

DEPARTMENT OF ENVIRONMENTAL PROTECTION
Office of Community Revitalization and Local Government Support

DOCUMENT NUMBER: 012-0200-001

TITLE: Policy for Consideration of Local Comprehensive Plans and Zoning Ordinances in DEP Review of Authorizations for Facilities and Infrastructure

EFFECTIVE DATE: Upon publication of notice as final in the *Pennsylvania Bulletin*.

AUTHORITY: Act 247 of 1968, as reenacted and amended by Act 170 of 1998, known as the Pennsylvania Municipalities Planning Code, 53 P.S. §10101 *et seq.*, as amended by Acts 67, 68 and 127 of 2000. Pertinent sections include Article VI, section 619.2 and Article XI, section 1105(a)(2). Act 14 of 1984 [71 P.S. Section 510-5, (Adm. Code Section 1905-A). Cooperation with Municipalities].

POLICY: The Department of Environmental Protection (DEP) permit review process considers, and under certain conditions relies upon, comprehensive planning and zoning ordinances in our decision making process on authorizations related to facilities and infrastructure. This document is a substantial revision to the current policy in place since March 2004.

PURPOSE: Acts 67, 68, and 127 of 2000 (Acts 67, 68 and 127) amended the Municipalities Planning Code to provide new tools for local government to plan for and manage growth. Section 1105 of Act 67 of 2000 and Section 619.2 of Act 68 directs that state agencies “shall consider and may rely upon comprehensive plans and zoning ordinances when reviewing application for the funding or permitting of infrastructure or facilities.”

The purpose of this policy is to provide direction and guidance to DEP staff, applicants and local and county governments for the implementation of Acts 67, 68 and 127 in the administration of current DEP programs to avoid or minimize conflict with local land use decisions. This policy guidance addresses how DEP both considers and relies upon comprehensive planning and zoning ordinances in DEP’s decision-making process concerning the authorization of facilities and infrastructure.

APPLICABILITY: DEP will apply this policy where it has regulatory and decision-making discretion pursuant to legal authority and through the administration of DEP programs and regulations. This policy applies to DEP staff and applicants for certain DEP authorizations. Specifically, it applies to proposed projects for construction of facilities or infrastructure as listed in Appendix A of this policy and according to the provisions of the Pennsylvania Municipalities Planning Code (PA MPC) as described below.

This policy only applies to counties and local municipalities covered under the PA MPC. The PA MPC does not apply to first and second class cities (Philadelphia and Pittsburgh) or first class counties (Philadelphia.)

DEP's authority to rely on land use plan and zoning ordinance information in its decision making only applies to those projects located in areas of the state that meet conditions described in any of the following three categories:

- 1) Under Section 619.2 (a) of the PA MPC:
 - A) The municipality is located in a county where there is a county comprehensive plan; and
 - B) The municipality has adopted a comprehensive plan or is a part of a multi-municipal comprehensive plan; and
 - C) The county or municipality has enacted zoning ordinances; and
 - D) The municipal zoning ordinance, the municipal comprehensive plan and county comprehensive plan are generally consistent as defined by Section 107 of the PA MPC.
- 2) Under Section 619.2 (c) of the PA MPC:

The municipality has adopted a joint zoning ordinance.
- 3) Under Section 1105 of the PA MPC:

Where municipalities have adopted a county plan, or a multi-municipal plan is adopted under Article XI of the PA MPC and the participating municipalities have conformed their local plans and zoning ordinances to the county or multi-municipal plan by implementing cooperative agreements and adopting resolutions and ordinances according to Section 1105.

DISCLAIMER:

The policies and procedures outlined in this guidance are intended to supplement existing requirements. Nothing in the policies or procedures shall affect regulatory requirements.

The policies and procedures herein are not an adjudication or a regulation. There is no intent on the part of DEP to give the rules in these policies that weight or deference. This document establishes the framework within which DEP will exercise its administrative discretion in the future. DEP reserves the discretion to deviate from this policy statement if circumstances warrant.

PAGE LENGTH:

21 pages

LOCATION: Volume 1, Tab 5B

I. HOW DOES DEP RELY UPON COMPREHENSIVE PLANS AND ZONING ORDINANCES?

- A. DEP's authority to rely upon land use plan and zoning ordinance information applies to Appendix A authorizations located in areas of the Commonwealth that meet the following conditions:
1. Under Section 619.2 (a) of the PA MPC:
 - a) The municipality is located in a county where there is a county comprehensive plan; and
 - b) The municipality has a comprehensive plan or is a part of a multi-municipal comprehensive plan; and
 - c) The county or municipality has enacted zoning ordinances; and
 - d) The municipal zoning ordinances, the local municipal comprehensive plan and the county comprehensive plan are generally consistent with each other as defined in Section 107 of the MPC; or
 2. Under Section 619.2 (c) of the PA MPC:

The municipality has adopted a joint zoning ordinance; or
 3. Under Section 1105 of the PA MPC:

Where municipalities have adopted a county plan or a multi-municipal plan is adopted under Article XI of the PA MPC and the participating municipalities have conformed their local plans and zoning ordinances to the county or multi-municipal plan by implementing cooperative agreements and adopting resolutions and ordinances according to Section 1105.

The term "rely upon" is not defined in Acts 67, 68 and 127 of 2000. DEP interprets the statutory language "may rely upon" to give DEP discretion as to how to rely upon planning and zoning in its authorizations. DEP has chosen to rely upon this information in several ways. DEP can deny an application, approve the application or put a special condition on a permit when conflicts have been identified. DEP may also decide to suspend further review of an application until the conflict has been resolved. DEP does not interpret the law to authorize DEP "to rely" solely upon a comprehensive plan, because comprehensive plans do not have the same force of law as zoning ordinances. The PA MPC requires county comprehensive plans, municipal comprehensive plans and municipal ordinances to be generally consistent.

Consistent with existing regulatory authority, DEP may also choose to evaluate the extent to which a project would provide a public health or environmental benefit, and whether the project will comply with other applicable environmental laws and regulations.

B. Preemption of Local Authority to Regulate Certain Activities

Acts 67, 68 and 127 recognize the distinction between regulating certain activities as particular regulated activities, and the authority of local municipality to enact zoning ordinances which impose zoning restrictions on a wide range of activities. Prior to the enactment of Acts 67, 68 and 127, local municipalities were preempted from regulating certain activities such as mining activities. The local municipality, nevertheless, retained the authority under the PA MPC to establish valid zoning requirements for such activities. Acts 67, 68 and 127 maintain the status quo concerning these activities. Local municipalities can establish valid zoning requirements that can be imposed on these activities where state law preempts local regulation of these activities.

Acts 67, 68 and 127 of 2000 address local government's zoning authority to regulate certain activities or resources such as mineral extraction, agricultural operations, allocation of water resources and forestry in several ways. First, Act 68 preserves preexisting state preemption of local regulation of certain activities. Second, in those areas of local regulation not preempted, Act 68 establishes that comprehensive plans shall be consistent with and may not exceed requirements established under certain identified state environmental statutes currently regulating these activities or resources. Finally, for mineral extraction, Act 68 provides that zoning ordinances shall provide for reasonable development of minerals in each local municipality. The authority of local government to regulate in these statutorily identified areas is limited. Local government, however, retains zoning authority in these areas under the PA MPC, and DEP will still need to assess conflicts in these areas arising under the zoning ordinances enacted under the PA MPC.

C. Definitions

“Authorizations” are approvals given by DEP to undertake a proposed project as required by state statute or regulation. These include permits, plan approvals, certificates, licenses and registrations.

“Comprehensive plans and zoning ordinances” are county, municipal or multi-municipal comprehensive plans adopted under the MPC and zoning ordinances adopted under the MPC.

“eFACTS” is the Environment, Facility, Application, Compliance Tracking System, developed to combine electronic data from legacy systems into one department-wide database to provide the means for a holistic view of the clients and sites (including facilities) that DEP regulates.

“Facilities and infrastructure” includes buildings, and permanent structures for transportation, sewer and water, waste management systems, schools, parks and recreation, electric and gas delivery systems, and telecommunications networks.

The “General Information Form” (GIF) is a multi-page form used for most DEP applications. Its purpose is to facilitate coordination between different types of applications for the same project, to provide specific information that facilitates the entry of data into the eFACTS system, and collect other necessary information. A full

application for a particular DEP authorization will generally consist of a GIF and additional forms related to the particular permit or other authorization.

“County Land Use Letter” is a letter from the county planning agency stating whether or not: (1) the County has adopted a county comprehensive plan and (2) the proposed project is consistent with the county comprehensive plan. (See Appendix C of this policy for sample letter.)

“Municipal Land Use Letter” is a letter from the host municipality stating whether or not: (1) the municipality has adopted a municipal, county, or multi-municipal comprehensive plan; (2) the proposed project is consistent with the municipal comprehensive plan; (3) the municipality has adopted county-wide zoning ordinance, or municipal or multi-municipal zoning ordinance; and (4) the proposed project has received municipal zoning approval. (See Appendix D of this policy for sample letter.)

II. WHAT AUTHORIZATIONS ARE AFFECTED BY THIS POLICY?

A. Appendix A

This policy applies to applications for authorizations listed in Appendix A that were received on or after August 21, 2000, the effective date of Acts 67, 68 and 127. The list provided in Appendix A of this document is based primarily upon the definition of “facilities and infrastructure.” Any authorization not appearing on the list is not required to undergo the land use review outlined in this policy. Only one General Permit program, DEP’s General Permit for stormwater construction activities (PAG-2), is covered by this policy.

B. Permits-By-Rule

Permits-by-rule are not subject to the requirements of this policy. By definition, permits-by-rule are for facilities or activities that have a minor impact on the environment and land use.

C. Sewage Facilities Act (Act 537)

The Sewage Facilities Act and sewage planning program (Act 537) authorizations are not included in Appendix A. The 537 program already includes a mechanism to address land use.

III. LAND USE INFORMATION

The land use review process has three major components: (1) inclusion of land use questions as part of the authorization application process (i.e., on the DEP GIF; or as part of the authorization application form in programs that do not use the GIF); (2) an opportunity for an applicant to provide Municipality and County Land Use Letters; and (3) should the applicant fail to provide Municipal and County Land Use Letters, an opportunity for municipalities and counties to comment to DEP on the accuracy of an applicant’s answers to the land use questions. These components are addressed individually below.

A. General Information Form

The applicant should complete DEP's General Information Form (GIF), which is a required component of most DEP authorization applications. The form includes questions designed to facilitate the land use review process. An excerpt of the GIF containing the land use questions is provided in Appendix B. The GIF includes a Land Use Information section designed to facilitate the land use review process. All appropriate information from the GIF dealing with land use should be entered into eFACTS by DEP program staff already assigned to manage eFACTS data.

In programs where the GIF is not used, the program-specific authorization application form should include appropriate questions and instructions that implement Acts 67 and 68.

The **Project Information** section of the GIF includes the following question:

3. Is this application for authorization listed on Appendix A of the Land Use Policy? (For referenced list, see Appendix A of the Land Use Policy attached to GIF instructions.) Yes or No.

If the applicant answers NO to question 3, the application is not subject to the Land Use Policy.

If the applicant answers YES to question 3, the application is subject to this policy and the applicant should answer the additional questions in the **Land Use Information** section of the GIF and listed below:

1. Is there an adopted county or multi-county comprehensive plan(s)? Yes or No.
2. Is there an adopted municipal or multi-municipal comprehensive plan(s)? Yes or No.
3. Is there an adopted county-wide zoning ordinance, municipal zoning ordinance or joint municipal zoning ordinance(s)? Yes or No.

If the applicant answers NO to either question 1, 2, or 3, the provisions of the PA MPC are not applicable and the applicant does not need to respond to questions 4 and 5 below.

If the applicant answers YES to questions 1, 2 and 3, the applicant should respond to questions 4 and 5 below.

4. Does the proposed project meet the provisions of the local zoning ordinance? Yes or No. If zoning approval is required for your project to proceed, please attach documentation indicating approval.
5. Have you attached Municipal and County Land Use Letters for the project (see Section B below)? Yes or No.

If the applicant answers NO to questions 4 or 5, a land use conflict may be present and a land use review will be conducted according to the provisions set forth in Section IV of this policy.

B. Municipal and County Land Use Letters

A Municipal Land Use Letter from the host municipality and a County Land Use Letter from the county planning agency should be included in the authorization application at the time of submittal if the authorization is listed on Appendix A of this policy and if the project is located in an area that meets the criteria set forth in Section I.A. of this policy. Sample letters are included in Appendix C and D of this policy.

DEP will work with the Governor's Center for Local Government Services and local government associations to ensure that local governments are aware of their role in reviewing projects in relation to their comprehensive planning documents and zoning ordinances, and providing Municipal and County Land Use Letters to applicants.

DEP provides an opt-out process and encourages the submission of Municipal and County Land Use Letters to facilitate and streamline the land use review process.

1. **Options for Submission of Land Use Information**

The following options are available to applicants with regard to submitting land use information with their authorization applications.

Option 1A (Opt-Out with Municipal and County Land Use Letters):

When Municipal and County Land Use Letters are included in the authorization application which confirm that: (1) both the county and municipality have comprehensive plans; (2) the municipality has a zoning ordinance; and (3) the proposed project meets the provisions of the local zoning ordinance or has received municipal zoning approval, DEP will consider its statutory obligation under the PA MPC met and DEP permit staff will continue their authorization review.

Option 1B (Opt-Out with Zoning Approval):

The submission of Municipal and County Land Use Letters can be substituted by including a copy of the zoning approval from the Municipality with the application authorization materials.

Option 2:

When Municipal and County Land Use Letters are included in the authorization application which confirm that: (1) both the county and municipality have comprehensive plans; (2) the municipality has a zoning ordinance; and (3) the proposed project does not meet the provisions of the local zoning ordinance or has not received municipal zoning approval, DEP permitting staff shall recognize a

potential land use conflict and a land use review will commence in accordance with Section IV of this policy.

Option 3:

If Municipal and County Land Use Letters are not included in the authorization application, the applicant should demonstrate that they attempted to obtain the letters. A copy of correspondence sent by the applicant via Certified Mail to the municipality (addressed to the municipal secretary with a copy to the township supervisor chair) and to the county (addressed to the county planning office with a copy to the county commissioners) to request Municipal and County Land Use Letters within 30 days of receipt should be included in the authorization application.

The applicant should allow the municipality and county 30 days to respond directly to the applicant. If the applicant does not receive a response from the county or municipality within 30 days, the applicant may then submit their authorization application to DEP. Copies of correspondence to the county municipality and certified mail receipts should be included in the authorization application to DEP.

If the above information is provided by the applicant, DEP permit staff will commence with their review. DEP reserves the right to consider municipal and county comments concerning land use at any time during the authorization review process.

If the authorization application also requires notification under Act 14, the applicant may include this request for information in the correspondence related to their Act 14 notification. However, the applicant should allow the municipality and county 30 days to respond directly to the applicant before submitting the authorization application to DEP.

2. Projects with Multiple Permits

When applying for multiple permits, the applicant should include a copy of the Municipal Land Use Letter and the County Land Use Letter for the proposed project in each Application package. DEP encourages applicants to submit all necessary authorization applications at the same time. However, with certain phased projects, it is understood that this may not be possible.

3. Projects that Include Facilities and Infrastructure in More Than One Municipality or County

If a project involves authorizations for facilities and infrastructure in more than one municipality or county, applicants should ensure that each jurisdiction involved provides Municipal and County Land Use Letters.

IV. LAND USE REVIEW PROCESS

- A. If potential land use conflicts are identified, DEP permit reviewers shall immediately notify the DEP Office of Community Revitalization and Local Government Support and forward to the Office the following: (1) the GIF, (2) Municipal and County Land Use Letters (if applicable), (3) requests by the applicant for Municipal and County Land Use Letters (if applicable); (4) municipal and county responses to the applicant's request for Municipal and County Land Use Letters (if applicable); and (5) any other correspondence or information related to land use (if applicable).
- B. The Office of Community Revitalization and Local Government Support will do the following when the land use information referenced above is received from DEP permit staff:
1. Review all information received regarding land use conflict;
 2. Coordinate the review of the land use information submitted and consult with the Bureau of Regulatory Counsel, regional director, district mining manager or bureau director, executive staff and permit review staff as appropriate;
 3. Coordinate with the applicant, county, or municipality as appropriate;
 4. Determine whether a potential land use conflict has been identified with respect to the pending authorization application and whether DEP has the authority to rely on that information in the authorization application review process; and
 5. Where a conflict has been identified and DEP has the authority to rely on that information under the PA MPC in the authorization application review process, the Office of Community Revitalization and Local Government Support will notify the regional director, district mining manager or bureau director in writing that the Department has that authority; advise of the options available, which may include: (1) suspending review of the authorization application; (2) approving the authorization; (3) approving the authorization with conditions; or (4) denying the authorization; and offer to aid in the formulation of appropriate authorization conditions, in the event that option 3 is selected. In each case, the regional director, district mining manager or bureau director will decide how to proceed, in light of the information provided by the Office of Community Revitalization and Local Government Support.

Contact information: DEP, Office of Community Revitalization and Local Government Support, P.O. Box 2063, 16th Floor, Rachel Carson State Office Building, Harrisburg, PA 17105-2063. Telephone: 717-783-1566, Fax: 717-705-4980.

V. RELATIONSHIP TO THE DEP MONEY-BACK GUARANTEE PERMIT REVIEW PROGRAM

An authorization application will be exempt from the DEP Money-Back Guarantee Permit Review Program under Section I.A. of the Policy when DEP has determined that there is a conflict under Section III of this policy. This provision is intended to ensure a thorough review

of the land use issues raised, but DEP staff is directed to conduct the technical review and land use component of the technical review in a timely manner.

In addition, the Money-Back Guarantee Program clock will stop where the 30-day comment period extends beyond the suggested issue date.

APPENDIX A
AUTHORIZATION/APPLICATION TYPES AFFECTED BY DEP'S LAND USE POLICY

The following authorization types are affected by DEP's Land Use Policy. The last column is for crosswalk to DEP's eFACTS data system codes and is added for DEP staff reference or for electronic authorization application submissions.

AIR QUALITY PROGRAM	
Authorization/Permit Type & Description (Applies only to air quality permit applications that are <i>outside of an existing permitted area</i>)	eFACTS Codes
Major Facility Plan Approval - <ul style="list-style-type: none"> • Case-by-Case MACT • Hazardous Air Pollutant Standard Part 61 • MACT Air Toxics Part 63 • New Facility Review Prevention of Significant Deterioration • New Source Performance Standard • New Source Review Non-Attainment • State Regulation 	MASAT/NEW MFAP/NEW MAAT/NEW MNSRP/NEW MFSP/NEW MNSRN/NEW MFSR/NEW
Minor Facility Plan Approval - <ul style="list-style-type: none"> • Hazardous Air Pollutant Standard Part 61 • MACT Air Toxics • New Source Performance Standard • State Regulation 	MISAT/NEW MSATM/NEW MISPS/NEW MSSR/NEW
COAL MINING PROGRAM	
Authorization/Permit Type & Description	eFACTS Codes
Preparation-Processing Plant Permit	P/NEW
Refuse Disposal Permit	RD/NEW
Surface Mining Permit	SM/NEW
Underground Mining Permit (surface facilities only)	UM/NEW
INDUSTRIAL MINERALS (NONCOAL) MINING PROGRAM	
Authorization/Permit Type & Description	eFACTS Codes
Large Surface Mining Permit (includes underground mining, surface facilities)	LSM/NEW
Small Surface Mining Permit (includes bluestone surface mining)	NSM/NEW
OIL & GAS MANAGEMENT PROGRAM	
Authorization/Permit Type & Description	eFACTS Codes
Drilling or Altering a Well (Disposal Wells Only)	DOWDR/NEW
Water Obstruction & Encroachment Permit	8WOJP/NEW
Centralized Impoundment Dam Permit	DAMOG/NEW
Water Quality Mgmt Part II, Industrial Wastewater Facility	8W2IW/NEW

WASTE MANAGEMENT – HAZARDOUS WASTE PROGRAM	
Authorization/Permit Type & Description	eFACTS Codes
Captive Disposal Permit	CD/NEW
Captive Storage Permit	CS/NEW
Captive Treatment Permit	CT/NEW
Commercial Disposal Permit	COD/NEW *
Commercial Recycling Permit	COR/NEW
Commercial Storage Permit	COS/NEW
Commercial Treatment Permit	COT/NEW *
WASTE MANAGEMENT – MUNICIPAL WASTE PROGRAM	
Authorization/Permit Type & Description	eFACTS Codes
Construction/Demolition Landfill Permit (Alternative Project) <ul style="list-style-type: none"> (new facility) Expansion of Increased Capacity/Acreage 	CDLA/NEW * CDL/MODEO *
Municipal Waste Landfill <ul style="list-style-type: none"> (new facility) Expansion of Increased Capacity/Acreage 	LA/NEW * L/MODEO *
MW Composting Permit	C/NEW
Resource Recovery & Other Processing Permit	RRO/NEW
Transfer Facility Permit	TS/NEW
WASTE MANAGEMENT – RESIDUAL WASTE PROGRAM	
Authorization/Permit Type & Description	eFACTS Codes
Residual Waste Landfill-Class I, II or III Permit (commercial or captive) <ul style="list-style-type: none"> (new facility) Expansion of Increased Capacity/Acreage 	RL3A/NEW RL3/MOD
Commercial Landfill-Class I, II or III Permit (Alternative Project) <ul style="list-style-type: none"> (new facility) Expansion of Increased Capacity/Acreage 	RL3AP/NEW * RL3AP/MOD *
Disposal Impoundment-Class I or II Permit	DI2/NEW *
Processing and/or Incinerator Permit	PI/NEW
RW Composting Permit	RC/NEW
Transfer Facility Permit	T/NEW
WASTE MANAGEMENT – STORAGE TANKS PROGRAM	
Authorization/Permit Type & Description	
(Applies only to site-specific installation permit applications that are <i>outside of an existing permitted area</i>)	
Authorization/Permit Type & Description	eFACTS Codes
Site-Specific Installation Permit	SSIP/NEW

RADIATION PROTECTION PROGRAM	
Authorization/Permit Type & Description	eFACTS Codes
Waste Storage Processing and Disposal	RP/NEW
Waste Packaging or Repackaging	RP/NEW
Nuclear Laundry	RP/NEW
Irradiator Requirements	RP/NEW
WATER MANAGEMENT – DAM SAFETY PROGRAM	
Authorization/Permit Type & Description	eFACTS Codes
Dam Safety Permit	DSP/NEW
Limited Power Permit	LPP/NEW
WATER MANAGEMENT – NPDES PROGRAM	
Authorization/Permit Type & Description	eFACTS Codes
Concentrated Animal Feeding Operations Individual NPDES Permit	NCAF/NEW
NPDES Pmt for Sewage Discharges Municipal, Major	NSMMA/NEW
NPDES Pmt for New & Existing Sewage Discharger, Municipal, Minor	NSMMI/NEW
NPDES Pmt Sewage Discharge Non-Municipal-Major	NSNMA/NEW
NPDES Pmt Sewage Discharges Non-Municipal-Minor	NSNMI/NEW
NPDES Permit for New & Existing Industrial Discharger, Major	NIWMA/NEW
NPDES Permit Industrial Wastewater Discharge Minor	NIWM/NEW
NPDES Permit Stormwater Industrial Site Runoff	NSIR/NEW
WATER MANAGEMENT – STATE WATER POLLUTION CONTROL PROGRAM	
Authorization/Permit Type & Description	eFACTS Codes
Water Quality Mgmt Part II, Industrial Wastewater Facility	W2IW/NEW
Water Quality Mgmt Part II, Manure Storage Facility for CAFO	W2CAF/NEW
WATER SUPPLY MANAGEMENT – SAFE DRINKING WATER PROGRAM	
Authorization/Permit Type & Description	eFACTS Codes
Public Water Supply Permit Bottled Water System Construction	BWSC/NEW
Public Water Supply Permit Bottled Water System-Finished Water Source Construction	BWSFC/NEW
Public Water Supply Permit Bulk Water Hauler-Finished Water Source Construction	BWHF/NEW
Public Water Supply Permit Bulk Water Hauler Construction	BWHC/NEW
Public Water Supply Permit Community Water System Construction	CWSC/NEW
Public Water Supply Permit Retail Water System Construction	RWSC/NEW
Public Water Supply Permit Retail Water System-Finished Water Source Construction	RWSFW/NEW
Public Water Supply Permit Vended Water System Construction	VWSC/NEW
WATERSHED MANAGEMENT – EROSION & SEDIMENT PROGRAM	
Authorization/Permit Type & Description	eFACTS Codes
Erosion & Sediment Control Permit	EDP/NEW
NPDES Permit Stormwater-Construction	NSC/NEW
PAG-02 NPDES Stormwater-Construction (general permit; includes all PAG-02s except those required for Oil & Gas activities)	NSC2/NEW
WATERSHED MANAGEMENT – WATER OBSTRUCTION & ENCROACHMENT PROGRAM	
Authorization/Permit Type & Description	eFACTS Codes
Water Obstruction & Encroachment Permit	WOJP/NEW

* If a different project timeline is negotiated, a special eFACTS code will be established.

APPENDIX B
LAND USE INFORMATION ON DEP's GENERAL INFORMATION FORM (GIF)

Responses to the following questions are required to determine applicability of DEP's Land Use Policy for Permitting of Infrastructure and Facilities.

Note: Applicants are encouraged to submit copies of local zoning approvals with their authorization application.

PROJECT INFORMATION		
3	<p>Is this application for an authorization on Appendix A of the Land Use Policy? (For referenced list, see Appendix A of the Land Use Policy attached to GIF Instructions)</p> <p><i>If NO to question 3, the application is not subject to the Land Use Policy.</i></p> <p><i>If YES to question 3, the application is subject to this policy and the applicant should answer the additional questions in the Land Use Information section:</i></p>	Yes or No
LAND USE INFORMATION		
1	Is there an adopted county or multi-county comprehensive plan?	Yes or No
2	Is there an adopted municipal or multi-municipal comprehensive plan?	Yes or No
3	Is there an adopted county-wide zoning ordinance, municipal zoning ordinance or joint municipal zoning ordinance?	Yes or No
<p><i>If the applicant answers NO to either Question 1, 2, or 3, the provisions of the PA MPC are not applicable and the applicant does not need to respond to questions 4 and 5 below.</i></p> <p><i>If the applicant answers YES to questions 1, 2 and 3, the applicant should respond to questions 4 and 5 below.</i></p>		
4	<p>Does the proposed project meet the provisions of the zoning ordinance or does the proposed project have zoning approval?</p> <p><i>If zoning approval has been received, attach documentation.</i></p>	Yes or No
5	Have you attached Municipal and County Land Use Letters for the project?	Yes or No

APPENDIX C
SAMPLE COUNTY LAND USE LETTER*

**(This sample letter and form is provided for the convenience of the applicant and the County. It does not prohibit the applicant from using a different template nor does it prohibit the County from submitting a different form of response.)*

Date:

Dear County Planning Director:

Acts 67, 68 and 127, which amended the Municipalities Planning Code, direct state agencies to consider comprehensive plans and zoning ordinances when reviewing applications for permitting of facilities and infrastructure, and specify that state agencies may rely upon comprehensive plans and zoning ordinances under certain conditions as described in Sections 619.2 and 1105 of the Municipalities Planning Code. The Pennsylvania Department of Environmental Protection's Policy for Consideration of Local Comprehensive Plans and Zoning Ordinances in DEP Review of Permits for Facilities and Infrastructure (DEP's Land Use Policy) provides direction and guidance to DEP staff, permit applicants, and local and county governments for the implementation of Acts 67, 68 and 127 of 2000. This policy can be found at www.depweb.state.pa.us; Keyword: Land Use.

In accordance with DEP's Land Use Policy, enclosed please find a General Information Form (GIF) completed for this project and a County Land Use Letter that is to be submitted with our permit application to DEP. Please complete the attached form and return within 30 days to:

Name of Applicant:

Address of Applicant:

Please do not send this form to DEP, as we must include the County Land Use Letter with our permit application. If we do not receive a response from you **within 30 days**, we shall proceed to submit our permit application to DEP without the County Land Use Letter. If the County Land Use Letter is not submitted with our permit application, and we provide proof to DEP that we attempted to obtain it, DEP will assume there are no substantive land use conflicts and proceed with the normal application review process.

If you have any questions, please do not hesitate to contact me at (phone number and/or email).

Sincerely,

Attachment – Sample County Land Use Letter

cc: /county commissioners

**APPENDIX C
SAMPLE COUNTY LAND USE LETTER**

Date: _____

To: Pennsylvania Department of Environmental Protection
 _____ Regional Office or District Mining Office

From: _____ County Planning Agency/Commission

Re: _____ (Name of DEP Permittee)

The County of _____ states that it:

_____ has adopted a county or multi-county comprehensive plan.
 If yes, please provide date of adoption:

_____ has not adopted a county or multi-county comprehensive plan.

If applicable:

The above referenced project:

_____ is consistent with the adopted county or multi-county comprehensive plan.
 _____ is not consistent with the adopted county or multi-county comprehensive plan.

Additional Comments (attach additional sheets if necessary):

Submitted By:

Name	
Title	
Contact Information (Address & Phone)	
Signature	
Date	

APPENDIX D
SAMPLE MUNICIPAL LAND USE LETTER*

**(This sample letter and form is provided for the convenience of the applicant and the Municipality. It does not prohibit the applicant from using a different template nor does it prohibit the Municipality from submitting a different form of response.)*

Date:

Dear Municipal Secretary:

Acts 67, 68 and 127, which amended the Municipalities Planning Code, direct state agencies to consider comprehensive plans and zoning ordinances when reviewing applications for permitting of facilities and infrastructure, and specify that state agencies may rely upon comprehensive plans and zoning ordinances under certain conditions as described in Sections 619.2 and 1105 of the Municipalities Planning Code. The Pennsylvania Department of Environmental Protection's Policy for Consideration of Local Comprehensive Plans and Zoning Ordinances in DEP Review of Permits for Facilities and Infrastructure (DEP's Land Use Policy) provides direction and guidance to DEP staff, permit applicants, and local and county governments for the implementation of Acts 67, 68 and 127 of 2000. This policy can be found at www.depweb.state.pa.us; Keyword: Land Use.

In accordance with DEP's Land Use Policy, enclosed please find a General Information Form (GIF) completed for this project and a Municipal Land Use Letter that is to be submitted with our permit application to DEP. Please complete the attached form and return within 30 days to:

Name of Applicant:

Address of Applicant:

Please do not send this form to DEP, as we must include the Municipal Land Use Letter with our permit application. If we do not receive a response from you **within 30 days**, we shall proceed to submit our permit application to DEP without the Municipal Land Use Letter. If the Municipal Land Use Letter is not submitted with our permit application, and we provide proof to DEP that we attempted to obtain it, DEP will assume there are no substantive land use conflicts and proceed with the normal application review process.

If you have any questions, please do not hesitate to contact me at (phone number and/or email).

Sincerely,

Attachment – Sample County Land Use Letter

cc: /township supervisor chair

**APPENDIX D
SAMPLE MUNICIPAL LAND USE LETTER**

Date: _____

To: Pennsylvania Department of Environmental Protection
_____ Regional Office or District Mining Office

From: _____ Township/Borough/City

Re: _____ (Name of DEP Permittee)

The municipality of _____ states that it:
_____ has adopted a municipal or multi-municipal comprehensive plan.
If yes, please provide date of adoption:

_____ has not adopted a municipal or multi-municipal comprehensive plan.

The municipality of _____ states that it:
_____ has adopted a county zoning ordinance, or a municipal or joint-municipal zoning ordinance.
_____ has not adopted a county zoning ordinance, or a municipal or joint-municipal zoning ordinance.

If applicable:

The municipality of _____ states that its zoning ordinance is generally consistent with its municipal comprehensive plan and the county comprehensive plan.

The above referenced proposed project
_____ meet the provisions of the local zoning ordinance

If zoning approval is required for the project to proceed, the above referenced project:
_____ has received zoning approval.
_____ has not received zoning approval.

If the proposed project has not received zoning approval:

What is the status of the zoning request for the proposed project? (e.g., Special Exception Approval from the Zoning Hearing Board required, Conditional Use approval from the Governing Body required)

Is there a legal challenge by the applicant with regard to zoning for the proposed project?

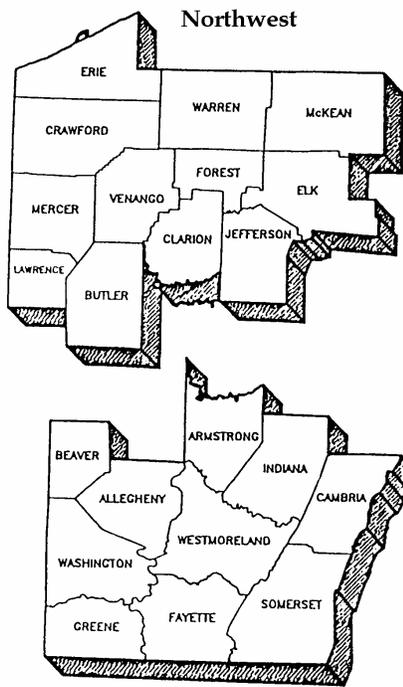
Name and Contact Information for Municipal Zoning Officer:

Additional Comments (attach additional sheets if necessary):

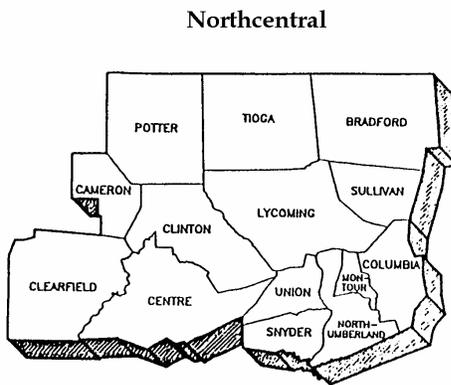
Submitted By:

Name	
Title	
Contact Information (Address & Phone)	
Signature	
Date	

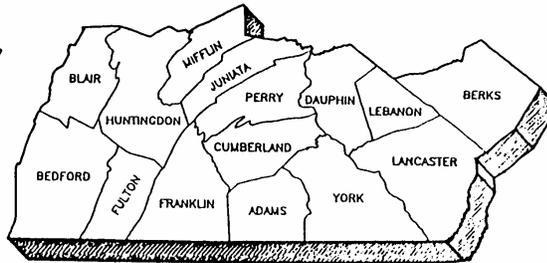
APPENDIX E



Southwest



Northcentral



Southcentral



Northeast



Southeast

Northwest Region

230 Chestnut St.
 Meadville, PA 16335-3481
 Main Telephone: 814-332-6945
 Emergency During Hours: 814-332-6945
 Emergency After Hours: 1-800-373-3398

Counties: Butler, Clarion, Crawford, Elk, Erie, Forest, Jefferson, Lawrence, McKean, Mercer, Venango and Warren

Northcentral Region

208 W. Third St., Suite 101
 Williamsport, PA 17701
 Main Telephone: 570-327-3636
 24-Hour Emergency: 570-327-3636

Counties: Bradford, Cameron, Clearfield, Centre, Clinton, Columbia, Lycoming, Montour, Northumberland, Potter, Snyder, Sullivan, Tioga and Union

Northeast Region

2 Public Square
 Wilkes-Barre, PA 18711-0790
 Main Telephone: 570-826-2511
 24-Hour Emergency: 570-826-2511

Counties: Carbon, Lackawanna, Lehigh, Luzerne, Monroe, Northampton, Pike, Schuylkill, Susquehanna, Wayne and Wyoming

Southwest Region

400 Waterfront Drive
 Pittsburgh, PA 15222-4745
 Main Telephone: 412-442-4000
 24-Hour Emergency: 412-442-4000

Counties: Allegheny, Armstrong, Beaver, Cambria, Fayette, Greene, Indiana, Somerset, Washington and Westmoreland

Southcentral Region

909 Elmerton Ave.
 Harrisburg, PA 17110
 Main Telephone: 717-705-4700
 24-Hour Emergency: 1-877-333-1904

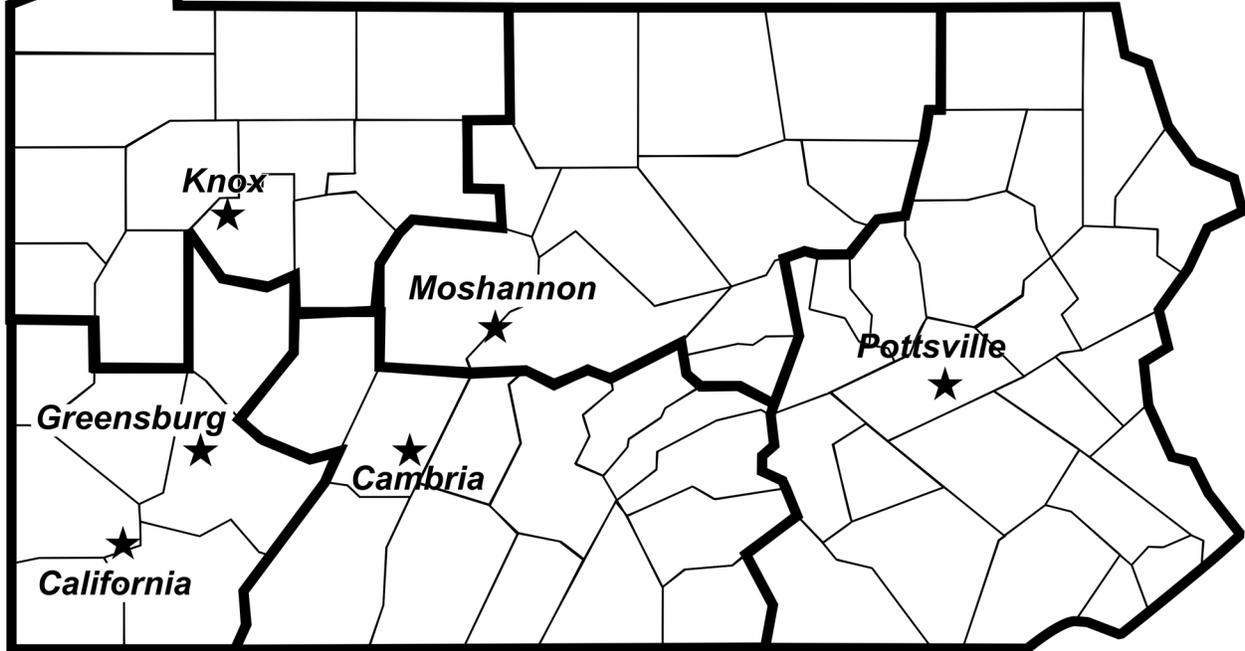
Counties: Adams, Bedford, Berks, Blair, Cumberland, Dauphin, Franklin, Fulton, Huntingdon, Juniata, Lancaster, Lebanon, Mifflin, Perry and York

Southeast Region

2 E. Main St.
 Norristown, PA 19401
 Main Telephone: 484-250-5900
 24-Hour Emergency: 484-250-5900

Counties: Bucks, Chester, Delaware, Montgomery and Philadelphia

District Mining Office Locations



Knox District Mining Office

White Memorial Building
P.O. Box 669
Knox, PA 16232-0669
814-797-1191

Counties: Butler, Clarion, Crawford, Elk, Erie, Forest, Jefferson, Lawrence, McKean, Mercer, Venango and Warren

Greensburg District Mining Office

Armbrust Professional Center
8205 Route 819
Greensburg, PA 15601
724-925-5500

Counties: Allegheny, Armstrong, Beaver, Fayette, Greene, Washington and Westmoreland

California District Office

25 Technology Drive
California Technology Park
Coal Center, PA 15423
724-769-1100

Counties: all of Western Pennsylvania

Moshannon District Office

186 Enterprise Drive
Philipsburg PA 16866
814-342-8200

Counties: Bradford, Cameron, Centre, Clearfield, Clinton, Lycoming, Potter, Snyder, Sullivan, Tioga and Union

Cambria District Mining Office

286 Industrial Park Road
Ebensburg, PA 15931
814-472-1900

Counties: Adams, Bedford, Blair, Cambria, Cumberland, Franklin, Fulton, Huntingdon, Indiana, Juniata, Mifflin, Perry and Somerset

Pottsville District Mining Office

5 West Laurel Boulevard
Pottsville, PA 17901-2454
570-621-3118

Counties: Berks, Bucks, Carbon, Chester, Columbia, Dauphin, Delaware, Lancaster, Lackawanna, Lebanon, Lehigh, Luzerne, Monroe, Montgomery, Montour, Northampton, Northumberland, Philadelphia, Pike, Schuylkill, Susquehanna, Wayne, Wyoming and York