

US EPA ARCHIVE DOCUMENT

APPENDIX G
Act 275 of 1970

AN ACT

HB 2213

Amending the act of April 9, 1929 (P.L.177), entitled "An act providing for and reorganizing the conduct of the executive and administrative work of the Commonwealth by the Executive Department thereof and the administrative departments, boards, commissions, and officers thereof, including the boards of trustees of State Normal Schools, or Teachers Colleges; abolishing, creating, reorganizing or authorizing the reorganization of certain administrative departments, boards, and commissions; defining the powers and duties of the Governor and other executive and administrative officers, and of the several administrative departments, boards, commissions, and officers; fixing the salaries of the Governor, Lieutenant Governor, and certain other executive and administrative officers; providing for the appointment of certain administrative officers, and of all deputies and other assistants and employees in certain departments, boards, and commissions; and prescribing the manner in which the number and compensation of the deputies and all other assistants and employees of certain departments, boards and commissions shall be determined," creating the Department of Environmental Resources and defining its functions, powers and duties, transferring certain boards and commissions to such department, abolishing the Sanitary Water Board, the Air Pollution Commission and certain other boards and commissions; placing the Navigation Commission for the Delaware River and its navigable tributaries in the Department of Transportation; transferring the functions of the Geographic Board to the Pennsylvania Historical and Museum Commission placing the Valley Forge Park Commission and the Washington Crossing Park Commission in the Pennsylvania Historical and Museum Commission and repealing inconsistent acts.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 201, act of April 9, 1929 (P.L.177), known as "The Administrative Code of 1929," amended May 6, 1970 (Act No. 120), is amended to read:

Section 201. Executive Officers, Administrative Departments and Independent Administrative Boards and Commissions.—The executive and administrative work of this Commonwealth shall be performed by the Executive Department, consisting of the Governor, Lieutenant Governor, Secretary of the Commonwealth, Attorney General, Auditor General, State Treasurer, and Superintendent of Public Instruction; by the Executive Board, and the Pennsylvania State Police; by the following administrative departments: Department of State, Department of Justice, Department of the Auditor General, Treasury Department, Department of Public Instruction, Department of Military Affairs, Insurance Department, Department of Banking, Department of Agriculture, [Department of Forests and Waters, Department of Mines and Mineral Industries,] Department of ¹Transportation, Department of Health, Department

¹"Highways" in original.

of Labor and Industry, Department of Public Welfare, Department of Property and Supplies, Department of Revenue, Department of Commerce, [and] Department of Community Affairs *and Department of Environmental Resources*; and by the following independent administrative boards and commissions: Pennsylvania Game Commission, Pennsylvania Fish Commission, State Civil Service Commission, Pennsylvania Public Utility Commission, and the Pennsylvania Historical and Museum Commission.

All of the provisions of this act, which apply generally to administrative departments, or generally except to the Department of the Auditor General and the Treasury Department, shall apply to the Executive Board and to the Pennsylvania State Police.

Section 2. As much as applies to the Department of Forests and Waters, Department of Mines and Mineral Industries and the Department of Health of section 202 of the act, amended June 6, 1945 (P.L.1398), July 25, 1961 (P.L.822), and August 14, 1963 (P.L.1117), is amended to read:

Section 202. Departmental Administrative Boards, Commissions, and Offices.—The following boards, commissions, and offices are hereby placed and made departmental administrative boards, commissions, or offices, as the case may be, in the respective administrative departments mentioned in the preceding section, as follows:

* * *

[In the Department of Forests and Waters,
Water and Power Resources Board,
Geographic Board,
Pennsylvania State Park and Harbor Commission of Erie,
Washington Crossing Park Commission,
Valley Forge Park Commission;]

* * *

[In the Department of Mines and Mineral Industries,
Anthracite Mine Inspectors,
Bituminous Mine Inspectors,
Anthracite Mine Inspectors' Examining Board,
Mine Inspectors' Examining Board for the Bituminous Coal Mines
of Pennsylvania,
Oil and Gas Inspectors Examining Board,
Oil and Gas Conservation Commission.]

In the Department of Health,
[Sanitary Water Board,]
State Board of Undertakers;

* * *

Section 3. Section 202 of the act is amended by adding, before the last paragraph, a new clause to read:

Section 202. Departmental Administrative Boards, Commissions, and

Offices.—The following boards, commissions, and offices are hereby placed and made departmental administrative boards, commissions, or offices, as the case may be, in the respective administrative departments mentioned in the preceding section, as follows:

* * *

In the Department of Environmental Resources,
Environmental Quality Board,
Environmental Hearing Board,
State Board for Certification of Sewage Treatment and
Waterworks Operators,
State Soil and Water Conservation Commission,
Anthracite Mine Inspectors,
Bituminous Mine Inspectors.

All of the foregoing departmental administrative boards and commissions shall be organized or reorganized as provided in this act.

Section 4. As much as applies to the Department of Transportation of section 202 of the act, added May 6, 1970 (Act No. 120), is amended to read:

Section 202. Departmental Administrative Boards, Commissions, and Offices.—The following boards, commissions, and offices are hereby placed and made departmental administrative boards, commissions, or offices, as the case may be, in the respective administrative departments mentioned in the preceding section, as follows:

* * *

In the Department of Transportation,
Hazardous Substances Transportation Board,
Navigation Commission for the Delaware River and its navi-
gable tributaries.

All of the foregoing departmental administrative boards and commissions shall be organized or reorganized as provided in this act.

Section 5. Section 203 of the act, amended July 13, 1957 (P.L.852), January 3, 1968 (P.L.922) and July 9, 1970 (Act No. 161), is amended to read:

Section 203. Advisory Boards and Commissions.—The following advisory boards and commissions are placed in and made parts of the respective administrative departments, as follows:

In the Department of Military Affairs,
State Military Reservation Commission,
State Veterans' Commission:

In the Department of [Forests and Waters] Environmental
Resources,

[State Forest Commission,
Flood Control Commission,]
Citizens Advisory Council;

In the Department of Health,

Advisory Health Board;
 In the Department of Labor and Industry,
 Industrial Board,
 Advisory Council on Affairs of the Handicapped,
 Advisory Board on Problems of Older Workers;
 In the Department of Public Welfare,
 State Board of Public Welfare,
 Advisory Committee for the Aging,
 Advisory Committee for the Blind,
 Advisory Committee for General and Special Hospitals,
 Advisory Committee for Children and Youth,
 Advisory Committee for Public Assistance,
 Advisory Committee for Mental Health and Mental Retardation;
 In the Department of Property and Supplies,
 General Galusha-Pennypacker Monument Commission;
**[In the Department of Mines,
 Coal Research Board;]**
 In the Department of Commerce,
 Board of the Pennsylvania Science and Engineering Foundation.

Section 6. Section 206 of the act, amended May 6, 1970 (Act No. 120), is amended to read:

Section 206. Department Heads.—Each administrative department shall have as its head an officer who shall, either personally, by deputy, or by the duly authorized agent or employe of the department, and subject at all times to the provisions of this act, exercise the powers and perform the duties by law vested in and imposed upon the department.

The following officers shall be the heads of the administrative departments following their respective titles:

Secretary of the Commonwealth, of the Department of State;
 Attorney General, of the Department of Justice;
 Auditor General, of the Department of the Auditor General;
 State Treasurer, of the Treasury Department;
 Superintendent of Public Instruction, of the Department of Public Instruction;
 Adjutant General, of the Department of Military Affairs;
 Insurance Commissioner, of the Insurance Department;
 Secretary of Banking, of the Department of Banking;
 Secretary of Agriculture, of the Department of Agriculture;
[Secretary of Forests and Waters, of the Department of Forests and Waters;
Secretary of Mines and Mineral Industries, of the Department of Mines and Mineral Industries;]
 Secretary of Transportation, of the Department of Transportation;
 Secretary of Health, of the Department of Health;

Secretary of Labor and Industry, of the Department of Labor and Industry;

Secretary of Public Welfare, of the Department of Public Welfare;

Secretary of Property and Supplies, of the Department of Property and Supplies;

Secretary of Revenue, of the Department of Revenue;

Secretary of Commerce, of the Department of Commerce;

Secretary of Community Affairs, of the Department of Community Affairs;

Secretary of Environmental Resources, of the Department of Environmental Resources.

Section 7. The first paragraph of clause (a) of section 207 of the act, amended May 6, 1970 (Act No. 120), is amended to read:

Section 207. Appointment.—The Governor shall nominate and, by and with the advice and consent of two-thirds of all the members of the Senate, appoint:

(a) The Secretary of the Commonwealth, the Attorney General, the Superintendent of Public Instruction, the Adjutant General, the Insurance Commissioner, the Secretary of Banking, the Secretary of Agriculture, [the Secretary of Forests and Waters, the Secretary of Mines,] the Secretary of Transportation, the Secretary of Health, the Commissioner of the Pennsylvania State Police, the Secretary of Labor and Industry, the Secretary of Public Welfare, the Secretary of Property and Supplies, the Secretary of Revenue, the Secretary of Commerce, the Secretary of Community Affairs, *the Secretary of Environmental Resources*, and the members of all independent administrative boards and commissions.

* * *

Section 8. Sections 423, 424, 431, 432 and 434¹ of the act are repealed.

Section 9. Sections 435, 436 and 438 of the act are amended to read:

Section 435. Washington Crossing Park Commission.—The Washington Crossing Park Commission shall consist of the [Secretary of Forests and Waters] *Chairman of the Historical and Museum Commission*, ex officio, and ten other persons.

The commission shall annually elect a chairman and a secretary.

Six members of the commission shall constitute a quorum.

Section 436. Valley Forge Park Commission.—The Valley Forge Park Commission shall consist of the [Secretary of Forests and Waters] *Chairman of the Historical and Museum Commission*, ex officio, and thirteen other persons.

The commission shall annually elect a chairman and a secretary.

Seven members shall constitute a quorum.

Section 438. Mine Inspectors.—There shall be as many anthracite

¹"of the act" omitted in original.

mine inspectors, and as many bituminous mine inspectors, as may now or hereafter be provided by law. All such mine inspectors shall be appointed, respectively, from among persons holding valid certificates of qualification issued by the [Anthracite Mine Inspectors' Examining Board, or the Examining Board for the Bituminous Coal Mines of Pennsylvania] *Department of Environmental Resources.*

The manner of appointing mine inspectors, their qualifications, and their terms of office, shall be as may now or hereafter be provided by law.

[Each mine inspector shall receive a salary at the rate of four thousand eight hundred dollars per annum.]

Section 10. Section 439 of the act is repealed.

Section 11. Clauses (c) and (d) of section 448 of the act are repealed.

Section 12. Section 448 of the act is amended by adding a new clause to read:

Section 448. Advisory Boards and Commissions.—The advisory boards and commissions, within the several administrative departments, shall be constituted as follows:

* * *

(p) *The Citizens Advisory Council shall consist of the Secretary of Environmental Resources, six members who shall be appointed by the Governor, no more than three of whom shall be of the same political party, six members who shall be appointed by the President Pro Tempore of the Senate, no more than three of whom shall be of the same political party, and six members who shall be appointed by the Speaker of the House of Representatives no more than three of whom shall be of the same political party. The appointed members of the council shall be citizens of the State, who, during their respective terms, shall hold no other State office to which any salary is attached except that of membership on the Environmental Quality Board.*

The term of office of each appointed member shall be three years, measured from the third Tuesday of January of the year in which he takes office, or until his successor has been appointed; except that in the initial appointments of the members of the council, the respective appointing authorities shall appoint two members for terms of one year each, two members for terms of two years each, and two members for terms of three years each.

The Citizens Advisory Council shall include persons knowledgeable in fields related to the work of the Department of Environmental Resources such as, but not limited to, ecology, limnology, toxicology, pharmacology, organiculture, and industrial technology.

The council shall annually elect one of its appointed members as chairman and shall elect a secretary who need not be a member of the council. Meetings of the council shall be held at least quarterly or at the call of the chairman.

The council shall have power to employ and fix the compensation of such experts, stenographers, and assistants as may be deemed necessary

to carry out the work of the council, but due diligence shall be exercised by the council to enlist such voluntary assistance as may be available from citizens, research organizations, and other agencies in Pennsylvania or elsewhere, generally recognized as qualified to aid the council.

Section 13. Sections 466 and 467 of the act are repealed.

Section 14. Article IV of the act is amended by adding the following new sections:

ARTICLE IV
ORGANIZATION OF DEPARTMENTAL
ADMINISTRATIVE BOARDS AND COMMISSIONS
AND OF ADVISORY BOARDS AND COMMISSIONS

* * *

Section 471. Environmental Quality Board.—The Environmental Quality Board shall consist of the Secretary of Environmental Resources, who shall be chairman thereof, the Secretary of Health, the Secretary of Commerce, the Secretary of Transportation, the Secretary of Agriculture, the Secretary of Labor and Industry, the Secretary of Community Affairs, the Executive Director of the Fish Commission, the Executive Director of the Game Commission, the Chairman of the Public Utilities Commission, the Executive Director of the State Planning Board, the Executive Director of the Pennsylvania Historical and Museum Commission, five members of the Citizens Advisory Council, and four members of the General Assembly. The Citizens Advisory Council members shall be designated by, and serve at the pleasure of, the Citizens Advisory Council. One of the General Assembly members shall be designated by, and serve at the pleasure of, the President Pro Tempore of the Senate, one by the Minority Leader of the Senate, one by the Speaker of the House of Representatives and one by the Minority Leader of the House of Representatives.

Eight members of the board shall constitute a quorum.

Section 472. Environmental Hearing Board.—The Environmental Hearing Board shall consist of three persons, appointed by the Governor, learned in the law, of whom the Governor shall designate one as chairman.

The Secretary of Environmental Resources, with the approval of the Governor, shall appoint a Secretary to the Environmental Hearing Board, who shall receive such salary as the Secretary of Environmental Resources, with the approval of the Governor, shall determine.

Section 473. State Board for Certification of Sewage Treatment Plant and Waterworks Operators.—The State Board for Certification of Sewage Treatment Plant and Waterworks Operators shall consist of the Secretary of Environmental Resources, or his representative, and five additional members to be appointed by the Governor.

One member shall be an employe of a municipality or municipality authority which operates a sewage treatment plant, water treatment plant or water distribution system or a representative of a State association of municipalities or municipality authorities.

One member shall be an individual qualified under this act to operate any water treatment plant.

One member shall be the owner or official of a privately owned waterworks.

One member shall be an individual qualified under this act to operate any sewage treatment plant.

One member shall be on the teaching staff of the civil or sanitary engineering department of an accredited Pennsylvania university or college.

The original appointed members of the board, in the order listed above, shall hold office for one, two, three and four years respectively. Thereafter, each appointment shall be for a period of four years duration. The Governor may reappoint board members for successive terms. Members of the board shall remain in office until a successor is appointed and qualified. If vacancies occur prior to completion of a term the Governor shall appoint another member in accordance with this section to fill the unexpired term.

The present members of the board shall continue to be members subject to the other provisions of this section except that the Secretary of Environmental Resources shall replace the Secretary of Health. A chairman and secretary of the board shall be elected annually. Four members of the board shall constitute a quorum. Meetings may be called by the chairman as needed to conduct the business of the board.

The members of the board shall receive no compensation for their service but shall be reimbursed for actual and necessary expenses incurred in the performance of their duties.

Section 474. State Soil Conservation Commission.—The State Soil Conservation Commission shall consist of the Secretary of Environmental Resources, who shall be the chairman, the Secretary of Agriculture, the Dean of the College of Agriculture of The Pennsylvania State University, and four farmer members, who shall be farmers, to be appointed by the Governor from a list of eight nominees submitted by the association known as "Pennsylvania State Council of Farm Organizations." Two urban members of the commission shall also be appointed to the commission by the Governor. In the event, however, that said association shall fail to make and submit to the Governor, nominations to fill vacancies, the Governor may appoint any citizens of Pennsylvania to fill such vacancies. The State Conservationist of the Soil Conservation Service, United States Department of Agriculture and the Director of Agriculture and Home Economics Extension of The

Pennsylvania State University shall be associate, nonvoting members of the commission. The commission shall keep a record of its official actions, and may perform such acts and promulgate such rules and regulations as may be necessary, and employ such personnel as needed for the execution of its function under this act. A majority of the voting members shall constitute a quorum and all decisions of the commission shall require a concurrence of the voting members of the commission.

The farmer and urban members of the commission shall be appointed for a period of four years and shall hold office until their successors have been appointed and have qualified. The four farmer members' terms shall be so staggered that one member's term shall expire each year while the two urban members' terms shall be so staggered that one member's term shall expire every second year. At the expiration of their terms of office, or in the event of vacancies through death, resignation or otherwise, new farmer or urban members shall be appointed in the manner set forth in paragraph one of this section. A majority of the commission shall constitute a quorum and all decisions shall require the concurrence of a majority of the commission. All members of the commission shall be entitled to their actual and necessary expenses including traveling expenses incurred in the discharge of their duties. The commission shall provide for the execution of surety bonds for all employes and officers who shall be entrusted with funds or property of the commission and shall provide for the keeping of a full and accurate record of all proceedings and of all resolutions, regulations and orders issued or adopted.

Section 475. Navigation Commission for the Delaware River and its Navigable Tributaries.—(a) The Navigation Commission for the Delaware River and its navigable tributaries shall consist of seven members, three to be appointed by the Governor; two of whom shall be appointed from among the residents of Delaware County; and one of whom shall be appointed from among residents of Bucks County; two to be appointed by the Mayor of the City of Philadelphia; one to be the Secretary of Environmental Resources, who shall serve ex officio; and one of whom shall be the Director of Wharves, Docks, and Ferries of the City of Philadelphia, who shall serve ex officio. The Governor shall designate one of the commissioners to be the president of the said commission. The principal office of the commission shall be in the City of Philadelphia.

(b) The members of the Navigation Commission for the Delaware River and its navigable tributaries, hereinafter referred to as the commissioners, shall hold office for a term of four years, and until their successors are appointed and qualified, and may be eligible for reappointment to office. They shall serve without compensation, but shall be reimbursed for necessary expenses. A majority of the commissioners, appointed by the Governor and the Mayor of the City

of Philadelphia, shall constitute a quorum for the transaction of business.

(c) *The commissioners shall have a secretary, and such clerks as may be necessary to keep accurate minutes and entries of all orders, regulations, and transactions of the said commissioners, in a book or books to be kept for that purpose; and the said minutes and entries shall be submitted to the inspection of any person or persons who shall desire to see and peruse the same; and the said commissioners shall give true copies of all such entries or minutes, made in the said book or books as may be required, to such person or persons as shall demand the same, he or they paying to the said commissioners one cent per line for each copy thereof. The commissioners may also have, if the Secretary of Environmental Resources approve, a civil engineer, and such other employes as are necessary to the proper transaction of the business of the Navigation Commission for the Delaware River and its navigable tributaries. The said commissioners shall have authority to maintain adequate offices and a meeting room.*

The Secretary of Environmental Resources shall appoint the secretary and all employes of the commission, whose salaries shall be fixed as provided by law.

Section 15. Subsection (a) of section 514 of the act, amended July 21, 1941 (P.L.429), is amended to read:

Section 514. Sale of Real Estate and Grants of Rights of Way or Other Rights Over or in Real Estate; Tapping Water Lines of Institutions and Sanatoria.—(a) Except as otherwise in this act expressly provided, a department, board, or commission, shall not sell or exchange any real estate belonging to the Commonwealth, or grant any easement, right of way, or other interest over or in such real estate, without specific authority from the General Assembly so to do, but a department, board, or commission may, with the approval of the Governor, grant a license to any public service corporation to place upon, in, or over, any dry or submerged land or bridge of or maintained by the Commonwealth, any public service line, if such line will enable any State building or State institution to receive better service, or if such line is necessary for the service of the public and it is necessary or reasonably required to cross the Commonwealth's land to afford such service or if the running of such line over a bridge will be more economical than the erection of a separate bridge for the line. Every such license shall be revocable for reasonable cause upon six months' written notice by the Commonwealth, and also after like notice for violation of such proper terms and conditions as the department, board, or commission, with the approval of the Governor, shall prescribe when the license issues. Unless any such line is primarily for the benefit of a State building or State institution, the license shall provide for the payment to the Commonwealth of compensation for the use of its property in such amount as the department, board, or

commission granting it shall, with the approval of the Governor, prescribe.

But nothing herein contained shall authorize the Commonwealth to impose and collect from any municipality or township any compensation for a license granted to such municipality or township for the running of a public service line over any such bridge.

This section shall be deemed the exclusive system for the granting of licenses, consents and permits to place public service lines upon, in or over any dry or submerged lands of the Commonwealth. In the case of submerged lands such licenses shall be granted only by the **[Water and Power Resources Board] Department of Environmental Resources**, and the permit shall prescribe such terms and conditions as shall be deemed necessary by the board to protect the interests of the public. In the case of dry lands, licenses shall be issued by the department, board or commission having the management of such lands.

* * *

Section 16. Section 519 of the act is amended to read:

Section 519. Geographic Names.—Every administrative department, board, or commission of the Commonwealth shall, in preparing or publishing maps, reports, or other documents showing or referring to any mountain, river, creek, or other topographic feature within the Commonwealth, designate such mountain, river, creek, or other topographic feature, by, and only by, such name as shall have been adopted therefor by the **[Geographic Board, except the] Pennsylvania Historical and Museum Commission [in historical documents and maps]**.

Section 17. Clause (b) of section 712 of the act, amended April 25, 1949 (P.L.729), is amended to read:

Section 712. The Pennsylvania State Police Force.—The various members of the Pennsylvania State Police are hereby authorized and empowered:

* * *

(b) To act as game protectors, and as forest, fish, or fire wardens, and for the better performance of such duties,

(1) Seize all guns, boats, decoys, traps, dogs, game, fish, shooting paraphernalia, or hunting or fishing appliances or devices, used, taken, or had in possession, contrary to the laws of this State. Any article so seized shall be held subject to such disposition as the Executive Director of the Pennsylvania Fish Commission or the Executive Director of the Pennsylvania Game Commission or the Secretary of **[Forests and Waters] Environmental Resources** may respectively determine.

(2) Seize and take possession of all birds, animals, or fish, which have been taken, caught or killed, or had in possession, or under control, or which have been shipped, or are about to be shipped, contrary to any law of this State.

(3) Search without warrant any boat, conveyance, vehicle or receptacle, when there is good reason to believe that any law has been violated, the enforcement or administration of which is imposed on or

vested in the Pennsylvania Fish Commission or the Pennsylvania Game Commission or in the Department of ~~[Forests and Waters]~~ *Environmental Resources*.

(4) Serve subpoenas issued before any examination, investigation, or trial had pursuant to any law as aforesaid.

(5) Purchase game or fish for the purpose of securing evidence.

Section 18. Section 1202 of the act is repealed.

Section 19. Articles XVIII and XIX of the act are repealed.

Section 20. The act is amended by adding a new article to read:

**ARTICLE XIX-A
POWERS AND DUTIES OF THE DEPARTMENT OF
ENVIRONMENTAL RESOURCES,
ITS OFFICERS AND DEPARTMENTAL AND ADVISORY BOARDS
AND COMMISSIONS**

Section 1901-A. Powers and Duties in General.—The Department of Environmental Resources shall, subject to any inconsistent provision in this act contained, continue to exercise the powers and perform the duties by law heretofore vested in and imposed upon:

(1) *The Department of Forests and Waters, the Secretary of Forests and Waters, the Water and Power Resources Board, the Flood Control Commission, the Pennsylvania State Park and Harbor Commission of Erie, and the State Forest Commission;*

(2) *The Department of Mines and Mineral Industries, the Secretary of Mines and Mineral Industries, the Oil and Gas Conservation Commission, the Mine Inspectors' Examining Board for the Bituminous Coal Mines of Pennsylvania, and the Anthracite Mine Inspectors' Examining Board;*

(3) *The Oil and Gas Inspectors' Examining Board, created by the act of December 21, 1959 (P.L.1967), which board is hereby abolished;*

(4) *The Land Restoration Board, created by the act of June 27, 1947 (P.L.1095), which board is hereby abolished;*

(5) *The Land Reclamation Board, created by the act of May 31, 1945 (P.L.1198), which board is hereby abolished;*

(6) *The Department of Health and the Secretary of Health in so far as such powers and duties pertain to the control of nuisances from grounds, vehicles, apartments, buildings and places within the Commonwealth, to the sanitary condition of tenements, lodging and boarding houses, to management of the sanitary affairs of the Commonwealth, the issuance of waterworks permits and to the control of water pollution;*

(7) *The former Commissioner of Health and the Department of Health by the act of April 22, 1905 (P.L.260), entitled "An act to preserve*

the purity of the waters of the State, for the protection of the public health;"

(8) *The Department of Health and the Secretary of Health by the act of August 20, 1953 (P.L.1217), entitled "An act providing for payments by the Commonwealth to municipalities which have expended money to acquire and construct sewage treatment plants in accordance with the Clean Streams Program and the act, approved the twenty-second day of June, one thousand nine hundred thirty-seven (Pamphlet Laws 1987), and making an appropriation;"*

(9) *The Department of Health by the act of June 23, 1931 (P.L.899), known as the "Public Bathing Law;"*

(10) *The Department of Health by the act of January 19, 1968 (P.L.996), known as "The Land and Water Conservation and Reclamation Act;"*

(11) *The Department of Health by the act of May 23, 1945 (P.L.926), entitled "An act for the protection of the public health by regulating the conduct and operation of public eating and drinking places within this Commonwealth; requiring their licensing; imposing certain duties on the Department of Health of this Commonwealth and on the local health authorities; and providing penalties;"*

(12) *The Department of Health by the act of April 30, 1929 (P.L.897), entitled "An act regulating the manufacturing, bottling, and selling of certain waters, and requiring permits therefor; prescribing the authority of the Department of Health and of local boards of health and health officers with respect thereto; and providing penalties;"*

(13) *The Department of Health by the act of November 10, 1959 (P.L.1400), entitled "An act providing for the annual registration of organized camps for children, youth and adults; defining the duties of the Department of Health of the Commonwealth of Pennsylvania; and prescribing penalties;"*

(14) *The Department of Health by the act of January 24, 1966 (P.L.1535), known as the "Pennsylvania Sewage Facilities Act;"*

(15) *The Department of Health by the act of July 31, 1968 (Act No. 241), known as the "Pennsylvania Solid Wastes Management Act;"*

(16) *The Department of Health by the act of January 8, 1960 (P.L.2119), known as the "Air Pollution Control Act;"*

(17) *The Department of Health by the act of January 28, 1966 (P.L.1625), known as "The Atomic Energy Development and Radiation Control Act;"*

(18) *The Department of Health by the act of September 8, 1959 (P.L.807), entitled "An act empowering the Department of Health to regulate the burial of radioactive material and to issue permits therefor; and prescribing penalties;"*

(19) *The Department of Health and the Secretary of Health by the act of October 26, 1959 (P.L.1380), entitled "An act empowering the*

Commonwealth to acquire land and operate burial grounds for the disposal of radioactive materials;"

(20) The Department of Health by the act of June 22, 1937 (P.L.1987), known as "The Clean Streams Law;"

(21) The Department of Health by the act of November 18, 1968 (Act No. 322), known as the "Sewage Treatment Plant and Waterworks Operators' Certification Act;"

(22) The Sanitary Water Board;

(23) The Air Pollution Commission, created by the act of January 8, 1960 (P.L.2119), known as the "Air Pollution Control Act," which commission is hereby abolished;

(24) The Department of Labor and Industry and the Secretary of Labor and Industry in so far as such powers and duties relate to regulation of mining operations, quarry operations and sand and gravel pits under the act of July 1, 1937 (P.L.2681), entitled "An act relating to, and regulating the manufacture, storing, and possession of explosives; requiring permits for magazines, and prescribing permit fees; and providing penalties," and July 10, 1957 (P.L.685), entitled "An act regulating the use of explosives in certain blasting operations; requiring examination and licensing of certain explosives' detonators and prescribing the fee thereof; and conferring powers and imposing duties on the Department of Labor and Industry."

Section 1902-A. Forest Powers and Duties.—The Department of Environmental Resources shall have the power, and its duty shall be:

(1) To acquire, in the name of the Commonwealth, by purchase, gift, lease, or condemnation, and hold as State forests, subject to the conditions of any such lease, and subject to such reservations, if any, of mineral rights, stumpage rights, rights of way, or other encumbrances, as the department deems to be consistent with such holding, any lands, including tax delinquent lands, which, in the judgment of the department, the Commonwealth should hold, manage, control, protect, maintain, utilize and regulate, as State forests or for reforestation, and adding to and extending the existing State forests for the purpose of lessening soil erosion and silting up of reservoirs; control the flow of streams and extinguish interior holdings; or for the establishment and maintenance of fire observation towers and stations, and such adjoining lands as may be deemed necessary to control, maintain, and develop such towers and stations, and to furnish access to them. The purchase price of any such lands shall not exceed ten dollars (\$10) per acre, except such as are acquired for fire observation tower and station purposes, except the price paid for interior holdings and farms and marginal farms along State forest lands, which shall not exceed twenty dollars (\$20) per acre. The amount expended for the acquisition of lands for State forest purposes, in any annual appropriation period, shall not exceed the appropriation for that purpose for such period, and the

amount expended for other land acquisitions shall not exceed appropriations made for such purposes;

(2) To purchase and hold, as State forest, unseated, vacant, or unappropriated lands, lands advertised for sale for taxes, and land sold for taxes, as may now or hereafter be provided by law;

(3) To hold, manage, control, protect, maintain, utilize, develop, and regulate, the occupancy and use of all lands, heretofore or hereafter acquired, owned, leased, and maintained as State forests for reforestation, for extending existing State forests, for the purpose of lessening soil erosion, the silting up of reservoirs, to control stream flow, and to extinguish interior holdings, and for fire observation tower and station purposes, together with the resources thereof;

(4) To divide the State into such convenient forest districts as it deems economical and effective, to administer, protect, develop, utilize and regulate, the occupancy and use of the lands and resources of the State forest, to protect all forest land in the State from forest fires, fungi, insects, and other enemies, to promote and develop forestry and knowledge of forestry throughout the State, to advise and assist landowners in the planting of forest and shade trees, to obtain and publish information respecting forest lands and forestry in the State, to assist in Arbor Day work, and promote and advance any other activity in local forestry which the department may deem helpful to the public interest, and to execute the rules and regulations of the department for the protection of forest from fire and depredation. It may also assign district foresters to take active charge of such forest districts, and also foresters, forest rangers, and other help, for the administration of such forest districts, as the Secretary of Environmental Resources may deem necessary, for the accomplishment throughout the State of the purposes for which the department is established;

(5) To cooperate with the authorities of townships, boroughs, and cities, of this Commonwealth in the acquisition and administration of municipal forests, as may now or hereafter be provided by law;

(6) Whenever it shall appear that the welfare of the Commonwealth, with reference to reforestation, and the betterment of the State forests, with respect to control, management, protection, utilization, development, and regulation, of their occupancy and use, will be advanced by selling or disposing of any of the timber on the State forests, to dispose of such timber on terms most advantageous to the State: Provided, That the department is authorized and directed to set aside, within the State forests, unusual or historical groves of trees, or natural features, especially worthy of permanent preservation, to make the same accessible and convenient for public use, and to dedicate them in perpetuity to the people of the State for their recreation and enjoyment. And the said department is hereby empowered, to make and execute contracts or leases, in the name of the Commonwealth, for the mining or removal of any valuable minerals that may be found in said State

forests, or of oil and gas beneath those waters of Lake Erie owned by the Commonwealth, whenever it shall appear to the satisfaction of the department that it would be for the best interests of the State to make such disposition of said minerals: And provided further, That any proposed contracts or leases of valuable minerals, exceeding one thousand dollars (\$1,000) in value, shall have been advertised once a week for three weeks, in at least two newspapers published nearest the locality indicated, in advance of awarding such contract or lease. Such contracts or leases may then be awarded to the highest and best bidder, who shall give bond for the proper performance of the contract as the department shall designate: Provided, however, That where the Commonwealth owns a fractional interest in the oil, natural gas and other minerals under State forest lands, the requirement of competitive bidding may be waived, and the department may enter into a contract to lease that fractional interest, with the approval of the Governor, and upon such terms and conditions as the department deems to be in the best interest of the Commonwealth;

(7) To appoint and, with the approval of the Governor, fix the compensation of a chief forest fire warden, and such district forest fire wardens, and to appoint and fix the compensation of such local forest fire wardens and other assistants, as shall be required for the prevention, control, and extinction of forest fires;

(8) To establish and administer auxiliary forest reserves, in the manner and under such terms and conditions as may now or hereafter be provided by law;

(9) To distribute young forest trees, shrubs and vines, as provided by law, to those desiring to plant them;

(10) To furnish information, and issue certificates and requisition necessary for the payment of such fixed charges, in lieu of taxes on State forest and auxiliary forest reserves, to school districts, road districts, and counties, as may now or hereafter be provided by law;

(11) To sell or exchange State forest land, as provided by law, whenever it shall be to the advantage of the State forest interests: Provided, That such action has been approved by the Governor;

(12) To set aside, when, in the judgment of the Department of Environmental Resources, it is deemed necessary, for exclusive use for parks, parkways, and other places of scientific, scenic, historic or wildlife interest, any State owned lands which are now or which may hereafter be under the jurisdiction of the Department of Environmental Resources;

(13) The Department of Environmental Resources shall, with the approval of the Governor, have the authority to enter into agreements with owners or lessees of property or property rights located in the same area as lands owned or leased by the Commonwealth, for the protection, preservation or recovery of metallic or nonmetallic ore, fuel, oil,

natural gas or any other mineral deposits underlying said lands, provided the said deposits are owned by the Commonwealth;

(14) The net receipts, arising out of the occupancy and use of the State forests hereunder, shall be paid into the State Treasury, through the Department of Revenue, and shall belong to and form part of the State Forests and Waters Fund.

Section 1903-A. Forest Powers; Lease of Small Areas of State Forests.—The Department of Environmental Resources shall have the power:

(1) To lease, for a period not exceeding ten years, on such terms and conditions as it may consider reasonable, to any person, corporation, association, church organization, or school board, of Pennsylvania, such portion of any State forest, whether owned or leased by the Commonwealth, as the department may deem suitable, as a site for buildings and facilities to be used by such person, corporation, association, church organization, or school board for health and recreation, or as a site for a church or school purposes: Provided, however, That the department may, with the approval of the Governor, if a substantial capital investment is involved and if it is deemed in the best interests of the Commonwealth, enter into such leases for a period not to exceed twenty-five years.

(2) To lease, for not more than ten years, small areas in State forests, whether owned or leased by the Commonwealth, deemed by it to be better suited for the growing of other crops than for the growing of forest trees. If more than one person shall apply for the same tract, the lease shall be advertised for sale in three local county papers, if there be so many, once a week for three weeks, and may then be awarded to the highest responsible bidder, but the department may nevertheless reject any or all bids. Upon the termination of any such lease, the lessee may remove buildings and fences placed thereon at his own expense, or the same may be purchased by the lessor as a part of the permanent improvement of the tract, upon such terms as may be agreed upon by the department and the lessee.

(3) To grant rights of way through State forests, to individuals or corporations who may apply therefor, when it shall appear to the department that the grant of a right of way will not so adversely affect the land as to interfere with its usual and orderly administration, and when it shall appear that the interests of the Commonwealth or its citizens will be promoted by such grant. Right of way, as used in this subsection, is hereby construed to include rights of passage and haulage for any lawful purpose, also rights of flowage or transmission for any lawful purpose.

(4) To give to street railway companies, duly incorporated under

¹"grants" in original

the laws of this Commonwealth, upon such terms and subject to such restrictions and regulations as the department may deem proper, the privilege to construct, maintain, and operate their lines of railway over, along, and upon public highways now laid out and in actual use, which lie within or border on any State forests, whenever the interests of the Commonwealth will be benefited thereby.

(5) To give to boroughs and other municipalities of this Commonwealth, upon such terms and subject to such restrictions and regulations as the department may deem proper, the privilege of impounding water upon any State forest, and of constructing, maintaining, and operating lines of pipes upon and through State forests for the purpose of conveying water therefrom, whenever it shall be to the public interest so to do.

(6) In all cases where there are public roads, regularly established, running into or through or bordering upon State forests, from time to time, to expend such reasonable sums for the maintenance, repair, or extension of such roads as may be necessary for the proper administration and protection of State forests. All expenses that may thus be incurred shall be paid in the same manner as the other expenses of the department.

(7) To enter into cooperative agreements with county, township, municipal, and private agencies, for the prevention and suppression of forest fires, as provided by law.

(8) To grant to public utility companies, lawfully doing business in this Commonwealth, the privilege to construct, maintain and operate their lines over, along and upon highways and roads which lie within or border on, any State forests, and to grant right of access by such companies to or through State forest lands, in order to bring public utilities to camps and cottages in State forest lands and in other homes and farms adjacent to State forest lands.

(9) To grant to individuals, groups of individuals, associations, firms, partnerships or corporations the privilege to erect, construct, maintain and operate, on and over State owned or leased lands under the jurisdiction of the Department of Environmental Resources, antennas, towers, stations, cables and other devices and apparatus, helpful, necessary or required for broadcasting, telecasting, transmission, relaying or reception of television. It may charge for such privilege such rental and damages as the department deems the conditions and circumstances warrant.

(10) To lease, with the approval of the Governor, State forest lands for the underground storage of natural gas, upon such terms and conditions as the Secretary of Environmental Resources deems to be in the best interest of the Commonwealth.

(11) To lease, with the approval of the Governor, and in cooperation with the Department of Commerce, those State forest lands acquired by

gift from Pennsylvania State University or by acquisition from the Curtiss-Wright Corporation which are located at Quehanna, Pennsylvania, or recovered through the termination of a lease with Curtiss-Wright Corporation relating to Quehanna, Pennsylvania, and upon which are erected certain industrial buildings constructed by the Curtiss-Wright Corporation for industrial or economic development purposes or for nuclear reactor safety zone purposes.

Such leases may be made with industrial tenants or nonprofit industrial development corporations. The department in securing tenants shall cooperate fully with the Department of Commerce. Every such lease entered into shall conform in general to the terms of the standard industrial lease used by the department and approved by the Attorney General. Every such lease shall otherwise than as in this act prescribed be upon such terms and conditions as the Secretary of Environmental Resources deems in the best interests of the Commonwealth. However, all paved roads through the Quehanna project shall remain open to the general public use. Any such lease may permit the tenant to alter or expand, at its own expense and with the approval of the department first obtained in writing, existing buildings to meet the requirements of its particular industrial operation. Every such lease shall provide for the deposit of industrial floor space rentals and sewage and water rentals in a restricted receipts fund, from which the department may draw moneys for use in developing, operating and maintaining the water and sewage disposal facilities, and replacing machinery, equipment and fixtures appurtenant thereto, at aforesaid Quehanna. Said restricted receipts fund shall be audited two years from the effective date of this act and at two-year intervals thereafter, with any residue appearing in said fund at the end of each auditing period to be deposited in the General Fund.

(12) In all cases in which a contract is entered into by the Department of Environmental Resources and the other party to the contract is required to post a surety or cash bond or other acceptable security to be held to apply as a credit against any unpaid balances or to carry out any unfulfilled conditions, the moneys of said bonds or securities shall accrue to the benefit of the Department of Environmental Resources in so far as necessary to indemnify said department from all losses caused by failure of the contracting party to pay any balance due or for expenses incurred due to failure of contracting party to fulfill any contract condition. Moneys not required by the department to pay unpaid balances or to fulfill contract conditions shall accrue to the General Fund.

Section 1904-A. Waters.—The Department of Environmental Resources shall have the power and its duty shall be:

(1) To study, consider, and determine upon a public policy with regard to the conservation, marketing, and equitable distribution of the

water and power to be derived from the utilization of the water resources of the Commonwealth, to the restoration, development, and improvement of transportation by water, to the supply of water and power for municipal, domestic, and industrial use, and to the conservation of water resources by the aid of forestation;

(2) To investigate or examine dams, walls, wing walls, wharves, embankments, abutments, projections, bridges, and other water obstructions, determine whether they are unsafe, need repair, alteration or change in their structure or location, or should be removed, notify owners to repair, alter or change the structure or location or remove the same, repair, alter or change the structure or location or remove the same in emergencies without notice and at the cost of the owners, and apply for injunctions to enforce compliance with or restrain the violation of the law in regard to the safety of dams, or the derogatory effect of walls, wing walls, wharves, embankments, abutments, projections, bridges, or other water obstructions upon the regimen of streams, or the violation of any lawful order or notice of the department in regard thereto. The power of the department under this paragraph shall extend to and include all types of water obstructions, regardless of the date when such obstructions were constructed, and whether or not the same were constructed by express or implied permission of the Commonwealth, or any agency thereof;

(3) To collect such information relative to the existing conditions of the water resources of the State as, in the opinion of the department, shall be necessary for the utilization of waters, and for the conservation, purification, development, and equitable distribution of water and water power resources, and in particular, for the use of such citizens and communities as may be in need of extended facilities for these purposes;

(4) To establish and maintain gauging stations on rivers and their tributaries;

(5) To issue bulletins, during freshet and flood conditions, forecasting gauge heights, and the times thereof;

(6) To maintain a complete inventory of all the water resources of the Commonwealth; collect all pertinent data, facts, and information in connection therewith; classify, tabulate, record, and preserve the same; and, upon the basis thereof, determine, the points at which storage reservoirs may be constructed for flood control, for municipal and domestic supply, hydraulic and hydroelectric power, steam raising, steam condensation, navigation, and other utilization; and generally to devise all possible ways and means to conserve and develop the water supply and water resources of the Commonwealth for the use of the people thereof;

(7) To construct, maintain, and operate works for water storage, flood control, channel improvement, or other hydraulic purposes;

(8) To acquire by purchase, lease, gift or condemnation, with the

approval of the Governor, such land, buildings and appurtenances thereto, as in the judgment of the department, may be necessary for the construction, maintenance, improvement or development of any port or harbor in this Commonwealth.

Section 1905-A. Cooperation with Municipalities.—The Department of Environmental Resources shall cooperate with municipalities in the construction and completion of projects and improvements for the conservation of water and the control of floods. For this purpose, the department shall have the power to use and expend any funds advanced by municipalities, under authority of law, on the projects and improvements designated, when such funds are advanced, in the same manner as it expends any funds appropriated by the Commonwealth for similar purposes.

Section 1906-A. Parks.—The Department of Environmental Resources shall have the power, and its duty shall be:

(1) To supervise, maintain, improve, regulate, police, and preserve, all parks belonging to the Commonwealth;

(2) For the purpose of promoting healthful outdoor recreation and education, and making available for such use natural areas of unusual scenic beauty, especially such as provide impressive views, waterfalls, gorges, creeks, caves, or other unique and interesting features, to acquire, in the name of the Commonwealth, by purchase, gift, lease, or condemnation, any lands which, in the judgment of the department, should be held, controlled, protected, maintained and utilized as State park lands. Such lands may be purchased or accepted, subject to the conditions of any such lease and subject to such reservations, if any, of mineral rights, rights of way, or other encumbrances as the department may deem not inconsistent with such holdings: Provided, however, That the amount expended for the acquisition of lands for State park purposes shall not exceed the amount specifically appropriated for such purposes;

(3) To see that conveniences and facilities for the transportation, shelter, comfort and education of people shall be so designed and constructed as to retain, so far as may be, the naturalistic appearance of State park areas, surroundings and approaches, and conceal the hand of man as ordinarily visible in urban, industrial and commercial activities;

(4) To lease for a period not to exceed ten years, on such terms as may be considered reasonable, to any person, corporation, association, or organization of this Commonwealth a portion of any State park, whether owned or leased by the Commonwealth, as may be suitable as a site for buildings and facilities to be used for health, recreational or educational purposes, or for parking areas or concessions for the convenience and comfort of the public: Provided, however, That the department may, with the approval of the Governor, if a substantial

capital investment is involved and if it is deemed in the best interests of the Commonwealth, enter into such leases for a period not to exceed twenty-five years;

(5) To study, counsel and advise in reference to gifts of lands or money for park purposes;

(6) To counsel and advise in reference to the development of park lands by concessionaries with facilities and equipment for the accommodation and education of the public;

(7) To appoint and commission persons to preserve order in the State parks, which persons shall have all of the following powers:

(a) To make arrests without warrant for all violations of the law which they may witness, and to serve and execute warrants issued by the proper authorities: Provided, however, That in cases of offenses for violation of any of the provisions of The Vehicle Code, the power to make arrests without warrant shall be limited to cases where the offense is designated a felony or a misdemeanor, or in cases causing or contributing to an accident resulting in injury or death to any person;

(b) To have all the powers and prerogatives conferred by law upon members of the police force of cities of the first class;

(c) To have all the powers and prerogatives conferred by law upon constables of the Commonwealth;

(d) To serve subpoenas issued for any examination, investigation or trial had pursuant to any law of the Commonwealth.

(8) For the purpose of providing parking facilities and incidental services within the borders of any State park area situate in the City of Philadelphia to lease or grant, by and with the written approval of the Governor, any portion of any such State park area, underground, aboveground, or both, to the city or to any parking authority now or hereafter existing in the city, pursuant to the provisions of the act of June 5, 1947 (P.L.458), known as the "Parking Authority Law," as the same may now or hereafter be amended, if

(a) The City of Philadelphia or the parking authority agrees that the lands and interests and privileges therein shall be used by the city or parking authority, or any lessee or sub-lessee holding under either of them, pursuant to any lease or sub-lease granted by the city or parking authority as may be permitted by law, to promote the establishment of parking services and facilities, but portions of the street level or lower floors of the parking facilities may be leased for commercial use, including emergency automobile repair service and the sale by the lessee of any commodity of trade or commerce or any service except the sale of gasoline or automobile accessories; and

(b) The department, with the written approval of the Governor, determines that the lease or grant (i) will aid in promoting the public safety, convenience and welfare of the people of Philadelphia by aiding in the establishment of adequate parking services for the convenience of

the public and otherwise promoting the public policy of the Commonwealth in authorization for the creation of parking authorities, and (ii) will not unduly interfere with the promotion of those public objects for which the State park area was acquired and for which it is held.

Any lease or grant shall be upon the terms and conditions and for the period or periods of time the department, with the written approval of the Governor, may prescribe. The department shall execute and deliver and is empowered to receive deeds or other legal instruments necessary to effectuate any lease or grant. All deeds and instruments shall have the prior approval of the Department of Justice, and a copy thereof shall be filed with the Department of Community Affairs.

(9) To make and execute contracts or leases in the name of the Commonwealth for the mining or removal of any oil or gas that may be found in a State park whenever it shall appear to the satisfaction of the department that it would be for the best interests of the State to make such disposition of said oil and gas. Any proposed contracts or leases of oil and gas exceeding one thousand dollars (\$1,000) in value shall be advertised once a week for three weeks in at least two newspapers published nearest the locality indicated in advance of awarding such contract or lease. Such contracts or leases may then be awarded to the highest and best bidder who shall give bond for the proper performance of the contract as the department shall designate.

Section 1907-A. Pennsylvania State Forest School.—The Department of Environmental Resources shall have the power and its duty shall be:

(1) To maintain and operate the Pennsylvania State Forest School at Mont Alto;

(2) For that purpose, to employ such instructors, assign such foresters for instruction, and employ such services, as may reasonably be necessary (i) to provide at the school professional education in forestry and maintain a close association of theory and practice, and (ii) to train forest rangers and forest inspectors;

(3) With the approval of the Governor, to enter into a cooperative agreement with any State or semi-State educational institution for the joint use of the facilities of the school by such institution and the department as may be deemed advisable by the Secretary of Environmental Resources. Any such agreement shall provide for an equitable division between such institution and the Commonwealth of the cost of operating the school and maintaining and repairing the buildings and equipment used by it.

Section 1908-A. Water and Power Resources.—The Department of Environmental Resources shall have the power and its duty shall be:

(1) Subject to any inconsistent provisions in this act contained, to continue to exercise the powers and perform the duties by law vested in

and imposed upon the Water Supply Commission of Pennsylvania, or in and upon the Water and Power Resources Board, or in and upon the department, with regard to:

(a) Applications for charters for corporations for the supply of water for the public or for the supply, storage, and transportation of water and water power, for commercial and manufacturing purposes, or for any other water or water power company;

(b) Agreements for the merger and consolidation of two or more such corporations heretofore or hereafter formed;

(c) The sale, assignment, disposition, transfer, and conveyance of the franchises and all the property, real, personal, and mixed, of any such corporation, heretofore or hereafter formed, to any other such corporation;

(d) Consents or permits for the construction of dams, and other water obstructions, or of any change therein or addition thereto, and consents or permits for changing or diminishing the course, current, or cross section, of any stream or body of water;

(e) Permits for the condemnation or appropriation of waters, or for the construction of hydraulic works;

(f) Applications for new or additional sources of supply of water or water power;

(g) Applications by companies for approval of the construction, operation, and maintenance of tunnels under navigable rivers, to connect their power to manufacturing plants, with coal lands wherein such companies have coal mining rights;

(h) The extension of time fixed by law for the beginning or completion of the construction of the works of water or water power companies, inquiry into the standing of water or water power charters, and as to the due diligence and bona fide intent of water and water power companies to fulfill the requirements of law, and the certification of facts to the Attorney General requesting him to institute quo warranto proceedings.

(2) To complete the construction of a dam across the outlet of Pymatuning Swamp, in Crawford County, for the purpose of establishing a reservoir, and conserving the water entering said swamp, and regulating the flow of water in the Shenango and Beaver rivers, and, in connection with this project, to acquire, in the name of the Commonwealth, by purchase, condemnation, or otherwise, such lands as may be needed;

(3) To enter into agreements to sell, lease or otherwise dispose of any iron, coal, limestone, fire-clay, oil, gas and other minerals, except sand and gravel and minerals deposited as silt in pools created by dams, that may be found in or beneath the beds of navigable streams or bodies of water within the Commonwealth and non-navigable streams or bodies of water where the beds thereof are owned by the Commonwealth, on

such terms and conditions as the board deems to be in the best interest of the Commonwealth: Provided, however, That any proposed contracts involving more than one thousand dollars (\$1,000) shall be awarded to the highest responsible bidder after due advertisement as prescribed by the board. Nothing herein contained shall authorize anyone to interfere with the free navigation of said streams or bodies of water or to undermine the bed thereof or to interfere with the rights of any person or persons holding property on the banks thereof.

Section 1909-A. Flood Control.—The Department of Environmental Resources shall have the power and it shall be its duty:

(1) To make or cause to be made studies, surveys and examinations of local, State or National flood conditions, causes and effects and prepare, or cause to be prepared designs, plans and recommendations for bringing flood conditions under adequate and reasonable control and for saving life and property from damage by flood;

(2) The department in the performance of its duties may request, and shall receive from any State or local agency, department, board, bureau, commission or political subdivision, which has for one of its objects the control of flood waters, such assistance and data as requisite for carrying out the purposes of this law, and the department is hereby authorized to such end, to cooperate in the activities of, and with such State or local agencies, departments, boards, bureaus, commissions and political subdivisions, and to cooperate with the Federal Government or any appropriate agency thereof, in planning or accomplishing an overall long or short term flood control, either National, local or sectional, and to cooperate with the Congress of the United States in the preparation or presentation of legislation tending to effectuate flood control.

Section 1910-A. Powers of Forest Officers.—The persons employed, under the provisions of this act, by the Department of Environmental Resources for the protection of the State forests shall, after taking the proper official oath before the clerk of the court of quarter sessions of any county of the Commonwealth, be vested with the same powers as are, by existing laws, conferred upon constables and other peace officers, to arrest on view, without first procuring a warrant therefor, persons detected by them in the act of trespassing upon any forest or timber land within this Commonwealth, under such circumstances as to warrant the reasonable suspicion that such person or persons have committed, are committing, or are about to commit any offense or offenses against any of the laws now enacted or hereafter to be enacted for the protection of forests and timber lands. Such officers shall likewise be vested with similar powers of arrest in the case of offenses against the laws or rules and regulations enacted or established, or to be enacted or established, for the protection of the State forests, or for the protection of the fish and game contained therein: Provided, That

the above mentioned rules and regulations shall have been previously conspicuously posted upon the State forests. Said officers shall further be empowered, and it shall be their duty, immediately upon any such arrest, to take and convey the offender or offenders before a justice of the peace or other magistrate having jurisdiction, for hearing and trial or other due process of law: Provided further, That this act shall extend only to the case of offenses committed upon the State forests, and lands adjacent thereto, and the powers herein conferred upon said officers shall not be exercised beyond the limits thereof, except where necessary for the purpose of pursuing and arresting such offenders, or of conveying them into the proper legal custody for punishment as aforesaid.

Section 1911-A. Powers of Chief Forest Fire Warden.—*The Chief Forest Fire Warden shall, subject to the approval of the Secretary of Environmental Resources, have the power, and his duty shall be:*

(1) To take such measures for the prevention, control, and extinction of forest fires, as will assure a reasonable protection from fire to woodlots, forest, and wild land within the Commonwealth;

(2) To supervise and manage the forest fire wardens throughout the Commonwealth, and, when necessary, to appoint persons who shall serve without compensation as special or as ex officio fire wardens. Such special or ex officio fire wardens shall have the same powers as local forest fire wardens, but their duties may be changed or extended by the chief forest fire warden. Any special or ex officio forest fire warden, appointed as herein provided, shall be entitled to receive the necessary expenses incurred by him in the performance of his duties as fire warden;

(3) To report to the Secretary of Environmental Resources, at such times as the secretary shall require, covering all phases of the work done under his direction;

(4) To collect, with the assistance of the fire wardens under his supervision, data as to location, area, and fire hazards, of woodlots, forest, and wild lands, within the State, as to forest fires and losses resulting therefrom, and such other data as he may desire to present to the department or to the public;

(5) To plan and to put into operation and maintain a system of fire towers and observation stations, which shall cover the regions subject to forest fires, and to purchase the necessary materials and equipment and hire the necessary labor therefor;

(6) During dry seasons, whenever necessary, to appoint certain forest fire wardens as patrolmen for regions subject to great fire risk;

(7) To enter into agreements with persons, associations, or corporations, upon satisfactory terms, for forest fire prevention or control;

(8) *To conduct educational work in relation to the protection of forests from fire;*

(9) *To approve and transmit to the Secretary of Environmental Resources all correct bills for expenses incurred by him or under his supervision;*

(10) *To declare a public nuisance any property which by reason of its condition or operation is a special forest fire hazard, and, as such, endangers other property or human life. He shall notify the owner of the property, or the person responsible for the condition declared a public nuisance, and advise him of the abatement of such public nuisance. In case of a railroad, such notice shall be served upon the superintendent of the division upon which the nuisance exists;*

(11) *To collect and arrange information concerning violation of laws relating to the protection of forests from fire, and present the same to the Secretary of Environmental Resources, who shall file it with the Department of Justice for legal action;*

(12) *To issue, to persons appointed forest fire wardens, certificates of appointment, and, when deemed advisable, to issue badges to such persons.*

Section 1912-A. Powers of District Forest Fire Wardens.—Each district fire warden shall have the power, and his duty shall be:

(1) *To establish headquarters at some advantageous place within his district;*

(2) *To act as the field representative of the Chief Forest Fire Warden;*

(3) *To collect and forward to the Chief Forest Fire Warden such data within his district as may be required by the Chief Forest Fire Warden;*

(4) *To make recommendations to the Chief Forest Fire Warden for the appointment of local fire wardens, the location of towers, the employment of patrolmen, the region to be patrolled, and such other matters as may come to his attention which would tend to improve the protective system;*

(5) *To arrange for annual meetings of fire wardens within his district for instruction in forest fire matters;*

(6) *To report to the Chief Forest Fire Warden conditions existing within his district, which are or may become forest fire hazards, and to serve notices for the correction or removal of such conditions, after and when issued by the Chief Forest Fire Warden;*

(7) *To receive, audit and, if correct, approve the reports and accounts of the local fire wardens, before submitting them to the Chief Forest Fire Warden;*

(8) *To act as an inspector of the work of the local fire wardens and render assistance to them;*

(9) *To conduct educational work, and develop cooperation between local agencies and the Department of Environmental Resources for the prevention and suppression of forest fires;*

(10) *To perform such other duties as may be assigned to him by the*

Secretary of Environmental Resources and the Chief Forest Fire Warden.

Section 1913-A. Powers of Local Forest Fire Wardens.—It shall be the duty of each local forest fire warden:

(1) Whenever fire is discovered in or approaching woodlots, forests, or wild lands, whether the same be owned by individuals, corporations, or by the Commonwealth, immediately to take such measures as are necessary to extinguish the fire;

(2) Whenever fires have been combated or extinguished, to prepare a correct statement of expenses, upon forms to be furnished by the department, which must be filed with the district forest fire warden and by him forwarded to the Chief Forest Fire Warden within sixty days of the date of the fire;

(3) Promptly to investigate the cause of each fire which comes to his knowledge, collect such evidence as may be discovered relating thereto, and such other facts as he may be directed to investigate, and report the same to the Chief Forest Fire Warden;

(4) To attend an annual meeting of forest fire wardens in his district when notified, or present a reasonable excuse;

(5) When designated as a patrolman or watchman, to perform such duties as may be assigned him by the Chief Forest Fire Warden, or by the district forest fire warden.

Section 1914-A. Powers of all Forest Fire Wardens.—Every forest fire warden, appointed as provided in this act, shall have the power:

(1) To employ such other persons, as in his judgment may be necessary, to render assistance in extinguishing forest fires, and to compel the attendance of persons, and to require their assistance, in the extinguishing of forest fires;

(2) To administer an oath or affirmation, in order to examine any person who he believes knows facts relating to any forest fire, or who claims compensation for services rendered;

(3) To enter upon any land at any time for the purpose of performing duties in accordance with this act;

(4) To arrest on view, without first procuring a warrant, any person detected by him in the act of committing an offense against any of the laws for the protection of forests, woodlots, or wild lands, or, when he shall have a reasonable suspicion that any person is committing or about to commit some such offense. Such forest warden shall have further power to take the offender before a justice of the peace, magistrate, or other officer having jurisdiction, for hearing, trial or other due process of law;

(5) To exercise the foregoing powers, not only in the jurisdiction, for

¹"defense" in original

or within which he may have been appointed, but also in adjacent or other boroughs, townships, or counties.

Section 1915-A. Mines.—The Department of Environmental Resources shall have the power, and its duty shall be:

(1) To see that the mining laws of the Commonwealth are faithfully executed, and, for that purpose, cause lawfully qualified mine inspectors to enter, inspect, and examine any mine or colliery within the Commonwealth and the works and machinery connected therewith;

(2) To give such aid and instruction to the mine inspectors, from time to time, as may be calculated to protect the health and promote the safety of all persons employed in and about the mines;

(3) To make such examinations and investigations as may be necessary to enable it to make recommendations upon any matters pertaining to the general welfare of coal miners and others connected with mining and the interests of mine owners and operators in the Commonwealth;

(4) To seal or close or backfill abandoned deep or strip coal mines, to plug abandoned oil and gas wells, other than those governed by the Gas Operations, Well-Drilling, Petroleum and Coal Mining Act, to fill voids in abandoned coal mines, to drill bore holes, dig ditches or construct flumes which would relieve flooding or hazardous conditions caused by mine water, and to extinguish fires in abandoned coal mines and in culm banks, in those instances where such work is in the interest of the public welfare.

Section 1916-A. Mine Inspectors.—Subject to any inconsistent provisions in this act contained, anthracite mine inspectors and bituminous mine inspectors shall, respectively, under the direction of the Secretary of Environmental Resources, continue to exercise the powers and perform the duties by law vested in and imposed upon them.

Section 1917-A. Abatement of Nuisances.—The Department of Environmental Resources shall have the power and its duty shall be:

(1) To protect the people of this Commonwealth from unsanitary conditions and other nuisances, including any condition which is declared to be a nuisance by any law administered by the department;

(2) To cause examination to be made of nuisances, or questions affecting the security of life and health, in any locality, and, for that purpose, without fee or hinderance, to enter, examine and survey all grounds, vehicles, apartments, buildings, and places, within the Commonwealth, and all persons, authorized by the department to enter, examine and survey such grounds, vehicles, apartments, buildings and places, shall have the powers and authority conferred by law upon constables;

(3) To order such nuisances including those detrimental to the public health to be abated and removed;

(4) If the owner or occupant of any premises, whereon any such

nuisance fails to comply with any order of the department for the abatement or removal thereof, to enter upon the premises, to which such order relates, and abate or remove such nuisance;

(5) For the purpose of collecting or recovering the expense of the abatement or removal of a nuisance, to file a claim, or maintain an action, in such manner as may now or hereafter be provided by law, against the owner or occupant of the premises upon or from which such nuisance shall have been abated or removed by the department;

(6) In making examinations as authorized by this section, the Department of Environmental Resources shall cooperate with the Department of Health, for the purpose of avoiding any duplication of inspection or overlapping of functions.

Section 1918-A. Water Supply.—The Department of Environmental Resources shall have the power and its duty shall be:

(1) To issue waterworks permits, and stipulate therein the conditions under which water may be supplied to the public, and to administer sections 1, 2 and 3, act of April 22, 1905 (P.L. 260), entitled "An act to preserve the purity of the waters of the State, for the protection of the public health," its amendments and supplements;

(2) To investigate, hold hearings upon and determine any question of fact regarding the purity of water supplied to the public by any public utility over which the Pennsylvania Public Utility Commission has jurisdiction, whenever said commission shall certify such question to the department.

The findings of the department upon any such questions shall be incorporated in and made a part of the determination or decision of said commission of the controversy or other proceeding in connection with which the question arose and shall be binding upon the parties to such controversy or other proceeding unless either party shall take an appeal from the commission's determination or decision as may now or hereafter be provided by law;

(3) To make a bacteriological examination and report of any sample of water sent by any person to the department's laboratory at Philadelphia or Pittsburgh. A fee of one dollar (\$1) shall be charged for the service rendered in making the examination and report.

Section 1919-A. Housing.—The Department of Environmental Resources shall have the power, and its duty shall be, to investigate the sanitary condition of tenements, lodging and boarding houses, and, when the same are found to be a menace to those occupying the same, or employed therein, or to be overcrowded, to condemn the same, in such manner and subject to such limitations as may now or hereafter be provided by law, and to notify the owners or agents thereof, in writing, setting forth the unsanitary or overcrowded condition thereof, specifying the changes or alterations which shall be made thereto for the purpose of relieving such condition, and further specifying the time

within such changes or alterations shall be completed or overcrowding relieved: Provided, That in making inspections as authorized by this section, the Department of Environmental Resources shall cooperate with the Department of Labor and Industry, for the purpose of avoiding any duplication of inspection or overlapping of functions.

For the purpose of making investigations authorized by this section, the officers and agents of the department shall, at all times, have the right of ingress into all tenement, lodging, and boarding houses.

Section 1920-A. Environmental Quality Board.—(a) The Environmental Quality Board shall have the responsibility for developing a master environmental plan for the Commonwealth.

(b) The Environmental Quality Board shall have the power and its duties shall be to formulate, adopt and promulgate such rules and regulations as may be determined by the board for the proper performance of the work of the department, and such rules and regulations, when made by the board, shall become the rules and regulations of the department.

(c) The board shall continue to exercise any power to formulate, adopt and promulgate rules and regulations, heretofore vested in the several persons, departments, boards and commissions set forth in section 1901-A. of this act, and any such rules and regulations promulgated prior to the effective date of this act shall be the rules and regulations of the Department of Environmental Resources until such time as they are modified or repealed by the Environmental Quality Board.

(d) The board shall have the power to subpoena witnesses, records and papers and upon certification to it of failure to obey any such subpoena the Commonwealth Court is empowered after hearing to enter, when proper, an adjudication of contempt and such other order as the circumstances require.

(e) The board shall receive and review reports from the Department of Environmental Resources and shall advise the Department and the Secretary of Environmental Resources on matters of policy.

(f) The board shall establish such rules and regulations, not inconsistent with law, for the control, management, protection, utilization, development, occupancy and use of the lands and resources of State parks, as it may deem necessary to conserve the interests of the Commonwealth. Such rules and regulations shall be compatible with the purposes for which State parks are created.

(g) The board shall establish such rules and regulations, not inconsistent with law, for the control, management, protection, utilization, development, occupancy, and use, of the lands and resources of the State forests, as the department deems proper, to conserve the interests of the Commonwealth. Such rules and regulations shall be compatible with the purposes for which the State forests are created,

namely to provide a continuous supply of timber, lumber, wood, and other forest products, to protect the watersheds, conserve the waters, and regulate the flow of rivers and streams of the State and to furnish opportunities for healthful recreation to the public.

Section 1921-A. Environmental Hearing Board.—(a) The Environmental Hearing Board shall have the power and its duties shall be to hold hearings and issue adjudications under the provisions of the act of June 4, 1945 (P.L. 1388), known as the "Administrative Agency Law," on any order, permit, license or decision of the Department of Environmental Resources.

(b) The Environmental Hearing Board shall continue to exercise any power to hold hearings and issue adjudications heretofore vested in the several persons, departments, boards and commissions set forth in section 1901-A of this act.

(c) Anything in any law to the contrary notwithstanding, any action of the Department of Environmental Resources may be taken initially without regard to the Administrative Agency Law, but no such action of the department adversely affecting any person shall be final as to such person until such person has had the opportunity to appeal such action to the Environmental Hearing Board: provided, however, that any such action shall be final as to any person who has not perfected his appeal in the manner hereinafter specified.

(d) An appeal taken to the Environmental Hearing Board from a decision of the Department of Environmental Resources shall not act as a supersedeas, but, upon cause shown and where the circumstances require it, the department and/or the board shall have the power to grant a supersedeas.

(e) Hearings of the Environmental Hearing Board shall be conducted in accordance with rules and regulations adopted by the Environmental Quality Board and such rules and regulations shall include time limits for the taking of appeals, procedures for the taking of appeals, locations at which hearings shall be held and such other rules and regulations as may be determined advisable by the Environmental Quality Board.

(f) The board may employ, with the concurrence of the Secretary of Environmental Resources, hearing examiners and such other personnel as are necessary in the exercise of its functions.

(g) The board shall have the power to subpoena witnesses, records and papers and upon certification to it of failure to obey any such subpoena, the Commonwealth Court is empowered after hearing to enter, when proper, an adjudication of contempt and such other order as the circumstances require.

Section 1922-A. Citizens Advisory Council.—(a) The Citizens Advisory Council shall review all environmental laws of the Commonwealth and make appropriate suggestions for the revision, modification and codification thereof.

(b) *The council shall consider, study and review the work of the Department of Environmental Resources and for this purpose, the council shall have access to all books, papers, documents and records pertaining or belonging to the department.*

(c) *The council shall advise the department, on request, and shall make recommendations upon its initiative, for the improvement of the work of the department.*

(d) *The council shall report annually to the Governor and to the General Assembly and may make such interim reports as are deemed advisable.*

Section 1923-A. State Board for Certification of Sewage Treatment Plant and Waterworks Operators.—The State Board for Certification of Sewage Treatment Plant and Waterworks Operators shall continue to exercise the powers and perform the duties by law vested in and imposed upon said board.

Section 1924-A. Topographic and Geologic Survey.—The Department of Environmental Resources shall have the power, and its duty shall be:

(1) *To undertake, conduct, and maintain the organization of a thorough and extended survey of the State, for the purpose of elucidating the geology and topography of the State. Such survey shall disclose such chemical analysis and location of ores, coals, oils, clays, soils, fertilizing and of other useful minerals, and of waters, as shall be necessary to afford the agricultural, mining, metallurgical, and other interests of the State, and the public, a clear insight into the character of its resources. It shall also disclose the location and character of such rock formations, as may be useful in the construction of highways, or for any other purpose;*

(2) *To collect such specimens as may be necessary to form a complete cabinet collection of specimens of the geological and mineral resources of the State, and deposit the same in the State Museum;*

(3) *To put the results of the survey, with the results of previous surveys, into form convenient for reference;*

(4) *To collect copies of the surveys of this and other states and countries, and digest the information therein contained, to the end that the survey hereby contemplated may be made as thorough, practical, and convenient as possible;*

(5) *To enter into and upon all lands and localities in this State, which it may be necessary to examine, for the purpose of survey, but, in such entry, no damage to property shall be done;*

(6) *To avail itself as fully as possible of the information maps and surveys, possessed by citizens and corporations of this State, relative to the geology and topography of the State;*

(7) *To transmit all publications of the survey, or any part thereof,*

to the Department of Property and Supplies, to be copyrighted by the Secretary of Property and Supplies in the name of the Commonwealth.

(8) To arrange for the cooperation of the United States Geological Survey, or of such other national organization as may be authorized to engage in such work.

Section 1925-A. Soil Conservation.—The State Soil Conservation Commission shall continue to exercise the powers and perform the duties by law vested in and imposed upon said commission.

Section 21. Clause (15) of subsection (a) of section 2002 of the act, amended May 6, 1970 (Act No. 120), is amended to read:

Section 2002. Powers and Duties of the Department.—(a) The Department of Transportation in accord with appropriations made by the General Assembly, and grants of funds from Federal, State, regional, local or private agencies, shall have the power, and its duty shall be:

* * *

(15) To consult with appropriate officials as designated by the chief administrative officer of the Department of [Forests and Waters, the Department of Mines and Mineral Industries] *Environmental Resources*, the Department of Community Affairs, the Department of Health, State Planning Board and the Fish Commission regarding the environmental hazards and the conservation, sanitary, recreation and social considerations that may arise by reason of the location, design, construction or reconstruction of any transportation or air facility.

No highway, transit line, highway interchange, airport, or other transportation corridor or facility, shall be built or expanded in such a way as to use any land from any recreation area, wildlife and/or waterfowl refuge, historic site, State forest land, State game land, wilderness areas or public park unless: (i) there is no feasible and prudent alternative to the use of such land, and (ii) such corridor or facility is planned and constructed so as to minimize harm to such recreation area, wildlife and/or waterfowl refuge, historic site, State forest land, State game land, wilderness area, or public park.

* * *

Section 22. The act is amended by adding a new section to read:

Section 2012. Navigation Commission for the Delaware River.—*The Navigation Commission for the Delaware River and its navigable tributaries shall continue to exercise the powers and perform the duties by law vested in and imposed upon the said board.*

Section 23. Section 2103 of the act is repealed.

Section 24. Section 2105 of the act is amended to read:

Section 2105. Health Districts and Officers.—The Department of Health shall have the power [, in order to enable it more efficiently to manage the sanitary affairs of the Commonwealth,] to apportion the Commonwealth into such number of health districts as the department, with the approval of the Governor, shall decide, and, in each district, to appoint a health officer, who shall,

under the direction of the department, [have supervision and control of the sanitary affairs of the district.] *handle such matters as may be delegated to him by law or by the Secretary of Health and who shall in connection with the management of the sanitary affairs of the Commonwealth cooperate with the Department of Environmental Resources.*

Section 25. Sections 2109 and 2110 of the act are repealed.

Section 26. Section 2501-B of the act is amended by adding three new clauses to read:

Section 2501-B. Powers and Duties of the Department of Commerce.
—The Department of Commerce shall have the power, and its duty shall be:

* * *

(c) *To take such steps as it may deem advisable to promote the welfare of the mining and mineral interests of the Commonwealth, and the use of the mineral products of Pennsylvania.*

(d) *To conduct, or cause to be conducted, thorough and comprehensive research studies and research programs in the technology, the economics, and the methods of mining, preparing, transporting and the marketing of bituminous and anthracite coal and their by-products, and such other purposes as shall be deemed to be advantageous to the well-being and future of the bituminous and anthracite coal industry.*

With the approval of the Governor, the department is authorized to enter into mutually satisfactory contracts or agreements with any person, firm, institution or corporation as well as any State or Federal agency which the department deems wise, necessary and expedient in carrying out its objectives, but the department, in so far as it is practicable, shall make such contracts or agreements with persons, associations and institutions located within the Commonwealth of Pennsylvania. The department may, subject to the approval of the Governor, make grants to public and private scientific schools, institutions and associations which have the necessary existing research laboratory facilities for the accomplishment of its powers and, to this end, it may use any matching or donated funds available from the Federal Government, private or philanthropic concerns, associations and institutions.

(e) *The department shall supervise the expenditure by the School of Mineral Industries of Pennsylvania State University of appropriations made for the purpose of conducting researches to discover a by-product for the use of anthracite and bituminous coal and to develop new scientific, chemical and other uses, and new and extended markets for anthracite and bituminous coal and its products.*

The Commonwealth, through the department, shall have the right to accept and receive gifts, contributions, bequests and devises of real or personal property made by any person for the above purposes, which

shall be designated as being for the use of the School of Mineral Industries of Pennsylvania State University to be expended by it under the supervision of the department.

Section 27. The act is amended by adding three new sections to read:

Section 2804-A. Geographic Names.—The Pennsylvania Historical and Museum Commission shall have the power and its duty shall be:

(a) To pass upon and determine all unsettled questions concerning geographic names, which arise in the administrative departments of the State government;

(b) To determine, change, and fix the names of mountains, rivers, creeks, and other topographic features within the Commonwealth.

In the exercise of its powers, and the performance of its duties, the Pennsylvania Historical and Museum Commission shall cooperate with the United States Geographic Board.

Section 2805-A. Washington Crossing Park Commission.—The Washington Crossing Park Commission shall continue to exercise the powers and perform the duties by law vested in and imposed upon said commission.

Section 2806-A. Valley Forge Park Commission.—The Valley Forge Park Commission shall continue to exercise the powers and perform the duties by law vested in and imposed upon said commission.

Section 28. There shall be established in the Department of Environmental Resources a unit responsible for the enforcement of all laws within the jurisdiction of the department. The head of such unit shall be a deputy secretary who shall report directly to the Secretary of Environmental Resources. The unit shall have its own staff of investigatory, administrative and technical advisory personnel at both regional and State offices. Special legal counsel will be provided to the unit with the cooperation of the Attorney General.

Section 29. The Secretary of Environmental Resources shall receive an annual salary, payable in equal semi-monthly installments, of twenty-five thousand dollars (\$25,000).

Section 30. (a) The following departments, boards and commissions are hereby abolished and their functions transferred to the Department of Environmental Resources:

- Department of Forests and Waters,
- Water and Power Resources Board.
- State Forest Commission,
- State Flood Control Commission,
- Pennsylvania State Park and Harbor Commission of Erie,
- Anthracite Mine Inspectors' Examining Board,
- Mine Inspectors' Examining Board for the Bituminous Coal Mines of Pennsylvania,
- Oil and Gas Inspectors' Examining Board,
- Oil and Gas Conservation Commission,

Land Reclamation Board,
Land Restoration Board,
Sanitary Water Board,
Air Pollution Commission.

(b) The following commission is abolished and its functions transferred to the Department of Transportation:

Navigation Commission to the Delaware River and its tributaries.

(c) The following board is abolished and its functions transferred to the Department of Commerce:

Coal Research Board.

(d) The following board is abolished and its functions transferred to the Pennsylvania Historical and Museum Commission:

Geographic Board.

(e) The following board and commission are transferred to the Department of Environmental Resources:

State Board for Certification of Sewage Treatment and Waterworks Operators,

State Soil and Water Conservation Commission.

(f) The following are transferred to the Department of Environmental Resources:

All bureaus, divisions and government units in the Department of Mines and Mineral Industries except those concerned with the functions enumerated in clauses (c), (d) and (e) of section 2501-B of the act to which this is an amendment.

All bureaus, divisions and government units in the Department of Health concerned with the functions enumerated in clauses (6) through (23) inclusive of section 1901-A of the act to which this is an amendment.

All bureaus, divisions and government units in the Department of Labor and Industry concerned with the functions enumerated in clause (24) of section 1901-A of the act to which this is an amendment.

The Topographic and Geologic Survey Bureau in the State Planning Board.

(g) The following are transferred to the Department of Commerce:

All bureaus, divisions and government units in the Department of Mines and Mineral Industries responsible for the functions enumerated in section 2503-B of the act to which this is an amendment.

Section 31. (a) All personnel, allocations, appropriations, equipment, files, records, contracts, agreements, obligations, and other materials which are used, employed or expended in connection with the powers, duties or functions transferred by this act to the Department of Environmental Resources are hereby transferred to the Department of Environmental Resources with the same force and effect as if the appropriations had been made to and said items had been the property of the Department of Environmental Resources in the first instance and as if said contracts, agreements and obligations had been incurred or entered into by said Department of Environmental Resources.

(b) All personnel, allocations, appropriations, equipment, files, records, contracts, agreements, obligations, and other material which are used, employed or expended in connection with the powers, duties or functions transferred by this act to the Department of Transportation are hereby transferred to the Department of Transportation with the same force and effect as if the appropriations had been made to and said items had been the property of the Department of Transportation in the first instance and as if said contracts, agreements and obligations had been incurred or entered into by said Department of Transportation.

(c) All personnel, allocations, appropriations, equipment, files, records, contracts, agreements, obligations, and other material which are used, employed or expended in connection with the powers, duties or functions transferred by this act to the Department of Commerce are hereby transferred to the Department of Commerce with the same force and effect as if the appropriations had been made to and said items had been the property of the Department of Commerce in the first instance and as if said contracts, agreements and obligations had been incurred or entered into by said Department of Commerce.

(d) All personnel, allocations, appropriations, equipment, files, records, contracts, agreements, obligations, and other material which are used, employed or expended in connection with the powers, duties or functions transferred by this act to the Pennsylvania Historical and Museum Commission are hereby transferred to the Pennsylvania Historical and Museum Commission with the same force and effect as if the appropriations had been made to and said items had been the property of the Pennsylvania Historical and Museum Commission in the first instance and as if said contracts, agreements and obligations had been incurred or entered into by said Pennsylvania Historical and Museum Commission.

(e) The personnel, appropriations, equipment and other items and material transferred by this section shall include an appropriate portion of the general administrative, overhead and supporting personnel, appropriations, equipment and other material of the agency and shall also include, where applicable, Federal grants and funds and other benefits from any Federal program.

(f) All personnel transferred pursuant to this act shall retain any civil service employment status assigned to said personnel.

Section 32. All positions in the Department of Environmental Resources shall be deemed to be included in the list of positions set forth in clause (d) of section 13 of the act of August 5, 1941 (P.L.752), known as the "Civil Service Act," and the provisions and benefits of that act shall be applicable to the employees of, and positions in, the department.

"1" in original.

Section 33. (a) Whenever the Secretary of Forests and Waters or the Secretary of Mines and Mineral Industries shall be entitled by law to serve on a board, commission or other body, the Secretary of Environmental Resources shall serve in his place as if the Secretary of Environmental Resources had been designated to serve in the first instance.

(b) The Secretary of Environmental Resources shall serve in lieu of the Secretary of Health on the Ohio River Valley Water Sanitation Commission, created by the act of April 2, 1945 (P.L.103), entitled "An act approving, ratifying and enacting into law the Ohio River Valley Sanitation Compact, for the prevention, abatement and control of pollution of the rivers, streams and waters in the Ohio River drainage basin, and making the State of Pennsylvania a party thereto; creating the 'Ohio River Valley Water Sanitation Commission,' providing for the members of such commission from the State of Pennsylvania; and providing for the carrying out of said compact after the conclusion of hostilities of the present war," and shall serve in lieu of a representative of the Sanitary Water Board on the Interstate Commission on the Potomac River Basin, created by the act of May 29, 1945 (P.L.1134), entitled "An act to create a commission to act jointly with commissions appointed for like purpose by the States of West Virginia and Maryland, the Commonwealth of Virginia and the District of Columbia, which, together with three members to be appointed by the President of the United States, shall constitute the Interstate Commission on the Potomac River Basin, with power to cooperate in the abatement of the existing pollution, and in the control of future pollution of the waters of the drainage basin of the Potomac River within the States of Maryland and West Virginia, the Commonwealth of Virginia and the District of Columbia; to authorize the Governor of the State to execute on behalf of this State a compact with representatives of other states for the purpose of forming the above-mentioned commission; and creating a Potomac Valley Conservancy District: providing for the appointment of the Pennsylvania members of said commission for the Commonwealth of Pennsylvania, and their terms of office; and providing an appropriation."

Section 34. All orders, permits, regulations, decisions and other actions of any department, board or commission abolished by this act or of any agency whose functions have been transferred by this act shall remain in full force and effect until modified, repealed, suspended, superseded or otherwise changed by appropriate action of the agency assuming the applicable powers and duties pursuant to this act.

Section 35. (a) All powers granted by this act to the Environmental Quality Board shall be exercised by the Department of Environmental Resources until the Governor has issued his proclamation stating that the Environmental Quality Board is organized and ready to perform the powers, duties and responsibilities granted to it by this act.

(b) All powers granted by this act to the Environmental Hearing Board shall be exercised by the Department of Environmental Resources until the Governor has issued his proclamation stating that the Environmental Hearing Board is organized and ready to perform the powers, duties and responsibilities granted to it by this act.

Section 36. All acts and parts of acts, general, local and special, are repealed in so far as they are inconsistent herewith.

Section 37. This act shall take effect January 19, 1971.

APPROVED—The 3rd day of December, A. D. 1970.

RAYMOND P. SHAFER

The foregoing is a true and correct copy of Act of the General Assembly No. 275.


Secretary of the Commonwealth.

"THE ADMINISTRATIVE CODE OF 1929"
Act of 1929, P.L. 177, No. 175

"THE ADMINISTRATIVE CODE OF 1929"
Act of 1929, P.L. 177, No. 175

ARTICLE XIX
POWERS AND DUTIES OF THE DEPARTMENT OF
MINES AND ITS DEPARTMENTAL ADMINISTRATIVE OFFICERS
(XIX repealed Dec. 3, 1970, P.L.834, No.275)

Section 1901. Powers and Duties in General.--(1901 repealed Dec. 3, 1970, P.L.834, No.275)

Section 1902. Mines.--(1902 repealed Dec. 3, 1970, P.L.834, No.275)

Section 1903. Mine Inspectors.--(1903 repealed Dec. 3, 1970, P.L.834, No.275)

Section 1904. Research for New Uses of Anthracite and Bituminous Coal.--(1904 repealed Dec. 3, 1970, P.L.834, No.275)

Section 1905. Mine Inspectors' Examining Boards.--(1905 repealed Dec. 3, 1970, P.L.834, No.275)

Section 1906. Coal Research Board.--(1906 repealed Dec. 3, 1970, P.L.834, No.275)

Section 1907. Oil and Gas Conservation Commission.--(1907 repealed Dec. 3, 1970, P.L.834, No.275)

ARTICLE XIX-A
POWERS AND DUTIES OF THE DEPARTMENT OF
ENVIRONMENTAL RESOURCES, ITS OFFICERS AND
DEPARTMENTAL AND ADVISORY BOARDS AND COMMISSIONS
(XIX-A added Dec. 3, 1970, P.L.834, No.275)

Section 1901-A. Powers and Duties in General.--The Department of Environmental Resources shall, subject to any inconsistent provision in this act contained, continue to exercise the powers and perform the duties by law heretofore vested in and imposed upon:

(1) The Department of Forests and Waters, the Secretary of Forests and Waters, the Water and Power Resources Board, the Flood Control Commission, the Pennsylvania State Park and Harbor Commission of Erie, and the State Forest Commission;

(2) The Department of Mines and Mineral Industries, the Secretary of Mines and Mineral Industries, the Oil and Gas Conservation Commission, the Mine Inspectors' Examining Board for the Bituminous Coal Mines of Pennsylvania, and the Anthracite Mine Inspectors' Examining Board;

(3) The Oil and Gas Inspectors' Examining Board, created by the act of December 21, 1959 (P.L.1967), which board is hereby abolished;

(4) The Land Restoration Board, created by the act of June 27, 1947 (P.L.1095), which board is hereby abolished;

(5) The Land Reclamation Board, created by the act of May 31, 1945 (P.L.1198), which board is hereby abolished;

(6) The Department of Health and the Secretary of Health in so far as such powers and duties pertain to the control of nuisances from grounds, vehicles, apartments, buildings and places within the Commonwealth, to the sanitary condition of tenements, lodging and boarding houses, to management of the sanitary affairs of the Commonwealth, the issuance of waterworks permits and to the control of water pollution;

(7) The former Commissioner of Health and the Department of Health by the act of April 22, 1905 (P.L.260), entitled "An act to preserve the purity of the waters of the State, for the protection of the public health;"

(8) The Department of Health and the Secretary of Health by the act of August 20, 1953 (P.L.1217), entitled "An act providing for payments by the Commonwealth to municipalities which have expended money to acquire and construct sewage treatments plants in accordance with the Clean Streams Program and the act, approved the twenty-second day of June, one thousand nine hundred thirty-seven (Pamphlet Laws 1987), and making an appropriation;"

(9) The Department of Health by the act of June 23, 1931 (P.L.899), known as the "Public Bathing Law;"

(10) The Department of Health by the act of January 19, 1968 (P.L.996), known as "The Land and Water Conservation and Reclamation Act;"

(11) The Department of Health by the act of May 23, 1945 (P.L.926), entitled "An act for the protection of the public health by regulating the conduct and operation of public eating and drinking places within this Commonwealth; requiring their licensing; imposing certain duties on the Department of Health of this Commonwealth and on the local health authorities; and providing penalties;"

(12) The Department of Health by the act of April 30, 1929

(P.L.897), entitled "An act regulating the manufacturing, bottling, and selling of certain waters, and requiring permits therefor; prescribing the authority of the Department of Health and of local boards of health and health officers with respect thereto; and providing penalties;"

(13) The Department of Health by the act of November 10, 1959 (P.L.1400), entitled "An act providing for the annual registration of organized camps for children, youth and adults; defining the duties of the Department of Health of the Commonwealth of Pennsylvania; and prescribing penalties;"

(14) The Department of Health by the act of January 24, 1966 (P.L.1535), known as the "Pennsylvania Sewage Facilities Act;"

(15) The Department of Health by the act of July 31, 1968 (Act No.241), known as the "Pennsylvania Solid Wastes Management Act;"

(16) The Department of Health by the act of January 8, 1960 (P.L.2119), known as the "Air Pollution Control Act;"

(17) The Department of Health by the act of January 28, 1966 (P.L.1625), known as "The Atomic Energy Development and Radiation Control Act;"

(18) The Department of Health by the act of September 8, 1959 (P.L.807), entitled "An act empowering the Department of Health to regulate the burial of radioactive material and to issue permits therefor; and prescribing penalties;"

(19) The Department of Health and the Secretary of Health by the act of October 26, 1959 (P.L.1380), entitled "An act empowering the Commonwealth to acquire land and operate burial grounds for the disposal of radioactive materials;"

(20) The Department of Health by the act of June 22, 1937 (P.L.1987), known as "The Clean Streams Law;"

(21) The Department of Health by the act of November 18, 1968 (Act No. 322), known as the "Sewage Treatment Plant and Waterworks Operators' Certification Act;"

(22) The Sanitary Water Board;

(23) The Air Pollution Commission, created by the act of January 8, 1960 (P.L.2119), known as the "Air Pollution Control Act," which commission is hereby abolished;

(24) The Department of Labor and Industry and the Secretary of Labor and Industry in so far as such powers and duties relate to regulation of mining operations, quarry operations and sand and gravel pits under the act of July 1, 1937 (P.L.2681), entitled "An act relating to, and regulating the manufacture, storing, and possession of explosives; requiring permits for magazines, and prescribing permit fees; and providing penalties," and July 10, 1957 (P.L.685), entitled "An act regulating the use of explosives in certain blasting operations; requiring examination and licensing of certain explosives' detonators and prescribing the fee thereof; and conferring powers and imposing duties on the Department of Labor and Industry."

(1901-A added Dec. 3, 1970, P.L.834, No.275)

Compiler's Note: The Department of Environmental Resources, referred to in this section, was abolished by Act 18 of 1995. Its functions were transferred to the Department of Conservation and Natural Resources and the Department of Environmental Protection.

Section 1902-A. Forest Powers and Duties.--(1902-A repealed June 30, 1995, P.L.89, No.18)

Compiler's Note: See note to section 1802.

Section 1903-A. Forest Powers; Lease of Small Areas of State Forests.--(1903-A repealed June 30, 1995, P.L.89, No.18)

Compiler's Note: The act of Dec. 3, 1970, P.L.834, No.275

contained the following additional section 28 relating to the powers and duties of the Department of Environmental Resources. Section 28 was repealed by the act of Oct. 15, 1980, P.L.950, No.164 to the extent of and inconsistency with such act:

Section 28. There shall be established in the Department of Environmental Resources a unit responsible for the enforcement of all laws within the jurisdiction of the department. The head of such unit shall be a deputy secretary who shall report directly to the Secretary of Environmental Resources. The unit shall have its own staff of investigatory, administrative and technical advisory personnel at both regional and State offices. Special legal counsel will be provided to the unit with the cooperation of the Attorney General.

Section 1904-A. Waters.--The Department of Environmental Resources shall have the power and its duty shall be:

(1) To study, consider, and determine upon a public policy with regard to the conservation, marketing, and equitable distribution of the water and power to be derived from the utilization of the water resources of the Commonwealth, to the restoration, development, and improvement of transportation by water, to the supply of water and power for municipal, domestic, and industrial use, and to the conservation of water resources by the aid of forestation;

(2) To investigate or examine dams, walls, wing walls, wharves, embankments, abutments, projections, bridges, and other water obstructions, determine whether they are unsafe, need repair, alteration or change in their structure or location, or should be removed, notify owners to repair, alter or change the structure or location or remove the same, repair, alter or change the structure or location or remove the same in emergencies without notice and at the cost of the owners, and apply for injunctions to enforce compliance with or restrain the violation of the law in regard to the safety of dams, or the derogatory effect of walls, wing walls, wharves, embankments, abutments, projections, bridges, or other water obstructions upon the regimen of streams, or the violation of any lawful order or notice of the department in regard thereto. The power of the department under this paragraph shall extend to and include all types of water obstructions, regardless of the date when such obstructions were constructed, and whether or not the same were constructed by express or implied permission of the Commonwealth, or any agency thereof;

(3) To collect such information relative to the existing conditions of the water resources of the State as, in the opinion of the department, shall be necessary for the utilization of waters, and for the conservation, purification, development, and equitable distribution of water and water power resources, and in particular, for the use of such citizens and communities as may be in need of extended facilities for these purposes;

(4) To establish and maintain gauging stations on rivers and their tributaries;

(5) To issue bulletins, during freshet and flood conditions,

forecasting gauge heights, and the times thereof;

(6) To maintain a complete inventory of all the water resources of the Commonwealth; collect all pertinent data, facts, and information in connection therewith; classify, tabulate, record, and preserve the same; and, upon the basis thereof, determine, the points at which storage reservoirs may be constructed for flood control, for municipal and domestic supply, hydraulic and hydroelectric power, steam raising, steam condensation, navigation, and other utilization; and generally to devise all possible ways and means to conserve and develop the water supply and water resources of the Commonwealth for the use of the people thereof;

(7) To construct, maintain, and operate works for water storage, flood control, channel improvement, or other hydraulic purposes;

(8) To acquire by purchase, lease, gift or condemnation, with the approval of the Governor, such land, buildings and appurtenances thereto, as in the judgment of the department, may be necessary for the construction, maintenance, improvement or development of any port or harbor in this Commonwealth.

(9) To promulgate rules and regulations to protect, manage and regulate the recreational use of designated whitewater zones; license whitewater outfitters operating within designated whitewater zones; and establish fees, royalties and charges for licenses and for using public lands, waters and facilities.

(i) For each specific designated whitewater zone, a license to continue operating as a whitewater rafting outfitter shall be issued by the department to any whitewater rafting outfitter who has provided whitewater rafting services on a designated whitewater zone for a period of five or more years, who has provided those services under formal agreement with the department, who has demonstrated an acceptable measure of compliance with the safety and operational requirements of that agreement and who has provided whitewater rafting services on that designated whitewater zone prior to operation and management of that designated whitewater zone through formal agreement with the department. Each whitewater rafting outfitter presently conducting whitewater rafting trips under agreement with the department shall be deemed to fulfill the foregoing criteria.

(ii) Licenses issued by the department to continue to operate as a whitewater rafting outfitter shall be for a period of ten years and shall be renewable under guidelines appropriate and necessary to protect the public health, safety and interest and provide stability to the outfitting industry; shall be transferrable under reasonable guidelines of the department relating to transfer of licenses and required qualifications of transferees; shall include the right to continue to utilize or lease any premises leased before the effective date of this act by a whitewater rafting outfitter from the department or offer to lease such access areas as the department deems appropriate for use by whitewater rafting outfitters; and shall supersede, after the adoption of regulations, any agreement between the department and a whitewater rafting outfitter, except fee agreements in which a whitewater rafting outfitter is required to pay the department a fee, which fee agreements shall continue for the life of the agreement and which shall not preclude the issuance of a license.

(iii) The department may, with regard to a specific

designated whitewater zone, accept bids, issue licenses and charge fees and royalties for an additional whitewater rafting outfitter only if the department determines that there is additional whitewater rafting outfitter carrying capacity on the waterway and that there is a need for additional whitewater rafting outfitter allocations. Such licenses shall apply only for that specific designated whitewater zone and only for a period not to exceed ten years.

(iv) Licensed whitewater rafting outfitters shall be subject to all appropriate rules, regulations and guidelines promulgated by the department for the purposes of regulating the operation and safety of each designated whitewater zone.

(v) Licenses granted by the department may be terminated by the department for noncompliance after a 30-day written notice to the outfitter and a hearing in accordance with Title 2 of the Pennsylvania Consolidated Statutes (relating to administrative law and procedure).

((9) added July 11, 1985, P.L.232, No.57)

(1904-A added Dec. 3, 1970, P.L.834, No.275)

Compiler's Note: The Department of Environmental Resources, referred to in this section, was abolished by Act 18 of 1995. Its functions were transferred to the Department of Conservation and Natural Resources and the Department of Environmental Protection.

Section 1904-A.1. Uranium Tailings.--(a) The Department of Environmental Resources shall have the power and its duty shall be:

(1) To enter into such cooperative agreements with the United States Department of Energy as are described in section 103 of the Uranium Mill Tailings Radiation Control Act of 1978, Public Law 95-604, 42 U.S.C. § 7901 et seq. to perform remedial actions at each processing site in Pennsylvania designated by the Secretary of the United States Department of Energy under the Uranium Mill Tailings Radiation Control Act of 1978.

(2) To acquire, in consultation with the United States Government, by purchase or by eminent domain, such property or interest therein as is necessary for performance of remedial action.

(3) To pay, in cooperation with the United States Government, to both tenants and owners in fee of such property as is acquired by purchase, in addition to the purchase price, those moving and removal expenses and other damages as are provided for in Article VI of the act of June 22, 1964

(Sp.Sess., P.L.84, No.6), known as the "Eminent Domain Code."

(4) To dispose of any property or interest therein acquired under the provisions of this section in accordance with the terms and conditions of cooperative agreements entered into pursuant to clause (1).

(5) To perform, in cooperation with the United States Government, such other remedial action as may be necessary.

(b) For the purposes of this section "processing site" means:

(1) any site in the Commonwealth, including the mill, containing residual radioactive materials at which all or substantially all of the uranium was produced for sale to any Federal agency prior to January 1, 1971, under a contract with any Federal agency; or

(2) any other real property or improvement which is in the

vicinity of such site and is determined by the Secretary of the United States Department of Energy to be contaminated with residual radioactive materials derived from such site.

(1904-A.1 added July 2, 1980, P.L.345, No.87)

Compiler's Note: The Department of Environmental Resources, referred to in this section, was abolished by Act 18 of 1995. Its functions were transferred to the Department of Conservation and Natural Resources and the Department of Environmental Protection.

Section 1904-A.2. Nuclear Facility Fees.--(a) Each person who has received from the Nuclear Regulatory Commission a nuclear power reactor facility construction permit or operating license for nuclear facilities located in this Commonwealth shall pay to the Department of Environmental Resources within one hundred twenty (120) days of the effective date of this section, for the fiscal year 1992-1993, a fee of one hundred thousand dollars (\$100,000) and by July 1, 1993, for the 1993-1994 fiscal year and by July 1 of each succeeding fiscal year thereafter, a fee of four hundred thousand dollars (\$400,000) for each nuclear power plant site, regardless of the number of nuclear power reactors, to continue existing programs or establish new programs relating to the licensing, construction, surveillance, monitoring, emergency planning and response, operation or decommissioning of nuclear power reactor facilities and the general administrative costs for these activities, as provided for in the act of July 10, 1984 (P.L.688, No.147), known as the "Radiation Protection Act."

(b) A person licensed by the Nuclear Regulatory Commission to possess but not operate the following nuclear power reactors shall be exempt from the nuclear facility fee requirements of subsection (a): Saxton Nuclear Experimental Power Station, Peach Bottom Atomic Power Station, Unit 1 and Three Mile Island Nuclear Generating Station, Unit 2.

(c) Any person in violation of the nuclear facility fee requirements of this section shall be subject to the penalties and enforcement provisions of sections 308 and 309 of the "Radiation Protection Act."

(d) Fees and penalties received under this section shall be deposited in the Radiation Protection Fund established under section 403(a) of the "Radiation Protection Act" and are hereby appropriated to the Department of Environmental Resources on a continuing nonlapsing basis solely for the purpose of carrying out its powers and duties under the "Radiation Protection Act" relating to licensing, construction, surveillance, monitoring, emergency planning and response, operation or decommissioning of nuclear power reactor facilities and the general administrative costs for these activities.

(e) In addition to the particular records and accounts specified in the "Radiation Protection Act," the Department of Environmental Resources shall, at all times, maintain additional records and accounts in such form and manner as will allow detailed review, examination and audit, by appropriate, qualified Department of Environmental Resources personnel or by the Auditor General, of all monetary transactions involving the Radiation Protection Fund created under section 403(a) of the "Radiation Protection Act."

(f) Within one hundred twenty (120) days following June 30 of the fiscal year 1992-1993 and each fiscal year thereafter,

the Department of Environmental Resources shall make available to each person who has paid fees and penalties into the Radiation Protection Fund, during such fiscal year, a report of the results of a financial audit of all monetary transactions within the Radiation Protection Fund during the preceding fiscal year. The auditing shall be performed in accordance with Federally accepted auditing standards compatible with the most intensive practices of the Department of the Auditor General. These audits may be performed by the Department of the Auditor General in lieu of being performed by the Department of Environmental Resources. The report shall be in sufficient form and detail as to demonstrate and verify that fees and penalties deposited into the Radiation Protection Fund have been expended in accordance with the limitations contained in this section.

(g) For the purposes of this section only, a nuclear power plant site shall be deemed to be the location of one or more nuclear power reactors per site which have not been officially decommissioned and dismantled pursuant to applicable Federal law.

(1904-A.2 added Dec. 18, 1992, P.L.1638, No.180)

Compiler's Note: The Department of Environmental Resources, referred to in this section, was abolished by Act 18 of 1995. Its functions were transferred to the Department of Conservation and Natural Resources and the Department of Environmental Protection.

Section 1905-A. Cooperation with Municipalities.--(a) The Department of Environmental Resources shall cooperate with municipalities in the construction and completion of projects and improvements for the conservation of water and the control of floods. For this purpose, the department shall have the power to use and expend any funds advanced by municipalities, under authority of law, on the projects and improvements designated, when such funds are advanced, in the same manner as it expends any funds appropriated by the Commonwealth for similar purposes.

(b) (1) The Department of Environmental Resources shall require every applicant for the following permits and permit revisions to give written notice to each municipality in which the activities are located:

(i) Air quality permits applied for pursuant to the act of January 8, 1960 (1959 P.L.2119, No.787), known as the "Air Pollution Control Act."

(ii) Water allocation permits applied for pursuant to the act of June 24, 1939 (P.L.842, No.365), entitled "An act relating to the acquisition of rights to divert water from rivers, streams, natural lakes, and ponds, or other surface waters within the Commonwealth or partly within and partly without the Commonwealth; defining various words and phrases; vesting in the Water and Power Resources Board certain powers and authorities for the conservation, control and equitable use of the waters within the Commonwealth in the interests of the people of the Commonwealth; making available for public water supply purposes, water rights heretofore or hereafter acquired but not used; providing for hearings by the Water and Power Resources Board and for appeals from its decisions; fixing fees; granting to all public water supply agencies heretofore or hereafter created the right of eminent domain as to waters and the land covered by said waters; repealing all acts or parts of acts inconsistent herewith, including Act No.109, Pamphlet Laws

152, approved April 13, 1905, Act No.307, Pamphlet Laws 455, approved June 7, 1907, Act No.64, Pamphlet Laws 258, approved April 8, 1937."

(iii) Water obstruction permits applied for pursuant to the act of November 26, 1978 (P.L.1375, No.325), known as the "Dam Safety and Encroachments Act."

(iv) Water quality permits, except permits relating to coal mining activities, applied for pursuant to the act of June 22, 1937 (P.L.1987, No.394), known as "The Clean Streams Law."

(v) Solid waste and hazardous waste permits applied for pursuant to the act of July 7, 1980 (P.L.380, No.97), known as the "Solid Waste Management Act."

(2) In the case of written notices sent pursuant to subclauses (i), (ii), (iii) and (iv), the written notices shall be received by the municipalities at least thirty (30) days before the Department of Environmental Resources may issue or deny the permit. In the case of written notices sent pursuant to subclause (v), the written notices shall be received by the municipalities at least sixty (60) days before the Department of Environmental Resources may issue or deny the permit.

(3) The provisions of this subsection shall not apply to permits relating to coal mining activities issued under the act of June 22, 1937 (P.L.1987, No.394), known as "The Clean Streams Law," the act of May 31, 1945 (P.L.1198, No.418), known as the "Surface Mining Conservation and Reclamation Act," the act of April 27, 1966 (1st Sp.Sess., P.L.31, No.1), known as "The Bituminous Mine Subsidence and Land Conservation Act," and the act of September 24, 1968 (P.L.1040, No.318), known as the "Coal Refuse Disposal Control Act."

(4) When the department issues an emergency permit to respond to or alleviate an actual or imminent threat to life, property or the environment, such as activities conducted in compliance with the emergency response provisions of the Natural Gas Pipeline Safety Act of 1968 (Public Law 90-481, 49 U.S.C. § 1671 et seq.) and 49 CFR 192.615 (relating to emergency plans), the provisions of clause (2) and any other provision in regulation requiring notice to the affected municipality shall not apply. The applicant shall notify the affected municipality of an emergency permit as soon as possible verbally and provide a follow-up notice in writing within forty-eight (48) hours from the issuance of an emergency permit. ((4) added Aug. 14, 1991, P.L.331, No.35)

(1905-A amended Feb. 17, 1984, P.L.75, No.14)

Compiler's Note: The Department of Environmental Resources, referred to in this section, was abolished by Act 18 of 1995. Its functions were transferred to the Department of Conservation and Natural Resources and the Department of Environmental Protection.

Section 1906-A. Parks.--The Department of Environmental Resources shall have the power, and its duty shall be:

(1) To supervise, maintain, improve, regulate, police, and preserve, all parks belonging to the Commonwealth;

(2) For the purpose of promoting healthful outdoor recreation and education, and making available for such use natural areas of unusual scenic beauty, especially such as provide impressive views, waterfalls, gorges, creeks, caves, or other unique and interesting features, to acquire, in the name of the Commonwealth, by purchase, gift, lease, or condemnation,

any lands which, in the judgment of the department, should be held, controlled, protected, maintained and utilized as State park lands. Such lands may be purchased or accepted, subject to the conditions of any such lease and subject to such reservations, if any, of mineral rights, rights of way, or other encumbrances as the department may deem not inconsistent with such holdings: Provided, however, That the amount expended for the acquisition of lands for State park purposes shall not exceed the amount specifically appropriated for such purposes;

(3) To see that conveniences and facilities for the transportation, shelter, comfort and education of people shall be so designed and constructed as to retain, so far as may be, the naturalistic appearance of State park areas, surroundings and approaches, and conceal the hand of man as ordinarily visible in urban, industrial and commercial activities;

(4) To lease for a period not to exceed ten years, on such terms as may be considered reasonable, to any person, corporation, association, or organization of this Commonwealth a portion of any State park, whether owned or leased by the Commonwealth, as may be suitable as a site for buildings and facilities to be used for health, recreational or educational purposes, or for parking areas or concessions for the convenience and comfort of the public: Provided, however, That the department may, with the approval of the Governor, if a substantial capital investment is involved and if it is deemed in the best interests of the Commonwealth, enter into such leases for a period not to exceed thirty-five years; ((4) amended Feb. 17, 1972, P.L.70, No.23)

(5) To study, counsel and advise in reference to gifts of lands or money for park purposes;

(6) To counsel and advise in reference to the development of park lands by concessionaries with facilities and equipment for the accommodation and education of the public;

(7) To appoint and commission persons to preserve order in the State parks, which persons shall have all of the following powers:

(a) To make arrests without warrant for all violations of the law which they may witness, and to serve and execute warrants issued by the proper authorities: Provided, however, That in cases of offenses for violation of any of the provisions of The Vehicle Code, the power to make arrests without warrant shall be limited to cases where the offense is designated a felony or a misdemeanor, or in cases causing or contributing to an accident resulting in injury or death to any person;

(b) To have all the powers and prerogatives conferred by law upon members of the police force of cities of the first class;

(c) To have all the powers and prerogatives conferred by law upon constables of the Commonwealth;

(d) To serve subpoenas issued for any examination, investigation or trial had pursuant to any law of the Commonwealth.

(8) For the purpose of providing parking facilities and incidental services within the borders of any State park area situate in the City of Philadelphia to lease or grant, by and with the written approval of the Governor, any portion of any such State park area, underground, aboveground, or both, to the city or to any parking authority now or hereafter existing in the city, pursuant to the provisions of the act of June 5, 1947 (P.L.458), known as the "Parking Authority Law," as the same may

now or hereafter be amended, if

(a) The City of Philadelphia or the parking authority agrees that the lands and interests and privileges therein shall be used by the city or parking authority, or any lessee or sub-lessee holding under either of them, pursuant to any lease or sub-lease granted by the city or parking authority as may be permitted by law, to promote the establishment of parking services and facilities, but portions of the street level or lower floors of the parking facilities may be leased for commercial use, including emergency automobile repair service and the sale by the lessee of any commodity of trade or commerce or any service except the sale of gasoline or automobile accessories; and

(b) The department, with the written approval of the Governor, determines that the lease or grant (i) will aid in promoting the public safety, convenience and welfare of the people of Philadelphia by aiding in the establishment of adequate parking services for the convenience of the public and otherwise promoting the public policy of the Commonwealth in authorization for the creation of parking authorities, and (ii) will not unduly interfere with the promotion of those public objects for which the State park area was acquired and for which it is held.

Any lease or grant shall be upon the terms and conditions and for the period or periods of time the department, with the written approval of the Governor, may prescribe. The department shall execute and deliver and is empowered to receive deeds or other legal instruments necessary to effectuate any lease or grant. All deeds and instruments shall have the prior approval of the Department of Justice, and a copy thereof shall be filed with the Department of Community Affairs.

(9) To make and execute contracts or leases in the name of the Commonwealth for the mining or removal of any oil or gas that may be found in a State park whenever it shall appear to the satisfaction of the department that it would be for the best interests of the State to make such disposition of said oil and gas. Any proposed contracts or leases of oil and gas exceeding one thousand dollars (\$1,000) in value shall be advertised once a week for three weeks in at least two newspapers published nearest the locality indicated in advance of awarding such contract or lease. Such contracts or leases may then be awarded to the highest and best bidder who shall give bond for the proper performance of the contract as the department shall designate.

(10) To grant rights of way in and through State parks to municipal authorities and political subdivisions of this Commonwealth for the laying of water lines and of lines for the transportation of sewage to sewage lines or sewage treatment facilities on State park land, under such terms and conditions, including the payment of fees, as the department may deem proper, and when it shall appear that the grant of such right of way will not so adversely affect the land as to interfere with its usual and orderly administration and that the interests of the Commonwealth or its citizens will be promoted by such grant. ((10) added Dec. 19, 1985, P.L.341, No.96)

(11) To issue permits under emergency situations, upon such terms and subject to such restrictions, fees and regulations as the department may deem proper, for the utilization of water at a State park and for constructing, maintaining and operating

lines of pipes upon and through a State park for the purpose of conveying water therefrom, wherever it shall be in the public interest to do so. ((11) added Dec. 19, 1985, P.L.341, No.96) (1906-A added Dec. 3, 1970, P.L.834, No.275)

Compiler's Note: Section 302 of Act 58 of 1996, which created the Department of Community and Economic Development and abolished the Department of Community Affairs, provided that the power to receive deeds or other legal instruments under paragraph (8) are transferred from the Department of Community Affairs to the Pennsylvania Historical and Museum Commission.

Compiler's Note: The Department of Environmental Resources, referred to in this section, was abolished by Act 18 of 1995. Its functions were transferred to the Department of Conservation and Natural Resources and the Department of Environmental Protection.

Section 1907-A. Pennsylvania State Forest School.--(1907-A repealed June 30, 1995, P.L.89, No.18)

Section 1908-A. Water and Power Resources.--The Department of Environmental Resources shall have the power and its duty shall be:

(1) Subject to any inconsistent provisions in this act contained, to continue to exercise the powers and perform the duties by law vested in and imposed upon the Water Supply Commission of Pennsylvania, or in and upon the Water and Power Resources Board, or in and upon the department, with regard to:

(a) Applications for charters for corporations for the supply of water for the public or for the supply, storage, and transportation of water and water power, for commercial and manufacturing purposes, or for any other water or water power company;

(b) Agreements for the merger and consolidation of two or more such corporations heretofore or hereafter formed;

(c) The sale, assignment, disposition, transfer, and conveyance of the franchises and all the property, real, personal, and mixed, of any such corporation, heretofore or hereafter formed, to any other such corporation;

(d) Consents or permits for the construction of dams, and other water obstructions, or of any change therein or addition thereto, and consents or permits for changing or diminishing the course, current, or cross section, of any stream or body of water;

(e) Permits for the condemnation or appropriation of waters, or for the construction of hydraulic works;

(f) Applications for new or additional sources of supply of water or water power;

(g) Applications by companies for approval of the construction, operation, and maintenance of tunnels under navigable rivers, to connect their power to manufacturing plants, with coal lands wherein such companies have coal mining rights;

(h) The extension of time fixed by law for the beginning or completion of the construction of the works of water or water power companies, inquiry into the standing of water or water power charters, and as to the due diligence and bona fide intent of water and water power companies to fulfill the requirements of law, and the certification of facts to the Attorney General requesting him to institute quo warranto proceedings.

(2) ((2) repealed June 30, 1995, P.L.89, No.18)

(3) To enter into agreements to sell, lease or otherwise dispose of any iron, coal, limestone, fire-clay, oil, gas and other minerals, except sand and gravel and minerals deposited as silt in pools created by dams, that may be found in or beneath the beds of navigable streams or bodies of water within the Commonwealth and non-navigable streams or bodies of water where the beds thereof are owned by the Commonwealth, on such terms and conditions as the board deems to be in the best interest of the Commonwealth: Provided, however, That any proposed contracts involving more than one thousand dollars (\$1,000) shall be awarded to the highest responsible bidder after due advertisement as prescribed by the board. Nothing herein contained shall authorize anyone to interfere with the free navigation of said streams or bodies of water or to undermine the bed thereof or to interfere with the rights of any person or persons holding property on the banks thereof.

(1908-A added Dec. 3, 1970, P.L.834, No.275)

Compiler's Note: The Department of Environmental Resources, referred to in this section, was abolished by Act 18 of 1995. Its functions were transferred to the Department of Conservation and Natural Resources and the Department of Environmental Protection.

Section 1909-A. Flood Control.--The Department of Environmental Resources shall have the power and it shall be its duty:

(1) To make or cause to be made studies, surveys and examinations of local, State or National flood conditions, causes and effects and prepare, or cause to be prepared designs, plans and recommendations for bringing flood conditions under adequate and reasonable control and for saving life and property from damage by flood;

(2) The department in the performance of its duties may request, and shall receive from any State or local agency, department, board, bureau, commission or political subdivision, which has for one of its objects the control of flood waters, such assistance and data as requisite for carrying out the purposes of this law, and the department is hereby authorized to such end, to cooperate in the activities of, and with such State or local agencies, departments, boards, bureaus, commissions and political subdivisions, and to cooperate with the Federal Government or any appropriate agency thereof, in planning or accomplishing an overall long or short term flood control, either National, local or sectional, and to cooperate with the Congress of the United States in the preparation or presentation of legislation tending to effectuate flood control.

(1909-A added Dec. 3, 1970, P.L.834, No.275)

Compiler's Note: The Department of Environmental Resources, referred to in this section, was abolished by Act 18 of 1995. Its functions were transferred to the Department of Conservation and Natural Resources and the Department of Environmental Protection.

Section 1910-A. Powers of Forest Officers.--(1910-A repealed June 30, 1995, P.L.89, No.18)

Section 1911-A. Powers of Chief Forest Fire Warden.--(1911-A repealed June 30, 1995, P.L.89, No.18)

Section 1912-A. Powers of District Forest Fire Wardens.--

(1912-A repealed June 30, 1995, P.L.89, No.18)

Section 1913-A. Powers of Local Forest Fire Wardens.--(1913-A repealed June 30, 1995, P.L.89, No.18)

Section 1914-A. Powers of all Forest Fire Wardens.--(1914-A repealed June 30, 1995, P.L.89, No.18)

Section 1915-A. Mines.--The Department of Environmental Resources shall have the power, and its duty shall be:

(1) To see that the mining laws of the Commonwealth are faithfully executed, and, for that purpose, cause lawfully qualified mine inspectors to enter, inspect, and examine any mine or colliery within the Commonwealth and the works and machinery connected therewith;

(2) To give such aid and instruction to the mine inspectors, from time to time, as may be calculated to protect the health and promote the safety of all persons employed in and about the mines;

(3) To make such examinations and investigations as may be necessary to enable it to make recommendations upon any matters pertaining to the general welfare of coal miners and others connected with mining and the interests of mine owners and operators in the Commonwealth;

(4) To seal or close or backfill abandoned deep or strip coal mines, to plug abandoned oil and gas wells, other than those governed by the Gas Operations, Well-Drilling, Petroleum and Coal Mining Act, to fill voids in abandoned coal mines, to drill bore holes, dig ditches or construct flumes which would relieve flooding or hazardous conditions caused by mine water, and to extinguish fires in abandoned coal mines and in culm banks, in those instances where such work is in the interest of the public welfare.

(1915-A added Dec. 3, 1970, P.L.834, No.275)

Compiler's Note: The Department of Environmental Resources, referred to in this section, was abolished by Act 18 of 1995. Its functions were transferred to the Department of Conservation and Natural Resources and the Department of Environmental Protection.

Section 1916-A. Mine Inspectors.--Subject to any inconsistent provisions in this act contained, anthracite mine inspectors and bituminous mine inspectors shall, respectively, under the direction of the Secretary of Environmental Resources, continue to exercise the powers and perform the duties by law vested in and imposed upon them.

(1916-A added Dec. 3, 1970, P.L.834, No.275)

Section 1917-A. Abatement of Nuisances.--The Department of Environmental Resources shall have the power and its duty shall be:

(1) To protect the people of this Commonwealth from unsanitary conditions and other nuisances, including any condition which is declared to be a nuisance by any law administered by the department;

(2) To cause examination to be made of nuisances, or questions affecting the security of life and health, in any locality, and, for that purpose, without fee or hinderance, to enter, examine and survey all grounds, vehicles, apartments, buildings, and places, within the Commonwealth, and all persons, authorized by the department to enter, examine and survey such grounds, vehicles, apartments, buildings and places, shall have the powers and authority conferred by law upon constables;

(3) To order such nuisances including those detrimental to the public health to be abated and removed;

(4) If the owner or occupant of any premises, whereon any such nuisance fails to comply with any order of the department for the abatement or removal thereof, to enter upon the premises, to which such order relates, and abate or remove such nuisance;

(5) For the purpose of collecting or recovering the expense of the abatement or removal of a nuisance, to file a claim, or maintain an action, in such manner as may now or hereafter be provided by law, against the owner or occupant of the premises upon or from which such nuisance shall have been abated or removed by the department;

(6) In making examinations as authorized by this section, the Department of Environmental Resources shall cooperate with the Department of Health, for the purpose of avoiding any duplication of inspection or overlapping of functions.

(1917-A added Dec. 3, 1970, P.L.834, No.275)

Compiler's Note: The Department of Environmental Resources, referred to in this section, was abolished by Act 18 of 1995. Its functions were transferred to the Department of Conservation and Natural Resources and the Department of Environmental Protection.

Section 1918-A. Water Supply.--The Department of Environmental Resources shall have the power and its duty shall be:

(1) To issue waterworks permits, and stipulate therein the conditions under which water may be supplied to the public, and to administer sections 1, 2 and 3, act of April 22, 1905 (P.L.260), entitled "An act to preserve the purity of the waters of the State, for the protection of the public health," its amendments and supplements;

(2) To investigate, hold hearings upon and determine any question of fact regarding the purity of water supplied to the public by any public utility over which the Pennsylvania Public Utility Commission has jurisdiction, whenever said commission shall certify such question to the department.

The findings of the department upon any such questions shall be incorporated in and made a part of the determination or decision of said commission of the controversy or other proceeding in connection with which the question arose and shall be binding upon the parties to such controversy or other proceeding unless either party shall take an appeal from the commission's determination or decision as may now or hereafter be provided by law;

(3) To make a bacteriological examination and report of any sample of water sent by any person to the department's laboratory at Philadelphia or Pittsburgh. ((3) amended July 1, 1981, P.L.143, No.48)

(1918-A added Dec. 3, 1970, P.L.834, No.275)

Compiler's Note: The Department of Environmental Resources, referred to in this section, was abolished by Act 18 of 1995. Its functions were transferred to the Department of Conservation and Natural Resources and the Department of Environmental Protection.

Section 1919-A. Housing.--The Department of Environmental Resources shall have the power, and its duty shall be, to

investigate the sanitary condition of tenements, lodging and boarding houses, and, when the same are found to be a menace to those occupying the same, or employed therein, or to be overcrowded, to condemn the same, in such manner and subject to such limitations as may now or hereafter be provided by law, and to notify the owners or agents thereof, in writing, setting forth the unsanitary or overcrowded condition thereof, specifying the changes or alterations which shall be made thereto for the purpose of relieving such condition, and further specifying the time within such changes or alterations shall be completed or overcrowding relieved: Provided, That in making inspections as authorized by this section, the Department of Environmental Resources shall cooperate with the Department of Labor and Industry, for the purpose of avoiding any duplication of inspection or overlapping of functions.

For the purpose of making investigations authorized by this section, the officers and agents of the department shall, at all times, have the right of ingress into all tenement, lodging, and boarding houses.

(1919-A added Dec. 3, 1970, P.L.834, No.275)

Compiler's Note: The Department of Environmental Resources, referred to in this section, was abolished by Act 18 of 1995. Its functions were transferred to the Department of Conservation and Natural Resources and the Department of Environmental Protection.

Section 1920-A. Environmental Quality Board.--(a) The Environmental Quality Board shall have the responsibility for developing a master environmental plan for the Commonwealth.

(b) The Environmental Quality Board shall have the power and its duties shall be to formulate, adopt and promulgate such rules and regulations as may be determined by the board for the proper performance of the work of the department, and such rules and regulations, when made by the board, shall become the rules and regulations of the department.

(c) The board shall continue to exercise any power to formulate, adopt and promulgate rules and regulations, heretofore vested in the several persons, departments, boards and commissions set forth in section 1901-A. of this act, and any such rules and regulations promulgated prior to the effective date of this act shall be the rules and regulations of the Department of Environmental Resources until such time as they are modified or repealed by the Environmental Quality Board.

(d) The board shall have the power to subpoena witnesses, records and papers and upon certification to it of failure to obey any such subpoena the Commonwealth Court is empowered after hearing to enter, when proper, an adjudication of contempt and such other order as the circumstances require.

(e) The board shall receive and review reports from the Department of Environmental Resources and shall advise the Department and the Secretary of Environmental Resources on matters of policy.

(f) The board shall establish such rules and regulations, not inconsistent with law, for the control, management, protection, utilization, development, occupancy and use of the lands and resources of State parks, as it may deem necessary to conserve the interests of the Commonwealth. Such rules and regulations shall be compatible with the purposes for which

State parks are created. Whenever the board imposes fees or charges for activities, admissions, uses or privileges, including charges for concessions, at or relating to State parks, such charges or fees shall be used solely for the acquisition, maintenance, operation or administration of the State parks systems; and are hereby appropriated for such purposes. The board shall not adopt or impose any charges or fees for parking or general admission to State parks unless the charges were imposed prior to January 1, 1984. The board may continue to impose and modify parking charges and fees applicable to specific services or units within the State park system which were imposed prior to January 1, 1984, and may impose charges or fees for admission to and for use of specific services and facilities in State parks. ((f) amended Dec. 21, 1984, P.L.1275, No.242)

(g) The board shall establish such rules and regulations, not inconsistent with law, for the control, management, protection, utilization, development, occupancy, and use, of the lands and resources of the State forests, as the department deems proper, to conserve the interests of the Commonwealth. Such rules and regulations shall be compatible with the purposes for which the State forests are created, namely to provide a continuous supply of timber, lumber, wood, and other forest products, to protect the watersheds, conserve the waters, and regulate the flow of rivers and streams of the State and to furnish opportunities for healthful recreation to the public.

(h) Any person may petition the Environmental Quality Board to initiate a rule making proceeding for the issuance, amendment or repeal of a regulation administered and enforced by the department. ((h) added Oct. 10, 1980, P.L.805, No.153)

(i) The chairman of the Environmental Quality Board may suspend any regulation promulgated solely to meet a requirement of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, when the requirement is no longer binding upon Pennsylvania. Notice of the suspension shall be published in the Pennsylvania Bulletin. Within sixty days after the suspension, the Environmental Quality Board shall reconsider the suspended regulation and shall promulgate, amend or repeal the regulation pursuant to the requirements of the act of July 31, 1968

(P.L.769, No.240), referred to as the Commonwealth Documents Law. ((i) added Oct. 10, 1980, P.L.805, No.153)

(1920-A added Dec. 3, 1970, P.L.834, No.275)

Compiler's Note: Section 313(f) of Act 18 of 1995, which created the Department of Conservation and Natural Resources and renamed the Department of Environmental Resources as the Department of Environmental Protection, provided that the Department of Conservation and Natural Resources shall continue any power to formulate, adopt and promulgate rules and regulations heretofore vested in the Environmental Quality Board by section 1920-A insofar as that power relates to the power and duty to promulgate regulations imposed upon the Department of Forests and Waters, the Secretary of Forests and Waters, the Pennsylvania State Park and Harbor Commission of Erie and the State Forest Commission.

Compiler's Note: Section 502(a) of Act 18 of 1995, which created the Department of Conservation and Natural Resources and renamed the Department of Environmental

Resources as the Department of Environmental Protection, provided that the Environmental Quality Board shall continue to exercise any power to formulate, adopt and promulgate rules and regulations currently vested in the Environmental Quality Board set forth in section 1920-A, except that the Department of Conservation and Natural Resources shall be vested with the power and duty to promulgate regulations imposed upon the Department of Forests and Waters, the Secretary of Forests and Waters, the Pennsylvania State Park and Harbor Commission of Erie and the State Forest Commission.

Compiler's Note: Section 502(c) of Act 18 of 1995, which created the Department of Conservation and Natural Resources and renamed the Department of Environmental Resources as the Department of Environmental Protection, provided that the Environmental Quality Board shall have the powers and duties currently vested in the Environmental Quality Board, except as vested in the Department of Conservation and Natural Resources by Act 18 of 1995, which powers and duties include those set forth in section 1920-A(h) and (i).

Section 1921-A. Environmental Hearing Board.--(1921-A repealed July 13, 1988, P.L.530, No.94)

Section 1922-A. Citizens Advisory Council.--(a) The Citizens Advisory Council shall review all environmental laws of the Commonwealth and make appropriate suggestions for the revision, modification and codification thereof.

(b) The council shall consider, study and review the work of the Department of Environmental Resources and for this purpose, the council shall have access to all books, papers, documents and records pertaining or belonging to the department.

(c) The council shall advise the department, on request, and shall make recommendations upon its initiative, for the improvement of the work of the department.

(d) The council shall report annually to the Governor and to the General Assembly and may make such interim reports as are deemed advisable.

(1922-A added Dec. 3, 1970, P.L.834, No.275)

Compiler's Note: The Department of Environmental Resources, referred to in subsec. (b), was abolished by Act 18 of 1995. Its functions were transferred to the Department of Conservation and Natural Resources and the Department of Environmental Protection.

Section 1923-A. State Board for Certification of Sewage Treatment Plant and Waterworks Operators.--The State Board for Certification of Sewage Treatment Plant and Waterworks Operators shall continue to exercise the powers and perform the duties by law vested in and imposed upon said board.

(1923-A added Dec. 3, 1970, P.L.834, No.275)

Section 1924-A. Topographic and Geologic Survey.--(1924-A repealed June 30, 1995, P.L.89, No.18)

Section 1925-A. Soil Conservation.--The State Soil Conservation Commission shall continue to exercise the powers and perform the duties by law vested in and imposed upon said commission.

(1925-A added Dec. 3, 1970, P.L.834, No.275)

Section 1926-A. Lease of Land for Right-of-Way.--(1926-A repealed June 30, 1995, P.L.89, No.18)

Section 1927-A. Natural Gas Determinations.--The Department of Environmental Resources shall have the power and its duty shall be:

(1) To exercise jurisdiction with respect to making "determinations" pursuant to Title V, sections 501 and 503 of the Federal Natural Gas Policy Act of 1978, Public Law 95-621 (hereinafter referred to as the "NGPA") on behalf of the Commonwealth of Pennsylvania, and only to the extent required to comply with Title I and Title V of the NGPA and the regulations promulgated thereunder.

(2) To do all such things and take all such actions as may be necessary to implement procedures required for compliance with Title I and Title V of the NGPA as they apply to determinations with respect to certification of natural gas wells and production of natural gas in the Commonwealth, taking into account fully the particular facts and circumstances applicable to such activities in the Commonwealth, and to fully and efficiently carry out on behalf of the Commonwealth the functions, duties and powers which are to be exercised by a "State agency" under Title V of the NGPA, including specifically, without limiting the foregoing, establishing procedures and general and alternative requirements, promulgating rules, regulations and orders, establishing reasonable filing fees, making specified determinations, executing on behalf of the Commonwealth agreements or contracts with appropriate Federal agencies, expending such funds as are made available to such department for such purposes, and making such reports and certifications as are called for. All fees collected by the department under this section shall be deposited in the General Fund.

(1927-A added June 28, 1979, P.L.51, No.21)

Compiler's Note: The act of June 28, 1979, P.L.51, No.21 contained the following implementing provisions:

Section 2. Nothing in this act shall be interpreted or construed to affect the authority and powers of the Department of Environmental Resources except as specifically set forth herein.

Section 3. This act shall take effect immediately and shall be retroactive to November 8, 1978: Provided, however, That the authorization granted to the Department of Environmental Resources hereunder shall expire at such time as its "State agency" functions under the Federal Natural Gas Policy Act of 1978, Public Law 95-621, as enacted, amended or supplemented from time to time, no longer apply.

Section 1928-A. Conflict of Interest in Mining and Oil and Gas Regulation.--(a) No employe of the Department of Environmental Resources performing any function or duty within the scope of activities covered by the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87 (95th Congress) shall have a direct or indirect financial interest in any underground or surface coal mining operation as defined by this act. Whoever knowingly violates the provisions of this subsection shall, upon conviction, be punished by a fine of not more than two thousand five hundred dollars (\$2,500) or by imprisonment of not more than one (1) year, or both. Rules and regulations shall be promulgated hereunder to establish methods by which the provisions of this subsection will be monitored and enforced by the Department of Environmental Resources, including but not limited to appropriate provisions for the filing by such

employees and the review of statements and supplements thereto concerning any financial interest which may be affected by this subsection.

(b) No employe of the Department of Environmental Resources performing the function or duty of an oil or gas inspector shall act as a manager, employe or agent of any oil or gas drilling operation or of any mine or mining operation, nor shall he or she be interested in any pecuniary way in such operations in this Commonwealth. Whoever knowingly violates the provisions of this subsection shall, upon conviction, be punished by a fine of not more than two thousand five hundred dollars (\$2,500) or by imprisonment of not more than one (1) year, or both. Rules and regulations shall be promulgated hereunder to establish methods by which the provisions of this subsection will be monitored and enforced by the Department of Environmental Resources, including but not limited to appropriate provisions for the filing by such employes and the review of statements and supplements thereto concerning any financial interest which may be affected by this subsection.

(1928-A amended May 7, 1982, P.L.383, No.111)

Compiler's Note: The Department of Environmental Resources, referred to in this section, was abolished by Act 18 of 1995. Its functions were transferred to the Department of Conservation and Natural Resources and the Department of Environmental Protection.

Section 1929-A. Expenditures for Correctional Institutions.--Expenditures by the Department of Environmental Resources for utility services for Rockview Correctional Institution under section 2 of the act of June 21, 1978 (P.L.1485, No.16A), entitled "An act to provide for the expenses of the Executive, Legislative and Judicial Departments of the Commonwealth, the public debt and for the public schools for the fiscal period July 1, 1978, to June 30, 1979, and for the payment of bills incurred and remaining unpaid at the close of the fiscal period ending June 30, 1978," are validated.

(1929-A added Dec. 18, 1992, P.L.1661, No.183)

Compiler's Note: The Department of Environmental Resources, referred to in this section, was abolished by Act 18 of 1995. Its functions were transferred to the Department of Conservation and Natural Resources and the Department of Environmental Protection.

Section 1930-A. Powers of Environmental Quality Board.--The Environmental Quality Board shall have the power and its duty shall be to review any petition submitted to it to designate an area as unsuitable for surface mining as provided for in section 315(h) through (n) of the act of June 22, 1937 (P.L.1987, No.394), known as "The Clean Streams Law," and make designations pursuant thereto: Provided, however, That the board or the Department of Environmental Resources shall not make such designations for surface mining operations regulated by the act of December 19, 1984 (P.L.1093, No.219), known as the "Noncoal Surface Mining Conservation and Reclamation Act." This section shall not apply to any petition to designate an area as unsuitable for noncoal mining operations filed with the Department of Environmental Resources prior to July 30, 1992.

(1930-A added Dec. 18, 1992, P.L.1661, No.183)

Compiler's Note: The Department of Environmental Resources, referred to in this section, was abolished by Act 18 of 1995. Its functions were transferred to the Department of Conservation and Natural Resources and the Department of Environmental Protection.

Section 1931-A. Environmental Resources Review Procedures.--

(a) Except as provided in subsection (b), the department shall perform in the manner provided by law or regulation an administrative completeness review of every permit application within twenty (20) days of the receipt of the permit application and notify the applicant on or before the expiration of the twenty-day time period that the permit application is either complete or incomplete. If the department determines that the permit application is incomplete, it shall notify the applicant which forms, items or information are necessary to make the permit application complete. Any permit application resubmitted to the department following a determination that a permit application is incomplete shall be subject to the same requirements for review and notification as the original permit application.

(b) This section shall not apply to any permit application under or relating to:

(1) Any statute which requires a longer period of time for an administrative completeness review.

(2) Hazardous waste governed under any of the following statutes:

Hazardous and Solid Waste Amendments of 1984 (Public Law 98-3221, 98 Stat. 3221).

Act of January 8, 1960 (1959 P.L.2119, No.787), known as the Air Pollution Control Act.

Act of July 20, 1974 (P.L.572, No.198), known as the Pennsylvania Solid Waste - Resource Recovery Development Act.

Act of July 7, 1980 (P.L.380, No.97), known as the Solid Waste Management Act.

Act of October 18, 1988 (P.L.756, No.108), known as the Hazardous Sites Cleanup Act.

(3) Municipal waste governed under any of the following statutes:

Act of June 22, 1937 (P.L.1987, No.394), known as The Clean Streams Law.

Act of July 7, 1980 (P.L.380, No.97), known as the Solid Waste Management Act.

Act of July 28, 1988 (P.L.556, No.101), known as the Municipal Waste Planning, Recycling and Waste Reduction Act.

(4) Infectious and chemotherapeutic waste governed under any of the following statutes:

Act of July 7, 1980 (P.L.380, No.97), known as the Solid Waste Management Act.

Act of July 13, 1988 (P.L.525, No.93), referred to as the Infectious and Chemotherapeutic Waste Law.

(5) Residual waste governed under any of the following statutes:

Act of June 22, 1937 (P.L.1987, No.394), known as The Clean Streams Law.

Act of July 7, 1980 (P.L.380, No.97), known as the Solid Waste Management Act.

Act of July 28, 1988 (P.L.556, No.101), known as the Municipal Waste Planning, Recycling and Waste Reduction Act.

(6) Air quality under the following statutes:

Clean Air Act (Public Law 95-95, 42 U.S.C. § 7401 et seq.).
Act of January 8, 1960 (1959 P.L.2119, No.787), known as the
Air Pollution Control Act.

(c) The department may exempt specific permit applications from the provisions of this section under procedures to be established by regulation of the department.

(d) Failure of the department to notify an applicant that a permit application is either complete or incomplete within the time period required by this section shall result in the administrative completeness review being deemed complete and the permit application being deemed complete.

(e) The following words and phrases when used in this section shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Administrative completeness review." A review by the Department of Environmental Resources to determine whether all forms and information, including, without limitation, appropriate signatures, filing fees, notary seals and maps, necessary as a prerequisite under the applicable statute to enable the Department of Environmental Resources to determine whether the applicant or the conduct of the applicant is in compliance with the law.

"Department." The Department of Environmental Resources of the Commonwealth.

"Permit application." An application filed with the Department of Environmental Resources pursuant to law for a permit, including, without limitation, a permit modification, a permit amendment, an application for repermitting or a license.

(1931-A added June 22, 1994, P.L.351, No.52)

Compiler's Note: The Department of Environmental Resources, referred to in subsec. (e), was abolished by Act 18 of 1995. Its functions were transferred to the Department of Conservation and Natural Resources and the Department of Environmental Protection.

Section 1932-A. Tree Harvesting Practices.--(a) The Department of Conservation and Natural Resources shall conduct a study of its tree harvesting practices in State forests which study shall include the following four areas:

(1) The allowable scientific cut in State forests.

(2) The actual annual timber cut.

(3) Methods and considerations to attain and maintain the allowable scientific cut.

(4) The impact attaining the allowable scientific cut would have on State revenues and job creation.

Not later than one year after the effective date of this section, the Department of Conservation and Natural Resources shall transmit to the Environmental Resources and Energy Committee of the Senate and the Commerce and Economic Development Committee of the House of Representatives a complete written report of its study, findings and recommendations.

(b) This section shall expire January 1, 1997.

(1932-A added Feb. 23, 1996, P.L.27, No.10)

Section 1933-A. Payments for Certain Inspectors.--(a) The Department of Environmental Protection is authorized to pay for the host inspection training program and to pay fifty per centum (50%) of the approved cost of employing a certified host municipality inspector, as provided for in section 1102 of the act of July 28, 1988 (P.L.556, No.101), known as the "Municipal

Waste Planning, Recycling and Waste Reduction Act."

(b) The Department of Environmental Protection shall reimburse host municipalities for fifty per centum (50%) of the approved cost of employing certified host municipality inspectors, as provided under section 304 of the act of October 18, 1988 (P.L.756, No.108), known as the "Hazardous Sites Cleanup Act."

(1933-A added July 11, 1996, P.L.619, No.105)

Section 1934-A. Bonds for Certain Wells.--No bond or bond substitute shall be required for any well drilled prior to April 18, 1985, where such well would have otherwise been subject to the bonding requirements of section 215 or 603.1 of the act of December 19, 1984 (P.L.1140, No.223), known as the "Oil and Gas Act."

(1934-A added Nov. 26, 1997, P.L.530, No.57)

Section 1935-A. Timetable for Review of Municipal Waste Landfill and Resource Recovery Facility Permit Applications.--Upon the request of an applicant, the Department of Environmental Protection shall establish a timetable in which the department shall review and approve or deny any permit application for a municipal waste landfill or resource recovery facility. The department shall establish a reasonable timetable for the approval or denial of the permit application in consultation with the permit applicant and the governing body of any county and other municipality within which the facility is located and shall publish a notice regarding the timetable in the Pennsylvania Bulletin.

(1935-A added Nov. 26, 1997, P.L.530, No.57)

Section 1936-A. Recycling Fund Advisory Committee.--(a) The annual expenditure plan recommended by the Recycling Fund Advisory Committee shall be submitted by the Governor to the General Assembly as part of the Governor's annual budget submission. The Recycling Fund expenditure plan shall be open for review and comment by the members of the General Assembly. The recommended Recycling Fund expenditure plan submitted by the Governor as part of the annual budget submission shall include a detailed listing of the types of programs for the actual year, current year and proposed budget year which will receive a higher funding recommendation for the coming fiscal year.

(b) No fee shall be imposed under section 701 of the act of July 28, 1988 (P.L.556, No.101), known as the "Municipal Waste Planning, Recycling and Waste Reduction Act," on and after October 25, 2003.

(1936-A added Nov. 26, 1997, P.L.530, No.57)

Section 1937-A. Municipal Recycling Grants.--(a) The Department of Environmental Protection shall not award any grant under section 902 of the act of July 28, 1988 (P.L.556, No.101), known as the "Municipal Waste Planning, Recycling and Waste Reduction Act," unless it is demonstrated to the department's satisfaction that:

(1) The application is complete and accurate.

(2) The recycling program for which the grant is sought does not duplicate any other recycling programs, private or municipally operated, operating within the county. This restriction applies to a grant application for a recycling program operated by a municipality regardless of whether it will be operated solely by the municipality, or by the municipality contracting with a private entity, passing all or a portion of the grant monies through to a private entity, otherwise funding

a private entity or in any other manner partnering with a private entity. Acceptable proof that a newly proposed recycling project for which a grant is being sought will not duplicate any other existing municipally or privately operated program shall include, but not be limited to:

(i) A statement from the county recycling coordinator that the applicant has secured a list of known recycling enterprises operating within the county.

(ii) For grant applications in excess of thirty thousand dollars (\$30,000), notification of such a grant application, in sufficient detail to describe what will be accomplished with the grant, in a newspaper of general circulation which shall be published once a week for four consecutive weeks.

(iii) Copies of all written responses received as a result of notification under subparagraph (ii).

(3) The department will deny a grant application that does not submit proof of publication and a list of known recycling enterprises.

(4) If the municipality proposes to use some or all of the grant funds to purchase mechanical processing equipment, the equipment is not available to the program in the private sector. Before submitting the application to the department, the municipality shall obtain a written statement from the appropriate county recycling coordinator that the applicant has secured a list of known recycling enterprises operating within the county and publish in a newspaper of general circulation a notice describing in reasonable detail the equipment which the municipality proposes to purchase and the proposed uses of the equipment and allow thirty (30) days for written response from any interested persons. The application shall describe the responses received and shall explain why the municipality has concluded that such equipment is not available from the private sector. Grants awarded under this section for the purchase of equipment will be prorated if it is determined that the equipment proposed to be purchased by the municipality with funds from a grant awarded under this section will not be used exclusively for the purposes stated on the recycling grant application.

(b) (1) The department may not award any grant under the "Municipal Waste Planning, Recycling and Waste Reduction Act" to any county or municipality that has failed to comply with the conditions set forth in previously awarded grants under that act, the requirements of that act, this section and any regulations promulgated pursuant thereto.

(2) The department may make an exception for a county or municipality which proposes to partner with a not-for-profit agency which will utilize the grant to fund the processing of recycled materials identified in section 1501(c)(1)(i) of the "Municipal Waste Planning, Recycling and Waste Reduction Act" or the manufacturing of products made from those materials.

(c) (1) This section shall not apply if the recycling needs of all the citizens of the county cannot be met.

(2) This section shall not apply to any municipality that has received any grant under section 902 of the "Municipal Waste Planning, Recycling and Waste Reduction Act" prior to the effective date of this section.

(1937-A added Nov. 26, 1997, P.L.530, No.57)