
THE GENERAL ASSEMBLY OF PENNSYLVANIA

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INTRODUCED BY FRITZ, BERNSTINE, HAMM, LEWIS DELROSSO, MILLARD,
MOUL, JOZWIAK, PICKETT AND ZIMMERMAN, MARCH 8, 2022

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,
MARCH 8, 2022

AN ACT

1 Amending Title 27 (Environmental Resources) of the Pennsylvania
2 Consolidated Statutes, providing for permit review process
3 and establishing the Permitting Technology Restricted
4 Account.

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

7 Section 1. Title 27 of the Pennsylvania Consolidated
8 Statutes is amended by adding a chapter to read:

9 CHAPTER 42

10 PERMIT REVIEW PROCESS

11 Subchapter

12 A. General Provisions

13 B. Procedures

14 SUBCHAPTER A

15 GENERAL PROVISIONS

16 Sec.

17 4201. Scope of chapter.

18 4202. Definitions.

1 4203. Permit decision time periods.

2 4204. Permit coordination.

3 4205. Public permit tracking system.

4 4206. Application manager.

5 4207. Appeals.

6 § 4201. Scope of chapter.

7 This chapter applies to the process for review of each permit
8 issued by the Department of Environmental Protection.

9 § 4202. Definitions.

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

13 "Applicant." A person or other entity who has submitted an
14 application to the department to conduct an activity authorized
15 by the department.

16 "Application." A request for an approval by the department
17 for a new permit, a permit renewal, a permit amendment, a permit
18 modification or a permit transfer.

19 "Application manager." The department employee who is
20 designated under section 4211(c) (relating to preapplication
21 conference) or 4212(b) (relating to receipt of application).

22 "Appropriate program." The deputate, bureau, district,
23 division or office within the department which is responsible
24 for reviewing an application.

25 "Completeness review." The review of an application's
26 completeness under section 4213 (relating to completeness review
27 of application).

28 "Department." The Department of Environmental Protection of
29 the Commonwealth.

30 "Elevated review." The review for technical adequacy under

1 section 4215 (relating to elevated review process for
2 application).

3 "Permit." An authorization issued by the department to
4 perform an activity regulated by the department. The term
5 includes permits, plan approvals, registrations under general
6 permits, applications for a change in ownership, plan approvals
7 or requests for determination for an air contaminant source,
8 requests for determination or registrations for a general permit
9 or any other request for approval to undertake an action
10 requiring the department's approval under the department's
11 regulatory authority. The term does not include certifications
12 and licenses.

13 "Permit decision." An approval or denial of an application
14 under section 4216 (relating to permit decisions for
15 application).

16 "Public permit tracking system." The tracking system under
17 section 4205 (relating to public permit tracking system).

18 "Technical review." The review of technical adequacy under
19 section 4214 (relating to technical review of application).

20 § 4203. Permit decision time periods.

21 (a) Permit decision time period policy.--The department
22 shall establish a policy providing for certain time periods for
23 permit decisions for permits which have been accepted under
24 section 4213(f) (relating to completeness review of
25 application). A time period in the policy may not exceed a time
26 period required by law or regulation.

27 (b) Initial permit decision time period policy.--No later
28 than 15 days after the effective date of this subsection, the
29 department shall transmit a notice of the policy under
30 subsection (a) to the Legislative Reference Bureau for

1 publication in the Pennsylvania Bulletin. The notice under this
2 subsection shall be that the information under Appendix A of the
3 policy published by the department entitled Policy for
4 Implementing the Department of Environmental Protection
5 (Department) Permit Review Process and Permit Decision Guarantee
6 Document Number 021-2100-001, effective November 2, 2012, that
7 was subject to notice of availability of technical guidance in
8 the Pennsylvania Bulletin at 42 Pa.B. 6961 (November 3, 2012)
9 shall be the initial permit review timelines under this
10 subsection.

11 (c) Revisions to permit decision time period policy.--No
12 earlier than 90 days after the publication of the notice under
13 subsection (b), the department may revise the policy under
14 subsection (a) after providing notice and an opportunity for
15 public comment. A revised policy shall be effective upon
16 publication of notice in the Pennsylvania Bulletin that the
17 policy has been revised, which shall be no earlier than 30 days
18 after the publication of the initial notice.

19 (d) Preapplication conference.--The policy, upon revision
20 under subsection (c), shall identify the applications for which
21 the department recommends a preapplication conference.

22 (e) Expedited permit review.--

23 (1) The policy under subsection (a) shall provide
24 expedited time periods for review of applications for which
25 an applicant submits an additional fee to be established by
26 the department. An additional fee under this subsection may
27 not be higher than 50% of the amount of a fee required by law
28 to be paid to the department with the submission of an
29 application. An expedited time period for review of
30 applications may not be more than half of the time period

1 established under subsection (a).

2 (2) Amounts received from the additional fee imposed
3 under this subsection shall be deposited in the Permitting
4 Technology Restricted Account established under paragraph
5 (3).

6 (3) The Permitting Technology Restricted Account is
7 established as a restricted account in the General Fund.
8 Money in the restricted account is hereby appropriated on a
9 continuing basis to the department for the improvement,
10 maintenance and expansion of information technology related
11 to permit reviews under this chapter.

12 § 4204. Permit coordination.

13 (a) Permit coordination policy.--The department shall
14 establish a policy for the timely and efficient coordination of
15 reviews under this chapter with other reviews of the activity
16 which is the subject of the application by another governmental
17 body.

18 (b) Coordination with other governmental bodies.--The policy
19 under subsection (a) shall include the coordination between the
20 department and other Commonwealth agencies, interstate
21 commissions, Federal agencies and any other governmental body
22 which has a role under law in approving the activity which is
23 the subject of the application.

24 (c) Intradepartmental coordination.--The policy under
25 subsection (a) shall include the coordination among deputates,
26 bureaus, district divisions or offices of the department which
27 have a role in assisting review of the permit.

28 § 4205. Public permit tracking system.

29 The department shall maintain a publicly accessible
30 electronic system to track the status of applications, including

1 the dates associated with the receipt of applications,
2 acceptances, completeness reviews, technical reviews, elevated
3 review processes and permit decisions.

4 § 4206. Application manager.

5 The department shall assign a department employee from the
6 appropriate program to serve as the application manager for each
7 application. An application manager shall be the primary point
8 of contact between the applicant and the department.

9 § 4207. Appeals.

10 (a) Right of appeal.--In addition to any right of appeal of
11 any action of the department provided in law, the following
12 shall be deemed to be a decision of the department under section
13 4(a) of the act of July 13, 1988 (P.L.530, No.94), known as the
14 Environmental Hearing Board Act:

15 (1) The department's failure to complete the
16 completeness review within the time period under section
17 4213(b) (relating to completeness review of application).

18 (2) The department's determination of completeness under
19 section 4213(d).

20 (3) The department's failure to complete the technical
21 review within the time period under section 4214(b) (relating
22 to technical review of application).

23 (4) The department's determination of technical adequacy
24 under section 4214(d).

25 (5) The department's failure to complete the elevated
26 review in the time period under section 4215(d) (relating to
27 elevated review process for application).

28 (6) The department's failure to issue a permit decision
29 as provided under section 4216(e) (relating to permit
30 decisions for application).

1 (b) Remedy.--An appeal of an action under subsection (a) may
2 be remedied by order of the Environmental Hearing Board.

3 SUBCHAPTER B

4 PROCEDURES

5 Sec.

6 4211. Preapplication conference.

7 4212. Receipt of application.

8 4213. Completeness review of application.

9 4214. Technical review of application.

10 4215. Elevated review process for application.

11 4216. Permit decisions for application.

12 § 4211. Preapplication conference.

13 (a) Request for preapplication conference.--A person or
14 other entity may request a preapplication conference with the
15 department prior to the submission of an application in
16 accordance with this section.

17 (b) Scheduling of preapplication conference.--If a request
18 under subsection (a) is deemed necessary or advisable by the
19 department, the department shall schedule a preapplication
20 conference.

21 (c) Assignment of application manager.--Upon scheduling a
22 preapplication conference, the department shall assign the
23 application an application manager.

24 (d) Attendees.--Any of the following may attend a
25 preapplication conference:

26 (1) The applicant.

27 (2) The applicant's consultant.

28 (3) The applicant's legal counsel.

29 (4) Department employees who are responsible for the
30 appropriate program.

1 (5) The regional director.

2 (6) The application manager.

3 (7) At the request of the department, a governmental
4 body under section 4204(b) (relating to permit coordination).

5 (e) Topics.--The preapplication conference shall address
6 topics which shall assist the applicant in submitting an
7 application which meets the requirements of sections 4213(d)
8 (relating to completeness review of application) and 4214(d)
9 (relating to technical review of application) and to assist the
10 department in gaining a better understanding of the subject of
11 the application before the application is submitted to the
12 department. Topics under this subsection may include any of the
13 following:

14 (1) The number and type of permits needed for the
15 activity which is the subject of the application.

16 (2) The forms necessary for the application and any
17 relevant guidance that the department shall reference when
18 reviewing the application.

19 (3) A discussion with a governmental entity subject to
20 the permit coordination policy under section 4204.

21 (4) A discussion of the need for public meetings and
22 public hearings.

23 (5) The applicable permit timeline under section 4203
24 (relating to permit decision time periods).

25 (6) If multiple permits would be required, an
26 appropriate project schedule.

27 § 4212. Receipt of application.

28 (a) Tracking of application.--Upon receipt of an application
29 and any fees which are required by law to be paid for the
30 application or a resubmitted application, including an

1 application resubmitted under subsection (d) or section 4213(e)
2 (relating to completeness review of application), the department
3 shall log the receipt of the application into the public permit
4 tracking system.

5 (b) Application managers.--If an application logged under
6 subsection (a) does not have an application manager assigned
7 under section 4211(c) (relating to preapplication conference),
8 the department shall assign the application an application
9 manager.

10 (c) Referral.--Upon the receipt of an application under
11 subsection (a) and the assignment of an application manager, the
12 department shall refer the application to the appropriate
13 program within the department for a completeness review.

14 (d) Substantive changes.--Except for a change which results
15 from a technical deficiency letter under section 4214(e)
16 (relating to technical review of application) or information or
17 input taken from a public comment or hearing, an application
18 subject to a substantive project or design change made by an
19 applicant before a permit decision shall be deemed a new
20 application for the purposes of this chapter.

21 § 4213. Completeness review of application.

22 (a) Review.--Upon receipt of an application referred under
23 section 4212(c) (relating to receipt of application), the
24 department shall conduct a completeness review of the
25 application in accordance with this section.

26 (b) Duration of review.--The department shall complete the
27 completeness review within 10 business days from the date of
28 receipt of the application under subsection (a).

29 (c) Minor deficiencies.--The department shall attempt to
30 address minor deficiencies and omissions in an application that

1 may be easily corrected via a telephone call or an electronic
2 communication with the applicant prior to making a determination
3 under subsection (d).

4 (d) Determination of completeness.--The department shall
5 determine that an application is complete if the application
6 contains all the necessary information, maps, fees and other
7 documents in sufficient detail to allow a technical review to be
8 performed. A review under this subsection shall not include a
9 review of matters reviewable under section 4214 (relating to
10 technical review of application).

11 (e) Incompleteness.--Except as otherwise provided by law, if
12 an application is not determined to be complete under subsection
13 (d), the department shall send the applicant a notice of denial
14 via certified mail. The notice of denial shall specify the
15 reason for the denial and the applicable statutory and
16 regulatory requirements which were not met by the application.
17 An application which is revised and resubmitted after being
18 denied under this paragraph shall be deemed a new application.

19 (f) Acceptance.--An application which is determined to be
20 complete under subsection (d) shall be deemed accepted by the
21 department and referred for a technical review. The department
22 shall log the determination into the public permit tracking
23 system as soon as practical, but no later than two business days
24 after the permit is deemed accepted.

25 § 4214. Technical review of application.

26 (a) Review.--Upon receipt of an application under section
27 4213(f) (relating to completeness review of application), the
28 department shall conduct a technical review of the application
29 in accordance with this section.

30 (b) Duration of review.--The department shall determine

1 whether the application meets the requirements under this
2 section within the time period specified by the policy under
3 section 4203 (relating to permit decision time periods).

4 (c) Use of guidance.--Technical guidance may not be used or
5 cited in a notice of deficiency under subsection (e).

6 (d) Determination of technical adequacy.--The department
7 shall determine that an application is technically adequate if
8 it contains the necessary scientific and engineering information
9 and project design to satisfy the applicable statutory and
10 regulatory requirements.

11 (e) Notice of deficiency.--If an application is not
12 determined to be technically adequate under subsection (d), the
13 department shall send the applicant a notice of deficiency via
14 certified mail. The department may request to meet and discuss
15 the deficiencies with the applicant. The notice of deficiency
16 shall describe the deficiency and the applicable statutory and
17 regulatory requirements which are not met by the application. A
18 technically deficient application that has not been made
19 technically adequate within the time period specified under
20 subsection (b) shall be referred for elevated review.

21 (f) Referral for elevated review.--A technically deficient
22 application that has not been made technically adequate within
23 the time period specified under subsection (b) shall be referred
24 for elevated review.

25 (g) Determination of technical adequacy.--An application
26 which is determined to be technically adequate under subsection
27 (d) shall be referred for a permit decision. The department
28 shall log the determination into the public permit tracking
29 system.

30 § 4215. Elevated review process for application.

1 (a) Review.--Upon referral of an application for elevated
2 review under section 4214(f) (relating to technical review of
3 application), the department shall conduct an elevated review
4 under this section.

5 (b) Discussion of deficiencies.--Department employees,
6 including the application manager and applicable supervisory
7 employee, shall discuss the details of the application which has
8 been referred for elevated review and its deficiencies. The
9 department employees shall determine how to conduct the elevated
10 review of the application.

11 (c) Coordination with applicant.--The elevated review of the
12 application may include an in-person meeting or a conference
13 call with the applicant.

14 (d) Duration.--An elevated review shall be completed no
15 later than 15 days after the referral of the application under
16 section 4214(f).

17 (e) Additional time.--If the elevated review does not result
18 in an application which is technically adequate under section
19 4214(d), the department shall provide the applicant with an
20 additional 10 days to make the application technically complete.

21 (f) Supervisor review.--If the elevated review does not
22 result in an application which is technically adequate under
23 section 4214(d), the deficiencies shall be reviewed by a
24 supervisor of the application manager. If deficiencies persist
25 after the review by the supervisor of the application manager,
26 the supervisor may refer the application for a permit decision
27 of denial under section 4216(c) (relating to permit decisions
28 for application).

29 § 4216. Permit decisions for application.

30 (a) Permit decision.--An application which is referred for a

1 permit decision shall receive a permit decision under this
2 section.

3 (b) Approval of application.--An application which is
4 complete and technically adequate and meets the applicable
5 statutory and regulatory requirements shall be approved. The
6 department shall log the approval into the public permit
7 tracking system as soon as practical, but no later than two
8 business days after the permit is approved.

9 (c) Denial of application.--An application may be denied if
10 the application has a technical deficiency after technical
11 review and elevated review and does not meet the applicable
12 statutory and regulatory requirements. An application which is
13 denied shall forfeit required fees to the department.

14 (d) Resubmission.--An application which is denied and then
15 resubmitted shall be considered a new application for the
16 purposes of this chapter.

17 (e) Next actionable application.--An application which has
18 been accepted under section 4213(f) (relating to completeness
19 review of application) and which has not been approved or denied
20 under this section within the time period specified in the
21 policy under section 4203 (relating to permit decision time
22 periods) shall be the next actionable application within the
23 appropriate program and shall receive an approval or disapproval
24 under this section within five business days after the
25 expiration of the time period.

26 (f) Failure to issue expedited permit application.--Failure
27 to issue an expedited permit application within the expedited
28 permit time frame shall result in the refund by the department
29 of the additional permit application fee paid under section
30 4203(e).

1 (g) Tracking approvals or denials.--Upon approval or denial
2 of an application under this section, the department shall log
3 the approval or denial into the public permit tracking system as
4 soon as practical, but no later than two business days after the
5 decision under this section.

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