

**Effective Date: March 29, 2006**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
Permanent Rule Change

Rule Project No. 2005-053-091-PR  
HB 2201: FutureGen / Clean Coal

Chapter 39  
Public Notice  
Subchapter H

Chapter 50  
Action on Applications and Other Authorizations  
Subchapter F

Chapter 55  
Requests for Reconsideration and Contested Case Hearings; Public Comment  
Subchapter F

Chapter 91  
Alternative Public Notice and Public Participation Requirements for Specific Designated Facilities  
Subchapters A, B

Chapter 116  
Control of Air Pollution by Permits for New Construction or Modification  
Subchapter L

Chapter 331  
Underground Injection Control  
Subchapter A

1. Purpose. This change transmittal provides the page(s) that reflect changes and additions to the Texas Commission on Environmental Quality (commission) Volume of Permanent Rules.
2. Explanation of Change. On February 22, 2006, the commission adopted the amendments to §§39.403, 39.411, 39.419, and 39.420, the repeal of §39.404, and new §39.404. Sections 39.403, 39.404, 39.411, 39.419, and 39.420 were adopted *with changes* to the proposed text as published in the December 16, 2005, issue of the *Texas Register* (30 TexReg 8401). The repeal of §39.404 was adopted *without change* to the proposed text and were not republished.

Certain provisions of the rules will be submitted to the United States Environmental Protection Agency (EPA) as a revision to the state implementation plan (SIP), specifically, §39.403(b)(8) - (10) and new (f), the repeal of §39.404, and new §39.404. The commission also will withdraw §§39.411, 39.419, and 39.420 as submitted to EPA on July 31, 2002, and submit §§39.411(a), (b)(1) - (6), (8) - (10), (c)(1) - (6), and (d); 39.419(a), (b), (d), and (e); and 39.420(a), (b), and (c)(3) and (4) as a revision to the SIP.

The commission also adopted an amendment to §50.113 *with change* to the proposed text as published in the November 25, 2005, issue of the *Texas Register* (30 TexReg 7810).

The commission also adopted an amendment to §55.201 *with change* to the proposed text as published in the November 25, 2005, issue of the *Texas Register* (30 TexReg 7813).

The commission also adopted new §§91.10, 91.20, 91.30, 91.100, 91.110, and 91.120. Sections 91.20, 91.30, and 91.120 were adopted *with changes* to the proposed text as published in the November 25, 2005, issue of the *Texas Register* (30 TexReg 7831). Sections 91.10, 91.100, and 91.110 were adopted *without changes* and were not republished.

The commission also adopted new §§116.1400, 116.1402, 116.1404, 116.1406, 116.1408, 116.1410, 116.1414, 116.1416, 116.1418, 116.1420, 116.1422, 116.1424, 116.1426, and 116.1428. Sections 116.1402, 116.1404, 116.1408, 116.1414, 116.1416, 116.1422, and 116.1424 were adopted *with changes* to the proposed text as published in the November 25, 2005, issue of the *Texas Register* (30 TexReg 7831). Sections 116.1400, 116.1406, 116.1410, 116.1418, 116.1420, 116.1426, and 116.1428 were adopted *without changes* to the proposed text and were not republished. The new sections were submitted to the United States Environmental Protection Agency (EPA) as a revision to the state implementation plan (SIP).

The commission also adopted the amendment to §331.11 *without change* to the proposed text as published in the November 25, 2005, issue of the *Texas Register* (30 TexReg 7831) and were not republished.

3. Effect of Change. The rulemaking is intended to encourage and facilitate the development of the FutureGen project in Texas. FutureGen refers to a combination of technologies for carbon sequestration, carbon dioxide enhanced oil recovery, electric generation, and hydrogen production. If Texas can secure the FutureGen project, the state will recognize major economic benefits from the creation of jobs and increased tax revenue. House Bill 2201 directs the commission to create rules to implement a streamlined process for permitting components of the FutureGen project. House Bill 2201 specifies that FutureGen projects are not subject to any requirements relating to a contested case hearing. Projects covered by the rules would still be subject to a notice and comment process without a contested case hearing.