

LAWS OF DELAWARE
VOLUME 84
CHAPTER 103
152nd GENERAL ASSEMBLY
FORMERLY
HOUSE SUBSTITUTE NO. 1
FOR
HOUSE BILL NO. 98

AN ACT TO AMEND TITLES 7 AND 29 OF THE DELAWARE CODE RELATING TO NOTICE REQUIREMENTS FOR DNREC PERMITS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Chapter 80, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8032. Procedures for public notice of permit applications.

(a) Notwithstanding any law to the contrary, the following minimum requirements must be observed for the issuance of any permit by the Department where public notice is required:

(1) The notice must include instructions for electronic submission of public comments or requests for hearing.

(2) The permit application to which the notice applies must be available electronically. The notice must contain a link or web address where instructions for accessing the full application are available. The Department may provide instructions for non-electronic review of application attachments that are too voluminous to post electronically.

(3) A copy of the notice shall be posted on the Department's website in addition to whatever other means of delivery is required for the notice.

(4) The Department shall send a copy of the notice by e-mail to members of the General Assembly in whose district the permit would issue.

(b) This section applies to applications for permit renewals.

(c) This section does not apply to applications for permit extensions.

Section 2. Amend Chapter 60, Title 7 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 6004. Permit — Application; hearing; extension.

(a) Any person desiring to obtain a permit required by § 6003 of this title or a variance or an application to establish a redemption center or a certificate of public convenience and necessity required by subchapter V of this chapter shall submit an application therefor in such form and accompanied by such plans, specifications and other information as required by applicable statute or regulation.

(b) Except as otherwise provided in subsection (c) of this section, upon receipt of an application in proper form, the Secretary shall post on the Department's website and advertise in a newspaper of general circulation in the county in which the activity is proposed and in a daily newspaper of general circulation throughout the State:

(1) The fact that the application has been received;

(2) A brief description of the nature of the application; and

(3) The place at which a copy of the application may be inspected and an electronic address where the application may be accessed online. The Department may provide instructions for non-electronic review of application attachments that are too voluminous to post online.

The Secretary shall hold a public hearing on an application, if he or she receives a meritorious request for a hearing within a reasonable time as stated in the advertisement. A public hearing may be held on any application if the Secretary deems it to be in the best interest of the State to do so. Such notice shall also be sent by mail to any person who has requested such notification from the Department by providing the name and mailing address. The reasonable time stated shall be 15 days, unless federal law requires a longer time, in which case the longer time shall be stated. A public hearing request shall be deemed meritorious if it exhibits a familiarity with the application and a reasoned statement of the permit's probable impact. The applicant shall be responsible for the cost of any such advertisements and notices made by the Department as required by this section, not to exceed \$500.

§ 6305. Regulations.

(a) The Secretary shall, after notice and public hearing, promulgate and revise as appropriate:

(16) Regulations regarding such public notice and hearing requirements and other related matters as may be deemed necessary to maintain equivalence of the State's program under the Resource Conservation and Recovery Act of 1976, Pub. L. 94-580 [42 U.S.C. § 6901 et seq.], including requirements for public notice of draft permits, for public comment periods and requests for hearings and for informal hearings. Regulations relating to permit applications must include requirements that conform to the requirements of § 8032 of Title 29.

Section 3. Amend § 6608, Title 7 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 6608. Permit applications.

(a) Any person desiring to obtain a permit required by § 6604 of this title shall submit an application in such form and accompanied by such plans, specifications and other information as required by applicable regulations.

(b) Upon receipt of an application in proper form, the Secretary shall post on the Department's website and advertise in a daily newspaper of statewide circulation and in a newspaper of general circulation in the county in which the activity is ~~proposed~~: proposed, a notice containing all of the following:

(1) The fact that the application has been ~~received~~; and received.

(2) A brief description of the nature of the application.

(3) An electronic address where there are instructions for reading the application online. The Department may provide instructions for non-electronic review of application attachments that are too voluminous to post online.

(c) The Secretary may hold a public hearing with respect to any application if it is deemed to be in the best public interest. The Secretary shall hold a public hearing if he or she receives a written ~~meritorious objection~~ meritorious public hearing request expressing opposition to the application within 20 days of advertisement. A public hearing request shall be deemed meritorious if it exhibits a familiarity with the application and a reasoned statement of the permit's probable impact.

Section 4. Amend § 7207, Title 7 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 7207. Application.

(a) Each applicant for a lease, permit or grant, pursuant to this chapter, shall file with the Secretary a request stating in detail the type of lease, permit or grant desired, showing the location of the area and containing specifications for any proposed construction.

(b) The Secretary may require such additional information as will enable him or her to consider the application properly. He or she may require an environmental assessment to be provided if he or she determines that the proposed use or activity may have a substantial adverse effect upon the environment.

(c) The Secretary may request of any state agency a report or recommendation concerning any application before the Department.

(d) Upon receipt of an application in proper form, the Secretary shall post on the Department's website and advertise in a daily newspaper of statewide circulation and in a newspaper of general circulation in the county in which the activity is ~~proposed~~: proposed, notice that complies with the provisions of § 8032 of Title 29 and contains the following:

(1) The fact that the application has been received;

(2) A brief description of the nature of the application; and

(3) A statement that ~~a public hearing may be requested by any interested person who offers a meritorious objection to the application.~~ any interested person may submit a written public hearing request expressing opposition to the application.

(e) If the Secretary decides that ~~an objection~~ a public hearing request is not meritorious, ~~he or she~~ the Secretary shall then provide a written response so stating ~~his or her~~ the Secretary's reasons.

§ 7208. Hearing.

(a) A public hearing shall be held:

(1) If a grant or lease for a period of time in excess of 20 years is sought; or

(2) If the Secretary determines that a public hearing is in the public interest; or

(3) If a written meritorious ~~objection~~ public hearing request expressing opposition to the application is received within 20 days of the advertisement of the public notice for the application. A public hearing request shall be deemed meritorious if it exhibits a familiarity with the application and provides a reasoned statement of the action's probable impact.

Section 5. This Act is effective 180 days after its enactment.

Approved July 21, 2023