



Department of the Environment

AIR QUALITY PERMITS PROGRAM

**STANDING BILL/ALTERNATE PUBLIC
PARTICIPATION/ONE-MILE RADIUS**

REGULATORY CHANGES

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PURPOSE

- Purpose of all three regulatory changes is to change air permitting regulations to be consistent with statutory changes that were made effective 1/1/10 and 10/1/13
- Already implementing these requirements but regulations have never been updated.

Who is Affected

- Applicants for air quality permits to construct that are subject to Section 2-404 of the Environment Article

Permit to Construct?

- Required before a new air pollution source is constructed or an existing air pollution source is modified
- Purpose is to ensure that a proposed project will comply with applicable air quality laws and regulations which exist to protect public health and the environment
- A permit to construct applies to an individual unit or process line so that there may be many PTCs issued to a single facility
- Not all PTCs are subject to expanded public participation
- Standing Bill Law did not change who is subject to expanded public participation

Standing Bill- Senate Bill 1065

- Effective 1/1/10
- Expanded standing for challenges to most of the Department's major permits including air quality permits to construct subject to Section 2-404 of the statute
- Substituted direct judicial review for the previous contested case hearing process
- Other procedural changes

Changes to Public Participation

- Still a multi-step process
- Informational Meeting
- Public Hearing
- Judicial Review (previously Contested Case Hearing)

Informational Meeting

- An informational meeting provides an opportunity for communication between the company, the Department, and citizens. This meeting may or may not be held depending upon the level of public interest in the application. The company is expected to explain their project and answer questions.
- Can be very contentious. Amount of interest is not always related to size of project. For example, over 200 people attended an informational meeting for a proposed crematory in Anne Arundel County.
- No changes to Informational Meeting requirements

Public Hearing

- After the informational meeting, the Department performs a technical review of the application to determine if the proposed equipment will comply with all applicable air pollution control regulations and then makes a tentative determination to issue permit (or send application back for revision, correction or withdrawal by company)
- Citizens must be given the opportunity to request a public hearing. If a hearing is held, a court reporter prepares a transcript of comments.
- New requirement- the public comment period can now be extended **once** for an additional sixty days upon written request to Department

Tentative Determination

- Statute contains detailed requirements for what must be included with the tentative determination which have been added to regulation
- If no adverse comments received, tentative determination becomes final determination and permit is issued

Final Determination

- If adverse written and/or oral comments are received concerning the tentative determination, the Department prepares a response to comments document and a Notice of Final Determination.
- If the Department intends to make a final determination that is substantively different from the tentative determination, the Department may first accept additional public comments on the part of the final determination that differs. If there is an additional public comment period, the Department must respond in writing to comments received on the part of the final determination that differs substantively, and then prepare a Notice of Final Determination.

Judicial Review

- Since Statute change, judicial review replaced contested case hearing process
- Judicial review is based on administrative record before the Department and limited to objections raised during public comment period (with a few limited exceptions)
- Record includes permit application, draft permit, fact sheet, and all documents in supporting file for permit

- A petition for Judicial Review must be filed within 30 days after the publication of a notice of final determination.
- Two Judicial review petitions to date for air quality permits. One was withdrawn and the other is still pending in the courts

Alternate Public Participation- NSPS- House Bill 95

- Effective 10/1/13
- Provides a streamlined process for sources subject to expanded public participation (info meeting; hearing) solely because they trigger NSPS

Examples of NSPS Only Sources

- Small combined heat and power facilities
- Medium size boilers
- Landfill gas to energy
- Many of these sources are located at government facilities, military bases, hospitals and universities

House Bill 994- One Mile Radius

- Effective 10/1/13
- Requires notification for Public Review permits to public officials of all jurisdictions located within one mile of the property line of a source



Maryland Department of the Environment

Air Quality Permits Program

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