
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1040 Session of
2020

INTRODUCED BY BARTOLOTTA, SCARNATI, J. WARD, PITTMAN, MENSCH,
HUTCHINSON, STEFANO AND K. WARD, FEBRUARY 19, 2020

REFERRED TO ENVIRONMENTAL RESOURCES AND ENERGY,
FEBRUARY 19, 2020

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
17 in section 3(c) of the act of May 15, 1945 (P.L.547, No.217),

1 known as the Conservation District Law, which has a delegation
2 agreement executed with the department to administer and enforce
3 all or a portion of the requirements under 25 Pa. Code Ch. 102
4 (relating to erosion and sediment control).

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

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

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

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

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

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

19 Section 3. Erosion and sediment control permits.

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

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

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

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

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

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

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

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

30 (ii) Projects located entirely in or on a

1 floodplain.

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

7 (iv) Transmission projects.

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

15 Section 4. Compliance with laws of this Commonwealth.

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

21 Section 5. Fees.

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

30 Section 6. Quarterly reports.

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

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

9 (2) The number of applications approved.

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

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

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

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

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

28 (8) The number of licensed professionals sanctioned by
29 the department due to the submission of routinely deficient
30 expedited applications and the primary reasons for the

1 sanctions.

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

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

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

12 Section 7. Annual evaluation.

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

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

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

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

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

29 Section 8. Construction.

30 Nothing in this act shall be construed to exempt a person

1 seeking to commence a project involving oil and gas activities
2 that will cause less than five acres of earth disturbance and
3 that is not required to obtain a permit from complying with
4 other applicable provisions of 25 Pa. Code Ch. 102 (relating to
5 erosion and sediment control).

6 Section 9. Effective date.

7 This act shall take effect in 30 days.