

PERMIT REQUIREMENTS FOR DEVELOPMENT OF ENERGY AND
OTHER SELECTED NATURAL RESOURCES FOR THE
STATE OF PENNSYLVANIA

PREPARED FOR
APPALACHIAN REGIONAL COMMISSION
AND THE
U.S. GEOLOGICAL SURVEY

BY BARRY LAWSON ASSOCIATES

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419 State Office Building
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SECTION 1.0

INTRODUCTION

This State permit guide for Pennsylvania is one in a series of guidebooks prepared to explain State regulations governing the environmental consequences of the development of energy and other natural resources on State and private land. (This guidebook does not address Federal permits required on Federal lands within the State.) It is designed to provide individuals in both government and the private sector with a concise compilation of State regulations and policies dealing primarily with permitting processes concerning natural resource management and development.

The increasing number of State policies and regulations concerning natural resources, especially energy resources, makes it difficult to gain an accurate yet workable understanding of State procedures without considerable research and technical assistance. The permit guide therefore serves as a reference document to those seeking State environmental and energy resource permit information. It is intended to show clearly what is required by regulatory and permit-issuing State agencies relative to a number of resource- and energy-related areas.

All the information in this permit guide was obtained through personal interviews with representatives of the State agencies in Pennsylvania responsible for the management of a particular resource area. Additional information was obtained directly from the appropriate State laws and regulations. It should be noted that the research was done during the spring of 1981 and that regulations are subject to change.

Most of the State agencies responsible for issuing permits require that applications be submitted on standard forms they provide. Such forms are usually numbered and named by the agency. If no form number is identified in the text, the application form should be requested by name.

The permit guide does not include a legal analysis or interpretation of statutes or regulations, nor is it intended to serve legal purposes. It provides a general summary of environmental and energy resource permit processes within a number of State agencies, and supplies information on selected State and local

policies and procedures, land use regulations, and environmental management. For each subject, the permit guide provides the following information:

Name of Permit
Authorizing Statute
Title of Regulation
Summary of Permit Process
Administering Agency

Corresponding to the growth of Federal, State, and local regulatory powers, the number of formal approvals necessary to initiate a specific development activity has increased substantially. Although each chapter of this guide outlines the major State approvals required for a particular development activity, they do not provide a comprehensive list of the broad range of permits, licenses, and approvals which could potentially be required for an activity, nor do they cross reference other potentially relevant chapters of the guide.

To demonstrate the complexity of this situation, the introduction to the Coal Mining chapter (Chapter 3.1.4) of this guide includes a list of all State approvals which could potentially be required to initiate coal mining activities depending on the nature, location, and magnitude of the proposed activities. Such detailed cross referencing and analysis for all chapters is beyond the purpose and scope of this document. Therefore, initial direct contact with the appropriate State agency(ies) is recommended for anyone contemplating a project requiring a permit or other State agency approval.

SECTION 2.0

STATE POLICY AND PROCEDURES FOR
CONSOLIDATED PERMIT PROGRAM

The following agencies were surveyed and have verified the content of the elements of their particular resource areas:

Pennsylvania Department of Environmental Resources
Bureau of Topographic and Geologic Survey
Bureau of Dams and Waterway Management
Bureau of Mining and Reclamation
Bureau of Community Planning
Bureau of Soil and Water Conservation
Bureau of Water Quality Management
Bureau of Solid Waste Management
Bureau of Forestry
Bureau of Resources Programming
Bureau of Air Quality Control
Bureau of Community Environmental Control
Coastal Zone Management Office

Governor's Office of Policy and Planning

Pennsylvania Game Commission

Pennsylvania Fish Commission

Pennsylvania Historical and Museum Commission

Pennsylvania Public Utility Commission

CHAPTER 2.1

STATE CLEARINGHOUSE

INTRODUCTION: As of June 1981, the State Clearinghouse no longer operates through the Office of Budget and Administration and A-95 review is no longer a state function.

CHAPTER 2.2

PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL RESOURCES

INTRODUCTION: The Department of Environmental Resources (DER) was created in 1971 (71 P.S. 158 et seq.) to consolidate the administration of environmental legislation in Pennsylvania. While other departments of State government do have some environmental responsibility, most environmental programs are under the DER's jurisdiction.

The powers and duties of the DER include:

- developing a Commonwealth environmental policy,
- engaging in natural resource management and development,
- promulgating and enforcing environmental rules and regulations, and
- providing for the recreational and open space needs of the Commonwealth's citizens.

In addition to resource management responsibilities, the DER has regulatory powers. Rules and regulations to implement environmental legislation and to ensure the protection of environmental resources are drafted by the DER, usually in consultation with advisory groups, and approved by a 21-member Environmental Quality Board. All proposed regulations or modifications to existing regulations are published in the Pennsylvania Bulletin prior to meetings of the Board. The Board holds hearings to solicit public comment on proposed rules and regulations when appropriate.

A 3-member Environmental Hearing Board hears appeals and issues adjudications on all orders, permits, licenses, or decisions of the DER.

The chief administrative officer of the DER is the Secretary, who is a member of the Governor's Cabinet. Presently, there are 5 deputy secretaries within the DER:

- Special Deputy Secretary,
- Environmental Protection,
- Resource Management,
- Planning, and
- Administration.

Specific responsibilities of the DER are covered in following chapters of this guide.

SECTION 3.0

RESOURCE EXTRACTION

CHAPTER 3.1

ENERGY RESOURCES

3.1.1 OIL AND GAS (Non-Conservation)

INTRODUCTION: The Gas Operations, Well Drilling, Petroleum and Coal Mining Act (1955), as amended, authorizes the Department of Environmental Resources (DER) to regulate drilling operations in so far as they affect the pollution of surface water or groundwater and issue permits to explore for oil and gas resources to a depth of 3,800 feet or to the top of the Onondaga Formation, whichever is deeper. The Act describes procedures for safety, as well as requirements for personnel and facilities engaged in well operations, coal mining, and underground storage of gas. The Act further prescribes the rights and duties of well operators and coal mine operators. Approximately 85 to 90 percent of oil and gas wells in Pennsylvania are regulated under the authority of the Act.

- A. NAME OF PERMIT: Non-Conservation Oil/Gas Well Drilling Permit
- B. AUTHORIZING STATUTE: Gas Operations Well Drilling and Petroleum Coal Mining Act, 1955, as amended (52. P.S. 2101 et seq.)
- C. TITLE OF REGULATION: No regulations have been adopted pursuant to the Act. Permitting procedures, well standards, and operator requirements are included in the Act.
- D. SUMMARY OF PERMIT PROCESS:
 - 1. Applicability: The drilling or deepening of wells in all geologic formations down to a depth of 3,800 feet or to the top of the Onondaga Formation, whichever is deeper, for the production, extraction, or storage of any gas, petroleum, or other liquid.
 - 2. General Requirements: Prior to starting a regulated activity, all persons must submit a notice of intent and obtain a permit from the DER.

3. **Submission Requirements:** Applicants must submit a plat prepared by a competent engineer or surveyor showing the political subdivision and county of the land upon which the well is to be drilled, the name of the lessor or landowner, the name of the owner or operator of all known underlying workable coal seams (if any), the acreage of the tract to be drilled, the proposed location of the well determined by the survey, the proposed angle and direction of the well if it will deviate substantially from a vertical course, and the number or other identification to be given the well, indicating the workable coal seams (if any) underlying the tract which are to be cased off in accordance with the provisions of the Act.

4. **Procedure for Obtaining a Permit:**

a. Applicants must forward the plat described above to the DER. The DER then, if applicable, forwards a copy to the owner or operator of any operating coal seams within the tract in which the proposed well is to be drilled.

b. If the coal owner or operator and the DER raise no objections to the proposed location of the well within 10 days, the DER issues a drilling permit and the well operator may proceed with the drilling of the well at the exact location shown on the plat.

c. If objections are filed by the coal owner or operator or by the DER, the DER, within 10 days, schedules a conference at which the well operator and coal owners or operators attempt to agree upon a location for the proposed well. If an agreement is reached, the DER "promptly" issues a drilling permit and the well operator may drill at the location agreed upon. If an agreement is not reached, the DER issues an order within 5 days of the conference in which it determines a location where the well can be drilled without undue interference or endangerment of the coal mine. This location will be as near to the original proposed location as possible. This order is appealable to the Environmental Hearing Board.

d. Drilling permits expire 1 year after issuance unless drilling operations have been commenced and prosecuted with "due diligence".

e. After a permit decision is made, notice of the DER action is published in the Pennsylvania Bulletin.

5. **Drilling and Operation Requirements:**

a. Well drilling through coal seams must comply with the requirements and methods of casing specified in the Act.

b. Prior to plugging and abandoning a well, the well operator must submit a notice of intent to the DER and appropriate owners or operators of workable coal seams. Upon abandoning or ceasing to operate any well within a workable coal seam or within a non-coal area, the well operator must comply with the standards and requirements specified in the Act.

c. Well operators must comply with the standards and requirements for underground gas storage pools specified in the Act.

d. Within 30 days after the completion of a well, the well operator must submit a driller's log of the well to the DER. This log must show the character, thickness and depth of the formations encountered or passed through during drilling; the depth at which all gas, oil, and water were encountered and whether the well produces gas, oil, or water; and the volume or quantity of gas, oil, or water produced.

6. Fees: None.

7. Appeals: Any person aggrieved by a decision of the DER may, within 30 days of publication in the Pennsylvania Bulletin of the DER action, appeal such decision to the Environmental Hearing Board within the DER.

E. ADMINISTERING AGENCY: Division of Oil and Gas
 Regulation
 Bureau of Topographic and
 Geologic Survey
 Department of Environmental
 Resources
 1205 Kossman Building
 100 Forbes Avenue
 Pittsburg, PA 15222
 (412) 565-5075

3.1.2 OIL AND GAS (Conservation)

INTRODUCTION: The Oil and Gas Conservation Law (1961) prohibits the wasting of oil and natural gas resources in the State and authorizes the Department of Environmental Resources (DER) to regulate well drilling operations in the State below a depth of 3800 feet or below the top of the Onondaga formation, whichever is deeper. Prior to commencing such activities, all persons must obtain a permit from the DER.

A. **NAME OF PERMIT:** Conservation Oil/Gas Well Drilling Permit

B. **AUTHORIZING STATUTE:** Oil and Gas Conservation Law, 1961 (58 P.S. 405)

C. **TITLE OF REGULATION:**

Title 25. Rules and Regulations
Part I. Department of Environmental Resources
Subpart C. Protection of Natural Resources
Article I. Land Resources
Chapter 79. Oil and Gas Conservation

D. **SUMMARY OF PERMIT PROCESS:**

1. **Applicability:** The drilling or deepening of wells in all geologic formations below the top of the Onondaga formation or below 3,800 feet, whichever is deeper.

2. **General Requirements:** Prior to starting such well drilling or well deepening, the well operator must obtain a permit from the DER.

3. **Submission Requirements:** Applicants must submit a standard application, Form DMOG-1, along with a plat made by a registered engineer or surveyor, Form DMOG-2.

4. **Procedure for Obtaining a Permit:** Applicants must submit the required forms prior to commencing drilling operations. The DER will issue a permit within 10 days of receiving these forms, provided:

- the requested location of the well is not in conflict with an existing or pending spacing or pooling order;
- the requested location of the well is at least 330 feet from the nearest boundary line of the lease on which it is located, OR the application is accompanied by a voluntary unitization agreement; and
- the operation is in compliance with the Gas Operations Well Drilling and Petroleum Coal Mining Act. (See Chapter 3.1.1 of this guide)

5. Drilling and Operation Requirements:

a. The drilling, casing, operation, and plugging of wells must be conducted in a manner to prevent:

- the escape of oil or gas;
- the detrimental intrusion of water into any oil or gas pool that is avoidable by efficient operation; and
- blowouts, cave-ins, seepages, and fires.

b. If a drilling permit is issued within an area covered by a spacing or pooling order, drilling operations must commence within 1 year and proceed with "due diligence". In all other cases, drilling operations must commence within 90 days following the issuance of a drilling permit.

c. Upon completion of drilling a successful oil or gas well, the permittee may file for a spacing order describing how far apart wells may be sunk and/or an integration order spelling out how resources found should be credited to various well and landowners in the same area.

d. Within 30 days after drilling is completed, the permittee must file a Completion Report, Form DMOG-4-56.

e. Within 90 days after completion of a development well and within 1 year after completion of a wildcat or exploratory well, the operator must file all industry standard temperature, electric, and radioactivity logs which are made concerning the well.

f. The plugging of all wells must be in accordance with the Gas Operations Well Drilling Petroleum and Coal Mining Act and all permittees must submit a Certificate of Plugging, Form DMOG-9.

6. Notice and Hearing Requirements:

a. No spacing or integration order is issued by the DER without notice and hearing as specifically provided in the Act. Upon receiving an application for such orders, the DER publishes notice of a hearing at least 15 days before the hearing is to be held. Such notice must be published for 2 consecutive weeks in a newspaper of general circulation in the area of concern.

b. When an emergency requiring immediate action exists, the DER is authorized to issue an emergency order without notice or hearing, which is effective immediately for a period of not more than 25 days.

c. After a permit decision is made, notice of the DER action is published in the Pennsylvania Bulletin.

7. Fees:

- a. Conservation oil/gas well drilling permit application fee: \$100
- b. Spacing order fee: \$1,000
- c. Integration order fee: \$500

8. Appeals: Any person aggrieved by a decision of the DER may, within 30 days of publication in the Pennsylvania Bulletin of the DER action, appeal such decision to the Environmental Hearing Board within the DER.

9. Special Notes: To conduct a seismic survey on State forest land to explore for oil and/or gas, operators must post a \$5,000 bond and obtain a \$50 seismic survey permit from the DER's State Forest Management Division's Minerals Section, Box 1467, Harrisburg, PA, 17120. This 1-year amendable permit is good for an entire forest district.

E. ADMINISTERING AGENCY: Division of Oil and Gas Regulation
Bureau of Topographic and Geologic
Survey
Department of Environmental Resources
1205 Kossman Building
100 Forbes Avenue
Pittsburgh, PA 15222
(412) 565-5075

3.1.3 HYDROPOWER

INTRODUCTION: The Bureau of Dams and Waterway Management in the Department of Environmental Resources (DER) has the responsibility for regulating the construction of power dams and changes in stream conditions for power or for water supply in Pennsylvania under the authority of the Limited Power Act. If such dam construction or stream change is made on navigable waters of the United States or may affect the interests of interstate or foreign commerce as determined by the Federal Power Commission, the activity is deemed to be within the jurisdiction of the United States and is not subject to the permitting provisions of the Act.

A. NAMES OF PERMITS:

1. Limited Power Permit
2. Limited Water Supply Permit

B. AUTHORIZING STATUTE: Limited Power Act, 1923, P.L. 704, as amended by Act of July 19, 1935, P.L. 1363

C. TITLE OF REGULATION: No regulations have been adopted pursuant to these acts. Permitting procedures and requirements are included in the acts.

D. SUMMARY OF PERMIT PROCESS:

1. Applicability: The construction of a power dam; the change of a stream to supply water for power; the change of a stream for water supply not within the jurisdiction of the United States.

2. General Requirements: Prior to starting a regulated activity, all persons must obtain the appropriate permit from the DER.

3. Submission Requirements: Applications for permits must be submitted to the DER and include information describing the proposed power project. Applications must also be accompanied by detailed plans and specifications for the project including the dam and all related works.

4. Procedure for Obtaining a Permit:

a. Applications for permits must be submitted to the DER a minimum of 6 months prior to the date anticipated for obtaining the permit. The DER will review and approve or disapprove applications within 6 months of receiving them.

b. Permits are valid for a fixed period specified in the permit not to exceed 50 years. The permittee is entitled to extension and renewal of the permit as specified in the permit.

5. **Notice and Hearing Requirements:** Notice of the application is published in the Pennsylvania Bulletin. If comments are received on the application, the DER may schedule a hearing to consider them. After a permit decision is made, notice of the DER action is published in the Pennsylvania Bulletin.

6. **Operation Requirements:** Facilities must be operated in compliance with all terms and conditions specified in the permit. These conditions are specific for each project. Monitoring and record-keeping requirements may vary from one project to another.

7. **Fees:** Limited power permit filing fee: \$5. Annual charges are based on the following schedule:

<u>Construction Cost</u>	<u>Annual Charge</u>
\$250,000 and under	\$500 minimum fee
\$250,000 to \$5,000,000	\$2 per \$1,000 or fraction thereof
\$5,000,000 and over	\$10,000 maximum fee

The charges for the first year or fraction thereof, based on the estimated cost of the dam, are payable at the time of the filing of an application for a limited power permit. Annual charges for each calendar year thereafter must be made to the Commonwealth at the end of the year or within 30 days thereafter upon bills rendered by the DER. Final cost of the dam must be reported to the DER within 1 year after its completion and then becomes the basis for such annual charges.

8. **Appeals:** Any person aggrieved by a decision of the DER may, within 30 days of publication in the Pennsylvania Bulletin of the DER action, appeal such decision to the Environmental Hearing Board within the DER.

E. **ADMINISTERING AGENCY:** Bureau of Dams and Waterway Management
Department of Environmental Resources
P.O. Box 2357
Harrisburg, PA 17120
(717) 787-1384

3.1.4 COAL

INTRODUCTION: The Pennsylvania Department of Environmental Resources (DER) has statewide jurisdiction over the surface and underground mining of coal, as well as other minerals. The Pennsylvania coal mining acts and regulations grant the DER the power and duty to ensure surface and underground coal mining activities are conducted in a manner to protect the health, safety, and welfare of the public and to protect water and other environmental resources.

The DER Bureau of Mining and Reclamation has the responsibility and authority for regulating surface mining activities in the State. Generally, all persons must obtain a surface mine operator's license, a mining permit, and a mine drainage permit from the Bureau prior to engaging in surface mining activities. The DER Bureau of Water Quality Management has the responsibility and authority for regulating underground coal mining activities in the State. Generally, all persons must obtain a mining permit and mine drainage permit from the Bureau prior to engaging in underground coal mining activities, as well as a letter of approval from the DER Office of Deep Mine Safety.

In addition to these major regulatory requirements, depending on the location, nature, and magnitude of the proposed activities, a prospective mine operator may also be required to obtain the following permits, licenses and approvals:

- a coal refuse disposal area permit from the DER Bureau of Mining and Reclamation to start or reactivate a coal refuse disposal area,
- a surface support permit from the DER Bureau of Mining and Reclamation to activate any underground bituminous mine,
- an auger safety permit from the Bureau of Mining and Reclamation to auger mine,
- a blaster's license from the DER Division of Explosives,
- an explosives storage permit from the DER Division of Explosives,
- a permit to sell or purchase explosives from the DER Division of Explosives,
- a coal exploration permit from the DER Bureau of Forestry to explore for coal on State forest land,

- a PennDOT or local transportation or hauling permit,
- a permit to gain rights-of-way through State park land from the DER Bureau of State Parks for access roads,
- a license to gain rights-of-way through State forest land from the appropriate DER Bureau of Forestry District Forest Office for access roads,
- a water obstructions permit (See Chapters 4.3.1, 4.4, and 6.3 of this guide),
- a water allocation permit (See Chapter 4.6.2 of this guide),
- an erosion and sedimentation permit (See Chapter 4.7 of this guide),
- a solid waste permit (See Chapter 5.4 of this guide),
- a hazardous waste permit (See Chapter 5.5 of this guide),
- a local air quality permit (See Chapter 7.1.2 of this guide), and
- compliance with local zoning ordinances (See Chapter 7.1.1 of this guide).

A. NAMES OF PERMITS, LICENSES, AND APPROVALS:

1. Surface Mine Operator's License (for surface mining operations)
2. Mining Permit (reclamation bond)
3. Mine Drainage Permit (permit for operating a coal mine)
4. Office of Deep Mine Safety Approval (for underground coal mines)

B. AUTHORIZING STATUTES:

1. Coal Refuse Disposal Control Act (52 P.S. 30.51 et seq.)
2. Surface Mining Conservation and Reclamation Act (52 P.S. 1396.1 et seq.)
3. Bituminous Mine Subsidence and Land Conservation Act (52 P.S. 1406.1 et seq.)
4. Clean Streams Law (35 P.S. 691 et seq.)

C. TITLE OF REGULATION:

Title 25. Rules and Regulations
Part I. Department of Environmental Resources
Subpart C. Protection of Natural Resources
Article I. Land Resources
Chapter 86. Surface and Underground Coal Mining: General
Chapter 87. Surface Mining of Coal
Chapter 88. Anthracite Coal
Chapter 89. Underground Mining of Coal
Chapter 90. Coal Refuse Disposal

D. SUMMARY OF PERMIT PROCESS:

1. Applicability: Any coal mining activity in the Commonwealth.

2. General Requirements:

a. Any person who conducts or expects to conduct coal mining activities must apply for the appropriate permit(s) from the DER at least 180 days prior to commencing these activities.

b. Any person who intends or proceeds to mine coal or other minerals by the surface mining method as an operator must first obtain a surface mine operator's license from the DER, which must be renewed annually.

3. Submission Requirements:

a. Surface Mine Operator's License (for surface coal mining): Applications must be submitted on standard forms provided by the DER and include:

- an identification of mine ownership,
- a certificate of insurance for the term of the license covering all surface mining activities of the applicant,
- a statement of whether the applicant has had a permit suspended or revoked in the last 5 years or has forfeited a mining bond, and
- a listing of each notice of violation, if any, the applicant has received pertaining to air, water, and environmental protection in connection with any coal mining operation during the last 3 years.

b. Mining Permits (for surface and underground coal mining activities): Applications must be submitted on standard forms provided by the DER and must include:

- all required legal, financial, compliance, and related information including:
 - an identification of interest,
 - compliance information,
 - right of entry information,
 - information on the relationship of the area to areas designated unsuitable for mining,
 - permit term information,
 - personal injury and property damage insurance information,
 - an identification of other required licenses and permits,
 - an identification of the location of the public office for the filing of the application, and
 - proof of publication of the application;
- all required information on environmental resources including:
 - general environmental resources information,
 - geological and hydrological information,
 - vegetation information,
 - land use information,
 - a prime farmland investigation, and
 - all required maps and cross sections according to regulatory standards;
- the required operation and reclamation plan describing:
 - operational information such as the type and method of mining,
 - existing structures,

- a blasting plan,
- an air pollution control plan,
- probable hydrologic consequences of the proposed activities,
- an erosion and sedimentation control plan, stream diversions, water obstructions, and encroachments,
- water diversions,
- dams, ponds, embankments, and impoundments,
- coal refuse disposal,
- postmining land uses,
- surface mining near underground mining,
- protection of public parks and historic places,
- location of public roads,
- disposal of excess spoil,
- transportation facilities,
- steep slope operations,
- auger mining methods, and
- prime farmlands; and
- all specifications, design analyses, test reports, and other data as may be required by the DER to determine compliance with the standards and requirements of the regulations.

c. Mine Drainage Permits (for surface and underground coal mining activities): Requirements for these 2-part water quality permits are detailed in Chapter 5.2 of this guide.

d. Office of Deep Mine Safety Approval (for underground coal mines): Applicants must submit to the appropriate District Mine Inspector the following:

- a roof control plan,
- plans for the mine electrical system,
- plans for mine safety zones,

- mine ventilation plans,
- a description of the electrical equipment to be used,
- plans for mining and reclamation methods, and
- a drainage plan.

4. Procedure for Obtaining a Permit, License, and/or Approval:

a. Anyone wishing to conduct a coal mining activity should first make an initial contact with the appropriate District Mining and Reclamation Office, a Deep Mine Safety Office, and/or Bureau of Water Quality Management Regional Office for clarification of regulatory procedures and requirements.

b. Surface Mine Operator's Licenses: Applicants must submit the required information for license applications and license renewals to the DER Bureau of Mining and Reclamation. If the DER finds that the applicant has complied with all applicable provisions of the Surface Mining Conservation and Reclamation Act, has brought all past violations, if any, into compliance, has complied with all previous orders, if any, issued by the DER, and has complied with all conditions of previously issued permits, a license will be issued to the applicant within 60 days. If the DER finds the applicant has not complied with these requirements, the DER will issue a notice of intention not to issue a license or license renewal and provide the applicant an opportunity to request an informal conference to be held on the application within 15 days of the notice.

c. Mining and Mine Drainage Permits: Operators must submit a complete application for the appropriate permit to the appropriate DER office. Upon receipt of a completed application and following the required notice and hearing procedures, the DER will approve, require modification of, or deny the application within 60 days. If the application is approved, the applicant must file a bond and liability insurance with the DER. The DER will then inspect all facilities to ensure compliance with all regulatory requirements.

d. Deep Mine Safety Approval: Upon receipt of all required information, the Office of Deep Mine Safety will inspect all facilities and equipment to ensure compliance with regulatory requirements. Although this office issues no permits or licenses for coal mining operations, applicants must obtain a letter of approval stating that they have complied with all provisions of the appropriate law.

5. **Notice and Hearing Requirements:** Permit applicants must file notice of their applications in a local newspaper. The DER will publish notice in the Pennsylvania Bulletin on receipt of completed applications. Written comments on a permit application may be submitted to the DER within 30 days. Interested or affected parties may submit a written request to the DER to hold an informal conference on the application. If one is held, the DER will publish notice of the conference at least 2 weeks prior to the conference date. Written objections and records from any informal conference or public hearing will be reviewed by the DER in its review of the permit application. The DER will publish a summary of its decision in the Pennsylvania Bulletin. Within 10 days after the issuance of a permit, the DER will issue notice to local government officials of each municipality in which the activities are located.

6. **Operation Requirements:** Each permit issued by the DER will contain conditions to ensure compliance with all applicable laws and regulations to ensure protection against adverse impacts to public health and safety and the environment. All operations must comply with these conditions, as well as all applicable testing, reporting, and monitoring requirements. (See Chapters 86 through 90 of the regulations for applicable operating requirements. These regulations detail the specific performance standards for surface mining and underground mining in general, anthracite coal, underground mining of coal, and coal refuse disposal.)

7. **Fees:**

a. Permit for coal mining activities (mining and mine drainage permit): \$250 initial fee and \$250 for revision or renewal of applications.

b. Surface mine operator's license: \$500 initial license fee and \$300 annual renewal fee.

8. **Bonds:** Applicants are required to post a bond to ensure compliance with all applicable laws, regulations, and any permit conditions. The amount of the bond for each operation will be determined by the DER based on the cost to the Commonwealth of taking corrective measures in case of the operator's failure to comply with these requirements. No bond will be less than \$10,000 for the entire permit area.

9. **Appeals:** Any person aggrieved by any decision of the DER may, within 30 days of publication of the DER action in the Pennsylvania Bulletin, appeal such decision to the Environmental Hearing Board within the DER.

E. ADMINISTERING AGENCIES:

Surface Coal Mining Activities:

Bureau of Mining and Reclamation
Department of Environmental Resources
P.O. Box 2063
Harrisburg, PA 17120
(717) 783-8845

Underground Coal Mining Activities:

Bureau of Water Quality Management
Department of Environmental Resources
P.O. Box 2063
Harrisburg, PA 17120
(717) 787-9646

and

Bureau of Bituminous Deep Mine Safety
Fayette County Health Center
100 New Salem Road
Uniontown, PA 15407
(412) 439-9469

CHAPTER 3.2

SURFACE MINING (Non-Coal)

INTRODUCTION: The Bureau of Mining and Reclamation in the Department of Environmental Resources (DER) has the responsibility for regulating all surface mining activities in Pennsylvania. Prior to engaging in surface mining activities, all persons must obtain a surface mine operator's license and a mining and mine drainage permit from the Bureau.

A. NAMES OF PERMITS:

1. Surface Mine Operator's License
2. Mining Permit
3. Mine Drainage Permit

B. AUTHORIZING STATUTES:

1. Surface Mining Conservation and Reclamation Act (52 P.S. 1396.1 et seq.)
2. Clean Streams Law (35 P.S. 691 et seq.)

C. TITLE OF REGULATION:

Title 25. Rules and Regulations
Part I. Department of Environmental Resources
Subpart C. Protection of Natural Resources
Article I. Land Resources
Chapter 77. Mining
Subchapter C. Interim Requirements for Surface Mining
Subchapter E. Surface Non-Coal Mining Operations

D. SUMMARY OF PERMIT PROCESS:

1. **Applicability:** All non-coal surface mining activities in the State.

2. **General Requirements:**

a. Prior to operating a surface mine, all persons must obtain an operator's license from the DER Bureau of Mining and Reclamation. The operator's license must be renewed annually.

b. Prior to conducting surface mining operations, all persons must obtain a mining and mine drainage permit from the DER Bureau of Mining and Reclamation.

3. Submission Requirements:

a. Surface Mine Operator's License: See Chapter 3.1.4 of this guide.

b. Mining and Mine Drainage Permits: Applications must be submitted on standard forms provided by the DER and include all required maps and related information, a reclamation plan, and information describing the manner in which the operator plans to comply with all applicable laws and regulations and all environmental protection and health and safety standards. The application must also demonstrate that the proposed operation will be conducted in a manner that will maximize the utilization and conservation of the resource to be recovered so that re-affecting the land in the future can be minimized.

4. Procedure for Obtaining a License and Permit: See Chapter 3.1.4 of this guide.

5. Operation Requirements:

a. Within 15 days after a mine has been placed in operation, the permittee must notify the DER by certified mail. Within 90 days after the commencement of mining operations and each 90 days thereafter, the permittee must file an operations and progress report with the DER. Each year, the operator must submit to the DER a new map showing the status of the operation at the conclusion of each year indicating the area affected and restored during the preceding year, particularly with relation to the property lines and boundaries shown on the map furnished with the original application. Within 15 days after mining is completed, the permittee must notify the DER by certified mail.

b. All surface mining operations must be conducted in compliance with all applicable provisions of the Surface Mining Conservation and Reclamation Act, with all conditions and provisions of the permits issued and with all applicable provisions of the regulations, including those for water quality criteria, drainage, treatment of discharges, mining procedures, discharge limitations, abandoned operations, and reclamation of mined lands.

6. Fees:

a. Operator's license:

- for persons mining 2,000 or less tons of marketable minerals per year: \$50 initial fee; \$50 annual renewal fee

- for persons mining more than 2,000 tons of marketable minerals per year: \$500 initial fee; \$300 annual renewal fee

b. Mining and mine drainage permits:

- for operations from which 2,000 or less tons of marketable minerals per year are mined: no fee
- for operations from which more than 2,000 tons of marketable minerals per year are mined: \$250

7. Bonds: See Chapter 3.1.4 of this guide.

8. Appeals: Persons aggrieved by a decision of the DER may, within 30 days of publication of the DER action in the Pennsylvania Bulletin, appeal such decision to the Environmental Hearing Board within the DER.

E. ADMINISTERING AGENCY: Bureau of Mining and Reclamation
Department of Environmental Resources
P.O. Box 2063
Harrisburg, PA 17120
(717) 783-8845

SECTION 4.0
LAND USE REGULATION

CHAPTER 3.3

UNDERGROUND MINING (Non-Coal)

INTRODUCTION: Presently the Department of Environmental Resources (DER) has not adopted regulations controlling the surface effects of non-coal underground mines or administrative procedures for bonding requirements for non-coal underground mines.

Non-coal underground mine operators must, however, obtain a mine drainage permit from the Bureau of Water Quality Management (See Chapters 3.1.4 and 5.2 of this guide), and must comply with worker safety requirements and local mine subsidence requirements. Prospective operators should contact the appropriate Deep Mine Safety District Office and Bureau of Water Quality Management Regional Office. (See Chapter 7.2 of this guide for a listing of these offices)

CHAPTER 4.1

MAJOR FACILITY SITING

INTRODUCTION: There is no comprehensive legislation in Pennsylvania providing for site selection procedures for major power generating facilities.

The Pennsylvania Public Utility Commission (PUC) has general administrative power and authority to supervise and regulate all public utilities doing business within Pennsylvania. The only type of utility facilities subject to siting review and approval by the PUC are HV transmission lines. Prior to locating and constructing HV transmission lines, all public utilities must apply for and receive authorization from the PUC.

A. **NAME OF APPROVAL:** PUC order granting authorization to locate and construct a HV transmission line

B. **AUTHORIZING STATUTE:** The Public Utility Code (66 Pa. C.S. 1102)

C. **TITLE OF REGULATION:**

Pennsylvania Code

Title 52. Public Utilities

Part I. Public Utility Commission

Subpart A. General Provisions

Chapter 3. Special Rules of Administrative Practice and Procedure

Subpart C. Fixed Service Utilities

Chapter 57. Electric Service

Section 57.1: General Provisions

Section 57.7 et seq.: Commission Review of Siting and Construction of Electric Transmission Lines

D. **SUMMARY OF APPROVAL PROCESS:**

1. **Applicability:** Any overhead electric supply line with a design voltage greater than 100,000 volts, (HV transmission line) EXCEPT:

- lines which will be located entirely on existing rights-of-way,
- lines which are proposed to be located entirely within public roads, or
- lines which are proposed to be located entirely within the property of the sole customer to be served,

UNLESS the size, character, design, or configuration of the proposed overhead electric supply line will substantially alter the right-of-way.

2. **General Requirements:** Prior to the construction of an HV transmission line, all public utilities must apply for and obtain authorization from the PUC to locate and construct the line.

3. **Submission Requirements:**

a. Applications must be submitted on forms provided by the PUC and must contain:

- the name and address of the applicant;
- a general description of the proposed route of the HV line, including the number of route miles, right-of-way width, location of the line within each city, borough, town, and township traversed, and the names and addresses of the owners of the property to be condemned;
- a detailed description of the proposed HV line, including pertinent design and operational features;
- a general statement of the need for the proposed HV line in meeting identified present and future demands for service, of how the line will meet that need, and of the engineering justifications for the line;
- a statement of the safety considerations which will be incorporated into the design, construction, and maintenance of the proposed HV line;
- a description of any studies which had been made as to the projected environmental impact of the HV line as proposed and of the efforts made to minimize impacts upon the environment and upon scenic and historic areas;
- a description of the efforts of the applicant to locate and identify any archaeological, geologic, historic, scenic, or wilderness areas of significance within 2 miles of the proposed right-of-way and the location and identity of such areas discovered;
- the location and identity of any airports within 2 miles of the nearest limit of the right-of-way of the proposed line;

- a general description of all reasonable alternative routes to the proposed HV line, including a description of the corridor planning methodology, a comparison of the merits and detriments of each route, and a statement of the reasons for selecting the proposed route;
 - a list of the local, State, and Federal governmental agencies which have requirements which must be met in connection with the construction or maintenance of the proposed line;
 - the estimated cost of construction and projected date of completion of the proposed HV line,
 - supporting exhibits including maps, photographs, drawings, and other engineering materials; and
 - a statement identifying any litigation concluded or in progress which concerns any property or matter relating to the proposed HV line, right-of-way route, or environmental matters.
- b. The applicant must file the original and 6 copies of the application with the PUC, and a copy of the application with:
- the chief executive officer, the governing body, and the body charged with the duty of planning land use in each city, borough, town, township, and county in which any portion of the HV line is proposed to be located;
 - the president of each public utility, other than the applicant, in whose service territory any portion of the HV line is proposed to be located; and
 - the Secretary of the Department of Environmental Resources (DER).
- c. The applicant must serve a notice of filing to:
- The Secretary of the Department of Transportation (PennDOT),
 - the Chairman of the Historical and Museum Commission, and
 - all other local, State, or Federal agencies listed in the application.
- d. Upon written request, the applicant must forward a copy of the application to any of these parties.

4. Procedure for Obtaining Authorization:

a. Generally, approximately 6 weeks after the filing of the application, a prehearing conference is held by the PUC. The PUC provides notice of the prehearing conference to each person and entity identified in the application and any other person or entity granted leave to intervene. (See 4.d. below) Matters discussed at this conference include an estimate of the amount of time necessary for the hearing(s) and establishing the schedule for the completion of any discovery, the date for the pre-filing of the utility's direct testimony, and the date(s) for the hearing(s).

b. At least 45 days before the date set for the commencement of the hearing(s), the applicant must publish notice of the hearing for at least 2 consecutive weeks in a newspaper of general circulation within each affected municipality.

c. The PUC provides notice of the hearing to each person and entity identified in the application and any other person or entity granted leave to intervene. (See 4.d. below)

d. Interested parties may make a request for leave to intervene, in writing, stating their interests and objections raised. Upon proper request, the PUC may allow the timely intervention of any party deemed to have a substantial interest in the proceeding or whose intervention will aid the PUC in its consideration of the application. Generally, PUC practice has been to allow property owners who would be affected by the proposed HV transmission line to appear and participate at the hearing(s) without having requested and been granted leave to intervene.

e. Upon the close of the record in the application proceeding and the submission of any briefs, the PUC will issue its determination and order either granting or denying the application as filed or with such terms, conditions, or modifications it deems appropriate. The PUC will not grant the application unless it finds:

- there is a need for the proposed HV line,
- that it will not create an unreasonable risk of danger to the health and safety of the public,
- that it is in compliance with all applicable laws and regulations providing for the protection of natural resources, and

- that it will have minimum adverse environmental impact, considering the electric power needs of the public, the state of available technology, and the available alternatives.

f. A PUC procedure has been established whereby an electric utility may request a waiver of the siting review procedures upon proper application to the PUC.

5. **Operation Requirements:** All HV transmission lines must be located, constructed, operated, and maintained in compliance with all conditions established throughout the siting review procedures and will all applicable laws and regulations.

6. **Fees:** Filing fee: \$125.

7. **Appeals:** Any person aggrieved by a final order of the PUC may, within 30 days of that order, appeal to the appropriate Commonwealth court.

E. **ADMINISTERING AGENCY:** Pennsylvania Public Utility Commission
North Office Building
P.O. Box 3265
Harrisburg, PA 17120
(717) 783-1740

CHAPTER 4.2

LAND USE

INTRODUCTION: In late 1973, the Office of State Planning and Development was designated as the lead agency for land policy development. As a result of the work of the Office of State Planning and Development during the period from 1973 through 1978, a State Land Policy Plan for Pennsylvania was developed. Although this agency was abolished in 1979, and land use management is now primarily a local regulatory function, the Commonwealth has implemented a number of the recommendations contained in the land policy report that were geared toward preserving and protecting agricultural land in Pennsylvania and improving Pennsylvania's agricultural and economic base. The following is a list of some of the legislative initiatives and executive measures that have been implemented since 1979:

- Act 100 of 1979 -- Created the Agricultural Lands Condemnation Approval Board, which is responsible for insuring that no other feasible alternative exists before taking farmland by eminent domain for construction by State agencies.
- Act 15 of 1980 -- Amended Act 319, Pennsylvania Farmland and Forest Land Assessment Act of 1974, to allow continued preferential property tax assessments when land stays in an eligible use.
- Act 179 of 1980 -- Exempts family farm corporations from payment of the capital stock franchise tax.
- Act 169 of 1980 -- Amended the Clean Stream Act prohibiting local ordinances requiring fencing livestock from a stream.
- Act 207 of 1980 -- Amended the Inheritance and Estate Tax Act of 1961 to allow farmland to be valued at use value rather than fair market value in determining inheritance tax liability.
- Act 39 of 1980 -- Restricts aliens and foreign governments from acquiring more than 100 acres of Pennsylvania agricultural lands.
- Executive Order No. 14, 1980 -- Transfers the responsibility for farm operations at State Mental Hospitals and State Centers from the Department of Welfare to the Department of Agriculture to be leased to farmers who desire to farm but cannot afford the high capital cost.

- Executive Order No. 20, 1980 -- Establishes management mechanisms and responsibilities for the administration of the Coastal Zone Management Program in Pennsylvania which will preserve and protect valuable and unique agricultural land located within the coastal zone.
- Executive Order No. 12, 1979 -- Establishes the Rural Development Council as a subcommittee of the Economic Development Committee of the Cabinet to, in part, help direct development away from critical farming areas and into rural areas suitable for development.
- Act 43 of June 30, 1981 -- The Agricultural Area Security Law.

CHAPTER 4.3

FLOOD PLAIN MANAGEMENT

INTRODUCTION: The Flood Plain Management Act (1978) establishes a flood plain management program based on the National Flood Insurance Program (NFIP). The Act requires that each municipality that has been identified as having an area or areas subject to flooding must adopt flood plain management regulations to comply with requirements of the NFIP.

The administration of the Act is the joint responsibility of the Department of Community Affairs (DCA) and the Department of Environmental Resources (DER). The DCA, in consultation with the DER reviews and approves all municipal flood plain management regulations. The DER is given exclusive jurisdiction over the regulation of particular obstructions in flood plains under the authority of the Act and the Dam Safety and Encroachments Act (32 P.S. 693.1 through 693.27). The DCA is required by the Act to coordinate the administration of municipal flood plain management regulations; require the submission of municipal regulations, records, and reports as necessary to carry out the purposes of the Act; provide technical assistance to municipalities; and publish a list of certain obstructions that present special hazards to life and property. Any activity involving such a special hazard may not be undertaken without a special permit from the DCA or the municipality within which the activity is proposed.

4.3.1 DER FLOOD PLAIN MANAGEMENT

A. NAME OF PERMIT: DER Water Obstructions Permit

B. AUTHORIZING STATUTES:

1. Flood Plain Management Act, 1978 (32 P.S. 679.101 through 679.601)
2. Dam Safety and Encroachments Act, 1978 (32 P.S. 693.1 through 693.27)

C. TITLE OF REGULATION:

Title 25. Rules and Regulations
Part I. Department of Environmental Resources
Subpart C. Protection of Natural Resources
Article II. Water Resources
Chapter 105. Dam Safety and Waterway Management

D. SUMMARY OF PERMIT PROCESS:

1. Applicability: The construction, modification, removal, abandonment, or destruction of any structure or the engagement in any activity in the 100-year floodway relating to:

- any obstruction otherwise regulated under the Water Obstructions Act (32 P.S. 681 through 691) succeeded by the Dam Safety and Encroachments Act (32 P.S. 693.1 through 693.27);
- any flood control project constructed, owned, or maintained by a governmental unit;
- any highway or other obstruction, constructed, owned or maintained by the Commonwealth or a political subdivision thereof; and
- any obstruction owned or maintained by a person engaged in the rendering of a public utility service.

2. General Requirements: Prior to such construction or activity, all persons must obtain a permit from the DER.

3. Submission Requirements: Applications for permits must be submitted on forms provided by the DER. Each application for a permit must be accompanied by such information, maps, plans, specifications, design analyses, test reports, and other data as specifically required by Chapter 105 of the regulations and such additional information as may be required by the DER to determine compliance with Chapter 105.

4. Procedure for Obtaining a Permit: On receipt of a completed application, the DER may impose such permit terms and conditions as it deems necessary to carry out the purposes of the Act. The permit will become effective 60 days following the receipt of the completed application by the DER unless the application is disapproved. If the DER disapproves the application, it will notify the applicant of the reasons for disapproval. After a permit decision is made, notice of the DER action is published in the Pennsylvania Bulletin.

5. Permittee Requirements: Permittees must comply with all terms and conditions of the provisions of the Act and Chapter 105 of the regulations. No change may occur in the physical condition of the site that will materially affect the safe construction and maintenance of the structure or activity. A permit may be transferred only upon application to and approval by the DER.

6. Fees: Vary from \$50 to \$200 depending on the hazard and size classification of the project.

7. Appeals: Any person aggrieved by a decision of the DER may, within 30 days of publication of the DER action in the Pennsylvania Bulletin, appeal such decision to the Environmental Hearing Board within the DER.

E. ADMINISTERING AGENCY: Division of Obstructions and
Flood Plain Management
Bureau of Dams and Waterway Management
Department of Environmental Resources
P.O. Box 2357
Harrisburg, PA 17120
(717) 783-1384

4.3.2 DCA FLOOD PLAIN MANAGEMENT

A. NAME OF PERMIT: Special Permit

B. AUTHORIZING STATUTE: Flood Plain Management Act, 1978 (32 P.S. 679.101 through 679.601)

C. TITLE OF REGULATION:

Title 16. Community Affairs
Chapter 38. Flood Plain Management Regulations

D. SUMMARY OF PERMIT PROCESS:

1. Applicability: The construction, enlargement, or expansion of any structure, or commencement of any activity listed as a special hazard in a flood plain. Such obstructions and activities include:

- hospitals - public or private;
- nursing homes - public or private;
- jails; and
- new mobile home parks and mobile home subdivisions, and substantial improvements to such existing parks and subdivisions.

2. General Requirements: Any person wishing to undertake such construction or activity must first be issued a special permit by either the municipality within which the activity is proposed, or by the DCA, whichever is applicable.

3. Submission Requirements: Applications for special permits must consist of 5 copies of the following items:

- a written request, including a completed application form;
- a plan of the entire site according to DCA's specifications;
- plans of all proposed buildings, structures and other improvements according to DCA's specifications; and
- other data and documentation as may be specified by DCA.

4. Procedure for Obtaining a Permit:

a. Municipalities which administer flood plain management regulations and which are in compliance with the requirements of the Act and regulations may issue special permits. Those municipalities notified by DCA of not complying with the requirements of the Act and regulations may not issue special permits and may forward applications to the DCA for review.

b. Permits Issued by Municipalities: On receipt of a completed application, the municipality, within 3 days, forwards 1 copy of the application to the county planning commission for its information, review, and comment. Such comments may be sent to the DCA and to the municipality. If it is determined by the municipality that the structure or activity will be located, constructed, and maintained in compliance with all requirements, the municipality approves the application and notifies the DCA within 5 days of its approval. The DCA then reviews the application within 30 days and notifies the municipality and county planning commission of its comments and decisions. If the application is approved by the municipality, the permit becomes effective after this 30-day review period. DCA review is limited to checking for compliance with the requirements of the Act and regulations.

c. Permits Issued by the DCA: On receipt of a completed application, the DCA forwards a copy of the application to the county planning commission within 3 days for its review and comment. The planning commission has 30 days to submit any comments to the DCA. The DCA reviews and approves or disapproves the application within 45 days and sends the applicant written notification of its decision. Within 5 days of its decision, the DCA also sends written notification of its decision to the municipality and the county planning commission.

5. Permittee Requirements: All structures and activities requiring special permits must be located, constructed, and maintained in a fashion that will protect the health and safety of the public and occupants; prevent any significant possibility of pollution, increased flood levels or flows, or debris endangering life and property; and comply with all requirements of the NFIP, the Act, and regulations.

6. Fees: None.

7. Appeals: Any person aggrieved by any action of the DCA has the right to appeal such action and request a hearing within 30 days in accordance with the Administrative Agency Law (2 Pa. C.S. 501 through 508 and 701 through 704).

E. ADMINISTERING AGENCY: Division of Flood Plain Management
Bureau of Community Planning
Department of Community Affairs
551 Forum Building
Harrisburg, PA 17120
(717) 787-7400

4.3.3 MUNICIPAL FLOOD PLAIN MANAGEMENT

A. AUTHORIZING STATUTE: Flood Plain Management Act, 1978 (32 P.S. 679.101 through 679.601)

B. TITLE OF REGULATION:

Annex A.
Title 16. Community Affairs
Chapter 38. Flood Plain Management Regulations

C. SUMMARY OF MUNICIPAL FLOOD PLAIN MANAGEMENT REGULATIONS:

1. Applicability: Every municipality with an identified flood hazard area.

2. General Requirements: Each identified municipality is required to adopt flood plain management regulations which, at a minimum, comply with the requirements of the NFIP, the Pennsylvania Flood Plain Management Act, and DCA's flood plain management regulations.

3. Submission Requirements:

a. Municipal flood plain management regulations must minimally apply to construction and development activities within areas subject to the 100-year flood, including:

- completely new buildings or structures;
- substantial improvements to existing buildings or structures; and
- any man-made change to improved or unimproved real estate, including such activities as filling, grading, paving, excavating, mining, dredging, or drilling operations.

b. Municipal regulations and amendments must comply with the Federal Emergency Management Agency (FEMA) requirements of the NFIP.

4. Compliance Procedure:

a. A municipality is formally notified by FEMA when it has been identified as having an area or areas subject to flooding. Within 6 months of the date of notification, an identified municipality must:

- gain eligibility to participate in the NFIP;

- submit 1 copy of its required adopted regulations to FEMA; and
- submit 2 copies of these regulations to the appropriate regional office of the DCA.

b. Within 30 days, the DCA, in consultation with the DER, reviews these regulations and notifies each municipality and the appropriate county planning commission of its approval or disapproval.

c. When the DCA receives notification from FEMA that FEMA has approved the regulations for a municipality, the DCA notifies the appropriate county planning commission.

d. If a municipality loses its eligibility to participate in the NFIP for any reason, it is required to regain such eligibility from FEMA within 90 days.

e. A municipality must notify the DCA within 30 days of any changes or amendments in its regulations.

f. The flood plain management plans, programs, and activities undertaken by individual municipalities within a watershed must be coordinated and compatible with the needs and circumstances of the watershed generally, and with any flood plain management or storm water management plan which has been adopted by any group of municipalities, the county affected, or the river basin commission.

g. All identified municipalities must submit an annual report to the appropriate regional office of the DCA, providing information as specified by the DCA.

5. Enforcement:

a. If the DCA finds that a municipality has failed to comply with the Act or any adopted regulations pursuant thereto, the DCA notifies the municipality, stating the nature of the violation and what the municipality must do in order to correct the violation. Within 60 days, the municipality must report to the DCA actions that are being taken to comply with the requirements or regulations.

b. If the municipality fails to comply with such requirements or regulations within 180 days, the DCA notifies the State Treasurer, who will hold in escrow all funds payable to the municipality.

6. Appeals: Any person or municipality aggrieved by any action of the DCA has the right to appeal such action and request a hearing within 30 days in accordance with the Administrative Agency Law (2 Pa. C.S. 501 through 508 and 701 through 704).

7. Special Notes: Section 404 of the Act (32 P.S. 679.404) authorizes the DCA to administer grants and reimbursements to municipalities to assist or reimburse them for costs incurred in complying with the requirements of the Act. Such reimbursements and grants are available from the DCA in accordance with Section 38.11 of the Flood Plain Management Regulations.

D. ADMINISTERING AGENCY: Division of Flood Plain Management
Bureau of Community Planning
Department of Community Affairs
551 Forum Building
Harrisburg, PA 17120
(717) 787-7400

CHAPTER 4.4

DAM AND WATER OBSTRUCTIONS MANAGEMENT

INTRODUCTION: The Dam Safety and Encroachments Act (1978) was enacted to "provide for the regulation of dams and reservoirs, water obstructions, and encroachments in the Commonwealth, in order to protect the health, safety, and welfare of the people and property." Under the Act, the Department of Environmental Resources (DER) is given the responsibility and authority to adopt regulations and standards necessary to carry out the purposes of the Act.

The DER's dam safety and waterway management regulations require a permit to construct, operate, or abandon any dam, water obstruction, or encroachment. General permits may be issued for a category of dam, water obstruction, or encroachment if the projects in such category are similar in nature and can be adequately regulated using standardized specifications and conditions.

A. NAMES OF PERMITS:

1. Water Obstruction Permit
2. General Water Obstructions Permit

B. AUTHORIZING STATUTE: Dam Safety and Encroachments Act, 1978 (32 P.S. 693.1 through 693.27)

C. TITLE OF REGULATION:

Title 25. Rules and Regulations
Part I. Department of Environmental Resources
Subpart C. Protection of Natural Resources
Article II. Water Resources
Chapter 105. Dam Safety and Waterway Management

D. SUMMARY OF WATER OBSTRUCTIONS PERMIT PROCESS:

1. **Applicability:** Construction, operation, maintenance, modification, enlargement, or abandonment of any dam, water obstruction, or encroachment. (Exemptions are listed in Section 7 of the Act and 105.12 of the regulations.)

2. **General Requirements:** Prior to starting a regulated activity, all persons must apply for and obtain a permit from the DER.

3. Submission Requirements:

a. Applications for permits must be submitted in writing to the DER. Every application must be accompanied by the information, maps, plans, specifications, design analyses, test reports, and other data specifically required in Chapter 105. Additional information may also be required by the DER to determine compliance with Chapter 105.

b. Applications for certain projects, including large and "high hazard" classification dams, reservoirs for storage of potentially polluting fluids, and facilities located in wild and scenic river areas must be accompanied by an "environmental assessment" checklist form provided by the DER. Also, applications for activities or projects that may present a substantial potential risk to life or property must be accompanied by proof of financial responsibility or security.

4. Procedure for Obtaining a Permit: On receipt of a completed application, the DER publishes a notice in the Pennsylvania Bulletin. Incomplete applications are returned to the applicant, who must then complete and resubmit the application within 60 days. The DER issues a permit if the proposed project or activity is in compliance with the standards and criteria of Chapter 105, if it adequately protects public health and safety and the environment, and if it is consistent with environmental rights and values of the Commonwealth. Upon issuance of a permit, the DER publishes a notice in the Pennsylvania Bulletin. When applicable, other State documents must also be obtained for easements, rights-of-way, licenses, or leases.

5. Permittee Requirements:

a. The permittee is required to notify the DER 5 days prior to commencing work and to submit reports as the DER deems necessary on the status of construction.

b. The permittee or owner of any dam, water obstruction, or encroachment must:

- operate and maintain the facility at all times to safeguard life, health, and safety of people and property located above or below the facility;
- evaluate the safety of the facility and modify the facility to ensure its safety for changed conditions and current safety criteria, regardless of whether it was or was not previously permitted by the DER;
- install monitoring systems as required by the DER;

- correct unsafe conditions as they arise;
- comply with plans for emergency procedures as required by the DER; and
- comply with plans for erosion and sedimentation control; both during and after construction.

c. The DER sets time limits for the commencement and completion of work pursuant to any permit issued. If the work is not completed by the specified date, the permit becomes null and void.

6. Fees: Vary from \$50 to \$200 depending upon the hazard and size classification of any dam, obstruction, or encroachment.

7. Appeals: Any person aggrieved by a decision of the DER may, within 30 days of publication of the DER action in the Pennsylvania Bulletin, appeal such decision to the Environmental Hearing Board within the DER.

E. SUMMARY OF GENERAL WATER OBSTRUCTION PERMIT PROCESS:

1. Applicability: Any category of dam, water obstruction, or encroachment, if the DER determines that:

- the projects in such category are similar in nature;
- the projects in such category can be adequately regulated using standard specifications and conditions; and
- the projects in such category, and meeting such specifications and conditions, comply with the requirements for permit issuance set forth in Chapter 105 (Sections 105.14, 105.15, 105.16, 105.17, and 105.21) and the standards and requirements for design, construction, operation, maintenance, and monitoring set forth in Chapter 105.

2. General Requirements: When the DER issues a general permit on either a regional or statewide basis, persons who intend to construct, operate, maintain, modify, enlarge, or abandon a dam, water obstruction, or encroachment in accordance with the specifications and conditions of the general permit may do so without filing an individual application for, and first obtaining, an individual permit.

3. **Submission Requirements:** The DER requires the registration of any project constructed, operated, maintained, modified, or enlarged pursuant to a general permit, within a specified time limit set forth in the general permit governing each category of dam, water obstruction, or encroachment.

4. **Procedure for Obtaining a Permit:** Any person who desires to use a general permit for a proposed project should consult with the DER to determine whether the general permit applies to the specific project. The applicant must then submit a registration statement for the proposed project.

5. **Notice and Hearing Requirements:**

a. At least 60 days prior to the issuance of a general permit, the DER:

- publishes notice in the Pennsylvania Bulletin of its intent to issue a general permit, including the text of the proposed general permit and locations for obtaining standardized plans; and
- provides written notice of the proposed general permit to the U.S. Army Corps of Engineers, U.S. Coast Guard, U.S. Fish and Wildlife Service, U.S. Environmental Protection Agency, Pennsylvania Fish Commission, Pennsylvania Game Commission, applicable river basin commissions created by interstate compact, the Navigation Commission for the Delaware River (if applicable), all county agencies holding delegations pursuant to Section 4 of Chapter 105, and any other interested Federal, State, or interstate agency.

b. An opportunity is provided for all interested parties to submit comments on a proposed general permit.

c. The DER may, at its discretion, hold a public hearing on any proposed general permit for the purposes of gathering information and comments.

d. All general permits issued by the DER will be published in the Pennsylvania Bulletin at least 30 days prior to the effective date of the permits.

6. **Permittee Requirements:** In issuing a general permit, the DER may waive certain requirements as applied to a particular category of dams, water obstructions, or encroachments covered by the general permit. All other conditions and requirements governing the construction, operation, maintenance, inspection, and monitoring covered by the general permit to ensure compliance with the Act and regulations are applicable.

7. Appeals: Any person aggrieved by a decision of the DER may, within 30 days of publication of the DER action in the Pennsylvania Bulletin, appeal such decision to the Environmental Hearing Board within the DER.

F. ADMINISTERING AGENCY: Division of Obstructions and
Flood Plain Management
Bureau of Dams and Waterway
Management
Department of Environmental Resources
P. O. Box 2357
Harrisburg, PA 17120
(717) 783-1384 .

CHAPTER 4.5

BLUFF RECESSION AND SETBACK REGULATIONS

INTRODUCTION: The Bluff Recession and Setback Act was enacted to limit property damage and shoreline erosion in bluff recession hazard areas, to encourage planning and development in bluff areas consistent with sound land use practices, and to authorize a comprehensive and coordinated program to regulate development activities through the use of setback ordinances in bluff recession hazard areas. Powers and duties to implement the Act are divided between affected municipalities and the Department of Environmental Resources (DER). Regulations specify the method of designating hazard areas and minimum standards and requirements for local ordinances and regulations.

A. AUTHORIZING STATUTE: Bluff Recession and Setback Act, 1980 (32. P.S. 5205 through 5215)

B. TITLE OF REGULATION:

Title 25. Rules and Regulations
Part I. Department of Environmental Resources
Subpart C. Protection of Natural Resources
Article I. Land Resources
Chapter 85. Bluff Recession and Setback

C. SUMMARY OF REGULATION:

1. **Applicability:** Construction, installation, or improvement of any structure or utility facility within the minimum bluff setback distances established by the DER.

2. **General Requirements:**

a. No person may start a regulated activity without either being granted a variance from the DER or without receiving a permit or approval from the municipality designated as having the bluff recession hazard area.

b. Municipalities designated as bluff recession hazard areas by the DER must adopt and implement a bluff setback ordinance and regulations and submit them to the DER for approval.

3. Procedure for DER Designation of Areas with Bluff Recession Hazards:

a. The DER will conduct studies necessary to identify bluff recession hazard areas. Through these studies, the DER will identify the geographic location of the potential hazard area; define and evaluate the bluff recession hazard in relation to geophysical processes, such as recession and erosion-related phenomena, and examine the causative factors; review and evaluate existing and potential damage to property and structures caused by progressive bluff recession; develop a recession rate based on historical evidence; and develop conclusions and recommendations based on the findings of the studies.

b. Following completion of a study, the DER will notify the governing body of the municipality if it has been tentatively identified as possessing a bluff recession hazard area. Municipalities may submit written comments concerning this tentative designation to the DER within 60 days.

c. The DER will then prepare a formal request to the Environmental Quality Board to formally designate the municipality's bluff recession hazard area and establish bluff setback distances.

d. The Environmental Quality Board will then give public notice and hold public hearings on the request. Following the hearings, the DER reviews all comments received and makes appropriate revisions to the request. Upon the approval of the request by the Environmental Quality Board, the DER will notify the municipality that it must comply with the Act and regulations within 6 months.

4. Requirements for Contents of Municipal Ordinances and Regulations: The ordinance and regulations submitted by a municipality to the DER must include a minimum setback distance for each class of structure; a mechanism for permitting all proposed construction, installation, or substantial improvement of structures or utility facilities in designated bluff recession hazard areas; a procedure for monitoring substantial improvements; a procedure for granting a variance to the ordinance and regulations in accordance with DER standards and requirements; a procedure to amend the ordinance; an administrative procedure for maintaining records of all correspondence, applications for permits, and issuance and denial of permits; and a provision by which the municipality will alert all permit applicants, when permits are granted, that the bluff setback requirements are, at best, a minimum distance and that there is no guarantee that a structure located in a bluff recession hazard area will not be endangered by bluff recession within its useful life span.

5. Procedure for Review and Approval of Municipal Ordinances and Regulations: A municipality must submit a copy of the existing, amended, or new ordinance and regulations along with comments on how the proposed ordinance and regulations meet the DER's requirements. The DER will review the proposal within 90 days of submission. If the proposal fails to meet the requirements, it is returned to the municipality for correction and resubmission within 30 days.

6. Bluff Recession Hazard Areas Setback Requirements: The DER will develop minimum bluff setback distances for each municipality tentatively designated as having a bluff recession hazard area by applying the following formula:

$$\begin{array}{rcl} \text{Rate of} & & \text{Appropriate Life} \\ \text{Recession} & \times & \text{Span of Structure} \\ & & = \text{Minimum Bluff} \\ & & \text{Setback Distance} \end{array}$$

The rate of bluff recession is the average annual rate of recession for all the municipalities' bluff, as calculated by the DER. The appropriate life span of structures is 50 years for residential homes, 75 years for commercial structures, and 100 years for light and heavy industrial structures. Regardless of the formula used, in no case will the minimum bluff setback distance be less than 50 feet.

7. Appeals: Any person or municipality aggrieved by a decision of the DER may, within 30 days of publication of the DER action in the Pennsylvania Bulletin, appeal such decision to the Environmental Hearing Board within the DER.

D. ADMINISTERING AGENCY: Coastal Zone Management Office
Office of Resource Management
Department of Environmental Resources
P.O. Box 1467
Harrisburg, PA 17120
(717) 783-9500

CHAPTER 4.6

WATER RESOURCES MANAGEMENT

4.6.1 GROUNDWATER

INTRODUCTION: The Water Well Drillers License Act (1956) was enacted to ensure that groundwater resources in the Commonwealth are developed in an orderly and reasonable manner, without waste, and to maintain sufficient supplies of groundwater for continued population growth and industrial development.

The Department of Environmental Resources (DER) issues licenses and rig permits to water well drillers in compliance with the provisions of the Act.

- A. NAME OF PERMIT: Water Well Driller's License and Rig Permit
- B. AUTHORIZING STATUTE: Water Well Drillers License Act, 1956 (32 P.S. 645.12)

C. TITLE OF REGULATION:

Title 25. Rules and Regulations
Part I. Department of Environmental Resources
Subpart C. Protection of Natural Resources
Article II. Water Resources
Chapter 107. Drilling Water Wells

D. SUMMARY OF PERMIT PROCESS:

1. Applicability: The drilling of a well for water, except drilling by farmers on land owned or leased by them for farming purposes or drilling by a person on land owned or leased by him for his own residence.
2. General Requirements: Prior to drilling a water well, all persons must obtain a water well driller's license and rig permit. Both must be renewed annually.
3. Submission Requirements: Applications must be submitted on standard forms provided by the DER, and must contain a statement showing the name of the applicant or business, the business address of the applicant, the number of drilling rigs the applicant intends to operate during the license year, and a short description of each rig. Required fees must accompany the application. The DER may also require additional information as it deems necessary.

4. Procedure for Obtaining a License and Rig Permit:

a. Applicants must mail an application and fee for a license and rig permit to the DER Bureau of Topographic and Geologic Survey. The license and rig permit is issued by the Bureau on receipt of a properly completed application and the proper fee. All license and rig permits expire and must be renewed on the last day of May following the date of issue.

b. Prior to acquiring or activating a drilling rig for which the license year fee has not been paid, all licensees must, within 24 hours of making a contract to drill a well, file an Intention to Drill form with the DER. This notice of intent must be accompanied by the license and rig permit fee. On receipt of the notice and fee, the DER will issue the license and rig permit. The DER may require that samples of cuttings be saved for study and will so inform the driller. The DER will supply containers for the samples. After a license and rig permit are issued, notice of the DER action is published in the Pennsylvania Bulletin.

5. Operation Requirements:

a. Licensees must display their driller's license at their principal place of business. Persons in charge of each drilling rig must have the rig permit in their possession when they are engaged in drilling.

b. Licensees must keep a record of each well on a Water Well Completion Report, Form ER-TGS-15, supplied by the DER and must retain such well records for at least 10 years, available to the DER on request. On completion of each well, the driller must submit 1 copy of the record to the DER and 1 copy to the well owner.

c. The DER may periodically make inspections and take tests on a well.

d. When a well is to be abandoned, a notice of intent to abandon must be sent to the DER at least 10 days before the well is sealed or filled.

6. Fees: Basic fee: \$8 (minimum). This includes the first rig permit. A fee of \$5 is required for each additional rig permit.

7. Appeals: Persons aggrieved by a decision of the DER may, within 30 days of publication of the DER action in the Pennsylvania Bulletin, appeal such decision to the Environmental Hearing Board within the DER.

E. ADMINISTERING AGENCY: Bureau of Topographic and Geologic
Survey
Department of Environmental Resources
P.O. Box 2357
Harrisburg, PA 17120
(717) 787-2169

4.6.2 SURFACE WATER

INTRODUCTION: The 1939 Water Rights Act was enacted to ensure the control and equitable use of all surface waters within Pennsylvania. In accordance with the provisions of the Act, all public water suppliers must obtain a water allocation permit from the Department of Environmental Resources (DER) to acquire new water rights, to acquire a new source of water supply, and/or to acquire an additional quantity of water or water rights from an existing source of water supply.

A. NAME OF PERMIT: Water Allocation Permit

B. AUTHORIZING STATUTE: 1939 Water Rights Act (32 P.S. 631.41 et seq.)

C. TITLE OF REGULATION: No regulations have been adopted pursuant to the Act. Regulatory requirements and permitting procedures are specified in the Act.

D. SUMMARY OF PERMIT PROCESS:

1. Applicability: The taking or increase in taking of water from all rivers, streams, lakes, ponds, and other surface waters; the purchase of bulk water from a public water supplier having a water allocation permit.

2. General Requirements: Prior to starting a regulated activity, all public water supply agencies must obtain a water allocation permit from the DER. (A public water supply agency is defined as: "...any corporation, or any municipal or quasi-municipal corporation, district, or authority... vested with the power, authority, right, or franchise to supply water to the public in all or part of any municipal or political subdivision of the Commonwealth of Pennsylvania.")

3. Submission Requirements:

a. Applications for permits must be made on Form ER-BWQ-86 provided by the DER and include all information requested on the form.

b. In addition to the application, applicants must submit:

- a map and report showing and describing the locations of the present and proposed sources of supply and the plan of development showing the location and capacities of impounding dams and reservoirs;
- information on the disposal of the water, listing the name, location, degree of treatment, and point of discharge for the sewage treatment plants serving the area served by the public water supply agency; and

- information on the water supply agency's current and future conservation and leak detection programs.

4. Procedure for Obtaining a Permit:

a. The completed application, all required substantive data, and the required permit fee must be submitted to the DER Bureau of Resources Programming (BRP), Division of Comprehensive Resources Programming, Water Allocation Section.

b. On receipt of a completed application, the owner will be notified by the Division of Comprehensive Resources Programming that the application was received and is being reviewed and evaluated.

c. The Division will assign the application an identification number and announce the receipt of the application in the Pennsylvania Bulletin. Written protests to the approval of an application may be filed within 15 days of the publication date.

d. The Water Allocation Section reviews the substantive data and information accompanying the application to ensure that the application meets the requirements of Section 7 of the Water Rights Act.

e. Notice of the submission of the application and copies of the substantive data are provided to various bureaus within the DER, appropriate basin and planning commissions, the Fish Commission, appropriate Federal agencies, and other appropriate agencies and downstream users for review, evaluation, and comment.

f. The Water Allocation Section makes a detailed review and evaluation of all substantive data and information, all evaluations, suggestions, or comments made by other agencies or water users, and the results of any private or public meetings or hearings which may be held on the application. The Water Allocation Section will then make a determination and recommendation on the application.

g. The determination and recommendation of the Water Allocation Section is reviewed by the Division of Comprehensive Resources Programming which makes a determination and recommendation on the application.

h. The determination and recommendation of the Division of Comprehensive Resources Programming is reviewed by the BRP.

i. The Deputy Secretary for Resources Management will issue a permit upon the concurrence of the BRP with the determination and recommendation of the Division of Comprehensive Resources Programming and upon the finding that:

- the proposed acquisition is reasonably necessary for present and future needs;
- the proposed acquisition will not conflict with rights held by other water supply agencies; and
- the proposed acquisition will not interfere with navigation, will not jeopardize public safety, and will not cause substantial injury to the Commonwealth.

5. Notice and Hearing Requirements: After publication in the Pennsylvania Bulletin of the notice of receiving the application, if considerable objections are raised to the application, a hearing will be held. If substantial issues are raised at the hearing, it may be necessary to return the proposal to the Water Allocation Section to initiate a re-evaluation of the application. After the permit is issued, notice of the DER action is published in the Pennsylvania Bulletin.

6. Permittee Requirements:

a. The permittee must actually take and use the water or water rights for which the permit is issued within a period of 4 years.

b. The permittee must file proof of the method and extent of its acquisition with the DER within 12 months of the date of permit issuance.

c. The permittee must begin the construction of the works necessary for the development of the supply of water allocated under the permit within 2 years and complete such construction within 2 years thereafter.

d. The permittee must also:

- record daily withdrawals from each surface source;
- establish and/or continue a conservation and leak detection program;
- develop a contingency plan for periods of severe drought or other emergencies;

- provide for a conservation release from impounding reservoirs to protect instream needs and downstream users, if required;
- limit withdrawal from rivers, streams, or other surface sources to periods when flows are in excess of a specified quantity of flow, if required; and
- provide storage and subsequent possible releases for make-up of consumptive use within the water supplier's system during periods of low stream flow, if required.

7. Fees: Permit application fee: \$25.

8. Appeals: Any person aggrieved by a decision of the DER may, within 30 days of publication of the DER action in the Pennsylvania Bulletin, appeal such decision to the Environmental Hearing Board within the DER.

9. Special Notes: On June 1, 1981, Governor Dick Thornburgh proposed comprehensive legislation to reform Pennsylvania's water resources management laws. Under the proposed legislation, the 1939 Water Rights Act would be recodified and updated to permit better water supply management. The extent of this legislative revision is not known at this time.

E. ADMINISTERING AGENCY: Bureau of Resources Programming
Department of Environmental Resources
P.O. Box 1467
Harrisburg, PA 17120
(717) 787-6750

CHAPTER 4.7

EROSION CONTROL

INTRODUCTION: The purpose of the erosion control regulations adopted pursuant to the Pennsylvania Clean Streams Law is to control accelerated erosion and the resulting sedimentation of the waters of the Commonwealth, thereby preventing the pollution of such waters from sediment and from fertilizers, pesticides, and other polluting substances carried by sediment.

The regulations impose requirements on earthmoving activities which may cause accelerated erosion and which, therefore, require the planning and implementation of effective soil conservation measures. All persons planning to engage in earthmoving activities must adopt and implement an erosion and sedimentation control plan, which is subject to approval by the Department of Environmental Resources (DER). In some cases a permit must be obtained from the DER.

A. **NAME OF PERMIT:** Erosion and Sedimentation Permit

B. **AUTHORIZING STATUTE:** Clean Streams Law (35 P.S. 691.5 and 691.402)

C. **TITLE OF REGULATION:**

Title 25. Rules and Regulations
Part I. Department of Environmental Resources
Article II. Water Resources
Chapter 102. Erosion Control

D. **SUMMARY OF PERMIT PROCESS:**

1. **Applicability:** Any earthmoving activity EXCEPT when:

- the earthmoving activity involves plowing or tilling for agricultural purposes;
- erosion and sedimentation control is covered under another permit issued by the DER for the proposed activity;
- the earthmoving activity disturbs less than 25 acres;
or
- the earthmoving activity involves more than 25 acres subdivided into parcels of less than 25 acres and earthmoving is undertaken on non-contiguous parcels and the parcels are stabilized before contiguous parcels are disturbed.

2. General Requirements:

a. Prior to starting a regulated activity, all persons must receive a permit from the DER.

b. Any person undertaking an activity that is exempt from permit requirements must comply with all other provisions of the erosion control regulations for the adoption and implementation of an erosion and sedimentation control plan.

3. Submission Requirements:

a. Applications for permits must be submitted to the DER and must be accompanied by an erosion and sedimentation control plan, other documents the DER may require, and the application processing fee.

b. The erosion and sedimentation control plan must be prepared by a person trained and experienced in erosion and sedimentation control techniques. The plan must be designed to prevent accelerated erosion and sedimentation, and include, at a minimum, the following factors:

- the topographic features of the project area;
- the types, depth, slope, and areal extent of the soils;
- the proposed alteration of the area;
- the amount of runoff from the project area and the upstream watershed area;
- the staging of earthmoving activities;
- temporary control measures and facilities for use during earthmoving;
- permanent control measures and facilities for long-term protection; and
- a maintenance program for the control facilities, including plans for disposal of materials removed from the control facilities or project area.

4. Procedure for Obtaining a Permit: Applications must be submitted to the DER Bureau of Soil and Water Conservation by the person or municipality undertaking the activity. On receipt of a completed application, the Bureau approves, approves with conditions, or denies the application within 60 days. After a permit decision is made, notice of the DER action is published in the Pennsylvania Bulletin.

5. **Permittee Requirements:** All earthmoving activities must be conducted in compliance with the approved erosion and sedimentation control plan, with standards and requirements specified in the regulations for erosion and sedimentation control methods and facilities, and with all standards and requirements for the final restoration of the project area.

6. **Fees:** Processing fee: \$200.

7. **Appeals:** Any person aggrieved by a decision of the DER may, within 30 days of publication of the DER action in the Pennsylvania Bulletin, appeal such decision to the Environmental Hearing Board within the DER.

8. **Special Notes:**

a. The DER may, at its discretion, delegate the administration and enforcement of the provisions of these regulations to counties and other units of local government, provided that the county or other local government unit has and implements an acceptable plan approved by the DER for administering an erosion and sedimentation control program.

b. Any local governing body which issues building permits must notify the DER immediately on receiving an application for a building permit involving an earthmoving activity which affects 5 acres or more of land.

c. A local governing body may not issue a building permit to anyone proposing to engage in earthmoving activities that require a DER permit until the DER has issued its permit.

E. **ADMINISTERING AGENCY:** Bureau of Soil and Water Conservation
Department of Environmental Resources
P.O. Box 2357
Harrisburg, PA 17120
(717) 787-5267

SECTION 5.0
ENVIRONMENTAL QUALITY MANAGEMENT

CHAPTER 5.1

AIR QUALITY

INTRODUCTION: The Pennsylvania Air Pollution Control Act was enacted to implement the Federal Clean Air Act of 1970, the Clean Air Act Amendments, and to protect the air resources of the Commonwealth.

The air quality regulations require the prior approval of the Department of Environmental Resources (DER) before the construction, modification, or reactivation of any air contaminant source, as well as a permit for operation of such sources.

Under its State Implementation Plan (SIP), Pennsylvania has set the date of December 31, 1982 to meet Primary National Ambient Air Quality Standards and December 31, 1987 as the date to meet secondary standards.

A. NAMES OF PERMITS:

1. Air Quality Plan Approval
2. Air Quality Temporary Operating Permit
3. Air Quality Operating Permit

B. **AUTHORIZING STATUTE:** Air Pollution Control Act, 1972 (35 P.S. 4005)

C. TITLE OF REGULATION:

Title 25. Rules and Regulations
Part I. Department of Environmental Resources
Subpart C. Protection of Natural Resources
Article III. Air Resources
Chapter 121. General Provisions
Chapter 122. National Standards of Performance for New Stationary Sources
Chapter 123. Standards for Contaminants
Chapter 124. National Emissions Standards for Hazardous Air Pollutants
Chapter 127. Construction, Modification, Reactivation, and Operation of Sources
Chapter 129. Standards for Sources
Chapter 131. Ambient Air Quality Standards
Chapter 135. Air Pollution Episodes
Chapter 139. Sampling and Testing

D. SUMMARY OF PERMIT PROCESS:

1. **Applicability:** The construction, modification, or reactivation of any air contamination source not determined to be of minor significance by the DER.

2. **General Requirements:** An air quality plan approval is required prior to the construction, modification, or reactivation (after a nonoperational period of 1 year or more) of any regulated air contamination source. An air quality operating permit is required to operate any regulated air contamination source.

3. **Submission Requirements:** Applications for an air quality plan approval and/or for an air quality operating permit must demonstrate compliance with regulatory requirements and standards and contain information requested by the DER to enable it to make a thorough evaluation of the air contamination aspects of the source.

4. **Procedure for Obtaining a Plan Approval and an Operating Permit:** An air quality plan approval must be submitted to the DER before the applicant begins construction. Applications for operating permits must be submitted to the DER after construction is completed and may be obtained 1 month after the source is constructed. When the DER feels that lengthy testing and debugging operations may be necessary, it may issue a temporary operating permit (valid for 120 days) pending the issuance of an operating permit. After a permit decision is made, the DER action is published in the Pennsylvania Bulletin.

5. **Operation Requirements:**

a. Before a permit expires, a new permit or extension of the current permit must be obtained to continue the operation of the source. Operating permits must be renewed annually. All sources must be operated and maintained with standard air pollution control practices and in compliance with regulatory requirements.

b. Owners/operators of sources of air pollutants, except for those specifically exempted, must file source reports with the DER.

c. Air quality monitoring facilities and pollution alert warning systems must be installed to prevent air pollution episodes which create human health emergencies.

d. If the DER does not do testing to assess emissions from stationary sources on ambient levels of air contaminants, the owner/operator must do the required sampling and testing in accordance with DER standards.

6. Fees: Presently, there are no permit fees. However, the DER may require the payment of a fee not to exceed \$200 for the processing of any application.

7. Appeals: Any person aggrieved by a decision of the DER may, within 30 days of publication of the DER action in the Pennsylvania Bulletin, appeal such decision to the Environmental Hearing Board within the DER.

E. SUMMARY OF AIR EMISSIONS STANDARDS:

1. Air Basins: Certain geographical areas have been defined as air basins. They are governed by more stringent regulations because of the likelihood of negative impacts from meteorological inversions. (See Chapter 121 of the regulations)

2. Standards of Performance: The National Standards of Performance for New Stationary Sources have been adopted in Pennsylvania. (See Chapter 122 of the regulations)

3. Standards for Contaminants: Standards for various sources of fugitive dust, particulate matter, sulfur compounds, odor, and visible emissions are specified in the regulations. (See Chapter 123 of the regulations)

4. Emission Standards for Hazardous Pollutants: The National Emissions Standards for Hazardous Air Pollutants promulgated by the U.S. EPA under the Clean Air Act have been adopted in Pennsylvania. (See Chapter 124 of the regulations)

5. Standards for Sources: Standards for sources of volatile organic compounds, atmospheric discharges from certain chemical plants, and restrictions on open burning are specified in the regulations. (See Chapter 129 of the regulations)

6. Ambient Air Quality Standards: The National Ambient Air Quality Standards have been incorporated with the Commonwealth Ambient Air Quality Standards. These standards represent the maximum permissible concentrations of air contaminants, and are used in judging air quality to determine what controls are necessary. (See Chapter 131 of the regulations)

F. ADMINISTERING AGENCY: Bureau of Air Quality Control
Department of Environmental Resources
Fulton Bank Building, 18th Floor
200 North 3rd Street
Harrisburg, PA 17120
(717) 787-9702

CHAPTER 5.2

WATER QUALITY STANDARDS AND REGULATIONS

INTRODUCTION: The Clean Streams Law was enacted to preserve and improve the purity of the waters of the Commonwealth. The Law states that "the discharge of sewage and industrial wastes is not a natural use" of Pennsylvania's waters, is against public policy, and is a public nuisance.

Generally, the water quality permitting process is a 2-step process. Part I establishes the Federal National Pollutant Discharge Elimination System (NPDES) permit and sets discharge limitations. Part II requires a state water quality approval permit for the construction and operation of facilities. NPDES permits are issued by the Department of Environmental Resources (DER), as are construction and operation permits.

Water quality standards have been set by the DER based upon water uses which are to be protected. The DER regulates discharges as necessary to protect these specified water uses.

A. NAMES OF PERMITS:

1. National Pollutant Discharge Elimination System (NPDES) Permit
2. DER Water Quality Permit for Construction and Operation of Facilities

B. AUTHORIZING STATUTE: Clean Streams Law of Pennsylvania (35 P.S. 691.5)

C. TITLE OF REGULATION:

Title 25. Rules and Regulations
Part I. Department of Environmental Resources
Subpart C. Protection of Natural Resources
Article II. Water Resources
Chapter 91. General Provisions
Chapter 92. National Pollutant Discharge Elimination System
Chapter 93. Water Quality Standards
Chapter 95. Wastewater Treatment Requirements
Chapter 101. Special Water Pollution Regulations

D. SUMMARY OF NPDES PERMIT PROCESS:

1. **Applicability:** NPDES permits are required for all discharges into navigable waters of the Commonwealth. Navigable waters are defined as "all surface streams in the Commonwealth, lakes connected thereto, Lake Erie, and the Delaware Estuary."

2. General Requirements:

a. All persons must obtain an NPDES permit from the DER before beginning to discharge pollutants into navigable waters of the Commonwealth.

b. Either a new permit or a permit modification is required before discharging a new substance or an increased amount of a previously approved discharge that violates effluent limitations in a current NPDES permit.

3. **Submission Requirements:** NPDES applications must be made on forms supplied by the DER and approved for use by the U.S. EPA Regional Administrator. The applications request information concerning the type, amount, and location of the proposed discharge. Additional forms, sample modules, and other applications as specified by the DER must be included as part of the NPDES application.

4. **Procedure for Obtaining a Permit:** Persons wishing to discharge pollutants must file 4 copies of a complete NPDES application at least 180 days prior to the date on which they plan to commence the discharge of pollutants. The DER will not process an incomplete application. The DER issues a permit upon the finding that the proposed discharge is in compliance with applicable Federal and State standards and requirements specified in Chapter 92 of the regulations. After a permit decision is made, notice of the DER action is published in the Pennsylvania Bulletin.

5. **Permittee Requirements:** Any process modification which results in an increased discharge of pollutants must be reported to the DER Bureau of Water Quality Management. The permittee is required to adhere to all monitoring and record-keeping requirements specified by the DER. All NPDES permits have a fixed life not to exceed 5 years. NPDES permits can, however, be renewed.

6. Fees:

a. NPDES sewerage applications: \$500 (NPDES sewerage applications for single residence sewerage treatment plants require no fee).

b. NPDES industrial waste applications: \$500 (except for mining operations).

c. NPDES industrial waste applications for mining operations: \$250.

d. All other NPDES permit applications: \$500.

7. Appeals: Any person aggrieved by a decision of the DER may, within 30 days of publication of the DER action in the Pennsylvania Bulletin, appeal such decision to the Environmental Hearing Board within the DER.

8. Special Notes: Chapter 92, Section 6 of the regulations clarifies the proper procedure to be taken regarding NPDES permits issued by the EPA Regional Administrator before the Pennsylvania NPDES program was officially adopted. The DER accepts NPDES permits issued by the Regional Administrator before NPDES adoption. Acceptance of an NPDES permit, however, does not supersede any permit previously issued under the Clean Streams Law. All provisions of both permits remain in force. In the event of a conflict between the provisions of the Clean Streams Law permit and an NPDES permit applicable to the same discharge, the more stringent provision applies.

E. SUMMARY OF CONSTRUCTION AND OPERATION PERMIT PROCESS:

1. Applicability: Any project or facility which discharges pollutants into the waters of the Commonwealth. This regulation applies to both navigable and other waters.

2. General Requirements: Persons wishing to construct or operate any project or facility must obtain a DER permit to do so.

3. Submission Requirements: Applications must be made on forms supplied by the DER and must include an engineer's report as well as plans and specifications showing clearly what is proposed. The bases of design must be thoroughly understandable so that they may be checked by the DER.

4. Procedure for Obtaining a Permit: Prior to the construction or operation of projects, applications must be submitted in triplicate to the DER through the regional water quality manager in whose region the project will be located. Upon the finding that the proposed project will comply with all applicable standards and requirements, the DER will issue a permit. After a permit decision is made, notice of the DER action is published in the Pennsylvania Bulletin.

5. Construction and Operation Requirements: Construction and/or operation must commence within the time period specified in the permit. Monthly operating reports must be submitted to the DER. All projects must conform to a comprehensive program of water quality management and pollution control.

6. Fees:

- a. Applications for single residence sewage treatment plants: \$25.
- b. Applications for sewer extension permits: \$100.
- c. All other water quality management permits: \$500.

7. Appeals: Any party aggrieved by a decision of the DER may, within 30 days of publication of the DER action in the Pennsylvania Bulletin, appeal such decision to the Environmental Hearing Board within the DER.

8. Special Notes: Standards for withholding a permit and for granting conditional approval for operating facilities are included in Chapter 91 of the regulations.

F. WATER QUALITY STANDARDS:

1. Minimum Water Quality Standards: Water quality standards for the waters of the Commonwealth are based on protected uses of water, including aquatic life, water supply, recreation, specially protected high quality or exceptional value waters, and navigation. Minimum water quality standards for all streams and specific criteria for particular streams have been established by the DER and are included in Chapter 93 of the regulations.

2. Wastewater Treatment Requirements: Wastewater treatment requirements are designed to maintain water quality in the Commonwealth. High quality waters must either be protected at their existing quality level or enhanced, unless the proposed discharge is necessary for a development of significant public value and will not interfere with present downstream uses. Minimally, all wastes must be given secondary treatment. Waste load allocations are specified by the DER when criteria for a stream are not being achieved or when the DER determines that such allocations are necessary. Specific requirements for discharges into acid streams, lakes, ponds, and impoundments are also included in Chapter 95 of the regulations.

3. Special Water Pollution Regulations: Chapter 101 of the regulations describes requirements and procedures for the prevention of water pollution incidents and accidents, and specifies actions to be taken in case of such incidents or accidents.

G. ADMINISTERING AGENCY: Bureau of Water Quality Management
Department of Environmental Resources
Fulton Bank Building
200 North 3rd Street
P.O. Box 2063
Harrisburg, PA 17120
(717) 787-8184

CHAPTER 5.3

PUBLIC WATER SUPPLY

INTRODUCTION: The Purity of Waters Act (1905) was enacted to "preserve the purity of the waters of the State, for the protection of the public health." The Act requires operators of water supply facilities to obtain permits in order to safeguard the quality of water for public consumption.

The public water supply regulations implement the 1962 U.S. Public Health Service Drinking Water Standards. The Department of Environmental Resources (DER) is given the responsibility and authority to issue permits to waterworks which supply water to the public.

Pennsylvania has not yet been granted primary jurisdiction over the regulation of public water supplies as allowed by the Federal Safe Drinking Water Act of 1974 (42 U.S.C. 300f).

A. **NAME OF PERMIT:** Water Supply Permit

B. **AUTHORIZING STATUTES:**

1. Purity of Waters Act (1905), as amended (35 P.S. 711 et seq.)
2. Administrative Code of 1929, as amended (71 P.S. 510-18 and 510-20)

C. **TITLE OF REGULATION:**

Title 25. Rules and Regulations
Part I. Department of Environmental Resources
Subpart C. Protection of Natural Resources
Article II. Water Resources
Chapter 109. Waterworks

D. **SUMMARY OF PERMIT PROCESS:**

1. **Applicability:** Construction, addition, alteration, and operation of any waterworks which supplies water to the public.
2. **General Requirements:** Prior to starting a regulated activity, all persons must receive a permit from the DER.

3. Submission Requirements:

a. Applications for permits must be made on forms supplied by the DER and must be accompanied by plans, specifications, modules, engineers' reports, and other data necessary to enable the DER to determine compliance with its standards and requirements. The DER has published a guide for the preparation of applications, reports, and plans for public water supply permits:

Public Water Supply Manual
Publication No. 15 2nd Edition
Bureau of Community Environmental Control
Department of Environmental Resources

b. As applicable, proof of other State approvals must also be obtained and submitted with the application, including approvals from the:

- DER for a permit for allocation of water and change of natural stream conditions;
- Public Utility Commission for a certificate of public convenience; and
- DER for an industrial waste permit.

4. Procedure for Obtaining a Permit:

a. All applications, reports, final plans, and specifications must be submitted in duplicate to the regional Environmental Protection Office of the DER. Applications are reviewed and approved or rejected within 60 days. Construction of facilities may begin upon the issuance of a permit.

b. Upon completion of construction, the permittee must request written approval from the DER for the operation of the facility.

c. An experimental installation may be permitted, but should the development fail to produce results satisfactory to the DER, it must be replaced by a conventional installation. The alternate conventional facilities must be approved at the time of the approval of the experimental facilities.

d. The DER may revoke, suspend, or modify a permit to serve water to the public by written order to the permittee, which will designate the action ordered and the reason for the order.

e. After the permit decision is made, notice of the DER action is published in the Pennsylvania Bulletin.

5. Operation Requirements:

a. The permittee must maintain all units of the water supply in effective operating condition. In the event of a breakdown which may adversely affect the quality or quantity of water, the permittee must immediately notify the DER.

b. All water supplied to the public must meet the physical, chemical, radioactivity, and bacteriological requirements contained in the 1962 edition of the Drinking Water Standards, published by the U.S. Public Health Service.

c. All physical, chemical, and biological analyses of water supplied must be made in the manner and frequency prescribed in the American Public Health Association and the American Water Works Association publication: "Standard Methods for the Examination of Water and Wastewater," and must be made by laboratories certified by the U.S. Environmental Protection Agency.

d. Public drinking water must be disinfected with a disinfectant approved by the DER. Surface water and existing sources used for recreational purposes must be equipped with filtration and disinfection facilities.

e. The quantity of water at the source or sources must be adequate to supply the water demand of the service area, without major additions for the maximum reasonable period in the future.

f. The permittee must keep records of operation and analyses as required by the DER and must submit weekly copies of these records to the DER.

6. Fees: None.

7. Appeals: Any person aggrieved by a decision of the DER may, within 30 days of publication of the DER action in the Pennsylvania Bulletin, appeal such decision to the Environmental Hearing Board within the DER.

E. ADMINISTERING AGENCY: Division of Water Supplies
Bureau of Community Environmental
Control
Department of Environmental Resources
Executive House
P.O. Box 2357
Harrisburg, PA 17120
(717) 783-3795

CHAPTER 5.4

SOLID WASTE MANAGEMENT

INTRODUCTION: The Solid Waste Management Act was enacted to establish and maintain a cooperative State and local program for comprehensive solid waste management. The Act requires permits for the operation of municipal and residual waste processing and disposal systems. The Act also requires municipalities to submit municipal waste management plans for approval by the Department of Environmental Resources (DER).

The solid waste management regulations adopted by the DER require all persons to obtain a permit from the DER to use land as a solid waste processing or disposal area.

A. NAMES OF PERMITS:

1. Solid Waste Processing Permit
2. Solid Waste Disposal Facility Permit

B. AUTHORIZING STATUTE: Solid Waste Management Act, 1980 (35 P.S. 6018.101 through 6018.1103)

C. TITLE OF REGULATION:

Title 25. Rules and Regulations
Part I. Department of Environmental Resources
Subpart C. Protection of Natural Resources
Article I. Land Resources
Chapter 75. Solid Waste Management

D. SUMMARY OF PERMIT PROCESS:

1. **Applicability:** Operation of any municipal or residual solid waste processing or disposal facility.

2. **General Requirements:** All persons must obtain a solid waste permit from the DER prior to using or continuing to use any land as a solid waste processing or disposal area.

3. Submission Requirements:

a. Applications for solid waste permits must be made in 2 stages, Phase I and Phase II. All applications must be prepared by a certified professional engineer.

b. **Phase I:** Applicants must submit information describing the physical aspects of the site on the Phase I Module provided by the the DER. This information must describe in detail the soil, geological, and hydrological features of the site to enable the DER to determine its suitability in relation to its intended use and/or design.

c. Phase II: Applicants must submit design plans and specifications, a description of the waste by source and type of material, a description of the expected life of the facility, and a description of the proposed ultimate disposition of the site to ensure that the proposed facility will comply with all applicable requirements and standards.

4. Procedure for Obtaining a Permit:

a. Applications for permits must be submitted to the DER for approval. Upon notification by the DER of approval of the Phase I portion of the application, the applicant may proceed with Phase II.

b. If the DER finds an application incomplete, it is returned to the applicant, who must supply the additional information within 90 days or within another time period specified by the DER.

c. When the DER has determined that the application is complete, the proposed design meets the requirements of all applicable regulations, and when the applicant has posted all applicable bonds, a permit is issued.

d. County health departments are granted the authority to review and comment on permit applications.

5. Permittee Requirements: A daily written log listing the types and quantities of solid waste handled must be maintained by the site operator. Annual reports must be submitted to the DER. All facilities or areas must be operated in accordance with all applicable standards and requirements specified in Chapter 75 of the regulations and in accordance with any terms and conditions specified in the permit.

6. Notice and Hearing Requirements: On receiving a completed application, the DER publishes notice of the application in the Pennsylvania Bulletin. This publication notifies the general public that an application has been received and is being reviewed by the DER. The public then has the opportunity to submit comments to the DER on the proposed facility and to request a public, informal, fact-finding hearing. These hearings are held at the discretion of the DER, based on the extent and relevance of the concerns and comments received. After permit decision is made, notice of the DER action is published in the Pennsylvania Bulletin.

7. Fees: None.

8. Appeals: Persons aggrieved by a decision of the DER may, within 30 days of publication of the DER action in the Pennsylvania Bulletin, appeal such decision to the Environmental Hearing Board within the DER.

9. Special Notes: In compliance with the DER Environmental Assessment Process, applications for solid waste permits must be accompanied by Module No. 9 containing general environmental, social, and economic information.

E. ADMINISTERING AGENCY: Bureau of Solid Waste Management
Department of Environmental Resources
Fulton Bank Building, 8th Floor
200 North 3rd Street
Harrisburg, PA 17120
(717) 787-9870

CHAPTER 5.5

HAZARDOUS WASTE MANAGEMENT

INTRODUCTION: The purpose of the Solid Waste Management Act (1980) is, in part, to establish the Pennsylvania hazardous waste facilities plan and address the present and future needs for the treatment and disposal of hazardous waste in the Commonwealth.

Generally, the Act requires licenses for the transportation of hazardous waste and permits for hazardous waste storage, treatment, and disposal.

The hazardous waste management regulations were adopted by the Department of Environmental Resources (DER) in 1980 to implement the Solid Waste Management Act and the Federal Resource Conservation and Recovery Act of 1976.

A. NAMES OF PERMITS:

1. Hazardous Waste Processing Permit
2. Hazardous Waste Disposal Permit
3. Hazardous Waste Storage Permit
4. Hazardous Waste Transporter's License

B. AUTHORIZING STATUTE: Solid Waste Management Act, 1980 (35 P.S. 6018.101 through 6018.1003)

C. TITLE OF REGULATION:

Title 25. Rules and Regulations
Part I. Department of Environmental Resources
Subpart C. Protection of Natural Resources
Article I. Land Resources
Chapter 75. Solid Waste Management

D. SUMMARY OF PERMIT PROCESS:

1. **Applicability:** The operation of existing facilities and their modifications; the construction and operation of new storage, treatment, and disposal facilities; and the transportation and generation of hazardous waste.

2. **General Requirements:** Any person who conducts or who proposes to conduct an activity for which a permit or license is required must complete, sign, and submit an application to the Department of Environmental Resources (DER) prior to starting such activity.

3. Submission Requirements:

a. Applications for any permits or licenses must be made on forms supplied by the DER and must be accompanied by such plans, designs, and relevant data as the DER requires in Chapter 75 of the regulations.

b. Applications for permits to own or operate new hazardous waste management facilities must include a report containing a detailed chemical and physical analysis of the waste; a description of the waste; and the process that generates the waste; the location of the facility; a description of the treatment, storage, or disposal methods; an assessment of the impact of the waste on the facility; a detailed description of the proposed facility design, construction, and operation; a form prepared by the DER containing the written consent of the landowner to enter upon his land; and a demonstration of financial responsibility.

c. Applications for a hazardous waste transporter's license must be made on forms provided by the DER. The application must be completed according to the instructions supplied with the form, and submitted with all applicable bonds and contingency plans.

4. Procedure for Obtaining a Permit or License:

a. Owners/operators of new hazardous waste management facilities must submit the appropriate application, along with any other additional information which may be required, to the DER at least 180 days before physical construction is expected to start.

b. All generators, transporters, and owners/operators of existing facilities must notify the U.S. EPA as specified in Section 3010 of the Resource Conservation and Recovery Act (RCRA) and submit an application for a permit to the DER as required in Chapter 75, Section 265 of the regulations.

c. any permittee who wishes to continue a regulated activity after the expiration date of a permit covering the activity, must apply for and obtain a new permit.

d. The DER will review applications and issue, re-issue, deny, modify, or revoke the application according to the standards and requirements specified in Chapter 75 of the regulations.

e. Hazardous waste permits are effective for a fixed term not to exceed 10 years.

5. **Notice and Hearing Requirements:** On receiving a completed application, the DER publishes notice of the application in the Pennsylvania Bulletin. This publication notifies the general public that an application has been received and is being reviewed by the DER. The public then has the opportunity to submit comments to the DER on the proposed facility and to request a public, informal, fact-finding hearing. These hearings are held at the discretion of the DER, based on the extent and relevance of the concerns and comments received. After a permit decision is made, notice of the DER action is published in the Pennsylvania Bulletin.

6. **Operation Requirements:**

a. Facilities must be operated according to the standards and requirements specified in Chapter 75 of the regulations.

b. All generators, transporters, and owners/operators of hazardous waste facilities must comply with the manifest system of record-keeping and reporting and with all monitoring and maintenance requirements.

c. Generators who treat, store, or dispose of hazardous waste at an on-site facility must comply with operational requirements for existing facilities and permitting requirements for new treatment, storage, or disposal facilities as specified in Chapter 75 of the regulations.

7. **Appeals:** Any person aggrieved by a decision of the DER may, within 30 days of publication of the DER action in the Pennsylvania Bulletin, appeal such decision to the Environmental Hearing Board within the DER.

8. **Fees:** None.

9. **Special Notes:** In compliance with the DER Environmental Assessment Process, applications for hazardous waste permits must be accompanied by Module No. 9 containing general environmental, social, and economic information.

E. **ADMINISTERING AGENCY:** Bureau of Solid Waste Management
Department of Environmental Resources
Fulton Bank Building, 8th Floor
200 North 3rd Street
Harrisburg, PA 17120
(717) 787-9870

CHAPTER 5.6

NOISE REGULATIONS

INTRODUCTION: The Pennsylvania State Statutes contain no specific statutory authorization for noise control or regulation. The Pennsylvania Department of Transportation and the Pennsylvania Fish Commission have been authorized to set permissible noise levels from motor vehicles.

CHAPTER 5.7

LOCAL SEWAGE FACILITIES MANAGEMENT

INTRODUCTION: The Pennsylvania Sewage Facilities Act (1966) requires municipalities to prepare an official sewage facilities plan which provides for sewage disposal systems to serve areas within its jurisdiction. Local sewage enforcement officers are examined and certified by the DER, which may revoke such certification if it finds they have failed to effectively administer their responsibilities under the Act. Local agencies must issue permits for sewage disposal systems, including both individual and community systems, pursuant to an official plan submitted to and approved by the DER.

A. AUTHORIZING STATUTE: Pennsylvania Sewage Facilities Act, 1966 (35 P.S. 7501 et seq.)

B. TITLE OF REGULATION:

Title 25. Rules and Regulations
Part I. Department of Environmental Resources
Subpart C. Protection of Natural Resources
Article I. Land Resources
Chapter 71. Administration of Sewage Facilities Program
Chapter 73. Standards for Sewage Disposal Facilities

C. SUMMARY OF LOCAL SEWAGE FACILITIES PLAN APPROVAL PROCESS:

1. **Applicability and General Requirements:** Each municipality is responsible for preparing an official sewage plan, either independently or jointly with one or more municipalities.

2. **Requirements for Content of Plans:** Official plans must contain information about existing facilities and the developed areas in the municipality, potential growth in the area, and zoning classifications. They also must contain soils information to determine suitable locations for sewage disposal systems. The plan must point out areas where facilities are needed now, in 5 years, and in 10 years. The plan must also provide information on existing industrial waste discharges, soils, geology, water supply sources, and any other environmental factors relating to wastewater disposal.

3. **Procedure for Obtaining Plan Approval:** Plans must be submitted to the DER. The DER must take action to approve or disapprove revisions to official plans. Residents or property owners may request that the DER require a municipality to revise its plan if the plan does not adequately meet their needs and the municipality has refused such a request.

4. Construction and Operation Requirements: Individual and community disposal sewage systems must be installed and maintained to comply with all applicable standards and requirements specified in the DER regulations. Sewer extensions cannot be constructed if such construction will cause any other portions of the sewer system to become overloaded. The DER may also impose a limitation on the number of permits which may be issued to prevent system overloading.

5. Fees: No State fees are required. Localities may impose permit fees as well as inspection and investigation fees.

6. Appeals: Persons aggrieved by a decision of the local sewage agency should appeal to the appropriate local government authority. Any person or municipality aggrieved by a decision of the DER may, within 30 days of publication of the DER action in the Pennsylvania Bulletin, appeal such decision to the Environmental Hearing Board within the DER.

D. ADMINISTERING AGENCY: Division of Local Environmental
Services
Bureau of Water Quality Management
Department of Environmental Resources
Fulton Bank Building
Harrisburg, PA 17120
(717) 787-9070

SECTION 6.0
SOCIAL/ECOLOGICAL PRESERVATION

CHAPTER 6.1

RARE AND ENDANGERED SPECIES

6.1.1 BIRDS AND MAMMALS

INTRODUCTION: The Pennsylvania Game Law (1937) was enacted to protect, propagate, manage, and preserve the game, fur-bearing animals, and protected birds of Pennsylvania. The Law authorizes the Game Commission to determine what wild birds or animals should be on the list of endangered or rare species and to grant permits to take and/or sell the endangered or rare species to any public zoological garden or institution with a scientific staff and facilities, solely for the purposes of protection or propagation of such endangered or rare species.

- A. **NAME OF PERMIT:** Permit to Take or Sell Rare or Endangered Species
- B. **AUTHORIZING STATUTE:** Game Law of Pennsylvania, 1937, as amended (34 P.S. 1311.101 through 1311.1503)
- C. **TITLE OF REGULATION:** Pennsylvania has adopted Federal regulations for permits (50 C.F.R. 17.22 and 17.32)
- D. **SUMMARY OF PERMIT PROCESS:**
1. **Applicability:** All species of birds and mammals listed as threatened or endangered by the Federal or Pennsylvania State government.
 2. **General Requirements:**
 - a. The Pennsylvania Game Commission may issue permits for the importation, exportation, sale, exchange, taking, or possession of any birds or animals, of any endangered or rare species, living or dead, or any parts thereof, found in their wild state within the Commonwealth or in any other State or nation, to any public zoological garden or institution with scientific staff and facilities, solely for the purposes of the protection or propagation of such endangered or rare species.
 - b. Otherwise, no person may possess, transport, capture, kill, or attempt to kill any listed species.
 3. **Submission Requirements:** The applicant is required to submit a project outline accompanied by a letter explaining why the permit should be granted. Also included should be proof of the granting of a U.S. Fish and Wildlife Service permit.

4. Procedure for Obtaining a Permit: Applications for permits should be mailed directly to the Game Commission. Permits are issued when it is determined that the applicant has complied with all applicable State and Federal requirements. Applicants must possess a valid U.S. Fish and Wildlife Service permit.

5. Permittee Requirements: The applicant must follow all conditions listed on both the State and the Federal permits, and must report to both the Federal and State government as described on the permits. All records must remain open to inspection at reasonable hours by officers of the Commonwealth.

6. Fees: None. (Collecting permits for other than endangered species have a required fee)

7. Appeals: Appeals procedures are as set up in Title I of the Pennsylvania Code, Chapters 31 through 35: General Rules of Administrative Practice and Procedure.

8. Special Notes: In 1978 the Pennsylvania Game Commission and the U.S. Fish and Wildlife Service signed a cooperative agreement to launch an endangered species program in the Commonwealth. Under the agreement, the Federal government will provide \$2 for every \$1 spent by the Game Commission until 1983, to determine the status and improve conditions for threatened or endangered species in Pennsylvania. The agreement is designed to foster better habitat management and protection for the species covered by the program.

E. ADMINISTERING AGENCY: Pennsylvania Game Commission
P.O. Box 1567
Harrisburg, PA 17120
(717) 787-6818

6.1.2 FISH, REPTILES, AND AMPHIBIANS

INTRODUCTION: This underlying purpose of the fish laws in Pennsylvania is to protect, perpetuate, propagate, and maintain populations of fish, aquatic organisms, amphibians, reptiles, bait-fish and fish-bait within the waters of the Commonwealth. The Pennsylvania Fish Commission, headed by an Executive Director, is in charge of carrying out this objective.

The Pennsylvania Fish and Bait Code (1980) authorizes the Fish Commission to establish and publish threatened and endangered species lists and to issue special permits for catching, taking, or possessing any of these species.

A. **NAME OF PERMIT:** Special Endangered/Threatened Species Permit

B. **AUTHORIZING STATUTE:** Pennsylvania Fish and Bait Code of 1980 (30 Pa. C. S. 2301 et seq.)

C. **TITLE OF REGULATION:**

Title 58. Recreation
Part II. Pennsylvania Fish Commission
Subpart A. Fish and Fishing
Chapter 51. Administrative Regulations
Chapter 53. General Fishing Regulations
Chapter 69. Endangered Species
Chapter 71. Reptiles and Amphibians

D. **SUMMARY OF PERMIT PROCESS:**

1. **Applicability:** The catching, taking, killing, possessing, selling, offering for sale, or purchasing of any fish, amphibians, or reptiles, alive or dead, which have been declared to be threatened with extinction and appear on the Pennsylvania Endangered Species List published in the Pennsylvania Bulletin.

2. **General Requirements:** Prior to starting a regulated activity, all persons must obtain a special permit from the Executive Director of the Fish Commission.

3. **Submission Requirements:** The applicant is required to submit a letter to the Executive Director of the Fish Commission describing, in detail, the nature and purpose of the proposed activities.

4. **Procedure for Obtaining a Permit:** On receiving a completed application, the Executive Director reviews the application and issues a permit if all requirements are met and he deems it advisable in accordance with law.

5. **Permittee Requirements:** All permittees must fully comply with all requirements set forth in the permit. Such requirements are established on a case-by-case basis.

6. **Fees:** No fees are presently required. Fees may be established by the Commission IAW (30 Pa. C.S. 2904).

7. **Appeals:** Persons aggrieved by a decision of the Executive Director may, prior to the next regular meeting of the full Commission, appeal such decision to the full Commission.

E. **ADMINISTERING AGENCY:** Executive Director
Pennsylvania Fish Commission
P.O. Box 1673
Harrisburg, PA 17120
(717) 787-7684

CHAPTER 6.2

ARCHEOLOGICAL AND HISTORICAL

INTRODUCTION: The Pennsylvania Historic Preservation Act grants the Pennsylvania Historical and Museum Commission (PHMC) broad authority to protect and preserve noteworthy historical properties. The PHMC has the responsibility for administering and enforcing Federal regulations and guidelines (36 C.F.R. 800) promulgated pursuant to the National Historic Preservation Act of 1966 (16 U.S.C. 470).

The Historic Preservation Act requires a permit for any archeological field investigations on State land. All State government agencies must also seek the advice of the PHMC before demolishing, altering, or transferring any property that is of historical, architectural, archeological, or cultural significance and under Commonwealth jurisdiction.

All agencies and departments of the Commonwealth must institute policies to assure that their programs contribute to the preservation of historic resources.

- A. **NAME OF PERMIT:** Archeological Field Investigation Permit
- B. **AUTHORIZING STATUTE:** Pennsylvania Historic Preservation Act, 1978 (71 P.S. 1047.1(a) et seq.)
- C. **TITLE OF REGULATION:** At this time, no State regulations have been adopted by the PHMC. Federal regulations (36 C.F.R. 800) apply in Pennsylvania.
- D. **SUMMARY OF PERMIT PROCESS:**
 - 1. **Applicability:** All archeological field investigations on State land.
 - 2. **General Requirements:** A permit is required before commencing field investigations on State land.
 - 3. **Procedure for Obtaining a Permit:** Persons wishing to commence exploration should contact the PHMC for procedures and guidelines to follow.
 - 4. **Permittee Requirements:**
 - a. Following excavation, a Cultural Resource Assessment Report must be submitted, identifying the natural setting and historic background of the area of intent, and including a description of field reconnaissance procedures and results. The report must also contain a statement of eligibility of each site to the National Register Criteria, and any photographs of sites, structures, and/or cultural material recovered if it will enhance the data presented.

b. All artifacts and specimens collected under a permit become the property of the State.

5. **Enforcement:** Investigations on State lands without a permit are subject to civil penalties. The attorney general, PHMC, or any legal entity can bring legal action for the enforcement of historic preservation laws in general.

6. **Fees:** None.

7. **Special Notes:** The PHMC also reviews all Federal projects in the Commonwealth through the A-95 system and a number of DER permits through the Environmental Assessment Process.

E. **ADMINISTERING AGENCY:** Bureau for Historic Preservation
Pennsylvania Historical and Museum
Commission
Box 1026
Harrisburg, PA 17120
(717) 783-8947

CHAPTER 6.3

WETLANDS

INTRODUCTION: Wetlands in Pennsylvania are regulated under the authority of the Department of Environmental Resources (DER) regulations for Dam Safety and Waterway Management, Water Obstructions and Encroachments (25 Pa. Code, Chapter 105). Section 105.17 of these regulations specify special criteria for permitting projects affecting important wetlands. No permit will be granted for work in or within 300 feet of any important wetlands unless the applicant demonstrates and the DER concludes that "...the public benefits of the project outweigh the damage to the wetlands resource and that the project is necessary to realize public benefits."

Activities which may affect important wetlands must also comply with the permitting procedures, requirements, and standards of the DER Bureau of Dams and Waterway Management, Division of Obstructions and Flood Plain Management (See Chapter 4.4 of this guide) as well as the U.S. Army Corps of Engineers' requirements for Section 404 permits (Public Law 95-217, Section 401(a)(1)).

ADMINISTERING AGENCY: Division of Obstructions and
Flood Plain Management
Bureau of Dams and Waterway Management
Department of Environmental Resources
P.O. Box 2357
Harrisburg, PA 17120
(717) 783-1384

CHAPTER 6.4

COASTAL ZONE MANAGEMENT

INTRODUCTION: The Coastal Zone Management (CZM) Office within the Department of Environmental Resources (DER) has been designated as the lead agency for implementing and administering the Coastal Zone Management Program in Pennsylvania. This office is responsible for monitoring and evaluating activities pertinent to coastal zone management, and for ensuring compliance with the program's enforceable policies.

The State uses a concept called "networking" to implement the federally approved State Coastal Zone Management Program. Through this approach, a variety of State authorities are linked under one agency to implement and enforce the program's policies.

The following list contains the names of the agencies that have been networked into the management program. The regulatory activities of many of these offices have been described in previous chapters of this guide. The CZM Office reviews applications for permits required by the DER, and reviews regulatory activities of other agencies to ensure compliance with the program. These agencies include:

- Department of Environmental Resources
 - Office of Chief Counsel
 - Bureau of Regulatory Counsel
 - Bureau of Litigation
 - Bureau of Legal Services
 - Office of Environmental Protection and Regulation
 - Bureau of Solid Waste Management
 - Bureau of Water Quality Management
 - Bureau of Air Quality Control
 - Office of Resources Management
 - Coastal Zone Management Office
 - Bureau of Resources Programming
 - Bureau of Design
 - Bureau of Operations
 - Bureau of Soil and Water Conservation
 - Bureau of State Parks
 - Bureau of Dams and Waterway Management
 - Bureau of Topographic and Geologic Survey

Department of Commerce

Department of Community Affairs

Department of Transportation

Pennsylvania Fish Commission

Pennsylvania Historic and Museum Commission

Public Utility Commission

ADMINISTERING AGENCY: Coastal Zone Management Office
Office of Resource Management
Department of Environmental Resources
P.O. Box 1467
Harrisburg, PA 17120
(717) 783-9500

SECTION 7.0
LOCAL REGULATORY POLICY

CHAPTER 7.1

LOCAL GOVERNMENT LAND USE AND NATURAL RESOURCE CONTROL ENABLING LAWS

7.1.1 LOCAL GOVERNMENT LAND USE

INTRODUCTION: Pennsylvania has delegated most of its power over land use to local governments. Cities, towns, townships, boroughs, and counties regulate local planning and development under the authority of the Pennsylvania Municipalities Planning Code (MPC), with the exception of the cities of Philadelphia and Pittsburgh and the county of Allegheny. The authority for land use regulation by these governments is found in the charters of each city and in the Second Class County Code.

The MPC establishes the basic authority for the exercise of municipal land use controls in the Commonwealth. It enables municipalities, either individually or jointly, to plan for community development through the preparation of comprehensive development plans. Under the MPC, municipalities govern such development through zoning, subdivision, and land development ordinances, planned residential development ordinances, official maps, the reservation of certain land for future public use, and the acquisition of such land. The MPC provides for the establishment of planning commissions, planning departments, planning committees, and zoning boards, and authorizes these bodies to charge fees, make inspections, and hold public hearings. It also provides for appropriations, court appeals, penalties for violations, and procedures for repealing acts.

- A. **AUTHORIZING STATUTE:** Pennsylvania Municipalities Planning Code (53 P.S. 10101 et seq.)
- B. **TITLE AND SUMMARY OF REGULATION:** The governing body of any municipality may adopt its own land use ordinances within the parameters of the MPC, and each should be contacted directly for regulatory requirements. The MPC establishes model procedures for obtaining permits under its provisions and for appeals from decisions of local governing bodies.
- C. **ADMINISTERING AGENCY:** Contact the appropriate municipal governing body.

Questions relating to provisions of the MPC may be directed to:

Bureau of Community Planning
Department of Community Affairs
551 Forum Building
Harrisburg, PA 17120
(717) 787-7400

7.1.2 LOCAL AIR QUALITY CONTROL

INTRODUCTION: The Air Pollution Control Act (1972) allows the delegation of State authority for air pollution control to local agencies. Regulatory requirements of local agencies must be at least as strict as the regulations of the Department of Environmental Resources (DER).

A. AUTHORIZING STATUTE: Air Pollution Control Act, 1972 (35 P.S. 4005)

B. TITLE OF REGULATION:

Title 25. Rules and Regulations
Part I. Department of Environmental Resources
Subpart C. Protection of Natural Resources
Article III. Air Resources
Chapter 133. Local Air Pollution Control Agencies

C. SUMMARY OF LOCAL REGULATIONS: Local agencies adopt their own regulatory requirements, which must be at least as strict as DER requirements. Presently, Philadelphia and Allegheny County have autonomous air pollution control programs and should be contacted for specific regulatory requirements.

D. ADMINISTERING AGENCIES: Air Management Services
Philadelphia Department of
Public Health
801 Arch Street
Philadelphia, PA 19107
(215) 686-6840

Environmental Plan Review
Section
Allegheny County Health
Department
301 39th Street
Pittsburg, PA 15201
(412) 681-9600

CHAPTER 7.2

SUB-STATE MANAGEMENT DISTRICTS

INTRODUCTION: The Department of Environmental Resources (DER) has established Regional Environmental Protection Offices to assist applicants in identifying permitting requirements for activities which could affect the environment or public health. These offices serve as one-stop offices for expediting and coordinating permitting and licensing procedures within their jurisdiction. The DER has also established Deep Mine Safety District Offices and Mining and Reclamation District Offices to expedite permitting and licensing procedures for mining activities within the Commonwealth.

A. DER REGIONAL ENVIRONMENTAL PROTECTION OFFICES

1. 1875 New Hope Street
Norristown, PA 19401
(215)631-2402
(Serves Bucks, Chester, Delaware, Montgomery, and Philadelphia Counties)
2. 90 East Union Street
Wilkes-Barre, PA 18701
(717) 826-2511
(Serves Bradford, Lackawanna, Luzerne, Monroe, Pike, Sullivan, Susquehanna, Tioga, Wayne, and Wyoming Counties)
3. Wernersville State Hospital
Wernersville, PA 19565
(215) 670-0301
(Serves Berks, Carbon, Lehigh, Northampton, and Schuylkill Counties)
4. 407 South Cameron Street
Harrisburg, PA 17101
(717)783-2818
(Serves Adams, Cumberland, Dauphin, Franklin, Lancaster, Lebanon, Perry, and York Counties)
5. 736 West Fourth Street
Williamsport, PA 17701
(717) 326-3681
(Serves Bedford, Blair, Cambria, Centre, Clinton, Columbia, Fulton, Huntingdon, Juniata, Lycoming, Mifflin, Montour, Northumberland, Snyder, Somerset, and Union Counties)

6. Kossman Building
100 Forbes Avenue
Pittsburgh, PA 15222
(412) 565-5023
(Serves Allegheny, Armstrong, Beaver, Butler, Fayette,
Greene, Indiana, Washington, and Westmoreland Counties)
7. 1012 Water Street
Meadville, PA 16335
(814) 724-8557
(Serves Cameron, Clarion, Clearfield, Crawford, Elk,
Erie, Forest, Jefferson, Lawrence, McKean, Mercer,
Potter, Venango, and Warren Counties)

B. DER DEEP MINE SAFETY AND MINING AND RECLAMATION DISTRICT OFFICES

1. Anthracite Deep Mine Safety District
Motor Loan Services Building
108 South Claude A. Lord Boulevard
Pottsville, PA 17901
(717) 622-8181
(Covers all anthracite coal mines)
2. Bituminous Deep Mine Safety District
Room 167
Fayette County Health Center
100 New Salem Road
Uniontown, PA 15407
(412) 439-7469
(Covers all bituminous coal areas and also all metal and
non-metal deep mines)
3. Clarion Mining and Reclamation District
White Memorial Building
Knox, Pa 16232
(814) 797-1191
(Covers Clarion, Crawford, Erie, Forest, Jefferson,
Lawrence, Mercer, Venango, and Warren Counties)
4. Ebensburg Mining and Reclamation District
The Prave Building
Box 149
122 South Center Street
Ebensburg, PA 15931
(814) 472-6344
(Covers Bedford, Blair, Cambria, Fulton, Huntingdon,
Indiana, and Somerset Counties)

5. Greensburg Mining and Reclamation District
Amburst Professional Building
Box 603-C
RD 2
Greensburg, PA 15601
(412) 925-8115
(Covers Allegheny, Armstrong, Beaver, Butler, Fayette,
Greene, Washington, and Westmoreland Counties)

6. Hawk Run Mining and Reclamation District
Box 208
Hawk Run, PA 16840
(814) 342-5399
(Covers Cameron, Centre, Clearfield, Clinton, Elk,
Lycoming, McKean, Potter, and Tioga Counties)

7. Pottsville Mining and Reclamation District
Motor Loan Services Building
108 South Claude A. Lord Boulevard
Pottsville, PA 17901
(717) 622-8181
(Covers Adams, Berks, Bradford, Bucks, Carbon, Chester,
Columbia, Cumberland, Dauphin, Delaware, Franklin,
Juniata, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne,
Mifflin, Monroe, Montgomery, Montour, Northampton,
Northumberland, Perry, Philadelphia, Pike, Schuylkill,
Snyder, Sullivan, Susquehanna, Union, Wayne, Wyoming, and
York Counties)