

Permit Appeals Workshop

November 14, 2022

Questions and Comments Regarding Standing to Appeal	
Name / Affiliation	Comment
Angela Johnson Meszaros, Earth Justice	<p>Asked for clarification that the Board would have discretion to allow someone who had not previously participated to have standing to appeal if the person was able to show that they did not get notice. Would there be other bases for granting that discretion? Board Member Strauss-Hacker explained that the rationale is not to allow someone 3,000 miles away to participate, but to allow someone to provide an explanation in a timely way for the Board to consider.</p> <p>Asked for clarification about the issues that a person could raise if that person did not previously participate. Board Member Strauss-Hacker explained that that issue would be discussed later in the workshop.</p>
Questions and Comments Regarding Grounds for Appeal and Standard of Review	
Name / Affiliation	Comment
Matt Williamson, Manatt	<p>Expressed that the existing regulations allow for petitioners to raise procedural errors, so it is not necessary to create additional grounds for appeal to include procedural errors. Recommended against creating new grounds for appeal regarding procedural errors as that would create a lot of work for the Board. Suggested looking at other administrative boards in California for guidance. Board Member Strauss-Hacker asked about which specific boards. Mr. Williamson suggested the South Coast Air Quality Management District and the State Water Resources Control Board.</p>

Questions and Comments Regarding Notice of Final Permit Decisions	
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Angela Johnson Meszaros, Earth Justice	Noted that the committee members are suggesting that DTSC use additional means of communication about permitting decision. Commented that DTSC has struggled to adequately inform the public about forecasting the timing of permit decisions. And that lack of information and notice of upcoming permit decisions makes it very difficult to plan and prepare. While information about pending permits is available in EnviroStor, that resource is difficult to use. South Coast Air Quality Management District does a good job of posting timely information about upcoming changes to rules.
Questions and Comments Regarding Allowing Amicus Briefs	
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Angela Johnson Meszaros, Earth Justice	Asked if nonparties would be limited to participating using amicus briefs or would they be able to attend a hearing and speak? Board Member Strauss-Hacker explained that the Board has yet to describe how appeals would be heard by the Board. Greg Forest explained that it would be good to have options for handling appeals where the full Board may not need to hear every appeal. Ms. Johnson-Meszaros commented on her desire to see how the decisions are made to assign the appeals to be heard by the full Board or a subset because it is important to ensure that people who are affected by permitted facilities are able to participate.
Question and Comments regarding the Administrative Record	
Name / Affiliation	Comment
Matt Williamson, Manatt	The compliance history is already included as an element of the administrative record, so change is not needed for that.
Angela Johnson Meszaros, Earth Justice	Agrees with Matt. It's important to have an understanding of the context of the facility, which is what the compliance history provides.

Question and Comments regarding the role of Alternative Dispute Resolution	
Name / Affiliation	Comment
Angela Johnson Meszaros, Earth Justice	Expressed curiosity with how alternative dispute resolution would be implemented considering that some appeals are only between the applicant and DTSC, while others also include members of the community. Shared thoughts about experiences with mediations and settlement conferences in court proceedings and wondered how those might be implemented by the Board, since the appeal itself is a type of dispute resolution in advance of a court proceeding.
Questions and Comments in General	
Name / Affiliation	Comment
Matt Williamson, Manatt	Asked about next steps in establishing the permit appeals process.