

13:1D-120

**LEGISLATIVE HISTORY CHECKLIST**  
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(Environmental Protection--permit application  
fee--payment schedule)

**NJSA:** 13:1D-120

**LAWS OF:** 1993 **CHAPTER:** 361

**BILL NO:** A2124/A2013

**SPONSOR(S):** Gaffney and others

**DATE INTRODUCED:** December 17, 1992

**COMMITTEE:** **ASSEMBLY:** Policy and Rules  
**SENATE:** Environment

**AMENDED DURING PASSAGE:** Yes  
(First reprint) enacted  
Assembly Committee Substitute

**DATE OF PASSAGE:** **ASSEMBLY:** June 10, 1993  
**SENATE:** December 13, 1993

**DATE OF APPROVAL:** January 3, 1994

**FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:**

**SPONSOR STATEMENT:** Yes

**COMMITTEE STATEMENT:** **ASSEMBLY:** Yes  
**SENATE:** Yes

**FISCAL NOTE:** No

**VETO MESSAGE:** No

**MESSAGE ON SIGNING:** No

**FOLLOWING WERE PRINTED:**

**REPORTS:** No

**HEARINGS:** No

See newspaper clippings--attached:

"Law sets up payment schedule...", 1-4-94 The Press.

"Florino signs bill on environmental fee payments," 1-4-94 Asbury Park Press.

KBG:pp

[FIRST REPRINT]

ASSEMBLY COMMITTEE SUBSTITUTE FOR  
ASSEMBLY, Nos. 2124 and 2013

STATE OF NEW JERSEY

ADOPTED MAY 10, 1993

Sponsored by Assemblymen GAFFNEY, DORIA,  
Assemblywoman WRIGHT, Assemblymen SHINN,  
DiGAETANO and Assemblywoman Haines

1 AN ACT concerning the payment of certain fees <sup>1</sup>[and the  
2 submission of certain information]<sup>1</sup> for permits issued by the  
3 Department of Environmental Protection, <sup>1</sup>and<sup>1</sup> supplementing  
4 chapter 1D of Title 13 of the Revised Statutes <sup>1</sup>[and amending  
5 P.L.1991, c.421]<sup>1</sup>.

6

7 BE IT ENACTED *by the Senate and General Assembly of the*  
8 *State of New Jersey:*

9 1. The Legislature finds and declares that:

10 a. It is within the public interest to promote economic growth,  
11 to encourage and foster the development and establishment of  
12 new industries and businesses, to champion and expedite the  
13 expansion, modernization and diversification of existing  
14 businesses, corporations and establishments, and to attract and  
15 facilitate the siting and relocation of employers who will provide  
16 highly skilled and high-paying employment opportunities for the  
17 citizens of this State;

18 b. While the quality of New Jersey's environment is  
19 paramount to the health and well-being of the residents of this  
20 State, it is essential to counter forcefully those who preach the  
21 erroneous dogma that our citizens must choose between the  
22 environment and economic prosperity and growth;

23 c. The Department of Environmental Protection <sup>1</sup>[and  
24 Energy]<sup>1</sup> must play a central role in educating the public that a  
25 clean environment and economic prosperity and growth are not  
26 only compatible, but interdependent;

27 d. To dispel the illusion that those two worthy objectives are  
28 inherently incompatible, the Department of Environmental  
29 Protection <sup>1</sup>[and Energy]<sup>1</sup> should immediately revise its current  
30 policies and procedures for reviewing permit applications,  
31 eliminating unduly long and burdensome practices which hinder  
32 timely investment, severely inhibit the availability of necessary  
33 capital, retard economic growth and development, frustrate new  
34 business ventures, and obstruct the creation of new employment  
35 opportunities for the citizens of this State;

36 e. It is, therefore, altogether fitting and proper, and within the  
37 public interest, to direct the Department of Environmental  
38 Protection <sup>1</sup>[and Energy]<sup>1</sup> to adopt new policies and procedures  
39 which will facilitate and expedite the review of permit

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in the  
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup> Senate SEN committee amendments adopted December 6, 1993.

1 applications and to that end to institute a system by which permit  
2 application fees will be paid incrementally based upon the  
3 department's completion of its duties and responsibilities at  
4 specific stages of the application review process.

5 2. As used in this act:

6 "Administrative review" means a review to determine whether  
7 all of the information which is required for a permit application  
8 to be deemed complete has been submitted to the department;

9 "Applicant" means the person in whose name a permit is to be  
10 issued;

11 "Commissioner" means the Commissioner of Environmental  
12 Protection <sup>1</sup>[and Energy]<sup>1</sup>;

13 "Completed application" means the submission of all of the  
14 information designated on the checklist <sup>1</sup>[,]<sup>1</sup> adopted pursuant to  
15 section 1 of P.L.1991, c.421 (C.13:1D-101 et seq.), for the class  
16 or category of permit for which an application is made;

17 "Department" means the Department of Environmental  
18 Protection <sup>1</sup>[and Energy]<sup>1</sup>;

19 "Fee" means any fee, assessment or other charge imposed by  
20 the department pursuant to any law, rule or regulation for a  
21 permit;

22 "Member of a regulated profession or occupation" means any  
23 person subject to regulation by licensure or certification by the  
24 department pursuant to any law of this State; and

25 "Permit" means any permit, registration or license issued by  
26 the Department of Environmental Protection <sup>1</sup>[and Energy]<sup>1</sup>  
27 establishing the regulatory and management requirements for an  
28 ongoing regulated activity as authorized by federal law or the  
29 following State laws: R.S.12:5-1 et seq.; P.L.1975, c.232  
30 (C.13:1D-29 et seq.); the "Solid Waste Management Act,"  
31 P.L.1970, c.39 (C.13:1E-1 et seq.); section 17 of P.L.1975, c.326  
32 (C.13:1E-26); the "Comprehensive Regulated Medical Waste  
33 Management Act," P.L.1989, c.34 (C.13:1E-48.1 et al.); P.L.1989,  
34 c.151 (C.13:1E-99.21a et al.); the "New Jersey Statewide  
35 Mandatory Source Separation and Recycling Act," P.L.1987,  
36 c.102 (C.13:1E-99.11 et al.); the "Pesticide Control Act of 1971,"  
37 P.L.1971, c.176 (C.13:1F-1 et seq.); the <sup>1</sup>["Environmental  
38 Cleanup Responsibility Act,"] "Industrial Site Recovery Act,"<sup>1</sup>  
39 P.L.1983, c.330 (C.13:1K-6 et seq.); the "Toxic Catastrophe  
40 Prevention Act," P.L.1985, c.403 (C.13:1K-19 et seq.); "The  
41 Wetlands Act of 1970," P.L.1970, c.272 (C.13:9A-1 et seq.); the  
42 "Freshwater Wetlands Protection Act," P.L.1987, c.156  
43 (C.13:9B-1 et seq.); the "Coastal Area Facility Review Act,"  
44 P.L.1973, c.185 (C.13:19-1 et seq.); the "Air Pollution Control  
45 Act (1954)," P.L.1954, c.212 (C.26:2C-1 et seq.); the "Water  
46 Supply Management Act," P.L.1981, c.262 (C.58:1A-1 et seq.);  
47 P.L.1947, c.377 (C.58:4A-5 et seq.); the "Water Pollution Control  
48 Act," P.L.1977, c.74 (C.58:10A-1 et seq.); P.L.1986, c.102  
49 (C.58:10A-21 et seq.); the "Safe Drinking Water Act," P.L.1977,  
50 c.224 (C.58:12A-1 et seq.); the "Flood Hazard Area Control Act,"  
51 P.L.1962, c.19 (C.58:16A-50 et seq.). <sup>1</sup>"Permit" shall not include  
52 the renewal or modification of a New Jersey Pollutant Discharge  
53 Elimination System permit issued pursuant to the "Water  
54 Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.).<sup>1</sup>

1 3. a. The commissioner shall adopt rules and regulations  
2 establishing a schedule for the payment of fees for applications  
3 for those permits issued by the department which exceed \$1,000  
4 in cost. The rules and regulations shall provide that each  
5 applicant shall receive at the time a payment is due pursuant to  
6 the provisions of paragraph (2) <sup>1</sup>[,] or<sup>1</sup> (3) <sup>1</sup>[or (4)]<sup>1</sup> of this  
7 subsection a written notice from the department. The notice  
8 shall certify that the department has completed its  
9 responsibilities at this stage of the process and specify any  
10 actions, findings, or conclusions by the department with regard to  
11 the application. The schedule shall provide that payment may be  
12 made by an applicant in the following manner:

13 (1) <sup>1</sup>[Twenty-five percent] One third<sup>1</sup> of the total fee amount  
14 shall be payable to the department at the time of the filing of an  
15 application for a permit;

16 (2) <sup>1</sup>[Twenty-five percent] One third<sup>1</sup> of the total fee amount  
17 shall be payable to the department upon the conclusion of the  
18 administrative review of a completed application for a permit;  
19 and<sup>1</sup>

20 (3) <sup>1</sup>[Twenty-five percent of the total fee amount shall be  
21 payable to the department upon a preliminary action by the  
22 department approving, approving with conditions, or disapproving  
23 a permit application; and

24 (4) <sup>1</sup>[Twenty-five percent] One third<sup>1</sup> of the total fee amount  
25 shall be payable to the department upon the taking of final action  
26 by the department on the permit application.

27 b. <sup>1</sup>[In the case when the department takes no preliminary  
28 action approving, approving with conditions, or disapproving a  
29 permit application, the final 50 percent of the total fee amount  
30 shall be payable upon the taking of final action by the department  
31 on the permit application.

32 c.<sup>1</sup> In the case when a permit applicant requests that the  
33 department discontinue the review of a permit application, the  
34 applicant shall be required to pay that portion of the cost of the  
35 permit application incurred by the department until the review of  
36 the application was discontinued.

37 <sup>1</sup>[d.] c.<sup>1</sup> When an applicant for a permit appeals a decision of  
38 the department, and the appeal results in a contested case  
39 pursuant to the "Administrative Procedure Act," P.L.1968, c.410  
40 (C.52:14B-1 et seq.), the department shall not require the  
41 payment of one third<sup>1</sup> of the <sup>1</sup>[final] total<sup>1</sup> fee <sup>1</sup>[amounts]  
42 amount<sup>1</sup> as provided in paragraph <sup>1</sup>[(4)] (3)<sup>1</sup> of subsection a. <sup>1</sup>[or  
43 subsection b.]<sup>1</sup> of this section, until the decision of the  
44 administrative law judge has been transmitted to the  
45 commissioner, and the commissioner has acted on that decision in  
46 the manner provided in section 10 of P.L.1968, c.410  
47 (C.52:14B-10).

48 <sup>1</sup>[4. The provisions of any law, rule or regulation to the  
49 contrary notwithstanding, upon the conclusion of the  
50 administrative review of an application for a permit issued by the  
51 department, and the receipt of payment of 50 percent of the  
52 total fee amount to the department has been made pursuant to  
53 paragraph (1) and paragraph (2) of subsection a. of section 3 of  
54 this act, the department shall not require an applicant to submit

1 any further information regarding the completed application  
2 pending before the department.]<sup>1</sup>

3 <sup>1</sup>[5.] 4.<sup>1</sup> The provisions of this act shall not apply to any  
4 license or certification fee charged by the department to a  
5 member of a regulated profession or occupation.

6 <sup>1</sup>[6.] 5.<sup>1</sup> The commissioner, pursuant to the provisions of the  
7 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1  
8 et seq.), shall adopt rules and regulations setting forth the  
9 payment schedule required pursuant to section 3 of this act, and  
10 any other rules and regulations as are necessary to implement the  
11 provisions of this act.

12 <sup>1</sup>[7. Section 2 of P.L.1991, c.421 (C.13:1D-102) is amended to  
13 read as follows:

14 2. a. Checklists prepared pursuant to section 1 of this act  
15 shall constitute the exclusive and exhaustive list of items  
16 required to be submitted in order for a permit application subject  
17 to this act or to P.L.1975, c.232 (C.13:1D-29 et seq.) to be  
18 deemed administratively complete by the department, for the  
19 purpose of commencing a technical review of the application by  
20 the department, provided all submissions or certifications  
21 identified on the checklist therefor have been completed and  
22 filed with the department.

23 b. Within 30 days following the filing of an application subject  
24 to the provisions of this act, including any supportive  
25 documentation required to be filed in conjunction with the  
26 application, the department shall notify an applicant if the  
27 application lacks a submission identified on the checklist  
28 therefor, or a submission has not been completed. If an  
29 application, including all necessary documentation is determined  
30 to be complete, or if a notice of incompleteness is not provided  
31 within 30 days of filing of the application, and all necessary  
32 documentation, the application shall be deemed complete for  
33 purposes of commencing a technical review thereof, and the time  
34 period established for completing a review of the application and  
35 taking final action thereon shall, notwithstanding any other  
36 provisions of law to the contrary, commence on the 31st day  
37 following the date of filing of the completed application.  
38 Commencement of a technical review of an application shall not  
39 be delayed because of the failure of an applicant to file a  
40 submission not specifically identified on the checklist for that  
41 application that was in effect as of the date of the filing of the  
42 application.

43 c. Nothing in this section shall be construed to:

44 (1) [limit the authority of the department to request at any  
45 time a submission that was not identified on the checklist for an  
46 application if the submission is required by State or federal law,  
47 or rule or regulation promulgated in accordance therewith,  
48 except that such additional submission shall not affect the time  
49 period allowed the department for reviewing and taking final  
50 action on a completed application;] (Deleted by amendment,  
51 P.L. c. (now pending before the Legislature as this bill))

52 (2) diminish the responsibility of an applicant to comply with  
53 all applicable requirements of State or federal law, or any rule or  
54 regulation promulgated in accordance therewith, or an order

1 issued thereunder;

2 (3) compromise or limit any enforcement action available to  
3 the department pursuant to law; or

4 (4) exempt an applicant from complying with all applicable  
5 provisions of federal and State laws, or rules or regulations  
6 promulgated pursuant thereto.

7 (cf: P.L.1991, c.421, s.2)]<sup>1</sup>

8 <sup>1</sup>[8.] 6.1 This act shall take effect immediately, but shall  
9 remain inoperative until <sup>1</sup>[the first day of the next year] July 1,  
10 1994<sup>1</sup>; provided, however, that the Commissioner of  
11 Environmental Protection <sup>1</sup>[and Energy]<sup>1</sup> may take such  
12 anticipatory <sup>1</sup>[actions] action<sup>1</sup> as may be necessary for the  
13 timely implementation of this act on the date it becomes  
14 operative.

15

16

17

18

19 Directs DEP to establish a payment schedule for permit  
20 application fees.

# ASSEMBLY, No. 2124

## STATE OF NEW JERSEY

INTRODUCED DECEMBER 17, 1992

By Assemblyman GAFFNEY, Assemblywomen WRIGHT, Haines,  
Assemblymen Kelly, Mikulak and Oros

1 AN ACT concerning the payment of certain fees and the  
2 submission of certain information for permits issued by the  
3 Department of Environmental Protection, amending P.L.1991,  
4 c.421, and supplementing chapter 1D of Title 13 of the Revised  
5 Statutes.

6

7 BE IT ENACTED *by the Senate and General Assembly of the*  
8 *State of New Jersey:*

9 1. (New section) The Legislature finds and determines that:

10 a. The promotion of economic growth in this State is vital to  
11 the public interest, in order to continue and accelerate the  
12 growth of new industries and businesses, and to successfully  
13 compete with other states in attracting business concerns and  
14 new opportunities for the creation of highly skilled, productive  
15 and high paying jobs in the private sector;

16 b. While the protection of the environment is essential to the  
17 quality of life the residents of this State enjoy, the State must  
18 take action to combat the false choice between economic  
19 prosperity and environmental protection by directing the  
20 Department of Environmental Protection to adopt regulations  
21 that reduce unduly lengthy or burdensome administrative  
22 procedures during the review of permit applications, which  
23 procedures may have the effect of restricting the productive use  
24 of business capital, retarding economic growth, and preventing  
25 the creation of new employment opportunities for the citizens of  
26 this State;

27 c. It is therefore in the public interest to direct the  
28 Department of Environmental Protection to establish a system by  
29 which permit application fees can be paid in an incremental  
30 fashion based upon the completeness of the permit application,  
31 which will promote efficiency at the Department of  
32 Environmental Protection, and ease the burdens facing the  
33 private sector.

34 2. (New section) As used in this act:

35 "Administrative review" means a review to determine if all of  
36 the information which is required for a permit application to be  
37 deemed complete has been submitted to the department;

38 "Applicant" means the person in whose name a permit is to be  
39 issued;

40 "Commissioner" means the Commissioner of Environmental  
41 Protection;

42 "Completed application" means the submission of all of the  
43 information designated on the checklist, adopted pursuant to

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in the  
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 section 1 of P.L. 1991, c. 421 (C. 13:1D-101 et seq.), for the class  
2 or category of permit for which an application is made;

3 "Department" means the Department of Environmental  
4 Protection;

5 "Fee" means any fee, assessment or other charge imposed by  
6 the department pursuant to any law, rule or regulation for a  
7 permit;

8 "Member of a regulated profession or occupation" means any  
9 person subject to regulation by licensure or certification by the  
10 department pursuant to any law of this State; and

11 "Permit" means any permit, registration or license issued by  
12 the Department of Environmental Protection establishing the  
13 regulatory and management requirements for an ongoing  
14 regulated activity as authorized by federal law or the following  
15 State laws: R.S.12:5-1 et seq.; P.L.1975, c.232 (C.13:1D-29 et  
16 seq.); the "Solid Waste Management Act," P.L.1970, c.39  
17 (C.13:1E-1 et seq.); section 17 of P.L.1975, c.326 (C.13:1E-26);  
18 the "Comprehensive Regulated Medical Waste Management Act,"  
19 P.L.1989, c.34 (C.13:1E-48.1 et al.); P.L.1989, c.151  
20 (C.13:1E-99.21a et al.); the "New Jersey Statewide Mandatory  
21 Source Separation and Recycling Act," P.L.1987, c.102  
22 (C.13:1E-99.11 et al.); the "Pesticide Control Act of 1971,"  
23 P.L.1971, c.176 (C.13:1F-1 et seq.); the "Environmental Cleanup  
24 Responsibility Act," P.L.1983, c.330 (C.13:1K-6 et seq.); the  
25 "Toxic Catastrophe Prevention Act," P.L.1985, c.403  
26 (C.13:1K-19 et seq.); "The Wetlands Act of 1970," P.L.1970,  
27 c.272 (C.13:9A-1 et seq.); the "Freshwater Wetlands Protection  
28 Act," P.L.1987, c.156 (C.13:9B-1 et seq.); the "Coastal Area  
29 Facility Review Act," P.L.1973, c.185 (C.13:19-1 et seq.); the  
30 "Air Pollution Control Act (1954)," P.L.1954, c.212 (C.26:2C-1 et  
31 seq.); the "Water Supply Management Act," P.L.1981, c.262  
32 (C.58:1A-1 et seq.); P.L.1947, c.377 (C.58:4A-5 et seq.); the  
33 "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et  
34 seq.); P.L.1986, c.102 (C.58:10A-21 et seq.); the "Safe Drinking  
35 Water Act," P.L.1977, c.224 (C.58:12A-1 et seq.); the "Flood  
36 Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50 et seq.).

37 3. (New section) a. The commissioner shall adopt rules and  
38 regulations establishing a schedule for the payment of fees for  
39 applications for those permits issued by the department which,  
40 for the periods for which the permits are issued, exceed \$1,000 in  
41 cost. The schedule shall provide that payment may be made by  
42 an applicant in the following manner:

43 (1) Twenty-five percent of the total fee amount shall be  
44 payable to the department at the time of the filing of an  
45 application for a permit;

46 (2) Twenty-five percent of the total fee amount shall be  
47 payable to the department upon the conclusion of the  
48 administrative review of a completed application for a permit;

49 (3) Twenty-five percent of the total fee amount shall be  
50 payable to the department upon a preliminary action by the  
51 department approving, approving with conditions, or disapproving  
52 a permit application; and

53 (4) Twenty-five percent of the total fee amount shall be  
54 payable to the department upon the taking of final action by the

1 department on the permit application.

2 b. In the case where there is no preliminary action approving,  
3 approving with conditions, or disapproving a permit application,  
4 50 percent of the total fee amount shall be payable upon the  
5 taking of final action by the department on the permit  
6 application.

7 c. In the case when a permit applicant requests that the  
8 department discontinue the review of a permit application, the  
9 applicant shall, notwithstanding the discontinuance of review of  
10 the permit, be required to pay that portion of the cost of the  
11 permit application incurred by the department until the time of  
12 the discontinuance of the application review.

13 4. (New section) Upon the conclusion of the administrative  
14 review of an application for a permit issued by the department,  
15 and the receipt of payment of 50 percent of the total fee amount  
16 to the department has been made pursuant to paragraph (1) and  
17 paragraph (2) of subsection a. of section 3 of this act, the  
18 department shall not, the provisions of any law, rule or regulation  
19 to the contrary notwithstanding, require an applicant to provide  
20 for the submission of any further information regarding the  
21 completed application pending before the department.

22 5. (New section) The provisions of this act shall not apply to  
23 any license or certification fee charged by the department to a  
24 member of a regulated profession or occupation licensed or  
25 certified by the department.

26 6. (New section) The commissioner shall, pursuant to the  
27 provisions of the "Administrative Procedure Act," P.L.1968,  
28 c.410 (C.52:14B-1 et seq.), adopt rules and regulations setting  
29 forth the payment schedule required pursuant to section 2 of this  
30 act, and any other rules and regulations as are necessary to  
31 implement the provisions of this act.

32 7. Section 2 of P.L.1991, c.421 (C.13:1D-102) is amended to  
33 read as follows:

34 2. a. Checklists prepared pursuant to section 1 of this act  
35 shall constitute the exclusive and exhaustive list of items  
36 required to be submitted in order for a permit application subject  
37 to this act or to P.L.1975, c.232 (C.13:1D-29 et seq.) to be  
38 deemed administratively complete by the department, for the  
39 purpose of commencing a technical review of the application by  
40 the department, provided all submissions or certifications  
41 identified on the checklist therefor have been completed and  
42 filed with the department.

43 b. Within 30 days following the filing of an application subject  
44 to the provisions of this act, including any supportive  
45 documentation required to be filed in conjunction with the  
46 application, the department shall notify an applicant if the  
47 application lacks a submission identified on the checklist  
48 therefor, or a submission has not been completed. If an  
49 application, including all necessary documentation is determined  
50 to be complete, or if a notice of incompleteness is not provided  
51 within 30 days of filing of the application, and all necessary  
52 documentation, the application shall be deemed complete for  
53 purposes of commencing a technical review thereof, and the time  
54 period established for completing a review of the application and

1 taking final action thereon shall, notwithstanding any other  
2 provisions of law to the contrary, commence on the 31st day  
3 following the date of filing of the completed application.  
4 Commencement of a technical review of an application shall not  
5 be delayed because of the failure of an applicant to file a  
6 submission not specifically identified on the checklist for that  
7 application that was in effect as of the date of the filing of the  
8 application.

9 c. Nothing in this section shall be construed to:

10 [(1) limit the authority of the department to request at any  
11 time a submission that was not identified on the checklist for an  
12 application if the submission is required by State or federal law,  
13 or rule or regulation promulgated in accordance therewith,  
14 except that such additional submission shall not affect the time  
15 period allowed the department for reviewing and taking final  
16 action on a completed application;] (Deleted by amendment,  
17 P.L. c. (now before the Legislature as this bill))

18 (2) diminish the responsibility of an applicant to comply with  
19 all applicable requirements of State or federal law, or any rule or  
20 regulation promulgated in accordance therewith, or an order  
21 issued thereunder;

22 (3) compromise or limit any enforcement action available to  
23 the department pursuant to law; or

24 (4) exempt an applicant from complying with all applicable  
25 provisions of federal and State laws, or rules or regulations  
26 promulgated pursuant thereto.

27 (cf: P.L.1991, c.421, s.2)

28 8. This act shall take effect immediately, but shall remain  
29 inoperative until July 1, 1993; provided, however, that the  
30 Commissioner of Environmental Protection may take such  
31 anticipatory actions as may be necessary for the timely  
32 implementation of this act on the operative date thereof.

33  
34  
35 STATEMENT

36  
37 This bill would establish a schedule of payments for application  
38 fees for certain permits issued by the Department of  
39 Environmental Protection (DEP). Specifically, the bill directs the  
40 Commissioner of Environmental Protection to adopt a schedule  
41 for the payment of fees for applications for those permits issued  
42 which are in excess of \$1,000. The schedule for the payment of  
43 fees provided in the bill would be made in the following manner:  
44 25 percent of the total fee amount would be payable at the time  
45 of the filing of an application for a permit; 25 percent of the  
46 total fee amount would be payable upon the conclusion of the  
47 administrative review of a completed permit application; 25  
48 percent of the total fee amount would be payable to the  
49 department upon a preliminary determination regarding the  
50 permit application; and the remaining 25 percent would be  
51 payable to the department upon a final determination regarding  
52 the disposition of the permit application. In those cases where  
53 there is no preliminary action regarding the disposition of a  
54 permit, 50 percent of the total fee amount would be payable to

1 the department taking final action on the permit application.

2 The bill also directs that DEP could not require a permit  
3 applicant to produce any further information regarding a  
4 completed permit application, after the DEP has concluded the  
5 administrative review of the application.

6 Finally, the bill specifies that its provisions would not apply to  
7 any person licensed or certified by the DEP for the practice of a  
8 regulated profession or occupation.

9

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12

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13 Establishes a payment schedule for DEP permit application fees;  
14 prohibits DEP from requiring permit applicants to produce  
15 certain information.

ASSEMBLY, No. 2013  
STATE OF NEW JERSEY

INTRODUCED NOVEMBER 12, 1992

By Assemblymen DORIA and SHINN

1 **AN ACT** concerning the payment of certain fees for permits  
2 issued by the Department of Environmental Protection and  
3 supplementing chapter 1D of Title 13 of the Revised Statutes.

4  
5 **BE IT ENACTED** by the Senate and General Assembly of the  
6 *State of New Jersey*:

7 1. As used in this act:

8 "Administrative review" means a review to determine if all of  
9 the information which is required for a permit application to be  
10 deemed complete has been submitted to the department;

11 "Applicant" means the person in whose name a permit is to be  
12 issued;

13 "Commissioner" means the Commissioner of Environmental  
14 Protection;

15 "Completed application" means the submission of all of the  
16 information designated on the checklist adopted pursuant to  
17 section 1 of P.L. 1991, c. 421 (C. 13:1D-101 et seq.), for the class  
18 or category of permit for which application is made;

19 "Department" means the Department of Environmental  
20 Protection;

21 "Fee" means any fee, assessment or other charge imposed by  
22 the department pursuant to any law, rule or regulation for a  
23 permit; and

24 "Permit" means any permit, registration or license issued by  
25 the Department of Environmental Protection establishing the  
26 regulatory and management requirements for an ongoing  
27 regulated activity as authorized by federal law or the following  
28 State laws: R.S.12:5-1 et seq.; P.L.1975, c.232 (C.13:1D-29  
29 et seq.); the "Solid Waste Management Act," P.L.1970, c.39  
30 (C.13:1E-1 et seq.); section 17 of P.L.1975, c.326 (C.13:1E-26);  
31 the "Comprehensive Regulated Medical Waste Management Act,"  
32 P.L.1989, c.34 (C.13:1E-48.1 et al.); P.L.1989, c.151  
33 (C.13:1E-99.21a et al.); the "New Jersey Statewide Mandatory  
34 Source Separation and Recycling Act," P.L.1987, c.102  
35 (C.13:1E-99.11 et al.); the "Pesticide Control Act of 1971,"  
36 P.L.1971, c.176 (C.13:1F-1 et seq.); the "Environmental Cleanup  
37 Responsibility Act," P.L.1983, c.330 (C.13:1K-6 et seq.); the  
38 "Toxic Catastrophe Prevention Act," P.L.1985, c.403  
39 (C.13:1K-19 et seq.); "The Wetlands Act of 1970," P.L.1970,  
40 c.272 (C.13:9A-1 et seq.); the "Freshwater Wetlands Protection  
41 Act," P.L.1987, c.156 (C.13:9B-1 et seq.); the "Coastal Area  
42 Facility Review Act," P.L.1973, c.185 (C.13:19-1 et seq.); the  
43 "Air Pollution Control Act (1954)," P.L.1954, c.212 (C.26:2C-1  
44 et seq.); the "Water Supply Management Act," P.L.1981, c.262  
45 (C.58:1A-1 et seq.); P.L.1947, c.377 (C.58:4A-5 et seq.); the  
46 "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1  
47 et seq.); P.L.1986, c.102 (C.58:10A-21 et seq.); the "Safe

1 Drinking Water Act," P.L.1977, c.224 (C.58:12A-1 et seq.); the  
2 "Flood Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50  
3 et seq.).

4 2. a. The commissioner shall adopt rules and regulations  
5 establishing a schedule for the payment of fees for applications  
6 for those permits issued by the department which, for the periods  
7 for which the permits are issued, exceed \$500 in cost. The  
8 schedule shall provide that payment may be made by an applicant  
9 in the following manner:

10 (1) Twenty-five percent of the total fee amount shall be  
11 payable to the department at the time of the filing of an  
12 application for a permit;

13 (2) Twenty-five percent of the total fee amount shall be  
14 payable to the department upon the conclusion of the  
15 administrative review of a completed application for a permit;  
16 and

17 (3) Fifty percent of the total fee amount shall be payable to  
18 the department upon the taking of final action by the department  
19 on the permit application.

20 b. Where an applicant for a permit appeals a decision of the  
21 department, and the appeal results in a contested case pursuant  
22 to the "Administrative Procedure Act, P.L.1968, c.410  
23 (C.52:14B-1 et seq.), the department shall not require the  
24 payment of 50 percent of the total fee amounts as provided in  
25 paragraph (3) of subsection a. of this section, until the decision of  
26 the administrative law judge has been transmitted to the  
27 commissioner, and the commissioner has rejected or modified the  
28 record of that decision, as the case may be, in the manner  
29 provided in section 10 of P.L.1968, c.410 (C.52:14B-10).

30 3. The commissioner shall, pursuant to the provisions of the  
31 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1  
32 et seq.), adopt rules and regulations setting forth the payment  
33 schedule required pursuant to section 2 of this act, and any other  
34 rules and regulations as are necessary to implement the  
35 provisions of this act.

36 4. This act shall take effect immediately, but shall remain  
37 inoperative until July 1, 1993; provided, however, that the  
38 Commissioner of Environmental Protection may take such  
39 anticipatory action as may be necessary for the timely  
40 implementation of this act on the operative date thereof.

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#### STATEMENT

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45 This bill would establish a schedule of payments for application  
46 fees for certain permits issued by the Department of  
47 Environmental Protection (DEP).

48 The bill directs the Commissioner of Environmental Protection  
49 to adopt a schedule for the payment of fees for applications for  
50 those permits issued which are in excess of \$500. The schedule  
51 for the payment of fees provided in the bill would be made in the  
52 following manner: 25 percent of the total fee amount would be  
53 payable at the time of the filing of an application for a permit;  
54 25 percent of the total fee amount would be payable upon the

1 conclusion of the administrative review of a completed permit  
2 application; and 50 percent of the total fee amount would be  
3 payable to the department upon a final determination regarding  
4 the disposition of the permit application.

5 The bill also directs that a permit applicant would not be  
6 required to pay the remaining 50 percent of a permit fee  
7 following the DEP's decision on the permit, if the applicant's  
8 appeal of the permit decision results in a contested case pursuant  
9 to the "Administrative Procedure Act," P.L.1968, c.410  
10 (C.52:14B-1 et seq.). The applicant would not be required to pay  
11 the remaining 50 percent of the permit fee until an  
12 administrative law judge has rendered a decision on the appeal,  
13 and that appeal is subsequently rejected or modified by the  
14 Commissioner of Environmental Protection in accordance with  
15 the "Administrative Procedure Act."

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20 Directs DEP to establish a payment schedule for permit  
21 application fees.

ASSEMBLY POLICY AND RULES COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR

ASSEMBLY, Nos. 2124 and 2013

STATE OF NEW JERSEY

DATED: MAY 10, 1993

The Assembly Policy and Rules Committee favorably reports an Assembly Committee Substitute for Assembly Bill No. 2124 and Assembly Bill No. 2013.

The committee substitute establishes a scheduling system for the payments of the application fees for certain permits issued by the Department of Environmental Protection and Energy (DEPE).

Under the provisions of the substitute, the Commissioner of Environmental Protection and Energy is to adopt a schedule for the payment of permit application fees in excess of \$1,000. The payment schedule outlined in the substitute provides for four equal payments. The first 25 percent of the fee is due when the application for the permit is filed with the department; the second 25 percent is due when the department completes its administrative review of the permit application; the third 25 percent is due when the department issues its preliminary determination on the application; and the final 25 percent is due when the department renders its final determination on the application. The substitute also directs that for the final three payments, the DEPE must provide each applicant with a written statement certifying what action the department has taken on the application.

In those cases where there is no preliminary action by the department, the applicant would be permitted to withhold payment until the department took final action on the application. At that time, the applicant would pay the remaining 50 percent of the fee due.

The substitute also provides that an applicant is not required to pay the final 25 percent of an application fee if that applicant's appeal of the department's decision on an application results in a contested case, as provided in the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). This final 25 percent payment would not be due until an administrative law judge has rendered a decision on the appeal, and that appeal is subsequently rejected or modified by the Commissioner of Environmental Protection and Energy.

In addition, the substitute specifies that after the DEPE has completed its administrative review of an application, the DEPE may not require an applicant to produce any further information regarding that application.

Finally, the substitute clarifies that its provisions do not apply to any person licensed or certified by the DEPE for the practice of a regulated profession or occupation.

SENATE ENVIRONMENT COMMITTEE  
STATEMENT TO  
ASSEMBLY COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY, Nos. 2124 and 2013**

with committee amendments

**STATE OF NEW JERSEY**

DATED: DECEMBER 6, 1993

The Senate Environment Committee favorably reports Assembly Bill Nos. 2124 and 2013 (ACS) with committee amendments.

As amended, this bill would establish a scheduling system for the payment of application fees for permits issued by the Department of Environmental Protection (DEP).

The bill requires the Commissioner of Environmental Protection to adopt a schedule for the payment of permit application fees for permits with fees in excess of \$1,000. The payment schedule required in the bill provides for three equal payments. The first third of the fee is due when the application for the permit is filed with the department; the second third is due when the department deems the application complete; the final third is due when the department renders its final determination on the application. The department is required to send a written notice to each applicant whenever a payment is due. For the final two payments, that notice must also include a certification from the department that it has completed its responsibilities for that stage of the process and a description of any actions, findings or conclusions that have been reached by the department.

The bill, as amended, also provides that an applicant is not required to pay the final third of a fee if that applicant's appeal of the department's decision on an application results in a contested case, as provided in the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). This final third would not be due until an administrative law judge has rendered a decision on the appeal, and that appeal is subsequently rejected or modified by the Commissioner of Environmental Protection.

The bill's provisions would apply to any permit, registration or license issued by the Department of Environmental Protection establishing the regulatory and management requirements for an ongoing regulated activity as authorized by federal law or the following State laws: R.S.12:5-1 et seq.; P.L.1975, c.232 (C.13:1D-29 et seq.); the "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.); section 17 of P.L.1975, c.326 (C.13:1E-26); the "Comprehensive Regulated Medical Waste Management Act," P.L.1989, c.34 (C.13:1E-48.1 et al.); P.L.1989, c.151 (C.13:1E-99.21a et al.); the "New Jersey Statewide Mandatory Source Separation and Recycling Act," P.L.1987, c.102 (C.13:1E-99.11 et al.); the "Pesticide Control Act of 1971," P.L.1971, c.176 (C.13:1F-1 et seq.); the "Industrial Site Recovery Act," P.L.1983, c.330 (C.13:1K-6 et seq.); the "Toxic Catastrophe Prevention Act," P.L.1985, c.403 (C.13:1K-19 et seq.); "The Wetlands Act of 1970," P.L.1970, c.272 (C.13:9A-1

et seq.); the "Freshwater Wetlands Protection Act," P.L.1987, c.156 (C.13:9B-1 et seq.); the "Coastal Area Facility Review Act," P.L.1973, c.185 (C.13:19-1 et seq.); the "Air Pollution Control Act (1954)," P.L.1954, c.212 (C.26:2C-1 et seq.); the "Water Supply Management Act," P.L.1981, c.262 (C.58:1A-1 et seq.); P.L.1947, c.377 (C.58:4A-5 et seq.); the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.); P.L.1986, c.102 (C.58:10A-21 et seq.); the "Safe Drinking Water Act," P.L.1977, c.224 (C.58:12A-1 et seq.); the "Flood Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50 et seq.). However, only new permits issued by the department pursuant to the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.) would be subject to the bill's provisions.

Finally, the bill clarifies that its provisions do not apply to any person licensed or certified by the DEP for the practice of a regulated profession or occupation.

The committee amended the bill to:

- Provide that its provisions do not apply to renewals and modifications of New Jersey Pollutant Discharge Elimination System permits issued pursuant to the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.)

- Change the number of installments in which the payments must be made from four to three;

- Delete sections 4 and 7 which prohibited the department from requiring any further information from an applicant after a permit has been deemed complete;

- Change the effective date to July 1, 1994.

- Make technical corrections.

As reported, this bill is identical to Senate Bill No. 1774 as amended by the committee.