



COMMONWEALTH OF PENNSYLVANIA  
ENVIRONMENTAL HEARING BOARD



JOHN E. YODER AND  
LAURA D. YODER

v.

COMMONWEALTH OF PENNSYLVANIA,  
DEPARTMENT OF ENVIRONMENTAL  
PROTECTION

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EHB Docket No. 2024-097-BP

Issued: July 8, 2025

**OPINION AND ORDER ON  
MOTION TO EXCEED PAGE LIMIT**

By Paul J. Bruder, Jr., Judge

**Synopsis**

The Environmental Hearing Board (“Board”) grants the Department of Environmental Protection’s (“Department”) Motion for Leave to Exceed the Page Limit, as set forth by 25 Pa. Code § 1021.94a(g)(2) governing responses to statements of undisputed material facts.

**OPINION**

**Discussion**

This appeal pertains to the Appellants’ challenge of the Department’s April 10, 2024 Administrative Order addressing alleged violations of the Solid Waste Management Act. On June 5, 2025, Appellants filed a Motion for Summary Judgment. On July 1, 2025, the Department filed a Motion to Exceed the Page Limit in its response to Appellants’ statement of undisputed material facts. On July 7, 2025, Appellants filed their Opposition to the Motion to Exceed. Upon review of the filed materials, the Board grants the Department’s Motion.

The Board<sup>1</sup> has routinely granted extensions of page limits for dispositive motions and responses to dispositive motions despite direct opposition by opposing parties and without seeing a preview of the assertions claimed to be necessary. *See Amerikohl Mining, Inc. v. DEP*, 2023-002-CS (Sept. 28, 2023) (granting Appellant’s request to extend response period and to file a statement of undisputed material facts of up to seven (7) pages); *Glahn v. DEP*, 2022-013-L (Sept. 28, 2022 Order) (granting Appellants’ request to file a statement of undisputed material facts of up to 20 pages and a brief in support of their motion of up to 45 pages); *Three Rivers Waterkeeper and Sierra Club v. DEP, et. al.*, 2018-088-R (July 29, 2019 Order) (granting Permittee’s request to exceed the page limit requirements in both its Response to Appellants’ statement of undisputed material facts and its Brief in Opposition to Appellants’ Motion for Partial Summary Judgment). The Board’s leniency in these matters directly results from Pennsylvania’s summary judgment standard. In evaluating whether summary judgment is appropriate, the Board must determine whether any genuine issues of material facts exist. *Stedge v. DEP*, 2015 EHB 31, 33; *Eighty Four Mining Co. v. DEP*, 2019 EHB 585, 587 (citing *Clean Air Council v. DEP*, 2013 EHB 404, 406). This includes an analysis into any and all relevant material facts at issue, even if they exceed a five (5) page limit.

Upon review of the Department’s assertions in its Motion to Exceed - that there is a “substantial history in this matter that dates back to 2017, which includes five complaints, several

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<sup>1</sup> We note for the record Appellants and their counsel’s statements throughout these proceedings questioning the independence and neutrality of the Environmental Hearing Board. To be clear, the Board is NOT an arm of the Department. The Board was created by the PA General Assembly to be completely independent of the Department by the Environmental Hearing Board Act, Act of July 13, 1988, P.L. 530, 35 P.S. §§ 7511-7516. The Board’s primary, though not sole, function is to review final actions of the Department when appeals of those actions are properly and timely filed. In those cases where the Board concludes that the Department incorrectly took an action, it has the authority to rule in favor of the appellants’ appeal and further, it may substitute its own discretion for the Department’s incorrect action or remand the case to the Department for corrected action.

separate investigations and inspections, and additional records obtained from commercial facilities and local fire companies by the Department during the pendency of this matter” – as well as Appellants’ objections thereto, we find that in order for the Board to conduct a fair and meaningful review of Appellants’ Motion for Summary Judgment, the Department’s version of the undisputed facts and the factual history of the Site at issue should be considered. We do not find that the Department needs to outline in specific terms or examples why or how its factual averments are relevant to Appellants’ Motion for Summary Judgment, as argued by Appellants. Rather, relevancy of facts will be for the Board to decide after review of all the materials.

Therefore, the Department may exceed the five (5) page limit in its response to Appellants’ statement of undisputed material facts. If requested, Appellants will be afforded similar leniency by the Board in their Reply Brief, pursuant to 25 Pa. Code § 1021.94a(k).

Accordingly, we issue the following order.



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**ORDER**

AND NOW, this 8<sup>th</sup> day of July, 2025, upon consideration of the Department's Motion for Leave to Exceed the Page Limit set forth by 25 Pa. Code § 1021.94a(g)(2) governing responses to statements of undisputed material facts and Appellants' Response thereto, it is hereby ordered that the motion is **granted**. The Department's Response to Appellants' Motion for Summary Judgment is due by **July 11, 2025**.

**ENVIRONMENTAL HEARING BOARD**

s/ Paul J. Bruder, Jr. \_\_\_\_\_  
**PAUL J. BRUDER, JR**  
**Judge**

**DATED: July 8, 2025**

**c: DEP, General Law Division:**  
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(via electronic mail)

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