



PADEP Begins Implementing New Right-to-Know Law Policy

By M. Joel Bolstein

On January 1, 2009, the PADEP implemented its new Public Access to Information and Right-to-Know Law Policy. The policy was developed by PADEP pursuant to the Pennsylvania Right-to-Know Law and Commonwealth Management Directive 205.36, which required all Commonwealth agencies to develop written procedures regarding access to public information. The new policy applies to all PADEP offices, and, most importantly, to its six regional offices, which hold the vast majority of the public information regarding regulated sites, PADEP permits and enforcement actions.

The Right-to-Know Policy puts in place a much more formal process for obtaining information than existed previously. The most important thing to remember is that extensive information can still be obtained from the Department without the need to file a formal Right-to-Know Law request. In many instances, avoiding a formal Right-to-Know Law request is likely to get information faster. For example, the policy notes information can be obtained by arranging a file review with the regional office without filing a Right-to-Know request. A file review involves having PADEP make available all of the documents that are physically available in its file room. A Right-to-Know Law request, on the other hand, triggers the need for PADEP to search for all recorded information, whether the information exists in written form or electronic form, which means it has to search its own databases and e-mail in response to a Right-to-Know Law request.

For those in the Southeast region of the state, seeking information about regulated facilities, projects or permits in Bucks, Chester, Delaware, Montgomery and Philadelphia Counties, a request for a file review can be made by e-mail at RA-SERRecordsReview@state.pa.us or by fax at 484.250.5910. Files available for review include:

- Air Quality
- Environmental Cleanup Program (Storage Tanks and Hazardous Sites)
- Radiation Protection
- Growing Greener
- Water Management
- Waste Management
- Water Supply Management
- Watershed Program
- Office of Energy and Technology Deployment

File review requests need to be as specific as possible and identify the records being sought with enough detail to allow the Department's file room personnel to pull the relevant file(s). Again, if only

a file review is needed, DO NOT file a Right-to-Know Law Request. Letters that state “Right-to-Know Request” on the re line will get kicked into the formal review process, which will most likely involve a review by PADEP’s regional counsel’s office.

Most important, the new policy gives the Department up to 10 business days to respond initially to a Right-to-Know Law request. For a routine file review, the Southeast regional office ordinarily responds to the request within 24 to 48 hours. Oftentimes, a file review will be adequate when seeking a specific document, like a permit or a traffic study. For those who are unsure what document they need, a Right-to-Know Law request will retrieve the widest array of documents, but be prepared for delays in light of the new Policy. When in doubt, the Department urges those in need to contact the relevant regional office file room to help locate the appropriate records.

Copies of the new policy are available on PADEP’s website. Go to www.depweb.state.pa.us/dep/site/default.asp and click on Right-to-Know on the left side column.

For more information about the Department’s new Right-to-Know Law Policy, please contact Joel Bolstein at 215.918.3555 or jbolstein@foxrothschild.com.



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