

13:1D-1

LEGISLATIVE HISTORY CHECKLIST  
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(DEP permit applications--applicants  
with pre-application conferences)

NJSA: 13:1D-1

LAWS OF: 1991 CHAPTER: 421

BILL NO: A4516

SPONSOR(S): Doyle and Felice

DATE INTRODUCED: March 4, 1991

COMMITTEE: ASSEMBLY: Energy & Environment

SENATE: Land Use

AMENDED DURING PASSAGE: Yes Amendments during passage denoted  
by asterisks

DATE OF PASSAGE: ASSEMBLY: June 20, 1991

SENATE: January 5, 1992

DATE OF APPROVAL: January 17, 1992

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

KBG/pp

[FIRST REPRINT]  
ASSEMBLY, No. 4516

STATE OF NEW JERSEY

INTRODUCED MARCH 4, 1991

By Assemblymen DOYLE and FELICE

1 AN ACT concerning application review procedures of the  
2 Department of Environmental Protection, and supplementing  
3 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. Within <sup>1</sup>[90] 180<sup>1</sup> days of the effective date of this act, the  
8 <sup>1</sup>[Permit Management Staff, established in the]<sup>1</sup> Department of  
9 Environmental Protection <sup>1</sup>[pursuant to P.L. , c. (C. )  
10 (pending in the Legislature as Assembly Bill No. 4511),]<sup>1</sup> shall  
11 provide each applicant <sup>1,1</sup> or prospective applicant <sup>1</sup>, for a  
12 permit to engage in a regulated activity,<sup>1</sup> with a checklist of all  
13 submissions required to be made as part of a filing of <sup>1</sup>[a written  
14 application for any permit, license, certificate, registration or  
15 other similar a permit issued by the Department of  
16 Environmental Protection , including, but not limited to:  
17 R.S.12:5-1 et seq.; P.L.1975, c.232 (C.13:1D-29 et seq.); the  
18 "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et  
19 seq.); section 17 of P.L.1975, c.326 (C.13:1E-26); the  
20 "Comprehensive Regulated Medical Waste Management Act,"  
21 P.L.1989, c.34 (C.13:1E-48.1 et al.); P.L.1989, c.151  
22 (C.13:1E-99.21a et al.); the "New Jersey Statewide Mandatory  
23 Source Separation and Recycling Act," P.L.1987, c.102  
24 (C.13:1E-99.11 et al.); the "Pesticide Control Act of 1971,"  
25 P.L.1971, c.176 (C.13:1F-1 et seq.); the "Environmental Cleanup  
26 Responsibility Act," P.L.1983, c.330 (C.13:1K-6 et seq.); the  
27 "Toxic Catastrophe Prevention Act," P.L.1985, c.403  
28 (C.13:1K-19 et seq.); "The Wetlands Act of 1970," P.L.1970,  
29 c.272 (C.13:9A-1 et seq.); the "Freshwater Wetlands Protection  
30 Act," P.L.1987, c.156 (C.13:9B-1 et seq.); the "Coastal Area  
31 Facility Review Act," P.L.1973, c.185 (C.13:19-1 et seq.); the  
32 "Air Pollution Control Act (1954)," P.L.1954, c.212 (C.26:2C-1 et  
33 seq.); section 13 of P.L.1967, c.106 (C.26:2C-9.2); the "Water  
34 Supply Management Act," P.L.1981, c.262 (C.58:1A-1 et seq.);  
35 section 10 of P.L.1947, c.377 (C.58:4A-14); the "Water Pollution  
36 Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.); P.L.1986,  
37 c.102 (C.58:10A-21 et seq.); the "Safe Drinking Water Act,"  
38 P.L.1977, c.224 (C.58:12A-1 et seq.); the "Flood Hazard Area  
39 Control Act," P.L.1962, c.19 (C.58:16A-50 et seq.); and the

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> Assembly AEE committee amendments adopted June 10, 1991.

1 federal "Resource Conservation and Recovery Act of 1976." ] a  
2 permit application with the department.<sup>1</sup>

3 A checklist <sup>1</sup>[may] shall<sup>1</sup> be prepared <sup>1</sup>by the department,  
4 after consultations with interested parties<sup>1</sup> for each <sup>1</sup>[permit,  
5 license, certificate, registration or other approval, or the Permit  
6 Management Staff] permit subject to the provisions of this act, or  
7 the department<sup>1</sup> may consolidate the requirements for two or  
8 more related approvals into a single checklist. A checklist shall,  
9 with particularity, identify: the application form or forms  
10 required by the department for a completed application; any  
11 documents or other written submissions required to be filed with  
12 the application; <sup>1</sup>[any public notice or hearing requirements of  
13 the department; and]<sup>1</sup> any filing, notice, hearing or <sup>1</sup>[review  
14 requirements] other requirement that is a precondition<sup>1</sup> for  
15 review of an application by the department <sup>1</sup>, including any  
16 certification of compliance therewith required by the  
17 department; and the technical manual for the permit prepared by  
18 the department pursuant to P.L. , c. (C. ) (pending in  
19 the Legislature as Assembly, No. 4517)<sup>1</sup> . Checklists shall <sup>1</sup>[be  
20 reviewed and updated at least annually by the Permit  
21 Management Staff to assure the accuracy and currency of the  
22 information provided therein] not be subject to the notice and  
23 publication requirements of the "Administrative Procedure Act,"  
24 P.L.1968, c.412, (C.52:14B-1 et seq.). Checklists shall be  
25 reviewed at least annually, and shall be updated as often as  
26 necessary.

27 As used in this act:

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

1 "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et  
2 seq.); P.L.1986, c.102 (C.58:10A-21 et seq.); the "Safe Drinking  
3 Water Act," P.L.1977, c.224 (C.58:12A-1 et seq.); the "Flood  
4 Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50 et seq.)<sup>1</sup>.

5 2. a. Checklists prepared pursuant to section 1 of this act  
6 shall constitute the exclusive and exhaustive list of items  
7 required to be submitted <sup>1</sup>[in conjunction with an application  
8 subject to section 1 of this act, and an application shall be  
9 deemed complete under this or any other applicable law,  
10 including P.L.1975, c.232 (C.13:1D-29 et seq.)] in order for a  
11 permit application subject to this act or to P.L.1975, c.232  
12 (C.13:1D-29 et seq.) to be deemed administratively complete by  
13 the department<sup>1</sup> , for the purpose of commencing a <sup>1</sup>technical<sup>1</sup>  
14 review of the application by the department, <sup>1</sup>[if] provided<sup>1</sup> all  
15 submissions <sup>1</sup>or certifications<sup>1</sup> identified on the checklist  
16 therefor have been <sup>1</sup>[properly]<sup>1</sup> completed and filed with the  
17 department.

18 b. Within <sup>1</sup>[15] 30<sup>1</sup> days following the filing of an application  
19 subject to the provisions of this act, <sup>1</sup>including any supportive  
20 documentation required to be filed in conjunction with the  
21 application,<sup>1</sup> the department shall notify an applicant if the  
22 application lacks a submission identified <sup>1</sup>[in] on<sup>1</sup> the checklist  
23 therefor, or a submission has not been <sup>1</sup>[properly]<sup>1</sup> completed<sup>1</sup>;  
24 if such notice is not provided, an] . If an application, including all  
25 necessary documentation is determined to be complete, or if a  
26 notice of incompleteness is not provided within 30 days of filing  
27 of the application, and all necessary documentation, the<sup>1</sup>  
28 application shall be deemed complete for purposes of  
29 commencing a <sup>1</sup>technical<sup>1</sup> review thereof, and the time period  
30 established for completing a review of the application and taking  
31 final action thereon shall, notwithstanding any other provisions of  
32 law to the contrary, commence on the <sup>1</sup>[16th] 31st<sup>1</sup> day  
33 following the date of filing of the completed application.  
34 Commencement of a <sup>1</sup>technical<sup>1</sup> review of an application shall  
35 not be delayed because of the failure of an applicant to file a  
36 submission not specifically identified on the checklist for that  
37 application that was in effect as of the date of the filing of the  
38 application.

39 c. Nothing in <sup>1</sup>[subsection b. of]<sup>1</sup> this section shall be  
40 construed to:

41 (1) limit the authority of the department to request at any  
42 time a submission that was not identified on the checklist for an  
43 application if the submission is required by State or federal law,  
44 <sup>1</sup>or rule or regulation promulgated in accordance therewith,<sup>1</sup>  
45 except that such additional submission shall not affect the time  
46 period allowed the department for reviewing and taking final  
47 action on a completed application; <sup>1</sup>[or]<sup>1</sup>

48 (2) diminish the responsibility of an applicant to comply with  
49 all applicable requirements of State or federal law <sup>1</sup>, or any rule

1 or regulation promulgated in accordance therewith, or an order  
2 issued thereunder;

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

5 (4) exempt an applicant from complying with all applicable  
6 provisions of federal and State laws, or rules or regulations  
7 promulgated pursuant thereto<sup>1</sup>.

8 3. The <sup>1</sup>[Permit Management Staff] department<sup>1</sup> shall advise a  
9 prospective applicant of his right to request a pre-application  
10 conference with appropriate departmental staff, and of the  
11 estimated time period required by the department to review and  
12 take final action on a completed application. Within <sup>1</sup>[15] 20<sup>1</sup>  
13 days of the date that an application is determined to be  
14 complete, or is required to be deemed complete pursuant to  
15 subsection b. of section 2 of this act, the <sup>1</sup>[Permit Management  
16 Staff] department<sup>1</sup> shall inform the applicant of the names of  
17 the individuals assigned to review the <sup>1</sup>[applications] application<sup>1</sup>.

18 4. a. Within <sup>1</sup>[15] 30<sup>1</sup> days of receipt of a written request  
19 therefor, the department shall convene a pre-application  
20 conference to provide guidance to a prospective applicant  
21 regarding any application <sup>1</sup>for a permit<sup>1</sup> subject to the provisions  
22 of section 1 of this act. A pre-application conference shall be  
23 requested on a pre-application <sup>1</sup>conference<sup>1</sup> request form  
24 prepared by the <sup>1</sup>[Permit Management Staff] department<sup>1</sup>. The  
25 <sup>1</sup>filing of a<sup>1</sup> request form <sup>1</sup>by a prospective applicant<sup>1</sup> shall be  
26 accompanied by a conceptual plan of the proposed project <sup>1</sup>[of  
27 the prospective applicant]<sup>1</sup> for which departmental approval may  
28 be sought. The pre-application form shall advise prospective  
29 applicants that the purpose of the pre-application conference is  
30 to discuss the general requirements of the department with  
31 regard to the type of application identified by a prospective  
32 applicant and, if requested, to discuss <sup>1</sup>[conceptual plans ; the ]  
33 the conceptual plan for the proposed project. A pre-application<sup>1</sup>  
34 conference is not <sup>1</sup>to be used<sup>1</sup> for the purpose of <sup>1</sup>[providing]  
35 procuring<sup>1</sup> consulting services for the <sup>1</sup>[filling out] preparation<sup>1</sup>  
36 of an application. The conceptual plan and supportive  
37 information submitted in conjunction therewith shall be for  
38 discussion purposes only, and such discussion shall not be binding  
39 either on the department or the applicant with respect to an  
40 application subsequently filed by the applicant <sup>1</sup>unless otherwise  
41 expressly agreed to by the parties<sup>1</sup>.

42 b. Within <sup>1</sup>[15] 30<sup>1</sup> days of a written request therefor by an  
43 applicant, the <sup>1</sup>[Permit Management Staff] department<sup>1</sup> shall  
44 notify an applicant of the status of his application and of any  
45 outstanding issues relating to the review of the application.

46 5. This act shall take effect immediately, but shall remain  
47 inoperative until the enactment of P.L. ,c. (C. )(pending in  
48 the Legislature as Assembly Bill No. 4513 of 1991 or Senate Bill  
49 No. of 1991), P.L. , c. (C. )(pending in the Legislature as

1 Assembly Bill No. 4514 of 1991 or Senate Bill No. of 1991), and  
2 P.L. , c. (C. )(pending in the Legislature as Assembly Bill  
3 No. 4515 of 1991 or Senate Bill No. of 1991).

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ENVIRONMENT

7

8 Requires checklists of information required to be submitted for  
9 certain applications filed with DEP, and provides for  
10 pre-application conferences.

1 deemed complete pursuant to subsection b. of section 2 of this  
2 act, the Permit Management Staff shall inform the applicant of  
3 the names of the individuals assigned to review the applications.

4 4. a. Within 15 days of receipt of a written request therefor,  
5 the department shall convene a pre-application conference to  
6 provide guidance to a prospective applicant regarding any  
7 application subject to the provisions of section 1 of this act. A  
8 pre-application conference shall be requested on a  
9 pre-application request form prepared by the Permit  
10 Management Staff. The request form shall be accompanied by a  
11 conceptual plan of the proposed project of the prospective  
12 applicant for which departmental approval may be sought. The  
13 pre-application form shall advise prospective applicants that the  
14 purpose of the pre-application conference is to discuss the  
15 general requirements of the department with regard to the type  
16 of application identified by a prospective applicant and, if  
17 requested, to discuss conceptual plans; the conference is not for  
18 the purpose of providing consulting services for the filling out of  
19 an application. The conceptual plan and supportive information  
20 submitted in conjunction therewith shall be for discussion  
21 purposes only, and such discussion shall not be binding either on  
22 the department or the applicant with respect to an application  
23 subsequently filed by the applicant.

24 b. Within 15 days of a written request therefor by an  
25 applicant, the Permit Management Staff shall notify an applicant  
26 of the status of his application and of any outstanding issues  
27 relating to the review of the application.

28 5. This act shall take effect immediately, but shall remain  
29 inoperative until the enactment of P.L. ,c. (C. )(pending in  
30 the Legislature as Assembly Bill No. 4513 of 1991 or Senate Bill  
31 No. of 1991), P.L. , c. (C. )(pending in the Legislature as  
32 Assembly Bill No. 4514 of 1991 or Senate Bill No. of 1991), and  
33 P.L. , c. (C. )(pending in the Legislature as Assembly Bill  
34 No. 4515 of 1991 or Senate Bill No. of 1991).

#### 35 36 37 STATEMENT

38  
39 This bill requires the Permit Management Staff in the  
40 Department of Environmental Protection to provide a checklist  
41 of all written submissions required for the review of a application  
42 for a permit, license, certificate, registration, license or other  
43 similar approval issued by the Department of Environmental  
44 Protection for which a written application is required. The  
45 checklist shall identify all submissions required, including  
46 application forms, documents or other information, and any  
47 public notice filing, notice or hearing requirements.  
48 Commencement of the review of an application filed in  
49 accordance with all checklist requirements may not be delayed on

1 the grounds that it has failed to provide information not  
2 specified in the checklist therefor; however, the department may  
3 require submission of such information, if required by law, during  
4 the course of the review process.

5 The bill also:

6 (1) stipulates that an applicant shall be advised, within 15 days  
7 of the filing of an application, as to whether all the necessary  
8 submissions have been made;

9 (2) requires the department to provide, upon request, a  
10 pre-application conference to a prospective applicant, and the  
11 Permit Management Staff to advise an applicant, upon request, of  
12 the status of his application, and of any outstanding issues  
13 relating to the review thereof.

14

15

16

#### ENVIRONMENT

17

18 Requires checklists of information required to be submitted for  
19 certain applications filed with DEP, and provides for  
20 pre-application conferences.



ASSEMBLY ENERGY AND ENVIRONMENT COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4516

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: JUNE 6, 1991

Assembly Bill No. 4516, with committee amendments, is reported favorably by the Assembly Energy and Environment Committee.

The bill requires the Department of Environmental Protection (DEP) to provide a checklist of all written submissions required for the review of a permit application filed with DEP. Items identified on the checklist shall be used to determine whether an application and accompanying submissions are administratively complete for purposes of commencing a technical review thereof. The bill also requires DEP, upon request, to provide a pre-application conference to afford guidance to a prospective applicant on the preparation, filing and review of a permit application. Permit is defined in the bill to include certain registrations or licenses issued by the department under designated laws.

The bill also:

(1) sets a 30-day limit on an administrative review by DEP of a permit application to determine whether or not an application, including any supportive documentation, is complete;

(2) starts the clock running for the commencement and completion of a technical review of an application determined to be administratively complete, or for which notice of incompleteness is not given within the prescribed time; and

(3) provides that the provisions of the bill shall not, however, be deemed to exempt an applicant from having to comply with all provisions of law, or rules or regulations adopted thereunder.

The committee amendments: stipulate that the list of statutes to which the bill applies, as set forth in the definition of "permit", shall be exclusive; extend the administrative review period to 30 days; and make clear that an applicant must comply with all lawful requirements. The remaining amendments are primarily of a nonsubstantive nature.

SENATE LAND USE MANAGEMENT  
AND REGIONAL AFFAIRS COMMITTEE

STATEMENT TO

[FIRST REPRINT]

ASSEMBLY, No. 4516

STATE OF NEW JERSEY

LAW LIBRARY  
STATE OF NEW JERSEY

DATED: DECEMBER 12, 1991

The Senate Land Use Management and Regional Affairs Committee favorably reports Assembly Bill No. 4516 (1R).

This bill would require the Department of Environmental Protection (DEP) to provide a checklist of all written submissions required for the review of a permit application filed with DEP. Items identified on the checklist shall be used to determine whether an application and accompanying submissions are administratively complete for purposes of commencing a technical review thereof. The bill also requires DEP, upon request, to provide a pre-application conference to afford guidance to a prospective applicant on the preparation, filing and review of a permit application. Permit is defined in the bill to include certain registrations or licenses issued by the department under designated laws.

The bill also:

(1) sets a 30-day limit on an administrative review by DEP of a permit application to determine whether or not an application, including any supportive documentation, is complete;

(2) starts the clock running for the commencement and completion of a technical review of an application determined to be administratively complete, or on those applications for which no notice of incompleteness is given within the prescribed time; and

(3) provides that the provisions of the bill shall not, however, be deemed to exempt an applicant from having to comply with all provisions of law, or rules or regulations adopted thereunder.

This bill is identical to Senate Bill No. 3631, as amended by the committee.