§ 70-0116. Emergency authorization.

1. The department may waive the procedural requirements of this article to issue an emergency authorization for an action which is immediately necessary to respond to an emergency.

2. Emergency authorization may be given only if the department makes a finding of emergency. Such emergency authorization may be issued for a term not to exceed thirty days. It may be renewed for one term not to exceed thirty days. On or before sixty days from the department's original approval, the action must be concluded or the authorized party must file with the department a complete application for a permit and be subject to all the procedural requirements of this article.

3. The department must be notified prior to the commencement of the action. If circumstances warrant immediate action by a state or local government agency such that prior notice to the department is not possible, then the department must be notified by that agency within twenty-four hours after commencement of the action. In any event, the department must respond by either granting or denying emergency authorization within two business days of its receipt of such notice.

4. Actions taken pursuant to a grant of emergency authorization must be carried out in a manner that will cause the least change, modification or adverse impact to life, health, property or natural resources. The department may attach conditions to its emergency authorizations and shall enforce them in order to assure compliance with this and other regulatory standards that would apply to such actions absent an emergency.

5. The department may require plans or any other information it deems necessary to review the proposed action to determine whether emergency authorization is warranted and whether the proposed action is consistent with regulatory standards.

6. The department shall issue an order summarily suspending an action taken before the grant of an emergency authorization if the department

finds that no emergency exists or the department shall issue an order suspending an emergency authorization if the department finds that the action is no longer immediately necessary to protect life, health, property or natural resources. Such action shall be ceased immediately upon receipt of such order by the authorized party.

7. (a) Violations will be enforced pursuant to article seventy-one of this chapter.

(b) A person who violates any provision of this section or any term or condition of an emergency authorization shall also be required to perform restoration, mitigation, or elimination of environmental damage, which is necessary as a direct result of that action. In the event that such person fails to undertake such work, the department or its agent may enter upon the lands and waters where the action took place and perform restoration or other activities which may be necessary to mitigate or eliminate environmental damage caused by such action. Should the department undertake such work, or cause it to be undertaken, the full cost for it shall be charged to and become the responsibility of the person who conducted the action.

8. The provisions of this section and the regulations promulgated hereunder shall apply notwithstanding any inconsistent provision of law.