the adoption has been granted."

⁵ This documentation is assumed to be the H105.091 form and Statement of Citizenship and Residency form, which are used by adoptive parents to obtain a Pennsylvania birth certificate, and are a standard part of some counties' existing Adoption Packet.

legislature to determine by statute. However, if a foreign adoption is not “full and final,” then there has been no adoption ab initio and there can be no “readoption.” Accordingly, the term “readoption” should not be applied to an incomplete foreign adoption. The Committee believes that the adoptive parents must establish that the foreign adoption was full and final, in which case the adoptive parents need only proceed to register the foreign adoption as described above, or, they must proceed in accordance with the Adoption Act and local rules. After careful consideration, the Committee is now prepared to recommend a statewide procedure for completion of foreign adoptions as described more fully below.

D. General Description of Recommendation

Since all Pennsylvania pre-adoption requirements have been met to the satisfaction of the United States government when it issues an IR-4 Visa, the Committee does not believe it is necessary for the Orphans’ Court to require the adoptive parents to “start from scratch” in order to complete the foreign adoption.

The procedure for completion of the foreign adoption will no longer be referred to as a “re-adoption.” The designation of “re-adoption” misstates the procedure involved in these cases and causes unnecessary confusion.

Proposed Pennsylvania Orphans’ Court Rules 15.9 and 15.9.1, and the forms that follow, are proposed to promote statewide uniformity of practice and to provide an expeditious procedure for adoptive parents, attorneys, officers of the Court and all other relevant parties to complete the adoption of a foreign born child with IR-4 Visa status initiated in a foreign court while protecting the rights of all parties and best interests of the child. Upon completion of the filings and approval by the Court after a hearing, a Final Decree of Adoption shall be issued. Upon the issuance of a Final Decree of Adoption, the child is entitled to all the rights of a child and heir of the adopting parents under United States federal law and Pennsylvania state law. A Pennsylvania birth certificate will be issued.

E. Detailed Description of Recommendation

Proposed new Rule 15.9 will be titled “Completion of Adoption of Foreign Born Child with IR-4 Visa Status Initiated in a Foreign Court” and will provide as follows:

Subdivision (a) (General Rule) requires adoptive parent(s) seeking to complete a foreign adoption to proceed under the Pennsylvania Adoption Act, Pennsylvania Orphans’ Court Rules, and local rules of Court in order to complete the adoption of a foreign born child with IR-4 Visa status initiated in a foreign court.

Subdivision (b) (Petition) requires that the petition to complete a foreign adoption shall contain all declarations and information required by Section 2701 of the Pennsylvania Adoption Act, Pennsylvania Orphans’ Court Rules, and local rules of Court.

Subdivision (c) (Preliminary Decree and Notice) requires that all petitions include a preliminary decree attached for the purpose of setting a hearing date and shall specify the names and addresses of the person(s), guardian(s), intermediary and/or agency having custody and/or legal and/or physical rights to the child so that notice of the hearing is given pursuant to Pennsylvania Orphans’ Court Rule 15.6.

Subdivision (d) (Appearance at Hearing) requires the appearance of the petitioner(s), guardian(s), and representatives of agencies or individuals who have acted as the

intermediary as named in the Report of Intention to Adopt and the child unless excused by the Court.

Subdivision (e) (Status as Orphan) requires proof that the foreign child with IR-4 Visa status is an orphan and provides a definition of an orphan.

Subdivision (f) (Pre-Adoption Requirements) provides that the Court must determine the pre-adoption requirements as set forth in 23 Pa.C.S. §§ 2530—2535. Further, it allows the Court to accept IR-4 Visa status of the child as proof that the Pennsylvania pre-adoption requirements have been met.

Subdivision (g) (Judicial Review and Hearing) provides for review by the Court and investigation by the Court and allows the Court to rely in whole or in part upon a report previously made under Section 2535 of the Adoption Act and/or pursuant to any other requirements. However, the Orphans’ Court can only rely on a prior report so long as it is for that specific child and it is no more than one year old at the time of submission to the Orphans’ Court. The Court may require additional reports and investigations to be made in accordance with the Pennsylvania Adoption Act, Pennsylvania Orphans’ Court Rules and local rules of Court.

Subdivision (h) (Disclosure of Fees and Costs) requires disclosure of fees and costs prior to or at the hearing and the Court may request an itemization of amounts reported.

Subdivision (i) provides that once the Final Decree is signed by the Court, adoptive parents may obtain a Certificate of Citizenship and Passport for the adoptee.

Proposed Rule 15.9.1 (Filing of Petition and Other Documents) would also be adopted.

Subdivision (a) of proposed Rule 15.9.1 requires a petitioner seeking to complete a foreign adoption to file certain documents with the Orphans’ Court Clerk related to the foreign adoption proceeding and to provide a copy of the foreign born child’s IR-4 Visa status.

Subdivision (b) requires that the petitioners seeking to complete the foreign adoption must file a petition in the form which will be found in the appendix to the Orphans’ Court Rules and requires the attachment of forms of decree which are also to be found in the appendix.

Subdivision (c) requires that all original documents must be available for review by the Court.

This Recommendation proposes to include in the Appendix to the Pennsylvania Orphans’ Court Rules the following forms which must be included pursuant to Subdivision (b) of proposed Rule 15.9.1 in connection with a Petition for Completion of Adoption of Foreign Born Child with IR-4 status:

- REPORT OF INTENTION TO ADOPT
- PRELIMINARY DECREE
- FINAL DECREE
- IMPORTANT NOTICE
- PETITION
- REPORT OF THE INTERMEDIARY

Finally, the Committee recommends conforming amendments to Pa.O.C. 15.8(b) to provide that when an adoptive parent is unable to register the foreign adoption and the child holds an IR-4 Visa, the adoptive parents must proceed pursuant to new Rules 15.9 and 15.9.1.

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART II. ORPHANS' COURT RULES

RULE 15. ADOPTIONS

Rule 15.8. Foreign adoption registration.

* * * * *

(b) If the court of common pleas determines that the foreign adoption decree cannot be registered, the adoptive [**parent(s) may proceed under the Adoption Act and local rules of court to obtain a full and final decree of adoption**] parents must proceed as applicable under the provisions set forth in the Adoption Act, Pa.O.C. Rules 15.9 and 15.9.1 (specific to the completion of adoption of a foreign born child with IR-4 Visa), and local rules of court.

Explanatory Note: Pursuant to 23 Pa.C.S. § 2908(b), as amended by Act 96 of 2006, a set of forms consisting of a petition for registration of a foreign adoption decree, decrees approving and denying the petition, and detailed instructions for pro se petitioners, have been created and are set forth in the Appendix to these rules. The petition should be filed with the Clerk of the Orphans' Court Division, except in Philadelphia County, where it should be filed with the Clerk of the Family Court Division. The Clerk shall make the necessary Department of Health forms available to petitioners. If the foreign adoption is determined not to be a full and final adoption, the adoptive parent(s) may proceed under [**the Adoption Act and local rules to seek a decree of adoption in this Commonwealth**] subdivision (b) of this Rule. See also Pa.O.C. Rules 15.9. and 15.9.1.

* * * * *

Rule 15.9. Completion of Adoption of Foreign Born Child with IR-4 Visa Status Initiated in a Foreign Court.

(a) *General Rule.* Adoptive parent(s) must proceed under the Pennsylvania Adoption Act, 23 Pa.C.S. § 2101 et seq., Pennsylvania Orphans' Court Rules, and local rules of court in order to complete the adoption of a foreign born child with IR-4 Visa status initiated in a foreign court.

(b) *Petition.* The petition shall contain all declarations and information as required by Section 2701 of the Pennsylvania Adoption Act, Pennsylvania Orphans' Court Rules, and local rules of Court.

(c) *Preliminary Decree and Notice.* All petitions shall have a preliminary decree attached for the purpose of setting a hearing date and shall specify the names and addresses of the person(s), guardian(s), intermediary and/or agency having custody and/or legal and/or physical rights to the child so that notice of the hearing is given pursuant to Pennsylvania Orphans' Court Rule 15.6.

(d) *Appearance at Hearing.* The Court shall require the appearance of the petitioner(s), guardian(s), and representatives of agencies or individuals who have acted as the intermediary as named in the Report of Intention to Adopt and the child unless excused by the Court.

(e) *Status as Orphan.* In order to proceed under Rule 15.9, the foreign born child must be an orphan as defined by United States law.

(i) *Definition of orphan.* Orphan is defined under the United States immigration law as (1) an alien child who has no parents because of the death or disappearance or abandonment or desertion by, or separation or loss from both parents, or (2) an alien child who has only one parent who is not capable of taking care of the orphan and who has in writing irrevocably released the alien for emancipation and adoption. (See I-600, Petition to Classify Orphan as an Immediate Relative, Department of Homeland Security.)

(ii) The Court may accept the IR-4 Visa as proof that the foreign born child is an orphan.

(f) *Pre Adoption Requirements.* In order to proceed under Rule 15.9, the Court must determine that preadoption requirements set forth in 23 Pa.C.S. §§ 2530—2535 have been met. Where the adoptive parents were Pennsylvania residents at the time of the foreign adoption, the Court may accept the IR-4 Visa status of the foreign born child as proof that the preadoption requirements have been met.

(g) Judicial Review and Hearing.

(i) *Judicial Review.* Petition For Completion of Adoption of a Foreign Born Child with IR-4 Visa Status Initiated in a Foreign Court and accompanying documents shall be subject to review by the Court and subject to investigation as prescribed by the Pennsylvania Adoption Act, Pennsylvania Orphans' Court Rules and local rules of Court. The investigation shall cover matters alleged in the petition, any other matters that may affect the welfare of the child and information required by 23 Pa.C.S. §§ 2535 and 2724. The Court may rely in whole or in part upon a report previously made in the foreign adoption proceeding consistent with Section 2535 of the Adoption Act so long as the report is for that specific child and it is no more than one year old at the time of submission to the Court. The Court may require additional reports and investigations to be made in accordance with the Pennsylvania Adoption Act, Pennsylvania Orphans' Court Rules and local rules of Court.

(ii) *Hearing.* The Court shall schedule a hearing to allow for testimony pursuant to 23 Pa.C.S. §§ 2721—2724. The hearing may be held in the Judge's courtroom or chambers.

(h) *Disclosure of fees and costs.* Prior to or at the hearing, a report shall be filed setting forth the amount of fees, expenses and costs paid or to be paid to counsel, intermediary and/or any other person or agency in connection with the adoption of the foreign born child. The Court may request an itemization of the amount(s) reported.

(i) Once the Final Decree is signed by the Court, adoptive parents may obtain a Certificate of Citizenship and Passport for the adoptee.

Rule 15.9.1. Filing of Petition and other documents.

(a) The following documents shall be filed with the Office of the Clerk of the Orphans' Court in the county where adoptive parent(s) reside(s) in substantially the following order: Report of Intention to Adopt, Preliminary Decree, Final Decree, Important Notice to any person and/or authority having custody and/or legal and/or physical rights to the foreign born child, Petition for Adoption of Foreign Born Child with IR-4 Visa status, Birth certificate of foreign born child with translation, Death certificate(s) of birth parent(s) and/or proof that child is an orphan with translations, any other relevant foreign decrees and/or documents with translations, Affidavits

and verifications signed by petitioner(s) and translator(s) stating that copies and translations of original documents are true and correct copies of originals, Consents of any person and/or agency having custody and/or legal and/or physical rights to the child, Report of Intermediary, Reports of investigations, home studies, pre-placement and post-placement, Certificate of attorneys' fees and costs, Form H105.091.

(b) The Report of Intention to Adopt and the Petition for Completion of Adoption of Foreign Born Child With IR-4 Visa Status Initiated in a Foreign Court shall be in substantially the same form as adopted by the Supreme Court and attached to the Appendix to these rules. The Petitioner(s) shall attach to the Petition a Preliminary Decree, a Final Decree, an Important Notice and the Report of the Intermediary in substantially the same form as adopted by the Supreme Court and attached to the Appendix to these rules.

(c) All original documents decrees and translations must be available for review by the Court upon request.

INDEX TO APPENDIX

ORPHANS' COURT AND REGISTER OF WILLS FORMS ADOPTED BY SUPREME COURT PURSUANT TO Pa. O.C. Rule 1.3

Available as Fill-in Forms on Website
of Administrative Office of Pennsylvania Courts
<http://www.aopc.org/Index/Forms/IndexForms.asp>.

Orphans' Court and Administration Forms

* * * * *

F. Model Forms for Adoption

1. Report of Intention to Adopt
2. Preliminary Decree
3. Final Decree
4. Important Notice
5. Petition
6. Report of the Intermediary

(Signature)¹
(Type Name & Address)

(Signature)
(Type Name & Address)

¹ Where there are two adoptive parents, both must sign.

(Atty. or Petitioner(s) Pro Se caption: name, address, zip code, telephone #, Atty. ID#)

IN THE COURT OF COMMON PLEAS OF _____ COUNTY,
PENNSYLVANIA ORPHANS' COURT DIVISION

ADOPTION NO. _____

ADOPTION OF: _____ (initials only)

PETITION FOR COMPLETION OF ADOPTION OF FOREIGN BORN CHILD
WITH IR-4 VISA STATUS INITIATED IN A FOREIGN COURT

PRELIMINARY DECREE

AND NOW, this _____ day of _____ --
____ upon consideration of the within Petition and on the motion of [_____,
Esquire, attorney for Petitioner(s) or _____, Pro Se], a hearing thereon is fixed
for _____ in _____
before the Honorable _____, at _____ am/pm.

Notice shall be given to the following persons and or entities having any legal and/or
physical rights to the child:

1. (NAME)
(ADDRESS)
(RELATIONSHIP)
2. (NAME)
(ADDRESS)
(RELATIONSHIP)
3. (NAME)
(ADDRESS)
(RELATIONSHIP)

BY THE COURT:

(Atty. or Petitioner(s) Pro Se caption: name, address, zip code, telephone #, Atty. ID#)

IN THE COURT OF COMMON PLEAS OF _____ COUNTY, PENNSYLVANIA
ORPHANS' COURT DIVISION

ADOPTION NO. _____
ADOPTION OF: _____ (initials only)

**PETITION FOR COMPLETION
OF ADOPTION OF FOREIGN
BORN CHILD WITH IR-4 VISA
STATUS INITIATED IN A
FOREIGN COURT**

FINAL DECREE

AND NOW, this _____ day of _____, 20__, upon consideration of the within Petition and after the hearing had thereon, the Court having made an investigation to verify the statements of the Petition and other facts to give the Court full knowledge as to the desirability of the proposed adoption:

The Court, being satisfied, finds that the statements made in the Petition are true, that the welfare of the child proposed to be adopted will be promoted by this adoption, and that all requirements of the Adoption Act have been met; and it is hereby

ORDERED, ADJUDGED and DECREED that _____, the person proposed to be adopted, shall have all the rights of a child and heir of _____, the adopting parent(s), and shall be subject to all the duties of such child; and shall hereafter assume the name of _____.

BY THE COURT:

(Atty. or Petitioner(s) Pro Se caption: name, address, zip code, telephone #, Atty. ID#)

IN THE COURT OF COMMON PLEAS OF _____ COUNTY, PENNSYLVANIA
ORPHANS' COURT DIVISION

ADOPTION NO. _____
ADOPTION OF: _____ (initials only)

**PETITION FOR COMPLETION
OF ADOPTION OF FOREIGN
BORN CHILD WITH IR-4 VISA
STATUS INITIATED IN A
FOREIGN COURT**

IMPORTANT NOTICE

(To: BIRTH PARENT, if parental rights have not been terminated, GUARDIAN,
INTERMEDIARY, AGENCY, and/or anyone or entity having legal and/or physical rights
and/or custody of adoptee)

TO: (NAME) _____
(ADDRESS) _____

A petition has been filed asking the Court to put an end to all rights you have to the child, (name of adoptive child here). The Court has set a hearing to consider ending your rights to this child. That hearing will be held in the _____ County Courthouse, _____, Pennsylvania on _____, at _____ (a.m. or p.m.) in Courtroom No. _____. You are warned that even if you fail to appear at the scheduled hearing, the hearing will go on without you and your rights to this child may be ended by the Court without your being present. You have a right to be represented at the hearing by a lawyer. 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.

**LAWYER REFERRAL SERVICE
OF _____ COUNTY**

(Atty. or Petitioner(s) Pro Se caption: name, address, zip code, telephone #, Atty. ID#)

IN THE COURT OF COMMON PLEAS OF _____ COUNTY, PENNSYLVANIA
ORPHANS' COURT DIVISION

ADOPTION NO. _____
ADOPTION OF: _____ (initials only)

**PETITION FOR COMPLETION
OF ADOPTION OF FOREIGN
BORN CHILD WITH IR-4 VISA
STATUS INITIATED IN A
FOREIGN COURT**

PETITION

Petition of _____ under Pa. C.S. §§ 2908 and 2701:

Petitioner(s) desire(s) to adopt a child known to (him/her/them) as one of (his/her/their) heirs and hereby declare(s) that (he/she/they) will perform all the duties of parent(s) to him/her.

THE CHILD HAS ENTERED THE UNITED STATES PURSUANT TO AN IR-4 VISA. A COPY OF THE IR-4 VISA, ALONG WITH AN AFFIDAVIT AND VERIFICATION SIGNED BY PETITIONER(S) STATING THAT IT IS A TRUE AND CORRECT COPY ARE ATTACHED AS EXHIBITS TO THIS PETITION.

1. The facts as to the Petitioner(s), the adopting parent(s), are as follows:

a) Adoptive Father:

- 1) (Full Name);
- 2) (Residence);
- 3) (Marital Status);
- 4) (Age);
- 5) (Occupation);
- 6) (Religious Affiliation);
- 7) (Racial background);
- 8) (Relationship to adoptee by blood or marriage, if any).

b) Adoptive Mother:

- 1) (same as (1) through (8) above)

2. Dates of filing of reports, as applicable:

- a) (Report of Intention to Adopt) - 23 Pa. C.S. § 2531;
- b) (Reports of Intermediary) - 23 Pa. C.S. § 2533;
- c) (Pre-placement Reports) - 23 Pa. C.S. § 2530;

- d) (Home Study Reports) - 23 Pa. C.S. § 2530;
- e) (Interim placement Reports);
- f) (Post placement Reports);
- g) (Investigative Reports).

3. (Name and address of intermediary, if any.)
4. (Child's full name, and length of time he/she has resided with Petitioners.)
5. If there is no intermediary, or if child is over 18 yrs old, provide the following information as to the adoptee:
- a) (Sex);
 - b) (Racial background);
 - c) (Age and birth date);
 - d) (Birthplace);
 - e) (Place of residence since birth);
 - f) (Religious affiliation);
 - g) (A full statement of the value of all property owned or possessed by the child, if any);
 - h) (State whether any provision of any act regulating the interstate placement of children has been violated);
 - i) (State whether medical history information was obtained, and if not, explain why not).

6. Name to be assumed by the child after adoption.

First _____ Middle _____ Last _____

7. All consents required by Section 2711 are attached as exhibits or are not required. (State why not required).

8. It is the desire of the Petitioner(s) that the relationship of parent and child be established between the Petitioner(s) and the adoptee.

9. If no birth certificate or certification of registration of birth can be obtained, a statement of the reason and a detailed explanation of the efforts made to obtain the certificate are required. The court shall determine the date and place of birth for the child at the adoption hearing on the basis of the evidence presented.

10. State how parental rights were or will be terminated. Copies of foreign documents and/or decrees are attached as Exhibits _____. Affidavits and verifications signed by Petitioner(s) pursuant to 18 Pa. C.S. § 4904 stating that the attached copies are true and correct copies of the originals are attached as Exhibits _____.

11. If parental rights have not been terminated and no report of intermediary is filed, provide the following information:

a) Birth Mother:

- 1) (Name);
- 2) (Residence or last known address);
- 3) (Racial background);
- 4) (Age);
- 5) (Marital status at time of birth of child);
- 6) (Marital status during one year prior to birth of child);

- 7) (Religious affiliation).
- b) Birth Father: (same as (1) through (7) above)

WHEREFORE, Petitioner(s) pray your Honorable Court to decree that the person proposed to be adopted shall have all the rights of a child and heir of Petitioner(s) and be subject to the duties of such child, and that he/she shall assume the name of _____.

(Signature)
(Type Petitioner's Name)²

(Signature)
(Type Petitioner's Name)

² Where there are two adoptive parents, both must sign.

VERIFICATION

_____ and _____ verify that we are the Petitioners named in the foregoing petition and that the facts set forth therein are true and correct, to the best of our knowledge, information and belief. We understand that false statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

(Signature)

(Signature)

IN THE COURT OF COMMON PLEAS OF _____ COUNTY, PENNSYLVANIA
ORPHANS' COURT DIVISION

ADOPTION NO. _____
ADOPTION OF: _____ (initials only)

**PETITION FOR COMPLETION OF ADOPTION OF FOREIGN BORN CHILD
WITH IR-4 VISASTATUS INITIATED IN A FOREIGN COURT**

REPORT OF INTERMEDIARY

The report of _____, intermediary, under Pa. C.S. § 2533:

1. (Intermediary's name and address)
2. The facts as to the child are:
 - a) (Name)
 - b) (Sex)
 - c) (Racial background)
 - d) (Age)
 - e) (Birth date)
 - f) (Birthplace)
 - g) (Religious affiliation)
3. (Date of the placement of the child with the adopting parent or parents. Date pre-placement report was concluded and filed.)
4. The facts as to the birth mother are:
 - a) (Name)
 - b) (Residence or last known address (state which), unless rights already terminated)
 - c) (Racial background)
 - d) (Age)
 - e) (Marital status as of the time of the birth of the child.)
 - f) (Marital status during one year prior to birth of the child)
 - g) (Religious affiliation)
5. The facts as to the birth father are: (same as (a) through (g) above)
6. (Identify proceedings, if any, in which a decree of termination of parental rights with respect to this child has been entered.)
7. All consents required by Pa.C.S. § 2711 are attached as exhibits or are not required for the following reasons:
8. (Itemized fees and/or expenses paid or to be paid to or received by the intermediary and/or any other person or persons to the knowledge of the intermediary by reason of the adoption placement. Attach hereto with Verification as Exhibit _____.)
9. (A full description and statement of the value of all property owned or possessed by the child, if any.)

10. No provision of any act regulating the interstate placement of children has been violated with respect to the placement of the child.

11. The birth certificate is attached hereto as Exhibit _____. (If no birth certificate or certification of registration of birth can be obtained, a statement of the reason why it cannot be obtained.)

12. (State whether medical history information was obtained, and if not, explain why not.)

(Signature)
(Type name of intermediary)
(Type address of intermediary)

DATE: _____

VERIFICATION

I, verify (that am) _____ (title) of _____ (name of agency) and am authorized to make this affidavit on its behalf, and that the facts set forth in the foregoing petition are true and correct, to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

[Pa.B. Doc. No. 07-1003. Filed for public inspection June 1, 2007, 9:00 a.m.]
