
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1659 Session of
2011

INTRODUCED BY PYLE, EVANKOVICH, BAKER, BARBIN, BARRAR, BROOKS, BURNS, CALTAGIRONE, CAUSER, CHRISTIANA, CLYMER, D. COSTA, P. COSTA, CUTLER, DeLUCA, DUNBAR, ELLIS, J. EVANS, EVERETT, FARRY, GABLER, GEIST, GERGELY, GIBBONS, GILLEN, GINGRICH, GODSHALL, GROVE, HACKETT, HALUSKA, HARHAI, HARKINS, HARRIS, HEFFLEY, HELM, HESS, KAUFFMAN, F. KELLER, M. K. KELLER, KNOWLES, KORTZ, KOTIK, LONGIETTI, MAHER, MAJOR, MALONEY, MARSHALL, MASSER, MATZIE, METCALFE, METZGAR, MILLER, MIRABITO, MOUL, MURT, MUSTIO, NEUMAN, OBERLANDER, PERRY, PETRARCA, PICKETT, PRESTON, QUIGLEY, RAPP, RAVENSTAHL, REED, REESE, ROAE, ROCK, SACCONI, SAINATO, SANTONI, SAYLOR, CULVER, SONNEY, STEVENSON, SWANGER, TOBASH, TOEPEL, TOOHL, TURZAI, VEREB, VULAKOVICH, WATSON AND WHITE, NOVEMBER 9, 2011

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,
NOVEMBER 9, 2011

AN ACT

1 Providing for the effective and thorough review of permit
2 applications to the Department of Environmental Protection
3 and other entities to ensure environmental protection and
4 foster economic growth.

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

7 CHAPTER 1

8 PRELIMINARY PROVISIONS

9 Section 101. Short title.

10 This act shall be known and may be cited as the Department of
11 Environmental Protection Permit Review and Issuance Act.

12 Section 102. Definitions.

13 The following words and phrases when used in this act shall

1 have the meanings given to them in this section unless the
2 context clearly indicates otherwise:

3 "Applicant." The person submitting an application for a
4 permit to the Department of Environmental Protection.

5 "Application." Any submittal to the Department of
6 Environmental Protection by a person that seeks or otherwise
7 requests a permit. The term includes, but is not limited to:

- 8 (1) New permits.
- 9 (2) Permit renewals.
- 10 (3) Permit amendments.
- 11 (4) Permit modifications.
- 12 (5) Permit transfers.
- 13 (6) Change of ownership.

14 "Department." The Department of Environmental Protection, as
15 well as Commonwealth subdivisions with the authority to issue
16 permits on behalf of or in lieu of the Department of
17 Environmental Protection, by delegation from or under a
18 cooperative agreement with the Commonwealth or with the
19 authority to issue permits delegated from or authorized directly
20 by the United States.

21 "Licensed permit review professional." An individual, not
22 employed by the Department of Environmental Protection, who is
23 eligible to review permits as specified in section 304.

24 "Permit." An approval, permit, plan approval, registration,
25 license or other authorization or decision.

26 "Person." An individual, firm, joint venture, partnership,
27 corporation, association, municipality, municipal authority,
28 cooperative association or joint stock association, including
29 any trustee, receiver, assignee or personal representative
30 thereof.

1 "Regional office." An office of the Department of
2 Environmental Protection from which permits are issued, but
3 which is separate from the primary department office.

4 CHAPTER 3

5 PERMIT ISSUANCE

6 Section 301. Applicability.

7 (a) General rule.--Except as provided in subsection (b), the
8 provisions of this act shall apply to the department and any
9 person who submits an application to the department after the
10 effective date of this section.

11 (b) Exceptions.--This act shall not apply to any of the
12 following:

13 (1) a permit issued solely to comply with Federal law;

14 (2) an administrative consent order or other enforcement
15 action relating to a permit or lack thereof; or

16 (3) the revocation of a permit.

17 Section 302. Permit submission process.

18 (a) Preapplication meeting.--All applicants shall
19 participate in a meeting with the department prior to submitting
20 an application.

21 (1) During the preapplication meeting, the applicant
22 shall submit at least the following:

23 (i) Project description, including, but not limited
24 to, scope of work, primary emissions points, discharge
25 outfalls and water intake points.

26 (ii) Location of the project, including county,
27 municipality and location on the site.

28 (iii) Business schedule for project completion.

29 (2) During the preapplication meeting, the department
30 shall provide for the applicant at least the following:

- 1 (i) An overview of the permit review program.
- 2 (ii) A determination of which specific application
3 or applications will be necessary to complete the
4 project.
- 5 (iii) A statement notifying the applicant if the
6 specific permit being sought requires a mandatory public
7 hearing or comment period.
- 8 (iv) A review of the timetable established in the
9 permit review program for the specific permit being
10 sought.
- 11 (v) A determination of what information must be
12 included in the application, including a description of
13 any required modeling or testing.

14 (3) The department shall ensure that participants
15 representing the department in the preapplication meeting do
16 so on behalf of the specific permit review program area from
17 which the permit is being sought.

18 (b) Application submission.--Upon the applicant's submitting
19 the application to the department with any required information,
20 including any potential supplemental data, the application shall
21 be marked in such a manner as to indicate that it has officially
22 been received by the department. At that time, the applicant
23 shall receive an official permit review schedule that shows when
24 a final decision will be determined.

25 (c) Permit review and determination.--

26 (1) Upon officially receiving an application, the
27 department and applicant shall proceed with the following
28 time frames unless otherwise prohibited by law:

29 (i) Application completeness and technical review
30 shall take no more than 30 days.

1 (ii) Applicant response to deficiencies identified
2 by the department during the completeness and technical
3 review shall take no more than 30 days.

4 (iii) Final review and determination by the
5 department of the application or resubmitted application,
6 if returned after the completeness and technical review,
7 shall take no more than 30 days.

8 (2) The review schedule specified in paragraph (1) shall
9 not apply if:

10 (i) Review times are mandated by statute and cannot
11 be accommodated within the time periods established in
12 paragraph (1).

13 (ii) Public hearings are mandated by statute and
14 cannot be accommodated within the time periods
15 established in paragraph (1).

16 (iii) Public comment periods are mandated by statute
17 and cannot be accommodated within the time periods
18 established in paragraph (1).

19 (iv) The applicant requests an alternate review
20 schedule.

21 (3) An applicant may request a review schedule different
22 from the review schedule in paragraph (1). Prior to an
23 alternate review schedule commencing, the following must
24 occur:

25 (i) The department must determine that there are no
26 statutory prohibitions to the alternate review schedule.

27 (ii) The department must agree to the request in
28 writing.

29 (iii) The applicant and the department must develop
30 a mutually agreed upon alternate permit application

1 review schedule.

2 (iv) The applicant and the department must each
3 agree in writing to the alternate review schedule
4 indicating acceptance of the alternate review schedule.

5 (4) If the department fails to issue a decision on an
6 application in accordance with the review schedule in
7 paragraph (1) or the alternate review schedule as provided
8 for in paragraph (3), the application shall be deemed
9 approved.

10 (5) The applicant may select a licensed permit review
11 professional, as provided for in section 304, to undertake
12 the review of the permit application rather than a department
13 review.

14 Section 303. Electronic public database.

15 (a) Duty to develop.--The department shall develop an
16 electronic database that is publicly accessible to perform the
17 following functions:

18 (1) List all permits subject to this act.

19 (2) List and track the status of all applications being
20 reviewed as required by this act.

21 (b) Contents.--The database developed under subsection (a)
22 shall include the following information:

23 (1) A statement indicating that if the review is an
24 alternate review schedule as provided for in section 302(c)
25 and why the alternate review schedule was granted.

26 (2) The date the application was officially received by
27 the department.

28 (3) The date that the application was determined to have
29 undergone and completed the administrative and technical
30 review.

1 (4) The date the application was returned to the
2 applicant for deficiencies noted in the administrative and
3 technical review, if applicable.

4 (5) The date the application was returned by the
5 applicant to the department with corrections as determined in
6 the administrative and technical review.

7 (6) The date of any required public hearings or public
8 comment periods.

9 (7) A statement indicating whether the permit is being
10 reviewed by a licensed permit review professional as provided
11 for in section 304.

12 (8) A list of licensed permit review professionals
13 licensed by the department.

14 (c) Electronic database fee.--The department may, through
15 regulation, establish a fee assessed on each permit to develop
16 and maintain the database required in subsection (a).
17 Section 304. Licensed permit review professional.

18 (a) Program to be developed.--The department shall develop
19 through regulation a program to license nondepartment employees
20 to undertake the review of applications submitted to the
21 department.

22 (b) Licensing fee.--The department may establish a licensing
23 fee through regulation. The licensing fee shall only be adequate
24 to allow the department to develop and administer the program.

25 (c) Time frames.--The licensed permit review professional
26 shall perform the reviews within the time frames provided for in
27 section 302.

28 (d) Department to consider recommendations.--In making a
29 decision regarding an application that has been reviewed by a
30 licensed permit review professional, the department shall accept

1 the recommendations provided by the licensed permit review
2 professional, unless the recommendations are clearly erroneous.

3 (e) Limitation.--The licensed permit review professional may
4 not make a final determination regarding the permit application.

5 (f) Qualifications.--A licensed permit review professional
6 must:

7 (1) Have successfully completed training in an
8 environmental education program prior to becoming a licensed
9 permit review professional.

10 (2) Have at least five years of relevant environmental
11 work experience prior to becoming a licensed permit review
12 professional.

13 (3) Have successfully completed a licensing program
14 administered by the department.

15 (4) Renew the license annually.

16 Section 305. Reports.

17 (a) General rule.--Annually, the department shall prepare
18 and make publicly available a report analyzing the permit review
19 program. The report shall be differentiated by the office
20 designated as the headquarters office and each regional office
21 and summarized on a Statewide basis.

22 (b) Contents.--The report shall include:

23 (1) The number and types of applications as provided for
24 in section 302(b) submitted to the primary headquarters
25 office or in each regional office.

26 (2) The number and types of applications, as provided
27 for in section 302(b), submitted to the primary headquarters
28 office or in each regional office and returned to the
29 applicant for deficiencies as identified in the
30 administrative and technical review.

1 (3) A description of the most prevalent reason that
2 applications in each category, as provided in section 302(b),
3 were returned to the primary headquarters office or in each
4 regional office.

5 (4) The number and types of permits, as provided for in
6 section 302(b), that were approved by the primary
7 headquarters office or in each regional office.

8 (5) The number and types of permits, as provided for in
9 section 302(b), denied by the primary headquarters office or
10 in each regional office.

11 (6) A description of the most prevalent reason that
12 applications in each category, as provided for in section
13 302(b), were denied by the primary headquarters office or in
14 each regional office.

15 (7) The number and types of applications, as provided
16 for in section 302(b), submitted to the primary headquarters
17 office or in each regional office, but were still pending at
18 the time the report was published.

19 (8) A description, based on the information contained in
20 the report, of the department's consistency in all aspects of
21 decision making and actions as they relate to reviewing
22 applications and issuing permits and the department's efforts
23 to promote such consistency by the regional offices.

24 Section 306. Appealable actions.

25 Any person aggrieved by a final decision of the department
26 under this act shall have the right, within 30 days from notice
27 of the action, to appeal the final action to the Environmental
28 Hearing Board in accordance with the act of July 13, 1988

29 (P.L.530, No.94), known as the Environmental Hearing Board Act,
30 and 2 Pa.C.S. Ch. 5 Subch. A (relating to practice and procedure

1 of Commonwealth agencies). The Environmental Hearing Board is
2 expressly granted jurisdiction over such appeals, including
3 review of final decisions of entities other than the department
4 and the authority to issue decisions that are binding on such
5 entities.

6 Section 307. Construction.

7 Nothing in this act shall be construed to modify:

8 (1) any requirement of law that is necessary to retain
9 Federal delegation to or assumption by the Commonwealth; or

10 (2) the authority to implement a Federal law or program.

11 Section 308. Effective date.

12 This act shall take effect in 120 days.