

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1959 Session of 2018

INTRODUCED BY ROTHMAN, WALSH, ZIMMERMAN, MILLARD, STEPHENS, FEE, RYAN, WARD, DUSH, METCALFE, GROVE, PHILLIPS-HILL, B. MILLER, STAATS, MENTZER, COX, HELM, WATSON, BERNSTINE, WHEELAND, JAMES, KEEFER, ROAE, GILLEN, NELSON, SCHEMEL, CUTLER, GREINER, KLUNK AND SANKEY, JANUARY 3, 2018

AS REPORTED FROM COMMITTEE ON STATE GOVERNMENT, HOUSE OF REPRESENTATIVES, AS AMENDED, MARCH 13, 2018

AN ACT

1 Providing for the administration of permits by State agencies,
2 for a tracking system for permit applications, for the
3 establishment of permit programs and for annual reports.

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

6 Section 1. Short title.

7 This act shall be known and may be cited as the Permit
8 Administration Act.

9 Section 2. Definitions.

10 The following words and phrases when used in this act shall
11 have the meanings given to them in this section unless the
12 context clearly indicates otherwise:

13 "Applicant." A person, municipality, municipal authority,
14 political subdivision, State agency or an agency of the Federal
15 Government which submits an application for a permit to a State
16 agency.

1 "Application." A submission to a State agency by an
2 applicant which seeks any of the following:

- 3 (1) A new permit.
- 4 (2) A permit renewal.
- 5 (3) A permit amendment.
- 6 (4) A permit modification.
- 7 (5) A permit transfer.
- 8 (6) A change of ownership of a permit.

9 "Completeness review." The process by which a State agency's
10 staff reviews an application to determine if the application
11 satisfies all of the applicable statutory and regulatory
12 requirements.

13 "Incomplete application." An application which does not
14 include all required documents and information necessary to
15 perform a completeness review.

16 "Permit." An authorization issued by a State agency which
17 approves the performance of a regulated activity. The term
18 includes authorization permits, plan approvals and registrations
19 under a general permit. The term does not include a
20 certification, license or permit issued to an individual for
21 personal use.

22 "Permit decision." The issuance or denial of a permit.

23 "Permit decision delay." The failure of a State agency to
24 issue a permit decision within:

- 25 (1) the time period specified by statute or regulation,
26 including the time period specified under 4 Pa. Code Ch. 7a, ~~7a~~ <--
27 Subch. H (relating to permit decision guarantee for the
28 Department of Environmental Protection); or
- 29 (2) thirty days after the submission of the permit
30 application if there is no time period specified by statute

1 or regulation, including 4 Pa. Code Ch. 7a7 Subch. H.

2 "Permit program." The program designed for the operation and
3 management of permits which are subject to permit decision
4 delays.

5 "Processing time." Beginning when the permit satisfies the
6 completeness review, the total number of business days allowed
7 by statute, regulation or State agency policy before a State
8 agency must take final action on a permit decision.

9 "State agency." Any office, department, authority, board or
10 commission of the executive branch which issues permits.

11 "Technical review." A review of the technical aspects of an
12 application to determine if the application satisfies all of the
13 applicable statutory and regulatory requirements for permit
14 issuance.

15 "Technically deficient application." An application that
16 does not include all necessary documents and information in
17 sufficient detail to perform a technical review.

18 "Third-party professional." An individual in this
19 Commonwealth who possesses all of the requisite certifications
20 and qualifications of an occupation relating to a permit
21 administered by a State agency.

22 Section 3. Initial review of permits by State agencies.

23 Within 60 days after the effective date of this act, a State
24 agency shall review the State agency's permit decisions and
25 permit decision delays during the immediately preceding calendar
26 year and submit a report of findings to the General Assembly.

27 Section 4. Compilation of permits.

28 (a) List of permits.--A State agency shall compile, maintain
29 and make available a complete list of all types of permits
30 issued by the State agency. The list, including any revisions to

1 the list, shall be transmitted to the Legislative Reference
2 Bureau for publication in the Pennsylvania Bulletin and shall be
3 posted on the State agency's publicly accessible Internet
4 website. The list shall include, but not be limited to, the
5 following information:

6 (1) The program under which each permit is issued.

7 (2) The statutory and regulatory authority for each
8 permit.

9 (3) The time frame when the State agency must issue each
10 permit.

11 (4) The average time frame within which permit is
12 actually issued.

13 (b) Time limit.--A State agency shall have 90 days from the
14 effective date of this act to complete the initial list required
15 under subsection (a).

16 Section 5. Tracking system for permit application.

17 (a) Establishment.--A State agency shall establish, maintain
18 and make available a secure tracking system for applicants to
19 track the status of applications on the State agency's publicly
20 accessible Internet website WITHIN 180 DAYS OF THE EFFECTIVE <--
21 DATE OF THIS SECTION.

22 (b) Notice.--Within five business days after receiving an
23 application, a State agency shall notify an applicant in writing
24 or by electronic means of the receipt and provide information
25 instructing the applicant in the utilization of the tracking
26 system established under subsection (a).

27 (c) System contents.--The tracking system shall include all
28 of the following:

29 (1) The processing time for each permit and the
30 statutory and regulatory authority and State agency policy

1 establishing the processing time.

2 (2) The dates associated with the receipt of each
3 permit, completeness review, technical review, elevated
4 review if necessary, and the final permit decision.

5 (3) The estimated time remaining for each incomplete
6 phase of the permit approval process.

7 (4) The identity and contact information for the State
8 agency employee assigned to answer questions about the
9 application process.

10 Section 6. Notice of incomplete and technically deficient
11 applications.

12 (a) Notice.--If a State agency finds an incomplete
13 application or technically deficient application, the State
14 agency shall notify the applicant in writing or by electronic
15 means of all the following:

16 (1) The statute or regulation which requires a
17 correction or additional information within the application.

18 (2) The reasons why the application is not in
19 conformance with the statute or regulation specified under
20 paragraph (1).

21 (3) The correction or additional information needed for
22 the State agency to issue the permit.

23 (b) Time limit.--The following apply:

24 (1) If an application is determined to be incomplete,
25 the State agency shall notify the applicant of the
26 determination within 10 business days of receipt of the
27 application.

28 (2) If an application is determined to be technically
29 deficient, the State agency shall notify the applicant of the
30 determination within 20 business days after the conclusion of

1 a completeness review.

2 Section 7. Notice of permit changes and expiration.

3 A State agency shall notify a permit holder IN WRITING OR by <--
4 electronic means of the following:

5 (1) The expiration date of a permit 60 days before the
6 permit's expiration date.

7 (2) A change to a statute or regulation which may affect
8 the permit.

9 (3) A change in permit fees which may affect the renewal
10 of the permit.

11 Section 8. Validity of permits.

12 A permit issued prior to the effective date of a statute or
13 regulation altering the requirements for the permit shall remain
14 valid under the provisions by which the permit was granted
15 unless otherwise agreed to by all parties.

16 Section 9. Third-party review of permit decision delays.

17 (a) Establishment.--Within 180 days of the effective date of
18 this section, a State agency shall establish a program to review
19 permit decision delays and resolve issues causing permit
20 decision delays.

21 (b) Third-party.--A State agency shall contract with a
22 third-party professional to administer a program established
23 under subsection (a) in accordance with 62 Pa.C.S. Pt. I
24 (relating to Commonwealth procurement code). Payments to a
25 third-party professional under this subsection shall consist of
26 the remittance of any fees collected by a State agency from
27 applicants whose applications are subject to a permit decision
28 delay.

29 (C) REVIEW.--A STATE AGENCY SHALL, IMMEDIATELY AFTER <--
30 ESTABLISHING A PROGRAM UNDER SUBSECTION (A), REFER APPLICATIONS

1 THAT HAVE BEEN SUBMITTED TO THE STATE AGENCY AND ARE SUBJECT TO
2 PERMIT DECISION DELAY TO A THIRD-PARTY PROFESSIONAL FOR REVIEW
3 AND RESOLUTION. A PERMIT APPLICATION THAT BECOMES SUBJECT TO
4 PERMIT DECISION DELAY AFTER THE ESTABLISHMENT OF A PROGRAM UNDER
5 SUBSECTION (A) SHALL BE SUBMITTED BY THE STATE AGENCY TO A
6 THIRD-PARTY PROFESSIONAL FOR REVIEW AND RESOLUTION NO LATER THAN
7 THREE BUSINESS DAYS AFTER THE APPLICATION BECOMES SUBJECT TO
8 PERMIT DECISION DELAY.

9 ~~(e)~~ (D) Issuance.--After a third-party professional's review <--
10 of an application which is subject to a permit decision delay
11 and the resolution of all issues causing the delay, the third-
12 party professional shall transmit the application to the State
13 agency for issuance of the permit.

14 Section 10. Annual reports.

15 No later than January 31 of each year, a State agency shall
16 submit a report to the General Assembly that, at a minimum,
17 shall contain the following information from the immediately
18 preceding calendar year:

19 (1) The number of applications received.

20 (2) The number of applications reviewed by the State
21 agency ~~and the third party professionals that are in a~~ <--
22 ~~contract with the State agency under section 9(b).~~ THAT <--
23 RECEIVED A DECISION WITHOUT BEING REFERRED TO A THIRD-PARTY
24 PROFESSIONAL.

25 (3) The average time frame for permit decisions from the
26 State agency ~~and for reviews by third party professionals~~ <--
27 ~~that are in a contract with the State agency under section~~
28 ~~9(b).~~ ON APPLICATIONS THAT RECEIVED A DECISION WITHOUT BEING <--
29 REFERRED TO A THIRD-PARTY PROFESSIONAL.

30 (4) The number of applications reviewed by third-party

1 professionals.

2 (5) THE AVERAGE TIME FRAME FOR CONTRACTED THIRD-PARTY <--
3 PROFESSIONALS TO COMPLETE AN APPLICATION REVIEW.

4 ~~(5)~~ (6) The number of State agency employees reviewing <--
5 permit applications as organized by each regional office of
6 the State agency, if applicable, and the number of
7 applications each State employee reviewed.

8 Section 11. Construction.

9 Nothing in this act shall be construed to limit or otherwise
10 alter a State agency's authority to revoke a permit for failure
11 to comply with the laws of this Commonwealth.

12 Section 12. Effective date.

13 This act shall take effect in 60 days.