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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 402 Session of  
2017

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INTRODUCED BY BARTOLOTTA, RESCHENTHALER, SCARNATI, YAW,  
VULAKOVICH, WARD, STEFANO, WAGNER, VOGEL, WHITE, MENSCH,  
BROWNE, AUMENT AND MARTIN, FEBRUARY 27, 2017

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REFERRED TO ENVIRONMENTAL RESOURCES AND ENERGY,  
FEBRUARY 27, 2017

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AN ACT

1 Providing for erosion and sediment control requirements.

2 The General Assembly of the Commonwealth of Pennsylvania

3 hereby enacts as follows:

4 Section 1. Short title.

5 This act shall be known and may be cited as the Erosion and  
6 Sediment Control Act.

7 Section 2. Definitions.

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

11 "Administratively complete." Contains the necessary  
12 information, maps, fees and other documents requested as part of  
13 the permit application process, notwithstanding whether the  
14 information, maps and other documents would be sufficient to  
15 justify issuance of the permit.

16 "Conservation district." A conservation district, as defined

1 in section 3(c) of the act of May 15, 1945 (P.L.547, No.217),  
2 known as the Conservation District Law, which has a delegation  
3 agreement executed with the department to administer and enforce  
4 all or a portion of the requirements under 25 Pa. Code Ch. 102  
5 (relating to erosion and sediment control).

6 "Department." The Department of Environmental Protection of  
7 the Commonwealth.

8 "Earth disturbance." A construction activity or other human  
9 activity which disturbs the surface of the land.

10 "Expedited application." An application for a permit which  
11 is signed and sealed by a licensed professional.

12 "Licensed professional." A professional engineer, landscape  
13 architect, geologist or land surveyor licensed to practice in  
14 this Commonwealth.

15 "Oil and gas activities." Activities associated with oil and  
16 gas exploration, production, gathering, processing, treatment  
17 operations or transmission facilities.

18 "Permit." An erosion and sediment control permit required  
19 under this act.

20 Section 3. Erosion and sediment control permits.

21 (a) Permit requirement.--A person seeking to commence a  
22 project involving oil and gas activities that will cause five  
23 acres or more of earth disturbance at one time shall submit an  
24 application and obtain an erosion and sediment control permit  
25 from the department or a conservation district before commencing  
26 the project.

27 (b) Review and issuance of permit.--The following apply:

28 (1) The department or conservation district shall  
29 complete a review of a permit application within five  
30 business days of receipt to determine whether the permit

1 application is administratively complete, including entering  
2 receipt of the application into the department's publicly  
3 accessible online permit tracking system. If a permit  
4 application is determined to be incomplete, the applicant  
5 shall be notified in writing within five business days. The  
6 notification shall specify the deficiency of the permit  
7 application.

8 (2) If a permit application complies with 25 Pa. Code  
9 Ch. 102 (relating to erosion and sediment control) and is  
10 complete as determined by the department or a conservation  
11 district, the department or conservation district shall issue  
12 a permit to the applicant within 43 business days of  
13 determining that the application is administratively complete  
14 or within 14 business days of determining that the  
15 application is administratively complete in the case of an  
16 expedited application.

17 (3) If the department determines that the permit  
18 application is technically deficient in that it does not  
19 comply with 25 Pa. Code Ch. 102, notification to the  
20 applicant shall specify each provision with which the  
21 application does not comply. Nothing under this paragraph  
22 shall be construed to extend the permit review time periods  
23 under paragraph (2).

24 (4) The department shall create and implement an  
25 expedited permit process for an application which is signed  
26 and sealed by a licensed professional. An expedited permit  
27 may be utilized for all projects except the following:

- 28 (i) Projects in a watershed designated as high  
29 quality or exceptional value under 25 Pa. Code Ch. 93  
30 (relating to water quality standards).

1 (ii) Projects located entirely in or on a  
2 floodplain.

3 (iii) Projects on lands that are known to be  
4 currently contaminated by the release of regulated  
5 substances as defined in section 103 of the act of May  
6 19, 1995 (P.L.4, No.2), known as the Land Recycling and  
7 Environmental Remediation Standards Act.

8 (iv) Transmission projects.

9 (5) If a permit application is denied, the department or  
10 conservation district shall notify the applicant in writing  
11 within five business days of denying the permit application.  
12 The notification shall specify the justification for denying  
13 the permit application, including citing the relevant law or  
14 regulation of this Commonwealth which is not sufficiently  
15 addressed in the permit.

16 Section 4. Compliance with laws of this Commonwealth.

17 The department or a conservation district shall utilize a  
18 general permit to implement this act. The general permit shall  
19 impose only those terms that are strictly necessary to ensure  
20 compliance with the laws of this Commonwealth administered by  
21 the department.

22 Section 5. Fees.

23 A permit application shall be accompanied by a \$500  
24 administrative filing fee, plus an additional \$100 for each  
25 disturbed acre. Fees shall be paid to the primary reviewing  
26 entity in the event that both the department and a conservation  
27 district completes the review. No earlier than three years after  
28 the effective date of this section, the Environmental Quality  
29 Board may, by regulation, increase the fee to cover the  
30 administrative costs of processing the permit applications.

1 Section 6. Quarterly reports.

2 (a) Contents.--The department shall submit a quarterly  
3 report to the Environmental Resources and Energy Committee of  
4 the Senate and the Environmental Resources and Energy Committee  
5 of the House of Representatives detailing the department's  
6 implementation of this act. The report shall contain the  
7 following:

8 (1) The number of permit applications received in the  
9 prior 12 months.

10 (2) The number of applications approved.

11 (3) The average time frame from date of submission for  
12 administrative review of permit applications, organized by  
13 the regional office of the department.

14 (4) The average time frame from the date of submission  
15 for technical review of applications organized by the  
16 regional office of the department.

17 (5) The number of permit application reviewers on staff  
18 in the department, organized by regional office of the  
19 department.

20 (6) The average workload of each permit application  
21 reviewer, which shall be organized by the regional office of  
22 the department.

23 (7) Primary reasons for administrative or technical  
24 deficiencies or permit application denials, including the  
25 citations to the relevant law or regulation of this  
26 Commonwealth which were not sufficiently addressed in each  
27 application, which shall be organized by the regional office  
28 of the department.

29 (8) The number of licensed professionals sanctioned by  
30 the department due to the submission of routinely deficient

1 expedited applications and the primary reasons for the  
2 sanctions.

3 (9) Details, including dates and locations, of  
4 professional trainings administered or sponsored by the  
5 department related to the permit requirements imposed under  
6 this act.

7 (10) Other relevant information as determined by the  
8 department.

9 (b) Submission.--The initial quarterly report shall be  
10 submitted within 60 days of the effective date of this  
11 subsection. Subsequent quarterly reports shall be submitted no  
12 later than 30 days after the last day of the preceding quarter.

13 Section 7. Annual evaluation.

14 The department shall annually commission an evaluation of the  
15 erosion and sediment control permit review process. The  
16 evaluation shall be conducted by a qualified, third-party entity  
17 knowledgeable in the department's permitting application  
18 process. The evaluation shall, at a minimum, examine and include  
19 the following:

20 (1) Consistency in application review time frames and  
21 criteria among the department's regional offices, including  
22 among conservation districts.

23 (2) Adherence by department and conservation district  
24 permit review staff to established permit review protocols.

25 (3) Sufficiency of available professional trainings for  
26 department and conservation district permit review staff and  
27 the regulated community.

28 (4) Recommendations on increasing the effectiveness,  
29 consistency and predictability of the permit review process.

30 Section 8. Construction.

1        Nothing in this act shall be construed to exempt a person  
2 seeking to commence a project involving oil and gas activities  
3 that will cause less than five acres of earth disturbance and  
4 that is not required to obtain a permit from complying with  
5 other applicable provisions of 25 Pa. Code Ch. 102 (relating to  
6 erosion and sediment control).

7 Section 9. Effective date.

8        This act shall take effect in 30 days.