
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1352 Session of
2017

INTRODUCED BY BLOOM, PICKETT, TOPPER, WARD, MILLARD, SOLOMON,
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ROTHMAN, COX, SANKEY, HICKERNELL, MENTZER AND GABLER,
MAY 9, 2017

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,
MAY 9, 2017

AN ACT

1 Providing for review of certain applications submitted to the
2 Department of Environmental Protection.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the Pennsylvania
7 Alternative Permitting Act.

8 Section 2. Definitions.

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

12 "Applicant." A person that submits an application for a
13 permit to the department.

14 "Application." A submittal to the department by a person
15 that seeks or otherwise requests any of the following:

16 (1) New permit.

- 1 (2) Permit renewal.
- 2 (3) Permit amendment.
- 3 (4) Permit modification.
- 4 (5) Permit transfer.
- 5 (6) Change of ownership of permit.

6 "Board." The Environmental Quality Board of the
7 Commonwealth.

8 "Department." The Department of Environmental Protection of
9 the Commonwealth. The term includes a Commonwealth subdivision
10 with the authority to issue permits:

11 (1) on behalf of or in lieu of the Department of
12 Environmental Protection by delegation from or under a
13 cooperative agreement with the Commonwealth; or

14 (2) delegated from or authorized directly by the United
15 States.

16 "Licensed professional." A professional engineer, landscape
17 architect, geologist and land surveyor licensed to practice in
18 this Commonwealth.

19 "Permit." A general permit administered by the department.

20 "Person." An individual, firm, joint venture, partnership,
21 corporation, association, municipality, municipal authority,
22 cooperative association or joint stock association, including a
23 trustee, receiver, assignee or personal representative thereof.

24 Section 3. Applicability.

25 (a) General rule.--Except as provided in subsection (b), the
26 provisions of this act shall apply to the department and an
27 applicant that submits an application after the effective date
28 of this section.

29 (b) Exceptions.--This act shall not apply to any of the
30 following:

1 (1) A permit issued solely to comply with Federal law.

2 (2) A permit for a project that is subject to an
3 existing specific State statutory or regulatory review
4 deadline that is sooner than the applicable deadline under
5 this act. An additional permit related to the same project
6 that does not have a specific State statutory or regulatory
7 review deadline shall be reviewed in accordance with the
8 statutory or regulatory deadline for the permit exempted
9 under this paragraph.

10 (3) An administrative consent order or other enforcement
11 action relating to a permit or lack of permit.

12 (4) The revocation of a permit.

13 Section 4. Alternative review of applications certified by
14 licensed professional.

15 (a) Duty of department.--The department shall develop an
16 alternative review process for the submittal of an application
17 certified by a licensed professional, including a draft permit.
18 The process shall provide that the application be subject to
19 public notice, public hearing, or both, as necessary immediately
20 upon receipt and to technical review by personnel within the
21 department. The department shall develop:

22 (1) necessary forms to be used;

23 (2) a checklist for applicants that lists all items of
24 information required to prepare a complete application;

25 (3) the form of the certification required on the
26 application by a licensed professional; and

27 (4) information that must be included in a draft permit.

28 (b) Immediate initiation of review.--Upon receipt of an
29 application certified by a licensed professional and upon a
30 determination that the application is complete under

1 subsection (c), the department shall immediately:

2 (1) Publish any required notices, using the draft permit
3 included with the application.

4 (2) Schedule required public meetings or hearings on the
5 application and permit.

6 (3) Initiate a technical review of the application in a
7 manner to ensure substantial completion of the technical
8 review by the time of any public hearing on the application,
9 or, if there is no hearing, by the close of the comment
10 period.

11 (c) Completeness review.--

12 (1) Within 10 working days of receipt of the permit
13 application certified by a licensed professional, the
14 department shall determine whether the application is
15 complete.

16 (2) The department shall determine whether the
17 application is complete by comparing the information provided
18 in the application with the checklist contained in the rules
19 adopted by the board under this act.

20 (3) (i) If the application is not complete, the
21 department shall promptly notify the applicant in writing
22 of all deficiencies of the application and specify the
23 items that need to be included, modified or supplemented
24 in order to make the application complete. The 10-day
25 time period shall be suspended after the request for
26 further information.

27 (ii) If the applicant submits the requested
28 information within 10 days, the application shall be
29 considered with no delay in the review process and the
30 10-day time period shall be resumed on the day the

1 additional information was requested.

2 (iii) If the additional information is not submitted
3 within the time periods specified, the department shall
4 return the application to the applicant and the return of
5 the application shall be deemed as a denial of the
6 application. The applicant may resubmit the application
7 at a later time.

8 (4) If the department fails to notify the applicant that
9 the application is not complete within the time period
10 specified in this subsection, the application shall be deemed
11 to be complete.

12 (d) Time for permit decision.--

13 (1) If an application is found to be complete under
14 subsection (c), the department shall issue a permit decision
15 within 45 days of receipt by the department.

16 (2) If the department fails to issue a decision on an
17 application in accordance with the time specified in
18 paragraph (1), the application shall be deemed approved.

19 (e) Liability.--If an application is found to be complete
20 under subsection (c), and the department approves the permit
21 substantially in the form submitted by the applicant without
22 requiring any changes, liability for the permit review shall be
23 solely on the applicant and the licensed professional that
24 certified the application.

25 (f) Power to halt review.--At any time after the permit
26 application certified by a licensed professional is determined
27 to be complete under subsection (c), the department may
28 immediately terminate review of the application, including
29 technical review and meetings scheduled on the application, upon
30 a determination that:

1 (1) the application is not in substantial compliance
2 with this act or any other applicable law or regulation; or

3 (2) the applicant failed to pay the application fee.

4 (g) Rights if review halted.--If the department terminates
5 review of an application under subsection (f), the applicant
6 may:

7 (1) revise and resubmit the application;

8 (2) treat the action as a denial of the application and
9 appeal the action in accordance with the act of July 13, 1988
10 (P.L.530, No.94), known as the Environmental Hearing Board
11 Act; or

12 (3) appeal the denial directly to Commonwealth Court.

13 (h) Fee prohibited.--The department may not impose an
14 additional fee for the receipt or processing of an application
15 certified by a licensed professional.

16 (i) Construction.--Nothing in this section shall be
17 construed to require an application certified by a licensed
18 professional to be submitted to the department.

19 Section 5. Review of applications other than those certified by
20 licensed professional.

21 (a) Duty of department.--The department shall adopt time
22 frames for the review of a permit application submitted under
23 this act, other than an application certified by a licensed
24 professional. The time frames shall specify the maximum time for
25 the following actions in reviewing the application:

26 (1) Determining that the application is complete.

27 (2) Requesting additional information to determine
28 completeness.

29 (3) Determining that additional information is needed to
30 conduct a technical review of the application.

1 (4) Completing all technical reviews of the application.

2 (5) Holding and completing necessary public meetings and
3 hearings required for the application.

4 (6) Completing the record, including reviewing and
5 acting on the application.

6 (7) Taking final action on the permit, including
7 approving or denying the application.

8 (b) Final action.--The department shall not have more than
9 90 days following the submittal of a complete application to
10 take final action under this section.

11 Section 6. Report.

12 Upon the promulgation of regulations by the board to
13 effectuate the provisions of this act, and not later than
14 January 31 of each year thereafter, the department shall submit
15 an annual report to the General Assembly. At a minimum, the
16 report shall contain the following:

17 (1) Number of applications received in the prior
18 calendar year for each expedited review by a licensed
19 professional and other permits subject to this act.

20 (2) Number of applications approved for each expedited
21 review by a professional engineer and other permits subject
22 to this act.

23 (3) Average time frame for review of applications for
24 each expedited review by a licensed professional and other
25 permits subject to this act, organized by regional office of
26 the department.

27 (4) Number of permit reviewers on staff in the
28 department and the average workload of each permit reviewer,
29 organized by regional office of the department.

30 (5) Reasons cited for administrative or technical

1 deficiencies or permit denials.

2 Section 7. Construction.

3 Nothing in this act shall be construed to modify:

4 (1) any requirement of law that is necessary to retain
5 Federal delegation to or assumption by the Commonwealth; or

6 (2) the authority to implement a Federal law or program.

7 Section 8. Effective date.

8 This act shall take effect in 120 days.