
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 888 Session of
2023

INTRODUCED BY HAYWOOD, CAPPELLETTI, COLLETT, COMMITTA, SCHWANK,
A. WILLIAMS, FONTANA, HUGHES, MUTH, KEARNEY AND COSTA,
AUGUST 16, 2023

REFERRED TO ENVIRONMENTAL RESOURCES AND ENERGY, AUGUST 16, 2023

AN ACT

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

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 ENVIRONMENTAL JUSTICE AREAS

10 Sec.

11 4301. Legislative findings and purpose.

12 4302. Definitions.

13 4303. Designation of environmental justice areas.

14 4304. Permit process.

15 4305. Regulations and publication.

16 § 4301. Legislative findings and purpose.

17 The General Assembly finds and declares that:

18 (1) Low-income, low-wealth communities and communities

1 of color have historically borne and currently bear a
2 disproportionate share of environmental degradation.

3 (2) The Department of Environmental Protection is the
4 agency charged with administering the laws and regulations in
5 this Commonwealth to prevent and remedy environmental
6 degradation and is one of the agencies charged with
7 conserving, maintaining and restoring this Commonwealth's
8 public natural resources.

9 (3) Section 27 of Article I of the Constitution of
10 Pennsylvania recognizes that all the people of Pennsylvania
11 have inalienable environmental rights and that the
12 Commonwealth government is the trustee of the Commonwealth's
13 public natural resources.

14 (4) All individuals in Pennsylvania should be able to
15 live in and enjoy a clean and healthy environment that
16 includes outdoor spaces, access to clean energy resources,
17 access to public lands and public natural resources.

18 (5) The elimination and restoration of disproportionate
19 environmental degradation is recognized as being directly
20 related to the economic vitality of this Commonwealth.

21 § 4302. Definitions.

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

25 "Cumulative environmental impacts." The totality of existing
26 and imminent environmental impacts and pollution in a defined
27 geographic area, to land, waters of this Commonwealth or ambient
28 air, and regardless of whether the pollution has been authorized
29 under the laws of this Commonwealth.

30 "Department." The Department of Environmental Protection of

1 the Commonwealth.

2 "Environmental justice area." A geographic area
3 characterized by increased pollution burden and vulnerable
4 populations based on demographic, economic, health and
5 environmental data.

6 "Facility." The site of any department-regulated activity
7 that may lead to significant public concern due to potential
8 impacts on human health and the environment. The term includes,
9 but shall not be limited to, sites that involve the following:

10 (1) National Pollutant Discharge Elimination System
11 (NPDES) Permits at industrial wastewater facilities that
12 discharge at or above 50,000 gallons per day.

13 (2) Air permits for any new major source of hazardous
14 air pollutants or criteria pollutants.

15 (3) Air permits for any major modification of a major
16 source that are subject to Prevention of Significant
17 Deterioration or Nonattainment New Source Review.

18 (4) Waste permits involving a combined monthly volume in
19 excess of 25 tons, or any major modification of waste
20 permits, including changes that result in an increase in
21 capacity or a facility expansion, for landfills, commercial
22 hazardous waste treatment facilities, storage or disposal
23 facilities and other disposal facilities, including, but not
24 limited to, a landfill that accepts ash, construction or
25 demolition debris, medical waste or solid waste, transfer
26 stations, recycling centers, commercial incinerators and
27 other waste processing facilities.

28 (5) Mining permits for bituminous and anthracite
29 underground mines, bituminous and anthracite surface mines,
30 large industrial mineral surface and underground mines, coal

1 refuse disposal, coal refuse reprocessing, large coal
2 preparation facility or any revision of permits under this
3 paragraph that involve additional acreage for mineral removal
4 or use of biosolids for reclamation.

5 (6) An individual permit for a land application of
6 biosolids.

7 (7) Concentrated animal feeding operations that are new
8 or expanded operations of greater than 1,000 Animal
9 Equivalent Units (AEUs), Concentrated Animal Operation of
10 greater than 300 AEUs in a Special Protection Watershed or a
11 Concentrated Animal Operation with direct discharge to
12 surface waters.

13 (8) An electric generating facility with a capacity of
14 more than 10 megawatts.

15 (9) A sewage treatment plant with a capacity of more
16 than 50,000,000 gallons per day.

17 (10) Underground injection control wells associated with
18 oil and gas development.

19 (11) Other facilities as designated by the Environmental
20 Quality Board through regulations under this chapter.

21 "Permit." A permit, approval of coverage under a general
22 permit, registration or other authorization issued by the
23 department establishing the regulatory and management
24 requirements for a regulated activity as authorized by Federal
25 or State law.

26 § 4303. Designation of environmental justice areas.

27 (a) Method.--The methods to identify an environmental
28 justice area shall be determined and regularly reviewed by the
29 department.

30 (b) Designation.--No later than 120 days after the effective

1 date of this section, the department shall designate and make
2 publicly available environmental justice areas in this
3 Commonwealth. The department shall update environmental justice
4 area designation every three years.

5 § 4304. Permit process.

6 (a) Department action on permit applications for facilities
7 in environmental justice areas.--Beginning 180 days after the
8 effective date of this section, prior to the department taking
9 an action on an application for a new facility or for the
10 expansion of an existing facility, located in whole or in part
11 in an environmental justice area:

12 (1) The permit applicant must prepare and submit with
13 the application for facility permit or other authorization, a
14 cumulative environmental impact report assessing the
15 environmental impact of the proposed new facility or
16 expansion of an existing facility, together with the
17 cumulative impacts on the environmental justice area, and the
18 adverse environmental effects that cannot be avoided or
19 mitigated should the permit be granted.

20 (2) Unless a public hearing is otherwise required by the
21 environmental laws and regulations for the permit or
22 authorization:

23 (i) The department must organize and conduct a
24 public hearing in a location as convenient as possible to
25 all interested parties and publish public notices of the
26 hearing in at least two newspapers circulating within the
27 environmental justice area and on the department's
28 publicly accessible Internet website not less than 21
29 days prior to the hearing.

30 (ii) At least 14 days prior to the date set for the

1 hearing, a copy of the public notice shall be sent to the
2 clerk of the municipality in which the environmental
3 justice area is located.

4 (iii) At a public hearing, the permit applicant
5 shall provide clear, accurate and complete information
6 about the proposed new facility or expansion of an
7 existing facility and the potential environmental and
8 health impacts of the new or expanded facility. The
9 hearing shall provide an opportunity for meaningful
10 public participation by residents of the environmental
11 justice area.

12 (iv) Following the public hearing, the department
13 shall consider the testimony presented and evaluate
14 revisions or conditions to the permit that may be
15 necessary to reduce the adverse impact to the public
16 health or the environment in the environmental justice
17 area.

18 (b) Decision by department.--The department may not issue a
19 decision on the permit application until at least 60 days after
20 a public hearing.

21 (c) Additional requirements.--Notwithstanding the provisions
22 of any other law, the department may require additional
23 conditions or mitigation measures or may deny a permit
24 application in an environmental justice area based on the
25 cumulative environmental impacts.

26 (d) Publication.--The applicant shall provide copies of
27 applications for a permit for a facility located in whole or in
28 part in an environmental justice area to the clerk of the
29 municipality in which the environmental justice area is located,
30 who may recommend to the department conditions upon, revisions

1 to or disapproval of the permit only if specific cause is
2 identified. If the department overrides a municipal
3 recommendation, the department shall be required to transmit
4 notice to the Legislative Reference Bureau for publication in
5 the next available issue of the Pennsylvania Bulletin the
6 department's justification for overriding the municipality's
7 recommendations. If the department does not receive comments
8 within 60 days of receipt of the applications from the permit
9 applicant by the clerk of the municipality, the municipality
10 shall be deemed to have waived the municipality's right to
11 review.

12 (e) Construction.--The provisions of this section shall be
13 in addition to all requirements under any applicable
14 environmental law.

15 § 4305. Regulations and publication.

16 (a) Promulgation.--The department and Environmental Quality
17 Board shall promulgate rules and regulations to implement the
18 provisions of this chapter.

19 (b) Publication of permits.--In addition to publication
20 requirements under law and regulation, the department shall
21 publish all permits granted under this chapter, along with any
22 guidance documents, on its publicly accessible Internet website.

23 Section 2. This act shall take effect immediately.