

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 802 Session of 2015

INTRODUCED BY DINNIMAN, RAFFERTY, FOLMER AND SCHWANK,
MAY 14, 2015

REFERRED TO ENVIRONMENTAL RESOURCES AND ENERGY, MAY 14, 2015

AN ACT

1 Amending the act of April 9, 1929 (P.L.177, No.175), entitled
2 "An act providing for and reorganizing the conduct of the
3 executive and administrative work of the Commonwealth by the
4 Executive Department thereof and the administrative
5 departments, boards, commissions, and officers thereof,
6 including the boards of trustees of State Normal Schools, or
7 Teachers Colleges; abolishing, creating, reorganizing or
8 authorizing the reorganization of certain administrative
9 departments, boards, and commissions; defining the powers and
10 duties of the Governor and other executive and administrative
11 officers, and of the several administrative departments,
12 boards, commissions, and officers; fixing the salaries of the
13 Governor, Lieutenant Governor, and certain other executive
14 and administrative officers; providing for the appointment of
15 certain administrative officers, and of all deputies and
16 other assistants and employees in certain departments, boards,
17 and commissions; and prescribing the manner in which the
18 number and compensation of the deputies and all other
19 assistants and employees of certain departments, boards and
20 commissions shall be determined," in powers and duties of
21 Department of Environmental Protection, further providing for
22 cooperation with municipalities.

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

25 Section 1. Section 1905-A of the act of April 9, 1929
26 (P.L.177, No.175), known as The Administrative Code of 1929,
27 amended February 17, 1984 (P.L.75, No.14) and August 14, 1991
28 (P.L.331, No.35), is amended to read:

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

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

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

18 (ii) Water allocation permits applied for pursuant to the
19 act of June 24, 1939 (P.L.842, No.365), [entitled "An act
20 relating to the acquisition of rights to divert water from
21 rivers, streams, natural lakes, and ponds, or other surface
22 waters within the Commonwealth or partly within and partly
23 without the Commonwealth; defining various words and phrases;
24 vesting in the Water and Power Resources Board certain powers
25 and authorities for the conservation, control and equitable use
26 of the waters within the Commonwealth in the interests of the
27 people of the Commonwealth; making available for public water
28 supply purposes, water rights heretofore or hereafter acquired
29 but not used; providing for hearings by the Water and Power
30 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."] referred to as the Water Rights Law.

(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."

(1.1) The Department of Environmental Protection shall require every applicant for a permit or permit revision of the types listed in clause (1)(i), (ii), (iii) and (iv) to give written notice of the following to each landowner owning land in the area of concern and to each resident in the area of concern:

(i) The information contained in subsection (c), to be provided within thirty (30) days of submission of the application to the Department of Environmental Protection.

(ii) The date of publication of the permit application in the Pennsylvania Bulletin and information addressing the submission of public comments to the Department of Environmental Protection regarding the permit application.

(iii) The date, location and time of any hearing scheduled by the Department of Environmental Protection regarding the

1 permit application, to be provided at least five (5) days prior
2 to the hearing date.

3 (2) In the case of written notices sent pursuant to
4 [subclauses (i)] clause (1)(i), (ii), (iii) and (iv), the
5 written notices shall be received by the municipalities and each
6 landowner and resident at least thirty (30) days before the
7 Department of Environmental [Resources] Protection may issue or
8 deny the permit. In the case of written notices sent pursuant to
9 subclause (v), the written notices shall be received by the
10 municipalities at least sixty (60) days before the Department of
11 Environmental [Resources] Protection may issue or deny the
12 permit.

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

22 (4) When the department issues an emergency permit to
23 respond to or alleviate an actual or imminent threat to life,
24 property or the environment, such as activities conducted in
25 compliance with the emergency response provisions of [the
26 Natural Gas Pipeline Safety Act of 1968 (Public Law 90-481, 49
27 U.S.C. § 1671 et seq.)] 49 U.S.C. Subtitle VIII (relating to
28 pipelines) and 49 CFR 192.615 (relating to emergency plans), the
29 provisions of clause (2) and any other provision in regulation
30 requiring notice to the affected municipality shall not apply.

1 The applicant shall notify the affected municipality of an
2 emergency permit as soon as possible verbally and provide a
3 follow-up notice in writing within forty-eight (48) hours from
4 the issuance of an emergency permit.

5 (c) The notice to landowners and residents under subsection
6 (b) (1.1) (i) shall contain the following information:

7 (1) A description of the type of permit application
8 submitted to the Department of Environmental Protection.

9 (2) A brief description of the activity planned for the
10 project under the permit application.

11 (3) A statement that the project activity under the permit
12 application is anticipated to have one or more impacts on the
13 landowners.

14 (4) A brief description of the anticipated impact or
15 impacts.

16 (d) Definitions.--As used in this section, the following
17 words and phrases shall have the meanings given to them in this
18 subsection unless the context clearly indicates otherwise:

19 "Area of concern." An area where all of the following apply:

20 (1) An area defined by a radius of one-half mile from the
21 center of a proposed permit activity or, where an activity is
22 not centralized, an area extending one-half mile beyond the
23 boundary of the proposed activity.

24 (2) An area where one or more impacts of the type for which
25 the Department of Environmental Protection is authorized to
26 analyze are anticipated.

27 (3) An area where one or more impacts that are not included
28 under clause (2), such as noise, vibration or odor, are
29 reasonably anticipated to arise from the proposed permitted
30 activity.

1 "Resident." A unit owner or proprietary lessee of a common
2 interest property established under Title 68 of the Pennsylvania
3 Consolidated Statutes (relating to real and personal property)
4 or a lessee of any building or portion thereof that is leased as
5 a residence.

6 Section 2. This act shall take effect in 60 days.