

HB 2310

ARTICLE XVIII  
STREAMLINING PERMITS FOR ECONOMIC EXPANSION  
AND DEVELOPMENT PROGRAM

Section 1801. Scope of article.

This article relates to the expedited review of permit applications submitted to the department.

Section 1802. Definitions.

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

"Applicant." An entity listed under section 1803(f) that submits an application to the permitting entity under section 1803(e).

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

"Eligible permit." A permit identified by the department as eligible for the program under section 1803(c).

"Permit decision." The issuance or denial of a permit.

"Permit decision timeline." One of the following:

(1) the total number of business days allotted for review of an eligible permit in Final Technical Guidance document 021-2100-001, notice of which was published in the Pennsylvania Bulletin on November 3, 2012, as directed by executive order 2012-1, known as the Permit Decision Guarantee;

(2) the total number of business days allocated for review of an eligible permit as determined by the department, if not included in the notice under paragraph (1); or

(3) the total number of business days agreed to between the applicant and permitting entity.

"Permitting entity." Either of the following:

(1) The department.

(2) A county conservation district with a valid delegation agreement with the department to conduct reviews of permits to conduct earth disturbance activities issued under 25 Pa. Code Ch. 102 (relating to erosion and sediment control).

"Priority review." Heightened review in which a decision to issue or deny an eligible permit application shall be rendered within 10 business days of the expiration of the permit decision timeline by the Regional Director or Bureau Director overseeing that permitting program or the applicable county conservation district.

"Program." The Streamlining Permits for Economic Expansion and Development Program established under section 1803(a).

"Qualified professional." An individual who satisfies the requirements under section 1803(d).

"Tolling period." The time period commencing on the date that the permitting entity sends a notice that the application

is incomplete or technically deficient under section 1803(i) and ending on the date when the permitting entity receives the applicant's resubmitted application.

Section 1803. The Streamlining Permits for Economic Expansion and Development Program.

(a) Establishment.--The Streamlining Permits For Economic Expansion And Development Program is established within the department to provide an expedited review process for eligible permits.

(b) Process.--Within 60 days of the effective date of this subsection, the department, in consultation with the Department of General Services, shall establish a process to, and within 90 days shall, issue requests for proposals to engage qualified professionals to provide expedited reviews of eligible permits.

(c) Eligible permit.--A permit identified by the department as eligible for the program, including, but not limited to, the following:

(1) A State-only plan approval to:

(i) construct, assemble, install or modify any stationary air contamination source; or

(ii) install on a stationary air contamination source any air pollution control equipment or device issued under section 6.1 of the act of January 8, 1960 (1959 P.L.2119, No.787), known as the Air Pollution Control Act or 25 Pa. Code § 127.11 (relating to plan approval requirements).

(2) An individual or general permit to conduct earth disturbance activities issued under 25 Pa. Code Ch. 102 (relating to erosion and sediment control).

(3) An individual permit issued under 25 Pa. Code Ch. 105 (relating to dam safety and waterway management) that:

(i) includes cumulative impacts to waters of the United States that are eligible for authorization by the department under the United States Army Corps of Engineers Pennsylvania State Programmatic General Permit-6 (PASPGP-6), or a successor general permit; or

(ii) authorizes the construction or modification of a dam as defined in section 3 of the act of November 26, 1978 (P.L.1375, No.325), known as the Dam Safety and Encroachments Act.

(d) Qualified professional.--An individual who:

(1) is a professional engineer, land surveyor, geologist, landscape architect or other licensed professional who may be necessary to review applications under the review program;

(2) has five years of relevant permitting experience in this Commonwealth;

(3) holds all required professional licenses as required by law;

(4) has not been convicted of, or pled guilty to:

(i) an environmental crime, or a similar or related criminal offense under Federal or State law; or

(ii) a crime involving fraud, theft by deception, forgery or a similar or related criminal offense under Federal or State law;

(5) has not had a professional license revoked by a State licensing board or any other professional licensing agency within the previous 10 years; and

(6) agrees to be responsible for the qualified professional's costs if the qualified professional does not perform the initial review according to the timeline and other requirements of subsection (h).

(e) Application.--An applicant for an eligible permit may request to participate in the program. The applicant seeking to participate in the program shall, in a form and manner as prescribed by the department:

- (1) indicate an intent to participate in the program;
- (2) agree to pay all costs associated with the expedited review of an eligible permit; and
- (3) submit a completed application to the permitting entity.

(f) Eligible applicant.--A person, corporation, municipality, municipal authority, political subdivision, Federal or State agency or other legal entity may submit an application under subsection (e).

(g) Qualified professional selection.--

(1) Within 10 business days of receiving a request to participate in the program, the permitting entity shall:

(i) If there are more than 10 eligible and available qualified professionals, provide the applicant with a list of three qualified professionals from which to select a qualified professional to conduct an initial permit review.

(ii) If there are more than 1 and less than 10 eligible and available qualified professionals, select a qualified professional to conduct an initial permit review.

(2) Prior to agreeing to perform an initial permit review, the qualified professional shall certify to the department, in a form and manner prescribed by the department, that the qualified professional:

(i) has not performed services for the applicant within three years of the date of submission of the permit application; and

(ii) does not have any other conflict of interest that may prohibit the qualified professional from performing the initial permit review.

(3) The permit decision timeline shall commence on the day following the qualified professional's submission of the certification required under paragraph (2).

(h) Initial permit review.--The qualified professional shall conduct an initial comprehensive review of the eligible permit, which shall:

(1) Be subject to all standards, technical specifications, scope of review and other requirements as required by the department.

(2) Be conducted on a timeline established by the department that will enable a permit decision within the permit decision timeline.

(3) Be in accordance with all applicable Federal and State laws and regulations, including applicable Federal

and State laws and regulations to protect public health, safety and the environment.

(4) Include a recommendation as to the permit decision, which shall include:

- (i) a list of deficiencies, if any; and
- (ii) an analysis of the basis for the recommendation and supporting documentation as required by the department.

(5) Be subjected to the final review of the permitting entity in accordance with subsection (i).

(i) Final review and permit decision.--Upon completion of an initial permit review under subsection (h), the permitting entity shall review the recommendation of the qualified professional and take any additional action needed prior to making a final permit decision. The following shall apply:

(1) If the permitting entity reviews the application and the recommendation of the qualified professional and determines that the application is complete and not technically deficient, the permitting entity shall complete the final review and make a final permit decision regarding an eligible permit under the program within the permit decision timeline.

(2) If the permitting entity reviews the application and the recommendation of the qualified professional and determines that the application is incomplete or technically deficient, the permitting entity shall notify the applicant in writing or by electronic means of all of the following:

(i) The statute or regulation that requires a correction or additional information within the application.

(ii) The reasons why the application does not conform with the statute or regulation specified under subparagraph (i) in clear language that is readily understandable by a layperson.

(iii) The correction or additional information needed for the permitting entity to issue the permit.

(3) Failure by the permitting entity to issue a permit decision within the permit decision timeline shall result in the application immediately being subject to priority review, unless waived by the applicant.

(4) Failure by the department to issue a permit decision by the conclusion of the priority review period shall result in a refund to the applicant equal to the actual costs of the qualified professionals review and total permit fees paid by the applicant, unless waived by the applicant.

(5) Failure by the conservation district to issue a permit decision by the conclusion of the priority review period shall result in a refund to the applicant equal to the total permit fees paid by the applicant, unless waived by the applicant.

(6) Failure by the permitting entity to issue a permit decision by the conclusion of the priority review period shall constitute a permitting entity decision subject to the Environmental Hearing Board's jurisdiction under section 4 of the act of July 13, 1988 (P.L.530, No.94),

known as the Environmental Hearing Board Act. The following shall apply:

(i) Upon a properly filed appeal of the permitting entity's decision not to issue a permit by the conclusion of the priority review period, the Environmental Hearing Board may hold a hearing and issue an adjudication consistent with the Environmental Hearing Board's practice and procedure under 25 Pa. Code Ch. 1021 (relating to practice and procedure) and may remand the matter back to the permitting entity to make a permit decision by a specified date.

(ii) The Environmental Hearing Board's review in the appeal under subparagraph (i) shall be limited to the permitting entity's decision not to issue permits within the allotted timeline under this section.

(iii) The Environmental Hearing Board shall set any appeal brought under this section for expedited consideration.

(7) The permit decision timeline shall not include more than two tolling periods during the permitting entity's final review, unless waived by the applicant.

(8) If the permitting entity denies a permit, the permitting entity shall notify the applicant in writing or by electronic means of the procedure an applicant is required to employ to initiate an appeal of an adverse permitting entity decision.

(j) Actual costs for expedited review.--The applicant shall pay the actual costs, as determined by the department, of the expedited review. The following shall apply:

(1) The actual costs shall be based on an hourly rate charged by the qualified professional and the number of hours required to perform the expedited review or a set fee charged by the qualified professional.

(2) The applicant must pay all other applicable fees associated with the eligible permit.

(3) Each year, the department shall publish the hourly rates or set fees of the qualified professional engaged under subsection (b).

Section 1804. Tracking system for permit application.

(a) Establishment.--The department shall establish, maintain and make available a secure tracking system for applications submitted electronically to the department to allow applicants to track the status of applications. The tracking system shall be published on the department's publicly accessible Internet website within 180 days of the effective date of legislation fully funding the development of the secure tracking system.

(b) Notice.--Within five business days after receiving an application, the department shall notify an applicant in writing or by electronic means that the application was received and provide information instructing the applicant in the utilization of the tracking system established under subsection (a).

(c) System contents.--The tracking system shall include the following:

(1) The processing timeline for each permit, the statutory and regulatory authority and the department's policy establishing the processing timeline.

(2) The dates associated with the receipt of each permit, completeness review, technical review, priority review, if necessary, and the final permit decision.

(3) The identity and contact information for the department contact assigned to answer questions about the application process.

Section 1805. Construction.

Nothing in this article shall be construed to:

(1) limit or otherwise alter the department's authority to revoke a permit for failure to comply with the laws of this Commonwealth; or

(2) require the department to operate the program in violation of Federal law or regulation.