

## 10.2.3 Finalizing the Permit/Public Participation Process/Public Hearings and Public Meetings

### **Applicability:**

Public hearings and, occasionally, public meetings may be held to respond to significant concerns about permit applications, notices of permit pending, terms and conditions of issued permits, and variances.

### **Content:**

#### **Public Hearings**

The Missouri Clean Water Law indicates that the department must issue notices, hold hearings and consider such factors, comments and recommendations as required by state or federal law. The law indicates that hearings related to the issuance of a permit are to be held in accord with Section 644.051.4, .6 and .7. Hearings related to permit denials, terminations, revocations and modifications and to variances are held in accord with Section 644.066 and Chapter 536, RSMo. Federal and State Regulations provide more provisions related to public hearings (see citations in Legal Requirements below).

The permit applicant, any affected state or interstate agency, the U.S. EPA Regional Administrator, any interested agency, person or group of persons may request or petition for a public hearing related to the proposed permit. This request or petition for a hearing must be during the comment period. The request for the hearing shall be in writing and shall state the interest of the party filing the request and the nature of the issues proposed to be raised in the hearing. An appeal filed upon the issuance of a construction permit will be considered as an appeal of the construction permit and the first operating permit.

The department shall hold a hearing if there is significant technical merit and concern related to Clean Water Law responsibilities. Instances of doubt are resolved in favor of holding the hearing. Any public hearing will be held in the geographic area of the proposed discharge or in another appropriate location.

A public notice related to the hearing must be issued at least 30 days before the hearing is to be held. The notice shall be published in at least one newspaper of general circulation in the geographical area of the discharge. Additionally, the notice shall be mailed to any person or group upon request and to all persons, groups and agencies that received a copy of the notice or fact sheet related to the proposed permit. The hearing notice shall be at least as broad as the notice of permit pending.

A public notice for a hearing must contain the following information:

- Name, address and telephone number of the department;
- Name and address of each applicant whose application is to be considered at the hearing, and, if different, name and address of the discharger;
- A brief description of the applicant's activities or operations that result in the discharge or potential discharge;
- Name of the watercourse to which the facility or activity discharges or will discharge and a description of the location of the discharge;
- A brief reference to the public notice issued for each application;

- The date, time and place of the hearing;
- A description of the purpose of the hearing;
- The department's statement of its understanding of the issues raised by persons requesting the hearing;
- Address and telephone number of the departmental office and any other place at which to obtain further information, request or make copies of the draft permit or fact sheet, inspect or obtain related forms and documents and where the documents may be copied; and
- A brief description of the nature of the hearing including the procedures and rules for conduct.

Requests for hearings and the public notice process related to hearings are addressed in 10 CSR 20-6.020(4) and 40 CFR 124.10(b) and (d), 124.11 and 124.12.

All relevant and material comments received during the public comment period or during any hearing shall be given consideration by the department before any final decision is made about the proposed permit. The department must respond to relevant and material comments when the final permit is issued. The department's response must specify which provisions, if any, of the draft permit have been changed in the final permit and the reasons for the change. Additionally, the department must briefly describe and respond to all significant comments on the draft permit raised during the comment period or the public hearing. Finally, the department's response to comments must be available to the public (see 40 CFR 124.17).

### **Public Meetings**

Public meetings related to permits are not mentioned in the Clean Water Law. The regulations indicate that the department may choose to hold a public meeting to discuss significant water quality concerns raised during the public comment period following a notice of permit pending (see 10 CSR 20-6.020(1)(H)). Procedures for providing notice of meetings and for conducting meetings are not outlined in the regulations.

Public meetings are not conducted on a frequent basis by the department. When held, a notice process similar to that of a public hearing is followed. The meeting is held in the vicinity of the facility or area that is the subject of the concerns. Staff conducts the meeting following procedures outlined in the notice of the meeting or explained at the beginning of the meeting. Staff may begin the meeting with a presentation of technical or regulatory issues. Following that, persons may express concerns or ask questions of the staff in attendance. The public comment period related to a notice of permit pending may need to be extended in order to accommodate holding a public meeting.

The Clean Water Law indicates that the Clean Water Commission must act upon a variance being granted without a public hearing at a public meeting (see Section 644.061.5). This action occurs at a regularly scheduled CWC Meeting held no sooner than 30 days after the initial presentation of the variance recommendation to the Commission. This issue is not addressed in the regulations.

### **Legal References:**

*Missouri Clean Water Law, Chapter 644 RSMo*

[644.051.3 and .4](#) Prohibited acts--permits required, when, fee--bond required of permit holders, when--permit application procedures--rulemaking--limitation on use of permit fee moneys.

[644.061.5](#) Variances, when allowed--petition, fee--variance revoked, when --judicial review, how.

*Code of State Regulations:*

[10 CSR 20-6.020\(1\)](#), (2), and (4) Public Participation, Hearings and Notice to Government Agencies -  
(1) Public Participation  
(2) Notice to Other Governmental Agencies (3 Named)  
(4) Public Participation Process

*Code of Federal Regulations*

[40 CFR 124.10](#) Procedures for Decisionmaking Public notice of permit actions and public comment period.

[40 CFR 124.11](#) Public comments and requests for public hearings.

[40 CFR 124.12](#) Public hearings.

[40 CFR 124.13](#) Obligation to raise issues and provide information during the public comment period.

[40 CFR 124.17](#) Response to comments.

**Other Links:**

[U.S. EPA NPDES Permit Writers' Manual](#), Chapter 11, Section 11.2.3 and 11.3.1 relating to public hearings

[10.2.1.4 Public Notice Process](#)

[10.2.2 Response to Public Comments](#)

**Key Words:**

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