



DEPARTMENT OF ENVIRONMENTAL QUALITY
POLICY AND PROCEDURE

Subject: Public Involvement in DEQ Programs
and Activities

Number: 09-007

Original Effective Date: April 5, 2002

Revised Date: DRAFT May 18, 2018

Page 1 of 7

Reformatted Date:

Category: Internal/Administrative External/Non-Interpretive External/Interpretive
Type: Policy Procedure Policy and Procedure

A Department of Environmental Quality (DEQ) Policy and Procedure cannot establish regulatory requirements for parties outside of the DEQ. This document provides direction to DEQ staff regarding the implementation of rules and laws administered by the DEQ. It is merely explanatory, does not affect the rights of or procedures and practices available to the public, and does not have the force and effect of law. DEQ staff shall follow the directions contained in this document.

ISSUE:

Public involvement is a vital part of many programs administered by the DEQ. A successful public involvement process ensures that those who are most likely affected by a DEQ decision are notified, understand the proposed decision, and have an opportunity to provide meaningful input prior to DEQ action.

POLICY:

The legal framework of public involvement in DEQ activities is established by the various enabling statutes administered by the DEQ and the Administrative Procedures Act, 1969 PA 306, as amended, and is contained in requirements of federally delegated programs. While some specific aspects of public involvement are particular to the statutory and regulatory framework of individual programs, public involvement lead by the DEQ will be based on the following underlying principles:

- The decision-making process should foster fairness, understanding, and engagement. It should be transparent, occurring in steps, and in a time frame that is understood and predictable by involved parties. The decision-maker should be readily identifiable before the decision is made. Each decision should be based on the technical merits of a proposal and decision-making criteria established by law. The basis for the decision should be available to the public, and the DEQ is accountable for the decision.
- The public should have the opportunity for a meaningful role in the DEQ's activities: The public should be able to contribute to a decision on a proposed program or activity that could affect their quality of life. The public should have access, consistent with state law, to information and the evaluation of information involved in the decision. The DEQ should be able to explain its decision and how relevant and timely comments were considered in that decision, thereby affording an involved participant the ability to ascertain that his or her interests were heard and considered.

DEQ POLICY AND PROCEDURE

Subject: Public Involvement in DEQ Programs
and Activities

Number: 09-007

Page 2 of 7

Nondiscrimination Policy/Notice

The DEQ does not discriminate on the basis of race, sex, religion, age, national origin, color, marital status, disability, political beliefs, height, weight, genetic information, or sexual orientation in the administration of any of its programs or activities, as required by applicable laws and regulations.

The DEQ is responsible for coordination of compliance efforts and receipt of inquiries concerning nondiscrimination requirements implemented by 40 CFR Part 7 (Nondiscrimination in Programs or Activities Receiving Federal Assistance from the Environmental Protection Agency), including Title VI of the Civil Rights Act of 1964, as amended, and Section 13 of the Federal Water Pollution Control Act Amendments of 1972.

If you have any questions about this notice or any of the DEQ's nondiscrimination programs, policies, or procedures or if you believe that you have been discriminated against with respect to a DEQ program or activity, you may contact:

Nondiscrimination Compliance Coordinator
Michigan Department of Environmental Quality
525 West Allegan Street
P.O. Box 30473
Lansing, Michigan 48909-7973
E-mail: DEQ-NondiscriminationCC@michigan.gov
Telephone: 517-249-0906

Or you may visit the DEQ's Web site at <http://www.michigan.gov/deq/> and click the link for Policy and Procedure 09-024, Nondiscrimination in DEQ Programs, to obtain a copy of the DEQ's procedures to file a grievance/complaint of discrimination.

The DEQ shall post this notice in a prominent place in the building, on the Web site, and include the statement on appropriate publications.

Methods of notice shall accommodate those with impaired vision or hearing and those with Limited English Proficiency (LEP).

Public Participation

In addition to the required public participation specified in laws and rules, the DEQ shall publish all permits under review, times and locations of public meetings and hearings, and open public comment periods in the DEQ Calendar, which will be updated at least monthly. For each entry, the DEQ Calendar will identify at least one point of contact and include telephone numbers and e-mail addresses for the contacts. In addition, the DEQ Calendar will be e-mailed to all individuals who request it and be published on the DEQ Web site.

DEQ POLICY AND PROCEDURE

Subject: Public Involvement in DEQ Programs
and Activities

Number: 09-007

Page 3 of 7

For all public comment period notices, the DEQ will solicit information from the community, including methods to effectively inform residents, identification of needs and services for individuals with LEP, identification of needs for individuals with disabilities, and locations and times suitable for public meeting spaces. This information will be used to address community concerns, determine methods to effectively inform residents, identify needs and services for individuals with LEP, individuals with disabilities, locate suitable public meeting spaces, and provide basic background information on the pending action to the affected community. The following language will be added to all public comment period notices published in the DEQ Calendar:

In order to effectively engage and communicate with the affected community please inform us through the public comment process of any needs of the community including:

- Limited English Proficiency-related needs
 - If you identify Limited English Proficiency needs, please advise us if you prefer us to work with translators from your community.
- Disability needs, including:
 - Accessibility
 - Sight
 - Hearing needs of the community
- The time of day that works best for residents of your community to meet
- Preferred meeting places that meet the needs of your community

Community Engagement

The DEQ recognizes that community engagement, including co-planning and co-sponsoring of events, is critical to successful public participation. To the extent practical and given the statutory and regulatory framework of individual programs, the DEQ will develop public participation plans in coordination with affected communities. Where feasible and permitted by statute, the DEQ will partner with community organizations to establish steering committees to plan events, including information sessions, public meetings, and public hearings. Groups involved in the steering committees will share responsibility for the events and will be responsible for determining event logistics, such as where, when, and how events will be conducted. It is the intention of the DEQ that local community members will take leadership roles in these events, including serving as translators, facilitators, and panelists.

Additionally, the DEQ will undertake the following actions:

- 1) For permitting transactions, the DEQ will encourage permit applicant(s) to meet with community stakeholders to promote open dialogue early in the permitting process for appropriate permitting actions. As discussed below, preferably, initial public outreach occurs prior to the submission of a permit application.
 - a) In such cases, the applicant(s) will be encouraged to provide notice to residents located in and around affected communities about the pending permit application and the proposed project and to provide basic information about the project to interested residents.

DEQ POLICY AND PROCEDURE

Subject: Public Involvement in DEQ Programs
and Activities

Number: 09-007

Page 4 of 7

- b) The applicant(s) are encouraged to develop a Community Relations Plan to structure ongoing dialogue with neighboring communities.
- 2) The DEQ will provide the community with information regarding proposed projects via ongoing engagement with community leaders, public officials, environmental groups, concerned citizens, and the affected source.
- 3) The DEQ will make fact sheets available on the department's Web page or via a link from that Web page, when appropriate. Written information will be made available for persons without Internet access, when requested.
- 4) Public Notices will be written in terminology and languages easily understood by the majority of readers, except where specific Public Notice language is otherwise required. When required, Public Notices will be placed in legal notice sections or other sections of local publications.

Public Meetings

- 1) Informational meetings – The DEQ and/or the source may hold an informational meeting or availability session.
 - a) For permitting transactions, the purpose of the meeting is to inform the residents in and around an affected community of the scope and nature of the project in a timely, interactive manner and explain the permitting process. Informational meetings may be held prior to a public hearing or may be held when a public hearing is not required.
 - b) Informational meetings may also be held to explain enforcement-related matters, remediation projects, or other DEQ activities that are of concern to the public.
- 2) Public hearings – The DEQ will make a good faith effort to provide an interpreter when it is known that residents do not speak English very well or when the DEQ receives a request for an interpreter within two weeks of any public hearing or meeting and when the need for an interpreter is adequately justified.

Fact Sheet and Project Summary

- 1) The DEQ will provide a plain language summary of the major aspects of the proposed project, including the purpose and location of the proposed activity and facility, and any anticipated environmental impacts, and any controls or work practices that will limit those impacts.
 - a) As appropriate, the DEQ will translate fact sheets into the predominate language of the community if it is not English.
- 2) Document Availability
 - a) The DEQ will take every effort to make information available to residents in affected communities in a timely and efficient manner.
 - b) The DEQ may create document repositories, place information on the Internet, and provide information through the Michigan Freedom of Information Act.

The DEQ will utilize information gathered from communities and the four-factor test outlined below to determine when public notices should be bi- or multi-lingual and when translators should attend hearings.

Limited English Proficiency

As set forth below, it is the policy of the DEQ to translate vital documents into the non-English language of each regularly encountered LEP group eligible to be served or likely to be affected by the program or activity based on the four-factor test outlined below.

A vital document is any document that is critical for ensuring meaningful access to the DEQ's major activities and programs by beneficiaries, generally, and LEP persons, specifically. Whether or not a document is "vital" may depend upon the importance of the program, information, encounter, or service involved and the consequence to the LEP person if the information in question is not provided accurately or in a timely manner.

Information received from communities will help determine which documents are vital to the meaningful access of the LEP populations and what language services may be needed to provide meaningful access to individuals with LEP.

The DEQ will balance the four factors, below, when determining which documents to translate:

- 1. Factor 1: The Number and Proportion of LEP Persons Served or Encountered in the Service Area**
 - The DEQ will: Examine their prior experiences with LEP individuals and determine the breadth and scope of language services that are needed. Seek and examine demographic information regarding minority populations and foreign languages predominately spoken in the service area. Such information may be attained from the U.S Census, school systems, community organizations, local governments, and through the DEQ public comment process outlined above.
- 2. Factor 2: The Frequency with Which LEP Individuals Come into Contact with DEQ Programs, Activities, and Services**
 - The DEQ will: Assess as accurately as possible, the frequency with which they have or should have contact with LEP individuals from different language groups seeking assistance. This information will be gathered from DEQ staff who interact with customers daily.
 - Consider the frequency of different types of language contacts. Less frequent contact with different language groups may suggest a different and/or less intensified solution.
- 3. Factor 3: The Importance to LEP Persons of Program Activities and Services**
 - The DEQ will: Identify the programs, services, or activities that would have a serious consequence if language barriers prevent an LEP person's access to them.
 - A determination will be made as to the impact on actual and potential services to LEP beneficiaries.
- 4. Factor 4: The Resource Available to the Recipient and Costs**
 - This last step in the four-factor analysis allows an area to weigh the demand for language assistance against the organization's current and projected financial and personnel resources. This analysis should help determine if the language

services it currently provides are cost-effective and should also help the organization plan future investments that will provide the most needed assistance to the greatest number of LEP persons within the limits of organization resources. The DEQ will also develop relationships with local community groups to engage them in the translation of documents.

Accessibility

It is the policy of the DEQ to assure all facilities that are used for public meetings and hearings are physically accessible for individuals with disabilities.

The DEQ will provide meaningful public participation for individuals with disabilities by providing appropriate aids and services to individuals who are deaf or hard of hearing and to other individuals as necessary.

Public comment periods will be used to determine appropriate aids and services to individuals who are deaf or hard of hearing and to other individuals as necessary.

Continuous Improvement

It is the policy of the DEQ to continually improve public involvement in DEQ programs and activities. Because of the differences in the details among the variety of DEQ programs, this policy does not describe how such improvements are to be made or a specific process to facilitate public involvement. Rather, each DEQ program division should continually consider and implement means to improve public involvement in the administration of its programs. In doing so, program managers should consider, at a minimum, the following:

- Increasing staff skills for working with the public, including communication skills, conflict resolution, and public meeting facilitation.
- Encouraging staff involvement in work-related professional organizations and their local communities.
- Identifying opportunities for increasing the effectiveness of public involvement, including the timing and nature of the Public Notice and input.
- Facilitating the public's understanding of issues before the DEQ, including notice of pending decisions, the factors that the DEQ considers in reaching a decision, the technical information that the DEQ has before it in the decision-making process, and the basis of the decision when it is made.
- Advancing the public's understanding of, and ability to work within, the DEQ organizational structure and decision-making processes.
- Improving working relationships with local units of government and nongovernmental organizations, including stakeholders, community groups, and the media.
- Improving the technical means by which the DEQ conveys and receives information, including use of the Internet.
- Establishing a group to facilitate the activities of the various DEQ divisions and ensure a consistent baseline of service delivery.

DEQ POLICY AND PROCEDURE

Subject: Public Involvement in DEQ Programs
and Activities

Number: 09-007

Page 7 of 7

In order to implement this policy, each DEQ Deputy Director and Division Director will have as an annual performance objective the improvement of public involvement in programs administered by that person.

Approved: _____
C. Heidi Grether, Director

DRAFT