

10. Understanding Environmental Regulations

Playing by the Rules to Protect Pike County's Natural Resources

by Will Whitehead, Resource Conservationist and Susan Beecher,
District Manager, Pike County Conservation District

“The people have a right to clean air, pure water, and to the preservation of the natural, scenic, historic, and esthetic values of the environment. Pennsylvania’s public natural resources are the common property of all the people, including generations yet to come. As trustees of these resources, the Commonwealth shall conserve and maintain them for the benefit of all the people.”

- Pennsylvania Constitution – Section 27, Article 1

Environmental regulations are designed to protect natural resources and the people and other life that depend on those resources. Environmental regulations also help to safeguard personal property and financial investment and provide numerous other economic benefits to individuals and communities.

Environmental regulations are sometimes misunderstood in their intent or criticized as being over burdensome and infringing on individual rights. In addition, environmental regulations do not always provide the level of protection they are intended to. While they may not be perfect in their intended purpose and are often subject to controversy, environmental regulations do serve a critical purpose: protection of the natural resources – air, water, soil, forests, fish and wildlife – that support people, communities, economic well-being, and the quality of life enjoyed by Pike County residents.

This chapter will not cover all existing environmental regulations nor all the land use activities with the potential for environmental impact, occurring in Pike County. Instead, the reader will be introduced to the local, state and federal regulatory frameworks designed to guide and minimize the impacts of the more commonly occurring land use activities (residential and commercial development, stone quarrying, timber harvesting, road building and maintenance, sewage waste processing and disposal, etc.).

Having a basic understanding of the environmental regulations described here will benefit residents as these regulations may require permits, plans or approvals that can apply to both small projects around the home as well as larger land development projects, such as residential subdivisions. More information on environmental regulations, along with downloadable forms, is available on the Pike County Conservation District web site: www.pikeconservation.org.

I. Chapter 102 and 105 and Chapter 92 NPDES Permits

Earth Disturbance Activities Large and Small


PA Code Title 25 - Chapter 102 - Erosion & Sediment Control

Earth disturbance activity – defined as “a construction or other human activity which disturbs the surface of the land...” – removes living vegetation, including trees, shrubs, flowering plants and grasses, as well as leaf litter, from forest floors. Stormwater runoff (Chapter 4) can pick up and carry exposed soil from disturbed areas to streams, wetlands or lakes resulting in pollution of these surface waters.

- Purpose of Chapter 102: To minimize the release of sediment-laden stormwater runoff from earth disturbance sites during construction in order to protect and maintain water quality
- Chapter 102 requires that an **Erosion & Sediment Control Plan (E&S Plan)** (Chapter 5) be *developed, implemented and available on-site* at all times during earth disturbance activities

Examples of Earth Disturbance Activities Requiring an E&S Plan

- Construction of individual houses, driveways and on-lot sewage systems
- General, large-scale land development activities
- Clearing areas and grubbing (removing tree roots)
- Moving and stockpiling soil, rock or other earth materials
- Excavations (removing dirt) and grading (distributing dirt over a site)
- Timber harvesting including developing trails and logging roads
- Road maintenance including grading dirt and gravel roads, ditches and drain pipes



**Pike County Conservation District
Erosion & Sediment Control Guidelines
for Small Projects**

Use of this Guide
This Guide is only for use in developing Erosion & Sediment (E&S) Control Plans for small projects that meet the following criteria:

- ✓ Slopes do not exceed a 10% grade
- ✓ There are no surface waters in close proximity to the proposed project
- ✓ Erosion control practices being used do not require calculation
- ✓ Total area of disturbance is less than 1 acre

This Guide may also be used to develop E&S Control Plans when the landowner is submitting a Chapter 105 General Permit for acknowledgement. In addition, check with your municipality to determine if any local ordinance provisions or permit requirements apply to your project.

Please Note: This Guide is not appropriate for every project! Your project must meet the criteria listed above in order to use this Guide to develop your E&S Control Plan. For larger, more complex projects, a detailed *Erosion and Sedimentation Pollution Control Manual* is available through the Conservation District. Check your yellow pages for engineers or other consultants that can assist in developing E&S Control Plans. Contact the Pike County Conservation District if you are unsure of the suitability of this Guide for your project. Telephone: 570-256-8230.

Erosion and Sedimentation is a Serious Pollution Problem
Soil sediment is the number one pollutant to Pennsylvania's water resources. Sediment reduces water quality, degrades aquatic habitats killing fish and other aquatic life, and increases the frequency and intensity of flooding events. Any activity that disturbs the surface of the land can cause erosion and sedimentation. Completing and properly implementing an E&S Control Plan for your earth disturbance project will help protect Pike County's soil and water resources as well as the County's economic sustainability and quality of life.

State and Federal Regulations Require E&S Control Plans
To address the problem of sediment pollution, the Commonwealth of Pennsylvania, Department of Environmental Protection (DEP), adopted Chapter 102, Erosion and Sediment Control Rules and Regulations. Chapter 102 requires persons proposing or conducting earth disturbance activities to develop, implement and maintain *Best Management Practices* to minimize the potential for accelerated erosion and sedimentation. A written E&S Control Plan is required for all earth disturbance activities with the potential for discharge to waters classified as "High Quality" or "Exceptional Value" waters (which includes most of Pike County). In addition, the E&S Plan must be available at the project during all stages of the earth disturbance activity. The Plan must be submitted to the Conservation District for review if required by the local municipality (or, in some cases, a Community Association) or requested by the Conservation District. Both landowners and contractors may be held responsible for any violations of Chapter 102 regulations.

A Note about Streams, Floodways, Wetlands & Other Bodies of Water:
Any encroachment on any watercourse, floodway, or body of water without the appropriate federal and state permits is strictly prohibited by the Federal Clean Water Act, the Commonwealth of Pennsylvania's Dam Safety and Encroachments Act, The Clean Streams Law and Chapter 105 rules and regulations. In addition, some local municipalities have setbacks and other ordinance provisions related to water resources that may be applicable to certain land development activities. Plan ahead to avoid these areas or inquire about permit and other requirements well BEFORE beginning your project.

*Guide for developing E&S Plans
for small projects available at the
Pike County Conservation District*

For small-scale earth disturbance activities on low-risk sites (sites where pollution of surface waters from soil erosion is unlikely), a hand-drawn E&S Plan, prepared by the landowner or contractor, is often all that is necessary. The Conservation District is available to provide technical assistance for these plans and can also provide an **Erosion Control Guidelines for Small Projects** booklet, a step-by-step guide for creating an E&S Plan.

Larger more complex projects, such as residential subdivisions or commercial developments, typically require more technical information and the design expertise of an engineer or other professional to create an E&S Plan. The PA Department of Environmental Protection's **Erosion and Sediment Pollution Control Program Manual**, with more detailed guidance for the preparation of more complex E&S Plans, is available in both paper and digital format at your local conservation district.

For more information or for assistance in determining if a Chapter 102 plan is required for a project, contact:

Pike County Conservation District
Telephone: 570-226-8220
Email: pikecd@pikepa.org

Discharges to Surface Waters

PA Code Title 25 - Chapter 92 & the Federal Clean Water Act – National Pollutant Discharge Elimination System (NPDES) Permitting, Monitoring & Compliance

An NPDES permit for stormwater (Chapter 4) discharges from construction activities requires the implementation of practices to minimize stormwater impacts to surface waters, both during and after construction is completed. The Pike County Conservation District and PA DEP share responsibility for reviewing applications for NPDES Permits for stormwater discharges. Other types of NPDES permits, such as those involving sewage discharges, are handled exclusively by DEP.

- Purpose of NPDES permits: Regulation of different types of pollutant discharges to surface waters & pollution prevention
- Chapter 92 sets requirements for publishing public notices of all NPDES permit applications submitted to PA DEP, allowing for public comment periods and providing notice of and holding public hearings on permit applications

Examples of Activities that Require NPDES Permits:

- Stormwater discharges from construction activities where five acres or more is disturbed over the life of a project
- Stormwater discharges from construction activities where earth disturbance is between 1 and 5 acres and which have a **point source discharge** (Chapter 2) to Waters of the Commonwealth (streams, rivers, lakes, ponds, wetlands, reservoirs, canals, stormwater ditches, etc.)
- Discharge of treated sewage effluent from a wastewater treatment plant
- Industrial discharges

For more information or for assistance in determining if an NPDES permit is required for a project, contact:

Pike County Conservation District

Telephone: 570-226-8220

Email: pikecd@pikepa.org

or

PA DEP Northeast Regional Office

Telephone: 570-826-2511

Work In or Around Waterways (Ponds, Lakes, Rivers and Streams) and Wetlands

PA Code Title 25 - Chapter 105 - Dam Safety and Waterways Management

Land development activities that “encroach” on surface waters can degrade habitat, impacting aquatic life and causing or aggravating flooding, resulting in property and infrastructure damage. Land use activities that involve disturbance of areas adjacent to surface waters or activities that involve crossing or entering surface waters, are regulated under Chapter 105.

- Purpose of Chapter 105: To assure the proper design, construction and maintenance of dams, reservoirs, water obstructions (e.g. structures including bridges and culverts) and encroachments (e.g. placing fill in floodways or excavating in wetlands); to protect public health, safety, welfare and property and to conserve and protect streams
- Chapter 105 regulates the building of structures and activities that take place in, along or across, or projecting into a watercourse (streams, creeks, seasonal drainages),

floodways (areas adjacent to streams), or bodies of water (including ponds, lakes, swamps, bogs, etc.)

Examples of Activities that May Require a Chapter 105 Permit

- Installing a road across a stream (even a seasonally dry stream) using culvert pipe(s).
- Building a bridge, including foot bridges, across a stream
- Repairing eroded stream banks with rock, fill dirt or other material
- Removing gravel deposits from streams
- Building a retaining wall along the edge of a stream or pond
- Crossing a stream with a utility line (such as water, natural gas or sewer lines).
- Installing a road across a wetland using fill or pipes or a combination of both
- Building a foot path or boardwalk through wetlands
- Extending a lawn or filling in low spots within 50 feet of a stream
- Placing fill in wet areas
- Building a ditch to drain a wet area
- Dredging a pond or lake
- Installing a boat ramp or dock
- Creating a sand beach area
- Building or repairing a dam

The cost, complexity and time frame for obtaining a permit under Chapter 105 depends on the size, scope and potential environmental impact of a project. The Pike County Conservation District administers PA Department of Environmental Protection (DEP) Chapter 105 **General Permits** for relatively simple projects that generally have minimal adverse environmental impacts when properly constructed. There is currently no fee for a permit, the forms are fairly simple and review time is relatively short.

More complex projects or projects that have the potential for greater environmental impact and do not fall within one of the Chapter 105 General Permit categories require a higher level **Individual Permit**. Most often the services of a professional consultant are enlisted to conduct the more in-depth environmental assessments and design requirements of Individual Permits. The PA DEP administers these permits.

Federal permits are required for many of the activities listed above. In many cases, state and federal agencies coordinate permit application reviews. However, there are activities that require separate federal authorization from the US Army Corps of Engineers. Authorization from other agencies, such as PA Fish and Boat Commission or the U.S. Fish and Wildlife may also be required depending on the scope of your project. Your local conservation district is a good first point of contact to determine if a Chapter 105 permit is required for a project.

For more information or for assistance in determining if a Chapter 105 permit is required for a project, contact:

Pike County Conservation District

Telephone: 570-226-8220

Email: pikecd@pikepa.org

II. Additional PA Regulatory Programs for Water Resource Protection **Work In or Around Waterways - PA Fish & Boat Commission** **PA Code Title 58, Part II**

Examples of Activities that May Require Permits under **PA Code Title 58, Part II**

- Drawing down water levels of lakes or ponds inhabited by fish
- Removal, breach or disturbance of a dam or similar device in waters inhabited by fish
- Application of algaecides, herbicides or fish control chemicals to surface waters
- Alteration or disturbance of a stream, streambed, fish habitat, water or watershed in any manner that might cause damage to fish
- Allowing any substance deleterious to fish to enter surface waters

For more information or for assistance in determining if a PA Code Title 58, Part II permit is required for a project, contact:

PA Fish and Boat Commission

Northeast Regional Office

Telephone: 570-477-5717

PA Code Title 25 - Chapter 93 - Water Quality Standards

- These regulations require maintenance and *protection of existing water quality* for Special Protection Waters (High Quality and Exceptional Value).
- Chapter 93 standards affect state permitting of activities with the potential to impact water resources. Generally, requirements are more stringent for discharges to High Quality and Exceptional Value water resources.
- These regulations are very applicable in Pike County, as nearly all of the water resources in the county are designated either High Quality or Exceptional Value by the PA DEP.

Refer to the list of activities listed above in the section on NPDES discharge permits, for activities that Chapter 93 applies to.

For more information or for assistance in determining if PA Code Title 25, Chapter 93 Standards apply to a project, contact:

Pike County Conservation District

Telephone: 570-226-8220

or

PA DEP Northeast Regional Office

Telephone: 570-826-2511

Extraction (Mining) of Sand, Gravel, Rock and other Materials PA Code Title 25 - Chapter 77 – Non-coal Mining

- Purpose: Regulation, permitting, licensing, monitoring of non-coal surface mining activities and operators.

Examples of Activities that May Require Mining Permits

- Excavation/removal of minerals from the earth including: sand and gravel, rock and stone (including blue-stone), earth fill, slag, vermiculite and clay

There are various exceptions to the requirements for mining permits for the extraction of minerals by a private landowner for the landowner's own non-commercial use and for the extraction of minerals from a building construction excavation site under certain circumstances.

For more information or for assistance in determining if a mining permit is required for a project, contact:

PA DEP Bureau of Mining and Reclamation
Pottsville District Mining Office
Telephone: 570-621-3118

Local Municipal Land Use and Building Regulations, Zoning, Subdivision & Land Development Ordinances, Building Permit Requirements, etc.

Land use regulations in effect in Pike County municipalities may apply to the land use activities discussed in this chapter. Before beginning a project, check with the municipality (Appendix B) where a project will take place to find out what regulations may apply.

A good rule of thumb: When in doubt about permit requirements for a particular project, Ask Questions Before You Begin!

The Pike County Conservation District is a good place to start: 570-226-8220

Summary

Being aware of and abiding by municipal, state and federal environmental regulations is important for several reasons. These rules help Pike County to “grow smarter,” balancing development with protection of environmental and community resources. Understanding and following these regulations also helps to protect financial investment in personal property and helps to safeguard the health, safety and welfare of Pike County communities. And finally, failure to pay attention to these regulations, whether done knowingly or not, can delay project construction significantly and subject landowners and/or contractors to fines or other penalties. When in doubt about permit requirements for a particular project, it’s best to ask questions before you begin. The Pike County Conservation District is a good place to start.

Action Steps for Protecting Natural Resources Through Compliance with Environmental Regulations

- ☞ Before beginning a project, check with your Conservation District and your local municipality to determine what plans, approvals and permits may be required.
- ☞ To avoid unnecessary delays, begin the process of determining what a project will require and obtaining permits, well in advance of an anticipated start date.

- ☞ For large projects, hold a pre-application meeting with your local conservation district before project plans are drawn-up.
- ☞ Report environmental emergencies and problems (Refer to Appendix G for agency contact information).

Resources for More Information

Pike County Conservation District: www.pikeconservation.org, select “Resources/Services”

PA DEP, Chapter 105 Forms and Permits:

<http://www.dep.state.pa.us/dep/efacts/generalpermitslisting.htm>

PA Fish and Boat Commission, Environmental Services:

sites.state.pa.us/PA_Exec/Fish_Boat/envIRON.htm

PA DEP, Stormwater Management: www.depweb.state.pa.us/dep/site/default.asp. Select “Search” and “Stormwater Management.”

PA DEP, Bureau of Waterways Engineering: www.dep.state.pa.us/dep/deputate/watermgt/WE/We.htm, select “Dam Safety”

PA DEP, List of General Permits: www.dep.state.pa.us/dep/efacts/generalpermitslisting.htm