

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 504 Session of 2013

INTRODUCED BY DINNIMAN, RAFFERTY, FONTANA, KITCHEN, TARTAGLIONE, COSTA, ERICKSON, WASHINGTON, BREWSTER, HUGHES, YUDICHAK AND McILHINNEY, FEBRUARY 26, 2013

REFERRED TO ENVIRONMENTAL RESOURCES AND ENERGY, FEBRUARY 26, 2013

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; and prescribing the manner in which the  
 18 number and compensation of the deputies and all other  
 19 assistants and employes 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

1 (P.L.331, No.35), is amended to read:

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

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

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

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

1 Resources Board and for appeals from its decisions; fixing fees;  
2 granting to all public water supply agencies heretofore or  
3 hereafter created the right of eminent domain as to waters and  
4 the land covered by said waters; repealing all acts or parts of  
5 acts inconsistent herewith, including Act No.109, Pamphlet Laws  
6 152, approved April 13, 1905, Act No.307, Pamphlet Laws 455,  
7 approved June 7, 1907, Act No.64, Pamphlet Laws 258, approved  
8 April 8, 1937."

9 (iii) Water obstruction permits applied for pursuant to the  
10 act of November 26, 1978 (P.L.1375, No.325), known as the "Dam  
11 Safety and Encroachments Act."

12 (iv) Water quality permits, except permits relating to coal  
13 mining activities, applied for pursuant to the act of June 22,  
14 1937 (P.L.1987, No.394), known as "The Clean Streams Law."

15 (v) Solid waste and hazardous waste permits applied for  
16 pursuant to the act of July 7, 1980 (P.L.380, No.97), known as  
17 the "Solid Waste Management Act."

18 (1.1) The Department of Environmental Protection shall  
19 require every applicant for a permit or permit revision of the  
20 types listed in clause (1)(i), (ii), (iii) and (iv) to give  
21 written notice of the following to each landowner owning land in  
22 the area of concern and to each resident in the area of concern:

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

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

30 (iii) The date, location and time of any hearing scheduled

1 by the Department of Environmental Protection regarding the  
2 permit application, to be provided at least five (5) days prior  
3 to the hearing date.

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

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

23 (4) When the department issues an emergency permit to  
24 respond to or alleviate an actual or imminent threat to life,  
25 property or the environment, such as activities conducted in  
26 compliance with the emergency response provisions of the Natural  
27 Gas Pipeline Safety Act of 1968 (Public Law 90-481, 49 U.S.C. §  
28 1671 et seq.) and 49 CFR 192.615 (relating to emergency plans),  
29 the provisions of clause (2) and any other provision in  
30 regulation requiring notice to the affected municipality shall

1 not apply. The applicant shall notify the affected municipality  
2 of an emergency permit as soon as possible verbally and provide  
3 a 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) Notwithstanding any provision of law to the contrary,  
17 the Department of Environmental Protection shall post in its  
18 entirety on its publicly accessible Internet website each  
19 application for a permit and permit revision listed in  
20 subsection (b) (1) and all related supporting documents submitted  
21 to the Department of Environmental Protection.

22 (e) Definitions.--As used in this section, the following  
23 words and phrases shall have the meanings given to them in this  
24 subsection unless the context clearly indicates otherwise:

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

26 (1) An area defined by a radius of one-half mile from the  
27 center of a proposed permit activity or, where an activity is  
28 not centralized, an area extending one-half mile beyond the  
29 boundary of the proposed activity.

30 (2) An area where one or more impacts of the type for which

1 the Department of Environmental Protection is authorized to  
2 analyze are anticipated.

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

7 "Resident." A unit owner or proprietary lessee of a common  
8 interest property established under Title 68 of the Pennsylvania  
9 Consolidated Statutes (relating to real and personal property)  
10 or a lessee of any building or portion thereof that is leased as  
11 a residence.

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