

1. How does the public provide input into decisions before you? Cover such topics as:

a). In what types of decisions is the public involved?

The public is involved in many aspects of the Air Quality Program - permitting, enforcement, rule development, and attainment/non-attainment area designations.

Section 5511(3) of Act 451, Part 55 requires public participation (public notice, opportunity for public comment, and a public hearing) prior to

- Issuance of permits to install for sources subject to federal New Source Review requirements or whenever there is a known public controversy.
- Issuance, renewal or significant modification of a Renewable Operating Permit

Also, Sections 5528(3) and Section 5511(3) of Act 451 require public participation for entry of a consent order.

The Administrative Procedures Act (APA) requires that all administrative rules receive public notice and hearing as part of the rulemaking process.

Public participation is a key part of State Implementation Plan (SIP) development. All SIP submittals must receive public notice and hearing prior to submittal to EPA which is a requirement of Section 110 of the Clean Air Act. Following review by EPA, SIPs are published in the Federal Register providing opportunity for further public comment.

For most every public participation situation, notices of hearings are placed in newspapers in the areas impacted by the proposed permits or rules and in the Department's calendar that is published every 2 weeks.

b and c). When? How many times is the public involved with respect to particular types of decisions? (e.g., permit stage and license stage?)

For the two types of permits and the consent orders, public participation occurs near the conclusion of the process, after the development of a draft permit or consent order. The public is provided a draft document on which to comment. Comments may be written or provided verbally during a public hearing. After the completion of the public participation process, the comments are evaluated and the permit or order is either approved as proposed, modified based upon the comments received, or, rarely, denied.

A significant opportunity for public input occurs in a workgroup process which takes place in the initial development stages of most rule packages. The workgroups are not required by the APA, but are viewed by the MDEQ as a key to drafting a rule which addresses as many stakeholder issues as possible before taking the rules to public hearing. The public and the stakeholders again have an opportunity to comment on the proposed rules during the formal comment period that follows the workgroup process.

d). What types of forums exist? (e.g., advisory committees, public meetings, formal public hearings)

Typically, for permits and consent orders, public hearings are held in a public building, such as a school, in the community where the source is located. Exceptions to this are for permits to install when there is little likelihood of a hearing being requested. The hearing is then scheduled for Lansing. Before and during the public hearing, appropriate staff of the Air Quality Division, as well as other government agencies involved in the issue, are available, often one-on-one, to answer questions from the public. An area near the formal hearing room is used. This interaction typically begins one hour before the hearing and continues until its close.

Staff has held public meetings for permits or consent orders for very controversial sources. The purpose is to provide information to the public to help them prepare comments on the proposed action.

The rules and SIP development processes also encourage public input at various stages. Stakeholders participate in public meetings that provide the MDEQ input during the process of drafting rules and designating non-attainment areas and in the development of SIP control strategies.

e). What is distinctive about the public involvement in your programs in comparison to other programs in the Department?

For installation permits, because construction is generally prohibited until the permit's issuance (unless a waiver is obtained), the public participation process is often perceived by the public to be their last chance to stop an undesirable project.

The requirement to public notice administrative consent orders is unique to the Air Quality Division. Other Divisions are not required to public notice their administrative consent orders.

f). What are the strengths and weaknesses of the current public involvement frameworks for the programs you administer?

Strengths:

- Public hearings regarding a specific facility are held in the community, near the source.
- Public hearings on proposed rules are held throughout the state.
- The public has direct contact with staff and has the opportunity to discuss with and ask questions of the very individuals involved with the proposed action.
- The decision-maker is present during all public hearings.

Weaknesses:

- For permits to install, the Air Permit is often the last step before construction. Often, the comments received are not air quality related and should have been addressed previously by another entity.

- For permits to install, the public notices must be placed in at least one newspaper of general circulation. Typically this involves significant cost which currently is borne by the AQD.
- The current process prescribed by regulation is not conducive to public education. This occurs because the information submitted by the applicant and the review by the AQD are often technical and confusing, the public is not aware and accepting of the AQD's and DEQ's responsibilities and regulatory limitations, and the public's involvement is prescribed too late in the process.
- Many of the comments received on the draft Renewable Operating Permits are from citizens who are asking the AQD to set more stringent emission limits or to add emission limits on additional pollutants. The citizens become frustrated when they learn that establishing new or more stringent emission limits is beyond the regulatory authority of the Renewable Operating Permit Program.
- The process places the burden of involving the public and addressing its concerns on the AQD instead of the source.
- For multi-media consent orders where the AQD is involved, the order is required to be public noticed. Often this presents a problem for the associated Divisions. In this scenario, the other Divisions have to field and respond to comments that they normally wouldn't be required to deal with.

2. Since public involvement also involves how we provide information to the public, you might also discuss how and to what extent information pertaining to the programs you administer is provided to the public.

- Web site posting of all air pollution laws, rules and Operational memos

For permits to install, the following information is provided:

- Web site query available for all applications under review
- Web site posting of all public participation documents
- Web site posting of information regarding permitting
- Web site posting of permit conditions for all sources permitted in 2002 and 2003
- Monthly mailing to County Boards of a list of all applications pending in their county
- Publication in the Department Calendar for those required to be noticed

For Renewable Operating Permits, the following information is provided:

- Web site query available for all applications under review
- Web site posting of all public participation documents
- Web site posting of information regarding permitting
- Publication in the Department Calendar

For Administrative Consent Orders

- Web site posting of all public participation documents.
- The department is considering posting to the web site all formal documents related to escalated enforcement actions being pursued administratively.

- Publication in the Department Calendar

For administrative rules

- Posting of information and proposed rules through the normal rule promulgations process
- Publication in the Michigan Register
- Publication in the Department Calendar

3. What recommendations or ideas do you have about how to improve public involvement in the programs you administer?

A successful public participation process ensures those who are most likely affected by a facility have an understanding of the proposal and an opportunity to provide meaningful input prior to an action. The applicant should be held more responsible for providing notification of the proposed project early in the process as well as providing information on the proposed emissions and the resulting impacts. The source should also be responsible for the costs associated with the public noticing and hearing.