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PENNSYLVANIA BULLETIN

Volume 36
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Department of Environmental Protection
Department of General Services
Department of Health
Environmental Quality Board
Fish and Boat Commission
Health Care Cost Containment Council
Independent Regulatory Review Commission
Insurance Department
Pennsylvania Public Utility Commission
Philadelphia Regional Port Authority
State Board of Nursing
State Board of Podiatry
State Tax Equalization Board

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

No. 382, September 2006

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READER'S GUIDE TO THE PENNSYLVANIA BULLETIN AND PENNSYLVANIA CODE

Pennsylvania Bulletin

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

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

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

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

Adoption, Amendment or Repeal of Regulations

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

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

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

Bulletin before it can take effect. If the agency wishes to adopt changes to the Notice of Proposed Rulemaking to enlarge the scope, they must re-propose.

Citation to the *Pennsylvania Bulletin*

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

Pennsylvania Code

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

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

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

How to Find Documents

Search for your area of interest in the *Pennsylvania Code*.

The *Pennsylvania Code* contains, as Finding Aids, subject indexes for the complete *Code* and for each individual title, a list of Statutes Used As Authority for Adopting Rules and a list of annotated cases. Source Notes give you the history of the documents. To see if there have been recent changes, not yet codified, check the List of *Pennsylvania Code* Chapters Affected in the most recent issue of the *Pennsylvania Bulletin*.

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

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Printing Format

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

Fiscal Notes

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

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

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THE COURTS

Title 210—APPELLATE PROCEDURE

PART I. RULES OF APPELLATE PROCEDURE

[210 PA. CODE CHS. 1, 9, 11, 13, 21, 25, 27, 31 AND 33]

Proposed Amendments to Rules 102, 121, 122, 123, 905, 909, 911, 1101, 1102, 1112, 1116, 1123, 1311, 1314, 1321, 1514, 2172, 2185, 2186, 2542, 2545, 2571, 2742, 3102, 3191, 3307 and 3309

The Appellate Court Procedural Rules Committee proposes to amend Pennsylvania Rules of Appellate Procedure 102, 121, 122, 123, 905, 909, 911, 1101, 1102, 1112, 1116, 1123, 1311, 1314, 1321, 1514, 2172, 2185, 2186, 2542, 2545, 2571, 2742, 3102, 3191, 3307 and 3309. The amendments are being submitted to the bench and bar for comments and suggestions prior to its submission to the Supreme Court.

Proposed new material is bold while deleted material is bracketed and bold.

All communications in reference to the proposed amendment should be sent no later than October 23, 2006 to:

Dean R. Phillips, Chief Counsel
 D. Alicia Hickok, Deputy Counsel
 Appellate Court Procedural Rules Committee
 5035 Ritter Road, Suite 700
 Mechanicsburg, PA 17055

or Fax to
 717-795-2116

or E-Mail to
 appellaterules@pacourts.us

The Explanatory Comment which appears in connection with the proposed amendments has been inserted by the Committee 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 Appellate Court
 Procedural Rules Committee*

HONORABLE JANE CUTLER GREENSPAN,
Acting Chair

Annex A

TITLE 210. APPELLATE PROCEDURE

PART I. RULES OF APPELLATE PROCEDURE

ARTICLE I. PRELIMINARY PROVISIONS

CHAPTER 1. GENERAL PROVISIONS

IN GENERAL

Rule 102. Definitions.

Subject to additional definitions contained in subsequent provisions of these rules which are applicable to specific provisions of these rules, the following words and phrases when used in these rules shall have, unless the context indicates otherwise, the meanings given them in this rule:

* * * * *

[*Paperbooks*—Briefs and reproduced record. The term does not include applications for reconsideration of denial of allowance of appeal under Rule 1123(b) (reconsideration) or applications for reargument under Chapter 25 (post-submission proceedings).]

* * * * *

DOCUMENTS GENERALLY

Rule 121. Filing and Service.

(a) *Filing*.—Papers required or permitted to be filed in an appellate court shall be filed with the prothonotary. [**Filing**] Except as otherwise provided by these rules, filing may be accomplished by mail addressed to the prothonotary, but [**except as otherwise provided by these rules**] filing shall not be timely unless the papers are received by the prothonotary within the time fixed for filing. [**Paperbooks shall be deemed filed on the day of mailing if first class mail is utilized.**]

If an application under these rules requests relief which may be granted by a single judge, a judge in extraordinary circumstances may permit the application and any related papers to be filed with that judge [, in which event that]. In that event the judge shall note thereon the date of filing and shall thereafter transmit such papers to the clerk.

A pro se filing submitted by a prisoner incarcerated in a correctional facility is deemed filed as of the date it is delivered to the prison authorities for purposes of mailing or placed in the institutional mailbox, as evidenced by a properly executed prisoner cash slip or other reasonably verifiable evidence of the date that the prisoner deposited the pro se filing with the prison authorities.

* * * * *

(c) *Manner of service*.—Service may be [**personal, or by first class mail. Personal service under these rules includes delivery of the copy to a clerk or other responsible person at the office of the person served.**]:

(1) **Personal service, which includes delivery of the copy to a clerk or other responsible person at the office of the person served, but does not include inter-office mail.**

(2) **By first class, express, or priority United States Postal Service mail.**

(3) **By commercial carrier with delivery intended to be at least as expeditious as first class mail if the carrier can verify the date of delivery to it.**

(4) **By facsimile or e-mail with the agreement of the party being served as stated in the certificate of service.**

Service by mail is complete on mailing.

* * * * *

(e) *Additional time after service by mail and commercial carrier*.—Whenever a party is required or permitted to do an act within a prescribed period after service of a paper upon that party (other than an order of a court or

other government unit) and the paper is served by United States mail or by commercial carrier, three days shall be added to the prescribed period.

Official Note: As to prisoner filings, see *Commonwealth v. Jones*, 549 Pa. 58, 700 A.2d 423 (1997); *Smith v. Pa. Bd. of Prob. & Parole*, 546 Pa. 115, 683 A.2d 278 (1996); *Commonwealth v. Johnson*, 860 A.2d 146 (2004).

* * * * *

Rule 122. Content and Form of Proof of Service.

* * * * *

(b) *Form.*—Each name and address shall be separately set forth in the form of a mailing address, including applicable zip code, regardless of the actual method of service employed. **The proof of service shall also show the telephone number, party represented, and, where applicable, e-mail or facsimile address.** The name, address and telephone number of the serving party shall be similarly set forth, followed by the attorney's registration number. **[The telephone number of each person served shall be noted next to the person's name.]** A proof of service may be in substantially the following form:

I hereby certify that I am this day serving the foregoing document upon the persons and in the manner indicated below, which service satisfies the requirements of Pa.R.A.P. 121:

Service by first class mail addressed as follows:

**[Richard Row, Esquire (215) 555-1234
123 East Walnut Street
Philadelphia, Pa. 19175
(Counsel for XYZ Trucking Co.)]**

**Name Telephone number
Mailing address
(Party represented)**

Acceptance of service endorsed by the following:

**[John Doe, Esquire (215) 555-5678
123 East Chestnut Street
Philadelphia, Pa. 19175
(Counsel for ABC Forwarding Co.)]**

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Counsel
Pennsylvania Public Utility Commission
Room 117
North Office Building
Harrisburg, Pa. 17120**

**Hon. William Bradford (717) 787-3391
Attorney General of Pennsylvania
c/o Miss Mary Smith,
Secretary to the Attorney General
16th Floor Strawberry Square
Harrisburg, Pa. 17120**

**John Jones, Esq.
(Attorney Registration No. 00000)
123 East Chestnut Street
Philadelphia, Pa. 19175
Of counsel for ABC Railway Corporation
(215) 555-5555]**

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(Party Represented)**

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Addressee's name, Telephone number
Street address,
Mailing Address
(Party represented)**

Service by e-mail at following:

**E-mail address, with agreement of:
Name, Telephone number
Mailing address
(Party represented)**

Service by facsimile at following:

**Fax Number with the agreement of:
Name, Telephone number
Mailing address
(Party represented)**

[Dated: May 26, 1975] Date

(S) _____

**Name, Telephone number
(Attorney Registration No. 00000)
Mailing address
(Party represented)**

Official Note: Under 18 Pa.C.S. § 4904 (unsworn falsification to authorities) a knowingly false proof of service constitutes a misdemeanor of the second degree. **[Where a large number of persons are named in the proof of service the appellate prothonotary and other parties may cut up a photocopy of the proof of service to form mailing labels for docketing notices, mailing briefs, etc., without the need to retype the list.]**

Rule 123. Application for Relief.

* * * * *

(b) *Answer.*—Any party may file an answer to an application within 14 days after service of the application, but applications under Chapter 17 (effect of appeals; supersedeas and stays), or for delay in remand of the record, may be acted upon after reasonable notice, unless the exigency of the case is such as to impel the court to dispense with such notice. The court may shorten or extend the time for answering any application. **Answers shall be deemed filed on the date of mailing if first class, express, or priority United States Postal Service mail is utilized.**

* * * * *

ARTICLE II. APPELLATE PROCEDURE

CHAPTER 9. APPEALS FROM LOWER COURTS

Rule 905. Filing of Notice of Appeal.

* * * * *

Official Note: Insofar as the clerk or prothonotary of the lower court is concerned, the notice of appeal is for all intents and purposes a writ in the nature of certiorari in the usual form issued out of the appellate court named therein and returnable thereto within the time prescribed by Chapter 19 (preparation and transmission of record and related matters).

As to the procedures for preserving a filing date for filing appeals as of right from the Commonwealth Court, see Rule 1101(b).

* * * * *

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

* * * * *

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

* * * * *

Rule 911. [*Brief in Opposition*] *Answer* to Jurisdictional Statement. Content. Form.

[*A brief in opposition*] *An answer* to a jurisdictional statement shall set forth any procedural, substantive or other argument or ground why the order appealed from is not reviewable as of right and why the Supreme Court should not grant an appeal by allowance. The [*brief*] *answer* need not be set forth in numbered paragraphs in the manner of a pleading and shall not exceed five pages.

* * * * *

CHAPTER 11. APPEALS FROM COMMONWEALTH COURT AND SUPERIOR COURT

APPEALS FROM COMMONWEALTH COURT AND SUPERIOR COURT

Rule 1101. Appeals as of Right from the Commonwealth Court.

* * * * *

(b) *Procedure on appeal*. An appeal within the scope of Subdivision (a) of this rule shall be taken to the Supreme Court in the manner prescribed in Chapter 9 (appeals from lower courts), except that if the notice of appeal is transmitted to the Prothonotary of the Commonwealth Court by means of first class, **express, or priority United States Postal Service** mail, the notice of appeal shall be deemed received by the [*Prothonotary*] *prothonotary* for the purposes of Rule 121(a) (filing) on the date deposited in the United States mail, as shown on a [*U.S.*] **United States Postal Service Form 3817 certificate of mailing or other similar United States Postal Service form from which the date of deposit can be verified.** The certificate of mailing **or other similar Postal Service form from which the date of deposit can be verified shall be cancelled by the Postal Service**, shall show the docket number of the matter in the Commonwealth Court and shall be either enclosed

with the notice of appeal or separately mailed to the Prothonotary. Upon actual receipt of the notice of appeal the Prothonotary shall immediately stamp it with the date of actual receipt. That date, or the date of earlier deposit in the United States mail as prescribed in this subdivision, shall constitute the date when the appeal was taken, which date shall be shown on the docket.

Official Note:

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The [*U.S.*] **United States** Postal Service Form 3817 mentioned in Subdivision (b) is reproduced in the note to Rule 1112 (appeals by allowance).

Rule 1102. Improvident Appeals.

* * * * *

Official Note: Based on 42 Pa.C.S. § 724(b) (improvident appeals). In a similar fashion, any motion to quash the appeal would be regarded as [*a brief in opposition*] *an answer* to the petition under Rule 1116 ([*brief in opposition*] *answer* to the petition for allowance of appeal).

PETITION FOR ALLOWANCE OF APPEAL

Rule 1112. Appeals by Allowance.

* * * * *

(c) *Petition for allowance of appeal*.—Allowance of an appeal from a final order of the Superior Court or the Commonwealth Court may be sought by filing a petition for allowance of appeal with the Prothonotary of the Supreme Court within the time allowed by Rule 1113 (time for petitioning for allowance of appeal), with proof of service on all other parties to the matter in the appellate court below. If the petition for allowance of appeal is transmitted to the Prothonotary of the Supreme Court by means of first class, **express, or priority United States Postal Service** mail, the petition shall be deemed received by the Prothonotary for the purposes of Rule 121(a) (filing) on the date deposited in the United States mail, as shown on a [*U.S.*] **United States Postal Service Form 3817 certificate of mailing or other similar United States Postal Service form from which the date of deposit can be verified.** The certificate of mailing **or other similar United States Postal Service form from which the date of deposit can be verified shall be cancelled by the Postal Service**, shall show the docket number of the matter in the appellate court below and shall be either enclosed with the petition or separately mailed to the Prothonotary. Upon actual receipt of the petition for allowance of appeal the Prothonotary of the Supreme Court shall immediately stamp it with the date of actual receipt. That date, or the date of earlier deposit in the United States mail as prescribed in this subdivision, shall constitute the date when allowance of appeal was sought, which date shall be shown on the docket. The Prothonotary of the Supreme Court shall immediately note the Supreme Court docket number upon the petition for allowance of appeal and give written notice of the docket number assignment in person or by first class mail to the prothonotary of the appellate court below who shall note on the docket that a petition for allowance of appeal has been filed to the petitioner and to the other persons named in the proof of service accompanying the petition.

* * * * *

Official Note:

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The [U.S.] United States Postal Service [Form] form may be in substantially the following form:

* * * * *

The transmittal should be taken *unsealed* to the Post Office, the Form 3817 **certificate of mailing or other similar United States Postal Service form from which the date of deposit can be verified** should be obtained, **cancelled**, and attached to the petition, and the envelope should only then be sealed. [**Occasionally a postal clerk will refuse to cooperate; in such cases the Form 3817 may be withdrawn from the envelope, the envelope sealed, the Form 3817 pasted firmly to the outside of the envelope, and the entire package submitted to the postal clerk with instructions to execute the Form 3817 pasted on the envelope.**] Alternately, the cancelled Form 3817 or other similar United States Postal Service form from which the date of deposit can be verified can be submitted to the prothonotary under separate cover with clear identification of the filing to which it relates.

It is recommended that the petitioner obtain a duplicate copy of the Form 3817 or other similar United States Postal Service form from which the date of deposit can be verified as evidence of mailing. Since the Post Office is technically the filing office for the purpose of this rule a petition which was mailed in accordance with this rule and which is subsequently lost in the mail will nevertheless toll the time for petitioning for allowance of appeal. However, counsel will be expected to follow up on a mail filing by telephone inquiry to the appellate prothonotary where written notice of the docket number assignment is not received in due course.

* * * * *

Rule 1116. [Brief in Opposition] Answer to Petition for Allowance of Appeal.

Within 14 days after service of a petition for allowance of appeal an adverse party may file [a brief in opposition] an answer. The answer shall be deemed filed on the date of mailing if first class, express, or priority United States Postal Service mail is utilized. The [brief in opposition] answer need not be set forth in numbered paragraphs in the manner of a pleading, shall set forth any procedural, substantive or other argument or ground why the order involved should not be reviewed by the Supreme Court and shall comply with Rule 1115(a)(7) (content of petition for allowance of appeal). No separate motion to dismiss a petition for allowance of appeal will be received. A party entitled to file [a brief in opposition] an answer under this rule who does not intend to do so shall, within the time fixed by these rules for filing [a brief in opposition] an answer, file and serve a letter stating that [a brief in opposition] an answer to the petition for allowance of appeal will not be filed. The failure to file [a brief in opposition] an answer will not be construed as concurrence in the request for allowance of appeal.

Official Note: [Based on former Supreme Court Rule 62 and makes no change in substance except as follows: The time for opposition is increased from ten to 17 days (where service is by mail).] This

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

Rule 1123. Denial of Appeal; Reconsideration.

* * * * *

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

[**Official Note:** The 1996 amendment to subdivision (b) lengthens the time for filing an application for reconsideration from seven days after service of notice of entry of the order denying a petition for allowance of appeal to fourteen days after entry of the order. The 1996 amendment adding subdivision (c) provides that an application shall be deemed received on the date deposited in the United States mail as shown on a United States Postal Service Form 3817—certificate of mailing. These amendments conform reconsideration practice under Rule 1123 to reargument practice under Rule 2542.]

CHAPTER 13. INTERLOCUTORY APPEALS BY PERMISSION

Rule 1311. Interlocutory Appeals by Permission.

* * * * *

(b) *Petition for permission to appeal.*—Permission to appeal from an interlocutory order containing the statement prescribed by 42 Pa.C.S. § 702(b) may be sought by filing a petition for permission to appeal with the prothonotary of the appellate court within 30 days after entry of such order in the lower court or other government unit with proof of service on all other parties to the matter in the lower court or other government unit and on the government unit or clerk of the lower court, who shall file the petition of record in such lower court. An application for an amendment of an interlocutory order to set forth expressly the statement specified in 42 Pa.C.S. § 702(b) shall be filed with the lower court or other government

unit within 30 days after the entry of such interlocutory order and permission to appeal may be sought within 30 days after entry of the order as amended. Unless the trial court or other governmental unit acts on the application within 30 days after it is filed, the trial court or other governmental unit shall no longer consider the application and it shall be deemed denied. If the petition for permission to appeal is transmitted to the prothonotary of the appellate court by means of first class, **express, or priority United States Postal Service** mail, the petition shall be deemed received by the prothonotary for the purposes of Rule 121(a) (filing) on the date deposited in the United States mail, as shown on a [U.S.] **United States Postal Service Form 3817 certificate of mailing, or other similar United States Postal Service form from which the date of deposit can be verified**. The certificate of mailing or other similar Postal Service form from which the date of deposit can be verified shall be cancelled by the Postal Service, shall show the docket number of the matter in the lower court or other government unit and shall be either enclosed with the petition or separately mailed to the prothonotary. Upon actual receipt of the petition for permission to appeal the prothonotary of the appellate court shall immediately stamp it with the date of actual receipt. That date, or the date of earlier deposit in the United States mail as prescribed in this subdivision, shall constitute the date when permission to appeal was sought, which date shall be shown on the docket. The prothonotary of the appellate court shall immediately note the appellate docket number assignment upon the petition for permission to appeal and give written notice of the docket number assignment in person or by first class mail to the government unit or clerk of the lower court, to the petitioner and to the other persons named in the proof of service accompanying the petition.

* * * * *

Official Note:

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See the note to Rule 1112 (appeals by allowance) for an explanation of the [procedure] procedures when Form 3817 or other similar United States Postal Service form from which the date of deposit can be verified is used.

* * * * *

Rule 1314. [Brief in Opposition] Answer to Petition for Permission to Appeal.

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

for permission to appeal will not be filed. The failure to file [a brief in opposition] an answer will not be construed as concurrence in the request for permission to appeal.

Rule 1321. Transmission of Papers to and Action by the Court.

Upon receipt of the [brief in opposition] answer to the petition for permission to appeal, or a letter stating that no [brief in opposition] answer will be filed, from each party entitled to file such, the petition and the [brief in opposition] answer, if any, shall be distributed by the prothonotary to the appellate court for its consideration. Permission to appeal may be limited to one or more of the questions presented in the petition, in which case the order granting permission to appeal shall specify the question or questions which will be considered by the court.

CHAPTER 15. JUDICIAL REVIEW OF GOVERNMENTAL DETERMINATIONS

PETITION FOR REVIEW

Rule 1514. Filing and Service of the Petition for Review.

(a) *Filing with the prothonotary.* The petition for review, with proof of service required by Subdivision (c) of this rule, shall be filed with the prothonotary of the appellate court in person or by first class [or certified], express, or priority United States Postal Service mail.

If the petition for review is filed by first class, [or certified] express, or priority United States Postal Service mail, the petition shall be deemed received by the prothonotary for the purposes of Rule 121(a) (filing) on the date deposited in the United States mail, as [stamped by post office personnel on a U.S.] shown on a United States Postal Service Form 3817, certificate of mailing, or [U.S. Postal Service Form 3800] other similar United States Postal Service form from which the date of deposit can be verified. The certificate of mailing or other similar Postal Service form from which the date of deposit can be verified shall be cancelled by the Postal Service and shall show the docket number of the matter in the government unit, and shall be either enclosed with the petition or separately mailed to the prothonotary.

* * * * *

Official Note: See the note to Rule 1112 (appeals by allowance) for an explanation of the procedure when Form 3817 or other similar United States Postal Service form from which the date of deposit can be verified is used.

* * * * *

CHAPTER 21. BRIEFS AND REPRODUCED RECORD

FORM OF BRIEFS AND REPRODUCED RECORD

Rule 2172. Covers.

(a) *Briefs.*—On the front cover of the brief there shall appear the following:

* * * * *

(4) **Title of the filing, such as** “Brief for Appellant,” [or] “Brief for Petitioner,” “Brief for Appellee,” or[, if] “Brief for Respondent.” If the reproduced record is

bound with the brief, the title shall be "Brief for Appellant and Reproduced Record," or ["Brief for Appellee and Supplemental Reproduced Record,"], such as the case may be[, or if the matter involves proceedings on petition for allowance of or for permission to appeal, "Petition for Allowance of Appeal," "Petition for Permission to Appeal" or "Brief in Opposition," as the case may be, or if the matter is pending in the appellate court on petition for review, "Brief for Petitioner," "Brief for Petitioner and Reproduced Record," "Brief for Respondent," or "Respondent and Supplemental Reproduced Record," as the case may be].

(5) Designation of the order appealed from as "Appeal from the Order of" the court from which the appeal is taken, with the docket number therein, [or, if the matter involves proceedings on petition for allowance of or for permission to appeal, "Petition for Allowance of Appeal from the Order of" or "Petition for Permission to Appeal from the Order of" the court or other government unit from which the appeal is sought to be taken, with the docket number therein,] or, if the matter is pending in the appellate court on petition for review, "Petition for Review of" the determination sought to be reviewed of the government unit involved, with any docket number therein. On appeals from the Superior Court or the Commonwealth Court its docket number shall be given, followed by a statement as to whether it affirmed, reversed or modified the order of the court or tribunal of first instance, giving also the name of the latter and the docket number, if any, of the case therein.

* * * * *

FILING AND SERVICE

Rule 2185. [Time for Serving] Service and Filing of Briefs.

(a) General Rule.—The appellant shall serve and file appellant's brief not later than the date fixed pursuant to Subdivision (b) of this rule, or within 40 days after the date on which the record is filed, if no other date is so fixed. The appellee shall serve and file appellee's brief within 30 days after service of appellant's brief and reproduced record if proceeding under Rule 2154(a). A party may serve and file a reply brief permitted by these rules within 14 days after service of the preceding brief but, except for good cause shown, a reply brief must be served and filed so as to be received at least three days before argument. In cross appeals, the second brief of the deemed or designated appellant shall be served and filed within 30 days of service of the deemed or designated appellee's first brief. Except as prescribed by Rule 2187(b) (advance text of briefs), each brief shall be filed not later than the last day fixed by or pursuant to this rule for its service. Briefs shall be deemed filed on the date of mailing if first class, express, or priority United States Postal Service mail is utilized.

(b) Notice of deferred briefing schedule. When the record is filed the prothonotary of the appellate court shall estimate the date on which the matter will be argued before or submitted to the court, having regard for the nature of the case and the status of the calendar of the court. If the prothonotary determines that the matter will probably not be reached by the court for argument or submission within 30 days after the latest date on which

the last [paperback] brief could be filed under the usual briefing schedule established by these rules, the prothonotary shall fix a specific calendar date as the last date for the filing of the brief of the appellant in the matter, and shall give notice thereof as required by these rules. The date so fixed by the prothonotary shall be such that the latest date on which the last [paperback] brief in the matter could be filed under these rules will fall approximately 30 days before the probable date of argument or submission of the matter.

* * * * *

Official Note: [Unlike the provision for filing other papers, Rule 121(a) provides "paperbooks shall be deemed filed on the day of mailing if first class mail is utilized." "Paperbooks" are defined in Rule 102 as briefs and reproduced records, but "the term does not include applications for reconsideration of denial of allowance of appeal under Rule 1123(b) (reconsideration) or applications for reargument under Chapter 25 (post-submission proceedings)."]

* * * * *

Rule 2186. [Time for Serving] Service and Filing of Reproduced Record.

(a) General rule.—The reproduced record shall be served and filed not later than:

- (1) the date of service of the brief; or
(2) 21 days from the date of service of the appellee's brief in advance form, if the record is being reproduced pursuant to Rule 2154(b) (large records).

Reproduced records shall be deemed filed on the date of mailing if first class, express, or priority United States Postal Service mail is utilized.

* * * * *

CHAPTER 25. POST-SUBMISSION PROCEEDINGS

APPLICATION FOR REARGUMENT

Rule 2542. Time for Application for Reargument. Manner of Filing.

* * * * *

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

Official Note:

* * * * *

The 1986 amendment [provides] provided that an application shall be deemed received on the date deposited in the United States mail as shown on a [U.S.] United States Postal Service Form 3817 [certificate of mailing] Certificate of Mailing.

The 2006 amendment provides that an application shall be deemed received on the date deposited in the United States mail as shown on a United States Postal Service Form 3817 Certificate of Mailing or other similar United States Postal Service form from which the date of deposit can be verified.

Rule 2545. Answer [in Opposition] to Application for Reargument.

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

REMAND OF RECORD

Rule 2571. Content of Remanded Record.

* * * * *

(b) [Paperbooks] Briefs.—The prothonotary of an appellate court shall not forward any [paperbook] brief in a matter to the lower court either prior to or in connection with the remand of the record. The lower court on remand may direct any party to the appeal to file of record in the lower court and serve on the trial judge a copy of any [paperbook] brief filed in the appeal.

* * * * *

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

COSTS

Rule 2742. Costs of [Paperbooks] Briefs and Reproduced Records.

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ARTICLE III. MISCELLANEOUS PROVISIONS

CHAPTER 31. BUSINESS OF THE COURTS GENERALLY

IN GENERAL

Rule 3102. Quorum and Action.

* * * * *

(b) Absence from panel. If less than three members of a panel attend a session of the panel, another judge or

judges shall be designated to complete the panel if reasonably possible, and if it is not reasonably possible to do so the presiding judge with the consent of the parties present may direct that the matter be heard and determined by a panel of two judges. If the two judges who so heard the matter are unable to agree upon the disposition thereof, the president judge of the court may direct either that the matter be submitted on the [paperbooks] briefs to a third judge, or that the matter be reargued before a full panel.

* * * * *

[PAPERBOOKS] BRIEFS

Rule 3191. Distribution of [Paperbooks] Briefs.

The following entities shall be entitled to receive distribution of [paperbooks] briefs filed in an appellate court:

* * * * *

Official Note: Based on former Supreme Court Rule 59 and former Superior Court Rule 49. The whole subject of the distribution of [paperbooks] briefs to the court and others is an administrative matter, but the existence of the rule will continue the free distribution of the Pennsylvania Consolidated Statutes, the Pennsylvania Code, the Pennsylvania Bulletin and local government codes to the entities named in the rule by reason of 1 Pa.C.S. § 501 (publication and distribution) 45 Pa.C.S. § 730(3) (pricing and distribution of published documents) and act of May 29, 1935 (P. L. 244, No. 102), § 2.1(b)(4) (46 P. S. § 431.2a(b)(4)).

CHAPTER 33. BUSINESS OF THE SUPREME COURT

ORIGINAL MATTERS

Rule 3307. Applications for Leave to File Original Process.

* * * * *

(b) General rule.—The initial pleading in any original action or proceeding shall be prefaced by an application for leave to file such pleading, showing service upon all parties to such action or proceeding. The matter will be docketed when the application for leave to file is filed with the Prothonotary of the Supreme Court. The application shall be deemed filed on the date received by the prothonotary unless it was on an earlier date deposited in the United States mail and sent by first class, express, or priority United States Postal Service mail as shown on a United States Postal Service Form 3817 certificate of mailing or other similar United States Postal Service form from which the date of deposit can be verified. The certificate of mailing or similar postal service form from which the date of deposit can be verified shall be cancelled by the Postal Service, shall show the docket number of the matter if known and shall be either enclosed with the application or separately mailed to the prothonotary. Appearances shall be filed as in other original actions. An adverse party may file an answer no later than 14 days after service of the application. The answer shall be deemed filed on the date of mailing if first class, express, or priority United States Postal Service mail is utilized. An adverse party who does not intend to file an answer to the application shall, within the time fixed by these rules for the filing of an answer, file and serve a letter stating that an answer to the application will not be filed. Upon

receipt of the answer to the application, or a letter stating that no answer will be filed, from each party entitled to file such, the application, pleadings and answer to the application, if any, shall be distributed by the Prothonotary to the Supreme Court for its consideration.

* * * * *

KING'S BENCH MATTERS

Rule 3309. Applications for Extraordinary Relief

(a) *General rule.*—An application for relief under 42 Pa.C.S. § 726 (extraordinary jurisdiction), or under the powers reserved by the first sentence of Section 1 of the Schedule to the Judiciary Article, shall show service upon all persons who may be affected thereby, or their representatives, and upon the clerk of any court in which the subject matter of the application may be pending. **The application shall be deemed filed on the date received by the prothonotary unless it was on an earlier date deposited in the United States mail and sent by first class, express or priority United States Postal Service mail as shown on a United States Postal Service Form 3817 certificate of mailing or other similar United States Postal Service form from which the date of deposit can be verified. The certificate of mailing or similar postal service form from which the date of deposit can be verified shall be cancelled by the Postal Service, shall show the docket number of the matter if known and shall be either enclosed with the application or separately mailed to the prothonotary.** Appearances shall be governed by Rule 1112 (entry of appearance) unless no appearances have been entered below, in which case appearances shall be filed as in original actions.

(b) *Answer.*—An adverse party may file an answer no later than fourteen days after service of the application. **The answer shall be deemed filed on the date of mailing if first class, express, or priority United States Postal Service mail is utilized.** An adverse party who does not intend to file an answer to the application shall, within the time fixed by these rules for the filing of an answer, file and serve a letter stating that an answer will not be filed.

* * * * *

EXPLANATORY REPORT

These proposed amendments address aspects of filing and service of documents.

Filing—Documents are filed when received by the court. Presently receipt by the U. S. Postal Service may be deemed the date of filing if first class mail is used and, if required, there is proper documentation of the mailing date. This amendment would recognize the date of mailing a document as the date of filing if the document was sent by first class, express, or priority United States Postal Service mail, and when documentation of that is required, use of not only U. S. Postal Form 3817 certificate of mailing, but also any other similar United States Postal Service form from which the date of deposit can be verified. In addition, if a document may be deemed received when mailed, then any answer to that document may be deemed received when similarly mailed. There is also a separate amendment to recognize that prisoners' legal documents will be deemed received when such documents are delivered to the prison authorities.

Service—Delivery to opposing counsel in person or by mail is currently authorized. Pa.R.A.P. 121. These amendments would also allow service by commercial carrier if service is intended to be as expeditious as first class mail

or by electronic methods, that is, facsimile and e-mail, if such service method is expressly agreed to by the parties. Such agreement would have to be indicated in the certificate of service. A new form for a certificate of service is also proposed.

A consequence of these proposed amendments would be the elimination of the term "paperbooks" in favor of the more common "briefs and reproduced records," and elimination of the term "brief in opposition to" in favor of the more descriptive "answer" when responding to jurisdictional statements, petitions for allowance of appeal and petitions for permission to appeal.

[Pa.B. Doc. No. 06-1718. Filed for public inspection September 1, 2006, 9:00 a.m.]

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CH. 1900]

Amendments to the Rules of Civil Procedure Relating to Domestic Relations Matters; Recommendation 82

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, October 27, 2006 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 1900. ACTIONS PURSUANT TO THE PROTECTION FROM ABUSE ACT

Rule 1905. Forms for Use in PFA Actions. Notice and Hearing. Petition. Temporary Protection Order. Final Protection Order.

(a) The Notice of Hearing and Order required by Rule 1901.3 shall be substantially in the following form:

(Caption)
NOTICE OF HEARING AND ORDER

YOU HAVE BEEN SUED IN COURT. If you wish to defend against the claims set forth in the following papers, you must appear at the hearing scheduled herein. If you fail to do so, the case may proceed against you and a FINAL order may be entered against you granting the relief requested in the petition. In particular, you may be evicted from your residence, be prohibited from possessing any firearm, other weapon, ammunition or any firearm license, and lose other important rights, including custody of your children. Any protection order granted by a court may be considered in subsequent proceedings under Title 23 (Domestic Relations) of the Pennsylvania Consolidated Statutes, including child custody proceedings under Chapter 53 (relating to custody).

A hearing on the matter is scheduled for the _____ day of _____, 20____, at _____ m., in Courtroom _____ at _____ Courthouse, _____, Pennsylvania.

[You] If an order of protection has been entered, you MUST obey the order [that is attached] until it is modified or terminated by the court after notice and hearing. If you disobey this order, the police or sheriff may arrest you. Violation of this order may subject you to a charge of indirect criminal contempt which is punishable by a fine of up to \$1,000[.00] and/or up to six months in jail under 23 Pa.C.S.A. § 6114. Violation may also subject you to prosecution and criminal penalties under the Pennsylvania Crimes Code. Under federal law, 18 U.S.C. § 2265, this order is enforceable anywhere in the United States, tribal lands, U. S. Territories and the Commonwealth of Puerto Rico. If you travel outside of the state and intentionally violate this order, you may be subject to federal criminal proceedings under the Violence Against Women Act, 18 U.S.C. §§ 2261—2262.

If this order directs you to relinquish any firearm, other weapon, ammunition or any firearm license to the sheriff, you may do so upon service of this order. As an alternative, you may relinquish any firearm, other weapon, or ammunition listed herein to a third party provided you and the third party first comply with all requirements to obtain a safekeeping permit. **23 Pa.C.S.A. § 6108.3.** You must relinquish any firearm, other weapon, ammunition or any firearm license listed herein no later than 24 hours after service of the order. **If, due to their current location, firearms, other weapons or ammunition cannot reasonably be retrieved within the time for relinquishment, you must provide an affidavit to the sheriff listing the firearms, other weapons or ammunition and their current location.** Failure to timely relinquish any firearm, other weapon, ammunition or any firearm license shall result in a violation of this order and may result in criminal conviction under the Uniform Firearms Act, 18 Pa.C.S.A. § 6105.

NOTICE: Even if this order does not direct you to relinquish firearms, you may be subject to federal firearms prohibitions and federal criminal penalties under 18 U.S.C. § 922(g)(8).

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. YOU HAVE THE RIGHT TO HAVE A LAWYER REPRESENT YOU AT THE HEARING. THE COURT WILL NOT, HOWEVER, APPOINT A LAWYER FOR YOU. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER. IF YOU CANNOT

AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE. IF YOU CANNOT FIND A LAWYER, YOU MAY HAVE TO PROCEED WITHOUT ONE.

County Lawyer Referral Service
[insert Street Address]
[insert City, State, and ZIP]
[insert Phone Number]

(b) The petition in an action filed pursuant to the Act shall be substantially in the following form:

(Caption)
PETITION FOR PROTECTION FROM ABUSE

1. Plaintiff's name is: _____

2. I am filing this [**Petition**] petition on behalf of:
 Myself and/or Another Person. If you checked "myself," please answer all questions referring to yourself as "Plaintiff." If you checked "another person," please answer all questions referring to that person as the "Plaintiff," and provide your address here, unless confidential:

If you checked "Another Person," indicate your relationship with Plaintiff:

- parent of minor Plaintiff(s)
- applicant for appointment as guardian ad litem of minor Plaintiff(s)
- adult household member with minor Plaintiff(s)
- court appointed guardian of incompetent Plaintiff(s)

3. Name(s) of ALL person(s), including Plaintiff and minor children, who seek protection from abuse: _____

4. Plaintiff's address is confidential or
 Plaintiff's address is: _____

5. Defendant is believed to live at the following address: _____

Defendant's Social Security Number (if known) is: _____

Defendant's date of birth is: _____

Defendant's place of employment is: _____

Check here if you have reason to believe that Defendant is a licensed firearms dealer, **is employed by a licensed firearms dealer or manufacturer; is employed as a writer, researcher or technician in the firearms or hunting industry** or is [**employed in a profession that requires Defendant to handle firearms or**] **required to carry a firearm as a condition of employment.**

Check here if Defendant is 17 years old or younger.

6. Indicate the relationship between Plaintiff and Defendant.

- Spouse
- Current or former sexual/intimate partner
- Other relationship by blood or marriage: _____
- Ex-spouse
- Parent/Child

- Persons who live or have lived like spouses**
- Parents of the same children**
- Brother/Sister]**

CHECK ALL THAT APPLY:

- spouse or former spouse of Defendant**
- parent of a common child with Defendant**
- current or former sexual or intimate partner with Defendant**
- child of Plaintiff**
- child of Defendant**
- family member related by blood (consanguinity) to Defendant**
- family member related by marriage or affinity to Defendant**
- sibling (person who shares biological parent-hood) of Defendant**
- current or former cohabitant (person who lives with) Defendant**

7. Have Plaintiff and Defendant been involved in any of the following court actions?

- Divorce
- Custody
- Support
- Protection From Abuse

If you checked any of the above, briefly indicate when and where the case was filed and the court number, if known: _____

8. Has Defendant been involved in any criminal court action? _____

If you answered Yes, is Defendant currently on probation? _____

9. Plaintiff and Defendant are the parents of the following minor child/ren:

Name(s)	Age(s)	who reside at (list address unless confidential)
_____	_____	_____
_____	_____	_____

10. If Plaintiff and Defendant are parents of any minor child/ren together, is there an existing court order regarding their custody? _____

If you answered "Yes," describe the terms of the order (e.g., primary, shared, legal and/or physical custody): _____

If you answered "Yes," in what county and state was the order issued? _____

If you are now seeking an order of child custody as part of this petition, list the following information:

(a) Where has each child resided during the past five years?

Childs name	Person(s) child lived with	Address, unless confidential	When
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

(b) List any other persons who are known to have or claim a right to custody of each child listed above.

Name	Address	Basis of Claim
_____	_____	_____
_____	_____	_____
_____	_____	_____

11. The following other minor child/ren presently live with Plaintiff:

Name(s)	Age(s)	Plaintiffs relationship to children
_____	_____	_____
_____	_____	_____
_____	_____	_____

12. The facts of the most recent incident of abuse are as follows:

Approximate Date: _____

Approximate Time: _____

Place: _____

Describe in detail what happened, including any physical or sexual abuse, threats, injury, incidents of stalking, medical treatment sought, and/or calls to law enforcement (attach additional sheets of paper if necessary):

13. If Defendant has committed prior acts of abuse against Plaintiff or the minor child/ren, describe these prior incidents, including any threats, injuries, or incidents of stalking, and indicate approximately when such acts of abuse occurred (attach additional sheets of paper if necessary):

14. (a) Has Defendant used or threatened to use any firearms or other weapons against Plaintiff or the minor child/ren? If so, please describe **the use or threatened use below and list on Attachment A to Petition, which is incorporated by reference into this petition, any firearms, other weapons or ammunition Defendant used or threatened to use against Plaintiff or the minor child/ren:**

(b) [To] **Other than the firearms, other weapons or ammunition Defendant used or threatened to use against Petitioner or the minor child/ren, does Defendant, to the best of your knowledge or belief, [does Defendant] own or possess any additional firearm, other weapon, ammunition or any firearm license?**

(c) If the answer to (b) above is "yes," list any **additional** firearm, other weapon or ammunition owned by or in the possession of Defendant on Attachment A to **Petition**, which is incorporated by reference into this petition.

(d) **Plaintiff (check one) DOES DOES NOT request that the court order Defendant to relinquish firearms, other weapons or ammunition**

listed on Attachment A to Petition. If Plaintiff does seek relinquishment, identify on Attachment A to Petition the firearms, other weapons and ammunition Plaintiff requests the court to order Defendant to relinquish.

15. Identify the sheriff, police department or law enforcement agency in the area in which Plaintiff lives that should be provided with a copy of the protection order:

16. There is an immediate and present danger of further abuse from Defendant.

CHECK THE FOLLOWING BOXES ONLY IF THEY APPLY TO YOUR CASE AND PROVIDE THE REQUESTED INFORMATION

Plaintiff is asking the court to evict and exclude Defendant from the following residence:

owned by (list owners, if known): _____

rented by (list all names, if known): _____

Defendant owes a duty of support to Plaintiff and/or the minor child/ren.

Plaintiff has suffered out-of-pocket financial losses as a result of the abuse described above. Those losses are: _____

FOR THE REASONS SET FORTH ABOVE, I REQUEST THAT THE COURT ENTER A TEMPORARY ORDER, and AFTER HEARING, A FINAL ORDER THAT WOULD DO THE FOLLOWING (CHECK ALL FORMS OF RELIEF REQUESTED):

A. Restrain Defendant from abusing, threatening, harassing, or stalking Plaintiff and/or the minor child/ren in any place where Plaintiff and/or the child/ren may be found.

B. Evict/exclude Defendant from Plaintiff's residence and prohibit Defendant from attempting to enter any temporary or permanent residence of [the] Plaintiff.

C. Require Defendant to provide Plaintiff and/or the minor child/ren with other suitable housing.

D. Award Plaintiff temporary custody of the minor child/ren and place the following restrictions on contact between Defendant and the child/ren: _____

E. Prohibit Defendant from having any contact with Plaintiff and/or the minor child/ren, either in person, by telephone, or in writing, personally or through third persons, including but not limited to any contact at Plaintiff's school, business, or place of employment, except as the court may find necessary with respect to partial custody and/or visitation with the minor child/ren.

F. Prohibit Defendant from having any contact with Plaintiff's relatives and Plaintiff's children listed in this petition, except as the court may find necessary with respect to partial custody and/or visitation with the minor

child/ren. The following persons are Plaintiff's relatives or family and household members that Plaintiff believes require protection from stalking and harassment by Defendant.

Name Address (optional) Relationship to Plaintiff

G. Order Defendant to temporarily relinquish [any firearm] some or all of the firearms, other [weapon,] weapons and/or ammunition listed on Attachment A to Petition and any firearm license to the sheriff of this county and prohibit Defendant from transferring, acquiring or possessing any firearm[, other weapon, ammunition or any firearm license] for the duration of the order.

H. Order Defendant to pay temporary support for Plaintiff and/or the minor child/ren, including medical support and payment of the rent or mortgage on the residence.

I. Direct Defendant to pay Plaintiff for the reasonable financial losses suffered as the result of the abuse, to be determined at the hearing.

J. Order Defendant to pay the costs of this action, including filing and service fees.

K. Order Defendant to pay Plaintiff's reasonable attorney's fees.

L. Order the following additional relief, not listed above: _____

M. Grant such other relief as Plaintiff requests and/or the court deems appropriate.

N. Order the police, sheriff or other law enforcement agency to serve the Defendant with a copy of this petition, any order issued, and the order for hearing. Plaintiff will inform the designated authority of any addresses, other than Defendant's residence, where Defendant can be served.

VERIFICATION

I verify that I am the petitioner as designated in the present action and that the facts and statements contained in the above petition are true and correct to the best of my knowledge. I understand that any false statements are made subject to the penalties of 18 Pa.C.S.A. § 4904, relating to unsworn falsification to authorities.

Signature

Date

(Caption)

[PETITIONER'S] ATTACHMENT A TO PETITION FIREARMS, OTHER WEAPONS AND AMMUNITION INVENTORY

I, _____, Plaintiff in this Protection From Abuse Action, hereby [request the court order Defendant to relinquish]

(a) aver that Defendant used or threatened to use the following firearms, other weapons[,] and ammunition[, and firearm licenses to the sheriff] against Plaintiff or the minor child/ren:

- 1.
2.
3.
4.
5.
[6.
7.
8.
9.
10.]

(b) aver that Defendant, to the best of my knowledge or belief, owns or possesses the following firearms, other weapons or ammunition not set forth in (a) above:

- 1.
2.
3.
4.
5.

(c) request that the court order Defendant to relinquish the following firearms, other weapons and ammunition:

- 1.
2.
3.
4.
5.

If more space is needed, more sheets may be attached to this document.

I believe the above items are located at: (List all relevant addresses where they may be found, including locations, if known. For example, "front seat of blue truck," "gun cabinet," "bedroom closet," etc.):

Name _____ Date _____

Notice: This attachment will be withheld from public inspection in accordance with 23 Pa.C.S.A. § 6108 (a)(7)(v).

(c) The Temporary Order of Court entered pursuant to the Act shall be substantially in the following form:

(Caption)

TEMPORARY PROTECTION FROM ABUSE ORDER

Defendant's Name: _____

Defendant's Date of Birth: _____

[Defendant's Social Security Number: _____]

Names of All Protected Persons, including Plaintiff and minor child/ren: _____

AND NOW, this ____ day of _____, 20____, upon consideration of the attached Petition for Protection From Abuse, the court hereby enters the following Temporary Order:

□ 1. Defendant shall not abuse, harass, stalk or threaten any of the above persons in any place where they might be found.

□ 2. Defendant is evicted and excluded from the residence at [NONCONFIDENTIAL ADDRESS FROM WHICH DEFENDANT IS EXCLUDED] or any other permanent or temporary residence where Plaintiff or any other person protected under this order may live. Plaintiff is granted exclusive possession of the residence. Defendant shall have no right or privilege to enter or be present on the premises of Plaintiff or any other person protected under this order.

□ 3. Except for such contact with the minor child/ren as may be permitted under Paragraph 5 of this order, Defendant is prohibited from having ANY CONTACT with Plaintiff, or any other [protected] person protected under this order, either directly or indirectly, at any location, including but not limited to any contact at Plaintiff's school, business, or place of employment. Defendant is specifically ordered to stay away from the following locations for the duration of this order: _____

□ 4. Except for such contact with the minor child/ren as may be permitted under Paragraph 5 of this order, Defendant shall not contact Plaintiff, or any other person protected under this order, by telephone or by any other means, including through third persons.

□ 5. Pending the outcome of the final hearing in this matter, Plaintiff is awarded temporary custody of the following minor child/ren: _____

Until the final hearing, all contact between Defendant and the child/ren shall be limited to the following: _____

□ THIS ORDER SUPERSEDES ANY PRIOR ORDER RELATING TO CHILD CUSTODY.

The local law enforcement agency and the sheriff in the jurisdiction where the child/ren are located shall ensure that the child/ren are placed in the care and control of the Plaintiff in accordance with the terms of this [Order] order.

□ 6. [Defendant is prohibited from possessing, transferring or acquiring any firearms for the duration of this order.] FIREARMS, OTHER WEAPONS AND AMMUNITION RESTRICTIONS

Check all that apply:

□ Defendant is prohibited from possessing, transferring or acquiring any firearms for the duration of this order.

□ Defendant shall relinquish to the sheriff [all firearms and] the following firearms licenses owned or possessed by Defendant[.]: _____

□ Defendant is directed to relinquish to the sheriff any firearm, other weapon or ammunition listed in [Petitioner's] Attachment A[, and any firearms license Defendant may possess] to Temporary Order, which is incorporated by reference herein.

Defendant may relinquish any firearms, other weapons or ammunition to the sheriff. As an alternative, Defendant may relinquish firearms, other weapons and ammunition to a third party provided Defendant and third party first comply with all the requirements to obtain a safekeeping permit. Defendant must relinquish any firearm, other weapon, ammunition or [firearms] firearm license ordered to be relinquished no later than 24 hours after service of this order. **If, due to their current location, firearms, other weapons or ammunition cannot reasonably be retrieved within the time for relinquishment, Defendant shall provide to the sheriff an affidavit listing the firearms, other weapons or ammunition and their current location.** Failure to timely relinquish any firearm, other weapon, ammunition or any firearm license shall result in a violation of this order and may result in criminal conviction under the Uniform Firearms Act, 18 Pa.C.S.A. § 6105.

7. The following additional relief is granted:

Defendant is prohibited from stalking, as defined in 18 Pa.C.S.A. § 2709.1, or harassing, as defined in 18 Pa.C.S.A. § 2709, the following family and household members of Plaintiff:

Name Address (optional) Relationship to Plaintiff

Other relief:

8. A certified copy of this order shall be provided to the sheriff or police department where Plaintiff resides and any other agency specified hereafter: [insert name of agency]

9. THIS ORDER SUPERSEDES ANY PRIOR PROTECTION FROM ABUSE ORDER **OBTAINED BY THE SAME PLAINTIFF AGAINST THE SAME DEFENDANT.**

10. THIS ORDER APPLIES IMMEDIATELY TO DEFENDANT AND SHALL REMAIN IN EFFECT UNTIL [insert expiration date] OR UNTIL OTHERWISE MODIFIED OR TERMINATED BY THIS COURT AFTER NOTICE AND HEARING.

NOTICE TO THE DEFENDANT

Defendant is hereby notified that violation of this order may result in arrest for indirect criminal contempt, which is punishable by a fine of up to \$1,000 [.00] and/or up to six months in jail. 23 Pa.C.S.A. § 6114. Consent of Plaintiff to Defendant's return to the residence shall not invalidate this order, which can only be changed or modified through the filing of appropriate court papers for that purpose. 23 Pa.C.S.A. § [6113] 6108(g). If Defendant is required to relinquish any firearms, other weapons or ammunition or any [firearms] firearm license, those items must be relinquished to the sheriff within 24 hours of the service of this order. As an alternative, Defendant may relinquish any firearm, other weapon or

ammunition listed herein to a third party provided Defendant and the third party first comply with all requirements to obtain a safekeeping permit. **If, due to their current location, firearms, other weapons or ammunition cannot reasonably be retrieved within the time for relinquishment, Defendant shall provide an affidavit to the sheriff listing the firearms, other weapons or ammunition and their current location.** Defendant is further notified that violation of this [Order] order may subject him/her to state charges and penalties under the Pennsylvania Crimes Code and to federal charges and penalties under the Violence Against Women Act, 18 U.S.C. §§ 2261—2262.

NOTICE TO SHERIFF, POLICE AND LAW ENFORCEMENT OFFICIALS

This order shall be enforced by the police department or sheriff who has jurisdiction over Plaintiff's residence OR any location where a violation of this order occurs OR where Defendant may be located. If Defendant violates Paragraphs 1 through 6 of this order, Defendant shall be arrested on the charge of indirect criminal contempt. An arrest for violation of this order may be made without warrant, based solely on probable cause, whether or not the violation is committed in the presence of a police officer or sheriff.

Subsequent to an arrest, the law enforcement officer or sheriff shall seize all firearms, other weapons and ammunition in Defendant's possession **which were used or threatened to be used during the violation of the protection order or during prior incidents of abuse and any other firearms in Defendant's possession.** Any firearm, other weapon, ammunition or any firearm license must be delivered to the sheriff's office of the county which issued this order, which office shall maintain possession of the firearms, other weapons and ammunition until further order of this court, unless the weapon/s are evidence of a crime, in which case, they shall remain with the law enforcement agency whose officer or sheriff made the arrest.

BY THE COURT:

Judge Date

(Caption)

ATTACHMENT A TO TEMPORARY ORDER FIREARMS, OTHER WEAPONS, AMMUNITION AND FIREARM LICENSES INVENTORY

It is hereby ordered that Defendant relinquish the following firearms, other weapons, ammunition, and firearm licenses to the sheriff:

Firearm / Other Weapon / Ammunition / License	Location
------------------------------------------------------	-----------------

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.
- 8.
- 9.
- 10.

BY THE COURT

Judge _____ Date _____

Notice: This attachment will be withheld from public inspection in accordance with 23 Pa.C.S.A. § 6108(a)(7)(v).

(d) The form of the Affidavit of Service in a Protection From Abuse matter shall be substantially in the following form:

(Caption)

AFFIDAVIT OF SERVICE

I, _____, the undersigned, hereby state that I served a copy of the Notice of Hearing and Order, Petition and Temporary Order in the above-captioned action upon Defendant by handing the papers to _____ at the following address:

_____ on the _____ day of _____, 20 _____, at approximately _____ o'clock _____ m.

I verify that the statements made in this Affidavit are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S.A. § 4904, relating to unsworn falsification to authorities.

(Signature) _____

(Title) _____

(Address) _____

(Date) _____

THIS FORM MUST BE COMPLETED AND SIGNED BY THE PERSON WHO SERVES THE DEFENDANT WITH THE NOTICE OF HEARING AND ORDER, PETITION AND TEMPORARY ORDER. IT MUST BE FILED WITH THE PROTHONOTARY OR BROUGHT TO THE COURT ON THE HEARING DATE.

(e) The Final Order of Court entered pursuant to the Act shall be substantially in the following form:

(Caption)

FINAL ORDER OF COURT

This order is entered (check one) [] by agreement without admission [] after a hearing and decision by the court [] by default. Without regard as to how the order was entered, this is a final order of court subject to full enforcement pursuant to the Protection From Abuse Act.

Defendant's Name: _____

Defendant's Date of Birth: _____

Defendant's Social Security Number: _____

Names and Dates of Birth of All Protected Persons, including Plaintiff and minor children:

Table with 2 columns: Names, Dates of Birth. Includes blank lines for entry.

CHECK ALL THAT APPLY:

Plaintiff or Protected Person(s) is/are:

- [] spouse or former spouse of Defendant
[] parent of a common child with Defendant
[] current or former sexual or intimate partner with Defendant
[] child of Plaintiff

- [] child of Defendant
[] family member related by blood (consanguinity) to Defendant
[] family member related by marriage or affinity to Defendant
[] sibling (person who shares biological parenthood) of Defendant
[] current or former cohabitant (person who lives with) Defendant

Defendant was served in accordance with Pa.R.C.P. 1930.4 and provided notice of the time, date and location of the hearing scheduled in this matter.

AND NOW, this _____ day of _____, 20 _____, the court having jurisdiction over the parties and the subject-matter, it is ORDERED, ADJUDGED AND DECREED as follows:

Note: Space is provided to allow for 1) the court's general findings of abuse; 2) inclusion of the terms under which the order was entered (e.g., that the order was entered with the consent of the parties, or that the defendant, though properly served, failed to appear for the hearing, or the reasons why the plaintiff's request for a final PFA order was denied); and/or 3) information that may be helpful to law enforcement (e.g. whether a firearm or other weapon was involved in the incident of abuse and/or whether the defendant is believed to be armed and dangerous).

[] Plaintiff's request for a final protection order is denied.

OR

[] Plaintiff's request for a final protection order is granted.

[] 1. Defendant shall not abuse, stalk, harass, threaten or attempt to use physical force that would reasonably be expected to cause bodily injury to Plaintiff or any other protected person in any place where they might be found.

[] 2. Defendant is completely evicted and excluded from the residence at [NONCONFIDENTIAL ADDRESS FROM WHICH DEFENDANT IS EXCLUDED] or any other residence where Plaintiff or any other person protected under this order may live. Exclusive possession of the residence is granted to Plaintiff. Defendant shall have no right or privilege to enter or be present on the premises of Plaintiff or any other person protected under this order.

[] On [insert date and time], Defendant may enter the residence to retrieve his/her clothing and other personal effects, provided that Defendant is in the company of a law enforcement officer or sheriff when such retrieval is made and [insert any other conditions]

[] 3. Except as provided in paragraph 5 of this order, Defendant is prohibited from having ANY CONTACT with Plaintiff, either directly or indirectly, or any other person protected under this order, at any location, including but not limited to any contact at Plaintiff's school, business, or place of employment. Defendant is specifically ordered to stay away from the following locations for the duration of this order:

4. Except as provided in paragraph 5 of this order, Defendant shall not contact Plaintiff, either directly or indirectly, or any other person protected under this order, by telephone or by any other means, including through third persons.

5. [**Custody**] **Temporary custody** of the minor children, [NAMES OF THE CHILDREN SUBJECT TO THE PROVISION OF THIS PARAGRAPH] shall be as follows: [STATE TO WHOM PRIMARY PHYSICAL CUSTODY IS AWARDED; STATE TERMS OF PARTIAL CUSTODY OR VISITATION, IF ANY.]

THIS ORDER SUPERSEDES ANY PRIOR ORDER RELATING TO CUSTODY.

Custody petition is pending

A hearing is scheduled for _____ (date, time and location)

6. [**Defendant is prohibited from possessing, transferring or acquiring any firearms for the duration of this order.] FIREARMS, OTHER WEAPONS AND AMMUNITION RESTRICTIONS**

Check all that apply:

Defendant is prohibited from possessing, transferring or acquiring any firearms for the duration of this order.

Defendant shall relinquish to the sheriff [**all firearms and**] **the following** firearms licenses owned or possessed by Defendant [.] : _____

Defendant is directed to relinquish to the sheriff any firearm, other weapon or ammunition listed in [**Petitioner's**] Attachment A [,and any firearms license Defendant may possess] **to Final Order, which is incorporated by reference herein.**

Defendant may relinquish any firearms, other weapons or ammunition to the sheriff. As an alternative, Defendant may **either** relinquish firearms, other weapons and ammunition to a third party provided Defendant and third party first comply with all the requirements to obtain a safekeeping permit, **or relinquish firearms, other weapons and ammunition to a licensed firearms dealer for consignment sale, lawful transfer or safekeeping pursuant to 23 Pa.C.S.A. § 6108.2(e).** Defendant must relinquish any firearm, other weapon, ammunition or firearms license ordered to be relinquished no later than 24 hours after service of this order. Failure to timely relinquish any firearm, other weapon, ammunition or any firearm license shall result in a violation of this order and may result in criminal conviction under the Uniform Firearms Act, 18 Pa.C.S.A. § 6105.

7. Any firearm delivered to the sheriff or transferred to a licensed firearm dealer, or a qualified third party who satisfies the procedural and substantive requirements to obtain a safekeeping permit issued under 23 Pa.C.S.A. § 6108.3 pursuant to this order or the temporary order shall not be returned to Defendant until further order of court **or as otherwise provided by law.**

8. The following additional relief is granted as authorized by § 6108 of the Act:

Defendant is prohibited from stalking, as defined in 18 Pa.C.S. § 2709.1, or harassing, as defined in 18 Pa.C.S. § 2709, the following family and household members of Plaintiff:

Name Address (optional) Relationship to Plaintiff

Other relief:

9. Defendant is directed to pay temporary support for: [INSERT THE NAMES OF THE PERSONS FOR WHOM SUPPORT IS TO BE PAID] as follows: [INSERT AMOUNT, FREQUENCY AND OTHER TERMS AND CONDITIONS OF THE SUPPORT ORDER]. This order for support shall remain in effect until a final support order is entered by this court. However, this order shall lapse automatically if Plaintiff does not file a complaint for support with the Domestic Relations Section of the court within two weeks of the date of this order. The amount of this temporary order does not necessarily reflect Defendant's correct support obligation, which shall be determined in accordance with the guidelines at the support hearing. Any adjustments in the final amount of support shall be credited, retroactive to this date, to the appropriate party.

10. (a) The costs of this action are imposed on Defendant.

(b) Because this order followed a contested proceeding, **or a hearing at which Defendant was not present, despite being served with a copy of the petition and notice of the date, time and place of the hearing,** Defendant is ordered to pay an additional \$100 surcharge to the court, which shall be distributed in the manner set forth in 23 Pa.C.S.A. § 6106(d).

(c) **Upon a showing of good cause or a finding that Defendant is unable to pay, the costs of this action are waived.**

11. Defendant shall pay \$ _____ to Plaintiff by (insert date) as compensation for Plaintiff's out-of-pocket losses, which are as follows: _____

An installment scheduled is ordered as follows: _____

OR

Plaintiff is granted leave to present a petition, with appropriate notice to Defendant, to [INSERT THE NAME OF THE JUDGE OR COURT TO WHICH THE PETITION SHOULD BE PRESENTED] requesting recovery of out-of-pocket losses. The petition shall include an exhibit itemizing all claimed out-of-pocket losses, copies of all bills and estimates of repair, and an order scheduling a hearing. No fee shall be required by the prothonotary's office for the filing of this petition.

12. THIS ORDER SUPERCEDES ANY PRIOR PROTECTION FROM ABUSE ORDER **OBTAINED BY THE SAME PLAINTIFF AGAINST THE SAME DEFENDANT.**

13. All provisions of this order shall expire:

Check one

in [INSERT DAYS, MONTHS OR YEARS] on [INSERT EXPIRATION DATE]

in three years, on [INSERT EXPIRATION DATE].

NOTICE TO THE DEFENDANT

VIOLATION OF THIS ORDER MAY RESULT IN YOUR ARREST ON THE CHARGE OF INDIRECT CRIMINAL CONTEMPT WHICH IS PUNISHABLE BY A FINE OF UP TO \$1,000 AND/OR A JAIL SENTENCE OF UP TO SIX MONTHS. 23 Pa.C.S.A. § 6114. VIOLATION MAY ALSO SUBJECT YOU TO PROSECUTION AND CRIMINAL PENALTIES UNDER THE PENNSYLVANIA CRIMES CODE. A VIOLATION OF THIS ORDER MAY RESULT IN THE REVOCATION OF THE SAFEKEEPING PERMIT, WHICH WILL REQUIRE THE IMMEDIATE RELINQUISHMENT OF YOUR FIREARMS, OTHER WEAPONS AND AMMUNITION TO THE SHERIFF. **PLAINTIFF'S CONSENT TO CONTACT BY DEFENDANT SHALL NOT INVALIDATE THIS ORDER WHICH CAN ONLY BE MODIFIED BY FURTHER ORDER OF COURT. 23 Pa.C.S.A. § 6108(g).**

THIS ORDER IS ENFORCEABLE IN ALL FIFTY (50) STATES, THE DISTRICT OF COLUMBIA, TRIBAL LANDS, U.S. TERRITORIES AND THE COMMONWEALTH OF PUERTO RICO UNDER THE VIOLENCE AGAINST WOMEN ACT, 18 U.S.C. § 2265. IF YOU TRAVEL OUTSIDE OF THE STATE AND INTENTIONALLY VIOLATE THIS ORDER, YOU MAY BE SUBJECT TO FEDERAL CRIMINAL PROCEEDINGS UNDER THAT ACT. 18 U.S.C. §§ 2261—2262. IF YOU POSSESS A FIREARM OR ANY AMMUNITION WHILE THIS ORDER IS IN EFFECT, YOU MAY BE CHARGED WITH A FEDERAL OFFENSE EVEN IF THIS PENNSYLVANIA ORDER DOES NOT EXPRESSLY PROHIBIT YOU FROM POSSESSING FIREARMS OR AMMUNITION. 18 U.S.C. § 922(g)(8).

NOTICE TO SHERIFF, POLICE AND LAW ENFORCEMENT OFFICIALS

The police and sheriff who have jurisdiction over Plaintiff's residence OR any location where a violation of this order occurs OR where Defendant may be located, shall enforce this order. The court shall have jurisdiction over any indirect criminal contempt proceeding, either in the county where the violation occurred or where this protective order was entered. An arrest for violation of paragraphs 1 through 7 of this order may be without warrant, based solely on probable cause, whether or not the violation is committed in the presence of the police or any sheriff. 23 Pa.C.S.A. § 6113.

Subsequent to an arrest, and without the necessity of a warrant, the police officer or sheriff shall seize all firearms, other weapons and ammunition in Defendant's possession that were used or threatened to be used during the violation of the protection order or during prior incidents of abuse **and any other firearms in Defendant's possession.** The [insert the appropriate name or title] shall maintain possession of the firearms, other weapons or ammunition until further order of this court.

When Defendant is placed under arrest for violation of the order, Defendant shall be taken to the appropriate authority or authorities before whom Defendant is to be arraigned. A "Complaint for Indirect Criminal Contempt" shall then be completed and signed by the police officer, sheriff OR Plaintiff. Plaintiff's presence and signature are not required to file the complaint.

If sufficient grounds for violation of this order are alleged, Defendant shall be arraigned, bond set, if appropriate and both parties given notice of the date of hearing.

BY THE COURT:

Judge _____ Date _____

If entered pursuant to the consent of plaintiff and defendant:

(Plaintiff's signature) (Defendant's signature)

(Caption)

ATTACHMENT A TO FINAL ORDER FIREARMS, OTHER WEAPONS, AMMUNITION AND FIREARM LICENSES INVENTORY

It is hereby ordered that Defendant relinquish the following firearms, other weapons, ammunition, and firearm licenses to the sheriff:

Firearm / Other Weapon / Ammunition / License	Location
----------------------------------------------------------	-----------------

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.
- 8.
- 9.
- 10.

BY THE COURT

Judge _____ Date _____

Notice: This attachment will be withheld from public inspection in accordance with 23 Pa.C.S.A. § 6108(a)(7)(v).

* * * * *

Explanatory Comment—2006

The Notice to Defend in subdivision (a) was amended to include three notice requirements of the 2005 Protection From Abuse Act amendments, Act 66 of 2005. 23 Pa.C.S.A. § 6107 (a). The amendments provide that sheriffs may arrest defendants for violations of protective orders. **The notice also advises the defendant that if firearms, other weapons or ammunition cannot reasonable be retrieved within the required time, the defendant must provide the sheriff with an affidavit listing the firearms, other weapons and ammunition and their current location. Pa.C.S.A. § 6108(a)(7)(i)(B).** In addition, defendants have the option to turn firearms, other weapons and ammunition over to a qualified third party instead of the sheriff, and federal firearms prohibitions and penalties are more clearly stated.

The 2005 amendments to the Protection From Abuse Act require several changes to the form petition at subdivision (b). The plaintiff is required to inform the court if the defendant works in a job that requires the handling of firearms. This provision was included to allow courts to exercise appropriate discretion when a defendant is exempt from federal firearm prohibitions and penalties. **It also directs the court to “make a reasonable effort to preserve the financial assets of the defendant’s business while fulfilling the goals” of the Protection From Abuse Act. 23 Pa.C.S.A. § 6108(a)(7.1).** Federal law prohibits possession of firearms and penalizes defendants who possess them if they are subject to an order prohibiting abuse, stalking or harassment. However, certain law enforcement officials are exempt from this prohibition and penalty. Under 18 U.S.C. § 925(a)(1), a person performing an official duty on behalf of the federal, state or local law enforcement agency may possess a firearm as long as the officer is required to possess the firearm in his or her official capacity. The Bureau of Alcohol, Tobacco and Firearms requires the official possession of the firearm to be authorized by statute, regulation or official department policy. The new notice requirement is found in 23 Pa.C.S.A. § 6106 (a.2).

Paragraph 14 of the form petition was amended to address the manner in which the firearms and other weapons were used against the plaintiff or minor children and to remove the listing of firearms in the petition itself. The amended statute prohibits public access to any list or inventory of the defendant’s firearms, **other weapons or ammunition.** Thus, a separate Attachment A is included at the end of the petition for purposes of listing the firearms, **other weapons and ammunition** at issue. This will allow the prothonotary to more easily redact the list from public access, while at the same time permitting the court, the parties and law enforcement agencies to enforce the order. 23 Pa.C.S.A. § 6108 (a)(7)(v). **Section 6108(a)(7) of the Protection From Abuse Act provides for relinquishment of other weapons and ammunition only if they have been used or threatened to be used in an act of abuse. Paragraph 14 and Attachment A to Petition balance the court’s need to be advised of firearms, other weapons and ammunition used or threatened to be used in an act of abuse or available to the defendant with the plaintiff’s right to decline to seek relinquishment of some or all of those firearms, other weapons and ammunition.**

The form petition also was amended to address the court’s authority to order the defendant to relinquish any and all firearms [, **other weapons and ammunition**], whether they were used or threatened to be used in an act of abuse or not. Any one of several circumstances authorizes the court to grant this relief, including, but not limited to, abuse involving a firearm or weapon or an immediate and present danger of abuse. The amended statute provides the court with multiple examples of what may constitute proof of immediate and present danger for the purposes of ordering the relinquishment of any or all of the defendant’s firearms. 23 Pa.C.S.A. § 6107(b)(3). **Finally, the form addresses the court’s authority to order Defendant to relinquish other weapons and ammunition which were used or threatened to be used in an act of abuse.**

In subdivisions (c) and (e), paragraph three in the form temporary and final orders is amended to clarify that even indirect contact with a protected person may be prohibited. This clarification reflects the Pennsylvania Supreme Court’s holding in *Commonwealth v. Baker*, 564 Pa. 192, 766 A.2d 328 (2001), that the order must be “definite, clear, specific and leave no doubt or uncertainty in the mind of the person to whom it was addressed of the prohibited conduct.”

The 2005 amendments to the Protection From Abuse Act provide that the court may order the defendant to relinquish ammunition and firearm licenses, in addition to firearms and other weapons. 23 Pa.C.S.A. §§ 6108(a)(7) **and 7.1.** These items were added to paragraph six of the temporary and final order forms, the notices to the defendant and the notices to the sheriff, police and law enforcement.

The amendments to paragraph six of the form orders also provide the court with [**two options if firearms, weapons or ammunition are prohibited**] **discretion to place certain restrictions on firearms possession or to completely proscribe firearms possession. [The court may order only certain firearms, weapons and ammunition to be relinquished as listed by Plaintiff on Attachment A, or the court may order that all firearms, weapons and ammunition be relinquished.]** The amended paragraphs and the notices to the defendant inform the parties that if the defendant is ordered to relinquish firearms, weapons or ammunition, they must be relinquished to the sheriff or, in the alternative, they may be relinquished to a third party who complies with the substantive and procedural requirements for a third party safekeeping permit. 23 Pa.C.S.A. §§ 6107(a), **6108.3. Upon entry of a final order, the defendant may also relinquish firearms, other weapons or ammunition to a licensed firearms dealer. No matter which option Defendant chooses, if firearms and weapons are ordered to be relinquished, any firearm license [possessed] ordered to be relinquished must be relinquished to the sheriff. The aforementioned items may be relinquished at the time of service, but no later than 24 hours after service unless they cannot reasonably be retrieved due to their location.** 23 Pa.C.S.A. § 6108 (a)(7)(i). The notice to the defendant in the final order was expanded to advise the defendant that violation of the order may result in the revocation of the third-party safekeeping permit. Paragraph seven of the final order form was amended to reflect 23 Pa.C.S.A. § 6108.1(a) **and other statutory provisions concerning the return of firearms. [The process for return of firearms is within the discretion of the court in each judicial district.]**

Paragraph ten of the final order form was amended to reflect the statute’s prohibition against charging the plaintiff fees or costs related to filing, service, registration or appeal in any Protection From Abuse matter. A new subparagraph (b) in paragraph ten of the final order reflects the 2005 amendments to the Protection From Abuse Act which increased the surcharge a court may order a defendant to pay when an action is contested and directs the disbursement of the collected surcharges. 23 Pa.C.S.A. § 6106(d).

Paragraph fourteen of the final order form was amended to reflect the increased period of protection the court may grant. The maximum period of protection was increased from eighteen months to three years.

The amended notice to the sheriff, police and law enforcement in the final order clarifies that the defendant may be arrested anywhere a violation occurs, and that the court has jurisdiction to hear the issue of indirect criminal contempt either where the order was issued or where the violation occurred. With this amendment, jurisdiction for indirect criminal contempt is parallel to prosecution for stalking and harassment. 23 Pa.C.S.A. § 6114(a.1). The notice also makes it clear that a search and seizure of firearms may occur without a warrant when incident to arrest. 23 Pa.C.S.A. § 6113(b) and 6121.

Other amendments to the order forms reflect that the sheriff is authorized to arrest for violations of the order under the Protection From Abuse Act. 23 Pa.C.S.A. § 6113. The references to a protective order superseding provisions of a prior custody order were moved to paragraph five, which deals with custody, in both the temporary and final orders.

[Pa.B. Doc. No. 06-1719. Filed for public inspection September 1, 2006, 9:00 a.m.]

PART I. GENERAL

[231 PA. CODE CH. 1930]

Order Promulgating Rule 1930.7; No. 463 Civil Procedural Rules; Doc. No. 5

Order

Per Curiam:

And Now, this 18th day of August, 2006, Rule 1930.7 of the Pennsylvania Rules of Civil Procedure is promulgated as follows.

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

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 1930. RULES RELATING TO DOMESTIC RELATIONS MATTERS GENERALLY

Rule 1930.7. Status Conference.

At any time in the proceedings, the court, the court's designee or the master, sua sponte or upon application of any party, may hold a status conference, in person or by any other means permitted by these rules, with counsel or with counsel and the parties in order to review the case status and expedite the litigation.

[Pa.B. Doc. No. 06-1720. Filed for public inspection September 1, 2006, 9:00 a.m.]

Title 237—JUVENILE RULES

PART I. RULES

[237 PA. CODE CHS. 11—18]

Order Approving the Rules of Juvenile Court Procedure—Dependency Matters; No. 395 Supreme Court Rules; Doc. No. 1

Order

Per Curiam:

Now, this 21st day of August, 2006, upon the recommendation of the Juvenile Court Procedural Rules Committee, the proposal having been published before adoption at 35 Pa.B. 4561 (August 13, 2005) and an Explanatory Report to be published with this *Order*:

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that the Rules of Juvenile Court Procedure—Dependency Matters are approved in the following form.

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

Annex A

TITLE 237. JUVENILE RULES

PART I. RULES

Subpart B. DEPENDENCY MATTERS

Chap.

- 11. GENERAL PROVISIONS
- 12. COMMENCEMENT OF PROCEEDINGS, EMERGENCY CUSTODY, AND PRE-ADJUDICATORY PLACEMENT
- 13. PRE-ADJUDICATORY PROCEDURES
- 14. ADJUDICATORY HEARING
- 15. DISPOSITIONAL HEARING
- 16. POST-DISPOSITIONAL PROCEDURES
- 17. AGGRAVATED CIRCUMSTANCES
- 18. SUSPENSIONS

CHAPTER 11. GENERAL PROVISIONS

Rule

- 1100. Scope of Rules.
- 1101. Purpose and Construction.
- 1102. Citing the Juvenile Court Procedural Rules.

PART A. BUSINESS OF COURTS

- 1120. Definitions.
- 1121. Local Rules.
- 1122. Continuances.
- 1123. Subpoenas.
- 1124. Summons.
- 1126. Defects in Form, Content, or Procedure.
- 1127. Recording and Transcribing Juvenile Court Proceedings.
- 1128. Presence at Proceedings.
- 1129. Open Proceedings (Reserved).
- 1130. Public Discussion by Court Personnel of Pending Matters.
- 1133. Motion to Intervene.
- 1134. Proceedings in Camera.
- 1135. Captions.

PART B(1). EXAMINATION AND TREATMENT OF CHILD

1145. Application or Motion for Examination and Treatment of a Child.

PART B(2). COUNSEL

1150. Attorneys—Appearances and Withdrawals.
 1151. Assignment of Guardian ad litem and Counsel.
 1152. Waiver of Counsel.
 1154. Duties of Guardian ad litem.
 1158. Assignment of Court Appointed Special Advocates.

PART C. RECORDS**PART C(1). ACCESS TO JUVENILE COURT RECORDS**

1160. Inspection of Juvenile Court File/Records.

PART C(2). MAINTAINING RECORDS

1165. Design of Forms.
 1166. Maintaining Records in the Clerk of Courts.
 1167. Filings and Service of Court Orders and Notices.

PART D. PROCEEDINGS IN CASES BEFORE MASTER

1185. Appointment to Cases.
 1187. Authority of Master.
 1190. Stipulations Before Master.
 1191. Master's Findings and Recommendation to the Judge.

Rule 1100. Scope of Rules.

A. These rules shall govern dependency proceedings in all courts. Unless otherwise specifically provided, these rules shall not apply to orphans' court, domestic relations and delinquency proceedings.

B. Each of the courts exercising dependency jurisdiction, as provided in the Juvenile Act, 42 Pa.C.S. § 6301 et seq., may adopt local rules of procedure in accordance with Rule 1121.

Comment

The Pennsylvania Rules of Juvenile Court Procedure are split into two categories: delinquency matters and dependency matters. All delinquency matters are governed by Chapters One through Ten (Rules 100—1099). All dependency matters are governed by Chapters Eleven through Twenty (Rules 1100—2099).

These rules govern proceedings when the Juvenile Act vests jurisdiction in the Court of Common Pleas. See 42 Pa.C.S. §§ 6321 and 6302.

Each judicial district may promulgate local rules that follow the requirements of Rule 1121 and Pa.R.J.A. 103.

Rule 1101. Purpose and Construction.

A. These rules are intended to provide for the just determination of every dependency proceeding.

B. These rules establish uniform practice and procedure for courts exercising jurisdiction as provided in the Juvenile Act, 42 Pa.C.S. § 6301 et seq., and shall be construed to secure uniformity and simplicity in procedure, fairness in administration, and the elimination of unjustifiable expense and delay.

C. These rules shall be interpreted and construed to effectuate the purposes stated in the Juvenile Act, 42 Pa.C.S. § 6301(b).

D. To the extent practicable, these rules shall be construed in consonance with the rules of statutory construction.

Rule 1102. Citing the Juvenile Court Procedural Rules.

All juvenile court procedural rules adopted by the Supreme Court of Pennsylvania under the authority of Article V § 10(c) of the Constitution of Pennsylvania,

adopted April 23, 1968, shall be known as the Pennsylvania Rules of Juvenile Court Procedure and shall be cited as "Pa.R.J.C.P."

Comment

The authority for rule-making is granted to the Supreme Court by Article V § 10(c) of the Pennsylvania Constitution, which states in part, "[t]he Supreme Court shall have the power to prescribe general rules governing practice, procedure and the conduct of all courts . . . if such rules are consistent with this Constitution and neither abridge, enlarge nor modify the substantive rights of any litigant, nor affect the right of the General Assembly to determine the jurisdiction of any court or justice of the peace, nor suspend nor alter any statute of limitation or repose. All laws shall be suspended to the extent that they are inconsistent with rules prescribed under these provisions."

PART A. BUSINESS OF COURTS**Rule 1120. Definitions.**

AGGRAVATED CIRCUMSTANCES are those circumstances specifically defined pursuant to the Juvenile Act, 42 Pa.C.S. § 6302.

CHILD is a person who is under the age of eighteen, or who was adjudicated dependent before reaching the age of eighteen years and who, while engaged in a course of instruction or treatment, requests the court to retain jurisdiction until the course has been completed, but in no event shall remain in a course of instruction or treatment past the age of twenty-one years.

CLERK OF COURTS is that official in each judicial district who has the responsibility and function under state law and local practice to maintain the official juvenile court file and docket, without regard to that person's official title.

COUNTY AGENCY is the county children and youth social service agency established pursuant to the County Institution District Law, 62 Pa.C.S. § 2305 or established through the county commissioners in the judicial districts where the County Institution District Law was abolished, 16 P. S. §§ 2161, 2168, and supervised by the Department of Public Welfare pursuant to the Public Welfare Code, 62 Pa.C.S. § 901 et seq.

COURT is the Court of Common Pleas, a court of record, which is assigned to hear dependency matters. Court shall include masters when they are permitted to hear cases under these rules. Juvenile court shall have the same meaning as court.

FAMILY SERVICE PLAN is the document in which the county agency sets forth the service objectives for a family and services to be provided to a family by the county agency.

GUARDIAN is any parent, custodian, or other person who has legal custody of a child, or person designated by the court to be a temporary guardian for purposes of a proceeding.

JUDGE is a judge of the Court of Common Pleas.

LAW ENFORCEMENT OFFICER is any person who is by law given the power to enforce the law when acting within the scope of that person's employment.

MASTER is an attorney with delegated authority to hear and make recommendations for dependency matters. Master has the same meaning as hearing officer.

MEDICAL FACILITY is any hospital, urgent care facility, psychiatric or psychological ward, drug and alcohol detoxification or rehabilitation program, or any other similar facility designed to treat a child medically or psychologically.

PARTY is a person who is legally entitled to participate in the proceedings but nothing in these Rules confers standing upon a person.

PERMANENCY PLAN is a comprehensive plan that will result in a permanent home for the child.

PETITION is a formal document by which a child is alleged to be dependent.

PETITIONER is any person, who signs or verifies, and files a petition.

POLICE OFFICER is any person, who is by law given the power to arrest when acting within the scope of that person's employment.

PROCEEDING is any stage in the dependency process occurring once a shelter care application has been submitted or a petition has been filed.

PROTECTIVE CUSTODY is when a child is taken into custody for protection as an alleged dependent child pursuant to the Juvenile Act, 42 Pa.C.S. § 6301 et seq. or custody may be assumed pursuant to 23 Pa.C.S. § 6315.

RECORDING is the means to provide a verbatim account of a proceeding through the use of a court stenographer, audio recording, audio-visual recording, or other appropriate means.

SHELTER CARE FACILITY is a physically unrestricted facility that provides temporary care of a child and is approved by the Department of Public Welfare.

VERIFICATION is a written statement made by a person that the information provided is true and correct to that person's personal knowledge, information, or belief and that any false statements are subject to the penalties of the Crimes Code, 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

Comment

The county agency is a party to the proceeding and should not function as the "Clerk of Courts."

The definition of "clerk of courts" should not necessarily be interpreted to mean the office of clerk of courts as set forth in 42 Pa.C.S. § 102, but instead refers to that official who maintains the official juvenile court files and docket regardless of the person's official title in each judicial district. It is to be determined locally which official is to maintain these records and the associated docket.

The county institution districts in counties of the fourth, fifth, sixth, seventh, and eighth classes were abolished pursuant to 16 P. S. § 2161. It is the county commissioners' duties in the fourth, fifth, sixth, seventh, and eighth classes to provide the children and youth social service agency with the necessary services for the agency to provide care for the child. See 16 P. S. § 2168.

Under the term "court," to determine if masters are permitted to hear cases, see Rule 1187.

For the family service plan, see 55 Pa. Code § 3130.61

The definition of "law enforcement officer" does not give the power of arrest to any person who is not otherwise given that power by law.

The term "petitioner" may include any person; however, if the person is not the county agency, an application to file a petition pursuant to Rule 1320 is to be made. If the court, after a hearing, grants the application, the applicant may file a petition.

Rule 1121. Local Rules.

A. For the purpose of this rule, the term, "local rule" shall include every rule, regulation, directive, policy, custom, usage, form, or order of general application, however labeled or promulgated, adopted or enforced by a court of common pleas to govern dependency practice and procedure, which requires a party or party's attorney to do or refrain from doing something.

B. All local rules promulgated before the effective date of this rule are hereby vacated on the date this rule becomes effective.

C. Local rules shall not be inconsistent with any rule of the Supreme Court or any Act of Assembly.

1) Each judicial district may promulgate new local rules that do not conflict with the Rules of Juvenile Court Procedure.

2) Local rules shall be given numbers that are keyed to the number of the Rules of Juvenile Court Procedure to which the local rules correspond.

D. A local rule shall not become effective and enforceable until the adopting court has fully complied with all the following requirements:

1) A local rule shall be in writing.

2) Seven certified copies of the local rule shall be filed by the court promulgating the rule with the Administrative Office of Pennsylvania Courts.

3) Two certified copies of the local rule shall be distributed by the court promulgating the rule to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

4) One certified copy of the local rule shall be filed by the court promulgating the rule with the Juvenile Court Procedural Rules Committee.

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

E. A local rule shall become effective not less than thirty days after the date of publication of the rule in the *Pennsylvania Bulletin*.

F. No case shall be dismissed nor request for relief granted or denied because of the failure to comply with a local rule. In any case of noncompliance with a local rule, the court shall alert the party to the specific provision at issue and provide a reasonable time for the attorney to comply with the local rule.

G. The Juvenile Court Procedural Rules Committee may at any time recommend that the Supreme Court suspend, vacate, or require amendment of a local rule and may suspend that local rule pending action by the Court on that recommendation.

Comment

The purpose of this rule is to further the policy of the Supreme Court to implement the unified judicial system

under the Constitution of 1968, to facilitate the statewide practice of law under this Court's general rules, and to promote the further policy that a general rule of juvenile court procedure normally preempts the subject covered. It is intended that local rules should not repeat general rules or statutory provisions verbatim or substantially verbatim nor should local rules make it difficult for attorneys to practice law in several counties.

The caption or other words used as a label or designation is not to determine whether something is or establishes a local rule; if the definition in paragraph (A) of this rule is satisfied, the matter is a local rule regardless of what it may be called. The provisions of this rule also are intended to apply to any amendments to a "local rule." Nothing in this rule is intended to apply to case-specific orders.

Paragraph (B) vacates all current local rules on the effective date of this rule. The local rules are to be re promulgated to comply with this rule. This includes rekeying pursuant to paragraph (C)(2) and meeting the appropriate filing requirements under paragraph (D).

To simplify the use of local rules, local dependency procedural rules are required to be given numbers that are keyed to the number of the general dependency procedural rules to which the local rules correspond. This requirement is not intended to apply to local rules that govern the general business of the court and which do not correspond to a general dependency procedural rule.

The purpose of paragraph (D) is to emphasize that the adopting authority is to comply with all the provisions of paragraph (D) before any local rule, or any amendment to local rules, will be effective and enforceable.

Paragraph (D)(5) requires that a separate consolidated set of local rules be maintained in the clerk's office.

The Administrative Office of Pennsylvania Courts maintains a web-page containing the texts of local rules. That web-page is located at: <http://www.courts.state.pa.us/judicial-council/local-rules/index.htm>.

Although under paragraph (E) a local rule is not to be effective until at least thirty days after the date of publication in the *Pennsylvania Bulletin*, when a situation arises that requires immediate action, the local court may act by specific orders governing particular cases in the interim before an applicable local rule becomes effective.

The purpose of paragraph (F) is to prevent the dismissal of cases, or the granting or denial of requested relief, because a party has failed to comply with a local rule. In addition, paragraph (F) requires that the party be alerted to the local rule, and be given a reasonable amount of time to comply with the local rule.

After the court has alerted the party to the local rule pursuant to paragraph (F), the court may impose a sanction for subsequent noncompliance either on the attorney or the party if unrepresented, but may not dismiss the case, or grant or deny relief because of non-compliance.

Rule 1122. Continuances.

A. *Generally.* In the interests of justice, the court may grant a continuance on its own motion or the motion of any party. On the record, the court shall identify the moving party and state its reasons for granting or denying the continuance.

B. *Notice and rescheduling.* If a continuance is granted, all persons summoned to appear shall be notified of the date, place, and time of the rescheduled hearing.

Comment

Whenever possible, continuances should not be granted when they could be deleterious to the safety or well-being of a party. The interests of justice require the court to look at all the circumstances, effectuating the purposes of the Juvenile Act, 42 Pa.C.S. § 6301, in determining whether a continuance is appropriate.

A party seeking a continuance should notify the court and opposing counsel as soon as possible. Whenever possible, given the time constraints, notice should be written.

Under paragraph (B), if a person is summoned to appear and the case is continued, the party is presumed to be under the scope of the original summons and a new summons is not necessary.

See Rules 1344 and 1345 for motion and filing procedures.

See *In re Anita H.*, 351 Pa. Super. 342, 505 A.2d 1014 (1986).

Rule 1123. Subpoenas.

A. *Contents.* A subpoena in a dependency case shall:

1) order the witness named to appear before the court at the date, time, and place specified;

2) order the witness to bring any items identified or described;

3) state on whose behalf the witness is being ordered to testify; and

4) state the identity, address, and phone number of the person who applied for the subpoena.

B. *Service.*

1) *Method of Service.* A subpoena shall be served upon a witness by:

a) in-person delivery;

b) registered or certified mail, return receipt requested; or

c) first class mail.

C. *Duration.* A subpoena shall remain in force until the end of a proceeding.

D. *Bench Warrant.* If any subpoenaed person fails to appear for the hearing and the court finds that sufficient notice was given, the court may issue a bench warrant.

Comment

A subpoena duces tecum is to set forth with particularity, the documents, records, or other papers to be produced at the hearing. The items sought are to be relevant to the proceedings. See Rule 1340 on discovery, *In re J.C.*, 412 Pa. Super. 369, 603 A.2d 627 (1992), and *In re A.H.*, 763 A.2d 873 (Pa. Super. Ct. 2000) for production of documents necessary to prepare for a hearing.

For power to compel attendance, see 42 Pa.C.S. § 6333. Nothing in this rule prohibits the court from holding a contempt hearing. See *In re Crawford*, 360 Pa. Super. 36, 519 A.2d 978 (1987) for punishment of contempt (children). See also *In re Griffin*, 456 Pa. Super. 440, 690 A.2d 1192 (1997) (foster parents), *Janet D. v. Carras*, 240 Pa. Super. 291, 362 A.2d 1060 (1976) (county agency), and *In re Rose*, 161 Pa. Super. 204, 54 A.2d 297 (1947) (parents) for additional guidance on contempt for other parties.

Rule 1124. Summons.

A) *Requirements of the summons.* The summons shall:

- 1) be in writing;
- 2) set forth the date, time, and place of the hearing;
- 3) instruct the parties about the right to counsel; and
- 4) give a warning stating that the failure to appear for the hearing may result in arrest.

B) *Method of Service.* The summons shall be served:

- 1) in-person; or
- 2) by certified mail, return receipt and first-class mail.

C) *Exception to service.* If service cannot be accomplished pursuant to paragraph (B), the party may move for a special order directing the method of service. The motion shall be accompanied by an affidavit stating the nature and extent of the investigation which has been made to determine the whereabouts of the person sought to be served and the reasons why service can not be made.

D) *Bench Warrant.* If any summoned person fails to appear for the hearing and the court finds that sufficient notice was given, the court may issue a bench warrant.

Comment

In paragraph (D), this rule provides that a summoned person is to fail to appear and the court is to find that sufficient notice was given before a bench warrant may be issued. The Juvenile Act, 42 Pa.C.S. § 6335(c), which provides for the issuance of arrest warrants if the child may abscond or may not attend or be brought to a hearing, is suspended to the extent that it conflicts with this rule. See Rule 1800 for suspensions.

Rule 1126. Defects in Form, Content, or Procedure.

A child shall not be released, nor shall a case be dismissed, because of a defect in the form or content of the pleading or a defect in the procedures of these rules, unless the party raises the defect prior to the commencement of the adjudicatory hearing, and the defect is prejudicial to the rights of a party.

Comment

A petition, emergency custody authorization form, shelter care application, or warrant may be amended at any time to remedy any defect in form or content. The court may also issue another remedy as interests of justice require. Nothing in this rule is to prevent the filing of a new emergency custody authorization form, a new or amended petition, or the reissuance of process.

Rule 1127. Recording and Transcribing Juvenile Court Proceedings.

A) *Recording.* There shall be a recording of all dependency proceedings, including proceedings conducted by masters, except as provided in Rule 1242(B)(2).

B) *Transcribing.* Upon the motion of any party, upon its own motion, or as required by law, the court shall order the record to be transcribed.

C) *Modifying.* At any time before an appeal is taken, the court may correct or modify the record in the same manner as is provided by Rule 1926 of the Pennsylvania Rules of Appellate Procedure.

Comment

Some form of record or transcript is necessary to permit meaningful consideration of claims of error and effective appellate review. *In re J.H.*, 788 A.2d 1006 (Pa. Super. Ct.

2001). See, e.g., Pa.R.A.P. Rules 1922, 1923, 1924; *Commonwealth v. Fields*, 478 Pa. 479, 387 A.2d 83 (1978); *Commonwealth v. Shields*, 477 Pa. 105, 383 A.2d 844 (1978). This rule is intended to provide a mechanism to ensure appropriate recording and transcribing of court proceedings. Pursuant to Rule 1800, 42 Pa.C.S. § 6336(c) was suspended only to the extent that all proceedings are to be recorded, except as provided in Rule 1242 (B)(2). Full minutes are not recordings. This change was to effectuate effective appellate review.

The rule is intended to apply to all dependency proceedings and to ensure all proceedings are recorded, including proceedings before masters, except for shelter care hearings.

Paragraph (B) of the rule is intended to authorize courts to require transcription of only such portions of the record, if any, as are needed to review claims of error.

Paragraph (C) provides a method for correcting and modifying transcripts before an appeal is taken by incorporating Pa.R.A.P. 1926, which otherwise applies only after an appeal has been taken. It is intended that the same standards and procedures apply both before and after appeal.

Rule 1128. Presence at Proceedings.

A) *General Rule.* All parties shall be present at any proceeding unless the exceptions of paragraph (B) apply.

B) *Exceptions.*

1) *Absence from proceedings.* The court may proceed in the absence of a party upon good cause shown except that in no case shall a hearing occur in the absence of a child's attorney. If a child has a guardian ad litem and legal counsel, both attorneys shall be present.

2) *Exclusion from proceedings.* A party may be excluded from a proceeding only for good cause shown. If a party is so excluded, counsel for the party shall be permitted to be present.

C) *Order appearance.* The court may order any person having the physical custody or control of a child to bring the child to any proceeding.

Comment

Under paragraph (B)(1), if a child is an infant, that would qualify as good cause. In no case is a proceeding to occur in the absence of the child's attorney. The court has discretion whether to proceed if the court finds that a party received proper notice of the hearing and has willfully failed to appear.

See *In re Adoption of S.B.B. and E.P.R.*, 372 Pa. Super. 456, 539 A.2d 883 (1988).

Nothing in these rules creates a right of a child to have his or her guardian present. See 42 Pa.C.S. §§ 6310, 6335(b), 6336.1.

Rule 1129. Open Proceedings (Reserved).**Rule 1130. Public Discussion by Court Personnel of Pending Matters.**

All court personnel including, among others, court clerks, bailiffs, tipstaffs, sheriffs, and court stenographers, are prohibited from disclosing to any person, without authorization from the court, information relating to a pending dependency case that is not part of the court record otherwise available to the public or not part of the record in an open proceeding. This rule specifically prohibits the divulgence of information concerning argu-

ments and proceedings that are closed proceedings, held in chambers, or otherwise outside the presence of the public.

Rule 1133. Motion to Intervene.

A. *Contents.* The motion to intervene shall include:

- 1) the name and address of the person moving to intervene;
- 2) the relationship of the intervening person to the child;
- 3) the contact between the child and the intervening person;
- 4) the grounds on which intervention is sought; and
- 5) the request sought.

B. *Action by court.* Upon the filing of a motion to intervene and after a hearing, the court shall enter an order granting or denying the motion.

Comment

Under paragraph (B), a motion may be denied if, among other reasons, there are insufficient grounds for the motion, the interest of the movant is already adequately represented, the motion for intervention was unduly delayed, or the intervention will unduly delay or prejudice the adjudication of dependency or the rights of the parties.

To move for intervention in a dependency case, a person is to show that the interest is substantial, direct, and immediate. See, e.g., *South Whitehall Township Police Serv. v. South Whitehall Township*, 521 Pa. 82, 555 A.2d 793 (1989).

Standing is conferred upon a person if the person cares for or controls the child or is accused of abusing the child. *In re J.P.*, 832 A.2d 492 (Pa. Super. Ct. 2003); *In re L.J.*, 456 Pa. Super. 685, 691 A.2d 520 (1997). See 23 Pa.C.S. § 5313 for grandparent intervention. See also *R.M. v. Baxter*, 565 Pa. 619, 777 A.2d 446 (2001) (grandparent standing); *Mitch v. Bucks Co. Children and Youth Social Service Agency*, 383 Pa. Super. 42, 556 A.2d 419 (1989) (prospective adoptive parent standing); *In re M.K.*, 431 Pa. Super. 198, 636 A.2d 198 (1994) (alleged abuser standing). For distinction between foster parent and prospective adoptive parent standing, see *In re N.S.*, 845 A.2d 884 (Pa. Super. Ct. 2004).

A non-custodial parent may intervene in a dependency petition filed by a third party to protect the child from being adjudicated dependent and placed in the custody of the Commonwealth. *In re Anita H.*, 351 Pa. Super. 342, 505 A.2d 1014 (1986).

See also *In re Michael Y.*, 365 Pa. Super. 488, 530 A.2d 115 (1987) and *In re R.T. & A.T.*, 405 Pa. Super. 156, 592 A.2d 55 (1991) for additional parties to proceedings.

See Rule 1344 for motions and Rule 1345 for service.

Rule 1134. Proceedings in Camera.

Upon motion by any party or on the court's own motion, in camera proceedings are to be recorded and each party's attorney shall be present.

Comment

See *In re Leslie H.*, 329 Pa. Super. 453, 478 A.2d 876 (1984).

If a party is not represented, the court is to make reasonable efforts to protect the due process rights of the party.

Rule 1135. Captions.

All court documents and orders shall contain a caption that includes the following:

- 1) "In the Interest of (the child's name)";
- 2) the child's case docket number; and
- 3) the name of the court.

PART B(1). EXAMINATION AND TREATMENT OF CHILD

Rule 1145. Application or Motion for Examination and Treatment of a Child.

A. *Pre-petition treatment.* Prior to the filing of a dependency petition, an application to the court may be made to treat a child when prompt treatment is necessary.

B. *Post-petition examination and treatment.* After a petition has been filed, a motion for examination and treatment of a child may be filed.

Comment

The term "application" is used in paragraph (A) of this rule. An application is to be made to the court if there is no formal court action pending. Once a dependency petition is filed, a motion, as provided in paragraph (B), is the proper course of action for seeking examination and treatment of a child. All parties are notified and copied on all motions. The procedures of Rule 1344 are to be followed. See Rule 1344.

It should be noted that paragraph (A) only relates to treatment of a child when prompt treatment is necessary.

Pursuant to 42 Pa.C.S. § 6339(b), the court may order the child to be examined at a suitable place by a physician or psychologist and may also order medical or surgical treatment of a child who is suffering from a serious physical condition or illness, which in the opinion of a licensed physician, requires prompt treatment, even if the guardian has not been given notice of a hearing, is not available, or without good cause informs the court of his refusal to consent to the treatment. 42 Pa.C.S. § 6339(b). In addition, 42 Pa.C.S. § 6357 provides a custodian to whom legal custody has been given by the court has the right to the physical custody of the child, the right to determine the nature of the care and treatment of the child, including ordinary medical care and the right and duty to provide for the care, protection, training, and education, and the physical, mental, and moral welfare of the child. An award of legal custody shall be subject to the conditions and limitations of the order and to the remaining rights and duties of the parents or guardian of the child as determined by the court. 42 Pa.C.S. § 6357.

If a child has been adjudicated dependent, the court may order that the county agency participate in the treatment plan of the child as necessary to protect the health, safety, or welfare of the child, including discussions with the individual, facility, or program providing treatment, and the child or the child's guardian in furtherance of the disposition. 42 Pa.C.S. § 6352.1.

Under paragraph (B), if the legal custodian is the county agency, the county agency is to comply with the regulations of 55 Pa. Code §§ 3130.91 and 3680.52.

PART B(2). COUNSEL

Rule 1150. Attorneys—Appearances and Withdrawals.

A. Appearances.

1) The Guardian ad litem and counsel for each party, except under paragraph (A)(3), shall file an entry of appearance with the clerk of courts promptly after being retained and serve a copy on all other parties.

a) If a firm name is entered, the name of the individual lawyer who is designated as being responsible for the conduct of the case shall be entered.

b) The entry of appearance shall include the attorney's address, phone number, and attorney ID number.

2) When counsel is appointed pursuant to Rule 1151 (Assignment of Counsel), the filing of the appointment order shall enter the appearance of appointed counsel.

3) The president judge of each judicial district may enter an order stating that the specified Solicitor's appearance is automatically entered in every dependency case unless another attorney's appearance is entered pursuant to paragraph (A)(1).

B. *Duration.* Once an appearance is entered or the court assigns counsel for the child, counsel shall represent the child until the closing of the dependency case, including any proceeding upon direct appeal and permanency review, unless permitted to withdraw pursuant to paragraph (C).

C. Withdrawals.

1) Upon motion, counsel shall be permitted to withdraw only:

a) by order of the court for good cause shown; or

b) if new counsel has entered an appearance in accordance with paragraph (A).

2) A motion to withdraw shall be:

a) filed with the clerk of courts, and a copy concurrently served on the other parties' attorneys, or the party, if unrepresented; or

b) made orally on the record in open court in the presence of the parties.

Comment

Paragraph (A)(3) allows the Solicitor to be automatically entered in the record as counsel for the agency. The order is to include the attorney's address, phone number, and attorney ID number.

Under paragraph (C), withdrawal is presumed when a court's jurisdiction is terminated because the child reaches the age of twenty-one. See 42 Pa.C.S. § 6302.

Under paragraph (C)(1)(a), a court can terminate an attorney's representation if there is good cause shown. The court should allow an attorney to withdraw from a case for good cause if the standards for termination of representation, as provided for in the Rules of Professional Conduct 1.16, are met.

Under paragraph (C)(1)(b), because the county agency will be on notice of the identity of the new attorney, the agency should comply with the discovery requirements of Rule 1340.

Under paragraph (C)(2), counsel is to file a motion to withdraw in all cases. Counsel's obligation to represent a party, whether as retained or appointed counsel, remains until leave to withdraw is granted by the court. See e.g., *Com. v. Librizzi*, 810 A.2d 692 (Pa. Super. Ct. 2002). The court is to make a determination of the status of the case before permitting counsel to withdraw. Although there are many factors considered by the court in determining whether there is good cause to permit the withdrawal of counsel, when granting leave, the court should determine if new counsel needs to be appointed, and that the change in attorneys will not delay the proceedings or prejudice the party, particularly concerning time limits.

See Rule 1167 for service of court orders.

See also Rule 1613 for termination of court supervision.

Rule 1151. Assignment of Guardian ad litem and Counsel.

A. *Guardian ad litem for child.* The court shall assign a guardian ad litem to represent the legal interests and the best interests of the child if a proceeding has been commenced pursuant to Rule 1200 alleging a child to be dependent who:

1) is without proper parental care or control, subsistence, education as required by law, or other care or control necessary for the physical, mental or emotional health, or morals;

2) has been placed for care or adoption in violation of law;

3) has been abandoned by parents, guardian, or other custodian;

4) is without a parent, guardian or legal custodian; or

5) is born to a parent whose parental rights with regard to another child have been involuntarily terminated under 23 Pa.C.S. § 2511 (relating to grounds for involuntary termination) within three years immediately preceding the date of birth of the child and conduct of the parent poses a risk to the health, safety, or welfare of the child.

B. *Counsel for child.* The court shall appoint legal counsel for a child:

1) if a proceeding has been commenced pursuant to Rule 1200 alleging a child to be dependent who:

a) while subject to compulsory school attendance is habitually and without justification truant from school;

b) has committed a specific act or acts of habitual disobedience of the reasonable and lawful commands of the child's guardian and who is ungovernable and found to be in need of care, treatment, or supervision;

c) is under the age of ten years and has committed a delinquent act;

d) has been formerly adjudicated dependent, and is under the jurisdiction of the court, subject to its conditions or placements and who commits an act which is defined as ungovernable in paragraph (B)(1)(b); or

e) has been referred pursuant to section 6323 (relating to informal adjustment), and who commits an act which is defined as ungovernable in paragraph (B)(1)(b); or

2) upon order of the court.

C. *Counsel and Guardian ad litem for child.* If a child has legal counsel and a guardian ad litem, counsel shall represent the legal interests of the child and the guardian ad litem shall represent the best interests of the child.

D. Time of appointment.

1) *Child in custody.* The court shall appoint a guardian ad litem or legal counsel immediately after a child is taken into protective custody and prior to any proceeding.

2) *Child not in custody.* If the child is not in custody, the court shall appoint a guardian ad litem or legal counsel for the child when a dependency petition is filed.

E. Counsel for other parties. If counsel does not enter an appearance for a party, the court shall inform the party of the right to counsel prior to any proceeding. If counsel is requested by a party in any case, the court shall assign counsel for the party if the party is without financial resources or otherwise unable to employ counsel. Counsel shall be appointed prior to the first court proceeding.

Comment

See 42 Pa.C.S. §§ 6302, 6311, and 6337.

The guardian ad litem for the child may move the court for appointment as legal counsel and assignment of a separate guardian ad litem, especially if the information that the guardian ad litem is privy to is rise for the conflict and can be used to the detriment of the child. To the extent 42 Pa.C.S. § 6311(b)(9) is inconsistent with this rule, it is suspended. See Rule 1800. See also Pa.R.P.C. 1.7 and 1.8. Under paragraph (C), legal counsel represents the legal interests of the child and the guardian ad litem represents the best interests of the child.

Rule 1152. Waiver of Counsel.

A. Children.

1) *Guardian ad litem.* A child may not waive the right to a guardian ad litem.

2) *Legal Counsel.* A child may waive legal counsel if:

- a) the waiver is knowingly, intelligently, and voluntarily made; and
- b) the court conducts a colloquy with the child on the record.

B. Other parties. Except as provided in paragraph (A), a party may waive the right to counsel if:

- 1) the waiver is knowingly, intelligently, and voluntarily made; and
- 2) the court conducts a colloquy with the party on the record.

C. Stand-by counsel. The court may assign stand-by counsel if a party waives counsel at any proceeding or stage of a proceeding.

D. Notice and revocation of waiver. If a party waives counsel for any proceeding, the waiver only applies to that proceeding, and the party may revoke the waiver of counsel at any time. At any subsequent proceeding, the party shall be informed of the right to counsel.

Comment

Under paragraph (A), a child may not waive the right to a guardian ad litem. The right of waiver to legal counsel belongs to the child, not the guardian. See Rule 1800, which suspends 42 Pa.C.S. § 6337, which provides that counsel must be provided unless the guardian is present and waives counsel for the child.

It is recommended that, at a minimum, the court ask questions to elicit the following information in determining a knowing, intelligent, and voluntary waiver of counsel:

1) Whether the party understands the right to be represented by counsel;

2) Whether the party understands the nature of the dependency allegations and the elements of each of those allegations;

3) Whether the party is aware of the dispositions and placements that may be imposed by the court, including foster care placement and adoption;

4) Whether the party understands that if he or she waives the right to counsel, he or she will still be bound by all the normal rules of procedure and that counsel would be familiar with these rules;

5) Whether the party understands that counsel may be better suited to defend the dependency allegations; and

6) Whether the party understands that the party has many rights that, if not timely asserted, may be lost permanently; and if errors occur and are not timely objected to, or otherwise timely raised by the party, the ability to correct these errors may be lost permanently.

Rule 1154. Duties of Guardian ad litem.

A guardian ad litem shall:

1) Meet with the child as soon as possible following assignment pursuant to Rule 1151 and on a regular basis thereafter in a manner appropriate to the child's age and maturity;

2) On a timely basis, be given access to relevant court and county agency records, reports of examination of the guardians or the child, and medical, psychological, and school records;

3) Participate in all proceedings, including hearings before masters, and administrative hearings and reviews to the degree necessary to adequately represent the child;

4) Conduct such further investigation necessary to ascertain the facts;

5) Interview potential witnesses, including the child's guardians, caretakers, and foster parents, examine and cross-examine witnesses, and present witnesses and evidence necessary to protect the best interests of the child;

6) At the earliest possible date, be advised by the county agency having legal custody of the child of:

a) any plan to relocate the child or modify custody or visitation arrangements, including the reasons, prior to the relocation or change in custody or visitation; and

b) any proceeding, investigation, or hearing under the Child Protective Services Law, 23 Pa.C.S. § 6301 et seq. or the Juvenile Act, 42 Pa.C.S. § 6301 et seq., directly affecting the child;

7) Make any specific recommendations to the court relating to the appropriateness and safety of the child's placement and services necessary to address the child's needs and safety;

8) Explain the proceedings to the child to the extent appropriate given the child's age, mental condition, and emotional condition; and

9) Advise the court of the child's wishes to the extent that they can be ascertained and present to the court whatever evidence exists to support the child's wishes. When appropriate because of the age or mental and emotional condition of the child, determine to the fullest extent possible the wishes of the child and communicate this information to the court.

Comment

If there is a conflict of interest between the duties of the guardian ad litem pursuant to paragraphs (7) & (9), the guardian ad litem may move the court for appointment of a separate guardian ad litem or legal counsel. See Rules 1151 and 1800. See also Pa.R.P.C. 1.7 and 1.8.

Rule 1158. Assignment of Court Appointed Special Advocates.

A court appointed special advocate shall follow the duties as set forth in the Juvenile Act, 42 Pa.C.S. § 6342(d) and in the Juvenile Court Judges' Commission's Juvenile Court Standards, 37 Pa. Code, Chapter 200.

PART C. RECORDS**PART C(1). ACCESS TO JUVENILE COURT RECORDS****Rule 1160. Inspection of Juvenile Court File/Records.**

All files and records of the court in a proceeding are open to inspection only by:

1) The judges, officers, and professional staff of the court;

2) The parties to the proceeding and their counsel and representatives, but the persons in this category shall not be permitted to see reports revealing the names of confidential sources of information contained in social reports, except at the discretion of the court;

3) A public or private agency or institution providing supervision or having custody of the child under order of the court;

4) A court and its probation and other officials or professional staff and the attorney for the defendant for use in preparing a presentence report in a criminal case in which the defendant is convicted and who prior thereto had been a party to a proceeding under the Juvenile Act, 42 Pa.C.S. § 6301 et seq.;

5) The Administrative Office of Pennsylvania Courts;

6) The judges, officers and professional staff of courts of other jurisdictions when necessary for the discharge of their official duties;

7) Officials of the Department of Corrections or a State Correctional Institution or other penal institution to which an individual who was previously adjudicated delinquent in a proceeding under the Juvenile Act, 42 Pa.C.S. § 6301 et seq., has been committed, but the persons in this category shall not be permitted to see reports revealing the names of confidential sources of information contained in social reports, except at the discretion of the court;

8) A parole board, court or county probation official in considering an individual's parole or in exercising supervision over any individual who was previously adjudicated delinquent in a proceeding under the Juvenile Act, 42 Pa.C.S. § 6301 et seq., but the persons in this category shall not be permitted to see reports revealing the names of confidential sources of information contained in social reports, except at the discretion of the court.

9) The State Sexual Offenders Assessment Board for use in completing assessments; and

10) With leave of court, any other person or agency or institution having a legitimate interest in the proceedings or in the work of the unified judicial system.

Comment

See the Juvenile Act, 42 Pa.C.S. § 6307, for the statutory provisions on inspection of the juvenile court's file.

Persons specified in 23 Pa.C.S. § 6340 as having access to reports may qualify as persons having a legitimate interest in the proceedings under paragraph (10). See 23 Pa.C.S. § 6340.

This rule is meant to include the contents of the juvenile court file as described in Rule 1166, which does not include agency records.

PART C(2). MAINTAINING RECORDS**Rule 1165. Design of Forms.**

The Court Administrator of Pennsylvania, in consultation with the Juvenile Court Procedural Rules Committee, shall design and publish forms necessary to implement these rules.

Comment

The purpose of the unified judicial system can be further achieved by creating uniform forms to implement a particular rule.

Rule 1166. Maintaining Records in the Clerk of Courts.

A. *Generally.* The juvenile court file shall contain all original records, papers, and orders filed, copies of all court notices, and docket entries. These records shall be maintained by the clerk of courts and shall not be taken from the custody of the clerk of courts without order of the court.

B. *Docket entries.* The clerk of courts shall maintain a list of docket entries: a chronological list, in electronic or written form, of documents and entries in the juvenile court file and of all proceedings in the case. The clerk of courts shall make docket entries at the time the information is made known to the clerk.

C. *Contents of docket entries.* The docket entries shall include, at a minimum, the following information:

1) the child's name, address, date of birth, if known;

2) the guardian's name, address, if known;

3) the names and addresses of all attorneys who have appeared or entered an appearance, the date of the entry of appearance(s), and the date of any withdrawal of appearance(s);

4) notations concerning all papers filed with the clerk, including all court notices, appearances, motions, orders, findings and adjudications, dispositions, permanency reviews and adoptions, briefly showing the nature and title, if any, of each paper filed, writ issued, and motion made, and the substance of each order or disposition of the court and of the returns showing execution of process;

5) notations concerning motions made orally or orders issued orally in the courtroom when directed by the court;

6) a notation of every judicial proceeding, continuance, and disposition;

7) the location of exhibits made part of the record during the proceedings; and

8) a) the date of receipt in the clerk's office of the order or court notice;

b) the date appearing on the order or court notice; and

c) the date and manner of service of the order or court notice; and

9) all other information required by Rule 1345.

Comment

This rule sets forth the mandatory contents of the list of docket entries and the juvenile court file. This is not intended to be an exhaustive list of what is required to be recorded in the docket entries. The judicial districts may require additional information to be recorded in a case or in all cases.

The list of docket entries is a running record of all information related to any action in a dependency case in the court of common pleas of the clerk's county, such as dates of filings, of orders, and of court proceedings, including hearings conducted by masters. Nothing in this rule is intended to preclude the use of automated or other electronic means for time-stamping or making docket entries.

This rule applies to all proceedings in the court of common pleas, including hearings conducted by masters, at any stage of the dependency case.

This rule is not intended to include items contained in the county agency records or reports.

The practice in some counties of creating the list of docket entries only if an appeal is taken is inconsistent with this rule.

The requirement of paragraph (C)(3) that all attorneys and their addresses be recorded makes certain there is a record of all attorneys who have appeared for any party in the case. The requirement also ensures that attorneys are served as required by Rules 1167 and 1345. See also Rule 1345(C) concerning certificates of service.

In those cases in which the attorney has authorized receiving service by facsimile transmission or electronic means, the docket entry required by paragraph (C)(3) is to include the facsimile number or electronic address.

Paragraph (C)(5) recognizes that occasionally disposition of oral motions presented in open court should be reflected in the docket, such as motions and orders.

Rule 1167. Filings and Service of Court Orders and Notices.

A. Filings.

1) All orders and court notices shall be transmitted promptly to the clerk of courts for filing. Upon receipt by the clerk of courts, the order or court notice shall be time-stamped promptly with the date of receipt.

2) All orders and court notices shall be filed in the juvenile court file.

B. Service.

1) A copy of any order or court notice shall be served promptly on each party's attorney, and the party, if unrepresented.

2) The clerk of courts shall serve the order or court notice, unless the president judge has promulgated a local rule designating service to be by the court or its designee.

3) *Methods of service.* Service shall be:

a) in writing by:

i) personal delivery to the party's attorney, and if unrepresented, the party;

ii) mailing a copy to the party's attorney or leaving a copy for the attorney at the attorney's office;

iii) in those judicial districts that maintain in the courthouse assigned boxes for counsel to receive service, leaving a copy for the attorney in the attorney's box;

iv) sending a copy to an unrepresented party by first class mail addressed to the party's place of business, residence, or detention;

v) sending a copy by facsimile transmission or other electronic means if the party's attorney, and if unrepresented, the party has filed written request for this method of service or has included a facsimile number or an electronic address on a prior legal paper filed in the case;

vi) delivery to the party's attorney, and if unrepresented, the party by carrier service; or

b) orally in open court on the record.

C. Unified Practice. Any local rule that is inconsistent with the provisions of this rule is prohibited, including any local rule requiring a person to file or serve orders or court notices.

Comment

Court notices, as used in this rule, are communications that ordinarily are issued by a judge or the court administrator concerning, for example, calendaring or scheduling, including proceedings requiring the party's presence.

A facsimile number or electronic address set forth on the letterhead is not sufficient to authorize service by facsimile transmission or other electronic means under paragraph (B)(3)(a)(v). The authorization for service by facsimile transmission or other electronic means under this rule is valid only for the duration of the case. A separate authorization is to be filed in each case by the party, if unrepresented, or by the attorney who wants to receive documents by this method of service.

Nothing in this rule is intended to preclude the use of automated or other electronic means for the transmission of the orders or court notices between the judge, court administrator, and clerk of courts, or for time-stamping.

PART D. PROCEEDINGS IN CASES BEFORE MASTER

Rule 1185. Appointment to Cases.

A. Appointment. If necessary to assist the juvenile court judge, the president judge or his or her designee may appoint masters to hear designated dependency matters.

B. Prohibited practice. Masters shall not engage in practice before the juvenile court in the same judicial district where they preside over dependency matters.

Comment

Under paragraph (A), the president judge of each judicial district may restrict the classes of cases to be heard by the master, in addition to the restrictions of Rule 1187. See 42 Pa.C.S. § 6305(b) and Rule 1187.

Rule 1187. Authority of Master.

A. No authority. A master shall not have the authority to:

1) preside over:

a) termination of parental rights hearings;

b) adoptions;

c) any hearing in which any party seeks to establish a permanency goal of adoption or change the permanency goal to adoption;

2) enter orders for emergency or protective custody pursuant to Rules 1200 and 1210;

3) issue warrants; and

4) issue contempt orders.

B. *Right to hearing before judge.*

1) Prior to the commencement of any proceeding, the master shall inform all parties of the right to have the matter heard by a judge. If a party objects to having the matter heard by the master, the case shall proceed before the judge.

2) If a party objects to having the matter heard by the master pursuant to paragraph (B)(1), the master or the court's designee for scheduling cases shall immediately schedule a hearing before the judge. The time requirements of these rules shall apply.

Comment

A master's authority is limited under this rule. To implement this rule, Rule 1800 suspends 42 Pa.C.S. § 6305(b) only to the extent that masters may not hear all classes of cases.

Under paragraph (A)(1)(c), once the permanency goal has been approved for adoption by a judge, all subsequent reviews or hearings may be heard by the master unless a party objects pursuant to paragraph (B).

Under paragraph (A)(3), nothing is intended to limit the master's ability, in a proper case before the master, to recommend to the court that a warrant be issued. This includes arrest, bench, and search warrants.

Concerning the provisions of paragraph (B), see 42 Pa.C.S. § 6305(b).

Under paragraph (B)(2), it should be determined whenever possible before the date of the hearing whether there will be an objection to having the matter heard before a master. If it is anticipated that there will be an objection, the case is to be scheduled in front of the judge, rather than the master to prevent continuances and delays in the case.

See Rule 1127 for recording of proceedings before a master.

Rule 1190. Stipulations Before Master.

A. *Types of cases.* Masters may accept stipulations in any classes of cases that they are permitted to hear pursuant to Rule 1187.

B. *Requirements.* The stipulation requirements of Rule 1405 shall be followed.

Comment

Under paragraph (A), a master may accept stipulations in those permissible classes of cases pursuant to Rule 1187. In addition, the president judge of each judicial district may further restrict the classes of cases. See Rule 1185.

The court is to receive corroborating evidence, in addition to the stipulated facts, to make an independent determination that a child is dependent. See Rule 1405 and its Comment.

Rule 1191. Master's Findings and Recommendation to the Judge.

A. *Announcement of Findings and Recommendation.* At the conclusion of the hearing, the master shall announce

in open court on the record, the master's findings and recommendation to the judge.

B. *Submission of Papers and Contents of Recommendation.* Within two business days of the hearing, the master shall submit specific findings and a recommendation to the juvenile court judge. If requested, a copy of the findings and recommendation shall be given to any party.

C. *Challenge to Recommendation.* A party may challenge the master's recommendation by filing a motion with the clerk of courts within three days of receipt of the recommendation. The motion shall request a rehearing by the judge and aver reasons for the challenge.

D. *Judicial Action.* Within seven days of receipt of the master's findings and recommendation, the judge shall review the findings and recommendation of the master and:

1) accept the recommendation by order;

2) reject the recommendation and issue an order with a different disposition;

3) send the recommendation back to the master for more specific findings; or

4) conduct a rehearing.

Comment

The juvenile court may promulgate a form for masters to use. The findings and recommendation may take the form of a court order to be adopted by the court.

If a party contests the master's decision, the copy of the findings and recommendation may be used as an attachment in a motion for a rehearing in front of the judge.

The master's decision is subject to approval of the judge. When the judge, in rejecting the master's recommendation, modifies a factual determination, a rehearing is to be conducted. The judge may reject the master's findings and enter a new finding or disposition without a rehearing if there is no modification of factual determinations. See *In re Perry*, 313 Pa. Super. 162, 459 A.2d 789 (1983). Nothing in this rule prohibits the court from modifying conclusions of law made by the master.

CHAPTER 12. COMMENCEMENT OF PROCEEDINGS, EMERGENCY CUSTODY, AND PRE-ADJUDICATORY PLACEMENT

PART A. COMMENCING PROCEEDINGS

Rule 1200.	Commencing Proceedings.
1201.	Procedures for Protective Medical Custody.
1202.	Procedures for Protective Custody by Police and County Agency.

PART B. EMERGENCY CUSTODY

1210.	Order for Protective Custody.
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PART C. SHELTER CARE

1240.	Shelter Care Application.
1241.	Notification of Shelter Care Hearing.
1242.	General Conduct of Shelter Care Hearing.
1243.	Shelter Care Rehearings.

PART A. COMMENCING PROCEEDINGS

Rule 1200. Commencing Proceedings.

Dependency proceedings within a judicial district shall be commenced by:

1) the filing of a dependency petition;

2) the submission of an emergency custody application;

3) the taking of the child into protective custody pursuant to a court order or statutory authority;

4) the court accepting jurisdiction of a resident child from another state; or

5) the court accepting supervision of child pursuant to another state's order.

Comment

See 42 Pa.C.S. §§ 6321, 6324, 23 Pa.C.S. §§ 6315, 6369, 62 P.S. § 761.

If a county agency has custody of a child under a voluntary placement agreement and custody will exceed thirty days, dependency proceedings are to be commenced by the filing of a petition by the thirtieth day. A dependency petition is to be filed if a guardian requests return of the child and the county agency refuses to return the child. A dependency petition is to be filed at the time of refusal of return by the county agency. See 55 Pa. Code § 3130.65 for provisions on voluntary agreements.

For procedures on protective medical custody, see Rule 1201. For procedures on protective custody by police and the county agency, see Rule 1202.

For proceedings that have already been commenced in another judicial district, see Rule 1302 for inter-county transfer of the case.

Rule 1201. Procedures for Protective Medical Custody.

When a physician examining or treating a child, a director, or a person specifically designated in writing by the director, of any hospital or other medical institution takes a child into custody pursuant to Rule 1200, the following provisions shall apply:

a) *Notice.*

1) The person taking the child into custody shall notify the guardian and the county agency of:

a) the whereabouts of the child, unless disclosure is prohibited by court order; and

b) the reasons for taking the child into custody.

2) Notice may be oral. The notice shall be reduced to writing within twenty-four hours.

b) *Duration of custody.* No child may be held in protective custody in a hospital or other medical institution for more than twenty-four hours unless the appropriate county agency is immediately notified that the child has been taken into custody and the county agency obtains an order permitting the child to be held in custody for a longer period. The president judge of each judicial district shall ensure that a judge is available twenty-four hours a day, every day of the year to accept and decide actions brought by the county agency within the twenty-four hour period.

Comment

Notice to the county agency under paragraph (A) is to insure that appropriate proceedings are commenced. Notice may be oral but is to be reduced to writing within twenty-four hours.

A child taken into protective custody is to be placed during the protective custody in an appropriate medical facility, foster home, or other appropriate facility approved by the Department of Public Welfare for this purpose.

A conference between the guardian of the child taken into protective custody and the employee designated by the county agency to be responsible for the child should

be held within forty-eight hours of the time that the child is taken into custody for the purpose of: 1) explaining to the guardian the reasons for the temporary detention of the child and the whereabouts of the child, unless disclosure is prohibited by court order; 2) expediting, whenever possible, the return of the child to the custody of the guardian when protective custody is no longer necessary; and 3) explaining to the guardian the rights provided for by 42 Pa.C.S. §§ 6337, 6338.

See *In re J.R.W.*, 428 Pa. Super. 597, 631 A.2d 1019 (1993) and 23 Pa.C.S. § 6315.

Rule 1202. Procedures for Protective Custody by Police and County Agency.

A. *Protective custody.*

1) *No court order.*

a) A police officer may take a child into protective custody pursuant to Rule 1200 if there are reasonable grounds to believe that the child is suffering from illness or injury or is in imminent danger from the surroundings and removal is necessary.

b) Without unnecessary delay, but no more than twenty-four hours after a child is taken into custody, an application for a protective custody order shall be made to provide temporary emergency supervision of a child pending a hearing pursuant to Rule 1242. The president judge of each judicial district shall ensure that a judge is available twenty-four hours a day, every day of the year to accept and decide actions brought by the county agency within the twenty-four hour period.

2) *Court order.*

a) A police officer or county agency may obtain a protective custody order removing a child from the home if the court finds that remaining in the home is contrary to the welfare and the best interests of the child.

b) Pursuant to 23 Pa.C.S. § 6315 and after a court order, the county agency shall take the child into protective custody for protection from abuse. No county agency may take custody of the child without judicial authorization based on the merits of the situation.

B. *Notice.*

1) In all cases, the person taking the child into custody immediately shall notify the guardian and the county agency of:

a) the whereabouts of the child, unless disclosure is prohibited by court order; and

b) the reasons for taking the child into custody.

2) *Notice may be oral.* The notice shall be reduced to writing within twenty-four hours.

C. *Placement.* A child shall be placed in an appropriate shelter care facility or receive other appropriate care pending a shelter care hearing pursuant to Rule 1242.

Comment

Under paragraph (A)(1)(a) & (A)(2)(a), the police officer's duty is to protect the child and remove the child safely. A police officer may bring the child to the county agency for supervision of the child pending a court order that should be given immediately. The police officer's duty is enforcement and removal, whereas the county agency's duty is to supervise the child and find an appropriate placement for the child. Only a police officer may take custody of the child. See Rule 1800 for suspension of 42 Pa.C.S. § 6324, which provides that law enforcement officers may take a child into custody. See Rule 1120 for

definition of police officer, which may include a probation officer exercising their power of arrest when authorized by law.

Paragraph (B) is to ensure that if the guardian is not present when the child is removed, the guardian knows the whereabouts of the child and the reasons the child is taken into custody. If the person removing the child is not a caseworker, the county agency is to be notified to commence proceedings in juvenile court.

Under paragraph (C), a child taken into protective custody is to be placed during the protective custody in an appropriate shelter care facility or receive other appropriate care.

A conference between the guardian of the child taken into protective custody and the employee designated by the county agency to be responsible for the child should be held within forty-eight hours of the time that the child is taken into custody for the purpose of: 1) explaining to the guardian the reasons for the temporary detention of the child and the whereabouts of the child, unless disclosure is prohibited by court order; 2) expediting, whenever possible, the return of the child to the custody of the guardian when protective custody is no longer necessary; and 3) explaining to the guardian the rights provided for by 42 Pa.C.S. §§ 6337, 6338.

See 42 Pa.C.S. §§ 6324 & 6326 and 23 Pa.C.S. § 6369.

PART B. EMERGENCY CUSTODY

Rule 1210. Order for Protective Custody.

A. *Application of order.* The application for a court order of protective custody may be orally made; however, the request shall be reduced to writing within twenty-four hours. The request shall set forth reasons for the need of protective custody.

B. *Finding of court.* A child may be taken into protective custody by court order when the court determines that removal of the child is necessary for the welfare and best interests of the child. The order may initially be oral, provided that it is reduced to writing within twenty-four hours or the next court business day.

C. *Law enforcement.* The court may authorize a search of the premises by law enforcement or the county agency so that the premises may be entered into without authorization of the owner for the purpose of taking a child into protective custody.

D. *Execution of order.* The court shall specify:

- 1) the limitations of the order;
- 2) the manner in which the order is to be executed; and
- 3) who shall execute the order.

E. *Contents of order.* The court order shall include:

- 1) the name of the child sought to be protected;
- 2) the date of birth of the child, if known;
- 3) the whereabouts of the child, if known;
- 4) the names and addresses of the guardians;
- 5) the reasons for taking the child into protective custody;
- 6) a finding whether reasonable efforts were made to prevent placement of the child; and
- 7) a finding whether the reasons for keeping the child in shelter care and that remaining in the home is contrary to the welfare and best interests of the child.

Comment

See 42 Pa.C.S. § 6324 for statutory provisions concerning taking into custody.

For a discussion of the due process requirements for taking a child into emergency custody, see *Patterson v. Armstrong County Children and Youth Services*, 141 F. Supp. 2d 512 (W.D. Pa. 2001).

The court is to determine whether reasonable efforts were made to prevent placement or in the case of an emergency placement where services were not offered and could not have prevented the necessity of placement, whether this level of effort was reasonable due to the emergency nature of the situation, safety considerations and circumstances of the family. 42 Pa.C.S. § 6332.

See also *In re Petition to Compel Cooperation with Child Abuse Investigation*, 875 A.2d 365 (Pa. Super. Ct. 2005).

PART C. SHELTER CARE

Rule 1240. Shelter Care Application.

A. *Filings.* A shelter care application may be oral. Within twenty-four hours of exercising protective custody pursuant to Rule 1210, the county agency shall reduce to writing and file a shelter care application with the Juvenile Court.

B. *Application contents.* Every shelter care application shall set forth plainly:

- 1) the name of the applicant;
- 2) the name, date of birth, and address of the child, if known;
- 3) the name and address of the child's guardian, or if unknown, the name and address of the nearest adult relative;
- 4) the date that the child was taken into custody;
- 5) a concise statement of facts in support of the allegation of dependency;
- 6) if a child is in shelter care, a statement that reasonable efforts to prevent placement were made and there are no less restrictive alternatives available;
- 7) a verification by the applicant that the facts set forth in the petition are true and correct to the applicant's personal knowledge, information, or belief, and that any false statements are subject to the penalties of the Crimes Code, 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities;
- 8) the signature of the applicant and the date of the execution of the application; and
- 9) the whereabouts of the child unless the county agency has determined it would pose a risk to the safety of the child or the guardian, or disclosure is prohibited by the court.

Comment

In lieu of a shelter care application, the county agency may file a petition as set forth in Rule 1330.

The primary focus of the shelter care application is to assert that protective custody is needed and the child should remain in the custody of the county agency. A shelter care hearing is to be held within seventy-two hours of taking the child into protective custody. See Rule 1242(D).

Rule 1241. Notification of Shelter Care Hearing.

A. *Generally.* The applicant for the shelter care hearing shall notify the following persons of the date, time, and place of the shelter care hearing:

- 1) the child;
- 2) the guardian(s) of the child;
- 3) the attorney for the child;
- 4) the attorney(s) for the guardian(s);
- 5) the attorney for the county agency;
- 6) the county agency; and
- 7) any other appropriate person.

B. *Counsel.* The guardian of the child shall be notified of the right to counsel immediately after a child is taken into protective custody and before a shelter care hearing.

Comment

Notice should be as timely as possible. Because there is a seventy-two hour time restriction, notice may be oral. Every possible attempt to notify all parties is to be made. It is not sufficient to notify only one guardian. All guardians are to be notified. See *In re M.L.*, 562 Pa. 646, 757 A.2d 849 (2000).

The hearing may go forward if a guardian is not present. However, if a guardian has not been notified, a rehearing is to be ordered under Rule 1243 upon submission of an affidavit by the guardian.

The court is to direct the county agency to provide the child's foster parent, preadoptive parent or relative providing care for the child with timely notice of the hearing. See 42 Pa.C.S. § 6336.1.

If a court appointed special advocate is involved in the case, the court appointed special advocate is to be notified as any other appropriate person pursuant to paragraph (A)(7).

Rule 1242. General Conduct of Shelter Care Hearing.

A. *Informing of rights.* Upon commencement of the hearing, the court shall ensure that:

- 1) a copy of the shelter care application is provided to the parties; and
- 2) all parties are informed of the right to counsel.

B. *Manner of hearing.*

1) *Conduct.* The hearing shall be conducted in an informal but orderly manner.

2) *Recording.* If requested, or if ordered by the court, the hearing shall be recorded by appropriate means. If not so recorded, full minutes of the hearing shall be kept.

3) *Testimony and evidence.* All evidence helpful in determining the questions presented, including oral or written reports, may be received by the court and relied upon to the extent of its probative value even though not competent in the hearing on the petition. The child's attorney, the guardian, if unrepresented, and the attorney for the guardian shall be afforded an opportunity to examine and controvert written reports so received.

C. *Findings.* The court shall determine whether:

- 1) there are sufficient facts in support of the shelter care application;
- 2) custody of the child is warranted;

3) a) remaining in the home would be contrary to the welfare and best interests of the child;

b) reasonable efforts were made by the county agency to prevent the child's placement; or

c) in the case of an emergency placement where services were not offered, whether the lack of efforts were reasonable; and

4) if a shelter care application is submitted by a person other than the county agency, the court shall make a determination if the person is a party to the proceedings.

D. *Prompt hearing.* The court shall conduct a hearing within seventy-two hours of taking the child into protective custody.

E. *Court order.* At the conclusion of the shelter care hearing, the court shall enter a written order as to the following:

- 1) its findings pursuant to paragraph (C);
- 2) any conditions placed upon any party;
- 3) any orders for placement or temporary care of the child; and
- 4) any orders of visitation.

Comment

Under paragraph (C)(4), the court is to determine whether or not a person is a proper party to the proceedings. Regardless of the court's findings on the party status, the court is to determine if the application is supported by sufficient evidence.

Under paragraph (D), the court is to ensure a timely hearing.

Under paragraph (E), the court is to include in its order specific findings that: 1) there are sufficient facts in support of the dependency petition; 2) custody of the child is warranted; and 3) remaining in the home would be contrary to the welfare and best interests of the child, or reasonable efforts were made by the county agency to prevent the child's placement, or in the case of an emergency placement where services were not offered, whether the lack of efforts were reasonable.

See 42 Pa.C.S. § 6332.

Nothing in this rule prohibits informal conferences, narrowing of issues, if necessary, and the court making appropriate orders to expedite the case through court. The shelter care hearing may be used as a vehicle to discuss the matters needed and narrow the issues. The court is to insure a timely adjudicatory hearing is held.

See 42 Pa.C.S. § 6339 for orders of physical and mental examinations and treatment.

See Rule 1330(A) for filing of a petition.

Rule 1243. Shelter Care Rehearings.

A. *Mandatory Rehearing.* If the guardian submits an affidavit to the county agency alleging that the guardian was not notified of the shelter care hearing and that the guardian did not appear or waive appearance at the shelter care hearing, a rehearing shall be held within seventy-two hours of the submission of the affidavit.

B. *Discretionary Rehearing.* The court may grant a rehearing upon request of a party or on its own motion.

C. *Forum.* The judge, who heard the original shelter care hearing or adopted the findings of the master, shall hold the rehearing, unless the judge assigns the case to a master.

Comment

See 42 Pa.C.S. § 6332(b).

Under paragraph (A), upon receiving an affidavit, the county agency is to schedule a rehearing, forward the affidavit to the proper person to schedule a rehearing, or submit the affidavit to the court for rescheduling.

Under paragraph (C), only a judge may hold a rehearing, unless the judge orders a master to hear the case.

CHAPTER 13. PRE-ADJUDICATORY PROCEDURES

PART A. VENUE

- Rule 1300. Venue.
- 1302. Inter-County Transfer.

PART B. APPLICATION FOR PRIVATE PETITION

- 1320. Application to File a Private Petition.
- 1321. Hearing on Application for Private Petition.

PART C. PETITION

- 1330. Petition: Filing, Contents, Function, Aggravated Circumstances.
- 1331. Service of Petition.
- 1333. Separate Petitions and Consolidated Hearing.
- 1334. Amendment of Petition.
- 1335. Withdrawal of Petition.
- 1336. Re-Filing of the Petition After Withdrawal or Dismissal.

PART D. PROCEDURES FOLLOWING FILING OF PETITION

- 1340. Discovery and Inspection.
- 1342. Pre-Adjudicatory Conference.

PART D(1). MOTION PROCEDURES

- 1344. Motions and Answers.
- 1345. Filing and Service.

PART D(2). ADJUDICATORY SUMMONS AND NOTICE PROCEDURES

- 1360. Adjudicatory Summons.
- 1361. Adjudicatory Notice.
- 1363. Service of Summons.
- 1364. Failure to Appear on the Summons.

PART E. PRESERVATION OF TESTIMONY AND EVIDENCE

- 1380. Preservation of Testimony After Commencement of Proceedings.
- 1381. Preservation of Testimony by Video Recording.

PART A. VENUE

Rule 1300. Venue.

A. *Generally.* A dependency proceeding shall be commenced in:

- 1) the county in which the child is present; or
- 2) the child's county of residence.

B. *Change of venue.* For the convenience of parties and witnesses, the court, upon its own motion or motion of any party, may transfer an action to the appropriate court of any county where the action could originally have been brought or could be brought at the time of filing the motion to change venue.

C. *Transmission of juvenile court file.* If there is a change of venue pursuant to paragraph (B), the transferring court shall forward certified copies of all documents, reports, and summaries in the child's court file to the receiving court.

Comment

See 42 Pa.C.S. § 6321.

For procedures regarding motions and answers, see Rule 1344. In addition to the procedures for service of orders under Rule 1167, an order changing venue is to be served upon the new county agency and the receiving court so they may begin proceedings in the receiving county.

Rule 1302. Inter-County Transfer.

A. *Transfer.* A court may transfer a case to another county at any time.

B. *Transmission of juvenile court file.* If the case is transferred under paragraph (A), the transferring court shall transmit certified copies of all documents, reports, and summaries in the child's court file.

Comment

See 42 Pa.C.S. § 6321.

PART B. APPLICATION FOR PRIVATE PETITION

Rule 1320. Application to File a Private Petition.

A. *Application contents.* Any person, other than the county agency, may present an application to file a private petition with the court. The application shall include the following information:

- 1) the name of the person applying for a petition;
- 2) the name of the alleged dependent child;
- 3) the relationship of the person presenting this application to the child and to any other parties;
- 4) if known, the following:
 - a) the date of birth and address of the child;
 - b) the name and address of the child's guardian, or the name and address of the nearest adult relative;
 - c) if a child is Native American, the child's Native American history or affiliation with a tribe;
 - d) a statement, including court file numbers where possible, of pending juvenile or family court proceedings and prior or present juvenile or family court orders relating to the child;
 - 5) a concise statement of facts in support of the allegations for which the application for a petition has been filed;
 - 6) a statement that the applying person has reported the circumstances underlying this application to the county agency or a reason for not having reported the circumstances underlying the application;
 - 7) a verification by the person making the application that the facts set forth in the application are true and correct to the person's personal knowledge, information, or belief, and that any false statements are subject to the penalties of the Crimes Code, 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities; and
 - 8) the signature of the person and the date of the execution of the application for a petition.

B. *Service.* If a person presents an application for a petition under this rule, the person shall serve the application on the court and all parties to the proceeding.

Comment

Rule 1330 requires that the county agency file a petition. Any person, other than the county agency, is to file an application to file a petition under this Rule. Rule 1800 suspends 42 Pa.C.S. § 6334, which provides any person may file a petition.

See Rule 1321 for hearing on application and finding that a petition is to be filed by the county agency.

Rule 1321. Hearing on Application for Private Petition.

A. *Hearing.* The court shall conduct a hearing within fourteen days of the presentation of the application for a petition to determine:

- 1) if there are sufficient facts alleged to support a petition of dependency; and
- 2) whether the person applying for the petition is a proper party to the proceedings.

B. *Findings.*

1) If the court finds sufficient facts to support a petition of dependency, a petition may be filed pursuant to Rule 1330.

2) If the court finds the person making the application for a petition is a proper party to the proceedings, the person shall be afforded all rights and privileges given to a party pursuant to law.

Comment

Under paragraph (A), at a hearing, the court is to determine if: 1) there are sufficient facts alleged to support a petition of dependency; and 2) the applying person is a proper party to the proceedings. A petition of dependency may go forward whether or not the applying person is determined to be a party to the proceedings.

If a child is in custody, the hearing under paragraph (A) may be combined with the shelter care hearing pursuant to Rule 1242.

PART C. PETITION**Rule 1330. Petition: Filing, Contents, Function, Aggravated Circumstances.**A. *Filings.*

1) A dependency petition may be filed at any time; however, if a child is taken into custody, the requirements of paragraph (A)(2) shall be met.

2) Within twenty-four hours of the shelter care hearing, the county agency shall file a dependency petition with the clerk of courts when:

- a) the child remains in protective custody pursuant to Rule 1201, 1202 or 1210; or
- b) the child is not in protective custody but it is determined at a shelter care hearing pursuant to Rule 1242 that the filing of a dependency petition is appropriate.

B. *Petition contents.* Every petition shall set forth plainly:

- 1) the name of the petitioner;
- 2) the name, date of birth, and address of the child, if known;
- 3) the name and address of the child's guardian, or if unknown, the name and address of the nearest adult relative;
- 4) if a child is Native American, the child's Native American history or affiliation with a tribe;
- 5) a statement that:
 - a) it is in the best interest of the child and the public that the proceedings be brought;
 - b) the child is or is not currently under the supervision of the county agency;

6) a concise statement of facts in support of the allegations for which the petition has been filed;

- a) facts for each allegation shall be set forth separately;
- b) the relevant statute or code section shall be set forth specifically for each allegation;

7) a verification by the petitioner that the facts set forth in the petition are true and correct to the petitioner's personal knowledge, information, or belief, and that any false statements are subject to the penalties of the Crimes Code, 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities;

8) the signature of the petitioner and the date of the execution of the petition; and

9) the whereabouts of the child unless disclosure is prohibited by court order and if taken into custody, the date and time thereof.

C. *Aggravated circumstances.* A motion for finding of aggravated circumstances may be brought in the petition pursuant to Rule 1701(A).

Comment

Petitions should be filed without unreasonable delay.

Under paragraph (A)(2), a petition is to be filed twenty-four hours after the shelter care hearing if the requirements of (A)(2)(a) and (b) are met. Rule 1800 suspends 42 Pa.C.S. § 6331 only as to the time requirement of when a petition is to be filed.

Additionally, paragraph (A)(2) requires that the county agency file a petition. Any other person, other than the county agency, is to file an application to file a petition under Rule 1320. Rule 1800 suspends 42 Pa.C.S. § 6334, which provides any person may file a petition.

For the safety or welfare of a child or a guardian, the court may order that the addresses of the child or a guardian not be disclosed to specified individuals.

A motion for finding of aggravated circumstances may be brought in a dependency petition. See Rule 1701(A). If aggravated circumstances are determined to exist after the filing of a petition, a written motion is to be filed pursuant to Rules 1701 and 1344.

The aggravated circumstances, as defined by 42 Pa.C.S. § 6302, are to be specifically identified in the motion for finding of aggravated circumstances.

Rule 1331. Service of Petition.

A. *Copy.* Upon the filing of a petition, a copy of the petition shall be served promptly upon the child, the child's guardian, the child's attorney, the guardian's attorney, the attorney for the county agency, and the county agency.

B. *Method of Service.*

1) *Child and guardian.* The petition shall be served upon the child and all of the child's guardians by:

- a) certified mail, return receipt requested and first-class mail; or
- b) delivery in-person.

2) *Attorneys and the county agency.* The petition shall be served upon the attorneys and county agency by:

- a) first-class mail;
- b) delivery in-person; or
- c) another agreed upon alternative method.

C. *Proof of service.* An affidavit of service shall be filed prior to the adjudicatory hearing.

Comment

Under paragraph (B)(1), if a parent is not the child's custodial guardian, the parent is to also receive service of the petition. See Rule 1120 for definition of "guardian."

Alternative methods of services that may be utilized under paragraph (B)(2)(c) could be electronic transmission, facsimile, county agency inter-office mail, and other similar methods.

Rule 1333. Separate Petitions and Consolidated Hearing.

A. A separate petition for dependency shall be filed for each child alleged to be dependent.

B. If there are multiple petitions filed alleging the dependency of siblings, there shall be a reference in each petition to the sibling's petition.

C. Petitions alleging the dependency of siblings shall be consolidated for one hearing, unless otherwise ordered by the court.

Rule 1334. Amendment of Petition.

A. *Amendment.*

1) *Mandatory.* The court shall allow a petition to be amended when there is a defect in:

- a) form;
- b) the description of the allegations;
- c) the description of any person or property; or
- d) the date alleged.

2) *Discretionary.* Absent prejudice to any party, the court may allow a petition to be amended if the petition alleges a different set of events or allegations, where the elements or matters of proof by any party are materially different from the elements or matters of proof to the allegation originally petitioned.

B. *Continuance.* Upon amendment, the court may:

- 1) grant a continuance of the adjudicatory hearing; or
- 2) order other relief as is necessary in the interests of justice.

Comment

If a petition is amended, a continuance may be appropriate to allow a party to prepare adequately.

For continuances, see Rule 1122.

Rule 1335. Withdrawal of Petition.

The attorney for the county agency may withdraw the petition. The withdrawal shall be filed with the clerk of courts.

Comment

See Rule 1345 for the procedures on filings and service.

Rule 1336. Re-Filing of the Petition After Withdrawal or Dismissal.

A. *Re-filing.* A petition may be re-filed after the petition has been withdrawn pursuant to Rule 1335 or dismissed by the court.

B. *Motion for dismissal.* The court may entertain a motion by any party to dismiss the re-filed petition.

Comment

If a petition is re-filed, the procedures of Rule 1330 are to be followed. It may be necessary to have a shelter care hearing under the procedures of Rule 1242.

PART D. PROCEDURES FOLLOWING FILING OF PETITION

Rule 1340. Discovery and Inspection.

A. *Informal.* Before any party can seek any disclosure or discovery under these rules, the parties or their counsel shall make a good faith effort to resolve all questions of discovery, and to provide information required or requested under these rules as to which there is no dispute. When there are items requested by one party that the other party has refused to disclose, the demanding party may make an appropriate motion to the court. Such motion shall be made as soon as possible prior to the hearing. In such motion, the party shall state that a good faith effort to discuss the requested material has taken place and proved unsuccessful. Nothing in this rule shall delay the disclosure of any items agreed upon by the parties pending resolution of any motion for discovery.

B. *Mandatory disclosure.*

1) *By the county agency.* In all cases, on request by a party and subject to any protective order which the county agency might obtain under this rule, the county agency shall disclose to a party, all of the following requested items or information, provided they are material to the instant case. The county agency shall, when applicable, permit a party to inspect and copy or photograph such items:

a) the name and last known address of each witness to the occurrence that forms the basis of allegations of dependency unless disclosure is prohibited by law;

b) the name and last known address of each witness who did not witness the occurrence but is expected to testify;

c) copies of any written statements made by any party or witness unless disclosure is prohibited by law;

d) any results or reports of scientific tests or expert opinions that are within the possession or control of the county agency that the county agency intends to use as evidence at a hearing;

e) any police reports, records of prior county agency involvement, or records of current or prior reports involving the Child Protective Services Law, 23 Pa.C.S. § 6301 et seq., that the county agency intends to use as evidence at a hearing;

f) if any physical or mental condition of a party is in controversy, any physical or mental examinations, including oral or written reports that a party intends to use as evidence at the hearing;

g) any tangible objects, including documents, photographs, or other tangible evidence unless disclosure is prohibited by law;

h) the names, addresses, and curriculum vitae of any expert witness that a party intends to call at a hearing and the subject matter about which each expert witness is expected to testify, and a summary of the grounds for each opinion to be offered; and

i) any other evidence that is material to adjudication, disposition, dispositional review, or permanency unless disclosure is prohibited by law, and is within the possession or control of the county agency;

2) *By all other parties.* All other parties shall provide discovery to the county agency and all other parties and shall disclose, all of the following requested items or information that the party intends to use at a hearing, provided they are material to the instant case unless disclosure is prohibited by law. The party shall, when applicable, permit the county agency to inspect and copy or photograph such items:

a) the names and last known addresses of each witness who is expected to testify;

b) copies of any written statements made by any party or witness;

c) any tangible objects, including documents, photographs, or other tangible evidence;

d) the names, addresses, and curriculum vitae of any expert witness that a party intends to call at a hearing and the subject matter about which each expert witness is expected to testify, and a summary of the grounds for each opinion to be offered; and

e) any other evidence that a party intends to introduce at a hearing.

C. *Discretionary.* Upon motion of any party for discovery, the court may order any discovery upon a showing that the evidence is material to the preparation of the case and that the request is reasonable.

D. *Continuing Duty to Disclose.* If, prior to or during a hearing, either party discovers additional evidence or material previously requested or ordered to be disclosed by it, which is subject to discovery or inspection under this rule, or the identity of an additional witness or witnesses, such party promptly shall notify the opposing party or the court of the additional evidence, material, or witness.

E. *Remedy.* If at any time during the course of the proceedings it is brought to the attention of the court that a party has failed to comply with this rule, the court may order such party to permit discovery or inspection, may grant a continuance, or may prohibit such party from introducing evidence or witnesses not disclosed, or it may enter such other order as it deems just under the circumstances.

F. *Protective orders.* Upon a sufficient showing, the court may at any time order that the discovery or inspection be denied, restricted, or deferred, or make such other order as is appropriate to protect the best interests of the child. Upon motion of any party, the court may permit the showing to be made, in whole or in part, in the form of a written statement to be inspected by the court. If the court enters an order granting relief, the entire text of the statement shall be sealed and preserved in the records of the court to be made available to the appellate court(s) in the event of an appeal.

G. *Work Product.* Disclosure shall not be required of legal research or of records, correspondence, reports, or memoranda to the extent that they contain the opinions, theories, or conclusions of the attorney for a party, or members of their legal staffs.

Comment

Discovery under this rule applies to discovery for the adjudicatory hearing, dispositional hearing, dispositional review hearings, or permanency hearings of dependency proceedings governed by the Juvenile Act. See Rule 1100 for scope of rules. See Rule 1123 for production of documents pursuant to a subpoena duces tecum. See also *In re A.H.*, 763 A.2d 873 (Pa. Super. Ct. 2000).

The purpose of paragraph (A) is to encourage an informal discovery process. Only when the informal process fails and there is a genuine dispute as to discovery, should a motion to compel discovery be made. Motions may be oral or written, see Rule 1344.

The items listed in paragraph (B) are to be disclosed to ensure a party has the ability to prepare adequately for the hearing. See *In re J.C.*, 412 Pa. Super. 369, 603 A.2d 627 (1992).

See Rule 1800 for suspension of 23 Pa.C.S. § 6339, which provides for the confidentiality of reports made pursuant to the Child Protective Services Law, 23 Pa.C.S. § 6301 et seq., which is suspended only insofar as the Law is inconsistent with Rule 1340(B)(1)(e), which provides for the disclosure of such reports if the reports are going to be used as evidence in a hearing to prove dependency of a child. It is important to note that this section is only suspended if the reports are going to be used as evidence during a hearing. If the reports are not going to be used, the confidentiality requirements of 23 Pa.C.S. § 6339 still apply. In addition, confidential sources are protected and the name of the source does not have to be disclosed. See 23 Pa.C.S. § 6340 (c) for protection of confidential sources reporting allegations of abuse under the Child Protective Services Law. 23 Pa.C.S. § 6301 et seq.

Under paragraph (C), the following are examples of evidence that may be material to the preparation of the case, but the list is not meant to be exhaustive: 1) domestic violence treatment records; 2) drug and alcohol treatment records; 3) mental health records; 4) medical records; 5) any other evidence specifically identified, provided the requesting party can additionally establish that its disclosure would be in the interests of justice, including any information concerning any person involved in the case who has received either valuable consideration, or an oral or written promise or contract for valuable consideration, for information concerning the case, or for the production of any work describing the case, or for the right to depict the character of the person in connection with his or her involvement in the case. Items listed in this paragraph are subject to rules of confidentiality and this rule is not intended to subrogate those rules.

Under paragraph (C), the court has discretion, upon motion, to order an expert who is expected to testify at a hearing to prepare a report. However, these provisions are not intended to require a prepared report in every case. The court should determine, on a case-by-case basis, whether a report should be prepared. For example, a prepared report ordinarily would not be necessary when the expert is known to the parties and testifies about the same subject on a regular basis. On the other hand, a report might be necessary if the expert is not known to the parties or is going to testify about a new or controversial technique.

It is intended that the remedies provided in paragraph (E) apply equally to all parties, as the interests of justice require.

The provision for a protective order, paragraph (F), does not confer upon any party any right of appeal not presently afforded by law.

In addition to information requested under this rule, an attorney has the right to inspect all court records and files. See Rule 1160.

Rule 1342. Pre-Adjudicatory Conference.

A. *Scope of conference.* At any time after the filing of a petition, upon motion, or upon its own motion, the court may order the parties to appear before it for a conference.

B. *Objections.* The parties shall have the right to record an objection to rulings of the court during the conference.

C. *Record.* The court shall place on the record the agreements or objections made by the parties and rulings made by the court as to any of the matters considered in the pre-adjudicatory conference. Such order shall control the subsequent proceedings unless modified at the adjudicatory hearing to prevent injustice.

Comment

This rule does not prevent other forms of pre-adjudicatory conferences. A judge may order a pre-adjudicatory conference between parties without the judge's presence at the conference to discuss preliminary matters.

Under paragraph (A), the court may consider: 1) the terms and procedures for pre-adjudicatory discovery and inspection; 2) the simplification or stipulation of factual issues, including admissibility of evidence; 3) the qualification of exhibits as evidence to avoid unnecessary delay; 4) the number of witnesses who are to give testimony of a cumulative nature; 5) whether expert witnesses will be called; 6) whether the hearing will be scheduled in front of the master or judge; and 7) such other matters as may aid in the disposition of the proceeding.

PART D(1). MOTION PROCEDURES**Rule 1344. Motions and Answers.**

A. *Generally.* All motions and answers shall be made orally on the record or in writing. An answer to a motion is not required unless ordered by the court or otherwise provided in these rules. Failure to answer shall not constitute an admission of the well-pleaded facts alleged in the motion.

B. *Filings by attorneys.* If a party is represented by an attorney, the attorney shall make or file all motions and answers.

C. *Requirements for motions.* All motions shall comply with the following requirements:

1) The person making a written motion shall sign the motion. The signature shall constitute a certification that the motion is made in good faith. An oral motion shall be made on the record and the oral motion shall constitute a certification that the motion is made in good faith.

2) The motion shall state with particularity the grounds for the motion, the facts that support each ground, and the types of relief or order requested.

3) If the motion sets forth facts that do not already appear of record in the case, a verification shall be included or an oral statement shall be given that the facts set forth in the motion are true and correct to the movant's personal knowledge, information, or belief.

4) If the motion is written, a certificate of service as required by Rule 1345(C) shall be included.

D. *Requirements for answers.* All answers, including those that are required either by court order or otherwise required by these rules, shall comply with the following requirements:

1) The person making the answer shall sign the answer or shall reply to the motion on the record. The

signature or oral answer on the record shall constitute a certification that the answer is being made in good faith.

2) The answer shall meet the allegations of the motion and shall specify the type of relief, order, or other action sought.

3) If the answer sets forth facts that do not already appear of record in the case, a verification shall be included or an oral answer shall include a statement that the facts set forth in the answer are true and correct to the respondent's personal knowledge, information, or belief.

4) If the answer is written, a certificate of service as required by Rule 1345(C) shall be included.

E. *Alternative relief.* Any motion may request such alternative relief as may be appropriate.

Comment

Under paragraph (A), oral motions and answers are permitted because of the emphasis on prompt disposition in juvenile court. Answers to written motions may be made orally if the answer complies with the requirements of this rule.

Under paragraphs (C)(4) and (D)(4), a certificate of service is required for all written motions and answers. See Rule 1345(B) for service of documents and Rule 1345(C) for certificates of service.

Rule 1345. Filing and Service.**A. Filings.**

1) *Generally.* Except as otherwise provided in these rules, all written motions, and any notice or document for which filing is required, shall be filed with the clerk of courts.

2) *Clerk of courts' duties.* Except as provided in paragraph (A)(3), the clerk of courts shall docket a written motion, notice, or document when it is received and record the time of filing in the docket. The clerk of courts promptly shall transmit a copy of these papers to such person as may be designated by the court.

3) *Filings by represented parties.* In any case in which a party is represented by an attorney, if the party submits for filing a written motion, notice, or document that has not been signed by the party's attorney, the clerk of courts shall not file the motion, notice, or document in the child's court file or make a docket entry, but shall forward it promptly to the party's attorney.

4) *Method of filing.* Filing may be accomplished by:

a) personal delivery to the clerk of courts; or

b) mail addressed to the clerk of courts, provided, however, that filing by mail shall be timely only when actually received by the clerk within the time fixed for filing.

B. Service.

1) *Generally.* The party filing the document shall serve the other party concurrently with the filing.

2) *Method of service to parties.* Service on the parties shall be by:

a) personal delivery of a copy to a party's attorney, or, if unrepresented, the party; or

b) mailing a copy to a party's attorney or leaving a copy for the attorney at the attorney's office; or

c) in those judicial districts that maintain in the courthouse assigned boxes for counsel to receive service, leaving a copy for the attorney in the attorney's box; or

d) sending a copy to an unrepresented party by first class mail addressed to the party's place of residence.

C. *Proof of service.* All documents that are filed and served pursuant to this rule shall include a certificate of service.

Comment

See Rule 1166 for maintaining records in the clerk of courts.

Under paragraph (A)(2), the court is to designate a court official to process motions and other matters for appropriate scheduling and disposition.

Under paragraph (B)(1), the party filing a document is required to serve the other party.

This rule does not affect court orders, which are to be served upon each party's attorney and the guardian, if unrepresented, by the clerk of courts as provided in Rule 1167.

For service of petitions, see Rule 1331.

PART D(2). ADJUDICATORY SUMMONS AND NOTICE PROCEDURES

Rule 1360. Adjudicatory Summons.

A. *Summons.* The court shall issue a summons compelling all parties to appear for the adjudicatory hearing.

B. *Order appearance.* The court may order the person having the physical custody or control of the child to bring the child to the hearing.

C. *Requirements.* The summons shall:

- 1) be in writing;
- 2) set forth the date, time, and place of the adjudicatory hearing;
- 3) instruct the child and the guardian about their rights to counsel, and if the child's guardian is without financial resources or otherwise unable to employ counsel, the right to assigned counsel;
- 4) give a warning stating that the failure to appear for the hearing may result in arrest; and
- 5) include a copy of the petition unless the petition has been previously served.

Comment

Section 6335 of the Juvenile Act provides that the court is to direct the issuance of a summons to the parent, guardian, or other custodian, a guardian ad litem, and any other persons as appear to the court to be proper and necessary parties to the proceedings. It also provides for ordering the person having the physical custody or control of the child to bring the child to the proceeding. 42 Pa.C.S. § 6335. Pursuant to Rule 1361, all parents and relatives providing care for the child are to receive notice of the hearing. Under paragraph (A), the custodial guardian is to receive a summons.

Other persons may be subpoenaed to appear for the hearing. See 42 Pa.C.S. § 6333.

Section 6335(a) of the Juvenile Act requires a copy of the petition to accompany the summons. 42 Pa.C.S. § 6335(a). Under paragraph (C)(5), a petition is to be included with the summons and served pursuant to Rule 1363 unless the petition has already been served pursu-

ant to Rule 1331. See Rule 1800 for suspension of 42 Pa.C.S. § 6335, only to the extent that it conflicts with this rule.

See Rule 1128 for presence at proceedings. See Rule 1124 for general summons procedures.

Rule 1361. Adjudicatory Notice.

The court shall give notice of the adjudicatory hearing to:

- 1) the attorney for the county agency;
- 2) the child's attorney;
- 3) the guardian's attorney;
- 4) the parents, child's foster parent, preadoptive parent, or relative providing care for the child;
- 5) the county agency;
- 6) the court appointed special advocate, if assigned; and
- 7) any other persons as directed by the court.

Comment

All parties are to receive a summons pursuant to Rule 1360.

Rule 1363. Service of Summons.

A. *Method of Service.* The summons shall be served:

- 1) in-person; or
- 2) by certified mail, return receipt and first-class mail.

B. *Time of Service.*

1) *Child in custody.* If the child is in protective custody, the summons shall be served no less than seven days prior to the adjudicatory hearing.

2) *Child not in custody.* If the child is not in protective custody, the summons shall be served no less than fourteen days prior to the adjudicatory hearing.

C. *Proof of service.* Affidavit of service shall be filed prior to the adjudicatory hearing.

D. *Efforts Made to Serve.* In the absence of an affidavit of service under paragraph (C), the serving party shall advise the court of what efforts were made to notify a person. The court may proceed to a hearing upon a showing of reasonable efforts to locate and notify all persons pursuant to Rule 1360.

Comment

Pursuant to Rule 1360, all parties are to be served a summons. Pursuant to Rule 1361, the attorneys, the parents, child's foster parent, preadoptive parent, and relative providing care for the child are to receive notice.

A copy of the petition is to be included with the summons unless the petition has already been served pursuant to Rule 1331. See Rule 1360 (C)(5).

Rule 1364. Failure to Appear on the Summons.

If any summoned person fails to appear for the adjudicatory hearing and the court finds that sufficient notice was given, the judge may issue a bench warrant.

PART E. PRESERVATION OF TESTIMONY AND EVIDENCE

Rule 1380. Preservation of Testimony After Commencement of Proceedings.

A. By Court Order.

1) At any time after the commencement of proceedings, upon motion of any party, and after notice and hearing, the court may order the taking and preserving of the testimony of any witness who may be unavailable for the adjudicatory hearing or for any other proceeding, or when due to exceptional circumstances, it is in the interests of justice that the witness' testimony be preserved;

2) The court shall state on the record the grounds on which the order is based;

3) The court's order shall specify the time and place for the taking of the testimony, the manner in which the testimony shall be recorded and preserved, and the procedures for custody of the recorded testimony;

4) The testimony shall be taken in the presence of the court, all parties and their attorneys, unless otherwise ordered; and

5) The court shall rule on the admissibility of the preserved testimony if it is offered into evidence at the adjudicatory hearing or other judicial proceeding.

B. By agreement of the parties.

1) At any time after the commencement of proceedings, the testimony of any witness may be taken and preserved upon the express written agreement of all parties;

2) The agreement shall specify the time and place for taking the testimony, the manner in which the testimony shall be recorded and preserved, and the procedures for custody of the recorded testimony;

3) The testimony shall be taken in the presence of all parties and their attorneys unless they otherwise agree;

4) The agreement shall be filed with the clerk of courts pursuant to Rule 1345(A); and

5) The court shall rule on the admissibility of the preserved testimony if it is offered into evidence at the adjudicatory hearing or other judicial proceeding.

Comment

This rule is intended to provide the means by which testimony may be preserved for use at a current or subsequent stage in the proceedings, which includes the taking of a deposition during the adjudicatory hearing to be used at a later stage of the adjudicatory hearing.

When testimony is to be preserved by video recording, see also Rule 1381.

This rule does not address the admissibility of the preserved testimony. The court is to decide all questions of admissibility. See the Pennsylvania Rules of Evidence.

"May be unavailable," as used in paragraph (A)(1), is intended to include situations in which the court has reason to believe that the witness will be unable to be present or to testify at the adjudicatory hearing or other proceedings, such as when the witness is dying, or will be out of the jurisdiction and therefore can not be effectively served with a subpoena, or may become incompetent to testify for any legally sufficient reason.

Under paragraph (A)(4), the court should preside over the taking of testimony. The court, however, may order that testimony be taken and preserved without the court's presence when exigent circumstances exist or the location

of the witness renders the court's presence impracticable. Furthermore, nothing in this rule is intended to preclude the parties, their attorneys, and the court from agreeing on the record that the court need not be present. Paragraph (B)(3) permits the parties and their attorneys to determine among themselves whether the court should be present during the taking of testimony. That determination should be made a part of the written agreement required by paragraph (B)(1).

Nothing in this rule is intended to preclude the parties from waiving their presence during the taking of testimony.

The means by which the testimony is recorded and preserved are within the discretion of the court under paragraph (A) and the parties under paragraph (B), and may include the use of electronic or photographic techniques such as videotape or digital video diskette. There are, however, additional procedural requirements for preservation of testimony by video recording mandated by Rule 1381.

The party on whose motion testimony is taken should normally have custody of and be responsible for safeguarding the preserved testimony. That party should also promptly provide a copy of the preserved testimony to the other parties. Additionally, this rule is not intended to conflict with the requirements of the Pennsylvania Rules of Judicial Administration. For reporting and transcripts by court-employed reporters, see the Pa.R.J.A. Nos. 5000.1—5000.13.

When testimony is taken under this rule, the proceeding should afford the parties full opportunity to examine and cross-examine the witness. Counsel should not reserve objections at the time of the adjudicatory hearing.

For the definition of "court," see Rule 1120.

Rule 1381. Preservation of Testimony by Video Recording.

A. When the testimony of a witness is taken and preserved pursuant to Rule 1380 by means of video recording, the testimony shall be recorded simultaneously by a stenographer.

B. The following technical requirements shall be made part of the court order required by Rule 1380(A) or the written agreement provided in Rule 1380(B):

1) The video recording shall begin with a statement on camera that includes:

- a) the operator's name and business address;
- b) the name and address of the operator's employer;
- c) the date, time, and place of the video recording;
- d) the caption of the case;
- e) the name of the witness;
- f) the party on whose behalf the witness is testifying; and
- g) the nature of the judicial proceedings for which the testimony is intended;

2) The court and the persons shall identify themselves on camera;

3) The witness shall be sworn on camera;

4) If the length of the testimony requires the use of more than one video recording, the end of each video recording and the beginning of each succeeding video recording shall be announced on camera;

5) At the conclusion of the witness' testimony, a statement shall be made on camera that the testimony is concluded. A statement shall also be made concerning the custody of the video recording(s);

6) Statements concerning stipulations, exhibits, or other pertinent matters may be made at any time on camera;

7) The video recording shall be timed by a digital clock on camera that continually shows the hour, minute, and second of the testimony;

8) All objections and the reasons for them shall be made on the record. When the court presides over the video recording of testimony, the court's rulings on objections shall also be made on the record;

9) When the court does not preside over the video recording of testimony, the video recording operator shall keep a log of each objection, referenced to the time each objection is made. All rulings on objections shall be made before the video recording is shown at any judicial proceeding; and

10) The original video recording shall not be altered.

Comment

This rule provides the basic technical requirements for taking and preserving testimony by video recording under Rule 1380. The list of requirements is not intended to be exhaustive. Rather, it is recommended that all recording by video be carefully planned and executed, and that in addition to complying with the basic requirements, each court order or written agreement for the video recording of testimony be tailored to the nature of the case and the needs of the persons.

Generally, the camera should focus on the witness to the extent practicable.

Under paragraph (B)(9), the court may rule on objections by either reviewing pertinent sections of the video recording, aided by the video operator's log, or by reviewing the stenographic transcript required by paragraph (A).

Any editing procedure ordered by the court or agreed upon by the persons may be used as long as it comports with current technology and does not alter the original video recording. Paragraph (B)(10) is intended to insure preservation of the original video, thereby providing for those situations in which a dispute arises over editing procedures.

This rule authorizes the use of video recording devices only for the preservation of testimony under Rule 1380. It is not intended to affect other rules governing recording devices.

CHAPTER 14. ADJUDICATORY HEARING

Rule	
1401.	Introduction to Chapter Fourteen.
1404.	Prompt Adjudicatory Hearing.
1405.	Stipulations.
1406.	Adjudicatory Hearing.
1408.	Findings on Petition.
1409.	Adjudication of Dependency and Court Order.

Rule 1401. Introduction to Chapter Fourteen.

Under these rules and the Juvenile Act, 42 Pa.C.S. § 6301 et seq., a determination for each case requires separate and distinct findings. First, the court is to hold an adjudicatory hearing, governed by Rule 1406 or accept stipulations, governed by Rule 1405. Second, after hearing the evidence or accepting the stipulations, the court is to make specific findings on the petition as to each

allegation pursuant to Rule 1408, stating with particularity the allegations proven by clear and convincing evidence. Third, after entering its findings, the court is to determine if the child is dependent, pursuant to Rule 1409. If aggravated circumstances are alleged, the court is to determine if aggravated circumstances exist, pursuant to Rule 1705. After the court has made these findings and if the court finds that the child is dependent, the court is to hold a dispositional hearing as provided for in Rule 1512 and is to enter a dispositional order under Rule 1515. Nothing in these rules precludes the court from making these determinations at the same proceeding as long as the requirements of each rule are followed.

Rule 1404. Prompt Adjudicatory Hearing.

A. *Child in custody.* If a child has been removed from the home, an adjudicatory hearing shall be held within ten days of the filing of the petition.

B. *Child not in custody.* If a child has not been removed from the home, the adjudicatory hearing shall be held as soon as practical but within forty-five days of the filing of the petition.

Rule 1405. Stipulations.

A. *Agreements.* At any time after the filing of a petition, any party may present stipulations or agreements by all parties to the court in writing or orally on the record to any or all of the following:

- 1) Findings of fact to be deemed admitted by the parties;
- 2) A statement of the parties' agreement for placement;
- 3) A statement of the parties' agreement for visitation;
- 4) Time frame within which the stipulation shall be in effect;
- 5) Time frame within which court shall review compliance; or
- 6) Any other stipulation or agreement found to be appropriate by the court.

B. *Court action.* The court shall decide whether to accept the stipulations.

1) *Court accepts stipulations.*

a) *Stipulation to all allegations.* If the court accepts the stipulations to all the allegations, the court shall:

- i) take additional testimony as necessary to make an independent determination of dependency; and
- ii) enter its findings pursuant to Rule 1408 and an adjudication of dependency pursuant to Rule 1409.

b) *Stipulations to some allegations or agreements for disposition.* If the parties agree to some allegations or placement, visitation, or other disposition resolutions, the court shall hold an adjudicatory hearing as to the remaining contested allegations in the petition pursuant to Rule 1406, followed by its finding on the petition pursuant to Rule 1408 and an adjudication of dependency pursuant to Rule 1409.

2) *Court rejects stipulations.* If the court rejects the stipulations, the court shall proceed with an adjudicatory hearing pursuant to Rule 1406, followed by its findings on the petition pursuant to Rule 1408 and an adjudication of dependency pursuant to Rule 1409.

Comment

If all parties do not agree to all the allegations in the petition, the court is to hold an adjudicatory hearing as to the remaining allegations pursuant to Rule 1406.

Under paragraph (B)(2), the court may reject the stipulations and proceed to an adjudication of dependency pursuant to Rule 1406.

The court is to make an independent determination that a child is dependent. Before accepting the stipulation the judge is to be satisfied that the facts are credible and solidly based and not the product of speculation as to what the child may do in the future. *In re Mark T.*, 296 Pa. Super. 533, 442 A.2d 1179 (1982). Furthermore, to be accepted by the court, such stipulation is to be joined by all the parties. If accepted by the court, the stipulation has evidentiary value and may be considered alone or in conjunction with other evidence. The judge is to consider all of the evidence presented as well as the relevant law to arrive at a reasoned decision regarding dependency. *In re Michael Y.*, 365 Pa. Super. 488, 530 A.2d 115 (1987). See *In re A.S.*, 406 Pa. Super. 466, 594 A.2d 714 (1991) and 42 Pa.C.S. § 6341.

Rule 1406. Adjudicatory Hearing.

A. *Manner of hearing.* The court shall conduct the adjudicatory hearing in an informal but orderly manner. Prior to commencing the proceedings, the court shall ascertain:

- 1) whether notice requirements pursuant to Rules 1360 and 1361 have been met; and
- 2) whether unrepresented parties have been informed of the right to counsel pursuant to 42 Pa.C.S. § 6337.

B. *Recording.* The adjudicatory hearing shall be recorded. The recording shall be transcribed:

- 1) pursuant to a court order; or
- 2) when there is an appeal.

C. *Evidence.* Each party shall be given the opportunity to:

- 1) introduce evidence;
- 2) present testimony; and
- 3) to cross-examine any witness.

D. *Ex parte Communication.*

1) Except as provided by these rules, no person shall communicate with the court in any way.

2) If the court receives any ex parte communication, the court shall inform all parties of the communication and its content.

Comment

Due process requires that the litigants receive notice of the issues before the court and an opportunity to present their case in relation to those issues. *In re M.B.*, 356 Pa. Super. 257, 514 A.2d 599 (1986), *aff'd*, 517 Pa. 459, 538 A.2d 495 (1988).

A full record of the hearing is to be kept. *In re J.H.*, 788 A.2d 1006 (Pa. Super. Ct. 2001). See also 42 Pa.C.S. § 6336.

Under paragraph (B), notes of testimony should be provided to counsel for a party upon good cause shown. The court may place conditions of release on the notes of testimony. Under paragraph (B)(2), when an appeal is taken, the record is to be transcribed pursuant to Pa.R.A.P. 1922. See Pa.R.A.P. 1911 for request of transcript.

Under paragraph (C), the court is to receive evidence from all interested parties and from objective, disinterested witnesses. The judge's findings should be supported

by a full discussion of the evidence. See *In Re Clouse*, 244 Pa. Super. 396, 368 A.2d 780 (1976).

For application of the Rules of Evidence, see Pa.R.E. 101.

Under paragraph (D), no ex parte communications regarding the facts and merits of the case with the court are to occur. Attorneys and judges understand the impropriety of ex parte communications but many participants are not attorneys or judges. This rule ensures that all parties have received the same information that is being presented to the court so that it may be challenged or supplemented. Normal methods of practice and procedure such as motions, scheduling, communications with court personnel, are not considered ex parte communications. See Pa.R.P.C. Rules 3.5, 3.3(d), and 8.3(a) and the Code of Judicial Conduct, Canons 1, 2, and 3.

Rule 1408. Findings on Petition.

After hearing the evidence on the petition or accepting stipulated facts by the parties but no later than seven days, the court shall enter a finding by specifying which, if any, allegations in the petition were proved by clear and convincing evidence.

Comment

The court is to specify which allegations in the petition are the bases for the finding of dependency.

Rule 1409. Adjudication of Dependency and Court Order.

A. *Adjudicating the child dependent.* Once the court has made its findings under Rule 1408, the court shall enter an order whether the child is dependent.

1) *Dependency.* If the court finds from clear and convincing evidence that the child is dependent, the court shall proceed to a dispositional hearing under Rule 1512.

2) *No dependency.* If the court finds the child not to be dependent or the court finds a parent ready, willing, and able to provide proper parental care or control, the court shall:

- a) dismiss the petition;
- b) order the child to be discharged from custody and any restrictions ordered in the proceedings; and
- c) enter an order identifying individual(s) who will have the legal and physical custody until such order is modified by further order of the court.

B. *Timing.*

1) *Child in custody.* If a child is removed from the home, the court shall enter an adjudication of dependency within seven days of the adjudicatory hearing and enter its findings pursuant to Rule 1408.

2) *Child not in custody.* If a child is not removed from the home and if the court fails to enter an order of dependency, the court shall hold a status hearing every thirty days.

C. *Court order.* The court shall include the following in its court order:

- 1) A statement pursuant to paragraph (A):
 - a) as to whether the court finds the child to be dependent from clear and convincing evidence;
 - b) including the specific factual findings that form the bases of the court's decision;
 - c) including any legal determinations made; and

2) Any orders directing the removal of a child from the home or change in the current residential status, including:

- a) orders as to placement; or
- b) visitation; or
- c) change in custody; and

3) Any orders as to any aids in disposition that may assist in the preparation of the dispositional hearing.

Comment

Before the court can find a child to be dependent, there must be clear and convincing evidence in support of the petition. The burden of proof is on the petitioner. The court's inquiry is to be comprehensive and its findings are to be supported by specific findings of fact and a full discussion of the evidence. *In re LaRue*, 244 Pa. Super. 218, 366 A.2d 1271 (1976). See also *In re Frank W.D., Jr.*, 315 Pa. Super. 510, 462 A.2d 708 (1983); *In re Clouse*, 244 Pa. Super. 396, 368 A.2d 780 (1976). The evidence must support that the child is dependent. *In the Matter of DeSavage*, 241 Pa. Super. 174, 360 A.2d 237 (1976). The court is not free to apply the best interest of the child standard as the requirements of the Juvenile Act, 42 Pa.C.S. § 6341(c), require clear and convincing evidence that the child is dependent is the proper standard. *In re Haynes*, 326 Pa. Super. 311, 473 A.2d 1365 (1983). A child, whose non-custodial parent is ready, willing, and able to provide adequate care for the child, cannot be found dependent on the basis of lacking proper parental care and control. *In re M.L.*, 562 Pa. 646, 757 A.2d 849 (2000). A trial court has the authority to transfer custody or modify custody to the child's non-custodial parent without a finding of dependency if sufficient evidence of dependency would have existed but for the availability of the non-custodial parent. *In re Justin S.*, 375 Pa. Super. 88, 543 A.2d 1192 (1988).

The court is to specify which allegations in the petition are the bases for the finding of dependency pursuant to Rule 1408. The court is to make an adjudication of dependency based upon the allegations in the petition, not on alternative grounds. Due process and fundamental fairness require adequate notice of the allegations to afford a reasonable opportunity to prepare a defense. *In re R.M.*, 567 Pa. 646, 790 A.2d 300 (2002).

Under paragraph (B), if a child is removed from the home, a finding of dependency is to be made within seven days.

Under paragraph (C)(3), aids in disposition may include, but are not limited to, any services, investigations, evaluations, studies, treatment plans, and any other appropriate reports that may aid the court in making its determination at the dispositional hearing. See 42 Pa.C.S. § 6339 for orders of a social study or physical and mental examinations and treatment.

See also 42 Pa.C.S. §§ 6341 & 6302.

CHAPTER 15. DISPOSITIONAL HEARING

PART A. SUMMONS AND NOTICE OF THE DISPOSITIONAL HEARING

Rule	
1500.	Summons for the Dispositional Hearing.
1501.	Dispositional Notice.
1509.	Aids in Disposition.
1510.	prompt Dispositional Hearing.
1511.	Pre-Dispositional Statement.
1512.	Dispositional Hearing.
1514.	Dispositional Finding Before Removal from Home.
1515.	Dispositional Order.
1516.	Service of the Dispositional Order.

PART A. SUMMONS AND NOTICE OF THE DISPOSITIONAL HEARING

Rule 1500. Summons for the Dispositional Hearing.

A. *Summons.* The court may issue a summons compelling any party to appear for the dispositional hearing.

B. *Order appearance.* The court may order the person having the physical custody or control of the child to bring the child to the hearing.

C. *Requirements.* The general summons procedures of Rule 1124 shall be followed.

Comment

Section 6335 of the Juvenile Act provides that the court is to direct the issuance of a summons to the parent, guardian, or other custodian, a guardian ad litem, and any other persons as appear to the court to be proper and necessary parties to the proceedings. 42 Pa.C.S. § 6335(a).

Other persons may be subpoenaed to appear for the hearing. See 42 Pa.C.S. § 6333.

Rule 1501. Dispositional Notice.

The court or its designee shall give notice of the dispositional hearing to:

- 1) all parties;
- 2) the attorney for the county agency;
- 3) the child's attorney
- 4) the guardian's attorney;
- 5) the parents, child's foster parent, preadoptive parent, or relative providing care for the child;
- 6) the court appointed special advocate, if assigned; and
- 7) any other persons as directed by the court.

Rule 1509. Aids in Disposition.

A. *Examinations.* The court may order the child, parent, guardian, or other person being considered as a dispositional placement resource to undergo any examination permitted by law, as it deems appropriate to aid in the decision for disposition.

B. *Experts.* Experts may be utilized during the dispositional hearing. Discovery pursuant to Rule 1340 shall occur prior to the dispositional hearing.

C. *Family Service Plan or Permanency Plan.* If the county agency has completed a family service plan or permanency plan, it shall be given to all parties immediately and submitted to the court upon request.

Comment

Section 6341(e) of the Juvenile Act requires the court to receive reports and other evidence bearing on the disposition. *In re McDonough*, 287 Pa. Super. 326, 430 A.2d 308 (1981).

For discovery rules for the dispositional hearing, see Rule 1340 and its Comments.

Because of time constraints, a family service plan might not be prepared prior to the original dispositional hearing. If the family service plan has been prepared, all parties are to receive the plan to prepare for the dispositional hearing. In all cases, the family service plan is to be completed by the county agency within sixty days of accepting a family for service. See 55 Pa. Code § 3130.61.

Rule 1510. prompt Dispositional Hearing.

If the child has been removed from the home, the dispositional hearing shall be held no later than twenty days after the findings on the petition under Rule 1408.

Comment

For continuances, see 42 Pa.C.S. § 6341(e).

Rule 1511. Pre-Dispositional Statement.

The petitioner shall state its recommended disposition in a pre-dispositional statement. The statement shall be filed with the court at least three days prior to the dispositional hearing.

Comment

This statement may be included in other court documents, such as, the family service plan or petition.

Rule 1512. Dispositional Hearing.

A. *Manner of hearing.* The court shall conduct the dispositional hearing in an informal but orderly manner.

1) *Evidence.* The court shall receive any oral or written evidence which is helpful in determining disposition, including evidence that was not admissible at the adjudicatory hearing.

2) *Opportunity to be heard.* Before deciding disposition, the court shall give the parent, child's foster parent, preadoptive parent, relative providing care for the child and court appointed special advocate, if assigned, an opportunity to make a statement.

B. *Recording.* The dispositional hearing shall be recorded. The recording shall be transcribed:

- 1) pursuant to a court order; or
- 2) when there is an appeal.

C. *Ex parte Communication.*

1) Except as provided by these rules, no person shall communicate with the court in any way.

2) If the court receives any ex parte communication, the court shall inform all parties of the communication and its content.

Comment

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

Paragraph (A)(2) does not infringe on the right to call witnesses to testify, in addition to those specified individuals. See Rule 1123 for subpoenaing a witness.

For transcription of the record under paragraph (B), see also Rule 1127.

Under paragraph (C), no ex parte communications with the court are to occur. Attorneys and judges understand the impropriety of ex parte communications but many participants are not attorneys or judges. This rule ensures that all parties have received the same information that is being presented to the court so that it may be challenged or supplemented. Normal methods of practice and procedure such as motions, scheduling, communications with court personnel, are not considered ex parte communications.

Rule 1514. Dispositional Finding Before Removal from Home.

A. *Required findings.* Prior to entering a dispositional order removing a child from the home, the court shall enter into the record the following specific findings:

1) Continuation of the child in the home would be contrary to the welfare, safety, or health of the child; and

2) One of the following:

a) Reasonable efforts were made prior to the placement of the child to prevent or eliminate the need for removal of the child from the home, if the child has remained in the home pending such disposition; or

b) If preventive services were not offered due to the necessity for emergency placement, whether such lack of services was reasonable under the circumstances; or

c) If the court previously determined that reasonable efforts were not made to prevent the initial removal of the child from the home, whether reasonable efforts are under way to make it possible for the child to return home.

B. *Aggravated circumstances.* If the court has previously found aggravated circumstances to exist and that reasonable efforts to remove the child from the home or to preserve and reunify the family are not required, a finding under paragraphs (A)(2)(a) through (c) is not necessary.

Comment

See 42 Pa.C.S. § 6351(b).

Rule 1515. Dispositional Order.

A. *Generally.* When the court enters a disposition, the court shall issue a written order, which provides that the disposition is best suited to the safety, protection, and physical, mental, and moral welfare of the child. The order shall include:

1) the terms, conditions, and limitations of the disposition;

2) the name of any person or the name, type, category, or class of agency, licensed organization, or institution that is to provide care, shelter, and supervision of the child;

3) any findings pursuant to Rule 1514 if a child is being removed from the home;

4) any ordered evaluations, tests, counseling, or treatments;

5) any ordered family service plan or permanency plan if not already prepared;

6) any visitations, including any limitations;

7) the date of the order; and

8) the signature and printed name of the judge entering the order.

B. *Transfer of legal custody.* If the court decides to transfer legal custody of the child to a person or agency found to be qualified to provide care, shelter, and supervision of the child, the dispositional order shall include:

1) the name and address of such person or agency, unless the court determines disclosure is inappropriate;

2) the limitations of the order; and

3) any visitation rights.

C. *Orders concerning guardian.* The court shall include any conditions, limitations, restrictions, and obligations in its dispositional order imposed upon the guardian.

Comment

See 42 Pa.C.S. §§ 6310, 6351.

45 CFR § 1356.21 provides a specific foster care provider may not be placed in a court order to be compliance with and receive funding through the Federal Financial Participation.

Dispositional orders should comport in substantial form and content to the Juvenile Court Judges' Commission model orders to receive funding under the federal Adoption and Safe Families Act (ASFA) of 1997 (P. L. 105-89). The model forms are also in compliance with Title IV-B and Title IV-E of the Social Security Act. For model orders, see <http://www.jjc.state.pa.us> or <http://www.dpw.state.pa.us> or request a copy on diskette directly from the Juvenile Court Judges' Commission, Room 401, Finance Building, Harrisburg, PA 17120.

See *In re Tameka M.*, 525 Pa. 348, 580 A.2d 750 (1990).

Rule 1516. Service of the Dispositional Order.

Upon entry of the disposition, the court shall issue a dispositional order and the order shall be served promptly upon all parties, their attorneys, and any other person as directed by the court.

CHAPTER 16. POST-DISPOSITIONAL PROCEDURES**PART A. SUMMONS AND NOTICE**

Rule 1600.	Summons for the permanency Hearing.
1601.	Permanency Hearing Notice.

PART B. PERMANENCY HEARING

1607.	Regular Scheduling of Permanency Hearings.
1608.	Permanency Hearing.
1609.	Court Order of Permanency Hearing Determinations.
1613.	Termination of Court Supervision.
1616.	Post-Dispositional Procedures; Appeals (Reserved).

PART A. SUMMONS AND NOTICE**Rule 1600. Summons for the permanency Hearing.**

A. *Summons.* At least fifteen days prior to the permanency hearing, the court may issue a summons compelling any party to appear for the permanency hearing.

B. *Order appearance.* The court may order the person having the physical custody or control of the child to bring the child to the hearing.

C. *Requirements.* The general summons procedures of Rule 1124 shall be followed.

Comment

Section 6335 of the Juvenile Act provides that the court is to direct the issuance of a summons to the parent, guardian, or other custodian, a guardian ad litem, and any other persons as appear to the court to be proper and necessary parties to the proceedings. 42 Pa.C.S. § 6335(a).

Other persons may be subpoenaed to appear for the hearing. See 42 Pa.C.S. § 6333.

Rule 1601. Permanency Hearing Notice.

At least fifteen days prior to the hearing, the court or its designee shall give notice of the permanency hearing to:

- 1) all parties;
- 2) the attorney for the county agency;
- 3) the child's attorney
- 4) the guardian's attorney;

5) the parents, child's foster parent, preadoptive parent, or relative providing care for the child;

6) the court appointed special advocate, if assigned; and

7) any other persons as directed by the court.

PART B. PERMANENCY HEARING**Rule 1607. Regular Scheduling of Permanency Hearings.**

A. *Thirty days.* The court shall conduct permanency hearings within thirty days of:

1) an adjudication of dependency at which the court determined that aggravated circumstances exist and that reasonable efforts to prevent or eliminate the need to remove the child from the child's guardian or to preserve and reunify the family need not be made or continue to be made;

2) a permanency hearing at which the court determined that aggravated circumstances exist and that reasonable efforts to prevent or eliminate the need to remove the child from the child's guardian or to preserve and reunify the family need not be made or continue to be made and the permanency plan for the child is incomplete or inconsistent with the court's determination;

3) an allegation that aggravated circumstances exist regarding a child who has been adjudicated dependent; or

4) a motion alleging that the hearing is necessary to protect the safety or physical, mental, or moral welfare of a dependent child.

B. *Six months.* The court shall conduct a permanency hearing within six months of:

1) the date of the child's removal from the child's guardian for placement pursuant to 42 Pa.C.S. §§ 6324 or 6332, or pursuant to a transfer of legal custody or other disposition pursuant to Rule 1515; or

2) each previous permanency hearing until the child is returned to the child's guardian or removed from the jurisdiction of the court pursuant to Rule 1613.

Comment

See 42 Pa.C.S. § 6351(e)(3).

Rule 1608. Permanency Hearing.

A. *Purpose of hearing.* For every case, the court shall conduct a permanency hearing for purposes of determining or reviewing:

- 1) the permanency plan of the child;
- 2) the date by which the goal of permanency for the child might be achieved; and
- 3) whether the placement continues to be best suited to the safety, protection, and physical, mental, and moral welfare of the child.

B. *Court's findings.* At the permanency hearing, the court shall making findings consistent with 42 Pa.C.S. § 6351(f).

C. *Recording.* The permanency hearing shall be recorded. The recording shall be transcribed:

- 1) pursuant to a court order; or
- 2) when there is an appeal.

D. *Evidence.* Any evidence helpful in determining the appropriate course of action, including evidence that was not admissible at the adjudicatory hearing, shall be presented to the court.

E. *Family Service Plan or Permanency Plan.* The county agency shall review the family service plan or permanency plan at least every six months. If the plan is modified, the county agency shall provide all parties and when requested, the court, with the modified plan at least fifteen days prior to the permanency hearing.

Comment

See 42 Pa.C.S. §§ 6341, 6351.

Permanency planning is a concept whereby children are not relegated to the limbo of spending their childhood in foster homes, but instead, dedicated effort is made by the court and the county agency to rehabilitate and reunite the family in a reasonable time, and failing in this, to free the child for adoption. *In re M.B.*, 449 Pa. Super. 507, 674 A.2d 702 (1996) quoting *In re Quick*, 384 Pa. Super. 412, 559 A.2d 42 (1989).

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

Under paragraph (B), the court is to make a finding consistent with 42 Pa.C.S. § 6351(f), in that the court is to determine all of the following: 1) the continuing necessity for and appropriateness of the placement; 2) the appropriateness, feasibility, and extent of compliance with the permanency plan developed for the child; 3) the extent of progress made toward alleviating the circumstances which necessitated the original placement; 4) the appropriateness and feasibility of the current placement goal for the child; 5) the likely date by which the placement goal for the child might be achieved; 6) whether reasonable efforts were made to finalize the permanency plan in effect; 7) whether the child is safe; 8) if the child has been placed outside the Commonwealth, whether the placement continues to be best suited to the safety, protection, and physical, mental, and moral welfare of the child; 9) the services needed to assist a child who is sixteen years of age or older to make the transition to independent living; and 10) if the child has been in placement for at least fifteen of the last twenty-two months or the court has determined that aggravated circumstances exist and that reasonable efforts to prevent or eliminate the need to remove the child from the child's guardian or to preserve and reunify the family need not be made or continue to be made, whether the county agency has filed or sought to join a motion to terminate parental rights and to identify, recruit, process, and approve a qualified family to adopt the child unless: a) the child is being cared for by a relative best suited to the physical, mental, and moral welfare of the child; b) the county agency has documented a compelling reason for determining that filing a motion to terminate parental rights would not serve the needs and welfare of the child; or c) the child's family has not been provided with necessary services to achieve the safe return to the child's guardian within the time frames set forth in the permanency plan.

For family service plan requirements, see 55 Pa. Code §§ 3130.61 and 3130.63.

Rule 1609. Court Order of Permanency Hearing Determinations.

A. *Findings.* After every permanency hearing, the court shall issue a written order, which provides whether the permanency plan is best suited to the safety, protection, and physical, mental, and moral welfare of the child.

B. *Determination made.* The court's order shall reflect a determination made consistent with 42 Pa.C.S. § 6351(f.1).

C. *Transfer of legal custody.* If the court decides to transfer permanent legal custody of the child to a person found to be qualified to provide care, shelter, and supervision of the child, the permanency order shall include:

- 1) the name and address of such person unless disclosure is prohibited by court order;
- 2) the limitations of the order; and
- 3) any temporary visitation rights of parents.

D. *Orders concerning guardian.* The court shall include any conditions, limitations, restrictions, and obligations in its permanency order imposed upon the guardian.

Comment

Under paragraph (B), the court's order is to reflect whether: 1) If the court finds that return of the child is best suited to the safety, protection, and physical, mental, and moral welfare of the child, the court shall specify: a) the conditions of the return of the child; and b) the projected date of the return of the child; or 2) If the court finds that the return of the child is not best suited to the safety, protection, and physical, mental, and moral welfare of the child, the court shall determine if and when the child will be placed: a) for adoption and the county agency will file for termination of parental rights pursuant to Pa.O.C.R., Rule 15.4; b) with a legal custodian; c) with a fit and willing relative; or d) in another living arrangement intended to be permanent in nature which is approved by the court and where the county agency has documented a compelling reason explaining why options under (a) through (c) are not feasible.

Rule 1613. Termination of Court Supervision.

A. *Concluding Supervision.* Any party, or the court on its own motion, may move for the termination of supervision when court-ordered services from the county agency are no longer needed and:

- 1) a ready, willing, and able parent has come forward;
- 2) the child has been adopted;
- 3) the court has transferred jurisdiction to another court;
- 4) the child is eighteen years old and no longer wants service;
- 5) the court has found other reasons for termination of court supervision; or
- 6) a) the family has completed the terms of the family service plan or permanency plan; and
b) the child is returned to the guardian.

B. *Ready, willing, and able parent.* When services from the county agency are no longer necessary because the court has determined that the child is not dependent pursuant to paragraph (A)(2) because a non-custodial parent has been found by the court to be able and available, the court shall enter an order awarding custody to that parent and the court order shall have the effect and be docketed as a decision entered pursuant to Pa.R.C.P.

C. *Objection.* Any party may object to a motion under paragraphs (A) and request a hearing.

D. *Hearing.* If objections have been made under paragraph (C), the court shall hold a hearing and give each party an opportunity to be heard before the court enters its final order.

E. *Cessation of services.* When all of the above listed requirements have been met, the court may discharge the child from its supervision and close the case.

Comment

For procedures on motions, see Rule 1344. For procedures on the dispositional order, see Rule 1515. See also, 42 Pa.C.S. § 6351.

Pursuant to 42 Pa.C.S. § 6351(a)(2.1), a court may transfer permanent legal custody to a person found by the court to be qualified to receive and care for the child. 42 Pa.C.S. § 6351(a)(2.1). See also Justin S., 375 Pa. Super. 88, 543 A.2d 1192 (1988).

Rule 1616. Post-Dispositional Procedures; Appeals (Reserved).

CHAPTER 17. AGGRAVATED CIRCUMSTANCES

Rule	
1701.	Motion for Finding of Aggravated Circumstances.
1702.	Filing of Motion for Finding of Aggravated Circumstances.
1705.	Adjudication of Aggravated Circumstances.

Rule 1701. Motion for Finding of Aggravated Circumstances.

A. *Dependency Petitions.* A motion for finding of aggravated circumstances may be included in a dependency petition pursuant to Rule 1330.

B. *Motion for Aggravated Circumstances.* If it is determined that aggravated circumstances exist after the filing of the petition, a request for a finding of aggravated circumstances shall be made by motion pursuant to Rule 1344. The motion shall be written.

Comment

See 42 Pa.C.S. §§ 6302, 6334(b).

Under paragraph (B), all motions for a finding of aggravated circumstances are to be written. Oral motions under Rule 1344 do not apply to motions for finding of aggravated circumstances.

The aggravated circumstances, as defined by 42 Pa.C.S. § 6302, are to be specifically identified in the motion for finding of aggravated circumstances.

Rule 1702. Filing of Motion for Finding of Aggravated Circumstances.

A motion for finding of aggravated circumstances shall be filed with the clerk of courts by the county agency as soon as possible but no later than twenty-one days from the determination by the county agency that aggravated circumstances exist.

Comment

See 42 Pa.C.S. § 6334(b).

Rule 1705. Adjudication of Aggravated Circumstances.

A. *Finding after adjudication of dependency.* After a finding of dependency pursuant to Rule 1409, the court shall determine if aggravated circumstances exist.

B. *Reasonable efforts.* If the court finds aggravated circumstances exist, the court shall determine whether reasonable efforts to prevent or eliminate the need for removing the child from the home or to preserve and reunify the family shall be made or continue to be made and the court shall proceed to a dispositional hearing under Rule 1512.

C. *Court order.* If the court finds that reasonable efforts pursuant to paragraph (B) were made, the court shall include a statement in its order to that effect.

Comment

Under paragraph (A), the court is to find a child dependent before determining if aggravated circumstances exist. See 42 Pa.C.S. § 6341(c.1). The petition may be amended to include aggravated circumstances pursuant to Rule 1330(C).

A statement as to whether reasonable efforts were made under paragraph (B) are to be included in the court order under Rule 1409(C).

CHAPTER 18. SUSPENSIONS

Rule	
1800.	Suspensions of Acts of Assembly.

Rule 1800. Suspensions of Acts of Assembly.

This rule provides for the suspension of the following Acts of Assembly that apply to dependency proceedings only:

1) The Act of July 9, 1976, P. L. 586, No. 142, § 2, 42 Pa.C.S. § 6335(c), which provides for the issuance of arrest warrants if the child may abscond or may not attend or be brought to a hearing, is suspended only insofar as the Act is inconsistent with Rule 1124, which requires a summoned person to fail to appear and the court to find that sufficient notice was given.

2) The Act of July 9, 1976, P. L. 586, No. 142, § 2, 42 Pa.C.S. § 6336(c), which provides that if a proceeding is not recorded, full minutes shall be kept by the court, is suspended only insofar as the Act is inconsistent with Rules 1127(A) & 1242(B)(2), which requires all proceedings to be recorded, except for shelter care hearings.

3) The Act of July 9, 1976, P. L. 586, No. 142, § 2, 42 Pa.C.S. § 6311(b)(9), which provide that there is not a conflict of interest for the guardian ad litem in communicating the child's wishes and the recommendation relating to the appropriateness and safety of the child's placement and services necessary to address the child's needs and safety, is suspended only insofar as the Act is inconsistent with Rule 1151, which allows for appointment of separate legal counsel and a guardian ad litem when the guardian ad litem determines there is a conflict of interest between the child's legal interest and best interest.

4) The Act of July 9, 1976, P. L. 586, No. 142, § 2, 42 Pa.C.S. § 6337, which provides that counsel must be provided unless the guardian is present and waives counsel for the child, is suspended only insofar as the Act is inconsistent with Rule 1152, which does not allow a guardian to waive the child's right to counsel and a child may not waive the right to a guardian ad litem.

5) The Act of July 9, 1976, P. L. 586, No. 142, § 2, 42 Pa.C.S. § 6305(b), which provides that the court may direct hearings in any case or classes of cases be conducted by the master, is suspended only insofar as the Act is inconsistent with Rule 1187, which allows masters to hear only specific classes of cases.

6) The Act of July 9, 1976, P. L. 586, No. 142, § 2, 42 Pa.C.S. § 6324, which authorizes law enforcement officers to take a child into custody, is suspended only insofar as the Act is inconsistent with Rule 1202, which provides for police officers taking a child into custody.

7) The Act of July 9, 1976, P. L. 586, No. 142, § 2, 42 Pa.C.S. § 6331, which provides for the filing of a petition with the court within twenty-four hours or the next business day of the admission of the child to shelter care, is suspended only insofar as the Act is inconsistent with the filing of a petition within twenty-four hours or the

next business day from the shelter care hearing if the child is in protective custody under Rules 1242 and 1330(A).

8) The Act of July 9, 1976, P. L. 586, No. 142, § 2, 42 Pa.C.S. § 6334, which provides that any person may bring a petition, is suspended only insofar as the Act is inconsistent with Rules 1320, 1321, and 1330, which provide that the county agency may file a petition and any other person shall file an application to file a petition.

9) The Act of December 19, 1990, P. L. 1240, No. 206, § 2, 23 Pa.C.S. § 6339, which provides for the confidentiality of reports made pursuant to the Child Protective Services Law, 23 Pa.C.S. § 6301 et seq., is suspended only insofar as the Law is inconsistent with Rule 1340(B)(1)(e), which provides for the disclosure of such reports if the reports are going to be used as evidence in a hearing to prove dependency of a child.

10) The Act of July 9, 1976, P. L. 586, No. 142, § 2, 42 Pa.C.S. § 6335, which provides that a copy of the petition is to accompany a summons, is suspended only insofar as the Act is inconsistent with Rule 1360, which provides that the summons is to include a copy of the petition unless the petition has been previously served.

Comment

The authority for suspension of Acts of Assembly is granted to the Supreme Court by Article V § 10(c) of the Pennsylvania Constitution. See also Rule 1102.

INTRODUCTION

The Supreme Court of Pennsylvania has adopted the Rules of Juvenile Court Procedure—Dependency Matters. The Rules will secure uniformity and simplicity in dependency procedure throughout juvenile courts in this Commonwealth.

The following explanatory Report highlights the history of the Committee, the process of rule-drafting, and the Committee's considerations in formulating the Rules of Juvenile Court Procedure. Please note that the Committee's Reports should not be confused with the official Committee Comments to the Rules. Also note that the Supreme Court does not adopt the Committee's Comments or the contents of the explanatory Report.

EXPLANATORY REPORT

History of the Committee

The Supreme Court of Pennsylvania established the Juvenile Court Procedural Rules Committee on January 22, 2001. After working on delinquency matters for over two years and one half years, the Committee shifted its focus to dependency matters.

In October of 2003, the Committee met with several leaders in the dependency field to begin discussions on Rules for dependency matters of the juvenile court. After this initial meeting, it was determined that procedural rules in the juvenile court for dependency matters were imperative. The Committee began surveying judicial districts on all aspects of the dependency court.

The Committee held many meetings and thoroughly discussed the local practices, statutory and case law, the Rules of Juvenile Court Procedure—Delinquency Matters, and other sources. The Committee drafted rules of procedure for dependency matters and published those rules on August 13, 2005. After receiving many comments, the Committee met in November of 2005 to discuss the public comment and made necessary modifications to its recommendation. In January of 2006, the Committee sent its

final recommendation to the Court on dependency matters. The Court adopted the Rules of Juvenile Court Procedure—Dependency Matters on August 21, 2006. The Rules will become effective February 1, 2007.

The Rules Generally

The Committee has presented the rules in an order that tracks the dependency system from beginning to end. The Committee used its delinquency rules as a starting point in tracking the dependency system. Chapter Eleven sets forth the general provisions and the provisions related to the business of the courts that apply throughout the juvenile court process. Chapter Twelve deals with the commencement of proceedings, orders for protective custody, and the procedures after a child is taken into protective custody, including the shelter care hearing. Chapter Thirteen provides for the procedures on venue & transfer, the filing of a petition, discovery, motions, summons and notice, and preservation of testimony and evidence. Chapter Fourteen sets forth the adjudicatory hearing procedures. Chapter Fifteen provides for the procedures for the dispositional hearing. Chapter Sixteen provides for the post-dispositional procedures, including permanency hearings. Chapter Seventeen provides for aggravated circumstances procedures. Finally, Chapter Eighteen, provides for suspensions of Acts of Assembly.

The new rules also will create uniformity in terminology, which will additionally facilitate the statewide practice of law. For example, the Rules use the term "emergency custody application" to describe the document, which is used to place a child into protective custody, and which is completed by a person asking the court to review the case informally. Throughout the rules, the term "application" is used to describe a document that is submitted to court prior to any formal court action. Once proceedings have been commenced, a motion is the appropriate course of action for further requests.

The Committee begins the dependency rules in Chapter Eleven. Chapters One through Ten pertain to delinquency matters. In many instances, the dependency rule corresponds to a delinquency rule by adding a 1000 to the dependency rule. For example, Rule 1100 corresponds to Rule 100, and Rule 1401 corresponds to Rule 401, with respect to the same subject matter.

The Committee used the corresponding delinquency rule as a beginning point for discussion when applicable. In many instances, the rules are similar in text.

Chapter Eleven

The general provisions are Rules 1100—1102. Business of courts is covered in Part A, Rules 1120—1135. Part B(1) addresses examination and treatment of a child in Rule 1145. Part B(2) addresses counsel, Rules 1150—1158. Records are covered in Part C, Rules 1160—1167. Part D addresses masters in Rules 1185—1191.

General Provisions

Rule 1100—Scope of Rules.

Rules in Chapters Eleven through Twenty (Rules 1100—2099) govern dependency matters.

Rule 1101—Purpose and Construction.

The Committee wanted to emphasize that the rules are to secure uniformity and simplicity in procedure, fairness in administration, just determination and to be construed to effectuate the purposes of the Juvenile Act.

Rule 1102—Citing the Juvenile Court Procedural Rules.

The citation, Pa.R.J.C.P. was the citation chosen by the Committee for delinquency matters. Dependency matters

will have the same citation but as stated in the scope of rules, dependency matters are covered in Chapters Eleven through Twenty; whereas, delinquency matters are in Chapters One through Ten.

Part A—Business of Courts

Rule 1120—Definitions.

This rule clarifies terminology used throughout the Rules of Juvenile Court Procedure.

The term “child” describes a dependent child. A person may remain in a course of treatment after the age of twenty one; however, this person, although engaged in treatment, is no longer dependent or governed by the dependency rules.

The term “police officer” is defined to include other persons who possess the power of arrest when acting within the scope of employment, such as a probation officer.

The Committee has used the term “petition” throughout the rules to describe the formal document by which a child is alleged to be dependent. Any other document traditionally labeled “a petition” has been changed to either a motion or an application to prevent confusion. A motion is brought once there is formal court action, which would be after a petition is filed. The Motions Rule 1344 requires filing and service pursuant to Rule 1345. This ensures every party is aware of the request by being served with a copy. An application is filed upon the court when there is no docket number, which would be prior to the filing of a petition.

Rule 1121—Local Rules.

This rule is very similar in text to the Pa.R.J.C.P.—Delinquency Matters, Rule 121, Pa.R.Crim.P. 105 and the Pa.R.C.P. 239. The Committee decided to follow the same procedures as these other rules to help the practitioner.

To enable the Supreme Court and the Committee to regulate and monitor local rules, and to ensure that local rules are in compliance with the Pennsylvania Rules of Juvenile Court Procedure, and to ensure that local practices do not inhibit the statewide practice of law, this rule requires all local rules be vacated at the time these rules become effective. This does not mean all local rules have to be redrafted in their entirety. After reviewing their local rules for consistency and conformity with the new statewide rules, each judicial district may only need to repropulgate their rules after rekeying the rule numbers.

Rule 1122—Continuances.

The Committee felt that a general rule on continuances was necessary. The court must look at all the circumstances when determining if a continuance is appropriate.

The Committee also discussed the status of a summons when a case is continued, and concluded the summons does not have to be reissued if the party is notified of the date, place, and time of the rescheduled hearing. This will save time and expense for each judicial district.

Rule 1123—Subpoenas.

The Committee wanted to ensure that subpoenas are uniform throughout the Commonwealth. This rule addresses the minimal contents of a subpoena, service, duration, and the allowance of bench warrants.

A subpoena must remain in force until the end of the proceedings; therefore, there only needs to be one subpoena for a three-day hearing. The person is considered subpoenaed until the proceedings have concluded.

Rule 1124—Summons and Notice.

The Committee wanted to ensure that the summons and notice was uniform throughout the Commonwealth. This rule addresses the requirements of the summons, method of service, and the allowance of bench warrants.

Summonses are issued to bring parties to the proceedings. Notices go to all other persons who need to be present, such as, attorneys, caseworkers, foster parents and other interested individuals. Subpoenas governed by Rule 1123 are issued to bring all witnesses and individuals who will be testifying.

Rule 1126—Defects in Form, Content, or Procedure.

The Committee wanted to ensure that cases are not dismissed because of a typographical error or non-prejudicial error.

Rule 1127—Recording and Transcribing Juvenile Court Proceedings.

The Committee debated which hearings should be recorded. After extensive discussions, the Committee strongly believed that all hearings, except shelter care hearings, should be recorded for proper review, including appellate review.

Some form of record or transcript is necessary to permit meaningful consideration of claims of error and effective appellate review. See, e.g., Pa.R.A.P. 1922, 1923, 1924: *Commonwealth v. Fields*, 387 A.2d 83 (Pa. 1978); *Commonwealth v. Shields*, 383 A.2d 844 (Pa. 1978).

Rule 1128—Presence at Proceedings.

All parties are to be present at any proceeding; however, the court may proceed in the absence of a party if good cause is shown or the court has excluded a party for good cause. If a party is absent or excluded, counsel must be present. In no case may the court proceed without the child’s attorney.

There are several instances when the court has good cause to proceed without a party. For example, if the child is one year old and could not offer any testimony or assist his or her attorney, or when a party has received notice and willfully fails to attend, and many other reasons deemed appropriate by the court for good cause.

Rule 1130—Public Discussion by Court Personnel of Pending Matters.

The Committee felt it was important to include prohibitions on divulgence of information concerning a child in matters that are closed proceedings, held in chambers, or otherwise outside of the presence of the public.

Rule 1133—Motion to Intervene.

This rule provides an avenue for non-parties to move the court for intervention. A person must show a substantial, direct, and immediate interest in the case.

A motion may be denied if there are insufficient grounds for the intervention, the interest of the movant is already adequately represented, the motion for intervention was unduly delayed, or the intervention will unduly delay or prejudice the adjudication of dependency or the rights of the parties.

Part B(1)—Examination and Treatment of Child

Rule 1145—Application or Motion for Examination and Treatment of a Child.

This rule provides a mechanism for asking the court for examination and treatment of a child. Paragraph (A) is meant to address emergency situations when a depen-

dependency petition has not been filed yet. Paragraph (B) provides for a motion for examination and treatment after the filing of a dependency petition. When filing the motion, all parties must be served and be apprised of the request. For motion procedures, see Rule 1344.

The legal custodian of the child, including the county agency, has statutory authority to treat a child for routine medical care and no motions are necessary. See 42 Pa.C.S. § 6357. For non-routine treatment, the county agency must comply with the provisions of 55 Pa. Code §§ 3130.91 and 3680.52.

Part B(2)—Counsel

Rule 1150—attorneys—Appearances and Withdrawals.

The Committee discussed at length the issue of duration of counsel's representation. The Committee decided to follow its recommendation in the delinquency rules (Rule 150) in that counsel must stay in the case until the closing of the case, including direct appeals and permanency reviews. The Committee noted that it was important that the child have one attorney, whenever possible, through the process of the dependency system for stability and security.

If counsel has good cause for withdrawing from the case, this rule allows withdrawals in those cases. The court should look at all the circumstances when allowing withdrawal, especially if a party will be prejudiced or the proceedings will be delayed.

Rule 1151—Assignment of Guardian ad litem and Counsel.

This rule provides when a child must receive a guardian ad litem and when a child must receive legal counsel. In some instances, a child may need both a guardian ad litem and legal counsel when there is a conflict of interest. Section 6311(b)(9) of 42 Pa.C.S. was suspended to the extent that the attorney decides if there is a conflict of interest after evaluating his or her interpretation of the Rules of Professional Conduct under the circumstances of each case. The attorney may petition the court for another attorney. The attorney is subject to the Rules of Professional Conduct and discipline by the Disciplinary Board of the Supreme Court of Pennsylvania, so it is crucial that the attorney evaluate each particular case.

The Comment to this rule provides that the Guardian ad litem may move for appointment as legal counsel and an appointment of a new guardian ad litem. The Committee felt that in most situations, the reasons for the conflict could be used to the child's detriment so the Guardian ad litem should not use this information against the child. The Guardian ad litem then takes the role as legal counsel and the new guardian ad litem is not privy to this sensitive information. See ABA Standards on counsel.

Rule 1152—Waiver of Counsel.

The Committee agreed, as in the delinquency rules, that a child may waive legal counsel. The waiver must be knowingly, intelligently, and voluntarily made and the court must be assured that the child understands the benefits of counsel. If the court finds that the child has made an intelligent and voluntary choice, the court may appoint stand-by counsel to assist the child. It is understood that some children are too young to make this decision but the court is in the best position to consider all the factors of each case.

The Committee has also decided to recommend that a child may not waive the right to a guardian ad litem. The

Committee felt in all these cases that there was a need for someone to represent the child's best interest.

Part C—Records

Part (C)(1)—Access to Juvenile Court Records

Rule 1160—Inspection of Juvenile Court File/Records.

The provisions of this rule are taken from the Juvenile Act. Because this is a procedural area, the Committee believed it was necessary to include this provision in the rules. Certain other sections of the Juvenile Act were not incorporated into the dependency rules because they deal strictly with delinquent juveniles.

Part (C)(2)—Maintaining Records

Rule 1165—Design of Forms.

This rule provides for the designing and publishing of forms that may be helpful in implementing these rules.

Rule 1166—Maintaining Records in the Clerk of Courts.

In its surveys, the Committee found problems in record maintenance by the clerk of courts. This rule establishes how entries are to be made, the content of docket entries, and the custody of record. This will enable a proper record for appellate review.

It was also noted in the surveys that the county agency acts as the clerk of courts in some counties. Rule 1120 does not allow the agency to act and perform the duties of the clerk of courts because they are a party to the proceeding. See Comment to Rule 1120.

Rule 1167—Filings and Service of Court Orders and Notices.

This rule provides for the filings and service of court orders and notices. The Committee tried to anticipate the advances in technology by providing, as methods of service, service by facsimile transmission or other electronic means, if requested.

All court orders are to be issued by the court; however, the court may choose another designee to serve the orders or notices on its behalf.

Part D—Proceedings in Cases Before Master

Rule 1185—Appointment to Cases.

The Committee expressed concern about allowing masters to practice in the same judicial district where they preside, noting the practice creates a conflict of interest; therefore, this was made a prohibited practice. This prohibition is consistent with what the Committee learned from its surveys; in the majority of the judicial districts, masters are not practicing in juvenile courts.

Rule 1187—Authority of Master.

A major issue for the Committee concerned whether masters should be limited in the types of cases they should hear. After several discussions and receiving public comment, the Committee decided to recommend that masters should not hear termination of parental rights, adoptions, and any hearings in which any party seeks to establish a permanency goal of adoption or change the permanency goal to adoption.

It is understood that in most instances, termination of parental rights and adoptions are heard in Orphans' Court; however, under 42 Pa.C.S. § 6351(i), a judge may switch hats and serve as the judge to decide those issues. The Committee wanted to ensure that the judge did not assign these important decisions to a master.

The Committee also felt that if a party was going to seek adoption as a permanency goal, a judge needed to

make that important decision. Once an adoption has been approved by a judge, a master can hear subsequent hearings.

This rule also provides that at every hearing before the master, the parties should be informed of the right to a hearing before the judge. If a party chooses to exercise this right, the matter shall be heard by the judge. This provision is taken from the Juvenile Act. See 42 Pa.C.S. § 6305(b).

Rule 1190—Stipulations Before Master:

This rule allows masters to hear any stipulation in any classes of cases that they are permitted to hear under Rule 1187.

Rule 1191—Master's Findings and Recommendation to the Judge.

This rule requires the master to submit a recommendation to the juvenile court judge within two business days. Masters' decisions are subject to approval of the judge. A judge must approve the findings and recommendation. The master may NOT use orders that have been pre-stamped with the judge's signature. The two-day requirement will expedite judicial action to resolve a matter as soon as possible.

The Comment to this rule provides that the court may promulgate a form for the master to utilize. The form may take the structure of a court order for the court to sign and adopt after careful review.

When the judge in rejecting the master's recommendation, modifies a factual determination, a rehearing must be conducted. The judge may reject the master's findings and enter a new finding or disposition without a rehearing if there is no modification of factual determinations. See *In re Perry*, 459 A.2d 789 (Pa. Super. Ct. 1983).

Chapter Twelve

Part A, Rule 1200—1202 provides for commencement of proceedings, procedures for protective medical custody, and protective custody by police and the county agency. Part B, Rule 1210 provides for the court order for protective custody. Part C provides for the shelter care application and hearing in Rules 1240—1243.

Part A—Commencing Proceedings

Rule 1200—Commencing Proceedings.

This rule provides the methods of commencing proceedings in a dependency case. In addition to the filing of a dependency petition, proceedings are commenced if a child is taken into protective custody, an emergency custody application is submitted, the court accepts jurisdiction of a resident child from another state, or the court accepts supervision of a child pursuant to another state's order. The Committee chose the emergency custody application procedure to ensure notice is given to the proper parties, a petition is filed, a child receives the necessary support from the county agency, and several other procedures occur.

Rule 1201—Procedures for Protective Medical Custody.

This rule ensures that a child is not held in protective custody by a hospital or other medical institution for more than twenty-four hours. The county agency must be notified to obtain a court order for the child to be held for longer than twenty-four hours.

Rule 1202—Procedures for Protective Custody by Police and County Agency.

This rule provides for whether a court order is necessary when a child is taken into protective custody. If a

child is taken into custody without a court order, a court order must be obtained within twenty-four hours. Additionally, the guardian must be notified of such custody, the reasons for the custody, and the whereabouts of the child, unless the court has prohibited disclosure of the child's whereabouts for the protection and safety of the child.

Part B—Emergency Custody

Rule 1210—Order for Protective Custody.

This rule provides for oral applications for protective custody; however, the request must be reduced to writing within twenty-four hours. This allows for requests and orders after normal business hours that may be reduced to writing by the next day within twenty-four hours.

Part C—Shelter Care

Rule 1240—Shelter Care Application.

A shelter care application must be filed within twenty-four hours of taking a child into protective custody. A dependency petition may be filed in lieu of the shelter care application.

Rule 1241—Notification of Shelter Care Hearing.

Notice of the shelter care hearing, including date, time, place, and purpose, is provided for by this rule.

Rule 1242—General Conduct of Shelter Care Hearing.

This rule provides for the requirements at the shelter care hearing, including informing parties of their rights, the manner of the hearing, the findings of the court, the prompt hearing requirement, and the contents of the court order.

Rule 1243—Shelter Care Rehearings.

The Juvenile Act provides for rehearings if a guardian was not notified of the hearing. The Committee has built into this rule the requirement that a guardian submit an affidavit alleging he or she was not notified of the hearing and would like the opportunity to be heard. This requirement is designed to limit the number of rehearings by the court but allow the guardian to be heard if requested. There may be instances in which the guardian agrees with the decision of the hearing although the guardian was not present, and no rehearing is necessary.

Chapter Thirteen

Chapter Thirteen addresses the pre-adjudicatory procedures. Part A encompasses venue and inter-county transfer in Rules 1300—1302. Part B addresses an application for a private petition and a hearing in Rules 1320—1321. The filing of a petition and pertinent procedures surrounding the petition are included in Part C, Rules 1330—1336. For procedures following the filing of a petition, see Part D, Rules 1340—1364, including discovery, motions, service, summons, and notice. Part E, Rules 1380—1381 includes provisions on preservation of testimony and evidence.

Part A—Venue

Rule 1300—Venue.

A proceeding may be commenced in the county in which the child is present or in the child's county of residence. The Committee thought of several scenarios when a transfer to another county may be beneficial so added a procedure that allows a motion for change of venue for convenience of the parties and witnesses.

Rule 1302—Inter-County Transfer.

Several counties transfer cases before, during, and at the conclusion of the case. This rule provides for trans-

mission of the juvenile court file, including all pertinent information, to the court accepting the case or disposition.

Part B—Application for Private Petition

Rule 1320—Application to File a Private Petition.

Any person, other than the county agency, must present an application to file a private petition to the court. In addition to the petition requirements, the person must explain the relationship to the child and to other parties. Preliminary objections may be made by any party.

Persons who have a legitimate dependency petition will be granted permission to file a petition. This rule is designed to stop parties from litigating domestic relations custody matters in juvenile court.

Rule 1321—Hearing on Application for Private Petition.

This rule requires the court to conduct a hearing within fourteen days of the presentation of an application for a private petition. If the court finds that there are sufficient facts to support a dependency petition, and the court determines that the applicant is a proper party to the proceeding, the court is to authorize the filing of a dependency petition pursuant to Rule 1330.

Part C—Petition

Rule 1330—Petition: Filing, Contents, Function, Aggravated Circumstances.

Section 6334 of the Juvenile Act was suspended to the extent that any person, other than the county agency, must first file an application to file a petition pursuant to Rule 1320. This allows the court to screen those cases in which dependency is not the motivation for the filing, the private person is not the proper person to bring the petition, or there is insufficient evidence to proceed with the case.

Rule 1331—Service of Petition.

The requirements for service of the petition are set forth in this rule.

Rule 1333—Separate Petitions and Consolidated Hearing.

This rule provides that separate petitions must be filed for every child. If there are siblings, a reference must be made in each petition and the adjudicatory hearing for siblings is consolidated into one hearing unless otherwise directed by the court.

Rule 1334—Amendment of Petition.

This rule allows for amendments of the petition when there is a defect. If an amendment is for different sets of events or allegations, it is allowed at the court's discretion. This rule also allows the court to continue the case because of an amendment.

Rule 1335—Withdrawal of Petition.

All withdrawals of petitions by the county agency must be filed with the clerk of courts.

Rule 1336—Re-Filing of the Petition After Withdrawal or Dismissal.

This rule provides for re-filings of petitions and motions for dismissal of the petition.

Part D—Procedures Following Filing of Petition

Rule 1340—Discovery and Inspection.

This rule emphasizes that the discovery process should be informal. Each party should disclose the necessary information, when requested, to the other parties without the need of filing a formal motion. Only when there is a genuine dispute as to discovery, should a motion to

compel discovery be made. The uncontested matters should be disclosed informally even when a motion to compel has been filed.

The Committee had extensive debates over which items were to be mandatory or discretionary. The Committee concluded that a party should have all the necessary information to obtain a fair hearing and to create the best presentation of all the evidence to the court so the court could decide the issue of dependency. Taking a child from a parent is one of the most invasive roles of the court and the court must carefully consider all the evidence.

This rule provides for discovery from the county agency and reciprocal discovery from other parties. All parties are to provide witness lists, witness statements, tangible objects or evidence that a party intends to use at a hearing, expert witness information and opinion to be offered at a hearing, or any other evidence a party intends to use at the hearing. In addition, if the county agency is going to use the following during a hearing, the county agency has a further obligation to provide: scientific reports or test, police reports, records of prior county agency involvement, records of current or prior reports involving the Child Protective Services Law, and physical or mental examinations if any physical or mental condition of a party is in controversy.

It is also provided throughout the discovery rules that certain items do not have to be disclosed if disclosure of those items is prohibited by law. For example, medical and mental health records and examinations are prohibited from being disclosed unless a party intends to use them at a hearing. If a document is used at a hearing, the confidentiality of the record or document is deemed waived and therefore discoverable.

Rule 1800 suspends § 6339 of the Child Protective Services Law only to the extent that if the reports are going to be introduced as evidence at a hearing, they must be disclosed. Confidentiality of these records is deemed waived once they are used at a hearing.

It is important to note that in the Committee's surveys, the Committee found that approximately one-third of the judicial districts do not separate their files as to dependency cases or cases under the Child Protective Services Law. It may be important for discovery purposes that these files be maintained separately but the Committee decided to leave this decision to the judicial district.

Rule 1342—Pre-Adjudicatory Conference.

This rule allows the court to order pre-adjudicatory conferences.

Rules 1344—Motions and Answers.

This rule provides for motions and answers to be made either orally or in writing. Because of the time constraints in juvenile court, several motions may be oral. However, if time allows, written motions are preferable.

Rule 1345—Filing and Service.

This rule provides for a uniform procedure on filing and serving.

Part D(2)—Adjudicatory Summons and Notice Procedures

Rule 1360—Adjudicatory Summons.

This rule provides for the requirements of a summons for the adjudicatory hearing and that all parties are to receive a summons. Under paragraph (A), the court shall issue the summons. The court may designate another person to distribute the summons once it has been ordered.

Rule 1361—Adjudicatory Notice.

This rule provides for the persons who are to receive notice of the adjudicatory hearing.

Rule 1363—Service of Summons.

This rule provides the method, time, and proof of service for the summons.

Rule 1364—Failure to Appear on the Summons.

This rule provides for bench warrants when a summoned person fails to appear for the hearing.

*Part E—Preservation of Testimony and Evidence**Rule 1380—Preservation of Testimony After Commencement of Proceedings.*

This rule provides for the preserving of testimony by court order or agreement between the parties.

Rule 1381—Preservation of Testimony by Video Recording.

This rule provides for further requirements of preserving of testimony if the testimony is taken by video recording.

Chapter Fourteen

Chapter Fourteen addresses the procedures related to the adjudicatory hearing.

Rule 1401—Introduction to Chapter Fourteen.

This is an explanatory rule that describes how cases are to proceed. The Committee wanted to ensure these procedures were followed and that proceedings could be combined so this explanatory clause was made into a rule that could be referenced in a court proceeding.

Rule 1404—Prompt Adjudicatory Hearing.

The Committee discussed whether there should be a time limitation for having a hearing for children who have not been removed from their homes. The Committee believes an outstanding dependency petition is highly important and should be resolved as soon as practical but no later than forty-five days after the filing of a petition.

Rule 1405—Stipulations.

This rule governs any agreements by the parties. The court must accept or reject the stipulations before proceeding with the case.

Rule 1406—Adjudicatory Hearing.

This rule governs the manner of the adjudicatory hearing, its recordings, evidence, and ex parte communications.

Rule 1408—Findings on Petition.

Although in most cases the court will make its findings on the petition at the conclusion of the adjudicatory hearing, this rule provides that if the judge takes the matter under advisement, the court's decision must be made within seven days. The Committee was concerned with delays in cases when the court does not immediately make its findings on the petition. This restriction will alleviate this concern.

The burden of proof for finding of dependency is that the court finds the allegations in the petition to be supported by clear and convincing evidence.

Rule 1409—Adjudication of Dependency and Court Order.

The adjudication of dependency is usually made at either the adjudicatory or the dispositional hearing. The Committee wanted to ensure that the court makes a specific finding. Rule 1401 specifies that this finding may be made in conjunction with the other hearings.

Under paragraph (A), the court shall enter an order as to whether the child is dependent or no dependency is found. This order shall be based on the court's findings on the allegations in the petition pursuant to Rule 1408. When entering the order, the court may transfer custody to the child's non-custodial parent without a finding of dependency if sufficient evidence of dependency would have existed but for the availability of the non-custodial parent. See *In re Justin S.*, 543 A.2d 1192 (Pa. Super. Ct. 1988).

This rule also provides for the contents of the court's order.

Chapter Fifteen

This chapter provides for the procedures of the dispositional proceedings in juvenile court, including the final order of the court. Part A provides for summons and notice in Rule 1500—1501. Rules 1509—1516 are covered in Part B addressing the dispositional hearing and aids in the disposition.

*Part A—Summons and Notice of the Dispositional Hearing**Rule 1500—Summons for the Dispositional Hearing.*

This rule provides for the summons procedures for the dispositional hearing. Under paragraph (A), the court may issue the summons compelling any party to appear. The court may designate another person to distribute the summons once it has been ordered.

Rule 1501—Dispositional Notice.

This rule provides for persons who are to receive notice of the dispositional hearing.

*Part B—Dispositional Hearing and Aids**Rule 1509—Aids in Disposition.*

The court may utilize examinations and experts at the dispositional hearing. This rule allows the court to authorize such examinations and order discovery of the expert's testimony. In addition, if a family service plan or permanency plan has been completed, the parties are to receive a copy.

Rule 1510—Prompt Dispositional Hearing.

This rule provides that the dispositional hearing should be held no later than twenty days from the findings on the petition when the child has been removed from the home. When the child has not been removed from the home, there are many factors that the court must take into consideration when scheduling the dispositional hearing but this rule does not specify a time requirement for the hearing.

Rule 1511—Pre-Dispositional Statement.

This rule provides that the petitioner must file a pre-dispositional statement with the court stating its recommendation. If a family service plan has been completed, the county agency may submit its recommendation in the family service plan.

Rule 1512—Dispositional Hearing.

The “one judge—one family” philosophy that has swept our country was discussed by the Committee. The Committee agreed that this is the best-case scenario for all juvenile courts; however, on the practical side of this issue, we felt that this may not be feasible in all the judicial districts. In view of this, this rule’s Comment points out that, if and when practicable, the same judge and master should hear all cases involving the same child or family.

This rule also provides for the procedures for the manner of the hearing, recording, and ex parte communication.

Rule 1514—Dispositional finding before Removal from Home.

This rule lays out the requirements of 42 Pa.C.S. § 6351(b).

Rule 1515—Dispositional Order.

This rule provides the minimal requirements of the dispositional order. It may be necessary to include additional information in the order depending on the type of case or if the court is to receive funding. The Comment notes that in order to receive funding through the Federal Financial Participation, a specific foster care provider may not be placed in the court order. There may be reasons why a court would list a specific foster care provider in its order but funding would not be received in those cases.

Additionally, the court may transfer legal custody of the child. See Comment to Rule 1409 for transferring of custody without an adjudication of dependency.

Rule 1516—Service of the Dispositional Order.

This rule provides for those persons who are to receive a copy of the dispositional order.

Chapter Sixteen

This chapter provides for the post-dispositional procedures. Part A, Rules 1600 and 1601 provide for the permanency hearing summons and notice. Part B provides for the scheduling and conduct of the permanency hearing, the court’s permanency order, and termination of court supervision.

*Part A—Summons and Notice**Rule 1600—Summons for the Permanency Hearing.*

This rule provides that the court may issue a summons compelling any party to appear for the permanency hearing. Under paragraph (A), the court may issue the summons compelling any party to appear for the permanency hearing. The court may designate another person to distribute the summons once it has been ordered.

Rule 1601—Permanency Hearing Notice.

This rule provides for those persons who are to receive notice of the permanency hearing.

*Part B—Permanency Hearing**Rule 1607—Regular Scheduling of Permanency Hearings.*

This rule sets forth the requirements of 42 Pa.C.S. § 6351(e)(3), which requires permanency hearings in thirty days or six months, depending on the case.

Rule 1608—Permanency Hearing.

This rule provides for the purpose of the permanency hearing, the court’s findings, recording, evidence, and the family service plan or permanency plan. Specific regulations concerning the family service plan can be found at 55 Pa. Code §§ 3130.61 and 3130.63.

Rule 1609—Court Order of Permanency Hearing Determinations.

This rule provides for the finding and determination that the court must make following a permanency hearing.

Rule 1613—Termination of Court Supervision.

This rule provides for the requirements of termination of the court’s supervision. If a party has an objection to the termination of supervision, the court must schedule and conduct a hearing. The court must give each party an opportunity to be heard.

Chapter Seventeen

This chapter provides for aggravated circumstances in Rules 1701—1705.

Rule 1701—Motion for Finding of Aggravated Circumstances.

A motion for finding of aggravated circumstances may be included in the petition. If a petition has already been filed, a separate motion for a finding of aggravated circumstances must be filed. The motion procedures of Rule 1344 must be followed.

Rule 1702—Filing of Motion for Finding of Aggravated Circumstances.

A county agency has twenty one days from the day the county agency determined aggravated circumstances exist to file a motion.

Rule 1705—Adjudication of Aggravated Circumstances.

Before the court is able to find aggravated circumstances, the court must enter a finding of dependency pursuant to Rule 1409. If the court does find aggravated circumstances to exist, the court must determine if reasonable efforts to prevent or eliminate the need for removing the child from the home or to preserve the family shall be made or continue to be made.

*Chapter Eighteen**Rule 1800—Suspensions of Acts of Assembly.*

This rule provides for suspensions of Acts of Assembly to facilitate the recommended rules. The authority for suspension of Acts of Assembly is granted to the Supreme Court by Article V § 10(c) of the Pennsylvania Constitution.

[Pa.B. Doc. No. 06-1721. Filed for public inspection September 1, 2006, 9:00 a.m.]

Title 255—LOCAL COURT RULES

ERIE COUNTY Rules of Criminal Procedure

Adopting Order

And Now, to wit, this 15th day of August 2006 it is hereby *Ordered* that Erie County Rule of Criminal Procedure 117, Magisterial District Judge Coverage for Issuing Warrants; Preliminary Arraignments and Summary Trials; and Setting and Accepting Bail, is hereby adopted as a Rule of this Court, effective thirty (30) days after the date of its publication in the *Pennsylvania Bulletin*.

By the Court

ELIZABETH K. KELLY,
President Judge

Rule 117. Magisterial District Judge Coverage for Issuing Warrants; Preliminary Arraignments and Summary Trials; and Setting and Accepting Bail

A. To the extent required by Pa.R.Crim.P. 117, Magisterial District Judges shall be available to provide continuous coverage for the issuance of search warrants, the issuance of arrest warrants, to accept and set bail, to conduct summary trials, and to conduct preliminary arraignments.

1. The provision of continuous coverage shall be by the traditional on-call system as presently established and exercised in Erie County. Specifically, the Magisterial District Judges shall remain on-call during non-regular business hours on a rotating basis. The Assistant Court Administrator shall maintain a copy of said rotating schedule.

2. The hours of 6:00 a.m. to 10:00 p.m. for conducting a summary trial or bench warrant hearing pursuant to Pa.R.Crim.P. 431 shall not be extended.

B. Magisterial District Judges and the Clerk of Courts shall be authorized to accept bail pursuant to, and subject to the limitations of, the Pennsylvania Rules of Criminal Procedure.

C. Regular business hours for each Magisterial District Judge Office shall be Monday through Friday from 8:30 a.m. until 4:30 p.m.

[Pa.B. Doc. No. 06-1722. Filed for public inspection September 1, 2006, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Disbarment

Notice is hereby given that Richard B. Slosberg having been disbarred from the practice of law in the State of Maine by Order of the Supreme Judicial Court of Maine dated February 22, 2005, the Supreme Court of Pennsylvania issued an Order on August 18, 2006, disbaring Richard B. Slosberg from the Bar of this Commonwealth, effective September 17, 2006. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside of the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

ELAINE M. BIXLER,
Secretary

*The Disciplinary Board of the
Supreme Court of Pennsylvania*

[Pa.B. Doc. No. 06-1723. Filed for public inspection September 1, 2006, 9:00 a.m.]

RULES AND REGULATIONS

Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS

STATE BOARD OF PODIATRY
[49 PA. CODE CH. 29]

Corrective Amendment to 49 Pa. Code § 29.51

The State Board of Podiatry (Board) has discovered a discrepancy between the agency text of 49 Pa. Code § 29.51 (relating to applicants), as deposited with the Legislative Reference Bureau, and the text published at 36 Pa.B. 2675, 2677 (June 3, 2006) and the official text published in the August 2006 *Pennsylvania Code Reporter* (Master Transmittal Sheet No. 381) and as currently in the *Pennsylvania Code*. The text was codified incorrectly.

Therefore, under 45 Pa.C.S. § 901, the Board has deposited with the Legislative Reference Bureau a corrective amendment to 49 Pa. Code § 29.51. The corrective amendment to 49 Pa. Code § 29.51 is effective as of August 5, 2006, the date the defective text was announced in the *Pennsylvania Bulletin*.

The correct version of 49 Pa. Code § 29.51 appears in Annex A.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

CHAPTER 29. STATE BOARD OF PODIATRY

LICENSURE APPLICATIONS

§ 29.51. Applicants.

On applications for licensure or the biennial renewal of a license, the applicant shall answer the following three questions:

(1) Using as a base the number of patients served in an annual period, what percentage of your practice is in Pennsylvania?

0% _____ 1—20% _____ 21% or more _____ .

(If the answer to question (1) is 0%, or if practicing only as a Federal employee, (2) and (3) need not be answered.)

(2) Name of professional liability insurance carrier:

(3) Policy No: _____

[Pa.B. Doc. No. 06-1724. Filed for public inspection September 1, 2006, 9:00 a.m.]

PROPOSED RULEMAKING

ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CHS. 77, 87—89 AND 210]

Mine Opening Blasting

The Environmental Quality Board (Board) proposes to amend Chapters 77, 87, 88, 89 and 210 to read as set forth in Annex A. This proposed rulemaking addresses a number of issues regarding blasting at a mine site. This proposed rulemaking clarifies that the use of explosives in connection with the construction of a mine opening for an underground coal mine is a surface mining activity subject to the applicable requirements in Chapter 87 or Chapter 88 (relating to surface mining of coal; and general provisions) and that the person conducting the blasting activity shall possess a blaster's license. In addition, the scheduling requirements applicable to the use of explosives for constructing openings for coal and industrial mineral underground mines are made more flexible. The requirements for protective measures to be taken when surface coal mine blasting is in proximity to a public highway or an entrance to a mine are also made more flexible. Finally, a category for mine opening blasting is being added to the classifications of blaster's licenses.

This proposal was adopted by the Board at its meeting of May 17, 2006.

A. Effective Date

This proposed rulemaking will go into effect upon final-form publication in the *Pennsylvania Bulletin*.

B. Contact Persons

For further information, contact Joseph Pizarchik, Director, Bureau of Mining and Reclamation, P. O. Box 8461, Rachel Carson State Office Building, Harrisburg, PA 17105-8461, (717) 787-5015; or Marc A. Roda, Assistant Counsel, Bureau of Regulatory Counsel, P. O. Box 8464, Rachel Carson State Office Building, Harrisburg, PA 17105-8464, (717) 787-7060. Information regarding submitting comments on this proposed rulemaking appears in Section I of this preamble. Persons with a disability may use the AT&T Relay Service, (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). This proposed rulemaking is available on the Department of Environmental Protection's (Department) website: ww.depweb.state.pa.us.

C. Statutory Authority

This proposed rulemaking is promulgated under section 4.2 of the Surface Mining Conservation and Reclamation Act (SMCRA) (52 P. S. § 1396.4b) and section 11 of the Noncoal Surface Mining Conservation and Reclamation Act (NCSMCRA) (52 P. S. § 3311), which authorize the Board to promulgate regulations concerning the safety of the public and of the mine workers and concerning the handling and use of explosives at coal and noncoal surface mine sites as well as the licensing of blasters. This proposed rulemaking is also promulgated under sections 1917-A and 1920-A of The Administrative Code of 1929 (71 P. S. §§ 510-17 and 510-20). Sections 1917-A and 1920-A of The Administrative Code of 1929 authorize the Board to adopt regulations to prevent the occurrence of a nuisance and to promulgate rules and regulations as are necessary for the proper work of the Department.

D. Background and Purpose

The purpose of this proposed rulemaking is to amend the regulations regarding the use of explosives in connection with the development of an opening for an underground mine to ensure that these regulations protect both the public and miners. The SMCRA and the NCSMCRA broadly define "surface mining activities" to include activities conducted on the surface that are incidental to the establishment or operation of an underground mine. These activities include, among other things, the construction of the entire mine opening, that is, from the surface to the coal seam or mineral strata being or to be mined. See section 3 of the SMCRA (52 P. S. § 1396.3) and section 3 of the NCSMCRA (52 P. S. § 3303).

The regulations in Chapter 77 (relating to noncoal mining) and Chapters 87 and 88 concerning the use of explosives at a strip mine, quarry or other noncoal surface mine apply to the use of explosives in connection with surface activities that are incidental to underground mining. See §§ 77.561, 88.493(7) and 89.62 (relating to general requirements; minimum environmental protection performance standards; and use of explosives).

These regulations are for the protection of persons and property outside the permit area as well as persons at the mine site. They address issues such as ground vibration, air blasts, preblast surveys, scheduling of blasts and measures to be taken to protect traffic on nearby highways.

Until recently, applying surface mining blasting regulations to more than the initial two mine opening blasts has been unnecessary because openings to underground mines have been in remote locations so that the blasting activity needed to construct the mine opening did not pose a threat to the public. With mine openings now being located closer to areas of habitation, the Department has started requiring all the blasting in connection with the construction of a mine opening to comply with the surface mining blasting regulations. However, the mining regulations are somewhat ambiguous. Adding to this confusion is the fact that mine opening construction is subject to the requirements of the Underground Coal and Industrial Mineral Mine Safety Acts and implementing regulations. This proposed rulemaking will amend the mining regulations pertaining to the use of explosives to eliminate this ambiguity. In addition, more flexibility is needed in some respects. The requirement regarding the scheduling of blasts, when applied to all mine opening blasting, poses a significant risk to mine workers without significantly protecting the rest of the public. In addition, barricading and guarding a highway, as required by §§ 87.127 and 88.135 (relating to use of explosives: surface blasting requirements; and blasting: surface blasting requirements) is not always the best method for protecting the public from mine blasting near that highway. Finally, based on the unique issues regarding mine opening blasting, it is necessary to create a separate license classification for this activity.

The Mining and Reclamation and Advisory Board (MRAB) discussed this proposed rulemaking package at their August 15, 2005, October 27, 2005, and January 5, 2006, meetings. While there was general agreement on many sections, the MRAB deadlocked on whether certain changes should be made to affirm mine opening blasting is surface mining blasting. Because the MRAB will have the opportunity to comment on the proposed rulemaking

during the public comment period and act on the draft final rulemaking before it is submitted to the Board, the MRAB directed the Department to proceed to the Board and to note the MRAB's position in the rulemaking package.

Summary of Regulatory Requirements

Definitions

For clarity, the proposed rulemaking adds a definition for the term "mine opening blasting" to §§ 77.1, 87.1, 88.1, 89.5, and 210.11. The proposed amendments, among other things, establish more flexible scheduling requirements for mine opening blasting.

Applicability

Sections 88.493(7)(i) and 89.62 are amended to explicitly require mine opening blasting to comply with the regulations for the use of explosives for anthracite and bituminous surface coal mines.

Even though the explosives regulations for surface anthracite and bituminous mines require all blasts to be conducted by a blaster licensed under Chapter 210 (relating to blasters' licenses), there may be some confusion as to whether Chapter 210 applies to blasting for mine openings. See §§ 87.124(d), 88.134(c) and 210.12 (relating to use of explosives: general requirements; blasting: general requirements; and scope). This possible confusion is related to the fact that blasting for underground mines is also authorized by the Pennsylvania Anthracite Coal Mine Act (52 P. S. §§ 70-101—70-1405) and the Pennsylvania Bituminous Coal Mine Act (52 P. S. §§ 701-101—701-706) and persons authorized by the Pennsylvania Anthracite Coal Mine Act and the Pennsylvania Bituminous Coal Mine Act are exempt from Chapter 210.

In the Department's opinion, §§ 87.124(d) and 88.135(c) govern. Nonetheless, to eliminate this confusion, § 210.12 is amended to include persons conducting mine opening blasting.

Scheduling of mine opening blasting

Currently, blasting must be conducted during daylight hours. See § 77.564(b) (relating to surface blasting requirements) and §§ 87.127(a) and 88.135(a). These sections are amended to only require the first two blasts for a mine opening to be conducted during daylight hours. Subsequent blasting for that opening can be conducted any time of the day or night. However, the Department has the ability to limit the scheduling of or the vibration limits for these subsequent blasts if necessary.

Restricting blasting to the daylight hours minimizes the nuisance caused by blasting to persons living or working near the mine site. However, restricting all blasting for mine openings to the daylight hours increases the mineworkers' risk of injury. Once started, mine opening development needs to proceed expeditiously. During development, the walls of the mine opening are subject to deterioration. As a result, there is an increased risk that the opening wall will fail resulting in a rock fall, which can injure or entrap miners. Therefore, mine opening development needs to proceed on an around-the-clock work schedule. It is difficult to predict ahead of time when it will be necessary to blast to either break rock or bring down rocks hanging on the mine opening walls. Therefore, allowing blasting for mine openings after the second blast to occur at any time balances the need to protect the public from the effects of blasting with the need to expeditiously develop the mine opening.

To ensure that blasting does not pose an unreasonable public nuisance, §§ 77.564(c), 87.127(b) and 88.135(b)

enable the Department to limit the scheduling of blasts, including mine opening blasts, to protect the public from noise. To provide greater flexibility, these subsections will be amended to allow the Department to modify the vibration limits or the times for blasting. Also, rather than protecting against noise, these sections will now protect against the adverse affects of the ground or air vibrations caused by the blast.

Contents of blasting schedule

This rulemaking proposes to delete the requirement in § 87.126(b)(2)(ii) (relating to use of explosives: public notice of blasting schedule) that the published schedule for bituminous surface blasting must be in time periods of 4 hours or less. This requirement was adopted to implement a primacy requirement established by the Federal Office of Surface Mining Reclamation and Enforcement (OSM). However, that primacy requirement has been removed. The Department sees no reason why surface bituminous mine operators should be subject to more restrictive requirements concerning the publication of the blasting schedule than imposed on surface anthracite or industrial mineral mine operators.

Blasting near highways or mine entrances

Currently, barricades and guards are required by §§ 87.127(f)(1) and 88.135(f)(1) when blasting for coal surface mining is within 1,000 feet of the mine entrance or public highway. These sections are amended to reduce the distance to 800 feet. In the Department's experience, from the noncoal surface mining and construction blasting, a distance limitation of 800 feet is sufficient.

The requirement for barricades and guards is unnecessarily inflexible. In regulating blasting at noncoal surface mines and construction projects, the Department has learned that there are precautionary measures, other than barricades and guards, that better protect the public. In some circumstances, barricading and guarding the highway can create more risks than it prevents. Therefore, these provisions are amended to allow an operator to use alternative measures. An illustrative list of alternatives to barricading or guarding a road or entrance is included. The blast plan will detail the measures to be taken to protect persons and property on public highways and at entrances within 800 feet of a blast at surface mines, including mine opening blasting for underground mines.

These sections add consistency to the regulation of blasting operations, as the distance from public roads at which precautions must be taken will be 800 feet. Chapter 77 and Chapter 211 (relating to storage, handling and use of explosives) require taking precautions when blasting within 800 feet of a public highway and have not been changed.

Alternative formula

Sections 87.127(l) and 88.135(l) are to be deleted. These provisions allow for a formula, other than the scaled distance formula, which is expressly authorized in §§ 87.127 and 88.135, to be used in determining the amount of explosives to be used in a blast. In the Department's experience, the scaled distance formula is the best formula to use instead of specific ground vibration limitations.

Blasting reports

Sections 87.129(4) (relating to use of explosives: records of blasting operations) and 88.137(4) will be amended to require the identification of the structure nearest to the blast that is subject to the vibration limitations. Identify-

ing the nearest structure, as well as giving the distance and direction from the blast, will significantly assist in the review of blasting operation records.

Technical corrections

Section 87.124(b) requires blasts using more than 5 pounds of explosives or blasting agents to be conducted in accordance with a published blasting schedule. However, the cross-reference is to § 87.127, rather than § 87.126. This cross-reference is corrected due to the previous language being in conflict with the OSM's regulations that require that blasts, including those using less than 5 pounds of explosives, to be subject to the preblast survey requirements.

The rulemaking proposes to amend §§ 87.127(e) and 88.135(i) to allow for the waiver of air blast limitations to the same extent the ground vibration limitation may be waived. The ground vibration limitation in § 88.135(h) will be replaced with the ground vibration limitations in § 211.151(c) (relating to prevention of damage). This is merely a clarification because anthracite blasting is subject to the ground vibration limitations in § 211.151(c).

Blaster's licensing

Section 210.17 (relating to issuance and renewal of licenses) is amended to add a classification for mine opening blasting. This classification recognizes the specialized type of blasting required for blasting for mine openings.

F. Benefits, Costs and Compliance

Benefits

The operators of the approximately 1,500 coal and industrial mineral surface mines authorized to conduct blasting will benefit. In addition, if any of the approximately 65 underground coal and industrial mineral mines need a new opening, then the operators of those mines will also benefit from this proposed rulemaking. In the past 5 years, approximately 15 mine openings have been developed. The benefit of this proposed rulemaking is increased flexibility for mine operators while continuing to ensure the safety of workers developing mine openings. At this point, the Department cannot quantify the economic savings that will result from this increased flexibility.

Costs

This proposed rulemaking will not impose additional costs because the affect of this proposed rulemaking is increased flexibility.

Compliance assistance plan

Compliance assistance will be provided by the mine and explosives inspectors.

Paperwork requirements

This proposed rulemaking has no affect on existing paperwork requirements.

G. Sunset Review

This rulemaking will be reviewed in accordance with the sunset review schedule published by the Department to determine whether the regulations effectively fulfill the goals for which it was intended.

H. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on August 17, 2006, the Department submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regu-

latory Review Commission (IRRC) and to the Chairpersons of the Senate and House Environmental Resources and Energy Committees. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Department, the General Assembly and the Governor of comments, recommendations or objections raised.

I. Public Comments

Written comments. Interested persons are invited to submit comments, suggestions or objections regarding this proposed rulemaking to the Environmental Quality Board, P. O. Box 8477, Harrisburg, PA 17105-8477 (express mail: Rachel Carson State Office Building, 16th Floor, 400 Market Street, Harrisburg, PA 17101-2301). Comments submitted by facsimile will not be accepted. Comments, suggestions or objections must be received by the Board by October 2, 2006. Interested persons may also submit a summary of their comments to the Board. The summary may not exceed one page in length and must also be received by October 2, 2006. The one-page summary will be provided to each member of the Board in the agenda packet distributed prior to the meeting at which the final rulemaking will be considered.

Electronic comments. Comments may be submitted electronically to the Board at RegComments@state.pa.us and must also be received by the Board by October 2, 2006. A subject heading of the proposed rulemaking (Mine Opening Proposal) and a return name and address must be included in each transmission. If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt.

J. Public Hearings

No public hearings are scheduled.

KATHLEEN A. MCGINTY,
Chairperson

Fiscal Note: 7-400. No fiscal impact; (8) recommends adoption.

Annex A

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

Subpart C. PROTECTION OF NATURAL RESOURCES

ARTICLE I. LAND RESOURCES

CHAPTER 77. NONCOAL MINING

Subchapter A. GENERAL PROVISIONS

§ 77.1. Definitions.

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

* * * * *

Mine opening blasting—Blasting conducted for the purpose of constructing a shaft, slope, drift or tunnel mine opening for an underground mine,

either operating or under development, from the surface down to the point where the mine opening connects with the mineral strata to be or being extracted.

* * * * *

Subchapter I. ENVIRONMENTAL PROTECTION PERFORMANCE STANDARDS

USE OF EXPLOSIVES

§ 77.564. Surface blasting requirements.

* * * * *

(b) Blasting shall be conducted between sunrise and sunset, at times announced in the blasting schedule, except that mine opening blasting conducted after the second blast, for that mine opening, may be conducted at any time of the day or night as necessary to maintain stability of the mine opening to protect the health and safety of mine workers. For mine opening blasting conducted after the second blast, for that mine opening, the Department may approve vibration limits at a dwelling, public building, school, church or commercial or institutional structure, that are less stringent than those specified in subsections (f) and (i) if consented to, in writing, by the affected building owner and lessee, if leased to another party.

(c) The Department may specify more restrictive time periods or vibration limits, based on public requests or other relevant information, according to the need to adequately protect the public from [excessive noise] the adverse affects of vibration or safety hazards.

* * * * *

CHAPTER 87. SURFACE MINING OF COAL

Subchapter A. GENERAL PROVISIONS

§ 87.1. Definitions.

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

* * * * *

Mine opening blasting—Blasting conducted for the purpose of constructing a shaft, slope, drift or tunnel mine opening for an underground mine, either operating or under development, from the surface down to the point where the mine opening connects with the coal seam to be or being extracted.

* * * * *

Subchapter E. SURFACE COAL MINES: MINIMUM ENVIRONMENTAL PROTECTION PERFORMANCE STANDARDS

§ 87.124. Use of explosives: general requirements.

* * * * *

(b) Blasts that use more than 5 pounds of explosive or blasting agents shall be conducted according to the schedule required by § 87.125 (relating to use of explosives: [preblasting survey] public notice of blasting schedules).

* * * * *

§ 87.126. Use of explosives: public notice of blasting schedule.

* * * * *

(b) Blasting schedule contents.

* * * * *

(2) The blasting schedule [shall] must contain at a minimum the following:

* * * * *

(ii) Dates and time periods when explosives are to be detonated. [Each period may not exceed 4 hours.]

* * * * *

§ 87.127. Use of explosives: surface blasting requirements.

(a) Blasting shall be conducted between sunrise and sunset, at times announced in the blasting schedule, except that mine opening blasting conducted after the second blast, for that mine opening, may be conducted at any time of day or night as necessary to maintain stability of the mine opening to protect the health and safety of mineworkers. For mine opening blasting conducted after the second blast, for that mine opening, the Department may approve vibration limits at a dwelling, public building, school, church or commercial or institutional structure, that are less stringent than those specified in subsection (e) or (n) if consented to, in writing, by the structure owner and lessee, if leased to another party.

(b) The Department may specify more restrictive time periods or vibration limits, based on public requests or other relevant information, according to the need to adequately protect the public from [excessive noise] the adverse affects of vibration or safety hazards.

* * * * *

(e) [An airblast] Airblast shall be controlled so that it does not exceed the noise level specified in this subsection at a dwelling, public building, school, church or commercial or institutional structure, unless the structure is [owned by the person who conducts the surface mining activities and is not leased to another person. The lessee may sign] located on the permit area when the structure owner and lessee, if leased to another party, have each signed a waiver relieving the operator from meeting the airblast limitations of this subsection.

(1) [Maximum] The maximum allowable noise [levels: Lower frequency limit of measuring system in Hz (+ 3 dB) Maximum level (dB) 0.1 Hz or lower flat response 134, peak 2 Hz or lower flat response] level is 133[, peak 6 Hz or lower flat response 129, peak c-weighted, slow response 105 peak dBC] dBL.

* * * * *

(f) Requirements for blasting are as follows:

(1) Public highways and entrances to the operation shall be barricaded and guarded by the operator if the highways and entrances to the operations are located within [1,000] 800 feet of a point where a blast is about to be fired. The operator may use an alternative measure to this requirement if the operator demonstrates, to the Department's satisfaction, that the alternative measure is at least as effective at protecting persons and property from the adverse affects of a blast. Alternative measures are measures such as:

(i) Slowing or stopping traffic in coordination with appropriate State or local authorities, including local police.

(ii) Using mats to suppress fly rock.

(iii) Designing the blast to prevent damage or injury to persons and property located on the public highways or at the operation's entrances by using design elements such as:

(A) Orienting the blast so that the direction of relief is away from public highways or operation entrances.

(B) Adjusting blast design parameters including:

- (I) The diameter of holes.
- (II) The number of rows.
- (III) The number of holes.
- (IV) The amount and type of explosive.
- (V) The burden and spacing.
- (VI) The amount and type of stemming.
- (VII) The powder factor.

* * * * *

[(I) The use of a formula to determine maximum weight of explosives per delay for blasting operations at a particular site may be approved by the Department if the peak particle velocity of 1 inch per second required in § 87.126 (relating to use of explosives: public notice of blasting schedule) would not be exceeded.]

* * * * *

§ 87.129. Use of explosives: records of blasting operations.

A record of each blast shall be retained for at least 3 years and shall be available for inspection by the Department and the public on request. Seismographic reports, if applicable, [shall] must be made a part of that record. The record [shall] must contain the following data:

* * * * *

(4) The identification of and the direction and distance, in feet, to the nearest dwelling, public building, school, church, commercial or institutional building or other structure.

* * * * *

CHAPTER 88. ANTHRACITE COAL

Subchapter A. GENERAL PROVISIONS

PRELIMINARY PROVISIONS

§ 88.1. Definitions.

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

* * * * *

Mine opening blasting—Blasting conducted for the purpose of constructing a shaft, slope, drift or tunnel mine opening for an underground mine, either operating or under development from the surface down to the point where the mine opening connects with the coal seam to be or being extracted.

* * * * *

Subchapter B. SURFACE ANTHRACITE COAL MINES: MINIMUM ENVIRONMENTAL PROTECTION PERFORMANCE STANDARDS

§ 88.135. Blasting: surface blasting requirements.

(a) Blasting shall be conducted between sunrise and sunset, except that mine opening blasting conducted after the second blast for that mine opening may be conducted at any time of day or night as necessary to maintain stability of the mine opening to protect the health and safety of mine workers. For mine opening blasting conducted after the second blast, for that mine opening, the Department may approve vibration limits at a dwelling, public building, school, church or commercial or institutional structure, that are less stringent than those specified in subsection (h) if consented to, in writing, by the structure owner and lessee, if leased to another party.

(b) The Department may specify more restrictive time periods or vibration limits, based on other relevant information, according to the need to adequately protect the public from the adverse affects of vibration or safety hazards.

* * * * *

(f) Blasting operations [shall] must meet the following requirements:

(1) Public highways and entrances to the operation shall be barricaded and guarded by the operator if the highways and entrances to the operations are located within [1,000] 800 feet of a point where a blast is about to be fired. The operator may use an alternative measure to this requirement if the operator demonstrates, to the Department's satisfaction, that the alternative measure is at least as effective at protecting persons and property from the adverse affects of a blast. Alternative measures are measures such as:

(i) Slowing or stopping traffic in coordination with appropriate State or local authorities, including local police.

(ii) Using mats to suppress fly rock.

(iii) Designing the blast to prevent damage or injury to persons and property located on the public highways or at the operation's entrances by using design elements such as:

(A) Orienting the blast so that the direction of relief is away from public highways or operation entrances.

(B) Adjusting blast design parameters including:

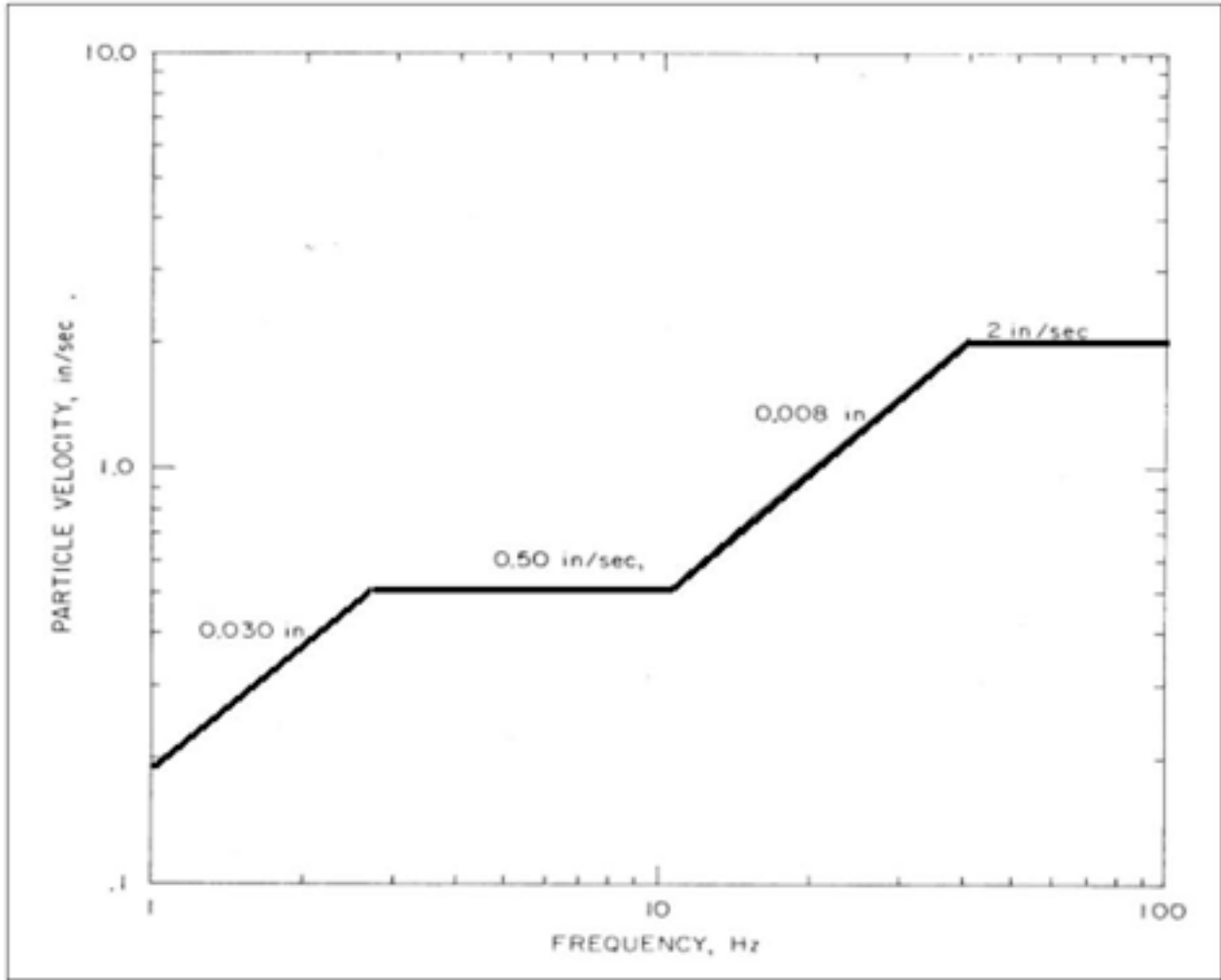
- (I) The diameter of holes.
- (II) The number of rows.
- (III) The number of holes.
- (IV) The amount and type of explosive.
- (V) The burden and spacing.
- (VI) The amount and type of stemming.
- (VII) The powder factor.

* * * * *

(h) In all blasting operations, [the maximum peak particle velocity may not exceed 2 inches per second] the blasts shall be designed and conducted in a manner that achieves either a scaled distance of

90 or meets the maximum allowable peak particle velocity as indicated by Figure 1 at the location of any dwelling, public building, school, church or commercial or institutional building. Peak particle velocities shall be recorded in three mutually perpendicular directions—longitudinal, transverse and vertical. The maximum peak particle velocity shall be the largest of any of three

measurements. The Department may reduce the maximum peak particle velocity allowed, if it determines that a lower standard is required because of density of population or land use, age or type of structure, geology or hydrology of the area, frequency of blasts, or other factors. The sound pressure level may not exceed **[130 dB linear at a frequency 6 Hz or lower] 133 dBL.**



(i) The maximum peak particle velocity [limitation] and sound pressure limitations of this section do not apply at the following locations:

* * * * *

[(1) The use of a formula to determine maximum weight of explosives per delay for blasting operations at a particular site, may be approved by the Department if the peak particle velocity of 2 inches per second would not be exceeded.]

* * * * *

Subchapter F. ANTHRACITE UNDERGROUND MINES

§ 88.493. Minimum environmental protection performance standards.

A person who conducts underground mining activities shall comply with the performance standards and design requirements of this section. The following performance standards shall be met:

* * * * *

(7) Use of explosives shall include:

(i) A person who conducts surface blasting activities incident to underground mining activities, including, but not limited to, [**initial rounds of slopes, shafts and tunnels,**] **mine opening blasting** shall conduct the activities in compliance with §§ 88.45 and 88.134—88.137.

* * * * *

CHAPTER 89. UNDERGROUND MINING OF COAL AND COAL PREPARATION FACILITIES

Subchapter A. EROSION AND SEDIMENTATION CONTROL

GENERAL PROVISIONS

§ 89.5. Definitions.

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

* * * * *

Mine opening blasting—Blasting conducted for the purpose of constructing a shaft, slope, drift or tunnel mine opening for an underground mine, either operating or under development, from the surface down to the point where the mine opening connects with the coal seam to be or being extracted.

* * * * *

**Subchapter B. OPERATIONS
PERFORMANCE STANDARDS**

§ 89.62. Use of explosives.

Each person who conducts surface blasting activities incident to underground mining activities, including, but not limited to, [**initial rounds of slopes and shafts,**] **mine opening blasting**, shall conduct the activities in compliance with Chapter 87 (relating to surface mining of coal).

ARTICLE IV. OCCUPATIONAL HEALTH AND SAFETY

CHAPTER 210. BLASTERS LICENSE

§ 210.11. Definitions.

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

* * * * *

Mine opening blasting—Blasting conducted for the purpose of constructing a shaft, slope, drift or tunnel mine opening for an underground mine, either operating or under development, from the surface down to the point where the mine opening connects with the mineral strata to be or being extracted.

* * * * *

§ 210.12. Scope.

This chapter applies to persons engaging in the detonation of explosives within this Commonwealth. [**This**] **Except for persons engaging in mine opening blasting,** this chapter does not apply to persons authorized to detonate explosives or to supervise blasting activities under:

* * * * *

§ 210.17. Issuance and renewal of licenses.

(a) A blaster's license is issued for a specific classification of blasting activities. The classifications will be determined by the Department and may include general blasting (which includes all classifications except demolition, **mine opening blasting** and underground noncoal mining), trenching and construction, seismic and pole line work, well perforation, surface mining, underground noncoal mining, **mine opening blasting**, industrial, limited and demolition.

* * * * *

[Pa.B. Doc. No. 06-1725. Filed for public inspection September 1, 2006, 9:00 a.m.]

NOTICES

DEPARTMENT OF BANKING

Action on Applications

The Department of Banking (Department), under the authority contained in the act of November 30, 1965 (P. L. 847, No. 356), known as the Banking Code of 1965; the act of 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 August 22, 2006.

BANKING INSTITUTIONS

Consolidations, Mergers and Absorptions

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
8-16-06	Republic First Bank, Philadelphia, PA, and Republic First Bank of New Jersey, Voorhees, NJ Surviving Institution— Republic First Bank, Philadelphia, PA	Philadelphia	Effective
	The merger enables Republic First Bank, Philadelphia, PA, to expand operations into the state of New Jersey by establishing a branch at 342 South Burnt Mill Road, Voorhees, Camden County, NJ		

Branch Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
8-7-06	East River Bank Philadelphia Philadelphia County	6137 Ridge Avenue Philadelphia Philadelphia County	Opened
8-14-06	Jersey Shore State Bank Jersey Shore Lycoming County	820 Broad Street Montoursville Lycoming County	Opened
8-18-06	First Star Savings Bank Bethlehem Lehigh County	6302 Route 309 New Tripoli Lehigh County	Approved
8-18-06	Meridian Bank Berwyn Chester County	16 West Market Street West Chester Chester County	Approved
8-18-06	Penn Liberty Bank Wayne Delaware	210 Font Road Downingtown Chester County	Approved

Branch Relocations

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
7-17-06	Parkvale Savings Bank Monroeville Westmoreland County	<i>To:</i> 401 Ninth Street New Kensington Westmoreland County <i>From:</i> 931 Fifth Avenue New Kensington Westmoreland County	Effective
8-18-06	Fulton Bank Lancaster Lancaster County	<i>To:</i> Route 10 Lower Oxford Township Chester County <i>From:</i> 18 South 3rd Street Oxford Chester County	Approved

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.

A. WILLIAM SCHENCK, III,
Secretary

[Pa.B. Doc. No. 06-1726. Filed for public inspection September 1, 2006, 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

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>
PA0238414	Roger A. and Amy L. Sandak SFTF 124 Memory Lane New Castle, PA 16101	Scott Township Lawrence County	UNT to Big Run 20-A	Y

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

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4707.

Application No. PA 0248576, Concentrated Animal Feeding Operation (CAFO), **Kreider Farms**, 1461 Lancaster Road, Manheim, PA 17545.

Kreider Farms has submitted an application for issuance of an Individual NPDES permit for an existing CAFO known as the Kreider Farms Middletown Poultry Farm, located in Lower Swatara Township, **Dauphin County**.

The CAFO is situated near a UNT of Swatara Creek, which is classified as a WWF. The CAFO is designed to maintain an animal population of approximately 2,356 animal equivalent units consisting of 725,000 laying hens. Semisolid poultry manure is stored within each of six layer houses. Eggs are processed onsite and egg washwater is stored in an existing earthen storage impoundment, which will be synthetically lined during the permit term. A release or discharge to waters of this Commonwealth under normal operating conditions is not expected. Normal operating conditions are defined as conditions below a 25-year, 24-hour storm event.

The Department of Environmental Protection (Department) has conducted administrative and technical reviews of the application. Based on the preliminary review and application of lawful standards and regulations, the Department has made a tentative determination to reissue the NPDES permit for the operation subject to the terms and conditions and monitoring and reporting requirements specified in the permit.

The permit application and draft permit are on file at the Southcentral Regional Office of the Department. Persons may make an appointment to review the files by calling the file review coordinator at (717) 705-4732.

Persons wishing to comment on the proposed permit are invited to submit written comments to the previous address within 30 days from the date of this public notice. Comments received within this 30-day period will be considered in formulating the Department's final determination regarding the application. Comments should include the name, address and telephone number of the writer and a concise statement to inform the Department of the basis of the comment and the relevant facts upon which it is based.

Following the 30-day comment period, the Watershed Management Program Manager will make a final determination regarding the proposed permit. Notice of this determination will be published in the *Pennsylvania Bulletin* at which time the determination may be appealed to the Environmental Hearing Board.

The Environmental Protection Agency permit waiver provision under 40 CFR 123.24(e) does not apply to this NPDES permit.

Application No. PA 0248584, Concentrated Animal Feeding Operation (CAFO), **Kreider Farms**, 1461 Lancaster Road, Manheim, PA 17545.

Kreider Farms has submitted an application for issuance of an Individual NPDES permit for an existing CAFO known as the Kreider Farms East Donegal Poultry Farm, located in East Donegal Township, **Lancaster County**.

The CAFO is situated near Donegal Springs and Donegal Creek, which are classified as HQ-CWF and TSF, respectively. The CAFO is designed to maintain an animal population of approximately 1,521 animal equivalent units consisting of 468,000 laying hens. Semisolid poultry manure is stored within each of six layer houses. Eggs are processed onsite and egg washwater is stored in an existing earthen storage impoundment, which will be synthetically lined during the permit term. A release or discharge to waters of the Commonwealth under normal operating conditions is not expected. Normal operating conditions are defined as conditions below a 25-year, 24-hour storm event.

The Department of Environmental Protection (Department) has conducted administrative and technical reviews of the application. Based on the preliminary review and application of lawful standards and regulations, the Department has made a tentative determination to reissue the NPDES permit for the operation subject to the terms and conditions and monitoring and reporting requirements specified in the permit.

The permit application and draft permit are on file at the Southcentral Regional Office of the Department. Persons may make an appointment to review the files by calling the file review coordinator at (717) 705-4732.

Persons wishing to comment on the proposed permit are invited to submit written comments to the previous address within 30 days from the date of this public notice. Comments received within this 30-day period will be considered in formulating the Department's final determination regarding the application. Comments should include the name, address and telephone number of the writer and a concise statement to inform the Department of the basis of the comment and the relevant facts upon which it is based.

Following the 30-day comment period, the Watershed Management Program Manager will make a final determination regarding the proposed permit. Notice of this determination will be published in the *Pennsylvania Bulletin* at which time the determination may be appealed to the Environmental Hearing Board.

The Environmental Protection Agency (EPA) permit waiver provision under 40 CFR 123.24(e) does not apply to this NPDES permit.

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

PA0238635, Sewage. **Frank A. and Melissa A. Blaine, Jr.**, 304 Eagle Mill Road, Butler, PA 16001-8786. This proposed facility is located in Connoquenessing Township, **Butler County**.

Description of Proposed Activity: household operation.

The receiving water is the Little Connoquenessing Creek. The receiving stream is in State Water Plan 20-C and is classified for the following uses: CWF, aquatic life, water supply and recreation. The nearest downstream potable water supply, Harmony Borough Water Authority, is located on Little Connoquenessing Creek and is approximately 11.5 miles below the point of discharge.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.00004 mgd

<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	20		40
Fecal Coliform		200/100 ml as a geometric average	
Total Residual Chlorine	XX		
pH		6.0 to 9.0 standard units at all times	

XX—Monitor and report.

The EPA waiver is in effect.

PA0035581, Sewage. **Department of Transportation—McKean County**, Bureau of Design, P. O. Box 3060, Harrisburg, PA 17105-3060. This proposed facility is located in Lafayette Township, **McKean County**.

Description of Proposed Activity: Renewal of an existing discharge of treated sewage.

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 Emlenton Water Company and the Allegheny River located at Emlenton and is approximately 133 miles below point of discharge.

The receiving stream, a UNT to Three Mile Run, is in watershed 16-B and classified for CWF, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.0018 mgd.

<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
Fecal Coliform		200/100 ml as a geometric average	
(5-1 to 9-30)		2,000/100 ml as a geometric average	
(10-1 to 4-30)			
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.

The EPA waiver is in effect.

PA0239879, Sewage. **Michael Wahlenmayer SFTF**, 112 Linden Street, Beaver Falls, PA 15010. This proposed facility is located at 7012 Bargain Road in McKean Township, **Erie County**.

Description of Proposed Activity: The applicant requests an NPDES permit for the discharge of treated domestic sewage from an SFTF serving a single dwelling. Treatment consists of a septic tank, dosing tank, sand filter and ultraviolet light disinfection.

For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride, phenolics, sulfate and chloride, there is no downstream potable water supply to consider between the discharge and Lake Erie.

The receiving stream, Thomas Run, is in the Lake Erie watershed and classified for HQ-CWF, MF, aquatic life, water supply and recreation.

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

<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	monitor and report		
CBOD ₅	10		20
Total Suspended Solids	10		20
Ultraviolet Light Disinfection	monitor and report		
Fecal Coliform	200/100 ml as a geometric average		
pH	6.0 to 9.0 standard units at all times		

The EPA waiver is in effect.

PA0036064, Sewage. **Washington Township Sewer Authority**, 11800 Edinboro Road, Edinboro, PA 16412. This existing facility is located on Angling Road in Washington Township, **Erie County**.

Description of Proposed Activity: The applicant requests an amendment of an existing discharge of treated sewage from the Angling Road sewage treatment plant.

For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride, phenolics, sulfate and chloride, the existing/proposed downstream potable water supply (stream and public water supplier) considered during the evaluation is Emlenton Water Company located in Emlenton, PA, approximately 80 miles below point of discharge.

The receiving stream for the interim effluent limit is UNT to Edinboro Lake (local name is Whipple Creek). The receiving stream for the final effluent limits is a UNT to Conneauttee Creek. Both receiving streams are in watershed 16 and classified for WWF, aquatic life, water supply and recreation.

The proposed interim effluent limits for Outfall 001 are based on a design flow of 0.2 mgd.

<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 (mgd)	XX	XX	
CBOD ₅	25	40	50
Total Suspended Solids	30	45	60
NH ₃ -N			
(5-1 to 10-31)	1.5		3.0
(11-1 to 4-30)	4.5		9.0
Phosphorus as "P"	1.0		
Dissolved Oxygen		minimum of 5.0 mg/l at all times	
Total Residual Chlorine	0.17		0.58
Fecal Coliform			
(5-1 to 9-30)		200/100 ml as a geometric average	
(10-1 to 4-30)		2,000/100 ml as a geometric average	
pH		6.0 to 9.0 standard units at all times	

The proposed final effluent limits for Outfall 001 are based on a design flow of 0.6 mgd.

<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 (mgd)	XX	XX	
CBOD ₅	25	40	50
Total Suspended Solids	30	45	60
NH ₃ -N			
(5-1 to 10-31)	1.5		3.0
(11-1 to 4-30)	4.5		9.0
Dissolved Oxygen		minimum of 5.0 mg/l at all times	
Total Residual Chlorine	0.16		0.51
Fecal Coliform			
(5-1 to 9-30)		200/100 ml as a geometric average	
(10-1 to 4-30)		2,000/100 ml as a geometric average	
pH		6.0 to 9.0 standard units at all times	

XX—Monitor and Report

The EPA waiver is in effect.

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

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4707.

WQM Permit No. 2106408, Sewerage, **Dillsburg Area Authority**, 98 West Church Street, P. O. Box 370, Dillsburg, PA 17019. This proposed facility is located in Monroe Township, **Cumberland County**.

Description of Proposed Action/Activity: Application for a Wastewater Collection and Conveyance System which includes the installation of approximately 19,900 linear feet of new sanitary sewer, 2,340 feet of new force main and a new wastewater pump station.

WQM Permit No. 2806405, Sewerage, **Ray and Rubie Wingert**, 2635 Grand Point Road, Chambersburg, PA 17201. This proposed facility is located in Greene Township, **Franklin County**.

Description of Proposed Action/Activity: Application for the installation and use of a Spray Irrigation Denitrification System.

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

WQM Permit No. 6306405, Sewerage, **Washington East Washington Joint Authority**, P. O. Box 510, 60 East Beau Street, 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 sanitary sewer main and connection for commercial development.

WQM Permit No. 6306406, Sewerage, **Vestaburg-New Hill Joint Authority**, P. O. Box 189, 301 Third Street, Vestaburg, PA 15368. This proposed facility is located in Centerville Borough and East Bethlehem Township, **Washington County**.

Description of Proposed Action/Activity: Application for replacement of sanitary sewer system.

WQM Permit No. 6506404, Sewerage, **Powdermill Nature Reserve**, 1847 Route 381, Rector, PA 15677-9605. This proposed facility is located in Cook Township, **Westmoreland County**.

Description of Proposed Action/Activity: Application for the construction and operation of expansion of existing nature center sewage treatment plant.

WQM Permit No. WQG016130, Sewerage, **Roy Taylor**, 148 Darr Road, Belle Vernon, PA 15012. This proposed facility is located in Rostraver Township, **Westmoreland 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. 2506409, Sewerage, **Michael Wahlenmayer**, 112 Linden Street, Beaver Falls, PA 15010. This proposed facility is located in McKean Township, **Erie County**.

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

Northwest Region: Oil and Gas Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481, (814) 332-6860.

WQM Permit No. 3306201, Industrial Waste, **Dominion Transmission, Inc.**, 1201 Pitt Street, Pittsburgh, PA 15221-2029. This proposed facility is located in Henderson Township, **Jefferson County**.

Description of Proposed Action/Activity: This application is for the modification of an existing oil and gas wastewater treatment facility to replace existing treatment impoundments with in-ground tanks and a batch treatment system.

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

V. Applications for NPDES Waiver 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.

Lehigh County Conservation District: Lehigh Ag. Center, Suite 102, 4184 Dorney Park Road, Allentown, PA 18104, (610) 391-9583.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI023906021	Atlantic American Land Dev., Inc. 401 Plymouth Road Suite 500 Plymouth Meeting, PA 19462	Lehigh	Upper Macungie Township	Iron Run HQ-CWF

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>
PAS10U127R	J. G. Petrucci Co., Inc. 171 Rt. 173 Suite 201 Asbury, NJ 08802	Northampton	Forks Township	Bushkill Creek HQ-CWF
PAI024806020	R. B. Associates Richard Bartolacci 3864 Courtney St., Suite 140 Bethlehem, PA 18017	Northampton	East Allen Township	Monocacy Creek HQ-CWF

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
*PAI030605002	Manley Partners, LLC 415 Ellis Woods Road Pottstown, PA 19465	Berks	Longswamp Township	Toad Creek HQ-CWF

* The Department of Environmental Protection has proposed special conditions to protect the spadefoot toad, *Scaphiopus holbrookii*. These conditions provide for protection of approximately 8.8 acres of spade foot toad habitat, including the watersheds of the breeding ponds used by the spadefoot toad.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI030606007	Greth Development Group, Inc. P. O. Box 305 Temple, PA 19560	Berks	Robeson Township	Hay Creek EV
PAI032106006	Rite Aid Corporation 30 Hunter Lane Camp Hill, PA 17011	Cumberland	South Middleton Township	Letort Spring Run HQ-CWF
PAS10C041R	Quaker Hill Development Corporation 4339 Morgantown Road Mohnton, PA 19540	Berks	Robeson	Beaver Run Hay Creek HQ-CWF

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

Fayette County Conservation District, 10 Nickman Plaza, Lemont Furnace, PA 15456, (724) 438-4497.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI052606004	NWL Company 1001 LaFayette Drive Farmington, PA 15437	Fayette	Wharton Township	UNT to Beaver Creek HQ/CWF

Washington County Conservation District, 602 Courthouse Square, Washington, PA 15301, (724) 228-6774.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI056306005	Shiloh Industrial Contractors, Inc. 204 Commerce Boulevard Lawrence, PA 15055	Washington	North Strabane Township	Little Chartiers Creek HQ/WWF

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. 4606506 , Public Water Supply	
Applicant	Superior Water Company, Inc.
Township	Worcester
County	Montgomery
Responsible Official	Robert A. Braglio
Type of Facility	PWS
Consulting Engineer	Entech Engineering, Inc.
Application Received Date	August 15, 2006
Description of Action	Installation of an arsenic removal system at Center Point Farm.

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

Application No. 4006504 , Public Water Supply.	
Applicant	Old Turnpike Village Butler Township Luzerne County
Responsible Official	Joseph L. Pierotti 81-80 RV Park 718 N. Old Turnpike Village Drums, PA
Type of Facility	PWS
Consulting Engineer	RKD Engineering Inc. David Kavitski, P. E.
Application Received Date	August 3, 2006
Description of Action	The modification of an existing water system for corrosion control, disinfection and detention time.

Southcentral Region: Water Supply Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Permit No. 0506503 , Public Water Supply.	
Applicant	Bedford Township Municipal Authority
Municipality	Bedford Borough
County	Bedford
Responsible Official	Owen K. Crist, Chairperson P. O. Box 371 Bedford, PA 15522
Type of Facility	Public Water Supply
Consulting Engineer	Timothy A. Cooper, P. E. Stiffler McGraw & Associates Inc. 19 N. Juniata Street Hollidaysburg, PA 16648
Application Received:	4/24/2006
Description of Action	The proposed project includes the installation of approximately 7,400 LF of 10-inch water transmission main, the development of two wells, treatment to consists of disinfection and all related appurtenances to serve the Camp Shaffer project area.

Permit No. 2806503 , Public Water Supply.	
Applicant	Majestic Ridge Home Owners Association
Municipality	Hamilton Township
County	Franklin

Responsible Official Robert Miller, President
24 Buckingham Way
Freehold, PA 07728

Type of Facility Public Water Supply

Consulting Engineer Richard M. Bodner, P. E.
Martin and Martin, Inc.
37 S. Main St.
Chambersburg, PA 17201

Application Received: 5/17/2006

Description of Action Construction of a new water system to serve the Majestic Ridge Home Owners Association. The system will consist of two wells, treatment to consists of disinfection and iron and manganese control, storage and distribution.

Permit No. 2806502, Public Water Supply.

Applicant **Antrim Township Municipal Authority**

Municipality Antrim Township

County **Franklin**

Responsible Official Paul Perini, President
1710 Underpass Way
Suite 200
Hagerstown, MD 21740

Type of Facility Public Water Supply

Consulting Engineer Anne K. Anderson, P. E.
CEDG, Inc.
500 Ritter Road
Suite 200
Mechanicsburg, PA 17055

Application Received: 3/28/2006

Description of Action Construction of a new water system to serve the Rochester Place development. The system will consist of one wells, treatment to consists of disinfection, storage and distribution.

Permit No. 0506504, Public Water Supply.

Applicant **Bedford Township Municipal Authority**

Municipality Bedford Borough

County **Bedford**

Responsible Official Owen K. Crist, Chairman
P. O. Box 371
Bedford, PA 15522

Type of Facility Public Water Supply

Consulting Engineer Timothy A. Cooper, P. E.
Stiffler McGraw & Associates
Inc.
19 N. Juniata Street
Hollidaysburg, PA 16648

Application Received: 5/26/2006

Description of Action The proposed project includes the installation transmission main, the development of one well, treatment to consists of disinfection and all related appurtenances to serve the Bedford Springs project area.

Central Office: Bureau Director, Water Standards and Facility Regulation, P. O. Box 8467, Harrisburg, PA 17105-8467.

Permit No. 9996322, Public Water Supply.

Applicant **Pine Hollow Springs Bottling Co., Inc.**

Township or Borough Lowellville, Ohio

Responsible Official Frank Tombo, Jr., President

Type of Facility Out-of-State Bottled Water System

Application Received Date August 17, 2006

Description of Action Applicant requesting a major permit amendment to add a new ozone treatment unit. Bottled water to be sold in this Commonwealth under the brand names; Gordon Brothers Premium Spring Water, Gordon Brothers Purified Water and Pine Hollow Natural Spring Water.

Permit No. 9996158, Public Water Supply.

Applicant **Berkeley Club Beverages**

Township or Borough Berkeley Springs, West Virginia

Responsible Official Rodney Dehaven, Owner

Type of Facility Out-of-State Bottled Water System

Application Received Date August 16, 2006

Description of Action Applicant requesting a major permit amendment to relocate bottling facilities and sell a new distilled bottled water product in this Commonwealth. Bottled water to be sold in Pennsylvania under the brand names; Berkeley Springs Water and Berkeley Springs Distilled Water.

MINOR AMENDMENT**Applications Received Under the Pennsylvania Safe Drinking Water Act**

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

Application No. 4293501-MA2, Minor Amendment

Applicant **Pithole Water Association**

Township or Borough Keating Township
McKean County

Responsible Official Peter M. Anderson, Director

Type of Facility Public Water Supply

Application Received 08/03/2006
Date
Description of Action Addition of 3,000 gallon water settling tank for iron, manganese and sediment removal at existing facilities at water treatment plant.

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 alter-

native 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.

Parcel 42-4-261 Undeveloped Property, East Whiteland Township, **Chester County**. Jeffrey Goudsward, Langan Engineering & Env., Svc., P. O. Box 1569, Doylestown, PA 18901 on behalf of Guy Wolfington, Malvern Hill Assoc., III, LP, 700 S. Henderson Road, Suite, 225, King of Prussia, PA 19406 has submitted a Notice of Intent to Remediate. Soil at the site has been impacted by release of petroleum and PAH's. The intended future use of the property is for mixed-use redevelopment. A Summary of the Notice of Intent to Remediate was reported to have been published in the *Daily Local News* on August 8, 2006.

84 Lumber Site, East Whiteland Township, **Chester County**. Jeffrey Goudsward, Langan Engineering & Env., Svc., P. O. Box 1569, Doylestown, PA 18901 on behalf of Guy Wolfington, Malvern Hill Assoc., III, LP, 700 S. Henderson Road, Suite, 225, King of Prussia, PA 19406 has submitted a Notice of Intent to Remediate. Soil at the site has been impacted by release of inorganics and PAH's. The intended future use of the property is for mixed-use redevelopment. A Summary of the Notice of Intent to Remediate was reported to have been published in the *Daily Local News* on August 8, 2006.

Northwest Region: Environmental Cleanup Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

US Bronze Foundry & Machine Inc., Woodcock Township, **Crawford Co.**, GeoSyntec Consultants, 10015 Old Columbia Road, Suite A-200, on behalf of US Bronze Foundry & Machine Inc., 18649 Brake Shoe Road, Meadville, PA 16335 has submitted a Notice of Intent to Remediate an area named the slag reclamation basin, which was formerly used to reclaim solids from process wastewaters at the foundry. The primary contaminants are metals, particularly lead, copper, zinc and antimony, which are entrained in the sludge, debris and soils that have filled the basin to grade. The remedial approach is to use a combination of Statewide Health and Site-Specific Standards to comply with Act 2. Publication will be in the *Meadville Tribune*.

US Bronze Foundry & Machine Inc., Woodcock Township, **Crawford County**, GeoSyntec Consultants, 10015 Old Columbia Road, Suite A-200, on behalf of US Bronze Foundry & Machine Inc., 18649 Brake Shoe Road, Meadville, PA 16335 has submitted a Notice of Intent to Remediate the foundry's soils and sediments, which are impacted with lead. Future use of the site is to remain a foundry. Remediation is expected to meet the Site-Specific Standard. Publication will be in the *Meadville Tribune*.

US Bronze Foundry & Machine Inc., Woodcock Township, **Crawford County**, GeoSyntec Consultants, 10015 Old Columbia Road, Suite A-200, on behalf of US Bronze Foundry & Machine Inc., 18649 Brake Shoe Road, Meadville, PA 16335 has submitted a Notice of Intent to Remediate the foundry's groundwater. Future use of this site is to remain a foundry. Remediation is expected to meet the Statewide Health Standard. Publication will be in the *Meadville Tribune*.

US Bronze Foundry & Machine Inc., Woodcock Township, **Crawford County**, GeoSyntec Consultants,

10015 Old Columbia Road, Suite A-200, on behalf of US Bronze Foundry & Machine Inc., 18649 Brake Shoe Road, Meadville, PA 16335 has submitted a Notice of Intent to Remediate an area named the South Parking Lot where spent foundry sand was utilized as fill to bring the area to grade. The sand contains elevated levels of metals primarily lead, copper and zinc. Future use is to remain a parking lot. Remediation is expected to meet the Site-Specific Standard. Publication will be in the *Meadville Tribune*.

US Bronze Foundry & Machine Inc., Woodcock Township, **Crawford County**, GeoSyntec Consultants, 10015 Old Columbia Road, Suite A-200, on behalf of US Bronze Foundry & Machine Inc., 18649 Brake Shoe Road, Meadville, PA 16335 has submitted a Notice of Intent to Remediate for an area with four aboveground storage tanks, that are identified to have historical releases of petroleum hydrocarbons. Also testing has showed that there are detectable concentration of several organic compounds including benzene, cumene, ethyl benzene, and naphthalene present in the soil. Intended future use of this area is a foundry. Remediation is expected to meet the Statewide Health Standards. Publication will be in the *Meadville Tribune*.

RESIDUAL WASTE GENERAL PERMITS

Application Received Under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003); the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904); and Residual Waste Regulations for a General Permit to Operate Residual Waste Processing Facilities and the Beneficial Use of Residual Waste other than Coal Ash.

Central Office: Division of Municipal and Residual Waste, Rachel Carson State Office Building, 14th Floor, 400 Market Street, Harrisburg, PA 17105-8472.

General Permit Application Number WMGR114. PPT Research, Inc., 460 and 515 Business Park Lane, Allentown, PA 18109. The application proposes processing of spent polyethylene glycol slurry containing silicon and silicon carbide or diamond and beneficial use in fresh slurry and in production of silicon ingots and silicon carbide. The processing is limited to mechanical separation, including filtration, thin film vacuum evaporation, spray drying, classification and grinding. The application was received by Central Office on July 12, 2006.

The original application did not include slurry containing diamond abrasive instead of silicon carbide. Diamond has been added at the request of the applicant. In addition, the original notice left out beneficial use of the processed waste in the production of silicon carbide. This has been corrected in this notice.

Comments concerning the application should be directed to Ronald C. Hassinger, Chief, General Permits/Beneficial Use Section, Division of Municipal and Residual Waste, Bureau of Waste Management, P. O. Box 8472, Harrisburg, PA 17105-8472, (717) 787-7381. TDD users may contact the Department of Environmental Protection through the Pennsylvania Relay Service, (800) 654-5984. Public comments must be submitted by September 27, 2006, and may recommend revisions to, and approval or denial of the application.

OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

Application Received Under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and Regulations to Operate Solid Waste Processing or Disposal Area or Site.

Southeast Region: Regional Solid Waste Manager, 2 East Main Street, Norristown, PA 19401.

Permit Application No. 101687. FMRA Inc., United States Army COE Fort Mifflin Confined Disposal Facility, Philadelphia, PA 19153, City of Philadelphia. This waste permit application was received for the construction and operation of a C and D transfer facility to be located on the United States Army Corps of Engineers Fort Mifflin site located in the City of Philadelphia. The application was received by the Southeast Regional Office on August 9, 2006

Southwest Region: Regional Solid Waste Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, (412) 442-4000.

Permit ID No. 301291. Ashland Inc., 5200 Blazer Parkway, Dublin, OH 43017. Ashland-Neville Island Plant, 2650 Neville Road, Neville Township, PA 15225. Application for the permit renewal of a residual waste incinerator in Neville Township, **Allegheny County**, was received in the Regional Office on August 21, 2006.

DETERMINATION OF APPLICABILITY FOR RESIDUAL WASTE GENERAL PERMITS

Application for Determination of Applicability Received Under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003); the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904); and Residual Waste Regulations for a General Permit to Operate Residual Waste Processing Facilities and/or the Beneficial Use of Residual Waste Other Than Coal Ash

Southcentral Region: Regional Solid Waste Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

General Permit Application No. WMGR038SC002. Zircorp, LLC, 550 Sunnyside Road, Bedford, PA 15522. The Southcentral Regional Office, Waste Management Program has received an application for a determination of applicability (DOA) under Residual Waste General Permit No. WMGR038 for the Zircorp Tire Processing Facility, located in Bedford Township, **Bedford County**. This general permit is for the processing and beneficial use of waste tires, tire derived material and tire derived fuel. The application for DOA was determined to be administratively complete by the Southcentral Regional Office on August 23, 2006.

Persons interested in obtaining more information about this determination of applicability may contact the Waste Management Program at (717) 705-4706. TDD users may contact the Department through the Pennsylvania Relay Service, (800) 654-5984.

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.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790, Mark Wejkszner, New Source Review Chief, (570) 826-2531.

39-309-067: Lafarge North America, Inc. (5160 Main Street, Whitehall, PA 18052) for installation of a dust curtain and relocation of a fuel feed chute for tire derived fuels on Kiln No. 2 in Whitehall Township, **Lehigh County**.

35-318-092: Master Halco, Inc. (1000 North South Road, Scranton, PA 18504) for construction of one galvanizing operation and relocation of a second galvanizing

operation and the associated air cleaning devices in Scranton, **Lackawanna County**.

40-303-028: Foster Materials, Inc. (P. O. Box 1467, Skippack, PA 19474) for installation of an air cleaning device and utilization of recycled asphalt pavement at an existing batch asphalt plant (Eckley Asphalt) in Foster Township, **Luzerne County**.

39-318-116: Gateco (805 Harrison Street, Allentown, PA 18103) for construction of a paint spray booth and associated air cleaning device in Allentown, **Lehigh County**.

40-317-030: The Hershey Co. (1025 Reese Avenue, Hershey, PA 17033) for installation of a biogas flare and boiler modifications at the Hazleton Plant in the Humboldt Industrial Park, Hazle Township, **Luzerne County**.

48-322-007: Chrin Brothers, Inc. (400 South Greenwood Avenue, Easton, PA 18045) for installation of an enclosed landfill gas flare at the Chrin Brothers Sanitary Landfill in Williams Township, **Northampton County**.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, Ronald Davis, New Source Review Chief, (717) 705-4702.

05-05022B: Bedford Reinforced Plastics, Inc. (264 Reynoldsdale Road, Bedford, PA 15522-7401) to install two new fiberglass reinforced plastic pultrusion production lines in East Saint Clair Township, **Bedford County**.

06-05094A: Reading Alloys, Inc. (P. O. Box 53, Robesonia, PA 19551-0053) for installation of a wet scrubber to control emissions from a crushing and sizing operation in South Heidelberg Township, **Berks County**. The scrubber will be replacing a fabric collector that was destroyed.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, George Monasky, New Source Review Chief, (814) 332-6940.

43-305C: Champion Carrier Corp. (2755 Kirila Road, Hermitage, PA 16148-9019) for replacement of two existing paint spray booths with two new spray booths in the City of Hermitage, **Mercer County**. The facility has a State-only Operating Permit.

25-044B: Building Materials Manufacturing Corp. (218 West Bayfront Parkway, Erie, PA 16507) for replacement of the HEAF Unit with a new Ultra High Efficiency Filter to control VOCs and particulate from the shingle and roll roofing production lines in the City of Erie, **Erie County**. The facility has a State-only Operating Permit.

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.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701, David Aldenderfer, Program Manager, (570) 327-3637.

19-00019A: Dillon Floral Corp. (933 Columbia Boulevard, Bloomsburg, PA 17815) for construction and operation of a wood-fired boiler (Source ID 033) and installation of a multiclone collector (ID C033) to control the PM emissions from the boiler at their facility in Bloomsburg, **Columbia County**.

The Department of Environmental Protection's (Department) review of the plan approval application and information submitted by Dillon Floral Corporation indicates that the proposed boiler and the multiclone collector will meet all applicable air quality requirements pertaining to air contamination sources and the emission of air contaminants, including the Best Available Technology (BAT) requirements of 25 Pa. Code §§ 127.1 and 127.12. Based on these findings, the Department intends to issue a plan approval for the construction and operation of the wood-fired boiler and the installation of a multi-clone collector to control particulate emissions from the boiler. Additionally, if the Department determines that the boiler with a multi-clone collector are operating in compliance with all plan approval conditions, the conditions established in the plan approval will be incorporated into the State-only operating permit No. 19-00019 by means an administrative amendment under 25 Pa. Code § 127.450.

The following is a summary of the conditions the Department proposes to place in the plan approval to ensure compliance with all applicable regulatory requirements:

1. Under BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, the NO_x, CO, SO_x, total PM and VOC emissions from the exhaust of ID C033 associated with Source ID 033 shall not exceed 0.22 lbs/mmBtu of heat input and 5.78 tons in any 12-consecutive month period, 0.50 lb/mmBtu of heat input and 13.14 tons in any 12-consecutive month period, 0.01 lb/mmBtu of heat input and 0.26 ton in any 12-consecutive month period, 0.22 lb/mmBtu of heat input and 5.78 tons in any 12-consecutive month period, 0.013 lb/mmBtu of heat input and 0.34 ton in any 12-consecutive month period respectively.

2. Under BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, the permittee shall not emit into the outdoor atmosphere of visible air contaminants in a manner that the opacity of the emission from ID C033 associated with Source ID 033 is equal to or greater than 10% at any time. During start up and shut down of Source ID 033, the permittee shall comply with the opacity limitations as specified in 25 Pa. Code § 123.41.

3. The permittee shall perform PM and NO_x stack tests from the exhaust of ID C033 associated with Source ID 033 within 120 days from the commencement of operation of Source ID 033 to demonstrate compliance with the particulate matter and nitrogen oxide emission limitations. Additionally, the permittee shall perform opacity readings at the exhaust of ID C033 during the stack tests in accordance with EPA Method 9 to demonstrate compliance with the opacity limitation. All testing is to be done while Source ID 033 is operating at its maximum rate and using reference method test procedures acceptable to the Department.

4. At least 60 days prior to the performance of the stack testing required by this plan approval, a test plan shall be submitted to the Department for evaluation. The plan shall contain a description of the proposed test methods and dimensioned drawings or sketches showing the test port locations. The Department shall be given at least 14 days advance notice of the scheduled dates for the performance of the stack testing required by this plan approval. Within 60 days of the completion of the stack tests, two copies of the test report shall be submitted to the Department. The report shall contain the results of the tests, a description of the testing and analytical procedures actually used in performance of the tests, all process and operating data collected during the tests, a

copy of all raw data, and a copy of all calculations generated during data analysis.

5. Under BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, ID C033 shall be equipped with instrumentation to measure the differential pressure across the multiclone collector and shall monitor the differential pressure across the multiclone collector on a continuous basis.

6. The permittee shall keep records of the following information for Source ID 033:

a. The stack test reports.

b. The supporting calculations on a monthly basis used to verify compliance with the NO_x, CO, SO_x, VOC and PM emission limitations in any 12-consecutive month period.

c. The differential pressure across ID C033 at least once per day.

These records shall be kept for a minimum of 5 years and shall be made available to the Department upon request

7. Under BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, Source ID 033 shall be fired on virgin hardwood sawdust and wood chips consisting of green and kiln-dried wood only. No coated or treated wood, laminated wood, particleboard, flakeboard or materials other than kiln-dried wood shall be burned in this boiler.

8. Under BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, the multiclone collector ash discharge system shall remain sealed from the open air at all times except when changing flyash disposal dumpster. Additionally, the level of accumulated ash in the flyash disposal dumpster shall be checked daily and the dumpster shall be emptied prior to becoming full.

9. Under BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, the screener and wood conveyors of Source ID 033 shall be completely enclosed, except for the top of the screener loading hopper, to minimize the amount of fugitive emissions from the screening operation.

10. Under BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, the front end loader bucket-to-hopper fall height shall be kept a minimum during loading of wood into the screener hopper of Source ID 033.

11. Under BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, this plan approval is issued for the construction of an Advanced Recycling Systems Model CCUE 407-S wood-fired boiler with a rated heat input of 6.0 mmBtu/hr and an integral screener and conveyor to feed fuel to the boiler (Source ID 033). The screener and wood conveyors of Source ID 033 shall be located at the enclosed end of the boiler building. The air contaminant emissions from Source ID 033 shall be controlled by a Boiler & Steam Systems, model number AFS-12-9CYT-2 multi-clone collector (ID C033). Additionally, the permittee shall not operate Source ID 033 without the simultaneous operation of ID C033.

A copy of the plan approval application and the Department's review are 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 Re-

gional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701, (570) 327-0512.

41-320-002: Webb Communications (1 Maynard Street, Williamsport, PA 17701) for construction of four heatset web offset lithographic printing presses and installation of an air cleaning device (a regenerative thermal oxidizer) on two existing web offset lithographic printing presses as well as on the four new presses in the City of Williamsport, **Lycoming County**.

The VOC emissions from the dryers incorporated in the six printing presses will be controlled by the proposed regenerative thermal oxidizer. There will however be volatile HAP and other VOC emissions resulting from press operation which will not be controlled by the proposed regenerative thermal oxidizer. The total combined air contaminant emissions from the six printing presses, after control, are not expected to exceed 17.58 tons of VOCs (including up to 2.53 tons of volatile HAPs), 6.02 tons of PM₁₀, 2.28 tons of NO_x, 1.91 tons of CO and .014 ton of SO_x per year.

The facility in which the printing presses are/will be located is not a major (Title V) facility for any air contaminant.

The Department of Environmental Protection's review of the information submitted by Webb Communications indicates that the proposed and existing printing presses should 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 (which has applicability to the two existing printing presses as well as the four proposed printing presses). Based on this finding, the Department proposes to issue plan approval.

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 only fuel to be used in the printing press dryers and the regenerative thermal oxidizer shall be natural gas.

2. The capture efficiency of the volatile organic compound capture system associated with the dryers incorporated in the six printing presses shall be 100%. All VOCs captured shall be ducted to the regenerative thermal oxidizer.

3. The VOC destruction efficiency of the regenerative thermal oxidizer shall be equal to, or greater than, 98% at all times.

4. The combustion chamber of the regenerative thermal oxidizer shall be maintained at a temperature of at least 1,500°F at any time any of the printing presses is operating except that the temperature may be maintained at a lower temperature during the performance of stack testing on the regenerative thermal oxidizer (but, at no time, shall it be lower than 1,400°F).

5. The regenerative thermal oxidizer shall be equipped with instrumentation to continuously monitor and record the temperature of the oxidizer's combustion chamber as well as with interlocks to prevent operation of the printing press dryers at any time the regenerative thermal oxidizer combustion chamber temperature is less than 1,500°F (except during any stack testing performed while the regenerative thermal oxidizer is being operated at a temperature less than 1,500°F).

6. Any air compressors supplying compressed air to the regenerative thermal oxidizer shall be equipped with an air dryer and an oil trap.

7. Printing press dryers shall be equipped with fail safe switches or interlocks which shall shut down the dryer if the static pressure within the dryer is not negative in comparison to the pressure in the room in which the printing presses are located.

8. No ink used in any printing press may contain any volatile HAPs or have a VOC content in excess of 46% by weight. No more than a combined total of 397,274 pounds of ink with a VOC content in excess of 20% by weight may be used in any 12-consecutive month period.

9. The fountain solution additive used in the four proposed printing presses shall contain no more than .5 pound of VOCs or volatile HAPs per gallon of additive and shall have a vapor pressure no greater than 72.4 millimeters of mercury of 20°C.

10. The fountain solution additive used in the two existing printing presses shall contain no more than 1.2 pounds of VOCs or volatile HAPs per gallon of additive and shall have a vapor pressure of no greater than 16 millimeters of mercury of 20°C.

11. The fountain solution used in all six printing presses shall not at any time contain more than 9 fluid ounces of fountain solution additive for every gallon of fountain solution additive/water mixture.

12. The total combined amount of fountain solution additive used in the four proposed printing presses shall not exceed 3,663 gallons in any 12-consecutive month period.

13. The total combined amount of fountain solution additive used in the two existing printing presses shall not exceed 1,838 gallons in any 12-consecutive month period.

14. The blanket wash used in the four proposed printing presses shall not contain any volatile HAPs and shall have a vapor pressure of no greater than one millimeter of mercury at 20°C.

15. The blanket wash used in the two existing printing presses shall contain no more than .68 pound of volatile HAPs per gallon and shall have a vapor pressure of no greater than 3 millimeters of mercury at 20°C.

16. The total combined amount of blanket wash used in the four proposed printing presses shall not exceed 2,749 gallons in any 12-consecutive month period.

17. The total combined amount of blanket wash used in the two existing printing presses shall not exceed 1,379 gallons in any 12-consecutive month period.

18. No VOC containing or volatile HAPs containing material, other than ink, fountain solution additive, blanket wash and natural gas, may be used in any of the six printing presses or the regenerative thermal oxidizer.

19. Containers of VO containing materials or volatile HAPs containing materials used in, or in association with, the six printing presses shall be kept closed except when removing material from, or placing material into, the containers. VOC containing or volatile HAP-containing cleaning cloths or rags shall be stored in closed containers except when in actual use and shall never be treated in any manner which would unnecessarily promote the evaporative loss of VOC or volatile HAPs to the atmosphere.

20. The concentration of PM/PM₁₀ in the exhaust of the regenerative thermal oxidizer shall not exceed .01 grain per dry standard cubic foot of effluent gas volume. Additionally, there shall be no visible emissions other than water vapor or steam.

21. The total combined VOC emissions resulting from the operation of all six of the printing presses shall not exceed 17.58 tons in any 12-consecutive month period, the total combined volatile HAPs emissions shall not exceed 2.53 tons in any 12-consecutive month period, the total combined PM/PM10 emissions shall not exceed 6.02 tons in any 12-consecutive month period, the total combined NOx emissions shall not exceed 2.28 tons in any 12-consecutive month period, the total combined CO emissions shall not exceed 1.91 tons in any 12-consecutive month period and the total combined SOx emissions shall not exceed .014 ton in any 12-consecutive month period.

22. None of the four proposed printing presses shall be operated at any time without the simultaneous operation of the regenerative thermal oxidizer. Following the installation of the regenerative thermal oxidizer, neither of the existing two printing presses shall be operated at any time without the simultaneous operation of the regenerative thermal oxidizer.

23. Within 90 days of completing the construction of the fourth new printing press, but no later than 180 days of completing the construction of the first new printing press, and every 2 years thereafter, the permittee shall perform simultaneous stack testing on the inlet and outlet of the regenerative thermal oxidizer to determine its volatile organic compound destruction efficiency. Testing is to be performed using test methods and procedures which are acceptable to the Department while operating as many of the six printing presses as the permittee ever wishes to operate at the same time and while operating the regenerative thermal oxidizer at the lowest combustion chamber temperature the permittee ever wishes to operate it (but not less than 1,400°F). Operation of the regenerative thermal oxidizer during the testing at a combustion chamber temperature in excess of 1,500°F will result in the establishment of the higher temperature as the future minimum required combustion chamber temperature.

24. Comprehensive accurate records shall be maintained of:

a. The identity amount VOC content, volatile HAP content and acetone content of each ink used each month.

b. The identity amount VOC content volatile HAP content, acetone content and vapor pressure of the fountain solution additive used in the four new printing presses each month.

c. The identity amount VOC content volatile HAP content acetone content and vapor pressure of the fountain solution additive used in the two existing printing presses each month.

d. The fountain solution additive/water mix ratios maintained in each printing press.

e. The identity amount VOC content volatile HAP content acetone content and vapor pressure of the blanket wash used in the four new printing presses each month.

f. The identity amount VOC content volatile HAP content acetone content and vapor pressure of the blanket wash used in the two existing printing presses each month.

g. The regenerative thermal oxidizer combustion chamber temperature including accurate date and time for all temperatures recorded.

This data shall be reported to the Department on a quarterly basis.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, George Monasky, New Source Review Chief, (814) 332-6940.

33-002C: Owens Brockway Glass Container (3831 Route 219 North, Brockport, PA 15823) for modification of the Hot End Surface Treatment (HEST) plan approval 33-309-017A in Snyder Township, **Jefferson County**.

In accordance with 25 Pa. Code §§ 127.44(b) and 127.424(b), the Department of Environmental Protection (Department) intends to issue a plan approval for their plant in Snyder Township, Jefferson County. The facility currently has a Title V Permit No. TV33-00002. 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.

Plan approval No. 33-002C is for the modification of the HEST plan approval 33-309-017A. The modification will replace the coating agent of tin tetrachloride with monobutyltin trichloride (MBTT). Ammonia emissions from the process will be limited to 250 ppm, 2.8 lbs/hr, and 12.3 TPY. VOC emissions will be limited to 0.8 lb/hr and 3.2 TPY. HCL emissions will be limited to 0.025 lb/hr and 0.1 TPY. The applicant will be required to comply with the outlet particulate emission rate of 0.02 gr/dscf. In addition to the emission testing the applicant will be required to monitor the ammonia concentration on a weekly basis using a colorimetric detector or equivalent method approved by the Department. The facility will be required to record the pressure drop across the baghouse, the MBTT addition rate, and the ammonia injection rate. The applicant will be required to report ammonia concentrations exceeding 250 ppm within 24 hours. The Plan Approval and Operating Permit will contain additional recordkeeping and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

Copies of the applications, Department's analysis and other documents used in the evaluation of the application are available for public review during normal business hours at the Northwest Regional Department Office, 230 Chestnut St., Meadville, PA 16335.

Persons wishing to provide Department with additional information that they believe should be considered prior to the issuance of this permit may submit the information to the address shown in the preceding paragraph. The Department will consider any written comments received within 30 days of the publication of this notice. Each written comment must contain the following:

Name, address and telephone number of the person submitting the comments.

Identification of the proposed permit (Permit Nos. 33-002C).

A concise statement regarding the relevancy of the information or objections to the issuance of the permit.

A public hearing may be held, if the Department, in its discretion, decides that a hearing is warranted based on the comments received. Persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in the newspaper or the *Pennsylvania Bulletin* or by telephone, when the Department determines telephone notification is sufficient. Written comments or requests for a public hearing should be directed to Matthew Williams, New Source Review, Air Quality Program, 230 Chestnut Street, Meadville, PA 16335, (814)-332-6940.

Persons with a disability who wish to comment and require an auxiliary aid, service or other accommodations to do so should by contacting Matthew Williams, or the Pennsylvania AT&T relay service at (800) 654-5984 (TDD) to discuss how the Department may accommodate your needs.

If a plan approval has not undergone the above public notice process the change to an operating permit must be treated as a significant modification. In these situations the Department should follow the procedures described in §§ 127.421 to 127.431 for state only operating permits or §§ 127.521—127.524 for Title V operating permits.

OPERATING PERMITS

Intent to Issue Title V Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter G.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401, Edward Jurdones Brown, Facilities Permitting Chief, (484) 250-5920.

46-00012: Philadelphia Newspapers, Inc. (800 River Road, Conshohocken, PA 19428-2632) for renewal of their Title V Operating Permit in Upper Merion Township, **Montgomery County**. The initial permit was issued on 11-7-2001. The facility prints and distributes daily and weekly news publications. As a result of potential emissions of VOCs and NOx, the facility is a major stationary source as defined in Title I, Part D of the Clean Air Act Amendments, and is therefore subject to the Title V permitting requirements adopted in 25 Pa. Code Chapter 127, Subchapter G. The proposed Title V Operating Renewal does not reflect any change in air emissions from the facility. The facility is not subject to Compliance Assurance Monitoring under 40 CFR Part 64.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, Mark Wayner, Facilities Permitting Chief, (412) 442-4174.

11-00318: Ebensburg Power Co., Inc. (2840 New Germany Road, P. O. Box 845, Ebensburg, PA 15931) for operation of a steam/electric cogeneration facility at their Ebensburg Cogeneration facility in Cambria Township, **Cambria County**. This is a Title V Operating Permit Renewal.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, Eric Gustafson, New Source Review Chief, (814) 332-6940.

37-00003: Essroc Cement (2nd Street, Bessemer, PA 16112) for the proposed re-issuance of the Title V Operating Permit previously issued to the facility in Bessemer Borough, **Lawrence County**. The reissued permit includes all modifications made to the National Emission Standard for Hazardous Air Pollutants, Subpart LLL as well as the NOx Budget Rule requirements contained in 25 Pa. Code Chapter 145, Subchapter C.

Intent to Issue Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, Ronald Davis, New Source Review Chief, (717) 705-4702.

67-05064: York Building Products (950 Smile Way, York, PA 17404-1798) for renewal of their State-only Operating Permit for operation of their asphalt plant in Spring Garden Township, **York County**. The renewal of

the state only operating permit will include monitoring, recordkeeping, reporting requirements, emission restrictions, and work practice standards 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.

41-00028: Koppers Industries, Inc. (P. O. Box 189, Montgomery, PA 17752) for renewal of State Only Operating Permit 41-00028 for a railroad crosstie treatment facility in Clinton Township, **Lycoming County**.

The facility consists of three treatment cylinders in which wooden crossties are treated with creosote as well as associated creosote storage tanks, condensate tanks, a 33,475,000 Btu per hour No. 2 fuel oil-fired boiler, a treated crosstie storage area, several cutoff saws, a 220 horsepower diesel-fired fire pump, a wastewater treatment plant and a fuel oil storage tank. The air contaminant emissions from the three treatment cylinders, the creosote storage tanks and one of the condensate tanks (the "blow-down tank") are controlled by four condensers. The particulate matter emissions from the cutoff saws are controlled by two cyclone collectors.

The air contaminant emissions from the facility are not expected to exceed 49.04 tons of NOx, 37.73 tons of SOx, 13.93 tons of VOCs, 12.55 tons of CO, 6.33 tons of PM 3.77 tons of which could be PM10 and 6.91 tons of HAPs per year.

For the purposes of the Title V operating permit program, the facility is not a major facility for any air contaminant.

The Department of Environmental Protection (Department) proposes to renew State-only Operating Permit 41-00028. The Department intends to incorporate into this renewal all conditions currently contained in State Only Operating Permit 41-00028 with these exceptions, changes and/or additions:

1. A "synthetic minor" condition limiting the facility's sulfur oxides emissions to less than 100 tons per year has been deleted as it is no longer possible for the facility to emit 100 or more tons of sulfur oxides per year. The respective condition is consequently no longer needed.

2. Conditions requiring weekly "walk around" inspections of the facility and the maintenance of records of these inspections have been removed as the respective conditions infer that facility personnel need monitor the facility's air contamination sources only once per week. The monitoring of sources should be an integral part of normal source operation and should therefore occur on a more-or-less continuous basis.

3. A condition has been added prohibiting the creation of air pollution, as defined in the Pennsylvania Air Pollution Control Act.

4. Several conditions have been modified to reflect the existence of four condensers associated with the facility's three treatment cylinders and the creosote storage tanks rather than one condenser, as is erroneously stated in the current permit. These conditions have also been modified to reflect the existence of a blow-down tank and a decanter tank, neither of which is mentioned in the current permit.

5. A condition has been added prohibiting the use of diesel fuel in the facility's fire pump to which recycled/reprocessed oil, waste oil or other waste materials have been added.

6. Conditions requiring the maintenance of records of the calculations used to verify compliance with the applicable PM emission limit for the facility's cutoff saws have been deleted as such calculations are, at best, only crude emission estimates which cannot possibly be used to "verify compliance" with anything. The records are consequently of no value.

7. A condition requiring the maintenance of records of the vapor pressure of the materials stored in the facility's No. 2 fuel oil storage tank has been replaced with a condition requiring the maintenance of records of the identity of the materials stored in the respective tank.

8. The facility's wastewater treatment plant has been added to the permit as an air contamination source.

**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.

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900,

11960101 and NPDES No. PA0234176. M. B. Energy, Inc. (175 McKnight Road, Blairsville, PA 15717-7960).

Permit renewal for reclamation only of a bituminous surface mine in Jackson Township, **Cambria County**, affecting 311.0 acres. Receiving streams: UNTs to Laurel Run, Laurel Run classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received: August 15, 2006.

56960107. PBS Coals, Inc. (P. O. Box 260, Friedens, PA 15541). Permit renewal for the continued operation and restoration of a bituminous surface-auger mine in Jenner Township, **Somerset County**, affecting 129.9 acres. Receiving streams: UNTs to/and Quemahoning Creek classified for the following use: CWF. The first

downstream potable water supply intake from the point of discharge is Cambria Somerset Authority Quemahoning SWI. Application received: August 11, 2006.

Greensburg District Mining Office: Armbrust Professional Center, 8205 Route 819, Greensburg, PA 15601, (724) 925-5500.

03050103 and NPDES Permit No. PA0250961. Mountain Coal Co., Inc. (11931 SR 85, Kittanning, PA 16201). Application for commencement, operation and reclamation of a bituminous surface mine, located in Madison Township, **Armstrong County**, affecting 140.8 acres. Receiving stream: UNT to Allegheny River, classified for the following use: WWF. The public water supply intake within 10 miles downstream from point of discharge: Allegheny Power. Application received: August 9, 2006.

02-04-03 and NPDES Permit No. PA0250686. Coventry Park, LLC (533 Locust Place, Sewickley, PA 15143). Name change from Mashuda Corp. to Coventry Park, LLC for a pending Government Financed Construction Contract, located in Robinson Township, **Allegheny County**, affecting 40.9 acres. Receiving stream: Moon Run, classified for the following use: WWF. There is no potable water supply intake within 10 miles downstream from the point of discharge. Revision received: July 17, 2006.

03010106 and NPDES Permit No. PA0250031. Black Rock Coal Company, Inc. (1107 University Drive, Dunbar, PA 15431). Application received for transfer of permit currently issued to Seven Sisters Mining Co., Inc., for continued operation and reclamation of a bituminous surface mining site located in South Bend Township, **Armstrong County**, affecting 34.3 acres. Receiving streams: Crooked Creek and UNT to Allegheny River, classified for the following use: WWF. There are no potable water supply intakes within ten miles of the point of discharge. Transfer application received: August 1, 2006.

Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, (814) 797-1191.

33850123 and NPDES Permit No. PA0106801. Waroquier Coal Company (P. O. Box 128, Clearfield, PA 16830). Renewal for an existing bituminous surface strip operation in Washington Township, **Jefferson County** affecting 203.2 acres. Receiving streams: UNT to Mill Creek to the Little Mill Creek; UNT to Rattlesnake Run and Rattlesnake Run, classified for the following use: CWF. There are no potable surface water supply intakes within 10 miles downstream. Application for reclamation only. Application received: August 11, 2006.

16050113 and NPDES Permit No. PA0258075. Timothy A. Keck (93 Carrier Street, Summerville, PA 15864). Revision to an existing bituminous surface strip

operation in Monroe Township, **Clarion County** affecting 19.0 acres. Receiving streams: one UNT to Sloan Run and Sloan Run, one UNT to Reids Run and Reids Run and Piney Creek, classified for the following use: CWF. There are no potable surface water supply intakes within 10 miles downstream. Revision to add blasting. Application received: August 15, 2006.

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.

41940101 and NPDES No. PA0219843. Fisher Mining Company (40 Choate Circle, Montoursville, PA 17754). Permit renewal for the continued operation and restoration of a bituminous surface mine in Pine and McHenry Townships, **Lycoming County**, affecting 640.0 acres. Receiving streams: Buckeye Run, Otter Run to Little Pine Creek, classified for the following use: HQ-CWF. There are no potable water supply intakes within 10 miles downstream. Application received: July 6, 2006.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118.

40762308R4. Popple Brother Coal Company (P. O. Box 126, Duryea, PA 18642). Renewal of an existing coal refuse reprocessing, disposal and prep plant operation in Duryea and Old Forge Boroughs and Ransom Township, **Luzerne and Lackawanna Counties** affecting 130.0 acres, receiving stream: none. Application received: August 11, 2006.

40850102R3. Northeast Energy Co. (254 Johnston Street, Wilkes-Barre, PA 18702). Renewal of an existing anthracite surface mine operation in Laurel Run Borough, **Luzerne County** affecting 111.1 acres, receiving stream: none. Application received: August 14, 2006.

Coal Applications Returned

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900.

56060106 and NPDES No. PA0249980. PBS Coals, Inc. (P. O. Box 260, Friedens, PA 15541). Commencement, operation, and restoration of a bituminous surface-auger mine in Stonycreek Township, **Somerset County**, affecting 501.2 acres. Receiving streams: Schrock Run, UNT to Glades Creek, UNT to Buck Run, UNT No. 1 to Schrock Run (all tributaries of Stonycreek River) classified for the following uses: CWF, WWF; CWF; CWF. There are no potable water supply intakes within 10 miles downstream. Application received: April 27, 2006. Application returned: August 14, 2006.

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 Average</i>	<i>Instantaneous Maximum</i>
suspended solids	35 mg/l	70 mg/l	90 mg/l
Alkalinity exceeding acidity ¹			
pH ¹		<i>greater than 6.0; less than 9.0</i>	

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 precipita-

tion 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.

Greensburg District Mining Office: Armbrust Professional Center, 8205 Route 819, Greensburg, PA 15601, (724) 925-5500.

2969BSM24. Potato Ridge, LLC (520 West Short Street, Lexington, KY 40507). Application received for transfer of permit currently issued to Department of Conservation and Natural Resources for continued operation and reclamation of a noncoal surface mining site located in Stewart Township, **Fayette County**, affecting 169.8 acres. Receiving streams: Laurel Run, classified for the following use: WWFs. Transfer application received: July 28, 2006.

2966BSM50 and NPDES Permit No. PA0202851. Potato Ridge, LLC (520 West Short Street, Lexington, KY 40507). Application for transfer of permit currently issued to Kaiser Refractories, Inc., for continued operation and reclamation of a noncoal surface mining site located in Stewart Township, **Fayette County**, affecting 65.0 acres. Receiving streams: UNT to Laurel Run and Laurel Run, classified for the following use: WWF. Transfer application received: July 28, 2006.

Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, (814) 797-1191.

2079301. William J. and Sue A. Thompson (16925 Phelps Road, Linesville, PA 16424). Revision to an existing sand and gravel mine in Conneaut Township, **Crawford County** affecting 36.2 acres. Receiving streams: Blackjack Swamp to Blackjack Run, unclassified. There are no potable surface water supply intakes within 10 miles downstream. Revisions to mine beneath the groundwater table for 15 to 18 feet and to request a postmining land use change from cropland to unmanaged water impoundment and the fringe areas surrounding the lake to be considered unmanaged natural habitat. Application received: August 16, 2006.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118.

64010811. Paul R. Gustin (P. O. Box 105, Preston Park, PA 18455). Stages I and II bond release for a quarry operation in Mt. Pleasant Township, **Wayne County** affecting 1.0 acre on property owned by Bill Bochicchio. Application received: August 9, 2006.

6276SM1A1C4 and NPDES Permit No. PA0594571. Martin Limestone, Inc. (P. O. Box 550, Blue Ball, PA 17506). Renewal of NPDES Permit for discharge of treated mine drainage from a quarry operation in Salisbury Township, **Lancaster County**, receiving stream: UNT of Pequea Creek, classified for the following use: CWF. Application received: August 10, 2006.

45950801. Harold Post (77 Talcott Hill Road, Shickshinny, PA 18655). Stages I and II bond release for a quarry operation in Ross Township, **Luzerne County** affecting 5.0 acres on property owned by Harold Post. Application received: August 17, 2006.

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 comment, objection or suggestion relates. Maps, drawings and other data pertinent to the certification request are available for inspection between 8 a.m. and 4 p.m. on 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 Flood Plain 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

Northeast Region: Watershed Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.

E52-203. Finan Family Trust, 830 Twin Lakes Road, Shohola, PA 18458, in Shohola Township, **Pike County**, United States Army Corps of Engineers, Philadelphia District. To construct and maintain a 14-foot wide steel driveway crossing of Twin Lakes Creek (HQ-CWF) having a 38-foot span and a 6-foot underclearance. The project is located on the north side of T-446 (Parkers Glen Road) approximately 1.7 miles north of SR 1007 (Woodtown Road). (Shohola, PA-NY Quadrangle N: 8.2 inches; W: 2.1 inches).

E39-467. Trexler Fields Twin Home Projects, LLC, 5930 Hamilton Blvd., Suite 10, Wescosville, PA 18106, in Upper Macungie Township, **Lehigh County**, United States Army Corps of Engineers, Philadelphia District.

To remove the existing Trexler Road Bridge across Schafer Run (HQ-CWF); to construct and maintain a bridge having a 36-foot span and a 9-foot underclearance across Schafer Run and 0.24 acre of adjacent wetlands; and to construct and maintain a 10-inch diameter concrete encased PVC sanitary line crossing of Schafer Run. The project is located adjacent to Trexler Road approximately 1.3 miles east of Mertztown Road. (Topton, PA Quadrangle N: 7.0 inches; W: 2.8 inches).

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4707.

E67-806: Susquehanna Radio Corporation, 5989 Susquehanna Plaza Drive, York, PA 17406-8910 in Manchester township, **York County**, ACOE Baltimore District.

To construct and maintain a 12-foot wide by 3.5-foot high by 30-foot long precast concrete box culvert in a UNT to Codorus Creek (WWF) (York, PA Quadrangle N: 22.6 inches, W: 17.1 inches; Latitude 39° 59' 59", Longitude: 76° 44' 49") in Manchester Township, York County.

E50-234: Department of Transportation, Engineering District 8-0, 2140 Herr Street, Harrisburg, PA 17103-1699 in Carroll Township, **Perry County**, ACOE Baltimore District.

To: (1) remove the existing two-lane, three-span, bridge having a total span of 120 feet, a width of 25 feet and an underclearance of approximately 18 feet; and (2) construct and maintain a two span bridge having a total span of approximately 232 feet, a width of 48 feet, and a minimum underclearance of approximately 16 feet carrying SR 0034, over Sherman Creek (WWF) at a point approximately 1,300 feet south of the intersection of SR 2001 (Windy Hill Road) and SR 0034 (Shermans Dale, PA Quadrangle N: 13.3 inches; W: 6.2 inches, Latitude 40° 19' 24"; Longitude: 77° 10' 09") in Carroll Township, Perry County. This permit also authorizes the installation of a temporary causeway for the purpose of constructing the new bridge, and removing the old bridge. The applicant is required to provide 0.26-acre of replacement PEM wetland.

E05-341: Department of Transportation, Engineering District 9-0, 1020 North Juniata Street, Holidaysburg, PA 16648 in East St. Clair Township, **Bedford County**, ACOE Baltimore District.

To reconstruct and widen SR 56 Section 12 in East St. Clair Township, Bedford County (Bedford, PA Quadrangle N: 22.2 inches; W: 11.0 inches, Latitude: 40° 00' 00"; Longitude: 76° 30' 00"); for the purpose of improving traffic safety involving the following:

1. Remove an existing 42-inch RCP and construct and maintain a 54-inch RCP carrying SR 4028 over a UNT to Adams Run (WWF) at the intersection of SR 4028 and SR 0056;

2. Relocate and maintain four separate reaches of UNT to Adams Run (WWF) between Stations 572+00 and 578+50; 587+00 and 589+70; 590+60 and 591+15; 600+50 and 602+25. Relocation will result in permanent impacts to 25 lineal feet of stream and temporary impacts to 219 feet of stream.

3. Maintain fill within a total of 0.47-acre of PEM wetlands and temporarily impact another 0.20-acre of PEM wetland associated with UNTs to Adams Run at Stations 586+00; 587+00; 592+00; 589+00; 577+00; 595+00; and 599+00;

The applicant is required to provide 0.47 acre of replacement PEM wetland. The applicant met stream channel compensation requirements by funding the removal of an abandoned dam located on Blacklog Creek in Huntingdon County.

E05-340: Department of Transportation, Engineering District 9-0, 1020 North Juniata Street, Hol-

lidayburg, PA 16648 In East St. Clair Township, **Bedford County**, ACOE Baltimore District.

To reconstruct and widen SR 56 Section 10 in East St. Clair Township, Bedford County for the purpose of improving traffic safety involving the following:

1. Construct and maintain a 30-inch pipe outfall and associated riprap apron with a UNT to Stone Creek (WWF) (Alumbank, PA Quadrangle N: 11.6 inches; W: 2.6 inches, Latitude: 40° 08' 21"; Longitude: 78° 34' 59");

2. Remove an existing 36-inch RCP and construct and maintain a 48-inch RCP within a UNT to Stone Creek (WWF) (Alumbank, PA Quadrangle N: 11.5 inches; W: 1.5 inches, Latitude: 40° 07' 59"; Longitude: 78° 34' 56");

3. Remove an existing 4-foot by 6-foot concrete arch culvert and construct and maintain a 78-inch by 78-inch concrete box culvert within the channel of Stone Creek (WWF) (Alumbank, PA Quadrangle N: 11.5 inches; W: 1.3 inches, Latitude: 40° 07' 55"; Longitude: 78° 34' 57");

4. Remove an existing 48-inch RCP and construct and maintain a 48-inch by 76-inch RCP within a UNT to Stone Creek (WWF) (Alumbank, PA Quadrangle N: 11.5 inches; W: 3.3 inches, Latitude: 40° 08' 36"; Longitude: 78° 34' 58");

5. Relocate and maintain an ephemeral UNT to Stone Creek (WWF) between Stations 532+00 and 535+50 (Alumbank, PA Quadrangle N: 11.6 inches; W: 1.6 inches, Latitude: 40° 08' 01"; Longitude: 78° 34' 59"). Relocation will result in temporary impacts to 402 lineal feet of stream channel.

6. Maintain fill within a total of 0.73 acre of PEM wetlands and temporarily impact another 0.41 acre of PEM wetland associated with UNTs to Stone Creek at Stations 497+00; 530+00; 534+00; and 531+00;

The applicant is required to provide 0.73 acre of replacement PEM wetland. The applicant met stream channel compensation requirements by funding the removal of an abandoned dam located on Blacklog Creek in Huntingdon County.

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701, (570) 327-3636.

E14-494. Robert and Barbara Maloit, 10 Mountain Trail, Prince Frederick, MD 20768. Maloit Bridge Crossing, in Huston Township, **Centre County**, ACOE Baltimore District (Julian, PA Quadrangle N: 22.3 inches; W: 10.9 inches).

To construct and maintain: 1) 806 cubic yards of clean fill to make the 330 linear feet of bridge approaches that are in the 100-year floodway and are part of a 16-foot wide by 2,200 foot long driveway to a proposed out-of-floodway private home; 2) a 16-foot wide by 40-foot long steel "I" beam bank-to-bank bridge over Laurel Run that has a 137 square foot hydraulic opening, a 40-foot clear span and a 5-foot underclearance; 3) two 36-inch diameter culverts in the driveway to convey minor tributaries to Laurel Run; 4) a 20-foot long 36-inch diameter HDPE culvert with two sand bag dams to temporarily convey stream water through a dry bridge construction site; 5) 30 linear feet of R-5 riprap on the right streambank immediately upstream of the bridge; 6) a total of 3,955 square feet of wetland impact (0.09 acre) associated with the driveway construction. The applicants are proposing to

replace these wetlands onsite, at a 2:1 ratio, by creating 8,000 square feet of wetlands east of the bridge location within the floodplain area. This project proposes to temporarily impact 60 linear feet and permanently impact 30 linear feet of Laurel Run, which is classified as an Exceptional Quality watershed with wild trout population.

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

E63-588. Canonsburg Borough, 68 East Pike Street, Canonsburg, PA 15317. To maintain bank stabilization and construct access road in Canonsburg Borough, **Washington County**, Pittsburgh ACOE District. (Canonsburg, PA Quadrangle N: 1.41 inches; W: 10.39 inches and Latitude: 40° 15' 28"—Longitude: 80° 11' 58"). The applicant proposes to place and maintain approximately 500' of bank stabilization and to construct approximately 660' of gravel access road for the purpose of flood control and bank stabilization. The project is located approximately 600' east of the intersection of West Pike and Strabane Avenue.

E65-747 A1. Thomas and Sandra Usher Youth Camp, a PA Nonprofit Corporation, 400 Manordale Road, Pittsburgh, PA 15241. To amend Permit E65-747 and enlarge the existing Lake Janet Ruth in Cook Township, **Westmoreland County**, Pittsburgh ACOE District. (Stahlstown, PA Quadrangle N: 11.00 inches; W: 0.2 inch and Latitude: 40° 11' 8"—Longitude: 79° 15' 5"). The applicant proposes to amend Permit E65-747 to enlarge

and maintain the existing Lake Janet run on Loyalhanna Creek (HQ-CWF) to create a water surface area of 1.5 acres for the purpose of providing additional area for the camp's activities. The project is located at the Usher Youth Camp approximately 600 feet south of SR 381.

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

E20-547, Allegheny College, 520 North Main Street, Meadville, PA 16335. Construction Fill Area, in the City of Meadville, **Crawford County**, ACOE Pittsburgh District (Meadville, PA Quadrangle N: 5.8 inches; W: 3.8 inches).

The applicant proposes to fill 0.58 acre of wetland with 35,000 cubic yards of clean fill from campus construction projects over a 10 to 15 year period. 0.61 acre of on-site mitigation is proposed. The project proposes to directly impact 0.58 acre of wetland.

E42-324, Chevron Environmental Management Company, 6001 Bollinger Canyon Road, K2094, San Ramon, CA 94583-2324. Rixford Getty/Tidewater Pumping Station Restoration Project, in Otto Township, **McKean County**, ACOE Pittsburgh District (Eldred, PA Quadrangle N: 41, 55', 51"; W: 78, 29', 06").

To excavate and remove waste materials, soil and other restoration activities that will temporarily impact a total of 0.29 acre of wetland (PSS) on property located along the north side of SR 246 just east of the Village of Rixford. Project is proposed to result in restoration and re-establishment of the impacted wetland.

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

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

NPDES No. (Type)	Facility Name & Address	County & Municipality	Stream Name (Watershed #)	EPA Waived Y/N ?
PA0008281	PPL Brunner Island, LLC Brunner Island Steam Electric Station Two North Ninth Street GENPL-6 Allentown, PA 18101-1179	East Manchester Township York County	Susquehanna River Conewago Creek and Hartman Run 7-F and 7-H	N

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

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

NPDES Permit No. PA0012432, Industrial Waste, **Sunny Dell Foods, Inc.** 135 North Fifth Street, Oxford, PA 19363. This proposed facility is located in Oxford Borough, **Chester County**.

Description of Proposed Action/Activity: Approval for the renewal to discharge from the facility into a UNT to West Branch Big Elk Creek in Watershed 7K.

NPDES Permit No. PA0052256, Industrial Waste, **The Fredericks Company**, 2400 Philmont Avenue, Huntingdon Valley, PA 19006. This proposed facility is located in Lower Moreland Township, **Montgomery County**.

Description of Proposed Action/Activity: Approval for the renewal to discharge from the facility into Huntingdon Valley Creek in Pennypack Creek Watershed 3J.

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4707.

NPDES Permit No. PA0029041, Sewage, **Penn West Conference of United Church of Christ**, Camp Living Waters, 300 Camp Living Water Road, Schellsburg, PA 15559. This proposed facility is located in Napier Township, **Bedford County**.

Description of Proposed Action/Activity: Authorization to discharge to the Shawnee Branch in Watershed 11-C.

NPDES Permit No. PA0088609, Sewage, **Broad Top Township, Riddlesburg Wastewater Treatment Facility**, P. O. Box 57, Defiance, PA 16633-0057. This proposed facility is located in Broad Top Township, **Bedford County**.

Description of Proposed Action/Activity: Authorization to discharge to the Raystown Branch Juniata River in Watershed 11-D.

NPDES Permit No. PA0081361, Sewage, **Memphord Estates Sewerage Company, Inc.**, 148 South Baltimore Street, Dillsburg, PA 17109-1007. This proposed facility is located in Monaghan Township, **York County**.

Description of Proposed Action/Activity: Authorization to discharge to the Stony Run in Watershed 7-E.

NPDES Permit No. PA0082163, Sewage, **New Life for Girls**, Box D-700, Dover, PA 17315. This proposed facility is located in Conewago Township, **York County**.

Description of Proposed Action/Activity: Authorization to discharge to a UNT of Laurel Run in Watershed 7-F.

NPDES Permit No. PA0247855, Sewage, **Belfast Township Supervisors, Needmore Wastewater Treatment Facility**, 121 Homestead Lane, Needmore, PA 17238. This proposed facility is located in Belfast Township, **Fulton County**.

Description of Proposed Action/Activity: Authorization to discharge to the Tonoloway Creek in Watershed 13-B.

NPDES Permit No. PA0248240, Sewage, **Matt D. Madden**, 20 South Hanover Street, Carlisle, PA 17013. This proposed facility is located in North Middleton Township, **Cumberland County**.

Description of Proposed Action/Activity: Authorization to discharge to the Conodoguinet Creek in Watershed 7-B.

NPDES Permit No. PA0248321, Sewage, **Hurley/Morrison**, Lot. No. 2, 50 Frytown Road, Newville, PA 17241. This proposed facility is located in Upper Frankford Township, **Cumberland County**.

Description of Proposed Action/Activity: Authorization to discharge to the UNT to Conodoguinet Creek in Watershed 7-B.

NPDES Permit No. PAS143501, Stormwater, **Adhesives Research, Inc.**, 400 Seaks Run Road, Glen Rock, PA 17327. This proposed facility is located in Springfield Township, **York County**.

Description of Proposed Action/Activity: Authorization to discharge to a UNT of Seaks Run in Watershed 7-H.

NPDES Permit No. PA0008826, Industrial Waste, **A. P. Green Refractories, Inc.**, Sproul Plant, R. D. 1, Box 588D, Claysburg, PA 16625. This proposed facility is located in Greenfield Township, **Blair County**.

Description of Proposed Action/Activity: Authorization to discharge to Boiling Spring Run in Watershed 11-A.

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

NPDES Permit No. PA0239801, Sewage, **Rory Hamilton**, 2147 Hare Road, Waterford, PA 16441. This proposed facility is located in Waterford Township, **Erie County**.

Description of Proposed Action/Activity: This is a single residence sewage treatment plant discharging to a UNT to Wheeler Creek in Watershed 16-A.

NPDES Permit No. PA0239666, Sewage, **Tracey, Inc.**, P. O. Box 55, Valencia, PA 16059. This proposed facility is located in Clinton Township, **Butler County**.

Description of Proposed Action/Activity: This facility is authorized to discharge to a UNT to Bull Creek in Watershed 18-A.

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

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

WQM Permit No. 4006402, Sewerage, **Can Do, Inc.**, One South Church Street, Hazleton, PA 18201. This proposed facility is located in Hazle Township, **Luzerne County**.

Description of Proposed Action: Issuance of Water Quality Management Permit. The project consists of modifications and additions to the existing wastewater treatment plant for nutrient removal and increasing the hydraulic capacity of the plant to 1.0 mgd.

WQM Permit No. 3906401, Sewerage, **Allied Utility Services, Inc.**, P. O. Box 1488, Skippack, PA 19474-1488. This proposed facility is located in North Whitehall Township, **Lehigh County**.

Description of Proposed Action: Issuance of Water Quality Management Permit.

For construction and operation of new headworks, modified aeration system, installation of an intrum microscreen drum filter and chemical feed system.

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4707.

WQM Permit No. 2906402, Sewerage, **Belfast Township Supervisors**, 121 Homestead Lane, Needmore, PA 17238. This proposed facility is located in Belfast Township, **Fulton County**.

Description of Proposed Action/Activity: Approval for the construction/operation of sewerage facilities consisting of an 0.030 mgd extended aeration wastewater treatment plant, three pump stations, approximately 10,000 feet of Sanitary Sewers and associate appurtenances.

WQM Permit No. 2106405, Sewerage, **Matt D. Madden**, 20 South Hanover Street, Carlisle, PA 17013. This proposed facility is located in North Middletown Township, **Cumberland County**.

Description of Proposed Action/Activity: Approval for the construction/operation of sewerage facilities consisting of a residential small flow treatment facility using a septic tank, Ecoflow peat filter, and chlorine disinfection.

WQM Permit No. WQG02210601, Sewerage, **South Middleton Township Municipal Authority**, 345 Criswell Drive, Boiling Springs, PA 17007-0008. This proposed facility is located in South Middleton Township, **Cumberland County**.

Description of Proposed Action/Activity: Approval for the construction/operation of sewerage facilities consisting of a duplex submersible pump station with rail mounted comminutor assembly and a 4-inch diameter force main connecting to MH562-24 in Buckthorn Drive.

WQM Permit No. 0706402, Sewerage, **Greenfield Township Municipal Authority**, P. O. Box 372, Claysburg, PA 16625. This proposed facility is located in Greenfield Township, **Blair County**.

Description of Proposed Action/Activity: Permit approval for the construction/operation of sewerage facilities consisting of the replacement of approximately 7,900 linear feet of 10-inch interceptor with 21-inch PVC interceptor.

WQM Permit No. WQG-02210602, Sewerage, **Cumberland Franklin Joint Municipal Authority**, 725 Municipal Drive, Shippensburg, PA 17257. This proposed facility is located in Shippensburg and Southampton Townships, **Cumberland County**.

Description of Proposed Action/Activity: Approval for the construction and operation of a Sewer Extension.

WQM Permit No. 6706407, Sewerage, **Springfield Township, York County**, Sewer Authority, 9211 Susquehanna Trail South, Seven Valleys, PA 17360. This proposed facility is located in Springfield Township, **York County**.

Description of Proposed Action/Activity: Approval for the modification of sewerage facilities consisting of replacement of the existing UV system, construction of a sludge holding tank and a decant/centrate tank, and the installation of a centrifuge.

WQM Permit No. 0700404 Amendment No. 06-1, Sewerage, **Logan Township Board of Supervisors**, 800 39th Street, Altoona, PA 16602-1799. This proposed facility is located in Logan Township, **Blair County**.

Description of Proposed Action/Activity: Amendment approval for the modification of sewerage facilities consisting of the re-rating of the maximum monthly hydraulic capacity from 1.12 million gallons per day (mgd) to 1.75 mgd.

WQM Permit No. 2106406, Sewerage, **Hurley/Morrison**, 50 Frytown Road, Newville, PA 17241. This proposed facility is located in Upper Frankford Township, **Cumberland County**.

Description of Proposed Action/Activity: Approval for the construction/operation of sewerage facilities consisting of a residential small flow treatment facility using a septic tank, Ecoflo peat filter, and chlorine disinfection.

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

WQM Permit No. 0205403, Sewerage, **Jefferson Hills Borough**, 925 Old Clairton Road, Clairton, PA 15025. This proposed facility is located in Jefferson Hills Borough, **Allegheny County**.

Description of Proposed Action/Activity: Permit issuance for the construction and operation of one pump station, approximately 7,5000 feet of gravity sewers and 500 feet of 8-inch diameter force main.

WQM Permit No. 5690405-A2, Sewerage, **Rockwood Borough**, 358 Market Street, Rockwood, PA 15557. This proposed facility is located in Rockwood Borough, **Somerset County**.

Description of Proposed Action/Activity: Permit issuance for construction and operation of 8-inch and 10-inch diameter sanitary sewer lines, manholes and appurtenances that will replace the existing combine sewer lines, manholes and appurtenances.

WQM Permit No. 0306402, Sewerage, **Municipal Authority of the Borough of Kittanning**, 300 South McKean Street, Kittanning PA 16201. This proposed facility is located in Kittanning Borough, **Armstrong County**.

Description of Proposed Action/Activity: Permit issuance for construction and operation for the separation of combined sewers into separate sanitary and storm sewers.

WQM Permit No. 1106402, Sewerage, **Windber Country Club**, 1392 Forest Hills Drive, Salix, PA 15952. This proposed facility is located in Adams Township, **Cambria County**.

Description of Proposed Action/Activity: Permit issuance for construction and installation of a package sewage treatment plant.

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

WQM Permit No. 2506405, Sewerage, **Rory Hamilton**, 2147 Hare Road, Waterford, PA 16441. This proposed facility is located in Waterford Township, **Erie County**.

Description of Proposed Action/Activity: A single residence sewage treatment plant.

WQM Permit No. WQG018479, Sewerage, **James G. DeGenova**, 7576 Sharon Mercer Road, Mercer, PA 16137. This proposed facility is located in Lackawannock Township, **Mercer County**.

Description of Proposed Action/Activity: A single residence sewage treatment plant.

WQM Permit No. WQG018480, Sewerage, **Justin and Melissa Reed**, 15485 Route 8, Union City, PA 16438. This proposed facility is located in Union Township, **Erie County**.

Description of Proposed Action/Activity: A single residence sewage treatment plant.

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

Southcentral Region: Water Management Program Manager; 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4707.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI030606003	East Penn Manufacturing 50 Jefferson Street Topton, PA 19562	Berks	Topton Borough	Toad Creek HQ-CWF
PAI030606006	East Penn Manufacturing P. O. Box 147 Lyon Station, PA 19536-0147	Berks	Richmond Township	Moselem Creek HW-CWF
PAI033406001	East Waterford Sewer Authority R. R. 1 Honey Grove, PA 17035	Juniata	Lack and Tuscarora Townships	Tuscarora-Horse Valley Run CWF-HQ

Northcentral Region: Water Management Program Manager; 208 West Third Street, Williamsport, PA 17701.

Centre County Conservation District: Willowbank Office Bldg., 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>
PAI041406015	Deitrich Road Land Development John Hull 267 Sandy Lane Bellefonte, PA 16823	Centre	Walker Township	Little Fishing Creek HQ-CWF

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

Westmoreland County Conservation District, Center for Conservation Education, 211 Donohoe Road, Greensburg, PA 15601, (724-837-5271).

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI056506002	Thomas and Sandra Usher Camp 400 Manordale Road Pittsburgh, PA 15241	Westmoreland	Cook and Ligonier Townships	Loyalhanna 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 Single Residence Sewage Treatment Plants
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
PAG-7	General Permit for Beneficial Use of Exceptional Quality Sewage Sludge by Land Application
PAG-8	General Permit for Beneficial Use of Nonexceptional 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	CAFOs
PAG-13	Stormwater Discharges from MS4

General Permit Type—PAG-2

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>
Throop Borough Lackawanna County	PAG2003506023	Throop Borough 436 Sanderson St. Throop, PA 18512	Eddy Creek WWF	Lackawanna Co. Cons. Dist. (570) 281-9495
North Whitehall Township Lehigh County	PAG2003906006	Matt Sorrentino Castle Holdings, Inc. 428 N. 15th St. Allentown, PA 18102	Lehigh River TSF	Lehigh Co. Cons. Dist. (610) 391-9583
North Whitehall Township Lehigh County	PAG2003906021	Barry Follweiler F & M Land Company 3372 Jordan Rd. Orefield, PA 18069	Lehigh River TSF	Lehigh Co. Cons. Dist. (610) 391-9583

*Facility Location:
Municipality &
County**Permit No.**Applicant Name &
Address**Receiving
Water/Use**Contact Office &
Phone No.*

Sugarloaf Township Luzerne County	PAG2004006023	Sugarloaf Township Fire Co. P. O. Box 80 Sybertsville, PA 18251	Nescopeck Creek CWF	Luzerne Co. Cons. Dist. (570) 674-7991
Dallas Township Luzerne County	PAG2004006015	CH Waltz Sons, Inc. Theodore Waltz 6570 Star Route 973 East Cogan Station, PA 17728	Toby Creek CWF	Luzerne Co. Cons. Dist. (570) 674-7991
Hazle Township Luzerne County	PAG2004006027	Archer Daniels Midland Company Eric Lightner 4666 Faries Parkway Decatur, IL 62526	Stony Creek CWF	Luzerne Co. Cons. Dist. (570) 674-7991
Bethlehem Township Northampton County	PAG2004806014	Gerald Fry Department of Transportation Eng. District 5 1713 Lehigh St. Allentown, PA 18103-4727	UNTs to Lehigh River CWF	Northampton Co. Cons. Dist. (610) 746-1971
Hanover Township Northampton County	PAG2004806003	Darbin T. Skeans DTS Development, LLC 968 Postal Rd., Suite 110 Allentown, PA 18109	Catasauqua Creek CWF	Northampton Co. Cons. Dist. (610) 746-1971
Borough of Coopersburg Lehigh County	PAG2003906025	Don Smullen 416 South 4th St. Coopersburg, PA 18036	Saucon Creek CWF	Lehigh Co. Cons. Dist. (610) 391-9583
Whitehall Township Lehigh County	PAG2003906026	Spectrum Land Acquisition 3312 Seventh St. Whitehall, PA 18052	Coplay Creek CWF	Lehigh Co. Cons. Dist. (610) 391-9583
City of Harrisburg Dauphin County	PAG2002206022	Mary V. Knackstedt 2901 N. Front St. Harrisburg, PA 17110	Susquehanna River WWF	Dauphin County Conservation District 1451 Peters Mountain Rd. Dauphin, PA 17018
Lower Paxton Township Dauphin County	PAG20022040251	Robert L. Leo Sunny Hill Farms, Inc. 610 Carrington Ct. Hummelstown, PA 17036	Beaver Creek WWF	Dauphin County Conservation District 1451 Peters Mountain Rd. Dauphin, PA 17018
Centre County Harris Township	PAG2001406012	Richard Pruyne Pruyne Pond Enlargement 1010 Greenbriar Drive State College, PA 16801	UNT to Spring Creek CWF	Centre County Conservation District 414 Holmes Avenue Suite 4 Bellefonte, PA 16823 (814) 355-6817
Centre County Spring Township	PAG2001406013	Randy Rockey Centre County Emergency Services Training Facility 420 Holmes Ave., Room 134 Bellefonte, PA 16823	UNT to Gap Run CWF	Centre County Conservation District 414 Holmes Avenue Suite 4 Bellefonte, PA 16823 (814) 355-6817
Columbia County Town of Bloomsburg	PAG2001906010	BU Apartments, Inc. 1388 SR 487 Bloomsburg, PA 17815	Fishing Creek WWF	Columbia County Conservation District 702 Sawmill Rd. Suite 204 Bloomsburg, PA 17815 (570) 784-1310, Ext. 102

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<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>
Beaver County Economy Borough	PAG2000406016	Kevin Abbott National Development Co. 340 Mansfield Avenue Pittsburgh, PA 15220	Ohio River (WWF/N)	Beaver County CD 724-378-1701
Somerset County Summit Township	PAG2005606009	James C. Kretchman 341 Johnny Popper Road Meyersdale, PA 15552	Blue Lick Creek (CWF)	Somerset County CD (814) 445-4652
Washington County Somerset Township	PAG2006305024	Columbia Gas Transmission Corp. 950 Manifold Road Washington, PA 15301	Tributary to Center Branch Pigeon Creek (WWF)	Washington County CD 724-228-6774
Washington County Fallowfield Township	PAG2006306030 (Renewal of old permit # PAR10W190)	Middle Monongahela Industrial Development Associates, Inc. P. O. Box 491 Donora, PA 15033	Pigeon Creek (WWF)	Washington County CD 724-228-6774
Butler County Penn Township	PAG2001006015	Baglier—Oak Trace Subdivision Dennis Baglier 7 Pine Needles Drive Butler PA 16001	Thorn Creek CWF	Butler Conservation District 724-284-5270
Butler County Cranberry Township	PAG2001006024	Wain Farms, LLC 10521 Perry Hwy. Wexford, PA 15090	UNT Brush Creek WWF	Butler Conservation District 724-284-5270
Clarion County Clarion Borough	PAG2061606006	Clarion University of PA 840 Wood St. Thorn II Bldg. Clarion, PA 16214-1232	Clarion River CWF	Department of Environmental Protection (814) 332-6984
Venango County Sandy Creek Township	PAG2006106004	Franklin Little League Association 309 Seventh Street Franklin, PA 16323	Morrison Run WWF	Venango Conservation District (814) 676-2832
Warren County Sugar Grove Borough	PAG2006206001	Kwik Fill—Red Apple United Refining Company Box 688 Warren, PA 16365	Stillwater Creek CWF	Warren Conservation District (814) 563-3117
Scrubgrass Township Venango County	PAG2106106003	BAMR P. O. Box 8476 Harrisburg, PA 17105-8476	UNTs to Allegheny River (CWF)	BAMR P. O. Box 8476 Harrisburg, PA 17105-8476 717-783-1311

General Permit Type—PAG-3

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Berks County Maidencreek Township	PAR203509	Can Corporation of America P. O. Box 170 Blandon, PA 19510	Willow Creek CWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Washington Township Clarion County	PAR228333	Allegheny Wood Products P. O. Box 30, Route 208 Marble, PA 16334	East Sandy Creek	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
City of Titusville Crawford County	PAR228340	Homerwood Hardwood Flooring 1026 Industrial Drive Titusville, PA 16354	Oil Creek	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

*General Permit Type—PAG-4**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>
Lackawannock Township Mercer County	PAG049271	James G. DeGenova 7576 Sharon Mercer Road Mercer, PA 16137	UNT to Little Neshannock Creek TSF, 20-A	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Shenango Township Mercer County	PAG049246	Emily and Peter Daloni SFTF 2646 Mercer-West Middlesex Road	UNT to Hogback Run 20-A	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Union Township Erie County	PAG049272	Justin and Melissa Reed 15485 Route 8 Union City, PA 16438	UNT to French Creek 16-A	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

*General Permit Type—PAG-5**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>
Newtown Township Chester County	PAG050027	Sunoco Service Station No. 0363-4334 3607 West Chester Pike Newtown Square, PA 19073-3703	Hunter Run WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401

*General Permit Type—PAG-8**Facility Location:*

<i>Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Site Name & Location</i>	<i>Contact Office & Phone No.</i>
Pleasant Township Warren County	PAG088312	Brokenstraw Valley Area Authority R. R. 2, Box 284 Youngsville, PA 16371	Brokenstraw Valley Area Authority STP 3 Beechwood Drive Irvine, PA 16329	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

*General Permit Type—PAG-8 (SSN)**Facility Location:*

<i>Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Site Name & Location</i>	<i>Contact Office & Phone No.</i>
Lancaster County Martic Township	PAG080007	Downingtown Regional Water Pollution Control Center 550 South Brandywine Ave. Downingtown, PA 19335	Abram Stoltzfoos Farm Martic Township	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110-8200 717-705-4707

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

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

Permit No. 0906507, Public Water Supply.

Applicant **Hilltown Township Water and Sewer Authority**
316 Highland Park Drive
Sellersville, PA 18960

Township Hilltown

County **Bucks**

Type of Facility PWS

Consulting Engineer Castle Valley Consultants, Inc.
10 Beulah Road
New Britain, PA 18901

Permit to Construct Issued August 14, 2006

Permit No. 2305504, Public Water Supply.

Applicant **Chester Water Authority**
415 Welsh Street
Chester, PA 19016

Township London Grove

County **Chester**

Type of Facility PWS

Consulting Engineer Russell C. Williams, P. E.
Chester Water Authority
415 Welsh Street
Chester PA 19016

Permit to Construct Issued August 17, 2006

Southcentral Region: Water Supply Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Permit No. 6706510, Public Water Supply.

Applicant **The York Water Company**

Municipality Jackson Township

County **York**

Type of Facility This permit is for the LaBott booster pump station in Jackson Township.

Consulting Engineer Ryan M. Ural, P. E.
The York Water Company
130 East Market Street
P. O. Box 15089
York, PA 17405-7089

Permit to Construct Issued: 8/16/2006

Permit No. 0606510 MA, Minor Amendment, Public Water Supply.

Applicant **Bern Township Municipal Authority**

Municipality Bern Township

County **Berks**

Type of Facility Metered interconnection with Reading Area Water Authority and replacement of 8-inch main with 12-inch main to serve new hospital.

Consulting Engineer Thomas E. Roberts, P. E.
Spotts Stevens & McCoy, Inc
345 North Wyomissing Boulevard
Reading, PA 19610-0307

Permit to Construct Issued: 8/15/2006

Operations Permit issued to **Pfautz Properties**, 7500030, Penn Township, **Perry County** on 8/15/2006 for the operation of facilities approved under Construction Permit No. 5005503.

Operations Permit issued to **Shinn Spring Water Company**, 3066531, Cumru Township, **Berks County** on 8/17/2006 for the operation of facilities approved under Construction Permit No. 0606505.

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

Transfer of Operations Permit issued to **Petroleum Valley Regional Water Authority**, Jeffrey R. Shumaker, Authority Chairperson, P. O. Box P, Bruin, PA 16022-0582, PWS ID 5100147, Petrolia Borough, **Butler County**. Permit No. 6062-T1, issued August 21, 2006, for the operation of the water distribution system to serve customers of the Bruin, PA area.

Rescission of Operations Permit issued to **Petrolia Borough**, 104 Main Street, Petrolia, PA 16050, PWS ID 510052, Petrolia Borough, **Butler County**, on August 21, 2006. Permit Numbers 366W015; 1093507 and 6062, covering sources, treatment facilities and systems are cancelled. Plant and wells are to be demolished, deconstructed and capped in accordance with Department Regulations and requirements.

SEWAGE FACILITIES ACT PLAN APPROVAL

Plan Approvals Granted under the Pennsylvania Sewage Facilities Act (35 P. S. §§ 750.1—750.20a)

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

Plan Location:

Borough or Township	Borough or Township Address	County
Jefferson Township	7207 Lamor Road Mercer, PA 16137	Mercer

Plan Description: The approved plan provides for the construction of a new sewer system to serve 185 EDUs along US 62 in Jefferson Township, Mercer County. Sewage will be conveyed to Hermitage for disposal by means of a new pump station to be constructed jointly by Hermitage and Jefferson Township. RUS funding is proposed.

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Sugar Grove Township	R. D. 4, Box 205 Sugar Grove, PA 16350	Warren

Plan Description: The approved plan provides for the installation of small diameter sewer pipe to serve 40 EDUs on SR 27, Patchen Hollow Road and Deer Run Road in Sugar Grove Township, Warren County.

Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

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.

Vy Cal Plastics, Upper Merion Township, **Montgomery County**. Craig Herr, RT Env., Svc., Inc., 215 W. Church Road, King of Prussia, PA 19406 has submitted a Final Report concerning remediation of site soil contaminated with metals, VOCs and lead. The report is intended to document remediation of the site to meet the Site-Specific Standard.

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

ASF—Keystone Railway Equipment, Inc., Lower Allen Township, **Cumberland County**. Roux Associates, Inc., 1222 Forest Parkway, Suite 190, West Deptford, NJ, 08066, on behalf of ASF—Keystone, Inc., 3420 Simpson Ferry Road, Camp Hill, PA 17001-0456, submitted a Remedial Investigation and Final Report concerning remediation of site soils and groundwater contaminated with hexavalent chromium. The reports are intended to document remediation of the site to the Statewide Health and Site-Specific Standard.

FCI USA, Inc.—Emigsville, Manchester Township, **York County**. HRP Associates, Inc., 4811 Jonestown Road, Suite 235, Harrisburg, PA 17109, on behalf of FCI USA, Inc., 825 Old Trail Road, Etners, PA 17319-9392, submitted a Risk Assessment Report and Cleanup Plan concerning remediation of site soils and groundwater contaminated with VOCs and nickel. The report is intended to document remediation of the site to the Statewide Health, background and Site-Specific Standard.

Ken Johnson Property, Rushcombmanor Township, **Berks County**. GemChem, Inc., 53 N. Cedar Street, P. O. Box 384, Lititz, PA 17543-0384, on behalf of Ken Johnson, 51 Lark Lane, Fleetwood, PA 19522, submitted a Final Report concerning remediation of site soils contaminated with No. 2 fuel oil. The report is intended to document remediation of the site to the residential Statewide Health Standard.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 3

The Department has taken action on the following plans and reports under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

Provisions of 25 Pa. Code § 250.8, administration of the Land Recycling and Environmental Remediation Standards Act (act), 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 in-

cludes 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.

PECO-Doylestown MGP, Doylestown Borough, **Bucks County**. Bruce Middletown, P. G. Jacques Whitford Company, 450 S. Graves Rd. Suite., 105, Plymouth Meeting, PA 19462 on behalf of Jack Stein, Keystone Volvo, 235 Main St., Doylestown, PA 18901 has submitted a Cleanup Plan concerning the remediation of site soil and groundwater contaminated with lead, inorganics, PAHs and other organics. The Cleanup Plan was approved by the Department on August 17, 2006.

The Marketplace at Huntingdon, Upper Moreland Township, **Montgomery County**. John T. Burkart, Landamerican Assessment Corp., 8008 Corp., Ctr., Dr., Suite. 115, Charlotte, NC 28226 on behalf of Joseph Casacio, New Century Design & Construction, 2010 Cnty., Line Rd., Huntingdon Valley, PA 19006 has submitted a Final Report concerning the remediation of site soil and groundwater contaminated with chlorinated solvents. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on July 31, 2006.

Thyssen Krupp Budd Co. Die Storage Yard Site, City of Philadelphia, **Philadelphia County**. Lawrence W. Bily, CMM, RT Env., Svc., 215 W. Church Rd., King of Prussia, PA 19406 on behalf of Joseph DePascale, Hunting Fox Assoc., LP, c/o PREI, 1001 E. Hector St., Suite., 100, Conshohocken, PA 19428 has submitted a Remedial Investigation Report and Cleanup Plan concerning the remediation of site groundwater and soil contaminated with VOCs, PCBs, PAHs and inorganics. The Remedial Investigation Report and Cleanup Plan was disapproved by the Department on August 17, 2006.

Flats Redevelopment Site, City of Coatesville, **Chester County**. Sharon Smith, Weston Solutions, Inc., 1400 Weston Way, West Chester, PA 19380 has submitted

a Final Report concerning the remediation of site soil and groundwater contaminated with inorganics and organics compounds. The Final Report demonstrated attainment of the Site-Specific Standard and was approved by the Department on August 16, 2006.

Pottstown Metals Welding, Borough of Pottstown, **Montgomery County**. Michael Raffoni, Gemchem, Inc., 53 N. Cedar St., Litz, PA 17543 on behalf of Ray Lopez, Borough of Pottstown, 100 E. Main St., Pottstown, PA 19464 has submitted a Final Report concerning the remediation of site soil and groundwater contaminated with unleaded and leaded gasoline. The Final Report demonstrated attainment of the Site-Specific Standard and Statewide Health Standard and was approved by the Department on August 14, 2006

Delcroft Shopping Ctr., Folcroft Borough, **Delaware County**. Michelle Harrison, React Env., Svc., Inc., 6901 Kingsessing Ave., Philadelphia, PA 19142 on behalf of Lee Brahin, Garnet Assoc. LLC., 1533 Chestnut St., Philadelphia, PA 19102 has submitted a Final Report concerning the remediation of site soil and groundwater contaminated with chlorinated solvents. The Final Report demonstrated attainment of the Statewide Health Standard and Site-Specific Standard and was approved by the Department on August 2, 2006.

Stericycle Corp., Montgomery Township, **Montgomery County**. Thomas M. Hippensteal, P. G., Envirosearch, P. O. Box 940, Spring House, PA 19477 on behalf of Paul Hartman, Stericycle Corp., 257 Congdon Rd., Volutown, CT 06384 has submitted a Low Risk Property Final Report concerning the remediation of site soil contaminated with unleaded gasoline. The Low Risk Property Final Report was approved by the Department on August 7, 2006.

Raser Res., North Coventy Township, **Chester County**. Richard M. Ley, P. G., RML, 1375 Steeple Chase Rd., Downingtown, PA 19335 on behalf of Cecelia Raser, 1069 Grandview Cir., Pottstown, PA 19465 has submitted a Low Risk Property Final Report concerning the remediation of site soil contaminated with No. 2 fuel oil. The Low Risk Property Final Report was approved by the Department on August 16, 2006.

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

Kerr Group, Inc., City of Lancaster, **Lancaster County**. Gannett Fleming, Inc., 805 Estelle Drive, Suite 102, Lancaster, PA 17601, on behalf of Kerr Group, Inc., 101 Oakley Street, Evansville, IN 47710, submitted a Final Report concerning the remediation of site soils and groundwater contaminated with gasoline, paint thinner, and waste/oil solvents. The Final Report demonstrated attainment of the Site-Specific Standard, and was approved by the Department on August 3, 2006.

Bon Secours Holy Family Regional Health System, Altoona City, **Blair County**. Mountain Research LLC, 825 25th Street, Altoona, PA 16601, on behalf of Bon Secours Holy Family Regional Health System, 2500 Seventh Avenue, Altoona, PA 16601, submitted a Final Report concerning the remediation of site soils and groundwater contaminated with diesel fuel leaked from an underground storage tank. The Final Report demonstrated attainment of the residential Statewide Health Standard and was approved by the Department on August 14, 2006.

Cotton Mill Store, Inc., Shillington Borough, **Berks County**. Liberty Environmental, Inc., 10 N. Fifth Street, Suite 800, Reading, PA 19601, on behalf of Janet Potter,

Cotton Mill Store, Inc., 8425 Navajo Street, Philadelphia, PA 19118, submitted a Final Report concerning the remediation of site soils contaminated with No. 2 fuel oil. The Final Report demonstrated attainment of the residential Statewide Health Standard and was approved by the Department on August 14, 2006.

Suburban Heating Oil Partners, West Manchester Township, **York County**. Groundwater Sciences Corporation, 55 S. Progress Avenue, Harrisburg, PA 17109, on behalf of Suburban PA Property Acquisitions, LLC, 5793 Widewaters Parkway, Suite 100, Syracuse, NY 13214-2811, submitted a Final Report concerning the remediation of site soils and groundwater contaminated with compounds found in petroleum. The Final Report demonstrated attainment of the residential Statewide Health Standard, and was approved by the Department on August 16, 2006.

Lakeview Mobile Home Park, Gene Kulp Residence, Mount Joy Township, **Lancaster County**. ARM Group, Inc., 1129 W. Governor Road, P. O. Box 797, Elizabethtown, PA 17033-0797, on behalf of Charles Bailey, 1501 Mill Road, Elizabethtown, PA 17022, submitted a Final Report within 90 days of a release concerning remediation of site soils contaminated with heating oil. The Final Report demonstrated attainment of the residential Statewide Health Standard, and was approved by the Department on August 21, 2006.

Northwest Region: Environmental Cleanup Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

Bradford Electronics, Bradford, **McKean County**, Environmental Strategies Consulting, LLC, 300 Coporate Center Drive, Suite 200, Pittsburg, PA 15108, on behalf of Vishay Dale, Suite 200, Columbus, NE 68601, has submitted a Remedial Investigation Report and a Final Report concerning the remediation of soil (State Wide Health) and shallow groundwater (Site Specific) contaminated with trichloroethene and vinyl chloride arsenic. Both reports are currently under review by the Department.

HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES

Permits issued, revised or withdrawn under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and regulations to operate a hazardous waste treatment, storage or disposal facility.

Northeast Region: Regional Solid Waste Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

PAD987367216. AERC.com, Inc., 2591 Mitchell Avenue, Allentown, PA 18103-6609. A permit renewing the term of AERC.com, Inc.'s permit for the receipt, temporary storage and/or treatment of approved hazardous and residual waste at this hazardous waste storage and treatment facility located in the City of Allentown, **Lehigh County**, prior to their offsite disposal or other offsite disposition. The permit was issued in the Regional Office on August 19, 2006; and it will expire on August 19, 2016.

Southwest Regional Office, Regional Solid Waste Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, (412) 442-4000.

Permit No. PAD004810222. Kelly Run Sanitation, 1500 Hayden Boulevard, P. O. Box 298, Elizabeth, PA 15037. Postclosure permit renewal and modification for the Western Disposal Area landfill in Forward Township,

Allegheny County, including groundwater remediation concentration limits, gas monitoring and collection requirements and closure of leachate storage tanks, issued by the Regional Office on August 14, 2006.

RESIDUAL WASTE GENERAL PERMIT

Permits Revoked under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Residual Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and residual waste regulations for a general permit to operate residual waste processing facilities and/or the beneficial use of residual waste other than coal ash.

Central Office: Division of Municipal and Residual Waste, Rachel Carson State Office Building, 14th Floor, 400 Market Street, Harrisburg, PA 17105-8472.

General Permit No. WMGR090R004. Quaker Sales Corporation, P. O. Box 880, Johnstown, PA 15907-0880.

General Permit No. WMGR090 authorizes the processing and beneficial use of reclaimed asphalt pavement (RAP) materials as a roadway construction material. The permittee requested the general permit be revoked due to the utilization of the RAP materials under the industry wide coproduct determination. Central Office revoked this general permit on August 16, 2006.

General Permit No. WMGR090R002. Wilson Paving, Inc., 480 West Old York Road, Carlisle, PA 17013-7503.

General Permit No. WMGR090 authorizes the processing and beneficial use of reclaimed asphalt pavement (RAP) materials as a roadway construction material. The permittee requested the general permit be revoked due to the utilization of the RAP materials under the industry-wide coproduct determination. Central Office revoked this general permit on August 18, 2006.

OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

Permits issued under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and regulations to operate solid waste processing or disposal area or site.

Southwest Region: Regional Solid Waste Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Kiski Valley Water Pollution Control Authority Incinerator Ash Lagoon Closure; Allegheny Township, Westmoreland County

On August 25, 2006, the Department of Environmental Protection (Department) issued a Closure Plan Modification under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and regulations to close a solid waste processing or disposal area or site.

The Closure Plan Modification relates to Permit ID No. 400136, held by the Kiski Valley Water Pollution Control Authority (Authority), 1361 School Road, Leechburg, PA 15656 and the closure of the Authority's incinerator ash lagoon located in Allegheny Township, Westmoreland County. The original Closure Plan approved by the Department on October 25, 2005, was prepared following development of a remedial investigation and feasibility study that evaluated a range of alternatives relative to

remediation of the site. Several opportunities for public comment and participation were previously provided, including a public hearing held on August 2, 2005, and a 60-day public comment period on the Closure Plan application.

The Closure Plan Modification revises the Closure Plan approved by the Department on October 25, 2005, as follows:

(a) Those parts of the previously approved Closure Plan (Section 5.4 and Section IX) relating to the placement of the ash waste in a Commonwealth municipal waste landfill are deleted.

(b) The Authority is not required to post an additional bond in the amount of \$775,097 as stated in condition 14 of the Department's October 26, 2005, letter to the Authority.

(c) The ash waste shall be transported by truck to the Alaron transload facility in Wampum, PA and thereafter by rail transportation for disposal at the US Ecology Texas disposal facility in Robstown, TX.

The Department has entered into a proposed Consent Decree with BWX Technologies, Inc., The Babcock and Wilcox Company and the Authority calling for the parties' implementation of the Closure Plan as approved on October 26, 2005, and as revised by the August 25, 2006, Closure Plan Modification.

The Department shall receive and consider comments relating to the revisions contained in the Closure Plan Modification for 30 days from the date of publication of this notice or through Monday, October 2, 2006. Persons may submit written comments to the Department's Regional Solid Waste Manager, Southwest Regional Office, 400 Waterfront Drive, Pittsburgh, PA 15222-4745. In addition, on Thursday, September 21, 2006, at 6:30 p.m., the Department will hold a public meeting at the meeting room of the Allegheny Township Municipal Building, 136 Community Building Road, Leechburg PA 15656.

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.

15-0126: Brandenburg Industries Service Co. (1905 East Fourth Street, Bethlehem, PA 18015) on August 15, 2006, to operate a Concrete Crusher in West Chester Borough, **Chester County**.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790; Mark Wejkszner, New Source Review Chief, (570) 826-2531.

58-310-011GP3: New Milford Materials, LLC (R. R. No. 3, Box 324A-1, Montrose, PA 18801) on August 16, 2006, to construct and operate a portable stone crushing plant and associated air cleaning device at the Lanesboro Quarry in Harmony Township, **Susquehanna County**.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; George Monasky, New Source Review Chief, (814) 332-6940.

GP-43-346: Farrell Area School District—Farrell Area High School (1700 Roemer Boulevard, Farrell, PA 16121) on August 21, 2006, for two natural gas fired boilers in the City of Farrell, **Mercer County**.

Plan Approvals Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations in 25 Pa. Code Chapter 127, Subchapter B relating to construction, modification and reactivation of air contamination sources and associated air cleaning devices.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790; Mark Wejkszner, New Source Review Chief, (570) 826-2531.

40-303-027: Pennsy Supply, Inc. (1001 Paxton Street, Harrisburg, PA 1710) on August 8, 2006, to modify a batch asphalt plant to utilize waste derived liquid fuel (WDLF) at 225 New Boston Road, Jenkins Township, **Luzerne County**.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; George Monasky, New Source Review Chief, (814) 332-6940.

62-032B: Ellwood National Steel (1 Front Street, Irvine, PA 16329) on August 16, 2006, to install a new ladle furnace and increase production at the facility from 46,200 tpy to 15,000 tpy in Brokenstraw Township, **Warren County**. This is a State-only Facility.

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.

09-0016A: Exelon Generation Co. (3901 North Delaware Avenue, c/o Richmond Generation Station, Philadelphia, PA 19137) on August 15, 2006, to operate combustion turbines Nos. 21 and 32 in Bristol Township, **Bucks County**.

09-0075A: Dunmore Corp. (145 Wharton Road, Bristol, PA 19007) on August 15, 2006, to operate two coaters and mixing equipment in Bristol Township, **Bucks County**.

09-0124E: Fairless Energy, LLC (5000 Dominion Boulevard, Glen Allen, VA 23060) On August 15, 2006, to operate a 31.9 mmBtu/hr gas fired preheater in Falls Township, **Bucks County**.

09-0126A: Air Liquide Electronics U. S., LP (19 Steel Road West, Morrisville, PA 19067) on August 15, 2006, to operate a wet scrubber S-7 in Falls Township, **Bucks County**.

15-0114: Action Manufacturing Co. (500 Bailey Crossroads Road, Atglen, PA 19310) on August 15, 2006, to operate a thermal treatment unit in West Fallowfield Township, **Chester County**.

09-0110B: Riverside Construction Materials, Inc. (355 Newbold Road, Fairless Hills, PA 19030) on August 17, 2006, to operate a material handling system in Bristol Township, **Bucks County**.

23-0014D: Kimberly-Clark Corp. (Front Street and Avenue of the States, Chester, PA 19103) on August 17,

2006, to operate a wet scrubber dust control system in City of Chester, **Delaware County**.

23-0014E: Kimberly-Clark Corp. (Front Street and Avenue of the States, Chester, PA 19103) on August 16, 2006, to operate a paper machine No.16 hood dryer in City of Chester, **Delaware County**.

09-0124B: Fairless Energy, LLC (5000 Dominion Boulevard, Glen Allen, VA 23060) on August 21, 2006, to operate a combined cycle combustion turbines in Falls Township, **Bucks County**.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701; David Aldenderfer, Program Manager, (570) 327-3637.

18-315-001: First Quality Tissue, LLC (904 Woods Avenue, Lock Haven, PA 17815) on August 11, 2006, to operate a paper machine (Paper Machine No. 1) and associated equipment on a temporary basis until December 9, 2006, and to construct another paper machine (Paper Machine No. 2) and associated equipment until December 9, 2006, in Castanea Township, **Clinton County**. The plan approval has been extended.

41-00010E: Andritz, Inc. (35 Sherman Street, Muncy, PA 17756) on August 11, 2006, to construct two 1,000 pound capacity iron and steel foundry electric induction furnaces until May 1, 2007, in Muncy Borough and Muncy Creek Township, **Lycoming County**. The plan approval has been extended.

41-399-026: Penn Recycling, Inc. (2525 Trenton Avenue, Williamsport, PA 17701) on August 14, 2006, to operate an automobile/metal shredding system and associated air cleaning devices (a foam injection system and cyclone collector) on a temporary basis until December 12, 2006, in the City of Williamsport, **Lycoming County**. The plan approval has been extended.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; William Charlton, New Source Review Chief, (412) 442-4174.

65-00767A: Westmoreland Waste, LLC (901 Tyrol Boulevard, Belle Vernon, PA 15012) on August 16, 2006, to allow completion of stack testing at the sanitary landfill in Rostraver Township, **Westmoreland County**. This plan approval was extended.

11-00513A: Cambria Coke Co. (1111 Northshore Drive, Landmark Tower N-600, Knoxville, Tennessee 37919)

Clarification of Class I Impacts

Plan Approval at a Title V Facility No. PA-11-00513A

Notice is hereby given concerning the degree of increment consumption for PSD Class I wilderness areas from the proposed Cambria Coke Company (CCC) facility to be located in Cambria Township, **Cambria County**. The Plan Approval was issued on April 4, 2005, and subsequently modified on May 4, 2005.

The United States Environmental Protection Agency's CALPUFF modeling program was used to model the effect of the proposed facility's emissions on three PSD Class I areas: Otter Creek and Dolly Sods Wilderness Areas, West Virginia and Shenandoah Wilderness Area, Virginia. Modeling included 3 years worth of meteorological data and included the cumulative impacts of existing facilities. Based on the modeling information provided by the applicant, at the time and place of the maximum SO₂ cumulative concentrations in each Class I area, Cambria's contribution to that concentration exceeded the significant impact levels as follows. Because one exceedance of the short-term increment is allowed per year, the impacts shown are acceptable. No values exceeding the short-term levels were found in the other modeled years (1992 and 1996) or at the other Class I areas.

<i>Class I Area</i>	<i>Date</i>	<i>24-Hour SO₂ PSD Increment (μ/m³)</i>	<i>Highest 24-Hour SO₂ Cumulative Concentration (CCC plus all others) (μ/m³)</i>	<i>24-Hour SO₂ Significant Impact Level (μ/m³)</i>	<i>24-Hour SO₂ CCC Impact Level Concentration (μ/m³)</i>
Dolly Sods	03/06/1990	5	8.42	0.2	0.69

Copies of the application and other documents used in evaluation of the application are available for public inspection during normal business hours at the Department of Environmental Protection, 400 Waterfront Drive, Pittsburgh, PA 15222

Person wishing to provide additional information or comments for consideration regarding the contents of this notice may submit the information to the Department at the address that follows. A 30-day comment period, from the date of this publication, will exist for the submission of comments. Each written comment must contain the following:

- Name, address and telephone number of the person submitting the comments.
- Identification of the proposed Plan Approval (specify the Plan Approval number).
- Concise written statements relevant to the contents of this notice should be directed to Mark A. Wayner, P. E., Air Quality Program Manager, Department of Environ-

mental Protection, Southwest Regional Office, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

For additional information, contact Barbara R. Hatch, P. E., Air Pollution Control Engineer IV at the same address.

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.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Ronald Davis, New Source Review Chief, (717) 705-4702.

36-03165: Nexans, Inc. (132 White Oak Road, New Holland, PA 17557-8303) on August 14, 2006, to operate a nonferrous wire drawing and insulation manufacturing facility in Earl Township, **Lancaster County**.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; Mark Wayner, Facilities Permitting Chief, (412) 442-4174.

56-00302: Lincoln Contracting and Equipment Co., Inc. (2478 Lincoln Highway, Stoystown PA 15563) on August 16, 2006, for a metal fabrication and painting operation in Jenner Township, **Somerset County**.

63-00908: Ross Mould, Inc. (259 South College Street, Washington, PA 15301) on August 16, 2006, for a mould manufacturing facility at the Washington Plant in Washington City, **Washington County**.

56-00303: Lincoln Contracting and Equipment Company, Inc. (733 South Center Avenue, Somerset, PA 15501) on August 17, 2006, for a metal fabrication and painting operation at the Somerset facility in Somerset Township, **Somerset County**.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; Eric Gustafson, Facilities Permitting Chief, (814) 332-6940.

33-00160: Reynoldsville Casket Co., Inc. (South 5th Street Extension, Reynoldsville, PA 15851) on August 14, 2006, for a Natural Minor Operating Permit for the manufacturing of burial caskets outside the Borough of Reynoldsville, **Jefferson County**.

10-00346: Scrap Salvage and Surplus, Inc. (690A Glenwood Way, Butler, PA 16001) on August 14, 2006, for a Natural Minor operating permit to operate a scrap cutting and salvage company outside the City of Butler, Center Township, **Butler County**.

62-00174: Warren County Humane Society (212 Elm Street, Warren, PA 16365-2868) on August 14, 2006, for a Natural Minor Operating Permit for the operation of an animal crematorium outside the City of Warren, **Warren County**.

61-00185: Heath Oil, Inc. (5609, SR 8, R. D. No. 1, Harrisville, PA 16038) on August 21, 2006, for a Natural Minor Permit to operate retail trade-fuel oil dealers in Barkeyville Borough, **Venango County**. The facility included sources floating and fixed roof tanks, fugitives from facility, oil heaters large and small, miscellaneous loading racks, two portable transmix refineries and tank wagon loading rack.

43-00308: Ergon Trucking, Inc. (944 New Castle Mercer Road, Mercer, PA 16137) on August 21, 2006, for a Natural Minor Permit to operate a crude oil storage and dispensing plant in East Lackawannock Township, **Mercer County**. The sources include three crude oil storage tanks and one loading rack.

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.

09-00090: GT and S, Inc. (1 Steel Road East, Morrisville, PA 19067) on August 11, 2006, to issue a State-only Operating Permit as an Administrative Amendment for a Change of Ownership of the facility formerly owned by MG Industries, Inc. in Falls Township, **Bucks County**. GT & S, Inc. owns and operates a gas cylinder filling and recycling facility, and emissions are controlled through the use of scrubbers, a catalytic oxidizer, and a thermal oxidizer depending on the gas cylinders that are processed. The Administrative Amendment of the State-only Operating Permit was issued

under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code § 127.450. The amended State-only Operating Permit did not change and contains all of the applicable regulatory requirements including monitoring recordkeeping, reporting and emission limits. The initial permit was issued October 16, 2003.

46-00032: SPS Technologies, Inc. (301 Highland Avenue, Jenkintown, PA 19046) on August 11, 2006, to revise a Title V facility to incorporate plan approval PA-46-0032B for a batch vapor degreaser in Abington Township, **Montgomery County**. Trichloroethylene, a VOC and a HAP, is used as the solvent in this source, and this source is subject to the requirements of 40 CFR Part 63, Subpart T. All revisions to the Title V Operating Permit were made pursuant to 25 Pa. Code § 127.450.

46-00070: Finnaren and Haley, Inc. (901 Washington Street, Conshohocken, PA 19428) on August 21, 2006, to incorporate an emission limit for total and individual HAPs from the entire site in Whitemarsh Township, **Montgomery County**. This amendment is to incorporate an emission limit for total and individual HAPs from the entire site. The permit contains sufficient monitoring and recordkeeping to demonstrate compliance. Administrative Amendment and modification of Title V Operating Permit issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.450 and 127.462.

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.

11911601 and NPDES Permit No. PA0214329. E. P. Bender Coal Company, Inc. (P. O. Box 594, Carrolltown, PA 15722). To revise the permit for Dysart Syding in Dean Township, **Cambria County** to change the postmining land use for 8.0 acres from forestland to industrial/commercial. No additional discharges. Application received: March 23, 2006. Permit issued: August 17, 2006.

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900.

32900108 and NPDES No. PA0599034. Thomas J. Smith, Inc. (2340 Smith Road, Shelocta, PA 15774). Permit renewal for the continued operation and restoration of a bituminous surface-auger mine in South Mahoning Township, **Indiana County**, affecting 74.4 acres.

Receiving streams: Ross Run, UNT to Little Mahoning Creek classified for the following uses: HQ; HQ. There are no potable water supply intakes within 10 miles downstream. Application received: May 3, 2006. Permit issued: August 11, 2006.

Greensburg District Mining Office: Armbrust Professional Center, 8205 Route 819, Greensburg, PA 15601, 724-925-5500.

26050110. Albert F. Stiffler (141 Locust road, Box 42-C, Normalville, PA 15469). Commencement, operation and reclamation of a bituminous surface mine, located in Saltlick Township, **Fayette County**, affecting 156.9 acres. Receiving streams: Little Champion Creek and a UNT to Little Champion Creek. Application received: August 24, 2005. Permit issued: August 18, 2006.

63000101 and NPDES Permit No. PA0202819. Muligan Mining, Inc. (5945 Puddingstone Lane, Bethel Park, PA 15102). Permit renewal issued for continued reclamation only of a bituminous surface mining site located in Smith Township, **Washington County**, affecting 178.3 acres. Receiving streams: UNTs to Raccoon Creek; UNTs to Burgetts Fork. Application received: May 22, 2006. Reclamation-only renewal issued: August 15, 2006.

26743202 and NPDES Permit No. PA0069736. Fayette Coal & Coke, LLC (2611 Memorial Boulevard, Connellsville, PA 15425). Permit renewal issued for continued operation and reclamation of a bituminous surface mining site located in Dunbar and North Union Townships, **Fayette County**, affecting 113.0 acres. Receiving streams: UNTs to and including Rankin Run. Application received: March 31, 2006. Renewal issued: August 15, 2006.

26910107 and NPDES Permit No. PA0592170. Theodore R. Genovese II Coal Co. (Box 360, Chalk Hill, PA 15421). Permit renewal issued for continued reclamation only of a bituminous surface mining site located in German Township, **Fayette County**, affecting 89.3 acres. Receiving streams: UNT to Dunlap Creek. Application received: May 10, 2006. Reclamation-only renewal issued: August 16, 2006.

30010102 and NPDES Permit No. PA0203017. Coresco, Inc. (P. O. Box 1209, Morgantown, WV 26507). Permit renewal issued for continued reclamation only of a bituminous surface mining site located in Dunkard Township, **Greene County**, affecting 169.0 acres. Receiving streams: UNTs to Dunkard Creek to Dunkard Creek to the Monongahela River. Application received: July 17, 2006. Reclamation-only renewal issued: August 16, 2006.

Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, (814) 797-1191.

16000101 and NPDES Permit No. PA0241695. Milestone Crushed, Inc. (P. O. Box 65, Emlenton, PA 16373). Renewal of an existing bituminous strip, limestone and sandstone removal operation in Richland and Licking Townships, **Clarion County** affecting 83.6 acres. Receiving streams: UNTs to the Clarion River. Application received: October 6, 2005. Permit Issued: August 14, 2006.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118.

22050101 and NPDES Permit No. PA0224481. Meadowbrook Coal Co., Inc. (6690 SR 209, Lykens, PA 17048). Commencement, operation and restoration of an anthracite surface mine operation in Williams and Porter Townships, **Dauphin and Schuylkill Counties** affecting

880.0 acres. Receiving stream: Wiconisco Creek. Application received: September 6, 2005. Permit issued: August 15, 2006.

40793211R4. Jeddo-Highland Coal Company (46 Public Square, Suite 600, Wilkes-Barre, PA 18701). Renewal of existing anthracite coal refuse reprocessing operation in Hazle Township, **Luzerne County** affecting 59.0 acres. Receiving stream: none. Application received: November 2, 2005. Renewal issued: August 15, 2006.

40663031R4. Jeddo-Highland Coal Company (46 Public Square, Suite 600, Wilkes-Barre, PA 18701). Renewal of existing anthracite surface mine and refuse disposal operation in Foster Township, **Luzerne County** affecting 536 acre. Receiving stream: none. Application received: December 27, 2005. Renewal issued: August 15, 2006.

40663013R4. Jeddo-Highland Coal Company (46 Public Square, Suite 600, Wilkes-Barre, PA 18701). Renewal of existing anthracite coal refuse processing, refuse disposal and coal preparation operation in Hazel Township, **Luzerne County** affecting 304 acres. Receiving stream: none. Application received: December 27, 2005. Renewal issued: August 15, 2006.

40663023R4. Pagnotti Enterprises, Inc. (46 Public Square, Suite 600, Wilkes-Barre, PA 18701). Renewal of an anthracite surface mine, coal refuse reprocess and disposal operation in Hazle Township, **Luzerne County** affecting 640 acres. Receiving stream: none. Application received: December 27, 2005. Renewal issued: August 15, 2006.

54693047R4. Pagnotti Enterprises, Inc. (46 Public Square, Suite 600, Wilkes-Barre, PA 18701). Renewal of an anthracite coal refuse reprocessing operation in Mahanoy Township, **Schuylkill County** affecting 698.0 acres. Receiving stream: none. Application received: December 22, 2005. Renewal issued: August 15, 2006.

54840201R4. Pagnotti Enterprises, Inc. (46 Public Square, Suite 600, Wilkes-Barre, PA 18701). Renewal of an anthracite coal refuse reprocessing operation in Mahanoy and West Mahanoy Townships, **Schuylkill County** affecting 322 acres. Receiving stream: none. Application received: September 8, 2005. Renewal issued: August 15, 2006.

Noncoal Permits Actions

Greensburg District Mining Office: Armbrust Professional Center, 8205 Route 819, Greensburg, PA 15601, (724) 925-5500.

63960301 and NPDES Permit No. PA0201766. Dick Corporation (P. O. Box 10896, Pittsburgh, PA 15236). NPDES Renewal issued for continued discharge treatment at a large noncoal surface mining site located in Hanover Township, **Washington County**, affecting 33.2 acres. Receiving streams: UNT to Kings Creek, and Kings Creek to Ohio River. Application received: June 2, 2006. NPDES Renewal issued: August 16, 2006.

02850302 and NPDES Permit No. PA0590371. Lafarge North America, Inc. (5160 Main Street, Whitehall, PA 18052-1827). NPDES Renewal issued for continued discharge treatment at a large noncoal surface mining site located in West Mifflin Borough, **Allegheny County**, affecting 70.3 acres. Receiving stream: UNT to Streets Run. Application received: July 3, 2006. NPDES Renewal issued: August 16, 2006.

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.

41060802. Hufnagle Inc. d/b/a Rummings Bluestone (804 Old Rt. 220 Hwy., Jersey Shore, PA 17740). Commencement, operation and restoration of a small industrial minerals (sandstone) surface mine permit in Antes Fort, Nippenose Township, **Lycoming County**. Receiving streams: UNT to to West Branch Susquehanna River. Application received: June 15, 2006. Permit issued: August 9, 2006.

08060803. Larry Forrest (R. R. 2, Box 248, Towanda, PA 18848). Commencement, operation and restoration of a small industrial minerals (bluestone and shale) surface mine permit in Asylum Township, **Bradford County**. Receiving streams: Durell Creek, tributary to Susquehanna River. Application received: March 15, 2006. Permit issued: August 8, 2006.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118.

38870301C5. Pennsy Supply, Inc. (P. O. Box 3331, Harrisburg, PA 17105). Correction to an existing quarry operation in Annville Borough, North and South Annville and North Londonderry Townships, **Lebanon County** affecting 1045.8 acres, receiving stream: Killinger and Quittaphilla Creeks. Application received: December 13, 2005. Correction issued: August 14, 2006.

64060801. GK Flagstone, Inc. (R. R. 1, Box 1132, Nicholson, PA 18446-9415). Commencement, operation and restoration of a quarry operation in Preston Township, **Wayne County** affecting 5.0 acres, receiving stream: none. Application received January 25, 2006. Permit issued August 15, 2006.

58060814. Robert J. Thomas (Box 503, Montrose Terrace Park, Montrose, PA 18801). Commencement, operation and restoration of a quarry operation in Brooklyn Township, **Susquehanna County** affecting 5.0 acres. Receiving stream: none. Application received: March 7, 2006. Permit issued: August 15, 2006.

66060806. Dale Kingston (R. R. 2, Box 313, Mehoopany, PA 18629). Commencement, operation and restoration of a quarry operation in Braintrim Township, **Wyoming County** affecting 5.0 acres. Receiving stream: none. Application received: April 4, 2006. Permit issued: August 16, 2006.

50060801. Dennis W. Metz (2149 Rock Hollow Road, Loysville, PA 17047). Commencement, operation and restoration of a quarry operation in Saville Township, **Perry County** affecting 5.0 acres, receiving stream: none. Application received: April 17, 2006. Permit issued: August 16, 2006.

58060830. David A. Shevchuk (R. R. 1, Box 1578, Hop Bottom, PA 18824). Commencement, operation and restoration of a quarry operation in Lathrop Township, **Susquehanna County** affecting 5.0 acres, receiving stream: none. Application received: April 24, 2006. Permit issued: August 16, 2006.

58060834. Linden Claude Gregory (R. R. 1, Box 1073, Nicholson, PA 18446-9408). Commencement, operation and restoration of a quarry operation in Lenox Township, **Susquehanna County** affecting 5.0 acres. Receiving stream: none. Application received: May 4, 2006. Permit issued: August 16, 2006.

ACTIONS ON BLASTING ACTIVITY APPLICATIONS

Actions on applications under the Explosives Acts of 1937 and 1957 (73 P.S. §§ 151–161) and 25 Pa. Code § 211.124. Blasting activity performed as part of a coal or noncoal mining activity will be regulated by the mining permit for that coal or noncoal mining activity.

Greensburg District Mining Office: Armbrust Professional Center, 8205 Route 819, Greensburg, PA 15601, (724) 925-5500.

63064009. Atlas Services (1024 Route 519, Suite 500, Eighty Four, PA 15333-2812). Blasting activity permit for construction, located in Cecil Township, **Washington County**, with an expected duration of one year. Blasting activity permit issued: August 14, 2006.

30064002. Beaver Excavating Company (4650 Southway Street, SE, Canton OH 44706). Blasting activity permit for construction at the Allegheny Energy Supply Hatfield's Ferry Station, located in Cumberland Township, **Greene County**, with an expected duration for 120 days. Blasting activity permit issued: August 16, 2006.

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.

14064016. Maxwell Trucking and Excavating, Inc. (455 Struble Road, State College, PA 16801). Construction blasting for 2121 East College Ave. Development, College Township, **Centre County**. Permit issued: August 18, 2006. Permit expires on September 18, 2006.

53064002. Appalachian Geophysical (P. O. Box 426, Killbuck, OH 44637). Blasting for acquisition of seismic data for Line No. PGE-37105-151-06 located in Genesee Township, **Potter County**. Permit issued: August 18, 2006. Permit expires on October 30, 2006.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118.

15064127. Warren's Excavating & Drilling, Inc. (P. O. Box 189, Bowmansville, PA 17507). Construction blasting for Coventry Glenn in East Coventry Township, **Chester County** with an expiration date of August 11, 2007. Permit issued: August 14, 2006.

15064128. Warren's Excavating & Drilling, Inc. (P. O. Box 189, Bowmansville, PA 17507). Construction blasting for The Fields at Creekview in East Coventry Township, **Chester County** with an expiration date of August 11, 2007. Permit issued: August 14, 2006.

21064158. Hayduk Enterprises, Inc. (257 Riverside Drive, Factoryville, PA 18419). Construction blasting for Liberty Point in Lower Allen Township, **Cumberland County** with an expiration date of August 30, 2007. Permit issued: August 14, 2006.

21064159. Douglas Explosives, Inc. (P. O. Box 77, Philipsburg, PA 16866). Construction blasting for Liberty Point in Lower Allen Township, **Cumberland County** with an expiration date of August 10, 2007. Permit issued: August 14, 2006.

21064160. J. Roy's, Inc. (Box 125, Bowmansville, PA 17507). Construction blasting for Country Manor Phase 3 in Southampton Township, **Cumberland County** with an expiration date of August 15, 2007. Permit issued: August 14, 2006.

28064163. Warren's Excavating & Drilling, Inc. (P. O. Box 189, Bowmansville, PA 17507). Construction blasting for a single dwelling on Scotland Main Street in Greene Township, **Franklin County** with an expiration date of August 4, 2007. Permit issued: August 14, 2006.

28064164. David H. Martin Excavating, Inc. (4961 Cumberland Highway, Chambersburg, PA 17201). Construction blasting for Greene Township Park in Greene Township, **Franklin County** with an expiration date of August 10, 2007. Permit issued: August 14, 2006.

36064180. Warren's Excavating & Drilling, Inc. (P. O. Box 189, Bowmansville, PA 17507). Construction blasting for Summer Hills in Upper Leacock Township, **Lancaster County** with an expiration date of August 10, 2007. Permit issued: August 14, 2006.

21064161. Keystone Blasting Service (381 Reifsnnyder Road, Lititz, PA 17543). Construction blasting for Country Manor in Southampton Township, **Cumberland County** with an expiration date of December 30, 2007. Permit issued: August 15, 2006.

21064162. Hall Explosives, Inc. (2981 Elizabethtown Road, Hershey, PA 17033). Construction blasting for Hunter's Gate in Hampden Township, **Cumberland County** with an expiration date of August 30, 2007. Permit issued: August 15, 2006.

21064163. Newville Construction Services, Inc. (408 Mohawk Road, Newville, PA 17241). Construction blasting for Nealy Farm manure pit in North Newton Township, **Cumberland County** with an expiration date of July 30, 2007. Permit issued: August 15, 2006.

36064181. Warren's Excavating & Drilling, Inc. (P. O. Box 189, Bowmansville, PA 17507). Construction blasting for a single dwelling on Druid Circle in Manheim Township, **Lancaster County** with an expiration date of August 11, 2007. Permit issued: August 15, 2006.

21064164. Douglas Explosives, Inc. (P. O. Box 77, Philipsburg, PA 16866). Construction blasting for Liberty Point in Lower Allen Township, **Cumberland County** with an expiration date of August 10, 2007. Permit issued: August 16, 2006.

36064182. M & J Explosives, Inc. (P. O. Box 608, Carlisle, PA 17013). Construction blasting for Southern Village in Lancaster Township, **Lancaster County** with an expiration date of August 31, 2007. Permit issued: August 16, 2006.

06064124. American Rock Mechanics, Inc. (7531 Chestnut Street, Zionsville, PA 18092). Construction blasting for Middle Creek Farms in Oley Township, **Berks County** with an expiration date of May 1, 2007. Permit issued: August 17, 2006.

06064125. Geological Technologies, Inc. (P. O. Box 70, Falling Waters, WV 25419). Construction blasting for Parkview Development in St. Lawrence Borough, **Berks County** with an expiration date of September 1, 2007. Permit issued: August 17, 2006.

06064126. Geological Technologies, Inc. (P. O. Box 70, Falling Waters, WV 25419). Construction blasting for Woods Edge in Amity Township, **Berks County** with an expiration date of August 1, 2007. Permit issued: August 17, 2006.

36064183. Gerlach's Drilling & Blasting (172 Bender Mill Road, Lancaster, PA 17603). Construction blasting for Lawn Equipment Parts Company in East Donegal Township, **Lancaster County** with an expiration date of August 15, 2007. Permit issued: August 17, 2006.

38064123. Keystone Blasting Service (381 Reifsnnyder Road, Lititz, PA 17543). Construction blasting for a single dwelling in North Cornwall Township, **Lebanon County** with an expiration date of December 30, 2006. Permit issued: August 17, 2006.

52064126. Holbert Explosives, Inc. (237 Mast Hope Plank Road, Lackawaxen, PA 18435). Construction blasting for Columbia Gas Line in Lehman, Delaware, Milford and Smithfield Townships, **Pike and Monroe Counties** with an expiration date of August 15, 2007. Permit issued: August 17, 2006.

52064127. Explosive Services, Inc. (7 Pine Street, Bethany, PA 18431). Construction blasting for Oak Ridge Estates in Dingman Township, **Pike County** with an expiration date of August 13, 2007. Permit issued: August 17, 2006.

64064112. Holbert Explosives, Inc. (237 Mast Hope Plank Road, Lackawaxen, PA 18435). Construction blasting for Woods at Duck Harbor in Lebanon Township, **Wayne County** with an expiration date of August 11, 2007. Permit issued: August 17, 2006.

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

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4707.

E01-254: James Landis, Jr., 23 North Miller Street, Fairfield, PA 17320 in Fairfield Borough, **Adams County**, ACOE Baltimore District.

To construct and maintain a 30-foot by 3-foot by 30-foot open bottom concrete box culvert with wingwalls for a private access road over Spring Run (CWF), located west of Fairfield Borough off North Miller Street (Fairfield, PA Quadrangle N: 7.0 inches; W: 17.5 inches; Latitude: 39° 47' 19"; Longitude: 77° 22' 29") in Fairfield Borough and Hamiltonban Township, Adams County. Wetlands exist on the property; however, no impacts are proposed or authorized.

E06-610: City of Reading, 503 North 6th Street, Reading, PA 19601-3690 in Reading City, **Berks County**, ACOE Philadelphia District.

To restore and maintain 1,600 linear feet of Angelica Creek (CWF), realign and maintain 400 feet of Angelica Creek (CWF), construct and maintain six cross rock vanes, five root wad structures, and four log vanes in Angelica Creek (CWF), two 1.0-acre wetlands, 0.5-acre pond, extend and maintain an existing 42-inch PSPP stormwater outfall 70-feet along Angelica Creek (CWF), and construct and maintain two temporary road crossings each consisting five, 40.0-foot long, 42-inch pipes in Angelica Creek (CWF), and a pedestrian bridge having a width of 5.0 feet, a normal span of 58.0, feet and an under clearance of 8.0 feet across Angelica Creek (CWF). The project includes the restoration of the riparian buffer along both sides of Angelica Creek (CWF) through planting of various native herbaceous plants, shrubs, and trees. The project is at the former location of Angelica Lake, just west of the new Route 10 bridge, south of the Schuylkill River (Reading, PA Quadrangle, upstream limit: N: 10.8 inches; W: 7.78 inches; Latitude: 40° 18' 34", Longitude: 75° 55' 51"; downstream limit: N: 11.10 inches; W: 6.85 inches; Latitude: 40° 18' 40", Longitude: 75° 55' 27") in the City of Reading, Berks County.

E44-129: Department of Transportation, Engineering District 2-0, 1924 Daisy Street Extension, Clearfield, PA 16830 in Union Township, **Mifflin County**, ACOE Baltimore District.

To construct and maintain a second reinforced concrete box culvert having a span of 23.33 feet and a rise of 7.77 feet in Little Kishacoquillas Creek located on SR 0655, Section A01, Segment 0150, Offset 0297 (Belleville, PA Quadrangle N: 14.1 inches; W: 19.1 inches) in Union Township, Mifflin County. The reinforced concrete box culvert will be placed adjacent to the existing reinforced box culvert, permitted by DEP File No. E44-090, for the purpose of reducing the 100-year flood elevation over the roadway. 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)).

E67-798: Department of Transportation, District 8-0, 2140 Herr Street, Harrisburg, PA 17103-1699 in Fairview Township, **York County**, ACOE Baltimore District.

To extend and maintain an existing 33-foot long, 7-foot wide by 5.5-foot high box culvert upstream to have a total length of 72 feet within a UNT to Fishing Creek (TSF) located along SR 0262 (Fishing Creek Road) on the west side of the intersection of SR 0262 (Fishing Creek Road) and SR 1003 (Old York Road) (Steelton, PA Quadrangle, Latitude: 40° 10' 39" Longitude: 76° 49' 59" North: 9.5 inches; West: 11.6 inches) in Fairview Township, York County. The culvert extension will require the relocation and maintenance of 95 linear feet of stream channel and will impact 0.026 acre of PEM wetlands. The project proposes to directly affect a total of 0.02 acre of palustrine emergent wetland habitat and temporarily impact 0.006 acre of palustrine emergent wetland. Wetland impacts are considered de minimis and replacement is not required. 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)).

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

E02-1497. John Bourlogianis, 2338 South Hampton Drive, Pittsburgh, PA 15241. To construct culverts and fill wetlands in Upper Saint Clair Township, **Allegheny County**, Pittsburgh ACOE District. (Bridgeville, PA Quadrangle N: 11.0 inches; W: 11.7 inches and Latitude: 40° 18' 38"—Longitude: 80° 05' 01"). To place and maintain fill in a de minimis area (0.05 acre) of wetlands; to construct and maintain a 24-inch diameter culvert 99.0 feet in length in a UNT to Brush Run (WWF) located on Forest Estate Drive and to construct and maintain a 15-inch diameter culvert 25.0 feet in length in a UNT to Brush Creek (WWF) located approximately 250.0 feet north from the intersection of Forest Estate Drive and Forest Brook Drive for the purpose of constructing the proposed ForestBrook Estates Plan of Lots. The project is located just west from the intersection of Forest Brook Drive and Rossmor Drive. This permit also authorizes the construction and maintenance of several utility lines in, along or across UNTs of Brush Creek, the replacement of an existing 15 inch diameter outfall pipe with an 18-inch diameter outfall pipe in the same location to construct and maintain a 30- inch outfall structure in same endwall along the right bank of a UNT to Brush Run, and to maintain 271.0 feet of an existing 15-inch pipe in a UNT to Brush Run located just southwest from Forest Estates Drive.

E04-295. Wright Brothers, Inc., 134 Glendale Road, Beaver Falls, PA 15010. To construct four stream culverts and fill in wetland in North Sewickley Township, **Beaver County**, Pittsburgh ACOE District. (Beaver Falls, PA Quadrangle N: 4.8 inches; W: 4.4 inches and Latitude: 40° 46' 34.93"—Longitude: 80° 16' 54.24"). To construct and maintain four stream culvert crossings in UNTs to Bennett Run (WWF), and to place and maintain fill in three wetlands; Wetland C, 0.09 acre (PFO), Wetland D, 0.09 acre (PFO) and Wetland G, 0.08 acre (PFO/PSS) for a total impact of 0.26 acre, and to construct and maintain various stormwater outfalls to UNTs of Bennett Run. Culvert A is a 24-inch pipe about 140 feet long under Bryan Drive. Culvert B is a 3-foot by 5-foot box culvert under Sylvia Drive approximately 60 feet long. Lot 46 access is provided by Culvert C, which is an 18-inch culvert approximately 40 feet long. Culvert D is an 18-inch pipe approximately 140 feet long on Lot 47. The total proposed stream impact is 380 feet. To compensate for the wetland impacts the applicant will construct 0.8 acre of replacement wetlands. This work is part of a proposed 58 acre subdivision. The project is located on the south end of Sylvia Drive approximately 500 feet south of its intersection with Overlook Drive.

E65-891. Salem Township Board of Supervisors, 224 Congruity Road, Greensburg, PA 15601. To construct a bridge in Salem Township, **Westmoreland County**, Pittsburgh ACOE District. (Slickville, PA Quadrangle N: 5.8 inches; W: 7.89 inches and Latitude: 40° 24' 25"—Longitude: 79° 33' 24"). To remove the existing structure and to construct and maintain a bridge having a normal clear span of 50 feet and an underclearance of 8.5 feet on T-628 (Old William Penn Highway) across Beaver Run (HQ-CWF). The project impacts 0.04 acre of wetland (PEM) and approximately 109 feet of Beaver Run, from the construction of the bridge and scour protection and modification of the roadway approaches, and is located approximately 200 feet west of Rock spring Road. Permittee will restore another 0.04 acre of wetland that will be temporarily disturbed during construction.

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

E20-545, James Family Trust, 351 Morrison Drive, Pittsburgh, PA 15216. James Family Trust Dock, in Sadsbury Township, **Crawford County**, ACOE Pittsburgh District (Harmonsburg, PA Quadrangle N: 21.7 inches; W: 6.7 inches).

The applicant proposes conduct the following activities in and adjacent to Conneaut Lake approximately 1.0 mile NW of the intersection of SR 18 and SR 322 involving: 1) to remove the existing concrete end section, steel sheet pile and existing wooden platforms; 2) to install and maintain fiberglass sheet pile; 3) to lower and maintain the existing 70-foot long earthen dock; 4) to install and maintain two approximately 20-foot long floating docks at the lake ward end of the earthen dock; and 5) to maintain the existing approximately 100-foot long by 5-foot high sea wall. Conneaut Lake is body of water classified as a HQ-WWF.

E25-703, Nancy E. Dusckas, 2607 Buffalo Road, Erie, PA 16510-1421. Chautauqua Woods Subdivision, in the

City of Erie and Lawrence Park Borough, **Erie County**, ACOE Pittsburgh District (Erie North, PA Quadrangle N: 4.8 inches; W: 5.4 inches).

The applicant proposes to to construct a 16.5 acre residential development approximately 800 feet south of the intersection of SR 5 and Franklin Avenue consisting of 55 equivalent dwelling units involving: 1) to construct and maintain a 50-foot long, 24-foot wide by 10-foot high Conspan arch culvert and associated wingwalls, streambank protection and establishment of a thalweg in McDannel Run; 2) to construct and maintain three water-line (6-inch diameter, 6-inch diameter and 8-inch diameter) crossings of McDannel Run; 3) to construct and maintain an 8-inch diameter ductile iron, aerial (above the 100-year floodplain) sewer line crossing of McDannel Run; 4) to impact 0.14 acre of PEM wetland with road crossings; 5) to restore 0.17 acres of PEM wetland onsite and 6) to construct and maintain stormwater outfalls associated with the residential development McDannel Run is a perennial stream classified as a CWF and MF. The project proposes to impact approximately 240 feet of stream.

E25-707, Erie Waterworks, 340 West Bayfront Parkway, Erie, PA 16507-0729. Myrtle Street Storm Sewer Extension, in the City of Erie, **Erie County**, ACOE Pittsburgh District (Erie North, PA Quadrangle N: 1.53 inches; W: 12.97 inches).

The applicant proposes to extend the existing Myrtle Street storm sewer outlet north of the Bayfront Highway near the foot of Myrtle Street to develop a storage site involving: 1) to construct and maintain a 6-foot wide by 4-foot high box culvert storm sewer extension stream enclosure having a length of 238 feet in a UNT Presque Isle Bay and connected to the existing storm sewer outlet with a 8-foot high by 8-foot wide transition box with manhole; and 2) to construct and maintain a 18-inch HDPE plastic stormwater outfall to a UNT to Presque Isle Bay. The project proposes to impact 238 feet of watercourse. The UNT to Presque Isle Bay is classified as a WWF.

E42-321, Department of Transportation, District 2-0, 1924-30 Daisy Street, P. O. Box 342 Clearfield, PA. 16830. SR 0006, Section A02 Across Allegheny River and Section A03 across Norfolk Southern Railroad, in Liberty Township, **McKean County**, ACOE Pittsburgh District (Port Allegheny, PA Quadrangle N: 13.56 inches; W: 6.75 inches).

To remove the existing structures and to construct a temporary causeway and to construct and maintain a three span continuous prestressed I-Beam bridge having clear spans of 120, 125 and 120 feet and a minimum underclearance of 13.5 feet on a 75° skew across the Allegheny River (CWF) on SR 0006, and a single span pre-stressed concrete adjacent box beam bridge having a clear span of 100 feet across the Norfolk Southern Railroad on SR 0006, Section A03 approximately 0.4 miles east of Port Allegheny. This project includes placement of fill in 0.033 acre of Palustrine Emergent Wetland (PEM) and impacts to approximately 45 linear feet of Allegheny River.

STORAGE TANKS
SITE-SPECIFIC INSTALLATION PERMITS

The following Storage Tank Site-Specific Installation Permits, under the authority of the Storage Tank Spill Prevention Act (35 P. S. §§ 6021.304, 6021.504, 6021.1101—6021.1102) and under 25 Pa. Code Chapter 245, Subchapter C, have been issued by the Bureau of Land Recycling and Waste Management, Director, P. O. Box 8763, Harrisburg, PA 17105-8763.

<i>SSIP Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Tank Type</i>	<i>Tank Capacity</i>
0651014	121 Point Breeze Management Corp. 6300 West Passyunk Ave. Philadelphia, PA 19153 Attn: Alex Prakhin	Philadelphia	City of Philadelphia	6 ASTs storing gasoline, diesel and denatured ethanol	15,598,800 gallons total
0654003	Padfield Plumbing and Heating, Inc. 205 S. 2nd St. St. Clair, PA 17970 Attn: Dean Padfield	Schuylkill	East Norwegian Township	3 ASTs storing fuel oil	88,800 gallons total

SPECIAL NOTICES

Program Award Information

Program: Stormwater Planning and Management
Amount: \$ 12,000
Recipient: Lawrence County Planning Commission
County: Lawrence
Municipalities: Bessemer Borough, Ellport Borough, Ellwood City, Enon Valley Borough, Hickory Township, Little Beaver Township, Mahoning Township, Neshannock Township, New Beaver Borough, New Castle City, New Wilmington Borough, North Beaver Township, Perry Township, Plain Grove Township, Pulaski Township, Scott Township, Shenango Township, Slippery Rock Township, S.N.P.J. Borough, South New Castle Borough, Taylor Township, Union Township, Volant Borough, Wampum Township, Washington Township, Wayne Township and Wilmington Township.

Contacts: County: Amy McKinney, Lawrence County Planning Office, 430 Court Street, New Castle, PA 16101
Department of Environmentat Protection: Barry Newman, M. S., P. E., (717) 772-5661

Purpose: During Phase I, prepare a "Scope of Study" report required for preparation of an Act 167 Stormwater Management plan for the entire Lawrence County. The grant agreement terminates on June 30, 2007.

Program Award Information

Program: Stormwater Planning and Management
Amount: \$ 12,000
Recipient: Mifflin County Planning Commission
County: Mifflin
Municipalities: Armagh Township, Bratton Township, Brown Township, Burnham Borough, Decatur Township, Derry Township, Granville Township, Juniata Terrace, Kistler Borough, Lewistown Borough, Mcveytown Borough, Menno Township, New Hamilton Borough, Oliver Township, Union Township and Wayne Township.

Contacts: County: William Gomes, Mifflin County Planning Commission, 20 North Wayne Street, Lewistown, PA 17044.
Department of Environmentat Protection: Barry Newman, M. S., P. E., (717) 772-5661

Purpose: During Phase I, prepare a "Scope of Study" report required for preparation of an Act 167 Stormwater Management plan for Mifflin County. The grant agreement terminates on June 30, 2007.

[Pa.B. Doc. No. 06-1727. Filed for public inspection September 1, 2006, 9:00 a.m.]

Laboratory Accreditation Advisory Committee Meeting Cancellation

The Laboratory Accreditation Advisory Committee meeting scheduled for Tuesday, September 12, 2006, has been cancelled. The next meeting is scheduled for Tuesday, December 12, 2006, from 10 a.m. until 3 p.m. in Room 206, Bureau of Laboratories Building, 2575 Interstate Drive, Harrisburg, PA 17110.

Questions concerning the cancellation of the September 12, 2006, meeting or the December 12, 2006, meeting can be directed to Aaren Shaffer Alger, Bureau of Laboratories, (717) 346-7200 or aaalger@state.pa.us. The agenda and meeting materials for the December 12, 2006, meeting will be available through the Public Participation Center on the Department of Environmental Protection's (Department) website at www.depweb.state.pa.us (DEP Keywords: "Public Participation, Participate").

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact the Department at (724) 439-7289 or through the AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

KATHLEEN A. MCGINTY,
Secretary

[Pa.B. Doc. No. 06-1728. Filed for public inspection September 1, 2006, 9:00 a.m.]

DEPARTMENT OF HEALTH

Human Immunodeficiency Virus (HIV) Community Prevention Planning Committee; Public Meetings

The Statewide HIV Community Prevention Planning Committee, established by the Department of Health (Department) under sections 301(a) and 317(b) of the Public Health Service Act (42 U.S.C.A. §§ 241(a) and 247(b)), will hold a public meeting on Wednesday, September 20, 2006, from 9 a.m. to 4 p.m. at the Harrisburg Holiday Inn West, 5401 Carlisle Pike, Mechanicsburg, PA 17050.

For additional information, contact Kenneth McGarvey, Department of Health, Bureau of Communicable Diseases, Room 1010, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-0572.

Persons with a disability who wish to attend the meeting and require an auxiliary aid, service or other accommodation to do so should also contact Kenneth McGarvey at (717) 783-0572, V/TT (717) 783-6514 for speech and/or hearing impaired persons or the Pennsylvania AT&T Relay Services at (800) 654-5984 (TT).

The Department reserves the right to cancel this meeting without prior notice.

CALVIN B. JOHNSON, M. D., M.P.H.,
Secretary

[Pa.B. Doc. No. 06-1729. Filed for public inspection September 1, 2006, 9:00 a.m.]

Immunization Practices for Children in Child Care Group Settings

In accordance with 28 Pa. Code § 27.77(c) (relating to immunization requirements for children in child care group settings), the Department of Health (Department), Bureau of Communicable Diseases, Division of Immunization, is updating the list of Morbidity and Mortality Weekly Report (MMWR) publications that contain the Advisory Committee on Immunization Practices (ACIP) recommendations that meet the standards of 28 Pa. Code § 27.77(c). Children in child care group settings as defined by 28 Pa. Code § 27.77(c) are required to be immunized in accordance with the recommendations included in the following publications, as well as those included in previous notices. The Department is providing a summary of the publications for the ease of reference of the public:

January 6, 2006/Vol. 54/Nos. 51 and 52

MMWR QuickGuide Recommended Childhood and Adolescent Immunization Schedule—United States, 2006

The Advisory Committee on Immunization Practices (ACIP) periodically reviews the recommended childhood and adolescent immunization schedule to ensure that the schedule is current with changes in vaccine formulations and reflects revised recommendations for the use of licensed vaccines, including those newly licensed. The recommendations and format of the childhood and adolescent immunization schedule and catch-up schedule for January—December 2006 were approved by ACIP, the American Academy of Pediatrics (AAP), and the American Academy of Family Physicians (AAFP).

February 24, 2006/Vol. 55/No. RR-2

Influenza Vaccination of Health-Care Personnel: Recommendations of the Healthcare Infection Control Practices Advisory Committee (HICPAC) and the Advisory Committee on Immunization Practices (ACIP)

This report summarizes recommendations of the Healthcare Infection Control Practices Advisory Committee (HICPAC) and the Advisory Committee on Immunization Practices (ACIP) concerning influenza vaccination of health-care personnel (HCP) in the United States. These recommendations apply to HCP in acute care hospitals, nursing homes, skilled nursing facilities, physician's offices, urgent care centers, and outpatient clinics, and to persons who provide home health care and emergency medical services. The recommendations are targeted at health-care facility administrators, infection-control professionals, and occupational health professionals responsible for influenza vaccination programs and influenza infection-control programs in their institutions. HICPAC and ACIP recommend that all HCP be vaccinated annually against influenza. Facilities that employ HCP are strongly encouraged to provide vaccine to their staff by using evidence-based approaches that maximize vaccination rates.

March 3, 2006/Vol. 55/No. 8

A New Product (VariZIG™) for Postexposure Prophylaxis of Varicella Available Under an Investigational New Drug Application Expanded Access Protocol

On October 27, 2004, the Advisory Committee on Immunization Practices (ACIP) was informed by the only U.S.-licensed manufacturer of varicella zoster immune globulin (VZIG) (Massachusetts Public Health Biologic Laboratories, Boston, Massachusetts) that the company had discontinued production of VZIG. The supply of the licensed VZIG product is now nearly depleted. In February 2006, an investigational (not licensed) VZIG product, VariZIG™ (Cangene Corporation, Winnipeg, Canada) became available under an investigational new drug application (IND) submitted to the Food and Drug Administration (FDA).^{*} This product can be requested from the sole authorized U.S. distributor, FFF Enterprises (Temecula, California), for patients who have been exposed to varicella and who are at increased risk for severe disease and complications.

March 24, 2006/Vol. 55/No. RR-3

Preventing Tetanus, Diphtheria, and Pertussis Among Adolescents: Use of Tetanus Toxoid, Reduced Diphtheria Toxoid and Acellular Pertussis Vaccines: Recommendations of the Advisory Committee on Immunization Practices (ACIP)

During spring 2005, two tetanus toxoid, reduced diphtheria toxoid and acellular pertussis vaccine (Tdap) products formulated for use in adolescents (and, for one product, use in adults) were licensed in the United States (BOOSTRIX®, GlaxoSmithKline Biologicals, Rixensart, Belgium (licensed May 3, 2005, for use in persons aged 10–18 years), and ADACEL™, sanofi pasteur, Toronto, Ontario, Canada (licensed June 10, 2005, for use in persons aged 11–64 years)).

May 19, 2006/Vol. 55/No. RR-7

Prevention of Hepatitis A Through Active or Passive Immunization: Recommendations of the Advisory Committee on Immunization Practices (ACIP)

Routine vaccination of children is an effective way to reduce hepatitis A incidence in the United States. Since licensure of hepatitis A vaccine during 1995–1996, the hepatitis A childhood immunization strategy has been implemented incrementally, starting with the recommendation of the Advisory Committee on Immunization Practices (ACIP) in 1996 to vaccinate children living in communities with the highest disease rates and continuing in 1999 with ACIP's recommendations for vaccination of children living in states, counties, and communities with consistently elevated hepatitis A rates. This report updates ACIP's 1999 recommendations concerning the prevention of hepatitis A through immunization (CDC. Prevention of hepatitis A through active or passive immunization: recommendations of the Advisory Committee on Immunization Practices (ACIP). MMWR 1999;48 (No. RR-12):1–37) and includes 1) new data on the epidemiology of hepatitis A in the era of hepatitis A vaccination of children in selected U.S. areas, 2) results of analyses of the economics of nationwide routine vaccination of children, and 3) recommendations for the routine vaccination of children in the United States. Previous recommendations for vaccination of persons in groups at increased risk for hepatitis A or its adverse consequences and recommendations regarding the use of immune globulin for protection against hepatitis A are unchanged from the 1999 recommendations.

June 9, 2006/Vol. 55/No. 22

Notice to Readers: Updated Recommendations of the Advisory Committee on Immunization Practices (ACIP) for the Control and Elimination of Mumps

On May 17, 2006, the Advisory Committee on Immunization Practices (ACIP) updated criteria for mumps immunity and mumps vaccination recommendations. According to the 1998 ACIP recommendations for measles, mumps, and rubella (MMR) vaccine, for routine vaccination, a first dose of MMR vaccine is recommended at ages 12–15 months and a second dose at ages 4–6 years. Two doses of MMR vaccine also are recommended for students attending colleges and other post-high school institutions (1).

July 28, 2006/Vol. 55/No. RR-10

Prevention and Control of Influenza: Recommendations of the Advisory Committee on Immunization Practices (ACIP)

This report updates the 2005 recommendations by the Advisory Committee on Immunization Practices (ACIP) regarding the use of influenza vaccine and antiviral agents (CDC. Prevention and control of influenza: recommendations of the Advisory Committee on Immunization Practices (ACIP). MMWR 2005;54 (No. RR-8):1–44). The 2006 recommendations include new and updated information. Principal changes include 1) recommending vaccination of children aged 24–59 months and their household contacts and out-of-home caregivers against influenza; 2) highlighting the importance of administering two doses of influenza vaccine for children aged 6 months–< 9 years who were previously unvaccinated; 3) advising health-care providers, those planning organized campaigns, and state and local public health agencies to a) develop plans for expanding outreach and infrastructure to vaccinate more persons than the previous year and b) develop contingency plans for the timing and prioritization of administering influenza vaccine, if the supply of vaccine is delayed and/or reduced; 4) reminding providers that they should routinely offer influenza vaccine to patients throughout the influenza season; 5) recommending that neither amantadine nor rimantadine be used for the treatment or chemoprophylaxis of influenza A in the United States until evidence of susceptibility to these antiviral medications has been re-established among circulating influenza A viruses; and 6) using the 2006–07 trivalent influenza vaccine virus strains: A/New Caledonia/20/1999 (H1N1)-like, A/Wisconsin/67/2005 (H3N2)-like, and B/Malaysia/2506/2004-like antigens.

August 11, 2006/Vol. 55/No. RR-12

Prevention of Rotavirus Gastroenteritis Among Infants and Children: Recommendations of the Advisory Committee on Immunization Practices (ACIP)

In February 2006, a live, oral, human-bovine reassortant rotavirus (RotaTeq®) was licensed for use among U.S. infants. The Advisory Committee on Immunization Practices recommends routine vaccination of U.S. infants with three doses of this rotavirus vaccine administered orally at ages 2, 4, and 6 months. The first dose should be administered between ages 6–12 weeks. Subsequent doses should be administered at 4–10 week intervals, and all three doses should be administered by age 32 weeks. Rotavirus vaccine can be co-administered with other childhood vaccines. Rotavirus vaccine is contraindicated for infants with a serious allergic reaction to any vaccine component or to a previous dose of vaccine.

Additional information relating to vaccinations may be obtained from the Department's website at www.dsf.health.

state.pa.us/health and from the National Immunization Program of the Centers for Disease Control and Prevention at the following website: www.cdc.gov/nip/default.htm.

Persons with a disability who require an alternative format of this notice (for example, large print, audiotope, Braille) should contact Department of Health, Alice Gray, Director, Division of Immunization, Room 1026, Health and Welfare Building, Harrisburg, PA 17120, (717) 787-5681 or for speech and/or hearing impaired persons at V/TT (717) 783-6154 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. 06-1730. Filed for public inspection September 1, 2006, 9:00 a.m.]

Requests for Exception; Long-Term Care Nursing Facilities

The following long-term care nursing facilities are seeking an exception to 28 Pa. Code § 205.6(a) (relating to function of building).

Hampton House
1548 Sans Souci Parkway
Wilkes-Barre, PA 18706
Facility ID 080302

Washington County Health Center
36 Old Hickory Ridge Road
Washington, PA 15301

Concordia Lutheran Health and Human Care
615 North Pike Road
Cabot, PA 16023

These requests are on file with the Department of Health (Department). Persons may receive a copy of a request for exception by requesting a copy from the Division of Nursing Care Facilities, Room 526, Health and Welfare Building, Harrisburg, PA 17120, (717) 787-1816, fax (717) 772-2163, ra-paexcept@state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address 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 want to comment in an alternative format (for example, large print, audiotope, 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. 06-1731. Filed for public inspection September 1, 2006, 9:00 a.m.]

FISH AND BOAT COMMISSION

Designation of Exclusive Use Fishing Area

The Executive Director of the Fish and Boat Commission, acting under the authority of 58 Pa. Code § 65.21 (relating to waters limited to specific purposes—exclusive use fishing areas), designates the following water area as being for the exclusive use of children. This designation will go into effect on January 1, 2007.

<i>County</i>	<i>Water Area</i>	<i>Limits</i>	<i>Type</i>
Cameron	Wykoff Run	From the mouth of Wykoff Run at the Sinnemahoning Creek upstream to the railroad bridge adjacent to the Wykoff Run Cooperative Trout Nursery, a distance of 250 yards	Children Only

DOUGLAS J. AUSTEN, Ph.D.,
Executive Director

[Pa.B. Doc. No. 06-1732. Filed for public inspection September 1, 2006, 9:00 a.m.]

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>
Bessemer Rod & Gun Club c/o Robert J. Gordon	Bessemer Rod & Gun Club Lake #5	Bessemer Township Lawrence County	The 22-acre lake that discharges to Hickory Creek. Fish barrier constructed out of a double-screened outflow pipe. The outside mesh is 0.4 inch and the inside mesh is 0.25 inch	Curly-Leaf Pondweed
Heart Lake Association c/o Philip L. Donahue	Heart Lake	New Milford/Bridgewater Townships Susquehanna County	The 43-acre lake that discharges to Hop Bottom Creek. Three fish barriers are constructed out of rebar, rebar and chain link fence and rebar and fine mesh at the lake outlet.	Eelgrass and Algae
Mormon Lake Association c/o Ted Dutches	Mormon Lake	Ridgebury Township Bradford County	The 12.5-acre lake discharges to Miller Run. The fish barrier is constructed out of 1 inch chain link fence at the lake outlet.	American Elodea

DOUGLAS J. AUSTEN, Ph.D.,
Executive Director

[Pa.B. Doc. No. 06-1733. Filed for public inspection September 1, 2006, 9:00 a.m.]

HEALTH CARE COST CONTAINMENT COUNCIL

Meetings Scheduled

The Health Care Cost Containment Council has scheduled the following meetings: Wednesday, September 6, 2006, Data Systems Committee Meeting—10 a.m., Education Committee Meeting—1 p.m.; Thursday, September 7, 2006, Council Meeting—10 a.m. The meetings will be held in the conference room at the Council Office, 225 Market Street, Suite 400, Harrisburg, PA 17101. The public is invited to attend. Persons who need accommodation due to a disability and want to attend the meetings should contact Cherie Elias, Health Care Cost Containment Council, 225 Market Street, Harrisburg, PA 17101 or call (717) 232-6787 at least 24 hours in advance so that arrangements can be made.

MARC P. VOLAVKA,
Executive Director

[Pa.B. Doc. No. 06-1734. Filed for public inspection September 1, 2006, 9:00 a.m.]

INDEPENDENT REGULATORY REVIEW COMMISSION

Notice of Comments Issued

Section 5(g) of the Regulatory Review Act (71 P. S. § 745.5(g)) provides that the Independent Regulatory Review Commission (Commission) may issue comments within 30 days of the close of the public comment period. The Commission comments are based upon the criteria contained in section 5.2 of the Regulatory Review Act (71 P. S. § 745.5b).

The Commission has issued comments on the following proposed regulation. The agency must consider these comments in preparing the final-form regulation. The final-form regulation must be submitted within two years of the close of the public comment period or it will be deemed withdrawn.

<i>Reg No.</i>	<i>Agency/Title</i>	<i>Close of the Public Comment Period</i>	<i>IRRC Comments Issued</i>
19-7	Department of Corrections County Correctional Institutions 36 Pa.B. 3094 (June 24, 2006)	7/24/06	8/23/06

**Department of Corrections Regulation #19-7
(IRRC #2544)**

County Correctional Institutions

August 23, 2006

We submit for your consideration the following comments on the proposed rulemaking published in the June 24, 2006 *Pennsylvania Bulletin*. Our comments are based on criteria in Section 5.2 of the Regulatory Review Act (71 P. S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P. S. § 745.5a(a)) directs the Department of Corrections (Department) to respond to all comments received from us or any other source.

1. Fiscal impact of the regulation.

The Preamble states that this proposed rulemaking “is not expected to have significant fiscal impact upon the Commonwealth, its political subdivisions or the general public.” The Regulatory Analysis Form (RAF) notes the following: “The Department cannot provide a specific estimate of the costs and/or savings to local governments” Commentators disagree with the Department’s cost analysis for local government. They believe that many aspects of the proposed rulemaking will significantly increase costs to counties and those costs will have to be passed on to county taxpayers. In the Preamble to the final-form regulation, the Department should provide a more detailed fiscal analysis that supports its contention that this rulemaking will not have a significant fiscal impact.

2. Reasonableness of the regulation.

The Department has stated in the RAF that these amendments are intended to “afford county prison administrators with sufficient flexibility to address prison management problems that are local in nature.” Similar to our comment above, commentators disagree with this statement. While these commentators generally agree that standards are needed, they believe this rulemaking is overly prescriptive. In the Preamble to the final-form regulation, the Department should explain how amendments to each section provide County Correctional Institutions (local prisons) with greater flexibility in carrying out their duties.

3. Implementation procedures.

Effective date

The Preamble notes that this regulation will become effective upon final-form publication in the *Pennsylvania Bulletin*. In order for the local prisons to have time to implement the new standards, the Department should consider an effective date that occurs six to twelve months after final-form publication.

Written local policy

Existing Chapter 95 and this proposed rulemaking provide the minimum requirements that local prisons

must meet. It is our understanding that local prisons are responsible for developing their own written policy that reflects the minimum requirements of Chapter 95. The phrase “written local policy” appears throughout the existing and proposed regulation. However, not all paragraphs under sections that establish standards begin with a phrase similar to “Written local policy must provide” We recommend that each paragraph begin with this phrase. In the alternative, the opening sentence of each section that addresses standards should be revised to state something similar to “Written local policy must address or provide for the following”

4. Section 95.220a. Definitions.—Reasonableness; Implementation procedures; Clarity.

Definitions that contain substantive provisions

Several definitions contain substantive provisions. These provisions either allow or require certain parties to take certain action or not take certain action. Since substantive provisions in a definition are not enforceable, those provisions should be deleted and placed in the body of the regulation. Listed below are the definitions that contain substantive provisions:

- Bed capacity
- Community resources
- Counseling
- Financial audit
- Health care screening
- Health care training
- Major infraction
- Minor infraction
- Noncontact visitation
- Preinspection audit
- Prison inspection
- Procedures
- Security perimeter
- Segregation
- Training
- Treatment professional
- Treatment training
- Vulnerability analysis

Alcohol and other drugs treatment—This definition states the following: “A treatment service designed to address the impact and ramifications of use or abuse of alcohol and other drugs, or both, to prevent illegal or destructive, or both, conduct and avoid addiction.” The phrase “or both” is unnecessary and should be deleted.

Bed capacity—“Recognized professional standards” are referenced in this definition. Since the standards are recognized, they should be specifically referenced in the definition.

Building code—This definition references “Federal, State or local regulations that dictate the construction of a prison.” The final-form regulation should include references to the specific regulations that must be followed.

Contraband—The phrase “within the prison or on prison grounds” is used in this definition. “Prison grounds,” by definition, is part of the prison. Therefore, the phrase “or on prison grounds” should be deleted.

Force, use of—Commentators are concerned that the use of force to effect compliance with an order is not included in this definition. They note that this omission will make it difficult to maintain order in county prisons. We understand that the use of force to effect compliance with an order is an accepted standard in the corrections community and recommend that the definition be amended accordingly.

Life safety code—The last sentence, which states, “Two chapters are devoted to correctional facilities” is not needed and should be deleted.

Major infraction and minor infraction—Commentators believe these definitions do not provide county prisons the

flexibility needed to handle misconduct. The Department should explain the need for including both types of infractions in the regulation.

Prison administrator—The phrase “regardless of local title” is not needed and should be deleted.

Restraint—This definition references an “authorized” device. The final-form regulation should either delete that term or specify how the device is authorized.

Treatment service(s)—This term is used throughout the proposed rulemaking. We recommend that it be defined.

5. Section 95.220b. Scope.—Statutory authority; Reasonableness; Implementation procedures; Clarity.

This section is being amended to delete provisions that allow for a waiver of inspections for local prisons achieving accreditation from the American Correctional Association and the National Commission on Correctional Health Care. The waiver provisions are being replaced with a multiple-step inspection process that could eventually lead to a local prison becoming “declassified.” Steps that lead to the declassification of a local prison include the following: preinspection audit, inspection, issuance of a compliance report, notice of deficiency, warning of potential citation of noncompliance, citation of noncompliance, vulnerability analysis, public hearings ordered by the Secretary of the Department, and a finding that a prison should be declassified. As written, it could take over three years for a prison to be declassified.

We have four concerns. First, the term “declassified” is undefined. We recommend that it be defined.

Second, commentators raised other objections to the inspection and declassification process. These objections pertain to the following: a lack of a consultation and appeal process for local prisons found not to be in compliance; a concern that declassification for noncompliance with standards not related to security issues could occur; and questions on who must pay for mandatory vulnerability analysis. Commentators also question what will happen to pretrial detainees and inmates if a local prison is declassified. We agree with the commentators and recommend that both a consultation and appeals process be included in the final-form regulation. We also recommend that the language be included that describes who will pay for mandatory and voluntary vulnerability analyses.

Third, the Department has indicated that it is not their intent to declassify prisons for noncompliance not related to security. The final-form regulation should specify that declassification would only occur in instances where there is noncompliance with the security standards.

Fourth, this section provides detail on what will happen during the inspection and declassification process but lacks specificity on time frames for certain actions. For example, Paragraph (3) notes that the next preinspection audit will occur “approximately” 24 months after the first preinspection audit. This is problematic for two reasons. First, the regulation does not specify when the first preinspection audit will be completed. Is it the day the inspector leaves the facility or is it the day the results of the inspection are conveyed to the local prison? Paragraph (2) should address more specifically within what time frame the preinspection audit report will be issued to the prison. Second, the term “approximately” is vague.

A more definitive term is “within.” The final-form regulation should include more detail on what signifies the end of a certain step in the inspection and declassification process and how much time either the local prison or the Department has to take the next appropriate step.

6. Section 95.224. Inmate rules and staff procedures.—Reasonableness.

Paragraph (2) states that new or revised rules shall be disseminated to staff and, when appropriate, to inmates prior to implementation. The final-form regulation should specify when it would not be appropriate to disseminate new or revised rules to inmates.

7. Section 95.229. Bedding.—Reasonableness.

Commentators have expressed concern that these regulations fail to recognize the potential need for temporary bedding when a prison facility must process a large number of inmates in a short period of time. In those instances, prisons may need to use temporary bedding that does not meet the requirement that bedding be at least 12 inches off the floor. The final-form regulation should be amended to provide an exception to the 12-inch requirement for a limited time to manage a dramatic increase in population.

8. Section 95.230. Food services.—Clarity.

Paragraph (2) requires one supervisory food service employee to become “certified in food safety and sanitation.” The final-form regulation should specify what type of certification will be acceptable.

9. Section 95.232. Medical and health services.—Clarity.

The reference to the “certifying health organization” under Paragraph (8) should be more specific.

Paragraph (9)(ii) references State and Federal law. The final-form regulation should include specific citations to the applicable laws.

10. Section 95.235. Work programs.—Clarity.

Paragraph (3) requires local prisons to provide “some form of compensation” to inmates participating in work programs. The term compensation is defined. Therefore, the phrase “some form of” should be deleted.

Paragraph (4) references applicable Federal, State or local work safety laws and regulations and Paragraph (5) references applicable law. The final-form regulation should include specific citations to the applicable laws and regulations.

11. Section 95.237. Religion.—Need; Implementation procedures.

Paragraph (1) states that inmates must have access to religious activities. Commentators believe this provision is too broad and question if they must provide activities for religious activities that are outside of what could be considered “mainstream.” To what extent are prisons required to accommodate the religious activities of an inmate that might be considered unique?

What is the need for the clinical pastoral education/specialized training and certification requirements for individuals seeking to provide religious guidance under paragraph (2)? This should be explained in the Preamble to the final-form regulation. In the alternative, this provision should be deleted.

12. Section 95.240. Inmate disciplinary procedures.—Need; Implementation procedures.

As noted in our comment on the definitions of major infraction and minor infraction, the Department should explain the need for including two levels of infractions.

13. Section 95.241. Security.—Need; Implementation procedures; Clarity.

Paragraph (1) Supervision of inmates

Subparagraph (1)(ii) requires an initial staffing analysis to be conducted. It requires the results of the annual staffing analysis to be available at all times. The final-form regulation should specify who conducts the staffing analysis and who has access to it.

Subparagraph (1)(v) requires local prisons to maintain a permanent log and shift reports that record routine information, emergency situations and unusual circumstance. We question the need for recording routine information and recommend that it be deleted. If the Department does not delete this requirement, the term "routine information" should be defined.

Paragraph (2) Use of force

Subparagraph (2)(i) restricts the use of force to certain instances. Similar to our comment on the definitions of "force, use of," we note that the use of force to effect compliance with an order is not included. We recommend that Paragraph (2) be amended to allow force to effect compliance with an order.

Subparagraph (2)(ii)(H) references both "authorized equipment" and a "recognized certification period." These terms are vague and should be defined. We note that the term "authorized tools/equipment" is used in Paragraph (f) of this section and recommend that it also be defined.

Paragraph (5) Contraband control

Subparagraph (ii) states that individuals "entering or leaving" the prison will be subject to search. Will the local prison have discretion in this area, or is it the Department's intent to have individuals inspected before "entering and leaving"?

14. Section 95.243. Treatment services.—Fiscal impact; Need; Clarity.

Commentators are concerned that this section will impose substantial costs and is inappropriate for county prisons. They note that treatment mandates imposed are more appropriate for state prisons and inmates with longer sentences. What is the need for this provision and how will counties be able to afford these types of services?

The terms "treatment services" and "treatment programs" are used in this section. Is there a difference? We recommend that one term be used and defined.

15. Section 95.244. Community involvement.—Clarity.

This section establishes standards for "community involvement," which is an undefined term. To assist the regulated community with developing a written policy that would allow them to meet this standard, we recommend that it be defined.

16. Section 95.246. Investigations—deaths and sexual assaults/threats.—Clarity.

Subparagraph (1)(i) requires the prison administrator to notify the coroner and the appropriate law enforcement agency in the case of a death. Subparagraph (1)(ii) requires local written policy to specify who is responsible for contacting the coroner and the law enforcement agency. Since Subparagraph (1)(i) requires the prison administrator to provide notification, what is the need for including this provision in Subparagraph (1)(ii)? Similar language is also found in Paragraph (2), pertaining to sexual assaults/threats.

Subparagraph (2)(ii) requires the reporting of sexual assaults and threats. We note that § 95.242, relating to statistical/informational reporting, requires the reporting of assaults, but not the threat of sexual assaults on a report filed with the Department on a monthly basis. How are local prisons to report the threat of sexual assaults?

17. Section 95.248. Sanitation, maintenance and safety.—Clarity.

Paragraph (1) requires adherence to "applicable governmental regulations" regarding sanitation, maintenance and safety. A specific citation to the regulations should be included in the final-form regulation.

Paragraphs (2), (3) and (9) require written local policy to "identify" plans or programs related to the sanitation, maintenance and fire emergency/evacuation. Can local prisons simply identify such plans or programs or must they be incorporated into the written local policy?

18. Miscellaneous clarity.

The phrase "including, but not limited to" is used in the following sections. This is nonregulatory language that should be deleted:

- § 95.220b(1)
- § 95.221(8)
- § 95.232(12)
- § 95.235(1)
- § 95.241(1)(ii)
- § 95.243(2)
- § 95.243(4)
- § 95.243(6)

The reference to "generally accepted accounting procedures" in § 95.239(3) should be changed to "generally accepted accounting principles."

Section 95.241(2)(ii)(F) appears to be an incomplete sentence.

The phrase "prison administration" should be amended to "prison administrator" under § 95.241(3)(ii).

The phrase "or designee" should be added to § 95.246(1)(i) after the word administrator.

The second sentence of § 95.248(9) contains a typographical error. The word "departments" should be changed to the singular "department."

ALVIN C. BUSH,
Chairperson

[Pa.B. Doc. No. 06-1735. Filed for public inspection September 1, 2006, 9:00 a.m.]

INSURANCE DEPARTMENT

MCARE: Provider Experience Rating Notice

Section 712(g) of the Medical Care Availability and Reduction of Error (MCARE) Act (act) (40 P. S. § 1303.712(g)) requires the MCARE program to adjust the applicable MCARE assessment of each participating health care provider in accordance with the severity and frequency of claims paid by MCARE on behalf of the provider during the past five most recent claims periods. MCARE will implement this program effective January 1, 2007, utilizing the claims year payments for the 5-year period of 2002—2006 as the determinate years or claims periods.

MCARE will send invoices to the health care providers subject to an experience rating adjustment. Refer to the MCARE website for additional information.

Questions or comments should be directed to Robert Waeger, Director, Bureau of Medical Malpractice Administration, 30 N. Third St. 8th Floor, Harrisburg, PA 17108-2030, rwaeger@state.pa.us.

PETER ADAMS,

Deputy Insurance Commissioner

[Pa.B. Doc. No. 06-1736. Filed for public inspection September 1, 2006, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Missoula Plan Workshop and Facilitated Discussion; Doc. No. M-00061972

On August 23, 2005, the Pennsylvania Public Utility Commission (Commission) entered an Order in Docket No. M-00061972 establishing a Workshop on the Federal Missoula Plan. The Missoula Plan was filed at the Federal Communications Commission in Docket No. CC 01-92. The Missoula Plan proposes to reform intercarrier compensation arrangements under state and Federal law.

The Commission scheduled a workshop and facilitated discussion on the Missoula Plan for Monday, September 11, 2006, from 8 a.m. to 4:30 p.m. in Hearing Room 1, Keystone Building, 400 North Street, Commonwealth and Forster Streets, Harrisburg, PA.

Interested participants must submit their written presentations and/or materials to the Commission no later than the close of business on Tuesday, September 5, 2006. The materials must contain the name, mailing address, telephone number and electronic email address of the contact person.

Any presentation must preferably be in Word format although Word Perfect or Adobe may be used. Each Commissioner's office must receive two hard copies of any request and presentation.

An electronic version must be provided to Administrative Law Judge Kandace Melillo at kmelillo@state.pa.us and Joseph Witmer, Esq. at joswitmer@state.pa.us in the Law Bureau. An electronic and hard copy of the presentation materials must also be filed with the Commission's Secretary.

Additional information may be found on the Commission's website at www.puc.state.pa.us. Further questions

regarding this workshop and facilitated discussion should be directed to ALJ Melilla at (717) 787-3788 or Joseph Witmer at (717) 787-3663.

JAMES J. MCNULTY,

Secretary

[Pa.B. Doc. No. 06-1737. Filed for public inspection September 1, 2006, 9:00 a.m.]

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 September 25, 2006. 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-00122989. Premier Chariot Limousine Service, LLC (7933 Fox Run Lane, Philadelphia, Philadelphia County, PA 19111)—a limited liability company—persons in limousine service, from points in the Counties of Bucks, Montgomery, Chester and Delaware, to points in Pennsylvania, and return. *Attorney:* Dennis L. Friedman, Esquire, 1515 Market Street, Suite 1000, Philadelphia, PA 19102.

A-00123055. Edgar K. Malick (217 Honeysuckle Lane, Lehigh, Carbon County, PA 18235)—persons in paratransit service, from points in the Counties of Carbon, Lehigh and Northampton, to points in Pennsylvania, and return.

A-00123056. Rashed Alsoud (3673 Middletown Road, Pittsburgh, Allegheny County, PA 15204)—persons upon call and demand, in Allegheny County.

A-00123058. Valley Limousine Service, LLC (2312 Esquire Drive, Easton, Northampton County, PA 18045)—a limited liability company of this Commonwealth—persons in limousine service, from the Counties of Lehigh, Northampton, Monroe, Carbon, Bucks and Berks, to points in Pennsylvania, and return. *Attorney:* Karl H. Kline, Esquire, 2925 William Penn Highway, Suite 301, Easton, PA 18045-5283.

Application of the following for approval of the *beginning of the exercise of the right and privilege of operating motor vehicles as common carriers for the transportation of household goods as described under the application.*

A-00122984. F.2 Guy W. Ciabattoni (540 Red Lion Road, Huntingdon Valley, Montgomery County, PA 19006)—household goods in use, from points in the

Counties of Berks, Bucks, Chester, Delaware, Lehigh, Luzerne, Montgomery, Northampton, Philadelphia and York, to points in Pennsylvania, and vice versa.

Application of the following for approval of the beginning of the exercise of the right and privilege of operating motor vehicles as common carriers for the transportation of household goods by transfer of rights as described under the application.

A-00123057 Sullivan's Moving & Storage, Inc. (740 Commonwealth Drive, Warrendale, Butler County, PA 15086), a corporation of the Commonwealth—household goods in use: (1) between points in the City of Lock Haven, Clinton County, and within 10 miles by the usually traveled highways of the limits of said city, and vice versa; (2) from points in the City of Lock Haven, Clinton County, and within 10 miles by the usually traveled highways of the limits of said city, and from the Borough of Jersey Shore, Lycoming County, to points in Pennsylvania, and vice versa, excluding the City of Williamsport, Lycoming County, as a point of origin; (3) between points in the Township of Karthaus, Clearfield County, and within an airline distance of 25 statute miles of the limits of said township, and from points in said territory to other points in Pennsylvania, and vice versa, excluding the Borough of Clearfield, Clearfield County, and within an airline distance of 15 statute miles of the limits of said borough; which is to be a transfer of all the rights authorized under the certificate issued to Yeagle's Moving Corp., t/a Sullivan's Moving & Storage, at A-00109201, subject to the same limitations and conditions. *Attorney:* David M. O'Boyle, 1450 Two Chatham Center, Pittsburgh, PA 15219.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 06-1738. Filed for public inspection September 1, 2006, 9:00 a.m.]

Telecommunications

A-311409F7001. Verizon North Inc. and Velocity.Net Communications, Inc. Joint petition of Verizon North Inc. and Velocity.Net Communications, Inc. for approval of an interconnection agreement and amendment no. 1 under section 252(e) of the Telecommunications Act of 1996.

Verizon North Inc. and Velocity.Net Communications, Inc., by its counsel, filed on August 16, 2006, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of an interconnection agreement and amendment no. 1 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 Verizon North Inc. and Velocity.Net Communications, 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. 06-1739. Filed for public inspection September 1, 2006, 9:00 a.m.]

Telecommunications

A-310518F7000. Verizon Pennsylvania Inc. f/k/a Bell Atlantic-Pennsylvania, Inc. and New Cingular Wireless Services, Inc. f/k/a AT&T Wireless Services, Inc. Joint petition of Verizon Pennsylvania Inc. f/k/a Bell Atlantic-Pennsylvania, Inc. and New Cingular Wireless Services, Inc. f/k/a AT&T Wireless Services, Inc. for approval of amendment no. 3 to an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Verizon Pennsylvania Inc. f/k/a Bell Atlantic-Pennsylvania, Inc. and New Cingular Wireless Services, Inc. f/k/a AT&T Wireless Services, Inc., by its counsel, filed on August 8, 2006, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of amendment no. 3 to an 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 Verizon Pennsylvania Inc. f/k/a Bell Atlantic-Pennsylvania, Inc. and New Cingular Wireless Services, Inc. f/k/a AT&T Wireless Services, 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. 06-1740. Filed for public inspection September 1, 2006, 9:00 a.m.]

Telecommunications

A-311409F7000. Verizon Pennsylvania Inc. and Velocity.Net Communications, Inc. Joint petition of Verizon Pennsylvania Inc. and Velocity.Net Communications, Inc. for approval of an interconnection agreement and amendment no. 1 under section 252(e) of the Telecommunications Act of 1996.

Verizon Pennsylvania Inc. and Velocity.Net Communications, Inc., by its counsel, filed on August 16, 2006, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of an interconnection agreement and amendment no. 1 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

Verizon Pennsylvania Inc. and Velocity.Net Communications, 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. 06-1741. Filed for public inspection September 1, 2006, 9:00 a.m.]

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.

JOANNE L. SORENSEN, R. N., MS,
Chairperson

[Pa.B. Doc. No. 06-1743. Filed for public inspection September 1, 2006, 9:00 a.m.]

PHILADELPHIA REGIONAL PORT AUTHORITY

Request for Bids

The Philadelphia Regional Port Authority (PRPA) will accept sealed bids for Project #06-051.1, Design & Build Paper Warehouse at Pier 74 South Annex until 2 p.m. on Thursday, October 5, 2006. The bid documents can be obtained from the Director of Procurement, PRPA, 3460 N. Delaware Ave., 2nd Floor, Philadelphia, PA 19134, (215) 426-2600, and will be available September 7, 2006. Additional information and project listings may be found at www.philaport.com. The cost of the bid document is \$35 (includes 7% PA Sales Tax). The cost is nonrefundable. PRPA is an equal opportunity employer. Contractors must comply with all applicable equal opportunity laws and regulations. Bidders must provide to the procurement department in writing, the name/s of individuals that will be attending prebid meetings. This information is needed 24 hours prior to the meeting. Fax to (215) 426-6800, ATTN: Procurement Department.

A mandatory prebid job site meeting will be held September 14, 2006, 10 a.m. at Pier 74 S. Annex (through Pier 78 S. Gate, Columbus Blvd. and Snyder Ave.), Philadelphia, PA.

JAMES T. MCDERMOTT, Jr.,

[Pa.B. Doc. No. 06-1742. Filed for public inspection September 1, 2006, 9:00 a.m.]

STATE BOARD OF NURSING

Bureau of Professional and Occupational Affairs v. Heidi Valent Frederick, R. N.; Doc. No. 0401- 51-06

On May 5, 2006, Heidi Valent Frederick, license no. RN315515L, of Vernon, Fayette County, was actively suspended for at least 3 years, retroactive to March 2, 2006, based on her failure to comply with the terms of the Voluntary Recovery program of the Professional Health Monitoring Unit of the Professional Health Monitoring Programs.

Individuals may obtain a copy of the order by writing to Carole L. Clarke, Board Counsel, State Board of Nursing, P. O. Box 2649, Harrisburg, PA 17105-2649.

This final order represents the final State Board of Nursing (Board) decision in this matter. It may be

STATE TAX EQUALIZATION BOARD

2005 Common Level Ratio

The State Tax Equalization Board (Board) has established a common level ratio for each county in this Commonwealth for the calendar year 2005. The ratios were mandated by act of December 13, 1982 (P. L. 1158, No. 267).

The law requires the Board to use statistically acceptable techniques, to make the methodology for computing ratios public and to certify, prior to July 1, the ratio to the Chief Assessor of each county each year.

The statistical technique which the Board used for the 2005 common level ratio is to determine the arithmetic mean of the individual sales ratios for every valid sale received from the county for the calendar year 2005.

The methodology used is to include every valid sale with a ratio from 1% to 100% and compute a mean. Using this mean as a base, the Board has defined high and low limits by multiplying and dividing this computed mean by 4. Using these computed limits, the Board has utilized the valid sales, rejecting those sales, which exceed the limits. The resulting arithmetic mean ratio is the ratio which the Board is certifying as the common level ratio for each county for 2005.

There is one exception to this procedure. The original mean ratio for those counties which have a predetermined assessment ratio for 2005 of 100% will utilize valid sales from 1% to 200%.

The common level ratios for 2005 are listed as follows.

JAMES A. ZURICK, Esq.,
Chairperson

2005 Common Level Ratios

<i>County</i>	<i>Ratio</i>
ADAMS	25.1
*ALLEGHENY	91.1
ARMSTRONG	37.0
BEAVER	30.2
*BEDFORD	18.3
*BERKS	75.0
BLAIR	8.2
BRADFORD	38.0
*BUCKS	9.9
BUTLER	9.8

<i>County</i>	<i>Ratio</i>	<i>County</i>	<i>Ratio</i>
*CAMBRIA	27.8	*MERCER	27.2
CAMERON	32.5	MIFFLIN	45.8
CARBON	36.5	MONROE	14.1
CENTRE	30.9	*MONTGOMERY	53.4
*CHESTER	54.9	*MONTOUR	10.1
CLARION	18.6	NORTHAMPTON	31.5
CLEARFIELD	18.3	*NORTHUMBERLAND	27.5
CLINTON	23.6	*PERRY	75.0
COLUMBIA	28.8	PHILADELPHIA	28.6
CRAWFORD	33.1	PIKE	18.3
*CUMBERLAND	87.8	*POTTER	36.8
*DAUPHIN	75.3	SCHUYLKILL	40.4
*DELAWARE	64.7	SNYDER	15.2
ELK	18.3	SOMERSET	36.9
*ERIE	84.8	*SULLIVAN	65.9
*FAYETTE	87.5	SUSQUEHANNA	35.2
FOREST	20.7	*TIOGA	79.9
*FRANKLIN	10.7	UNION	14.6
*FULTON	38.3	*VENANGO	95.7
*GREENE	82.6	WARREN	34.1
HUNTINGDON	13.4	WASHINGTON	13.7
**INDIANA	11.9	*WAYNE	81.3
*JEFFERSON	54.0	*WESTMORELAND	19.6
*JUNIATA	16.1	WYOMING	21.8
*LACKAWANNA	16.8	*YORK	72.2
*LANCASTER	82.1		
*LAWRENCE	87.7		
*LEBANON	14.7		
LEHIGH	31.7		
LUZERNE	5.8		
*LYCOMING	19.2		
*MCKEAN	91.5		

* Counties with a predetermined assessment ratio of 100%

** Revised 8/23/06

[Pa.B. Doc. No. 06-1744. Filed for public inspection September 1, 2006, 9:00 a.m.]

STATE CONTRACTS INFORMATION

DEPARTMENT OF GENERAL SERVICES

Act 266 of 1982 provides for the payment of interest penalties on certain invoices of "qualified small business concerns". The penalties apply to invoices for goods or services when payments are not made by the required payment date or within a 15 day grace period thereafter.

Act 1984-196 redefined a "qualified small business concern" as any independently owned and operated, for-profit business concern employing 100 or fewer employees. See 4 Pa. Code § 2.32. The business must include the following statement on every invoice submitted to the Commonwealth: "(name of business) is a qualified small business concern as defined in 4 Pa. Code 2.32."

A business is eligible for payments when the required payment is the latest of:

The payment date specified in the contract.

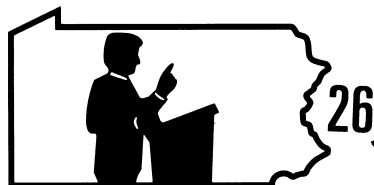
30 days after the later of the receipt of a proper invoice or receipt of goods or services.

The net payment date stated on the business' invoice.

A 15-day grace period after the required payment date is provided to the Commonwealth by the Act.

For more information: contact: Small Business Resource Center
PA Department of Community and Economic Development
374 Forum Building
Harrisburg, PA 17120
800-280-3801 or (717) 783-5700

Reader's Guide



Legal Services & Consultation

① Service Code Identification Number

② Commodity/Supply or Contract Identification No.

B-54137. Consultant to provide three 2-day training sessions, covering the principles, concepts, and techniques of performance appraisal and standard setting with emphasis on performance and accountability, with a knowledge of State Government constraints.

Department: General Services
Location: Harrisburg, Pa.
Duration: 12/1/93-12/30/93
Contact: Procurement Division 787-0000

③ Contract Information

④ Department

⑤ Location

⑥ Duration

⑦

(For Commodities: Contact:
Vendor Services Section
717-787-2199 or 717-787-4705

REQUIRED DATA DESCRIPTIONS

- ① Service Code Identification Number: There are currently 39 state service and contractual codes. See description of legend.
- ② Commodity/Supply or Contract Identification No.: When given, number should be referenced when inquiring of contract of Purchase Requisition. If more than one number is given, each number represents an additional contract.
- ③ Contract Information: Additional information for bid preparation may be obtained through the departmental contracting official.
- ④ Department: State Department or Agency initiating request for advertisement.
- ⑤ Location: Area where contract performance will be executed.
- ⑥ Duration: Time estimate for performance and/or execution of contract.
- ⑦ Contact: (For services) State Department or Agency where vendor inquiries are to be made.

(For commodities) Vendor Services Section (717) 787-2199 or (717) 787-4705

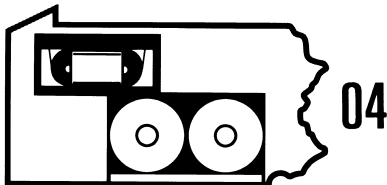
DO BUSINESS WITH STATE AGENCIES

The Treasury Department's Bureau of Contracts and Public Records can help you do business with state government agencies. The bureau is, by law, the central repository for all state contracts over \$5,000. Contract Specialists can supply you with descriptions of contracts, names of previous bidders, pricing breakdowns and other information. They can also direct you to the appropriate person and agency looking for your product or service. Copies of state contracts are also available. (Duplicating and mailing costs may apply). For more information, visit us online at www.patreaury.org.

Contact: **Bureau of Contracts and Public Records**
 Pennsylvania Treasury Department
 201 Finance Building
 Harrisburg, PA 17120
 Phone: (717) 787-2990 or 1-800-252-4700
 Fax: (717) 772-0977

ROBERT P. CASEY, Jr.,
State Treasurer

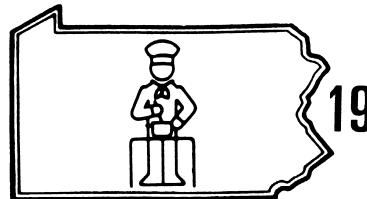
SERVICES



Audio/Video

1168 SERVICE: Maintain and Repair SCI-Forest's Institutional Radios, Radio Systems, and accessories. Bid will be a three (3) years in duration. Interested vendors must be registered with the Commonwealth's Imagine PA Project and have a registered vendor number to receive bid packages.

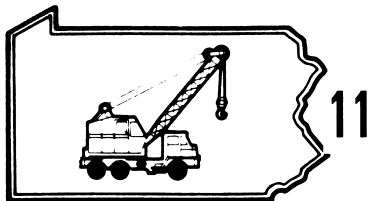
Department: Corrections
Location: State Correctional Institution @ Forest, One Woodland Drive, Marienville, PA 16239
Duration: 9/1/2006 to 6/30/2009 (three year duration)
Contact: Nancy Keller, 814-621-2110, x1109



Food

CN00022478 FROZEN PIEROGIES: Individually quick frozen. Portion of 3 regular sized pierogies or 5-7 mini pierogies shall weigh at least 12 grams and contain no more than 220 calories, 3 grams of fat, 10 grams of cholesterol and 450 milligrams of sodium. Product shall contain at least 45% filling by weight. Breaded products unacceptable. Product shall be received at 0 F, with a minimum of 90 day shelf life. Acceptable pack size-4 bags-72 ea/case. Frozen waffles: individually frozen. Toaster ready. Kind: plain or whole wheat. Approximate weight range per waffle: 1.20 oz. packaged in carton or polybags. Acceptable pack size 144-1.2 oz/case. Amounts are approximate and will be sent out on a bi-monthly bid basis. Interested vendors must be registered with the Commonwealth's Imagine PA (IES) project and have a registered vendor number to receive the bid package.

Department: Corrections
Location: State Correctional Institution-Fayette, 50 Overlook Drive, Labelle, PA 15450
Duration: August 16, 2006 - August 30, 2006. Bid opening will be August 30, 2006 @ 1:00 p.m.
Contact: Melissa Walker, 724-364-2200, ext. 1030



Demolition—Structural Only

ROW081606 Public Notice Advertisement for Demolition and Removal Project. Notice is hereby given that the Department of Transportation is seeking bids for the demolition and removal of (2) mobile homes, two story residence, detached two car garage, pool house, above ground pool, shed, small trailer, wood pile, small dump, fuel oil tank, four car garage and office, and travel trailer, in conjunction with the construction of S.R. 209-007 and S.R. 402-001 in Smithfield and Middle Smithfield Township, Monroe County. Asbestos removal will be required. All contractors must be prequalified for this service. For bid forms, date of inspection, specifications and further information please Contact: Bruce Kern, District Property Manager, Pennsylvania Department of Transportation 1713 Lehigh Street, Allentown, PA 18103, 610-798-4271.

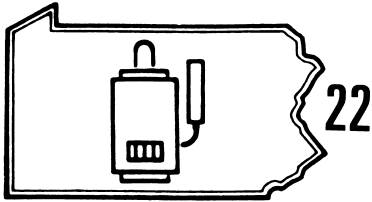
Department: Transportation
Location: Approximately 1 mile south of Marshlls Creek Village Center on State Route 0209.
Duration: 3 days
Contact: Bruce Kern, 610-798-4271

CN00022475 Vendor to supply Meat and Meat Products to Warren State Hospital in accordance with bid specifications. Delivery Date: 10/02/2006. Prospective vendors must register with the Integrated Enterprise System (IES) at www.vendor.registration.state.pa.us. DPW utilizes the information contained in the vendor master file for its procurement activities. Registered vendors who need to update or change the existing information in this file must contact IES and provide the changes or updates to IES. It is the vendor's responsibility to contact IES for changes, as DPW is unable to change vendor information. If you fail to update or change information, you may not receive requested bid information.

Department: Public Welfare
Location: Warren State Hospital, 33 Main Dr., N. Warren, PA 16365-5099
Duration: Oct., Nov., Dec. 2006
Contact: John Sample, PA I, 814-726-4448

CN00022541 BREAD/ROLLS

Department: Corrections
Location: SCI Camp Hill, 2500 Lisburn Rd., Camp Hill, PA 17001-8837
Duration: Bid date: 08/29/2006. Time: 1:30p.m.
Contact: Selena Runk, 717-975-5200



HVAC Services

W-0552-0502 Extend the Heating System to Replace Natural Gas Heat

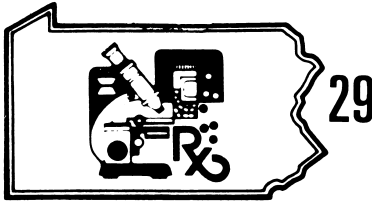
Department: Public Welfare
Location: Polk Center, 25 Lakewood Circle, P. O. Box 94, Polk, PA 16342
Duration: December 31, 2006
Contact: Martha DuPont, Purchasing Agent, 814-432-0326

CN00021644 Seeking a comprehensive service, repair, preventative and predictive maintenance contract for heating, ventilation and air conditioning equipment associated with the Rare Collections Library within the Department of Education, Office of Commonwealth Libraries. The equipment listed on the specification sheet creates and maintains a temperature - and humidity - controlled, pollutant-free environment for the long-term storage and preservation of the Commonwealth's Rare Book and Newspaper collections, within the Rare Collections Library. As such, the equipment is deemed to be a "process" environment rather than a "comfort" environment, and therefore, has no "off-season." The equipment operates and must be capable of performing 24/7/365. One hundred percent operational availability of this equipment is crucial to the long-term health and survival of the Collections.

Department: Education
Location: Department of Education, Office of Commonwealth Libraries, Room 210, Forum Building, 607 South Drive Harrisburg PA 17126-1745
Duration: No earlier than October 1, 2006, and shall expire September 30, 2009, with two (2) additional one-year options to renew.
Contact: Cynthia K Anderson, 717-787-8037

CN00022535 Maintenance and repair of PennDOT's permanent automatic traffic recording (ATR) sites and short term in pavement (STIP) sites, located in Western PA.

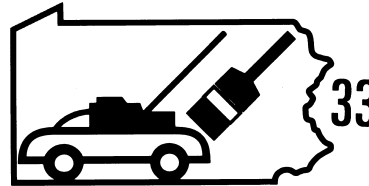
Department: Transportation
Location: Western PA
Duration: All on-road tasks are to be completed by November 15, 2006 and all off-road tasks are to be completed by December 1, 2006
Contact: Joni Sharp, 717-787-0186



Medical Services

CN00022593 Dental Services for patients of Clarks Summit State Hospital. To place a bid, please fax your request to: 570-587-7108 on your company letterhead that includes name, address, telephone and fax numbers, federal ID number and PA State vendor number. If you do not have a vendor number one can be obtained by calling: 866-775-2868 or by registering online at: <http://www.vendorregistration.state.pa.us/> Bid packages cannot be faxed.

Department: Public Welfare
Location: Clarks Summit State Hospital, 1451 Hillside Drive, Clarks Summit, PA 18411-9505
Duration: November 1, 2006 through October 31, 2009
Contact: Stanley Rygelski, 570-587-7291



Property Maintenance

FM 9030 Furnish all labor, materials and equipment for snow removal services from sidewalks, driveways and parking areas at the PA State Police, Meadville Station. Totals are based on estimated snow removal and granular deicing material in hours/tons. Detailed Work Schedule and Request for Quote must be obtained from Facility Management Division 717-705-5951. Bid Due Date/Time: September 8, 2006/2:00 PM.

Department: State Police
Location: Troop E, Meadville Station, 11176 Murray Road, Meadville, PA 16335, phone # 814-332-6911
Duration: 11/01/06 to 06/30/09
Contact: Sandy Wolfe, 717-705-5951

FM 9031 Furnish all labor, materials and equipment for snow removal services from sidewalks, driveways and parking areas at the PA State Police, Lamar Station. Totals are based on estimated snow removal and granular deicing material in hours/tons. Detailed Work Schedule and Request for Quote must be obtained from Facility Management Division 717-705-5951. Bid Due Date/Time: September 12, 2006, 2:00 PM.

Department: State Police
Location: Troop F, Lamar Station, 7127 Nittany Valley Drive, Mill Hall, PA 17751, phone # 570-726-6000
Duration: 11/01/06 to 06/30/09
Contact: Sandy Wolfe, 717-705-5951

FM 9035 Furnish all labor, materials and equipment for snow removal services from sidewalks, driveways and parking areas at the PA State Police, Stonington Station. Totals are based on estimated snow removal and granular deicing material in hours/tons. Detailed Work Schedule and Request for Quote must be obtained from Facility Management Division 717-705-5951. Bid Due Date/Time: September 12, 2006/2:00 PM.

Department: State Police
Location: Troop F, Stonington Station, R. D. 2, Box 83, Sunbury, PA 17801, phone # 570-286-5601
Duration: 11/01/06 to 06/30/09
Contact: Sandy Wolfe, 717-705-5951

FM 9029 Furnish all labor, materials and equipment for snow removal services from sidewalks, driveways and parking areas at the PA State Police, Girard Station. Totals are based on estimated snow removal and granular deicing material in hours/tons. Detailed Work Schedule and Request for Quote must be obtained from Facility Management Division 717-705-5951. Bid Due Date/Time: September 8, 2006/2:00 PM.

Department: State Police
Location: Troop E, Girard Station, 5950 Meadville Road, Girard, PA, phone # 814-774-9611
Duration: 11/01/06 to 06/30/09
Contact: Sandy Wolfe, 717-705-5951

FM 9032 Furnish all labor, materials and equipment for snow removal services from sidewalks, driveways and parking areas at the PA State Police, Mansfield Station. Totals are based on estimated snow removal and granular deicing material in hours/tons. Detailed Work Schedule and Request for Quote must be obtained from Facility Management Division 717-705-5951. Bid Due Date/Time: September 12, 2006/2:00 PM.

Department: State Police
Location: Troop F, Mansfield Station, 1745 Valley Road, Mansfield 16933, PA 17751, phone # 570-662-2151
Duration: 11/01/06 to 06/30/09
Contact: Sandy Wolfe, 717-705-5951

FM 9034 Furnish all labor, materials and equipment for snow removal services from sidewalks, driveways and parking areas at the PA State Police, Selinsgrove Station. Totals are based on estimated snow removal and granular deicing material in hours/tons. Detailed Work Schedule and Request for Quote must be obtained from Facility Management Division 717-705-5951. Bid Due Date/Time: September 12, 2006/2:00 PM.

Department: State Police
Location: Troop F, Selinsgrove Station, 204 Universal Road, Selinsgrove, PA 17870, phone # 570-374-8145
Duration: 11/01/06 to 06/30/09
Contact: Sandy Wolfe, 717-705-5951

FM 9028 Furnish all labor, materials and equipment for snow removal services from sidewalks, driveways and parking areas at the PA State Police, Corry Station. Totals are based on estimated snow removal and granular deicing material in hours/tons. Detailed Work Schedule and Request for Quote must be obtained from Facility Management Division 717-705-5951.

Department: State Police
Location: Troop E, Corry Station, 11088 Route 6 East, Union City, PA 16438, phone # 814-663-2043
Duration: 11/01/06 to 06/30/09
Contact: Sandy Wolfe, 717-705-5951

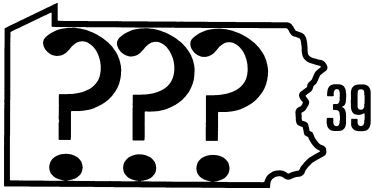
FM 9033 Furnish all labor, materials and equipment for snow removal services from sidewalks, driveways and parking areas at the PA State Police, Milton Station. Totals are based on estimated snow removal and granular deicing material in hours/tons. Detailed Work Schedule and Request for Quote must be obtained from Facility Management Division 717-705-5951. Bid Due Date/Time: September 12, 2006/2:00 PM.

Department: State Police
Location: Troop F, Milton Station, 50 Lawton Lane, Milton, PA 17847, phone # 570-524-2662
Duration: 11/01/06 to 06/30/09
Contact: Sandy Wolfe, 717-705-5951

00022453 Snow Removal/Ice Removal - Located at Altoona UC Service Center, 1101 Green Avenue, Altoona, Pennsylvania 16601-3483. Plow parking lot and driveway. Parking lot and driveway are approximately 23,500 sq. ft. Remove snow when snow restricts designated parking space. Spread Anti-Skid on parking lot and driveway. Remove snow from sidewalks. Sidewalks are approximately 9,176 sq. ft. Spread anti-Skid on sidewalks. These services are to be performed between the hours of 7:30 p.m. and 6:00 a.m. In the event of a heavy snowfall on weekends or holidays, plowing must be done to assure snow is removed by 6:00 a.m. of the next workday. Any additional snow removal or application of anti-skid material during working hours of 7:00 a.m. to 5:00 p.m., Monday through Friday, should be approved by the site Administrator or designee prior to work being performed. Damage to parking lot surface, sidewalks, lawns, fence and posts must be repaired or replaced by the contractor. Any occurrences of damage must be immediately reported to the Site Administrator. All equipment, materials and supplies are to be provided by the contractor. Anti-skid materials shall comply with current EPA Standards. Copy of MSDS must accompany the bid. The term of the contract will be 10/01/06 through 9/30/07. This contract may be renewed, with the written consent of both parties, for an additional two (2) one (1) year renewal periods. Rates are to be quoted for each plowing, removal and application of anti-skid. Estimated Project start date is 10/01/2006. All Bids are due by 2:00 p.m. on Thursday, September 14, 2006.

Department: Labor and Industry
Location: Altoona UC Service Center, 1101 Green Avenue, Altoona, Pennsylvania 16601-3483
Duration: Term of the contract will be 10/01/2006 through 9/30/2007. Contract may be renewed, with the written consent of both parties, for an additional two (2)
Contact: Sue Hershey, 717-787-2811

[Pa.B. Doc. No. 06-1745. Filed for public inspection September 1, 2006, 9:00 a.m.]



Miscellaneous

KURFP-0108 Kutztown University is seeking proposals from qualified professionals for Open-End contract(s) who are capable of providing Professional Architectural and Engineering Services at Kutztown University. Proposed contract(s) to include professional architectural and engineering services for multiple maintenance, repair, renovation, alteration projects, and possibly some new construction. The professional selection process will be via sealed competitive proposals in accordance with the Request for Proposal (RFP) method. RFP packets are available for a non refundable fee of \$15.00 from: Kutztown University, Attn: Craig Kleinsmith, Facilities Project Services Office, P.O. Box 730, Kutztown, PA 19530; or phone (610) 683-4602; fax (610) 683-1553; email: kleinsmi@kutztown.edu. Proposal packets are available September 5, 2006 through September 18, 2006. To obtain the RFP packet, please submit a written request and send either cash or check in the amount of \$15.00. Checks must be made payable to "Kutztown University." The RFP packet will not be mailed until the fee is received. All questions must be submitted in writing by 12:00 Noon on September 19, 2006, to the attention of Craig Kleinsmith. Proposals must be received no later than 3:00 PM on October 6, 2006 in Room 229, I-Wing, Facilities Project Services Office. No exceptions will be made for proposals received after the time specified. Nondiscrimination and Equal Opportunity are the policies of the Commonwealth and the State System of Higher Education.

Department: State System of Higher Education
Location: Kutztown University, Kutztown, PA 19530
Duration: Two (2) years with the option for two (2) 2-year renewals.
Contact: Craig Kleinsmith, 610-683-4602

A Business Opportunity for You. . . .

The publication of the Pennsylvania Code and Bulletin has always been accomplished by contracts between the Commonwealth and private contractors.

The Commonwealth is preparing bid documents for a multi-year contract to begin July 1, 2007. The Commonwealth seeks your input and participation.

Further information can be obtained from:
Pennsylvania Code and Bulletin
Legislative Reference Bureau
647 Main Capitol Building
Harrisburg, PA 17120
(Telephone: 717-783-1530)