

Department of Toxic Substances Control

Public Participation Manual

CHAPTER 6 SECTION G  
Public Hearings

# Chapter 6, Section G

## Public Hearings

### Table of Contents

#### **Public Hearings**

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Overview .....	6-102
Responsibilities .....	6-102
Required Public Hearings .....	6-102
Timing of Public Hearing .....	6-103
Hearing Officer .....	6-103
Hearing Facilitator .....	6-103
Logistics .....	6-103
Location .....	6-104
Date and Time .....	6-104
Arrangements .....	6-104
Transcription .....	6-104
Interpretation .....	6-104
Public Notification of Hearing .....	6-104
Hearing Presentations .....	6-105
Hearing Facilitation .....	6-105
Hearing Attendance .....	6-106

# Public Participation Tasks and Techniques

## Section G ♦ Public Hearings

### Overview

The purpose of the public hearing is to solicit public comments on the draft permit, denial or closure plan. A public hearing is a formal process for the agency to receive comments from the community and the proponents of the draft permit or closure plan. In contrast to community meetings, a public hearing offers limited two-way communication between the public and DTSC.

### Responsibilities

Public Hearings Task Responsibilities		
Public Participation Specialist	PPS, PM, or clerical support	Project Manager
<ul style="list-style-type: none"> <li>♦ Identify need/objective/time frame.</li> <li>♦ Identify location.</li> <li>♦ Coordinate and develop agenda.</li> <li>♦ Coordinate development of presentations for all participants.</li> <li>♦ Review/approve presentations.</li> <li>♦ Conduct dry runs.</li> <li>♦ Approve graphics/handout text.</li> </ul>	<ul style="list-style-type: none"> <li>♦ Make meeting room arrangements.</li> <li>♦ Arrange for interpreter/court reporter, if needed.</li> <li>♦ Prepare meeting supplies (sign-in sheets, name tags, comment forms).</li> </ul>	<ul style="list-style-type: none"> <li>♦ Coordinate with PPS on meeting plans.</li> <li>♦ Prepare presentations.</li> <li>♦ Participate in dry runs.</li> <li>♦ Coordinate with PPS on graphics.</li> <li>♦ Participate in meeting.</li> <li>♦ Develop graphics/handout text.</li> </ul>

### Required Public Hearings

**Public hearings are required when:**

- ♦ DTSC finds, on the basis of requests, a significant degree of public interest in a draft permit, denial or closure plan; (Title 22, CCR § 66271.11(a)(1))
- ♦ DTSC receives written notice of opposition to a draft permit and a request for a hearing within 45 days of public notice; (Title 22, CCR § 66271.11(a)(3)(A))

- ◆ DTSC receives a request for a hearing on a closure plan within the formal public comment period; (Title 22, CCR § 66265.112(d)(5))
  - ◆ It is determined that a proposed project is of “high interest” to the community; or,
  - ◆ Whenever such a hearing might clarify one or more issues involved in the permit or closure plan determination for a “low interest” application.
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## Timing of Public Hearing

The California Code of Regulations requires that a minimum 30-day public notice be provided prior to a public hearing, and a public hearing cannot be scheduled until documents are placed in the repositories.

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## Hearing Officer

The hearing officer is the designated DTSC manager responsible for hearing and considering comments presented by the public. In addition, the hearing officer should make a brief presentation on the Department’s regulatory role at the facility and the proposed action brought forth for public review. The hearing officer can provide the additional facility information which must be presented at the hearing, or this can be delegated to other program staff.

NOTE: For controversial facilities, the Branch Chief serves as the hearing officer; and, for less controversial projects, the Permit Unit Chief can serve as the hearing officer.

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## Hearing Facilitator

The facilitator’s role is to manage the flow of communication during the hearing to ensure that all concerned citizens have the opportunity to formally present their comments. The facilitator monitors the communication dynamics of the meeting, and adjusts the meeting format, agenda or other variables as necessary to keep the meeting productive for all parties.

- ◆ The Public Participation Specialist normally serves as meeting facilitator, although the Public Participation Specialist Supervisor can be brought in for controversial hearings.
  - ◆ The hearing officer can facilitate the meeting when no other resources are available. Although it is advisable to separate these two functions whenever possible, especially at controversial hearings.
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## Logistics

Meeting arrangements and logistics are thoroughly discussed in this manual under the “Meeting Planning and Organization” subsection, as well as below. Also refer to the “Community Meeting/Hearing Checklist” (Exhibit 6-30).

<p>Location</p>	<p>Regulations require that the public hearing be scheduled at a location convenient to the population center nearest to the proposed facility.</p> <ul style="list-style-type: none"> <li>◆ Suitable hearing rooms should comfortably accommodate up to 200 people or more, depending on the anticipated attendance;</li> <li>◆ Possible hearing locations should be identified in the Public Participation Plan or by consultation with the Public Participation Specialist;</li> <li>◆ Many cities and towns have community centers with rooms suitable for hearings;</li> <li>◆ For smaller audiences, use meeting rooms in libraries or government centers; and,</li> <li>◆ ADA compliance.</li> </ul> <p>Permit staff should work with staff in City Halls, libraries, school district offices, or Chambers of Commerce to locate available meeting facilities.</p>
<p>Date and Time</p>	<p>DTSC policy experience suggests that hearings be scheduled during weekday (Monday through Thursday) evenings, or at another date and time requested by the community. Holidays, important events, or other community meetings should be considered when selecting hearing dates. Refer to the “Meeting Date and Time” subsection. The date and time must be announced to the public in a public notice 30 days prior to the hearing date, so community members have sufficient notice.</p>
<p>Arrangements</p>	<p>The Project Manager or Public Participation Specialist should make hearing room arrangements as early as possible. Since a 30-day public notice is required, at a minimum, the room reservations must be made more than one month in advance of the hearing date.</p>
<p>Transcription</p>	<p>The Project Manager should arrange for the hearing transcription. <b>DTSC policy requires that a written transcript or tape recording of all public hearings be made and placed in the information repository(ies) for public review.</b> Transcription services are available through the DTSC statewide contract. See your Public Participation Specialist or contact the Headquarters Public Participation Office to access this contact. Transcription services should be arranged as soon as the hearing date and location are set.</p>
<p>Interpretation</p>	<p>If the site/facility is in an area where community members are non-English-speaking, consider having the meeting interpreted simultaneously into the language that the community speaks (e.g., Spanish, Vietnamese, American Sign Language). Refer to the “Interpreter Services” subsection.</p>
<p>Public Notification of Hearing</p>	<p>Prior to the hearing, the public, local officials, and other interested parties must be notified at least 30 days prior to the hearing of the hearing date, time, location, purpose, and where to call for additional information.</p>

To comply with State regulation for public notice of a public hearing:

- ◆ Use display advertisements in a local newspaper of general circulation;
- ◆ Paid radio announcements (refer to “Broadcast Public Notices”). Free public service announcements may be used to supplement paid radio announcements, but cannot be used as a substitute to meet the paid radio announcement; and,
- ◆ Distribute the public hearing notice to the project mailing list.
- ◆ Post on DTSC web site;
- ◆ E-mail notices.

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## Hearing Presentations

DTSC policy requires that a brief overview (not to exceed 20 minutes) be presented at the hearing. The Hearing Officer or project staff is responsible for developing and delivering the presentation.

Refer to Public Hearing Agenda samples in the appendix.

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## Hearing Facilitation

Public hearings should be managed by a moderator, whose responsibility is to ensure that all comments are taken for the public record.

- ◆ Establish speaker’s request form. The facilitator should ask those persons wishing to make comments at a hearing to complete a speaker request form and return it to the designated DTSC representative. This procedure can be eliminated when the attendance at a hearing is low.
- ◆ Establish time limits for commenters. The facilitator may choose to establish a set time limit for an individual to make comments. Typically, when a large number of people wish to comment, the time may be limited to five minutes or less per individual. However, the facilitator may give additional time to individuals representing large groups of people. Those wishing to make more detailed comments should be encouraged to submit their comments in writing.
- ◆ Interacting with commenters. Because comments become part of the public record, the facilitator should ask all commenters to give their names and addresses. If there is doubt about spelling, the facilitator should ask the commenters to spell names or street names. In cases where there may be litigation, it is common practice to further request that anyone legally representing any party as part of the permit process or decision identify that fact.

When giving the floor to a commenter, the facilitator should also note the person’s name, so that the facilitator can thank the commenter by name at the conclusion of the comment (e.g., “Thank you for those comments, Ms. Smith.”).

- ◆ All attendees who wish to receive a “response to comments” of the proposed project must sign the sign-in sheet at the public hearing.
- ◆ Since this is a meeting to hear the public’s comments, it is advisable that comments not be responded to during the hearing. Rather the comments should be heard and then seriously evaluated by the whole project team after the hearing concludes.

Hearing  
Attendance

DTSC policy requires that the regulators who will be most involved with making the actual decision be present at the hearing so that they can weigh all information, including public comments, prior to reaching a final decision.