



Rules of
Department of Natural Resources
Division 25—Hazardous Waste
Management Commission
Chapter 2—Commission Procedures

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**Title 10—DEPARTMENT OF
NATURAL RESOURCES
Division 25—Hazardous Waste
Management Commission
Chapter 2—Commission Procedures**

10 CSR 25-2.010 Voting Procedures

PURPOSE: The purpose of this rule is to define the procedures that must be followed by commission members when considering hazardous waste management variances, appeals or orders and related issues.

(1) Prior to any vote on any variance, appeal or order, all members of the Hazardous Waste Management Commission of Missouri shall disclose when they—

(A) Hold any official or contractual relationship with the person seeking a variance or appeal or the person subject to an order at issue under the Missouri Hazardous Waste Management Law, sections 260.350–260.550, RSMo;

(B) Utilize the services of any generator, transporter, or the owner/operator of a treatment, storage, resource recovery or disposal facility seeking a variance or appeal or who is subject to an order at issue under the Missouri Hazardous Waste Management Law;

(C) Under license or permit render, directly or through official relationship, service similar to the person seeking a variance or appeal or the person who is subject to an order at issue under the Missouri Hazardous Waste Management Law; or

(D) May have a conflict of interest regulated under sections 105.450–105.482 or section 260.365, RSMo.

(2) The member shall be excluded from voting on the matter at issue unless s/he fully advises the commission of the interest and receives a determination from the commission that the interest is not so substantial as to be deemed likely to affect the integrity of the services which the state expects from him/her. Fully advises means explains in detail in a signed, written statement available for public inspection. Official relationship includes, but is not limited to, corporate officer, employee, retiree or similar affiliation.

(3) Voting procedures governing hearings and other administrative actions are in section 260.365 and 260.400, Chapter 536 and sections 610.010–610.028, RSMo and the Missouri Supreme Court Rules of Civil Procedure.

(4) If one (1) or more exclusions from voting or other abstentions by vote or by absence results in the lack of a quorum of commissioners, the commission will delay its final decision until a simple majority of commissioners who are not excluded from voting are present.

(5) If a quorum of commissioners is not present at the time of a public hearing published for rulemaking and it is necessary to delay the public hearing due to the lack of a quorum, the department shall—

(A) Issue a news release announcing the new time, date and location of the public hearing; and

(B) Include in that news release the new submittal date for written public comments.

AUTHORITY: sections 260.365, 260.400 and 260.437, RSMo 1986 and 260.370 RSMo Supp. 1989. Original rule filed Sept. 7, 1978, effective Feb. 16, 1979. Amended: Filed Dec. 1, 1987, effective Aug. 12, 1988. Amended: Filed Feb. 16, 1990, effective Dec. 31, 1990.*

**Original authority: 260.365, RSMo 1977, amended 1980; 260.370, RSMo 1977, amended 1980, 1988; 1993, 1995; 260.400, RSMo 1977, amended 1980, 1993; 260.437, RSMo 1983, amended 1995.*

10 CSR 25-2.020 Hazardous Waste Management Commission Appeals and Requests for Hearings

PURPOSE: This rule contains all procedural regulations for all contested cases heard by the commission or assigned to a hearing officer by the commission.

(1) Subject. This rule contains procedural regulations for all contested cases before the commission.

(2) Definitions. As used in this rule, the following terms mean:

(A) Commission—The Missouri Hazardous Waste Management Commission;

(B) Department—The Department of Natural Resources, which includes the director thereof, or the person or division or program within the department delegated the authority to render the decision, order, determination, finding, or other action that is subject to review by the commission;

(C) Hearing—Any presentation to, or consideration by, the hearing officer of evidence or argument on a petition seeking the commission's review of an action by the department;

(D) Hearing officer—Administrative Hearing Commission;

(E) Person—An individual, partnership, copartnership, firm, company, public or private corporation, association, joint stock company, trust, estate, political subdivision or any agency, board, department or bureau of the state or federal government or any other legal entity whatever, which is recognized by law as the subject of rights and duties.

(3) Filing an Appeal or Requesting a Hearing.

(A) Any person adversely affected by a decision of the department or otherwise entitled to ask for a hearing may appeal to have the matter heard by filing a petition with the Administrative Hearing Commission within thirty (30) days after the date the decision was mailed or the date it was delivered, whichever date was earlier.

(B) A petition sent by registered mail or certified mail will be deemed filed on the date it is mailed. If it is sent by any method other than registered mail or certified mail, it will be deemed filed on the date it is received by the Administrative Hearing Commission.

(4) Procedures.

(A) The hearing shall be conducted in accordance with the provisions of Chapter 536, RSMo, and the regulations of the Administrative Hearing Commission promulgated thereunder.

(B) Upon receipt of the hearing officer's recommendation and the record in the case, the commission shall—

1. Distribute the hearing officer's recommendation to the parties or their counsel;

2. Allow the parties or their counsel an opportunity to submit written arguments regarding the recommendation;

3. Allow the parties or their counsel an opportunity to present oral arguments before the commission makes the final determination;

4. Complete its review of the record and deliberations as soon as practicable;

5. Deliberate and vote upon a final, written determination during an open meeting, except that the commission may confer with its counsel in closed session with respect to legal questions;

6. Issue its final, written determination as soon as practicable, including findings of fact and conclusions of law. The decision of the commission shall be based only on the facts and evidence in the record; and

7. The commission may adopt the recommended decision of the hearing officer as its final decision. The commission may change a finding of fact or conclusion of law made by the hearing officer, or may vacate or modify the recommended decision, only if



the commission states in writing the specific reason for a change.

AUTHORITY: sections 260.370, 621.250 and 640.013, RSMo Supp. 2006. Original rule filed March 15, 2007, effective Dec. 30, 2007.*

**Original authority: 260.370, RSMo 1977, amended 1980, 1988, 1993, 1995, 2004; 621.250, RSMo 2005; and 640.013, RSMo 2005.*