

Title 194 - Department of Environmental Quality

Chapter 10 - PUBLIC PARTICIPATION

001 Public Hearing.

001.01 Once an application is reviewed and a draft environmental impact analysis and draft safety evaluation report are prepared, the director shall hold a public fact-finding hearing in the county in which the proposed facility is to be located for the purpose of soliciting public comment. All testimony at the public hearing shall be recorded.

001.01A Public notice of the public hearing is outlined in 001.01C below. At the time public notice is given, several copies of the draft environmental impact analysis and draft safety evaluation report shall be available to the public at each public location which contains a complete license application as amended and supplemented.

001.01B At the time of public notice, the director shall send a fact sheet to the applicant and, on request, to any other person.

001.01B1. Each fact sheet shall contain:

001.01B1.a A brief description of the facility;

001.01B1.b The class and quantity of wastes which are proposed to be disposed of;

001.01B1.c The statutory or regulatory provisions on which license requirements are based;

001.01B1.d A description of the procedures for the formulation of final determination, including the beginning and ending dates of the comment period, address where comments should be sent, and any other procedures by which the public may participate; and

001.01B1.e Name and telephone number of a person to contact for additional information.

001.01B2. A fact sheet shall also be accompanied by a written analysis on the impact of the facility on the environment. The analysis shall address each subject listed in Public Law 91-190, Title I, section 102(2)(c), 83 Stat. 853, and supporting regulations, which shall also include:

001.01B2.a An assessment of the radiological and nonradiological impacts to the public health;

001.01B2.b An assessment of any impact on any waterways and groundwater;

001.01B2.c Consideration of alternatives to the activities to be conducted, including alternative sites and engineering methods;

and

001.01B2.d Consideration of the long-term impacts, including closure, decommissioning, decontamination, and reclamation of the facility and management of any radioactive materials which will remain on the site after such closure, decommissioning, decontamination, and reclamation.

001.01C Public Notice and Public Comment Period.

001.01C1. A public notice of a the public hearing shall be issued by circulating the notice in the geographical area of the proposed facility through publication in a daily or weekly newspaper with general circulation, and by broadcasting over local radio stations; and mailed to the applicant, any unit of local government having jurisdiction over the area where the facility is proposed to be located, to all municipalities within fifty miles of the proposed facility, and to any other person or group on request or on a department mailing list to receive public notices. Appropriate state and federal agencies including any affected states, shall also be mailed a copy of the notice.

001.01C2. Persons will have 90 days from issuance of public notice to provide the director with any written comments concerning the proposed facility for which the public notice has been issued. This comment period may be extended for an additional 60 days upon petition, and for good cause shown.

001.01C3. Content of Public Notice.

The public notice shall contain:

001.01C3.a Name, address and phone number of the department;

001.01C3.b The name and address of the applicant, and if different, the facility;

001.01C3.c A brief description of each applicant's activities or operations described in the application;

001.01C3.d A brief description of the comment procedures and the time and place of the public hearing that will be held, including a statement of procedures for public participation.

001.01C3.e The address, phone number and name of the person from whom interested persons may obtain further information, and inspect and copy forms and related documents; and

001.01C3.f Date, time, and place of the hearing.

001.01C4. In addition to the general public notice described above, the applicant, appropriate federal and

state agencies and other government authorities, including any affected states, shall be mailed a copy of the fact sheet.

001.01D Response to Comments.

001.01D1. After a public hearing is held to solicit comments on the draft analysis and draft report, the director shall prepare a response to comments. This response shall:

001.01D1.a Briefly describe and respond to all significant comments raised during the public comment period or during the hearing.

001.01D1.b The response to comments shall be placed at each public location which contains a complete license application as amended and supplemented. Notification of the availability of the response to comments shall be made by circulating a notice in the geographical area of the proposed facility in a daily or weekly newspaper with general circulation and by mail to each person or entity who submitted comments.

002 Proposed License Decision

002.01 After the public hearing described in 001 above is held, the director shall tentatively decide whether to prepare a draft license or deny the application for a license.

002.02 If the director tentatively decides to prepare a draft license, he or she shall schedule a public hearing in the county in which the proposed facility is to be located, and shall follow the public notice and participation procedures outlined in 002.04 below.

002.03 If the director tentatively decides to deny the application for a license, he or she shall issue a notice of intent to deny and shall follow the public notice and participation procedures outlined in 002.04 below.

002.04 Public Notice and Public Comment Period.

002.04A A public notice of a draft license or intent to deny shall be issued by circulating the notice as provided in 001.01C1. above.

002.04B Persons shall have 90 days from issuance of public notice to provide the director with any written comments concerning the action for which the public notice has been issued. This comment period may be extended for an additional 60 days upon petition, and for good cause shown. A public fact-finding hearing shall be held in the county in which the proposed facility is to be located. All testimony at a public hearing shall be recorded.

002.04C Content of Public Notice.

The public notice of the proposed decision shall contain:

002.04C1. Name, address and phone number of the

department;

002.04C2. The name and address of the applicant, and if different, the facility;

002.04C3. A brief description of the applicant's activities or operations described in the application;

002.04C4. A statement of the proposed determination to issue or deny a license for the activity described in the application and, if applicable, information that a proposed draft license has been prepared;

002.04C5. A brief description of the comment procedures, the date, time and place of the hearing, including a statement of procedures by which the public may participate; and

002.04C6. The address, phone number and name of the person from whom interested persons may obtain further information and a description of the public locations containing a copy of the proposed decision and related documents.

#### 002.05 Response to Comments.

002.05A After any public comments are received and public hearing is held to solicit comments on the proposed decision as specified above, the director shall issue a response to comments, and shall make a license decision. This response to comments shall:

002.05A1. Specify which provisions, if any, of the draft license have been changed in the license decision, and the reasons for the change; and

002.05A2. Briefly describe and respond to all significant comments raised during the public comment period, or during the hearing.

002.05A3. The response to comments shall be placed at each public location which contains a complete license application as amended and supplemented. Notification shall be made by circulating a notice in the geographical area of the proposed facility in a daily or weekly newspaper with general circulation and by mail to each person or entity who submitted comments.

#### 003 License Decision; Contested Case.

003.01 At the time that a decision on the license is made a public notice of such decision shall be issued by circulating the notice as provided in 001.01C1. above. Any person aggrieved by such decision may, within 30 days of the publication of notice of such decision, file a written petition for a contested case in accordance with the department's rules of practice and procedure.

003.02 The contested case hearing shall be conducted in accordance with the department's rules of practice and procedure.

#### 004 Final License Decision; Appeal.

004.01 Any final decision of the director may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act.

Enabling Legislation: Neb. Rev. Stat. §§81-15,106(4) and 81-15,107

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