

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

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

BY BARRY LAWSON ASSOCIATES

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Community Development
1007 Andrew Jackson Building
Nashville, Tennessee 37219

Appalachian Regional Commission
1666 Connecticut Avenue, N.W.
Washington, D.C. 20235

or

U.S. Geological Survey
Environmental Affairs Office
760 National Center
Reston, Virginia 22092

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SECTION 1.0

INTRODUCTION

This State permit guide for Tennessee 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 Tennessee 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 3.1.2) of this guide includes a list of all State approvals which could potentially be required to initiate surface 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.

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

- Tennessee Department of Conservation
 - Division of Geology
 - Division of Surface Mining
 - Division of Water Resources
 - Tennessee Heritage Program
 - Division of Archaeology
 - Tennessee Historical Commission

Tennessee Wildlife Resources Agency

- Tennessee State Planning Office
 - State Planning Division
 - Local Planning Division

- Tennessee Department of Public Health
 - Bureau of Environmental Health Administration
 - Division of Air Pollution Control
 - Division of Water Quality Control
 - Division of Solid Waste Management

Tennessee Public Service Commission

SECTION 2.0

STATE POLICY AND PROCEDURES FOR
CONSOLIDATED PERMIT PROGRAM

CHAPTER 2.1

STATE CLEARINGHOUSE

INTRODUCTION: The Tennessee State Planning Office (TSP0) has been designated as the agency to function as the State Clearinghouse by Executive Order No. 41. The TSP0 has, through this designation, been directed to:

- execute the provisions of the Intergovernmental Cooperation Act of 1968;
- serve as the State Clearinghouse and the State Central Information Reception Agency within the meaning of regulations adopted pursuant to the Intergovernmental Cooperation Act of 1968;
- review all applications made by State agencies for Federal financial assistance;
- review all State plans required by Federal agencies which are a condition for assistance for programs administered by the Federal government;
- review and approve all State-sponsored public works projects;
- advise the Governor and his staff on proposed Federal assistance programs;
- coordinate State review of all Environmental Impact Statements (EIS's) which fall under the Federal Office of Management and Budget (OMB) revised Circular A-95 and/or are consistent with the National Environmental Policy Act (NEPA) of 1969; and
- coordinate the review of all direct Federal development projects such as Tennessee Valley Authority (TVA) projects and Corps of Engineers permit applications.

A. AUTHORIZING ORDER: Executive Order No. 41, An Order Establishing a Review System for Federal Assistance Programs

B. SUMMARY OF REVIEW PROCESS:

1. Applicability: Any agency, organization, or individual desiring to apply for Federal assistance under a program covered by OMB revised Circular A-95.

2. General Requirements: The appropriate body must notify the State Clearinghouse and appropriate areawide and metropolitan clearinghouses 30 days prior to the submission of an application to the funding agency.

3. **Submission Requirements:** Applicants should complete State Project Notification Form G-1 or Federal Standard Form 424. One copy plus a site map should be sent to the State Clearinghouse and to other appropriate clearinghouses.

4. **Procedure for Obtaining Approval:** Applicants must submit the appropriate notification form 30 days prior to the submission of the application to the funding agency. The State Clearinghouse also receives copies of Step 1 Waste Treatment Facilities Plans, EIS's, and other materials once they have been prepared for State review. On receiving all materials, the State Clearinghouse forwards copies to all appropriate reviewing agencies and initiates its own review process. State Clearinghouse review will be completed within 30 days and comments will be forwarded to the applicant once this review process is completed. The State Clearinghouse can extend the 30-day review period an additional 30 days if conflicts are foreseen or problems identified. During this additional 30 days, efforts are made to resolve these conflicts or problems. Mitigation meetings are a part of this process.

5. **Fees:** None

6. **Special Notes:** The A-95 process is used by the TSP0 to assist in monitoring the consistency of a proposed project with flood plain policy in Tennessee, even to the point of setting conditions for development in floodable areas.

The power to review is broadly used by the State to provide an opportunity for the airing of issues and disputes in regard to proposed projects. The TSP0 acts to negotiate and encourage mitigation.

The State Clearinghouse is also notified by Federal agencies if a project is funded. The Federal Assistance Award Data System (FAADS) is a means for this notification.

C. **ADMINISTERING AGENCY:** Tennessee State Planning Office
1800 James K. Polk Building
505 Deaderick Street
Nashville, TN 37219
(615) 741-1676

The following agencies have the right to review and comment on environmental impact statements, which are handled by the TSP0:

Bureau of Environmental Health Administration
Tennessee Department of Public Health
Terra Building
150 9th Avenue, North
Nashville, TN 37203
(615) 741-3657

Tennessee Department of Transportation
817 Highway Building
Nashville, TN 37219
(615) 741-2848

Tennessee Department of Economic
and Community Development
1012 Andrew Jackson Building
Nashville, TN 37219
(615) 741-2373

Tennessee Department of Conservation
2611 West End Avenue
Nashville, TN 37203
(615) 741-2301

Tennessee Energy Authority
707 Capitol Boulevard Building
Nashville, TN 37219
(615) 741-2994

Tennessee Wildlife Resources Agency
Ellington Agriculture Center
P.O. Box 40747
Nashville, TN 37204
(615) 741-1517

Tennessee Department of Agriculture
Ellington Agriculture Center
Nashville, TN 37204
(615) 741-1584

SECTION 3.0

RESOURCE EXTRACTION

CHAPTER 3.1
ENERGY RESOURCES

3.1.1 OIL AND GAS

INTRODUCTION: The Tennessee Oil and Gas Board administers the statutes, rules, and regulations pertaining to oil and gas conservation and regulates, for conservation purposes, the drilling, production, and plugging of oil and gas wells.

A. NAMES OF PERMITS:

1. Permit to Drill
2. Permit to Change Operators
3. Re-entry and Work Permit
4. Plug and Abandon Permit

B. AUTHORIZING STATUTE: Oil and Gas Acts (T.C.A. 60-1-101 through 60-1-403)

C. TITLE OF REGULATION:

Rules of the Tennessee State Oil and Gas Board
State-wide Order No. 2
Chapters 1040-1-1 through 1040-7-1: Drilling, Re-entering,
Plugging and Abandoning Exploratory and Exploitation Oil
and Gas Wells

D. SUMMARY OF PERMIT PROCESS:

1. Applicability: Drilling exploratory and exploitation oil and gas wells; re-entering a producing or abandoned well for the purposes of deepening, sidetracking, and completion or recompletion attempts; and plugging and abandoning exploratory and exploitation oil and gas wells.

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

3. Submission Requirements: Applicants must file an Application for Permit to Drill, Form P-AD-1, an Application to Change Operators, Form P-AD-3, an Application for Re-Entry and Work Permit, Form P-RAW-1, an Application to Amend Well Permit, Form P-AD-2, and/or an Application for Permit to Abandon and Plug Well, Form P-P and A-1 as appropriate. Applications must also be accompanied by 2 copies of a location plat, the required bond covering the operation, the required fee, and an organization report identifying the company, organization, individual, or group for whose benefit the project is being conducted.

4. **Procedure for Obtaining a Permit:** If an application requiring an exception to the rules and regulations meets with the approval of the Board and no protest is received within 15 days, the Board will issue a permit without the necessity of a public hearing before the Board. Routine applications are processed as soon as practical, and a permit is issued when the processing has been completed.

5. **Notice and Hearing Requirements:** On receiving a request for a hearing on an application, the Board will schedule a hearing and publish notice of such hearing at least 10 days prior to the hearing date.

6. **Drilling and Operation Requirements:** On request of the Board, operators must submit a 15-Day Progress Drill Report, Form R-PD-1. If drilling operations cease for 30 days, the operator must notify the Board. If a rig is removed from a drill site, the operator must notify the Board and replace the rig within 60 days. The location of a well must comply with spacing and pooling requirements. Drilling equipment must be operated in a manner that will prevent accidents and uncontrolled emissions. Drilling operations must comply with the survey requirements specified in the regulations. Within 30 days of drilling to the total depth of a well, operators must submit the required well data and drill reports to the Board. All operations must prevent waste, explosions, fires, or pollution, and must comply with tubing and completion requirements. There is a 6-month time limit for well completion. Operators must comply with the specified procedures for metering, measuring, and producing oil, condensate, and gas as well as requirements for reporting the volume and disposition of oil and gas produced. To abandon a well, operators must comply with the specified plugging and abandonment requirements. All permits expire in 90 days unless the permittee has commenced operations and "reasonably continues" operations pursuant to the permitted objective.

7. **Fees:** Application for permit to drill: \$50
Application to change operators: None
Application to amend well permit: None
Application for re-entry and work permit: \$10
Application for plug and abandon permit: None

8. **Bonds:** A \$2,000 bond must be in force from the time a drilling or re-entry well permit is granted until a well is abandoned. A blanket bond of \$10,000 may be filed to cover all wells drilled or wells to be drilled by the principal.

9. **Appeals:** Any person aggrieved by a decision or action of the Board may, within 30 days, appeal such decision or action to the appropriate civil court.

10. Special Notes: Procedures are currently being drawn up for leasing on State land. Presently, applications are made on a case-by-case basis through the Governor's Office.

E. ADMINISTERING AGENCY: Oil and Gas Board
Division of Geology
Tennessee Department of Conservation
G-5 State Office Building
Nashville, TN 37219
(615) 741-2726

3.1.2 COAL

INTRODUCTION: The Tennessee Coal Surface Mining Law of 1980 was enacted to provide for the regulation and control of coal exploration and surface coal mining so as to minimize their injurious effects, provide for quick and adequate reclamation of mined lands, and promote the reclamation of orphan mines.

The regulations adopted pursuant to this law establish general and specific guidelines for the exploration and surface mining of coal, and for the reclamation of surface areas disturbed during either surface or underground coal mining.

The Division of Surface Mining and Reclamation in the Tennessee Department of Conservation has the responsibility for issuing permits and bonding for mining and reclamation operations and for inspecting operations to ensure compliance with all applicable laws and regulations. Prior to engaging in surface coal mining or exploration activities, all persons must obtain a permit from the Division.

In addition to these 2 permits, depending on the location, nature, and magnitude of the proposed activities, prospective mine operators may also be required to obtain the following permits, licenses, and approvals:

- a blaster's certificate from the Division,
- an NPDES permit from the Division (See also Chapter 5.2 of this guide),
- proof of liability insurance,
- State business-related approvals,
- compliance with truck weight statutes,
- wetlands permits (See Chapter 6.3 of this guide), and
- compliance with local zoning ordinances (See Chapter 7.1 of this guide).

A. NAMES OF PERMITS:

1. Permit to Mine
2. Permit to Explore

B. AUTHORIZING STATUTE: Tennessee Coal Surface Mining Law of 1980 (T.C.A. 59-8-301 through 59-8-336)

C. TITLE OF REGULATION:

Rules of the Tennessee Department of Conservation, Division of Surface Mining; Chapters 0400-1-1 through 0400-1-48 (Proposed)

D. SUMMARY OF PERMIT PROCESS:

1. Applicability: Exploration for coal; all surface coal mining operations; all underground coal mining operations with surface effects on non-Federal or non-Indian lands in Tennessee.

2. General Requirements: Prior to starting a regulated activity, all persons must receive a permit from the Division.

3. Submission Requirements:

Exploration Permits: Applications for exploration permits must include:

- a map showing the general location of the affected area with respect to nearby towns, streams, county lines, and public and mining access roads;
- a description of the topography and geology of the area;
- the name and elevation of the coal seam or deposit to be explored;
- the proposed period of exploration;
- a map showing all boundaries of the area affected, the topography and cultural features of the area, and the approximate location of proposed roads, drill holes, excavations, and cuts to be made;
- a description of the exploration activities to be conducted; and
- plans for the removal of facilities and equipment and for the reclamation of all areas disturbed, including excavations, drill holes, and roads, according to the required performance standards.

Permits for Surface Mining Activities: Applications for surface mining permits must include all required:

- legal and financial information;
- pre-mining land use information;

- geological information;
- studies of fish and wildlife resources;
- surface water information;
- groundwater information;
- alternative water supply information;
- climatological information;
- vegetation information;
- prime farmland information;
- soil resources information;
- mining and reclamation plans including:
 - detailed mining plan,
 - blasting plan,
 - top soil handling plan,
 - spoil handling plan,
 - toxic material handling plan,
 - air pollution control plan,
 - water quality protection plan,
 - detailed engineering plans of structures, ponds, impoundments, banks, dams, and embankments,
 - revegetation plan,
 - fish and wildlife plan,
 - plan for post-mining land uses,
 - plan for surface mining near underground mining,
 - plan for protection of public parks and historic places,
 - plan for relocation or use of public roads,

- plan for transportation facilities, and
- operation plan for existing structures; and
- detailed maps and drawings according to the requirements specified in the regulations.

Permits for Underground Mining with Surface Effects: Same submission requirements as permits for surface mining operations.

4. Procedure for Obtaining a Permit: Applications for permits must be submitted to the Division on forms provided by the Division. On receipt of a completed application, the Division will notify applicable local governments, planning agencies, the county tax assessor, and water and wastewater treatment authorities in the locality of the proposed operation. If, after all review and comment proceedings, the Division finds that the proposed operation is in compliance with all applicable requirements and standards, the application will be approved within 60 days. The permit will be issued upon the posting of the required performance bond. Permits are valid for a fixed term, not to exceed 5 years.

5. Notice and Hearing Requirements: Upon posting and/or publishing notice of the application by the applicant and the Division, any interested party may, within 30 days, submit written comments or objections to the Division and/or request that an informal conference be held on the application. If an informal conference is requested, one will be held within 30 days, after a 2-week notice of the conference.

6. Operation Requirements: All coal mining operations must be in compliance with all plans and specifications prescribed in the permit. The Division will inspect operations, in part, at least once a month, and in total, at least once a year. Operations must comply with all applicable performance standards as specified in the regulations. All permittees must also:

- establish and maintain appropriate records;
- make monthly reports to the Division;
- install, use, and maintain any necessary monitoring equipment;
- evaluate results in accordance with required monitoring methods, at such locations, intervals, and in the manner as the Division prescribes; and
- provide other information relative to mining and reclamation operations as necessary.

7. Fees: Permit to mine: \$250 per year plus \$25 per acre
Permit to explore: \$50 per year plus \$10 per acre
Amendment of mining permit: \$200
Amendment of exploration permit: \$25

8. Appeals: Any person aggrieved by a decision of the Division in granting, denying, or modifying any permit application may, within 30 days, appeal such decision to the Board of Reclamation Review within the Department of Conservation.

9. Special Notes: Provision is made for designating areas unsuitable for surface coal mining operations if such operations will:

- be incompatible with existing State or local land use plans or programs;
- affect fragile or historic lands in such a way that could result in significant damage to important historic, cultural, scientific, and aesthetic values and natural systems;
- affect renewable resource lands in such a way that could result in a substantial loss or reduction of long-range productivity of water supply or of food or fiber products; or
- affect natural hazard land in such a way that could substantially endanger life and property, including areas subject to frequent flooding and areas of unstable geology. (See T.C.A. 59-8-331)

E. ADMINISTERING AGENCY: Division of Surface Mining
and Reclamation
Tennessee Department of Conservation
1720 West End Avenue
Nashville, TN 37203
(615) 741-3042

CHAPTER 3.2

SURFACE MINING

INTRODUCTION: The Tennessee Mineral Surface Mining Law of 1972 was enacted to provide for the regulation and control of surface mining activities to minimize injurious effects on the environment and to provide for quick and adequate reclamation of mined lands.

The Division of Surface Mining and Reclamation in the Tennessee Department of Conservation has the authority and responsibility to administer and enforce the provisions of the Act and adopted regulations; to conduct investigations and disseminate information relating to surface mining, reclamation of surface mined lands, and control of pollution of water and soil affected by surface mining; to examine and approve or disapprove applications for permits, bonds, mining and reclamation plans, revegetation plans, and after-use plans which must be submitted by operators; and to establish standards for acceptable mining and reclamation of affected areas to ensure soil stabilization, the control of soil erosion, and compliance with all applicable soil and water quality standards.

- A. **NAME OF PERMIT:** Surface Mining Permit
- B. **AUTHORIZING STATUTE:** Tennessee Mineral Surface Mining Law of 1972 (T.C.A. 59-8-201 et seq.)
- C. **TITLE OF REGULATION:** Rules of the Department of Conservation
- D. **SUMMARY OF PERMIT PROCESS:**
 - 1. **Applicability:** The surface mining of clay, stone, gravel, phosphate rock, metallic ore, or any other solid material of commercial value excluding limestone, coal, marble, chert, sand, or dimension stone by open pit, open cut, auger, or highwall mining methods or any other mining process in which the strata, overburden, or surface soil is disturbed or removed.
 - 2. **General Requirements:** Prior to starting a regulated activity, all persons must obtain a surface mining permit from the Division.

3. **Submission Requirements:** Applications for permits must be made on standard forms provided by the Division and must be accompanied by:

- the name and address of the operator, a map showing the general location of the affected area, an identification of any surface mining permits held or previously held by the operator, an identification of the owners of all surface lands within 500 feet of the area, an identification of the owners of the minerals to be mined, and a copy of the operator's discharge permit from the Division of Water Quality Control;
- a detailed topographic map prepared by a qualified engineer or geologist showing the area of land affected, the location of streams and drainages, the location of planned siltation traps and other impoundments, the location of access roads, the location of any buildings, cemeteries, public highways, railroad tracks, oil and gas wells, publicly-owned land, designated scenic areas, utility lines, underground mines, and pipelines within 500 feet of the affected area, and the approximate location of the cuts or excavations to be made; and
- a detailed mining and reclamation plan describing the depth and character of overburden, the thickness of the mineral being mined, the proposed method of mining, mine waste disposal areas, the method of backfilling and grading, road system construction, method of regrading and revegetation, methods of water drainage and silt control, methods of erosion control, and the use to which the affected area will be placed at the conclusion of reclamation.

4. **Procedure for Obtaining a Permit:** An applicant must give public notice of his intent to surface mine in a newspaper of general circulation in the county where the proposed mine is to be operated at least 1 day prior to filing an application. Any interested party may submit written statements concerning the application within 20 days of this notice. Within 20 to 30 days of receiving the application, the Division will either approve or deny the application and notify the operator stating the reason for permit denial. If the application is approved, the permit will be issued upon the posting of the required bond and upon an on-the-ground inspection of the proposed affected area.

Surface mining permits are valid for 1 year. To continue an operation beyond the original permit expiration date, operators must apply for permit renewal within 60 days prior to the expiration date.

Surface mining permits may be amended by submitting an application for amendment describing the changes in the original information furnished, and by paying the specified supplemental fee and bond required.

5. **Operation Requirements:** Operators must comply with all applicable provisions of the Mineral Surface Mining Law and regulations, all terms and conditions specified in the permit, all standards and requirements specified by the Division, and all provisions of the approved mining and reclamation plans.

The approved mining and reclamation plan must be carried out concurrently with the surface mining operation and all reclamation work must be completed within 1 year after the completion of the mining operation.

Operators must file periodic reports showing those portions of the affected area in which reclamation has been completed in accordance with the approved plan. The Division will make periodic inspections of these areas and will notify the operator whether the reclamation is accepted or whether there are deficiencies which must be corrected.

6. **Fees:** Annual permit fee: \$250 plus an acreage fee of \$25 per acre of land affected by the operation, not to exceed a total of \$2,500

Supplemental fee for amendment of permit: \$50; acreage fees will be adjusted accordingly

7. **Bonds:** Not less than \$600 for each estimated acre affected by the operation

8. **Appeals:** Any person aggrieved by a decision of the Division in granting, denying, or modifying a permit application may, within 30 days, appeal such decision to the Board of Reclamation Review within the Department of Conservation.

9. **Special Notes:** The State of Tennessee acting through the Department of Conservation has the power to acquire, by negotiation or eminent domain, land which has been affected or disturbed by surface mining which consists of orphan banks or unreclaimed spoil piles, which is hazardous or detrimental to the health and safety of people of the State, or which is damaging to off-site property or to water quality of streams.

Prior to acquiring such land, the Division will notify the owner and provide an opportunity for the owner to reshape, plant, and properly reclaim the land. If such reclamation activities are started within 60 days, the State will not acquire the land.

E. **ADMINISTERING AGENCY:** Division of Surface Mining and
Reclamation
Tennessee Department of
Conservation
1720 West End Avenue
Nashville, TN 37203
(615) 741-3042

SECTION 4.0
LAND USE REGULATION

CHAPTER 4.1

MAJOR FACILITY SITING

INTRODUCTION: There is no comprehensive legislation in the State of Tennessee providing site selection procedures for major power generating facilities. The Tennessee State Clearinghouse presently receives preliminary site investigations for power plants, and a number of State agencies comment on these. It should be emphasized that these comments are only advisory in nature.

The Tennessee Public Service Commission has no control over the Tennessee Valley Authority (TVA) or any of its municipal or cooperative power distributors in terms of siting decisions. The Commission does, however, regulate the physical operation of public utilities. All public utilities must obtain a certificate of convenience and necessity prior to any extension or addition of service. All privileges and franchises approved by State agencies or localities must be approved by the Commission.

There is also, at present, a memorandum of understanding between the TVA and the Tennessee Wildlife Resources Agency (TWRA). This memorandum was signed in May, 1973, and provides for agency coordination in such matters as corridor access and security, and habitat enhancement on lands managed by the TWRA.

- A. **NAME OF APPROVAL:** Certificate of Convenience and Necessity
- B. **AUTHORIZING STATUTE:** Certificate of Convenience and Necessity (T.C.A. 65-415; 65-417 through 65-421; and 65-438)
- C. **TITLE OF REGULATION:** Regulation of Public Utilities (T.C.A. 65-401 et seq.)
- D. **SUMMARY OF CERTIFICATION PROCESS:**
 - 1. **Applicability:** Extension or addition of service of all power generating facilities in the State.
 - 2. **General Requirements:** Prior to starting a regulated activity, all persons must obtain a certificate of convenience and necessity from the Public Service Commission.
 - 3. **Submission Requirements:** Applicants must submit a written application for authority which must demonstrate: the present and future public convenience and necessity for the proposed utility; that the applicant will not be in competition with an existing system in the locale unless the existing utility is inadequate to meet the reasonable needs of the public; and the capacity to perform, both financially and as an applicant. Engineering plans and a narrative description of the development must also accompany the application.

4. **Procedure for Obtaining a Certificate:** On receiving a completed application, the Commission will send a notice of a hearing to be held on the application to all potentially interested parties. This notice must be served at least 10 days prior to the scheduled hearing date. The Commission will make a final determination on the application following the close of the hearing record. If the certificate is granted, a fee is assessed.

5. **Operation Requirements:** The Commission may impose such conditions on the construction, equipment, maintenance, service, and operation of utilities as the public convenience and interest may reasonably require. All utilities must comply with these provisions.

6. **Fees:** \$50 (upon the granting of a certificate)

7. **Appeals:** Persons aggrieved by a decision of the Commission may, within 30 days, appeal to the Chancery Court of Davidson County.

8. **Special Notes:** Where electric power is being transmitted or distributed into the State through interstate commerce, a certificate is often required pursuant to T.C.A. 65-438.

E. **ADMINISTERING AGENCY:** Tennessee Public Service Commission
C1-100 Cordell Hull Building
Nashville, TN 37219
(615)741-2904

CHAPTER 4.2

LAND USE

INTRODUCTION: The Tennessee State Planning Office (TSP0) operates as part of the executive branch and reports directly to the Governor's staff. It has broad responsibilities related to growth management and land use policy formulation. The TSP0 is required to advise and cooperate with State and local governmental bodies in the interest of fostering the coordinated and efficient use and distribution of State resources. Its major activities include:

- State Clearinghouse and environmental impact statement review,
- comprehensive planning (HUD 701) at the State and local level,
- natural resource planning,
- intergovernmental cooperation,
- identification and management of critical environmental areas,
- budget review, and
- legislative review.

The State of Tennessee has a number of laws addressing growth management and land use.

A. SUMMARY OF EXISTING LEGISLATION:

1. The Department of Conservation (T.C.A. 4-301; 4-317; 11-1202; 11-103; 11-301; 11-302)

The Tennessee Department of Conservation is empowered with broad and extensive powers and responsibilities relative to the preservation and protection of the State's natural resources and environment. It is the State agency empowered to administer the laws pertaining to forest lands and open space, natural areas, scenic rivers, archaeology, geology, mines, State trails, and State parks.

2. Tennessee Scenic Rivers Act of 1968 (T.C.A. 11-1401)

This Act directs the Department of Conservation to establish a system of scenic rivers to protect and preserve their aesthetic, scenic, historic, archaeologic, and scientific features. It prohibits certain construction and other activities in scenic river areas.

3. Tennessee Trails System Act (T.C.A. 11-1601)

The purpose of this Act is to provide the means to promote public access to, travel within, and enjoyment and appreciation of the outdoor, natural, and remote areas of the State.

4. Natural Areas Preservation Act of 1971 (T.C.A. 11-1701)

The purpose of this Act is to protect areas possessing scenic, scientific, and/or recreational values and which are in peril of being destroyed or substantially diminished by such actions as dumping of refuse, commercialization, construction, population growth, or similar conditions for which existing regulations are inadequate to provide protection.

5. Agricultural, Forest, and Open Space Land Act of 1976
(T.C.A. 67-650)

This Act establishes as State policy the preservation of open spaces for the future benefit the people of Tennessee and directs the Department of Conservation to take whatever action is necessary to preserve such areas.

6. Land Acquisition and Eminent Domain (T.C.A. 11-105; 11-1410; 11-1716; 11-1807; 58-1553; 51-601; 51-602)

The Department of Conservation has broad powers of eminent domain, and the power to acquire land and other real property by gift, devise, or purchase. It may acquire areas of scenic beauty, material or recreational utility, historic interest, or any other unusual features which, in the judgment of the Department, should be acquired, preserved, and maintained for the use of the people of the State. The Department must consult with the TSP0 before open space land easements are exercised.

The Tennessee Wildlife Resources Agency has the power to acquire lands and waters to establish wildlife preserves, reservations, and refuges designated as wildlife management areas.

7. Industrial Development (T.C.A. 4-1401 through 4-1408)

The State of Tennessee has the power to promote industrial development and to influence the location of new industrial growth. The State is required to:

- promote, in a sound manner, the location of additional industries and businesses in the State, to utilize resources to the best advantage, and to increase employment opportunities of the population;
- aid and encourage the existing industries of the State; and
- cooperate with existing State and Federal agencies and local governments, and the agricultural, business, industrial, and educational interests of the State in promoting industrial development in Tennessee.

B. ADMINISTERING AGENCY: Tennessee State Planning Office
1800 James K. Polk Building
505 Deaderick Street
Nashville, TN 37219
(615) 741-1676

CHAPTER 4.3

FLOOD PLAIN MANAGEMENT

INTRODUCTION: The interests of the State of Tennessee in the prevention and abatement of flooding are promoted and provided in the legislative acts authorizing the establishment of:

- drainage and levee districts (T.C.A. 70-701 et seq.),
- watershed districts (T.C.A. 70-1801 et seq.),
- soil conservation districts (T.C.A. 43-1401 and 49-3402 et seq.), and
- municipal and regional planning commissions and districts (T.C.A. 13-501 et seq.).

Tennessee's enabling legislation provides for the adoption of appropriate land use controls in flood plains, the preparation of soil surveys and plans, the construction of improvements necessary to reduce rural flood damage, the construction of drainage facilities and levees, channel modification, the construction of soil erosion prevention measures, and the adoption of soil conservation ordinances relating to agricultural practices (T.C.A. 13-401 et seq. and 13-701 et seq.). Tennessee's surface mining legislation provides for the designation of flood hazard areas as unsuitable for certain types of surface mining operations (T.C.A. 59-8-331(3)).

The Tennessee State Planning Office (TSP0), through the Local Planning Division, coordinates a number of programs relating to flood plain management. Some of these coordinating activities include:

- acting as lead agency on the recently formed Tennessee Flood Plain Management Coordinating Committee;
- providing technical assistance on National Flood Insurance Program (NFIP) application procedures to all flood-prone communities and counties in Tennessee, upon request;
- meeting with civic groups, governmental bodies, planning commissions, and others to discuss the provisions and requirements of the NFIP as well as the benefits of land use planning and flood plain management in general;

- making recommendations to State officials on improving enabling legislation relative to what the NFIP requires of local governments, and to local officials on regulatory measures needed for flood plain management; and
- working with State agencies in formulating and adopting flood plain management policies.

ADMINISTERING AGENCY: Tennessee State Planning Office
1800 James K. Polk Building
505 Deaderick Street
Nashville, TN 37219
(615) 741-1676

CHAPTER 4.4

DAM AND WATER RESOURCES MANAGEMENT

INTRODUCTION: The Tennessee Department of Conservation is empowered with broad and extensive powers and responsibilities relative to the preservation and protection of the State's natural resources and environment (T.C.A. 4-301; 4-317; 11-1202; 11-103; 11-301; 11-302). The Division of Water Resources was established in the Department to direct all matters pertaining to the conservation, protection, and development of the water resources of the State. It is also mandated to work toward the development of a basic, long-range water resource policy for the State (T.C.A. 70-2001 through 70-2005).

The Division certifies plans for non-Federal dams prior to construction, maintains a program of inspection for dams, regulates the construction and development of water wells, licenses water well contractors and pump setters, requires well logs to be submitted and inspects wells, collects groundwater data, conducts groundwater availability studies, maintains a stream flow data program in cooperation with the U.S. Geological Survey, makes assessments of water use, and maintains a registration program for large water users.

4.4.1 DAM REGULATION

- A. NAME OF APPROVAL: Certificate of Approval and Safety
- B. AUTHORIZING STATUTE: Safe Dams Act of 1973 (T.C.A. 70-2501 through 70-2530)

C. TITLE OF REGULATION:

Rules of the Tennessee Department of Conservation, Division of Water Resources; Chapter 0400-4-1: Rules and Regulations Applied to the Safe Dams Act of 1973

D. SUMMARY OF APPROVAL PROCESS:

1. Applicability: Construction, enlargement, repair, alteration, maintenance, or operation of a non-Federal dam in the State of Tennessee. However, any dam, system of dams, or associated structure for which the submission of plans or inspection is required as a condition for receiving a discharge permit under the authority of the Water Quality Control Act (T.C.A. 70-324 through 70-345) is exempt from the requirements of the Safe Dams Act and regulations adopted by the Division.

2. General Requirements: Prior to starting a regulated activity, a certificate of approval and safety must be obtained from the Division of Water Resources.

3. Submission Requirements: Applications for a certificate of approval and safety must be made on standard forms provided by the Division and include: the name and address of the applicant; the location of the proposed or existing dam and reservoir; the type, size, and height of the proposed or existing dam and reservoir and appurtenant works; the storage capacity of the reservoir; the reservoir surface areas for normal and maximum surface water elevation; the purpose, or purposes, for which the dam or reservoir is to be used; and such other plans, specifications, and detailed information as the Division may deem reasonable and necessary to evaluate a project.

4. Procedure for Obtaining a Certificate:

New Dam Application:

Prior to the actual design or preparation of plans and specifications, the applicant must notify the Division that a project is proposed and file the necessary preliminary information. (See Section 0400-4-1.05 of the regulations) Written preliminary approval should be obtained prior to proceeding with advanced planning and design. After receiving preliminary approval, the applicant must apply for and obtain a certificate of approval and safety.

After the certificate is issued, the applicant must notify the Division in writing at least 10 days before construction is actually started. Construction must begin within 1 year of the date of issuance of a certificate. Immediately upon completion of the dam, the owner must give a written notice of completion to the Division and file an engineer's statement that the project was constructed in conformity with the approved plans and specifications. The Division, within 15 days, will either issue a certificate of approval and safety for the maintenance and operation of facilities or disapprove it in writing, stating the reasons for disapproval.

Application to Alter, Repair, or Remove a Dam:

Prior to starting the alteration, repair, or removal of a dam, the owner must apply for and obtain a certificate for the contemplated action. The application must identify the dam, state reasons why the work is necessary, give details of the proposed work, and provide an evaluation of the effects of the contemplated action. A schedule for accomplishing the proposed project must accompany the application. Construction procedures for new dams also apply to alterations, repairs, and removal of dams.

Existing Dams:

Existing dams (constructed prior to July 1, 1973) must file an application for a certificate to continue the operation. Certificates are valid for a fixed term, specified on the certificate, not to exceed 5 years. The Division may modify a certificate or modify the conditions included in a certificate.

5. **Operation Requirements:** All dams must be operated in compliance with all conditions, plans, and specifications stated in the certificate. All dams are subject to periodic safety inspections by the Division. Every dam is assigned a damage potential category that reflects the damage which might occur in the event of a dam failure, either structural or operational. The Division may impose different standards at different sites for design and conditions for issuance of a certificate based on the damage potential category. This also has a bearing upon the frequency of safety inspections.

6. **Fees:** Pursuant to the issuance of a certificate, a project review fee is charged for all new dam construction applications and is based on the maximum height of the dam. This fee will not exceed \$50.

Fees are also charged for safety inspections. The charge for a single inspection will not exceed \$50, and inspection fees for any calendar year will not exceed \$100.

7. Appeals: Persons aggrieved by a decision of the Division may, within 10 days, appeal such decision to the Chancery Court for Davidson County.

8. Special Notes: The Division cooperates with the Tennessee Valley Authority, the U.S. Army Corps of Engineers, the U.S. Soil Conservation Service, the Tennessee Department of Public Health, and other appropriate State and Federal agencies, and such cooperation may include joint and/or reciprocal review and approval of proposed projects, sites, plans, specifications, and inspections.

E. ADMINISTERING AGENCY: Division of Water Resources
Tennessee Department of Conservation
4721 Trousdale Drive
Nashville, TN 37219
(615) 741-6860

4.4.2 GROUNDWATER MANAGEMENT

A. NAME OF LICENSE: Water Well Contractor and Pump Setter License

B. AUTHORIZING STATUTE: Well Drillers Act (T.C.A. 70-2301 et seq.)

C. TITLE OF REGULATION:

Rules of the Tennessee Department of Conservation, Division of Water Resources; Chapter 0400-4-2: Rules and Regulations Pertaining to Groundwater Development and the Licensing of Water Well Contractors and Pump Setters

D. SUMMARY OF LICENSING PROCESS:

1. Applicability: The drilling or digging of a water well within the State of Tennessee.

2. General Requirements: All persons who intend to drill or dig a water well must obtain a license from the Division of Water Resources and annually renew the license. Any person who digs a water well at his/her own place of residence for his/her own personal use is not subject to the requirements of the Well Drillers Act and regulations adopted by the Division.

3. Submission Requirements: Applications for a license must be submitted on standard forms provided by the Division and must include such information as the Division deems reasonable and necessary to determine the applicant's capacity to operate and supervise the operation of equipment for drilling or digging wells and otherwise developing groundwater supplies.

4. Procedure for Obtaining a License: Applications for a license must be filed 30 days prior to a scheduled meeting of the Board of Groundwater of the Department of Conservation. These meetings are held on or about January 15, April 15, July 15, and October 15 of each year. The applicant must appear at the meeting and answer questions to demonstrate a capacity to operate and supervise the operation of equipment used for developing groundwater supplies. This examination by the Board of Groundwater may be oral. The Board may also require a field examination or demonstration of the applicant's ability. Upon the successful completion of such an examination, the applicant is issued a license.

5. **Drilling Requirements:** During the drilling of a water well, the license must be kept at the site. Within 30 days after the drilling of each water well is completed, the driller must submit a Report of Well Driller to the Division containing:

- the name and address of the person for whom the water well was drilled,
- the location of the water well,
- the date on which the well was completed, and
- the required log of the well.

All drillers must comply with all standards and requirements established by the Division. Any well abandoned for any reason must be properly protected to maintain the original quality of the groundwater source.

6. **Drilling Standards:** Standards have been prescribed by the Division to protect groundwater resources from contamination, to ensure a reasonable quantity and quality of water, and to protect the public health. These standards include: casing and sealing requirements; liner, packing, screening, and injection equipment requirements; requirements for plastic materials to be used in constructing wells or installing pumps; chlorine treatment requirements; and emergency requirements.

7. **Notice and Hearing Requirements:** Prior to refusing, suspending, revoking, or renewing a license, the Department must notify the applicant or holder by registered mail and, within 20 days, provide an opportunity for the applicant or holder to be heard and produce evidence in support of his application or license.

8. **Fees:** \$100 per year

9. **Appeals:** Any person aggrieved by a decision of the Department may, within 30 days, appeal such decision to the appropriate chancery court.

E. **ADMINISTERING AGENCY:** Division of Water Resources
Tennessee Department of Conservation
4721 Trousdale Drive
Nashville, TN 37219
(615) 741-6860

4.4.3 WATER-USE REGISTRATION

- A. AUTHORIZING STATUTE: Water-Use Registration Law (T.C.A. 70-2005)
- B. TITLE OF REGULATION: No regulations have been adopted. The law requires an "after the fact" registration of large water uses.
- C. SUMMARY OF REGISTRATION PROCESS:
1. Applicability: All water withdrawals of 50,000 or more gallons per day from all sources except those from public water systems.
 2. General Requirements: All persons withdrawing 50,000 or more gallons per day of water must register such withdrawal with the Division of Water Resources of the Department of Conservation. When such withdrawal has not been made within the past 3 years and will be resumed, or when withdrawal capacity is increased by 10 percent or more, the Division must be notified within 30 days after the installation or operation of facilities to withdraw water.
 3. Penalties: Any person failing to register such water withdrawals or making such withdrawals without notifying the Division is guilty of a misdemeanor and may be fined not less than \$10 nor more than \$50.
- D. ADMINISTERING AGENCY: Division of Water Resources
Tennessee Department of Conservation
4721 Trousdale Drive
Nashville, TN 37219
(615) 741-6860

SECTION 5.0
ENVIRONMENTAL QUALITY MANAGEMENT

CHAPTER 5.1

AIR QUALITY

INTRODUCTION: The Tennessee Air Quality Act was enacted to implement the Federal Clean Air Act of 1970 and subsequent Clean Air Amendments. The air pollution control regulations were adopted by the Tennessee Air Pollution Control Board to implement the Tennessee Act. These regulations are designed to maintain the required National Ambient Air Quality Standards (NAAQS) and the Prevention of Significant Deterioration (PSD) Ambient Air Quality Increments. These goals are accomplished by requiring permits for the construction and use of all air contaminant sources.

A. NAMES OF PERMITS:

1. Construction Permit
2. Operating Permit

B. AUTHORIZING STATUTE: Tennessee Air Quality Act, as amended (T.C.A. 53-3408 through 53-3426)

C. TITLE OF REGULATION:

Rules of the Tennessee Department of Public Health, Division of Air Pollution; Chapters 1200-3-1 through 1200-3-21: Tennessee Air Pollution Control Regulations

D. SUMMARY OF PERMIT PROCESS:

1. Applicability: Construction of a new air contaminant source; modification of an existing air contaminant source which may result in the discharge of air contaminants; and/or operation of an air contaminant source; except when such construction, operation, or modification is specifically exempted. (See Section 1200-3-9.04 of the regulations for listed exemptions)

2. General Requirements: All persons must obtain a construction permit before commencing construction of any new facility or the modification of an existing facility which may result in the discharge of air contaminants.

All persons must obtain a construction permit prior to relocating an existing source of air contaminants.

All persons must obtain an operating permit prior to operating an air contaminant source.

3. **Submission Requirements:** Applicants must submit an Application for Construction Permit, Form APC-20, to the Division of Air Pollution Control. Additional application forms may also be required for different types of operations. The application must include a description of the nature, location, and design capacity of the source; a schedule for construction; a description of the continuous emission reduction systems; and a description of the environmental and air quality impacts of the source.

Applications for operating permits must also be submitted on Form APC-20 and must include evidence that the operation of the air contaminant source will be in compliance with State emission standards promulgated by the Board, and will not interfere with the attainment or maintenance of the NAAQS and PSD increments.

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

Construction Permits:

Applicants must submit a completed application to the Division at least 90 days (120 days for PSD sources) prior to the anticipated start-up date of the proposed construction. The Division will make a preliminary determination on the application, and within 1 year of receiving the application, the Technical Secretary of the Division will issue a permit.

If an applicant can demonstrate that waiting for permit issuance would cause an "undue hardship", the applicant may request a waiver to proceed with construction prior to the issuance of a permit. If a waiver is granted, it may stipulate conditions for proceeding with construction. No waiver will be granted for PSD sources or for sources emitting hazardous air contaminants.

Operating Permits:

For sources which have been constructed or modified under a construction permit, an operating permit must be obtained within 90 to 120 days of the start-up date of the operation of the source. In all other cases, an operating permit must be obtained prior to the operation of the source.

Permits are valid for the period deemed appropriate by the Technical Secretary of the Division (generally 2 years) and may be renewed within 60 days of the expiration date. Permits are not transferable to another person, source, or location.

As a condition for receiving a permit, all sources must comply with State emissions standards and the operational and equipment requirements necessary to maintain the NAAQS and PSD increments.

5. Notice and Hearing Requirements: On receiving a completed application for a construction permit for a PSD source, the Division publishes a public notice of the application. Within 10 days of this notice, any interested or affected party may submit oral or written comments to the Division or request a public hearing. If a hearing is requested, it will be held following a 30-day notice of the hearing.

6. Operation Requirements: The construction of new or modification of existing facilities must be started within 180 days of permit issuance and must be completed within a "reasonable time."

Operating permits must be maintained at the site ready for inspection by the Board at any time.

All sources are subject to periodic inspections and may be required to renew their operating permits periodically. Some sources may be subject to such specific requirements as stack monitoring and testing.

All sources must be operated in accordance with all provisions, stipulations, and compliance schedules set forth in the permit, and in compliance with all applicable provisions of the Act and the Division's rules and regulations.

7. Fees: None

8. Appeals: Persons aggrieved by a permitting decision of the Technical Secretary may, within 30 days, appeal such decision to the Air Pollution Control Board.

9. Special Notes: The Act allows concurrent enforcement of clean air standards on the local level by permitting each county to establish and administer a local air pollution control program, so long as its regulations are at least as strict as State standards. At this time (July 1981), Shelby, Davidson, Hamilton, and Knox counties have their own programs.

Permits are also required for open burning, and all open burning must be controlled to be in compliance with regulations. No open burning may be done within 500 feet of a registered sanitary landfill.

E. SUMMARY OF AIR QUALITY STANDARDS:

1. Applicability: All sources of air contaminants except those specifically exempted. (See Section 1200-3-9-.04 of the regulations)

2. **General Requirements:** All sources of air contaminants must comply with all applicable emissions standards and compliance schedules.

3. **General Standards:** The Board has adopted ambient air quality standards as well as source emission standards. The National Primary Ambient Air Quality Standards and National Secondary Ambient Air Quality Standards (40 C.F.R. 50) have been incorporated into the State regulations.

The Division currently has adopted emission standards for visible emissions, non-process emissions, process emissions, fugitive dust, hazardous air contaminants, and sulfur dioxide. Limits on emissions due to malfunctions, start-ups, and shut-downs have also been established. The Division has also adopted emission standards consistent with the Federal New Source Performance Standards and the National Emission Standards for Hazardous Air Pollutants.

4. **Operating Requirements:** Operators must comply with monitoring, testing, and sampling requirements and methods as prescribed by the Board. Operators must maintain records and submit reports and emissions data as prescribed by the Board. Operators must also submit emission reduction plans for air pollution emergencies, episodes, and alerts.

5. **Special Notes:** Under its State Implementation Plan (SIP), the attainment date for both primary and secondary air quality standards was 1975, with the exception of all non-attainment areas. The Division has set December 31, 1982 as the date to meet all primary and secondary standards for these areas.

F. **ADMINISTERING AGENCY:** Division of Air Pollution Control
Bureau of Environmental Health
Administration
Tennessee Department of Public
Health
Terra Building
150 9th Avenue, North
Nashville, TN 37203
(615)741-3931

CHAPTER 5.2

WATER QUALITY STANDARDS AND REGULATIONS

INTRODUCTION: The Tennessee Water Quality Control Act was enacted to abate existing pollution of waters, to reclaim polluted waters, to prevent the future pollution of waters, and to plan for the future use of the waters of the State.

The Division of Water Quality Control was created within the Tennessee Department of Public Health to supervise and enforce all laws relating to water pollution in the State and to establish standards of quality for all waters of the State. The Division has been designated as the State Water Pollution Control Agency for the purposes of the Federal Clean Water Act and has been granted National Pollutant Discharge Elimination System (NPDES) permitting authority. The Commissioner of Public Health issues permits for the discharge of pollutants into the waters of the State and for the construction and operation of treatment works.

A. NAMES OF PERMITS:

1. Permit for Construction, Installation, or Modification of any Establishment, Treatment Works, or New Outlet
2. NPDES Permit

B. AUTHORIZING STATUTE: The Water Quality Control Act of 1977 (T.C.A. 70-324 through 70-345)

C. TITLE OF REGULATION:

Rules of the Tennessee Department of Public Health, Bureau of Environmental Health Administration, Division of Water Quality Control; Chapter 1200-4-1: General; Chapter 1200-4-2: Regulations for Plans Submittal and Approval, Control of Construction, General Control of Operations; Chapter 1200-4-3: General Water Quality Criteria for the Definition and Control of Pollution in the Waters of Tennessee; Chapter 1200-4-5: Effluent Limitations and Standards

D. SUMMARY OF PERMIT PROCESS:

1. Applicability:

Construction Permits: The construction, installation, or modification of any treatment works; the construction, installation, or extension of any establishment which will cause an increase in the discharge of wastes; and/or the construction of any new outlet for the discharge of any wastes into the waters of the State.

NPDES Permits: The alteration of the physical, chemical, radiological, biological, and bacteriological properties of any waters of the State; the operation of any treatment works; the increase in volume or strength of any wastes in excess of the permissive discharges specified under an existing permit; the development of a natural resource or the operation of any establishment which will cause an increase in the discharge of wastes; the construction or use of any new outlet for the discharge of any wastes into the waters of the State; and/or the discharge of sewage, industrial wastes, or other wastes into a well or a location from which it is likely that the discharged substance will move into a well or into other waters.

2. **General Requirements:** All persons who plan to engage in a listed activity must first obtain either written approval or an NPDES permit from the Division. Persons who discharge into a publicly owned sewerage system or into a septic tank connected only to a subsurface drainfield are exempt from this requirement.

3. **Submission Requirements:**

Construction Permits: Applicants must submit all required preliminary information, contract drawings, and final plans and specifications which conform to the conditions outlined in the guidelines for preparing such plans as published by the Tennessee Department of Public Health.

NPDES Permits: Applications for NPDES permits must be made on standard forms provided by the Division and include all required engineering reports, plans, and specifications. The Division may subsequently request additional reasonable information as required to make the permit decision.

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

Construction Permits: Applicants should first make a written request to the Division for an informal discussion of the proposed project and its scope and purpose. If a meeting is requested, one will be held within 30 days. Applicants must then submit all required preliminary information to the Division for approval at least 30 days prior to the date on which Division approval is desired. The Division will review the submitted data and confirm acceptance of the preliminary information by an official site approval letter if it is found to be sufficient to evaluate the effect of the proposed project. Applicants must then submit all required final plans and specifications within 1 year of receiving approval of the preliminary information. If such plans and specifications are found to be in compliance with all requirements, the Division will approve and stamp the final plans and specifications with an official stamp of approval.

The "Approved for Construction" stamp of the Division constitutes a valid permit to construct, install, or modify the proposed facilities.

NPDES Permits: Applications for permits must be submitted at least 180 days prior to the target date for commencing a discharge or commencing operation of a non-discharge treatment system. Each completed application is evaluated by the Division and a tentative determination of whether to issue or deny the permit is made. If tentative approval is granted, a draft permit is prepared which includes proposed effluent limitations, a proposed schedule of compliance, if necessary, (including interim dates and requirements), and a brief description of any proposed special conditions. Following the required notice and hearing procedures, a permit is issued or denied. Processing of a complete application is completed within 180 days after its receipt by the Division. Each permit is issued for a fixed term not to exceed 5 years. Any permittee who wishes to continue to discharge or to operate a wastewater treatment system after the expiration of his permit must apply for reissuance at least 180 days prior to its expiration.

5. **Notice and Hearing Requirements:** On the tentative determination of the application made by the Division, the Division will post and/or publish public notice of the application and the tentative determination. Interested persons may submit written comments on the tentative determination and/or request a public hearing within 30 days of this notice. If there is significant public interest in holding a hearing then one is scheduled, following a 30-day public notice of the hearing.

6. **Construction Requirements:** Construction must be started within 1 year of receiving the construction permit and all work must be in conformance with the officially approved final plans and specifications.

7. **Operation Requirements:** All permitted activities must be operated in compliance with all terms and conditions specified in the permit. These terms and conditions are individually tailored to the specific application and include the most stringent effluent limitations and schedules of compliance promulgated by the Division necessary to implement any applicable water quality standards, to comply with an areawide waste treatment plan, or to comply with other State or Federal laws or regulations.

All permitted activities must comply with all applicable monitoring, recording, reporting, and inspection requirements specified in the regulations. In the case of discharges from publicly-owned treatment works, terms and conditions requiring the permittee to enforce user charges, pretreatment standards, toxic effluent limitations, and monitoring requirements for industrial users must be adhered to.

8. Fees: None

9. Appeals: Persons aggrieved by a decision of the Division concerning permit conditions and/or permit denials may, within 30 days, appeal such decision to the Permit Hearing Panel within the Water Quality Control Board. Appeals of permit revocations or permit modifications are heard by the full Board or by any member or members appointed by the Chairman.

10. Special Notes: U.S. EPA effluent limitations and guidelines for existing sources and standards of performance for new sources of pollution pursuant to Sections 301, 304, and 306 of the Federal Water Pollution Control Act, as amended, apply in Tennessee.

E. SUMMARY OF WATER QUALITY STANDARDS AND CRITERIA:

1. General Standards: The purpose and intent of the water quality standards is to conserve, protect, maintain, and improve the waters of the State of Tennessee and are based on the following recognized use classifications: domestic water supply, industrial water supply, fish and aquatic life, recreation, irrigation, livestock watering and wildlife, and navigation.

2. Water Quality Criteria: Water quality criteria include standards for dissolved oxygen, pH, hardness, total dissolved solids, floating materials and deposits, turbidity, temperature, chlorine, taste or odor, toxic substances, and other pollutants.

F. ADMINISTERING AGENCY: Division of Water Quality Control
Bureau of Environmental Health
Administration
Tennessee Department of Public
Health
Terra Building
150 9th Avenue, North
Nashville, TN 37203
(615) 741-7883

CHAPTER 5.3

PUBLIC WATER SUPPLY

INTRODUCTION: The Public Water Supply and Sewer System Act placed the authority for implementation and enforcement of all standards, policies, and requirements for public water systems in the State with the Tennessee Department of Public Health.

The rules and regulations for public water systems were adopted by the Department to set out the procedures to be followed in carrying out the State's enforcement responsibility. Generally, all public water systems must be approved by the Department before they are constructed and/or operated and must comply with all applicable maximum contaminant levels or treatment technique requirements.

Tennessee has 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. NAMES OF PERMITS:

1. Construction Plan Approval
2. Operation Plan Approval

B. **AUTHORIZING STATUTE:** Public Water Supply and Sewer System Act (T.C.A. 53-2001 through 53-2041)

C. TITLE OF REGULATION:

Rules of the Tennessee Department of Public Health, Bureau of Environmental Health Services, Division of Water Quality Control; Chapter 1200-5-1: Public Water Systems

D. SUMMARY OF PERMIT PROCESS:

1. **Applicability:** All public water systems within the State of Tennessee.

2. **General Requirements:** Prior to the construction and subsequent operation of a public water system, construction plans and operation plans must be approved and certified by the Department.

3. **Submission Requirements:** The applicant must submit to the Department construction or operation plans, as appropriate. All plan documents must be prepared by a certified professional engineer, submitted in duplicate, and contain sufficient information for the Department to determine whether the site and design of the system will be in conformity with the requirements and standards published by the Department in "Minimum Design Standards for Public Water Systems."

4. Procedure for Obtaining Plan Approval: Plan documents must be submitted to the Department 30 days prior to the date that a person wishes to commence construction. Department approval for construction is valid for only 1 year unless construction is underway or completed. The stamped "Approved for Construction" document must be available at the job site at all times during construction. On completion of construction, "As Built" plans must be submitted and approved in writing before the water system can be placed in operation.

5. Operation Requirements: All community and non-community water systems must comply with the maximum containment levels for inorganic chemicals, turbidity, and microbiological contaminants set by the Department. Community systems must also comply with the established levels for organic chemicals and radionuclides.

All water systems must comply with all applicable monitoring, sampling, and analytical requirements as specified in the regulations.

Within 40 days following the completion of all required physical, chemical, or biological analyses, the supplier must report the results to the Department. If the results indicate a failure of the system to comply with the regulations, they must be reported within 48 hours.

Variances and exemptions from meeting certain standards and requirements may be granted to an applicant upon application and approval by the Department. Variances and exemptions are good for 1 year and will specify a compliance schedule and implementation plan.

When any water system reaches 80 percent of its design capacity, plan documents for expansion must be prepared and submitted to the Department for approval.

6. Notice and Hearing Requirements: Prior to the issuance of a variance or exemption, the Department must provide notice and an opportunity for a public hearing to be held on the variance or exemption.

7. Fees: None

8. Appeals: Persons aggrieved by a decision concerning permit conditions and permit denials may, within 30 days, appeal such decision to the Permit Hearing Panel within the Water Quality Control Board. Appeals of permit revocations or modifications are heard by the full Board or by any member or members appointed by the Chairman.

E. ADMINISTERING AGENCY: Division of Water Quality Control
Bureau of Environmental Health
Administration
Tennessee Department of Public Health
Terra Building
150 9th Avenue, North
Nashville, TN 37203
(615) 741-7883

CHAPTER 5.4

SOLID WASTE MANAGEMENT

INTRODUCTION: The Tennessee Solid Waste Disposal Act was enacted to provide for safe and sanitary processing and disposal of solid wastes, and to establish a coordinated, statewide program to control solid waste processing and disposal in cooperation with Federal, State, and local agencies responsible for the prevention, control, or abatement of air, water, and land pollution.

The State regulations governing solid waste processing and disposal facilities were adopted by the Department of Public Health to fulfill the requirements of the Act. To meet future demands, the Department has developed long-range plans for adequate solid waste disposal systems.

A. NAME OF PERMIT: Department of Public Health Solid Waste System Registration

B. AUTHORIZING STATUTE: Solid Waste Disposal Act (T.C.A. 53-4301 through 4315; 53-4321; 53-4343; and 53-4344)

C. TITLE OF REGULATION:

Rules of the Tennessee Department of Public Health, Bureau of Environmental Health Services, Division of Solid Waste Management; Chapters 1200-1-7.01 through 1200-1-7.07: Regulations Governing the Planning, Operation, and Maintenance of Solid Waste Processing and Disposal Systems in Tennessee

D. SUMMARY OF PERMIT PROCESS:

1. Applicability: The operation and maintenance of all solid waste disposal or processing facilities.

These regulations do not apply to individual householders, providing they do not create a public nuisance.

2. General Requirements: All disposal and processing operations must be registered by the Commissioner of Public Health or the Solid Waste Disposal Control Board in the Department of Public Health prior to commencing operations.

All applications for Federal, State, or other grants or loans from cities, towns, or municipalities must be submitted to the Department of Public Health for review.

3. **Submission Requirements:** Applications for Department registration must be submitted on standard forms provided by the Department and include a feasibility study of the contemplated system. The feasibility study must contain a system and site evaluation, a system design, construction plans, operating plans, and other information as may be required by the Department.

4. **Procedure for Obtaining a Permit:** Feasibility studies must first be submitted to and approved by the Department. Proposed site locations are evaluated by the Department and the applicant is notified in writing of the Department's finding. Construction and operation plans must then be submitted to the Department for review and approval. Between 60 to 180 days prior to the anticipated start-up date of the operation, applicants must apply for Department registration of the system, which must be obtained prior to the operation of the system. Following the required notice and hearing procedures, the application will be approved, approved with conditions, or denied.

5. **Notice and Hearing Requirements:** Prior to issuing a permit, the Department must give a 30-day public notice of the application. During this notice period, interested parties may request a hearing to be held on the application. If there is sufficient public interest, the Department will hold a hearing. All technical information received from the applicant prior to the hearing, and from any party during the hearing, must be considered by the Department in making a permit decision.

6. **Operation Requirements:** All systems must be operated in compliance with all applicable standards and requirements specified in the rules concerning processing and composting plants, transfer stations, waste processing methods, disposal facilities, and the conversion and abandonment of open dumps. (See Rule 1200-1-7.06)

7. **Fees:** None

8. **Appeals:** Persons aggrieved by a decision or action of the Department may, within 30 days, appeal to the Solid Waste Disposal Control Board within the Department.

9. **Special Notes:** Recently a policy plan for solid waste management was completed by the Tennessee State Planning Office (TSP0) in cooperation with the Department of Public Health. The TSP0 will assist communities in the development of local or county solid waste management plans in accordance with this plan.

The State has authority to make loans to any municipal corporation or county for construction of energy recovery and/or waste resource recovery facilities. (See T.C.A. 53-4322 through 53-4337)

Municipalities are granted powers to construct, purchase, improve, operate, and maintain energy recovery facilities or facilities for production of energy from such energy recovery facilities. (See T.C.A. 53-4338 through 53-4342)

E. ADMINISTERING AGENCY: Division of Solid Waste Management
Bureau of Environmental Health
Administration
Tennessee Department of Public
Health
Terra Building
150 9th Avenue, North
Nashville, TN 37203
(615) 741-3424

CHAPTER 5.5

HAZARDOUS WASTE MANAGEMENT

INTRODUCTION: The Tennessee Hazardous Waste Management Act was enacted to provide for the safe storage, transportation, treatment, and disposal of hazardous wastes and to provide a coordinated statewide program to control hazardous wastes in cooperation with Federal, State, and local agencies.

The Tennessee rules for hazardous waste management were adopted by the Tennessee Department of Public Health to implement the Act and are substantially equivalent to the Federal regulations (40 CFR) promulgated by the U.S. Environmental Protection Agency (EPA).

A. NAMES OF PERMITS:

1. Hazardous Waste Transporter's Permit
2. Hazardous Waste Storage, Treatment, or Disposal Permit

B. AUTHORIZING STATUTE: Hazardous Waste Management Act (T.C.A. 53-6301 through 53-6317)

C. TITLE OF REGULATION:

Rules of the Tennessee Department of Public Health, Bureau of Environmental Health Services, Division of Solid Waste Management; Chapter 1200-1-11: Rules for Hazardous Waste Management

D. SUMMARY OF PERMIT PROCESS:

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

2. **General Requirements:** Generators of hazardous waste must notify the U.S. EPA and the Department as specified in Section 3010 of the Federal Resource Conservation and Recovery Act (RCRA) and comply with standards for waste generators specified in the rules of the Department.

Transporters must obtain a permit before transporting hazardous waste.

Owners and operators of all facilities must obtain a permit before operating a treatment, storage, or disposal facility. (For provisions for exemptions to these permitting rules see Rule 1200-1-11.07)

3. **Submission Requirements:** Applications for transporter's permits must be submitted on standard forms provided by the Department of Public Health and include information describing the wastes being transported, the origin and destination of the wastes, and other information as required by the Department.

Applications for permits to treat, store, or dispose hazardous waste must be submitted on standard forms provided by the Department. These forms consist of 2 parts. Part A must include information regarding site location, physical status of the facility (whether existing, undergoing modification, or planned), a scale drawing and photographs of the facility, a description of the techniques used and capacity of the facility, and the type and quantity of wastes to be handled. These requirements are substantially equivalent to the EPA's regulations. (See 40 CFR 122.4 and 40 CFR 122.24)

Part B must include specific site and operation plans, such as: chemical and physical analyses of the wastes to be handled; a description of security procedures and equipment required; a copy of the required contingency plan for emergencies; and a description of the procedures, structures, or equipment used at the facility to prevent leaks, spills, accidents, exposures, or contamination, and to mitigate the impacts of equipment failure. Other additional information may be required, as needed, to ensure compliance with applicable and/or pending regulations.

4. **Procedure for Obtaining a Permit:** Transporters must submit the required forms and fee to the Commissioner of the Department of Public Health prior to transporting wastes. The Commissioner will review the application and approve, approve with conditions, or deny the application. These requirements do not pertain to transporters whose origin and destination are both outside Tennessee. (See Rule 1200-1-11.04)

Generators must submit the required forms and fees for on-site storage, treatment, or disposal facilities to the Commissioner of the Department of Public Health. The Commissioner will review and approve, approve with conditions, or deny the application.

Operators of off-site storage, treatment, or disposal facilities must submit the required forms and fees to the Solid Waste Disposal Control Board at least 180 days prior to operating a facility. After the required notice and review procedures, the Department will determine whether to issue a draft permit within 60 days and then make a final determination on the application.

The Department will make a comprehensive review of all permitted facilities at least once every 5 years. Permits may be issued, reissued, refused, modified, or revoked as specified in the rules of the Department.

5. Notice and Hearing Requirements: Within 60 days of receiving a complete application, the Department will publish a public notice of the application and solicit public comment. If warranted, a public hearing will be held on the application and/or draft permit. (See Rule 1200-1-10 for administrative procedures)

6. Operation Requirements: All facilities must be operated in compliance with all applicable standards and requirements as specified in the rules of the Department. Such standards and requirements govern facility security, inspection, personnel training, emergency preparedness, financial responsibility, and closure and post-closure plans. All facilities, generators, and transporters must comply with the manifest system of record-keeping and reporting.

7. Fees:

Transporters:

- application fee not to exceed \$100
- annual maintenance fee not less than \$25 nor more than \$1,000, based on the quantity of hazardous waste transported

Storage, Treatment, or Storage Facilities:

- application fee not to exceed \$5,000
- annual maintenance fee not less than \$100 nor more than \$10,000

On-site Storage Generators:

- annual maintenance fee not to exceed \$100

Failure of a permit applicant to pay the required application fee constitutes grounds for permit denial. Failure of a permittee to pay the required annual maintenance fee constitutes grounds for permit revocation.

8. Appeals: Persons aggrieved by a decision or action of the Department may, within 30 days, appeal to the Solid Waste Disposal Control Board within the Department.

E. ADMINISTERING AGENCY: Division of Solid Waste Management
Bureau of Environmental Health
Administration
Tennessee Department of Public Health
Terra Building
150 9th Avenue, North
Nashville, TN 37203
(615) 741-3424

CHAPTER 5.6

NOISE REGULATIONS

INTRODUCTION: The State of Tennessee has no comprehensive noise legislation or noise pollution control program. Presently, the Tennessee Department of Transportation (DOT) does sampling along proposed and existing transportation corridors to determine real or projected noise levels. These noise abatement and control activities are required by the U.S. Department of Transportation and comply with standards set forth by the Federal Highway Administration.

At present, the strongest coordination tool with regard to noise pollution is the A-95 review (by the Tennessee State Planning Office) of proposed DOT projects.

CHAPTER 6.1

RARE AND ENDANGERED SPECIES

INTRODUCTION: In Tennessee, 2 State agencies are directly concerned with the protection and management of rare and endangered species: the Tennessee Wildlife Resources Agency (TWRA) and the Tennessee Heritage Program (THP) of the Tennessee Department of Conservation. A number of species of Tennessee wildlife have been officially listed as (1) Federal endangered, (2) Federal threatened, (3) State endangered, (4) State threatened, (5) in need of management, and (6) of special concern. "In need of management" and "special concern" classifications are assigned by the TWRA and THP, respectively, to those species which, although not considered "threatened" within the State, appear to exist at well below optimum carrying capacity and have (or have had) declining populations.

The Tennessee Nongame and Endangered or Threatened Wildlife Species Conservation Act of 1974 requires the protection and classification of species and sub-species of wildlife whose existence is deemed to be endangered, threatened, or in need of management. It directs the TWRA to conduct necessary studies and data collection, and to promulgate rules and regulations as well as management programs to ensure their protection. The TWRA has the powers of eminent domain and the power to arrest, fine, prohibit, and regulate in the interest of protecting wildlife.

Executive Order No. 11 (March 7, 1980), An Order Pertaining to the Endangered Plant Species Program, requires the identification and management of plant species which may be possibly extirpated, or which are endangered, threatened, or of special concern through a State Plant Protection Program. The THP is responsible for developing management plans for the listed plants and for making recommendations about additional surveys and inventories. It is given the authority to oversee the management of significant plant species on all State-owned land in Tennessee.

A. **NAME OF PERMIT:** TWRA Collecting Permit

B. **AUTHORIZING STATUTES:**

1. An Act Creating the Tennessee Wildlife Resources Agency (T.C.A. 51-123)
2. Tennessee Nongame and Endangered or Threatened Wildlife Species Conservation Act of 1974 (T.C.A. 51-901)

C. **TITLE OF REGULATION:**

1. Endangered or Threatened Species Proclamation No. 75-15
2. Wildlife in Need of Management Proclamation No. 76-4

D. SUMMARY OF PERMIT PROCESS:

1. **Applicability:** The taking, possession, transportation, exportation, processing, sale, or shipment of any species which is listed as endangered, threatened, or in need of management by the TWRA or by the U.S. Fish and Wildlife Service. (See 50 CFR 17, App. A and D for U.S. List of Endangered Fish and Wildlife)

2. **General Requirements:** Prior to starting a regulated activity, all persons must receive a permit from the TWRA.

3. **Submission Requirements:** Applications must be submitted in writing and include information describing: the species affected, the number of specimens to be collected, the location and purpose of collection, the name and title of the applicant, and other pertinent information as may be required by the TWRA.

4. **Procedure for Obtaining a Permit:** The applicant must write a letter to the TWRA describing the above required information and requesting a permit. The TWRA will review the application letter and either approve or deny the request.

5. **Permittee Requirements:** Listed species may be taken, possessed, transported, exported, processed, sold, or shipped only for scientific, zoological, or educational purposes; for propagation in captivity of such species; or for other purposes to benefit the species.

6. **Fees:** None

7. **Appeals:** Persons aggrieved by an action of the TWRA may, within 30 days, appeal such action to TWRA Director.

8. **Special Notes:** A Federal permit is also required for regulated activities involving plants or animals on Federal endangered or threatened lists.

E. ADMINISTERING AGENCIES:

Permitting Process and Listed Animals:

Tennessee Wildlife Resources Agency
Ellington Agricultural Center
P.O. Box 40747
Nashville, TN 37204
(615) 741-1517

Listed Plants:

Tennessee Heritage Program
Tennessee Department of Conservation
2611 West End Avenue
Nashville, TN 37203
(615) 741-3852

Federally Listed Plants and Animals:

U.S. Fish and Wildlife Service
P.O. Box 290
Nashville, TN 37203
(615) 251-5532

SECTION 6.0
SOCIAL/ECOLOGICAL PRESERVATION

CHAPTER 6.2

ARCHAEOLOGICAL AND HISTORICAL

INTRODUCTION: The Tennessee Historical Commission was created within the Department of Conservation to implement the Federal regulations adopted pursuant to the National Historic Preservation Act of 1966, as amended, in the State of Tennessee. The Tennessee Historical Commission provides the technical staff for the State Historic Preservation Office (SHPO), which has the responsibility of coordinating and enforcing the Federal requirements of the National Historic Preservation Act (P.L. 89-665) in the State. The SHPO administers the review of Federal projects, assistance, and permits for the State, under Section 106 of the Act. The review includes the consideration of historic, architectural, and archaeological properties.

The Division of Archaeology was established in the Department of Conservation to initiate, operate, and maintain a statewide program in archaeology to survey, excavate, research, and preserve historic, prehistoric, and paleontological resources in the State. An archaeological permit is required from the Division prior to the investigation and/or excavation of any archaeological site on State property.

A. **NAME OF PERMIT:** Archaeological Permit

B. **AUTHORIZING STATUTES:**

1. An Act Establishing the Tennessee Historical Commission (T.C.A. 4-11)
2. An Act Establishing the Division of Archaeology (T.C.A. 11-15)

C. **TITLE OF REGULATION:** No State regulations have been adopted. T.C.A. 11-15 specifies the procedures and requirements for obtaining a State archaeological permit. Federal regulations (36 CFR 800) apply in Tennessee.

D. **SUMMARY OF PERMIT PROCESS:**

1. **Applicability:** Any archaeological exploration or excavation on State lands.
2. **General Requirements:** No person or organization, including other agents or agencies of the State of Tennessee, may excavate on any site situated on lands owned or controlled by the State without obtaining a permit from the Division of Archaeology.

3. **Submission Requirements:** An application for an archaeological permit must demonstrate that the investigating person or agency has the required archaeological expertise and must specify the site or area to be investigated, the reason for investigation, and the nature and extent of the proposed excavation.

4. **Procedure for Obtaining a Permit:** Applications must be submitted to the Division of Archaeology prior to the excavation of any site. Permits and contracts for archaeological exploration are granted by the Division for such periods of time and under such terms and conditions as the State Archaeologist determines.

5. **Permittee Requirements:** Sites may only be excavated for the period of time and under the terms and conditions specified in the permit. Any information and/or artifacts recovered from State lands remain the property of the State and are to be used solely for scientific or public educational purposes.

6. **Fees:** None

7. **Appeals:** No appeal is possible. The decision of the Division of Archaeology is final.

8. **Special Notes:** When any sites or artifacts are discovered on property owned or controlled by the State, a county, municipality, or the owning or controlling agency or entity is "requested to urge" supervisors of construction activities to notify the Division of Archaeology of the discovery and location of such sites or artifacts.

E. **ADMINISTERING AGENCY:** Division of Archaeology
Tennessee Department of Conservation
5103 Edmondson Pike
Nashville, TN 37211
(615) 741-1588

Information regarding the National Historic Preservation Act Compliance Process (36 CFR 800) and its requirements should be obtained from:

Tennessee State Historic Preservation
Office
Tennessee Historical Commission
Department of Conservation
4721 Trousdale Drive
Nashville, TN 37219
(615) 741-2371

CHAPTER 6.3

WETLANDS

INTRODUCTION: Activities that may affect wetlands in the State of Tennessee must comply with the water quality standards and requirements of the Division of Water Quality Control in the Tennessee Department of Public Health as well as the U.S. Army Corps of Engineers requirements for Section 404 permits.

Notice of applications for Section 404 permits are also received by the Tennessee State Planning Office (TSP0) and routed to appropriate reviewing and commenting agencies through the A-95 process. (See Chapter 2.1 of this guide) TSP0 comments are forwarded directly to the Corps.

- A. **NAME OF PERMIT:** U.S. Army Corps of Engineers 404 Permit
- B. **AUTHORIZING STATUTE:** Water Quality Control Act of 1977 (T.C.A. 70-324 through 70-345)
- C. **TITLE OF REGULATION:** U.S. Army Corps of Engineers Dredge and Fill Requirements under Public Law 95-217, Sec. 401(a)(1)
- D. **SUMMARY OF PERMIT PROCESS:**

1. **Applicability:** Dredge and fill activities in wetlands areas.

2. **General Requirements:** All persons must comply with surface water quality standards and requirements for dredge and fill activities in wetlands areas. State Certification is required from the Division of Water Quality Control for activities requiring a Corps permit.

3. **Procedure for Obtaining a Permit:** Applications for 404 permits must be submitted to the U.S. Army Corps of Engineers. The applicant may submit a copy of the application to the Division. For major projects, applicants must also submit an erosion control plan to the Division.

On receiving an application for a permit, the Corps will issue a public notice of the proposed project and submit a request for certification to the Division. Interested parties may comment on the application within 30 days after the issuance of a public notice. During this 30-day comment period, the Division will issue a notice of intended action concerning the application.

Generally, for minor projects, the Division will waive its right to certify and within a week of receiving the Corps request for certification, will so notify the applicant and the Corps. For standard Department of Transportation projects, the Division submits its certification with a standard set of conditions to the Corps within 30 days of receiving the Corps request for certification. For major projects, the Division usually submits its certification and/or comments with a special set of conditions to the Corps within 30 days following the close of the 30-day public comment period.

A public hearing on a project and/or certification may be held if there is significant public comment on a proposed project or if the Corps or the Division requests such a hearing be held. Notice of any hearing held must be issued by the Corps at least 45 days in advance of the hearing date. A public hearing would thus extend the 60-day certification period of the Division for major projects.

4. **Permittee Requirements:** Permittees must comply with conditions established in the 404 permit which are partially determined through the State certification process.

5. **Fees:** None

6. **Appeals:** Aggrieved parties may appeal to the Division or directly to the Corps.

- E. **ADMINISTERING AGENCIES:** Division of Water Quality Control
Bureau of Environmental Health
Administration
Tennessee Department of Public
Health
Terra Building
150 9th Avenue, North
Nashville, TN 37203
(615) 741-7883
- Operations Division
National District
U.S. Army Corps of Engineers
P.O. Box 1070
Nashville, TN 37202
(615) 251-5649
- Memphis District
U.S. Army Corps of Engineers
668 Clifford Davis Federal Building
Memphis, TN 38103
(901) 521-3168

CHAPTER 6.4

COASTAL ZONE REGULATIONS

INTRODUCTION: Coastal zone regulations are not applicable to the State of Tennessee.

SECTION 7.0
LOCAL REGULATORY POLICY

CHAPTER 7.1

LOCAL GOVERNMENT LAND USE AND NATURAL RESOURCE CONTROL ENABLING LAWS

INTRODUCTION: Municipal, county, and regional enabling legislation is contained in Titles 13 and 42 of the Tennessee Code. This legislation gives both the city and county governments broad powers for regulating the use of land through planning, zoning, and subdivision regulations. These local functions are tied to the Tennessee State Planning Office (TSP0) and legally establish a direct relationship between the various planning programs in the State. Substate development districts are also established in this legislation and coordinated with both State and local planning.

A. AUTHORIZING STATUTES:

1. Regional Planning Commissions (T.C.A. 13-201 through 13-212)
2. Regional Planning Regulations (T.C.A. 13-301 through 13-311)
3. County Zoning Regulations (T.C.A. 13-401 through 13-416)
4. Municipal Planning Commissions (T.C.A. 13-501 through 13-508)
5. Municipal Planning Regulations (T.C.A. 13-601 through 13-609)
6. Municipal Zoning Regulations (T.C.A. 13-701 through 13-716)
7. Housing Authorities Law (T.C.A. 13-801 through 13-1113)
8. Slum Clearance (T.C.A. 13-1201 through 13-1209)
9. Industrial Park Act (T.C.A. 13-1301 through 13-1307)
10. Development District Act of 1965 (T.C.A. 13-1401 through 13-1413)
11. New Community Development Act (T.C.A. 13-1501 through 13-1517)
12. Airport Zoning Regulations (T.C.A. 42-401 through 42-415)

B. TITLE AND SUMMARY OF REGULATIONS: Local jurisdictions adopt their own regulations and must be contacted directly for regulatory requirements.

C. ADMINISTERING AGENCY: To identify the appropriate local planning office, contact:

Local Planning Division
Tennessee State Planning Office
1800 James K. Polk Building
505 Deaderick Street
Nashville, TN 37219
(615) 741-1676