

---

THE GENERAL ASSEMBLY OF PENNSYLVANIA

---

HOUSE BILL

No. 2043 Session of  
2021

---

INTRODUCED BY BULLOCK, KENYATTA, RABB, KINSEY, HILL-EVANS,  
N. NELSON, SCHLOSSBERG, SANCHEZ, GUENST AND PARKER,  
NOVEMBER 3, 2021

---

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,  
NOVEMBER 3, 2021

---

AN ACT

1 Amending Title 27 (Environmental Resources) of the Pennsylvania  
2 Consolidated Statutes, providing for issuance of permits in  
3 burdened communities.

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

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

8 CHAPTER 43

9 ISSUANCE OF PERMITS IN BURDENED COMMUNITIES

10 Sec.

11 4301. Definitions.

12 4302. Designation of burdened communities.

13 4303. Permit process.

14 4304. Regulations and publication.

15 § 4301. Definitions.

16 The following words and phrases when used in this chapter

17 shall have the meanings given to them in this section unless the

1 context clearly indicates otherwise:

2 "Burdened community." A census tract, as delineated in the  
3 most recent Federal decennial census, that is ranked in the  
4 bottom 33% of census tracts in this Commonwealth for median  
5 annual household income.

6 "Cumulative impacts." An exposure, public health or  
7 environmental risk or other effect occurring in a specific  
8 geographical area, including from any environmental pollution  
9 emitted or released routinely, accidentally or otherwise, from  
10 any source, and assessed based on the combined past, present and  
11 reasonably foreseeable emissions and discharges affecting the  
12 geographical area.

13 "Department." The Department of Environmental Protection of  
14 the Commonwealth.

15 "Facility." Any of the following:

16 (1) an electric generating facility with a capacity of  
17 more than 10 megawatts;

18 (2) a resource recovery facility or incinerator;

19 (3) a sludge combustor or incinerator;

20 (4) a sewage treatment plant with a capacity of more  
21 than 50,000,000 gallons per day;

22 (5) a transfer station, recycling center or other solid  
23 waste facility with a combined monthly volume in excess of 25  
24 tons;

25 (6) a landfill, including, but not limited to, a  
26 landfill that accepts ash, construction or demolition debris  
27 or solid waste;

28 (7) a medical waste incinerator; or

29 (8) a major source of air pollution, as defined by the  
30 Clean Air Act (69 Stat. 322, 42 U.S.C. § 7401 et seq.).

1 "Permit." A permit, registration or license issued by the  
2 department establishing the regulatory and management  
3 requirements for an ongoing regulated activity as authorized by  
4 Federal or State law.

5 § 4302. Designation of burdened communities.

6 (a) List of burdened communities.--No later than 120 days  
7 after the effective date of this section, the department, in  
8 consultation with the Secretary of the Commonwealth, shall adopt  
9 a list of burdened communities in this Commonwealth. The  
10 department shall update the list of burdened communities  
11 periodically as new data on median annual household income  
12 becomes available and after each Federal decennial census is  
13 officially reported as required by Federal law.

14 (b) Representative of burdened community.--No later than 60  
15 days after a burdened community is designated under subsection  
16 (a), the governing body of a municipality in which a burdened  
17 community is located, in consultation with appropriate community  
18 groups, shall designate a representative of the burdened  
19 community.

20 § 4303. Permit process.

21 (a) Granting of permits.--Beginning 180 days after the  
22 effective date of this section, the department may not grant a  
23 permit for a new facility or for the expansion of an existing  
24 facility located in whole or in part in a burdened community  
25 unless the permit applicant first:

26 (1) Prepares a report assessing the environmental impact  
27 of the proposed new facility or expansion of an existing  
28 facility, including cumulative impacts on the burdened  
29 community, adverse environmental effects that cannot be  
30 avoided should the permit be granted and the public health

1 impact on the burdened community.

2 (2) Transmits the report required to be prepared under  
3 paragraph (1) at least 30 days prior to the public hearing  
4 required under paragraph (3) to the department, the governing  
5 body and the clerk of the municipality in which the burdened  
6 community is located and the designated representative of the  
7 burdened community. The report shall be made available to the  
8 public at least 30 days prior to the public hearing required  
9 under paragraph (3).

10 (3) Organizes and conducts a public hearing in a  
11 location as convenient as possible to all interested parties.  
12 The permit applicant shall publish public notices of the  
13 hearing in at least two newspapers circulating within the  
14 burdened community not less than 21 days prior to the  
15 hearing. At least 14 days prior to the date set for the  
16 hearing, a copy of the public notice shall be sent to the  
17 department, the governing body and the clerk of the  
18 municipality in which the burdened community is located and  
19 the designated representative of the burdened community.

20 (b) Public hearing.--At a public hearing, the permit  
21 applicant shall provide clear, accurate and complete information  
22 about the proposed new facility or expansion of an existing  
23 facility and the potential environmental and health impacts of  
24 the new or expanded facility. The hearing shall provide an  
25 opportunity for meaningful public participation by residents of  
26 the burdened community. Following the public hearing, the  
27 department shall consider the testimony presented and evaluate  
28 revisions or conditions to the permit that may be necessary to  
29 reduce the adverse impact to the public health or the  
30 environment in the burdened community.

1 (c) Decision by department.--The department may not issue a  
2 decision on the permit application until at least 60 days after  
3 a public hearing. Notwithstanding the provisions of any other  
4 law, the department may deny a permit application in a burdened  
5 community upon a finding that the approval of the permit would,  
6 together with the cumulative impacts posed by the existing  
7 conditions, including conditions resulting from permitted  
8 activities, constitute an unreasonable risk to the health of the  
9 residents and the environment of the burdened community. The  
10 following shall apply:

11 (1) The department, when evaluating an application for a  
12 permit under this section, shall assess the community support  
13 for the proposed new facility or expansion of an existing  
14 facility as demonstrated through the public hearing conducted  
15 under subsection (b), letters of support for or opposition to  
16 the proposed new or expanded facility and any ordinance or  
17 resolution adopted by the governing body of the municipality  
18 in which the burdened community is located. The department  
19 shall consider community support or the lack of community  
20 support in the department's decision to grant or deny a  
21 permit.

22 (2) If a permit applicant is applying for more than one  
23 permit for a proposed new facility or expansion of an  
24 existing facility, the permit applicant shall only be  
25 required to comply with the provisions of this section once,  
26 unless the department, in its discretion, determines that  
27 more than one public hearing is necessary due to the  
28 complexity of the proposed new or expanded facility. Nothing  
29 in this section shall be construed to limit the authority of  
30 the department to hold or require additional public hearings

1 as may be required by any other law.

2 § 4304. Regulations and publication.

3 (a) Promulgation.--The department shall promulgate rules and  
4 regulations to implement the provisions of this chapter.

5 (b) Publication of permits.--The department shall publish  
6 all permits granted under this chapter, along with any guidance  
7 documents, on its publicly accessible Internet website.

8 Section 2. This act shall take effect immediately.