



**GROUP AGAINST SMOG & POLLUTION**

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August 27, 2013

**VIA EMAIL**

Robert Altenburg  
Pennsylvania Department of Environmental Protection  
Policy Office  
400 Market Street  
16<sup>th</sup> Floor  
Harrisburg, PA 17105  
[RA-EPTG\\_Comments@pa.gov](mailto:RA-EPTG_Comments@pa.gov)

**Re: Group Against Smog and Pollution Comments Regarding the Department's Draft Policy on Public Participation in the Permit Review Process (Doc. ID 012-0900-003)**

Dear Mr. Altenburg,

Please accept these comments on behalf of the Group Against Smog and Pollution (GASP) regarding the Department's draft revisions to the Policy on Public Participation in the Permit Review Process.

If you have any questions or require additional information, please feel free to contact me.

Sincerely,

A handwritten signature in black ink that reads "Lauren M. Burge".

Lauren M. Burge, Esq.  
GASP Staff Attorney

**GROUP AGAINST SMOG AND POLLUTION COMMENTS RE: DEP'S  
DRAFT POLICY ON PUBLIC PARTICIPATION IN THE PERMIT REVIEW PROCESS**

**I. The Department must ensure that interested parties can schedule a timely file review.**

While the draft policy covers many aspects of public participation in the Department's decision-making process, it does not address the actual mechanism of doing a file review. The Department's policy should ensure that timely file reviews can be scheduled so the public has an adequate opportunity to provide substantive input on proposed permitting actions.

The public cannot participate in the decision-making process in a meaningful way without having all the facts related to a draft permit or other proposal. Individuals can get this information by performing a file review. Ideally, the public should be able to quickly schedule a file review early in the 30 day comment period, allowing as much time as possible to review the documents, obtain a solid understanding of the proposal, and formulate comments stating any objections or other opinions on the proposed action. However, it is often difficult to schedule a file review within the 30 day comment period, and organizations or individuals may be left with just a few days to digest complex permitting documents before the comment deadline. At times there is such a backlog of file reviews that a review cannot be scheduled at all within the 30 day comment period. These scheduling difficulties have a chilling effect on public participation. The Department should address these file review issues in its final public participation policy.

There are a number of ways the Department could remedy these scheduling issues. First, the most obvious option is to make permitting documents available electronically. We highly support this option, as discussed in further detail below. Additionally, the Department may consider giving scheduling priority to those reviewing documents that are open for public comment, or reserving a number of appointments each week for these types of file reviews. Finally, if the interested public cannot schedule a file review in time, it should be the Department's policy to either extend the comment period or supply copies via mail or electronically. Including these steps as part of the Department's final public participation policy

will help ensure that the public can access documents in a timely manner, thus allowing them to make meaningful comments on proposed actions.

## **II. The Department should make permitting documents available electronically.**

The public can currently only obtain permitting documents by physically travelling to one of the Department's offices and copying or scanning paper copies of these documents. The vast majority of these documents were created electronically, but have been printed out for purposes of the file review. This information would be more accessible and could be attained more efficiently if the Department made these documents available electronically. As such, the Department should adopt a policy of making permitting documents available electronically in the final version of the public participation policy.

Publishing these documents electronically would likely do more to encourage meaningful public participation than any other single step the Department could take. As discussed above, this would largely resolve the existing difficulties with scheduling file reviews. It would also make documents much more accessible to all members of the public. For example, if a resident of Greene County wants to do a file review concerning a proposed facility near their home, they currently must schedule a file review at the Department's Southwest Regional Office, drive over an hour to the office in Pittsburgh, spend hours copying or scanning documents, and travel at least an hour home. This all has to take place Monday through Friday, roughly 10:00am to 4:00pm when file review appointments are available. Anyone with work or family responsibilities would likely find this extremely challenging. If this person was unable to do a file review but still submitted comments, the comments would probably not be supported by facts or an understanding of exactly what is being proposed, so their comments would not be effective in conveying their concerns. However, if these documents were available electronically, they could be downloaded from a home or library computer, saving a great deal of time and expense. It would also effectively give the public more time to comment, as they can view the documents immediately rather than waiting for a file review. This change should be relatively inexpensive for the Department, as data storage has become increasingly inexpensive in recent years.

Many other states already make essential permitting documents available electronically. Those states post documents online and provide a link as part of the public notice. For example, the Ohio Environmental Protection Agency provides a searchable database of final and draft permits.<sup>1</sup> The West Virginia Department of Environmental Protection also provides electronic copies of draft permits and engineering memorandums.<sup>2</sup> Both of these agencies post the public notices and related documents online simultaneously.

For these reasons, the Department should update its public participation policy to require documents to be share with the public electronically in order to increase both the quantity and quality of public comments, and to make these documents easily accessible to the vast majority of interested parties.

### **III. Holding public hearings via webinar should not replace in-person public hearings.**

The draft policy gives the Department the option of holding public hearings via webcast. While this could be a useful method for expanding public participation, the Department should ensure that webcasts serve as a supplement to, not a replacement for, in-person public meetings.

Commenters generally support the Department's use of technology to expand opportunities for public participation. However, the Department should be sensitive to the fact that some interested individuals may not have internet access, such as the elderly or those who live in rural areas. A lack of access to technology should not be a barrier for these people to participate in the Department's decision-making process.

The Department should still hold in-person public meetings and hearings, but we would encourage the Department to simultaneously webcast these meetings. This would increase public participation by allowing the participation of those who are unable to travel or otherwise would not have been able to attend the meeting, but also would maintain the in-person aspect of public hearings. In this way, webcasts can be a useful supplement that will expand the opportunities for public participation.

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<sup>1</sup> Available at <http://extapex.epa.state.oh.us/epaxp/f?p=840:10:189055891810855>.

<sup>2</sup> Available at <http://www.dep.wv.gov/daq/Pages/NSRPermitsforReview.aspx>.

**IV. The Department should make comment response documents available online or via email.**

In addition to making permitting documents available electronically, the Department should also make its response to public comments available on its website. This would help to ensure that all commenters receive a timely response to their substantive comments. It would also increase transparency by letting all members of the public view responses to common complaints and understand the Department's policies or views on various issues. Making these documents widely available to the public will increase public participation and help the public to better understand Departmental decisions and policies.