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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 726 Session of  
2019

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INTRODUCED BY BARTOLOTTA, LANGERHOLC, REGAN, ARGALL, WHITE,  
K. WARD, HUTCHINSON, MENSCH, J. WARD AND STEFANO,  
JUNE 6, 2019

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REFERRED TO ENVIRONMENTAL RESOURCES AND ENERGY, JUNE 6, 2019

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AN ACT

1 Amending the act of July 13, 1988 (P.L.530, No.94), entitled "An  
2 act establishing the Environmental Hearing Board as an  
3 independent, quasi-judicial agency; providing for the  
4 membership and staff, the powers and duties, the seats and  
5 the existing members of the board; transferring certain  
6 funds; and making repeals," further providing for definitions  
7 and for jurisdiction.

8 The General Assembly of the Commonwealth of Pennsylvania  
9 hereby enacts as follows:

10 Section 1. Section 2 of the act of July 13, 1988 (P.L.530,  
11 No.94), known as the Environmental Hearing Board Act, is amended  
12 to read:

13 Section 2. Definitions.

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

17 "Board." The Environmental Hearing Board of the  
18 Commonwealth.

19 "Department." The Department of Environmental [Resources]  
20 Protection of the Commonwealth.

1 "Record of decision." A decision justification document  
2 prepared by the department. The term includes any department  
3 correspondence on a permit application to an applicant,  
4 including administrative completeness determination, technical  
5 deficiency letter and written response to the department by an  
6 applicant, summary of the department's written response to  
7 public comment on a permit application, applicant written  
8 response to public comment, other State agency written comment  
9 to a permit application and written response by the department  
10 or permit applicant.

11 "Rules committee." The Environmental Hearing Board Rules  
12 Committee established under section 5.

13 "Secretary." The Secretary of Environmental Resources of the  
14 Commonwealth.

15 Section 2. Section 4 of the act is amended by adding a  
16 subsection to read:

17 Section 4. Jurisdiction.

18 \* \* \*

19 (c.1) Standard of review.--In an appeal of a permit issued  
20 by the department in which a record of decision has been  
21 prepared by the department at the time of the permit decision,  
22 the standard for review by the board shall be exclusively  
23 limited to the record of decision. The moving party must prove  
24 by the preponderance of evidence contained in the record of  
25 decision that the department's action in issuing or denying the  
26 permit was arbitrary and capricious.

27 \* \* \*

28 Section 3. This act shall take effect in 60 days.