

**STATE
ENVIRONMENTAL LAWS AFFECTING
WEST VIRGINIA AGRICULTURE**

*(See NASDA's website for Federal
Environmental Laws Affecting U.S. Agriculture)*

A Project of the

**National Association of State Departments
of Agriculture Research Foundation**

through the

**National Center for Agricultural Law
Research and Information**



Website: <http://www.nasda-hq.org/> under the Research Foundation Section

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The Project Participants

National Association of State Departments of Agriculture Research Foundation

The National Association of State Departments of Agriculture (NASDA) is a nonprofit, nonpartisan association of public officials comprised of the Commissioners, Secretaries, and Directors of the fifty State Departments of Agriculture in the fifty states and the territories of Puerto Rico, Guam, American Samoa, and the Virgin Islands. NASDA's mission is to represent the State Departments of Agriculture in the development, implementation, and communication of sound public policy and programs which support and promote the American agricultural industry while protecting consumers and the environment. The NASDA Research Foundation is a 501(c)(3) nonprofit, tax-exempt corporation for educational and scientific purposes.

National Center for Agricultural Law Research and Information

The National Center for Agricultural Law Research and Information (NCALRI) was created in 1987 under Public Law 100-202, 101 Stat. 1329-30 to address the complex legal issues that affect American agriculture. The NCALRI focuses its efforts on research, writing, publishing, development of library services, and the dissemination of information to the public. The NCALRI is located at the University of Arkansas School of Law in Fayetteville, Arkansas.

Natural Resources Conservation Service

The Natural Resources Conservation Service (NRCS), formerly known as the Soil Conservation Service (SCS), is a federal agency within the U.S. Department of Agriculture (USDA). NRCS conservationists work with private landowners and operators to help them protect their natural resources.

U.S. Environmental Protection Agency

The U.S. Environmental Protection Agency (EPA) is a federal agency with primary responsibility for implementation of most federal laws designed to protect, enhance, and conserve the nation's natural resources.

Disclaimer

This guide is designed for use by farmers, ranchers, landowners, and their consultants in understanding the effect environmental laws have on agricultural operations. It is not a substitute for individual legal advice. Agricultural producers should always confer with their own attorneys, consultants, or advisors as well as federal, state, and local authorities responsible for the applicable environmental laws.

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The contents and views expressed in this guide are those of the authors and do not necessarily reflect the policies or positions of the United States Department of Agriculture (USDA) NRCS or EPA.

Although every effort has been made to ensure the accuracy of the information contained in this book, environmental statutes, regulations, and ordinances are constantly changing. In addition, the overwhelming complexity and extent of environmental law make it impossible for a single book to describe in complete detail and depth all of the environmental laws and regulations impacting agricultural operations. The following material is simply a basic primer on environmental law for agricultural producers. For these reasons, the utilization of these materials by any person constitutes an agreement to hold harmless the authors, the National Center for Agricultural Law Research and Information, the University of Arkansas, the United States Department of Agriculture, the National Association of State Departments of Agriculture Research Foundation, the Natural Resources Conservation Service, and the United States Environmental Protection Agency for any liability, claims, damages, or expenses that may be incurred by any person or organization as a result of reference to, or reliance on, the information contained in this book.

The background research and final documents were completed in June 2001. Updates of the information contained in the guide will occur on an as needed basis and be available on the internet.

Anyone with comments concerning the guide should contact the NASDA Research Foundation at 1156 15th Street, N.W., Suite 1020, Washington, D.C. 20005, or phone (202) 296-9680.

Quick Reference Guide

Producer Note: The following chart is intended as a quick reference guide to permits which may be necessary for a particular operation. If a permit is necessary, refer to the page numbers listed referencing this document for further information and contact the agencies listed in the final column for information on applications and procedures for securing a permit for an operation. A list of agencies and contact information is also provided in Appendix A.

Regulatory Area	Type of Activity	Permit Required	Agency
Water Quality <i>pp. 1-8</i>	Livestock operations.	National Pollutant Discharge Elimination System (NPDES)	West Virginia Division of Environmental Protection (DEP)
	Aquaculture operations	Agency permits and licenses, and NPDES permit	West Virginia Division of Natural Resources (DNR) and DEP
	Wetlands dredge and fill activity or dam, dike, or bridge building activities	Section 404 permit Clean Water Act (CWA), State agency certification, State agency permits or approvals	U.S. Army Corps of Engineer with Environmental Protection Agency (EPA) and DEP
	Water well construction and use	Permit required	West Virginia Bureau for Public Health (BPH)
Groundwater <i>pp. 9-11</i>	Groundwater protection	Best Management Practices (BMPs) at temporary operational areas for non-bulk pesticides	West Virginia Department of Agriculture (DOA) and DEP
Air Quality <i>pp. 12-14</i>	Grain elevators, incinerators, other stationary sources	Permit required	DEP
	General agricultural operations including odor, dust, or flies	No permit, but may be subject to nuisance suits	
	Burning	Approval required in certain circumstances	DEP

Regulatory Area	Type of Activity	Permit Required	Agency
Solid Waste and Hazardous Waste <i>pp. 14-19</i>	Storage, treatment, or disposal of solid waste	Permit required	DEP
	Storage, treatment, or disposal of hazardous waste	Permit required	DEP and EPA
Pesticides and Chemigation <i>pp. 19-20</i>	Sale, distribution, and transport of pesticides	Registration, license	West Virginia Department of Agriculture (DOA) and EPA
	Application of pesticides	License restrictions, special requirements, record keeping	DOA and EPA
	Disposal of pesticide containers	Special requirements	DOA, DEP, and EPA
Wildlife Protection <i>pp. 20-21</i>	Taking of wildlife	Permit or license required, some absolute prohibitions	DNR and U.S. Fish and Wildlife Service

STATE ENVIRONMENTAL LAWS AFFECTING WEST VIRGINIA AGRICULTURE

Producer Note: Agricultural producers are faced with many challenges in today's rapidly changing world. Changes in industrialization, computer-based technology, and market dynamics are affecting producers in a number of ways. Environmental regulation is a complex area with both federal and state government involvement. Staying informed is the producer's most useful instrument for meeting the challenges of today's agriculture. This information on environmental regulation is provided to educate producers of the breadth and scope of environmental laws which may impact daily production activities.

I. WATER QUALITY

A. West Virginia Water Quality Laws and Regulations

Most states have enacted clean water legislation. While these statutes usually contain provisions similar to those found in the parallel federal legislation, there may be significant differences. In fact, state statutes may impose requirements that are even more restrictive than the federal law. In all cases, federal Clean Water Act (CWA) requirements must be followed enforced along with the state enacted statutes and regulations implemented by the state administrative agencies. Under the CWA, the Environmental Protection Agency (EPA) has delegated the National Pollutant Discharge Elimination System (NPDES) permit program to many states. West Virginia has assumed the responsibility to administer the NPDES permit program.

Caution: Because environmental laws and regulations change frequently, agricultural producers must stay in touch with both state and federal officials in order to remain in compliance and aware of changes in the law.

The principal water quality law in the state is the West Virginia Water Pollution Control Act (WPCA).¹ The WPCA designates the West Virginia Office of Water Resources (OWR), within the Division of Environmental Protection (DEP) as the water pollution control agency for the state. The OWR is charged with preserving the integrity of the state's water resources. These water resources include streams, lakes, rivers, wetlands, and groundwater. Farm ponds are statutorily excluded from the definition of state waters and water resources.

The DEP is lead agency for water quality and control of water pollution. The DEP is authorized by statute to control pollution, conduct investigations, make arrests, execute warrants, issue orders, issue certifications required under the federal Clean Water Act, and enforce the state

¹ W.VA. CODE §§ 22-11-1 to 22-11-28 (Michie).

environmental acts. The DEP may enter at any reasonable time upon any property in order to conduct surveys, investigations, and studies. The OWR administers programs to control water pollution including managing groundwater, wetlands, and non-coal dam projects. The OWR implements the WPCA, the West Virginia Groundwater Protection Act (GPA),² the federal Safe Drinking Water Act (SDWA), and the federal CWA. The OWR is the state permitting office for activities that may impact water quality. Any person may request notice regarding a decision by OWR to deny or issue a specific permit. The request must be in writing and within a specified time frame.

Generally, any applicant for a federal permit or license to conduct an activity that may discharge into state waters (including groundwater) must obtain a certification from the West Virginia Division of Environmental Protection (DEP).³ The DEP may grant, add conditions, deny, or waive certification. The federal permit or license will not be granted if DEP denies certification. The U.S. Army Corps of Engineer general permits require state certification.

1. West Virginia Water Quality Standards

The West Virginia Environmental Quality Board (EQB) sets water quality standards, reclassifies designated water uses, and sets site specific numeric criteria.⁴ The West Virginia administrative code sets out the water quality standards for the various water use categories.⁵ These water use categories include: agriculture, industrial, domestic, aquatic life, trout waters, wetlands, wildlife, and recreation. The standards set out the maximum allowable degradation. Operations must not cause or contribute to violations of water quality standards. The EQB may grant a variance from numeric water quality criteria provided certain conditions are met. Numeric water quality standards, listings of state waters and their correspondent water quality standards, listings of known trout waters, aquatic life parameters, waste characteristics which are prohibited in state waters, and water use categories are all found in DEP regulations.

2. West Virginia Anti-degradation Policy

Following the directive of section 303(d) of the CWA to identify impaired streams, the West Virginia DEP has identified streams that do not meet federal and state water quality standards. In 1998, the list included 488 streams tainted by acid mine drainage, 60 streams polluted by acid rain, and 99 streams impaired by pollutants of unknown sources. The list is updated annually and may be accessed at <http://www.dep.state.wv.us/>.

² W. VA. CODE §§ 22-12-1 to 22-12-14 (Michie).

³ W. VA. CODE ST. R. §§ 47-5A-1 *et seq.* (W. VA. CODE ST. R. refers to the West Virginia Code of State Rules).

⁴ W. VA. CODE §§ 22B-3-1 to -5 (Michie); W. VA. CODE ST. R. §§ 46-4-1 *et seq.*

⁵ W. VA. CODE ST. R. § 46-1-6.

Under the CWA, two federal strategies have emerged to deal with polluted streams. The first approach called total maximum daily load (TMDL) involves calculating the total load of pollutants that a segment of a stream can accept without violating the water quality standard. The second tactic is directed by section 303(d) of the CWA and requires the states to list "impaired" streams and identify point sources of pollutants in order to develop "individual control strategies" (ICSs). States are granted the authority to promulgate their own anti-degradation strategies⁶ with, however, EPA's approval.

West Virginia uses the anti-degradation policy⁷ in its water quality management. The anti-degradation policy and implementation plan establish four tiers, or categories of streams. Each water body in the state falls into one of the categories (tiers):

- Tier 1 – Tier 1 streams are those failing to meet the water quality standards for protection of aquatic life and human recreation. Discharges on Tier 1 streams have to protect those minimum uses. Water quality can be graded down to, but not below, water quality standards.
- Tier 2 – These are high quality waters where the pollution levels are less than the water quality standards. Hereto minimum uses (protection of aquatic life and human recreation must be protected. Degradation is allowed, but only down to water quality standards. Any proposed degradation that is deemed significant must undergo an alternatives analysis and socioeconomic impact review before degradation is allowed.
- Tier 2.5 – These are waters of “special concern.” No significant degradation is allowed in Tier 2.5 streams. Existing water quality effectively becomes the standard. Streams in this category must be nominated and approved through a rulemaking process.
- Tier 3.0 – No discharge that could degrade the existing water quality of outstanding national resource waters as designated by the Federal Wilderness Act⁸ is allowed. Streams in this category must be nominated and approved by rulemaking.

3. *West Virginia General Discharge Prohibition and Other Prohibitions*

The West Virginia WPCA prohibits the unauthorized discharge of pollutants into the waters of the state.⁹ The OWR has authority to approve, supervise, and issue permits for activities that

⁶ 40 CFR § 131.12.

⁷ W. VA. CODE ST. R. §§ 46-1-4 *et seq.* (2001).

⁸ 16 U.S.C. §§ 1131 *et seq.* (1997).

⁹ W. VA. CODE §§ 22-11-1 *et seq.* (Michie).

discharge pollutants. The OWR is charged with the review and approval all procedures, effluent limits, and any additional conditions of such permits.

The DEP must order any person who discharges a pollutant into or near waters of the state without a valid permit or who violates the WPCA to discontinue such activities or to take corrective or remedial action. Any person whose actions result in any loss of aquatic life due to the failure to discharge duties imposed by the WPCA is liable for the replacement cost of such aquatic life. Violators of the WPCA or any related permit are subject to civil and criminal penalties. Persons acting under a permit issued to abate or remedy pollution who follow the terms of such permit are not subject to criminal prosecution for any pollution recognized and authorized by such permit.

The West Virginia Public Health statutes¹⁰ prohibit the disposal of any dead animal; parts of animals; organic substances; excrement, septic tank or privy contents, cesspool, or effluent from such; garbage, sink or shower waste; or nauseous, offensive, or poisonous substances into any well, cistern, spring, brook, pond, stream, or other body of water which is used for domestic purposes. Violators must remove or abate the public health menace or nuisance within 24 hours, and each day the violation occurs is a separate offense. Disposers of any of the offensive substances listed above into any river, creek, or stream or upon any land adjacent to such waters or upon any common or private land are subject to criminal penalties. These disposal provisions do not apply to commercial or industrial wastes that are otherwise under the regulatory control of the DEP.

West Virginia litter laws¹¹ prohibit the disposal of any litter including garbage, ashes, dead animals, animal parts, offal, or any other offensive or unsightly substance into any river, stream, creek, branch, brook, lake, or pond or within one hundred yards of such waters or into any such location that high water or normal drainage will cause any such substances to be washed into such waters. Violators of these provisions are subject to criminal penalties.

4. *West Virginia Nuisance Actions*

The WPCA and the GPA allow for nuisance actions or remedies. The legislative purpose for such actions is to abate pollution. These statutes specifically set forth that the WPCA and the GPA do not abridge or alter any other rights of action or remedies including the right to suppress nuisances, abate any pollution, or recover damages.

¹⁰ W. VA. CODE §§ 16-9-1 *et seq.* (Michie).

¹¹ W. VA. CODE §§ 20-7-24 to -26 (Michie).

5. *West Virginia Spill Reporting*

The West Virginia EQB sets forth certain procedures that are to be followed in the event of a discharge or spill of pollutants.¹² Any person who spills or accidentally discharges pollutants into waters of the state must immediately call the Emergency Notification Number (800) 642-3074 to report the incident. Notification must include specific information such as the quantity and type of pollutant and any actions taken to minimize the effect. Any person who fails to call the emergency phone number and provide information as required is subject to civil and criminal penalties. Regulations require containment actions, removal, or cleanup. Monitoring of the affected waters may be required in some situations.

6. *West Virginia Pollutant Discharge Elimination System Permits*

Under the delegated NPDES permit program, most point source discharges of pollutants into state waters require a discharge permit from the OWR.¹³ West Virginia's point source pollution discharge permit program is broader than the federal NPDES program. West Virginia regulates discharges into all state waters including groundwater. State law also requires a permit not only for discharge but also for the construction of a disposal system. The West Virginia Natural Streams Preservation Act (NSPA) requires a separate permit for certain designated streams. (See Protected Streams discussed below.)

Agricultural operations that may require permits, depending on the size of the operation and whether they discharge into state waters, include concentrated animal feeding operations (CAFOs) and concentrated aquatic animal feeding operations (CAqFOs).

The following agricultural activities generally do not require a NPDES permit:

- Runoff from crop cultivation, pastures, orchard production, and similar agricultural activities that may cause nonpoint source pollution;
- Return flows from irrigated agriculture; and
- Discharges of dredged or fill materials that are regulated under Section 404 of the federal CWA.¹⁴

Please note, however, that agricultural nonpoint source pollution including irrigation return flows may be regulated under other federal and state laws.

¹² W. VA. CODE ST. R. §§ 47-11-1 *et seq.*

¹³ W. VA. CODE ST. R. §§ 47-10-1 to -5.

¹⁴ W. VA. CODE ST. R. § 47-10-3.

7. *West Virginia Concentrated Animal Feeding Operations*

Criteria for West Virginia CAFOs are the same as under the federal NPDES program. The OWR may designate any animal feeding operation (AFO) as a CAFO that requires a NPDES permit if the OWR determines the operation is a significant contributor of pollution to state waters.¹⁵ However, the OWR must not designate an AFO as a CAFO that requires a NPDES permit if the AFO does not meet the criteria set out in the regulations unless:

- Pollutants are discharged into state waters through a man-made ditch, flushing system, or other similar man-made device; or
- Pollutants are discharged directly into state waters and such waters originate outside of the facility and pass over, across, or through the facility or otherwise come into direct contact with the animals confined in the operation.

8. *West Virginia Aquaculture*

The West Virginia DNR is charged with the licensing of aquaculture operations.¹⁶ Aquaculture is defined as the commercial production of fish or other aquatic life. An aquatic farming operation must not interfere with fish propagation, public fish stocking, the free passage of fish, or the riparian rights of other landowners.

In addition to the DNR license discussed above, aquacultural producers may be required to obtain a NPDES permit from the West Virginia DEP.¹⁷ Any hatchery, fish farm, or other aquaculture facility must obtain a NPDES discharge permit if there are 30 days or more of discharge per year; however, there are a few exceptions. The following aquaculture operations are exempted from obtaining a NPDES permit:

- Cold water species operations that produce less than approximately 20,000 pounds per year or feed less than 5,000 pounds of food per month and
- Warm water species operations that produce less than approximately 100,000 pounds per year or use a closed pond which discharges only during periods of excess runoff.

The OWR may designate any warm or cold water aquatic animal production facility as a CaqFO that requires a NPDES permit if the OWR determines the operation is a significant contributor of pollution to state waters.

¹⁵ W. VA. CODE ST. R. § 47-10-13.

¹⁶ W. VA. CODE § 20-2-48 (Michie).

¹⁷ W. VA. CODE ST. R. § 47-10 Appendix C.

9. *West Virginia Silvicultural Activities*

Silvicultural point sources are subject to the NPDES permit program.¹⁸ A silvicultural point source is defined as any discernible, confined, and discrete conveyance related to rock crushing, gravel washing, log sorting, or log storage facilities which are operated in connection with silvicultural activities and from which pollutants are discharged into state waters.

Non-point source silviculture activities are not subject to the NPDES permit program. Agricultural producers should consult with the OWR to determine if their activities are point or non-point source activities. Some activities (such as stream crossing for roads) may involve point source discharges of dredged or fill material which may require a 404 permit under the federal CWA.

Agricultural producers should note that under the Logging Sediment Control Act (LSCA)¹⁹ timbering operations must be registered with the West Virginia DOA. The DOA also makes determinations for violations for failure to use BMPs, for corrective action requirements, and for operation suspension.

10. *West Virginia Protected Streams*

The West Virginia Natural Streams Preservation Act (NSPA)²⁰ charges the DEP with the protection of certain protected free flowing streams. West Virginia also uses stream protection designations for waters of special concern. These designations are under West Virginia's DNR. This designation provides additional protection for natural reproducing trout streams in 19 counties. The following streams are statutorily designated as protected streams:

- Greenbrier River from its confluence with Knapps Creek to its confluence with the New River;
- Anthony Creek from its headwaters to its confluence with the Greenbrier River;
- Cranberry River from its headwaters to its confluence with the Gauley River;
- Birch River from the Cora Brown bridge to the confluence of the Elk River; and
- New River from its confluence with the Gauley River to its confluence with the Greenbrier River.

¹⁸ W. VA. CODE ST. R. §§ 47-10-13.1 *et seq.*

¹⁹ W. VA. CODE § 19-1B *et seq.* (Michie).

²⁰ W. VA. CODE §§ 22-13-1 *et seq.* (Michie).

It is unlawful for any person to modify any protected stream, or part of such stream, without a permit issued by the DEP. Notice and a public meeting are required before such permit may be issued. The DEP may inspect modifications, compel compliance with permit conditions, issue orders to stop work, and suspend or revoke permits. Violation of the NSPA is a nuisance subject to an abatement order. Failure to obtain a required permit, perform a duty imposed by the NSPA, or obey any final order of the DEP or the EQB is a crime.

11. West Virginia Dams

The West Virginia Dam Control Act (DCA)²¹ charges the DEP with regulating dams. A dam is any artificial barrier with specific impounding capacities and height specifications. (See the DCA for details). Farm ponds including those for irrigation, watering of livestock, retention of animal wastes, or fish culture are statutorily excluded from the definition of dam provided such farm ponds do not have the potential of causing the loss of human life in the event of embankment failure. Other structures that are also statutorily excluded from the definition of dam are structures that have a culvert or some other similar device and do not impound water under normal conditions.

It is illegal to place, construct, enlarge, alter, repair, remove, or abandon a dam without a certificate of approval from DEP.

12. West Virginia Soil and Water Conservation Districts

Soil conservation districts and water conservation districts have the authority to require agricultural producers to control non-point source pollution. The West Virginia Soil Conservation Districts Law²² authorizes soil conservation districts to adopt binding and enforceable land use regulations in the interest of conserving soil, soil resources, and controlling soil erosion. Water conservation districts have the same authority as soil conservation districts.²³ These rules can only be adopted after a referendum and subsequent approval by the district board. Such rules may include the following requirements:

- Construction of dams, dikes, terraces, ponds, and ditches;
- Observation of certain cultivation methods;
- Observation of specific cropping programs and tillage practices; and
- Setting aside areas where there may be no cultivation or limited cultivation.

²¹ W. VA. CODE §§ 22-14-1 *et seq.* (Michie).

²² W. VA. CODE §§ 19-21A-1 *et seq.* (Michie).

²³ W. VA. CODE §§ 9-21B-1 *et seq.* (Michie).

Producer Note: Often the specifics of environmental laws are found in agency regulations. In addition, regulations are likely to be amended frequently. As a result, agricultural producers must stay in touch with offices administering specific programs in order to keep up with changes which may occur.

II. GROUNDWATER

Producer Note: Agriculture producers should contact their state agriculture department or USDA to determine the current status of the regulation and the groundwater pesticide management plan for their state.

A. West Virginia Groundwater Laws and Regulations

The West Virginia GPA²⁴ designates the West Virginia DEP as the lead agency for groundwater protection. In addition to the DEP, the West Virginia Department of Agriculture (DOA) and the West Virginia BPH are statutorily authorized state groundwater regulatory agencies, however, the EQB has sole authority to set groundwater standards. These groundwater standards set the maximum allowable contamination for groundwater.²⁵

Groundwater certification is a condition for any permit, approval, or renewal issued by any government body. Agencies or local governmental bodies issuing permits, licenses, registrations, certificates, or any other form of approval for activities which may impact groundwater must first submit an application for certification to DEP. The DEP may waive, grant, add conditions, or deny groundwater certification.

There are civil and criminal penalties for violations of GPA. Other remedies include:

- Suspension, revocation, or modification of permits;
- Orders for violators to take remedial action; and
- Cease and desist orders and injunctions.

1. *West Virginia Best Management Practices*

Best Management Practices (BMPs) are developed to address soil erosion, chemical or manure contamination, and other point and non-point source pollution problems. BMPs “are designed to

²⁴ W. VA. CODE §§ 22-12-1 *et seq.* (Michie).

²⁵ W. VA. CODE ST. R. § 46-12-3.

maintain the long term productivity of the soil, water, and related plant and animal resources and to minimize soil, waste, pesticide, and nutrient contamination to the waters of the state.”²⁶

The West Virginia DOA is authorized to regulate the use or application of pesticides, fertilizers, and manures and develop BMPs for the protection of groundwater.²⁷ Voluntary BMPs are initiated when monitoring or computer models predict or show a trend toward groundwater contamination. The DOA may initiate mandatory BMPs for the application of fertilizers and manures when there is evidence that groundwater pollution could be effectively prevented with BMPs.

2. *West Virginia Water Wells*

The DOA monitors private, public, and observation wells for contamination.²⁸ Mandatory programs will be initiated only after verifiable official data has been obtained. The State Management Plan requires mandatory BMPs if such data shows contamination. When contamination is due to a point source, well owners are notified. In such cases, site investigations are commenced. Other than DOA, other agencies may also commence investigations or actions. When contamination is due to a non-point source, voluntary BMPs or mandatory BMPs may be implemented.

Subsurface borings (e.g., water wells, injection wells, soil boring, production wells, extraction wells, exploratory wells, and groundwater monitoring wells) must be constructed, operated, and closed in a manner that protects groundwater.²⁹

The BPH is authorized to regulate water supplies, sewage or excreta disposal systems, and any drainage method or system whether publicly or privately owned.³⁰ Commercial or industrial waste facilities regulated by the DEP are excluded from BPH regulations.

A written permit must be obtained from the BPH before beginning construction of a water well and such wells must be installed in accordance with BPH specifications. The BPH has promulgated Water Well Design Standards which include:

- Location requirements;
- Installation and materials requirements;
- Abandonment requirements; and

²⁶ W. VA. CODE ST. R. §§ 61-22B-1 *et seq.*

²⁷ W. VA. CODE ST. R. §§ 6-22-1 to -14 and 61-12 *et seq.*

²⁸ W. VA. CODE ST. R. § 61-22-11.

²⁹ W. VA. CODE ST. R. § 47-58-4.

³⁰ W. VA. CODE §§ 16-1-4 and -9 (Michie).

- Notice requirements.³¹

A completed well log must be submitted to the BPH within 30 days after construction of a water well.

3. *West Virginia Underground Injection Wells*

The OWR within the DEP regulates underground injection wells under the authority of the WPCA.³² The West Virginia Underground Injection Control (UIC) program is a delegated state-approved program under the federal SDWA. Underground injection means any subsurface placement of fluids into a well, drainfield, cesspool, or pit. All injection wells are included in the UIC program unless specifically excluded.

DEP regulations³³ provide detailed program requirements. Owners or operators of injection wells must be sanctioned or authorized by permit or by rule to operate. The most stringent rules apply to injection wells that are used to dispose hazardous wastes. Abandoned wells are also regulated. Specifically excluded from regulation are single family residential waste disposal systems (e.g., cesspools or septic systems) and nonresidential waste disposal systems serving fewer than twenty persons per day.

Most agricultural and aquaculture injection wells are considered Class V wells.³⁴ Although most Class V wells are authorized by rule or general permit, there are specific requirements that must be met. Class V wells not authorized by rule or general permit require an individual permit.

Producers Note: Agricultural producers should consult with DEP representatives to ensure their injection wells are in compliance with applicable regulations.

4. *West Virginia Enforcement of Water Laws*

The OWR within the DEP is responsible for enforcement of the WPCA and the GPA which includes inspections, discharge monitoring, and general compliance. The DOA regulates and enforces

³¹ W. VA. CODE ST. R. §§ 47-60-18, 64-19-4, and 64-46-1 *et seq.*

³² W. VA. CODE §§ 22-11-3, -8, and 64-11-4 (Michie).

³³ W. VA. CODE ST. R. §§ 47-9-1 *et seq.* and 47-13-1 *et seq.*

³⁴ The EPA has grouped UIC wells into five classes (Class I, II, III, IV, and V) according to the type of fluid they inject and whether the fluid will be situated above or below drinking water supplies; Class I wells receive hazardous and non-hazardous wastes below a source of drinking water, Class II wells receive brine, Class III wells receive super-heated steam, water, or other such fluids, Class IV wells receive hazardous or radioactive wastes into or above a source of drinking water, and Class V wells receive fluids that are not included in the other classes.

pesticide, fertilizer, and manure applications as well as the correspondent use regulations. The BPH is responsible for the inspection, general compliance, and enforcement of public health standards for water supplies including private water wells and drainage systems or methods. Penalties vary as discussed in the sections above but may include civil as well as criminal charges. The specifics of water law enforcement are found in DEP, DOA, and BPH regulations.

III. AIR QUALITY

Producer Note: While most agricultural operations are not air pollution sources under the Clean Air Act (CAA), complaints concerning odor and dust resulting from agricultural operations may occur. These complaints generally arise as lawsuits filed under the state law theory of nuisance.

A. West Virginia Air Quality Laws and Regulations

1. West Virginia Air Quality Laws

West Virginia Air Pollution Control Act (APCA)³⁵ charges the West Virginia DEP with regulating air quality in the state. The DEP adopts and enforces air quality standards, emission control requirements, and other air regulations. The West Virginia clean air program follows the requirements of the federal Clear Air Act (CAA). The EPA and DEP work cooperatively to enforce these requirements. The following are prohibited activities and may subject persons to civil or criminal penalties:

- Any violation of the ACP or any DEP agency rules promulgated under authority of the ACP;
- Operation of a facility without a required permit; and
- Knowingly misrepresenting any material fact in an air quality application, plan, report, or record.

In general, stationary sources of air pollution emitted from any equipment or processes require a permit from DEP prior to the construction, operation, replacement, or relocation of such sources. There are additional requirements for hazardous and toxic air emissions. Both civil and criminal penalties are imposed for violations of the APC.

Fortunately, agricultural activities have few special air quality requirements, and most agricultural operations will not require air permits. However, open burning and incinerators are exceptions and do require air permits as discussed below. Grain elevators may or may not be an

³⁵ W. VA. CODE §§ 22-5-1 *et seq.* (Michie); DEP air quality and pollution control regulations can be found in W. VA CODE ST. R. § 45.

exception depending on the characteristics of the elevator. State laws prohibiting private and public nuisances generally apply to agricultural activities, and agricultural producers should be aware that such legal actions alleging nuisance are possible.

2. *West Virginia Open Burning*

DEP regulations prohibit open burning except under certain conditions or situations.³⁶ Even when burning is allowed by approval or otherwise, any person conducting such burning must take into consideration factors such as nearness of neighbors, weather, time of burning, type of material, and protection of the property, health, safety, and comfort of others.

All burning is prohibited when the National Weather Service issues an announcement that an Atmospheric Stagnation Advisory is in effect or DEP announces a local forecast of stagnant atmospheric conditions.³⁷

The West Virginia Division of Forestry (DOF) prohibits burning during fire season except between the hours of 4 p.m. and 7 a.m.³⁸ The DOF is authorized, however, to issue burn permits for otherwise prohibited fires.

Burning of construction or demolition debris from land clearing activities requires prior approval from the West Virginia Office of Air Quality (OAQ), within DEP. Burning is permitted only when there is no other practical alternative method of disposal. Such burning is not allowed for salvage purposes. Agricultural producers should check with OAQ to determine other more specific requirements for such burning.

Vegetation grown on the premises of a residence or farm may be burned if such vegetation is allowed to dry at least 10 days and piled to promote combustion.

3. *West Virginia Incinerators*

Incinerators must be registered with the DEP, and since they are considered stationary air pollution sources, they also require a permit from the DEP.³⁹ No person may construct, modify, or relocate an incinerator without a permit. Particulate matter must not be discharged from any incinerator into the open air in excess of a quantity determined from the formula set forth in DEP regulations. DEP regulations list certain counties in which no incinerator may be operated except during certain specified hours. DEP regulations also address visible particular matter, ash, odors,

³⁶ W. VA. CODE ST. R. § 45-6-3.

³⁷ W. VA. CODE ST. R. § 45-11-6.

³⁸ W. VA. CODE § 20-3-5 (Michie).

³⁹ W. VA. CODE §§ 22-5-11 and -12 (Michie); W. VA. CODE ST. R. §§ 45-6-1 *et seq.*, -13-1 *et seq.*, -13A, and -13B.

testing, reporting requirements, and authorized variances. In addition to air quality regulations, solid waste disposal regulations may pertain to some incinerator disposals.

Incineration of hazardous or toxic materials such as insecticides and empty insecticide containers, animal remains, certain chemical residues, and explosives require utmost care. The DEP, working in conjunction with other appropriate agencies, evaluates facilities disposing such materials on a case by case basis.

IV. SOLID AND HAZARD WASTE

Producer Note: There are several laws which control the use, disposal, and cleanup of hazardous wastes. Agricultural producers who use hazardous chemicals, petroleum, or other products stored in storage tanks must be aware of requirements governing their actions.

A. West Virginia Solid Waste and Hazardous Waste Laws and Regulations

Producer Note: While most agricultural producers are not generators, transporters, or disposers of hazardous waste, it is important to check with state officials concerning the definitions of solid waste to determine whether an operation's activities could be regulated under state solid waste or hazardous waste statutes.

1. *West Virginia Solid Waste*

Solid waste means any garbage, paper, litter, or refuse processed for the express purpose of incineration or other discarded materials including animal carcasses, offensive or unsightly matter, solid, liquid, semisolid, or gaseous material resulting from industrial, mining, agricultural, commercial, or community activities. The term 'solid waste' by statutory definition does not include:

- Solid or dissolved materials in sewage;
- Solid or dissolved materials in irrigation return flows;
- Industrial discharges that are point sources and are permitted under the West Virginia Water PCA or are subject to a NPDES permit;
- Hazardous waste either identified or listed under the West Virginia Hazardous Waste Management Act (HWMA)⁴⁰; and

⁴⁰ W. VA CODE §§ 22-18-1 *et seq.* (Michie).

- Materials which are recycled by being used or reused in an industrial process to make a product, as effective substitutes for commercial products, or are returned to the original process as substitutes for raw material feedstock.

West Virginia's solid waste management laws impose requirements on solid wastes that do not otherwise qualify as hazardous waste. (See discussion of hazardous waste below.) The principal solid waste law in West Virginia is the Solid Waste Management Act (SWMA).⁴¹ The West Virginia DEP administers the SWMA. The Division of Health enforces public health laws regarding solid waste which presents an imminent and substantial endangerment to the public health.

All solid waste must be disposed, processed, stored, transferred, or recycled only at permitted solid waste facilities.⁴² Solid waste disposal means the practice of disposing, placing, or dumping any solid waste. Solid waste landfill facilities (SWLF) that fail to satisfy DEP regulations are deemed prohibited open dumps. Although open dumps were once allowed on the same property where disposed waste had been generated, no waste from outside sources may be deposited, and all DEP regulations must be followed.

Most agricultural operations disposing solid waste on their own land may be regulated as a Noncommercial Solid Waste Facility (NSWF) or as an Industrial Solid Waste Landfill (ISWL). A NSWF and an ISWL must be owned or operated by a person for the sole purpose of disposing solid wastes created by that person or such person and other persons on a costsharing or nonprofit basis. Both a NSWF and an ISWL require a permit or approval from DEP. Although an ISWL is a type of land disposal, it may not be used as a land application unit, surface impoundment, or injection well. Surface impoundments and injection wells require permits and must follow other specific rules. Incinerators are regulated under both the SWMA and APCA. (See discussion on incinerators above.)

Waivers, modifications, and the procedures for applying for changes such are found in DEP regulations. Agricultural producers may be eligible for waivers or modifications of specific requirements.

Any person placing a green box, bin, roll-off, or dumpster anywhere other than at an approved solid waste facility is responsible for maintenance, litter prevention, open dump control, and leachate management at the site of container.

DEP regulations for solid waste facilities include requirements for siting, location, design, construction, installation, establishment, financial assurance, permitting, modification, operating, groundwater monitoring, closure, and post-closure care. Solid waste facilities may include facilities that process, recycle, compost, transfer, incinerate, or dispose solid waste. Violators of the SWMA are subject to criminal penalties.

⁴¹ W. VA. CODE §§ 22-15-1 *et seq.* (Michie).

⁴² W. VA. CODE ST. R. §§ 33-1-1 *et seq.*

a. Waste Tires and Lead Batteries

The West Virginia Recycling Plan⁴³ charges the DEP with regulating the disposal of tires and lead acid batteries.

The placement of lead acid batteries in any solid waste disposal facility is prohibited. All lead acid batteries must be stored in compliance with DEP regulations. Spent lead acid batteries must be delivered to a car battery dealer or wholesaler, a secondary smelter permitted by the EPA, or an authorized hazardous waste collection facility or recycling facility.

Waste tires must not be kept in long term storage or temporary containment without a permit. Waste tires must be disposed only in facilities specially permitted to handle such tires. Waste tires may, however, be put to beneficial uses such as for watering livestock, playground equipment, boat or truck docking, and building construction. These identified uses do not require a permit and do not fall under waste tire regulations. However, certain other uses are prohibited including use for fencing, for soil erosion control, for protection along stream or river banks, or for any use that may endanger human health or the environment.

b. Composting

All persons who handle or manage yard waste to produce compost must comply with the Yard Waste Composting and Permitting (YWCP) requirements promulgated by DEP.⁴⁴ Yard waste means grass clippings, weeds, leaves, brush, garden waste, shrub or tree prunings and other living or dead plant tissues. Waste vegetative substances with contamination or mixtures that render such waste unsuitable for composting is not considered yard waste and may not be used as such.

Nurseries, greenhouses, landscapers, or other such operators who compost 12,000 tons or less per year of yard waste are required to obtain written approval from DEP. Approval involves satisfying DEP requirements addressing location, operation, and closure.

Producers Note: Agricultural producers should check with the DEP to determine whether any of their activities require permitting or are subject to other regulatory requirements.

⁴³ W. VA. CODE §§ 20-11-1 *et seq.*; W. VA. CODE ST. R. § 33-4-2 contains rules for lead acid batteries; W. VA. CODE ST. R. §§ 33-5-1 to -3 contains rules for waste tire disposal.

⁴⁴ W. VA. CODE ST. R. §§ 33-3-1 to -5.

2. *West Virginia Hazardous Waste*

Wastes deemed to be hazardous are regulated to a greater extent than other wastes under both West Virginia and federal law. The West Virginia HWMA⁴⁵ has provisions similar to the federal Resource Conservation and Recovery Act (RCRA) for regulating hazardous wastes. The HWMA definition of hazardous waste is the same as the federal definition. The HWMA definition of solid waste and the exclusions from this definition are similar to the SWMA definition of solid waste discussed above.

The DEP is charged with administering the HWMA, and DEP regulations incorporate by reference many of the EPA regulations⁴⁶ including the hazardous waste definition and standards for determining whether substances not on the lists should nevertheless be considered hazardous.⁴⁷

Persons who generate, store, or transport hazardous wastes are subject to extensive regulations. Requirements include obtaining permits, record keeping, storage, disposal, emergency planning, personnel training, and standards for equipment, containers, and buildings.

Producers Note: Agricultural producers should check with the DEP to determine whether chemicals or other substances used in their operations are listed as hazardous and to learn the regulatory requirements for any such substances.

3. *West Virginia Underground Storage Tanks*

The West Virginia DEP is charged with administering the West Virginia Underground Storage Tank Act (USTA).⁴⁸ An underground storage tank (UST) is defined as a tank or a combination of tanks including any associated or connecting pipes used to contain regulated substances where the volume is located at least 10% below the ground. The USTA excludes the following from the definition of an UST:

- Farm and residential storage tanks with a capacity of 1100 gallons or less for storing motor fuel for noncommercial purposes;
- Tanks for storing heating oil for consumptive use on the premises;

⁴⁵ W. VA. CODE §§ 22-18-1 *et seq.* (Michie).

⁴⁶ W. VA. CODE ST. R. §§ 33-20-1 *et seq.*

⁴⁷ 40 C.F.R. § 261(1998).

⁴⁸ W. VA. CODE §§ 22-17-1 *et seq.* (Michie).

- Septic tanks and storm water or wastewater collection systems;
- Surface impoundments, pits, ponds, or lagoons;
- Flow-through process tanks;
- Certain pipeline facilities and lines regulated under other statutes that are directly related to oil or gas activities; and
- Storage tanks located in a basement, cellar, shaft, or tunnel as long as the tank is situated above the floor surface.

Although DEP regulations incorporate by reference the EPA regulations at 40 C.F.R. Part 280,⁴⁹ DEP regulations may contain exceptions, additions, and modifications to the EPA regulations.

All USTs must be registered with the DEP. The owner or operator of an UST is required to notify the DEP prior to installation, however, requirements differ for new versus exiting USTs. Notice is required whenever any UST is sold or its ownership is transferred or it is removed from service or use.

Owners or operators should conduct regular checks for leakage and report any discharges immediately. USTs are heavily regulated, and there are several checklists and requirements that must be met. Requirements include:

- Design and performance standards;
- Financial assurance requirements;
- Record keeping requirements;
- Leak detection systems;
- Releases and spill reports;
- Remediation requirements; and
- Closure requirements.

⁴⁹ W. VA. CODE ST. R. §§ 33-30-1 to -5.

Producer Note: USTs are subject to extensive regulation in West Virginia. Agricultural producers should check with the DEP periodically to ensure their UST system complies with applicable regulations.

V. PESTICIDES AND CHEMIGATION

Producer Note: Use of pesticides and other farm chemicals is regulated by federal and state statutes. Most states have some form of licensing or certification requirements controlling those who use pesticides. In addition, if a producer employs agricultural workers, there are regulations which address safety concerns about pesticide use by those workers or around those workers.

A. West Virginia Pesticide and Chemigation Laws and Regulations

Producer Note: West Virginia, like most states, has laws designed to control the use of pesticides. The laws are designed to closely monitor the distribution and ultimate use of these substances within the state.

The West Virginia PCA⁵⁰ authorizes the West Virginia DOA to regulate pesticides and herbicides. Regulations regarding pesticides and herbicides are extensive.⁵¹ Pesticides are defined as:

“[A]ny substance or mixture of substances, intended for preventing, destroying, repelling or mitigating any undesirable insect, rodents, nematodes, fungi, weeds and other forms of plant or animal life or viruses, . . . a plant regulator, desiccant, defoliant, or herbicide.”⁵²

The West Virginia pesticide laws and regulations apply to anyone who uses, advises use, applies, manufactures, sells, distributes, transports, formulates, stores, or disposes pesticides. All pesticides must be registered with the DOA. The use, sale, distribution, or transportation of unregistered pesticides is prohibited. The law requires that a pesticide be used, applied, or disposed in a manner consistent with its labeling.

Restricted-use pesticides must only be purchased, used, or applied by a certified applicator. A certified user has authority to use only pesticides classified in the category of use for which the user is certified. The DOA may inspect pesticide records, equipment, storage, disposal areas, and lands

⁵⁰ W. VA. CODE §§ 19-16A-1 to 19-16A-27 (Michie).

⁵¹ The majority of state pesticide regulations can be found in W. VA. CODE ST. R. § 61.

⁵² W. VA. CODE § 19-16A-3 (Michie).

actually or reportedly exposed to pesticides. The DOA has authority to gather evidence, take sworn statements, investigate complaints, and apply for search warrants. Generally, pesticide rules include:

- Standards, prohibitions, and restrictions on the use of certain pesticides;
- Certification requirements for pesticide applicators;
- Record keeping requirements;
- Container disposal requirements; and
- Storage requirements.

Additional rules apply for aerial application of pesticides.

The DOA may develop regulations as necessary or institute voluntary or mandatory BMPs to prevent groundwater contamination in areas deemed as sensitive areas.⁵³ Voluntary or mandatory BMPs may be instituted when chemical properties or assessments predict probable groundwater or well water contamination. The DOA promulgates regulations for well head protection and secondary containment at storage and mixing sites. Agricultural producers should consult with the DOA in order to stay current with BMPs and regulations.

Producer Note: Agricultural producers should refer to DOA regulations and consult with DOA representatives to determine the specific use and disposal requirements applicable to the pesticides used.

VI. PROTECTION OF WILDLIFE

A. West Virginia Wildlife Protection Laws and Regulations

Producer Note: Many states have additional measures which either enhance protections under federal laws or address issues peculiar to wildlife found within the state. These states also may address common problems caused by wildlife. West Virginia has laws protecting wildlife.

West Virginia has enacted a variety of laws that protect wildlife, aquatic life, and the habitats of such as well as laws that regulate their harvesting. The West Virginia DEP administers the majority of these laws. The legislative acts and regulations discussed in the above sections of water quality,

⁵³ W. VA CODE §§ 22-12-1 to -9 (Michie); W. VA. CODE ST. R. § 61-22-4.

groundwater, solid waste, and hazardous waste have provisions addressing the protection of wildlife and aquatic life.

The West Virginia DOA regulations pertaining to pesticides and herbicides also have provisions dealing with the protection of fish and wildlife. The DOA has regulations governing the construction and operation of permanent locations used for storage, mixing, and loading of non-bulk pesticides to prevent the escape of discharges that may result in unreasonable adverse effects on the environment.⁵⁴ Agricultural producers should check with the DOA for specific details regarding these type facilities.

The West Virginia DNR administers state hunting and fishing laws and other requirements for the taking of wildlife. These wildlife protection and hunting and fishing laws are extensive, and violators are subject to criminal penalties. The term wildlife means wild birds, wild animals, game and fur-bearing animals, fish, reptiles, amphibians, mollusks, crustaceans, and all forms of aquatic life used as fish bait whether dead or alive.⁵⁵

There are special requirements for the taking of animals that are causing damage to crops, livestock, property, or resources.⁵⁶ No person may hunt, capture, or kill any bear except with a license for such and then only during bear hunting season. Should a bear be destroying crops, property, or livestock, the DNR must be notified, and an officer will investigate. Agricultural producers may be able to secure a wildlife damage permit to remove deer or other wildlife which are causing damage. Agricultural producers should contact the DNR for information on deer damage control programs including whether financial assistance is available.⁵⁷

⁵⁴ W. VA. CODE § 19-16A-4 (Michie).

⁵⁵ W. VA. CODE § 20-1-2 (Michie).

⁵⁶ W. VA. CODE § 20-2-15 (Michie).

⁵⁷ WEST VIRGINIA DIVISION OF NATURAL RESOURCES, AN INTEGRATED APPROACH TO DEER DAMAGE CONTROL, Publication No. 809. This publication is available from the West Virginia DNR or *available at* <http://www.dnr.state.wv.us/wvhunting/dma3.htm>.

Appendix A - Agencies

Producer Note: State and federal agencies are available to answer questions regarding environmental matters and a producer's compliance with environmental laws and regulations. The following is a list of agencies which should be able to answer questions or provide materials for a producer.

State Agencies:

One Agency within DOA:

Department of Agriculture

1900 Kanawha Boulevard East
Charleston, WV 25305-0170
(304) 558-2221
(304) 558-2222 fax
<http://www.state.wv.us/agriculture/Home/home.html>

1. Soil Conservation Agency

(304) 558-2204
(304) 558-1635 fax
<http://www.wvsca.org/>

Six Divisions within DOA:

1. Animal Health Division

(Same address as DOA above)
(304) 558-2214
(304) 558-2231 fax

2. Marketing and Development Division

(Same address as DOA above)
(304) 558-2210
(304) 558-2270 fax

3. Meat and Poultry Inspection Division

(Same address as DOA above)
(304) 558-2206
(304) 558-1882 fax

4. Plant Industries Division

(Same address as DOA above)
(304) 558-2212
(304) 558-2435 fax

5. Communications Division

(Same address as DOA above)
(304) 558-3708
(304) 558-3131 fax

6. Regulatory And Environmental Affairs Division

(Same address as DOA above)
(304) 558-2208
(304) 558-3594 fax

Department of Environmental Protection

10 McJunkin Road
Nitro, WV 25143
(304) 759-0515
(304) 759-0526 fax
(800) 642-3074 State Emergency Pollution Spills
(800) 424-8802 Nat'l Emergency Pollution Spills
(800) 472-8286 Pollution Prevention & Open Dump
<http://www.dep.state.wv.us>

Eight Offices within DEP:

1. Office of Abandoned Mine Lands & Reclamation

(304) 759-0521
(304) 759-0528 fax
(800) 648-0274 Emergency

2. Office of Air Quality

7012 MacCorkle
Charleston, WV 25304
(304) 926-3647
(304) 926-3837 fax
(304) 558-3286 After Hours Recorder

(Sections within OAQ)

Air Programs Section
(304) 926-3731
Permitting Section
(304) 926- 3727
Hazardous Section
(304) 926-3647

3. Office of Environmental Enforcement

1356 Hansford Street
Charleston, WV 25301
(304) 558-2497
(304) 558-3938 fax

(Service within OEE)
Legal Services
(304) 558-9160
(304) 558-4255 fax

4. Office of Environmental Remediation

(Same address as OEE above)
(304) 558-2508
(304) 558-3998 fax

5. Office of Mining & Reclamation

(304) 759-0510
(304) 759-0528 fax

6. Office of Oil and Gas

1356 Hansford Street
Charleston, West Virginia 25301
(304) 558-6075
(304) 558-6047 fax
(800) 654-3312 Dam Emergency
<http://www.dep.state.wv.us/og/>

7. Office of Waste Management

1356 Hansford St.
Charleston, WV 25301
(304) 558-5929
(304) 558-0256 fax
(800) 307-8710 toll free Generator Assistance
<http://www.dep/state.wv.us/wm/>

Enforcement
(304) 558-2505
Environmental Restoration
(304) 558-7763
Emergency Response
(304) 558-5938
(304) 558-1143 fax
Compliance Assurance
(304) 558-5989

Hazardous Waste Permitting
(304) 558-5393
Solid Waste
(304) 558-6350
(304) 558-0256 fax
Underground Storage Tanks

(304) 558-6371
(304) 558-2387 fax

Solid Waste Management Board

1615 Washington Street, East
Charleston, WV 25311-2126
(304) 558-0844
(304) 558-0899 fax
<http://www.state.wv.us/swmb/>

8. Office of Water Resources

1201 Greenbrier Street
Charleston, WV 25311
(304) 558-2107
(304) 558-5905 fax
<http://www.dep.state.wv.us/wr/>
OWR_Website/index.htm

Dam Safety
(304) 558-0320
Coordination and Development
(304) 558-2108
(304) 558-2780 fax
Engineering
(304) 558-4086 or
(304) 558-8855 or
Permits
(304) 558-0375
(304) 588-5903 fax
Watershed Assessm't/Strategic Planning
(304) 558-2108

Construction Assistance
617 ½ Leon Sullivan Way
Charleston, WV 25301-1251
(304) 558-0641
(304) 558-3778 fax
(304) 558-0637 Management
(304) 558-0633 Engineering

Department of Health and Human Resources

State Capitol Complex, Building 3, Room 206
Charleston, WV 25301
(304) 558-0684
(304) 558-1130 fax
<http://www.wvdhhr.org/>

Bureau within DHHR:

Bureau of Public Health
350 Capital Street , Room 702
Charleston, WV 25305
(304) 558-2971

(304) 558-1035 fax
(800) 642-3625 Poison Center Hotline
<http://www.wvdhhr.org/bph/>

Office within BPH:

Office of Environmental Health Services

815 Quarrier Street, Suite 418
Charleston, WV 25301-2616
(304) 558-2981 main
(304) 558-1291 fax main
(800) 368-4358 Environmental Health Hotline
<http://www.wvdhhr.org/oehs>

Three Divisions within OEHS:

1. Environmental Engineering Division

(304) 558-2981 main
(304) 558-0691 fax main
<http://www.wvdhhr.org/oehs/eed/>

(Programs within EED)

Source Water Assessment and Wellhead
Protection Program
<http://www.wvdhhr.org/bph/swap/>

Construction Permits
Data Management
Water Fluoridation
Lead/Copper/Corrosion Control
Water Vending Machines
State Revolving Fund
Training/Certification
(Progs. within Training/Certification)
Drinking Water Trmt. Plant Operators
Waste Water Trmt. Plant Operators
Monitoring Well Drillers/
Certification Testing Program
<http://www.wvdhhr.org/bph/monwell/>
Water Well Driller Certification Prog.
<http://www.wvdhhr.org/oehs/eed/waterwell/>

2. Public Health Sanitation

(304) 558-2981 main
(304) 558-1071 fax main
<http://www.wvdhhr.org/phs/>

(Programs within PHS)
Infectious Medical Waste
<http://www.wvdhhr.org/wvimw/index.htm>
Milk Sanitation
<http://www.wvdhhr.org/phs/milk/>

Food Sanitation
<http://www.wvdhhr.org/phs/food/>

General Sanitation
<http://www.wvdhhr.org/phs/general/>
Bottled Water
<http://www.wvdhhr.org/phs/water/>
Sewage
<http://www.wvdhhr.org/phs/sewage/>
Training
<http://www.wvdhhr.org/phs/training/>

3. Radiation, Toxic & Indoor Air Quality

(304) 558-2981 main
(304) 558-1289 fax main
(800) 922-1255 toll free

(Programs within RT&IAQ)

Radiological Health
<http://www.wvdhhr.org/rtia/radiological.htm>
Asbestos Control
<http://www.wvdhhr.org/rtia/asbestos.htm>
Indoor Air Quality
<http://www.wvdhhr.org/rtia/indoorair.htm>
Lead Poisoning
<http://www.wvdhhr.org/rtia/lead.htm>

Division of Natural Resources

State Capitol Complex, Building 3
1900 Kanawha Boulevard, East
Charleston, WV 25305-0060
(304) 558-2204
(304) 558-1635 fax
(800) CALL WVA toll free
<http://www.dnr.state.wv.us/>

Seven Sections within DNR:

1. Environmental Resources

(Same address as DNR above, but Room 732A)
(304) 558-3370
(304) 558-6207 fax
<http://www.dnr.state.wv.us/WVERS/>

2. Fishing

(Same address as DNR above, but Room 732A)
<http://www.dnr.state.wv.us/wvfishing/>

3. Hunting

(Same address as DNR above, but Room 732A)
<http://www.dnr.state.wv.us/wvhunting/>

4. Law Enforcement

(Same address as DNR above, but Room 837)
(304) 558-2784
<http://www/dnr.state.wv.us/law>

5. Parks and Forests

(Same address as DNR above, but Room 713)
(304) 558-2764
<http://www.wvparks.com/>

6. Public Land Corporation within DNR's
Office of Real Estate

(Same address as DNR above, but Room 643)
(304) 558-3225
<http://www.dnr.state.wv.us/WVREM/PLC.htm>

7. Wildlife Resources

(Same address as DNR above, but Room 812)
(304) 558-2771
<http://www.dnr.state.wv.us/wvwildlife>