

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1107 Session of 2019

INTRODUCED BY O'NEAL, TURZAI, KAUFER, MIHALEK, KAIL, FRITZ, TOOHIL, NELSON, PUSKARIC, GILLESPIE, GREINER, ROTHMAN, BERNSTINE, MOUL, KAUFFMAN, CAUSER, DUNBAR, ZIMMERMAN, OWLETT, SCHMITT, MILLARD, GLEIM, HERSHEY, GILLEN, STRUZZI, EVERETT, TOPPER, ORTITAY, RADER, SANKEY, WARNER, REESE, RYAN, DIAMOND, MARSHALL, PICKETT, ECKER, LEWIS, WALSH, DOWLING, M. K. KELLER, GABLER, DAY, MASSER, RIGBY, HEFFLEY, SCHEMEL, B. MILLER, TOBASH AND BENNINGHOFF, APRIL 29, 2019

AS REPORTED FROM COMMITTEE ON STATE GOVERNMENT, HOUSE OF REPRESENTATIVES, AS AMENDED, SEPTEMBER 18, 2019

AN ACT

1 Amending Title 27 (Environmental Resources) of the Pennsylvania
2 Consolidated Statutes, establishing the Pennsylvania
3 Permitting Commission and providing for its powers and
4 duties.

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

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

CHAPTER 9

PENNSYLVANIA PERMITTING COMMISSION

11 Sec.

12 901. Scope of chapter.

13 902. Legislative findings.

14 903. Definitions.

15 904. Pennsylvania Permitting Commission.

1 905. Powers and duties of commission.

2 906. Regulations.

3 907. Report.

4 908. Construction.

5 909. Limitation.

6 § 901. Scope of chapter.

7 This chapter relates to the Pennsylvania Permitting  
8 Commission.

9 § 902. Legislative findings.

10 The General Assembly finds and declares as follows:

11 (1) It is the Commonwealth's constitutional  
12 responsibility to conserve and maintain Pennsylvania's public  
13 natural resources for generations yet to come.

14 (2) The Commonwealth fulfills this mission in part  
15 through the granting of permits and other approvals by the  
16 Department of Environmental Protection for specific regulated  
17 activities.

18 (3) The department's permitting function places  
19 significant responsibilities and obligations on the regulated  
20 community, including individuals, small businesses and local  
21 governments.

22 (4) Delays in making permitting decisions often have  
23 significant impacts on the individual, government and  
24 business planning processes and do not enhance the ability of  
25 the department to protect the Commonwealth's natural  
26 resources.

27 (5) Both the Commonwealth and its diverse population  
28 have a vital interest in timely answers within reasonable  
29 time frames but not at the expense of the environment.

30 § 903. Definitions.

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

4 "Commission." The Pennsylvania Permitting Commission  
5 established in this chapter.

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

8 "Displaced employee." A salaried employee of the department  
9 whose employment is terminated as a sole and direct result of  
10 the implementation of this chapter. The term shall not include a  
11 person who is terminated for cause or who retires or resigns, is  
12 furloughed or is otherwise separated from employment for any  
13 other reason.

14 "Environmental law or laws." All Commonwealth statutes and  
15 regulations promulgated in accordance with the act of July 31,  
16 1968 (P.L.769, No.240), referred to as the Commonwealth  
17 Documents Law, relating to the protection of the environment.  
18 The term includes all Federal statutes and regulations relating  
19 to protection of the environment to the extent they are  
20 administered or enforced by the Commonwealth.

21 "General permit" or "general plan approval." A permit or  
22 plan approval required by an environmental law or laws issued  
23 for a category of activities in which projects in that category  
24 have been determined to be similar in nature and capable of  
25 being adequately regulated utilizing standardized specifications  
26 and conditions without the necessity of applying for and  
27 obtaining an individual permit.

28 "Individual permit." A permit required by an environmental  
29 law or laws issued on an individual application to engage in an  
30 activity that contains site-specific terms and conditions.

1 "Local government." A county, city, borough, incorporated  
2 town or township of this Commonwealth.

3 "Permit by rule" or "plan approval by rule." An alternative  
4 to an individual permit, general permit or general plan approval  
5 otherwise required by an environmental law or laws, by which a  
6 person is deemed to have an individual permit or coverage or  
7 authorization to proceed under a general permit or general plan  
8 approval through the issuance of a regulation to engage in a  
9 category of activities, without the necessity of applying for an  
10 individual permit or for coverage or authorization to proceed  
11 under a general permit or general plan approval, provided that  
12 the person complies with the conditions in the regulation.

13 § 904. Pennsylvania Permitting Commission.

14 (a) Establishment.--The Pennsylvania Permitting Commission  
15 is established.

16 (b) Membership.--

17 (1) The commission shall consist of five members who  
18 shall be appointed by the Governor no later than three months  
19 after the effective date of this section, by and with the  
20 advice and consent of two-thirds of all the members of the  
21 Senate, for a term of 10 years.

22 (2) The Governor may not nominate an individual as a  
23 member of the commission if, because of that individual's  
24 party affiliation under 25 Pa.C.S. Pt. IV (relating to voter  
25 registration) at the time of nomination, appointment of the  
26 individual would result in more than three members of the  
27 commission having the same party affiliation as the Governor.

28 (c) Qualifications.--

29 (1) Each member must be 25 years of age or older and a  
30 resident of this Commonwealth. At least two members shall be

1 professional engineers licensed by the Commonwealth.

2 (2) No person may serve as a member who occupies an  
3 official relation to a business or entity engaged in an  
4 activity regulated by the department or who holds any other  
5 appointive or elected office of the Commonwealth or political  
6 subdivision thereof.

7 (3) Members shall devote their full time to their  
8 official duties.

9 (4) No member shall hold any office or position, or be  
10 engaged in a business, employment or vocation, the duties of  
11 which are incompatible with the member's duties under this  
12 chapter.

13 (d) Ex officio member.--The Secretary of Environmental  
14 Protection shall serve on the commission as a nonvoting ex  
15 officio member. The secretary may be represented by a designee.

16 (e) Chairperson.--

17 (1) The Governor shall designate a member of the  
18 commission as the chairperson. The commission shall annually  
19 elect another member to serve as the vice chairperson.

20 (2) When present, the chairperson shall preside at all  
21 meetings, but in the chairperson's absence the vice  
22 chairperson or, in the vice chairperson's absence, a member  
23 designated by the chairperson, shall preside and shall  
24 exercise, for the time being, all the powers of the  
25 chairperson.

26 (3) The chairperson shall have such powers and duties as  
27 authorized by the commission under this chapter.

28 (f) Meetings.--The commission shall convene on a schedule to  
29 be determined by the chairperson, but at least once per month.

30 (g) Quorum.--

1       (1) A majority of the members of the commission serving  
2 in accordance with law shall constitute a quorum and the  
3 majority, acting unanimously, shall be required for any  
4 action, including the making of an order or the ratification  
5 of an act done or order made by one or more members of the  
6 commission.

7       (2) No vacancy on the membership of the commission shall  
8 impair the right of a quorum of the members to exercise all  
9 the rights and perform all the duties of the commission.

10      (h) Compensation.--The executive ~~committee~~ BOARD as <--  
11 established in the act of April 9, 1929 (P.L.177, No.175), known  
12 as The Administrative Code of 1929, shall establish the  
13 compensation of the members.

14      (i) Vacancies.--Vacancies on the commission shall be filled  
15 in the same manner as appointments, except that an appointment  
16 to fill a vacancy shall be limited to the remainder of the  
17 vacating member's unexpired term.

18 § 905. Powers and duties of commission.

19      (a) General rule.--The commission shall have the power and  
20 its duty shall be to administer the permitting and plan approval  
21 processes vested in the department by law.

22      (b) Specific powers.--The commission shall have the power  
23 to:

24          (1) Develop and implement individual and general  
25 permitting and plan approval requirements that comply with  
26 applicable environmental laws.

27          (2) Take prompt action on applications to issue, modify,  
28 renew or transfer individual permits or coverage or  
29 authorization to proceed under general permits or plan  
30 approvals.

1       (3) Develop simplified application and permit and plan  
2 approval forms for permits and plan approvals necessary to  
3 engage in activities regulated by the department.

4       (4) Promulgate regulations allowing for permits by rule.

5       (5) Establish recordkeeping requirements necessary to  
6 administer this chapter.

7       (6) Establish reasonable permitting and plan approval  
8 fees to cover the cost of administration of this chapter.

9       (7) Enter into agreements with county conservation  
10 districts to assist in the performance of the commission's  
11 duties.

12       (8) Establish such advisory committees as the commission  
13 deems appropriate to assist in the performance of the  
14 commission's duties.

15       (c) Transfer of duties.--The duties of the department  
16 relating to the issuance, modification, renewal or transfer of  
17 an individual permit or coverage or authorization to proceed  
18 under a general permit or plan approval are transferred to the  
19 commission.

20       (d) Transfer of resources.--

21       (1) All allocations, appropriations, equipment, files,  
22 records, contracts, agreements, obligations and other  
23 material which are used, employed or expended in connection  
24 with the powers, duties or functions of the department  
25 relating to the issuance, modification, renewal or transfer  
26 of an individual permit or coverage or authorization to  
27 proceed under a general permit or plan approval are  
28 transferred to the commission with the same force and effect  
29 as if the appropriations had been made to and the items had  
30 been the property of the commission in the first instance and

1 as if the contracts, agreements and obligations had been  
2 incurred or entered into by the commission.

3 (2) The appropriations, equipment and other items and  
4 material transferred by this section shall include Federal  
5 grants and funds and other benefits from any Federal program.

6 (3) The transfer of resources as required by this  
7 subsection shall not include current or displaced employees  
8 of the department.

9 (e) Displaced employees.--

10 (1) The department shall provide the ~~board~~ COMMISSION <--  
11 with a list of the department's displaced employees.

12 (2) The ~~board~~ COMMISSION shall interview displaced <--  
13 employees interested in employment with the ~~board~~ COMMISSION <--  
14 prior to interviewing other candidates.

15 (3) The Office of the Governor may also take any steps  
16 it deems to be reasonable and appropriate to secure the  
17 transfer of the displaced employees to other executive  
18 agencies under the Governor's jurisdiction.

19 (f) Continuation.--All orders, permits, plan approvals,  
20 regulations, decisions and other actions of the department  
21 relating to the permitting or plan approval of a regulated  
22 activity whose functions have been transferred by this chapter  
23 to the commission shall remain in full force and effect until  
24 modified, repealed, superseded in or otherwise changed by  
25 appropriate action of the commission or this chapter.

26 (g) Cooperation.--The department shall cooperate with the  
27 commission and other Commonwealth agencies in order to  
28 facilitate the orderly transition of duties specified in this  
29 section no later than one year from the date of the appointment  
30 and confirmation of all commission members under section 904(b)



1 (relating to Pennsylvania Permitting Commission), including  
2 cooperation to secure any necessary Federal approvals.  
3 § 906. Regulations.

4 (a) Authority.--The commission may formulate, adopt,  
5 promulgate and repeal such regulations as are necessary to carry  
6 out the commission's duties specified in this chapter.

7 (b) Temporary regulations.--

8 (1) In order to facilitate the prompt implementation of  
9 this chapter, the commission may promulgate temporary  
10 regulations which shall expire no later than three years  
11 following the publication of the temporary regulations. The  
12 commission may promulgate temporary regulations not subject  
13 to:

14 (i) Sections 201, 202, 203, 204 and 205 of the act  
15 of July 31, 1968 (P.L.769, No.240), referred to as the  
16 Commonwealth Documents Law.

17 (ii) Section 204(b) of the act of October 15, 1980  
18 (P.L.950, No.164), known as the Commonwealth Attorneys  
19 Act.

20 (iii) The act of June 25, 1982 (P.L.633, No.181),  
21 known as the Regulatory Review Act.

22 (2) The authority provided to the commission to adopt  
23 temporary regulations under paragraph (1) shall expire three  
24 years following the publication of the temporary regulations.  
25 Regulations adopted after this period shall be promulgated as  
26 provided by law.

27 § 907. Report.

28 Eighteen months after the effective date of this section and  
29 every year on that date thereafter, the commission shall issue a  
30 report to the Governor and each member of the General Assembly

1 on the general operation of the commission and the effectiveness  
2 of its operations, including, but not limited to, the timeliness  
3 of permitting and plan approval decisions, the effectiveness of  
4 its electronic permitting and plan approval system and any other  
5 information the commission deems necessary and appropriate.

6 § 908. Construction.

7 This chapter shall supersede any conflicting provisions in  
8 any other State law unless the provision specifically references  
9 this chapter and provides to the contrary.

10 § 909. Limitation.

11 Nothing in this chapter shall be construed as limiting the  
12 rights of local governments in the lawful performance of their  
13 duties.

14 Section 2. This act shall take effect in 90 days.