

The Texas Natural Resource Conservation Commission (commission) proposes amendments to §55.21, Requests for Contested Case Hearings, Public Comment; §55.23, Request by Group or Association; §55.26, Hearing Request Processing; §55.152, Public Comment Period; §55.154, Public Meetings; §55.156, Public Comment Processing; §55.201, Requests for Reconsideration or Contested Case Hearing; §55.209, Processing Requests for Reconsideration and Contested Case Hearing; and §55.254, Hearing Request Processing. The proposed revisions to §§55.21(e), 55.152(a)(2), 55.154, 55.156, 55.201(c) and (d), 55.209, and 55.254 will be submitted to the United States Environmental Protection Agency as a revision to the Texas state implementation plan.

#### BACKGROUND AND SUMMARY OF THE FACTUAL BASIS FOR THE PROPOSED RULES

The commission is proposing a number of changes to its procedural rules in this issue of the *Texas Register*. The changes include proposed revisions to Chapters 1, 35, 39, 50, 55, 80, 106, and 116. These chapters contain proposed changes to update and clarify agency rules, to facilitate permit processing and to more clearly set out the responsibilities of those involved in the permitting process. In addition, in part, the changes proposed in this issue of the *Texas Register* are intended to be responsive to comments received during the rulemaking proceedings implementing House Bill (HB) 801 during the summer and early fall of 1999 requesting that the adopted rules be subject to subsequent review to address any deficiencies which became apparent following adoption. (See September 24, 1999 issue of the *Texas Register* (24 TexReg 8190).)

The revisions to Chapter 55 are intended, in large part, to address certain issues that have been encountered as permit applications have been processed under the HB 801 process. These changes primarily relate to

public comment, public meeting, and hearing request requirements. In addition, certain other changes are proposed to clarify and update these rules and modify, under certain situations, document filing timeframes. The commission proposes other revisions to correct rule references and make minor clarifications and corrections.

#### SECTION BY SECTION DISCUSSION

Section 55.21 is proposed for amendment to require requests for a public meeting to be filed during the public comment period to provide for greater certainty in the permitting process. This change is reflected in revised §55.21(e). Under current rules, there is no express limit on the timing of public meeting requests. While the rules expressly set out designated public comment periods, arguably public meetings may be requested up to the time of final action on a permit application, possibly resulting in undue delay of final action on a permit application. This rule would clarify the time for filing public meeting requests. Under the proposed revisions, however, the executive director would retain the authority to hold a public meeting if a public meeting is requested after the comment period ends and if the circumstances warrant that a public meeting be held. Corresponding changes are also proposed for §55.152(a).

Section 55.23 is proposed to be corrected to require any request for or explanation of how a group or association meets the requirements of §55.23(a) to be filed according to the procedures in §55.26. The existing cross-reference to the procedures in §55.25(e) and (f) is incorrect as these subsections do not exist. This change is reflected in the proposed revision to §55.23(b).

Section 55.26 is proposed to be amended to allow the general counsel to modify the notice and filing

deadlines for processing hearing requests or requests for reconsideration when necessary to address an imminent threat to public health, safety or the environment. This change is reflected in proposed §55.26(h) and would recognize that there may be situations where it is necessary to modify filing deadlines in order for the commission to act expeditiously. In a recent case, it was necessary for the governor to declare an emergency and suspend certain agency rules to allow the commission to act expeditiously to ensure a city's secondary source of drinking water. While it is not anticipated that the need for such modifications would be frequent, this proposed revision would give the agency needed flexibility to fulfill its mission to protect the state's human and natural resources. Further, this change would only allow for modification of timeframes. All document filing opportunities would remain. Corresponding changes are also proposed in §55.209 and §55.254.

Section 55.152 is amended to require public meeting requests to be filed during the public comment period, mirroring the proposed revision to §55.21. With these changes, public meeting requests would have to be filed during the comment period for both applications administratively complete before September 1, 1999, and those administratively complete on or after September 1, 1999.

Section 55.152(a)(2) is proposed to be amended to clarify that the comment period for the Notice of Application and Preliminary Decision for permit renewals under Chapter 116, concrete batch plant exemptions from permitting or permits by rule under Chapter 106 or standard permits under Chapter 116 is 15 days. This clarifying change is needed to make the Notice of Application and Preliminary Decision comment period consistent with the comment period for the Notice of Receipt and Intent to Obtain Permit for these actions. Another change is proposed to add standard permits under Chapter 116 to the list of

authorizations to which the 15-day comment period applies. This change is needed to reflect the creation of standard permits in Chapter 116, effective September 1, 2000.

Section 55.154 is proposed to be amended to clarify that the applicant, in cooperation with the executive director, may hold a public meeting in the county in which a facility is located or proposed to be located during agency review of an application. Current §55.154(b) allows a public meeting to be held during technical review of an application. The proposed revision to this section reflects that a public meeting may be held early in the permitting process and prior to technical review of the application. Section 55.154 is also proposed to be amended to require the commission to hold a public meeting when timely requested by a member of the legislature. This change is made in revised §55.154(c)(2) and reflects the changes proposed to §55.152(a) expressly providing for public meeting request deadlines. Again, the executive director would retain the authority to hold a public meeting if a public meeting is requested after the comment period ends and if the circumstances warrant that a public meeting be held. Another change is proposed in the addition of §55.154(d) to clarify that the agency is not required to hold more than one public meeting concerning an application unless requested by a member of the legislature who represents the general area in which the facility is located or proposed to be located. This does not preclude the agency from holding a second public meeting when circumstances warrant such. The remaining subsections are proposed to be renumbered to reflect the addition of §55.154(d).

Section 55.156 is proposed to be amended to clarify that the executive director shall prepare a response to all timely public comment which is relevant and material, or significant. In current §55.156, it may not be clear that public comments must be timely filed, as well as relevant and material, or significant, in order

to trigger the requirement for an executive director response to comment. To make this clear, §55.156(b)(1) is proposed for revision.

Section 55.156 is also proposed for revision to modify the deadline for filing of the executive director's response to comment. Current §55.156(b)(3) requires the executive director to file a response to comments within the shortest practical time after the end of the comment period, not to exceed 60 days. Compliance with this requirement has proved difficult in cases where the agency has received voluminous comments or comments requiring significant analysis. Compliance with this deadline has also proved difficult for air applications for which the comment period may end prior to completion of technical review. Therefore, the commission proposes to revise the rule to provide for the time for filing responses to comment to run from the end of the comment period or end of technical review if technical review is not complete at the end of the comment period. This change would allow consideration of comments and technical review of an application to occur in parallel. In addition, tiered timeframes for filing a response to comment are proposed. This proposal would require the executive director to file a response to comments no later than 45 days, 90 days, or 120 days after the comment period or technical review ends, depending on the number of comments received. It should be noted that the proposed timeframes for response to comment filings are based on the number of comments received rather than the number of commenters. Thus, where the commission receives a particular comment from more than one commenter, the comment would be counted as one comment. Comments which are essentially the same and only require one response would be counted as one comment. The commission recognizes that, in cases where there are few comments or comments requiring limited technical analysis, the executive director would be able to file a response to comments in less than the 60 days currently allowed by this rule. Therefore, the commission proposes to

revise §55.156(b)(3) to require a response to comments in 45 days when ten or fewer comments are received. Further, this change retains the requirement that the response to comment be filed within the shortest practical time.

Sections 55.156 and 55.201 are proposed for revision to provide that a hearing requestor must, in response to the Executive Director's Response to Comment, specify any of the responses to comment that the requestor disputes, the factual basis of the dispute and must list any disputed issues of law or policy. Specifically, these changes are proposed in §55.156(d)(6) and to §55.201(c) and (d). The purpose of these proposed changes is to facilitate commission consideration of hearing requests and the factors to be considered under HB 801 for granting a request. Specifically, this change would assist with identification of issues that remain in dispute and are subject to referral for hearing.

Section 55.209 is proposed to be amended to change the deadline for the executive director, public interest counsel and the applicant to submit responses to requests for reconsideration or contested case hearing from 23 days before the commission meeting to 22 days before the meeting. This change is reflected in §55.209(d). Commission meetings are typically held on Wednesdays, thus the current deadline of 23 days before the commission meeting results in filing deadlines for responses and replies that generally fall on a Monday. However, if one or both of those dates is a state holiday, the deadline becomes the previous Friday. The proposed changes would result in filing deadlines typically falling on Tuesdays, which would make the day filings are due more consistent. This change retains the 14-day difference between the due date for responses and replies, and avoids confusion that may occur when deadlines fall on Mondays which are holidays the commission also proposes to change the deadline for requestors to submit replies to

responses from nine days before the commission meeting to eight days before the meeting. This change is reflected in §55.209(g). Another change in §55.209(g) would add the director of the Office of Public Assistance (OPA) to the list of entities who must be served with any reply to responses by a person requesting reconsideration of the executive director's preliminary decision or a contested case hearing. This revision is needed to ensure that the OPA has current information when responding to inquiries from the public. Section 55.209(i) is also proposed to be amended to mirror the proposed changes to §55.26. That is, changes are proposed to allow the general counsel to modify the notice and filing deadlines for processing hearing requests or requests for reconsideration when necessary to address an imminent threat to public health, safety or the environment.

Section 55.254, is proposed to be amended to mirror the proposed changes to §55.26 and §55.209 relating to the authority of the general counsel to modify the notice and filing deadlines for processing hearing requests or requests for reconsideration when necessary to address an imminent threat to public health, safety or the environment. This change is reflected in proposed §55.25(h).

#### FISCAL NOTE: COSTS TO STATE AND LOCAL GOVERNMENT

John Davis, Technical Specialist with Strategic Planning and Appropriations, determined that for the first five-year period the proposed amendments are in effect there will be no significant fiscal implications for units of state and local government as a result of administration or enforcement of the proposed amendments.

The rule changes are intended to make a number of procedural and administrative changes to current rules

including correcting and updating cross-references, outlining specific deadlines for executive director responses to comments, and providing the authority for the agency's general counsel to expedite hearing notice and document filing deadlines if required to protect public health and safety. The proposed amendments will also require persons replying to responses to requests for hearing or reconsideration to provide an additional copy of their responses to the agency's director of the OPA. These changes are procedural in nature and are not anticipated to result in significant fiscal impacts for units of state and local government.

Additionally, there are several other changes concerning public comments in the affected rules. The proposed amendments will set new deadlines for the agency, the public, and applicants to submit responses to requests for hearing or reconsideration. The timeframe that agency and applicants may submit responses to the requests will be changed from 23 to 22 days before the commission meets to evaluate the requests. The public response time has changed from nine to eight days before the commission meets to evaluate the requests. Additionally, the proposed amendments will provide that no more than one public meeting concerning an application shall be required unless it is requested by a member of the legislature who represents the general area in which the facility is located.

#### **PUBLIC BENEFITS AND COSTS**

Mr. Davis also determined that for each year of the first five years the proposed amendments are in effect, the public benefit anticipated from enforcement of and compliance with the proposed amendments will be clarification of procedural rules which could facilitate increased compliance of these rules.

The rule changes will make a number of procedural and administrative changes to current rules by correcting and updating cross-references, implementing specific deadlines for executive director responses to comments, and providing the authority for the agency's general counsel to expedite hearing notice and document filing deadlines if required to protect public health and safety. The proposed amendments will make several other procedural changes, which are not anticipated to result in significant fiscal impacts for individuals and businesses.

Additionally, there are several other changes concerning public comments in the affected rules. The proposed amendments will set new deadlines for the agency, the public, and applicants to submit responses concerning requests for reconsideration. The timeframe that agency and applicants may submit responses to the requests will be changed from 23 to 22 days before the commission meets to evaluate the requests. The public response time has changed from nine to eight days before the commission meets to evaluate the requests. Additionally, the proposed amendments will provide that no more than one public meeting concerning an application shall be required unless it is requested by a member of the legislature who represents the general area in which the facility is located.

#### **SMALL BUSINESS AND MICRO-BUSINESS ASSESSMENT**

There will be no adverse economic effects to small or micro-businesses as a result of the proposed amendments. The rule changes will make a number of procedural and administrative changes to current rules by correcting and updating cross-references, implementing specific deadlines for executive director responses to comments, and providing the authority for the agency's general counsel to expedite hearing notice and document filing deadlines if required to protect public health and safety. The proposed

amendments will make several other procedural changes, which are not anticipated to result in significant fiscal impacts for small or micro-businesses.

Additionally, there are several other changes concerning public comments in the affected rules. The proposed amendments will set new deadlines for the agency, the public, and applicants to submit responses concerning requests for hearing or reconsideration. The timeframe that agency and applicants may submit responses to the requests will be changed from 23 to 22 days before the commission meets to evaluate the requests. The public response time has changed from nine to eight days before the commission meets to evaluate the requests. Additionally, the proposed amendments will provide that no more than one public meeting concerning an application shall be required unless it is requested by a member of the legislature who represents the general area in which the facility is located.

#### DRAFT REGULATORY IMPACT ANALYSIS DETERMINATION

The commission reviewed the rulemaking in light of the regulatory analysis requirements of Texas Government Code, §2001.0225, and determined that the rulemaking is not subject to §2001.0225 because it does not meet the definition of a “major environmental rule” as defined in the statute. “Major environmental rule” means a rule, the specific intent of which, is to protect the environment or reduce risks to human health from environmental exposure and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. The rulemaking is procedural in nature and is intended to ensure that the commission’s procedural rules are clarified and corrected thus facilitating compliance with the rules, in some cases expediting permit processing timeframes, and providing more reasonable timeframes for

completion of the executive director's response to written comments. Therefore, the rulemaking does not meet the definition of "major environmental rule" because the rulemaking is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

#### TAKINGS IMPACT ASSESSMENT

The commission prepared a takings impact assessment for the rulemaking pursuant to Texas Government Code, §2007.043. The specific purpose of the rulemaking is to ensure that the commission's procedural rules are clarified and corrected thus facilitating compliance with the rules, in some cases expediting permit processing timeframes, and providing more reasonable timeframes for completion of the executive director's response to written comments. The rulemaking contains procedural rule changes only and does not affect private real property. Therefore, the rulemaking will not constitute a takings under Texas Government Code, Chapter 2007.

#### CONSISTENCY WITH THE COASTAL MANAGEMENT PROGRAM

The commission reviewed the rulemaking and found that the rulemaking is neither identified in the Coastal Coordination Act Implementation Rules, 31 TAC §505.11, relating to Actions and Rules Subject to the Texas Coastal Management Program (CMP) nor does it affect any action or authorization identified in §505.11. The rulemaking concerns only the procedural rules of the commission. Therefore, the rulemaking is not subject to the CMP.

#### ANNOUNCEMENT OF HEARING

The commission will hold a public hearing on this proposal on March 6, 2001 at 10 a.m., Building F,

Room 2210, Texas Natural Resource Conservation Commission Complex, 12100 Park 35 Circle, Austin, Texas. The hearings are structured for the receipt of oral or written comments by interested persons. Individuals may present oral statements when called upon in order of registration. Open discussion will not be permitted during the hearings; however, agency staff members will be available to discuss the proposal 30 minutes before each hearing and will answer questions before and after the hearings.

Persons with disabilities who have special communication or other accommodation needs who are planning to attend the hearing should contact the Office of Environmental Policy, Analysis, and Assessment at (512) 239-4900. Requests should be made as far in advance as possible.

#### SUBMITTAL OF COMMENTS

Comments may be submitted to Patricia Duron, Office of Environmental Policy, Analysis, and Assessment, MC 205, P.O. Box 13087, Austin, Texas 78711-3087 or faxed to (512) 239-4808. All comments should reference Rule Log Number 2000-016-035-AD. Comments must be received in writing by 5:00 p.m., March 12, 2001. For further information or questions concerning this proposal, please contact Debi Dyer, Policy and Regulations Division, at (512) 239-3972.

#### STATUTORY AUTHORITY

The amendments are proposed under Texas Water Code (TWC), §5.103 and §5.105, which establish the commission's authority to adopt rules and set policy by rule; and Texas Government Code, §2001.004, which requires state agencies to adopt rules of practice; TWC, §5.110, which establishes the office of general counsel and the duties of the general counsel; and TWC, Subchapter M and Texas Health and

Safety Code, §382.056, which establishes the commission's authority concerning environmental permitting procedures.

The proposed amendments affect no other statutes, articles, or codes.

**SUBCHAPTER B: HEARING REQUESTS, PUBLIC COMMENT**

**§55.21, §55.23, §55.26**

**§55.21. Requests for Contested Case Hearings; Public Comment.**

(a) - (d) (No change.)

(e) Deadline for hearing requests and public meeting requests; public comment period. A hearing request or a public meeting request must be filed with the chief clerk within the time period specified in the notice. The public comment period shall also end at the end of this time period. The time period shall end 30 days after the last publication of the notice of application, except that the time period shall end:

(1) - (12) (No change.)

(f) - (h) (No change.)

**§55.23. Request by Group or Association.**

(a) (No change.)

(b) The executive director, the public interest counsel, or the applicant may request that a group

or association provide an explanation of how the group or association meets the requirements of subsection (a) of this section. The request and response shall be filed according to the procedure in §55.26 [§55.25(e) and (f)] of this title (relating to Hearing Request Processing).

**§55.26. Hearing Request Processing.**

(a) - (g) (No change.)

(h) If more expeditious action is necessary to address an imminent threat to public health, safety or the environment, the general counsel may modify the notice and document filing deadlines in this section.

**SUBCHAPTER E: PUBLIC COMMENT AND PUBLIC MEETINGS**

**§55.152, §55.154, §55.156**

**STATUTORY AUTHORITY**

The amendments are proposed under Texas Water Code (TWC), §5.103 and §5.105, which establish the commission's authority to adopt rules and set policy by rule; and Texas Government Code, §2001.004, which requires state agencies to adopt rules of practice; and TWC, Subchapter M and Texas Health and Safety Code, §382.056, which establishes the commission's authority concerning environmental permitting procedures.

The proposed amendments affect no other statutes, articles, or codes.

**§55.152. Public Comment Period.**

(a) Public comments and public meeting requests must be filed with the chief clerk within the public comment [time] period specified in the notice. The public comment period shall end 30 days after the last publication of the Notice of Application and Preliminary Decision, except that the time period shall end:

(1) (No change.)

(2) 15 days after the last publication of Notice of Receipt of Application and Intent to Obtain Permit under §39.418 of this title, or 15 [30] days after Notice of Application and Preliminary Decision if a second notice is required under §39.419 of this title, for a permit renewal under Chapter 116 of this title (relating to Control of Air Pollution by Permits for New Construction or Modification) or a concrete batch plant exemption from permitting or permit by rule under Chapter 106 of this title (relating to Exemptions from Permitting) or a standard permit under Chapter 116, Subchapter F of this title (relating to Standard Permits);

(3) - (6) (No change.)

(b) (No change.)

**§55.154. Public Meetings.**

(a) (No change.)

(b) During agency [technical] review of the application, the applicant, in cooperation with the executive director, may hold a public meeting in the county in which the facility is located or proposed to be located in order to inform the public about the application and obtain public input.

(c) At any time, the executive director or Office of Public Assistance may hold public meetings.

The executive director or Office of Public Assistance shall hold a public meeting if:

(1) (No change.)

(2) a member of the legislature who represents the general area in which the facility is located or proposed to be located timely requests that a public meeting be held ; or

(3) (No change.)

(d) Notwithstanding the provisions of subsection (c) of this section, no more than one public meeting concerning an application shall be required to be held unless it is timely requested by a member of the legislature who represents the general area in which the facility is located or proposed to be located.

(e) [(d)] The applicant shall attend any public meeting held by the executive director or Office Public Assistance. A tape recording or written transcript of the public meeting shall be made available to the public.

(f) [(e)] Public notice of the meeting shall be given as required by §39.411(d) of this title (relating to Text of Public Notice).

**§55.156. Public Comment Processing.**

(a) (No change.)

(b) If comments are received, the following procedures apply to the executive director:

(1) before an application is approved, the executive director shall prepare a response to all timely[,] public comment which is relevant and material, or significant, [public comment,] whether or not withdrawn, and specify if a comment has been withdrawn. The response shall specify the provisions of the draft permit that have been changed in response to public comment and the reasons for the changes.

(2) (No change.)

(3) the executive director shall file the response to comments with the chief clerk within the shortest practical time after the comment period ends, provided however, if technical review of the application is not complete at the end of the comment period, the executive director's response to comments shall be filed within the shortest practical time after the technical review is complete. Unless significant analysis is necessary to adequately consider the comments, the time for preparation of the executive director's response to comment shall not exceed the following timeframes: [not to exceed 60 days.]

(A) 45 days, if one to ten comments are received;

(B) 90 days, if more than ten but less than 50 comments are received; and

(C) 120 days, if 50 or more comments are received.

(c) After the executive director files the response to comments, the chief clerk shall mail (or otherwise transmit) the executive director's decision, the executive director's response to public comments and instructions for requesting that the commission reconsider the executive director's decision or hold a contested case hearing. Instructions for requesting reconsideration of the executive director's decision or requesting a contested case hearing are not required to be included in this transmittal for the applications listed in §39.420(c)(1) - (5) [§39.420(c)(1) - (4)] of this title (relating to Transmittal of the Executive Director's Response to Comments and Decision). The chief clerk shall provide the information required by this section to the following:

(1) - (6) (No change.)

(d) The instructions sent under §39.420(a) of this title regarding how to request a contested case hearing shall include at least the following statements:

(1) - (4) (No change.)

(5) that a contested case hearing request may not be based on issues raised solely in a comment withdrawn by the commenter in writing by filing a withdrawal letter with the chief clerk prior to the filing of the Executive Director's Response to Comment; and [.]

(6) that any hearing requestor whose request was filed before the Executive Director's Response to Comment must submit an amended hearing request specifying any of the executive director's responses to comment that the requestor disputes, the factual basis of the dispute, and lists any disputed issues of law or policy.

**SUBCHAPTER F: REQUESTS FOR RECONSIDERATION OR CONTESTED CASE**

**HEARING**

**§55.201, §55.209, §55.254**

**STATUTORY AUTHORITY**

The amendments are proposed under Texas Water Code (TWC), §5.103 and §5.105, which establish the commission's authority to adopt rules and set policy by rule; and Texas Government Code, §2001.004, which requires state agencies to adopt rules of practice; TWC, §5.110, which establishes the office of general counsel and the duties of the general counsel; and TWC, Subchapter M and Texas Health and Safety Code, §382.056, which establishes the commission's authority concerning environmental permitting procedures.

The proposed amendments affect no other statutes, articles, or codes.

**§55.201. Requests for Reconsideration or Contested Case Hearing**

(a) - (b) (No change.)

(c) A request for a contested case hearing by an affected person must be in writing, must be filed with the chief clerk within the time provided by subsection (a) of this section, and may not be based on an issue that was raised solely in a public comment withdrawn by the commenter in writing by filing a

withdrawal letter with the chief clerk prior to the filing of the Executive Director's Response to Comment.

If a hearing request was filed before the filing of the Executive Director's Response to Comment, then the requestor must file an amended hearing request that specifies any of the executive director's responses to comment that the requestor disputes, the factual basis of the dispute and lists any disputed issues of law or policy within the timeframe provided by subsection (a) of this section.

(d) A hearing request must substantially comply with the following:

(1) - (3) (No change.)

(4) list all relevant and material disputed issues of fact that were raised during the public comment period and that are the basis of the hearing request. To facilitate the commission's determination of the number and scope of issues to be referred to hearing, the requestor [should, to the extent possible,] must specify, in either the hearing request or the amended hearing request, any of the executive director's responses to comments that the requestor disputes and the factual basis of the dispute and list any disputed issues of law or policy; and

(5) (No change).

(e) - (i) (No change.)

**§55.209. Processing Requests for Reconsideration and Contested Case Hearing.**

(a) - (c) (No change.)

(d) The executive director, the public interest counsel, and the applicant may submit written responses to the requests no later than 22 [23] days before the commission meeting at which the commission will evaluate the requests. Responses shall be filed with the chief clerk, and served on the same day to the executive director, the public interest counsel, the director of the Office of Public Assistance, the applicant, and any requestors.

(e) - (f) (No change.)

(g) The requestors may submit written replies to a response no later than eight [nine] days before the commission meeting at which the commission will evaluate the request for reconsideration and contested case hearing. A reply shall be filed with the chief clerk, and served on the same day to the executive director, the public interest counsel, the director of the Office of Public Assistance and the applicant.

(h) (No change.)

(i) If more expeditious action is necessary to address an imminent threat to public health, safety

or the environment, the general counsel may modify the notice and document filing deadlines of this section.

**§55.254. Hearing Request Processing.**

(a) - (g) (No change.)

(h) If more expeditious action is necessary to address an imminent threat to public health, safety, or the environment, the general counsel may modify the notice and document filing deadlines of this section.