

B8595HC
2.P81
Copy 1

CERTIFIED PUBLIC MANAGER PROJECT

PUBLIC PARTICIPATION IN THE PERMITTING PROCESS

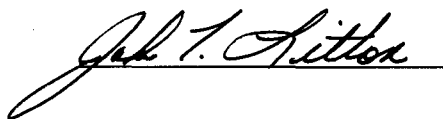
Phil Morris

S. C. STATE LIBRARY

AUG 6 2004

STATE DOCUMENTS

Supervisor: John T. Litton, PE

A handwritten signature in cursive script, reading "John T. Litton", written over a horizontal line.

Project Goal

To develop a process to include the public during environmental permitting activities with implementation by April 2001.

Problem Statement

Within the Department of Health and Environmental Control (DHEC) is the Environmental Quality Control (EQC) deputyship. One of the three bureaus in EQC is Land and Waste Management. Within this bureau is the Division of Waste Management that is responsible for many of the waste management activities in South Carolina. Two of the major waste management areas are infectious and radioactive wastes.

The Infectious Waste Management and the Radiological Waste Management programs are statewide programs which assure proper management of infectious wastes and radiological materials or wastes from cradle to grave. Both programs require permits for facilities that treat, store, and/or dispose of these wastes. Since the inception of these regulatory programs, there have not been processes in place to involve the public in the permitting of treatment, storage, and disposal facilities.

An agency goal that appears in the 2000-2005 Strategic Plan is "Protect, Continually Improve and Restore the Environment." Throughout DHEC's plan is a commitment to public education. The plan pledges to inform and involve community groups and the public by enlisting their help to make South Carolina a better place to live. This agency goal cannot be accomplished without the willing assistance of citizens who share in our commitment to the environment. To achieve this agency goal our division has included in its operational plan an "indicator" to continue the improvement in the proper management of waste. Public participation during the permitting process is the "input"

associated with this indicator. A written protocol for public participation in the permitting process will help the agency to attain this goal.

Although the focus of the protocol will be infectious and radiological wastes management, the finished product should be applicable to all environmental permitting activities. The protocol will be made available to the permitting staff in April 2001.

By developing a written protocol for the public participation process, staff will have a concise document to use to aid this process. The public will have a written protocol that will outline how these programs involve the public by making them aware of pending permit applications, draft permits, and final permits. State citizens must have the requisite knowledge to assist the agency to achieve our common goal of sound waste management.

Cause Analysis

To begin the task of developing a new process to encourage public participation in the environmental permitting process several areas were researched. Federal guidelines for public involvement were obtained. A survey was conducted of key states. The applicable regulations governing permitting activities for the Infectious and Radiological Waste programs were reviewed. These various resources were used as a starting point for discussion with staff to develop an outline.

To analyze the potential barriers to developing a comprehensive plan to involve the public in permitting activities, a brainstorming session was held with staff. Ideas were put forward and an Ishikawa diagram was developed (attached). The major steps that must be performed during the permitting process were outlined. Then, each major area was evaluated for secondary considerations that must be included during that step in the process.

Contributing factors to successful implementation that are common to most major steps are: regulatory requirements, means of public notification, location of meetings, purpose of the action, and staff to be involved. The regulations governing the permitting process may outline specific requirements that must be performed. Therefore, regulatory review must be considered at most steps in the process.

How to get the information concerning, notices, meetings, hearings, permitting records, and information repositories to the public is complex. Mailing lists must be as complete

as possible and periodically updated. Permitting staff must be aware of the key players in the community. Mailing lists should include government officials, elected officials, and environmental groups. The various types of news media must be evaluated to determine which ones are the best for the particular community being targeted. Newspapers and local radio stations are easily identified. Broadcast and cable television stations can be more problematic to identify. Community groups and churches are a good avenue for information dissemination. The DHEC web site publishes permitting activities.

When considering the location for meeting sites, common factors must be considered. Meeting sites should offer access to the physically handicapped. It may be necessary to provide language translators, or someone to sign for the hearing impaired. Public notices should include a request for the public to notify the Department if special accommodations need to be made for the visually or hearing impaired.

Staff must consider which permitting activities should necessitate notifying the public. Permit applications, comment periods, draft permits, meetings, hearings, and response to comments should always be public noticed. However, simple permit modifications may not need to be noticed.

The public must be made aware of the permit contact persons and information repositories. The notification provided must include a description of the information available and the physical location of the person or repository.

Implementation plan

The standard operating procedure for public participation (SOPPP) in the permitting process will be incorporated into the standard operating procedure plans (SOP) for the Infectious Waste Management Section and the Radioactive Waste Management Section. The SOPPP is designed to compliment the existing section SOPs which outline the permitting process.

On or before March 28, a memo will be sent to the division management to let them know that the changes they suggested to the draft SOPPP have been made and a copy of the document will be attached. By April 6, 2001, the section managers for Infectious and Radioactive Waste Management will make minor additions to the SOPPP to reflect the minor differences between the individual program areas. These additions will be document templates of letters, memos, and notices to be used during the process. After this has been accomplished, the section managers will hold training sessions with the permitting and administrative staff to inform them of the new SOPPP and its contents. During the training sessions, staff will be asked to keep notes of comments on the SOPPP from citizens and facilities. These comments should be forwarded to the section managers. Since permitting activities take a long time (up to 270 days), staff will be informed that periodic meetings will be held in July '01, October '01, and January 2002, to review and modify the SOPPP. During the periodic meetings, a focus group will be asked to help make changes to the SOPPP to reflect comments that are received from citizens and facility personnel. The focus group will be asked to reevaluate the SOPPP

because during a process, issues can change. By keeping communication open with the public, staff can address their concerns even as these change and evolve.

Since the draft SOPPP has been review by management and a team of permitting personnel, there should not be any problems with their acceptance of the new procedural plan. DHEC encourages participatory management, and the permitting staff should feel free to provide suggestions to their immediate supervisor as needed. The plan will make the jobs of the program assistants easier because they have never had a document to follow during this process. As new staff are hired, this plan will become part of the information they are provided during initial training for their positions.

After April 2001, the plan will be shared with other stakeholders. The permitted facilities will be given a copy of the procedure when they first contact DHEC to begin the process of permitting of a new facility. Since the document clearly outlines the steps the department will follow, the regulated community should appreciate the document.

Sharing the plan with citizen groups will empower them to influence the process used by DHEC to issue or deny a permit. Key stakeholders, such as, Citizen Advisory Boards (CAB) can use the document to increase their understanding of the permitting process because the plan outlines area in which the CAB is encouraged to participate, such as, public meetings.

During April 2001, the SOPPP will be placed on the DHEC Web site. Portions of the web site are pages for news and for public notices. The news article will inform the reader of

the document and ask for public comment. A link to the document will be provided. A public notice will be published on the public notices page with the same information.

Since no new staff will be needed, the implementation of the plan should not require new resources. The only expenditure should be for printing the plan, which will be minimal.

Evaluation Method

After implementation of the process, the plan will be evaluated at focus group meetings to monitor staff acceptance, citizens' attitudes, and permittee remarks. The focus groups will be made up of permit engineers, program staff, and management. The focus group will evaluate at the periodic meetings comments and remarks made by all stakeholder groups concerning the SOPPP. These comments will be collected from a variety of sources, such as, Permitting Comment Cards, citizen comments, and staff experiences. These comments and suggestions will be used to continually improve the plan during the evaluation period.

The group will look at organizational barriers that prevent stakeholder comments from reaching the group. A potential obstacle may be that the district coordinators do not pass along comments to central office staff. Staff must be sure to ask district personnel for remarks from external stakeholders in their jurisdiction. Another potential problem area to be aware of is group understanding. Different groups of external stakeholders may be at different stages of understanding of technical issues. Staff will need to educate stakeholder groups so that all are aware of the purpose, resources, science, regulatory authority, relationships and limitations. Technical obstacles are easier to overcome than social and political ones. No matter how good a staff member's technical presentation, one will not succeed if the public doesn't trust them, participate in the process and have confidence that a good decision will be made.¹ Staff must be convinced that the Pareto

¹ US Bureau of Reclamation. Decision Process Guidebook. Retrieved January 10, 2001, from the World Wide Web: <http://www.usbr.gov/Decision-Process/pi.htm>.

Principle is applicable to the permitting process and to expect that twenty percent of the potential public will demand eighty percent of the effort associated with a permitting project.²

When problem areas are identified, cause analysis will be needed. The group will need to determine if the problem is due to a special cause versus a common cause. Special causes may include problems due to attitude or procedures of the project person. The project person will be the lead agency contact for that particular project. Common causes may include scheduling time for hearings, type of room or facility accommodations for hearings or information dissemination. A variant of “Plan, Do, Check, Act” (PDCA) will be used called Standardize, Check, Do Act (SDCA).³ Since the SOPPP is implementing a new way of doing business for staff, some staff may fall back to the old ways.

Standardizing will make the improvements an integral part of the new way of doing business. Do is the implementation plan stage. Check is the important part for the evaluation of the implementation plan. Check will be performed by asking questions. “What have we learned?” “Are things better?” “What can we do to make it better?” And, Act involves standardizing the changes that worked, improving the plan, and checking the process according to what was learned.

² US Bureau of Reclamation. Decision Process Guidebook. Retrieved January 10, 2001, from the World Wide Web: <http://www.usbr.gov/Decision-Process/toolbox/paretopr.htm>

³ Joiner Associates Inc. (1992) “Using Data To Learn and Improve”, Fundamentals of Fourth Generation Management. Madison, WI. p. 51.

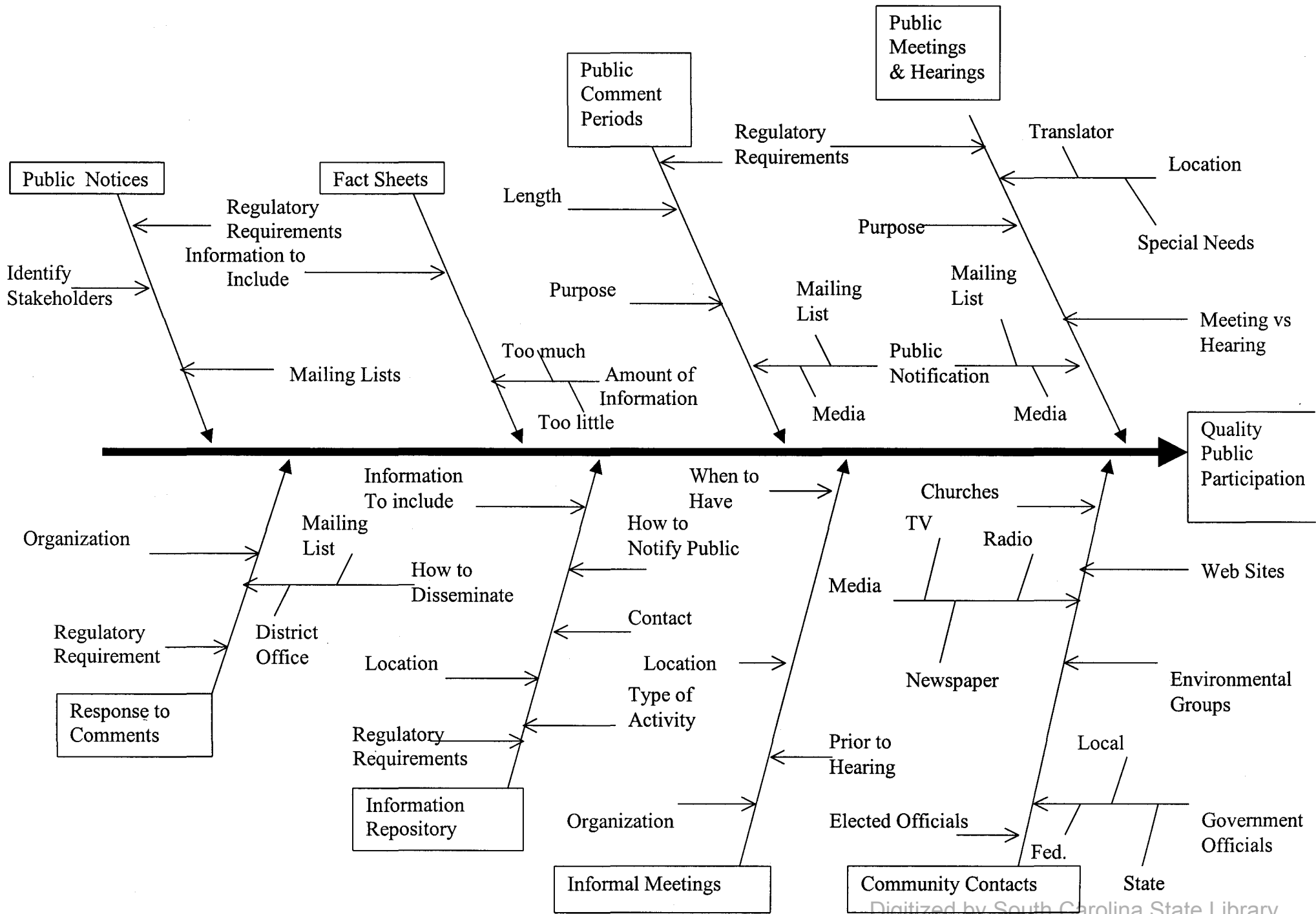
By January '02, the focus group should have continued to improve the SOPPP, so that, it will be stream lined and working well. Final changes will be made to the SOPPP by the focus group. It will be circulated to all staff in the division for comments. Then, the final document will be sent to staff to be placed in their desk copies of the SOPs. At this point, annual review will occur at the time the SOPs are reviewed.

The agency Strategic Plan for 2000-2005 has measures for continually improving and restoring the environment of the state. As part of evaluating the goals of the Strategic Plan, the agency engages the Institute of Public affairs at the University of South Carolina to conduct annual surveys to determine public and private sector satisfaction with DHEC. It may be possible to use these surveys to gauge if the new process has helped the agency's delivery of services.

The focus group will be terminated with a donut brunch as a reward. Depending upon the outcome, management will consider nominating the focus group for the Environmental Quality Control Team of the Year Award.

BIBLIOGRAPHY

- Joiner Associates Inc. (1992) Fundamentals of Fourth Generation Management. Madison, WI.
- South Carolina Budget and Control Board, Center for Education, Quality and Assessment, The Manager's Role in Planning.
- South Carolina Budget and Control Board, Center for Education, Quality and Assessment, Principles of Quality .
- South Carolina Department of Health and Environmental Control, Strategic Plan 2000 – 2005 (January 2001).
- US Bureau of Reclamation. Decision Process Guidebook. Retrieved January 10, 2001, from the World Wide Web: <http://www.usbr.gov/Decision-Process.htm>.
- US Environmental Protection Agency, OSWER, Public Involvement in Environmental Permits – A reference Guide (August 2000).



IMPLEMENTATION PLAN

Activity	March 5 12 18 25	April 2 9 16 23 30	July 2 9 16 23 30	October 1 8 15 22 29	January 7 14 21 28	February 4 11 18 25
SOPPP final Copy					
Memo to Management					
SOPPP incorporated Into section SOPs					
Post SOPPP On DHEC Web Page					
Staff training session On new SOPPP					
Focus group meeting Feedback on SOPPP					
Focus group meeting Feedback on SOPPP					
Focus group meeting Feedback on SOPPP					
Revise SOPPP and Circulate for comments					

SC DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
 ENVIRONMENTAL QUALITY CONTROL AND OCEAN COASTAL RESOURCE MANAGEMENT
Permitting Comment Card

Please take a moment to complete this card. We evaluate our services by your comments. Your satisfaction is important to us. Please tell us about our procedures and staff so that we may respond to your suggestions. Then just drop this card in the mail. We've paid the postage. Thank You!

Area(s) that served you or program area(s) affecting you:

- | | |
|--|--|
| <input type="checkbox"/> Liaison (Information or Technical Assistance) | <input type="checkbox"/> Ocean & Coastal Resource Management |
| <input type="checkbox"/> Drinking Water Protection | <input type="checkbox"/> Solid & Hazardous Waste Management |
| <input type="checkbox"/> Air Quality | <input type="checkbox"/> Water Pollution Control |
| <input type="checkbox"/> District Services | <input type="checkbox"/> Other (Specify) |

Name(s) of employee(s) who you had contact with: _____

(Optional)

Your Name: _____

Mailing Address: _____

Telephone Number: (____) _____ Indicate if you would like a follow-up call

Please rate your satisfaction with us in the following areas where applicable:

	Very Satisfied	Satisfied	Neutral	Unsatisfied	Very Unsatisfied
1. Professionalism of staff	5	4	3	2	1
2. Helpfulness of staff	5	4	3	2	1
3. Timeliness of response	5	4	3	2	1
4. Paperwork volume	5	4	3	2	1
5. Courtesy of staff	5	4	3	2	1
6. Knowledge of material	5	4	3	2	1
7. How were you treated when you telephoned our office and/or met our staff	5	4	3	2	1
8. Overall evaluation	5	4	3	2	1

Additional comments or suggestions _____

**PUBLIC PARTICIPATION FOR
INFECTIOUS & RADIOACTIVE WASTE MANAGEMENT
ACTIVITIES**

STANDARD OPERATING PROCEDURES

**DIVISION OF WASTE MANAGEMENT
BUREAU OF LAND AND WASTE MANAGEMENT**

FEBRUARY, 2001

PUBLIC PARTICIPATION FOR PERMITTING/LICENSING ACTIVITIES

This standard operating procedure (SOP) was designed to aid staff in the Infectious Waste and Radioactive Waste Sections during permitting and licensing activities. This SOP should be used in conjunction with any program specific SOP for each of the sections. Public participation is an important part of the DHEC Strategic Plan. This document should help staff as well as the general public. State citizens must have the requisite knowledge of permitting/licensing activities to assist the agency to achieve our common goal of sound waste management.

CONTENTS

1. Public notices
2. Fact sheets
3. Public comment periods
4. Public hearings
5. Public meetings
6. Information repository

1. Public Notices

- 1.1 Consider regulatory requirements
 - 1.1.1 Receipt of a license, permit or permit modification application
 - 1.1.2 Issuance of a draft permit
 - 1.1.3 Issuance of a decision making document (i.e. Technical Evaluation Report)
 - 1.1.4 Initiate a permit modification (DHEC initiates modification)
 - 1.1.5 Hold a public hearing
 - 1.1.6 Location of an informational repository
 - 1.1.7 Closure or post closure
- 1.2 Identify stakeholders
- 1.3 Compile and check mailing list for completeness
- 1.4 Pick a date to issue notice
- 1.5 Prepare the public notice
- 1.6 Identify types of media to use
 - 1.6.1 Prepare the newspaper information
 - 1.6.2 Prepare the radio and TV information
 - 1.6.3 Prepare the notice for the EQC Web page

Public notices should be issued at various points in the licensing, permitting or closure process. Such notices may be issued by the regulated facility, as well as, by DHEC. Notices may offer the public an opportunity to comment on the action being taken by the agency.

List of items that typically appear in a public notice:

- Name and address of the facility and the facility owner operator;
- A brief description of the process, modification, or remediation to be conducted at the facility;
- Name, address, and phone number of the staff person who can be contacted for information about the facility;
- An overview of the public involvement process, including the comment procedures, and the date, time and location of hearings;
- A request to see if special accommodations are needed;
- The opening and closing dates of public comment periods;
- The location of the administrative record and the times when it is open for public inspection;
- Any supportive information that will be considered when making a permit decision;
- Web site of address of the facility, and DHEC.
- Copy the applicable EQC district office.

2. Fact Sheet

2.1 Consider regulatory requirements

2.2 Provide background information before a hearing or meeting

2.3 Provide at the time of a final decision

Fact sheets provide interested parties with information about the technical aspects of the licensing or permitting process. They may include:

- A brief description of the type of facility or activity that is the subject of a decision;
- The type and quantity of wastes or activities covered by the permit;
- A brief summary of the basis for the permit conditions and the reason why any variances or alternatives to the proposed standards do or do not appear justified;
- A description of the DHEC procedures for reaching a final decision;
- The beginning and ending dates of the public comment period and where comments may be submitted;
- Procedure for requesting a public hearing;
- Name, address, and phone number of an agency contact person for additional information.

3. Public Comment Periods

- 3.1 Consider regulatory requirements
 - 3.1.1 Issuance of a draft permit
 - 3.1.2 Receipt of a permit or permit modification application
 - 3.1.3 Initiation of a permit modification by DHEC
 - 3.1.4 Closure or post closure plans
 - 3.1.5 Publish date, length and purpose
- 3.2 Check mailing list for completeness
- 3.3 Prepare notice for media (1. Public Notices)

Public comment periods are appropriate after the issuance of a draft permit or license. This provides the public and the permittee an opportunity to review the draft permit and to provide their comments to be incorporated into the formal public record. The agency will take all comments into consideration when developing the final permit or license decision. A response to comments will be developed from the comments received during the comment period. Commenters can request a public hearing during the comment period.

4. Public Hearings

- 4.1 Consider regulatory requirements
- 4.2 Determine the hearing date, time and location
- 4.3 Check mailing lists for completeness
- 4.4 Identify stakeholders
- 4.5 Reserve a location
 - 4.5.1 Determine if attendees have special needs (translator)
- 4.6 Prepare public notice of the hearing for issuance at least 45 days in advance (1. Public Notices)
 - 4.6.1 Identify types of media to use for notice
- 4.7 Prepare a fact sheet (3. Fact Sheets)
- 4.8 Secure a court reporter to provide a written transcript of the proceedings
 - 4.8.1 Prepare a transcript of all oral and written comments
- 4.9 Secure a person to conduct the hearing – Hearing Officer

Public hearings are conducted in an open forum to allow the citizens a chance to express their concerns, comments, and ideas to DHEC concerning the proposed action. DHEC will conduct a public hearing for a draft permit or major modification to an existing permit if the agency receives a substantial request during the public comment period or if there is a high level of public interest or if the agency feels that the hearing might clarify relevant issues.

Preparation for a Public Hearing:

Provide a public notice of the hearing at least 45 days prior to the hearing. Ask in the public notice if any special accommodations are needed by the public. Anticipate the audience and the issues of concern. DHEC should provide a translator if asked or if it is known that non-English speaking citizens comprise the community.

Schedule a convenient location and time for the meeting. Hearings will be held at a location close to the facility to allow easy access for the affected community. The location should be reservable and affordable (public buildings may be free.). The hearing room should have enough seating, microphones, lighting, and recording devices. The location should have handicapped access. Schedule the time of the hearing to allow for the most participation of the affected community. This may require holding the hearing during evening hours or on a weekend. Arrange for a court reporter to record the proceedings and prepare a written transcript of the hearing. Place a sign in sheet in a conspicuous place. Encourage citizens to bring extra copies of written comments to submit to the court reporter.

5. Informal Public Meetings

5.1 Consider regulatory requirements

5.1.1 There may not be regulatory requirements

5.2 Determine the meeting date, time and location

5.3 Check mailing lists for completeness

5.4 Identify stakeholders

5.5 Identify types of media to use

5.6 Reserve a location

5.6.1 Determine if attendees have special needs (translator)

5.7 Prepare public notice of the meeting for issuance at least 30 days in advance (1.

Public Notices)

5.8 Prepare a fact sheet (3. Fact Sheets)

5.9 Secure a tape recorder to provide for taping of the proceedings

5.9.1 Prepare a transcript of all oral and written comments

5.9.2 Secure a facilitator to conduct the meeting if controversy is expected

Public meetings are **not** public hearings. Public meetings are less formal and provide an opportunity to share information and discuss issues. Public meetings may be initiated by citizens, a facility or DHEC. Public hearings are required by regulations and provide a formal venue for the public to have their comments and oral testimony entered into the record.

The group holding the meeting should decide before hand what it wants to accomplish at the meeting. The attendees should be aware that the meeting is for gathering information not making decisions. All documents relevant to the associated permitting activity should be available at the meeting or at the information repository prior to the meeting. A sign in sheet should be available so stakeholder can be identified and added to the mailing list.

6. Information Repository

- 6.1 Consider regulatory requirements
- 6.2 Determine a convenient location
- 6.3 Determine content based on the type of facility, activity, or action
- 6.4 List contact names, titles, addresses, phone numbers, and E-mail addresses.
- 6.5 Prepare a public notice to advise the stakeholders of the location and hours the repository is available for viewing (1. Public Notices)

Information repositories may not required but are useful when the administrative record is not locally available. Staff must gauge public or media interest to determine if an information repository is necessary. If the community turns out in high numbers for public meetings or if a local environmental organization exist or if the local media has given an issue a lot of attention, DHEC staff may decide a repository is needed.

Items which are generally included in an information repository include:

- Background information
- Fact sheets
- Public notices
- Public involvement plan
- Draft permit or license
- Notices of decision
- Response to comments
- Copies of regulations or guidance materials
- Documentation of site sampling results
- Enforcement history of a facility
- Press releases
- Contact information
- Risk assessment information for specific chemicals