

Beware: Certain DEP Deadlines Cant Be Waived

PUBLISHED ON

January 16, 2020

The deadlines for appealing actions by the Pennsylvania Department of Environmental Protection are rigid, and the state's Environmental Hearing Board took a recent opportunity to stress that.

The Environmental Hearing Board highlighted those strict deadlines as the reason for dismissing an appeal from an individual required to connect to a public sewer system. While those on the receiving end of a DEP ruling have the right to contest these actions, they must do in a timely manner by filing an appeal with the board, typically within 30 days of notice of the DEP's action.

By failing to file appeals within 30 days, parties forfeit their right to contest the DEP action. This means that they must live with DEP's decision, as well as DEP's factual and legal findings. In the recent case, the individual filed the appeal months after notice of DEP's approval of a township's sewage plan was published in the Pennsylvania Bulletin. Pennsylvania law presumes that everyone reads the weekly Pennsylvania Bulletin, and publication of a DEP action in the publication triggers the 30-day appeal period.

The DEP regularly takes actions that directly impact the rights, obligations and pocketbooks of businesses, municipalities and individuals. These actions include orders, civil penalty assessments, permit denials and disapprovals of reports and other submissions - and almost all of these actions have strict filing deadlines should you not agree with them.

Because the 30-day appeal period is a statutory requirement that goes to the board's jurisdiction, neither the parties to an appeal nor the board can waive it. Anyone who is subject of an adverse DEP action must expeditiously assess their options so as not to inadvertently forfeit their legal rights. This analysis should be done in consultation with an environmental attorney.

If you believe that an action by DEP will adversely affect you and to learn what your options are, please [contact me](#) or anyone in the [Barley Snyder Environment & Energy Industry Group](#).

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