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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 364 Session of  
2023

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INTRODUCED BY BARTOLOTTA, ROTHMAN, STEFANO AND HUTCHINSON,  
FEBRUARY 21, 2023

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REFERRED TO ENVIRONMENTAL RESOURCES AND ENERGY,  
FEBRUARY 21, 2023

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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  
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 a permit from the department or a  
24 conservation district before commencing the project.

25 (b) Review and issuance of permit.--

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

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

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

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

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

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

29 (ii) Projects located entirely in or on a  
30 floodplain.

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

6 (iv) Transmission projects.

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

14 Section 4. Compliance with laws of this Commonwealth.

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

20 Section 5. Fees.

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

29 Section 6. Quarterly reports.

30 (a) Contents.--The department shall submit a quarterly

1 report to the Environmental Resources and Energy Committee of  
2 the Senate and the Environmental Resources and Energy Committee  
3 of the House of Representatives detailing the department's  
4 implementation of this act. The report shall contain the  
5 following:

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

8 (2) The number of applications approved.

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

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

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

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

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

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

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

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

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

11 Section 7. Annual evaluation.

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

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

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

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

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

28 Section 8. Construction.

29 Nothing in this act shall be construed to exempt a person  
30 seeking to commence a project involving oil and gas activities

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

5 Section 9. Effective date.

6 This act shall take effect in 30 days.