

Kansas Administrative Regulations

Department of Health and Environment

Article 31.—Hazardous Waste Management Standards and Regulations

28-31-124e. Procedures for permitting; public notice of permit actions and public comment period.

Public notices shall be given by the department according to the following criteria:

(a) A public notice shall be given if one or more of the following actions have occurred:

(1) A permit application has been tentatively denied under K.A.R. 28-31-124c.

(2) A draft permit has been prepared under K.A.R. 28-31-124c.

(3) A hearing has been scheduled under 40 CFR 124.12, as adopted by reference in K.A.R. 28-31-124.

(b) No public notice shall be required if a request for permit modification, revocation and reissuance, or termination is denied under K.A.R. 28-31-124b. Written notice of the denial shall be provided by the department to the person who made the request and to the permittee.

(c) The public notice may describe more than one permit or permit action.

(d) The public notice shall be given in accordance with the following time frames:

(1) The public notice of the preparation of a draft permit, including a notice of intent to deny a permit application, required under subsection

(a) shall allow at least 45 days for public comment.

(2) The public notice of the public hearing shall be given at least 30 days before the hearing.

(3) The public notice of the hearing may be given at the same time as the public notice of the draft permit and the two notices may be combined.

(e) Public notice of the activities described in subsection (a) shall be given using the following methods:

(1) Mailing a copy of the notice to the following persons, except to any person that has waived the right to receive notices for the class or category of the permit described in the notice:

(A) The applicant;

(B) each agency that has issued or is required to issue a permit for the same facility or activity, including EPA;

(C) all federal and state agencies with jurisdiction over fish, shellfish, or wildlife resources, the advisory council on historic preservation, state historic preservation officers, and all affected states and Indian tribes;

(D) each person on the mailing list, which shall be developed by the department using the following methods:

(i) Each person who requests in writing to be on the mailing list shall be added to the mailing list;

(ii) participants in past proceedings in that area shall be solicited for inclusion on the mailing list;

(iii) the public shall be notified of the opportunity to be put on the mailing list through periodic publication in the public press and in publications which may include regional and state-funded newsletters, environmental bulletins, and state law journals; and

(iv) the mailing list may be updated by the department by requesting written indication of continued interest from persons on the list. The name of any person who fails to respond to such a request may be deleted from the list by the department;

(E) each unit of local government having jurisdiction over the area where the facility is proposed to be located; and

(F) each state agency having any authority under state law with respect to the construction or operation of the facility;

(2) publishing a notice in the official newspaper of the county in which the facility is located or proposed to be located or, if there is no official county newspaper, a newspaper published as provided in K.S.A. 64-101, and amendments thereto;

(3) broadcasting over local radio stations;

(4) giving notice in a manner constituting legal notice to the public under state of Kansas law; and

(5) using any other method chosen by the department to give notice of the action in question to the persons potentially affected by it, including press releases or any other forum or medium to elicit public participation.

(f) Each public notice shall contain the following information:

(1) The name and address of the office processing the permit;

(2) the name and address of the permittee or the permit applicant and, if different, of the facility or activity regulated by the permit;

(3) a brief description of the business conducted at the facility or the activities described in the permit application or the draft permit;

(4) the name, address, and telephone number of a person from whom interested persons may obtain further information, including copies of the draft permit, the fact sheet, and the application;

(5) a brief description of the comment procedures required by 40 CFR 124.11 and 124.12, as adopted by reference in K.A.R. 28-31-124;

(6) the time and place of each hearing that has been scheduled;

(7) a statement of the procedures to request a hearing, unless a hearing has already been scheduled;

(8) all other procedures required for public participation in the final permit decision;

(9) the times when the record will be open for public inspection and a statement that all data submitted by the applicant is available as part of the administrative record; and

(10) any additional information necessary to allow full public participation in the final permit decision.

(g) The public notice of each hearing held pursuant to 40 CFR 124.12, as adopted by reference in K.A.R. 28-31-124, shall contain all of the information described in subsection (f) of this regulation plus the following information:

(1) Reference to the date of previous public notices relating to the permit;

(2) the date, time, and place of the hearing; and

(3) a brief description of the nature and purpose of the hearing, including the rules and procedures.

(h) In addition to the general public notice described in subsection (f), a copy of each of the following documents shall be mailed by the department to all persons identified in paragraphs (e)(1)(A) through (D):

(1) The fact sheet; and

(2) the permit application or the draft permit.

(Authorized by K.S.A. 65-3431; implementing K.S.A. 65-3431 and 65-3433; effective April 29, 2011.)

***** Authenticated Kansas Administrative Regulation *****