

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 employes in certain departments, boards,
17 and commissions; providing for judicial administration; and
18 prescribing the manner in which the number and compensation
19 of the deputies and all other assistants and employes of
20 certain departments, boards and commissions shall be
21 determined," providing for environmental permits and plan
22 approvals; making related repeals; and abrogating
23 regulations.

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

26 Section 1. The act of April 9, 1929 (P.L.177, No.175), known
27 as The Administrative Code of 1929, is amended by adding an
28 article to read:

1 ARTICLE XIX-C

2 ENVIRONMENTAL PERMITS AND PLAN APPROVALS

3 Section 1901-C. Scope.

4 (a) Environmental permits and plans.--This article applies
5 to general permits, general plan approvals and individual
6 permits.

7 (b) Municipalities.--Nothing in this article shall be
8 construed as limiting the rights of a municipality in the lawful
9 performance of the municipality's functions.

10 Section 1902-C. Definitions.

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

14 "Department." The Department of Environmental Protection of
15 the Commonwealth.

16 "Environmental law." Commonwealth statutes and regulations
17 promulgated in accordance with the act of July 31, 1968
18 (P.L.769, No.240), referred to as the Commonwealth Documents
19 Law, relating to the protection of the environment. The term
20 includes:

21 (1) The act of June 22, 1937 (P.L.1987, No.394), known
22 as The Clean Streams Law, the act of January 8, 1960 (1959
23 P.L.2119, No.787), known as the Air Pollution Control Act,
24 the act of November 26, 1978 (P.L.1375, No.325), known as the
25 Dam Safety and Encroachments Act, and the act of July 7, 1980
26 (P.L.380, No.97), known as the Solid Waste Management Act.

27 (2) Federal statutes and regulations relating to the
28 protection of the environment, to the extent the statute and
29 regulation are administered or enforced by the Commonwealth.

30 "General permit." A permit required by an environmental law

1 issued for a category of activities in which projects in that
2 category have been determined to be similar in nature and
3 capable of being adequately regulated utilizing standardized
4 specifications and conditions without the necessity of applying
5 for and obtaining an individual permit.

6 "General plan approval." A plan approval required by an
7 environmental law issued for a category of activities in which
8 projects in that category have been determined to be similar in
9 nature and capable of being adequately regulated utilizing
10 standardized specifications and conditions without the necessity
11 of applying for and obtaining an individual permit.

12 "Individual permit." A permit required by an environmental
13 law that contains site-specific terms and conditions.

14 "Necessary information." Plans, forms, fees, notifications,
15 receipts, analyses, certifications, reports, drawings, diagrams
16 or letters.

17 Section 1903-C. Filing of application.

18 An application for an individual permit or for coverage or
19 authorization to proceed under a general plan approval or
20 general permit shall be stamped by the department with the date
21 of filing. An application shall be deemed to be filed with the
22 department on the date the application is delivered to the
23 department.

24 Section 1904-C. Time period.

25 (a) Action.--

26 (1) Subject to paragraph (2), the department must issue,
27 modify, renew, transfer or refuse to issue, modify, renew or
28 transfer an individual permit or coverage or authorization to
29 proceed under a general plan approval or general permit
30 within 45 days of the date the application was filed under

1 section 1903-C.

2 (2) The time requirement under paragraph (1) may be
3 tolled under sections:

4 (i) 1906-C(c); or

5 (ii) 1907-C(d).

6 (b) Failure to act.--If the department does not comply with
7 subsection (a), section 1910-C applies.

8 Section 1905-C. Administratively complete application.

9 (a) Contents.--An application is administratively complete
10 if the application contains the necessary information or other
11 information requested in the application, notwithstanding
12 whether the necessary information or other information supplied
13 in the application is sufficient to grant the application.

14 (b) Disagreements.--Disagreements between the department and
15 the applicant as to the substance or merits of, or professional
16 judgment contained within, the application shall not render the
17 application to be administratively incomplete.

18 (c) Presumption.--An application accompanied by an affidavit
19 executed under penalty of perjury by a professional engineer
20 licensed by the Commonwealth affirming that the application is
21 administratively complete to the best of the engineer's
22 knowledge, information and belief shall be presumed to be
23 administratively complete, unless the department rebuts the
24 presumption by clear and convincing evidence in a proceeding
25 under section 1907-C.

26 Section 1906-C. Administratively incomplete application.

27 (a) Written statement.--An application determined by the
28 department to be administratively incomplete shall be returned
29 to the applicant within 15 days of the date the application was
30 filed under section 1903-C accompanied by a written statement of

1 the specific necessary information or other information required
2 to complete the application.

3 (b) Identification.--An omission not identified in the
4 manner provided under subsection (a) shall be deemed to be cured
5 if not contained in the written statement required under
6 subsection (a).

7 (c) Tolling.--The time period under section 1904-C(a) shall
8 be tolled from the date the application is returned until the
9 date the application is refiled with the department.

10 Section 1907-C. Informal dispute resolution.

11 (a) Referee.--A dispute as to the administrative
12 completeness of the application may be submitted by the
13 applicant to a referee selected under section 1908-C.

14 (b) Response.--The department must file a written response
15 to the applicant's submission of the dispute within 10 days of
16 service of the submission of the dispute.

17 (c) Decision.--

18 (1) The referee's decision must be rendered without the
19 necessity of a hearing:

20 (i) within 10 days of the filing of the department's
21 written response; or

22 (ii) if the department does not file a response
23 under subsection (b), within 20 days of service of the
24 submission of the dispute.

25 (2) Failure of a referee to comply with the time
26 requirements under paragraph (1) shall be deemed to be a
27 ruling in favor of the applicant.

28 (3) A decision under this section is not appealable.

29 (d) Tolling.--The time period under section section 1904-
30 C(a) shall be tolled during the time period the dispute is

1 pending before the referee.

2 Section 1908-C. Selection of referee.

3 (a) List.--If a dispute arises as to the administrative
4 completeness of an application, the applicant may request a list
5 of three referees from the master list of referees compiled by
6 the Environmental Hearing Board no later than three months
7 following the effective date of this subsection.

8 (b) Qualifications.--A referee under subsection (a) must be
9 a professional engineer who has consented to serve as a referee
10 under this article.

11 (c) Process.--

12 (1) The department must eliminate one name from the list
13 under subsection (a) within five days after issuance of the
14 list. Failure to comply with the time requirement under this
15 paragraph shall be deemed a decision in favor of the
16 applicant.

17 (2) After elimination of a name under paragraph (1), the
18 applicant must, within five days of the elimination,
19 eliminate one name from the list. Failure to comply with the
20 time requirement under this paragraph shall be deemed a
21 decision in favor of the department.

22 (3) The individual whose name remains on the list shall
23 be the referee selected to decide the dispute under section
24 1907-C.

25 Section 1909-C. Approval of application.

26 The department shall approve the application if environmental
27 laws governing the applicable general permit, general plan
28 approval or individual permit are satisfied.

29 Section 1910-C. Application deemed approved.

30 An administratively complete application shall be deemed

1 approved and an individual permit or coverage or authorization
2 to proceed under a general plan approval or general permit shall
3 be deemed issued if any of the following paragraphs apply:

4 (1) The department fails to comply with the time
5 requirement under section 1904-C(a).

6 (2) The administratively complete application is
7 accompanied by an affidavit executed under penalty of perjury
8 by a professional engineer licensed by the Commonwealth
9 affirming that:

10 (i) the contents of the application are true and
11 correct to the best of the engineer's knowledge,
12 information and belief; and

13 (ii) the requirements for issuance of the individual
14 permit or for coverage or authorization to proceed under
15 the general plan approval or general permit set forth in
16 all applicable environmental laws have been satisfied.

17 Section 1911-C. Construction.

18 If there is a conflict between a provision of this article
19 and another statutory provision:

20 (1) Except as set forth in paragraph (2), the provision
21 of this article governs.

22 (2) Paragraph (1) does not apply if the other statutory
23 provision specifically states that it governs over this
24 article.

25 Section 2. Repeals are as follows:

26 (1) The General Assembly declares that the repeal under
27 paragraph (2) is necessary to effectuate the addition of
28 Article XIX-C of the act.

29 (2) All acts and parts of acts are repealed insofar as
30 they are inconsistent with the addition of Article XIX-C of

1 the act.

2 Section 3. Regulations in the Pennsylvania Code are
3 abrogated insofar as they are inconsistent with the addition of
4 Article XIX-C of the act.

5 Section 4. This act shall take effect in 60 days.