

**SECTION 14. PERMITS – PUBLIC PARTICIPATION.**

- (A) Scope. Except for modifications qualifying for minor permit modification procedures in Article 2, Section 15, all Class I and Class II operating permit proceedings, including initial permit issuance, significant modifications, and renewals, and unless otherwise provided, all construction permits, shall provide for public notice, an opportunity for comment, and a hearing, if requested, on the draft permit in accordance with the procedures in this section. The procedures in paragraphs (B) through (I) of this section shall be followed for all permits, except for ‘Prevention of Significant Deterioration (PSD) of Air Quality’ permits, for which public participation shall be in accordance with the procedures in paragraph (J) of this section.
- (B) Notice shall be given by publication in a newspaper of general circulation in the area where the source is located and by posting notice electronically on the Department’s public Web site for the duration of the public comment period, and also by mail or e-mail to the EPA and persons on a mailing list developed by the Department, including those persons who request in writing to be on the mailing list; and by other means, if necessary, to assure adequate notice to the affected public.
- (C) The notice shall contain the following:
- (1) The identity of the affected facility;
  - (2) The name and address of the permittee;
  - (3) The name, address, telephone number, and Website address of the Department;
  - (4) The activity or activities involved in the permit action;
  - (5) The emissions change involved in any permit modification;
  - (6) The name, address, telephone number, and e-mail address of the person from whom interested person may obtain additional information;
  - (7) The location where copies of the administrative record, including the draft permit, the application, draft permit revision, and other materials deemed relevant by the Department to the permit decision, may be reviewed, and instructions on how to access the information electronically; and
  - (8) A brief description of the comment procedures and the time and place of any hearing that may be held, including a statement of procedures to request a hearing, unless a hearing has already been scheduled.
- (D) Persons or groups shall have thirty (30) days from issuance of public notice to either submit to the Director any comments, by e-mail or in writing, concerning the proposed permit action for which the public notice has been issued and/or request a public hearing before the Air Pollution Control Advisory Board in writing in accordance with paragraph (E) below. Such thirty (30) day comment period may be extended by the Director.
- (E) Public Hearings.
- (1) The applicant, any affected state or ‘Tribal As State’ (TAS), any interstate agency, the Administrator, or any interested agency, person, or group, may request or petition the Director, in writing, within the thirty (30) day comment period of the public notice, for a public hearing, and state the nature of the issues to be raised and all arguments and factual grounds supporting their position.
  - (2) The Director may hold a public hearing if the comments, requests, or petitions raise legal, policy, or discretionary questions of general application not pertaining solely to a particular party and significant public interest exists with respect to the application.
- (F) Public Notice of Hearing. In addition to the public notice described in paragraph (C) of this section, the public notice of a hearing under paragraph (E) above shall be published at least thirty (30) days prior to the hearing in accordance with paragraph (B) of this section, and shall contain the following information:
- (1) Reference to the date of the previous notices relating to the permit;
  - (2) Date, time, and place of hearing;
  - (3) A brief description of the nature and purpose of the hearing, including the applicable rules and procedures; and
  - (4) A concise statement of the issues raised.
- (G) Adjudicative Hearing. Any interested person may petition the Director for an adjudicative hearing in accordance with the procedures established by the Lincoln City Council and the Lancaster County Board of Commissioners.

- (H) At the time that any final permit decision is issued, the Department shall issue a response to significant comments received during the comment period and public hearing. The response to comments shall be made available to the public upon request by e-mail or in writing.
- (I) The Department shall make and keep a record of the commenters and of the issues raised during the public participation process. This record shall be made available to the Administrator in fulfillment of his or her obligation under Section 505 (b)(2) of the Act to determine whether a citizen petition may be granted. Such record shall also be available to the public.
- (J) Public Participation in Prevention of Significant Deterioration (PSD) of Air Quality Permit Applications. Within one (1) year after receipt of a complete application, as described in Nebraska Administrative Code Title 129 (Nebraska Air Quality Regulations) Chapter 4, sections 001.05 and 005, the Department shall:
- (1) Make available in at least one (1) location in each region in which the proposed source would be constructed a copy of all materials the applicant submitted, a copy of the preliminary determination, and a copy or summary of other materials, if any, considered in making the preliminary determination.
  - (2) Notify the public as prescribed in the applicable provisions of Nebraska Administrative Code Title 129 (Nebraska Air Quality Regulations) Chapter 10 of the application, the preliminary determination, the degree of increment consumption that is expected from the source of modification, and of the opportunity for comment at a public hearing as well as written public comment.
  - (3) Send a copy, by e-mail or in writing, of the notice of public comment to the applicant, the Administrator, and to officials and agencies having cognizance over the location where the proposed construction would occur as follows:
    - (a) Any other state or local air pollution control agencies;
    - (b) The chief executives of the city and county where the source would be located;
    - (c) Any comprehensive regional land use planning agency; and
    - (d) Any State, Federal Land Manager, or Tribal governing body whose lands may be affected by emissions from the source or modification.
  - (4) Provide opportunity for a public hearing for interested persons to appear and submit written or oral comments on the air quality impact of the source, alternatives to it, the control technology required, and other appropriate considerations.
  - (5) Consider all written comments submitted within a time specified in the notice of public comment and all comments received at any public hearing(s) in making a final decision on the approvability of the application. The Department shall make all comments available for public inspection in the same locations where the Department made available preconstruction information relating to the proposed source or modification.
  - (6) Make a final determination whether construction should be approved, approved with conditions, or disapproved.
  - (7) Notify the applicant in writing of the final determination and make such notification available for public inspection at the same location where the Department made available preconstruction information and public comments in relation to the source.