

**PART 25—PUBLIC PARTICIPATION  
IN PROGRAMS UNDER THE RE-  
SOURCE CONSERVATION AND  
RECOVERY ACT, THE SAFE  
DRINKING WATER ACT, AND THE  
CLEAN WATER ACT**

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AUTHORITY: Sec. 101(e), Clean Water Act, as amended (33 U.S.C. 1251(e)); sec. 7004(b), Re-  
source Conservation and Recovery Act (42  
U.S.C. 6974(b)); sec. 1450(a)(1), Safe Drinking  
Water Act, as amended (42 U.S.C. 300j-9).

SOURCE: 44 FR 10292, Feb. 16, 1979, unless  
otherwise noted.

**§ 25.1 Introduction.**

This part sets forth minimum re-  
quirements and suggested program ele-  
ments for public participation in ac-  
tivities under the Clean Water Act  
(Pub. L. 95-217), the Resource Con-  
servation and Recovery Act (Pub. L.  
94-580), and the Safe Drinking Water  
Act (Pub. L. 93-523). The applicability  
of the requirements of this part is as  
follows:

(a) Basic requirements and suggested  
program elements for public informa-  
tion, public notification, and public  
consultation are set forth in § 25.4.  
These requirements are intended to  
foster public awareness and open pro-  
cesses of government decisionmaking.  
They are applicable to all covered ac-  
tivities and programs described in  
§ 25.2(a).

(b) Requirements and suggested pro-  
gram elements which govern the struc-  
ture of particular public participation  
mechanisms (for example, advisory  
groups and responsiveness summaries)

are set forth in §§ 25.5, 25.6, 25.7, and  
25.8. This part does not mandate the  
use of these public participation mech-  
anisms. It does, however, set require-  
ments which those responsible for im-  
plementing the mechanisms must fol-  
low if the mechanisms are required  
elsewhere in this chapter.

(c) Requirements which apply to Fed-  
eral financial assistance programs  
(grants and cooperative agreements)  
under the three acts are set forth in  
§§ 25.10 and 25.12(a).

(d) Requirements for public involve-  
ment which apply to specific activities  
are set forth in § 25.9 (Permit enforce-  
ment), § 25.10 (Rulemaking), and § 25.12  
(Assuring compliance with require-  
ments).

**§ 25.2 Scope.**

(a) The activities under the three  
Acts which are covered by this part  
are:

(1) EPA rulemaking, except non-pol-  
icy rulemaking (for example publica-  
tion of funding allotments under statu-  
tory formulas); and State rulemaking  
under the Clean Water Act and Re-  
source Conservation and Recovery Act;

(2) EPA issuance and modification of  
permits, and enforcement of permits as  
delineated by § 25.9;

(3) Development by EPA of major in-  
formational materials, such as citizen  
guides or handbooks, which are ex-  
pected to be used over several years  
and which are intended to be widely  
distributed to the public;

(4) Development by EPA of strategy  
and policy guidance memoranda when  
a Deputy Assistant Administrator de-  
termines it to be appropriate;

(5) Development and implementation  
of plans, programs, standards, con-  
struction, and other activities sup-  
ported with EPA financial assistance  
(grants and cooperative agreements) to  
State, interstate, regional and local  
agencies (herein after referred to as  
"State, interstate, and substate agen-  
cies");

(6) The process by which EPA makes  
a determination regarding approval of  
State administration of the Construc-  
tion Grants program in lieu of Federal  
administration; and the administration  
of the Construction Grants Program by  
the State after EPA approval;

(7) The process by which EPA makes a determination regarding approval of State administration of the following programs in lieu of Federal administration: The State Hazardous Waste Program; the NPDES Permit Program; the Dredge and Fill Permit Program; and the Underground Injection Control Program;

(8) Other activities which the Assistant Administrator for Water and Waste Management, the Assistant Administrator for Enforcement, or any EPA Regional Administrator deems appropriate in view of the Agency's responsibility to involve the public in significant decisions.

(b) Activities which are not covered by this part, except as otherwise provided under (a)(8) or (c) of this section, are activities under parts 33 (Subagreements), 39 (Loan Guarantees for Construction of Treatment Works), 40 (Research and Development Grants), 45 (Training Grants and Manpower Forecasting) and 46 (Fellowships) of this chapter.

(c) Some programs covered by these regulations contain further provisions concerning public participation. These are found elsewhere in this chapter in provisions which apply to the program of interest. Regulations which govern the use and release of public information are set forth in part 2 of this chapter.

(d) Specific provisions of court orders which conflict with requirements of this part, such as court-established timetables, shall take precedence over the provisions in this part.

(e) Where the State undertakes functions in the construction grants program, the State shall be responsible for meeting these requirements for public participation, and any applicable public participation requirements found elsewhere in this chapter, to the same extent as EPA.

(f) Where the State undertakes functions in those programs specifically cited in § 25.2(a)(7), the State shall be responsible for meeting the requirements for public participation included in the applicable regulations governing those State programs. The requirements for public participation in State Hazardous Waste Programs, Dredge and Fill Permit programs, Under-

ground Injection Control programs and NPDES permit programs are found in part 123 of this chapter. These regulations embody the substantive requirements of this part.

(g) These regulations apply to the activities of all agencies receiving EPA financial assistance which is awarded after [the effective date of final regulations], and to all other covered activities of EPA, State, interstate, and substate agencies which occur after that date. These regulations will apply to ongoing grants or other covered activities upon any significant change in the activity (for example, upon a significant proposed increase in project scope of a construction grant). Parts 105 (Public Participation in Water Pollution Control) and 249 (Public Participation in Solid Waste Management) will no longer appear in the Code of Federal Regulations; however, they will remain applicable, in uncodified form, to grants awarded prior to the effective date of this part and to all other ongoing activities.

### § 25.3 Policy and objectives.

(a) EPA, State, interstate, and substate agencies carrying out activities described in § 25.2(a) shall provide for, encourage, and assist the participation of the public. The term, "the public" in the broadest sense means the people as a whole, the general populace. There are a number of identifiable "segments of the public" which may have a particular interest in a given program or decision. Interested and affected segments of the public may be affected directly by a decision, either beneficially or adversely; they may be affected indirectly; or they may have some other concern about the decision. In addition to private citizens, the public may include, among others, representatives of consumer, environmental, and minority associations; trade, industrial, agricultural, and labor organizations; public health, scientific, and professional societies; civic associations; public officials; and governmental and educational associations.

(b) Public participation is that part of the decision-making process through which responsible officials become aware of public attitudes by providing ample opportunity for interested and